

### 10.3. Western Harbour Tunnel – Acciona's Request for Extension of Time under CoA E37

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<b>ATTACHMENTS</b>	Nil
<b>CSP LINK</b>	<ol style="list-style-type: none"> <li>1. Our Living Environment             <ol style="list-style-type: none"> <li>1.2 Environmentally sustainable community</li> <li>1.3 Clean and green places</li> </ol> </li> <li>2. Our Built Infrastructure             <ol style="list-style-type: none"> <li>2.1 Infrastructure and assets meet diverse community needs</li> </ol> </li> <li>3. Our Innovative City             <ol style="list-style-type: none"> <li>3.2 North Sydney is smart and innovative</li> </ol> </li> <li>4. Our Social Vitality             <ol style="list-style-type: none"> <li>4.1 North Sydney is connected, inclusive, healthy and safe</li> </ol> </li> <li>5. Our Civic Leadership             <ol style="list-style-type: none"> <li>5.1 Lead North Sydney’s strategic direction</li> <li>5.3 Community is engaged in what Council does</li> </ol> </li> </ol>

#### PURPOSE:

This report advises Council of an approach from Acciona seeking support from Council for a six-month extension for Condition of Approval E37, which relates to the provision of pollution concentration data for the proposed ventilation outlets of the Western Harbour Tunnel.

#### EXECUTIVE SUMMARY:

- Acciona has requested Council support a six-month extension to the timeframes specified within Condition of Approval (CoA) E37 under State Significant Infrastructure (SSI) 8863. This Condition requires the submission of pollution concentration data from the Western Harbour Tunnel ventilation outlets by December 2024 to key stakeholders.
- Acciona contacted Council on 22 November 2024 seeking Council’s support for the extension of E37 to June 2025 due to delays in the design of the proposed ventilation outlets.
- Council is aware of ongoing requests from the community of North Sydney for Transport for NSW (TfNSW) to release this data.

## **RECOMMENDATION:**

**1. THAT** Council note Acciona's request seeking Council's support for a six-month extension of the timeframes specified within Condition of Approval (CoA) E37 under State Significant Infrastructure (SSI) 8863.

**2. THAT** Council formally advise Acciona that it does not support the proposed extension to comply with Condition of Approval (CoA) E37 due to ongoing community concerns in relation to the air quality impacts from the proposed ventilation outlets of the Western Harbour Tunnel.

**3. THAT** Council write to the NSW Minister for Planning and Public Spaces and the NSW Secretary of the Department of Planning, Housing, and Infrastructure, requesting TfNSW release data associated with the pollution concentrations from the proposed ventilation outlets of the Western Harbour Tunnel.

**4. THAT** Council write to the NSW Minister for Planning and Public Spaces and the NSW Secretary of the Department of Planning, Housing and Infrastructure, to convey the ongoing concerns of Council and the local community regarding the governance processes for managing the Conditions of Approval for the WHT; and Transport for NSW's ability to meet its obligations in relation to its other Conditions of Approval for the WHT Project including:

**a. E37 - Future Development Guidance**

Within 18 months of commencement of construction, the Proponent must provide data to councils detailing pollution concentrations at various heights and distances from the ventilation outlets to facilitate the planning of and assessment of new development in areas within a distance of 300 metres around the ventilation outlets which would be within a potential three-dimensional zone of affectation (buffer volume). As part of this process, the Proponent must meet all reasonable costs for any necessary amendments to planning instrument(s) required to implement the guidelines.

**b. E184 - Tree Removal, Replacement Plantings and Rehabilitation**

The CSSI must be designed to retain as many existing trees as possible. Replacement trees and plantings must be provided at a ratio of 2:1 and deliver an increase in tree canopy and aim to enhance the relevant council's position in respect of the Sydney Green Grid, unless otherwise agreed by the Planning Secretary.

