



Sydney Metro City & Southwest - Chatswood to Sydenham - Modification 9

To extend construction hours from 1pm to 6pm on Saturdays
State Significant Infrastructure Modification Assessment
(CSSI 7400 MOD 9)



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Glossary

Abbreviation	Definition
Council	Willoughby, Lane Cove, North Sydney, City of Sydney, Inner West
Department	Department of Planning and Environment
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2021
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
EPL	Environment Protection Licence
Minister	Minister for Planning
SSI	State Significant Infrastructure
TfNSW	Transport for NSW

Executive Summary

The Proposal

The then Minister for Planning approved the Sydney Metro City and Southwest – Chatswood to Sydenham project on 9 January 2017. The Chatswood to Sydenham project is primarily an underground metro rail line, 16.5 kilometres in length, which commences to the west of Chatswood Station under Sydney Harbour and extends to just north of Sydenham Station. It includes five new stations and new underground platforms at Martin Place and Central.

The approved project stipulated that construction was required to be undertaken in accordance with standard construction hours, unless it was subject to the requirements of condition E48 which permitted certain activities to be undertaken 24 hours per day, seven days per week.

Sydney Metro submitted a request to modify the project approval to extend construction hours from 8.00 am to 1.00 pm on Saturdays to 8.00 am to 6.00 pm in accordance with the temporary Covid-19 Construction Work Day Orders which expired on 31 March 2022. Sydney Metro has stated that it would only undertake low noise impact activities on Saturday afternoons.

Department's Consideration

The Department made the modification request publicly available on its website and sent notifications of the proposed request to the relevant Councils. City of Sydney objected to the proposed extension stating that it does not comply with construction hours permitted within, and areas outside of, the Sydney CBD. The Department considers the modification request to be justified, given:

- the low numbers of submissions received, and complaints received from the surrounding community when activities were undertaken on Saturday afternoons in accordance with the temporary Construction Work Day Orders;
- it will create consistency with approvals for later stages of the Sydney Metro program and other recent major linear transport projects; and
- it will facilitate the improved and timely delivery of major public transport infrastructure that will have significant social and economic benefits to the local and broader community.

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1 Introduction

This report provides an assessment of an application to modify the State significant infrastructure (SSI) approval for the Sydney Metro City and Southwest – Chatswood to Sydenham project (SSI 7400). The modification application seeks approval to extend construction hours from 1.00 pm to 6.00 pm on Saturdays.

The application was lodged on 19 May 2022 by Sydney Metro (the Proponent) under section 5.25 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

1.1 Background

Sydney Metro City and Southwest – Chatswood to Sydenham forms part of the high capacity rail network which includes Sydney Metro Northwest (currently operating) and the Sydenham to Bankstown upgrade project (under construction). The Chatswood to Sydenham project is primarily an underground metro rail line, 16.5 kilometres long (approximately 15.5 kilometres of which is located in underground rail tunnels), commencing west of Chatswood Station under Sydney Harbour to just north of Sydenham Station, with new stations at Crows Nest, Victoria Cross, Barangaroo, Pitt Street and Waterloo, and new underground platforms at Martin Place and Central. Construction commenced in late 2017 with services expected to commence in 2024.

The approved project includes Condition E36 which stipulates that construction, except as allowed by condition E48 (excluding cut and cover tunnelling), must only be undertaken during standard construction hours, namely:

- 7.00 am to 6.00 pm Monday to Fridays, inclusive;
- 8.00 am to 1.00 pm Saturdays; and
- at no time on Sundays or public holidays.

Over the past two years, construction work across the Chatswood to Sydenham component of the Sydney Metro City and Southwest has been undertaken on weekends in accordance with temporary Covid-19 Construction Work Orders.

Sydney Metro is seeking to amend Condition E36 of the approval to allow works to continue on Saturday afternoons. The way in which the condition is proposed to be modified is outlined below (proposed new text is provided in red and text proposed to be removed is provided in red and is struck out):

~~Standard~~ Construction hours

E36 Construction, except as allowed by Condition E48 (excluding cut and cover tunnelling), must only be undertaken during the following ~~standard~~ construction hours:

- (a) 7:00am to 6:00pm Mondays to Fridays, inclusive;
- (b) 8:00am to ~~6~~4:00pm Saturdays; and
- (c) at no time on Sundays or public holidays.

