

Environment Protection Authority

Consultation Report – Summary of stakeholder comments

Draft Model Transport Infrastructure Licence
March 2022



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The NSW Environment Protection Authority (EPA) has developed a model transport infrastructure licence in response to industry seeking greater clarity and transparency about the EPA's expectations in the regulation of potential environmental and community impacts from the construction of major transport infrastructure projects.

The licence can be applied to major construction projects for roads (including motorways and tunnels), rail and other significant transport infrastructure projects.

The licence has been developed to assist primarily urban transport construction project owners and contractors in major metropolitan areas in NSW. However, it can be applied to major regional transport construction projects as well, with adaptations made to conditions that may differ between urban and regional sites.

Summary

A model transport infrastructure construction Environment Protection Licence (model licence) provides greater clarity and certainty about the EPA's requirements for the environmental performance of transport construction projects and may assist contractors in costing and tendering for upcoming projects.

It will also provide a consistent, enforceable tool for regulating the environmental impacts of transport infrastructure projects in the 'regulated area' as defined in clause 50, Schedule 1 of the *Protection of the Environment Operations Act 1997* (POEO Act).

The model licence reduces resources required from licence applicants and the EPA to develop and negotiate licences for each new project.

The EPA consulted on the draft model licence with stakeholders for six weeks between 15 July and 30 August 2021 and comments were invited from government transport agencies, major transport infrastructure construction contractors, consultants and sub-contractors.

We heard from 14 stakeholders including 10 major transport companies and the two key government agencies: the Department of Planning and Environment and Transport for NSW.

How consultation was undertaken

The EPA sought comments and feedback on the draft model licence from key industry and government stakeholder groups through:

- an industry stakeholder forum held in July 2021 where the EPA first presented the draft model licence and received early feedback from stakeholders
- the EPA's 'have your say' engagement portal launched in July 2021 that invited stakeholders to a model licence information session and to comment on the model licence
- giving stakeholders an option to complete a feedback questionnaire regarding specific components of the draft model licence or by responding via email to the info@epa.nsw.gov.au mailbox with general comments. Stakeholders were offered an EPA contact name and phone number to refer to with any questions or enquiries.
- asking for written submissions, which were submitted by 30 August 2021. A summary of the submissions is provided in Table 1.
- several information sessions organised by the EPA for industry stakeholders and government agencies involved in transport infrastructure construction in July 2021. These offered an opportunity to ask further questions about the model licence and the consultation process.
- the EPA's trial of model licence conditions in developing some infrastructure licences between 2019 and 2021. The feedback from licence applicants and licensees during the development of these licence conditions informed the development and refinement of the draft model licence conditions.

The objectives of the consultation process were to:

- actively target key industry and government stakeholders to encourage feedback
- be informed by listening carefully to stakeholder feedback about a model licence
- be transparent by publishing a record of feedback received and the EPA's response to written and verbal feedback.

The stakeholder consultation process, outlined above, targeted these key stakeholder groups:

- construction companies involved in major transport infrastructure projects

- government stakeholder groups including Transport for NSW (TfNSW) and the Department of Planning and Environment (DPE – Planning)
- Australian Rail and Track Corporation
- environmental and other consultants involved in the industry
- the Australian Construction Association.

Feedback and findings

The key points expressed by stakeholders in the submissions were:

- a need for further EPA guidance and clarity about Discharge Impact Assessments for proposed treated water discharges from construction sites
- more certainty during early licensing stages of projects relating to the 'Additional Out of Hours Works Conditions'
- a need for further guidance about community agreements regarding noise impacts
- potential overlaps and/or inconsistencies between EPA licences with conditions in Planning Approvals
- enforceability and/or licensees' ability to comply with certain conditions, including air quality, respite coordination, community agreements, noise and complaints reporting.

Key comments and feedback and the EPA's response are summarised in **Table 1**.

Note: Some comments were received in relation to mandatory conditions that appear across every licence in NSW. A review of mandatory conditions was outside the scope of this project, and as such those comments have not been considered as part of this consultation.

Recommendations

After consideration of the submissions, the following changes were made before finalisation of the Model Licence:

1. minor amendments to conditions to improve clarity, enforceability and/or transparency where appropriate
2. changes to Community Agreement conditions to ensure the process for undertaking and submitting a Community Agreement to the EPA is clear
3. amendments to Construction Waste Management conditions to ensure the process is clear and allows additional flexibility for project stages, record keeping and compliance checks
4. streamlining the requirements for 'Works outside of standard construction hours' in Appendix A
5. rationalising the requirements for licensed discharge and monitoring point map(s) and schedule(s)
6. rationalising the conditions relating to sediment basins and moving these to Appendix A
7. removing conditions L4.2 and L4.4 for blasting from Appendix A
8. providing additional guidance notes in a new document titled 'Appendix B – Additional guidance notes'. These notes refer to requirements for water discharge impact assessment, community agreements, and noise monitoring undertaken by a competent person. The EPA is currently exploring developing guidance material on how to conduct a water pollution discharge

impact assessment consistent with s45 POEO Act requirements. It is noted that discharge limits are derived on a case and site-specific basis

9. conditions L5.6 (concurrent construction works) and M8.2 (other monitoring and recording) have been moved to Appendix A
10. all guidelines and standards referenced in the model have been checked and updated where necessary.

