

Ref: 034-Request for extension

17 September 2021

Planning Secretary
Department of Planning, Industry & Environment
Parramatta Square
12 Darcy Street,
PARRAMATTA NSW 2150

Dear sir,

RE: Request to Extend Timeframes for Pre-Operation Requirements

Pacific National seeks an extension to finalise pre-operational requirements under the Development Consent for the St Marys Intermodal (SSD-7308) to allow the Intermodal to commence operations on the scheduled start date of 18 October 2021. The extension of timeframes is principally due to impacts from Covid-19 restrictions, which have been unfortunate and unavoidable.

The Conditions subject to this request and an explanation of the basis for the extension of timeframes are detailed in Table 1. The Table also details proposed mitigation and management measures to ensure the requirements of each Condition will be implemented as intended on the day operations commence. Supporting documents are also included in Attachments A to F.

It is untimely that the matters outlined in this submission have not been able to be resolved prior to scheduled commencement of operations and Pacific National will make best endeavours to finalise the respective requirements as a matter of priority.

However, operation of the St Marys Intermodal has been subject to delays exceeding 3 months and Pacific National is highly anticipated to commence operation of its most significant asset in the portfolio, which is an key asset for improving freight and logistics and growing employment in Western Sydney.

St Marys Intermodal will be ready to operation next month and we respectfully request the Department's support for our request to the extension of timeframes on the matters raised in this submission.

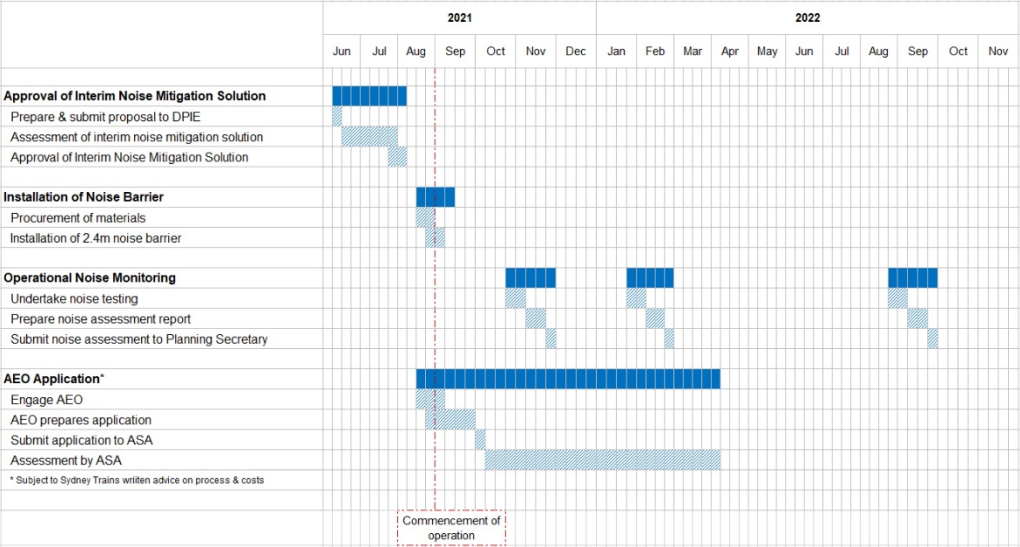
If you have any questions or wish to discuss this further, please contact me on 0437 737 358.

Yours faithfully

Leigh Cook

Leigh Cook
Project Director
Pacific National Pty Ltd

TABLE 1: Request for extension of timeframes for the St Marys Intermodal SSD-7308