Sydney Metro has stated that the activities proposed to occur on Saturday afternoons are associated with work to construct new metro stations and are similar to those undertaken on Saturday afternoons during the temporary Covid-19 Construction Work Orders. Sydney Metro has also stated that approval of these hours would ensure consistency with other Sydney Metro projects under construction, including Sydney Metro and Southwest - Sydenham to Bankstown (SSI 8256), and Sydney Metro West Stage 1 (SSI 10038).

1.2 Approval history

Project approval was granted on 9 January 2017 by the then Minister for Planning under the former section 115ZB of the EP&A Act for the Sydney Metro City and Southwest – Chatswood to Sydenham project (SSI 7400). In relation to construction hours, the project approval includes the following conditions relevant to the application:

- Condition E36 – Construction hours, with the exception of Condition E48 (excluding cut and cover tunnelling) must be undertaken during standard construction hours;
- Condition E37 – to identify all receivers likely to experience internal noise levels greater than $L_{eq}(15 \text{ minute})$ 60 dB(A) if rock breaking or other annoying activity is likely to result in regenerated noise or a perceptible level of vibration between 7.00 am and 8.00 pm at certain locations;
- Condition E38 – in relation to receivers identified in Condition E37, consultation with receivers to determine appropriate hours of respite;
- Condition E39 – to consult with other proponents of construction works to coordinate works to minimise cumulative noise and vibration impacts and maximise respite for affected sensitive receivers;
- Condition E40 – to ensure that all works (inclusive of utility works undertaken by third parties) are coordinated to provide respite;
- Condition E44 – which allows construction to be undertaken outside standard construction hours stipulated in Condition E36 only under certain circumstances. These include, but are not limited to, emergencies, where different hours are permitted under an EPL, where construction causes very low noise impacts (5 dB(A) above background) or no more than NMLs or continuous or impulsive vibration values specified in relevant guidelines, where negotiated agreements have been reached with the majority of sensitive receivers or where construction is approved through an Out of Hours Works Protocol;
- Condition E46 – allowing rock-breaking and other particularly annoying activities to be undertaken during standard construction hours where certain situations apply;
- Condition E47 – where out of hours works are approved through an Out of Work Protocol for works not subject to an EPL;
- Condition E48 – allowing certain activities to be undertaken 24 hours per day, seven days per week where they also meet the requirements of Condition E47;
- Condition E48.1 – scheduling annoying activities at the Blues Point temporary site between 7.00 am and 8.00 pm; and

- Condition E48.2 – certain hours for heavy vehicle deliveries to the Blues Point temporary site.

The project approval has been modified on eight previous occasions as summarised in **Table 1**.

Table 1 | Summary of Previous Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
MOD 1	Service relocations	Department	115ZI	18 October 2017
MOD 2	Central Walk	Department	115ZI	21 December 2017
MOD 3	Martin Place Metro Station	Minister	115ZI(2)	22 March 2018
MOD 4	Sydenham Station and Metro Trains Facility	Department	115ZI	13 December 2017
MOD 5	Blues Point Acoustic Shed	Department	5.25	2 November 2018
MOD 6	Administrative changes	Department	5.25	21 February 2019
MOD 7	Administrative changes	Department	5.25	24 June 2020
MOD 8	Blues Point Access Site	Department	5.25	25 November 2020

2 Proposed modification

2.1 The Covid-19 pandemic

On 25 March 2020, in response to the Covid-19 pandemic, the NSW Government amended the *Environmental Planning and Assessment Act 1979* (EP&A Act) by introducing sections 10.17 and 10.18 (EPAA Provisions) which granted legislative power, for a prescribed period, to the then Minister for Planning and Public Spaces, to authorise development to be carried out without the need for development approval in the ordinary manner under the EP&A Act or consent from another body. The following orders were made as a result of these provisions and were together known as the Construction Work Day Orders:

- The Environmental Planning and Assessment (COVID-19 Development – Construction Work Days) Order 2020, which commenced on 2 April 2020; and
- The Environmental Planning and Assessment (COVID-19 Development – Infrastructure Construction Work Days No.2) Order 2020, which commenced on 24 December 2020, and replaced the abovementioned Order.