Implementation

Please check the EPA website for when the Model Licence and associated Appendices will be applied.

The EPA considers the Model Licence conditions as the 'base case' for the licensing of infrastructure construction projects in the 'regulated area'. As required under the *Environment Planning and Assessment Act 1979*, the licence when first issued must be "substantially consistent" with the relevant Conditions of Approval. Model Licence conditions may need to be amended to ensure this consistency.

While being guided by the model licence, the EPA will also consider site-specific issues, such as the nature of the development or impacts to local communities and sensitive environments, when drafting a licence. The EPA will also consider applications for additional conditions that do not appear in the model licence or Appendix A (such as additional works permitted outside standard construction hours). Applicants must provide sufficient evidence, justification and supporting documentation to the EPA for the inclusion of additional conditions.

Existing licensees may apply for the alignment of their licence or specific licence conditions via a licence variation application lodged through the EPA licensing portal.

Review of the model licence

The EPA is committed to reviewing the model licence and associated documents one year after its implementation (expected to be early 2023).

As part of the review process, the EPA will invite feedback from stakeholders. The EPA will use experience from working with industry and government stakeholders on new and existing infrastructure licences throughout 2022 to inform the licence review.

Future review periods will be determined and published on completion of the one-year review.

Table 1 – Summary of submissions and EPA responses

Section no. in draft Model Licence	Section in draft Model Licence	Comment	EPA response
A2.2	Premises map(s)	Request for inclusion of version control.	This condition, along with A2.3, allows a streamlined approach to updating premise maps. Version control within the condition would require a licence variation for any changes and unnecessary administrative burden.
A2.3	Premise map(s) changes	Request for condition to reference relevant/lawful planning instrument.	Condition now includes '(e) be lawful and permitted under the relevant approval'.
A2.3	Premise map(s) changes	Request for maps to be submitted 5 business days prior to changes, as opposed to 10 in the proposed condition.	The EPA requires sufficient time to process the proposed map changes, and, where necessary, undertake site inspections (e.g. land portion surrenders).
A2.3	Premise map change(s)	Suggest minor changes to (f), so the condition applies to 'additional impacts' in relation to the changes	Condition updated.
A2.4	Premise map(s) on website	Request for condition to be amended from 3 business days to 7 business days to allow sufficient time for administrative processes.	Condition has been amended to require premise maps to be uploaded within 5 business days. The EPA considers this an appropriate timeframe to ensure up-to-date maps are publicly available.
P1.2	Monitoring and Discharge Point Map(s)	Unclear if the monitoring and discharge points are to be shown on the premises map(s) required by condition A2.3, or separate maps.	Condition updated. Monitoring and discharge points to be shown on the premises map(s) required under A2.3

Section no. in draft Model Licence	Section in draft Model Licence	Comment	EPA response
P1.2 and P1.3	Monitoring and Discharge Points	Consider rationalising conditions to reduce administrative burden. Consider whether a requirement for monitoring and discharge points is more appropriate than a requirement for 'all sediment basins'. Some information requested by this condition has been provided to EPA during licence application or is required by other conditions of the licence.	Condition updated to rationalise the requirements, and to only require the licenced monitoring and discharge points to be provided in the map(s) and schedule.
L2.4	Discharge limits	Further clarity sought in relation to setting of discharge limits and requirements for water discharge impact assessment.	EPA is currently exploring development of guidance material on how to conduct a water pollution impact assessment consistent with s45 POEO Act requirements. It is noted that discharge limits are derived on a case and site-specific basis.
L2.5	Sediment basin discharges	The condition does not facilitate/consider use of flow through high efficiency basins, or use of intercept points, sumps and excavations for managing water during rainfall events.	The condition has been moved from the Model Licence into Appendix A – optional conditions. Condition is to be included on licences with sediment basins, however, may be altered to permit project specific solutions, particularly on land constrained sites.
L2.6	NTU/TSS correlation	Request for approval of methodology to be removed from condition.	Condition updated. The EPA will review and provide comments when it considers the requirements of the condition have not been met. Condition moved to Appendix A – the condition does not apply to all licences, as it may have already been addressed through the water discharge impact assessment.
L3.1	Noise limits	(a) is redundant, consider removing, it is covered by (b) and (c).	The EPA acknowledges there is some nuance between these requirements. (a) relates to considering the guidance material as a whole, whereas (b) and (c) related to implementing all feasible and reasonable mitigation measures.
L5.1	Standard Construction Hours	Propose extending standard construction hours on Saturdays to 6pm.	The EPA considers there are no compelling arguments for this change. This suggestion would be more appropriately considered under the ICNG review process. Note, where a project conditions of approval permit extended operating hours, the EPA will align the conditions in the licence to be substantially consistent.

