

Development Consent – Key Sites

Section 4.38 of the Environmental Planning and Assessment Act 1979

As the Minister for Planning, I approve the Development Application referred to in Schedule 1, subject to the conditions specified in Schedule 2.

These conditions are required to:

- prevent, minimise, or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development



The Hon Robert Stokes MP
NSW Minister for Planning

Sydney

25 June

2019

File: SSD 8876

SCHEDULE 1

Application Number:	SSD 8876
Applicant:	Sydney Metro
Consent Authority:	Minister for Planning
Site:	125-129 Bathurst Street Lot 1 DP 60293 131-135 Bathurst Street Lot 1 DP 59101 296-300 Pitt Street Lot 1 DP 436359 302 Pitt Street Lot 1 DP 62668
Development:	Concept Development Application for Pitt Street South Over Station Development including: • a maximum building envelope, including street wall and setbacks for the over station development • a maximum building height of RL 171.6 metres • podium level car parking for a maximum of 34 parking spaces • conceptual land use for either one of a residential or a commercial scheme (not both). Gross Floor Area does not form part of the application and is not approved by this consent.

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DEFINITIONS

Applicant	Sydney Metro, or any person carrying out any development to which this consent applies
Concept Proposal	A staged development application in accordance with the EP&A Act
Conditions of this consent	Conditions contained in Schedule 2 of this document
Construction	Any works, including earth and building works
Council	City of Sydney
CSSI	Critical State Significant Infrastructure
CSSI Approval	The approval of the CSSI project (SSI 15_7400) under the <i>Environmental Planning and Assessment Act 1979</i> for the construction of the Sydney City and Southwest Chatswood to Sydenham project, as amended by subsequent modifications.
Department	NSW Department of Planning and Environment or its successors
Development	The development described in the EIS and Response to Submissions, including the works and activities comprising the Pitt Street South Over Station Concept, as modified by the conditions of this consent.
EIS	The Environmental Impact Statement titled Pitt Street South Over Station Development Concept State Significant Development Application, prepared by Ethos Urban for Sydney Metro dated 8 August 2018, submitted with the application for consent for the development, including any additional information provided by the Applicant in support of the application
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Future Development Application(s)	Subsequent development application(s) for detailed proposal(s) pursuant to this consent in accordance with the EP&A Act.
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
Minister	NSW Minister for Planning (or delegate)
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
OEH	NSW Office of Environment and Heritage
Operation	The carrying out of the approved purpose of the development upon completion of construction.
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
Pitt Street South Metro site / site	Lot 1 DP 60293, Lot 1 DP 59101, Lot 1 DP 436359, Lot 1 DP 62668
OSD or over station development	Includes all non-rail related development that may occupy land or airspace above, within or in the immediate vicinity of the Sydney Metro CSSI but excluding spaces and interface works such as structural elements that may be constructed as part of the CSSI Approval to make provision for future development.
RTS or Response to Submissions	The Applicant's response to issues raised in submissions received in relation to the application for consent for the development under the EP&A Act.
SDRP	State Design Review Panel
Structure reservation zone	The area of the building envelope between 12 m and 3 m to the southern boundary as measured horizontally and RL 58.25 and RL 71.25 as measured vertically.

SCHEDULE 2
PART A ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A1. Consent is granted to the 'Development' as described in Schedule 1 and the EIS, as amended by the RtS and the conditions contained in this development consent.

TERMS OF CONSENT

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
 - (b) in accordance with all written directions of the Planning Secretary;
 - (c) in accordance with the Response to Submissions;
 - (d) in accordance with the approved plans in the table below:

Architectural Drawings - Building Envelope prepared by GHD Woodhead		
Dwg. No.	Name of Plan	Date
SK 200	Proposed Envelope Plans	12 June 2018
SK 201	Proposed Envelope Diagrams	4 October 2018
SK 202	Proposed Envelope Diagrams	4 October 2018
	Structure Reservation Zone Plans (Section, Level 7, Level 8)	3 May 2019

- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
 - (b) the implementation of any actions or measures contained in any such document referred to in condition A3(a) above.
- A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition A2(c) or A2(d). In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A2(c) or A2(d), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

DETERMINATION OF FUTURE DEVELOPMENT APPLICATIONS

- A5. In accordance with Section 4.22 of the EP&A Act, all development under the Concept and the subsequent stages are to be subject of future development applications.
- A6. The determination of future development applications are to be generally consistent with the terms of development consent SSD 8876 as described in Schedule 1 and subject to the conditions in Part B, Schedule 2.