Condition	Explanation	Proposed Interim Mitigation & Management Measures
<p>Noise Monitoring</p> <p>D13. The Applicant must install and maintain a rail noise monitoring system on the rail spur at the commencement of operation to continuously monitor the noise from rail operations on the rail spur. The system must capture the noise from each individual train passby noise generation event, and include information to identify:</p> <p>(a) time and date of train movement;</p> <p>(b) Radio Frequency Identification (RFID) system to enable identification of the rolling stock during the day and night, including:</p> <p>(i) submit to Transport for NSW within 6 months of the system commencing operations, a report on the total number of rolling stock captured by the tag reader and percentage of tags missed or invalid over a continuous 4-month period;</p> <p>(ii) over the life of the project, identify any missing or invalid tags (3 or more misreads within a 6 month period) and report these to the relevant freight operator to rectify and also report the fault to ASA and Freight Branch within Transport for NSW; and</p> <p>(iii) provide Transport for NSW ongoing access to the data obtained by the RFID system and data obtained by the rail noise monitoring system.</p> <p>(c) LAeq(15hour) and LAeq (9hour) from rail operations; and</p> <p>(d) LAF(max) and SEL of individual train passby, measured in accordance with ISO3095; or</p> <p>(e) Other alternative information as agreed with or required by the Planning Secretary.</p> <p>The results from the noise monitoring system, must be publicly accessible from a website maintained by the Applicant. The noise results from each train must be available on the website within 24 hours of it passing the monitor, unless unforeseen circumstances (i.e. a system malfunction) have occurred. The LAeq(15hour) and LAeq(9hour)</p>	<p>The noise monitoring device required by Condition D13 that has been built by Wabtac Monitoring Systems cannot be installed by their technicians prior to scheduled commencement of operations for the St Marys Intermodal due to current Covid-19 border restrictions.</p> <p>Wabtec are based in Adelaide SA and have built a proprietary noise monitoring device for the St Marys Intermodal. Wabtec also built proprietary noise monitoring device for the Moorebank intermodal.</p> <p>A letter dated 13 September 2021 from Wabtec confirms they are unable to install the device and they do not have technicians in NSW to install the ultimate noise monitoring device. In addition, Wabtec anticipate they will be able to enter NSW to install the device in the first quarter of 2022. The Wabtec letter is enclosed in Attachment A.</p> <p>During the period of operations until the ultimate device is installed, an interim noise monitor will be installed. However, the interim noise monitoring device will not utilise a RFID identification system as required by Condition D13.</p> <p>In response to the impacts of Covid-19 on installing the ultimate noise monitoring device, an interim noise monitoring device is proposed that meets all requirements of Condition D13 except for the RFID identification system. An alternative method to identify the trains will be undertaken.</p>	<p>Aecom has arranged an interim noise monitor to be deployed (see attachment B).</p> <p>The interim noise monitor will measure noise at trigger levels 24 hours a day 7 days a week. The noise measurements will satisfy requirements of parts (c) and (d) in Condition D13.</p> <p>Triggered noise levels for each day will be posted on a website with the corresponding St Marys Intermodal train schedule for the respective day. This information will be posted within 24 hours of each train entering the St Marys Intermodal. These records will satisfy part (a) of Condition D13 and requirements for the information to be published on a website.</p> <p>All requirements of Condition D13 will be satisfied except the use of a RFID identification system. However, actual records of train movements will be posted with the noise monitor results and an identification system will be implemented for the interim noise monitor.</p>
<p>Noise Barrier</p> <p>D16. Prior to the commencement of operation of any part of the development, or by a time otherwise agreed by the Planning Secretary, the Applicant must build and implement a 3.0 m high noise barrier in the rail corridor along the southern edge of the Main Western Line reserve (north of Camira Street) as outlined in the St Marys Freight Hub – Updated Noise and Vibration Impact Assessment – Noise Barrier Locations prepared by AECOM, dated 9 April 2020, and shown in Appendix B of this consent.</p> <p>Prior to construction of the noise barrier required above, the Applicant must consult with and obtain the agreement of RailCorp (as land owner of the rail corridor) to the design, construction, and maintenance requirements, of the noise barrier. To obtain RailCorp endorsement the Applicant shall obtain this approval via Sydney Trains by contacting their West Interface team at West_Interface@transport.nsw.gov.au.</p> <p>The Applicant must make best endeavours to obtain agreement with RailCorp for design and construction of the noise barrier at the location set out above, including complying with all reasonable requests from RailCorp as part of the consultation process. If the Applicant and RailCorp cannot agree on the terms of the agreement, then either party may refer the matter to the Planning Secretary for resolution, and/or the determination of alternative noise mitigation measures to be implemented to the satisfaction of the Planning Secretary and with the agreement of any relevant land owner.</p> <p>For the purposes of this condition, the Planning Secretary may require any alternative noise mitigation measures that are feasible and reasonable, which may include but not limited to construction of a noise barrier on or adjacent to the proposal site, or at-receiver dwelling treatment such as double glazing, secondary glazing of ‘weak’ areas or insulation.</p>	<p>On 23 August 2021 DPIE approved the Interim Noise Barrier submission on 1 June 2021. The Interim Noise Barrier submission sought an alternative noise barrier treatment to 3.0 m high noise barrier in the rail corridor along the southern edge of the Main Western Line reserve (north of Camira Street), which could not be installed due to stalled negotiations with Sydney Trains.</p> <p>The Interim Noise Barrier Solution report provided a program for progressing formal applications with Sydney Trains and installing the interim noise barrier (see below).</p>  <p>At the time the Interim Noise Barrier Solution report was prepared, the subsequent impacts on construction from Covid-19 were unknown. Recent projections for commencement of operations indicate commencement of operations will be on Monday 18 October 2021 instead of 30 August 2021 at the time of the report, which represents a 7 week delay. The delays include a 2 week stop in construction work imposed by the NSW Government and loss of productivity impacts resulting from:</p> <ul style="list-style-type: none"> onsite staffing regulations following construction restart, undersupply of construction materials due to staffing deficiencies at suppliers, and 	<p>The updated program is in Attachment C. The updated program aligns with the current status with construction and is subject to any further impacts resulting from Covid-19.</p> <p>The program has also been amended to reflect the noise monitoring requirements in the DPIE letter of approval.</p> <p>The interim noise barrier will be installed at the same time as in the approved program relative to the revised commencement of operations. Accordingly, there is no change to the intended delivery timeframe relative to commencement of operation and no additional mitigation or management measures are necessary.</p>

