

Modification of Development Consent

Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.



Karen Harragon
Director
Social and Infrastructure Assessments

Sydney

29 January 2021

SCHEDULE 1

Development consent: **SSD 7308** granted by the Executive Director, Infrastructure Assessments on 7 May 2020.

For the following: Construction and operation of the St Marys intermodal (road and rail) terminal and container park with an operating capacity of 301,000 twenty-foot equivalent units (TEU) annual throughput, including operation of rail sidings and container park 24 hours, 7 days per week.

Construction activities including:

- hardstand area for container storage and laydown, rail and vehicle loading and unloading areas
- new internal access roads providing separate ingress and egress for light and heavy vehicles as follows:
 - o to/from Lee Holm Road for light vehicles
 - o to/from Forrester Road for heavy vehicles
- wash bay area
- office building pad site
- fuel storage area
- container workshop (repair bay) pad site
- transport workshop pad site
- staff and visitor light vehicle parking bays
- heavy vehicle parking bays

Ancillary development including:

- signage and landscaping
- utility services to support the proposed development including drainage, potable water, water (for firefighting purposes), power, data, security and sewerage
- minor realignment of a section of the Sydney Trains high voltage overhead power line at the southern end of the subject site

- minor clearing of areas of vegetation regrowth, remediation and minor earthworks
- electrical transformer.

Applicant: Pacific National

Consent Authority: Minister for Planning and Public Spaces

The Land: Lot 2 DP 876781, Lot 3 DP 876781, Lot 196 DP 31912 and Lot 2031 DP 815293

Modification: **SSD 7308 MOD 1:** The modification includes the following amendments to the St Marys Intermodal development consent:

- re-lay the existing rail sidings (x2) within the existing rail corridor
- upgrade two existing level crossings and construct a 3.5 m wide one-way access track
- construct stormwater management facilities and discharge outlet
- establish a temporary construction compound to support rail refurbishment works
- revise the development layout boundary to include the rail refurbishment works area.

SCHEDULE 2

The consent is modified as follows:

- (a) Definitions table is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~**bold and underlined**~~ words/numbers as follows:

MOD 1 **The development as described in the modification application SSD-7308-Mod-1, the supporting documentation submitted with SSD-7308-Mod-1 and the conditions of this consent.**

Rail Spur **The section of track between the Main Western Railway line and where the track crosses the boundary for Lot 196 DP 31912.**

- (b) Schedule 2, Part A – Administrative Conditions, Condition A2 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~**bold and underlined**~~ words/numbers as follows:

TERMS OF CONSENT

Terms of Consent

A2. The development may only be carried out:

- (a) in compliance with the conditions of this consent;
- (b) in accordance with all written directions of the Planning Secretary;
- (c) generally in accordance with the EIS and Response to Submissions;
- (d) in accordance with the Development Layout in **Appendix 1**;
- (e) in accordance with the revised management and mitigation measures in **Appendix 3**;
- (f) in accordance with the approved plans in the table below:

Architectural Drawings prepared by Kit Handley Architects Pty Ltd			
Dwg No.	Rev	Name of Plan	Date
A101	1	Proposed Site & Roof Plan	17/04/20
A102	1	Proposed G & L1 Floor Plan	17/04/20
A103	1	Proposed Electrical Plan	17/04/20
A104	1	Proposed Elevations	17/04/20
A105	1	Proposed Elevation & Sections	17/04/20
A106	1	Proposed Group 1 Furniture Plans	17/04/20
A107	1	Proposed Group 2 & 3 FF&E	17/04/20

- (g) in accordance with modification application SSD-7308-Mod-2 and supporting documentation;
- (h) in accordance with modification application SSD-7308-Mod-3 and supporting documentation; ~~and~~
- (i) in accordance with modification application SSD-7308-Mod-4 and supporting documentation; ~~and~~
- (j) in accordance with modification application SSD-7308-Mod-1 and supporting documentation.**

- (c) Schedule 2, Part A – Administrative Conditions, Condition A4 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~bold and struckout~~ words/numbers as follows:

A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document listed in condition A2(c) to ~~A2(i)~~ **A2(j)**. In the event of an inconsistency, ambiguity or conflict between any of the documents listed in condition A2(c) to ~~A2(i)~~ **A2(j)**, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

- (d) Schedule 2, Part A – Administrative Conditions, Condition A25 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~bold and struckout~~ words/numbers as follows:

Incident Notification, Reporting and Response

A25. The Planning Secretary must be notified ~~in writing to~~ **compliance@planning.nsw.gov.au** **through the major projects portal** immediately after the Applicant becomes aware of an incident. The notification must identify the development (including the development application number and the name of the development if it has one), and set out the location and nature of the incident.

