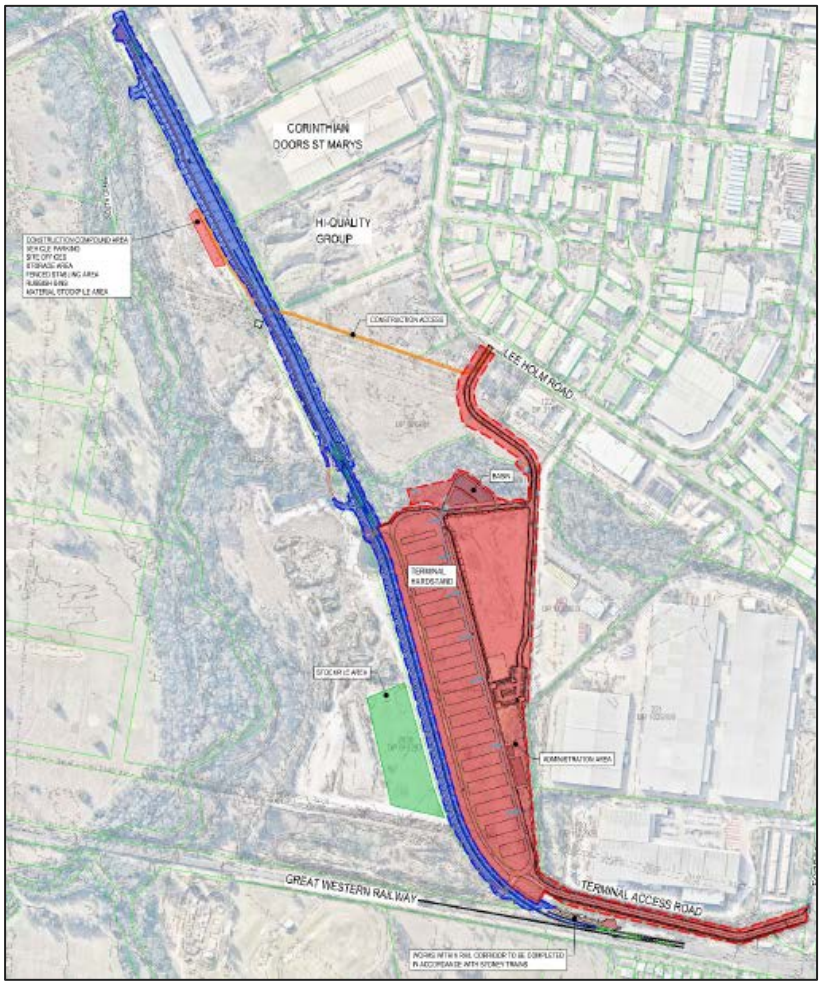
St Marys Intermodal Modification 1

Rail refurbishment works package

State Significant Development Modification Assessment
(SSD 7308 MOD 1)

January 2021



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Title: St Marys Intermodal Modification 1

Subtitle: Rail refurbishment works package

Cover image: Proposed revised development layout plan (Applicant's Modification Report)

Glossary

Abbreviation	Definition
AEP	Annual Exceedance Probability
AHD	Australian Height Datum
Applicant	Pacific National Pty Ltd
BDAR	Biodiversity Development Assessment Report prepared by Eco Logical, V5, dated 18 August 2020.
BCA	Building Code of Australia
CIV	Capital Investment Value
Council	Penrith City Council
Department	Department of Planning, Industry and Environment
EESG	Environment, Energy and Science Group, DPIE
EIS	Environmental Impact Statement
EPA	Environment Protection Authority
EP&A Act	*Environmental Planning and Assessment Act 1979*
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
EPI	Environmental Planning Instrument
Minister	Minister for Planning and Public Spaces
PCT	Plant Community Type
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
PLEP	Penrith Local Environmental Plan
RtS	Response to Submissions
SRD SEPP	State Environmental Planning Policy (State and Regional Development) 2011
SSD	State Significant Development
TEU	Twenty-foot equivalent unit (freight container)
TfNSW	Transport for NSW

Executive Summary

This report provides an assessment of a State significant development (SSD) modification application for the St Marys Intermodal Freight Hub (SSD 7308 MOD 1). The site is located at Forrester Road, St Marys within the Penrith City Local Government Area. The application has been lodged by Urbanco Group Pty Limited on behalf of Pacific National Pty Limited (the Applicant), under section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

Proposed modification

This modification application seeks approval for the following components:

- 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 from the terminal level crossing adjacent to siding 2, to transport locomotive drivers and undertake maintenance inspections
- construct stormwater management facilities and discharge outlets
- establish a temporary construction compound to support rail refurbishment works
- revise the development layout boundary to include the rail refurbishment works area.

Assessment summary

The Department of Planning, Industry and Environment (the Department) has considered the merits of the proposal in accordance with relevant matters under section 4.15 and the objects of the EP&A Act, the principles of Ecologically Sustainable Development (ESD), the issues raised in submissions and the Applicant's response to these.

The Department considers the key issues associated with the proposed modification are construction and operational noise, flood safe access, stormwater, permissibly and zoning, and biodiversity impacts. The Department has considered these issues in its assessment, along with other issues including waste, flooding impacts from filling of the rail corridor and contamination.

Based on its assessment, the Department considers that the proposed modification is in the public interest and is approvable, subject to recommended conditions.

Engagement

The Department publicly exhibited the modification application from 22 October 2020 to 4 November 2020 (14 days). The Department received a total of twelve submissions, including ten from Government agencies (all comments), one from Penrith City Council (comment) and one public objection. The one public objection raised concerns related to increased noise and vibration, dust and stormwater volumes. Comments by Government agencies and Council raised concerns related to construction and operational noise, stormwater, flooding, biodiversity, permissibility and zoning, works within the rail corridor and rail siding, and contamination.

The Applicant's Response to Submissions (RtS), submitted on 20 November 2020, addressed the outstanding issues for the proposed modification.

Background

The St Marys Intermodal Freight Hub was granted development consent on 7 May 2020, for the construction and operation of an intermodal (road and rail) terminal and container park with an ultimate operating capacity of 301,000 twenty-foot equivalent units (TEU) (freight container) annual throughput. The facility is proposed to operate 24 hours per day, 7 days per week. Construction of the project commenced in November 2020.

Contents

1 Introduction

This report provides the NSW Department of Planning, Industry and Environment's (the Department) assessment of an application to modify the State significant development (**SSD**) consent for St Marys Intermodal (SSD 7308).

The proposed modification comprises the following components:

- re-lay the existing rail sidings (x2) within the existing rail corridor, including:
    - removing the existing track and ballast
    - excavating below the track to a depth of around 550mm
    - backfilling the excavated area
    - re-laying the ballast and track
- upgrade two existing level crossings and construct a 3.5 m wide one-way access track from the terminal level crossing adjacent to siding 2, to transport locomotive drivers and undertake maintenance inspections
- construct stormwater management facilities and discharge outlets
- establish a temporary construction compound to support rail refurbishment works
- revise the development layout boundary to include the rail refurbishment works area.

The application was lodged on 14 October 2020 by Urbanco Group Pty Limited on behalf of Pacific National Pty Limited (the Applicant), under section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).

1.1 Background

The St Marys Intermodal site is located within the suburb of St Marys, approximately 45 kilometres (km) west of the Sydney Central Business District and 49 km west of Port Botany, in the Penrith local government area (LGA). **Figure 1** shows the location of the site within the context of Sydney.

The site is located partially on Lot 2 DP 876781, Lot 3 DP 876781, Lot 196 DP 31912 and Lot 2031 DP 815293, which forms part of a broader 43 ha land area. The total area subject to development and works within the 'site' boundary is 16 ha of this area. **Figure 2** shows the existing layout and **Figure 4** shows the proposed development layout for the development.

The area is served by the local, regional and state road network, including the M4 Western Motorway and Great Western Highway (A44), connecting the region to eastern Sydney and western regional NSW, and the Westlink M7 connecting to southern and northern NSW and the wider state road network. The Main Western Rail line, adjacent to the site, provides freight rail connections to Port Botany (via the metropolitan freight rail network) and between Sydney, regional NSW and interstate freight rail lines.

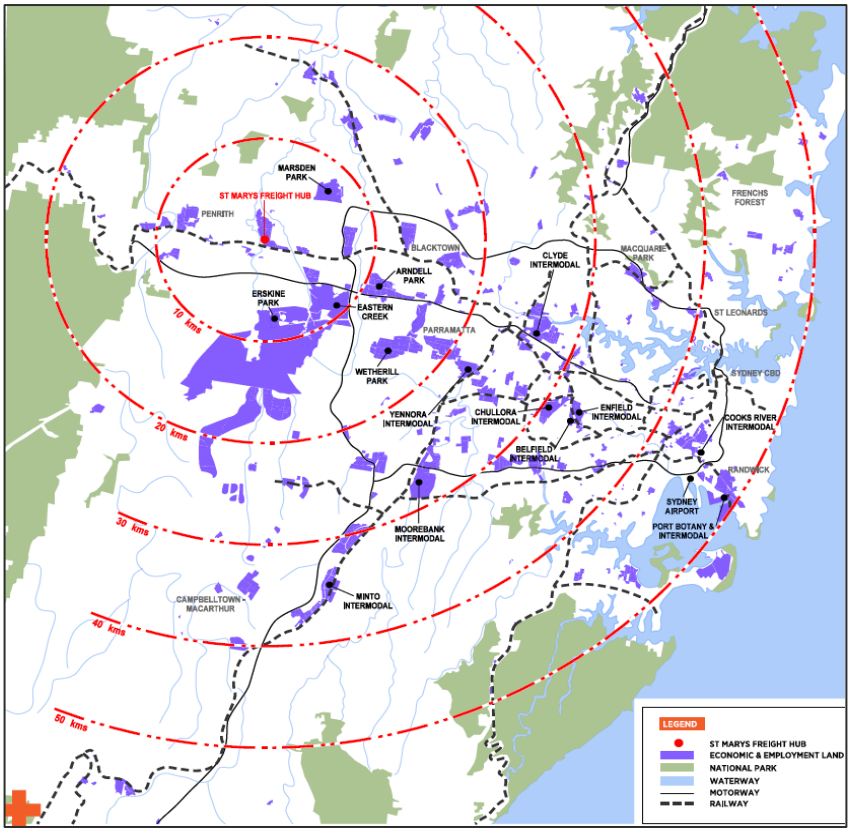

Figure 1 | Regional Context Map (Source: Applicant's EIS for SSD 7308)

