

# Modification of Infrastructure Approval

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

As delegate of the Minister for Planning, 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

17 / 2 /

2023

## SCHEDULE 1

### Infrastructure Approval:

SSI 663 granted by the Minister for Planning on 28 February 2002 (approved under the former Division 4 of Part 5 of the EP&A Act)

### For the following:

Development for the purposes of:

- A new road (approximately 12 km in length) from the M5 Motorway and Camden Valley Way intersection at Prestons through largely open space to Elizabeth Drive, Cecil Hills.
- An alignment immediately adjacent to Wallgrove Road from Elizabeth Drive, crossing the M4 and Great Western Highway.
- Use of the Phillip Parkway corridor between Eastern Road and Richmond Road, including upgrade of the section between Eastern Road to Woodstock Avenue.
- Following the Castlereagh Freeway road reserve from Eastern Road to the M2, at West Baulkham Hills
- A dual carriageway motorway with high standard interchanges along its length providing connections with the arterial road work
- Four 3.5 m traffic lanes (two in each direction) with sealed inner shoulders of 1m
- A median of at least 15 m wide
- A 2.5 m combined paved shoulder/breakdown lane and on-motorway cycle lane
- Major grade-separated intersections at 15 locations
- Electronic tolling infrastructure

**Modification:**

The following key features:

- Widening of the motorway into the existing median from 140 metres south of the Kurrajong Road overhead bridge at Prestons through to the Richmond Road interchange in Oakhurst/Glendenning, excluding the Westlink M7/M4 Motorway (Light Horse) Interchange.
- Widening of the exit to two lanes from Westlink M7 northbound onto the M4 Motorway westbound carriageway.
- Widening of 43 (north and southbound) bridges at 23 locations into the median and the outside of bridges approaching the M4 Motorway.
- Upgrades, additions and modifications to noise walls along the alignment.
- Utility works and upgrades to drainage infrastructure.
- Upgrades to and additional installation of Intelligent Transport Systems to accommodate additional lanes.
- Establishment of construction ancillary facilities.

## SCHEDULE 2

Note: In amended conditions words that have been deleted are shown as: ~~deleted~~

In amended conditions, words that have been added are shown as: added

### 1. Add the following wording before Condition 1.

#### DEFINITIONS APPLICABLE TO CONDITIONS LISTED IN CONDITION 1B OF SCHEDULE 1 AND SCHEDULE 2

The definitions below apply to terms used in this approval, unless otherwise stated or the context indicates otherwise.

**Table 1: Definitions**

<u>Term</u>	<u>Definition</u>
<u>AA</u>	<u>The Acoustics Advisor for Modification 6 approved by the Planning Secretary</u>
<u>Aboriginal object</u>	<u>The same meaning as in the National Parks and Wildlife Act 1974 (NSW).</u>
<u>At-property acoustic treatment</u>	<u>Includes courtyard walls and building treatments. Building treatments may include but are not limited to ventilation, acoustic blinds / curtains, glazing, window and door seals, sealing of vents or underfloor areas, shutters and secondary glazing.</u>
<u>CALD</u>	<u>Culturally and Linguistically Diverse</u>
<u>CEMP</u>	<u>Construction Environmental Management Plan</u>
<u>Completion of construction</u>	<u>The date upon which works are completed and all requirements of the Planning Secretary (if any) have been met. If construction is staged, completion of construction is the date upon which construction is completed and all requirements of the Planning Secretary (if any) have been met, in respect of all stages of construction.</u>
<u>Construction</u>	<u>Includes work required to construct Modification 6 as defined in the Project Description described in the documents listed in <b>Condition 1A of Schedule 1</b> including commissioning trials of equipment and temporary use of any part of Modification 6, but excluding <b>Low Impact Work</b> which is carried out or completed prior to approval of the <b>CEMP</b>.</u>
<u>Construction ancillary facility</u>	<u>A temporary facility for construction of Modification 6 including an office and amenities compound, construction compound, material crushing and screening plant, materials storage compound, maintenance workshop, testing laboratory, a material stockpile area, access and car parking facilities, and utility connections to the facility.</u>  <u>Note: Where an approved CEMP contains a stockpile management protocol, a material stockpile area located within the construction boundary is not considered to be a construction ancillary facility.</u>
<u>Construction boundary/footprint</u>	<u>The area physically affected by work as defined in the Project Description as described in the documents listed in <b>Condition 1A of Schedule 1</b>.</u>

<b><u>Term</u></b>	<b><u>Definition</u></b>
<u>Consultation</u>	<u>To provide information and actively engage with and obtain and consider feedback from stakeholders during development of post approval documents. How the feedback has been considered and whether any changes have been made in response to this feedback is then documented and communicated back to stakeholders. Consultation should not be limited to one-way notification about the project.</u>  <u>This definition must inform the Communication Strategy required under <b>Condition B1</b>.</u>
<u>Department</u>	<u>NSW Department of Planning and Environment</u>
<u>DECC</u>	<u>Former NSW Department of Environment and Climate Change</u>
<u>Disturbance of land</u>	<u>Any activity that disturbs the ground surface to expose underlying soils.</u>
<u>DPI Fisheries</u>	<u>NSW Department of Primary Industries, Fisheries</u>
<u>DPE Water</u>	<u>Water Group of the Department of Planning and Environment</u>
<u>DPE EHG</u>	<u>Environment and Heritage Group of the Department of Planning and Environment</u>
<u>EMS</u>	<u>Environmental Management System</u>
<u>EP&amp;A Act</u>	<u>Environmental Planning and Assessment Act 1979 (NSW)</u>
<u>EPA</u>	<u>NSW Environment Protection Authority</u>
<u>EPBC Act</u>	<u>Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth)</u>
<u>EPL</u>	<u>Environment Protection Licence under the POEO Act</u>
<u>ER</u>	<u>The Environmental Representative(s) for Modification 6 approved by the Planning Secretary.</u>
<u>Environment</u>	<u>Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings.</u>
<u>Environmental Representative Protocol</u>	<u>Environmental Representative Protocol (Department of Planning and Environment, October 2018)</u>
<u>GANSW</u>	<u>NSW Government Architect</u>
<u>Heavy Vehicle</u>	<u>Has the same meaning as in the Heavy Vehicle National Law (NSW)</u>
<u>Heritage item</u>	<u>A place, building, work, relic, archaeological site, tree, movable object or precinct of heritage significance, that is listed under one or more of the following registers: the State Heritage Register under the Heritage Act 1977 (NSW), a state agency heritage and conservation register under section 170 of the Heritage Act 1977 (NSW), a Local Environmental Plan under the EP&amp;A Act, the World, National or Commonwealth Heritage lists under the Environment Protection and Biodiversity Conservation Act 1999 (Cth), and an "Aboriginal object" or "Aboriginal place" as defined in section 5 of the National Parks and Wildlife Act 1974 (NSW).</u>
<u>Heritage NSW</u>	<u>Environment and Heritage Group of the Department – Heritage NSW</u>
<u>Highly noise affected</u>	<u>As defined in the Interim Construction Noise Guideline (DECC, 2009).</u>

<b><u>Term</u></b>	<b><u>Definition</u></b>
<u>Highly noise intensive work</u>	<p><u>Work which are defined as annoying under the Interim Construction Noise Guideline (DECC, 2009) including:</u></p> <ul style="list-style-type: none"> <li>(a) <u>use of ‘beeper’ style reversing or movement alarms, particularly at night-time;</u></li> <li>(b) <u>use of power saws, such as used for cutting timber, rail lines, masonry, road pavement or steel work;</u></li> <li>(c) <u>grinding metal, concrete or masonry;</u></li> <li>(d) <u>rock drilling;</u></li> <li>(e) <u>line drilling;</u></li> <li>(f) <u>vibratory rolling;</u></li> <li>(g) <u>rail tamping and regulating;</u></li> <li>(h) <u>bitumen milling or profiling;</u></li> <li>(i) <u>jackhammering, rock hammering or rock breaking; and</u></li> <li>(j) <u>impact piling.</u></li> </ul>
<u>ICNG</u>	<u>Interim Construction Noise Guideline (DECC, 2009)</u>
<u>Incident</u>	<p><u>An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance.</u></p> <p><u>Note: “material harm” is defined in this approval.</u></p>
<u>Land</u>	<u>Has the same meaning as the definition of the term in section 1.4 of the EP&amp;A Act.</u>
<u>Landowner</u>	<u>Has the same meaning as “owner” in the Local Government Act 1993 and in relation to a building means the owner of the building.</u>
<u>Local road</u>	<u>Any road that is not defined as a classified road under the Roads Act 1993.</u>
<u>LOTE</u>	<u>Language Other than English</u>

<b><u>Term</u></b>	<b><u>Definition</u></b>
<u>Low Impact Work</u>	<p><u>Includes:</u></p> <ul style="list-style-type: none"> <li>(a) <u>survey work 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 buildings and road dilapidation surveys;</u></li> <li>(b) <u>investigations including investigative drilling, contamination investigations and excavation;</u></li> <li>(c) <u>site establishment work approved under a <b>Construction Ancillary Facility Site Establishment Management Plan</b>;</u></li> <li>(d) <u>use of minor ancillary facilities if the <b>ER</b> has determined the operational activities will have a minor impact on the environment and the community;</u></li> <li>(e) <u>minor clearing and relocation of native vegetation, as identified in the documents listed in <b>Condition 1A of Schedule 1</b>;</u></li> <li>(f) <u>installation of mitigation measures including erosion and sediment controls, temporary exclusion fencing for sensitive areas and at-property acoustic treatments;</u></li> <li>(g) <u>property acquisition adjustment work including installation of property fencing;</u></li> <li>(h) <u>relocation and connection of utilities where the relocation or connection has been determined by the <b>ER</b> to have a minor impact to the environment and the community;</u></li> <li>(i) <u>archaeological testing under the Code of practice for archaeological investigation of Aboriginal objects in NSW (DECCW, 2010) or archaeological monitoring undertaken in association with (a) - (h) above to ensure that there is no impact on heritage items;</u></li> <li>(j) <u>maintenance of existing buildings and structures required to facilitate the carrying out of Modification 6; and</u></li> <li>(k) <u>other activities determined by the <b>ER</b> to have minor impact on the environment and the community, which may include but not be limited to construction of minor access roads, temporary relocation of pedestrian and cycle paths and the provision of property access.</u></li> </ul> <p><u>Notwithstanding the following works are <b>not</b> Low Impact Work:</u></p> <ul style="list-style-type: none"> <li>(l) <u>where heritage items (excluding those impacted by activities (h), (i) and (j) above), or threatened species or threatened ecological communities (within the meaning of the Biodiversity Conservation Act 2016 or Environment Protection and Biodiversity Conservation Act 1999) are affected or potentially affected by any low impact work, that work is construction, unless otherwise determined by the Planning Secretary, following consultation by the Proponent with Heritage NSW, DPE EHG or DPI Fisheries (in the case of impact upon fish, aquatic invertebrates or marine vegetation); and</u></li> <li>(m) <u>any night time hours (as defined by the ICNG) work that exceeds noise management and vibration levels as identified in <b>Condition D40(b)</b>.</u></li> </ul> <p><u>The low impact work described in this definition becomes construction when the Construction Environmental Management Plan is approved. This also applies to low impact work that has already commenced.</u></p> <p><u>Notes:</u></p> <ol style="list-style-type: none"> <li>1. <u>Early stages of Work are not necessarily low impact work.</u></li> <li>2. <u>Low Impact work is not construction as defined by this approval.</u></li> </ol>

<b><u>Term</u></b>	<b><u>Definition</u></b>
<u>Material harm</u>	<u>is harm that:</u> (a) <u>involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or</u> (b) <u>results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment).</u>
<u>Minister</u>	<u>NSW Minister for Planning</u>
<u>Minor Ancillary Facility</u>	<u>Worker amenities and materials laydown and the like that are not part of a construction ancillary facility site that meet the requirements of <b>Condition A11 of Schedule 2.</b></u>
<u>Modification 6</u>	<u>The widening of the M7, as described in <b>Condition 1A of Schedule 1</b>, the carrying out of which is approved under the terms of this approval and <b>Schedule 2.</b></u>
<u>Modification Report</u>	<u>The Modification Report referred to in <b>Condition 1A of Schedule 1</b>, submitted to the Planning Secretary seeking approval to modify the approval listed in <b>Schedule 1</b>, and including any additional information provided by the Proponent in support of the application for approval of the project.</u>
<u>NML</u>	<u>Noise Management Level as defined in the Interim Construction Noise Guideline (DECC, 2009).</u>
<u>Non-compliance</u>	<u>An occurrence, set of circumstances or development that is a breach of this approval.</u>
<u>NSW Heritage Council</u>	<u>Heritage Council of NSW</u>
<u>OEMP</u>	<u>Operational Environmental Management Plan</u>
<u>Operation</u>	<u>The carrying out of Modification 6 (whether in full or in part) upon the completion of construction, unless otherwise agreed by the Planning Secretary.</u>  <u><b>Note:</b> There may be overlap between the carrying out of construction and operation if the phases of the development are staged. Commissioning trials of equipment and temporary use of any part of Modification 6 are within the definition of construction.</u>
<u>POEO Act</u>	<u>Protection of the Environment Operations Act 1997 (NSW)</u>
<u>Planning Secretary</u>	<u>Planning Secretary of the Department (including any reference to Director General in Schedule 1) (or nominee, whether nominated before or after the date on which this approval was granted).</u>
<u>Project</u>	<u>The M7 Westlink Motorway (formerly known as the Western Sydney Orbital)</u>
<u>Proponent</u>	<u>Transport for NSW and any other person carrying out any part of Modification 6 from time to time.</u>
<u>Relic</u>	<u>Has the same meaning as the definition of the term in section 4 of the Heritage Act 1977 (NSW).</u>
<u>Relevant council(s)</u>	<u>Liverpool City Council, Fairfield City Council, Blacktown City Council</u>
<u>Relevant roads authority</u>	<u>The same meaning as the roads authority defined in the Roads Act 1993 (NSW).</u>

<b><u>Term</u></b>	<b><u>Definition</u></b>
<u>Response to Submissions</u>	<u>The Proponent's response to issues raised in submissions received in relation to the application for approval for Modification 6 under the EP&amp;A Act.</u>
<u>Sensitive land use(s)</u>	<p><u>Includes residences, educational institutions (including preschools, schools, universities, TAFE colleges), health care facilities (including nursing homes, hospitals), religious facilities (including churches), child care centres and passive recreation areas (including outdoor grounds used for teaching). Receivers that may be considered to be sensitive include commercial premises (including film and television studios, research facilities, entertainment spaces, temporary accommodation such as caravan parks and camping grounds, restaurants, office premises, and retail spaces) and industrial premises as identified by the Planning Secretary.</u></p> <p><b>Note:</b> <u>For the purpose of determining appropriate mitigation, a multistorey residential flat building must not be counted as one sensitive receiver.</u></p>
<u>SES</u>	<u>NSW State Emergency Services</u>
<u>SMART</u>	<u>Specific, Measurable, Achievable, Realistic, and Timely</u>
<u>Tree</u>	<u>Long-lived woody perennial plant greater than (or usually greater than) 3 metres in height with one or relatively few main stems or trunks (AS4373-2007 Pruning of amenity trees).</u>
<u>Unexpected heritage find</u>	<u>An object or place that is discovered during the carrying out of Modification 6 and which may be a heritage item but was not identified in the documents listed in <b>Condition 1A of Schedule 1</b> or suspected to be present. An unexpected heritage find does not include human remains</u>
<u>Work</u>	<u>Any physical activity for the purpose of Modification 6 including Construction and Low Impact Work.</u>

## 2. Add Condition 1A after Condition 1.

- 1A. The Proponent must carry out Modification 6 in accordance with the terms of this approval (the conditions listed in **Condition 1B of Schedule 1**, and all Conditions listed in Schedule 2) and generally in accordance with the:
- (a) Westlink M7 Widening Modification Report prepared by Transport for NSW and dated August 2022; and
  - (b) Westlink M7 Widening Submissions Report prepared by Transport for NSW and dated November 2022.