Section no. in draft Model Licence	Section in draft Model Licence	Comment	EPA response
L5.2	High Noise Impact Works	Consideration should be given to ensure high noise impact works are coordinated with neighboring projects.	The EPA may consider including project specific conditions where this issue is identified for projects hold licences, noting this is difficult to regulate for projects not licenced by the EPA.
L5.2	High Noise Impact Works	Unclear if condition applies to community agreements.	The condition states “unless permitted by another condition of the licence”. The condition applies to community agreements, unless that agreement stipulates that this condition does not apply, as agreed by the community and approved by EPA.
L5.2	High Noise Impact Works	The assessment of high impact noise should be linked to the ‘at receiver’ impact or level.	Condition updated.
L5.3	Low Noise Impact Works	The conditions imply noise must be ‘measured’ at noise sensitive receivers, however it is often based on modelling. Suggest using ‘assessed’.	Condition updated.
L5.3	Low Noise Impact Works	For transparency and community understanding, consideration should be given to requiring licensees to publish contour figures showing rating background levels and vibration levels on its website.	The EPA considers these works are low impact, and the suggestion would make the requirements overly onerous for the risk level.
L5.3	Low Noise Impact Works	Condition L5.3 (b) refers to “LA1(1minute) or LAm _{ax} ” – this could lead to confusion and should be LAm _{ax} in accordance with NPfI, i.e. background plus 15dB or 52dB, whichever is the greater.	Condition updated.
L5.3	Low Noise Impact Works	The requirement to notify low impact works in accordance with Condition L5.5 is overly onerous, suggest deleting.	Condition updated.

Section no. in draft Model Licence	Section in draft Model Licence	Comment	EPA response
L5.4	Exemptions To standard hours	As per condition O9.8 in EPL 3142, suggest retaining 'to provide safe and reliable services or a safe working environment' as an exemption to standard construction hours.	Noting the provisions of (a)i. to avoid loss of life, property or material harm, L5.7(a) provides provisions for safety.
L5.4	Exemptions to standard hours	Suggest the provisions of L5.7 are included in this condition (e.g. road occupancy licences), or as a standard condition.	The EPA has streamlined the process to apply for additional out-of-hours conditions. Refer to Appendix A.
L5.4	Exemptions to standard hours	Suggest including standard condition allowing essential works outside of standard hours, up to 3 consecutive per week, including weekends.	The EPA does consider reasonable justification has been provided for this change to standard conditions. A licensee may apply for conditions to allow works outside of those included in the model (and Appendix A). The EPA has streamlined the process for applying for additional out-of-hours conditions. Refer to Appendix A.
L5.4	Exemptions to standard hours	Suggest amending L5.4, R4.1 and R4.2 reporting requirements to 4pm to allow sufficient time to prepare report/s and for consistency.	Condition updated.
L5.5	Community Notification	As written, this requirement would apply to condition L5.4, which is reactive OOHW and planned notification may not be possible. The need for notification for OOHW undertaken in accordance with L5.4 needs to be excluded.	Condition updated.
L5.5	Community Notification	Suggest allowing flexibility in notification timeframes and notification method.	Condition updated.
L5.5	Community Notification	Suggest consideration of linguistically diverse communities.	Condition updated.
L5.5	Community Notification	Suggest date/time of works detailed with notification.	Condition updated.

Section no. in draft Model Licence	Section in draft Model Licence	Comment	EPA response
L5.6	Coordination of Respite with Neighbouring Projects	The condition was suggested impractical; several stakeholders have advocated to remove or amend so the condition should only apply to neighbouring projects that are licensed and include the same condition.	SSI projects generally have a similar condition in their conditions of approval. The condition has been moved to Appendix A and may be applied by the EPA where the conditions of approval are silent on this requirement, or where a project is approved under an REF. Minor changes made to condition to address practicality.
O3.1 and O3.2	Air Pollution Mitigation	Preventing the generation of dust or other air emissions from worksites is nearly impossible. Suggest that 'prevent' is replaced with 'minimise'.	Condition updated in line with requirements S124–128 of the Protection of the Environment Operations (POEO) Act 1997.
O3.1 and O3.2	Air Pollution Mitigation	Suggestion to combine O3.1, O3.2 and O3.3 to streamline conditions.	The EPA considers the conditions have different requirements and has decided to leave as separate conditions.
O3.4	Air Pollution Mitigation	This condition needs to be amended so that it is only a requirement for those trucks carrying a product or material that may generate dust when transported.	Condition updated.
O4.2	Erosion and Sediment Control	Suggest O4.2 allows consideration of other industry best practice documents. As is currently written, note could be interpreted to require that both Blue Book and the other industry best practice guidance must be complied with. Suggest amending wording as follows: "...may consider USING ALTERNATIVE guidance from other industry...".	Condition updated to provide clarity.
O4.3 O4.4 and O4.5	Erosion and Sediment Control	Comments suggest conditions are contradictory, overly prescriptive or lacking clarity.	The EPA has reviewed the erosion and sediment control conditions in the model licence and rationalised these, where possible. Conditions O4.3, O4.4 and O4.5 removed from model licence.

