

Modification of Infrastructure Approval

Section 5.25 of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning, I approve the modification of the State significant infrastructure approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Glenn Snow
Director
Transport Assessments

Sydney

4 July 2022

SCHEDULE 1

Infrastructure Approval:

SSI 10038 granted by the Minister for Planning on 11 March 2021

For the following:

Development of the Sydney Metro West project comprising:

- new passenger rail infrastructure between Westmead and the central business district (CBD) of Sydney, including:
 - tunnels, stations (including surrounding areas) and associated rail facilities, and
 - stabling and maintenance facilities (including associated underground and overground connections to tunnels), and
- modification of existing rail infrastructure (including stations and surrounding areas), and
- ancillary development.

The development does not include the following:

- surveys, test drilling, test excavations, geotechnical or contamination investigations or other tests, surveys, sampling or investigation for the purposes of the design or assessment of the Sydney Metro West project, and
- the relocation or upgrade of existing roads, intersections or parking areas that:
 - is carried out on land identified as being within the Bays Precinct Site on the State Significant Development Sites Map of the *State*

Environmental Planning Policy (State and Regional Development) 2011, and

- is the subject of a determination under Division 5.1 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Modification:

This modification includes amendments to conditions:

- C-B10 to include the use of native species for the rehabilitation of parts of Duck Creek and A'Becketts Creek and to limit the use of species representative of PCT 920 within the tidal limits of Duck Creek and A'Becketts Creek
- D13 to delete 'physically' from the condition and define 'affect' to be consistent with Heritage NSW Policy
- D17 to delete 'adversely' from the condition and defined 'affected' to be consistent with Heritage NSW Policy
- D18 to capture significant heritage fabric in the salvage register to be prepared by the Proponent
- D37 by changing 'Low Impact' wording to 'Minimal Impact' to avoid confusion with the defined term Low Impact Work in the approval instrument
- D63 to remove the reference to vibration criteria and include reference to ground movement assessment conducted in the EIS or undertaken by geotechnical analysis as part of detailed construction planning
- D66 to ensure settlement monitoring continues if directed to do so by the Independent Property Impact Assessment Panel (IPIAP)
- D10 to include the requirements to consult with flood affected properties, NSW State Emergency Services and Sydney Olympic Park, from condition D11
- delete condition D11

SCHEDULE 2

Note: Words that have been deleted are shown as: ~~deleted~~
Words that have been added are shown as: added

1. Amend condition A1 as follows:

The Proponent must carry out Stage 1 of the CSSI in accordance with the conditions of this approval and generally in accordance with the:

- a. *Sydney Metro West – Westmead to The Bays and Sydney CBD Environmental Impact Statement* dated 15 April 2020;
- b. *Sydney Metro West – Westmead to The Bays and Sydney CBD Submissions Report* dated 20 November 2020;
- c. *Sydney Metro West – Westmead to The Bays and Sydney CBD Amendment Report* dated 20 November 2020;
- d. *Sydney Metro West – Westmead to The Bays and Sydney CBD Modification Request Letter* dated 21 June 2021;
- e. *Sydney Metro West – Clyde stabling and maintenance facility Modification Report* dated November 2021; ~~and~~
- f. *Sydney Metro West – Concept and Stage 1 – Modification 2 Clyde stabling and maintenance facility (SSI-10038-Mod-2): Response to submissions* dated 21 March 2022; and
- g. *Sydney Metro West – Concept and Stage 1 – Modification 3 Administrative Mod* dated May 2022.

2. Amend condition C-B10 as follows

C-B10. Parts of Duck Creek and A'Becketts Creek that remain open channels at the Clyde Stabling and Maintenance Facility site must be rehabilitated and / or renaturalised before operation of the CSSI commences.

In areas that are within the tidal limits of Duck Creek and A'Becketts Creek, only species that are representative of PCT 920 (Mangrove Forests in estuaries of the Sydney Basin Bioregion and South East Corner Bioregion), must be used in revegetation of the riparian zone along the open channels to Duck Creek and A'Becketts Creek. Elsewhere, revegetation must use species that are representative of the most appropriate plant community type in each location, depending on levels of inundation, salinity levels, and elevation as determined by an ecologist.