Condition	Explanation	Proposed Interim Mitigation & Management Measures
	<ul style="list-style-type: none">undersupply of transportation of deliveries due to staffing deficiencies. <p>Due to the change in scheduled commencement of operations, a revised program for installing the interim noise barrier is provided that is coordinated with the corresponding works and aligns with the current construction program.</p>	
<p>Stormwater Management</p> <p>D19. Prior to the issue of any Occupation Certificate, a positive covenant must be registered on the property for all stormwater management systems (including water sensitive urban design), overland flow path works (where applicable) and flood control works (where applicable) to ensure maintenance of the approved stormwater management system.</p>	<p>Significant delays in finalising the covenant have occurred and revised arrangements for finalising the requirements for Condition D19 are sought.</p> <p>Draft wording of the covenant was submitted to Penrith City Council (PCC) on 14 July 2021 (see Attachment D) and the review comments were received on 7 September 2021 (see Attachment F). It is understood the were issue with coordinating the review of the draft covenant during lockdown conditions.</p> <p>Now the covenant has been reviewed and the final draft of the instrument can be finalised and prepared for signature by authorised persons for all parties, including Pacific National and Lendlease (current owner of the rail corridor land). However, the expected timeframes obtaining signatures from the authorised representatives of the relevant parties during lockdown conditions, submitting a formal application to PCC for signatures and registering the covenant on title is not achievable before scheduled commencement of operations.</p> <p>An extension to register to covenant is requested. PCC has been consulted on extending the timeframes and confirms there is “no objections or concerns have been raised to deferring the registration of the Positive Covenant within 3 months of the commencement of operations subject to agreements for Council access if / when necessary” (see Attachment F).</p>	<p>On acceptance that the covenant is to be registered within 3 months of commencement of operations, Pacific Nation will write to PCC to confirm that Council has the right to enter the St Marys Intermodal site for reasons detailed in the agreed covenant. Accordingly, there will be no reduced requirements or allowances as required by Condition D19.</p>



Wabtec Control Systems Pty Ltd

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AECOM

Level 21, 420 George Street
Sydney, NSW 2000

13 September 2021

Ref: 51R-21-0004-GCO-876263

Attention: Gayle Greer**Re: Train Noise Monitor installation schedule**

Dear Gayle:

Wabtec Control Systems Pty Ltd (WCS) confirms that following facts regarding the installation schedule of the Train Noise Monitor system:

- WCS technicians need to install the system device and there is no one in NSW that can fulfil this requirement.
- WCS technicians cannot enter NSW and return to SA under current border regulations.
- WCS estimates that they will be able to install the device in the first quarter of year 2022

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'Xuepeng Zou', written in a stylized, cursive manner.