## 3. Add Condition 1B after Condition 1A.

- 1B. The following Conditions listed in Schedule 1 apply to Modification 6: 1, 1A, 1B, 1C, 1D, 1E, 1F, 1G, 1H, 1I, 6, 6A, 26, 44, 45, 46, 67, 90, 96A, 96B, 96C, 96D, 96E, 96F, 96G, 96H, 96I, 96J, 96K, 99A, 99B, 125 (as it applies to operation), 146A, 150, 155 and 221. All other Conditions in Schedule 1 not listed in this Condition do not apply to any Work associated with Modification 6.

## 4. Add Condition 1C after Condition 1B.

- 1C. In the event of an inconsistency between:
- (a) the terms of this approval and any document listed in **Condition 1 and 1A of Schedule 1** inclusive, the terms of this approval will prevail to the extent of the inconsistency; and
  - (b) any document listed in **Condition 1 and 1A of Schedule 1** inclusive, the most recent document will prevail to the extent of the inconsistency.



Note: For the purpose of this condition, there will be an inconsistency between a term of this approval and any document if it is not possible to comply with both the term and the document.

**5. Add Condition 1D after Condition 1C.**

1D. The Proponent must comply with all written requirements or directions of the Planning Secretary, including in relation to:

- (a) the environmental performance of Modification 6;
- (b) any document or correspondence in relation to the Modification 6;
- (c) any notification given to the Planning Secretary under the terms of this approval;
- (d) any audit of the construction or operation of Modification 6;
- (e) the terms of this approval and compliance with the terms of this approval (including anything required to be done under this approval);
- (f) the carrying out of any additional monitoring or mitigation measures; and
- (g) in respect of ongoing monitoring and management obligations, compliance with an updated or revised version of a guideline, protocol, Australian Standard or policy required to be complied with under this approval.

**6. Add Condition 1E after Condition 1D.**

1E. Modification 6 must be carried out in accordance with all procedures, commitments, preventative actions, performance outcomes and mitigation measures set out in the documents listed in Condition 1A unless otherwise specified in, or required under, this approval.

**7. Add Condition 1F after Condition 1E.**

1F. The Modification 6 approval lapses five years after the date on which it is granted, unless work has physically commenced on or before that date.

**8. Add Condition 1G after Condition 1F.**

1G. References in the terms of this approval to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Australian Standards or policies in the form they are in as at the date of this approval, unless otherwise approved by the Planning Secretary.

**9. Add Condition 1H after Condition 1G.**

1H. Where terms of the conditions identified in **Condition 1B** or in Schedule 2 require consultation to be undertaken, evidence of the consultation undertaken must be submitted to the Planning Secretary and ER (as relevant) with the corresponding documentation. The evidence must include:

- (a) documentation of the engagement with the party identified in the condition of approval that has occurred before submitting the document for approval;
- (b) a log of the dates of engagement or attempted engagement with the identified party;
- (c) documentation of the follow-up with the identified party where engagement has not occurred to confirm that they do not wish to engage or have not attempted to engage after repeated invitations;
- (d) an outline of the issues raised by the identified party and how they have been addressed; and;
- (e) a description of the outstanding issues raised by the identified party and the reasons why they have not been addressed.

**10. Add Condition 1I after Condition 1H.**

1I. Any document that must be submitted or action taken within a timeframe specified in or under the terms of this approval may be submitted or undertaken within a later timeframe agreed in writing with the Planning Secretary. This condition does not apply to the written notification required in respect of an Incident or a Non-compliance.

**11. Delete Condition 6 and replace as follows:**

6. ~~The Proponent shall notify the Director General and all relevant authorities in writing of the Project commencement both in terms of construction and operation at least 1 weeks prior to the relevant commencement date. The Department must be notified in writing of the dates of commencement of works, construction and operation at least one month before those dates.~~

**12. Add Condition 6A after Condition 6.**

- 6A. If the construction or operation of Modification 6 is to be staged, the Department must be notified in writing at least one month before the commencement of each stage, of the date of the commencement of the relevant works, construction and operation at least one month before those dates.

**13. Amend Condition 26 as follows:**

26. ~~An The existing Westlink M7 Operational Environmental Management Plan (OEMP) shall be prepared and approved by the Director General associated sub-plans (including those required by Conditions 90 and 125 (as it relates to operation)) must be updated no later than one month prior to the opening commencement of operation of the Project Modification 6. The Plan and associated sub-plans must shall be updated prepared in consultation with the EPA, DLWC, NPWS, Department of Transport, relevant Councils and any other relevant government agency nominated by the Director General. The Plan shall be prepared in accordance with the conditions of this approval, Schedule 2 of this approval and all relevant Acts and Regulations and accepted best practice management Sub-Plans. The updated OEMP and associated sub-plans must be submitted to the Planning Secretary upon request. The consultation requirements of Condition 90 and 125 do not apply to the updates of Operational sub-plans made as a result of Modification 6.~~

~~The OEMP shall be endorsed as being in accordance with the conditions of approval by the EMR prior to seeking approval of the Director General.~~

~~The OEMP shall address at least the following issues:~~

- ~~(a) identification of the statutory and other obligations which the Proponent is required to fulfil, including all licences/approvals and consultations/agreements required from authorities and other stakeholders, and key legislation and policies which control the Proponent's operation of the Project;~~
- ~~(b) sampling strategies and protocols to ensure the quality of the monitoring program, including the specific requirements of DLWC, EPA and NPWS;~~
- ~~(c) monitoring, inspection and test plans for all activities and environmental qualities which are important to the environmental performance of the Project during its operation, including a description of potential site impacts, performance criteria, specific tests and monitoring requirements, protocols (eg. frequency and location) and procedures to follow;~~
- ~~(d) steps the Proponent intends to take to ensure compliance with all plans and procedures;~~
- ~~(e) consultation requirements, including relevant government agencies, the local community and Councils, and complaints handling procedures; and~~
- ~~(f) strategies for the main environmental impacts including, but not limited to: noise; water quality; erosion and sedimentation; access and traffic; groundwater; settlement; waste/resource management/removal/disposal; hydrology and flooding; visual screening, landscaping and rehabilitation; hazards and risks; and energy use, resource use and recycling.~~

~~Specific requirements for some of the main environmental system elements referred to in (f) shall be as detailed under the conditions of this approval and/or as required under any licence or approval.~~

~~The OEMP shall be made publicly available.~~

~~All sampling strategies and protocols undertaken as part of the Operational EMP shall include a quality assurance/quality control plan and shall be approved by the relevant regulatory agencies to ensure the effectiveness and quality of the monitoring program. Only accredited laboratories can be used for laboratory analysis.~~

~~Note: The Director General shall provide a response to the Operational EMP within one (1) month of receipt of all relevant information from the Proponent assuming receipt of adequate and sufficient information. If a request is made by the Director General for additional information, the period of time that elapses between the date on which the Proponent receives the request and the date on which the additional information is provided to the Director General, shall not be taken into account in the one (1) month period referred to above.~~

**14. Delete Condition 29.**

- ~~29. The Project shall be constructed and operated to accommodate a maximum of four (4) through traffic lanes (two through lanes in each direction). Deleted.~~

**15. Delete condition 67 and replace as follows:**

- ~~67. All lighting for the motorway and off-motorway cycleway shall be designed, installed and operated as a minimum in accordance with the requirements of AS1158-Road Lighting and AS4282-Control of the Obtrusive Effects of Outdoor Lighting. Modification 6 must be constructed and operated with the objective of minimising light spillage to surrounding properties. All lighting associated with the construction and operation of Modification 6 must be consistent with the requirements of AS/NZS 4282:2019 Control of the obtrusive effects of outdoor lighting and relevant Australian Standards in the series AS/NZ 1158 – Lighting for Roads and Public Spaces. Additionally, mitigation measures must be provided to manage any residual night lighting impacts to protect properties adjoining or adjacent to the project, in consultation with affected landowners.~~

**16. Delete Condition 91.**

- ~~91. The Proponent shall install all necessary noise mitigation measures in the vicinity of residences at Cecil Hills to reduce predicted traffic noise levels to not exceed the levels as specified in NSW's Environmental Criteria for Road Traffic Noise. Deleted.~~

**17. Delete Condition 92.**

- ~~92. Noise mitigation measures determined in Condition No. 90 shall be based on noise levels including consideration of road grade variations and actual proposed signposted speeds on the Project. Deleted.~~

**18. Delete Condition 93.**

- ~~93. In determining noise mitigation measures Category 1 (new freeway or arterial road corridor) criteria from the EPA's Environmental Criteria for Road Traffic Noise shall be applied unless otherwise agreed by the EPA. Deleted.~~

**19. Delete Condition 94.**

- ~~94. Prior to the opening to traffic on the Project, the Proponent shall undertake noise impact assessments for the 'truckstop' locations and install any relevant mitigation measures to the satisfaction of the EPA and Director General. The results of this assessment shall be incorporated into the Operational Noise Management Sub-Plan. Deleted.~~

**20. Delete Condition 95.**

- ~~95. The Proponent shall install appropriate noise mitigation for all existing noise sensitive vacant land adjacent to the Project to allow noise sensitive development in accordance with Practice Note II of the RTA Environmental Noise Management Manual. Deleted.~~

**21. Delete Condition 96.**

- ~~96. Monitoring of operational noise shall be undertaken in accordance with the Operational Noise Management Sub-Plan and Practice Note VII of the RTA's Environmental Noise Management Manual. The Proponent shall, in consultation with the EPA, assess the adequacy of the traffic noise mitigation measures within 6 months to one year of opening the Project with regard to the criteria specified in the Operational Noise Management Sub-Plan. Should the assessment indicate a clear trend in traffic noise levels on the Project and surrounding roads which exceed~~

~~Operational Noise Management Sub Plan defined noise design goals as approved by the EPA, the Proponent shall implement further reasonable and feasible mitigation measures in consultation with affected landowners and/or occupiers including but not limited to consideration of inclusion of noise barriers and the acoustic treatment of buildings. Deleted.~~

## 22. Insert Condition 96A after Condition 96.

### **Operational Noise Mitigation Measures for Modification 6**

96A. An **Operational Noise Review (ONR)** must be prepared to confirm noise control measures that would be implemented for the operation of Modification 6. The **ONR** must be prepared in consultation with relevant council(s) and must:

- (a) include an operational noise monitoring program to cover the existing and future traffic noise emission and sound propagation conditions to verify the calculation of road traffic noise impacts encountered in the area of interest;
- (b) confirm the appropriate operational noise and vibration objectives and levels for surrounding development, including existing sensitive land use(s);
- (c) confirm the operational noise predictions based on the final design. Confirmation must be based on an appropriately calibrated model(s) (which has incorporated noise monitoring, and concurrent traffic counting, where necessary for calibration purposes). The assessment must specifically include verification of noise levels, based on noise monitoring undertaken at appropriately identified noise catchment areas surrounding the facilities;
- (d) confirm traffic inputs, based on the latest traffic forecasting model data (including consideration of latest traffic data obtained from the relevant local councils on adjacent traffic-generating developments);
- (e) confirm the operational noise impacts at sensitive land use(s) based on the final design of Modification 6. Confirmation must be based on an appropriately calibrated noise model and include operational daytime  $L_{Aeq}(15 \text{ hour})$  and night-time  $L_{Aeq}$ , 9-hour traffic noise contours and address the following -
  - (i) impacts arising from traffic control devices, and
  - (ii) the ranking of maximum noise level impacts on sensitive land use(s) affected by (i) above for the prioritisation of noise mitigation measures;
- (f) identify sensitive land use(s) that are predicted to exceed the requirements of the NSW Road Noise Policy (DECCW, 2011);
- (g) identify all operational noise mitigation measures to be implemented including location, type and timing of mitigation measures and how the final suite of mitigation measures will achieve the requirements of **Condition 96A(b)** with a focus on -
  - (i) traffic management,
  - (ii) source control and design,
  - (iii) in-corridor noise barriers/mounds (contingency factors need to adopt safety factors),
  - (iv) at-property treatments or localised barriers/mounds (if relevant), and
  - (v) 'best practice' achievable noise and vibration outcomes;
- (h) include a consultation strategy to seek feedback from directly affected landowners on the noise mitigation measures;
- (i) procedures for the management of operational noise complaints, including investigation and monitoring (subject to complainant agreement); and
- (j) include a review of the performance of existing acoustic barriers along the M7 corridor (between Richmond Road and the M5).

The **ONR** must be verified by an independent road traffic noise acoustic expert. The **ONR** must be submitted to the Planning Secretary for information within 12 months of the commencement of construction, unless an alternative timeframe is agreed with the Planning Secretary.

The identified noise control measures must be implemented and the **ONR** must be made publicly available following its submission to the Planning Secretary for information.

**Note 1:** The design of noise barriers and the like must be undertaken in consultation with the community as part of the **Design and Landscape Plan** required under **Condition D19 and D22 of Schedule 2.**

**Note 2:** The **ONR** may be verified by the **AA**, where the **AA** has suitable experience in road traffic noise assessment.

**23. Insert Condition 96B after Condition 96A.**

96B. Where the operational noise management level in **Condition D42(a) of Schedule 2** is likely to be exceeded at residences during construction, the operational noise mitigation measures identified in the **ONR**, that will not be physically affected by construction must be implemented within 6 months of the Planning Secretary receiving the **ONR**, unless another timeframe is agreed to by the Planning Secretary.

All requests to the Planning Secretary for an extension to the timeframe must be accompanied by a report endorsed by the **AA**, justifying why, along with details of temporary measures that would be implemented to reduce construction noise impacts, until such time that the operational noise mitigation measures are implemented. Any identified temporary measures must be retained until permanent measures are installed.

Note: Not having finalised detailed design is not sufficient justification for not implementing the proposed mitigation measures.

**24. Insert Condition 96C after Condition 96B.**

96C. The implementation of at-property acoustic treatment does not preclude the application of other noise and vibration mitigation and management measures including temporary accommodation to address construction noise.

**25. Insert Condition 96D after Condition 96C.**

96D. Operational traffic noise mitigation measures must be prioritised to address source control measures, road design and then the application of additional mitigation measures (such as at-property acoustic treatment).

**26. Insert Condition 96E after Condition 96D.**

96E. Where the review required by **Condition 96A(j)** identifies acoustic barriers that are not meeting the expected noise performance outcomes, the Proponent must replace or repair the barriers prior to the operation of the Modification 6.

**27. Insert Condition 96F after Condition 96E.**

96F. Operational noise mitigation measures identified in the **ONR** required by **Condition 96A** must be implemented prior to operation of Modification 6, unless otherwise agreed with the Planning Secretary.

