



# Sydney Metro West - Concept and Stage 1 Modification 1

---

Modification to Conditions A11, A39, C10 and D25 to  
improve clarity of intent and timing requirements.  
State Significant Infrastructure Modification Assessment  
(SSI 10038 MOD 1)

Published by the NSW Department of Planning, Industry and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

---

© State of New South Wales through Department of Planning, Industry and Environment 2021. You may copy, distribute, display, download and otherwise freely deal with this publication for any purpose, provided that you attribute the Department of Planning, Industry and Environment as the owner. However, you must obtain permission if you wish to charge others for access to the publication (other than at cost); include the publication in advertising or a product for sale; modify the publication; or republish the publication on a website. You may freely link to the publication on a departmental website.

Disclaimer: The information contained in this publication is based on knowledge and understanding at the time of writing (July 2021) and may not be accurate, current or complete. The State of New South Wales (including the NSW Department of Planning, Industry and Environment), the author and the publisher take no responsibility, and will accept no liability, for the accuracy, currency, reliability or correctness of any information included in the document (including material provided by third parties). Readers should make their own inquiries and rely on their own advice when making decisions related to material contained in this publication.

# Glossary

Abbreviation	Definition
<b>Approval</b>	Infrastructure Approval
<b>ARDEM</b>	Archaeological Research Design and Excavation Methodology
<b>CEMP</b>	Construction Environmental Management Plan
<b>CSSI</b>	Critical State Significant Infrastructure
<b>Department</b>	Department of Planning, Industry and Environment
<b>DNVIS</b>	Detailed Noise and Vibration Impact Statement(s)
<b>EIS</b>	Environmental Impact Statement
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>ER</b>	Environmental Representative
<b>Heritage Council</b>	NSW Heritage Council (or delegate)
<b>IPIAP</b>	Independent Property Impact Assessment Panel
<b>Minister</b>	Minister for Planning and Public Spaces
<b>MOD</b>	Modification
<b>Secretary</b>	Planning Secretary of the Department of Planning, Industry and Environment
<b>SSI</b>	State Significant Infrastructure
<b>The approved project</b>	Sydney Metro West – Concept and Stage One (SSI 10038)
<b>The Proponent</b>	Sydney Metro

# Contents

<b>1</b>	<b>Introduction .....</b>	<b>1</b>
1.1	Background.....	1
1.2	Approval history.....	1
<b>2</b>	<b>Proposed modification .....</b>	<b>3</b>
<b>3</b>	<b>Statutory context .....</b>	<b>4</b>
3.1	Scope of modifications.....	4
3.2	Delegated authority .....	4
3.3	Ministers delegate as determining authority .....	4
<b>4</b>	<b>Engagement.....</b>	<b>5</b>
4.1	Department's engagement.....	5
<b>5</b>	<b>Assessment .....</b>	<b>6</b>
5.1	Department's Assessment.....	6
5.2	Condition A11.....	6
5.3	Condition A39.1 .....	6
5.4	Condition C10 .....	6
5.5	Condition D25 .....	6
5.6	Other consequential modifications .....	7
<b>6</b>	<b>Evaluation.....</b>	<b>8</b>
<b>7</b>	<b>Recommendation.....</b>	<b>9</b>
<b>8</b>	<b>Determination.....</b>	<b>9</b>
	<b>Appendices .....</b>	<b>10</b>
	Appendix A – Modification Report .....	10
	Appendix B – Consolidated Approval .....	10
	Appendix C – Notice of Modification.....	10

# 1 Introduction

This report provides an assessment of an application to modify the State significant infrastructure (SSI) approval for Sydney Metro West – Concept and Stage 1 (major civil construction between Westmead and the Bays) (SSI-10038) (the approved project).

The modification application seeks approval to make the following administrative changes to clarify the intent and timing requirements:

- amend Condition A11 to specify the conditions that the risk assessment, prepared as part of the Phasing Report, applies to
- amend Condition C10 to provide consistent wording regarding the Environmental Representative's endorsement of CEMP and CEMP Sub-plans
- amend Condition D25 regarding the timing of the preparation of a revised Archaeological Research Design and Excavation Methodology, and
- introduce an additional Condition A39.1 regarding the preparation of an audit program to outline the scope and timing of each independent audit that will be undertaken during construction.

The application was lodged on 22 June 2021 by Sydney Metro (the Proponent) pursuant to section 5.25 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

## 1.1 Background

The Sydney Metro West Concept and Stage 1 project comprises an underground metro rail line, approximately 24 kilometres in length, with eight new metro stations between Westmead and the Sydney CBD. New metro stations would be built at Westmead, Parramatta, Sydney Olympic Park, North Strathfield, Burwood North, Five Dock, The Bays and the Sydney CBD. The Concept and Stage 1 approval included approval of the project at a conceptual level and for major civil construction between Westmead and The Bays including station excavation and tunnelling.

