

Modification of Infrastructure Approval

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

I approve the modification of the State significant infrastructure approval referred to in Schedule 1, subject to the conditions in Schedule 2.



The Hon. Anthony Roberts, MP
Minister for Planning

Sydney

7 / 2 / 2022

SCHEDULE 1

Infrastructure Approval:

SSI 6888 granted by the Minister for Planning on 15 February 2019.

For the following:

A section of the Newcastle Inner City Bypass about 3.4 kilometres in length between Rankin Park and Jesmond, and including:

- A northern interchange providing access to Newcastle Road and the existing Jesmond to Shortland section of the Newcastle Inner City Bypass;
- A full interchange providing access between the John Hunter Hospital precinct and the Newcastle Inner City Bypass;
- A southern interchange providing access to Lookout Road, McCaffrey Drive and Newcastle Road;
- Structures along the road to allow for drainage, animal and pedestrian access;
- Pedestrian and cycling facilities, including a shared path bridge over Newcastle Road and grade separation of the existing east-west Jesmond Park shared path at the northern interchange;
- Operational noise mitigation measures; and
- Permanent operation water quality treatment measures.

Modification:

Three additional construction ancillary sites at Peatties Road, Kotara; Cardiff Road, Cardiff Heights; and Lookout Road, New Lambton Heights to support the construction of the project, and administrative changes to update agency names and project documents.

SCHEDULE 2

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

Words that have been added are shown as: added

1. Amend Schedule 1 as follows:

Proponent	Roads and Maritime Services <u>Transport for NSW</u>
Land	Land generally located between Lookout Road/McCaffrey Drive, Rankin Park and Newcastle Road/Main Road (Newcastle Inner City Bypass), Jesmond, in the Newcastle Local Government Area <u>Land in the suburbs of Cardiff Heights, Elmore Vale, Jesmond, Kotara, Lambton, New Lambton, New Lambton Heights, North Lambton, Rankin Park, and Wallsend</u>

2. Amend Table 1: Definitions and Terms as follows:

Term	Definition
<u>BCD</u>	<u>Biodiversity and Conservation Division</u> <u>Former NSW Office of Environment and Heritage (OEH)</u>
Construction	Includes all works required to construct the SSI, including commissioning trials of equipment and temporary use of any part of the SSI, but excluding the following low impact work which is completed prior to approval of the CEMP : <ol style="list-style-type: none"> (a) survey works including carrying out general alignment survey, installing survey controls (including installation of global positioning systems (GPS)), installing repeater stations, carrying out surveys of existing and future utilities and building and road dilapidation surveys; (b) investigations including investigative drilling, contamination investigations and excavation; (c) operation of ancillary facilities if the ER has determined the operational activities will have minimal impact on the environment and community; (d) minor clearing and relocation of native vegetation, as identified in the documents listed in Condition A1; (e) installation of mitigation measures including erosion and sediment controls, exclusion fencing, hoardings and temporary or at property acoustic treatments; (f) property acquisition adjustment works including installation of property fencing, and relocation and adjustments of utilities to property including water supply and electricity; (g) relocation and connection of utilities where the relocation or connection has a minor impact to the environment and sensitive receivers as determined by the ER; (h) archaeological testing under the <i>Code of practice for archaeological investigation of Aboriginal objects in NSW (DECCW, 2010)</i> or archaeological monitoring undertaken in association with (a)-(g) and (i) to ensure that there is no impact on Aboriginal artefacts or objects, and archaeological salvage works in accordance with A1, E17 and E18; (i) other activities determined by the ER to have minimal environmental impact which may include construction of minor