**28. Insert Condition 96G after Condition 96F.**

**Operational Noise Validation**

96G. Within 12 months, and again at 5 years (if low noise pavement is used as a noise mitigation measure), of the commencement of operation of Modification 6, monitoring of operational noise must be undertaken to compare actual noise performance of the project (including Modification 6) against the noise performance predicted in the review of noise mitigation measures required by **Condition 96A**.

**29. Insert Condition 96H after Condition 96G.**

96H. The Proponent must prepare an **Operational Monitoring Report** which sets out how monitoring is to be undertaken for the comparison of noise performance required by **Condition 96G**. The report must include:

- (a) proposed monitoring methodology; and
- (b) location of noise monitoring sites, with reference to specific impacts on receivers.
  - Monitoring locations must be grouped by –
    - (i) pavement type,
    - (ii) topography, and
    - (iii) line of sight from a monitoring location to the Project.

The **Operational Monitoring Report** must be provided to the Planning Secretary for information at least one month prior to undertaking the monitoring.

**30. Insert Condition 96I after Condition 96H.**

96I. Classified traffic counts must be undertaken simultaneously with the operational noise monitoring required by **Condition 96G** to confirm traffic volumes and traffic mix assumptions and must be used in the **ONCR** required by **Condition 96J**.

**31. Insert Condition 96J after Condition 96I.**

**Operational Noise Compliance Report (ONCR) for Modification 6**

96J. An **ONCR** must be prepared to document the findings of the operational noise monitoring carried out under **Condition 96G**. The **ONCR** must address the following:

- (a) details of any complaints (and the resolution of these complaints) and enquiries received in relation to operational noise generated by the project between the date of commencement of operation of Modification 6 and the date the traffic monitoring (required by **Condition 96I**) was undertaken;
- (b) an assessment of compliance with the operational noise levels in terms of criteria, noise goals and trigger levels established in the NSW Road Noise Policy (DECCW, 2011) using
  - 
  - (i) noise monitoring data of the actual change in traffic noise at locations identified in **Condition 96A** and at representative locations identified from clause (a) above, and
  - (ii) calibrated and validated noise model outputs (based on updated traffic counts required under **Condition 96I**) at all other impacted receivers, and
  - (iii) a calibrated 2036 (or 10 years from the date of opening whichever comes first) forecasted model outputs for all receivers;
- (c) a review of the acoustic performance of different pavement types over their design life of the pavement type (if low noise pavement is used as a noise mitigation measure);
- (d) a review of the performance and effectiveness of applied noise and vibration mitigation measures and if necessary, reassessment of mitigation measures;
- (e) identification of additional measures to those identified in the review of noise and vibration mitigation measures required by **Condition 96A**, that are to be implemented with the objective of meeting the operational noise levels in terms of noise assessment criteria set out in the NSW Road Noise Policy (DECCW, 2011); and
- (f) identification of when these additional measures are to be implemented and how their effectiveness is to be measured and reported to the Planning Secretary and the EPA.

The **ONCR** must be prepared in accordance with the Model Validation Guideline (RMS, 16 May 2018 Version 1.1).

The **ONCR** must be submitted to the Planning Secretary and the EPA for information within 90 days of completing the operational noise monitoring and made publicly available in accordance with **Condition B11** upon submission to the Planning Secretary.

**Note 1:** The Operational Noise Management Sub Plan must be updated to include the outcomes of the **ONR** and **ONCR**.

**Note 2:** The measures identified in **Condition 96J(f)**, should aim to be implemented within 12 months of the completion of the 12-month operational noise validation required under **Condition 96G**.

**32. Insert Condition 96K after Condition 96J.**

**Maintenance of Low Road Noise Pavements**

96K. Where low noise road pavements are used as a noise mitigation measure, low noise road pavements must be maintained to ensure that they continue to contribute to the compliance of mitigated noise levels identified in the **ONR (Condition 96A)** throughout the life of the project.

**33. Insert Condition 99A after Condition 99.**

99A. A **Road Network Performance Plan** must be prepared in consultation with the relevant council(s). The Plan must:

- (a) consider the impacts of Modification 6 at the M7 intersections with the following roads: Bernera Road, Cowpasture Road, The Horsley Drive, Great Western Highway, Old

Wallgrove Road, Rooty Hill Road and Richmond Road:

- (b) include the most recent baseline road network performance data for the locations identified at (a) above;
- (c) include updated traffic modelling and an assessment of the road network performance, as a consequence of Modification 6, at the locations identified in (a) above;
- (d) identify mitigation measures to manage predicted traffic performance impacts as identified in (c) above as relevant, including local area traffic management, upgrades or changes to intersections, signal optimisation; and
- (e) timing of the implementation of mitigation measures identified in the Plan.

The Road Network Performance Plan must be submitted to the Planning Secretary and relevant council(s) for information twelve months before the operation of Modification 6. The Proponent is responsible for the implementation of identified measures under (d) above. The mitigation measures in the Plan must be implemented in accordance with the timing identified in (e) above.

Note: Identified mitigation measures may need to be further assessed under the Environmental Planning and Assessment Act, 1979. Work will need to meet relevant design standards and be subject to independent road safety audits.

#### **34. Insert Condition 99B after Condition 99A.**

- 99B. The Proponent must prepare an **Operational Road Network Performance Review**, within 12 months and again at five years and at any other timeframe(s) specified by the Planning Secretary, after the commencement of operation of Modification 6. The Reviews must address road network performance compared with the baseline data required by **Condition 99A** and review the effects of Modification 6 on the adjoining road network (including local roads in the vicinity of the Modification 6). The Reviews must confirm whether the mitigation measures identified in the **Road Network Performance Plan** required under **Condition 99A** are adequate.

The Reviews must be undertaken in consultation with relevant council(s). The Reviews must be completed and submitted to the Planning Secretary for information within six months of the review timeframes, unless an alternative submission timeframe is agreed to by the Planning Secretary.

The identification of further mitigation measures, if required, must be included in the Reviews along with a timetable for their implementation determined with the involvement of the relevant local roads authority. The Proponent is responsible for the implementation of the identified measures within the **Operational Road Network Performance Review(s)**.

Note: Identified mitigation measures may need to be further assessed under the Environmental Planning and Assessment Act, 1979. Work will need to meet relevant design standards and be subject to independent road safety audits.

#### **35. Amend Condition 125 as follows:**

125. As part of the Construction Method Statements and Operational EMPs, detailed Soil and Water Quality Management Plan(s) shall be prepared in consultation with the EPA, DLWC, NSW Fisheries, relevant Catchment Management Trusts, Sydney Water, Sydney Catchment Authority and relevant Councils. The Plan(s) shall be prepared in accordance with the Department of Housing's guideline Managing Urban Stormwater - Soils and Construction 1998, the RTA's Guidelines for the Control of Erosion and Sedimentation in Roadworks and where appropriate, DLWC's Constructed Wetlands Manual. The Plan(s) shall be prepared prior to substantial construction or operation as appropriate. The Soil and Water Quality Management Plan(s) shall contain, but not be limited to:

- (a) management of the cumulative impacts of the development on the quality and quantity of surface and groundwater, including stormwater in storage, sedimentation dams and flooding impacts;

- (b) details of short and long term measures to be employed to minimise soil erosion and the discharge of sediment to land and/or waters including the exact locations and capacities of sedimentation basins;
- (c) identification of all potential sources of water pollution and a detailed description of the remedial action to be taken or management systems to be implemented to minimise emissions of these pollutants from all sources within the subject site;
- (d) detailed description of water quality monitoring to be undertaken during the pre-construction, construction and operation stages of the Project including base line monitoring, identification of locations where monitoring would be carried out and procedures for analysing the degree of contamination of potentially contaminated water;
- (e) measures to handle and dispose of stormwater, effluent and contaminated water and soil including incident management structures;
- (f) a process for the disposal of water from sedimentation basins and constructed wetlands developed in consultation with the EPA;
- (g) measures for the use of water reclaimed or recycled on-site; and
- (h) contingency plans to be implemented in the event of fuel spills or turbid water discharge from the site.

Note: The Operational Soil and Water Quality Management Sub Plan must be updated to include the outcomes of **Condition 146A and 150**.

**36. Insert Condition 146A after Condition 146.**

146A. Modification 6 must be operated so as to maintain the NSW Water Quality Objectives (ANZG 2018), and where relevant the Performance Criteria for Protecting and Improving the Blue Grid in the Wianamatta – South Creek Catchment (DPIE, 2021), where they are being achieved as at the date of this approval. Modification 6 must also contribute towards achievement of the NSW Water Quality Objectives and, where relevant, the Performance Criteria for Protecting and Improving the Blue Grid in the Wianamatta – South Creek Catchment, over time where they are not being achieved as at the date of the approval of Modification 6.

**37. Amend Condition 150 as follows:**

150. All operational stormwater and wastewater systems of the Project including stormwater drainage, erosion, sedimentation and water pollution control systems and facilities of the Project shall be located, designed, constructed, operated and maintained to meet the requirements of the relevant authorities including the EPA, NSW Fisheries, DLWC, SWC and relevant Councils. All facilities including wetland filters, grass filter strips, gross pollutant traps and sedimentation basins shall be inspected regularly and maintained in a functional condition for the life of the Project.

Operational stormwater and wastewater systems impacted by Modification 6 must meet the requirements of DPI Fisheries, DPE Water, Sydney Water and relevant Councils.

**38. Delete Condition 219.**

~~219. The Proponent shall not permit any vehicle carrying a quantity of goods defined as dangerous under the Australian Dangerous Goods Code, to enter any tunnels forming part of the Project. Prior to the opening of the Project to traffic, the Proponent shall provide a strategy to the Director General detailing how this condition shall be managed and enforced. Deleted.~~

**39. Amend Condition 221 as follows:**

~~221.~~The Project carriageways, not including the pedestrian/cycleway, shall be appropriately fenced at all times to prevent access by the general community. Particular attention shall be paid to areas of open space or community land use such as the Western Sydney Parklands (as identified in SEPP (Precincts – Western Parkland City) 2021) SREP No. 31 – Regional Parklands, including the Western Sydney Regional Park and SIEC. Locked gates shall be provided at suitable locations to allow for emergency service access in consultation with the NSW Police Service, NSW Fire Brigade and State Emergency Services.



40. Add following wording as a title page after Attachment 1 of Schedule 1

# **MOD 6 Specific Conditions**

Note: Schedule 2 conditions apply to work associated with Modification 6.

41. Add following Schedule 2 (including associated conditions) after the title page 'Modification 6 Specific Conditions'

## **SCHEDULE 2**

### **PART A**

#### **ADMINISTRATIVE CONDITIONS**

##### **GENERAL**

- A1 For the purposes of Modification 6, the following conditions apply:  
(a) the conditions listed in **Condition 1B of Schedule 1**; and  
(b) all conditions listed in Schedule 2 of this approval.

##### **STAGING**

###### **Staging the delivery of Modification 6**

- A2 Modification 6 may be constructed and operated in stages (including but not limited to temporal, location or activity based staging). Where staged construction is proposed, a **Staging Report** (for either or both construction and operation as the case may be) must be prepared. The **Staging Report** must be endorsed by the **ER** and then submitted to the Planning Secretary for information no later than one month before the commencement of construction of the first of the proposed stages of construction (or if only staged operation is proposed, one month before the commencement of operation of the first of the proposed stages of operation).

Note: Unless otherwise specified in this approval, early works are a stage of construction.

- A3 The **Staging Report** must:  
(a) if staged construction is proposed, set out how the construction of the whole of Modification 6 will be staged, including details of work and activities to be carried out in each stage and the general timing of when construction of each stage will commence and finish;  
(b) if staged operation is proposed, set out how the operation of the whole of Modification 6 will be staged, including details of activities to be carried out in each stage and the general timing of when operation of each stage will commence and finish (if relevant);  
(c) specify how compliance with conditions will be achieved across and between each of the stages of Modification 6; and  
(d) set out mechanisms for managing any cumulative impacts arising from the proposed staging.

Note: A Staging Report may reflect the staged construction and operation of the project through geographical activities, temporal activities or activity-based contracting and staging.

- A4 Where staging is proposed, Modification 6 must be staged in accordance with the **Staging Report**, and submitted for information to the Planning Secretary.
- A5 Where staging is proposed, the terms of this approval that apply or are relevant to the work or activities to be carried out in a specific stage must be complied with at the relevant time for that stage.

A6 Where changes are proposed to the staging of construction or operation, a revised **Staging Report** must be prepared, endorsed by the **ER** and submitted to the Planning Secretary for information no later than one month prior to the proposed change in the staging.

#### **Staging, Combining and Updating Strategies, Plans or Programs**

A7 Strategies, plans or programs required by this approval can be submitted on a progressive basis, with the agreement of the Planning Secretary.

With the agreement of the Planning Secretary, the Proponent may prepare the updated strategy, plan or program without undertaking all the consultation required under the applicable condition in this approval.

#### **Notes:**

1. While any strategy, plan or program may be submitted on a progressive basis, the Proponent must ensure that the existing operations on site are covered by suitable strategies, plans or programs at all times; and
2. If the submission of any strategy, plan or program is to be undertaken in a progressive manner, then the relevant strategy, plan or program must clearly describe the specific stage to which strategy, plan or program applies, the relationship of this stage to future stages, and the trigger for updating the strategy, plan or program.

### **CONSTRUCTION ANCILLARY FACILITIES**

#### **Construction ancillary facilities**

A8 Construction ancillary facilities (excluding minor ancillary facilities established under **Condition A11** that are not identified by description and location in the documents listed in **Condition 1A of Schedule 1** can only be established and used in each case if:

- (a) they are located within or immediately adjacent to the construction boundary; and
- (b) they are not located next to sensitive land use(s) (including where an access road is between the facility and the land use), unless the landowner and occupier have given written acceptance to the carrying out of the relevant facility in the proposed location; and
- (c) they have no impacts on heritage items (including areas of archaeological sensitivity), threatened species, populations or ecological communities beyond the impacts approved under the terms of this approval; and
- (d) the establishment and use of the facility can be carried out and managed within the outcomes set out in the terms of this approval, including in relation to environmental, social and economic impacts.

### **SITE ESTABLISHMENT WORK**

#### **Construction Ancillary Facility Site Establishment Management Plan**

A9 Before the establishment of a construction ancillary facility that is required prior to the approval of a **CEMP** (excluding minor ancillary facilities determined by the **ER** to have minimal environmental impact and those established under **Condition A11**), the Proponent must prepare an **Construction Ancillary Facility Site Establishment Management Plan** which outlines the environmental management practices and procedures to be implemented for the establishment of the construction ancillary facilities. The **Construction Ancillary Facility Site Establishment Management Plan** must be prepared in consultation with the relevant council and government agencies. The Plan must be submitted to the Planning Secretary for approval one month before the establishment of any construction ancillary facilities. The **Construction Ancillary Facility Site Establishment Management Plan** must detail the management of the construction ancillary facilities and include:

- (a) a description of activities to be undertaken during establishment of the construction ancillary facility (including scheduling and duration of work to be undertaken at the site);
- (b) figures illustrating the proposed site layout and the location of the closest sensitive land use(s);
- (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 work;*
- (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 1A of Schedule 1**, 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.

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

**Note:** This plan is only needed before a **CEMP** is approved. Once a **CEMP** is approved a **Construction Ancillary Facility Site Establishment Management Plan(s)** is not required.