Section no. in draft Model Licence	Section in draft Model Licence	Comment	EPA response
O4.6	Sediment Basin Requirements	This condition would not preclude the use of Type A or B HES basins. Refer to comment on Condition L2.5.	The EPA has reviewed the erosion and sediment control conditions in the model licence and rationalised these, where possible. Not all premises will have sediment basins due to site specific constraints. This condition (along with O4.7) has been moved to Appendix A and will be included if applied for and appropriate.
O4.6	Sediment Basin Requirements	Sub clause (b) requires records to be kept of available water and sediment storage of sediment basins. This clause does not acknowledge that these storages change over time during normal usage and that this condition introduces uncertainty in the compliance.	The EPA does not consider it necessary to be overly prescriptive with this condition. A licensee should determine its own scheduling/frequency for measuring and recording water and sediment storage capacities. Should the EPA be concerned the frequency and/or record keeping is not appropriate, the EPA will bring this to the attention of the licensee.
O4.8	Mud Tracking onto Roads	Agree with intent of condition, however, suggest consolidating condition for easier interpretation and implementation.	The EPA has revised the condition to be less prescriptive and outcomes-focused.
O5.1	Construction Waste Management Plan	Suggest that since the EPA's position is generally not to approve Environmental Management Plans as set out in draft Condition A3.2, stakeholders inquire as to why this condition is necessary?	Section 75 of POEO Act permits the EPA to include as a condition of a licence that the licensee prepare and comply with a waste management plan. Further rationale provided in comment below.
O5.1	Construction Waste Management Plan	CWMPs are typically a requirement of condition of approval on SSI/CSSI projects and should not be included in model licence, or alternatively the EPA must ensure they are consistent and do not require duplicate processes or overlap resulting in over-complication.	The EPA considers waste management plans (CEMP – subplans) required by Conditions of Approval are, at times, lacking in sufficient detail to demonstrate waste being classified, transported, tracked, and disposed as required by the POEO Act and relevant guidelines. The EPA will ensure consistency and minimise duplication before issuing a licence. A note has been added to the condition to provide flexibility and clarify that the requirements of the condition may be addressed via another plan or document.
O5.1	Construction Waste Management Plan	Seek to clarify if the requirement to provide details of proposed sampling and testing methods relate to waste classification or material reuse.	The condition relates to characterising and classifying waste to be generated on the premises for waste management and transport purposes. Condition updated for clarity.

Section no. in draft Model Licence	Section in draft Model Licence	Comment	EPA response
O5.1	Construction Waste Management Plan	Raised that licensees are not always able to determine the exact destination of all possible waste streams before construction starts, because these often develop over the course of the project.	The EPA acknowledges this limitation. The condition requires 'details of how and where the waste is <u>anticipated</u> to be reused, recycled, stored or disposed of'. Condition O5.2 requires the licensee to record the actual destination for waste.
O5.1	Construction Waste Management Plan	Suggest the condition be amended to provide for staged implementation of the CWMP which would align with the DPE standard conditions for linear infrastructure.	Condition updated.
O5.1	Construction Waste Management Plan	Seek to clarify whether the EPA envisaged that it will review and provide comments on prepared CWMPs.	The EPA may provide feedback to the applicant, particularly where it considers the requirements of the waste conditions have not been satisfied.
O5.1	Construction Waste Management Plan	The condition does not recognise that spoil reused on site does not technically constitute 'waste', and therefore introduces some uncertainty about what should be captured by the waste management plan.	A licensee must consider whether any material reused on site is suitable for reuse, which may include classification where appropriate.
O5.2	Construction Waste Management Plan	The requirements for contractors to obtain written confirmation from each place of disposal should be amended to at least exclude premises which hold an environment protection licence, as the subject licensee and the EPA are responsible for the regulation of these premises, which contractors do not control.	Condition updated to require 'documented evidence (such as a licence)' rather than 'written confirmation'.
O5.3	Construction Waste Management Plan	The requirements of Condition O5.3 relate to records and therefore could be incorporated to Condition O5.2 which also considers records.	Conditions O5.2 and O5.3 updated.

