

Modification of Infrastructure Approval

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

As delegate of the Minister for Planning and Public Spaces, I approve the modification of the State significant infrastructure approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Glenn Snow
Director
Transport and Water Assessments

Sydney

13 December 2023

SCHEDULE 1

Infrastructure Approval:

SSI 10049 granted by the Minister for Planning and Public Spaces on 21 July 2022.

For the following:

Construction and operation of two wharves, one at La Perouse and one at Kurnell each comprising:

- a berth for passenger ferries (to cater for ferries up to 40 metres in length)
- a multi-user berth for commercial and recreational vessels (to cater for vessels up to 20 metres long)
- sheltered waiting areas and associated furniture
- associated signage and lighting.

Modification:

Amendment of Table: Reports and notifications that must be submitted to the Planning Secretary.

Administrative amendments encompassing cross referencing and typographical errors.

Amendment to Condition E106 to include a timeframe for providing advice to the Planning Secretary.

SCHEDULE 2

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

Words that have been added are shown as: added

1. Amend Table: Reports and Notifications that must be submitted to the Planning Secretary as follows:

Condition	Report / Notification	Timing ¹	Purpose
Part A – Administrative			
A7 & A11	Staging Report & <u>Revised Staging Report</u>	One month before commencement of construction (or operation if only staged operation is proposed) or the first of the proposed stages	Information
A15	CEMF	One month before the lodgement of any CEMP, CEMP Sub-plan and CMP	Approval
<u>A17</u>	<u>Revised CEMF</u>	<u>One month prior to proposed change in staging</u>	<u>Approval</u>
A20	Site Establishment Management Plan	One month before the installation <u>establishment</u> of any <u>construction</u> ancillary facilities	Approval
A28 & <u>A29</u>	Environmental Representative	Must be sought before the commencement of work <u>Work</u>	Approval
A32(j)	Environmental Representative reports	Within seven days following the end of each month for the duration of the ER's engagement	Information
A34 & A35	Notification of commencement	One month before the commencement of <u>works</u> , construction and operation	Information
A36	Independent Auditors	Prior to the commencement of an Independent Audit	Approval
A40	Independent Audit Reports	Within two months of undertaking the independent audit site inspection	Information
A42	Written notification of incident	Within seven days after the Proponent becomes aware of an incident. <u>Immediately after becoming aware of the incident</u>	Information
A44	Non-Compliance Notification	Within seven days after the Proponent becomes aware of any non-compliance	Information
Part B - Communication Information and Reporting			
B3	Community Communication Strategy	One month before the commencement of construction <u>Prior to the commencement of Work</u>	Approval
B7	Complaints management system	Before the commencement of any Work	Information
B11	Complaints Register	Upon request from the Planning Secretary	Information
Part C - Construction Environmental Management			

¹ Where a project is staged, all required approvals must be obtained before the commencement of the relevant stage.

Condition	Report / Notification	Timing ¹	Purpose
C4	CEMP	One month before the commencement of construction	Approval
Error! Reference source not found. C4	CEMP Sub-plans	One month before the commencement of construction	Approval
C16 Error! Reference source not found. C17	CMP	One month before the commencement of construction or where construction is staged, no later than one month before commencement of each stage	Approval
C21	Construction Monitoring Report	As specified in Construction Monitoring Programs	Information
Part D - Operation Environmental Management			
D3	OEMP or EMS	One month before the commencement of operation	Information
Part E – Key Issues			
Biodiversity			
Error! Reference source not found. E5	Credit Retirement Report <u>Evidence of retirement of credits</u>	<u>One month of receiving the report</u> <u>Prior to impacting species or communities</u>	Information
Heritage			
<u>E21</u>	<u>Unexpected Heritage Finds and Humans Remains Procedure</u>	<u>One month before commencement of construction</u>	<u>Information</u>
<u>E32</u>	<u>Non-Aboriginal Heritage Management Plan</u>	<u>Prior to construction</u>	<u>Approval</u>
E33 & E34	Archaeological Research Design and Excavation Methodology	<u>Prior to the commencement of construction that has the potential to impact upon areas of archaeological significance</u> <u>Upon request</u>	Information
<u>E35</u>	<u>Final Excavation Report</u>	<u>12 months after the completion of the work</u>	<u>Information</u>
<u>E22</u>	<u>Unexpected Heritage Finds and Humans Remains Procedure</u>	<u>One month before commencement of construction</u>	<u>Information</u>
Noise and Vibration			
E44C1(a) <u>E44(a)</u>	Safety and Emergencies	On becoming aware of the need for emergency work	Information
<u>E52</u>	<u>Operational Noise Review</u>	<u>Within 12 months of the commencement of construction</u>	<u>Information</u>
<u>E55</u>	<u>Report justifying why operational noise measures are not being implemented and details of the temporary measures</u>	<u>Within six months of submitting the Operational Noise Review</u>	<u>Information</u>