#### **Use of a Construction Ancillary Facility**

- A10 A construction ancillary facility established under **Condition A9** must not be used for Construction until the **CEMP** required by **Condition C1**, relevant **CEMP Sub-plans** required by **Condition C4** and relevant **Construction Monitoring Programs** required by **Condition C9** have been approved.

#### **Minor Ancillary Facilities**

- A11 Minor Ancillary Facilities can be established and used where they have been assessed in the documents listed in **Condition 1A of Schedule 1** or satisfy the following criteria:
- (a) are located within or immediately adjacent to the construction boundary; and
  - (b) have been assessed by the **ER** to have -
    - (i) minimal amenity impacts to surrounding residences and businesses, after consideration of matters such as compliance with the Interim Construction Noise Guideline (DECC, 2009) (ICNG), traffic and access impacts, dust and odour impacts, and visual (including light spill) impacts, and
    - (ii) minimal environmental impact with respect to waste management and flooding, and
    - (iii) no impacts on biodiversity, soil and water, and heritage items beyond those already approved under other terms of this approval.

#### **Boundary screening**

- A12 Boundary screening must be erected between construction ancillary facilities (excluding minor ancillary facilities) and adjacent to sensitive land use(s) for the duration of the time that the construction ancillary facility is in use, unless otherwise agreed with the owner and occupier of the adjacent sensitive land use(s).

Boundary screening must aim to minimise visual impacts on adjacent sensitive land use(s).

#### **INDEPENDENT APPOINTMENTS**

- A13 All **Independent Appointments** required by the terms of this approval must have regard to Seeking approval from the Department for the appointment of independent experts (DPIE, 2020). All **Independent Appointments** must hold current membership of a relevant professional body, unless otherwise agreed by the Planning Secretary.
- A14 The Planning Secretary may at any time commission an audit of how an **Independent Appointment** has exercised their functions. The Proponent must:
- (a) facilitate and assist the Planning Secretary in any such audit; and
  - (b) make it a term of their engagement of an **Independent Appointment** that the **Independent Appointment** facilitate and assist the Planning Secretary in any such audit.

A15 The Planning Secretary may withdraw its approval of an **Independent Appointment** should they consider the Independent Appointment has not exercised their functions in accordance with this approval.

Note: Conditions A14 and A15 apply to all **Independent Appointments** including the **ER** and **AA**.

### **ENVIRONMENTAL REPRESENTATIVE**

A16 Work must not commence until an **Environmental Representative (ER)** has been nominated by the Proponent and approved by the Planning Secretary.

A17 The Planning Secretary's approval of an **ER** must be sought no later than one month before the commencement of work.

A18 The proposed **ER** must meet the requirements of the Environmental Representative Protocol (Department of Planning and Environment, October 2018) and must be a suitably qualified and experienced person(s) who was not involved in the preparation of the documents listed in **Condition 1A of Schedule 1**, and is independent from the design and construction personnel for Modification 6 and those involved in the delivery of it.

A19 More than one **ER** may be engaged for Modification 6, in which case the functions to be exercised by an **ER** under the terms of this approval may be carried out by any **ER** that is approved by the Planning Secretary for the purposes of Modification 6.

A20 For the duration of 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 Modification 6;
- (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 A2, A6, A9, C1, C4 and C9** 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);

Note: The written statement must be made via the Major Projects Portal.

- (e) regularly monitor the implementation of the documents listed in **Conditions A2, A6, A9, C1, C4 and C9** 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 A27** of this approval;
- (g) as may be requested by the Planning Secretary, assist in the resolution of community complaints;
- (h) review the appropriateness of any activities reliant on the definition of Low Impact Work;
- (i) consider or assess the impacts of minor ancillary facilities as required by **Condition A11**;
- (j) consider any minor amendments to be made to the **Construction Ancillary Facility 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; and
- (k) 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 Modification 6, or as otherwise agreed by the Planning Secretary.

- A21 The Proponent must provide the **ER** with documentation requested in order for the **ER** to perform their functions specified in **Condition A20** (including preparation of the **ER** monthly report), as well as:
- (a) the complaints register (to be provided on a weekly basis where complaints have been received or as requested); and
- (b) a copy of any assessment carried out by the Proponent of whether proposed work is consistent with the approval (which must be provided to the **ER** before the commencement of the subject work).

### **ACOUSTICS ADVISOR**

- A22 A suitably qualified and experienced **Acoustics Advisor(s) (AA)** in noise and vibration management, who is independent of the design and construction personnel, must be nominated by the Proponent and engaged for the duration of construction.
- A23 Construction must not commence until an **AA** has been approved by the Planning Secretary no later than one (1) month before commencement of construction.
- A24 The Proponent must cooperate with the **AA** by:
- (a) providing access to noise and vibration monitoring activities as they take place;
- (b) providing for review of noise and vibration plans, assessments, monitoring reports, data and analyses undertaken; and
- (c) considering any recommendations to improve practices and demonstrating, to the satisfaction of the **AA**, why any recommendation is not adopted.
- A25 The approved **AA** must:
- (a) receive and respond to communication from the Planning Secretary in relation to the performance of Modification 6 in relation to noise and vibration;
- (b) consider and inform the Planning Secretary on matters specified in the terms of this approval relating to noise and vibration;
- (c) consider and recommend to the Proponent, improvements that may be made to avoid or minimise adverse noise and vibration impacts;
- (d) review proposed night-time works to determine if sleep disturbance would occur and recommend measures to avoid sleep disturbance or appropriate additional alternative mitigation measures;
- (e) review noise and vibration documents required to be prepared under the terms of this approval, and should they be consistent with the terms of this approval, endorse them before submission to the Planning Secretary (if required to be submitted to the Planning Secretary) or before implementation (if not required to be submitted to the Planning Secretary);
- (f) regularly monitor the implementation of all noise and vibration documents required to be prepared under the terms of this approval to ensure implementation is in accordance with what is stated in the document(s) and the terms of this approval;
- (g) notify the Planning Secretary of noise and vibration incidents in accordance with **Conditions A33 and A35** of this approval;
- (h) in conjunction with the **ER**, the **AA** must:
- (i) as may be requested by the Planning Secretary help plan, attend or undertake audits of noise and vibration management of the CSSI including briefings, and site visits.

- (ii) in the event that conflict arises between the Proponent and the community in relation to the noise and vibration performance of Modification 6, follow the procedure in the **Community Communication Strategy** approved under **Condition B2** to attempt to resolve the conflict, and if it cannot be resolved, notify the Planning Secretary.
- (iii) consider relevant minor amendments made to the **Construction Ancillary Facility Site Establishment Management Plan, CEMP**, relevant sub-plans and noise and vibration monitoring programs that require updating or are of an administrative nature, and are consistent with the terms of this approval and the management plans and monitoring programs approved by the Planning Secretary and, if satisfied such amendment is necessary, endorse the amendment, (this does not include any modifications to the terms of this approval).
- (iv) review the noise impacts of minor construction ancillary facilities, and
- (v) prepare and submit to the Planning Secretary and other relevant regulatory agencies, for information, a **Monthly Noise and Vibration Report** detailing the AA's actions and decisions on matters for which the AA was responsible in the preceding month. The **Monthly Noise and Vibration Report** must be submitted within seven days following the end of each month for the duration of the AA's engagement for Modification 6, or as otherwise agreed by the Planning Secretary.

## **AUDITING**

- A26 Proposed independent auditors must be agreed to in writing by the Planning Secretary before the commencement of an **Independent Audit**. This condition does not apply to the engagement of auditors required under **Condition D96**.
- A27 **Independent Audits** of Modification 6 must be conducted and carried out in accordance with the **Independent Audit Post Approval Requirements (DPIE, 2020)**.
- A28 The Planning Secretary may require the initial and subsequent **Independent Audits** to be undertaken at different times to those specified above, upon giving at least four weeks notice (or timing as stipulated by the Planning Secretary) to the Proponent of the date upon which the audit must be commenced.
- A29 In accordance with the specific requirements in the **Independent Audit Post Approval Requirements (DPIE, 2020)**, the Proponent must:
- (a) review and respond to each **Independent Audit Report** prepared under **Condition A27** or **Condition A28**;
  - (b) submit the response to the Planning Secretary; and
  - (c) make each **Independent Audit Report** and response to it publicly available two months after submission to the Planning Secretary, or as otherwise agreed by the Planning Secretary.
- A30 **Independent Audit Reports** and the Proponent's response to audit findings must be submitted to the Planning Secretary within two months of undertaking the independent audit site inspection as outlined in the **Independent Audit Post Approval Requirements (DPIE, 2020)**.
- A31 Notwithstanding the requirements of the **Independent Audit Post Approval Requirements (DPIE, 2020)**, the Planning Secretary may approve a request for ongoing independent operational audits to be ceased, where it has been demonstrated to the Planning Secretary's satisfaction that independent operational audits have demonstrated operational compliance.

## **INCIDENT AND NON-COMPLIANCE NOTIFICATION AND REPORTING**

### **Incident Notification, Reporting and Response**

- A32 The Planning Secretary must be notified via the Major Projects Website as soon as possible and no later than 12 hours after the Proponent becomes aware of an incident. The notification must identify Modification 6 (including the application number and the name of Modification 6) and set out the location and nature of the incident.

A33 Subsequent notification must be given and reports submitted in accordance with the requirements set out in **Appendix A**.

#### **Non-Compliance Notification**

A34 The Planning Secretary must be notified via the Major Projects Website within seven days after the Proponent becomes aware of any non-compliance. The notification must identify Modification 6 (including the application number and the name of Modification 6 if it has one), identify the condition/s against which Modification 6 is non-compliant, the nature of the non-compliance; the reason for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

A35 A non-compliance which has been notified as an incident under **Condition A32** does not need to be notified as a non-compliance.

#### **IDENTIFICATION OF WORKFORCE AND COMPOUNDS**

A36 The Modification 6 name; application number; telephone number, postal address and email address required under **Condition B7** of this approval must be made available on site boundary fencing / hoarding at each construction ancillary facility before the commencement of construction at that location. This information must also be provided on the website required under **Condition B11** of this approval.

### **PART B**

#### **COMMUNITY INFORMATION AND REPORTING**

#### **COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT**

##### **Communication Strategy**

B1 A **Communication Strategy** must be prepared to provide mechanisms to facilitate communication about construction and operation of Modification 6 with:

- (a) the community (including adjoining affected landowners and businesses, and others directly impacted by Modification 6); and
- (b) the relevant councils and relevant agencies.

B2 The **Communication Strategy** must:

- (a) identify people, organisations, councils and agencies to be consulted during the design and work phases of Modification 6;
- (b) identify details of the community and its demographics;
- (c) identify timing of consultation;
- (d) set out procedures and mechanisms for the regular distribution of accessible information including to LOTE and CALD and vulnerable communities about or relevant to Modification 6;
- (e) detail the measures for advising the community in advance of upcoming construction including upcoming out-of-hours work as required by **Condition D54**;
- (f) provide for the formation of issue or location-based community forums that focus on key environmental management issues of concern to the relevant community(ies) for Modification 6;
- (g) set out procedures and mechanisms:
  - (i) through which the community can discuss or provide feedback to the Proponent;
  - (ii) through which the Proponent will respond to enquiries or feedback from the community;
  - (iii) to resolve any issues and mediate any disputes that may arise in relation to the environmental management and delivery of Modification 6, including disputes regarding rectification or compensation;

- (h) address who will engage with the community, relevant councils and agencies.
- B3 The **Communication Strategy** must be submitted to the Planning Secretary for approval no later than one (1) month before the commencement of any Work.
- B4 Work for the purposes of Modification 6 must not commence until the **Communication Strategy** has been approved by the Planning Secretary.
- B5 The **Communication Strategy**, as approved by the Planning Secretary, must be implemented for the duration of Work and for 12 months following the completion of construction.

### **COMPLAINTS MANAGEMENT SYSTEM**

- B6 A **Complaints Management System** must be prepared and implemented before the commencement of any Work and maintained for the duration of Work and for a minimum for 12 months following completion of construction of Modification 6.

**Note:** In the situation where there are different entities constructing and operating Modification 6, continuity of access to the Complaints Management System must be maintained.

- B7 The following information must be available to facilitate community enquiries and manage complaints one month before the commencement of Work and for 12 months following the completion of construction:
- (a) a 24-hour telephone number for the registration of complaints and enquiries about Modification 6;
  - (b) a postal address to which written complaints and enquires may be sent;
  - (c) an email address to which electronic complaints and enquiries may be transmitted; and
  - (d) a mediation system for complaints unable to be resolved.

This information must be accessible to all in the community regardless of age, ethnicity, disability or literacy level.

- B8 A **Complaints Register** must be maintained recording information on all complaints received about Modification 6 during the carrying out of any work and for a minimum of 12 months following the completion of construction. The **Complaints Register** must record the:
- (a) number of complaints received;
  - (b) the date and time of the complaint;
  - (c) the method by which the complaint was made;
  - (d) any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
  - (e) nature of the complaint;
  - (f) means by which the complaint was addressed and whether resolution was reached, with or without mediation; and
  - (g) if no action was taken, the reason(s) why no action was taken.

- B9 Complainants must be advised of the following information before, or as soon as practicable after, providing personal information:
- (a) the Complaints Register may be forwarded to government agencies, including the Department (Department of Planning and Environment, 4 Parramatta Square, 12 Darcy Street, Parramatta NSW 2150), to allow them to undertake their regulatory duties;
  - (b) by providing personal information, the complainant authorises the Proponent to provide that information to government agencies;
  - (c) the supply of personal information by the complainant is voluntary; and
  - (d) the complainant has the right to contact government agencies to access personal information held about them and to correct or amend that information (Collection Statement).



The **Collection Statement** must be included on the Proponent or development website to make prospective complainants aware of their rights under the Privacy and Personal Information Protection Act 1998 (NSW). For any complaints made in person, the complainant must be made aware of the **Collection Statement**.

**Note:** Should a complainant disagree with the Collection Statement, a note to that effect must be recorded in the Complaints Register required by **Condition B8**.

**B10** The **Complaints Register** must be provided to the Planning Secretary upon request, within the timeframe stated in the request.

### **PROVISION OF ELECTRONIC INFORMATION**

**B11** A website or webpage providing information in relation to Modification 6 must be established before commencement of Work and be maintained for the duration of construction, and for a minimum of 24 months following the completion of construction. The following up-to-date information (excluding confidential, private, commercial information or any other information that the Planning Secretary has approved to be excluded) must be published before the relevant work commences and maintained on the website or dedicated pages including:

- (a) information on the current implementation status of Modification 6;
- (b) a copy of the documents listed in **Condition 1A of Schedule 1**, and any documentation relating to any modifications made to the approved project or the terms of this approval;
- (c) a copy of this approval in its original form, a current consolidated copy of this approval (that is, including any approved modifications to its terms), and copies of any approval granted by the Minister to a modification of the terms of this approval;
- (d) a copy of each statutory approval, licence or permit required and obtained in relation to Modification 6;
- (e) a copy of the final version of each document required under the terms of this approval; and
- (f) a copy of the audit reports required under this approval.

Where the information / document relates to a particular work or is required to be implemented, it must be published before the commencement of the relevant work to which it relates or before its implementation.

All information required in this condition must be provided on the Proponent's website, ordered in a logical sequence and which is easy to navigate.