Section no. in draft Model Licence	Section in draft Model Licence	Comment	EPA response
O5.3	Construction Waste Management Plan	Suggest (a) and (b) pose unwarranted administrative burden and do not improve management outcomes.	The EPA considers this requirement reasonable to allow EPA to monitor proposed and actual waste movements. The EPA considers this information should be readily available to a licensee.
O5.4	Construction Waste Management Plan	Suggest the requirements for compliance checks are overly burdensome to the licensee and considered additional/unwarranted 'green tape'. The monthly frequency is not supported, nor is the requirement for site inspections, particularly for EPA-licensed waste facilities.	The EPA considers the licensee, as the generator of the waste, is responsible for ensuring and demonstrating waste is lawfully transported and disposed of. The EPA has amended condition O5.1 so a licensee must detail appropriate methods and frequency of compliance checks. The condition is an 'and/or' condition, where a licensee may undertake site inspections or a combination of other methods from the list. The condition has been amended so site inspections relate to non-licensed premises.
M2.3	'Special Frequency 1' Discharges	Suggest refer to comment at L2.5.	This condition has been moved from the Model Licence into Appendix A. This condition is to be included on licences with sediment basins, however, it may be altered to permit project-specific solutions, particularly on constrained sites.
M4.1	Suitably Qualified and Experienced	Seek further clarification on what the EPA specifically regards as "demonstrating competence through professional experience and/or technical expertise".	Minor updates to condition, now requiring monitoring by a 'competent person'. Minor change to special dictionary: ' <u>Be able to demonstrate competence through professional experience and/or technical expertise to the satisfaction of the EPA</u> '. See Appendix B for further guidance as to how a licensee is to demonstrate competence.
M4.1	Suitably Qualified and Experienced	Suggest that this condition should include vibration monitoring.	Condition updated.
M4.2	Noise Monitoring Requirements	Suggest Australian Standard has been superseded and to add AS1055.	Condition updated.
M4.3	Vibration Monitoring Requirements	Condition M4.3 – the word "acceptable" is not consistent with the terminology in Tables 2.2 and 2.4 of the vibration guideline. Suggest changing this to "preferred" or "maximum" or both – whichever is typical.	The vibration guideline recommended "preferred" and recommended "maximum" vibration values. Condition updated to require reporting against both preferred and maximum values.

Section no. in draft Model Licence	Section in draft Model Licence	Comment	EPA response
M4.4	Noise and Vibration Monitoring Requirements	A licensee may be unable to obtain permission through nil response from a resident(s). Suggest amending the last sentence to address this potential scenario.	Condition updated.
M4.4	Noise and Vibration Monitoring Requirements	Scope and circumstances under which the proponent can be directed to undertake noise or vibration monitoring is not defined. Request additional detail to specify when monitoring may be requested.	The EPA does not intend to be overly prescriptive of the circumstances when an authorised officer may request monitoring. The model condition allows for flexibility to accommodate project specific conditions. The EPA does not generally request further monitoring unless there are significant community impacts, concerns or compliance issues. The EPA is not aware of any circumstances where a licensee has considered a request for monitoring unreasonable.
M4.4	Noise and Vibration Monitoring Requirements	This condition requires the licensee to request permission to access private land to undertake monitoring “in advance”. It is suggested that a minimum time period is specified.	The EPA acknowledges the limitation of gaining permission for access in a reasonable timeframe. The EPA does not intend to be overly prescriptive; where a landowner declines a request for access, the EPA will consider this when reviewing any resulting reports or when, as a consequence, the licensee is unable to provide a report.
M4.4	Noise and Vibration Monitoring Requirements	Suggest that if monitoring is to be conducted on private land, then it is for the regulator (the EPA) to secure the approval to access the property rather than to put our staff in potential danger trying to obtain this approval.	The EPA considers community consultation a standard practice of licenced activities. While the EPA at times may facilitate permission (for example via a complaint to the EPA), the licensee is best placed to request access for their own staff or contractors. Where a licensee suspects a community member is dangerous, (or any other activity for that matter), it is the licensee’s responsibility to ensure the safety of its staff. The EPA would not require a licensee to undertake monitoring where a licensee has flagged safety concerns for their staff.
M5.1	Weather Monitoring	Since weather monitoring that is “representative of each catchment area” is ambiguous, suggest to consider changing to “representative of the premises”. Noted the requirement to cease monitoring when the premises is stabilised and soil disturbing activities have ceased is a positive inclusion.	Condition updated.

Section no. in draft Model Licence	Section in draft Model Licence	Comment	EPA response
M5.1	Weather Monitoring	As it is not common to provide “humidity” monitoring for a construction site, suggest removing.	Condition updated.
M6.1	Complaint Recording	Licensees have an obligation under the Privacy and Personal Information Protection Act to seek authorisation from complainants for their information to be passed on to other government agencies (i.e. the EPA). For consistency and to ensure this obligation is acknowledged and addressed by licensees, suggest to consider minor amendments to Condition M6.2 to outline the duty of the licensee to seek the authorisation of the complainant to pass on their personal details and make them aware of their rights under the privacy act.	See new condition A3.3 which relates to seeking consent from community members before recording or disclosing any personal information.
M7.1	Telephone Complaints Line	Complaints line for major transport infrastructure is often operated by the government proponent, not the licensee, as stipulated in contracts; suggest the condition wording needs to note this.	See new condition M7.5.
M7.1	Telephone Complaints Line	The condition should require that the line is staffed during all hours of operation (callers should not be transferred to an automated message system).	See comment from industry above, i.e. complaint lines are often operated by government proponent. See new condition M7.5.
M7.5	Community Notification Activities	Request details on the information that should be included in (c) public notices in local newspapers.	Condition updated to clarify information required.
M7.5	Community Notification Activities	Suggest for item (a) that ‘should’ is replaced with ‘must’ as the condition requires all of the listed activities must be undertaken.	Condition updated.