Condition	Report / Notification	Timing ¹	Purpose
<u>E57</u>	<u>Operational Noise Compliance Report</u>	<u>Within 60 days of completing the operational noise monitoring</u>	<u>Information</u>
Soils			
<u>E61</u>	<u>Soil and Water Management Plan</u>	<u>Prior to the commencement of construction</u>	<u>Information</u>
<u>E63</u>	<u>Site Audit Statement(s)</u>	<u>One month before the commencement of operation</u> <u>Prior to the commencement of construction</u>	<u>Information</u>
<u>E63</u>	<u>Site Audit Report(s)</u>	<u>One month before the commencement of operation</u>	<u>Information</u>
<u>E66</u>	<u>Remedial Action Plan and Interim Audit Advice or Section B Site Audit Statement</u>	<u>Prior to commencing the remediation works</u>	<u>Information</u>
<u>E69</u>	<u>Section A1 Site Audit Statement or Section 2 Site Audit Statement with an EMP and Site Audit Report</u>	<u>One month prior to commencement of operation</u>	<u>Information</u>
<u>E63 E70</u>	<u>Unexpected Contamination Finds Procedure for Contamination</u>	<u>Before the commencement of work Work (if requested)</u>	<u>Information</u>
Traffic and Transport			
<u>E73</u>	<u>Approval to use local roads not assessed in the EIS</u>	<u>Prior to use of local road</u>	<u>Approval</u>
Place, Design and Visual Amenity			
<u>E95</u>	<u>Updated Urban Design and Landscape Plan</u>	<u>Prior to the construction of permanent built surface works and/or landscaping</u>	<u>Information</u>
<u>E100</u>	<u>Design Review Panel Terms of Reference</u>	<u>Once endorsed by the NSW Government Architect</u>	<u>Information</u>
<u>E106</u>	<u>Ongoing maintenance requirements</u> <u>Date of transfer of asset(s)</u>	<u>The date of transfer of the asset(s) to the relevant authority</u> <u>Within one month of the transfer of the asset(s)</u>	<u>Information</u>

Note: This Table is not a condition of this approval. If there is an inconsistency between a requirement in this Table and a requirement in a condition, the requirement of the condition prevails.

2. Amend Condition A15 as follows:

- A15 A **Construction Environmental Management Framework (CEMF)** may be prepared to facilitate the approval of construction environmental management and monitoring plans required under Conditions C1, C6, and C15-C14.
- (a) identify the **Construction Environmental Management Plans (CEMPs), CEMP Sub-plans and Construction Monitoring Programs (CMP)** required for each stage of construction consistent with the **Staging Report** prepared under Condition A7;
 - (b) document the proposed structure of the **CEMPs, CEMP Sub-plans and CMPs** required for the relevant stage of construction;
 - (c) provide, by way of a Risk Matrix, an assessment of the predicted level of environmental and social risk, including the potential of community concerns posed by each construction stage. This must use a process consistent with the *AS/NZS ISO 31000: 2018; Risk Management – Guidelines*; and
 - (d) nominate the endorsement level for the **CEMPs, CEMP Sub-plans and CMPs** required for each construction stage. The endorsement level being one of the following:
 - i) Low Risk – self endorsed and consultation with agency and council stakeholders is mandatory;
 - ii) Medium Risk – endorsed by the **ER** and consultation with stakeholders required; and
 - iii) High Risk – endorsed by the Planning Secretary and consultation with stakeholders required.