**Note:** The intention of this condition is to increase transparency and for information/documents required as part of the approval to be provided proactively and publicly in an easily accessible manner. Where information is excepted by this condition, it is intended that these documents are provided in their redacted form.

## **PART C**

### **CONSTRUCTION ENVIRONMENTAL MANAGEMENT**

#### **CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN**

##### **Construction Environmental Management Plan**

**C1** A **Construction Environmental Management Plan (CEMP)** must be prepared having regard to the **Environmental Management Plan Guideline for Infrastructure Projects (Department of Planning, Industry and Environment, 2020)**.

**C2** The **CEMP** must provide:

- (a) a description of activities to be undertaken during construction (including the scheduling of construction);
- (b) details of environmental and social policies, guidelines and principles to be followed in the construction of Modification 6;
- (c) a program for ongoing analysis of the key environmental risks arising from the activities described in subsection (a) of this condition, including an initial risk assessment undertaken before the commencement of construction of Modification 6;
- (d) details of how the 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 1A of Schedule 1**, and as required by this approval; and
  - (ii) manage the risks identified in the risk analysis undertaken in subsection (c) of this condition;
- (e) an inspection program detailing the activities to be inspected and frequency of inspections;
- (f) a protocol for managing and reporting any:
  - (i) incidents; and
  - (ii) non-compliances with this approval or statutory requirements;
- (g) procedures for rectifying any non-compliance with this approval identified during compliance auditing, incident management or at any time during construction;
- (h) a list of all the **CEMP Sub-plans** required in respect of construction, as set out in **Condition C4**. Where staged construction of Modification 6 is proposed, the **CEMP** must also identify which **CEMP Sub-plan** applies to each of the proposed stages of construction;
  - (i) an organisational chart including description of the roles and environmental responsibilities for relevant employees and any independent appointments;
  - (j) a Worker Code of Conduct for employees, contractors and subcontractors;
  - (k) for training and induction for employees, including contractors and sub-contractors, in relation to environmental and compliance obligations under the terms of this approval; and
  - (l) for periodic review and update of the **CEMP** and all associated plans and programs

**Note:** CEMP(s) may reflect the construction of the project through geographical activities, temporal activities or activity based staging.

- C3 The **CEMP** (and relevant **CEMP sub-plans**) must be endorsed by the **ER** and then submitted to the Planning Secretary for approval no later than one month before the commencement of construction, or where construction is staged, no later than one month before the commencement of each stage.
- C4 The following **CEMP Sub-plans** must be prepared in consultation with the relevant government agencies identified for each **CEMP Sub-plan**. Details of all information requested by an agency during consultation must be provided to the Planning Secretary as part of any submission of the relevant **CEMP Sub-plan**, including copies of all correspondence from those agencies as required by **Condition 1H of Schedule 1**.

**Table 2: CEMP Sub-plans**

	<u>Required CEMP Sub-plan</u>	<u>Relevant government agencies to be consulted for each CEMP Sub-plan</u>
(a)	<u>Traffic and Transport</u>	<u>Relevant council(s)</u>
(b)	<u>Noise and Vibration</u>	<u>WaterNSW and relevant council(s)</u>
(c)	<u>Flora and Fauna</u>	<u>DPI Fisheries and relevant council(s)</u>
(d)	<u>Soil and Water</u>	<u>DPE Water, WaterNSW and relevant council(s)</u>
(e)	<u>Heritage</u>	<u>NSW Heritage and Water NSW</u>

**Note:** CEMP Sub-plan(s) may reflect the construction of the project through geographical activities, temporal activities or activity based staging.

- C5 The **CEMP Sub-plans** must state how:
- the environmental performance outcomes identified in the documents listed in **Condition 1A of Schedule 1** will be achieved;
  - the mitigation measures identified in the documents listed in **Condition 1A of Schedule 1** will be implemented;
  - the relevant terms of this approval will be complied with; and
  - issues requiring management during construction (including cumulative impacts), as identified through ongoing environmental risk analysis, will be managed through SMART principles.
- C6 Construction must not commence until the relevant **CEMP(s)** and **CEMP Sub-plans** have been approved by the Planning Secretary.
- C7 The **CEMP(s)** and **CEMP Sub-plans** as approved, including any minor amendments approved by the **ER**, must be implemented for the duration of construction.
- C8 The **Soil and Water Management Plan (SWMP)** must be prepared in accordance with the principles and requirements in *Managing Urban Stormwater – Soils and Construction, Volume 1 (Landcom, 2004)* and *Volume 2D (DECC, 2008)* and be prepared by a suitably qualified person either certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme.

The **SWMP** must include, but not be limited to:

- the erosion and sediment control measures for areas of low contamination risk;
- the erosion and sediment control measures for areas of moderate to high contamination risk;
- adopted assessment criteria for proposed discharges, and how these would be measured;
- a surface water monitoring program for areas of moderate to high contamination risk for contaminants of potential concern (CoPC), and
- a dewatering management plan (DMP), that identifies and manages water contamination risks and identifies licensed waste facilities where contaminated groundwater will be disposed.

**Note:** If a NSW EPA accredited Site Auditor is required under **Condition D68**, the contamination aspects of the SWMP may need to be updated following any potential advice from the Site Auditor regarding the appropriateness of management measures.

### **CONSTRUCTION MONITORING PROGRAMS**

- C9 The following **Construction Monitoring Programs** must be prepared in consultation with the relevant government agencies identified for each to compare actual performance of construction of Modification 6 against the performance predicted in the documents listed in **Condition 1A of Schedule 1** or in the **CEMP**:

**Table 3: Construction Monitoring Programs**

	<u>Required Construction Monitoring Programs</u>	<u>Relevant government agencies to be consulted for each Construction Monitoring Program</u>
(a)	<u>Noise and Vibration</u>	<u>Relevant council(s)</u>
(b)	<u>Surface Water Quality</u>	<u>DPE Water and relevant council(s)</u>

- C10 Each **Construction Monitoring Program (CMP)** must have consideration of SMART principles and provide:
- details of baseline data available;
  - details of baseline data to be obtained and when;
  - details of all monitoring of the project to be undertaken;
  - the parameters of the project to be monitored;

- (e) the frequency of monitoring to be undertaken;
  - (f) the location of monitoring;
  - (g) the reporting of monitoring results and analysis results against relevant criteria;
  - (h) details of the methods that will be used to analyse the monitoring data;
  - (i) procedures to identify and implement additional mitigation measures where the results of the monitoring indicate unacceptable project impacts; and
  - (j) any consultation to be undertaken in relation to the monitoring programs.
- C11 The CMP must be endorsed by the ER and then submitted to the Planning Secretary for approval no later than one month before the commencement of construction, or where construction is staged, no later than one month before the commencement of each stage.
- C12 Construction must not commence until the relevant **CMP(s)** have been approved by the Planning Secretary and all relevant baseline data for the specific construction activity has been collected.
- C13 The **CMP(s)**, as approved, including any minor amendments approved by the **ER**, must be implemented for the duration of construction and for any longer period set out in the monitoring program or specified by the Planning Secretary, whichever is the greater.
- C14 The results of the **CMP(s)** must be submitted to the Planning Secretary, and relevant regulatory agencies, for information in the form of a **Construction Monitoring Report** at the frequency identified in the relevant **CMP**.

**Note:** Where a relevant **CEMP Sub-plan** exists, the relevant **Construction Monitoring Program** may be incorporated into that **CEMP Sub-plan**.

## PART D

### KEY ISSUE CONDITIONS

#### AIR QUALITY AND ODOUR

- D1 In addition to the performance outcomes, commitments and mitigation measures specified in the documents listed in **Condition 1A of Schedule 1**, all practicable measures must be implemented to minimise and manage the emission of dust and other air pollutants (including odours) during the construction of Modification 6.

#### BIODIVERSITY

- D2 The clearing of native vegetation must be minimised with the objective of reducing impacts to threatened ecological communities and threatened species habitat.
- D3 Impacts to plant community types must not exceed those identified in the documents listed in **Condition 1A of Schedule 1**, unless otherwise approved by the Planning Secretary. In requesting the Planning Secretary's approval, an assessment of the additional impact(s) to plant community types and an updated ecosystem and / or species credit requirement under **Condition D4** below, if required, must be provided.
- D4 Prior to impacts on the biodiversity values set out in **Table 4** and **5**, the number and classes of ecosystem credits and species credits (like-for-like) must be retired.

**Table 4: Ecosystem Credits**

<b>Ecosystem Credits</b>		
<u>Plant Community Type (PCT) ID and name</u>	<u>Construction footprint (hectares)</u>	<u>Number of Credits</u>
<u>724: Castlereagh shale – gravel transition forest</u>	<u>0.11</u>	<u>2</u>
<u>725: Castlereagh Ironbark Forest</u>	<u>0.08</u>	<u>1</u>
<u>835: Cumberland riverflat forest</u>	<u>0.74</u>	<u>9</u>
<u>849: Cumberland shale plains woodland</u>	<u>0.58</u>	<u>7</u>
<u>850: Cumberland shale hills woodland (low), vegetation zone 4</u>	<u>0.83</u>	<u>15</u>
<u>1737: Typha rushland</u>	<u>0.10</u>	<u>3</u>
<u>1800: Cumberland Swamp Oak riparian forest</u>	<u>2.01</u>	<u>30</u>
<b><u>TOTAL ECOSYSTEM CREDITS</u></b>	<b><u>4.45</u></b>	<b><u>67</u></b>

**Table 5: Species Credits required**

<u>Species</u>	<u>Loss of habitat or individuals</u>	<u>Number of Credits</u>
<u>Foraging habitat for the Southern Myotis</u>	<u>2.31 ha</u>	<u>33</u>
<b><u>TOTAL SPECIES CREDITS</u></b>		<b><u>33</u></b>

**Note:** Credits have been calculated using the Biodiversity Assessment Method.

- D5 The requirement to retire like-for-like ecosystem credits and species credits in **Condition D4** may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the number and classes of ecosystem credits and species credits.
- D6 Where evidence of compliance with the Ancillary rules: Reasonable steps to seek like-for-like biodiversity credits for the purpose of applying the variation rules has been provided to the Planning Secretary, variation rules may be applied to retire the relevant ecosystem credits and species credits as set out in the BAM Biodiversity Credit Report (Variation).
- D7 Prior to any works, additional field surveys for Southern Myotis must be undertaken. The surveys must confirm whether Southern Myotis are identified as using the construction footprint for breeding, roosting and/or foraging purposes. The survey results must be used to inform the preparation of the **Construction Flora and Fauna Management Plan** required by **Condition C4(c)** and the Microbat Management Plan proposed in the documents listed in **Condition 1A of Schedule 1**.
- Note:** If additional impacts to the Southern Myotis are required to be offset above that required in Table 5, an updated BDAR must be prepared and Table 5 modified.
- D8 Evidence of the retirement of credits in satisfaction of **Condition D4** or payment to the Biodiversity Conservation Fund in satisfaction of **Condition D5** must be provided to the Planning Secretary prior to impacts on the relevant biodiversity values.
- D9 Impacts to Plant Community Types 724, 1737 and 1800 at the Maxwell Creeks Compound (C2@B9817) must be limited to the greatest extent possible to minimise impacts upon Aboriginal cultural values. All impacted riparian corridors must be revegetated with suitable indigenous species (and where possible using impacted PCT) in consultation with the relevant Local Aboriginal Land Council's (LALCs).

### **Re-use of Timber**

D10 Prior to vegetation clearing, the Proponent must identify where it is practicable for Modification 6 to reuse native trees and vegetation that are to be removed. If it is not possible for Modification 6 to reuse removed native trees and vegetation, the Proponent must consult with one or more of the following: the relevant council(s), NSW National Parks & Wildlife Service, Western Sydney Parklands Trust, Greater Sydney Local Land Services, Landcare groups, DPI Fisheries and any additional relevant government agencies. This consultation should determine if:

- (a) hollows, tree trunks (greater than 25-30 centimetres in diameter and 2-3 metres in length), mulch, bush rock and root balls salvaged from native vegetation impacted by Modification 6; and
- (b) collected plant material, seeds and/or propagated plants from native vegetation impacted by Modification 6.

could be used by others in habitat enhancement and rehabilitation work, before pursuing other disposal options.

### **Tree replacement**

D11 Revegetation and the provision of replacement trees must be informed by a Tree Survey undertaken during detailed design. The Tree Survey must identify the number, type and location of any trees to be removed, except for trees that are offset under **Condition D4**. The Tree Survey must be submitted to the Planning Secretary for information with the **Design and Landscape Plan** required under **Condition D19**.

D12 Where trees are to be removed, the Proponent must provide a net increase in the number of replacement trees at a ratio of 2:1, except trees that are offset under **Condition D4**. Replacement trees must have a minimum pot size consistent with the relevant authority's plans / programs / strategies for vegetation management, street planting, or open space landscaping, or as agreed by the relevant authority(ies). Replacement trees and plantings must deliver an increase in tree canopy and aim to enhance the relevant council's position in respect of the Sydney Green Grid, unless otherwise agreed by the Planning Secretary.

**Note:** For the purposes of this condition, the relevant authority is that State or local government authority that owns or manages the land on which the replacement trees will be planted.

## **DESIGN AND VISUAL AMENITY**

### **Construction Ancillary Facilities**

D13 Modification 6 must be constructed in a manner that minimises visual impacts of construction ancillary facilities, including providing screening of ancillary facilities, minimising light spill, and incorporating finishes within key elements of temporary structures that reflect the context within which the construction sites are located, including recognition of Country.

### **Design Outcomes**

D14 The design and landscape outcomes of Modification 6 must:

- (a) be informed by and be consistent with Appendix K of the Modification Report, including but not limited to the objectives and design principles, requirements, and opportunities;
- (b) be prepared in consultation with the community (including the affected landowners and businesses or a representative of the businesses), LALCs, the stakeholders identified in Appendix E of the Submissions Report (if interest is expressed in further consultation) and relevant council(s);
- (c) have consideration of Designing with Country and the principles and objectives of the draft Connecting with Country Framework; and
- (d) be informed by a design review process undertaken by a Design Review Panel (DRP) including TfNSW's Urban Design, Roads and Waterways Group and an independent member from the NSW State Design Review Panel Pool nominated by the NSW Government Architect (GANSW). The DRP's review and recommendations must focus on the following components:
  - (i) the interchanges with the M4 and M12 (including artwork installations);
  - (ii) the consistency of upgraded, modified and new noise barriers with the existing design; and
  - (iii) maximising the aesthetic consistency of the proposed bridge upgrades with the existing bridge structures.

**Note:** As part of the design review process, members of the M12 DRP can be involved to ensure consistency of design between the M12 and Modification 6 are achieved.

D15 GANSW must be invited as an observer to any reviews, briefings and/or presentations required for Condition D14(d).

D16 The advice and recommendations provided by the DRP should be progressively issued to the Planning Secretary and GANSW for information and included in the final DLP.

D17 The Terms of Reference of the DRP must be prepared in consultation with GANSW within 3 months of the date of the Modification Instrument for SSI 663 MOD 6.

D18 Operational noise barriers must be designed to minimise visual and amenity impacts. Opportunities should be explored to incorporate aesthetics, wayfinding and public art into the design of the noise barriers.

