

██████████
Director Environment, Sustainability and Planning
On Metro West
Sydney Metro
PO Box K659
HAYMARKET NSW 1240

Attention: ██████████

31/07/2023

Subject: Request for the Planning Secretary's interpretation under Condition A4 – Out of Hours Deliveries

Dear Mr Armstrong

Thank you for your recent request for a Planning Secretary's interpretation under condition A4 of SSI 10038. I note this request relates to the circumstances in which out of hours deliveries can be made to the Westmead Station site.

Thank you also for your comments of the draft interpretation provided on 19 July 2023.

As nominee of the Planning Secretary, I issue the interpretation attached as Attachment 1 under condition A4 of SSI 10038.

In summary, you are permitted to make deliveries to the Westmead station site out of hours if you meet the noise limits in condition D37(b) of the approval. You must also meet the noise limits in the NSW Road Noise Policy unless otherwise approved by the Acoustic Advisor under a Detailed Noise and Vibration Impact Statement.

Please ensure you make this interpretation publicly available on the project website prior to relying on it to permit out of hours deliveries.

If you wish to discuss the matter further, please contact Grant Rokobauer at grant.rokobauer@dpie.nsw.gov.au.

Yours sincerely



Dominic Crinnion

Director
Infrastructure Management

As nominee of the Planning Secretary

Attachment 1

Planning Secretary's Interpretation

Condition A4 of SSI 10038

Date: 31 July 2023

Reference Number: SSI-10038-PA-419

As nominee of the Planning Secretary, I provide the following interpretation of condition D37 of SSI-10038 as it applies to delivery vehicles:

Background

1. Condition D37 provides specific exemptions to the approved construction hours set out in conditions D35 and D36. These exemptions allow certain works to be undertaken outside of approved construction hours.
2. The prescribed activities in condition D37(d) benefit from this exemption. This includes at point (iii) an exemption for:

delivery of material that is required to be delivered outside of standard construction hours in Condition D35 of this schedule to directly support tunnelling activities, except between the hours 10:00 pm and 7:00 am to / from the Five Dock and Westmead construction sites and to / from Burwood North construction site using any roads / streets other than directly from Parramatta Road;

3. Condition D37(b) also exempts the following from having limited construction hours:

(i) construction that causes LAeq(15 minute) noise levels:

- no more than 5 dB(A) above the rating background level at any residence in accordance with the ICNG, and

- no more than the 'Noise affected' NMLs specified in Table 3 of the ICNG at other sensitive land user(s); and

(ii) construction that causes LAFmax(15 minute) noise levels no more than 15 dB(A) above the rating background level at any residence; or

(iii) construction that causes:

- *continuous or impulsive vibration values, measured at the most affected residence are no more than the preferred values for human exposure to vibration, specified in Table 2.2 of Assessing Vibration: a technical guideline (DEC, 2006), or*

- *intermittent vibration values measured at the most affected residence are no more than the preferred values for human exposure to vibration, specified in Table 2.4 of Assessing Vibration: a technical guideline (DEC, 2006).*

4. Condition D37 does not operate in isolation. Notwithstanding its enabling power in relation to conditions D35 and D36, there are a number of other conditions that would apply to these deliveries. Of particular note are:
 - a. the requirement for a Noise and Vibration Construction Management Subplan (conditions C1 – C10)
 - b. requirements to apply all reasonable and feasible mitigation and noise management measures (conditions D39 – D42)
 - c. the requirement for DNVISs (conditions D43 and D44)
5. Sydney Metro (SM) has sought agreement to an interpretation that trucks making deliveries as part of the construction of the Westmead Station are subject to condition D37 if their contribution to road noise does not exceed $2 \text{ dB(A)}_{\text{eq},1\text{hr}}$ in accordance with the NSW Road Noise Policy (RNP). This exemption would extend to trucks otherwise excluded from condition D37(d)(iii) at Five Dock, Westmead and Burwood.
6. SM relies on commentary in the Planning Secretary's assessment report for the project to contend that the intention was to allow deliveries at Westmead on this basis.
7. The RNP is the most applicable standard for the off-site component of truck noise. This requires a lower increase in eq noise levels over a longer period, being $+2\text{dB(A)}_{\text{eq},1\text{hr}}$. This distinction is grounded in science and applying the $+5\text{dB(A)}_{\text{eq},15\text{min}}$ standard to be used in this instance may be a perverse outcome, allowing noise impacts above NSW Government policy.
8. The effect of these conditions is to require compliance with the RNP's $+2\text{dB(A)}_{\text{eq},1\text{hr}}$ standard unless it could be justified through the DNVIS process and subsequently approved in line with the requirements of the SSI approval or EPL.

Interpretation

9. Delivery vehicles servicing the project can rely on condition D37(b) but must also have regard the remaining conditions of the approval. The result of this is:
 - a. If the delivery vehicles exceed the standards in the RNP, that exceedance would need to be justified in the light of the remaining conditions listed at clause 4 of this interpretation.

- b. If the delivery vehicles exceed the standards in condition D37(b) that would prevent reliance on that condition to permit out of hours deliveries.