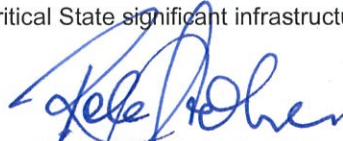


Infrastructure approval

Section 5.19 of the *Environmental Planning & Assessment Act 1979*

I grant approval to the carrying out of the critical State significant infrastructure (CSSI) referred to in Schedule 1, subject to the conditions in Schedule 2.



The Hon. Rob Stokes MP
Minister for Planning and Public Spaces

Sydney

28th July

2020

SCHEDULE 1

Application no.:	SSI-9714
Proponent:	Australian Rail Track Corporation (ARTC)
Approval Authority:	Minister for Planning and Public Spaces
Land:	Between Mascot and Botany on land generally within and adjoining the rail corridor
Description of critical State Significant Infrastructure:	<p>Duplication of the Botany Rail Line including:</p> <ul style="list-style-type: none">- construction of approximately 3 kilometres of track within the existing Botany Line rail corridor between Mascot and Botany;- realignment of section of the existing track between Mascot and Botany;- construction of rail crossovers;- construction of new rail bridges and associated structures adjacent to existing rail bridges at Mill Stream, Southern Cross Drive, O'Riordan Street and Robey Street;- reconstruction of existing rail bridges and associated structures at Robey Street and O'Riordan Street;- construction of a new embankment and retaining structures adjacent to Qantas Drive between Robey Street and O'Riordan Street and an embankment between the bridges at Mill Stream and Botany Road;- Ancillary work including signalling upgrades.
Declaration as critical State Significant Infrastructure	The proposal is critical State Significant Infrastructure by virtue of Schedule 5, Clause 17 of <i>State Environmental Planning Policy (State and Regional Development) 2011</i> .

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DEFINITIONS

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

Table 1: Definitions relevant to all CSSI projects

Term	Definition
AA	The Acoustics Advisor for the SSI approved by the Planning Secretary
Aboriginal object	The same meaning as in the <i>National Parks and Wildlife Act 1974</i>
AHD	Australian Height Datum
AHIMS	Aboriginal Heritage Information Management System
AEP	Annual Exceedance Probability. The probability that a given rainfall/flood event will occur in any year
CALD	Culturally and Linguistically Diverse
CASA	Civil Aviation Safety Authority
CEMP	Construction Environmental Management Plan
Completion of construction	The date upon which construction is 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
Conditions of approval	The Minister's conditions of approval for the CSSI
Construction	Includes activities required to construct the CSSI as described in the documents listed in Condition A1, including commissioning trials of equipment and temporary use of any part of the CSSI, but excluding the following Low Impact work which has commenced before approval of the CEMP: <ul style="list-style-type: none"> (a) survey including carrying out general alignment survey, installing survey controls (including installation of global positioning systems (GPS)), installing repeater stations, carrying out surveys of existing and future utilities and building and road dilapidation surveys; (b) investigations including investigative drilling, contamination investigations and excavation; (c) site establishment work approved under a Site Establishment Management Plan; (d) establishment and use of minor ancillary facility(ies) if the ER has determined the establishment and use of the facility(ies) will have a minor impact on the environment and community in accordance with Condition A18; (e) minor clearing and relocation of native vegetation, as identified in the documents listed in Condition A1; (f) installation of mitigation measures including erosion and sediment controls, temporary exclusion fencing for sensitive areas and temporary at property acoustic treatments; (g) property acquisition adjustments including installation of property fencing; (h) low impact utility works;

Term	Definition
	<p>(i) archaeological testing under the <i>Code of practice for archaeological investigation of Aboriginal objects in NSW</i> (DECCW, 2010) or archaeological monitoring undertaken in association with (a)-(h) above to ensure that there is no impact on heritage items; and</p> <p>(j) other activities determined by the ER to have minor environmental impact which may include construction of minor access roads, temporary relocation of pedestrian and cycle paths and the provision of property access; and</p> <p>(k) maintenance of existing buildings and structures required to facilitate the carrying out of the CSSI.</p> <p>However, where heritage items, or threatened species or threatened ecological communities (within the meaning of the <i>Biodiversity Conservation Act 2016 (NSW)</i> or <i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i>) are adversely affected or potentially adversely affected by any low impact work, that work is construction, unless otherwise determined by the Planning Secretary.</p> <p>The low impact work described in this definition that has not commenced before the approval of the CEMP becomes Construction with the approval of a CEMP. Where low impact work has already commenced, this is considered to remain as low impact work and is managed in accordance with the framework under which it commenced</p>
Construction Ancillary facility	A temporary facility for construction of the CSSI including an office and amenities compound, construction compound, material crushing and screening plant, materials storage compound, maintenance workshop, testing laboratory and material stockpile area
Construction Boundary	The area required for project construction as described in the documents listed in Condition A1
CSSI	The Critical State Significant Infrastructure, as described in Schedule 1, the carrying out of which is approved under the terms of this approval
Department	NSW Department of Planning, Industry and Environment
DECC	Former NSW Department of Environment and Climate Change
EES Group	Environment, Energy and Science Group of the Department
EIS	The Environmental Impact Statement submitted to the Planning Secretary seeking approval to carry out the development described in it, as revised if required by the Planning Secretary under the EP&A Act, and including any additional information provided by the Proponent in support of the application for approval of the project
EMS	Environmental Management System
EP&A Act	<i>Environmental Planning and Assessment Act 1979 (NSW)</i>
EPA	NSW Environment Protection Authority
EPL	Environment Protection Licence under the POEO Act
ER	Environmental Representative for the CSSI

Term	Definition
Emergency work	Work that is: (a) an emergency (i.e., an unforeseen occurrence; a sudden and urgent occasion for action): and (b) required to avoid injury, loss of life, damage or loss of property or prevent environmental harm
Environment	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
Environmental Representative Protocol	The document of the same title published by the Department dated October 2018
Heavy Vehicle	Has the same meaning as in the <i>Heavy Vehicle National Law (NSW) 2013</i>
Heritage item	A place, building, structure, 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 <i>Heritage Act 1977 (NSW)</i> , a state agency heritage and conservation register under section 170 of the <i>Heritage Act 1977 (NSW)</i> , a Local Environmental Plan under the EP&A Act, the World, National or Commonwealth Heritage lists under the <i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i> , and an “Aboriginal object” or “Aboriginal place” as defined in section 5 of the <i>National Parks and Wildlife Act 1974 (NSW)</i>
Highly noise intensive work	Work which is defined as annoying under the ICNG including but not limited to: (a) use of power saws, such as used for cutting timber, rail lines, masonry, road pavement or steel work; (b) grinding metal, concrete or masonry; (c) rock drilling; (d) line drilling; (e) vibratory rolling; (f) rail tamping and regulating; (g) bitumen milling or profiling; (h) jackhammering, rock hammering or rock breaking; and (i) impact piling
ICNG	Interim Construction Noise Guideline (DECC, 2009)
Incident	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. <i>Note: “material harm” is defined in this approval</i>
Independent Audit PAR	The <i>Independent Audit Post Approval Requirements</i> (Department of Planning and Environment, 2018)
Land	Has the same meaning as the definition of the term in section 1.4 of the EP&A Act
Landowner	Has the same meaning as “owner” in the <i>Local Government Act 1993</i> and in relation to a building means the owner of the building
Local road	Any road that is not defined as a classified road under the <i>Roads Act 1993</i>
LOTE	Language other than English