## 1.2 Approval history

The Sydney Metro West – Concept and Stage 1 project (SSI 10038) was approved on the 11 March 2021 by the then NSW Minister for Planning and Public Spaces.

No other modifications have been made to this approval.

## 2 Proposed modification

The Proponent has requested modifications to the following conditions:

- A11 to specify the conditions that the risk assessment, prepared as part of the Phasing Report, applies to
- C10 to provide consistent wording regarding the Environmental Representative's endorsement of the CEMP and CEMP Sub-plans, and
- D25 regarding the timing of the preparation of a revised Archaeological Research Design and Excavation Methodology.

In addition, the Proponent has recommended inclusion of a further condition in relation to independent audits required by Condition A39, to enable the preparation of an audit program to outline the scope and timing of each independent audit.

The proposed modifications and addition are described below.

**Condition A11** outlines the requirements for inclusion in the Phasing Report including details of work and construction timeframes, compliance with relevant conditions for each construction phase, mechanisms to manage cumulative impacts and an assessment of predicted environment risk and potential level of community concern. The Proponent has requested to modify Condition A11(d) to explicitly outline that the risk assessment would be prepared for the purposes of informing the decision making aspects of Conditions C2, C7 and C18, rather than applying to all conditions of approval. These conditions relate to the Planning Secretary's approval of the CEMP, CEMP Sub-plans and Construction Monitoring Programs.

**Condition C10** outlines that the Planning Secretary must approve or the Environmental Representative must certify the CEMP and CEMP Sub-plans for each phase before construction of that phase commences. The Proponent has requested that the wording of Condition C10 be modified from 'certified' to 'endorsed' by the Environmental Representative to provide consistent terminology throughout the Part C conditions.

**Condition D25** requires the Proponent to prepare a revised Archaeological Research Design and Excavation Methodology (ARDEM) for approval prior to the commencement of any 'work' at the Parramatta and The Bays metro station construction sites. The Proponent has requested that the wording of Condition D25 be modified to require the timing for revision of the ARDEM to before the commencement of excavation. This would allow work at those sites that does not require excavation, and which would not disturb any archaeological resources.

**Condition A39** requires Independent Audits to be carried out in accordance with the *Independent Audit Post Approval Requirements* (DPIE 2020). The Proponent has also requested the inclusion of an additional **Condition A39.1** to enable the preparation of an audit program to outline the scope and timing of each independent audit that will be undertaken during construction, developed in consultation with and approved by the Planning Secretary.

## 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 administrative changes requested by the Proponent are not 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 is the approval authority under section 5.25 of the EP&A Act unless the Minister has delegated his determination functions to the Department.

### 3.3 Ministers delegate as determining authority

Under the Instrument of Delegation dated 26 April 2021, the functions and powers of the Minister for Planning and Public Spaces under section 5.25 of the EP&A Act to determine a modification of the Minister's approval may be delegated whereby:

- the relevant local council has not made an objection;
- a political disclosure statement has not been made; and
- there are less than 15 public submissions in the nature of objections.

The proposed modification meets the terms of this delegation. As such, the Team Leader, Transport Assessments, is the delegated authority to determine the modification request.

## 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.

The modification request was also referred to the following government agencies for comment:

- Place Management NSW
- Heritage NSW
- Inner West Council

#### *Place Management NSW*

Place Management NSW noted they supported Condition D25 and that it is standard practice in accordance with the Heritage Act.

#### *Heritage NSW (delegate of the Heritage Council of NSW)*

Heritage NSW agreed with the proposed changes to Condition D25 provided that these changes continued to satisfy the requirements of other consent conditions (e.g. the management of vibration impacts to heritage items) and that the nominated works (not involving ground disturbance) are clearly stated in contract documents as well as site inductions. Heritage NSW outlined that the approach should provide surety that significant archaeological relics will be protected during the nominated works phase and would not compromise the SSI approved archaeological program. Heritage NSW expressed its support for updates to DPIE and Heritage NSW on the progress of the ARDEM.

#### *Inner West Council*

Inner West Council raised no specific issues with the modifications proposed to conditions A11, C10 and the introduction of Condition A39.1. However, Council raised concerns with the indicative list of activities that could be undertaken prior to the finalisation of the ARDEM report provided by Sydney Metro in relation to Condition D25. Council considers that it is essential that extreme care be taken when conducting any subsurface works, given the archaeological sensitivity of the Bays Station site. As a result, Council has requested to be included in further consultation relating to this modification.



