



7 June 2018

Our Ref: A22648108
Your ref: SSI 13_6307

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

Dear Mr Snow,

**WestConnex M4 East
Request for administrative modification of conditions E9, E11, E21, E29 and E39**

1. Introduction

Roads and Maritime Services (Roads and Maritime) is requesting an administrative modification (the modification) from the Department of Planning and Environment to five conditions within Infrastructure Approval SSI 6307, in accordance with the requirements of section 5.25 of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The modification request relates to:

- condition E9, which specifies goals for ambient monitoring of air pollutants,
- condition E11, which requires reporting of exceedances of the goals in conditions E2, E3 and E4,
- condition E21, which requires reporting of real-time ambient monitoring,
- condition E29, which requires the preparation of Operational Noise Management Plan, and
- condition E39, 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 condition E9

2.1. Justification for modification of condition E9

Condition E9 specifies goals for ambient air monitoring of air pollutants. If the goals are exceeded the provisions of conditions E10, E11 and E12 will apply.

It is currently unclear as to when the measurement of air pollutants against the goals in condition E9 (in particular the annual average required under conditions E9 (e) and (f)) commences for the purposes of notification and reporting obligations under condition E11 and E12. As such it is proposed to include a note within condition E9 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.

2.2. Modification of condition E9

Given the above, it is recommended that condition E9 is amended in accordance with section 5.25 of the EP&A Act 1979 to the following:

- E9 Should ambient monitoring of pollutants exceed the following goals, the provisions of conditions E10, E11 and E12 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 (proposed NEPM);
 - (e) PM₁₀ - annual average of 25 µg/m³ (Meeting of Environment Ministers – Agreed Statement); and
 - (f) PM_{2.5} - annual average of 8 µg/m³ (Meeting of Environment Ministers – Agreed Statement).

Note: Ambient monitoring of pollutants for the purposes of notification and reporting obligations under conditions E10, E11 and E12 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.

2.3. 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.

3. Modification of condition E11

3.1. Justification for modification of condition E11

Condition E11 requires that a Notification of Above-Goal Recording is to be provided to the Secretary, EPA and NSW Health if ambient monitoring of air pollutants record an exceedance of the goals in conditions E2, E3 and E4. Conditions E2, E3 and E4 refer to the in-tunnel air quality limits and are not the ambient air quality goals. They are instead listed in condition E9. Based on this, the project believes condition E11 includes a typing error that cross-references incorrect conditions.

Condition E11 also requires in subsection (c) that the Notification of Above-Goal Recording must detail the *visibility levels that occurred* and in subsection (d) the measures employed to *improve the visibility levels*. Condition E8, and in particular Column 1 of Table 8, lists the pollutants and parameters which are to be monitored for ambient air quality. Further to this, condition E9 details the ambient air quality goals for the project. Both conditions E8 and E9 do not require visibility levels to be monitored, nor do they provide ambient air quality goals in relation to visibility levels. Based on this, the project believes condition E11 includes a typing error.

3.2. Modification of condition E11

Given the above, it is recommended that condition E11 is amended in accordance with section 5.25 of the EP&A Act 1979 to the following:

- E11 The Ambient Air Quality Goal Protocol must provide a **Notification of Above-Goal Recording** if ambient monitoring of air pollutants records an exceedance of the goals in conditions ~~E9, E2, E3 and E4~~. The Notification of Above-Goal Recording is to be submitted within 24 hours of the

recording, to the Secretary, EPA and NSW Health. The Notification of Above-Goal Recording must detail:

- (a) the nature of the event;
- (b) the concentration ~~or visibility~~ levels that occurred;
- (c) the duration of the event;
- (d) the measures employed to minimise the concentration levels ~~and/or improve the visibility levels~~; and
- (e) the Proponent's commitment to prepare and submit a Report on Above-Goal Reading in accordance with condition E12.