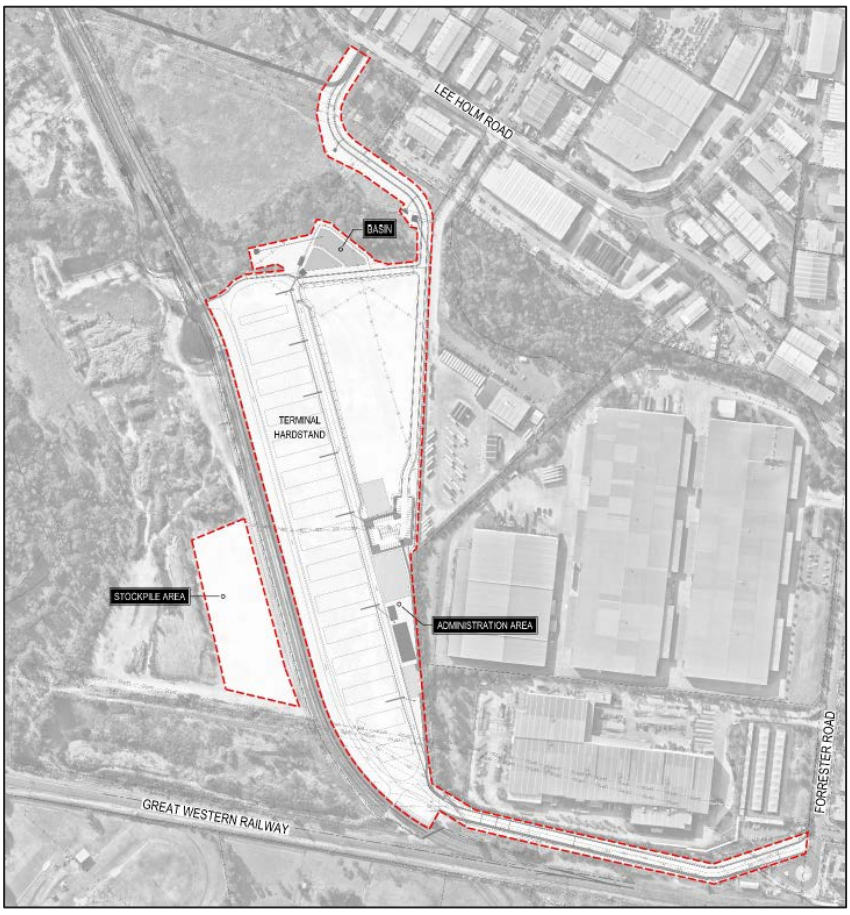

Figure 2 | Existing development layout (Source: Applicant's Modification Report)

The subject site (**Figure 2**) is surrounded by:

- Lee Holm Road, Forrester Road and the Dunheved Business (Industrial) Park to the east
- the Main Western Railway passenger and freight rail line, the St Marys Senior High School sports fields and public recreation fields to the south
- the St Marys passenger train station and associated multi-level car parking station and the St Marys town centre to the south east
- a portion of the broader site (west of the rail sidings), South Creek, the Colonial Golf and Footgolf Course, the Troy Adams Archery Field and areas of public recreation to the west
- the Dunheved Business (Industrial) Park and the Dunheved Golf Course to the north.

The site is mostly cleared and levelled due to previous developments and activities on the site. The broader site is mostly owned by the Applicant and has had various uses as shown in **Table 1** below.

Table 1 | Site history

Year	Activities undertaken on site
1941 - 1969	The Commonwealth Government acquired the site and surrounding lands for defence purposes.
1969 – 1984	Part of lots 2 and 3 were owned by James Hardie & Coy Pty Limited. It is unknown if the site was used to manufacture products.
1986 - 1999	The broader site was acquired by the State Rail Authority (SRA) as a site to house its Tangara train maintenance and storage facility in 1986. Initial earthworks to raise the level of the broader site commenced in 1987, however, this was abandoned in the late 1990s, during which time the broader site was unused. The broader site was filled with material excavated from the Northside Sewerage Tunnel Project in 1999.
2000	A previous designated development application for the Western Sydney Rail Freight Terminal (WSRFT), was approved by the Minister for Urban Affairs and Planning in 2000 for a portion of the broader site. This previous consent was issued to a different Applicant and different landowner.
2001 - 2002	In June 2001, FreightCorp became the registered proprietor of the former SRA land. In February 2002 Pacific National acquired the land.
2005	In December 2005, physical site works commenced in accordance with the previous development consent granted by the Minister (DA No. 170-05-2000) for the WSRFT. No further approved works have occurred since.

1.2 Approval history

On 7 May 2020 development consent was granted by the Executive Director, Infrastructure Assessments for the development of the St Marys Intermodal (SSD 7308). The development consent permits the construction and operation of an 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 existing rail sidings and container park 24 hours, 7 days per week.

Key construction activities of the project include:

- construction of hardstand area for container storage and laydown, rail and vehicle loading and unloading areas

- construction of new internal access roads providing separate ingress and egress for light and heavy vehicles (to/from Lee Holm Road for light vehicles and to/from Forrester Road for heavy vehicles)
- construction of wash bay area, office building pad site, fuel storage area, container workshop (repair bay) pad site and transport workshop pad site
- construction of staff and visitor light vehicle parking bays, and heavy vehicle parking bays.

The project involves associated ancillary works including signage and landscaping, utility services to support the proposed development, minor realignment of a section of the Sydney Trains High voltage overhead power line, minor clearing of vegetation, remediation, minor earthworks and electrical transformer.

Construction of the project commenced in November 2020.

The development consent has been previously modified on three occasions (see **Table 2**).

Table 2 | Summary of Modifications

Mod No.	Summary of Modifications	Approval Authority	Type	Approval Date
MOD 1	Re-lay existing rail sidings (x2) within the existing corridor, upgrade two existing level crossings, construction of a 3.5 m wide one-way access track, and construction of associated stormwater management facilities.	Department	4.55(2)	Under assessment (subject of this modification)
MOD 2	Minor amendments to development layout, incorporate construction and use of an administration building, and change the required tree pot container size.	Department	4.55(1A)	Approved on 21 September 2020
MOD 3	Inclusion of a stockpile site and revised development layout of the intermodal facility.	Department	4.55(1A)	Approved on 29 October 2020
MOD 4	Revise the requirements under condition B36 of the development consent.	Department	4.55(1A)	Approved on 17 December 2020

2 Proposed modification

On 14 October 2020, the Applicant lodged a modification application seeking approval to amend the St Marys Intermodal development consent.

The modification application seeks approval to amend the St Marys Intermodal development consent to include the following components:

- 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 from the terminal level crossing adjacent to siding 2, to transport locomotive drivers and undertake maintenance inspections
- construct stormwater management facilities and discharge outlets
- establish a temporary construction compound to support rail refurbishment works
- revise the development layout boundary to include the rail refurbishment works area.

2.1 Rail refurbishment works for existing rail sidings

Re-lay the existing rail sidings

The proposal seeks to re-lay the existing rail sidings (x2) that service the St Marys Intermodal facility, including the following components:

- remove the existing track and ballast
- excavate below the track to a depth of around 550mm
- backfill the excavated area
- re-lay the ballast and track.

The Applicant advised that upgrading the existing rail sidings would have the following benefits:

- address potential safety concerns regarding usability of the rail sidings to support port shuttle operations
- reduce ongoing maintenance of the rail sidings over the life of the development and reduce interruptions during operation
- reduce wheel squeal noise impacts by enabling design changes to track curves, including widening the gauge along the rail curve.

The Department's detailed consideration of the proposed rail refurbishment works is provided at **Section 6.1**. The proposed rail refurbishment works design area is shown at **Figure 3**.