Term	Definition
Low Impact Utility Work	Being the adjustment of utilities to property that disrupt services or access to less than 10 premises, access or service outage of less than two hours and does not result in noise exceeding 5dB(A) above background noise levels
Major Construction Ancillary Facility	A construction ancillary facility not being a minor construction ancillary facility
Material harm	Is harm that: (a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or (b) 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)
Minister	NSW Minister for Planning and Public Spaces
Minor Construction Ancillary Facility	Lunch sheds, office sheds, portable toilet facilities, and the like
NML	Noise Management Level as defined in the <i>Interim Construction Noise Guideline</i> (DECC, 2009)
Non-compliance	An occurrence, set of circumstances or development that is a breach of this approval.
Operation	The carrying out of the CSSI (whether in full or in part) upon the completion of construction. <i>Note: 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 the CSSI are within the definition of construction</i>
POEO Act	<i>Protection of the Environment Operations Act 1997</i> (NSW)
Planning Secretary	Planning Secretary of the Department (or nominee, whether nominated before or after the date on which this approval was granted)
Planning Secretary's approval or agreement	A written approval or agreement from the Planning Secretary (or nominee)
Proponent	The person identified as such in Schedule 1 of this approval and any other person carrying out any part of the CSSI from time to time
Publicly Available	To be made available on the website required under Condition B10 of this approval.
Rail Possession	A period of time during which a rail line is blocked to trains to permit work to be carried out on or near the line.
Relevant Council(s)	Bayside Council
Relevant road authority	The same meaning as the road authority defined in the <i>Roads Act 1993</i> .
Relic	Has the same meaning as the definition of the term in section 4 of the <i>Heritage Act 1977</i> (NSW)

Term	Definition
Sensitive land uses	Includes residences, educational institutions (including preschools, schools, universities, TAFE colleges), health care facilities (including nursing homes, hospitals), religious facilities (including churches), child care centres, 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 Secretary
SES	NSW State Emergency Services
Seven day rolling period	Refers to the period of time that includes the previous six days and the current day
Submissions Report	The Proponent's response to issues raised in submissions received in relation to the application for approval for the CSSI under the EP&A Act
TfNSW	Transport for NSW
Tree	As defined in Australian Standard <i>AS 4372-2007 Pruning of Amenity Trees</i>
Unexpected heritage find	An object or place that is discovered during the carrying out of the CSSI and which may be a heritage item but was not identified in the EIS or Submissions Report or suspected to be present. An unexpected heritage find does not include human remains.
Unexpected contamination find	contamination that is discovered during the carrying out of the CSSI but was not identified in the documents listed in Condition A1 or suspected to be present
Work	Any physical work for the purpose of the CSSI including construction and low impact work

SUMMARY OF REPORTING REQUIREMENTS

Reports and notifications that must be provided to the Planning Secretary under the terms of this approval are listed in **Table 2**. Note that under **condition A8** of this approval the Proponent may seek the Planning Secretary's agreement to a later timeframe for submission (other than in relation to the immediate written notification of an incident required under **condition A8**).

Note that Where there is an inconsistency between **Table 3** and a condition, the requirements of the condition prevail.

Table 2: Reports and Notifications that must be submitted to the Secretary

Condition	Report / Notification	Timing ¹	Purpose
Part A – Administrative			
A11	Staging Report	Before commencement of construction (or operation if only staged operation is proposed) of the first of the proposed stages	Information
A22	Environmental Representative	Must be sought one month before the commencement of works	Approval
A25(d)	Environmental Representative verification	Following ER approval of documents	Information
A25(i)	Environmental Representative Monthly reports	Within seven days following the end of each month for the duration of the ER's engagement	Information
A28	Acoustic Advisor	Must be sought one month before the commencement of works	Approval
A31(f)	Noise and Vibration Incidents	In accordance with requirements for incidents	Notification
A31(g)(v)	Monthly Noise and Vibration Report	Within seven days following the end of each month for the duration of the AA's engagement	Information
A32	Commencement of work or operation	One (1) month before the commencement of work and operation	Information
A33	Commencement of each stage	One (1) month before the commencement of each stage if staged work or operation	Information
A34	Independent Audit Program	No later than one (1) month before the date notified for the commencement of construction	Information
A37	Written notification of incident	Immediately upon becoming aware of the incident.	Information
A38	Written notification of incident	Subsequent written notification and an incident report are required seven days after the Proponent became aware of the incident and 30 days after the date on which the incident occurred, respectively	Information

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

Condition	Report / Notification	Timing ¹	Purpose
Part B - Communication Information and Reporting			
B3	Community Communication Strategy	One (1) month before the commencement of construction	Approval
B9	Complaints Register	upon request from the Secretary	Information
Part D - Operation Environmental Management			
D2	Active Noise Mitigation System - Validation Program	one month prior to installation of the permanent wayside noise monitoring system	Information
Part E – Key Issues			
Biodiversity			
E5	Copy of Credit Retirement Report	within one (1) month of receiving the report	Information
Heritage			
E11	Heritage Report	no later than 12 months after the completion of the work	information
Noise and Vibration			
E29	Out-of-Hours Work Protocol	Before the commencement of out-of-hours works	Approval
E32	Operational Noise and Vibration Review	Before the implementation of operational noise mitigation measures	Approval
E34	Operational Noise Compliance Report	Within 60 days of completing the operational monitoring	Information
Soils			
E44	Interim Audit Advice or Site Audit Statement	One (1) month before the commencement of operation	Information
E44(b)	Interim Audit Advice/s	One (1) month before the commencement of operation	Information
E44(c)	Site Audit Statements and Site Audit Report	One (1) month before the commencement of operation	Information

SCHEDULE 2

PART A

ADMINISTRATIVE CONDITIONS

GENERAL

- A1 The CSSI must be carried out in accordance with the terms of this approval and generally in accordance with the description of the CSSI in the *Botany Rail Duplication Environmental Impact Statement* (October 2019) and the *Botany Rail Duplication Submissions Report* (March 2020).
- A2 The CSSI must be carried out in accordance with all procedures, commitments, preventative actions, performance outcomes and mitigation measures set out in the documents identified in **Condition A1** unless otherwise specified in, or required under, this approval.
- A3 In the event of an inconsistency between the documents listed in **Condition A1**, or any other document required under this approval, and a term of this approval, the term of this approval prevails 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.

- A4 The Proponent must comply with all written requirements or directions of the Planning Secretary, in a timely manner, including in relation to:
- (a) the environmental performance of the CSSI;
 - (b) any document or correspondence in relation to the CSSI (including the provision of such documentation or correspondence);
 - (c) any independent appointment or dismissal made in relation to the CSSI;
 - (d) any notification given to the Planning Secretary under the terms of this approval;
 - (e) any audit of the construction or operation of the CSSI;
 - (f) the terms of this approval and compliance with the terms of this approval (including anything required to be done under this approval);
 - (g) the carrying out of any additional monitoring or mitigation measures; and
 - (h) 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.
- A5 Where the terms of this approval require a document or monitoring program to be prepared or a review to be undertaken in consultation with identified parties, evidence of the consultation undertaken must be submitted to the Planning Secretary with the document. 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 and a summary of the issues raised by them;
 - (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) 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.
- A6 This approval lapses five (5) years after the date on which it is granted, unless works are physically commenced on or before that date.

- A7 References in the terms of this approval to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this approval.
- A8 Any document that must be submitted within a timeframe specified in or under the terms of this approval may be submitted within a later timeframe agreed with the Planning Secretary. This condition does not apply to the immediate written notification required in respect of an incident under **Condition A37**. The Proponent must provide supporting evidence so that the Secretary can consider the need, environmental impacts and consistency of any request.

INDEPENDENT APPOINTMENTS

- A9 All **Independent Appointments** required by this approval must be consistent / have regard with the Department's guideline *Seeking approval from the Department for the appointment of independent experts* (DPIE, 2020).
- A10 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.

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

STAGING

- A11 The CSSI may be constructed and operated in stages. Where staged construction or operation is proposed, a **Staging Report** (for either or both construction and operation as the case may be) must be prepared and submitted to the Planning Secretary for information. The **Staging Report** must be endorsed by the ER and submitted to the Planning Secretary before the commencement of construction of the first of the proposed stages of construction (or if only staged operation is proposed, before the commencement of operation of the first of the proposed stages of operation).
- A12 The **Staging Report** must:
- (a) if staged construction is proposed, set out how the construction of the whole of the CSSI will be staged, including details of work and other 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 the CSSI will be staged, including details of work and other 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 the CSSI; and
 - (d) set out mechanisms for managing any cumulative impacts arising from the proposed staging.
- A13 The CSSI must be staged in accordance with the **Staging Report**, as submitted to the Planning Secretary.
- A14 Where staging is proposed, the terms of this approval that apply or are relevant to the works or activities to be carried out in a specific stage must be complied with at the relevant time for that stage.