LAPSING OF APPROVAL

- A7. This consent will lapse five (5) years from the date of consent, unless works associated with the development have physically commenced.
- A8. This consent does not allow any components of the concept development application to be carried out without further approval or prior consent being granted.

LEGAL NOTICES

- A9. Any advice of notice to the consent authority shall be served on the Planning Secretary.

PLANNING SECRETARY AS MODERATOR

- A10. In the event of a dispute between the Applicant and a public authority in relation to an application requirement in this approval or relevant matter relating to the development, either part may refer the matter to the Planning Secretary for resolution. The Planning Secretary's resolution of the matter shall be binding on the parties.

EVIDENCE OF CONSULTATION

- A11. Where conditions of this consent require consultation with an identified party, the Applicant must:
- (a) consult with the relevant party prior to submitting the subject document to the Planning Secretary for approval; and

- (b) provide details of the consultation undertaken including:
 - (i) the outcome of that consultation, matters resolved and unresolved; and
 - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

COMPLIANCE

- A12. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

APPLICABILITY OF GUIDELINES

- A13. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.
- A14. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

BUILDING ENVELOPES AND MAXIMUM HEIGHT

- A15. Future development application(s) for the development must demonstrate that the building is contained within the building envelopes consistent with the plans listed in Condition A2 and as modified by this consent.
- A16. Building height is to be measured in accordance with the definition under Sydney Local Environmental Plan 2012.
- A17. The minimum setback to the east/rear of the site for the OSD is to be a minimum of 3 metres above podium (RL 71) to provide additional solar access to Princeton Apartments as modelled in the RtS Supplementary Overshadowing Impact Sensitivity Analysis Report as Option 2.
- A18. The structure reservation zone is identified on the plan titled structure reservation zone dated 3 May 2019. The zone cannot be used for any Gross Floor Area (as defined under Sydney Local Environmental Plan 2012) and must be reserved for essential structural support and services to integrate the OSD and the approved station under separate consent CSSI 7400.

MAXIMUM CAR PARKING

- A19. The maximum number of car parking spaces for the Over Station Development is 34 spaces.

AIRSPACE PROTECTION

- A20. For the purposes of controlled activities within the prescribed airspace for Sydney Airport, the building must not exceed a maximum height of RL 171.6 metres Australian Height Datum, inclusive of all lift over-runs, vents, chimneys, aerials, antennas, lightning rods, any roof top garden plantings, exhaust flues, etc
- A21. The proponent must advise Airservices Australia at least 3 business days prior to the controlled activity commencing by emailing ifp@airservicesaustralia.com and quoting SY-CA-563 P2.
- A22. Separate approval must be sought under the *Airports (Protection of Airspace) Regulations 1996* for any construction equipment (i.e. cranes) required to construct the building. Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Regulations. Therefore, it is advisable that approval to operate construction equipment (i.e. cranes) be obtained prior to any commitment to construct.
- A23. At the completion of the construction of the building, a certified surveyor is to notify (in writing) Sydney Airport Corporation Limited (SACL) of the finished height of the building.

DESIGN GUIDELINES

- A24. Prior to the lodgement of the first detailed development application, the Applicant shall revise the Sydney Metro Pitt Street South Over Station Development Design Guidelines (November 2018), to the satisfaction of the Planning Secretary, as follows:
 - (a) insert objectives and performance criteria in (Podium and Street Wall):
 - (i) **The entrance element to the over station development must provide appropriate visual separation between the approved station and heritage item, Edinburgh Castle Hotel (294 – 294B Pitt Street, Sydney) and mediate the change in street wall height along Pitt Street.**
 - (b) amend Clause 7 (*Built Form above the Podium*) as follows:
 - (i) ~~7. Where practicable preserve~~ **Maximise** sunlight access and views ~~to the north for adjoining and surrounding neighbouring properties.~~
 - (c) amend Clause 8 in (*Built Form above the Podium*) as follows:

- (i) Street setbacks above the podium (~~the CSSI Transfer level (RL 58.25)~~ (RL 71) of:
 - a) a minimum 4 metres to Bathurst Street
 - b) a varied setback be provided from Pitt Street to align with setbacks for the Princeton Apartments.
 - c) articulation of built forms from the Pitt Street boundary of the site should be designed to maximise solar access to the living rooms of Princeton Apartments between 9 am – 3 pm at winter solstice.
 - ~~b) 3 metres to the eastern boundary adjacent to 137-139 Bathurst Street.~~
 - ~~c) minimum nil setback to the remainder of the eastern boundary.~~
 - ~~d) 12 metres to the southern boundary, in recognition of windows in northern wall of Princeton Apartments.~~
 - ~~e) 5.9 metres to Pitt Street, to align with setbacks for the Princeton Apartments~~
- (d) insert objectives and performance criteria in (*Built Form above the Podium*):
 - (i) **Design and articulation of roof forms must consider retention of view to St Mary's Cathedral from Century Tower (343 - 357 Pitt Street, Sydney)**
- (e) insert new clause 12 in (*Built Form above the Podium*)
 - (i) **Side and rear setback above the podium of:**
 - a) a minimum 3 m continuous setback to the eastern boundary
 - b) a minimum 12 metres above the podium with permitted reduction to minimum 3 metres within the structure reservation zone in accordance with Condition A17 for essential structural support and service to integrate the over station development with the station below.