Term	Definition
	<p>access roads, temporary relocation of pedestrian and cycle paths and the provision of property access; and</p> <p>(j) maintenance of existing buildings and structures required to facilitate the carrying out of the SSI.</p> <p>However, where heritage items or threatened species or threatened ecological communities (within the meaning of the NSW <i>Threatened Species Conservation Act 1995</i> or Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i>) are affected or potentially affected by any low impact work, that work is construction, unless otherwise determined by the Planning Secretary in consultation with the relevant heritage authority, OEH <u>BCD</u> or DPI Fisheries (in the case of impact upon fish, aquatic invertebrates or marine vegetation)</p>
<u>DOEE</u> <u>DAWE</u>	Commonwealth Department of the Environment and Energy <u>Commonwealth Department of Agriculture, Water and the Environment</u>
<u>DPE Water</u>	<u>Water Group of the Department and the National Resources Access Regulator</u>
OEH	Former NSW Office of Environment and Heritage
<u>Relevant council(s)</u>	<u>Lake Macquarie City Council and/or City of Newcastle, as relevant</u>
<u>Relevant roads authority</u>	<u>The same meaning as the roads authority defined in the <i>Roads Act 1993 (NSW)</i></u>
<u>TfNSW</u>	Transport for NSW
Unexpected heritage find	An object or place that is discovered during the carrying out of the SSI and which may be a heritage item but was not identified in the EIS or SPIR <u>documents listed under Condition A1</u> or suspected to be present. An unexpected heritage find does not include human remains

3. Amend Table 2 as follows:

Condition	Report/Notification	Timing	Purpose
E5	Credit Retirement Report	One month of receiving the report from OEH <u>BCD</u>	Information

4. Delete Condition A1 and replace with the following:

- A1 The SSI must be carried out in accordance with the terms of this approval and generally in accordance with the description of the SSI in the:
- Newcastle Inner City Bypass – Rankin Park to Jesmond Environmental impact statement (RMS, 2016) (the EIS);*
 - Submissions and Preferred Infrastructure Report Newcastle Inner City Bypass Rankin Park to Jesmond (RMS, 2018) (the SPIR);*
 - Newcastle Inner City Bypass – Rankin Park to Jesmond Modification Report: additional construction compounds (TfNSW, May 2021); and*
 - Newcastle Inner City Bypass – Rankin Park to Jesmond Modification Report: additional construction compounds Submissions Report (TfNSW, September 2021).*

5. Amend Condition A9 as follows:

Replace "Newcastle City Council" with "City of Newcastle"

6. Amend Condition A15 as follows:

A15 Before the establishment of any construction ancillary facilities (excluding minor construction ancillary facilities determined by the ER to have minimal environmental impact and those established under **Condition A19**), the Proponent must prepare an **Ancillary Facility Establishment Management Plan** which outlines the environmental management practices and procedures to be implemented for the establishment of construction ancillary facilities. The **Ancillary Facility Establishment Management Plan** must be prepared in consultation with the ~~Newcastle City Council~~ relevant council(s) and relevant public authorities. The **Ancillary Facility Establishment Management Plan** must be submitted to the Planning Secretary for approval one (1) month before the establishment of any construction ancillary facilities. The **Ancillary Facility Establishment Management Plan** must detail the management of construction ancillary facilities and include:

- (a) a description of activities to be undertaken during the establishment of the construction ancillary facility (including scheduling and duration of works to be undertaken at the site) and its decommissioning and rehabilitation;
- (b) figures illustrating the proposed operational site layout, including access roads and parking;
- (c) a program for ongoing analysis of the key environmental risks arising from the site establishment activities described in subsection (a) of this condition, including an initial risk assessment undertaken prior to the commencement of site establishment works;
- (d) details of how the site establishment activities described in subsection (a) of this condition will be carried out to:
 - (i) meet the performance outcomes stated in the documents listed in **Condition A1**, and
 - (ii) manage the risks identified in the risk analysis undertaken in subsection (c) of this condition; and
- (e) a program for monitoring the performance outcomes, including a program for construction noise monitoring consistent with the requirements of **Condition C10**.

Nothing in this condition prevents the Proponent from preparing individual **Ancillary Facility Establishment Management Plans** for each construction ancillary facility.

7. Insert new Condition A18A as follows:

A18A The Peatties Road ancillary facility must not be used to store/stockpile earthworks material, including dirt, topsoil, rock, rubble, quarry materials, waste concrete, asphalt, bricks and excavated material.

8. Amend Condition A20 as follows:

A20 Boundary screening must be erected around ancillary facilities that are adjacent to sensitive receivers, for the duration of works associated with the SSI, unless otherwise agreed with affected residents, business operators or landowners (including ~~Newcastle City Council~~ the relevant council(s) where ~~it is~~ they are the landowner).