Xuepeng Zou

Business Development Manager - Asia



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15 September 2021

Pacific National
 C/o Urbanco
 PO Box 546
 PYRMONT NSW 2009

Dear Guy,

St Marys Freight Hub - Development Consent Condition D13

1.0 Introduction

In order to satisfy the requirements of Condition D13 in Development Consent SSD 7308 a rail noise monitoring system (RNMS) is to be installed on the rail spur at St Marys Freight Hub.

Due to current COVID-19 restrictions interstate personnel required for installation of the permanent rail noise monitoring system are unable to enter NSW. In the interim a temporary noise monitor is proposed. This will be installed at the location of the proposed RNMS as detailed in letter 60593074-LTNV-08_B dated 12 July 2021.

The temporary noise monitor will be set to trigger when a train passes by on the rail spur and will record sound exposure levels (SELs) of the passby. $L_{Aeq,15hr}$ and $L_{Aeq,9hr}$ levels will then be calculated using these data and Pacific National's record of train movements into and out of the Hub.

The L_{Aeq} levels from each day would be available on a website within 24 hours of the period ending.

Kind regards

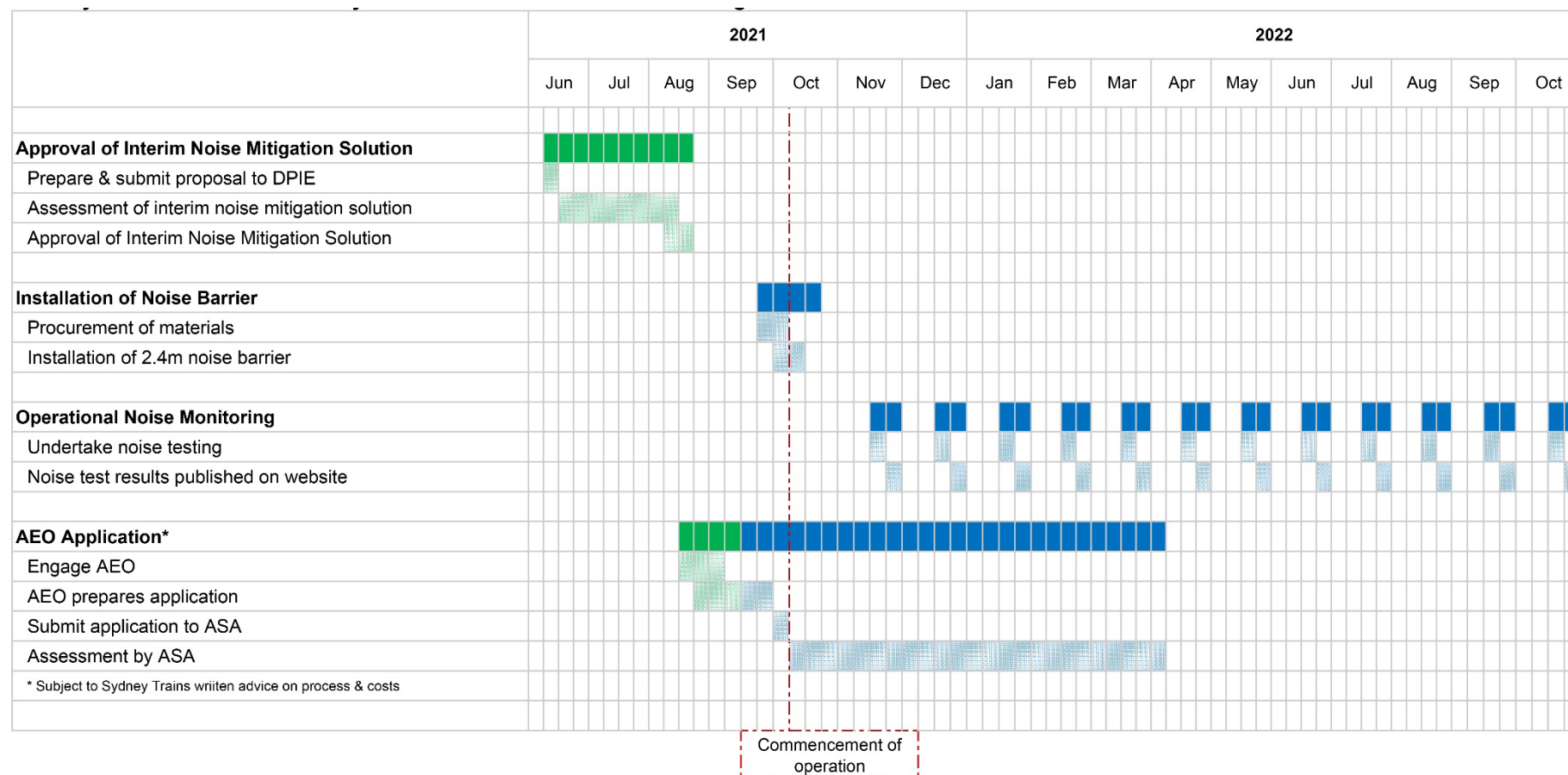
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St Marys Intermodal – Interim Noise Barrier Solution Program (17 Sept 2021)