Alternative options must be considered before any built form is proposed within the structure reservation zone. Any structure or built forms within the structure reservation zone must be designed to minimise its impacts to the outlook and amenity of the adjoining Princeton Apartments (304 – 308 Pitt Street, Sydney).
- (f) amend clause 4 in (*Built Form above the Podium*) by inserting subclause c)
 - (i) **Maximise solar access between 12 noon – 2 pm throughout other times of the year.**
- (g) amend Clause 6c (*Public Domain and Place*) as follows:
 - (i) Seamless integration of all signage with the architectural character of the scheme and surrounding context, providing an elegant and uncluttered approach and coordinated with nearby public art. Signage **location and placement** must integrate with City of Sydney DCP 2005 - Signage and Advertising Structures.

A25. The updated Design Guidelines referred to in Condition A24 above, and the resulting design approach regarding integration of the OSD with the CSSI, is to be reviewed by the Sydney Metro Design Review Panel prior to the lodgement of any detailed development application.

DESIGN EXCELLENCE

- A26. Prior to the lodgement of the first detailed development application, the Applicant shall submit the final version of the Sydney Metro Design Excellence Strategy to the satisfaction of the Planning Secretary addressing the following:
- (a) must include a Design Integrity process throughout the design development and construction documentation period in consultation with the Government Architect NSW (GANSW), and through the State Design Review Panel (SDRP) Pilot Program or alternative Design Review Panel (DRP) as endorsed by GANSW. The DRP is to be augmented by including a member of the Sydney Metro Design Review Panel to ensure consistency in design advice and sufficient expertise in integrated station developments; and
 - (b) delete any disclaimer being: **Disclaimer: The processes described in this document are indicative only and are based on a generic tendering process. Aspects of the process described may change.**
- A27. The endorsed Design Excellence Strategy in accordance with Condition A26 is applicable only to the Pitt Street South OSD and is not endorsed under this consent as a Strategy which applies to other sites.

PART B CONDITIONS TO BE SATISFIED IN FUTURE DETAILED DEVELOPMENT APPLICATION(S)

BUILT FORM AND URBAN DESIGN

- B1. The detailed development application(s) shall address compliance with:
- (a) the Design Guidelines as endorsed by the Planning Secretary pursuant to Condition A24 and A25
 - (b) the Design Excellence Strategy as endorsed by the Planning Secretary pursuant to condition A26, including the advice of the Sydney Metro Design Review Panel, the Pitt Street South Design Excellence Evaluation Panel as contained within the Design Excellence Report and State Design Review Panel (or approved alternative under Condition A26).
- B2. The following elements are not inconsistent with the concept proposal but are subject to further assessment with the relevant detailed development application(s):
- (a) indicative signage zones, following preparation of a Signage Strategy
 - (b) conceptual land uses for a residential scheme or a commercial scheme (not both)
 - (c) subdivision.
- B3. The detailed development application shall address the following built form considerations:
- (a) integration with the approved Metro station
 - (b) identify the need for any necessary easement to maintain light and ventilation if windows are proposed on the common boundary with the Edinburgh Castle Hotel (294 – 294B Pitt Street, Sydney)
 - (c) consider any potential amenity impacts to the rear facing residential apartments of Euro Tower (135-137 Bathurst Street)
 - (d) the structure reservation zone is only to be used for non-gross floor area (including structural supports and plants/services relating to the integration with the approved station), alternative options should be considered before built form is proposed in the zone. Any structure or built forms within the structure reservation zone must be designed to minimise its impacts to the outlook and amenity of the adjoining Princeton Apartments
 - (e) a varied setback from the Pitt Street boundary of the site, with the articulation of built forms be designed to minimise solar impacts to the living rooms of Princeton Apartments
 - (f) the selection of materials is to be complementary to the existing development context and respectful of heritage items in the site's vicinity
 - (g) articulation of roof forms must consider opportunity to retain view to St Mary's Cathedral from Century Tower (343 - 357 Pitt Street, Sydney)
 - (h) for a residential scheme, achieve compliance with the requirements of State Environmental Planning Policy No 65 – Design Quality of Residential Apartment Development and the accompanying Apartment Design Guide
 - (i) wind mitigation measures arising from compliance with Condition B11 below.

