

Item No: C0517 Item 1

Subject: WESTCONNEX UPDATE REPORT: EXHIBITION OF M4-M5 LINK CONCEPT DESIGN, FUNDING FOR WESTCONNEX COMMUNITY ORGANISER POSITION, FUNDING FOR ROZELLE AGAINST WESTCONNEX PUBLICATION AND M4 EAST TREE REPLACEMENT PROGRAM

File Ref: 16/6107/46552.17

Prepared By: Kendall Banfield - Manager WestConnex Unit

Authorised By: Simon Manoski - Group Manager Strategic Planning

SUMMARY

This report relates to four WestConnex items. The first is the recently-announced exhibition of the M4-M5 Link Concept Design. The second is a request for continuation of funding for the WestConnex Community Organiser position administered by community group No WestConnex Public Transport (NoW PT). The third is a request for a one-off funding contribution to community group Rozelle Against WestConnex (RAW) for a tabloid publication for distribution to the community. The fourth item is Council's comment on a minor modification of the M4 East tree replacement program - a requirement of an M4 East Condition of Approval. Council's comment states that whilst Council opposes WestConnex, it supports the tree replacement program and the proposed modification.

RECOMMENDATION

THAT Council:

1. **Receives and notes this report;**
2. **Endorses continuation of funding of the full-time WestConnex Community Organiser position for a further 12 months from the end of the position's current term in September 2017 at a cost of approximately \$100,000;**
3. **Writes to the City of Sydney seeking a contribution of half of the funding of the abovementioned Community Organiser position, i.e. \$50,000; and**
4. **Endorses a one-off funding contribution of \$3,300 to Rozelle Against WestConnex (RAW) for a WestConnex opposition tabloid publication for distribution to the community.**

BACKGROUND

Item 1: Exhibition of M4-M5 Link Concept Design

On 12 May 2017 Sydney Motorway Corporation (SMC) placed the M4-M5 Link Concept Design on public exhibition. The Concept Design is a 56-page document available from SMC's website at <https://www.westconnex.com.au/M4-M5LinkDesign>. Council has been advised that there is at this stage no end date for this exhibition – the exhibition will overlap with exhibition of the M4-M5 Link Environmental Impact Statement (EIS), which is planned to commence in mid-2017. Council's Administrator has written to the WestConnex Minister raising concerns about the overlapping exhibition period, indicating that this sends a message to the community that the exhibition of the Concept Design is rushed and tokenistic. The Administrator has also issued a media release raising concerns about local impacts from this project.

Immediately after release of the document, Council staff undertook an initial identification of key issues for the community. These issues are:

- potential for increased traffic on Johnston Street and The Crescent - particularly as these streets would provide direct access from the Inner West to a future Western Harbour Tunnel – and possibly increased traffic on connecting streets Booth Street, Mallet Street and Northumberland Avenue;
- truck traffic, noise, dust and other impacts from mid-tunnel construction dive-sites at Darley Road and Annandale/Camperdown on local residents, businesses, pedestrians, cyclists and bus operations – noting that the document briefly states that Rozelle Rail Yards (western end) will be considered as a possible alternative to Darley Road;
- truck traffic, noise, dust and other impacts from other construction sites on residents, businesses, pedestrians, cyclists and bus operations
- traffic safety and noise impacts from stabling and queuing of construction trucks wherever this may occur;
- increased traffic on the eastern section of City West Link with only two pedestrian access points to the new linear park from the south;
- no consideration of heritage for the Rozelle Rail Yards site;
- bulk, scale and air quality impacts of ventilation facilities – particularly proximity of the Iron Cove ventilation facility to medium-density residential development at and around Balmain Shores and Terry Street; and
- general impact of increased operational traffic volumes in the area around the Rozelle Interchange on local amenity, accessibility and pedestrian/cyclist safety.

Further information on Council's identification and assessment of issues raised by the M4-M5 Link Concept Design for the Inner West Council area will be reported to future meetings of the Local Representation Advisory Committee (LRAC) and Council, and will be included in WestConnex Weekly Update Reports. Council is now in the process of engaging consultants and seeking comments from specialist Council staff to draft a submission on the Concept Design. A similar process will be undertaken for Council's assessment of the EIS.

Item 2: Continued funding of WestConnex Community Organiser position

In August 2015, former Marrickville and Leichhardt councils and the City of Sydney provided funding to No WestConnex Public Transport (NoW PT) for a part-time Community Organiser to provide co-ordination and support for local community groups that had formed to oppose WestConnex. In September 2016 Inner West Council resolved to continue this funding for a further 12 months, but had increased the funding to \$87,824 to enable it to be on a full-time basis. There was no funding contribution from the City of Sydney for this second round of funding.

In May 2017, NoW PT wrote to Council pointing out the current (second) round of funding expires in September 2017 and making a request for a further (third) round of funding for 12-months at a total cost of \$99,352 (letter at **ATTACHMENT 1**). A breakdown of the budget for the position is at **ATTACHMENT 2**. A report to funders on the position for the period since the position's inception (August 2015 to May 2017) is at **ATTACHMENT 3**.

The NoW PT letter explains that the work of the Community Organiser is overseen by a Steering Committee which is guided by the Memorandum of Understanding between Council and NoW PT (at **ATTACHMENT 4**). Council's Manager WestConnex Unit is on the Steering Committee and the Committee typically meets bi-monthly. Steering Committee meetings have been held in December 2016, March and April 2017.