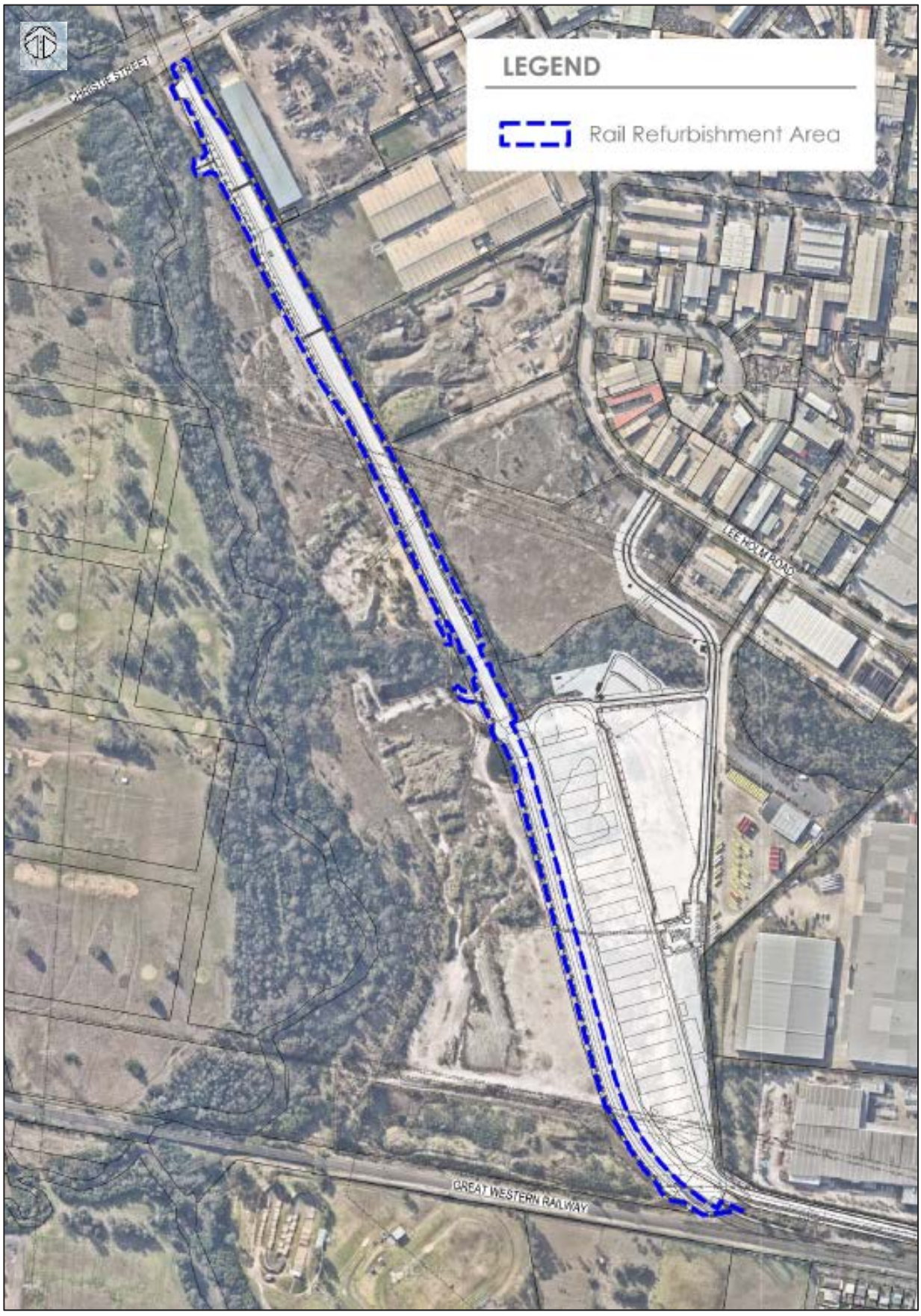

Figure 3 | Rail refurbishment works design area (source: Applicant's Modification Report)

Upgrade two existing level crossings and construction of one-way access track

The proposal seeks to upgrade two existing on-site level crossings and construct a 3.5 m wide one-way access track running adjacent to the rail sidings. The access track is proposed to begin at the upgraded level crossing (closest to Main Western Railway Line) and run north for the full length of the rail sidings. The Applicant advised the access track is required to:

- allow light vehicles to transport locomotive drivers
- provide access for track inspections
- enable access for maintenance works.

The Department's detailed assessment of the proposed level crossings and access track is provided at **Section 6.1**

Stormwater management facilities and discharge outlet

The proposal seeks to construct several stormwater management facilities and discharge outlets adjacent to the rail sidings within Lot 196 DP 31912 and Lot 2031 DP 815293, to convey and manage drainage flows from the development. The Applicant advised that there are no works proposed to be undertaken within the Little Creek stream area, and the existing culverts within Little Creek are to be retained. Further, an open swale running adjacent to the rail sidings would discharge stormwater into Little Creek and South Creek, to satisfy water quality requirements for the development. The Department's detailed assessment of the proposed stormwater management facilities and discharge outlets is provided at **Section 6.1.**

2.2 Temporary construction compound area

The proposal seeks to establish a temporary construction compound in the northern portion of Lot 2031 DP 815293, to support construction works for the rail refurbishment works (see northern section of **Figure 4**).

The construction compound is proposed to be located on a cleared section of land, on the western edge of the rail sidings to the north of Little Creek. Access to the compound would be via an existing internal construction access route that extends from the Lee Holm Road access point (**Figure 4**). The Department's detailed consideration of the temporary construction compound area is provided at **Section 6.2**.

2.3 Changed development layout boundary

The proposal seeks to amend the development layout at Appendix 1 of the development consent to include the proposed rail refurbishment works area shown at **Figure 4**. The Department's detailed consideration of the proposed development layout is provided at **Section 6.3**.

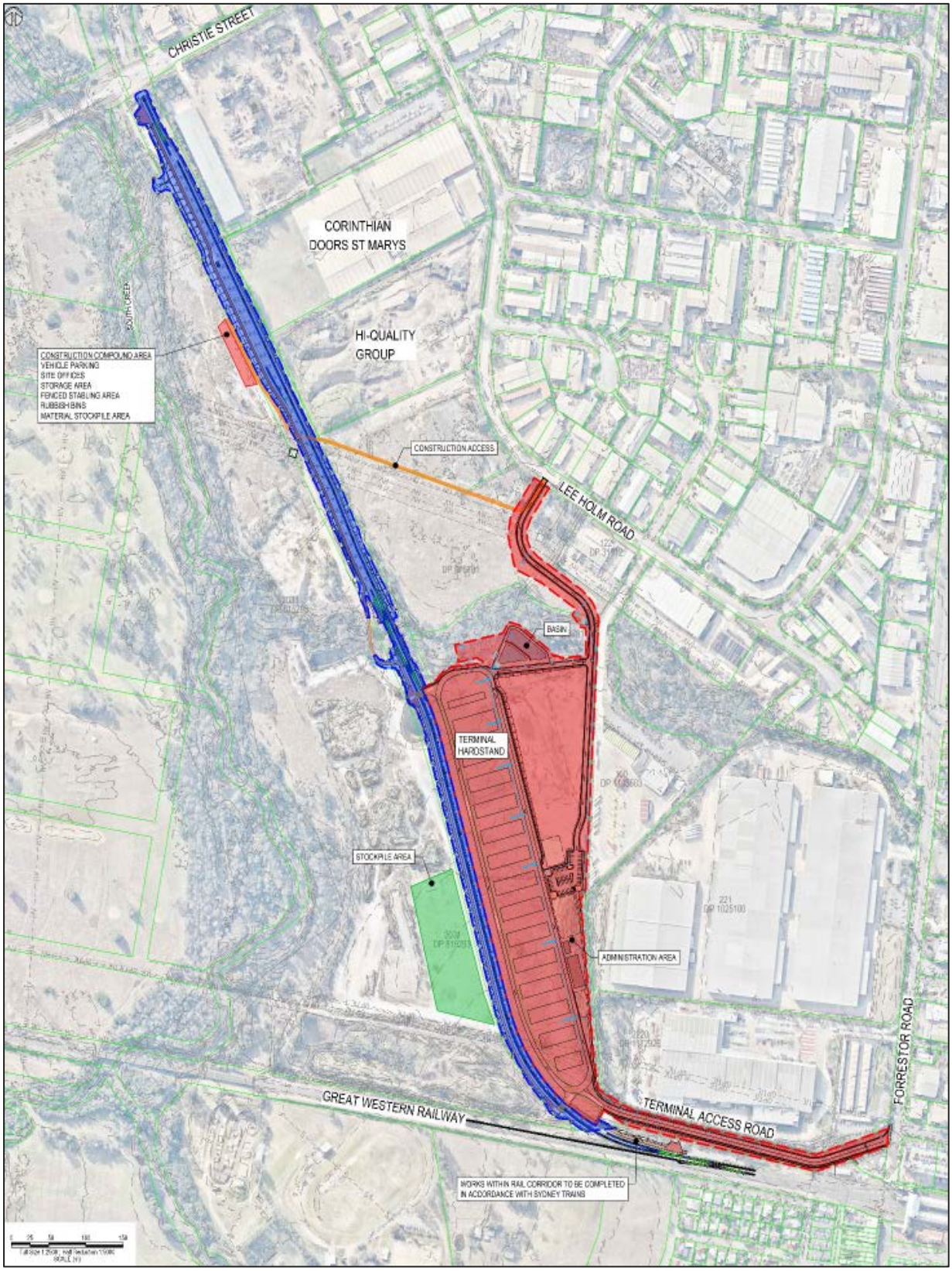

Figure 4 | Proposed development layout (source: Applicant's Modification Report)

3 Strategic context

The NSW Government is committed to increasing the share of containerised freight moved throughout Sydney by rail. The St Marys Intermodal seeks to move 301,000 TEUs annually between Port Botany and St Marys, which the Applicant states is equivalent to removing 8.7 million truck kilometres travelled per year from Sydney's regional and state road networks.

Freight containers would be unloaded and stacked within the facility until they are transported by trucks to distribution centres at Erskine Park, Eastern Creek, Wetherill Park, Arndell Park and Marsden Park. These distribution centres are generally within 20kms of the proposal site. In addition to servicing these distribution centres, the Main Western Railway line (adjoining the subject site), provides freight rail connections between Sydney, regional NSW and interstate freight rail lines connecting to South Australia, the Northern Territory and Western Australia.