### **Design and Landscape Plan**

D19 A Design and Landscape Plan (DLP) must be prepared to document and illustrate the permanent built works and landscape design of Modification 6 and how these works are to be maintained. The DLP must inform the final design of the modification and give effect to the outcomes and commitments documented in Condition 1A of Schedule 1. The Plan does not apply to work, which for technical, engineering, or ecological requirements, or other requirements as agreed by the Planning Secretary, do not allow for alternative design outcomes.

D20 The DLP must be:

- (a) prepared by a suitably qualified and experienced person(s) in urban and landscape design;
- (b) prepared in consultation with relevant councils and the community, including affected landowners and businesses
- (c) submitted to the Planning Secretary for information no later than one month before the construction of permanent built surface works and/or landscaping in the area to which the DLP applies; and
- (d) implemented during construction of Modification 6 and operation of the modified project.

**Note:** The DLP may be developed and considered in stages to facilitate design progression and construction. Any such staging and associated approval would need to facilitate a cohesive final design and not limit final design outcomes

- D21 The **DLP** must document how the following matters have been considered in the design and landscaping of the project:
- (a) the requirements of **Conditions D14 to D18**;
  - (b) demonstrated integration of Crime Prevention Through Environmental Design principles;
  - (c) Designing with Country and the principles and objectives of the draft Connecting with Country Framework; and
  - (d) advice and recommendations arising from the **DRP** required by **Condition D14(d)**. In relation to any matter that is not consistent with the **DRP's** advice and recommendations resulting from **Condition D14(d)**, evidence of how the design provides an equivalent or superior quality design or landscaping outcome must be provided.
- D22 The **DLP** must include, but not limited to:
- (a) the design of the permanent built elements of Modification 6 including their form, materials and detail, with a focus on high quality bridge design, and integrated art;
  - (b) the design of the project landform and landscaping elements (including visual screening);
  - (c) details of strategies to rehabilitate, regenerate or revegetate disturbed areas with local native species;
  - (d) details of how Aboriginal and non-Aboriginal heritage interpretation and public art are incorporated within the design of built features (such as noise barriers, signage, artwork and landscaping);
  - (e) details of how impacted plant community types with significant Aboriginal cultural values at Maxwell's Creek would be replanted with indigenous plantings;
  - (f) developed visualisations, cross sections and plans showing the proposed design outcome; and
  - (g) management and routine maintenance standards and regimes for design elements and landscaping work (including adequate watering of plants following planting depending on forecast weather conditions and weed management) to ensure the success of the design and landscape outcomes, as detailed in the **Vegetation Management Plan**, required by **Condition D24**.
- D23 Unless otherwise agreed with the Planning Secretary, construction of permanent built work or landscaping that are the subject of the **DLP** must not be commenced (in the area to which the **DLP** applies) until the **DLP** has been received by the Planning Secretary.
- D24 A **Vegetation Management Plan (VMP)** must be prepared by a qualified ecologist to inform revegetation of creek-side vegetation (including all areas of River Flat Eucalyptus Forest identified for rehabilitation in the documents listed in **Condition 1A of Schedule 1**), and must be included as part of the **DLP**. The **VMP** must include:
- (a) the identification of proposed Plant Community Types (PCT) and the local provenance native species representative of the PCTs present, to be planted in the locations of disturbance, including those required by **Condition D9**;
  - (b) site specific plans and rehabilitation measures for each area to be rehabilitated; and
  - (c) specific measures to address weed management, erosion and sediment control/bank stabilization, rubbish removal and habitat supplementation.

The **VMP** must be prepared in consultation with a qualified bushland regenerator.

### **Operational Maintenance**

- D25 The ongoing maintenance and operation costs of urban design, open space, landscaping and recreational items and work implemented as part of Modification 6 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 **DLP**, required by **Condition D22**.
- D26 The Planning Secretary must be advised of the date of transfer of the asset(s) to the relevant authority.



D27 Should plant loss occur during the maintenance period that impacts the capacity of the landscaping to achieve the design objectives (e.g. reduction in canopy species cover), the plants must be replaced by the same plant species and with similar growth form (i.e. a tree with an advanced juvenile tree) unless it is determined by a suitably qualified person that a different species is more suitable for that location. Any replacement plantings must use native species of local provenance from the relevant native vegetation community.

## **FLOODING**

D28 Measures identified in the documents listed in **Condition 1A of Schedule 1** to minimise the impact of Modification 6 on flood behaviour, must be incorporated into the detailed design of Modification 6. The incorporation of these measures into the detailed design must be reviewed and endorsed by a suitably qualified flood consultant, who is independent of the project's design and construction, in consultation with directly affected landowners, DPE Water, DPI Fisheries, Environment and Heritage Group, NSW State Emergency Service (SES) and relevant Councils.

D29 Prior to undertaking updated flood assessments at the detailed design stage, the Proponent must consult with Environment and Heritage Group to ensure the most up to date flood studies and data for Cabramatta Creek catchment are utilised.

D30 Unless otherwise agreed by the Planning Secretary, Modification 6 must be built to limit impacts on flooding characteristics in areas outside the project boundary during any flood event up to and including the 1% AEP flood event, to the following:

- (a) a maximum increase in inundation time of one hour;
- (b) a maximum increase of 10 mm in above-floor inundation to habitable rooms where floor levels are currently exceeded;
- (c) no above-floor inundation of habitable rooms which are currently not inundated;
- (d) a maximum increase of 50 mm in inundation of land zoned as residential, industrial or commercial;
- (e) a maximum increase of 100 mm in inundation of land zoned as rural, primary production, environment zone or public recreation;
- (f) no significant increase in the flood hazard or risk to life; and
- (g) maximum relative increase in velocity of 10%, where the resulting velocity is greater than 1.0 m/s, unless adequate scour protection measures are implemented and/or the velocity increases do not exacerbate erosion as demonstrated through site-specific risk of scour or geomorphological assessments.

Where the requirements set out in clauses (d), (e) and (g) cannot be met alternative flood levels or mitigation measures may be agreed to with the affected landowner.

In the event that the Proponent and the affected landowner cannot agree on the measures to mitigate the impact as described in clauses (d), (e) and (g), the Proponent must engage a suitably qualified and experienced independent person to advise and assist in determining the impact and relevant mitigation measures.

D31 Flood information including flood reports, models and geographic information system outputs, and work as executed information from a registered surveyor certifying finished ground levels and the dimensions and finished levels of all structures within the flood prone land, must be provided to the relevant Council, Environment & Heritage Group and the SES in order to assist in preparing relevant documents and to reflect changes in flood behaviour as a result of the Modification. The relevant Council, Environment & Heritage Group and the SES must be notified in writing that the information is available no later than one month following the completion of construction. Information requested by the relevant Council, Environment & Heritage Group or the SES must be provided no later than six months following the completion of construction or within another timeframe agreed with the relevant Council, Environment & Heritage Group and the SES.

## **HERITAGE**

### **Aboriginal Cultural Heritage**

- D32 All reasonable steps must be taken so as not to harm, modify or otherwise impact Aboriginal objects.
- D33 The LALCs and the stakeholders identified in Appendix E of the Submissions Report (if interest is expressed in further consultation) must be kept regularly informed about Modification 6. The LALCs must continue to be provided with the opportunity to be consulted about the Aboriginal cultural heritage management requirements of Modification 6.
- D34 Where previously unidentified Aboriginal objects are discovered, all work must immediately stop in the vicinity of the affected area. Works potentially affecting the previously unidentified objects and places must not recommence until Heritage NSW has been informed. The measures to consider and manage this process must be specified in the **Unexpected Heritage Finds and Human Remains Procedure** required by **Condition D35** and include registration in the **Aboriginal Heritage Information Management System (AHIMS)**.

### **Unexpected Heritage Finds and Human Remains**

- D35 An **Unexpected Heritage Finds and Human Remains Procedure** must be prepared to manage unexpected heritage finds (including maritime discoveries) in accordance with any guidelines and standards prepared by Heritage NSW and submitted to the Planning Secretary for information before the commencement of Work. The procedure must be included in the **Heritage CEMP Plan** required by **Condition C4**.
- D36 The **Unexpected Heritage Finds and Human Remains Procedure**, as submitted to the Planning Secretary, must be implemented for the duration of Work.

Where archaeological investigations have been undertaken as a result of Unexpected Finds notifications then a Final Archaeological Report must be provided in accordance with Heritage Council guidance and standard requirements for final reporting under Excavation Permits.

Note: Human remains that are found unexpectedly during the carrying out of work may be under the jurisdiction of the NSW State Coroner and must be reported to the NSW Police immediately.

## **NOISE AND VIBRATION**

### **Land Use Survey**

- D37 A detailed land use survey must be undertaken to confirm sensitive land use(s) (including critical working areas such as operating theatres and precision laboratories) potentially exposed to construction noise and vibration, construction ground-borne noise and operational noise. The survey may be undertaken on a progressive basis but must be undertaken in any one area before the commencement of work which generates construction or operational noise, vibration or ground-borne noise in that area. The results of the survey must be included in the **Noise and Vibration CEMP Sub-plan** required by **Condition C4 (Part C)**.

### **Work Hours**

- D38 Work must be undertaken during the following hours:
- (a) 7:00 am to 6:00 pm Mondays to Fridays, inclusive;
  - (b) 8:00 am to 6:00 pm Saturdays; and
  - (c) at no time on Sundays or public holidays.

### **Highly Noise Intensive Work**

- D39 Except as permitted by an EPL, highly noise intensive works that result in an exceedance of the applicable NML at the same receiver must only be undertaken:
- (a) between the hours of 8:00 am to 6:00 pm Monday to Friday;
  - (b) between the hours of 8:00 am to 1:00 pm Saturday; and

- (c) if continuously, then not exceeding three (3) hours, with a minimum cessation of work of not less than one hour.

For the purposes of this condition, 'continuously' includes any period during which there is less than one hour between ceasing and recommencing any of the work.

### **Variation to Work Hours**

D40 Notwithstanding Conditions D38 and D39 work may be undertaken outside the hours specified in the following circumstances (a, b or c):

- (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 **Condition D40(a)**, the **AA**, the **ER**, the Planning Secretary and the EPA must be notified of the reasons for such work. Best endeavors must be used to notify all noise and/or vibration affected residents and owners/occupiers of properties identified sensitive land use(s) of the likely impact and duration of those work.

- (b) **Work that meets any of the following criteria:**

- (i) Work that causes  $L_{Aeq(15\text{ minute})}$  noise levels:
  - no more than 5 dB(A) above the rating background level at any residence in accordance with the ICNG, and
  - no more than the 'Noise affected' NMLs specified in Table 3 of the ICNG at other sensitive land use(s); or
- (ii)  $LAF_{max(15\text{ minute})}$  noise levels no more than 15 dB(A) above the rating background level at any residence during the night time period; and;
- (iii) Work that causes:
  - continuous or impulsive vibration values, measured at the most affected residence are no more than the preferred values for human exposure to vibration, specified in Table 2.2 of Assessing Vibration: a technical guideline (DEC, 2006), or
  - intermittent vibration values measured at the most affected residence are no more than the preferred values for human exposure to vibration, specified in Table 2.4 of Assessing Vibration: a technical guideline (DEC, 2006).

- (c) **By Approval, including:**

- (i) where different construction hours are permitted or required under an EPL in force in respect of Modification 6; or
- (ii) works which are not subject to an EPL that are approved under an **Out-of-Hours Work Protocol** as required by **Condition D41**; or
- (iii) negotiated agreements with directly affected residents and sensitive land use(s).

### **Out-Of-Hours Work Protocol – Works Not Subject to an EPL**

D41 An **Out-of-Hours Work Protocol** must be prepared to identify a process for the consideration, management and approval of work which is outside the hours defined in **Condition D38**, and that are not subject to an EPL. The Protocol must be prepared in consultation with the **ER** and **AA**. The Protocol must include:

- (a) identification of low and high-risk activities and an approval process that considers the risk of activities, proposed mitigation, management, and coordination, including where:
  - (i) the **ER** and **AA** review all proposed out-of-hours activities and confirm their risk levels,
  - (ii) low risk activities can be approved by the **ER** in consultation with the **AA**, and
  - (iii) high risk activities that are approved by the Planning Secretary;
- (b) a process for the consideration of out-of-hours work against the relevant NML and vibration criteria;
- (c) a process for selecting and implementing mitigation measures for residual impacts in consultation with the community at each affected location, including respite periods consistent

with the requirements of **Condition D60**. The measures must take into account the predicted noise levels and the likely frequency and duration of the out-of-hours works that sensitive land use(s) would be exposed to, including the number of noise awakening events;

- (d) procedures to facilitate the coordination of out-of-hours work including those approved by an EPL or undertaken by a third party, to ensure appropriate respite is provided; and
- (e) notification arrangements for affected receivers for approved out-of-hours work and notification to the Planning Secretary of approved low risk out-of-hours works.

The Protocol must be submitted to and approved by the Planning Secretary before commencement of the out-of-hours work and implemented during Work which is outside the hours defined in **Conditions D38** and not subject to an EPL.

Adherence to the Protocol does not apply if the requirements of **Condition D40(a) or (b)** are met.

**Notes:**

1. **Conditions D54 and D55** provide additional parameters to be considered.
2. If the Work is subject to an EPL and the EPA does not endorse extended hours as part of the EPL, the extended hours cannot be considered under this Protocol.

**Construction Noise Management Levels and Vibration Criteria**

D42 Mitigation measures must be implemented with the aim of achieving the following construction noise and vibration outcomes:

- (a) construction 'Noise affected' NMLs established using the Interim Construction Noise Guideline (DECC, 2009);
- (b) vibration criteria established using the Assessing vibration: a technical guideline (DEC, 2006) (for human exposure);
- (c) Australian Standard AS 2187.2 - 2006 "Explosives - Storage and Use - Use of Explosives";
- (d) BS 7385 Part 2-1993 "Evaluation and measurement for vibration in buildings Part 2" as they are "applicable to Australian conditions"; and
- (e) the vibration limits set out in the German Standard DIN 4150-3: Structural Vibration- effects of vibration on structures (for structural damage).

Work that exceeds the noise management levels and/or vibration criteria must be managed in accordance with the **Noise and Vibration CEMP Sub-plan**.

**Note:** The ICNG identifies 'particularly annoying' activities that require the addition of 5 dB(A) to the predicted level before comparing to the construction NML.

D43 Mitigation measures must be implemented prior to construction at residential receivers where a relative increase in road traffic noise of greater than 2 dB(A) are expected as a result of traffic detours (presented in Table 7-23 of the Modification Report as identified in **Condition 1A(a) of Schedule 1**).

D44 Mitigation measures must be applied when the following residential ground-borne noise levels are exceeded:

- (a) evening (6:00 pm to 10:00 pm) — internal  $L_{Aeq(15\text{ minute})}$ : 40 dB(A); and
- (b) night (10:00 pm to 7:00 am) — internal  $L_{Aeq(15\text{ minute})}$ : 35 dB(A).

The mitigation measures must be outlined in the **Noise and Vibration CEMP Sub-plan**, including in any **Out-of-Hours Work Protocol**, required by **Condition D41**.

D45 Noise generating work in the vicinity of community, religious, educational institutions, noise and vibration-sensitive businesses and critical working areas (such as theatres, laboratories and operating theatres) resulting in noise levels above the NMLs must not be timetabled during sensitive periods, unless other reasonable arrangements with the affected institutions are made at no cost to the affected institution.