- (e) Schedule 2, Part A – Administrative Conditions, Condition A27 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~bold and struckout~~ words/numbers as follows:

Non-Compliance Notification

A27. The Planning Secretary must be notified ~~in writing to~~ **compliance@planning.nsw.gov.au** **through the major projects portal** within seven days after the Applicant becomes aware of any non-compliance. The Certifier must also notify the Planning Secretary ~~in writing to~~ **compliance@planning.nsw.gov.au** **through the major projects portal** within seven days after they identify any non-compliance.

- (f) Schedule 2, Part B – Prior to Commencement of Construction, is amended by the insertion of Condition B14A as follows:

B14A. Within one month of the approval of SSD-7308-MOD-1, the Construction Noise and Vibration Management Sub-Plan (CNVMSP) referred to in condition B14 is to be updated to the satisfaction of the Certifier to include any changes required to address the amendments to the development as modified by SSD-7308-MOD-1.

- (g) Schedule 2, Part B – Prior to Commencement of Construction, Condition B16A is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~bold and struckout~~ words/numbers as follows:

B16A. Within one month of the approval of SSD-7308-MOD-3 **and SSD-7308-MOD-1**, the Construction Soil and Water Management Sub-Plan (CSWMSP) referred to in condition B16 is to be updated to the satisfaction of the Certifier to include any changes required to address the amendments to the development as modified by SSD-7308-MOD-3 **and SSD-7308-MOD-1**.

- (h) Schedule 2, Part B – Prior to Commencement of Construction, Condition B26 is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~bold and struckout~~ words/numbers as follows:

B26. The Applicant is to ensure that the design of the site is finalised with the objectives to minimise noise impacts, incorporate good practice noise management and on-site controls, and ensure all relevant noise mitigation measures have been incorporated into the design

to ensure the development will not exceed the recommended operational noise levels identified in the *St Mary's Freight Hub Noise and Vibration Impact Assessment – Post Exhibition Version*, prepared by AECOM and dated 11 February 2020, **the St Marys Freight Hub – Update Noise and Vibration Impact Assessment – Non-network rail addendum, prepared by AECOM and dated 24 June 2020 and the St Marys Freight Hub – Update Noise and Vibration Impact Assessment – Northern section of non-network rail line, prepared by AECOM and dated 20 November 2020.**

- (i) Schedule 2, Part B – Prior to Commencement of Construction, Condition B27, Table 1: Ecosystem credits is amended by the insertion of the **bold and underlined** words/numbers and deletion of the **~~bold and struckout~~** words/numbers as follows:

Table 1: Ecosystem credits

Any PCT with the below TEC	Number of Credits	Containing hollow bearing trees	In the below IBRA subregions
PCT 835 - Forest Red Gum - Rough-barked Apple grassy woodland on alluvial flats of the Cumberland Plain, Sydney Basin Bioregion	15 <u>18</u>	No	Cumberland, Burragorang, Pittwater, Sydney Cataract, Wollemi and Yengo. Or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.
PCT 1800 - Swamp Oak open forest on riverflats of the Cumberland Plain and Hunter valley	1	No	Cumberland, Burragorang, Pittwater, Sydney Cataract, Wollemi and Yengo. Or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.
PCT 1071 - Phragmites australis and Typha orientalis coastal freshwater wetlands of the Sydney Basin Bioregion	4	No	Cumberland, Burragorang, Pittwater, Sydney Cataract, Wollemi and Yengo. Or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.

Schedule 2, Part B – Prior to Commencement of Construction, Condition B30, Table 2: Species credits is amended by the insertion of the **bold and underlined** words/numbers and deletion of the **~~bold and struckout~~** words/numbers as follows:

Table 2: Species credits

Species (only for the below)	Number of Credits	In the below IBRA subregions
Juniper-leaved Grevillea (<i>Grevillea juniperina</i> subsp. <i>juniperina</i>)	10 <u>12</u>	Any in NSW.