Guy Evans

From: David Djulbic <david.djulbic@dmdprojects.com.au>
Sent: Tuesday, 7 September 2021 10:34 AM
To: Guy Evans
Subject: FW: Approval of Wording for Draft Positive Covenant & Restriction as to use
Attachments: lot 3 dp876781.zip; lot 196 dp31912.zip; lot 2 dp876781.zip; lot 2031 dp815293.zip

FYI

From: Alastair Linke [mailto:a.linke@llsurveys.com.au]
Sent: Wednesday, 14 July 2021 2:17 PM
To: abby.younan@penrith.city
Cc: David Djulbic <david.djulbic@dmdprojects.com.au>
Subject: Approval of Wording for Draft Positive Covenant & Restriction as to use

Abby,

I spoke to you a few weeks ago about the St Marys Intermodal Terminal Draft Positive Covenant and Restriction as to use. I have prepared the attached draft documentation for each lot and at this stage we are seeking your review and approval of the wording?

I have prepared one set of documents for each lot. The terms should be the same for them all. Please confirm you are happy with the wording or provide a list of departures for my client to consider.

Regards

ALASTAIR LINKE Registered Surveyor
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Consultant Surveyors & Engineers

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Guy Evans

From: Stephen Masters <stephen.masters@penrith.city>
Sent: Tuesday, 7 September 2021 2:50 PM
To: Guy Evans
Cc: David Djulbic; Gavin Cherry; Abby Younan
Subject: Council required amendments to wording for Draft Positive Covenants - St Marys Intermodal - SSD-7308 MDA20/0007
Attachments: MSA - positive covenant 210714 Lot 2031 in DP 815293 - amended in red by Council.docx; MSA - positive covenant 210714 Lot 196 in DP 31912 - amended in red by Council.docx; MSA - positive covenant 210714 Lot 3 in DP 876781 - Council amended in red.docx; MSA - positive covenant 210714 Lot 2 in DP 876781 - amended in red by Council.docx

Good Afternoon Guy,

Thank you for your time on the telephone today. I have reviewed the proposed Positive Covenants and Restriction on the Use of Land for each of the four lots and can advise that a minor amendment is required for each Positive Covenant. I have attached a copy of the Positive Covenants that have been amended in red. May I request that the Positive Covenants be amended in accordance with the markups and resubmitted to Abby Younan from Council's Development Services Unit for endorsement. No objections are raised to the wording in the Restriction on the Use of Land for each lot.

Fees are payable for the endorsement of the documents. Abby will advise separately of the required fees.

For Council records, may I also request a copy of the documents referenced in the Positive Covenants.

Regards

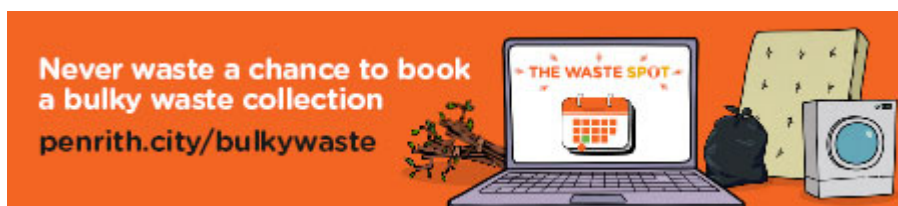
Stephen Masters
 Senior Engineer - Major Developments

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From: Guy Evans <guy.evans@urbanco.com.au>
Sent: Tuesday, 7 September 2021 11:10 AM
To: Stephen Masters <stephen.masters@penrith.city>
Cc: David Djulbic <david.djulbic@dmdprojects.com.au>; Gavin Cherry <Gavin.Cherry@penrith.city>; Abby Younan <abby.younan@penrith.city>
Subject: FW: Approval of Wording for Draft Positive Covenant & Restriction as to use

EXTERNAL EMAIL: This email was received from outside the organisation. Use caution when clicking any links or opening attachments.