Note: The most appropriate PCT may include the following: 1234, 1126, 781, 1808, 835, 849, and 1800.

3. Amend condition D10 as follows

D10. Unless otherwise agreed by the Planning Secretary, Stage 1 of the CSSI must be designed and constructed to not worsen flooding characteristics within and in the vicinity of the CSSI. Not worsen existing flooding characteristics means the following:

- (a) a maximum increase in inundation time of one hour in a one (1) per cent Annual Exceedance Probability (AEP) flood event;
- (b) a maximum increase of 10 mm in inundation at properties where floor levels are currently exceeded in a one (1) per cent AEP flood event;
- (c) a maximum increase of 50 mm in inundation of land at properties where floor levels would not be exceeded in a one (1) per cent AEP flood event; and
- (d) no inundation of floor levels which are currently not inundated in a one (1) per cent AEP

flood event.

Measures identified in the documents listed in Condition A1 of this schedule to not worsen flooding characteristics or measures that achieve the same outcome must be incorporated into the detailed design of Stage 1 of the CSSI. The incorporation of these measures must be reviewed and endorsed by a suitably qualified and experienced person in consultation with directly affected landowners, DPE Water, DPI Fisheries, DPE BCD, NSW State Emergency Service (SES), SOPA (in respect of Sydney Olympic Park) and Relevant Council(s).

Where flooding characteristics exceed the levels identified in (a), (b), (c), (d) above, the Proponent must undertake the following:

- (e) consult with property owners for properties adversely flood affected as a result of Stage 1 of the CSSI and mitigate where necessary; and
- (f) consult with the NSW State Emergency Service (SES), SOPA (in respect of Sydney Olympic Park) and Relevant Council(s) regarding the management of any residual flood risk beyond the 1 per cent AEP flood event and up to the probable maximum flood.

4. **Delete condition D11**

~~D11. Where flooding characteristics exceed the levels identified in Condition D10 above the Proponent must undertake the following:~~

- ~~(a) consult with property owners for properties adversely flood affected as a result of Stage 1 of the CSSI and mitigate where necessary;~~
- ~~(b) and consult with the NSW State Emergency Service (SES), SOPA (in respect of Sydney Olympic Park) and Relevant Council(s) regarding the management of any residual flood risk beyond the 1 per cent AEP flood event and up to the probable maximum flood.~~

5. **Amend Condition D13 as follows**

The Proponent must not destroy, modify or otherwise ~~physically~~ affect any Heritage item not identified in documents referred to in **Condition A1** of this schedule. Unexpected heritage finds identified by Stage 1 of the CSSI must be managed in accordance with the **Unexpected Finds Protocol** outlined in **Conditions D31 to D33** of this schedule. Consideration of avoidance and redesign to protect state significant unexpected finds must be addressed where this condition applies.

Note: Affect in this condition means any impact above "little to no impact" as defined in the Material Threshold Policy (Heritage NSW, 2020)

6. **Amend condition D17 as follows**

The Roxy Theatre, White Bay Power Station, the former State Abattoirs and the former RTA Depot facade fronting Unwin Street must not be destroyed, modified or otherwise ~~adversely~~ affected, except as identified in the documents listed in **Condition A1** of this schedule.

Note: Affected in this condition means any impact above "little to no impact" as defined in the Material Threshold Policy (Heritage NSW, 2020)

7. **Amend condition D18 as follows**

D18. Where Heritage items, or items assessed to be of local heritage significance in the documents listed in **Condition A1** of this schedule, are proposed to be fully or partially destroyed, heritage salvage must occur in consultation with a suitably qualified heritage specialist. The Proponent must develop a salvaged materials significant fabric and moveable heritage salvage register. The register must identify significant items to be salvaged. Salvage must occur for items that are assessed as having heritage significance and where significance is retained and / or the potential for re-use, or reinstatement or re-sale has been

identified. The salvage from any State listed items must be undertaken in consultation with Heritage NSW.