The effect of these Orders was to permit the carrying out of building work that is subject of a development consent/approval on a Saturday, Sunday or public holiday without the need for approval. As part of the Orders, construction activities on the project were permitted on Saturday afternoons until 5.00 pm and quiet work on Sundays between 9.00 am and 5.00 pm. Noisy activities, such as rock breaking, rock hammering, pile driving or similar, was restricted, and all feasible and reasonable measures were required to be implemented to minimise noise.

The Construction Work Day Orders originally expired on 25 March 2021, but were extended for a further 12 months to 31 March 2022 under the *Covid-19 Recovery Act 2021*, to facilitate social distancing by permitting infrastructure construction work over more days in a week.

2.2 Impacts from Covid-19

The Covid-19 pandemic and associated restrictions has impacted the construction industry. Sydney Metro stated that in addition to the two week pause of construction work in July 2021, other Covid-19 restrictions impacted the project in a range of ways including:

- supply chain issues
- reduced worker capacity on site due to Covid-19 safe work practices
- reduced labour force due to local LGA restrictions
- site shutdowns to enable deep cleaning and contact tracing when needed.

2.3 Saturday afternoon works and resultant complaints

For the six months between February and October 2021, when the Construction Work Day Orders were in place, Sydney Metro received 13 complaints across all Chatswood to Sydenham construction sites for work undertaken outside 8:00 am to 1:00 pm on Saturdays. These complaints related to noise, working hours and dust issues. This compared to 10 complaints received relating to noise, dust

and access issues for the six months between March and November 2019, prior to the Orders being in place, where work was undertaken outside standard hours on Saturdays in accordance with the Out of Hours Works Protocol.

In response to the Department's queries, Sydney Metro also provided specific data regarding the number of noise and vibration complaints received between December 2019 and March 2022. In this time period, only five complaints relating to noise and vibration were received associated with construction works on Saturday afternoons – two in relation to works at Pitt Street, two from works on Victoria Cross station, and one complaint from Waterloo.

2.4 Proposed modification

Sydney Metro is seeking to amend Condition E36 of the approval to allow construction to continue on Saturday afternoons until 6.00 pm, to ensure consistency with other Sydney Metro projects currently under construction, including Sydney Metro and Southwest Sydney to Bankstown (SSI 8256) and Sydney Metro West Stage 1 (SSI 10038). Sydney Metro has stated that it recognises the potential impact of extended construction hours on the community, but considers the extension to be essential to allow work to be completed to ensure customers can enjoy the full benefits of the project by 2024. Without the additional work hours, Sydney Metro has indicated that construction activities will remain on site for a longer period of time.

Sydney Metro proposes that work associated with the construction of new metro stations (Crows Nest, Victoria Cross, Barangaroo, Pitt Street and Waterloo) and at existing stations during the extended construction hours on Saturday afternoons would be very similar to that undertaken at these locations during the temporary Covid-19 Construction Work Day Orders. Activities would include:

- concrete pours
- pre-assembly of structural steel panels
- hoist and crane operation
- station fit-out work including the installation of utility services
- materials deliveries
- temporary ventilation
- waterproofing
- formwork and reinforcement fixing.

Equipment to be used as part of these activities would include rattle guns, hand powered tools, saws, elevated work platforms, vacuum trucks, concrete trucks, lighting towers, welding machines, concrete vibrator and pumps, ventilation fans, dewatering units, helicopter trowels, tower / mobile cranes, and delivery vehicles.

Sydney Metro's contractors will continue to engage with stakeholders and the community to ensure affected community members are notified of proposed works, any complaints are recorded, and mitigation strategies put in place where possible. Mitigation measures such as noise monitoring, noise blankets, concrete pumping acoustic enclosures, limiting tools and the use of non-tonal reversing alarms on trucks, would continue to be implemented to ensure that noise and vibration impacts on the

community are minimised and construction work is undertaken within approved noise and vibration levels.