The Department considers that the development, to which the modification relates, is appropriate for the site given it is consistent with the:

- *Future Transport Strategy 2056* (TfNSW, 2018), which emphasises the need for safe, efficient and sustainable movement of freight, and sets a series of future directions for investigation, including to expand intermodal rail capacity in western Sydney. The subsequent *NSW Freight and Ports Plan* (TfNSW, 2018), concluded that intermodal terminals within Greater Sydney are 'critical for increasing the utilisation of the rail freight network, particularly freight containers to and from Port Botany'.
- Greater Sydney Commission's *A Metropolis of Three Cities - The Greater Sydney Regional Plan* (2018), aims to facilitate a freight and logistics network that is competitive and efficient. The Plan notes that freight volumes are forecast 'to almost double in the next 40 years' and 'increasing importance [is being] placed on 24/7 supply chain operations to maintain Greater Sydney's global competitiveness'.
- Greater Sydney Commission's *Western District Plan*, as St Marys is identified as a 'Strategic centre' within the 'Western Sydney District industrial and urban services land and freight assets'.
- NSW State Priorities, as it would improve road travel reliability and increase business development.
- *State Infrastructure Strategy 2018 – 2038*, as it uses existing infrastructure and will aid in addressing congestion issues on key arterial roads, enabling the efficient distribution of containers to and from Port Botany.

4 Statutory context

4.1 Scope of modifications

The Department has reviewed the scope of the modification application and considers that the application:

- would not significantly increase the environmental impacts of the project as approved
- is substantially the same development as originally approved.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55(2) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(2) of the EP&A Act rather than requiring a new development application to be lodged.

4.2 Consent authority

The Minister for Planning and Public Spaces is the consent authority for the application under section 4.5(a) of the EP&A Act. However, under the Minister's delegation dated 9 March 2020, the Director, Social and Infrastructure Assessments may determine the application as:

- the relevant council has not made an objection.
- a political disclosure statement has not been made.
- there are less than 10 public submissions in the nature of objection.

4.3 Mandatory matters for consideration

The following environmental planning instruments (EPIs) apply to the site:

- State Environmental Planning Policy (State & Regional Development) 2011
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No. 55 – Remediation of Land
- Draft State Environmental Planning Policy (Remediation of Land)
- Draft State Environmental Planning Policy (Environment)
- Penrith Local Environmental Plan (PLEP) 2010.

The Department conducted a comprehensive assessment of the project against the mandatory matters for consideration as part of the original assessment of SSD 7308. The Department considers this modification application does not result in significant changes that would alter the mandatory matters for consideration under section 4.15 of the EP&A Act and conclusions made as part of the original assessment.

5 Engagement

5.1 Department's engagement

In accordance with clause 10 of Schedule 1 to the EP&A Act and clause 118 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation), the Department exhibited the application on the Department's website for 14 days from Thursday 22 October 2020 to Wednesday 4 November 2020. Previous submitters and adjoining landowners were notified of the modification application and invited to make a submission. Department representatives visited the site on 4 November 2020 to provide an informed assessment of the proposal.

The modification application was referred to Penrith City Council and the following Government agencies for comment:

- Environment Protection Authority (EPA)
- Transport for NSW (TfNSW)
- Sydney Trains
- Environment, Energy and Science Group (EESG)
- DPI Fisheries
- Department of Planning, Industry and Environment - Crown Lands
- Department of Planning, Industry and Environment – Water Group
- NSW Rural Fire Service
- Endeavour Energy
- Air Services Australia.

5.2 Summary of submissions

During the exhibition period, the Department received a total of twelve submissions on the proposal, including one submission from Penrith City Council and ten from Government agencies. One public submission was received in objection to the proposal. A summary of submissions received from Council and Government agencies is provided at **Table 3** and a full copy of submissions is provided at **Appendix A**.

Table 3 | Summary of Council and Government agency submissions

Council
Council did not object to the proposal and provided the following comments: • the proposed works compound is situated on land zoned RE1 and is not considered to be permissible in the zone. Council noted that the compound is temporary and must ensure that the objectives of the zone are not undermined, the impacts of the works are negligible, and that ground and vegetation conditions can be rectified at the conclusion of the temporary works. • it is requested that the vegetation management plan for the development be expanded to include Lot 2031 DP 815293 (inclusive of the proposed compound area), including measures to reinstate natural vegetation conditions at the end of the works period.

- increased dependency on the adjacent land zoned RE1 (i.e. Lot 2031 DP 815293) reinforces the need for the Applicant to pursue a planning proposal, to reconsider the appropriateness of the RE1 zoned land. Council recommends the Applicant undertake a planning proposal to reconsider the zoning of the land.
- the proposed construction access road is within an area of the overall site that has not been investigated for land contamination. Concern has been raised by Council at the encroachment of construction activities within areas not investigated.
- recommend implementation of a number of environmental management requirements including, contamination management controls, consideration of horn use in the noise assessment and reuse/disposal of sleepers stored on site.
- the flood impact assessment is to consider the impact of filling of the rail corridor upon South Creek.
- a flood safety assessment is to be undertaken for the section of the access track that traverses Little Creek.
- stormwater drainage is considered acceptable as it is proposed to drain the siding via grass channels that discharge into bio-retention systems.
- clarify as to whether the dam located to the west of the rail refurbishment area has been subject to fauna/flora assessments.
- implementation of a Vegetation Management Plan to address impacts of works associated with the riparian corridor on Lot 2031, which may have impacts on the neighbouring E2 zone. Controls, including vegetation protection measures, must be put in place to ensure impacts do not exceed those forecasted and mapped.

EPA

EPA did not object to the proposal and provided the following comments:

- recommend that sections of the siding north of the intermodal should be assessed in accordance with the Noise Policy for Industry (EPA, 2017) in conjunction with all other operational activities on the premises.
- recommend that construction noise and vibration impacts generated by this proposal, that were not considered in the original EIS or other modifications, be assessed as part of this modification.
- it is considered appropriate that an unexpected finds protocol is applied during construction works, in accordance with the Remediation Action Plan for the development.

TfNSW

TfNSW did not object to the proposal and provided a consolidated cluster response with Sydney Trains and Sydney Metro, including the following comments:

- Sydney Trains noted that the proposal includes work to be undertaken within TAHE (Transport Asset Holding Entity) land, as part of the operational rail corridor. The Applicant is therefore requested to seek consultation with Sydney Trains regarding Land Owners consent requirements.
- the Applicant is requested to seek consultation with Sydney Trains to update the existing Safety Interface Agreement.
- the Applicant is requested to provide clarification in the RtS that existing train operations will not be impacted, and will continue to be provided access to the sidings at St Marys during construction and operation.
- Sydney Metro noted that they are a key stakeholder in preparation of the construction traffic and pedestrian management sub plan under condition B13. The Applicant is requested to prepare the plan in consultation with Sydney Metro to ensure construction interface issues are mitigated.

Sydney Trains

Sydney Trains advised that their response would be provided as part of a consolidated TfNSW cluster agency submission. Refer to TfNSW comments above.

EESG

EESG did not object to the proposal and provided no comments on the BDAR submitted as Appendix 3 to the modification report, including the biodiversity credit report. In regard to flooding, EESG stated that it is

prudent for the Applicant to prepare an Emergency Management Plan to address the feasibility for safe evacuation of workers and users of the site to the flood free area. Consultation with the State Emergency Service is also prudent as the site is partially within the Hawkesbury-Nepean Regional flood extent.
DPI Fisheries
DPI Fisheries provided no comment on the proposal.
DPIE – Crown Lands
DPIE Crown Lands provided no comment on the proposal.
DPIE – Water Group
DPIE Water Group did not object to the proposal and provided the following comments: • prior to water take, the project should ensure all predicted water take from groundwater and/or surface water sources is appropriately licensed and approved by NRAR under a water licence and a water supply works approval • stormwater outlets should comply with the NRAR Guidelines for outlet structure on waterfront land • activity within the riparian corridor for South Creek should be in accordance with NRAR's guidelines for riparian corridors on waterfront land and the previously approved construction and operational footprint.
NSW RFS
NSW RFS provided no objection to the proposed modification.
Endeavour Energy
Endeavour Energy noted that recommendations made as part of the original development application remain valid and advised that the proposed modification does not appear to impact the existing electricity infrastructure and easements on and near the site. However, it appears there is work occurring in the easements/proximity of the electricity infrastructure on the site. Further, Endeavour Energy stated that they have no objection to the development application and provided supporting technical guidelines and support material.
Air Services Australia
Air Services Australia referenced its previous submission on the original development application and noted the information is still applicable to the development.

Further, one public submission was received in objection to the proposed modification. That submission raised concerns in regard to increased noise, vibration and dust impacts during construction and operation, increased noise and activity at the proposed level crossings and increased stormwater volumes and run off from the project.

5.3 Response to submissions

Following the exhibition of the modification application, the Department placed copies of all submissions on its website and requested the Applicant provide a response to the issues raised in the submissions.

On 20 November 2020, the Applicant submitted a Response to Submissions (RtS) report (**Appendix A**) to address the issues raised during the exhibition. The RtS was made publicly available on the Department's website. The RtS was forwarded to Council, EPA and TfNSW for comment, and their responses are summarised at **Table 4**.