DESIGN REVIEW PANEL

- B4. Prior to the lodgement of any Detailed Development Application, the Applicant is to submit a Design Integrity Report (DIR), to the satisfaction of the Planning Secretary, that demonstrates how design excellence and design integrity will be achieved in accordance with:
- (a) the design objectives of the Concept Development Application;
 - (b) consistency with the approved Design Guidelines as amended by Condition A24;
 - (c) the DEEP's Design Excellence Report;
 - (d) the advice of State Design Review Panel (or approved alternative under Condition A26); and
 - (e) the conditions of this consent.
- B5. The Design Integrity Report (DIR) as required by Condition B4 must include a summary of feedback provided by SDRP (or alternative approved in accordance with Condition A26) and responses by the Applicant to this advice. The DIR shall also include how the process will be implemented through to completion of the approved development.

LAND USE

- B6. Future detailed development application(s) for the over station development must identify the proposed land use scheme being either a residential development or a commercial development (one or the other, not both).

HERITAGE IMPACT ASSESSMENT

- B7. Future detailed development applications must:

- (a) seek to mitigate impacts of the vertical street walls above the Edinburgh Castle Hotel at 294 - 294B Pitt Street where the building footprint above the podium wraps around the building. Materiality and façade articulation of the podium should respond to the heritage item.
 - (b) demonstrate how the height of the podium responds to the adjacent locally heritage listed Edinburgh Castle Hotel.
- B8. Future detailed development application(s) shall include a detailed Heritage Impact Assessment and a Heritage Interpretation Strategy for the proposed works, prepared in consultation with the Heritage Council of NSW and City of Sydney Council. The Heritage Impact Assessment must address the recommendations of the concept stage Heritage Impact Statement dated August 2018 prepared by Urbis.

ENVIRONMENTAL PERFORMANCE / ESD

- B9. Future detailed development application(s) must demonstrate how the principles of ecologically sustainable development (ESD) have been incorporated into the design, construction and ongoing operation of the proposal. The ESD credentials of the detailed development application shall be in accordance with the framework, targets and visions of the ESD Report lodged with the EIS prepared by GHD (August 2018) and updated Addendum report dated 2 November 2018.
- B10. For future detailed development application(s) the proposed minimum performance targets for environmental performance are:
- (a) If the entire site is a residential building:
 - (i) BASIX 35 Energy; and,
 - (ii) Exceed minimum compliance with BASIX Water.
 - (b) If the entire site is a commercial / office building:
 - (i) 5 Star NABERS Energy; and,
 - (ii) 3.5 Star NABERS Water.
 - (c) Green Star ratings:
 - (i) If the building is predominantly residential, then 5 Star Green Star; or,
 - (ii) If the building is predominantly office / commercial, then 5 Star Green Star.

WIND IMPACTS

- B11. The detailed development application shall be accompanied by a Wind Impact Assessment including computer modelling of the detailed building form. Compliance shall be demonstrated with the *Lawson wind comfort criteria* through the incorporation of mitigation measures within the detailed design.

SECURITY AND CRIME ASSESSMENT

- B12. Future detailed development application(s) shall be accompanied by a Security and Crime Risk Assessment prepared in consultation with NSW Police having regard to NSW Police publication *"Safe Places" Vehicle Management: A comprehensive guide for owners, operators and designers* and Crime Prevention Through Environmental Design (CPTED) principles.

FIRE AND RESCUE ASSESSMENT

- B13. Future detailed development application(s) shall be accompanied by a draft Fire and Rescue Assessment / Engineering Brief for the OSD prepared in consultation with Fire and Rescue NSW providing relevant details of:
- (a) The various sectors within the Pitt Street South Metro site served by independent fire systems (such as the OSD, the underground and aboveground metro sector, etc)
 - (b) Fire engineering analysis of the pedestrian connection interfaces between the sectors and the sectors themselves, having regard to emergency occupant egress, fire and smoke compartmentation, smoke hazard management and firefighting intervention
 - (c) Adequacy of fire and life safety systems within the Pitt Street South Metro site in relation to the fire hazards of the Sydney Metro
 - (d) Design of fire hydrant systems for OSD elements that exceed 135m
 - (e) Future consultation to be undertaken with Fire and Rescue NSW in respect of the final design and construction of the OSD and operational compatibility of the Pitt Street South Metro site's proposed fire and life safety systems.