CONSTRUCTION ANCILLARY FACILITIES

Construction Ancillary facilities

A15 Construction ancillary facilities that are not identified by description and location in the documents listed in **Condition A1** 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 a sensitive land use (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.

Note: This condition does not preclude the use of other premises which is consistent with an approved use of those premises.

SITE ESTABLISHMENT

Site Establishment Management Plan

A16 Before establishment of a major construction ancillary facility(ies) (excluding minor construction ancillary facilities established under **Condition A18**), the Proponent must prepare a **Site Establishment Management Plan** which outlines the environmental management practices and procedures to be implemented for the establishment of the construction ancillary facility(s). The **Site Establishment Management Plan** must be prepared in consultation with the relevant council and government authorities. The Plan must be submitted to the ER for approval one (1) month before the establishment of any major construction ancillary facility(ies). The **Site Establishment Management Plan** must detail the management of the establishment of ancillary facilities and include:

- (a) a description of activities to be undertaken during establishment of the facility (including scheduling and duration of works to be undertaken at the site);
- (b) figures illustrating the proposed operational site layout;
- (c) a program for ongoing analysis of the key environmental risks arising from the site establishment activities described in subsection (a) of this condition, including an initial risk assessment undertaken prior to the commencement of site establishment works;
- (d) details of how the site establishment activities described in subsection (a) of this condition will be carried out to:
 - (i) meet the performance outcomes stated in the documents listed in **Condition A1**, and
 - (ii) manage the risks identified in the risk analysis undertaken in subsection (c) of this condition; and
- (e) a program for monitoring the performance outcomes, including a program for construction noise monitoring consistent with the requirements of **Condition C9**.

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

Use of Major Construction Ancillary Facilities

A17 The use of a major construction ancillary facility for construction must not commence 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 by the ER.

Minor Construction Ancillary Facilities

- A18 Lunch sheds, office sheds, portable toilet facilities, material storage, parking and the like, can be established and used where they satisfy the following criteria:
- (a) are located within the Construction Boundary; and
 - (b) have been assessed by the ER to have -
 - (i) minor amenity impacts to surrounding residences and businesses, after consideration of matters such as compliance with the Interim Construction Noise Guideline (DECC, 2009), traffic and access impacts, dust and odour impacts, and visual (including light spill) impacts, and
 - (ii) minor 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

- A19 Boundary screening must be erected around major construction ancillary facilities that are adjacent to sensitive receivers for the duration of construction of the CSSI unless otherwise agreed with relevant Council, and adjacent residents, business operators or landowners.
- A20 Boundary screening required under **Condition A19** of this approval must reduce visual, noise and air quality impacts on adjacent sensitive receivers.

ENVIRONMENT REPRESENTATIVE

- A21 Work must not commence until an **ER** has been approved by the Planning Secretary and engaged by the Proponent.
- A22 The Planning Secretary's approval of an **ER** must be sought no later than one month before the commencement of work.
- A23 The proposed **ER** must be a suitably qualified and experienced person who was not involved in the preparation of the documents listed in **Condition A1**, and is independent from the Proponent and companies involved in the design and construction of the CSSI. Skills, qualifications, experience, availability and capacity of the **ER** must meet the requirements of the *Environmental Representative Protocol* (Department of Planning and Environment, October 2018). The appointment of the **ER** must be consistent / have regard with the Department's guideline *Seeking approval from the Department for the appointment of independent experts* (DPIE, 2020).
- A24 The Proponent may engage more than one **ER** for the CSSI, 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 the CSSI.
- A25 For the duration of work, or as approved by the Planning Secretary, the approved **ER** must:
- (a) receive and respond to communication from the Planning Secretary in relation to the environmental performance of the CSSI;
 - (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) approve documents identified in **Conditions A16, A17, C1, C4, C9, C13** and **E33** after verifying all relevant matters set out in this approval pertaining to those documents have been met and make a written statement to the Planning Secretary to this effect;
 - (e) regularly monitor the implementation of the documents listed in **Conditions A16, 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, attend or undertake 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 A35** of this approval;
- (g) as may be requested by the Planning Secretary, assist the Department in the resolution of community complaints;
 - (h) consider the impacts of minor ancillary facilities as required by **Condition A18** of this approval; and
 - (i) 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 (7) days following the end of each month for the duration of the ER’s engagement for the CSSI.

A26 The Proponent must provide the **ER** with all documentation requested by the **ER** in order for the **ER** to perform their functions specified in **Condition A25** , as well as:

- (a) the complaints register to be provided on a weekly basis for any complaints received); 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).

A27 The Planning Secretary may at any time commission an audit of an **ER’s** exercise of its functions under **Condition A25**. 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 **ER** that the **ER** facilitate and assist the Planning Secretary in any such audit.

*Note: The Planning Secretary may dismiss the **ER** should they consider the **ER** has not exercised their functions in accordance with this approval.*

ACOUSTICS ADVISOR

A28 A suitably qualified and experienced **Acoustics Advisor (AA)**, who is independent of the design and construction personnel, must be nominated by the Proponent and engaged for the duration of work and at least until submission of the operational noise compliance monitoring report required by **Condition E34** to the Planning Secretary.

The details of the nominated **AA** must be submitted to the Planning Secretary for approval no later than one (1) month before commencement of work.

A29 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.

A30 Any activities generating noise in excess of the ‘Noise affected’ Noise Management Levels derived from the *Interim Construction Noise Guideline* must not commence until an **AA**, nominated under **Condition A28** of this approval, has been approved by the Planning Secretary.

A31 The approved **AA** must:

- (a) receive and respond to communication from the Planning Secretary in relation to the performance of the SSI 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 all 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 ER or Planning Secretary (if required to be submitted to the ER or Planning Secretary) or before implementation (if not required to be submitted to the ER or Planning Secretary);
- (e) 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 and the terms of this approval;
- (f) notify the Planning Secretary of noise and vibration incidents in accordance with **Condition A37** of this approval;
- (g) 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 the CSSI, follow the procedure in the **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 amendments made to the CEMP, relevant sub-plans and noise and vibration monitoring programs that require updating, and are consistent with the terms of this approval and the management plans and monitoring programs approved by the ER 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 (7) days following the end of each month for the duration of the **AA**'s engagement for the CSSI, or as otherwise agreed by the Planning Secretary.

NOTIFICATION OF COMMENCEMENT

- A32 The Department must be notified in writing of the dates of commencement of work and operation at least one (1) month before those dates.
- A33 If staging of construction or operation is proposed, the Department must be notified in writing at least one (1) month before the commencement of each stage, of the date of commencement of that stage.

AUDITING

- A34 No later than one (1) month before the date notified for the commencement of construction (in the pre-construction compliance report), an **Independent Audit Program** prepared in accordance with the *Independent Audit Requirements* (Department of Planning and Environment 2018) (the Independent Audit PAR) must be submitted to the Planning Secretary for information.
- A35 **Independent Audits** of the CSSI must be carried out in accordance with:
- (a) the **Independent Audit Program** submitted to the Department under **Condition A34** of this approval; and
 - (b) the requirements for an **Independent Audit Methodology and Independent Audit Report** in the *Independent Audit PAR*.

- A36 In accordance with the specific requirements in the *Independent Audit PAR*, the Proponent must:
- (a) review and respond to each **Independent Audit Report** prepared under **Condition A35** of this approval; and
 - (b) make each **Independent Audit Report** and response to it publicly available and notify the Planning Secretary in writing when this has been done.

