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MS24-001569

Australian Government

Department of Infrastructure, Transport, Regional Development, Communications and the Arts

Dispatched to MO
18 SEP 2024

To: The Hon Catherine King MP, Minister for Infrastructure, Transport, Regional Development and Local Government (for decision)

Subject: Western Sydney International (Nancy-Bird Walton) Airport (WSI) Noise Insulation and Property Acquisition (NIPA) Program – eligibility boundary considerations

Critical Date: Please action by 2 October 2024

Recommendation:

s47C [redacted]

Noted / Please Discuss

The Hon Catherine King MP Date: 30 · Sept 24

Comments:

Key Points:

1. s34(3) [redacted] The department is working to finalise program guidelines, including the final eligibility boundary, for your approval later in 2024, ahead of rolling out the NIPA program s47C [redacted]

s34(3) [redacted]

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This approach was based on the learnings from previous insulation programs at Sydney and Adelaide, that extending the eligibility to certain natural boundaries (such as the whole of a property lot touched by the contour, houses on both sides of a road, and to geographic features such as waterways or green spaces) provides for more equitable community outcomes.

3. Investigation of the application of natural boundaries in the WSI context - which is different to Sydney and Adelaide – has highlighted that the community may still perceive inequities, or seemingly arbitrary outcomes with this approach. These include:

a. an inability to apply a consistent distance from the ANEC 20 contour, due to the large variation in property lot sizes and shapes in the area under the contour. This results in some houses on very large properties touched by the contour becoming eligible, even though the building may be hundreds of metres away from the contour – while houses on properties closer to, but just outside the contour – would not be eligible.

b. the presence of a variety of geographic features which could be perceived as natural boundaries – which results in difficulty establishing objective natural boundary rules, particularly where the terrain feature is open-ended, such as a ridge line or green space area.

c. difficulties with uniform application of the 'across the road' and 'next door' rules between the large-lot rural/residential areas and the more densely populated suburban areas (including Luddenham village and the Twin Creeks estate).

4. The department has identified s47C to define clear eligibility rules that address, to differing levels, the perceived equity issues described above. s47C described below and detailed at **Attachment A**. Note that regardless of where the final eligibility boundary is drawn there is a significant risk that the program will be criticised for excluding particular communities or buildings, and/or not addressing the entire range of noise impacts from operations at WSI, for example ground-based noise.

s47C

6. s47C Modified application of natural boundary rules, to reflect the unique characteristics of the area surrounding WSI (map at **Attachment A.2**). This s47C addresses perceived equity issues by:

a. excluding buildings on very large blocks that are a significant distance (1 kilometre) from where the ANEC 20 contour touches the property.

b. limiting application of the 'across the road' and 'next door' rules to the denser suburban areas only (Luddenham village and the Twin Creeks estate).

c. applying a broader interpretation and application of geographic natural boundaries, which would include the southern part of Luddenham village, up to and including Luddenham Public School, as well as significantly more of Twin Creeks).

7. The department considers this approach addresses the main inequities s47C This is s47C program with the inclusion of 23 additional eligible residences and a primary school in Luddenham, and 45 additional eligible residences in Twin Creeks – however these additions are partly offset by the exclusion of some other properties on large lots – see 'Financial Impacts', below.

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9. s34(3) The department would consult with your Office and the Department of Prime Minister and Cabinet in preparing the letter.

Next steps

10. s34(3) The risk to program budget from increased number of buildings potentially included within s47C is discussed in the Financial Impacts section below.

11. s47C the department will continue to work to finalise the NIPA policy and the program guidelines.

a. The final NIPA policy, including a description of the preferred approach for determining program eligibility will be included in the final Environmental Impact Statement for WSI flight paths.

b. We will seek your approval of detailed program guidelines in the coming months. There may be opportunity to release the guidelines, and detail on the settled eligibility area, as part of a more comprehensive program launch later in 2024 or early 2025.

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Legal/Legislative matters:
16. The department continues to seek legal advice on any legislative impacts ahead of the program's commencement.

Stakeholder Implications:
17. Introduction of the WSI NIPA program will have significant implications for stakeholders within and/or close to the ANEC 20 contour. Which ruleset is applied will determine how many properties are eligible for the program.