Hi Stephen

Thanks for calling and attached is package for the covenant submitted to PCC on 14 July 2021.

We are seeking confirmation of the draft wording for the covenant so the instrument can be finalised and formally submitted to PCC with the correct signatories from respective owners.

If there are any fees associated with this request, please advise and we will remit the payment.

Feel free to give me a call if there are any questions.

Regards

Guy Evans



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Guy Evans

From: Gavin Cherry <Gavin.Cherry@penrith.city>
Sent: Monday, 13 September 2021 8:46 AM
To: Guy Evans
Subject: Penrith City Council Response to Request for 3 Month Deferral on Registration Requirements for Positive Covenant Prior to Issue of OC - St Mary's Intermodal - SSD-7308 (Council Ref: MDA20/0007)

Good Morning Guy,

In response to the email below, Council's Development Engineers were engaged to verify if there were any concerns with the proposed deferral of registration requirements as per Condition D19 of the above SSD Determination for the St Mary's Intermodal Development.

No objections or concerns have been raised to deferring the registration of the Positive Covenant within 3 months of the commencement of operations subject to agreements for Council access if / when necessary.

I do note however that Council is not the consent authority for this SSD determination and as such, the resulting non compliance with the condition is a matter for the Department and / or Certifier to address noting that the intent of the Condition can be otherwise achieved.

Regards

Gavin

Gavin Cherry
Development Assessment Coordinator

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From: Guy Evans <guy.evans@urbanco.com.au>
Sent: Friday, 10 September 2021 3:30 PM
To: Gavin Cherry <Gavin.Cherry@penrith.city>
Cc: David Djulbic <david.djulbic@dmdprojects.com.au>
Subject: FW: Council required amendments to wording for Draft Positive Covenants - St Marys Intermodal - SSD-7308 MDA20/0007

EXTERNAL EMAIL: This email was received from outside the organisation. Use caution when clicking any links or opening attachments.

Hi Gav

Thanks for your assistance in following up the draft covenant within Council and was good to get the comments from Stephen Masters earlier this week.

We are nearing completion of construction and commencement of operations. If the covenant was to be registered on the respective titles within 3 months of operations, would there be any issue with Council. There are some logistical issues in getting signatures from the respective parties and getting formal PCC approvals and then registering the covenants prior to operations.

During the period of operations Pacific National can provide PCC site access in the event of a stormwater event this is a concern.

Please give me a call if you would like me to explain the above or wish to discuss.

Regards

Guy Evans



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02 9051 9333 | 0477 474 091 | urbanco.com.au

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Sent: Tuesday, 7 September 2021 2:50 PM

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Cc: David Djulbic <david.djulbic@dmdprojects.com.au>; Gavin Cherry <Gavin.Cherry@penrith.city>; Abby Younan <abby.younan@penrith.city>

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Fees are payable for the endorsement of the documents. Abby will advise separately of the required fees.

For Council records, may I also request a copy of the documents referenced in the Positive Covenants.

Regards

Stephen Masters

Senior Engineer - Major Developments

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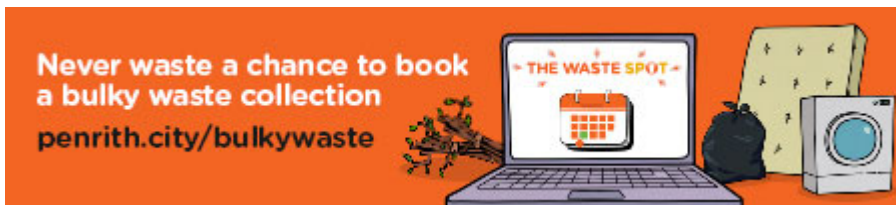
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