For a Low Risk Stage(s) the requirements of **Part C** of this approval do not apply. In these circumstances, a **CEMP, CEMP Sub-plan and CMP**, may be substituted with an alternate process such as a Construction Method Statement or the like.

The **CEMF** must be endorsed by the **ER** and the submitted no later than one month before the lodgement of any **CEMP, CEMP Sub-plan or CMP** to the Planning Secretary for approval.

*Note: The Planning Secretary may vary the CEMF in relation the endorsement authority for the **CEMPs, CEMP Sub-plans and CMPs**.*

3. Amend Condition A21 as follows:

- A21 A construction ancillary facility established under **Condition A19** must not be used for Construction until the CEMP required by **Condition ~~0~~ C1**, relevant **CEMP Sub-plans** required by **Condition C6** and relevant **CMPs** required by **Condition C14** have been approved.

4. Amend Condition A29 as follows:

- A29 The Planning Secretary's approval of an **ER** must be sought no later than one month before the commencement of ~~work~~ Work.

5. Amend Condition A32 as follows:

- A32 For the duration of the Work until the completion of construction, or as agreed with the Planning Secretary, the approved **ER** must:
- (a) receive and respond to communication from the Planning Secretary in relation to the environmental performance of the SSI;
 - (b) consider and inform the Planning Secretary on matters specified in the terms of this approval;
 - (c) consider and recommend to the Proponent any improvements that may be made to work practices to avoid or minimise adverse impact to the environment and to the community;
 - (d) review documents identified in **Conditions A7, A11, A15, A17 A19, A20, A22, C1, C6 and C14** and any other documents that are identified by the Planning Secretary, to ensure they are consistent with requirements in or under this approval and if so:
 - (i) make a written statement to this effect before submission of such documents to the Planning Secretary (if those documents are required to be approved by the Planning Secretary); or

- (ii) make a written statement to this effect before the implementation of such documents (if those documents are required to be submitted to the Planning Secretary / Department for information or are not required to be submitted to the Planning Secretary/Department); and
- (iii) provide a written statement / submission via the Major Projects portal to the Planning Secretary advising the documents have been endorsed by the ER;
- (e) regularly monitor the implementation of the documents listed in **Conditions A7, A11, A15, A17, A20, C1, C6 and C14** to ensure implementation is being carried out in accordance with the document and the terms of this approval;
- (f) as may be requested by the Planning Secretary, help plan or attend audits of the development commissioned by the Department including scoping audits, programming audits, briefings and site visits, but not independent ~~environmental~~ audits required under Condition A37 of this approval;
- (g) as may be requested by the Planning Secretary, assist in the resolution of community complaints;
- (h) consider or assess the impacts of minor construction ancillary facilities comprising lunch sheds, office sheds and portable toilet facilities as required by **Condition A24 A22** of this approval;
- (i) consider any minor amendments to be made to the **Site Establishment Management Plan, CEMP, CEMP Sub-plans** and monitoring programs without increasing impacts to nearby sensitive land uses or that comprise updating or are of an administrative nature, and are consistent with the terms of this approval and the **CEMP, CEMP Sub-plans** and monitoring programs approved by the Planning Secretary and, if satisfied such amendment is necessary, approve the amendment. This does not include any modifications to the terms of this approval;
- (j) prepare and submit to the Planning Secretary and other relevant regulatory agencies, for information, an **Environmental Representative Monthly Report** providing the information set out in the Environmental Representative Protocol under the heading "Environmental Representative Monthly Reports." **The Environmental Representative Monthly Report** must be submitted within seven days following the end of each month for the duration of the ER's engagement for the SSI, or as otherwise agreed by the Planning Secretary; and
- (k) review the appropriateness of any activities reliant on the definition of Low Impact Work.