Table 4 | Summary of Council, EPA and TfNSW submissions on RtS

Council
Council provided the following additional comments for the Department's consideration • recommended the Department consider matters previously raised by Council in regard to permissibility and zoning. • reiterated the need for a vegetation management plan to manage the E2 zoned riparian corridor and a commitment to restore the vegetation community. • recommended that the area proposed for the temporary road accessway be investigated for land contamination prior to use. The areas proposed to be utilised for the development, including for construction purposes only, should be investigated prior to use. If the area is not to be investigated prior to use, then the implementation of an Unexpected Finds Protocol is particularly important. • the location of long term storage, and the disposal location of sleepers not used in the refurbishment works, remain unclear. The concrete construction of the sleepers means that issues associated with the treatment of timber sleepers, or asbestos fibres impacting old timber sleepers from historic rail activities, do not apply. • no further concerns are raised regarding the filling works with respect to flood storage volume. The filling works should not increase flood levels on adjoining lands. • recommended that a flood safety assessment be undertaken for the section of the access track that crosses Little Creek, with any recommendations to be implemented on site. The Flood Safety Assessment shall assess flood velocity/depth products for flood safe access of vehicles, and possible signage including depth markers and flood warning signage.
EPA
EPA advised that the Applicant has addressed previous comments and the EPA has no further comments on the Rail Noise Letter or Construction Noise Letter. Notwithstanding, the EPA recommended the following: • any references to the EIS documentation in the conditions of consent, such as condition B26 and E10, are updated to include the modification. • the modified instrument of consent should include a definition of what constitutes the 'rail spur' to which the noise limits under condition E13 apply. • the noise limits under condition E9 should be updated to reflect to Project Trigger Levels for NCA 3 in Table 1 of the Construction Noise Letter. • construction works associated with Mod 1 can be considered as part of the existing conditions for construction noise.
TfNSW
TfNSW (Sydney Trains) recommended the following: • the Applicant must engage with Sydney Trains prior to commencement of any works or commencement of operations via the siding to establish an agreement on the updating of the existing Safety Interface Agreement, for the rail siding and any works undertaken within the Rail Corridor and TAHE (Transport Asset Holding Entity) land. • no works are permitted within the rail corridor, land and airspace, or any easements which benefit Sydney Trains/TAHE, at any time, unless the prior approval of, or an agreement with, Sydney Trains/TAHE has been obtained by the Applicant, and is in accordance with any applicable existing Safety Interface Agreement.

5.4 Supplementary information

On 8 December 2020, the Applicant provided a response to comments provided by Penrith City Council, the EPA and TfNSW on the RtS. The additional information submitted by the Applicant provided a response to recommended conditions of consent and acknowledged the late submission received by DPIE – Water Group on the proposal.

6 Assessment

The Department has considered the modification application, the matters raised in submissions and the Applicant's RtS in its assessment of the proposal. The key issues identified are discussed in detail below under the main elements of the proposed modification. Other issues were taken into consideration during the Department's assessment of the application and are discussed in **Section 6.4**.

6.1 Rail refurbishment works for existing rail sidings

The proposal seeks to refurbish the existing rail sidings (x2) that service the St Marys Intermodal facility. The proposed rail refurbishment works area is approximately 3.8 hectares (ha) and includes the following components:

- re-lay the existing rail sidings (x2) within the existing corridor
- construct a 3.5 m wide one-way access track adjacent to the rail sidings and upgrade two existing level crossings
- construct associated stormwater management facilities and discharge outlets.

The indicative timeframe for construction of the rail refurbishment works is 16 weeks from commencement of the works.

Re-lay the existing rail sidings

The proposal seeks to re-lay the existing rail sidings (x2) that service the facility, including the following components:

- remove the existing track and ballast
- excavate below the track to a depth of around 550mm
- backfill the excavated area
- re-lay the ballast and track.

The proposal also seeks to construct a third siding (siding 3) to be used as a bad order siding, as required (**Figure 8** to **Figure 9**).

Earthwork activities are proposed to be undertaken as part of the works, including re-use of 12,000m^3 of excavated material that is surplus to requirements for the main intermodal terminal area. The proposed earthwork activities would be more extensive north of Little Creek (i.e. further away from the closest residential receivers to the south of the Main Western Railway Line). Detailed engineering drawings of the rail refurbishment works area are provided at **Figure 5** to **Figure 9**.

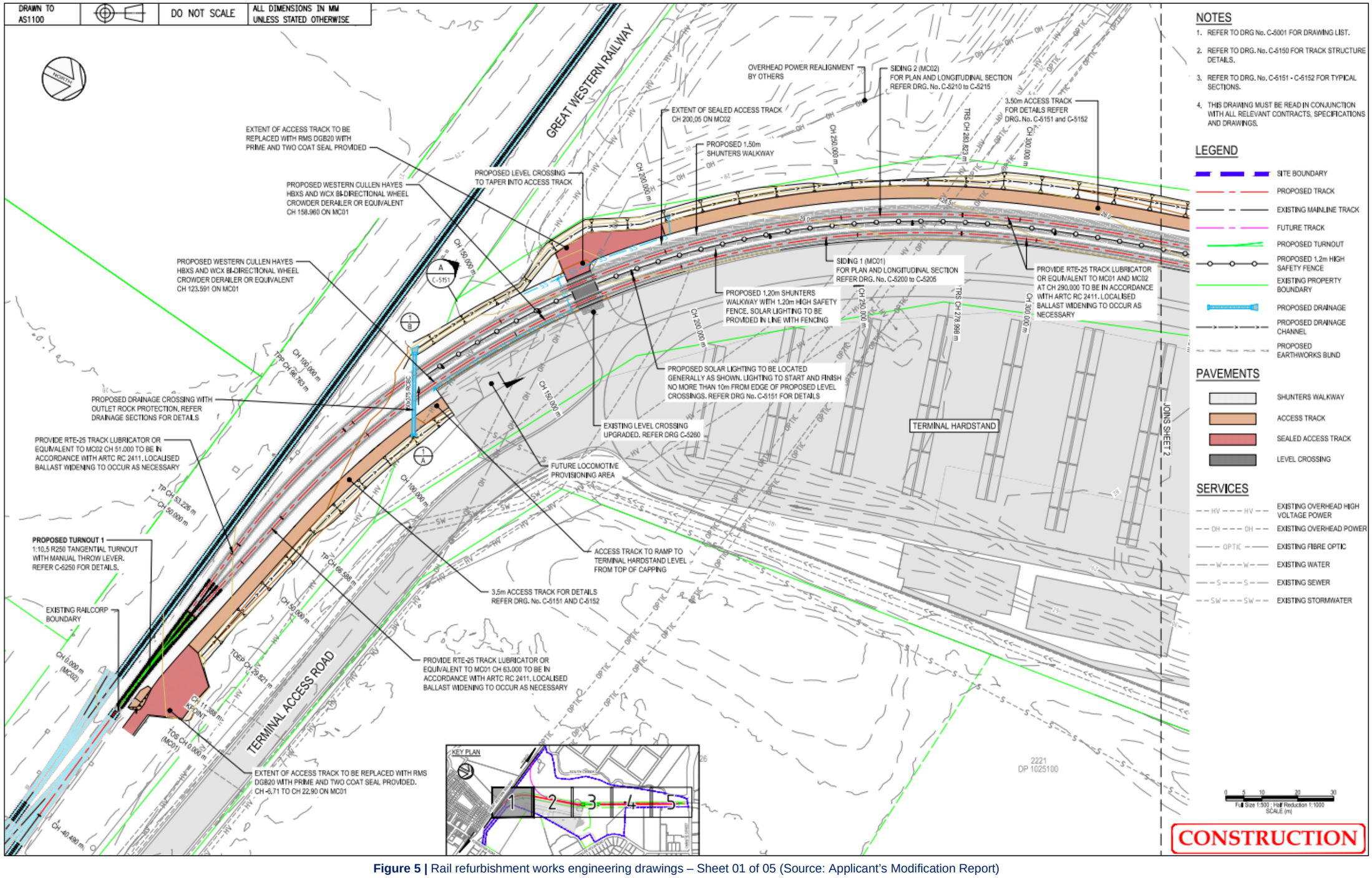

Figure 5 | Rail refurbishment works engineering drawings – Sheet 01 of 05 (Source: Applicant's Modification Report)