Southern Myotis (<i>Myotis macropus</i>)	11 <u>15</u>	Any in NSW.
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- (j) Schedule 2, Part C – During Construction, is amended by the insertion of Condition C41 as follows:

Temporary Construction Compound Area

C41. Use of the temporary construction compound area to support the rail refurbishment works is permitted for a period of up to six months following establishment of the temporary construction compound area referred to under SSD-7308-MOD-1.

- (k) Schedule 2, Part D – Prior to Commencement of Operation, is amended by the insertion of Condition D31 and D32 as follows:

Flooding

D31. The development must not increase flood levels on adjoining properties. Prior to the commencement of operation, further investigation shall be undertaken and modelled, and mitigation works undertaken (if required) to ensure that the rail corridor works at the north-eastern end of the development do not increase flood levels on adjoining properties to the east. Full details, including flood level difference mapping, are to be submitted to the Certifier.

D32. Prior to the commencement of operation, a flood safety assessment shall be undertaken for the section of the existing access track that traverses Little Creek, and included as part of the Operational Environmental Management Plan for the development. The flood safety assessment must assess flood velocity-depth products for flood safe access of vehicles, details of signage (including depth markers) and flood warning signage. Any recommendations of the flood safety assessment shall be implemented prior to the commencement of operation.

- (l) Schedule 2, Part D – Prior to Commencement of Operation, is amended by the insertion of Condition D33 and D34 as follows:

Sydney Trains Requirements

D33. Prior to the commencement of any works or commencement of operations via the rail sidings, the Applicant must engage with Sydney Trains to establish an agreement on the updating of the existing Safety Interface Agreement, for the rail sidings and any works undertaken within the rail corridor and TAHE (Transport Asset Holding Entity) land.

D34. No works are permitted within the rail corridor, land and airspace, or any easements which benefit Sydney Trains/TAHE (Transport Asset Holding Entity), at any time, unless the prior approval of, or an agreement with, Sydney Trains/TAHE (Transport Asset Holding Entity) has been obtained by the Applicant, and is in accordance with any applicable existing Safety Interface Agreement.

- (m) Schedule 2, Part E – During Operation, Condition E9, Table 3: Operational Noise Limits dB(A) is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~**bold and struckout**~~ words/numbers as follows:

Table 3: Operational Noise Limits dB(A)

Location (residential receivers)	Day L _{Aeq} 15 minute	Evening L _{Aeq} 15 minute	Night L _{Aeq} 15 minute	Night L _{AMax}
NCA 2	46 dB	46 dB	44 dB	55 dB