Note: Consistent with the requirements of the Independent Audit PAR, the Planning Secretary may approve a request for ongoing operational audits to be ceased where it has been demonstrated to the Planning Secretary's satisfaction that an audit has demonstrated operational compliance.

INCIDENT NOTIFICATION AND REPORTING

- A37 During construction, the Department must be notified in writing immediately after the Proponent becomes aware of an incident. The notification must identify the CSSI (including the application number and the name of the CSSI if it has one), and set out the time, date, location and nature of the incident. A description of whether the incident was a result of any actual or potential non-compliance with this approval should be provided within one week of the notification

The requirement to notify the Department under this condition excludes incidents which are required to be notified to the Office of the National Rail Safety Regulator.

- A38 Subsequent notification must be given and reports submitted in accordance with the requirements set out in **Appendix A**.

PART B

COMMUNITY INFORMATION AND REPORTING

COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT

Communication Strategy

B1 A **Communication Strategy** must be prepared and implemented which provides mechanisms to facilitate communication about construction and operation (within the first 12 months of operation) with:

- (a) the community (including affected landowners and businesses, and others directly impacted by the CSSI), and
- (b) the relevant councils and government agencies.

B2 The **Communication Strategy** must:

- (a) identify people, organisations, councils and agencies to be consulted during the design and work phases;
- (b) identify community demographics and approaches to address the needs of LOTE and CALD and vulnerable communities;
- (c) set out procedures and mechanisms for the regular distribution of accessible information, including to LOTE and CALD and vulnerable communities about or relevant to the CSSI;
- (d) identify opportunities for education within the community about construction sites;
- (e) provide for the formation of issue or location-based community forums that focus on key environmental management issues of concern to the relevant communities;
- (f) 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; and
 - (iii) to resolve any issues and mediate any disputes that may arise in relation to Construction of the CSSI, including disputes regarding rectification or compensation.

B3 The **Communication Strategy** must be submitted to the Planning Secretary for approval no later than one (1) month before commencement of construction.

Construction for the purposes of the CSSI must not commence until the **Communication Strategy** has been approved by the Planning Secretary.

B4 The **Communication Strategy** must be made publicly available and implemented for the duration of construction and for a minimum of 12 months following the completion of construction.

COMPLAINTS MANAGEMENT SYSTEM

B5 A **Complaints Management System** must be prepared and implemented before the commencement of any works and maintained for the duration of construction and for a minimum for 12 months following completion of construction of the CSSI.

- B6 The following information must be available to facilitate community enquiries and manage complaints one (1) month before the commencement of works and for 12 months following the completion of construction:
- (a) a 24- hour telephone number for the registration of complaints and enquiries about the CSSI;
 - (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;
 - (d) a mechanism for CALD community members to make enquiries in LOTE commonly used in the community; and
 - (e) a mediation system for complaints unable to be resolved.
- This information must be made publicly available.
- B7 The telephone number, postal address and email address required under **Condition 0** of this approval must be made available on site hoarding at each construction site before the commencement of construction. This information must also be provided on the website required under **Condition B10** of this approval.
- B8 A **Complaints Register** must be maintained recording information on all complaints received about the CSSI during the carrying out of any works and for a minimum of 12 months following the completion of construction. The **Complaints Register** must record the:
- (a) number of complaints received;
 - (b) number of people potentially affected by the activities or impacts referenced by a complainant; and
 - (c) nature, location and time of the complaint and means by which the complaint was addressed and whether resolution was reached, with or without mediation.
- B9 The **Complaints Register** must be provided to the Planning Secretary upon request, within the timeframe stated in the request.

PROVISION OF ELECTRONIC INFORMATION

- B10 A website or webpage providing information in relation to the CSSI must be established before commencement of Work and maintained for the duration of construction, and for a minimum of 12 months following the completion of construction. The following up-to-date information (excluding confidential commercial information) must be published before the relevant Work commences and be maintained on the website or dedicated pages including:
- (a) the current implementation status of the CSSI;
 - (b) a copy of the documents listed in **Condition A1** of this approval, and any documentation relating to any modifications made to the CSSI 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 the CSSI;
 - (e) a copy of each document required to be made publicly available under the terms of this approval must be published within 7 days of the finalisation or approval of the relevant document, unless an alternate timeframe is prescribed by another condition of this approval; and
 - (f) where a condition (s) of this approval requires a document(s) to be prepared before work, construction or operational activity commences, a current copy of the relevant document(s) must be published on the website before the work, construction or operational activity commences.

PART C

CONSTRUCTION ENVIRONMENTAL MANAGEMENT

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

- C1 A **Construction Environmental Management Plan (CEMP)**, or a Staged CEMP where staging is proposed in accordance with **Condition A11**, must be prepared by having regard to the *Environmental Management Plan Guideline – Guideline for Infrastructure Projects* (DPIE, April 2020). The plan must detail how the performance outcomes, commitments and mitigation measures specified in the documents listed in **Condition A1** will be implemented and achieved during construction.
- C2 The **CEMP** must provide:
- (a) a description of activities to be undertaken during construction (including the scheduling of construction);
 - (b) details of environmental policies, guidelines and principles to be followed in the construction of the CSSI;
 - (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;
 - (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 A1**; 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 the CSSI is proposed, the **CEMP** must also identify which **CEMP Sub-plan** applies to each of the proposed stages of construction;
 - (i) a description of the roles and environmental responsibilities for relevant positions and their relationship with the **ER**;
 - (j) for training and induction for employees, including contractors and sub-contractors, in relation to environmental and compliance obligations under the terms of this approval;
 - (k) for periodic review and update of the **CEMP** and all associated plans and programs;
 - (l) relevant details from the **Site Establishment Management Plan(s)**; and
 - (m) the **Unexpected Heritage Finds Procedure** required under **Condition E12**.
- C3 The **CEMP** or a **Staged CEMP** must be prepared and submitted to the **ER** for approval no later than one (1) month before the commencement of construction or where construction is staged, no later than one (1) month before the commencement of that stage.
- Construction must not commence until the **ER** has approved the CEMP for the relevant stage.
- C4 **CEMP Sub-plans** must be prepared in consultation with the relevant government agency(ies) and council(s) identified for each **CEMP Sub-plan*** in **Table 3**.

Table 3. CEMP Sub-Plan and relevant public authorities

	Required CEMP Sub-plan	Relevant agencies to be consulted for each CEMP Sub-plan
(a)	Construction Transport, Traffic and Access Management Plan	TfNSW and relevant Council(s)
(b)	Noise and vibration	Pipeline operators/asset owners, relevant Council
(c)	Soil and Water Management Plan	Relevant Council

Note: This condition does not preclude the preparation of subplans the proponent has committed to preparing in documents referenced in Condition A1

- C5 The **CEMP Sub-plans** must state how:
- (a) the environmental performance outcomes identified in the documents listed in **Condition A1** as modified by these conditions will be achieved;
 - (b) the mitigation measures identified in the documents listed in **Condition A1** as modified by these conditions will be implemented;
 - (c) the relevant terms of this approval will be complied with; and
 - (d) issues requiring management during construction (including cumulative impacts), as identified through ongoing environmental risk analysis, will be managed.
- C6 The Soil and Water Management Plan must be prepared by a suitably qualified and experienced person and include:
- (a) an Asbestos Management Plan (AMP) prepared in accordance with the National Environment Protection (Assessment of Site Contamination) Measure (NEPM) 2013
 - (b) an Acid Sulfate Soil Management Plan (ASSMP) developed in accordance with the Acid Sulfate Soils Manual (ASSMAC, 1998); and
 - (c) an Unexpected Contamination Finds Procedure.
- C7 Details of all information requested by an agency to be included in a **CEMP Sub-plan** as a result of consultation, including copies of all correspondence from those agencies, must be provided with the relevant **CEMP Sub-Plan**.
- C8 Construction must not commence until the **CEMP** and all **CEMP Sub-plans** have been approved by the **ER** and must be implemented for the duration of construction. Where construction of the CSSI is staged, construction of a stage must not commence until the **CEMP** and sub-plans for that stage have been approved by the **ER**.