## 5 Assessment

### 5.1 Department's Assessment

The Department has reviewed the Applicant's Modification Report and supporting information and assessed the potential impacts of the proposed modification as set out below. The proposed changes are considered administrative and minor in nature.

### 5.2 Condition A11

Condition A11(d) requires the Proponent to prepare an assessment of predicted environmental risk and potential level of community concern for each phase of the project, with the intent of providing relevant information to inform the decision making aspects of Conditions C2, C7 and C18. These conditions relate to the Planning Secretary's approval of the CEMP, CEMP Sub-plans and Construction Monitoring Programs.

However, as these conditions are not specified in the current wording of Condition A11, it may be interpreted that the risk assessment required by Condition A11(d) applies to all conditions of approval. As such, the proposed modification would explicitly outline that the risk assessment would be prepared for the purposes of informing the decision making aspects of Conditions C2, C7 and C18. This would ensure Condition A11(d) achieves its intended outcome.

### 5.3 Condition A39.1

Condition A39 requires independent audits to be conducted and carried out in accordance with the *Independent Audit Post Approval Requirements* (DPIE 2020). In consultation with the Department, it was determined an additional Condition A39.1 could enable the preparation of an audit program to outline the timing and scope of each audit. The Department considers that Condition A39.1 would enable a more efficient and effective approach to monitoring compliance across the range of phases being delivered for the Sydney Metro West Stage 1 project.

### 5.4 Condition C10

Condition C10 outlines that the Environmental Representative must certify the CEMP and CEMP Sub-plans for each phase of the project before construction of that phase commences. The proposed modification of the wording from 'certified' to 'endorsed' would provide consistent terminology throughout the Part C conditions.

### 5.5 Condition D25

Condition D25 concerns the timing for lodgement of the Archaeological Research Design and Excavation Methodology (ARDEM). The purpose of the ARDEM is to provide the research framework and methodologies to manage and mitigate impacts to archaeological remains, which are subsurface.

As a result, the Proponent has requested to modify Condition D25 so that the timing of the preparation of the ARDEM is linked to activities that have the potential to affect subsurface remains, including excavation and ground disturbance activities.

The proposed modification would enable activities that do not affect subsurface remains to commence before the ARDEM is revised. However, the wording would ensure that excavation could only occur after ARDEM approval. This approach provides surety that significant archaeological relics are not disturbed during the early work activities and would not compromise the SSI approved archaeological program.

Inner West Council has requested further consultation in regard to the scope of work to be undertaken in this regard. The Department supports open and ongoing consultation with relevant stakeholders such as council and is satisfied that other conditions in the Minister's approval relating to the project consultation strategy and communication more broadly address this concern.

## **5.6 Other consequential modifications**

The proposed modification would result in a minor update to Condition A1 listing the relevant documentation considered for this modification.

## 6 Evaluation

The Department has reviewed the Modification Report and other supporting information and evaluated the merits of the modification. The Department considers the modification should be approved, subject to conditions. The key reasons are as follows.

1. The modification request complies with relevant statutory provisions and remains consistent with the EP&A Act (refer to **Section 3**)
2. The development to which the modification relates remains substantially the same
3. The request to modify Conditions A11, C10 and D25 and introduce an additional Condition A39.1, would clarify the original intent and timing requirements, and
4. The modification would not result in adverse impacts on the environment beyond those assessed in the project approval.

Consequently, it is recommended that the modification as recommended be approved.

## 7 Recommendation

It is recommended that the Team Leader, Transport Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the application Sydney Metro West – Concept and Stage 1 Modification 1 (SSI-10038 MOD 1) falls within the scope of section 5.25 of the EP&A Act
- **accepts and adopts** the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **modify** the approval SSI-10038
- **signs** the attached Notice of Modification (**Appendix C**).

### Recommended by:

**Annika Hather**

Student Para Planner

Transport Assessments

## 8 Determination

The recommendation is **Adopted** / ~~Not adopted~~ by:

A handwritten signature in blue ink that reads "Lisa Mitchell".

28/7/2021

**Lisa Mitchell**

Team Leader

Transport Assessments

as delegate of the Minister for Planning and Public Spaces

# Appendices

## **Appendix A – Modification Report**

<https://www.planningportal.nsw.gov.au/major-projects/project/42196>

## **Appendix B – Consolidated Approval**

<https://www.planningportal.nsw.gov.au/major-projects/project/42196>

## **Appendix C – Notice of Modification**

<https://www.planningportal.nsw.gov.au/major-projects/project/42196>