

26 July 2017

Our Ref: A18363706
Your Ref: SSI 6788

Glenn Snow
Director, Transport Assessments
Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

Dear Mr Snow

**WestConnex New M5 Project
Infrastructure Approval (SSI 6788)
Request for Administrative Modification of Conditions of Approval E3, E14 and
E44**

1. Introduction

Roads and Maritime Services (RMS) is requesting an administrative modification (the Modification) from the Department of Planning and Environment (DPE) to three Conditions of Approval (CoAs) in accordance with the requirements of section 115ZI of the Environmental Planning and Assessment Act 1979 (EP&A Act).

The modification request relates to:

- CoA E3, which requires the verification of the number and location of monitoring stations inside the tunnel at least six months prior to the operation of the SSI and the auditing of compliance with Table 4 – In-tunnel monitoring methodology at least two months prior to commencing monitoring.
- CoA E14, which specifies goals for ambient monitoring of air pollutants.
- CoA E44, which requires the preparation of an Emergency Response Plan six months prior to operation and the provision for a simulated emergency response exercise, one month prior to operation.

2. Modification of CoA E3 and E44

2.1 Justification for modification of CoA E3 and E44

CoA E3 and E44 impose specific timing requirements within the conditions as follows:

- verification of the number and location of monitoring stations inside the tunnel *at least six months* prior to the operation of the SSI (CoA E3);

- auditing of the sampling and visibility monitoring points *at least two months* prior to commencing monitoring (CoA E3)
- preparation of an Emergency Response Plan *six months* prior to operation (E44); and
- the provision for a simulated emergency response exercise, *one month* prior to operation (E44).

The Proponent's New M5 D&C Deed sets out timing requirements through the Scope of Works & Technical Criteria (SWTC) which provide the mechanism to meet the requirements of Conditions E3 and E44. The timing in the SWTC differs from the timeframe currently required by the Conditions. It is proposed that the timing requirements specified within Conditions E3 and E44 be removed, whilst maintaining the requirement for compliance prior to the commencement of operation of the SSI.

2.2 Modification of CoA E3 and E44

Given the above, it is recommended that CoA E3 and E44 is amended in accordance with clause 115ZI of the EP&A Act 1979 to the following:

- E3: The number and location of the monitoring stations inside the tunnel must be determined to permit an accurate calculation, per the requirements of conditions E4, E5 and E6, and be independently verified in accordance with a methodology approved by the Secretary in consultation with the EPA ~~at least six months~~ prior to the operation of the SSI. As a minimum, monitoring stations must be installed at the entry portals, the base of the ventilation outlets, tunnel and ramp junctions and at the emergency smoke extraction facility.

All sampling points and visibility monitoring points established under this condition must be audited ~~at least two months~~ prior to commencing monitoring for compliance with the requirements set out in Table 4. Verification and compliance auditing is to be undertaken by an independent person(s) or organisation(s) whose appointment has been approved by the Secretary.

Air quality data is to be made available in as close to real time as possible, under the website reporting requirements of condition E24.

- E44: ~~Six months~~ Prior to operation, the Proponent must prepare an Emergency Response Plan, in consultation with FRNSW and NSW Police Force.

The Emergency Response Plan must include, but not be limited to:

- (a) protocols and procedures to be followed during emergency situations associated with the operation of the project (including fires, explosions and, for the purposes of this condition, vehicle collisions). The protocols and procedures are to take into account the needs of people with a disability or who may experience access problems in emergency situations;
- (b) details of traffic management measures to be implemented during emergencies, where appropriate, to minimise the potential for escalation of the emergency;
- (c) design and management measures to address the potential environmental impacts of an emergency situation, including measures for containment of contaminated fire-fighting water, fuel spills and gaseous combustion products;
- (d) details of a training and testing program to ensure that -
 - (i) all operational staff are familiar with the Emergency Response Plan, and
 - (ii) coordination with FRNSW and NSW Police is regularly exercised; and
- (e) provision for a simulated emergency response exercise, including the Proponent, FRNSW and NSW Police, to be conducted in accordance with the approved Emergency Response Plan on at least one occasion prior to the opening of the

tunnels to traffic. The time for the exercise is to be agreed by the participants, and FRNSW and NSW Police are to be provided with at least one month prior notification of any proposed time.

2.3 Impact of modification

The modification does not change the intent or requirements of the condition. The modified conditions:

- Do not impact the underlying requirements of the conditions;
- Provides greater flexibility for the Proponent to plan its work; and
- Remains enforceable, with the onus still on the proponent to comply with the requirements prior to operations.

3. Modification of CoA E14

3.1 Justification for modification of CoA E14

CoA E14 specifies goals for ambient air monitoring of air pollutants. If the goals are exceeded the provisions of CoA E15, E16 and E17 will apply.

It is currently unclear as to when the measurement of air pollutants against the goals in CoA E14 (in particular the annual average required under Conditions E14 (e) and (f)) commences for the purposes of notification and reporting obligations under CoA E16 and E17. As such it is proposed to include a note within CoA E14 which clarifies that the commencement of ambient monitoring for the purposes of measurement against the goals in this condition will commence at the commencement of operation.

3.2 Modification of CoA E14

Given the above, it is recommended that CoA E14 is amended in accordance with clause 115ZI of the EP&A Act 1979 to the following:

- E14: Should ambient monitoring of pollutants exceed the following goals, the provisions of conditions E15, E16 and E17 will apply:
 - (a) CO – 8 hour rolling average of 9.0 ppm (NEPM);
 - (b) NO₂ – One hour average of 0.12 ppm (245 µg/m³) (NEPM);
 - (c) PM₁₀ – 24 hour average of 50 µg/m³ (NEPM);
 - (d) PM_{2.5} – 24 hour average of 25 µg/m³ (NEPM);
 - (e) PM₁₀ – annual average of 25 µg/m³ (NEPM); and
 - (f) PM_{2.5} – annual average of 8 µg/m³ (NEPM).

Note: Ambient monitoring of pollutants for the purposes of notification and reporting obligations under conditions E15, E16 and E17 will commence at the commencement of operation of the SSI. As such, the first annual average of pollutants will be available 12 months following the commencement of operations.

3.3 Impact of modification

The modification does not change the intent or requirements of the condition. The modified condition:

- Does not impact the underlying requirements of the conditions; and
- Provides clarity as to the commencement of notification and reporting obligations.

4. Conclusion

The revised wording of CoA E3, E44 and E14 is considered appropriate in continuing to maintain the intent of the conditions whilst providing flexibility to the Proponent and clarity as to the Proponent's obligations.

Should you have any questions or would like further information relating to this letter, please contact Mr Ashley Robinson on 0439 575 388 or email ashley.j.robinson@rms.nsw.gov.au.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Philip Knudsen', with a stylized flourish at the end.

Philip Knudsen
Director Motorway Delivery