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M7.5	Community Notification Activities	Having staff available to respond to complaints (e) is not a notification activity. Suggest this would be better linked to M7.1.	Condition updated.
M7.5	Community Notification Activities	Further clarification is requested: how does this information relate to the telephone complaints line (heading of this section)?	The condition sets out the requirements for community notification activities relating to the telephone complaints line, how this information should be shared with the public, and what information should be included.
M7.5	Community Notification Activities	The project website is managed by the project proponent, such as the relevant government agency, not the contractors. Suggest this clause misunderstands the relationship of the Contractor to the project website.	Condition updated.
M7.5	Community Notification Activities	Not all projects are permitted to have their own social media platform. Suggest removing (b).	Condition updated.
M8.1	Incident Monitoring and Recording	The condition is overly onerous, evidence should be collected by the regulator. Incidents will be investigated and reported in accordance with Condition R2.1 and R2.2. Suggest deleting.	The condition has been removed from the model and added to Appendix A. The EPA may include this condition on a licence when ongoing compliance issues or underperformance is occurring.
R4.1	Daily Complaints Reporting	The complexity and risk of community impacts, as well as community sentiment, vary from project to project. Recommend Condition R4.1 is incorporated as an "Additional Condition" and EPA consider its inclusion in licences on a risk basis with due consideration to the context of the project.	It is the EPA's experience that regular complaints, particularly those relating to noise, are common to most (if not all) metro infrastructure projects. Complaint reporting is a valuable tool for the EPA for gauging community sentiment and impacts from infrastructure projects, as well as in identifying key issues and 'hot spots', particularly for works outside standard construction hours. It also assists in responding to complaints received directly by the EPA.

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R4.1	Daily Complaints Reporting	Clarity requested around what constitutes the 'reporting period'. Suggestion for submission time to be changed to 4pm to allow sufficient time for the licensee to prepare report and align with other reporting conditions.	Condition updated.
R4.1	Daily Complaints Reporting	Request for the 'format' of the report to be included in the condition.	The condition requires '(b) the report must be: i. provided in a format approved in writing by the EPA'. While the EPA generally uses a generic format, there may be project-specific circumstances for changes to the format.
R4.2	Preliminary Investigation Report	Provision of a Preliminary Investigation Report by 4:30pm may be impractical where multiple locations or construction scenarios are investigated. Request to make condition more flexible.	Condition updated to include 'or other time as agreed in writing by EPA' to allow flexibility where timeframe is unreasonable.
R4.2	Preliminary Investigation Report	Noise assessments do not include LAF90,T and LAFmax,T. Suggest these are pointless parameters that have no levels to be measured against.	The EPA considers LAF90,T and LAFmax,T are useful parameters in describing the noise environment and should be retained.
R4.3	Exceedance of Best Achievable Noise Performance Objectives	Question item (a) as per what happens if best achievable noise performance objectives can't be reasonably met. Suggest changing word 'prevent' to 'minimise' because the licensee would not be able to comply with item (a) in its current form if it's not reasonable or feasible to implement remedial action in accordance with item (c)viii.	Changes made to condition to R4.3. The EPA considers concerns addressed.

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R4.3	Exceedance of Best Achievable Noise Performance Objectives	Where there is a justification to exceed the best achievable noise performance objectives in accordance with item (c)viii, the requirement for reporting under item (b) could be repeatedly triggered. Suggest that item (b) is amended to "Upon the request of an EPA officer, submit a Follow-Up Investigation..."	Changes made to condition to R4.3. The EPA considers concerns addressed.
R4.3	Exceedance of Best Achievable Noise Performance Objectives	Exceeding 'best achievable noise performance objectives' sometimes occurs. In setting these objectives, all feasible and reasonable measures would have been adopted (i.e. before setting the noise target levels). Thus suggest that it is difficult to follow the logic of this condition, where it states "modify activities and implement all reasonable and feasible measures to prevent recurrence..."	Changes made to condition to R4.3. The EPA considers concerns addressed.
R4.3	Exceedance of Best Achievable Noise Performance Objectives	Suggest that sometimes modification of activities is not possible due to timing and/or safety concerns. For example, the need to comply with a Road Occupancy Licence. Also note that item (c)viii permits provision of justification if no remedial action is implemented.	Changes made to condition to R4.3. The EPA considers concerns addressed.
G3.1	Environmental Inductions	Request further clarity on whom the condition applies too, i.e. in its current form it would be every worker who enters the site (e.g. delivery driver).	Condition updated.