The letter explains that the work of the Community Organiser has furthered community education and has facilitated organisation of the various Inner West community groups that oppose WestConnex. This has enabled strong and co-ordinated advocacy by the community groups and increased capacity of residents to identify non-compliance and comment constructively on detailed plans. Council officers concur with NoW PT that the work of the Community Organiser has been beneficial to Council, to local WestConnex opposition groups and to the local community. It is therefore recommended in this report that Council resolves to accept this funding request.

Consistent with NoW PT's suggestion within the letter, it is also recommended in this report that Inner West Council seeks a half contribution from the City of Sydney (\$49,676) for funding of this position. This would not only reduce costs for Inner West Council, but would continue to strengthen the long-standing partnership between the two Councils on opposing inner-Sydney motorways including WestConnex.

Item 3: Funding contribution to Rozelle Against WestConnex (RAW) for tabloid publication

At meetings of Council's WestConnex Community Liaison Forum (WCLF) in March and April 2017, the RAW representative verbally requested a one-off contribution of \$3,300 (incl. GST) toward funding of a WestConnex opposition tabloid publication. This verbal request is supported by a May 2017 letter from RAW at **ATTACHMENT 5**.

The letter explains that the tabloid would be 16-page, full colour standalone edition with a print run of 60,000 copies for distribution to the Inner West community. Articles would be sought from all of the resident groups in the IWC area who are opposed to WestConnex and Council would have a representative on the editorial committee. RAW has already raised half of the production cost of \$6,500 and seeks the balance of \$3,300 from Council. RAW advises that financial contributions will not be sought or accepted from political parties nor will articles from them be published. Distribution will be arranged via existing community volunteer networks and the tabloid will be available to all Inner West Council residents free of charge.

Given council's strong opposition to WestConnex and in the spirit of Council's support to date of local WestConnex community opposition groups it is proposed that this RAW publication would deliver significant public benefit. In addition, this request could be eligible for funding under the Inner West Council 2017/2018 grant program however these funds would not be available until toward the end of 2017 which would be too late for publication. This report therefore recommends that Council resolves to support the request make a one-off contribution of \$3,300 for this purpose.

Item 4: Modification of M4 East Condition of Approval re tree replacement program

In April 2017, Council was notified by the DP&E (letter at **ATTACHMENT 6**) of a request by Roads & Maritime Services (RMS) (letter at **ATTACHMENT 7**) to modify M4 East Condition of Approval (CoA) B47 to allow for flexibility in the pot size of replacement trees and allow for a consistent definition of "tree".

M4 East CoA B47 currently states: *"The SSI [State Significant Infrastructure] must be designed to retain as many trees as possible and provide a net increase in the number of replacement trees. In the event that trees are to be removed, then replacement trees are to be planted within, or in close proximity to, the SSI boundary. The location of the trees must be determined in consultation with the relevant council(s). The replacement trees are to have a minimum pot size of 75 litres."*

It is proposed that CoA B47 be modified to read as follows:

“The SSI must be designed to retain as many trees as possible and provide a net increase in the number of replacement trees. In the event that trees are to be removed, then replacement trees are to be planted within, or in close proximity to, the SSI boundary. The location of the trees must be determined in consultation with the relevant authority.”

The replacement trees to have a minimum pot size of 75 litres except where the plantings are proposed in accordance with a relevant authority’s revegetation, street planting, landscaping and/or open space programs/plans (including Council-endorsed WestConnex ‘Legacy’ projects outside the project footprint associated with the M4 East project) that specify alternative pot sizes for trees. In such cases, the Proponent must submit to the Secretary for approval a report which includes:

- *a copy of the relevant authority’s revegetation program/plan;*
- *details on the proposed plantings (including type, size and location);*
- *details on how the relevant plantings meet the requirements of the relevant authority’s revegetation program/plan; and*
- *documentation from the relevant authority that it is satisfied with the Proponent’s proposed plantings.”*

Council staff reviewed the request and agreed with RMS’s application that *“the revised wording of CoA B47, as developed in liaison with the DPE, is considered appropriate in continuing to maintain the intent of the conditions while providing the flexibility required to achieve a more desired, sustainable and effective outcome”*. Council also agreed that *“the amendment of the tree definition ensures continuity between the CoAs and post-approvals compliance and is therefore necessary.”*

In a letter May 2017 at **ATTACHMENT 8**, Council officers stated that though Council opposes WestConnex, it supports the M4 East tree replacement program. The letter explains that all relevant Council staff and the Department of Planning & Environment’s (DPE’s) WestConnex Compliance Officer had been involved in meetings in late 2016 and early 2017 on this matter. At these meetings, Council staff have understood the intent of the modifications and raised no objections. Consistent with these meeting comments, it remains that Council raises no objections.

FINANCIAL IMPLICATIONS

Items 2 and 3 above have financial implications that have not been allocated in Council’s 2017/18 draft budget. Continuation of funding for the Community Organiser position will be undertaken with existing financial arrangements subject to variation if a 50% contribution is obtained from the City of Sydney. The additional funds for a contribution to the Rozelle Against WestConnex (RAW) will also need to be allocated in the 17/18 budget. A funding source will need to be identified and included as a part of the final 17/18 budget for both these items.

OTHER STAFF COMMENTS

Comments from all relevant staff are included in this report.

PUBLIC CONSULTATION

Nil. Public consultation is not required for any of the items discussed in this report.