8. **Amend condition D37 as follows**

Variation to Work Hours

Notwithstanding **Conditions D35** and **D36** of this schedule work may be undertaken outside the hours specified in the following circumstances:

- (a) **Safety and Emergencies**, including:
- (i) for the delivery of materials required by the NSW Police Force or other authority for safety reasons; or
 - (ii) where it is required in an emergency to avoid injury or the loss of life, to avoid damage or loss of property or to prevent environmental harm.

On becoming aware of the need for emergency work in accordance with (a)(ii) above, the **AA**, the **ER**, the Planning Secretary and the EPA must be notified of the reasons for such work. The Proponent must use best endeavours to notify as soon as practicable all noise and/or vibration affected sensitive land user(s) of the likely impact and duration of those work.

- (b) **Low impact Noise Impact Work**, including:
- (i) construction that causes $L_{Aeq(15\text{ minute})}$ noise levels:
 - no more than 5 dB(A) above the rating background level at any residence in accordance with the ICNG, and
 - no more than the 'Noise affected' NMLs specified in Table 3 of the ICNG at other sensitive land user(s); and
 - (ii) construction that causes $L_{AFmax(15\text{ minute})}$ noise levels no more than 15 dB(A) above the rating background level at any residence; or
 - (iii) construction that causes:
 - continuous or impulsive vibration values, measured at the most affected residence are no more than the preferred values for human exposure to vibration, specified in Table 2.2 of *Assessing Vibration: a technical guideline* (DEC, 2006), or
 - intermittent vibration values measured at the most affected residence are no more than the preferred values for human exposure to vibration, specified in Table 2.4 of *Assessing Vibration: a technical guideline* (DEC, 2006).
- (c) **By Approval**, including:
- (i) where different construction hours are permitted or required under an EPL in force in respect of the CSSI; or
 - (ii) works which are not subject to an EPL that are approved under an **Out-of-Hours Work Protocol** as required by **Condition D38** of this schedule; or
 - (iii) negotiated agreements with directly affected residents and sensitive land user(s).
- (d) **By Prescribed Activity**, including:
- (i) tunnelling (excluding cut and cover tunnelling and surface works) are permitted 24 hours a day, seven days a week; or
 - (ii) concrete batching at the Clyde construction site is permitted 24 hours a day, seven days a week; or
 - (iii) delivery of material that is required to be delivered outside of standard construction hours in **Condition D35** of this schedule to directly support tunnelling activities, except between the hours 10:00 pm and 7:00 am to / from the Five Dock and Westmead construction sites and to / from Burwood North construction site using any roads / streets other than directly from Parramatta Road; or
 - (iv) haulage of spoil except between the hours of 10:00 pm and 7:00 am to / from the Five Dock and Westmead construction sites and to / from Burwood North construction site using any roads / streets other than directly from Parramatta Road; or
 - (v) work within an acoustic shed where there is no exceedance of noise levels under **Low impact Noise Impact Work** circumstances identified in (b) above, unless otherwise agreed by the Planning Secretary.

Note: Tunnelling does not include station box excavation.

9. **Amend condition D63 as follows**

- D63. Appropriate equipment to monitor areas in proximity of construction sites and the tunnel route during construction must be installed with particular reference to at risk buildings, structures and utilities identified in the condition surveys required by **Condition D60** of this schedule and / or geotechnical analysis as required. If monitoring during construction indicate exceedance of the predicted impacts identified in the documents in Condition A1 or determined through geotechnical analysis ~~vibration criteria identified in the **DNVIS** prepared under **Condition D43** of this schedule~~, then all construction affecting settlement must cease immediately if safe to do so and must not resume until fully rectified or a revised method of construction is established that will ensure protection of affected buildings.

10. **Amend condition D66 as follows**

- D66. Settlement monitoring must be extended ~~monitored for any period beyond the minimum timeframe requirements of **Condition D63** of this schedule~~ if directed so by the **IPIAP** following its review of the monitoring data from the period not less than six (6) months after settlement has stabilised, consistent with **Condition D63** of this schedule. The results of the monitoring must be made available to the Planning Secretary upon request.