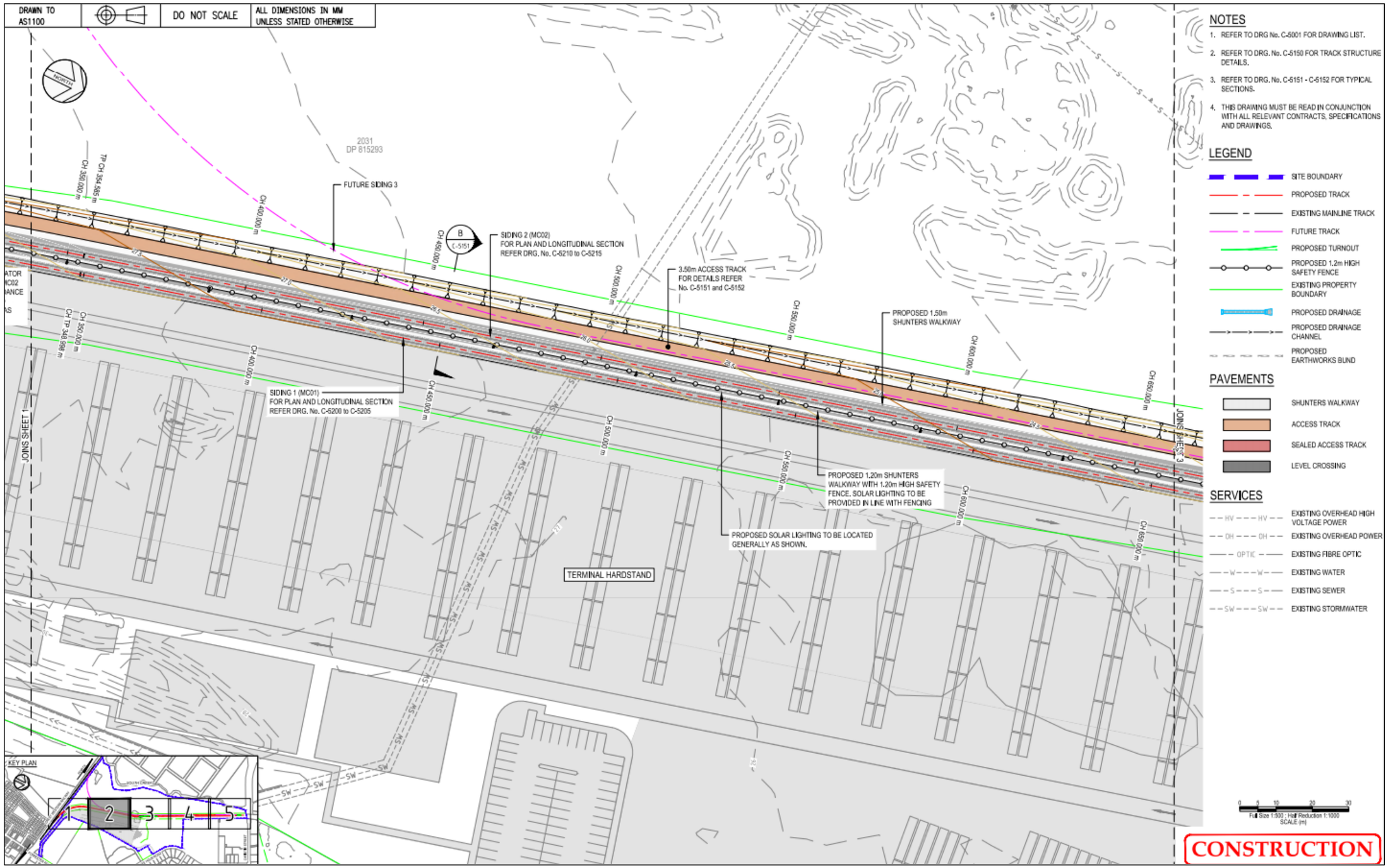

Figure 6 | Rail refurbishment works engineering drawings – Sheet 02 of 05 (Source: Applicant's Modification Report)

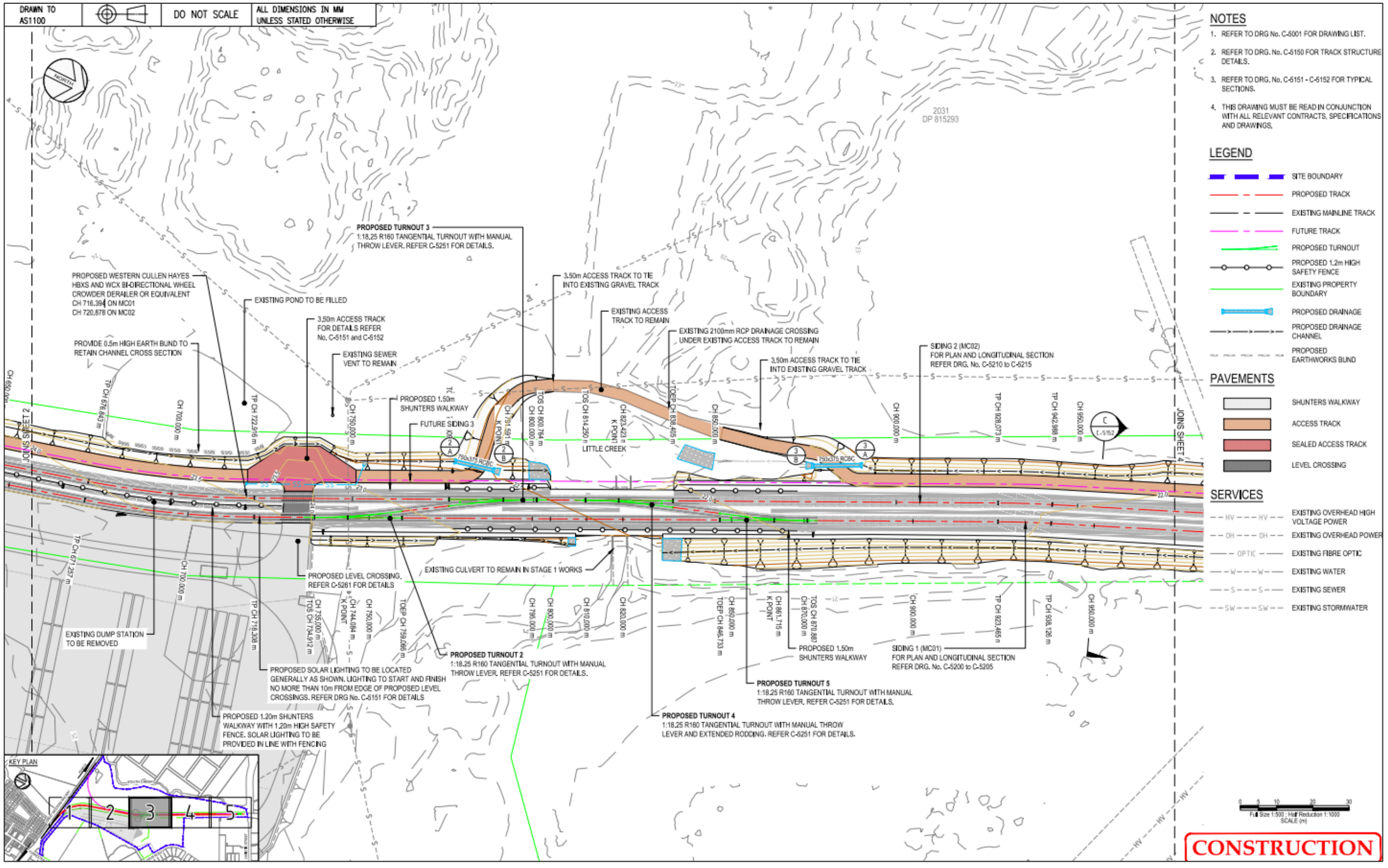

Figure 7 | Rail refurbishment works engineering drawings – Sheet 03 of 05 (Source: Applicant's Modification Report)

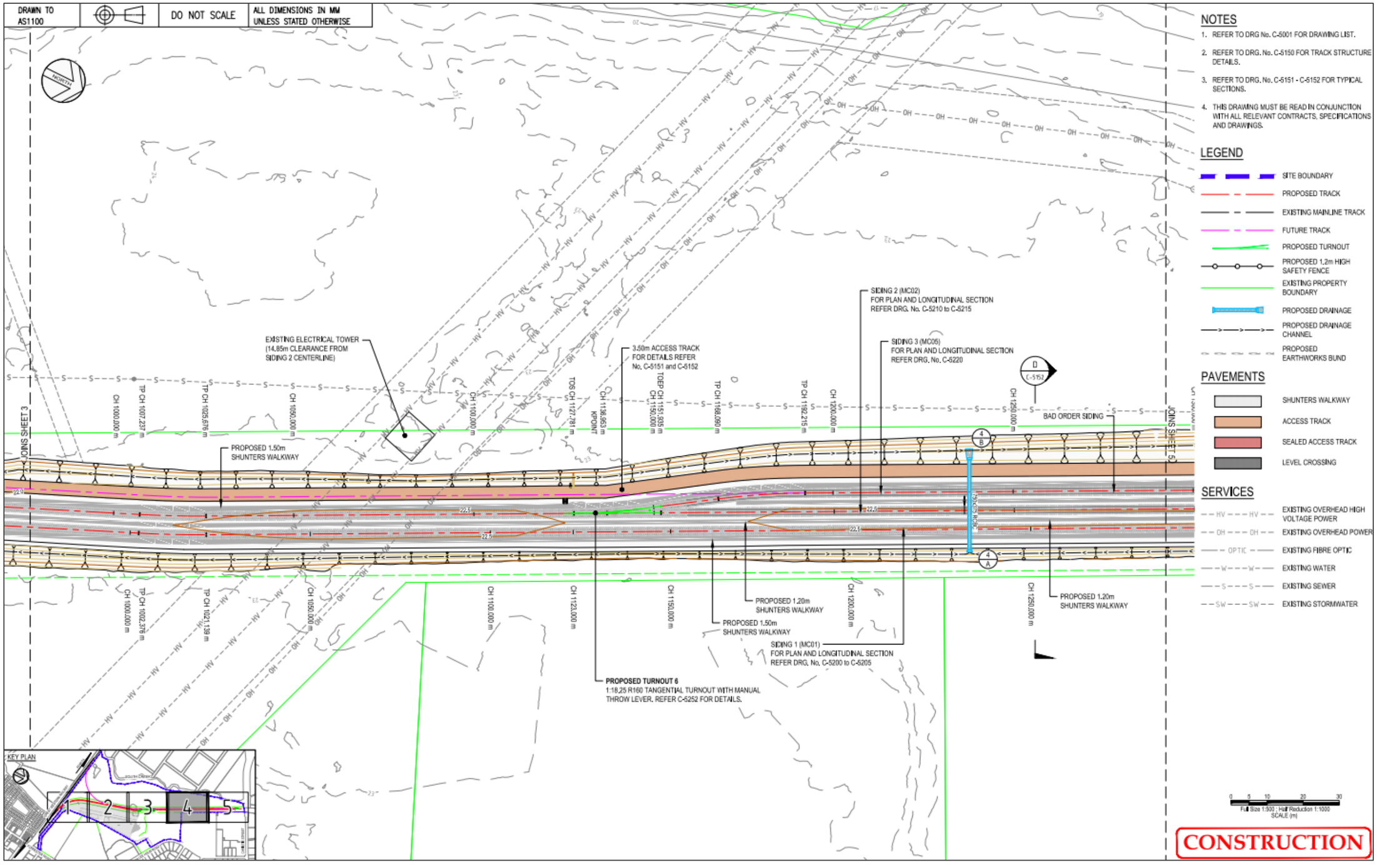

Figure 8 | Rail refurbishment works engineering drawings – Sheet 04 of 05 (Source: Applicant's Modification Report)