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G3.1	Environmental Inductions	Note that the only mandatory requirements specified for induction relate to noise and vibration. Suggest that other matters regulated by the licence be specified, for example, receivers likely to be affected by dust and odour, requirements for managing stormwater and wastewater discharges and identification of receiving waterways, requirements for waste management and chemical storage and handling.	The EPA considers that communities in the Metro area are particularly impacted by noise and vibration from infrastructure projects and the majority of roles and activities on a project have the potential to directly or indirectly cause noise or vibration impacts. The EPA may consider project-specific conditions where appropriate.
E1.1	Community Agreements	Request further clarity about what constitutes 'substantial majority' of sensitive receivers.	Condition updated for further clarity and guidance notes added to Appendix B.
E1.1	Community Agreements	Draft Model Licence only allows out of hours work via community agreement and is not supported. For urban projects, with stringent programs and associated liquidated damages, this approach does not acknowledge the essential nature of out of hours works and asks surrounding communities to agree to impacts they have yet to experience.	The model licence provides the 'base case' conditions to be included on a licence. The EPA notes that licensees can apply for conditions which allow works outside of standard construction hours in certain circumstances (see Appendix A conditions). Community agreements allow a licensee to seek consent from the community to undertake works outside of the hours and circumstances permitted by the licence.
E1.1	Community Agreements	Note that community agreement processes are prescriptive and also open to interpretation and require that agreements are renewed every 21 days. Note they are highly problematic and should only apply to works that can be undertaken during standard hours, but are proposed to be undertaken more continuously to achieve programs to provide community infrastructure.	The Community Agreement conditions have been updated to improve clarity. Further guidance notes have been added at Appendix B. '21 days' has been amended to '28 days' for community agreements requiring re-engagement. The re-engagement period for longer agreements (i.e. over 28 days) means that the community must be consulted about how often it wishes to be consulted. The EPA considers it important for longer-term agreements that community consent should be maintained and continuing.

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E1.1	Community Agreements	Request that definition for the noise sensitive receiver in the case of community agreements be defined as receivers that do not exceed the low impact criteria set out in L5.3	'Noise sensitive receiver' has its own definition pursuant to the Interim Construction Noise Guideline 2009. Community Affected Catchment has been added to the special dictionary to provide clarity in relation to which receivers must be engaged for a community agreement.
E1.2	Community Agreements	15 business days is a long lead time for submitting a community agreement to the EPA. Shorter lead time (e.g. 5 days) suggested.	The EPA requires reasonable lead times to review community agreements, as does the licensee for notification activities. Notwithstanding this, the EPA considers there are times where a community agreement may only apply to a smaller number of receivers and an agreement may be able to be processed in shorter timeframes. The EPA will consider quicker turnaround times on a case by case basis. Condition updated to include 'unless prior arrangements have been made with the EPA'.
E1.2	Community Agreements	Part (c) requires publishing of agreements on the web for the EPA's access – this presents a default administrative burden and duplicates the requirements of E1.3 item d). Suggest stakeholders are not aware of any issues that the EPA has had with obtaining agreements on request from licensees and recommends this item in the condition is removed.	The conditions have been updated for clarity and to avoid duplication. The EPA considers it reasonable for community agreements to be made available on the project website for transparency and community access.
E1.2	Community Agreements	Request to confirm the meaning of 'in writing' as it relates to documents to be provided to the EPA or be kept on the premises may be kept as a soft copy. This comment applies to this condition and other licence condition.	Term 'in writing' added to Special Dictionary, meaning 'documents are to be submitted electronically unless otherwise requested by the EPA. Documents required to be kept on the premises may be soft copy or hard copy.'
E1.2	Community Agreements	Include consideration of linguistically diverse communities.	Condition updated.
E1.8	Community Agreements	Suggest item (d) requires the validation monitoring to be 'representative of the impacts'.	Condition updated to include 'are likely to impact noise sensitive receivers'.

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E1.8	Community Agreements	Suggest it would be more appropriate for the monitoring to include nights when the highest noise impacts are predicted. As written, the condition could require that monitoring is undertaken on the first two nights, and then every other night of OOHW if these nights are louder than the first two.	Condition updated.
E1.8	Community Agreements	Request to clarify this clause because it seems to only apply to Community Agreement for 'night' works.	Condition updated.
	Community Agreements	Suggest that requiring noise monitoring on the first 2 nights is excessive and not justified. Suggest the wording be revised to "within the first 2 nights" to avoid the need for monitoring of low noise activities.	Condition updated to require monitoring on the first two occasions where receivers are likely to be impacted.
E1.10	Community Agreements	Suggest that the 21-day consultation period for longer agreements be more flexible to allow the local community to have their say, and not require regular over-consultation with the community over short timeframes.	See comments at E1.1.
	Best Achievable Noise Performance Objectives	Do not support use of this terminology and requirement. Suggest removing the requirement to incorporate mitigation measures into the prediction model due to a significant cost for the proponent with little benefit.	The EPA considers it reasonable if a licensee predicts noise impacts to sensitive receivers, that it considers all reasonable and feasible measures to minimise impacts, models best achievable noise performance objectives and monitors noise impacts from works. Condition R4.3 has been updated to provide further clarity.