ATTACHMENTS

1. Letter from NoW PT seeking continuation of funding for the Community Organiser position
2. Attachment to NoW PT letter showing budget for Community Organiser position
3. Attachment to NoW PT letter - report to Community Organiser funder for period August 2015 to May 2017
4. Attachment to NoW PT letter - Memorandum of Understanding for Community Organiser position September 2016
5. Letter from RAW seeking Council funding contribution for WestConnex tabloid publication
6. Letter from DP&E re proposed modification to M4 East CoA B47 - tree replacement program
7. Modification request from RMS for M4 East CoA B47 - tree replacement program
8. Letter from Council to DP&E commenting on proposed modification to M4 East CoA B47 - tree replacement program



PO Box 270 Earlwood 2206

5 May 2017

Mr R. Pearson
Administrator
Inner West Council
PO Box 45
LEICHHARDT NSW 2040
richardp@ashfield.nsw.gov.au

Dear Mr Pearson

No WestConnex Public Transport: Community Organiser - application for further funding

Thank you for the support that Council has provided to date for the work of the No Westconnex Public Transport group (NoW). We are particularly grateful for the funding provided in the 2016-2017 financial year by the Inner West Council (IWC) for our Community Organiser. This funding has made a significant difference to the effectiveness of the campaign against WestConnex and the negative impacts of the project on communities in the Inner West Council area. We are pleased the IWC has recognised the concern and opposition of many residents, ratepayers and businesses and acted to support IWC communities through funding NoW's Community Organiser position.

The funds from Council enabled the employment of Alana West in the position until 3 February 2017. Chris Kerle took up the role of Community Organiser on 20 February 2017 under the current grant arrangement with the Nature Conservation Council. The position is funded until 29 September 2017.

The work of the Community Organiser is overseen by a Steering Committee which is guided by the Memorandum of Understanding between the IWC and NoW (see attached) . IWC has a representative, Kendall Banfield, on the Steering Committee and the Committee typically meets bi-monthly. Steering Committee meetings have been held in December 2016, March and April 2017. Also attached for your information is a report on the activities of the work of the Community Organisers since the inception of the position

The work of the Community Organiser has furthered community education and facilitated community organisation in relation to the various components of the WestConnex project. It has enabled strong advocacy by community representatives on the Council's Liaison Committee and the various WestConnex advisory and reference groups. The work of the Community Organiser has also increased the capacity of residents to monitor compliance and identify non-compliance with environmental and construction standards, to seek amelioration for residents impacted on by the project, and to comment constructively on detailed plans as they are developed and rolled out by the Sydney Motorways Corporation (SMC) and WestConnex.

WestConnex will continue for many years to come. We therefore seek funding for the Community Organiser's position for a further 12 month period to continue campaigning against the massive impacts of this project in the Inner West Council area and to assist residents to represent their individual and community interests.

We have attached a copy of the MOU signed in 2016 and a budget for the position for a further 12 months. NoW looks forward to your earliest response.

Yours sincerely,

Chris Elenor
(Co-convenor)
NoW PT
Mob. 0400 606 379

Attachments

1. Report on Community Organiser activities
2. Draft budget Community Organiser 2017-2018
3. MOU: IWC and NoW PT 2016-2017

Now Public Transport Community Organiser Budget for 2017-2018
Item 1

Item	Amount
Full time employee, Community services worker level 4 - Step 1 for 52 weeks @ \$34.413 x 38.0 hrs (5 days) x 52 weeks	\$68,000.00
Superannuation, Annual Leave, Leave Loading, Workers Comp	\$17,320.00
NCC Administrative and Office Fees	\$5,000.00
GST (10%)	\$9,032.00
Total:	\$99,352.00

Adrienne Parr
Treasurer
NoW Public Transport
e: treasurer@westconnex.info

Attachment 2

Report back to Funders on the Activities of the No WestConnex Public Transport (NoWPT) Community Organisers

Period: August 2015 to May 2017

Shaun Murray was appointed as Community Organiser to the No WestConnex Public Transport Campaign (“NoWPT”) in August 2015. He was formally employed by the Nature Conservation Council (NCC) and worked to a Steering Committee comprising representatives of NoW PT, NCC and the City of Sydney Council.

Meetings of the Steering Committee have been held approximately bi-monthly since August 2015, the most recent being in April 2017. The Inner West Council provided a representative to this Committee as part of the requirement under the MOU signed between that Council and NoW PT for funding in 2016-2017.

In March 2016, Sean Murray resigned and he was replaced in May 2016 by Alana West. In September 2016, the Community Organiser’s position was expanded to full time due to the increased and urgent demands of the role. In February 2017 Alana West resigned and was replaced by Chris Kerle.

The following is a summary of activities by the Community Organisers in the period from August 2015 to May 2017:

- Attended local group meetings and met individually with many of the key volunteers to enable better understanding and communications between all the stakeholders;
- Facilitated regular meetings of the combined groups opposing the WestConnex project;
- Assisted local groups with their organising capabilities and ensured they were able to generate strong media against the WestConnex drilling on sites in the City of Sydney, and the then Marrickville, Leichhardt and Ashfield Council areas;
- Organised contributions to the “People’s EIS” (please refer to <http://m4eis.org/>) by identifying experts to write professional submissions to assist community groups and by supporting individuals opposed to and affected by WestConnex to write submissions;
- Co-ordinated volunteer distribution of 45,000 copies of a publication by *EcoTransit* entitled “WestConnex - \$15 billion down a black hole” at railway stations and in letterboxes all across the proposed route of WestConnex. (copy attached for your information);
- Organised an information stand and a citizens contingent to march at the Climate Rally on 29 November 2015;
- Planned, organised and ran strategy planning workshops for the combined groups and key volunteers;
- Supported and promoted “Uprooted” events on 6 December, a simultaneous 3-part picnic/rally auspiced by WAG and held at Kingsgrove, St Peters and Haberfield, to publicise to local people what amenity would be lost due to WestConnex incursions into houses, parks and public spaces;