18. Opportunities to slightly expand eligibility to include parts of Twin Creeks, Luddenham and Luddenham Public School will be well received by those specific communities who have expressed significant concern about the noise impacts of WSI. However there is a risk that other nearby communities, particularly Silverdale (1 kilometre from the flight path centreline), may seek a similar outcome.

Consultation: N/A

Media Opportunities:
19. Possible media opportunities will be discussed with your office.

Attachments:
Attachment A: Table of NIPA eligibility s47C
s47C
Attachment A.2: Maps of s47C eligibility boundary
s47C

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Instructions for MPS: Nil

Do you require a signed hardcopy to be returned: No

Responsible Adviser: s22(1)(a)(ii) s22(1)(a)(ii)

PDMS Distribution List: Marisa Purvis-Smith, Richard Wood, Stephanie Werner, Greg Cox

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Additional Information

Proposed final NIPA policy:

s34(3)

Use of the composite ANEC 20 (2040) contour represents a conservative approach to capture the highest number of properties that may be eligible for acquisition or noise treatment. Use of the ANEC 20 (2040) contour aligns with the Australian Standard and the approach used for previous Australian aircraft noise insulation programs.

Natural boundary adjustments:

The draft NIPA policy stated that the final eligibility contour may be adjusted to include 'natural boundaries', noting the ANEC 20 contour is computer generated which, unadjusted, passes through streets, properties and buildings. Adjusting contours to include natural boundaries is a lesson learnt from previous domestic programs and was considered to reduce the risk of those programs being criticised as arbitrary or lacking appropriate 'ground-truthing'. The application of a natural boundary makes the NIPA program more generous than using the ANEC 20 contour alone, providing enhanced protection for WSI from future noise complaints.

s34(3)

The characteristics of the natural and built environment within the NIPA eligibility area presents some challenges in determining guidelines for natural boundary eligibility considerations. While lessons from the Sydney and Adelaide programs are valuable, WSI is different:

- Sydney and Adelaide were characterised by denser urban development, with generally similar property sizes and shapes across the eligibility area and more uniform street grids
- Property lot sizes across the eligibility area vary, with a mix between large irregularly sized and shaped rural properties, and areas of denser suburban development (primarily in Luddenham village and the Twin Creeks estate).
- Irregularity of lot shapes and sizes means there is sometimes a considerable distance between the eligible residence and the contour, on properties 'touched' by the contour (up to 1.7 km in some instances), and between residences on neighbouring properties.
- Different topographical features provide a wider range of potential natural boundaries.

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Attachment A: NIPA Program eligibility ruleset s47C ;

	Estimated Number Eligible Buildings	Estimated Noise Treatment Costs	Advantages	Disadvantages
s47C				
Option 2: ANEC 20 with broader application of natural boundary rules. Includes: a. Eligible buildings on properties that are wholly within, or touched by, the ANEC 20 contour - however, a distance rule will be applied to exclude buildings on very large blocks more than 1,000 metres from the ANEC 20 contour. b. Properties in close proximity to the ANEC 20 contour and within a nearby natural geographic boundary, such as road, waterway, terrain or green space, with justification including parts of Luddenham and Twin Creeks. c. Properties immediately 'across the road' or 'next door' to eligible properties - however, this rule would only be applied in the suburban areas of Luddenham and Twin Creeks.	256 (not including estimated Twin Creeks houses with pre-existing insulation obligations) Totals include 2 medical clinics, 3 places of worship and 1 school	Based on two-thirds program take up rate (155 buildings)	s34(3) More generous approach than s47C . Addresses the concerns of residents and Luddenham and Twin Creeks that were voiced in submissions to the draft EIS on flight paths – particularly in response to direct night time overflights of Twin Creeks. Inclusion of Luddenham Public School (noting the department would explore opportunities to share costs with the NSW Government). Reduces some seemingly inequitable outcomes (eg. issue of residences on large commercial farms).	Rules may be difficult for some to interpret or agree with, making the program open to further criticism. Includes a significantly larger number of buildings over Option 1 (an additional 66 likely eligible buildings). Increases estimated program noise treatment costs by an additional $17.3 million. Inclusion of Luddenham Public School increases program complexity and risk.
s47C				

Notes:

- Eligible buildings include houses and noise sensitive public use buildings (including educational facilities, medical facilities and places of worship).
- Building numbers are estimated and subject to change. Numbers are based on those identified in the Noise Amelioration Scoping Study, on-ground consultation activities during the draft EIS public exhibition and an updated review of August 2024 aerial imagery.
- Program costs are based on those identified in the Noise Amelioration Scoping Study. Noise treatment costs include managing contractor delivery and quality assurance overhead costs. Cost include an additional 50% contingency for treatment works and materials.