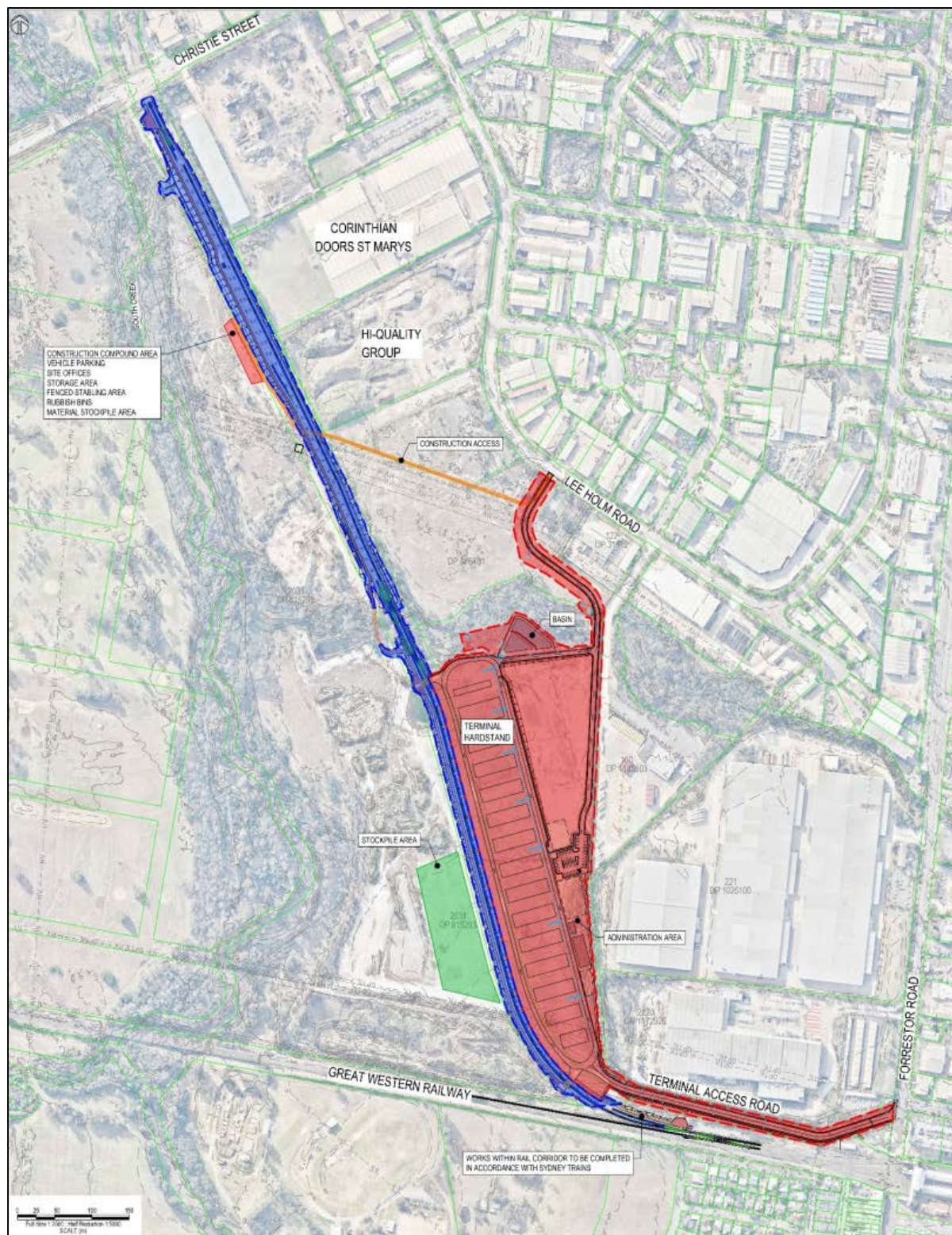
Location (residential receivers)	Day L _{Aeq} 15 minute	Evening L _{Aeq} 15 minute	Night L _{Aeq} 15 minute	Night L _{AMax}
NCA 3	40 dB	36 dB	35 38 dB	52 dB

Note: Noise generated by the development is to be measured in accordance with the relevant procedures and modifications, including certain meteorological conditions, of the Noise Policy for Industry (EPA, 2017). Refer to the plan in Appendix 6 for the location of residential sensitive receivers.

- (n) Schedule 2, Part E – During Operation, Condition E10, is amended by the insertion of the **bold and underlined** words/numbers and deletion of the ~~**bold and struckout**~~ words/numbers as follows:

E10. The Applicant must undertake short term noise monitoring in accordance with the *Noise Policy for Industry* where valid data is collected following the commencement of use of each stage of the development. The monitoring program must be carried out by an appropriately qualified person and a monitoring report must be submitted to the Planning Secretary within two months of commencement use of each stage of the development to verify that operational noise levels do not exceed the recommended noise levels for mechanical plant identified in St Marys Freight Hub Noise and Vibration Impact Assessment – Post Exhibition Version, prepared by AECOM dated 11 February 2020, **the St Marys Freight Hub – Update Noise and Vibration Impact Assessment – Non-network rail addendum, prepared by AECOM dated 24 June 2020 and St Marys Freight Hub – Update Noise and Vibration Impact Assessment – Northern section of non-network rail line, prepared by AECOM dated 20 November 2020.** Should the noise monitoring program identify any exceedance of the recommended noise levels referred to above, the Applicant is required to implement appropriate noise attenuation measures so that operational noise levels do not exceed the recommended noise levels or provide attenuation measures at the affected noise sensitive receivers.

Appendix 1 is amended by deletion of the existing figure and insertion of the following figure:



**End of modification
(SSD 7308 MOD 1)**