6. Amend Condition C12 as follows:

- C12 Construction must not commence until the relevant **CEMP(s)** and **CEMP Sub-plans** have been approved by the Planning Secretary or endorsed by the **ER**, (as applicable and as identified in the CEMF approved under **Condition A15**).

7. Amend Condition C19 as follows:

- C19 Construction must not commence until the relevant **CMP(s)** have been approved by the Planning Secretary or endorsed by the **ER**, (as applicable and as identified in the **CEMF** approved under **Condition A15**), and all relevant baseline data for the specific construction activity has been collected.

8. Amend Condition E34 as follows:

- E34 Prior to the commencement of archaeological excavation, the Proponent must nominate a suitably qualified Excavation Director who complies with *Heritage NSW Excavation Director Criteria 2019* (September 2019) to direct the historical archaeological program. The Excavation Director must be present to oversee excavation, advise on archaeological issues, advise on the duration and extent of oversight required during archaeological excavations consistent with the **Archaeological Research Design and Excavation Methodology** required by **Condition E33**.

9. Amend Condition E44(a) as follows:

- E44 Notwithstanding **Conditions E42 and E43**, work may be undertaken outside the hours specified in any of the following circumstances:

- (a) **Safety and Emergencies**, including:
- (i) for the delivery of materials required by the NSW Police Force or other authority for safety reasons; or
 - (ii) where it is required in an emergency to avoid injury or the loss of life, to avoid damage or loss of property or to prevent environmental harm.

On becoming aware of the need for emergency work in accordance with this condition, the Proponent must notify the **ER**, the Planning Secretary and the EPA of the reasons for such work. The Proponent must use best endeavours to notify all noise and/or vibration affected residents and owners/occupiers of properties identified sensitive land user(s) of the likely impact and duration of ~~these~~ the work.

10. Amend Condition E51 as follows:

E51 In order to undertake out-of-hours work as prescribed under **Condition E42(d)** (piling), the Proponent must justify to the ER the reasons why these works cannot be undertaken during standard working hours. These works must be endorsed by the ER prior to the commencement of such work.

Any justification must be in writing and include the following information:

- (a) reasons for the OOH Work;
- (b) a description of location and duration of the OOH Work;
- (c) the noise characteristics and likely noise levels of the OOH Work;
- (d) likely mitigation and management measures which aim to achieve the relevant noise management levels and vibration criteria under **Condition E44 E45** (including the circumstances of when respite or relocation offers will be available and details about how the affected community can access these offers); and
- (e) proposed community notifications which must be provided to impacted sensitive receivers in the community at least 10 days prior to the proposed OOH Work.

11. Amend Condition E78 as follows:

E78 Construction and construction worker vehicles (including light and heavy vehicles) associated with the SSI must be accommodated within the construction boundaries on both the La Perouse and Kurnell sites at all times. On-site parking must be provided within the construction boundary to:

- (a) minimise parking on public roads;
- (b) minimise idling and queueing on local roads;
- (c) not carry out marshalling of construction vehicles near sensitive land use(s);
- (d) not block or disrupt access across pedestrian or shared user paths at any time; ~~and~~.

12. Delete the text 'E94' that occurs between Conditions E103 and E104:

~~E94~~

13. Amend Condition E106 as follows:

E106 The ongoing maintenance and operation costs of urban design, open space, landscaping and recreational items and work implemented as part of this approval remain the Proponent's responsibility until satisfactory arrangements have been put in place for the transfer of the asset to the relevant authority. Before the transfer of assets, the Proponent must maintain items and work to at least the design standards established in the UDLP.

The Planning Secretary must be advised of the date of transfer of the asset(s) to the relevant authority, within one month of the transfer of the asset(s).