CONSTRUCTION MONITORING PROGRAMS

- C9 The following **Construction Monitoring Programs** set out below must be prepared and implemented to enable comparison of the actual construction performance against the predicted performance. The **Construction Monitoring Programs** must be prepared in consultation with the relevant government agencies and councils as identified for each **Construction Monitoring Program**.

	Required Construction Monitoring Programs	Relevant agencies to be consulted for each Construction Monitoring Program
(a)	Noise and Vibration	pipeline operator

- C10 Each **Construction Monitoring Program** must provide:
- (a) details of baseline data available;
 - (b) details of baseline data to be obtained and when;
 - (c) details of all monitoring of the project to be undertaken;
 - (d) the parameters of the project to be monitored;
 - (e) the frequency of monitoring to be undertaken;
 - (f) the location of monitoring;
 - (g) procedure for the timing and frequency reporting of monitoring and analysis against relevant criteria, including details of the timing and frequency for reporting results to the **ER**, the Planning Secretary and relevant government agencies;
 - (h) details of the methods that will be used to analyse the monitoring data;
 - (i) procedures to identify and implement additional mitigation measures where results of monitoring identify unexpected impact; and
 - (j) any consultation to be undertaken in relation to the monitoring programs.
- C11 The **Construction Monitoring Programs** must be submitted to the **ER** for approval at least one (1) month before the commencement of construction.
- C12 Construction, which is required to be monitored under the **Construction Monitoring Programs**, must not commence until the **Construction Monitoring Programs** have been approved by the **ER**, and all relevant baseline data for the specific construction activity has been collected.
- C13 The **Construction Monitoring Programs**, as 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 **Construction Monitoring Programs** must be made publicly available in the form of a **Construction Monitoring Report** at the frequency identified in the relevant **Construction Monitoring Program**.

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

- C15 The **Noise and Vibration Monitoring Program** must include:
- (a) noise and vibration monitoring at agreed representative locations in consultation with the AA adjacent to the construction to confirm construction noise and vibration levels; and
 - (b) for the purposes of (a), noise monitoring during the day, evening and night-time periods must be undertaken within the first month of construction and must cover the range of activities being undertaken at the sites.

PART D

OPERATIONAL ENVIRONMENTAL MANAGEMENT

OPERATIONAL ENVIRONMENTAL MANAGEMENT – ACTIVE NOISE MITIGATION SYSTEM

- D1 Conditions D2 and D3 apply where an active noise mitigation system such as a track lubrication system is installed to mitigate operational rail noise.
- D2 A **Validation Program** must be developed to validate the performance of the active noise mitigation system in meeting the noise level reductions (L_{max}) anticipated in the **Operational Noise and Vibration Review**. The program must:
- (a) facilitate the ongoing review of the effectiveness of the active noise mitigation;
 - (b) include regular noise monitoring at a location where L_{max} is expected to be elevated;
 - (c) demonstrate how data collected translates to noise impacts at affected residences using the methodology set out in the Rail Infrastructure Noise Guideline; and
 - (d) include a monitoring, recording and reporting process that will facilitate measuring of compliance and reporting.

The validation program must be reviewed and endorsed by the AA as being able to meet the above requirements and be submitted to the Planning Secretary before the commencement of operation. The validation program must be able to demonstrate that the system is achieving the relevant noise reductions. The validation program may cease after 5 years with the approval of the Planning Secretary. Any request to cease monitoring must demonstrate that the active mitigation system and monitoring system has been maintained and is effective.

Notwithstanding, the performance of the active monitoring system must be submitted to the Planning Secretary on an annual basis and within three months of the end of each year. Regardless, the results of monitoring must be made available to the Planning Secretary on request.

- D3 Where monitoring shows that the active noise mitigation system is not effective in achieving the noise level reductions in the Operational Noise and Vibration Review, the Proponent must implement further practicable measures to ensure the noise level reductions are achieved.

Operational Environmental Management

- D4 Measures to manage the operation and maintenance of the CSSI must be addressed in the Proponent's Environmental Management System or equivalent as agreed with the Planning Secretary.

PART E

KEY ISSUE CONDITIONS

AIR QUALITY

- E1 In addition to the performance outcomes, commitments and mitigation measures specified in the documents listed in **Condition A1**, all reasonably practicable measures must be implemented to minimise the emission of dust and other air pollutants during construction of the CSSI.

BIODIVERSITY

- E2 Any work associated with the CSSI must limit the clearing of native vegetation to the greatest extent practicable.
- E3 Impacts to plant community types must not exceed those identified in the documents listed in **Condition A1**
- E4 Before any impact on the plant community types or species that are required to be offset, the Proponent must retire the credits specified in **Table 4** and in accordance with the offset rules of the *Biodiversity Conservation Act 2016*.

Table 4: Ecosystem Credit Requirements

PCT ID and Name	Vegetation Formation	Number of Credits
PCT 1071 <i>Phragmites australis</i> and <i>Typha orientalis</i> coastal freshwater wetlands of the Sydney Basin Bioregion	Freshwater Wetlands on Coastal Floodplains of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions	3
PCT 1234 Swamp Oak swamp forest fringing estuaries, Sydney Basin Bioregion and South East Corner Bioregion	Swamp Oak Floodplain Forest of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions	8

Note: Credits have been calculated using the Biodiversity Assessment Method

- E5 The Proponent must submit to the Planning Secretary for information a copy of the Credit Retirement Report for the retirement of the biodiversity offsets specified in Table 4 within one (1) month of receiving the report.

Tree Removal and Replacement Planting

- E6 The CSSI must deliver a net increase in trees. Replacement trees must target an increase in tree canopy and aim to enhance the relevant council's position in respect of the Sydney Green Grid. This condition does not apply to trees that are subject to a biodiversity offset.
- E7 Replacement trees must:
- be located on public land and prioritised within 500 metres of the Construction Boundary in consultation with the relevant council and SACL;
 - comply with the *National Airports Safeguarding Framework Guideline C: Managing the Risk of Wildlife Strikes in the Vicinity of Airports*;
 - be provided no later than six (6) months following the commencement of operation;
 - have a pot size consistent with the relevant council's plans / programs / strategies for vegetation management, street planting, or open space landscaping, or as agreed by the

relevant council(s). In areas not subject to council plans / programs / strategies, pot sizes must be informed through consultation with the relevant council(s) and Sydney Airport.

FLOODING

- E8 Measures identified in the documents listed in Condition A1 to not worsen or improve flood characteristics must be incorporated into the detailed design of the CSSI.
- E9 Flood information developed during detailed design, such as flood reports, models and geographic information system outputs, and work as executed information from a registered surveyor certifying finished ground levels, the dimensions and finished levels of all structures constructed as part of the CSSI within flood prone land, must be provided to the relevant council, EESG and the SES in order to assist in preparing relevant documents and to reflect changes in flood behaviour as a result of the CSSI. The council, EESG and the SES must be notified in writing that the information is available no later than one (1) month following the completion of construction. Information requested by the relevant Council, EESG or the SES must be provided no later than six (6) months following the completion of construction or within another timeframe agreed with the relevant council, EESG and the SES.

HERITAGE

- E10 Following completion of all work described in the documents listed in **Condition A1** in relation to heritage items, except for the archaeological mitigation programs proposed, a **Heritage Report** including the details of any archival recording, must be prepared in accordance with guidelines and standards published by the Heritage Council of NSW and EESG.
- E11 The **Heritage Report** must be submitted to the Planning Secretary, the Heritage Council of NSW and EESG for information no later than 12 months after the completion of the work referred to in **Condition E10**.
- E12 An **Unexpected Heritage Finds Procedure** must be prepared to manage unexpected heritage finds in accordance with guidelines and standards published by the Heritage Council of NSW or EESG. Human Remains would classify as an unexpected find and should be managed as part of this protocol.