- Assisted in co-ordinating submissions from NoW members to the People's EIS for the M5 (www.m5eis.org). As previously, NoW called on the Department of Planning to extend the deadline for submissions to 90 days but this call was ignored;
- Established a CRM database which now has several thousand email contacts;
- Provided guidance and training in producing media releases and engaging media on events organised by the local groups;
- Drafted regular "e bulletins" in consultation with NoW Committee members, and disseminated these to campaign supporters and other stakeholders;
- Developed, with some community volunteers, a new website designed to facilitate more streamlined volunteer recruitment and to promote latest developments about WestConnex activities;
- Assisted in the production and dissemination of media releases on aspects of the WestConnex project. Initial media training for volunteers through a media professional was also organised;
- Facilitated orientation and training in a range of communication and organising tools ie Nationbuilder, website management and "phone banking";
- Provided guidance and organising capacity to the organisation of an event to coincide with the tabling of the "Stop WestConnex" petition. The following day, the Government released the business case;
- Launched and promoted a petition calling on the Commonwealth Auditor-General to audit WestConnex, and collected more than 2,200 signatures;
- Provided guidance and organising capacity to a number of volunteers from several community groups to assist them in organising an event to coincide with the announcement of the approval of the M4 East Extension. Approximately 120 people attended;
- Assisted community groups to work more effectively with Councils to increase the understanding of the potential impacts of WestConnex;
- Organised a volunteer and recruitment information night at Leichhardt Town Hall. Approximately 60 people attended;
- Designed, produced and assisted with the distribution of 4,000 postcard petitions calling for withdrawal/cessation of Federal funding of WestConnex;
- Updated No WestConnex: Public Transport website to provide much more information on the campaign, the organisation, pathways for involvement for volunteers and the community. Regular volunteers were trained to fulfil administration duties for the campaign;
- Coordinated volunteers to run a No WestConnex stall at the Leichhardt FESTA;
- Coordinated volunteers to assist in letterboxing for a rally in Leichhardt and for the Save Sydney Park camp;
- Supported a working group focused on campaigning in Western Sydney. The group has now produced a pamphlet on tolls associated with WestConnex which will be distributed throughout 2017;
- Disseminated through our social media channels information about the potential impact of WestConnex on RPA Hospital;

- Organised an information session at the University of Sydney in collaboration with the Australian Student Environment Network and the Sydney University Postgraduate Representative Society to inform Sydney Uni students on the issues surrounding WestConnex and the potential impact on their university;
- Assisted the newly-formed group 'Leichhardt Against WestConnex' in organising a rally to raise awareness about the possibility of Darley Rd and Blackmore Oval being mid-point tunnelling sites;
- Submitted to the Inner West Council WestConnex Community Liaison Forum (on the request of the Administrator) a Report on key construction and design concerns across the 3 stages of WestConnex;
- Supported residents' calls for improved salvage of heritage items from housing demolitions and the recycling of these items to the community;
- Facilitated activity by No WestConnex: Public Transport, WestConnex Action Group and other groups to create the Save Sydney Park camp. This successfully postponed tree removal works in Sydney Park and has greatly grown the local campaign against WestConnex;
- Supported the organisation of community groups meetings, public meetings and other events and monthly campaign meetings;
- Managed the No WestConnex social media platforms;
- Drafted, edited, co-wrote media releases; and
- Designed several flyers for use across different aspects of the campaign.
- Coordinated production of newspaper on environmental impacts, cost of tolls and public transport alternatives to WestConnex.
- Assisted planning of the DisConnex- Reframing Resistance Exhibition
- Assisted residents and local groups to prepare submissions to the updated Westconnex Urban Design and Landscape Plan.
- Assisted local groups to research and oppose WestConnex Stage 3 dive site options in Leichhardt.
- Developed an updated media plan and strategy for local groups
- Contributed to campaign strategy development and planning.

Chris Elenor
Co-convenor
No WestConnex Public Transport Inc. ("NoW PT")
May 2017

Memorandum of Understanding

BETWEEN

NoW Public Transport Incorporated 1301058 of PO Box 270 Earlwood NSW 2206 ("NoW")

and the

Inner West Council of 260 Liverpool Rd, Ashfield NSW 2131 ("Council")

Background

- A. NoW PT Inc. is a wholly volunteer incorporated association formed in 2013 to work with and co-ordinate community groups, including Save Ashfield Park Inc. who are opposing the motorway scheme WestConnex.
- B. The number of community groups opposing WestConnex has now grown to such an extent that NoW is seeking to employ a full time community organiser for at least a year ("Community Organiser")
- C. The peak NSW environmental body, the NSW Conservation Council ("NCC"), will provide the employment structure for the Community Organiser.
- D. NoW approached Council and other councils to contribute to the funding of the Community Organiser.
- E. At the meeting of the Inner West Council on 5 July 2016, the Council resolved "THAT: 9. Council supplement the previous short term funding provided to No WestConnex Public Transport for a part time community organiser position, to provide sufficient funding to enable the community organiser to be employed full time for 2016/17."

Purpose

This Memorandum of Understanding ("MOU") is to formalise the understanding between Council and NoW in connection with the employment of the Community Organiser.

Term

This MOU will operate for 12 months commencing on the date that this MOU is signed ("the Term") unless terminated earlier in accordance with the MOU.