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	High noise impact activities and works	Recommend the definition in the Model Licence be aligned with the definition used in the standard CoA for 'Highly Noise Intensive Works'. Consider an activity that results in noise with tonal, impulsive, intermittent or low frequency characteristics may not necessarily result in a high-level noise impact to a receiver, or even noise that is discernible from background noise.	Definition updated. Definitions for 'impulsive', 'intermittent' and 'tonal' noise removed.
	Suitably Qualified and Experienced Person	Guidance requested relating to what the EPA considers 'demonstrate competence through professional experience and/or technical expertise to the satisfaction of the EPA'.	See comments at M4.1.
L5.7	Works Outside of Standard Construction Hours	It is considered that if a licensee applies for condition L5.7 (out-of-hours works), then L5.8 should automatically be applied.	Guidance notes updated.
L5.7	Works Outside of Standard Construction Hours	This is an essential condition for transport infrastructure construction and should be included in the final Model Licence. The works identified here must be undertaken outside of standard construction hours and this is not negotiable.	Process for applying for these conditions has been streamlined. Guidance notes updated. Further comments at L5.4.
L5.7	Works Outside of Standard Construction Hours	Suggest that OLS airspace restrictions should be included under 'Additional OOHs conditions'.	The EPA may request this inclusion on a case-by-case basis, as it is unlikely to apply to the majority of licences.
L5.7	Works Outside of Standard Construction Hours	Suggest that 'relevant road network operator' is defined in the guidance or dictionary.	Added to special dictionary: 'Relevant road network operator means the local, state or Commonwealth government department responsible for the operational performance of the relevant road/s where activities are occurring.'

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L5.7	Works Outside of Standard Construction Hours	ISO31000:2009 has been superseded by 2018.	Condition updated.
L5.8	Works Outside of Standard Construction Hours	Note L5.8(g) states that where high noise impact activities are undertaken, the respite provisions as per the requirements of condition L5.2(c) do not apply, provided that all high noise impact activities are undertaken before 12am (midnight). That is, a one-hour period of respite does not need to apply. It is not clear why receivers would not be provided with respite.	The condition encourages noisier works to be undertaken before midnight, where possible. By imposing respite periods prior to midnight, noisier works may be extended into the early morning and/or further works may need to be scheduled on additional nights, which the EPA considers would result in a perverse outcome and greater impacts for the community.
L5.8	Works Outside of Standard Construction Hours	Respite for out-of-hours works is not supported.	The EPA considers it reasonable that respite for high noise impact works is provided during works outside of standard construction hours, particularly where those works extend past midnight. Further comments above.
L5.8	Works Outside of Standard Construction Hours	Suggested edit to (e) '3 consecutive evenings and/or nights at any time'. Providing additional (and standard) condition for works outside of standard construction hours would assist contractors in costing and programming during tenders. Works should be allowed over the weekend days.	L5.8 balances impacts on the community with the needs of industry. These are standard additional conditions that may be applied for where Conditions of Approval permit these works. See guidance notes L5.10 detailing when a licensee may apply for project specific conditions for works outside standard construction hours.
L5.9	Rail Possessions	The allowance of 10 evenings and/or nights per month is considered to be too restrictive given that works MUST be scheduled and undertaken when rail possessions are made available by the rail authority.	Should a licensee require more than 10 evenings/nights per month they can apply for a special condition under L5.10 or seek a community agreement.

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L5.9	Rail Possessions	Suggest (b) is removed from this condition. High noise impact works may be required to continue without respite to complete works within the rail possession period and return possession to the rail authority.	Condition updated.
L5.9	Rail Possessions	This condition should not only be restricted to rail premises. This condition should be adopted for critical road and/or utility works where weekend shutdowns are required.	Rail possessions are (more often than not) undertaken over multiple days/evenings/nights over weekends. Should a licensee require beyond what is permitted by L5.10, they can apply for a special condition under L5.10 or seek community agreement.
L4.1	Blasting	Request for blasting hours to align with those detailed in the Interim Construction Noise Guidelines.	Condition updated.
L4.2 – L4.6	Blasting	Conditions should apply to <i>‘at the most impacted residence or other sensitive receiver unless otherwise demonstrated to be acceptable in trial blasts’</i> . Suggest amendments to these limits, otherwise these conditions would essentially make it impossible to blast anywhere in Sydney.	Conditions L4.2 and L4.4 deleted. The following has been added to L4.3 and L4.5 <i>‘at the most impacted residence or other sensitive receiver.’</i> The EPA considers proposed <i>‘unless otherwise demonstrated to be acceptable in trial blasts’</i> too ambiguous and open to interpretation. Where a licensee is unable to meet the blasting requirements it should contact the EPA to discuss.
L4.7	Blasting	Suggest the EPA should permit two detonations per day, as has been permitted in other licences. One blast could be a significant drop (half) in productivity for a large project.	Condition updated.