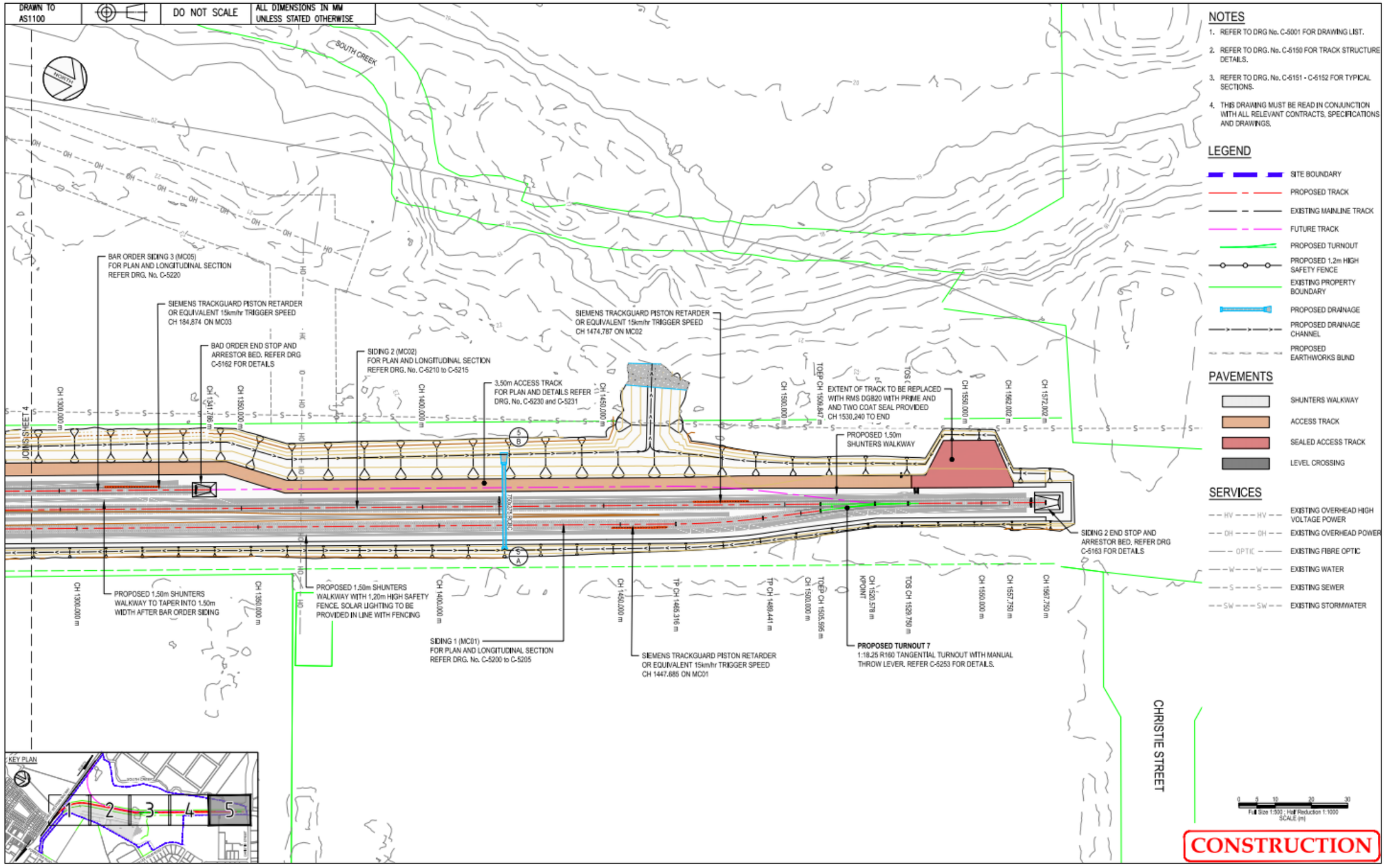

Figure 9 | Rail refurbishment works engineering drawings – Sheet 05 of 05 (Source: Applicant's Modification Report)

As part of its submission on the modification application, Sydney Trains advised that any rail refurbishment works proposed to be undertaken within TAHE (Transport Asset Holding Entity) land (**Figure 5**) requires land owners consent from TAHE for use of that land. As part of the RtS, the Applicant committed to obtain land owners consent for any works within TAHE land and advised that the proposed works within TAHE land have been previously undertaken and completed during a track closure on 11 to 14 September 2020. Notwithstanding, the Department recommends a condition requiring that no works are permitted within the rail corridor, land and airspace, at any time, unless the prior approval of, or an agreement with, Sydney Trains/TAHE has been obtained.

Sydney Trains also requested to be consulted regarding any update to the existing Safety Interface Agreement (SIA) for the rail sidings. The Applicant advised that the existing connection agreement that captures the SIA would be updated, in consultation with Sydney Trains, prior to completion of the rail refurbishment works. The Department recommends a condition requiring the Applicant consult with Sydney Trains prior to commencement of operation of the rail sidings, to establish an agreement on updating the existing SIA.

Construction noise

During construction of the rail refurbishment works, the Applicant proposes to use plant and equipment that is typically lighter than that required to construct the main terminal area. Scrapers and other similar heavy equipment would not be required as the depth of excavation is generally 0.5 m deep across the rail siding alignment. As part of its submission on the modification application, the EPA raised concerns that the noise assessment prepared as part of the original application did not adequately assess construction noise associated with the rail refurbishment works area.

As part of the RtS, the Applicant provided an additional noise assessment to address construction noise impacts associated with the rail refurbishment works, prepared in accordance with the EPA's *Interim Construction Noise Guideline*. That assessment predicted exceedances of 19dBA above the noise management level (NML) at the closest sensitive receiver (NCA 2), under the worst case scenario if all plant and equipment operated simultaneously. NCA 1, NCA 3 and NCA 4 were predicted to be below the relevant construction NML (**Table 5**). The Department acknowledges that the likelihood of all plant operating at the same time at the same location is low, noting that the rail refurbishment works area extends over a 1300 m alignment. The Department also notes that the noisiest equipment would likely be the rail resurfacing machine (tamping machine), which would likely be operated 5% of the time. The indicative timeline for rail refurbishment works is 16 weeks.

Table 5 | Predicted construction noise levels at closest residential receivers (Source: Applicant's Noise Assessment)

Noise catchment area	**Shortest distance between works and noise catchment area**	**Standard hours noise management levels, $L_{Aeq,\ 15\ min}$, dB(A)**	**Predicted construction noise level, $L_{Aeq,\ 15\ min}$, dB(A)**	
			All equipment in operation	All equipment in operation except rail resurfacing machine
NCA1[1]	690 m	53	39	29
NCA2	150 m	49	**68**	**58**
NCA3	730 m	57	49	39

NCA4	750 m	58	48	38

Notes: [1]No line of sight to receiver.

The Department considers that construction noise associated with the rail refurbishment works can be actively managed through implementation of best practice management measures set out in the approved Construction Noise and Vibration Management Plan (CNVMP) for the development. Further, the Applicant must comply with the standard construction work hours outlined under condition C4 of the development consent, except where allowed for the reasons outlined under condition C5. The Department recommends a condition requiring the CNVMP for the development to be updated to include any changes required to address the amendments to the development.

Operational noise

The Applicant prepared an updated operational noise assessment, to assess potential noise impacts from use of the non-network rail line for the proposal (i.e. use of the rail sidings north of the previously assessed intermodal terminal area). The Applicant's assessment found that train movements into and out of the facility are expected to comply with the *Rail Infrastructure Noise Guideline* criteria. Notwithstanding, the assessment did identify wheel squeal noise exceedances of the sleep disturbance criteria at NCA 2 of up to 4 dBA. As part of its submission on the modification application, the EPA advised that the section of rail sidings north of the intermodal terminal area should instead be assessed using the *Noise Policy for Industry* (EPA, 2017) (NPfI), as that section of rail siding would be used for shunting, switching and storage of trains and forms part of the industrial premises.

As part of the RtS, the Applicant provided an updated operational noise assessment at NCA 3 (i.e. the closest receiver to the northern section of rail sidings) under the NPfl. That assessment found that cumulative noise levels from train movements on the non-network rail line (i.e. rail sidings) north of the intermodal terminal area, and from operation of the intermodal facility, are predicted to comply with the project NML of 38 dBA. The EPA considered this to be acceptable, however, recommended that the night time $L_{Aeq\ 15\ minute}$ noise limit for NCA 3 under condition E9 of the consent be updated from 35dBA to 38dBA, to accurately reflect the noise management levels set out in the Applicant's noise assessment. The EPA also recommended that a definition of what constitutes the 'rail spur', to which the noise limit in condition E13 applies, be provided in the consent and that any updated noise assessments prepared for the rail sidings be referenced under condition B26 and E10 of the consent. The Department accepts the recommendations provided by the EPA and has drafted conditions to amend the development consent accordingly.