NoW's Obligations

1. NoW agrees to ensure that:
 - 1.1 the Community Organiser's activities are aimed at promoting community engagement and co-ordinating the activities of volunteer community organisations around WestConnex issues;
 - 1.2 the Community organiser's activities are non-partisan ~~and avoid support, or the appearance of support, for any political party.~~ *all*
 - 1.3 the Community organiser's work flows from the position description
 - 1.4 the Community Organiser is responsible to a Steering Committee; and
 - 1.5 the Community Organiser provides the Steering Committee with a monthly report.
 - 1.6 NoW advises Council in writing of any major changes to the Community Organiser's position description or the role. Any change must encapsulate the requirements of clause 1.2. *all*
 - 1.7 Any funds from Council's allocation toward the employment of the Community Organiser not expended in accordance with this MOU being refunded to Council.

Steering Committee

2. NoW must ensure that the Steering Committee:
 - 2.1 will comprise of one (1) member from NCC, NoW, Council and each other council contributing funds (subject to their agreement);

- 2.2 oversees the activities of the Community Organiser; and
- 2.3 provides Council with a monthly report prepared by the Community Organiser. *to alp*

Funding

- 3. Council will provide to NoW a grant of \$87,824 that must only be applied toward the employment of the Community Organiser.

General

- 4.1 Council and NoW will cooperate and act in good faith with each other in relation to the implementation of this MOU.
- 4.2 Each party will do all things reasonably required to carry out and give full effect to this MOU, in accordance with the applicable laws, and the rights and obligations of the parties under the MoU.
- 4.3 Council has the right to terminate this MoU by giving written notice to NoW should NoW not comply with its obligations.
- 4.4 NoW has the right to terminate this MoU by giving written notice to Council should Council not comply with its obligations.

Dated 8 September 2016

Signed for and on behalf
of the Inner West Council pursuant
to a resolution of the Inner West Council
made at a duly held meeting on
5 July 2016

Peter Gainsford, Acting Interim General Manager

Witness
Ian Naylor, Manager Governance
and Administration, Leichhardt

Sig



Signature



Signed by NoW Public Transport Inc 1301058
by the following persons:



Signature of authorised person

Co-convenor
Office held



Signature of authorised person

Secretary
Office held





<http://rozelleagainstwestconnex.org>

Dear Mr Pearson,

Further to the proposal discussed in detail at the IWC forum on WestConnex in March on behalf of RAW I wish to offer the following in support of the application.

As per the details outlined in March, the tabloid is a 16 page, full colour standalone edition with a print run of 60,000 copies for distribution throughout the IWC footprint. As agreed to at the March meeting the IWC will have a representative on the editorial committee. Articles will be sought from all of the resident groups in the IWC area who are opposed to WestConnex & will focus on some of the little publicised negative aspects.

These include but are not limited to the failure to address the rationale behind WestConnex, the certainty that WestConnex will actually worsen the traffic situation in the Inner West, the alarming & lethal health impacts, the corruption allegations levelled against both CIMIC (formerly Leightons) & AECOM, rat running, loss of amenity, the cost including that to health as well as the wildly understated financial cost, (reckoned to be closer to \$45 billion), the burden placed on the least affluent demographic to fund the tollway, the likelihood of punishing clauses that prevent competition from public transport & the government guarantee to make up the certain loss of revenue if/when usage falls below AECOM's understated usage figures, the inflated cost benefit ratio, the displacement of residents forced from their communities, the theft of their homes at as little as 60 cents in the dollar, the loss of open space, of thousands of trees, of dozens of businesses employing hundreds of people, of irreplaceable historic & heritage homes.. the list is endless.

RAW has raised half of the production cost of \$6,500 & seeks the balance of \$3,300 from the IWC. Financial contributions will not be sought or accepted from political parties nor will articles from them be published. Distribution will be arranged via the existing networks & the tabloid will be available to all Inner West Council residents free of charge.

Regards
Peter Hehir
Convenor RAW (Rozelle Against WestConnex)
Delegate to IWC Forum on WestConnex.

11 May 2017



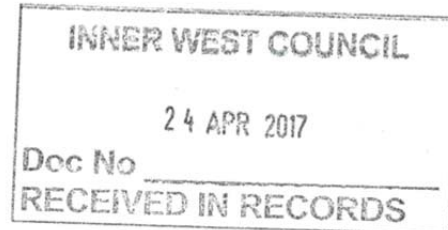
Contact: Mary Garland
Phone: 02 9274 6301
Email: mary.garland@planning.nsw.gov.au

Our Ref: SSI 6307 MOD 3

The Administrator
Inner West Council
PO Box 45
Leichhardt NSW 2040

Attn: Elizabeth Richardson
Director, Planning and Environment

By post and email: council@innerwest.nsw.gov.au



Dear Ms Richardson

Modification Request for WestConnex M4 East SSI 6307 (MOD 3)

Roads and Maritime Services (the proponent) has submitted a request to modify the above project. The proposed modification involves an amendment to the definition of "tree" in the instrument of approval and to condition B47 to allow for the pot size of replacement trees to vary from 75 litres where the plantings are in accordance with a relevant authority's revegetation, street planting, landscaping and/or open space plans. The modification request also involves widening the area in which replacement trees can be planted to beyond the project boundary / within close proximity to the project boundary.

A copy of the proposed modification is available on the Department's website at: http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8317

I understand that the proponent's delivery authority has already consulted with Council's officers on this matter. The Department is interested in any further views that you may have on the proposed modification. The Department invites your comments on the modification request by **Friday 5 May 2017**.

Please mark all correspondence regarding the request to my attention - Mary Garland, Team Leader, Transport Assessments.