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

- E13 The **Unexpected Heritage Finds Procedure** must be implemented for the duration of construction work.

NOISE AND VIBRATION

Construction Hours

- E14 Work must only be undertaken during the following standard construction hours:
- (a) 7:00am to 6:00pm Mondays to Fridays, inclusive;
 - (b) 8:00am to 1:00pm Saturdays; and
 - (c) at no time on Sundays or public holidays.
- E15 Notwithstanding Condition E14, work may be undertaken between 1:00 pm to 6:00 pm on Saturday.

Variation to Work Hours

E16 Notwithstanding **Conditions E14, E15 and E19** work may be undertaken outside the hours specified in the following circumstances:

- (a) for the delivery of materials required by the NSW Police Force or other authority for safety reasons; or
- (b) 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; or
- (c) an approval has been obtained for a controlled activity under the *Airports Act 1996*; or
- (d) where different construction hours are permitted or required under an EPL in force in respect of the CSSI; or
- (e) work approved under an **Out-of-Hours Work Protocol** for work not subject to an EPL as required by **Condition E29**; or
- (f) construction that causes $L_{Aeq(15\text{ minute})}$ noise levels:
 - (i) no more than 5 dB(A) above the rating background level at any residence in accordance with the *Interim Construction Noise Guideline* (DECC, 2009), and
 - (ii) no more than the 'Noise affected' noise management levels specified in Table 3 of the *Interim Construction Noise Guideline* (DECC, 2009) at other sensitive land uses, and
 - (iii) continuous or impulsive vibration values, measured at the most affected residence are no more than the maximum values for human exposure to vibration, specified in Table 2.2 of *Assessing Vibration: a technical guideline* (DEC, 2006), and
 - (iv) intermittent vibration values measured at the most affected residence are no more than the maximum values for human exposure to vibration, specified in Table 2.4 of *Assessing Vibration: a technical guideline* (DEC, 2006); or
- (g) negotiated agreements with directly affected residents.

Note: Section 5.24(1)(e) of the EP&A Act requires that an EPL be substantially consistent with this approval.

E17 On becoming aware of the need for emergency works in accordance with **Condition E16**, the Proponent must notify the **AA, ER** and the EPA (if an EPL applies) of the need for that work. The Proponent must use best endeavours to notify all noise and/or vibration affected occupants of sensitive land uses of the likely impact and duration of those works.

E18 Except as permitted by an EPL, out-of-hours work that may be regulated through the **Out of Hours Work Protocol** as per **Condition E28** includes, but is not limited to:

- (a) carrying out work that, during standard hours, would result in a high risk to construction personnel or public safety, based on a risk assessment carried out in accordance with AS/NZS ISO 31000:2009 "Risk Management"; or
- (b) where the relevant road authority has advised the Proponent in writing that carrying out the work during standard hours would result in a high risk to road network performance and a road occupancy licence will not be issued; or
- (c) where the relevant utility service operator has advised the Proponent in writing that carrying out the work during standard hours would result in a high risk to the operation and integrity of the utility network; or
- (d) where an approval is required for a controlled activity in accordance with the *Airports Act 1996*; or
- (e) work undertaken in a rail possession for operational or safety reasons.

*Note: Other out-of-hours works can be undertaken with the approval of an EPL, or through the project's **Out-of-Hours Work Protocol** for works not subject to an EPL.*

Highly Noise Intensive Work

E19 Except as permitted by an EPL or approved through the Out of Hours Work Protocol in **Condition E29**, highly noise intensive work 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 (1) hour between each block where the work is likely to impact the same noise sensitive receivers.

For the purposes of this condition, 'continuously' includes any period during which there is less than one (1) hour between ceasing and recommencing any of the work.

Note: This condition does not prevent a negotiated agreement being reached with affected sensitive receivers as per **Condition E16**.

Construction Noise – Coordination

- E20 The Proponent must consult with proponents or applicants of other State Significant development and infrastructure within 200 metres of the CSSI and take reasonable steps to coordinate work, including utility work, to minimise cumulative impacts of noise and vibration and maximise respite for affected sensitive receivers.
- E21 All work undertaken for the delivery of the CSSI, including those undertaken by third parties (such as utility relocations), must be coordinated to ensure respite is provided. The Proponent must:
- (a) reschedule any work to provide respite to impacted noise sensitive receivers so that the respite is achieved in accordance with **Condition E26**; or
 - (b) consider the provision of alternative respite or mitigation to impacted noise sensitive receivers; and
 - (c) provide documentary evidence to the AA and **ER** in support of any decision made by the Proponent in relation to respite or mitigation.
- E22 Noise generating work in the vicinity of potentially affected community, religious, educational institutions and noise and vibration-sensitive businesses and critical working areas (such as theatres, laboratories and operating theatres) resulting in noise levels above the relevant NML must not be timetabled within sensitive periods, unless other reasonable arrangements with the affected institutions are made at no cost to the affected institution.

Noise and Vibration Mitigation

- E23 Mitigation measures must be implemented with the aim of achieving the following construction noise management levels and vibration criteria:
- (a) construction 'Noise affected' noise management levels 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).

Any work identified as exceeding the noise management levels and/or vibration criteria must be managed in accordance with the **Noise and Vibration CEMP Sub-plan**.

Note: The Interim Construction Noise Guideline identifies 'particularly annoying' activities that require the addition of 5 dB(A) to the predicted level before comparing to the construction Noise Management Level. Mitigation measures must provide ongoing mitigation for construction noise

- E24 Owners and occupiers of properties at risk of exceeding the screening criteria for cosmetic damage must be notified before works that generate 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**.
- E25 The Proponent must conduct vibration testing before and during vibration generating activities that have the potential to impact on heritage items to be retained and protected, to identify minimum working distances to prevent cosmetic damage. In the event that the vibration testing and monitoring shows that the preferred values for vibration are likely to be exceeded, the Proponent must review the construction methodology and, if necessary, implement additional mitigation measures.

Construction Noise Mitigation - Respite

- E26 The Proponent must provide respite* for sensitive land uses where work is undertaken outside hours specified in **Condition E14** and **E15** and exceeds the NML by 25 dB(A) or are greater than 75 dB(A) ($L_{Aeq(15\ min)}$), whichever is the lesser at the façade of the building of a residential receiver. (The noise level must be reduced by 5dB where the noise contains annoying characteristics and increased by 10dB if the property has been treated or offered at-property noise treatment)

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

Out of Hours Work – Community Consultation on Respite

- E27 In order to undertake work outside hours specified in **Condition E14** and **E15**, the Proponent must identify appropriate respite* required by **Condition E26**, and/or additional mitigation measures required by **Condition E28**, for out-of-hours work in consultation with the community at each affected location on at least a 3 monthly basis. This consultation must include (but not be limited to) providing the community with a three-monthly forward schedule of likely out of hours works.

The schedule must include:

- (a) an indicative schedule of likely out-of-hours work for a period no less than three (3) months;
- (b) a description of the potential work, location and duration;
- (c) the noise characteristics and likely noise levels of the work; and
- (d) likely mitigation and management measures to be implemented and/or offered.

The outcomes of the community consultation (including any agreed alternative arrangements), the identified respite periods and the scheduling of the likely out-of-hour works must be provided to the **AA, ER and EPA**.

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

Out of Hours Work –Mitigation

- E28 Additional mitigation measures such as temporary alternative accommodation or other agreed mitigation measure, must be offered/ made available to residents affected by out-of-hours work (including where utility work is being undertaken for the project) 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 8:00am,

are predicted to exceed the NML by 25 dB(A) or are greater than 75 dBA ($L_{Aeq(15 \text{ min})}$), 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 increased by 10 dB if the property has been treated or offered at-property noise treatment. The noise levels and duration requirements identified in this condition may be changed through an EPL applying to the CSSI.