- D46 At no time can noise generated by construction exceed the National Standard for exposure to noise in the occupational environment of an eight-hour (8hr) equivalent continuous A-weighted sound pressure level of  $L_{Aeq,8h}$  of 85 dB(A) for any employee working at a location near Modification 6.
- D47 **Construction Noise and Vibration Impact Statements (CNVIS)** must be prepared for work that may exceed the noise management levels, vibration criteria and/or ground-borne noise levels specified in **Condition D42** and **Condition D44** at any residence outside construction hours identified in **Condition D38**, or where receivers will be highly noise affected. The **CNVIS** must include specific mitigation measures identified through consultation with affected sensitive land use(s) and the mitigation measures must be implemented for the duration of the works. A copy of the **CNVIS** must be provided to the **AA** and **ER** prior to the commencement of the associated works. The Planning Secretary may request a copy/ies of **CNVIS**.
- D48 Owners and occupiers of properties at risk of exceeding the screening criteria for cosmetic damage must be notified before work that generates vibration commences in the vicinity of those properties. If the potential exceedance is to occur more than once or extend over a period of 24 hours, owners and occupiers are to be provided a schedule of potential exceedances on a monthly basis for the duration of the potential exceedances, unless otherwise agreed by the owner and occupier. These properties must be identified and considered in the **Noise and Vibration CEMP Sub-plan** required by **Condition C4** and the **Community Communication Strategy** required by **Condition B1**.

#### **Construction Noise and Vibration Mitigation and Management**

- D49 Industry best practice construction methods must be implemented where reasonably practicable to ensure that noise levels are minimised. Practices must include, but are not limited to:
- (a) use of regularly serviced low sound power equipment;
  - (b) early occupation and later release of road carriageways and construction sites;
  - (c) scheduling of noisiest works before 11.00 pm Sunday to Thursday and before 12 midnight Friday and Saturday;
  - (d) temporary noise barriers (including the arrangement of plant and equipment) around noisy equipment and activities such as rock hammering and concrete cutting; and
  - (e) use of alternative construction and demolition techniques.

#### **Construction Vibration Mitigation - Heritage**

- D50 Vibration testing must be undertaken before and during vibration generating activities that have the potential to impact on heritage items to identify minimum working distances to prevent cosmetic damage. In the event that the vibration testing and attended monitoring shows that the preferred values for vibration are likely to be exceeded, the construction methodology must be reviewed and, if necessary, additional mitigation measures implemented.
- D51 Advice from a heritage specialist must be sought on methods and locations for installing equipment used for vibration, movement and noise monitoring at heritage-listed structures.
- D52 Before conducting at-property treatment at any heritage item identified in the documents listed in **Condition 1A of Schedule 1**, the advice of a suitably qualified and experienced built heritage expert must be obtained and implemented to ensure any such work does not have an adverse impact on the heritage significance of the item.

#### **Utility Coordination and Respite**

- D53 All work undertaken for the delivery of Modification 6, including those undertaken by third parties (such as utility relocations), must be coordinated to ensure respite periods are provided. This must include:
- (a) rescheduling work to provide respite to impacted noise sensitive land use(s) so that the respite is achieved in accordance with **Condition D54**; or
  - (b) the provision of alternative respite or mitigation to impacted noise sensitive land use(s); and
  - (c) the provision of documentary evidence to the **AA** in support of any decision made in relation to respite or mitigation.

The consideration of respite must also include all other CSSI, SSI and SSD projects which may cause cumulative and/or consecutive impacts at receivers affected by the delivery of Modification 6.

### **Out-of-Hours Works – Community Consultation on Respite**

D54 In order to undertake out-of-hours work outside the hours specified under **Condition D38**, the appropriate respite periods must be identified for the out-of-hours work in consultation with the community at each affected location on a regular basis.

This consultation must include (but not be limited to) providing the community with:

- (a) a progressive schedule for periods no less than three (3) months, of likely out-of-hours work;
- (b) a description of the potential work, location and duration of the out-of-hours work;
- (c) the noise characteristics and likely noise levels of the work; and
- (d) likely mitigation and management measures which aim to achieve the relevant noise management levels and vibration criteria under **Condition D42** (including the circumstances of when respite or relocation offers will be available and details about how the affected community can access these offers).

The outcomes of the community consultation, the identified respite periods and the scheduling of the likely out-of-hour work must be provided to the **AA, ER, EPA** and the Planning Secretary for information prior to undertaking the work scheduled for the subject period.

**Note:** Respite periods can be any combination of days or hours where out-of-hours work would not be more than 5 dB(A) above the rating background noise level at any residence.

### **Out-of-Hours Work periods**

D55 Work outside the hours specified in **Condition D38** which result in an exceedance of the relevant NML at the same sensitive land use(s) can only be undertaken in accordance with the following:

- (a) two consecutive evenings and/or nights per week; or
- (b) three non-consecutive evenings and/or nights per week; or
- (c) 10 evenings and/or nights per month; or
- (d) except as identified by an EPL; or
- (e) in accordance with an agreement with a potentially impacted receiver(s) as required by **Condition D40(c)(iii)**.

D56 Mitigation measures such as temporary alternative accommodation or other agreed mitigation measures, must be offered/ made available to residents affected by out-of-hours Work (including where utility works are being undertaken for Modification 6 or under a road occupancy licence) where the construction noise levels between:

- (a) 10:00 pm and 7:00 am, Monday to Friday;
- (b) 10:00 pm Saturday to 8:00 am Sunday; and
- (c) 6:00 pm Sunday and public holidays to 7:00 am the following day unless that day is Saturday then to 8:00 am.

are predicted to exceed the NML by 25 dB(A) or are greater than 75 dBA ( $L_{Aeq(15 min)}$ ), whichever is the lesser and the impact is planned to occur for more than two (2) nights over a seven (7) day rolling period.

The NML must be reduced by 5 dB where the noise contains annoying characteristics and may be increased by 10 dB if the property has received at-property noise treatment. The noise levels and duration requirements identified in this condition may be changed through an EPL applying to Modification 6.

## **LAND USE AND PROPERTY**

D57 The Proponent must identify the utilities and services (hereafter “services”) potentially affected by construction to determine requirements for diversion, protection and/or support. Alterations to

services must be determined by negotiation between the Proponent and the service providers. The Proponent in consultation with service providers must ensure that disruption to services resulting from the Activity are avoided where practical and advised to customers.

### **Condition Survey**

- D58 The Proponent must offer pre-construction surveys to the owners of surface and sub-surface structures and other relevant assets identified at risk from vibration, including all listed heritage items and buildings/structures of heritage significance as identified in the documents listed in **Condition 1A of Schedule 1**. Where the offer is accepted, the survey must be undertaken by a suitably qualified and experienced engineer and/or building surveyor prior to the commencement of vibration generating works that could impact on the structure/asset. The results of each survey must be documented in a **Pre-construction Condition Survey Report** and the report must be provided to the owner of the item(s) surveyed no later than one month before the commencement of all other potentially impacting works.
- D59 Where pre-construction surveys have been undertaken in accordance with **Condition D58**, subsequent post-construction surveys of the structure / asset must be undertaken by a suitably qualified and experienced engineer and/or building surveyor to assess damage that may have resulted from the vibration-generating works. The results of the post-construction surveys must be documented in a **Post-Construction Condition Survey Report** for each item surveyed. The Post-construction Condition Survey Reports must be provided to the owner of the structures/assets surveyed, and no later than four months following the completion of construction activities that have the potential to impact on the structure / asset.
- D60 Where damage has been determined to occur as a result of Modification 6, the Proponent must carry out rectification at its expense and to the reasonable requirements of the owner of the structure/asset within nine months of the completion of construction activities that have the potential to create damage unless another timeframe is agreed with the owner. Alternatively, the Proponent may pay compensation for the damage as agreed with the owner.

### **Upper Canal System**

- D61 The Proponent must not impact the Upper Canal Pheasants Nest to Prospect Reservoir system and must follow the Upper Canal Conservation Management Plan (NSW Public Works Governments Architect's Office, 2016) and Guidelines for development adjacent to the Upper Canal and Warragamba Pipelines (WaterNSW, 2021) when constructing Modification 6.
- D62 The Proponent must ensure access to the Upper Canal Pheasants Nest to Prospect Reservoir system is maintained for WaterNSW during both the construction and operation of Modification 6.

### **Western Sydney Regional Park**

- D63 Access to construction compounds or works must not occur on National Parks and Wildlife Service (NPWS) estate as part of this modification unless authorisation is granted by NPWS under the National Parks and Wildlife Act 1974 (NPW Act) or the National Parks and Wildlife Regulation 2019. The Western Sydney Regional Park must not be used to gain access to the construction footprint, ancillary facilities, or for the storage of materials, equipment, workers' vehicles or machinery at any time, unless authorisation is granted by NPWS under the National Parks and Wildlife Act 1974 (NPW Act) or the National Parks and Wildlife Regulation 2019.
- D64 Prior to any works adjacent to the Western Sydney Regional Park, demarcation of the construction boundary must be undertaken to reduce the risk of accidental encroachments or damage to the park.

### **SOILS**

- D65 Prior to the commencement of any Work that results in the disturbance of land in any particular area, erosion and sediment controls must be installed and maintained, as a minimum, in accordance with the publication Managing Urban Stormwater: Soils & Construction (4<sup>th</sup> edition, Landcom 2004) commonly referred to as the 'Blue Book'.

### **Contaminated sites**

D66 **A Sampling and Analysis Quality Plan (SAQP) must be prepared for medium and high risk sites as identified in the documents referred to in Condition 1A of Schedule 1 to ensure that field investigations and analyses will be undertaken in a way that enables the collection and reporting of reliable data to meet project objectives, including (where applicable) the relevant site characterisation requirements of the detailed or targeted site investigations. The SAQP must:**

- (a) be prepared (or reviewed and approved) by consultants certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme;
- (b) be prepared in accordance with relevant guidelines made or approved by the EPA under section 105 of the Contaminated Land Management Act 1997.

D67 **Detailed Site Investigations to confirm moderate and high risk contaminated sites identified in Preliminary Site Investigation in Condition 1A of Schedule 1 must be prepared, or reviewed and approved by a Contaminated Land Consultant certified under either the Environment Institute of Australia or New Zealand's "Certified Environmental Practitioner" (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia "Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme.**

The Detailed Site Investigations must be undertaken before ground disturbance in areas identified in the documents under Condition 1A of Schedule 1 as moderate to high risk contamination.

D68 **If a Detailed Site Investigation identifies moderate or high risk contamination, a NSW EPA-accredited Site Auditor must be engaged to provide independent oversight for any work required in relation to areas of moderate or high risk contamination is appropriately managed.**

D69 **A Detailed Site Investigation Report must be prepared and submitted to the Planning Secretary for information following the completion of Detailed Site Investigations required by Condition D67 and:**

- (a) be prepared (or reviewed and approved) by a Contaminated Land Consultant certified under either the Environment Institute of Australia or New Zealand's "Certified Environmental Practitioner" (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia "Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme;
- (b) be prepared in accordance with relevant guidelines made or approved by the EPA under section 105 of the Contaminated Land Management Act 1997 (NSW); and
- (c) be reviewed by a NSW EPA-accredited Site Auditor (if a Detailed Site Investigation identifies moderate or high-risk contamination). The Site Auditor must issue interim audit advice stating whether the Detailed Site Investigations appropriately categorises risk, the appropriateness of the Report and any proposed management measures. The Detailed Site Investigation Report and interim audit advice must be submitted to the Planning Secretary for information.

Nothing in this condition prevents the Proponent from preparing individual Site Contamination Reports for separate sites.

D70 **If remediation is required to make land suitable for the intended land use, a Remedial Action Plan must:**

- (a) be prepared (or reviewed and approved) by consultants certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme; and
- (b) be prepared in accordance with relevant guidelines made or approved by the EPA under section 105 of the Contaminated Land Management Act 1997;
- (c) include measures to remediate the contamination at the site to ensure the site will be suitable for the proposed use and detail how the environmental and human health risks will be



- managed during the disturbance, remediation and/or removal of contaminated soil/sediment or groundwater; and
- (d) be reviewed by a NSW EPA-accredited Site Auditor. The Site Auditor must issue a **Section B Site Audit Statement** or interim audit advice which certifies that the **Remedial Action Plan** is appropriate to remediate identified contamination.

Nothing in this condition prevents the preparation of individual **Remedial Action Plans** for separate sites.

- D71 Before commencing remediation, a copy of the **Remedial Action Plan** and the **Section B Site Audit Statement**, or interim audit advice, must be submitted to the Planning Secretary for information.

- D72 The **Remedial Action Plan** must be implemented and changes to the **Remedial Action Plan** must be approved in writing by the NSW EPA accredited Site Auditor. A copy of the revised **Remedial Action Plan** must be provided to the Planning Secretary for information.

Nothing in this condition prevents the Proponent from engaging the Site Auditor to prepare Site Audit Statements for separate sites.

- D73 A **Section A1 or A2 Site Audit Statement** (accompanied by an Environmental Management Plan) and its accompanying **Site Audit Report**, which state that the contaminated land disturbed by the work has been made suitable or can be made suitable for the intended land use, must be submitted to the Planning Secretary and Council after remediation and before the commencement of operation of Modification 6.

Nothing in this condition prevents the Proponent from obtaining Section A Site Audit Statements for individual parcels of remediated land.

- D74 Contaminated land must not be used for the purpose approved under the terms of this approval until a **Section A1 or A2 Site Audit Statement** is obtained which states that the land is suitable for that purpose and any conditions on the **Section A Site Audit Statement** have been complied with.

- D75 An **Unexpected Finds Procedure for Contamination** must be prepared before the commencement of Work. The procedure must:

- (a) be followed should unexpected contamination or asbestos (or suspected contamination) be excavated or otherwise discovered;
- (b) include details of who will be responsible for implementing the unexpected finds procedure and the roles and responsibilities of all parties involved; and
- (c) be prepared, (or reviewed and approved), by consultants certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme.

**Note:** Should any unexpected moderate to high risk contamination be identified during Work, the contamination process identified in the conditions above applies.

- D76 The **Unexpected Finds Procedure for Contamination** must be implemented during Work.

## SUSTAINABILITY

- D77 A **Sustainability Strategy** must be prepared to achieve a minimum "Excellent" 'Design' and 'As built' rating under the Infrastructure Sustainability Council infrastructure 1.2 rating tool.

Evidence that the 'Excellent' ratings has been achieved must be provided to the Planning Secretary for information within one month of achieving certification of the:

- (a) 'Design' rating; and
- (b) the 'As built' rating.

D78 The **Sustainability Strategy** must be implemented throughout construction of Modification 6 and operation of the modified project.

D79 A **Water Reuse Strategy** must be prepared, which sets out options for the reuse of collected stormwater during construction. The **Water Reuse Strategy** must include, but not be limited to:

- (a) evaluation of reuse options;
- (b) details of the preferred reuse option(s), including volumes of water to be reused, proposed reuse locations and/or activities, proposed treatment (if required), and any additional licences or approvals that may be required;
- (c) measures to avoid misuse of recycled water as potable water;
- (d) consideration of the public health risks from water recycling; and
- (e) a time frame for the implementation of the preferred reuse option(s).

The **Water Reuse Strategy** must be prepared based on best practice and advice sought from relevant agencies, as required. The Strategy must be applied during construction of Modification 6.