Yours sincerely



MG 20/4/17

Mary Garland
Team Leader
Transport Assessments

Item 1

Attachment 6



Transport
Roads & Maritime
Services

18 April 2017

Your Ref: SSI 6307
Our Ref: A17008046

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

Dear Glenn,

**WestConnex M4 East (SSI 6307)
Request for Modification
Condition of Approval B47 and amendment of 'tree' definition**

1. Introduction

Roads and Maritime Services (RMS) is requesting a modification from the Department of Planning and Environment (DPE) to the Conditions of Approval (CoAs) in accordance with the requirements of section 115ZI of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The modification request relates to CoA B47 which requires a net increase in the number of replacement trees for those removed in order to implement the project.

CoA B47 states the following:

The SSI must be designed to retain as many trees as possible and provide a net increase in the number of replacement trees. In the event that trees are to be removed, then replacement trees are to be planted within, or in close proximity to, the SSI boundary. The location of the trees must be determined in consultation with the relevant council(s). The replacement trees are to have a minimum pot size of 75 litres.

RMS is also seeking to modify the definition of 'tree' included in the CoA in order to provide consistency between the CoAs and relevant management plans, including the Construction Flora and Fauna Management Plan (CFFMP).

Part A of this memo addresses the modification of CoA B47, whilst the modification of the 'tree' definition is set out in Part B.

Roads and Maritime Services

20-44 Ennis Road, Milsons Point NSW 2061 |
Locked Bag 928, North Sydney NSW 2059 |

www.rms.nsw.gov.au | 13 22 13

Page 1

PART A: Modification of Condition B47**2. Background**

Construction of the project requires the removal of vegetation within the construction footprint for both operational infrastructure, construction work areas and temporary construction ancillary facilities. The Environmental Impact Statement (EIS) estimated that the construction of the M4 East project would result in the removal of approximately 16 ha of vegetation, comprising 13 ha of planted trees and screening vegetation from private properties, RMS road reserves and Council owner property, as well as around 3 ha of grassland with scattered trees in council reserves.

In accordance with section 4.4.1 of the approved CCFMP, the number (and species) of all trees cleared has been recorded and currently stands around 3,500, with only a small amount of vegetation still to be cleared.

The preliminary Urban Design and Landscape Plan has been prepared for the project and currently incorporates around 500 trees in 75 litre (L) pots within the project corridor, leaving approximately 3,000 trees to be planted in close proximity to the SSI boundary, as per the requirements of CoA B47.

3. Modification of CoA B47**3.1 Justification for modification of CoA B47**

CoA B47 requires a net increase in the number of replacement 'trees', with these replacement trees to be planted within, or in close proximity to, the SSI boundary. This CoA also specifically requires the replacement trees to have a minimum pot size of 75L.

It is supposed that the intent of the specification of 75L pots is to ensure that, from both an ecological and amenity perspective, revegetated areas start at a point where they will have a more immediate impact than using seed, tube stock or small volume pots.

Discussions with the Project's horticultural consultant (Mr Stuart Pittendrigh) indicate that the use of various pot sizes at the time of planting, in addition to careful species selection, can result in a more naturalist style of planting arrangement at the time of installation. As the landscape establishes, the varying growth heights, structures and forms of planting add greater interest. As vegetation matures, plantings progress from their first adult form to mature trees supported by associated understorey layer/groundcover.

To achieve this layered affect, the species size should be varied at the time of planting. Optimum planting sizes to create a well-balanced display in community situations should commence with 25L stock, followed by 45L stock and, for instant impact, some 75L plantings. Use of these pot sizes is widely accepted as good planting layout at the time of installation to create a well-proportioned and balanced landscape setting. It is noted that a 'tree' can come from stock as small as an 150mm pot, with trees generally having a single self-supporting main stem. In the case of the tree replacement strategy, a tree (as opposed to a shrub or groundcover) will be determined by the species listed in accordance with the relevant specification.

From a horticultural perspective, it is a well-evidenced fact that smaller plants establish more readily than larger plants, as they often have less time to develop inferior roots and structural growth defects due to being held as containerised stock for too long.

In addition, there is a spatial issue relating to the area of land required for the provision of all replacement trees in 75L pots. The Project's horticulturalist suggests that an area of between 9m² and 25m² is recommended for one 75L pot (and although dependent on species, trees of these size would be expected to have a height of four to five metres).

To provide some context, it is noted that approximately 50% of the cleared trees (with a minimum height of three metres) were taken from the motorway reserve at the western end of the project, particularly in the vicinity of Homebush Bay Drive. The consultant ecologist noted that the planting in these areas 'comprised young trees which had not been appropriately spaced/tinned at growth intervals and were unsustainably dense'. The consultant ecologist noted that motorway reserves to the west of the project had an average of nine trees per 4m².

Allowing for replacement trees to be planted in close proximity to, the SSI boundary, not just within it, the provision of 3,500 trees in 75L pots planted in a viable and sustainable manner, would require an area of land that is not achievable in, or in close proximity to, the project footprint.

Further to this, consultation with affected Councils (refer 'Consultation' section below) indicates that the Councils have a preference for replacement plantings in a variety of sizes and not restricted to 75L pots.

3.2 Consultation

Consultation in regard to the CoA B47 has been undertaken with DPE, SOPA, Strathfield, Inner West and Canada Bay Councils. While the Project footprint includes land in Burwood and Auburn Local Government areas, no vegetation was removed within these Council areas as a result of the Project and therefore consultation has not been undertaken with these Councils.

Details of the consultation undertaken is provided in Table 1 below. It is noted that a DPE Compliance Officer has been in attendance at the majority of meetings with Council.