The Sydney Metro Stakeholder and Community Relations team would be in constant contact with impacted community members to ensure that issues and complaints are appropriately managed.

2.5 Sydney Metro consultation

As part of the modification proposal and to gauge feedback on undertaking additional work hours on weekdays and Sundays through the out-of-hours works approval process, Sydney Metro sought feedback from the community. At the end of April 2022, 18,750 site specific and general factsheets were distributed across the Chatswood to Sydenham alignment, including key construction locations such as Crows Nest, Victoria Cross and Waterloo, to provide information about the proposed modification and to request feedback by 13 May 2022. A copy of the factsheet is provided in **Appendix C**.

Additionally, 25 sensitive receivers were contacted by phone near the Crows Nest, Victoria Cross and Waterloo new metro stations, to ensure they had seen the factsheets and were aware they could provide feedback. By close of the business on 13 May 2022, 10 responses were received:

- three no objections (one resident from each site at Chatswood, Crows Nest and Victoria Cross)
- seven objections (five from Waterloo residents and two from residents impacted by the Chatswood dive).

Of the objections received, the issues raised in relation to the extension of construction hours on Saturdays included loud works, need for more detailed work notifications, traffic impacts, impacts to amenity, impacts on property value and ability to rent, and preference for an overall longer work program to enable community respite.

Sydney Metro indicated that it would continue to work with residents and stakeholders to ensure issues raised can be appropriately managed. It is also noted that some of the objections related to the proposal to undertake some construction works on Sundays through the out-of-hours works process, rather than the proposed extension to construction hours on Saturday afternoons; however, it was not clear from the feedback provided by Sydney Metro which responses related to additional hours in general and which were specifically responding to the modification request.

Sydney Metro met with the Environment Protection Authority (EPA) on 14 March 2022 to outline the proposed approach to additional construction hours across the Chatswood to Sydenham project. No concerns or issues were raised by the EPA.

Given the nature of proposed works, evidence of complaints received to date and community engagement, Sydney Metro anticipates that the extension of construction hours to include Saturday afternoons can be appropriately managed.

3 Statutory context

3.1 Scope of modifications

In accordance with section 5.25 of the EP&A Act, a proponent may request the Minister to modify the approval for State significant infrastructure. The Minister's approval for a modification is not required if the infrastructure as modified will be consistent with the existing approval.

The modification for extension of construction hours on Saturday afternoons until 6.00 pm is not considered consistent with the existing approval. Consequently, modification of the Minister's approval under section 5.25 of the EP&A Act is required.

3.2 Delegated authority

The Minister will be the approval authority under section 5.25 of the EP&A Act, unless the Minister has delegated his determination functions to the Department.

Under the Instrument of Delegation dated 9 March 2022, the functions and powers of the Minister for Planning under section 2.4 of the EP&A Act to determine a modification of the Minister's approval may be delegated to senior officers in the Department, if:

- the maximum fees are these set out in item 6.5(a) or (b) of Part 6 to Schedule 4 of the Regulation;
- a political disclosure statement has not been made;
- there are no public submission objections (other than a council); and
- the council has made an objection submission.

While the City of Sydney objected to the modification request, the Instrument of Delegation applies and the Executive Director, Infrastructure Assessments is the delegate of the approval authority.

4 Engagement

4.1 Department's engagement

Under section 5.28(1)(g) of the EP&A Act, the Planning Secretary is required to make requests for modification of approvals determined by the Minister publicly available. Accordingly, the Department made the modification request publicly available on its website on 27 May 2022.

The modification request was referred to relevant Councils (North Sydney and City of Sydney).

4.2 Summary of advice received from Government agencies

No submissions regarding the modification request were received from community members.

City of Sydney Council and North Sydney Council made submissions. City of Sydney Council objected to the modification proposal.

The Environment Protection Authority (EPA) provided advice.