9. Insert new Condition A21A as follows:

A21A The Peatties Road ancillary facility must be located within the boundary line marked in blue in Figure 1 of Appendix A of this approval.

10. Amend Condition A37 as follows:

A37 The Planning Secretary must be notified ~~in writing to compliance@planning.nsw.gov.au~~ via the Major Projects website immediately after the Proponent becomes aware of an incident. The notification must identify the SSI (including the application number and the name of the SSI if it has one), and set out the date, location and nature of the incident.

11. Amend Table 3: CEMP Sub-plan and relevant public authorities

	Required CEMP Sub-plan	Relevant public authorities to be consulted for each CEMP Sub-plan
(a)	Traffic and transport	Newcastle City Council <u>Relevant council(s)</u> and Health Administration Corporation
(b)	Noise and vibration	Newcastle City Council <u>Relevant council(s)</u> and Health Administration Corporation
(c)	Flora and Fauna	DPI Fisheries and Newcastle City Council <u>Relevant council(s)</u>
(d)	Air quality	Newcastle City Council <u>Relevant council(s)</u> and Health Administration Corporation
(e)	Soil and water	Newcastle City Council <u>Relevant council(s)</u> , DPI Fisheries and DOI Water <u>DPE Water</u>
(f)	Aboriginal cultural heritage	OEH <u>Heritage NSW</u> and Registered Aboriginal Parties
(g)	Flood management	Newcastle City Council <u>Relevant council(s)</u>

12. Amend Table 4: Construction Monitoring and relevant public authorities

	Required Construction Monitoring Programs	Relevant public authorities to be consulted for each Construction Monitoring Program
(a)	Surface and Ground Water Quality	DPI Fisheries, DOI Water <u>DPE Water</u> and Newcastle City Council <u>Relevant council(s)</u>
(b)	Air Quality	Newcastle City Council <u>Relevant council(s)</u> and Health Administration Corporation
(c)	Noise and vibration	Newcastle City Council <u>Relevant council(s)</u> and Health Administration Corporation
(e)	Flora and fauna	DPI Fisheries and Newcastle City Council <u>Relevant council(s)</u>

13. In Condition E3 amend as follows:

Impacts to plant community types must not exceed those identified in the ~~SPiR~~ documents listed in Condition A1.

14. In Condition E4 amend as follows:

Replace “SPiR” with “documents listed in Condition A1”

15. In Condition E5 amend as follows:

Replace “OEH” with “BCD”

16. In Condition E7 amend as follows:

Replace “DoEE” with “DAWE”

17. In Condition E11 amend as follows:

Replace all instances of “Newcastle City Council” with “relevant council(s)”.

18. Insert new Condition E11A as follows:

E11A The SSI must not impact street trees in the Peatties Road reservation between Charlestown Road and 5 metres past the Peatties Road ancillary facility entry/exit point, unless the work is required for:

- (a) the construction of the footpath required under **Condition E71A**;
- (b) vehicular access to the Peatties Road ancillary facility;
- (c) bushfire requirements; and
- (d) traffic safety requirements.

Where trees are to be removed and those trees are not required to be offset under **Condition E4**, the Proponent must provide a net increase in the number of replacement trees. The replacement trees must be planted along or adjoining Peatties Road in consultation with City of Newcastle.

19. In Condition E12 amend as follows:

Replace “Newcastle City Council” with “City of Newcastle”

20. In Condition E13 amend as follows:

Replace all instances of “Newcastle City Council” with “relevant council”

Replace all instances of “OEH” with “BCD”

21. In Condition E14 amend as follows:

Replace “OEH” with “Heritage NSW”

22. In Condition E15 amend as follows:

Replace “OEH” with “Heritage NSW”

23. In Condition E19 amend as follows:

Replace “OEH” with “Heritage NSW”

24. In Condition E20 amend as follows:

Replace “Newcastle City Council” with “relevant council”

Replace “OEH” with “Heritage NSW”

25. In Condition E22 amend as follows:

Replace “Newcastle City Council” with “relevant council”

26. In Condition E24 amend as follows:

Replace “Newcastle City Council” with “relevant council”

27. In Condition E38 amend as follows:

Replace all instances of “Newcastle City Council” with “relevant council”

28. In Condition E63 amend as follows:

Replace “EIS and SPIR” with “documents listed in **Condition A1**”

29. Amend Condition E65 as follows:

E65 Heavy vehicles must only use Construction Access Road 2 (as shown in ~~Appendix B~~ **Figure 2** in **Appendix A**) in the John Hunter Hospital precinct for the early works establishment of Construction Compound A, unless otherwise agreed by the Health Administration Corporation.