Table 1 Consultation

Date	Authority	Comment
01.09.2016	DPE	A meeting was held with DPE where SMC and CSJ tabled a report prepared by the consultant ecologist (EMM Consulting Pty Ltd), titled 'WestConnex Stage 1B - Removal and replacement of Trees' dated 1 September 2016. At this meeting, DPE agreed that the intention for the condition is that there are ultimately more trees planted that are taken out and that the replacement trees need to survive. The 75L pot size was stipulated to help the survival rate. DPE undertook to review the wording of CoA B47. The DPE Compliance officer noted that any re-worded condition needs to be enforceable.
20.09.2016	DPE	An email was issued by DPE containing revised wording of CoA B47 (as included below in the 'Proposed modification' section). The revised wording addresses the issues highlighted in the 'Justification for modification' section of this modification request and allows for greater flexibility.
23.06.2016	DPE	Site visit with DPE to Homebush.
21.07.2016; 20.09.2016 & 25.11.2016	Canada Bay Council	<ul style="list-style-type: none"> - Identified specific needs for replacement trees (ie. location, species and size (not limited to 50L pots)); - Expressed desire to see investment in regeneration programs such as the seed-banking regeneration scheme at Queen Elizabeth Park, Concord; - Have identified at least two regeneration projects – street

		<p>tree replacement program and St Lukes Park revegetation program – that they are keen for assistance with.</p> <ul style="list-style-type: none"> - Further discussion about progressing St Lukes was had at the most recent meeting, in addition to investigations about other potential revegetation strategies.
26.07.2016; 21.09.2016 & 30.11.2016	Strathfield Council	<ul style="list-style-type: none"> - Identified specific needs for replacement trees (ie. location, species and size (not limited to 50L pots)); - Further identification of opportunities required, once appropriate staff are briefed about the tree replacement strategy.
02.08.2016; 21.09.2016 23.11.2016 & 09.12.2016	Inner West Council	<ul style="list-style-type: none"> - Internal consultation will be required to progress opportunities but two areas may be the section of the Bay Run adjacent the Project and also the street tree planting strategy. - Given the recent amalgamation, further investigation will need to be done. - Relevant Council officers identified that a working group will be set up to further progress tree replacement strategy. - A number of opportunities have been identified by Council where they see potential to work with WestConnex to use the tree replacement strategy to enhance their own revegetation strategies. These include The Bay Run and street tree replacement/enhancement in Haberfield and Ashfield.

3.3 Proposed modification

Given the above, it is recommended that CoA B47 is amended in accordance with clause **115ZI** of the EP&A Act 1979, which states:

Modification of Minister's approval

(1) In this section:

Minister's approval means an approval to carry out State significant infrastructure under this Part, and includes an approval granted on the determination of a staged infrastructure application.

modification of an approval means changing the terms of the approval, including revoking or varying a condition of the approval or imposing an additional condition on the approval.

(2) The proponent may request the Minister to modify the Minister's approval for State significant infrastructure. The Minister's approval for a modification is not required if the infrastructure as modified will be consistent with the existing approval under this Part.

Note. Section 380AA of the *Mining Act 1992* provides that a request for the modification of approval for State significant infrastructure for the mining of coal can only be made by or with the consent of the holder of an authority under that Act in respect of coal and the land concerned.

(3) The request for the Minister's approval is to be lodged with the Secretary. The Secretary may notify the proponent of environmental assessment requirements with respect to the proposed modification that the proponent must comply with before the matter will be considered by the Minister.

(4) The Minister may modify the approval (with or without conditions) or disapprove of the modification.

In consideration of the consultation undertaken and the likely impacts resulting from the existing wording, it is recommended that CoA 47 be modified to the following:

The SSI must be designed to retain as many trees as possible and provide a net increase in the number of replacement trees. In the event that trees are to be removed, then replacement trees are to be planted within, or in close proximity to, the SSI boundary. The location of the trees must be determined in consultation with the relevant authority¹.

The replacement trees are to have a minimum pot size of 75 litres except where the plantings are proposed in accordance with a relevant authority's revegetation, street planting, landscaping and/or open space programs/plans (including Council-endorsed WestConnex 'Legacy' projects outside the project footprint associated with the M4 East project) that specify alternative pot sizes for trees. In such cases, the Proponent must submit to the Secretary for approval a Report which includes:

- *a copy of the relevant authority's revegetation program/plan;*
- *details on the proposed plantings (including type, size and location);*
- *details on how the relevant plantings meet the requirements of the relevant authority's revegetation program/plan; and*
- *documentation from the relevant authority that it is satisfied with the Proponent's proposed plantings.*

3.4 Impact of modification

The impact of the modification will not be significant in terms of changing the intent or requirements of the condition. The modified condition:

- will not result in the removal of any additional trees;
- remains enforceable, with the onus still on the proponent to provide details of compliance;
- retains the requirement for a minimum pot size of 75L where planting is not part of an endorsed program/plan; and
- provides for an alternative, more flexible way of providing replacement trees outside the SSI boundary that should result in a positive impact more in line with Council's vegetation program/plan.

¹ It is noted that the word 'authority' has been used in place of 'council' as land within the Sydney Olympic Park is in close proximity to the SSI boundary and the condition should not preclude discussions with other relevant authorities, such as Sydney Olympic Park Authority.

PART B: Amendment of 'tree' definition
4. Background

As stated above, RMS is also seeking to modify the definition of 'tree' included in the CoAs in order to provide continuity between the CoAs and relevant management plans, including the CFFMP. In accordance with the definitions of SSI 6307, a 'tree' is 'as defined in the relevant council's Tree Preservation Order'. Given the project is spread across five Local Government Areas (LGAs), this results in significant variation in the definition of what constitutes a 'tree' for the purposes of the project.