CONSTRUCTION IMPACT ASSESSMENT

- B14. Future detailed development application(s) shall provide analysis and assessment of the impacts of construction and include:
- (a) Construction Traffic Management Plan as per condition B17(b)

- (b) Cumulative Construction Impact Assessment (i.e. arising from concurrent construction activity)
- (c) Noise and Vibration Impact Assessment
- (d) Community Consultation and Engagement Plans
- (e) Construction Waste Management Plan
- (f) Air Quality Management Plan

The plans referred to above may be prepared as part of a Construction Environmental Management Plan prepared and implemented under the conditions of any consent granted by future development applications, having regard to the Construction Environmental Management Framework and Construction Noise and Vibration Strategy prepared for the Sydney Metro City and Southwest (CSSI 7400).

NOISE AND VIBRATION

- B15. Future detailed development application(s) must demonstrate the following noise and vibration requirements consistent with the construction works at the site approved under CSSI 7400 can be met:
- (a) vibration from construction activities does not exceed the vibration limits set out in the British Standard BS 7385-2:1993 *Evaluation and measurement for vibration in buildings. Guide to damage levels from groundborne vibration*.
 - (b) vibration testing has been conducted before and during vibration generating activities that have the potential to impact on heritage items to identify minimum working distances to prevent cosmetic damage. In the event that the vibration testing and monitoring shows that the preferred values for vibration are likely to be exceeded, the Applicant must review the construction methodology and, if necessary, propose additional mitigation measures.
 - (c) advice of a heritage specialist on methods and locations for installing equipment used for vibration, movement and noise monitoring of heritage-listed structures.

TRAFFIC, ACCESS AND CAR PARKING

- B16. Future detailed development application(s) shall be accompanied by a Traffic and Transport Impact Assessment.
- B17. Future detailed development application(s) must include:
- (a) consideration of responsibilities, timing and commitments to the development of car share parking, motorcycle parking and preparation of travel plans
 - (b) Construction Traffic Management Plan (CTMP) prepared in consultation with the Sydney Coordination Office and the City of Sydney, and to the satisfaction of the relevant roads authorities. The CTMP shall include, but not be limited to:
 - (i) haulage movement numbers / routes including contingency routing
 - (ii) detailed travel management strategy for construction vehicles including staff movements;
 - (iii) maintaining pedestrian and cyclist links / routes
 - (iv) independent road safety audits on construction-related traffic measures
 - (v) measures to account for any cumulative activities / work zones operating simultaneously.
- B18. Independent road safety audits are to be undertaken for all stages of detailed design development involving road operations and traffic issues relevant to the OSD. Any issues identified by the audits shall be closed out in consultation with the Sydney Coordination Office and the City of Sydney to the satisfaction of the relevant road authorities.

UTILITIES

- B19. Future detailed development application(s) shall address the existing capacity and any augmentation requirements of the development for the provision of utilities, including staging of infrastructure through the preparation of an infrastructure / utility management plan in consultation with relevant agencies and service providers.

NOISE AND VIBRATION

- B20. Future detailed development application(s) shall be accompanied by a Noise and Vibration Impact Assessment that identifies and provides a quantitative assessment of the main noise generating sources and activities during operation including consideration of noise and vibration impacts associated with commercial development above a train station. Details are to be included outlining any mitigation measures necessary to ensure the amenity of future sensitive land uses on the neighbouring sites are protected during the operation of the development.
- B21. The Noise and Vibration Impact Assessment must address the conclusions and recommendations of the concept stage Acoustic Report dated August 2018 prepared by GHD.

FLOODING AND STORMWATER

B22. Future detailed development application(s) shall be accompanied by a Flood Impact Assessment. The Flood Impact Assessment must address the conclusions and recommendations of the concept stage Flooding and Stormwater Management Plan dated August 2018 prepared by GHD and provide the following:

- (a) Compliance with the City of Sydney's Interim Floodplain Management Policy including detailed reasoning for any non-compliances.
- (b) Detailed stormwater and drainage design documentation including overland flow assessment and maintenance.

REFLECTIVITY

B23. Future Development Application(s) shall include a Reflectivity Analysis demonstrating that the external treatments, materials and finishes of the development do not cause adverse or excessive glare.

JUSTIFICATIONS FOR LAND USES

B24. Future Development Application(s) shall include detailed description and analysis for either a commercial or a residential land use concept (not both) and justifications that the selected option is based on careful consideration of the benefits and potential impacts.

END OF PART B

ADVISORY NOTES

APPEALS

- AN1 The Applicant has the right to appeal to the Land and Environment Court in the matter set out in the EP&A Act and the EP&A Regulation (as amended).
- AN2 The Applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.