*Note: Heavy vehicles movements associated with **Condition E65** must comply with the construction hours specified in **Conditions E26** and **E27**.*

30. Amend Condition E68 as follows:

E68 Before any local road is used by a heavy vehicle for the purposes of construction of the SSI (including the establishment of ancillary facilities), a **Road Dilapidation Report** must be prepared for the road, unless otherwise agreed by the Planning Secretary. The **Road Dilapidation Report** must be prepared by a suitably qualified person before the commencement of works that have the potential to damage local roads (and associated infrastructure). A copy of the **Road Dilapidation Report** must be provided to the landowner and ~~Newcastle City Council~~ relevant roads authority within three (3) weeks of completion of the surveys and no later than one (1) month before the use of local roads by heavy vehicles for the construction of the SSI.

31. Insert new Condition E70A as follows:

E70A To ensure pedestrian, cyclist and motorist safety on Peatties Road, the Proponent must ensure that traffic control is present to manage:

- (a) vehicle movements at the entry/exit point to the Peatties Road ancillary facility during the following times:
 - (i) on school days between 7:00 am to 9:00 am and 2.30 to 4.00 pm, if the pedestrian footpath required under **Condition E71A** crosses the entry/exit point to the Peatties Road ancillary facility; and
 - (ii) at any time heavy vehicles are entering and leaving the Peatties Road ancillary facility; and
- (b) heavy vehicles associated with the construction of the SSI that are entering or exiting Peatties Road.

32. Insert new Condition E71A as follows:

E71A Before work commences at the Peatties Road ancillary facility, the Proponent must provide a temporary footpath between Charlestown Road and at least 5 metres pass the Peatties Road ancillary facility entry/exit point. The Proponent must consult City of Newcastle on the design and location of the path and it must be constructed in accordance with the relevant standards.

This condition does not prevent the relocation and connection of utilities where the relocation or connection has a minor impact to the environment and sensitive receivers as determined by the **ER**.

33. In Condition E73 amend as follows:

Replace “Newcastle City Council” with “City of Newcastle”

34. Insert the following new conditions after Condition E86:

Tickhole Creek

E87 The Peatties Road ancillary facility must be designed and operated to ensure that no direct flow from within the site flows into Tickhole Creek.

E88 A minimum 3 metre buffer must be provided between the top bank of Tickhole Creek and the Peatties Road ancillary facility.

E89 The design of the Peatties Road vehicular access must not impact the existing culvert to the west of the proposed access and the downstream drainage line protection area shown in light blue hatching in Figure 3 of **Appendix A** of this approval.

35. Delete Appendix A and replace with the following:

APPENDIX A

Figure 1 - The Peatties Road ancillary facility site boundary (**Condition E70A**)



Figure 3 – Indicative drainage line protection area (in light blue) downstream of the Peatties Road culvert (**Condition E89**)



36. Delete Appendix B and replace with the following:

APPENDIX B

WRITTEN INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

1. A written incident notification addressing the requirements set out below must be submitted to the Planning Secretary via the Major Projects website within seven (7) days after the Proponent becomes aware of an incident. Notification is required to be given under this condition even if the Proponent fails to give the notification required under **Condition A37** or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
 - (a) Identify the SSI and application number;
 - (b) Provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
 - (c) Identify how the incident was detected;
 - (d) Identify when the Proponent became aware of the incident;
 - (e) Identify any actual or potential non-compliance with conditions of approval;
 - (f) Describe what immediate steps were taken in relation to the incident;
 - (g) Identify further action that will be taken in relation to the incident; and
 - (h) Identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Proponent must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
 - (a) A summary of the incident;
 - (b) Outcomes of an incident investigation, including identification of the cause of the incident;
 - (c) Details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
 - (d) Details of any communication with other stakeholders regarding the incident.