Out-of-Hours Work Protocol – Work not subject to an EPL

E29 An **Out-of-Hours Work Protocol** must be prepared to describe the process for the consideration, management and approval of work which is outside the hours defined in **Conditions E14** and **E15** and **E19** and that is not subject to an EPL. The Protocol must be approved by the Planning Secretary before commencement of out of hours work. The Protocol must be prepared in consultation with the AA. The Protocol must:

- (a) provide a process for the consideration of out-of-hours work against the relevant noise management level and vibration criteria (including ground-borne noise), including the determination of low and high-risk activities;
- (b) provide a process for the identification of mitigation measures for residual impacts, including respite periods in consultation with the community at each affected location, consistent with the requirements of **Condition E26** and **E27**, and additional mitigation measures in accordance with **Condition E28**;
- (c) identify procedures to facilitate the coordination of out-of-hours works approved by an EPL to ensure appropriate respite is provided;
- (d) identify an approval process that considers the risk of activities, proposed mitigation, management and coordination, including where:
 - (i) low risk activities can be approved by the **ER** in consultation with the **AA**, and
 - (ii) high risk activities can be approved by the **ER** in consultation with the **AA**, and the approval provided to the Planning Secretary for information before work commences; and
- (e) identify arrangements to notify EPA and community for approved out of hours works, which maybe detailed in the **Communication Strategy**.

Operation Ground-borne Noise

E30 The project must be designed to comply with the ground-borne noise trigger levels in the *Rail Infrastructure Noise Guideline* (EPA, 2013). Where the ground-borne noise trigger levels cannot be achieved the Proponent must implement management and/or mitigation measures to minimise exceedances.

Note: In determining whether the ground-borne noise trigger levels in the Rail Infrastructure Noise Guideline are applicable, the effect of operational mitigation measures including noise barriers and architectural acoustic treatments must be considered. To assist in policy interpretation, the comparison for predictions or measured data is to be made between internal ground-borne noise and internal airborne noise levels. Where mechanical ventilation complying with the BCA is provided, windows may be considered closed. Where mechanical ventilation is not provided windows should be open to limits recommended by the BCA.

E31 Baseline ground-borne noise monitoring must be completed before the commencement of construction where ground-borne noise is predicted to exceed the trigger level for Ground borne noise in the *Rail Infrastructure Noise Guideline*.

Noise Mitigation - Operational Noise Mitigation Measures

E32 The Proponent must prepare an **Operational Noise and Vibration Review (ONVR)** to confirm noise and vibration control measures that would be implemented for the operation of the CSSI. The **ONVR** must be prepared as an iterative design development and in consultation with relevant council(s) and other relevant stakeholders and must:

- (a) confirm the appropriate operational noise and vibration objectives and levels for surrounding development, including existing sensitive land uses;
- (b) confirm the operational noise predictions (including ground-borne noise) based on the final design. Confirmation must be based on an appropriately calibrated noise model (which has incorporated data obtained from noise monitoring and traffic counts where necessary for calibration purposes).;
- (c) confirm the operational noise and vibration impacts at sensitive receivers based on the final design of the CSSI, including operational daytime $L_{Aeq,15 \text{ hour}}$ and night-time $L_{Aeq, 9 \text{ hour}}$ traffic noise contours;
- (d) examine all noise and vibration mitigation measures that could be applied to address the impacts identified in (c), with a focus on source control and design;
- (e) identify specific physical and other mitigation measures that will be installed for controlling noise and vibration impacts at the source and at the receiver (if relevant) including location, type and timing of their installation;
- (f) where noise and vibration objectives cannot be achieved, the **ONVR** must present an analysis of all noise and vibration mitigation measures, the 'best practice' achievable noise and vibration outcome and justification for the measure decided upon based upon the analysis;
- (g) fully describe the design, assumptions, calculation process, mitigation strategy, and other relevant factors (including the procedures in place to ensure trains do not stop within the Botany Rail Duplication and details of exceptions that may result in trains stopping).
- (h) include a consultation strategy to seek feedback from directly affected landowners on the noise and vibration mitigation measures; and
- (i) procedures for the management of operational noise and vibration complaints.

The **ONVR** must be verified by the AA. The **ONVR** must be prepared at the Proponent's expense and submitted to the Planning Secretary for approval before the implementation of mitigation measures. The **ONVR** must be made publicly available consistent with the requirements of **Condition B10**.

The Proponent must implement the identified noise and vibration control measures no later than 6 months after the commencement of construction, unless otherwise agreed with the Planning Secretary.

E33 Where operational noise mitigation measures (that also assist in reducing construction noise impacts) cannot be installed within six months of commencement of construction in accordance with **Condition E32**, the Proponent must submit to the Planning Secretary a report providing justification as to why. The report must include details of temporary measures that would be implemented to reduce construction noise impacts, until such time that the operational noise mitigation measures identified in **Condition E32** are implemented. The report must be endorsed by the AA and submitted to the ER for approval within six (6) months of the commencement of construction which would affect the identified sensitive land uses.

E34 Within 12 months of the commencement of operation of the CSSI, the Proponent must undertake monitoring of operational noise (including ground borne noise) to compare actual noise performance of the CSSI against the noise performance predicted in the review of noise mitigation measures required by **Condition E32**.

The Proponent must prepare an **Operational Noise Compliance Report** to document this monitoring. The Report must include, but not necessarily be limited to:

- (a) airborne and ground-borne noise monitoring to assess compliance with the operational noise levels predicted in the review of operational noise mitigation measures required under **Condition E32**;

- (b) a review of the operational noise levels in terms of noise trigger levels established in the *Rail Infrastructure Noise Guideline* (EPA, 2013);
- (c) methodology, location and frequency of noise monitoring undertaken, including monitoring sites at which CSSI noise levels are ascertained, with specific reference to locations indicative of impacts on receivers;
- (d) details of any complaints and enquiries received in relation to operational noise generated by the CSSI between the date of commencement of operation and the date the report was prepared;
- (e) any required recalibrations of the noise model taking into consideration factors such as noise monitoring and actual traffic numbers and proportions;
- (f) an assessment of the performance and effectiveness of applied noise mitigation measures together with a review and if necessary, reassessment of mitigation measures; and
- (g) identification of additional measures to those identified in the review of noise mitigation measures required by **Condition E32**, that are to be implemented with the objective of meeting the trigger levels outlined in the *Rail Infrastructure Noise Guideline* (EPA, 2013) and *Noise Policy for Industry* (EPA, 2017), when these measures are to be implemented and how their effectiveness is to be measured and reported to the Planning Secretary and the EPA.

The **Operational Noise Compliance Report** must be submitted to the Planning Secretary and the EPA, following review by the AA and within 60 days of completing the operational noise monitoring and made publicly available.

LAND USE AND PROPERTY

- E35 The Proponent must identify the utilities and services (hereafter “services”) potentially affected by Construction to determine requirements for diversion, protection and/or support. The Proponent, in consultation with service providers, must ensure that disruption to services resulting from the Construction is avoided where possible. Where unavoidable, customers must be advised in accordance with the **Communication Strategy** required under **Condition B1**.

Condition Survey

- E36 Before commencement of any construction, a structural engineer must undertake condition surveys of buildings, structures, utilities and the like that are identified in the **Noise and Vibration CEMP Sub-Plan** as being at risk of damage due to construction vibration unless as otherwise instructed or agreed to by the pipeline or utility operator.

The results of the surveys or agreement with the pipeline or utility operator must be documented in a **Condition Survey Report** for each item at risk of damage. Copies of **Condition Survey Reports** must be provided to the owners of the items surveyed, and no later than one month before the commencement of construction.

- E37 After completion of construction, condition surveys must be undertaken by a structural engineer of all items for which condition surveys were undertaken in accordance with **Condition E36**. The results of the surveys must be documented in a **Condition Survey Report** for each item surveyed. Copies of **Condition Survey Reports** must be provided to the landowners of the items surveyed no later than three (3) months following the completion of construction.
- E38 The Proponent, where liable, must rectify any property damage caused directly or indirectly (for example from vibration or groundwater change) by the construction or operation of the CSSI at no cost to the owner unless otherwise agreed with owner.
- E39 Reinstated billboards must be reinstated like for like (the billboard must be no larger than existing and use the same technology) in the immediate vicinity of their current location..

