



7 June 2016

Ref: A13220247

The Secretary
NSW Department of Planning and Environment
23 – 33 Bridge Street
Sydney NSW 2000

Attention: Jacqui McLeod

Dear Jacqui

Re: Request for Modification of Condition of Approval D47 for the NorthConnex Project (SSI-6136)

This letter is to formally request a modification to the conditions of approval for the NorthConnex Project (SSI-6136) in accordance with the requirements of section 115ZI of the NSW *Environmental Planning and Assessment Act 1979* (the EP&A Act). The modification request relates to condition of approval D47 which requires the preparation of a Biodiversity Offset Package that details how the ecological values lost as a result of the project will be offset.

As Roads and Maritime has previously advised the Department, a considerable amount of effort has gone into reducing the offset requirements for the project and identifying the offset credits required to satisfy Biodiversity Offset Package requirements, which is required to be implemented by 18 June 2016 (12 months from the commencement of construction). There is, however, currently a lack of suitable offsets available on market to satisfy the full requirements for the project. The process for finding and making suitable offset credits available could take up to two years to complete. The result is that it is not feasible to secure all required offset credits by 18 June as is required by condition of approval D47. Further information to support this statement is provided below.

Roads and Maritime formally requested an extension of time regarding implementation of the Biodiversity Offset Package on 2 May 2016. The Department advised on 26 May 2016 that the Secretary's discretion to "otherwise agree" only relates to the consistency of the offset package with the two policies listed in the condition. The condition, as currently drafted, does not give the Secretary the power to agree to an alternative

lodgement date. Roads and Maritime therefore requests a modification to the wording of condition of approval D47 to give the Secretary the power and discretion to agree to an alternative lodgement date.

Information to support this request is provided below.

Supporting information

The Lend Lease Bouygues Joint Venture (LLBJV), on behalf of Roads and Maritime, has put considerable effort into identifying the offset credits required to satisfy Biodiversity Offset Package requirements for the project. This has occurred by considering the actual and proposed clearing extents and pre-clearing ecological assessments of the vegetation in accordance with the relevant guidelines identified in D47. The preliminary assessment of the offset credits required for the project is provided in Table 1 below. Construction, however, has not yet commenced in all locations where clearing is required. The project continues to seek opportunities to minimise clearing, particularly in relation to *Epacris purpurascens subsp. Purpurascens*, which will reduce offset requirements. The final offset credit requirements cannot be finalised until all clearing required for the project is complete and final impacts can be quantified. This is unlikely to occur prior to 18 June 2016.

Table 1 Preliminary assessment of offset credits required

Description	Indicative credits required
Blue Gum High Forest (ME001)	78
Smooth-barked Apple - Red Bloodwood - Sydney Peppermint heathy open forest (ME029)	30
Red Bloodwood - Smooth-barked Apple shrubby forest (ME039)	85
Sydney Turpentine-Ironbark Forest (ME041)	9
Gang-gang Cockatoo	74
<i>Epacris purpurascens subsp. Purpurascens</i>	17,017

Relevant offset credits that are currently available have also been investigated. Many relevant offset credits are available and the project has commenced negotiation with a number of offset holders. 28 of the required 30 offset credits for Smooth-barked Apple - Red Bloodwood – Sydney Peppermint (ME029) have already been purchased.

Currently, however, there is a lack of suitable offsets available on market to satisfy the full offset credit requirements. This is particularly apparent for Blue Gum High Forest. To address this particular offset requirement, the project has identified lands owned by Hornsby Shire Council and The Hills Shire Council on which the ecological community is located. Consultation with the councils indicates that they are willing to enter into a BioBanking agreement in relation to those lands to generate offset credits and make those credits available to the project. The project intends to partner with the councils to assist in developing the BioBanking agreements for suitable land parcels and generating the offset credits. Advice from Roads and Maritime biodiversity specialists indicates that this process could take up to 18 months. Once the credit conversion and certification process is complete another six months may be required to formally secure the offset credits through the BioBanking register.

It is not feasible, therefore, to implement the Biodiversity Offset Package by 18 June 2016 as the full offset requirements will not be finalised by that time and certain required offsets are not currently available.

Proposed modification to condition of approval D47

Condition of approval D47 currently requires that:

Within 12 months of the commencement of construction, the Proponent shall develop and implement a Biodiversity Offset Package for the approval of the Secretary. The Package shall detail how the ecological values lost as a result of the SSI will be offset. The Package shall be consistent with the NSW offset principles for major projects (state significant development and state significant infrastructure) (OEH, 2013) and align, as far as is feasible and reasonable, with the Biodiversity Offset Strategy requirements of the NSW Biodiversity Offsets Policy for Major Projects (OEH 2014), unless otherwise agreed by the Secretary.

The following alternative wording is suggested:

Within 12 months of the commencement of construction, unless otherwise agreed to by the Secretary, the Proponent shall develop and implement a Biodiversity Offset Package for the approval of the Secretary. The Package shall detail how the ecological values lost as a result of the SSI will be offset. The Package shall be consistent with the NSW offset principles for major projects (state significant development and state significant infrastructure) (OEH, 2013) and align, as far as is feasible and reasonable, with the Biodiversity Offset Strategy requirements of the NSW Biodiversity Offsets Policy for Major Projects (OEH 2014).

The proposed alternative wording would grant the Secretary the power and discretion to agree to an alternative lodgement date without affecting the overall environmental outcome.

The date for development and implementation of the package is very soon. As it currently stands the project will be non-complaint with the current condition after 18 June 2016 and will remain non-compliant until the package is implemented, which may take two years or longer. Roads and Maritime is of the opinion that it is in the best interests of the project and the Department to modify condition of approval D47 to allow an implementation date to be established that is feasible and reasonable.

As part of this request Roads and Maritime reconfirms the previous request for a two year extension of time for implementation of the package as requested on 2 May 2016, subject to this modification requested being granted.

Thank you for considering this request. As condition of approval requires that the Biodiversity Offset Package is implemented shortly, your earliest consideration of this matter and advice would be greatly appreciated. Should you wish to discuss this matter further, please do not hesitate to contact the RMS Environment Officer for the NorthConnex Project, John Fisher on john.m.fisher@rms.nsw.gov.au or 0448 514 073.

Yours sincerely



DANIEL POWRIE

Project Director – NorthConnex Delivery