Table 2 | Summary of Agency advice

Submitter	Number	Position
Government Agencies		
EPA	1	Advice
Total Agency Submissions	1	

Table 3 | Summary of Council, special interest group and community submissions

Submitter	Number	Position
Local Council		
City of Sydney	1	Object
North Sydney Council	1	Comment
Community members		
<5km	0	N/A
TOTAL	2	

4.3 Key issues raised in submissions

Government Agencies

The EPA stated that the proposed extended hours are not consistent with the *Interim Construction Noise Guideline* (DECC, 2009). However, should the Department support the proposal, EPA recommends that the Proponent be required to implement all feasible and reasonable measures to minimise noise.

Local Council

City of Sydney Council objected to the proposed modification request, on the grounds that the requested hours did not meet construction hours stipulated by the City in the Sydney CBD (7.00 am to 5.00 pm) or areas outside the CBD (7.30 am to 3.30 pm). It recommended that demolition, excavation and building work can be carried out between the hours of 8:00 am and 6:00 pm on Saturdays. However, if the City received substantiated complaints concerning offensive noise from any works conducted outside their standard category 1 construction hours which are not satisfactorily resolved in the opinion of the Area Planning Manager, and the Proponent is advised in writing to cease extended hours of work, then the approved hours should revert back to the City's standard construction hours, namely 7.00am to 5.00pm on Saturdays for areas within the CBD and 7.30am to 3.30pm on Saturdays for works within all areas outside the CBD.

North Sydney Council raised concerns that the requested construction hours to 6.00 pm on Saturday would set an undesirable precedent for all other construction sites in the LGA. Council considered that the granting of approval of the modification request would undermine Council's ability to maintain an equitable and consistent approach to construction impacts on the wider community and neighbours, and requested that the extension be limited to 5.00 pm on Saturdays.

5 Assessment

The Department has reviewed the information provided by Sydney Metro and considers that:

- there is no significant concern in the community about the extended hours, noting the relatively few submissions made to the Proponent's engagement and the number of complaints received during the Covid-19 Orders;
- improving consistency of construction hours with later stages, such as Sydenham to Bankstown provides greater clarity to the community and the Proponent and better reflects current community attitudes and practices on a Saturday. The hours proposed by the Proponent are commensurate with other recent State significant infrastructure approvals for transport including rail and motorway projects;
- the types of works proposed are generally not noise intensive and reflect a less noise intensive stage of construction;
- the extension of hours on a Saturday would provide flexibility to the Proponent to schedule a full day of work on a Saturday and therefore may also reduce out-of-hour requests; and
- the application of local construction hours to critical State significant infrastructure is not a reasonable request and does not reflect the social and economic importance of the project to both the local and broader community.

The Department expects the Proponent to be aware of the need to reduce noise and vibration impacts on community and sensitive receivers as part of day to day construction measures. In relation to this, and in response to comments by the EPA, the Department notes the Proponent has committed to implement feasible and reasonable noise mitigation to minimise noise impacts and to manage issues and/or complaints as they arise.

The Department recommends that condition E36 be modified as follows:

E36 Construction, except as allowed by Condition E48 (excluding cut and cover tunnelling), must only be undertaken during the following standard construction hours:

- (a) 7:00am to 6:00pm Mondays to Fridays, inclusive;
- (b) 8:00am to 6:00pm Saturdays; and
- (c) at no time on Sundays or public holidays.

6 Recommendation

It is recommended that the Executive Director, Infrastructure Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report
- **determines** that the application SSI 7400 - MOD 9 falls within the scope of section 5.25 of the EP&A Act
- **accepts and adopts** all the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modify** the approval for SSI 7400 by signing the modifying instrument.

Recommended by:

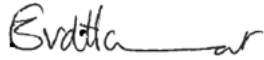


Glenn Snow

Director Transport Assessments
Planning Services

7 Determination

The recommendation is **Adopted** by:



Erica van den Honert

Executive Director

Infrastructure Assessments

as delegate of the Minister for Planning

Appendices

Appendices should follow this general layout but may be modified for specific reporting needs where necessary:

Appendix A – Modification Report

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-9-construction-hours>

Appendix B – Submissions and Government Agency advice

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-9-construction-hours>

Appendix C – Sydney Metro Fact Sheet

<https://www.planningportal.nsw.gov.au/major-projects/projects/mod-9-construction-hours>

Appendix D – Consolidated Approval

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