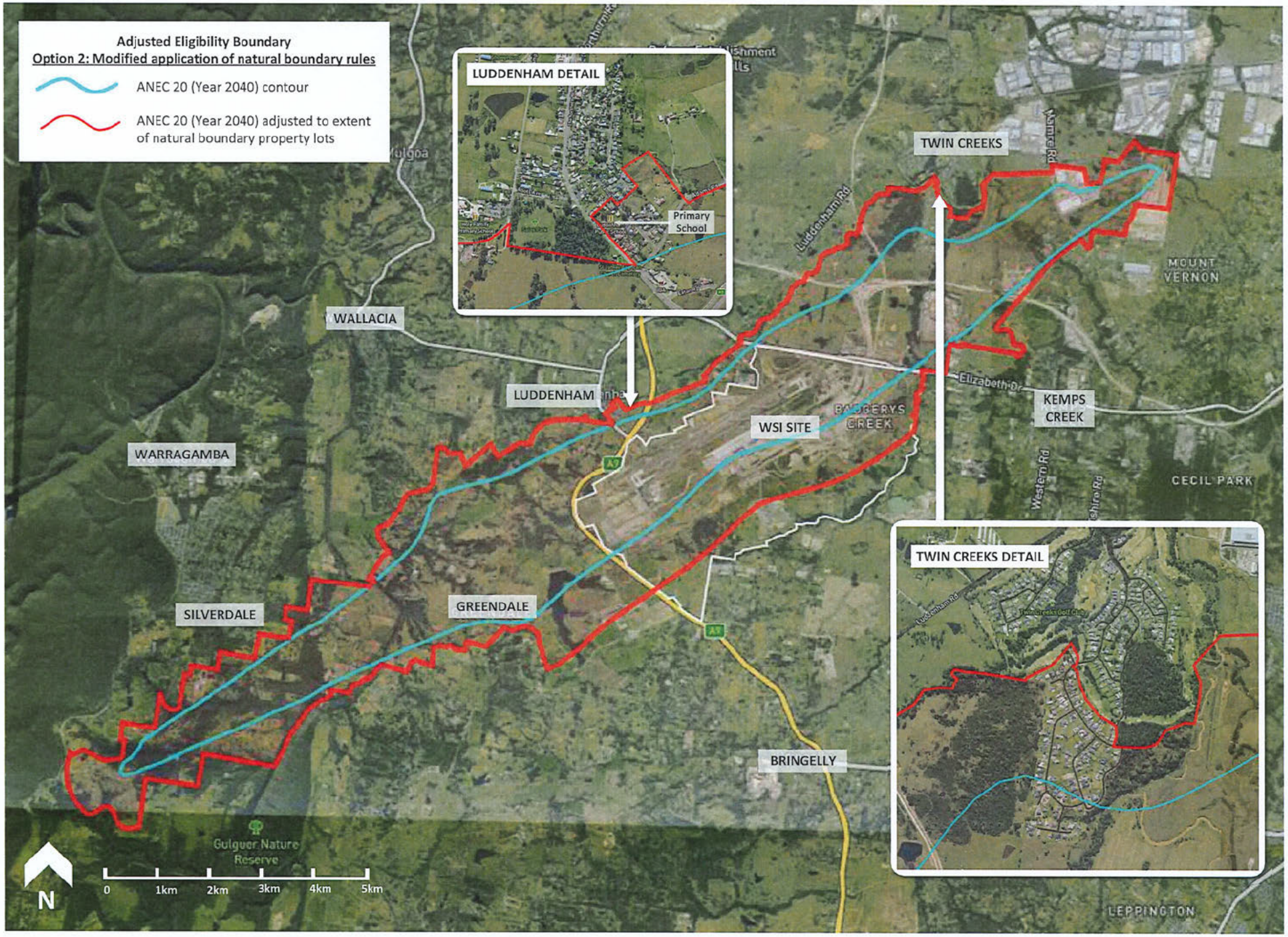
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Attachment A.2

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