Justification must be provided to the Planning Secretary if it is concluded that no reuse options prevail.

A copy of the **Water Reuse Strategy** must be made publicly available.

**Note:** Contaminated groundwater must be disposed of in accordance with **Condition D111**.

## **TRAFFIC AND TRANSPORT**

### **Construction Traffic Management**

D80 Access to all utilities and properties must be maintained during construction, where practicable, unless otherwise agreed with the relevant utility owner, landowner or occupier.

D81 Any property access physically affected by Modification 6 must be reinstated to at least an equivalent standard, unless otherwise agreed by the landowner or occupier.

D82 Windsor Road, and the Windsor Road/Edinburgh Circuit/Sandringham Drive roundabout at Cecil Hills must not be used as a detour route during closures of the M7 Motorway during construction.

**Note:** The detour for southbound traffic during closures between Cowpasture Road and Elizabeth Drive in Table 7-9 of Chapter 7.1 of the Modification Report identifies an alternate route.

D83 Local roads proposed to be used by heavy vehicles to directly access the construction boundary and ancillary facilities that are not listed in Table 6-6 of Appendix D of the Modification Report (as listed in **Condition 1A(a) of Schedule 1**) must be approved by the Planning Secretary and included in the **Traffic, Transport and Access Management CEMP Sub-plan**.

D84 All requests to the Planning Secretary under **Condition D83** must include a traffic and pedestrian impact assessment and be prepared in consultation with the relevant council(s). The assessment must be undertaken by an appropriately qualified and experienced person and must include a swept path analysis if required by the Department. The traffic and pedestrian impact assessment must:

- (a) demonstrate that the use of local roads will not compromise the safety of the public and have no more than minimal amenity impacts;
- (b) provide details as to the date of completion of road dilapidation surveys for the subject local roads; and
- (c) describe the measures that will be implemented to avoid where practicable the use of local roads past schools, aged care facilities and childcare facilities during peak times for operation.

The outcomes and recommendations of the traffic and pedestrian impact assessment must be incorporated into the **Construction Ancillary Facility Site Establishment Management Plan or Traffic Management CEMP Sub-plan** as relevant.

### **Road Dilapidation**

D85 Before any local road is used by a heavy vehicle for the purposes of the modification, a **Road Dilapidation Report** must be prepared for the road unless otherwise agreed to by the relevant road authority. A copy of the **Road Dilapidation Report** must be provided to the relevant council within three weeks of completion of the survey and no later than two weeks before the road being used by heavy vehicles associated with Modification 6.

If damage to roads occurs as a result of the construction of the modification, the Proponent must rectify the damage to restore the road to at least the condition it was in pre-construction in consultation with the relevant road authority. Rectification works must be undertaken within three months of the subject road no longer being used for the construction of Modification 6 unless an alternative timeframe is agreed to by the relevant road authority.

### **Middleton Drive – Aviation Road Connection**

D86 The Proponent must not preclude Liverpool Council's proposed Middleton Drive – Aviation Road connection.

### **Active Transport**

D87 Safe pedestrian and cyclist access must be maintained around work sites during construction. In circumstances where pedestrian and cyclist access is restricted or removed due to construction activities, a proximate alternative route which complies with relevant standards, unless otherwise endorsed by an independent, appropriately qualified and experienced person, must be provided (including signposting) prior to the restriction or removal of the impacted access.

D88 An **Active Transport Network Review** must be prepared by a suitably qualified and experienced independent person(s) in consultation with relevant Councils and relevant Bicycle User Groups. The **Active Transport Network Review** must review active transport infrastructure within at least 500 metres of the M7 Motorway corridor subject to Modification 6 and include:

- (a) an analysis of existing and expected patronage levels of existing routes and the identification of existing and expected capacity constraints;
- (b) an analysis of the routes, including the identification of:
  - (i) gaps between routes (including links across the M7 corridor).
  - (ii) compliance or otherwise with current active transport safety standards along the shared user path adjacent to the M7 motorway corridor.
  - (iii) new routes required between trip generators, both existing and planned (including those beyond 500 metres of the M7 Motorway corridor subject to Modification 6);
- (c) consideration of State and Council cycling strategies and maps (including draft strategies);  
and
- (d) a list of recommendations and the timeframes for implementation to address the findings of (a), (b), and (c) above. The recommendations must form part of an **Active Transport Action Plan** that prioritises each of the recommendations and identifies how these will be delivered by the Proponent.

The **Active Transport Network Review** and **Active Transport Action Plan** must be provided to the Planning Secretary for approval within 12 months of the approval unless otherwise agreed by the Planning Secretary. The recommendations identified must be implemented as part of Modification 6 in the timeframes outlined in the **Active Transport Action Plan**, but no later than 24 months after operation of Modification 6 unless otherwise agreed by Planning Secretary.

D89 During construction, all practicable measures must be implemented to maintain pedestrian and vehicular access to, and parking in the vicinity of, businesses and affected properties. Disruptions are to be avoided, and where avoidance is not possible, minimised. Where disruption cannot be minimised, alternative pedestrian and vehicular access, and parking arrangements must be developed in consultation with affected businesses and implemented prior to the disruption.

Adequate signage and directions to businesses must be provided prior to, and for the duration of, any disruption.

D90 The Proponent must provide facilities (e.g. rest areas, shade structures etc.) along the M7 shared user path in consultation with bicycle user groups and Councils prior to operation. The proposed facilities must be identified within the DLP required by **Condition D19**. The facilities must be complete and usable prior to the opening of the widened motorway.

D91 Temporary active transport facilities and detours must be designed, constructed and/or rectified in accordance with:

- (a) the process set out in the Movement and Place Framework (NSW Government) and the Cycleway Design Toolbox: Designing for Cycling and Micromobility (TfNSW, 2020);
- (b) the Guide to Road Design Part 6A: Paths for Walking and Cycling (Austroads 2017) where not otherwise covered by (a);
- (c) relevant Australian Standards (AS) such as AS 1428.1-2009 Design for access and mobility;
- (d) relevant Crime Prevention Through Environmental Design (CPTED) principles; and
- (e) recommendations arising from consultation with relevant Councils, Bicycle NSW, Bike North, the CAMWEST Bicycle User Group and other relevant local bicycle user groups, where reasonable.

Where site constraints prevent the provision of temporary active transport facilities that achieve the requirements of (a) - (e) listed above, the Proponent must write to the Planning Secretary identifying:

- (i) where the temporary active transport facilities are located; and
- (ii) which elements of the requirements of **Condition D91** (a) - (e) cannot be met and why this is acceptable.

**Note:** In the event of an inconsistency, the latest guidance document prevails to the extent of the inconsistency.

D92 Any new permanent active transport facilities must be designed, constructed and/or rectified in accordance with:

- (a) the process set out in the Movement and Place Framework (NSW Government) and the Cycleway Design Toolbox: Designing for Cycling and Micromobility (TfNSW, 2020);
- (b) the Guide to Road Design Part 6A: Paths for Walking and Cycling (Austroads 2017) where not otherwise covered by (a);
- (c) relevant Australian Standards (AS) such as AS 1428.1-2009 Design for access and mobility;
- (d) relevant Crime Prevention Through Environmental Design (CPTED) principles; and
- (e) recommendations arising from consultation with relevant Councils, Bicycle NSW, Bike North, the CAMWEST Bicycle User Group and other relevant local bicycle user groups, where reasonable.

**Note:** In the event of an inconsistency, the latest guidance document prevails to the extent of the inconsistency.

D93 The Proponent must provide a sealed active transport connection along the existing unpaved corridor to the north of the Main Western Line between the corner of Station Street and the Westlink M7 Share Path at Rooty Hill. The connection must be completed prior to the completion of construction of Modification 6.

**Note:** The cycleway connection identified in **Condition D93** may require further assessment and approval under the EP&A Act 1979.

D94 Modification 6 must not preclude Blacktown City Council's delivery of the Mavis Street – Blacktown International Sports Park active transport link. The Proponent must facilitate an interface agreement with Blacktown City Council and provide access to Council until 31 December 2023 to enable the construction of the active transport link by this date. If Council has not commenced construction of the active transport link by 30 June 2023 to enable completion of construction by

31 December 2023, the Proponent must facilitate access to Council as soon as construction in this area is completed to facilitate construction of the active transport link.

### **Road Safety**

D95 Modification 6 must be designed to meet relevant design, engineering and safety guidelines, including the Austroads Guide to Traffic Management for new or modified local roads, parking, pedestrian and cycle infrastructure.

D96 An independent **Road Safety Audit** must be undertaken to assess the safety performance of new or modified local road, parking, pedestrian and cycle infrastructure provided as part of Modification 6 (including ancillary facilities) to ensure that they meet the requirements of relevant design, engineering and safety guidelines, including Austroads Guide to Traffic Management.

The audit must be undertaken by an appropriately qualified and experienced person during detailed design development (audit of plans) and prior to opening (pre-opening audit).

The audit findings and recommendations of the detailed design plans (audit of the plans) must be actioned prior to construction of the relevant infrastructure. The pre-opening audit findings and recommendations must be actioned prior to the relevant infrastructure being made available for use.

### **Public Transport - Construction**

D97 Bus stops must not be closed or relocated (either temporarily or permanently) until replacement bus stops, within a 400 metre walking distance of the existing bus stop, that comply with relevant standards, are functioning with similar capacity and amenity to that which it has replaced. Closure and relocation of bus stops must be undertaken in consultation with relevant council(s). Wayfinding signage must be provided to direct commuters to adjacent or relocated bus stops. Pedestrian access to relocated bus stops must meet accessibility and safety standards.

D98 Prior to the commencement of operation, all bus stops temporarily closed must be reinstated in a manner that complies with relevant standards, provides equal or improved capacity, amenity and accessibility (including footpaths and road crossings) in consultation with relevant council(s).

## **UTILITIES MANAGEMENT**

### **Utilities Management Strategy**

D99 A **Utilities Management Strategy** must be prepared and implemented for all utility work undertaken as a result of the SSI. The Strategy must identify how utility Work (excluding Low Impact Work) will be defined and managed. The **Utilities Management Strategy** must include:

- (a) A description of all utility Work to be undertaken; and
- (b) Management measures to be implemented to manage dust, noise, traffic, access, lighting and other relevant impacts associated with utility Work.

The **Utilities Management Strategy** must be submitted to the Planning Secretary for approval at least one month before the commencement of utility Work.

D100 Nothing in this approval permits the carrying out of any utility work not required for the purpose of Modification 6.

## **WASTE**

D101 Waste generated during construction and operation must be dealt with in accordance with the following priorities:

- (a) waste generation must be avoided and where avoidance is not reasonably practicable, waste generation must be reduced;
- (b) where avoiding or reducing waste is not possible, waste must be re-used, recycled, or recovered; and

(c) where re-using, recycling or recovering waste is not possible, waste must be treated or disposed of.

D102 The importation of waste and the storage, treatment, processing, reprocessing or disposal of such waste must comply with the conditions of the EPL for Modification 6, or be done in accordance with a Resource Recovery Exemption or Order issued under the Protection of the Environment Operations (Waste) Regulation 2014, as the case may be.

D103 Waste must only be exported to a site licensed by the EPA for the storage, treatment, processing, reprocessing or disposal of the subject waste, or in accordance with a Resource Recovery Exemption or Order issued under the Protection of the Environment Operations (Waste) Regulation 2014, or to any other place that can lawfully accept such waste, except in accordance with **Condition D10.**

D104 All waste must be classified in accordance with the EPA's Waste Classification Guidelines, with appropriate records and disposal dockets retained for audit purposes.

## **WATER**

D105 Modification 6 must be designed and constructed so as to maintain the NSW Water Quality Objectives (ANZG 2018) where they are being achieved as at the date of this approval, and contribute towards achievement of the NSW Water Quality Objectives over time where they are not being achieved as at the date of this approval, unless an EPL in force in respect of Modification 6 contains different requirements in relation to the NSW Water Quality Objectives, in which case those requirements must be complied with.

**Note:** If it is proposed to discharge construction stormwater to waterways, a Water Pollution Impact Assessment will be required to inform licensing, consistent with section 45 of the POEO Act. Any such assessment must be prepared in consultation with the EPA and be consistent with the National Water Quality Guidelines, with the level of detail commensurate with the potential water pollution risk.

### **Construction Requirements**

D106 Works on waterfront land and within watercourses must have regard to Guidelines for controlled activities on waterfront land (NRAR, 2018). This includes outlets and watercourse crossings.

D107 Proposed revegetation within riparian zones should have regard to NRARs guidelines for Vegetation Management Plans and accommodate an appropriately structured vegetated riparian zone using indigenous species.

**Note:** Revegetation must include a maintenance component identified in the DLP as required by **Condition D22 and D24**, and the operational maintenance requirements of **Conditions D25 and D27**.

D108 Local erosion and sediment control measures to manage stormwater discharges can only be used in lieu of sediment retention basins or sumps where it is demonstrated that:

- (a) such measures would adequately manage the risk of erosion and sedimentation in accordance with Volume 1 and 2D of the Blue Book, and
- (b) contaminated soils do not pose a risk to water quality in receiving waterways.

The Proponent must obtain approval from the Secretary before implementing the alternative local erosion and sediment control measures.

**Note:** Approval from the Planning Secretary as required by **Condition D108** may be sought through the **Soil and Water Management Plan** (as required by **Condition C8**).

D109 Sediment retention basins or sumps must be used to control contaminated runoff from the construction of the proposed modification. Any sediment retention basin used must be appropriately sized to ensure that:

- (a) risks identified in the detailed site investigation are mitigated; and
- (b) managed overflows could only occur as a result of large rainfall events.

**Note:** Existing stormwater quality control systems and ponds cannot accept contaminated runoff.

D110 For areas of moderate to high contamination risk (as identified in the **SWMP** required by **Condition C8** and any Detailed Site Investigations under **Condition D67**), and where the application of sediment retention basins or sumps is restricted by site constraints and the outcomes of **Condition D109** cannot be met, alternative capture and treatment systems may only be used with approval from the Planning Secretary.

**Note:** Approval from the Planning Secretary as required in this Condition may be sought through the approval of the **Construction Soil and Water Management Sub Plan** (as required by **Condition C8**).

#### **Groundwater**

D111 Any contaminated groundwater extracted from excavations during piling must be disposed of at a licensed waste facility.

#### **Stormwater Drainage**

D112 All new or modified drainage systems associated with Modification 6 must be designed to:

- (a) meet the capacity constraints of any council's drainage system to receive and convey the proposed flows from the Project, or otherwise upgrade council's drainage system at the Proponent's expense where it is identified that Modification 6 will have an adverse impact on the capacity of council's drainage system, in consultation with the relevant council(s);
- (b) minimise impacts on the receiving environment at the final outflow point resulting from any additional flow volume (including, but not limited to scour, flooding, water quality impacts, and impacts on riparian vegetation, aquatic ecology and property); and
- (c) ensure mitigation measures are implemented where increased flows through cross drainage systems adversely impact on council or Sydney Water drainage infrastructure and the receiving environment.

#### **Upper Canal System**

D113 Modification 6 must not introduce any surface water flows into the Upper Canal via Shaft 4 during construction or operation.

## Appendix A

### WRITTEN INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

1. A written incident notification addressing the requirements set out below must be submitted to the Department via the Major Projects website within seven 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 A33** 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 Modification 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 terms of the 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.