Note: Any billboards to be reinstated in an alternative location may be subject to further assessment under the EP&A Act.

SOILS

E40 All reasonably practicable erosion and sediment controls must be installed and appropriately maintained to minimise water pollution. When implementing such controls, any relevant guidance in the *Managing Urban Stormwater* series must be considered.

Contaminated sites

E41 A **Site Contamination Report**, documenting the outcomes of Stage 1 and Stage 2 contamination assessments of land upon which the CSSI is to be carried out, or land associated with the CSSI, that is suspected, or known to be, contaminated must be prepared by a suitably qualified and experienced person in accordance with guidelines made or approved under Section 105 of the *Contaminated Land Management Act 1997* (NSW).

Note: for that land where Stage 1 and Stage 2 contamination assessments have already been undertaken, they do not need to be undertaken again for the purposes of this condition.

E42 A **Remediation Action Plan** must be prepared by a suitably qualified and experienced person in accordance with guidelines made or approved under Section 105 of the *Contaminated Land Management Act 1997* (NSW).

E43 The proponent must engage a NSW EPA accredited Site Auditor throughout the duration of works to ensure that any work required in relation to soil or groundwater contamination is appropriately managed. The Proponent must adhere to the management measures accepted by the Site Auditor.

E44 The Proponent must submit to the Planning Secretary the following:

- (a) an **Interim Audit Advice** or a **Section B Site Audit Statement** prepared by the Site Auditor that certifies that the **Remediation Action Plan** prepared in **Condition E42** is appropriate and that the site can be made suitable for the proposed use.
- (b) if work is to be completed in stages, any **Interim Audit Advice/s** issued by the Site Auditor to confirm satisfactory completion of each stage.
- (c) a **Section A1 Site Audit Statement** or a **Section A2 Site Audit Statement** and accompanying **Site Audit Report** prepared by a NSW EPA accredited Site Auditor must be submitted to the Planning Secretary and the relevant Council for information no later than one month before the commencement of operation.

E45 Contaminated land must not be used for the purpose approved under the terms of this approval until a **Site Audit Statement** determines the land is suitable for that purpose and any conditions on the **Site Audit Statement** have been complied with.

SUSTAINABILITY

E46 The Proponent must endeavour to achieve a best practice level of performance for the CSSI being a minimum 'Design' and 'As built' rating score of 65 using the Infrastructure Sustainability Council of Australia infrastructure rating tool or an equivalent level of performance using a demonstrated equivalent rating tool.

TRAFFIC AND TRANSPORT

E47 Before any local road is used by a heavy vehicle for the purposes of construction of the CSSI, a **Road Dilapidation Report** must be prepared for the road. A copy of the **Road Dilapidation Report** must be provided to the relevant Council within three (3) weeks of completion of the survey and at least two weeks before the road is used by heavy vehicles associated with the construction of the CSSI.

- E48 The use of local roads must minimise impacts to local traffic, cyclists and pedestrians. Management measures must be incorporated in the **Construction Transport, Traffic and Access Management Plan** as relevant, and:
- (a) demonstrate that the use of local roads will not compromise the safety of the public;
 - (b) 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.
- E49 Closure and relocation of bus stops during construction must be undertaken in consultation with the relevant bus service providers and relevant council(s).
- E50 If damage to roads occurs as a result of construction of the CSSI, the Proponent must either (at the landowner's discretion):
- (a) compensate the relevant road authority for the damage so caused. The amount of compensation may be agreed with the relevant road authority, but compensation must be paid even if no agreement is reached; or
 - (b) rectify the damage to restore the road to at least the condition it was in before work commenced as identified in the **Road Dilapidation Report**.

Property Access

- E51 During work, all reasonably practicable measures must be implemented to maintain pedestrian, cyclist and vehicular access to, and parking in the vicinity of, businesses and affected properties. Where disruption cannot be avoided or minimised, alternative pedestrian, cyclist and vehicular access, and parking arrangements must be developed in consultation with affected businesses and implemented before the disruption. Adequate signage and directions to businesses must be provided before, and for the duration of, any disruption.
- E52 Access to all utilities and properties must be maintained during construction, where practicable, unless otherwise agreed with the relevant utility owner, landowner or occupier.
- E53 Any property access physically affected by the CSSI during construction must be reinstated to at least an equivalent standard, unless otherwise agreed by the landowner or occupier.

Pedestrian and Cyclist Access

- E54 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, the relevant council(s) must be informed two weeks before any disruption, and alternate routes which comply with the relevant standards must be provided and signposted or controlled before, and for the duration of, any disruption.

Construction Traffic Coordination and Management

- E55 The Proponent must take reasonable steps to coordinate construction traffic impacts with Proponents of other State Significant proposals near the CSSI and take reasonable steps to coordinate work to minimise cumulative traffic impacts in consultation with TfNSW and key Stakeholders.

Parking

- E56 Construction vehicles (including staff vehicles) associated with the CSSI must be managed to minimise parking, idling and queuing on public roads.

VISUAL AMENITY

Construction Ancillary Facilities

E57 The CSSI must be constructed in a manner that minimises visual impacts of construction sites, including light spill.

Lighting and Security

E58 The Proponent must construct and operate the CSSI with the objective of minimising the impact of light spill to surrounding properties and aircraft operations.

E59 All lighting associated with the construction and operation of the CSSI must be consistent with the requirements of *Australian Standard 4282-1997 Control of the obtrusive effects of outdoor lighting* and relevant Australian Standards in the series *AS/NZ 1158 – Lighting for Roads and Public Spaces* and *NASF Guideline E: Managing the Risk of Distractions to Pilots from Lighting in the Vicinity of Airports*. Additionally, the Proponent must manage residual night lighting impacts to protect properties adjoining or adjacent to the CSSI, in consultation with affected landowners.

UTILITIES MANAGEMENT

E60 Nothing in this approval allows for the undertaking of any third-party utility work not required for the purposes of the CSSI.

Note: Third-party utility work, including but not limited to drainage, water or energy supply etc. identified not required for the project is not the responsibility of the Proponent and is subject to separate approvals process.

WASTE

E61 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 at a waste management facility or premise lawfully permitted to accept the materials or in accordance with a Resource Recovery Exemption or Order issued under the *Protection of the Environment Operations (Waste) Regulation 2014*.

E62 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

E63 The CSSI must be designed, constructed and operated so as to not worsen water quality of surface water discharged from the rail corridor unless an EPL in force in respect of the CSSI contains different requirements.

E64 Drainage feature crossings (permanent and temporary watercourse crossings and stream diversions) and drainage swales and depressions must be constructed in accordance with relevant guidelines and designed by a suitably qualified and experienced person.

E65 Works on waterfront land must be carried out in accordance with *Guidelines for Controlled Activities on Waterfront Land* (NRAR 2018).

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 (<https://www.planningportal.nsw.gov.au/major-projects>) 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 A37 or, having given such notification, subsequently forms the view that an incident has not occurred.
2. Written notification of an incident must:
 - (a) identify the CSSI and application number;
 - (b) provide details of the incident (date, time, location, a brief description of what occurred and why it is classified as an incident);
 - (c) identify how the incident was detected;
 - (d) identify when the Proponent became aware of the incident;
 - (e) identify any actual or potential non-compliance with conditions of approval;
 - (f) describe what immediate steps were taken in relation to the incident;
 - (g) identify further action that will be taken in relation to the incident; and
 - (h) identify a project contact for further communication regarding the incident.
3. Within 30 days of the date on which the incident occurred or as otherwise agreed to by the Planning Secretary, the Proponent must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.
4. The Incident Report must include:
 - (a) a summary of the incident;
 - (b) outcomes of an incident investigation, including identification of the cause of the incident;
 - (c) details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence; and
 - (d) details of any communication with other stakeholders regarding the incident.