**c. E147 Traffic Modelling Road Network Performance**

The proponent must prepare a Road Network Performance Plan in consultation with the relevant council(s). The Plan must incorporate operational traffic modelling results from the operation of major motorways including but not limited to WestConnex M4-M5 Link (SSI 7485) and WestConnex M8 (SSI 6788) projects (including any Road Network Performance Plan or Operational Road Network Performance Review prepared) and include:

(a) consideration of movement and place analysis and local initiatives, such as local area improvement strategies, potential land use changes, and any traffic changes as a result of other major projects in the vicinity of the project area;

(b) an updated analysis, including modelling of traffic impacts to the adjoining road network (including impacts on local roads from rat-running), as a consequence of the CSSI;

- (c) an assessment of the performance of the road network, including:
  - (i) potential “pinch-points” where the merging of tunnel exit traffic and surface traffic would occur at Rozelle or along the Warringah Freeway;
  - (ii) traffic movements and congestion at various intersections in North Sydney, Cammeray and Rozelle/Annandale;
  - (iii) results of the Public Transport Review as required by Condition E153; and
- (d) mitigation measures to manage predicted traffic performance impacts including local area traffic management and bus priority measures as relevant. The Road Network Performance Plan must be submitted to the Planning Secretary and relevant council(s) for information six months prior to the operation of the CSSI. The mitigation measures in the Plan must be implemented by the Proponent before the operation of the CSSI. The Proponent is responsible for the implementation of identified measures under (c) above.  
**Note:** Identified mitigation measures may need to be further assessed under the Environmental Planning and Assessment Act, 1979. Work will need to meet relevant design standards and be subject to independent road safety audits.

**d. E157 General Design Outcomes**

The CCSI must result in a net increase in usable open space. Replacement space must be in the general vicinity of the loss, unless agreed to by the Planning Secretary.

## Background

Transport for NSW (TfNSW), through its contractor Acciona, is proposing the construction of ventilation outlets to be located at Ernest Street, between Merlin Street and Anzac Avenue, Cammeray, as part of the Western Harbour Tunnel (WHT) project. The construction of the project commenced in 2022, with tunnelling works and related infrastructure being progressively implemented.

The Conditions of Approval for the WHT include Condition of Approval (CoA)E37, which state:

*Within 18 months of the commencement of construction, the Proponent must provide data to councils detailing pollution concentrations at various heights and distances from the ventilation outlets to facilitate the planning of and assessment of new development in areas within a distance of 300 metres around the ventilation outlets, which would be within a potential three-dimensional zone of affectation (buffer volume). As part of this process, the Proponent must meet all reasonable costs for any necessary amendments to planning instrument(s) required to implement the guidelines.*

Under CoA E37, the Proponent (Acciona) is required to notify Council of pollution concentration data to facilitate the planning of and assessment of new development in areas within 300 metres around the ventilation outlets within 18 months of the commencement of construction.

To secure a six-month extension, Acciona must submit a formal application to the NSW Department of Planning, Housing and Infrastructure (DPHI). As part of this process Acciona is required to consult with key stakeholders such as Council.

## Report

On 22 November 2024 Council received a request from Acciona to support a six-month extension of the notification period specified within CoA E37 until to June 2025 to allow additional time for data collection to meet the approval requirements.

Pollution from the ventilation outlets was a key issue raised by the community during the Environmental Impact Statement (EIS) exhibition for the Western Harbour Tunnel (WHT) project in March 2020.

Council's submission to the WHT Place, Design, and Landscape Plan (PDLP) again made representations on behalf of the community in relation to the ventilation outlets and noted the following:

- 1. TfNSW construct the Cammeray ventilation outlets for the WHT project below ground to be covered and converted into usable open space as proposed by the North Sydney Community, which will enable TfNSW to meet its Development Consent obligations and provide critically needed areas of recreation space to the North Sydney LGA.*
- 2. Investigate other technologies to reduce or eliminate the requirement for the Cammeray ventilation outlets for the WHT project.*

*3. TfNSW reduce the bulk and scale and more appropriate and sympathetic finishes for the Cammeray Ventilation Outlet in consultation with North Sydney Council.*

Council has not received a response from TfNSW nor a response to its submission to the PDLP.

Council and the community have continued to raise concerns in relation to the levels of pollution that will be emitted from the ventilation outlets and the impacts this will have for the health and amenity of North Sydney and its community.

More broadly, Council is concerned with the lack of governance from the State Government in relation to the enforcement of the Conditions of Approval for the WHT project and whether other timelines for the provision of information to the community will not be met or extended without appropriate consultation with the community.

**Consultation requirements**

Community engagement is not required should the Council adopt the recommendations of this report.

**Financial/Resource Implications**

There are no financial implications should the Council endorse the recommendations within this report.

**Legislation**

- NSW Environmental Planning and Assessment Act (1979)