3.3. Impact of modification

The modification does not change the intent or requirements of the condition. The current condition refers to in-tunnel air quality limits. The modified condition would address the typing error and would ensure that appropriate reporting of ambient air quality goal exceedances occur. The removal of the reference of visibility would also not change the intent or requirements of the condition. Reporting against exceedances of the ambient air quality goals would continue and would include details of the concentration levels that occurred and the measures employed to minimise the concentration levels.

4. Modification of condition E21

4.1. Justification for modification of condition E21

Condition E21 specifies that the result of hourly updated real-time ambient monitoring, in-tunnel monitoring and ventilation outlet monitoring must be provided on a website and be made publicly available.

The condition requires results include ambient monitoring of visibility, however condition E8 and Table 8 do not require the project monitor ambient visibility and condition E9 does not specify a goal for ambient visibility. The project is however required to monitor visibility in the tunnel, in accordance with condition E1 and Table 4, complying the limit in condition E4 and Table 7.

4.2. Modification of condition E21

Given the above, it is recommended that condition E21 is amended in accordance with section 5.25 of the EP&A Act 1979 to the following:

E21 Results of hourly updated real-time ambient monitoring of PM₁₀, PM_{2.5}, ~~visibility~~, NO₂, and CO at the approved monitoring stations, in-tunnel CO/NO₂ ~~and visibility~~, ~~and~~ ventilation outlet measurements, and relevant meteorological data, must be provided on a website and made publicly available each month in hard copy format in an easy to interpret format. This data must be preliminary until a quality assurance check has been undertaken by a person or organisation accredited by NATA for this purpose. The availability of this data must be conveyed to the local community by way of newsletter (including translation into common community languages in the area) and newspaper advertisement at least one month prior to the commencement of operation.

4.3. 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
- Ensures consistency in air quality monitoring requirements across the Planning Approval.

5. Modification of condition E29

5.1. Justification for modification of condition E29

Condition E29 requires the project prepare a detailed Operational Noise Management Plan as part of the Operational Environmental Management Plan required by condition E29, however the Operational Environmental Management Plan is required by condition E26. Based on this, the project believes condition E29 includes a typing error.

5.2. Modification of condition E29

Given the above, it is recommended that condition E29 is amended in accordance with section 5.25 of the EP&A Act 1979 to the following:

E29 A detailed **Operational Noise Management Plan** must be prepared as part of the Operational Environmental Management Plan required by condition **E29 E26** and submitted to the Secretary for approval. The Operational Noise Management Plan must provide details of noise and vibration control measures to be undertaken during the operation stages, sufficient to address the technical requirements of the EPA, and generally in accordance with the *NSW Road Noise Policy* (DECCW, 2011) and the *NSW Industrial Noise Policy* (EPA, 2000).

5.3. Impact of modification

The modification does not change the intent or requirements of the condition. The modified condition corrects a typing error to reference the correct condition.

6. Modification of condition E39

6.1. Justification for modification of condition E39

Condition E39 imposes specific timing requirements as follows:

- 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*.
- It is proposed that the timing requirements specified within condition E39 be removed, whilst maintaining the requirement for compliance prior to the commencement of operation of the SSI.

Condition E39 also requires the simulated emergency response exercise “be conducted in accordance with the approved Emergency Response Plan”. Although this condition includes requirements for consultation, it does not specify that the Plan must be approved or the agency that is required to approve the Plan. Based on this, the project believes condition D39 includes a typing error.

6.2. Modification of condition E39

Given the above, it is recommended that condition E39 is amended in accordance with section 5.25 of the EP&A Act 1979 to the following:

E39 ~~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 ~~at least one month~~ 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.

6.3. 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.

7. Conclusion

The revised wording of conditions E9, E11, E21, E29 and E39 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 queries in relation to this matter, please feel free to contact David Kelly on 0407 239 667.

Yours sincerely,



Andrew McKindlay
Acting Director Motorways Delivery
Roads and Maritime Services