4.1 Justification for modification of the definition of 'tree'.

In the definitions of SSI 6307, a 'tree' is 'as defined in the relevant council's Tree Preservation Order' (TPO) (refer Table 1).

Table 2 Definitions of 'tree'

Authority	Definition	Source
Ashfield Council ¹	A long lived, woody perennial plant with a single or relatively few main stems or trunks and a more or less distinctly elevated crown, the main criterion being 'form' rather than 'size'.	Ashfield Council Tree Preservation Policy, October 2013
Auburn Council ² (no clearing)	Indigenous, endemic or exotic species which have a height of 3.5 m or greater; or a canopy spread of 4m or greater; or a trunk diameter of 400 mm or greater measured at 1.5 m from the base of the tree; this includes all mangroves, bushland and heritage trees identified in the Local Environmental Plan (LEP).	Auburn Council Tree Preservation Development Control Plan 2010
Burwood Council (no clearing)	A woody perennial plant equal to or exceeding four (4) meters in height with a trunk diameter equal to or exceeding 150 mm measured at a distance of 1.4 m above ground'.	Burwood Council Development Control Plan 2013
Canada Bay Council	A perennial plant with at least one self-supporting woody or fibrous stem'.	Canada Bay Council Tree Preservation Order Policy 2006
Strathfield Council	A perennial plant (single or multi-stemmed) with a height equal to or exceeding four (4) meters'.	Strathfield Council Tree Management Consolidated Development Control Plan 2005
Australian Standards	Long lived woody perennial plant greater than (or usually greater than) 3 m in height with one or relatively few main stems or trunks (or as defined by the determining authority).	AS4970-2009 Trees (s1.4.6)

Notes:
 1. Recently amalgamated into the Inner West Council, however the provisions of the Tree Preservation Policy currently still apply.
 2. Recently amalgamated into the Cumberland Council, however the provisions of the Tree Preservation Policy currently still apply.

As evidenced in Table 2, the project is spread across five Local Government Areas (LGAs), meaning there is significant variation in the definition of what constitutes a 'tree' for the purposes of the project.

Given the variation and difficulty in ensuring that each individual definition was correctly applied to vegetation across the project, the contractor adopted the conservative Australian Standard AS4970-2009 definition for all impacted trees. This more conservative definition accommodates all the various requirements of the different TPOs and includes non-native species, but excludes any species listed under the *Noxious Weed Act 1993* (NW Act). It was therefore considered the best suited definition to ensure that all 'trees' were identified and recorded consistently across the project and regardless of LGA boundaries. For this reason, the AS4970-2009 definition was included in the CFFMP.

Because of the inconsistency set out above, we have taken the more conservative approach of adopting the AS4970-2009 definition and for that reason, the 'tree' definition should be amended to ensure consistency with CoAs and relevant management plans.

4.2 Consultation

Following post-approval discussions with DPE, it was mutually agreed that a more consistent definition would be appropriate.

4.3 Proposed modification

Therefore, to ensure continuity between the conditions of consent and post-approvals compliance, the 'tree' definition in SSI 6307 be amended as follows:

'Tree' is as defined in Australian Standard AS4970-2009 or the relevant council's Tree Preservation Order.

4.4 Impact of modification

As a result of the utilisation of the Australian Standard, the project has recorded and will consequently replace a higher number of trees than had it recorded tree numbers based on the TPO definition.

5. Conclusion

The revised wording of CoA B47, as developed in liaison with the DPE, is considered appropriate in continuing to maintain the intent of the condition while providing the flexibility required to achieve a more desired, sustainable and effective outcome.

The amendment of the tree definition ensures continuity between the CoAs and post-approvals compliance and is therefore considered necessary.

Should you have any queries in relation to this matter, please contact David Kelly on 0407 239 667 or at david.kelly@westconnex.com.au.

Yours Sincerely,



Philip Knudsen
Project Director WestConnex Delivery Interface Office



1517-01

5 April 2017

Mary Garland
Team Leader Transport Assessments
Department of Planning & Environment
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By post & e- mail to mary.garland@planning.nsw.gov.au

Dear Ms Garland

Modification Request for WestConnex M4 East SSI 6307 (MOD 3)

Thank you for the opportunity to comment on the above. Council understands the proposed modifications to M4 East Condition of Approval (CoA) B47 allow for flexibility in the pot size of replacement trees and allow for a consistent definition of "tree". Though Council opposes WestConnex, it supports the tree replacement program outlined in CoA B47.

As is documented in the application, all relevant staff - including myself, tree management staff from former Ashfield Council and the Department of Planning & Environment's (DPE's) WestConnex Compliance Officer - have been involved in meetings on this matter. At these meetings, Council staff have understood the intent of the modifications and raised no objections. Consistent with these meeting comments, it remains that Council raises no objections to these modifications.

Council agrees with proponent Roads & Maritime Service's (RMS's) conclusion on p.8 of the MOD 3 application that *"the revised wording of CoA B47, as developed in liaison with the DPE, is considered appropriate in continuing to maintain the intent of the conditions while providing the flexibility required to achieve a more desired, sustainable and effective outcome"*. Council also agrees with RMS that *"the amendment of the tree definition ensures continuity between the CoAs and post-approvals compliance and is therefore necessary."*

I trust these comments are of assistance. Should you have any queries, please contact me on 9335 2179.

Yours sincerely



Kendall Banfield
Manager WestConnex Unit

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