Overall, the Department considers that noise associated with operation of the rail sidings has been appropriately assessed as part of the original development application and this modification application. To appropriately mitigate operational noise associated with use of the rail sidings, the Applicant has committed to implement a suite of management measures, including:

- use of track lubrication and wagon steering to minimise curve squeal
- use of electronically controlled pneumatic braking systems to minimise brake squeal
- permanent noise monitoring systems with associated reporting of digital data to the Secretary
- policies and procedures that demonstrate acceptance, monitoring and reporting on locomotive and rolling stock performance
- construction and implementation of a 3 m high noise barrier on the southern side of the Main Western Rail Line.

Upgrade two existing level crossings and construction of one-way access track

The proposal seeks to construct a 3.5 m wide one-way access track adjacent to the rail sidings and upgrade two existing level crossings (**Figure 5** to **Figure 9**). The access track would utilise an existing gravel access track that traverses Little Creek, to the immediate west of rail siding 2. The access track is proposed to run the full length of the rail sidings to allow light vehicles to transport locomotive drivers, enable access for maintenance works and allow track inspections during operation of the development.

As part of its submission on the modification application, Council requested a flood safety assessment be undertaken for the section of access track that traverses Little Creek, to assess flood velocity and depth for the safe access of vehicles, including possible warning signage, depth markers and potential upgrades to the pipe culvert to achieve flood safe access. As part of the RtS, the Applicant advised that the low point in the access track is subject to high hazard flood conditions during the 1% AEP event during both existing and post-developed peak-flow scenarios. To manage potential flooding impacts, the Applicant proposes to implement flood warning signage at the low point across Little Creek, enforce conditions for use of the access track in the Emergency Management Plan for the development, and restrict use of the track during flooding events. The Applicant also considered that upgrading the pipe culvert crossing Little Creek is not considered appropriate, as this would require raising the access track which has the potential to cause additional flooding impacts. The Department considers this approach to be acceptable.

Further, EESG recommended that an Emergency Management Plan be prepared for the development, to evacuate workers and users of the rail works area during a flood event. EESG also recommended the Applicant consult State Emergency Services during preparation of the plan, as the site is partially within the Hawkesbury-Nepean Regional flood extent. In response to advice provided by EESG, the Applicant advised that a site-specific Flood Management Plan would be implemented during operation of the development and would be maintained by the operator of the site.

In relation to the proposed upgraded level crossings, objection was raised in public submissions to the potential increase in noise activity from train horns and signaling equipment. The Applicant advised that there is no increase in train activity as a result of the proposed upgraded level crossings, and that train horns would only be used in case of an emergency and not during normal operation. The Department considers this to be acceptable.

Overall, the Department considers that construction and operation of the proposed one-way access track and two level crossings is necessary to the facilitate the efficient and safe operation of the rail sidings and intermodal terminal. The Department has carefully considered advice provided by Council and EESG in relation to potential flooding impacts. Consequently, the Department recommends a condition requiring that prior to the commencement of operation, the Applicant must undertake a flood safety assessment for the section of the existing access track that traverses Little Creek. 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 and incorporated into the Operational Environmental Management Plan for the development.

Stormwater management facilities and discharge outlets

The proposal seeks to construct a number of stormwater management facilities and discharge outlets within the rail refurbishment works area. As part of the modification request, the Applicant engaged

BG&E Consulting to prepare a Stormwater Management Plan, to assess water quantity and quality impacts during construction and operation of the rail refurbishment works area. The Stormwater Management Plan separated the rail refurbishment works area into six catchments as set out in **Table 6**. The two discharge locations are located at Little Creek (**Figure 10**) and South Creek (**Figure 11**).

Table 6 | Catchment areas and discharge locations (Source: BG&E Stormwater Management Plan)

Catchment ID	Catchment area (ha)	Discharge location
Catchment 1	1.683	Existing sedimentation basin (Little Creek)
Catchment 2	0.022	Existing sedimentation basin (Little Creek)
Catchment 3	0.423	Existing sedimentation basin (Little Creek)
Catchment 4	0.321	Existing sedimentation basin (Little Creek)
Catchment 5	1.204	South Creek (existing discharge location)
Catchment 6	0.249	South Creek (existing discharge location)
Untreated catchment	0.068	Little Creek (existing discharge location)

Further, the Applicant's proposed stormwater quality design incorporates six drainage swales (with bio-retention) and use of an existing sediment basin. The sediment basin would be fitted with spill capture basins to minimise the likelihood of potential pollutants from the development reaching Little Creek and South Creek, and to facilitate compliance with Penrith City Council's Waste Water Urban Design (WSUD) Policy (2017). Council advised that the proposed stormwater drainage design is acceptable.

The Department has carefully considered concerns raised by Council regarding the appropriateness of the proposed permanent stormwater infrastructure located within RE1 Public Recreation land. Notwithstanding, the Department is satisfied that suitable provisions exist under State Environmental Planning Policy (SEPP) (Infrastructure) 2007, to allow development for the purpose of stormwater management systems to be carried out by any person with consent on any land. The Department also acknowledges that the proposed stormwater and drainage works would improve existing stormwater management and water quality standards for discharge into Little Creek and South Creek. Consequently, the Department considers that the proposed stormwater management facilities and discharge outlet within the rail works area are acceptable.

The Applicant has also committed to implement a range of erosion and sediment control measures to prevent adverse impacts on local waterways during construction, in accordance with the Construction Soil and Water Management Plan (CSWMP) approved for the development. Erosion and sediment control measures proposed include installation of catch drains (diversion channels) with check dams, inlet and outlet protection, erosion matting and geotextiles. To ensure that erosion and sediment control measures proposed for the rail refurbishment works area are appropriately implemented, the Department recommends the Applicant be required to update the CSWMP to capture the scope of the proposed works.

Overall, the Department is satisfied that the rail refurbishment works package is a necessary and integral component to the safe and efficient operation of the development, and that the development would remain substantially the same as originally approved.

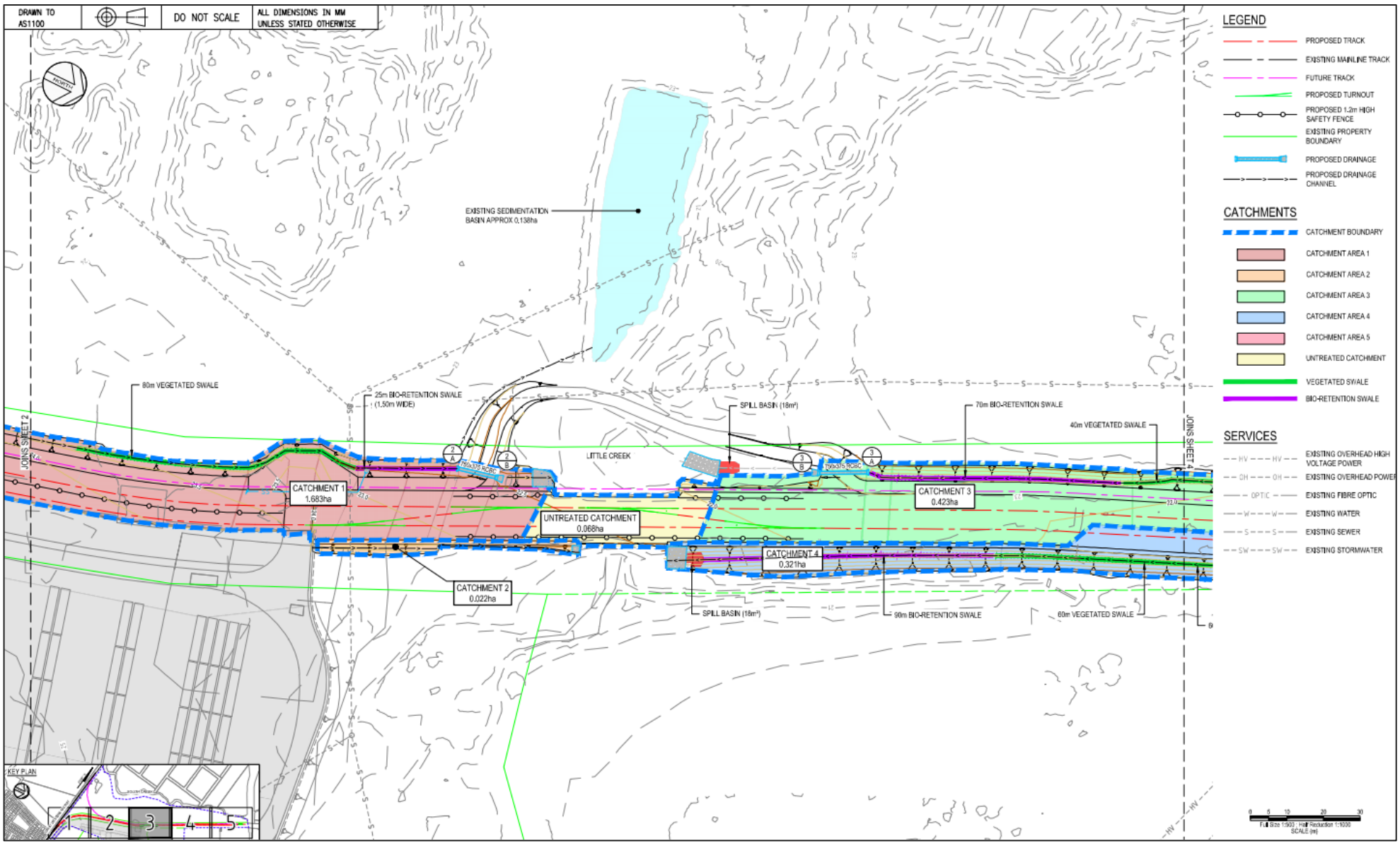

Figure 11 | Proposed stormwater infrastructure for Little Creek Crossing (Source: Applicant's Stormwater Management Plan)

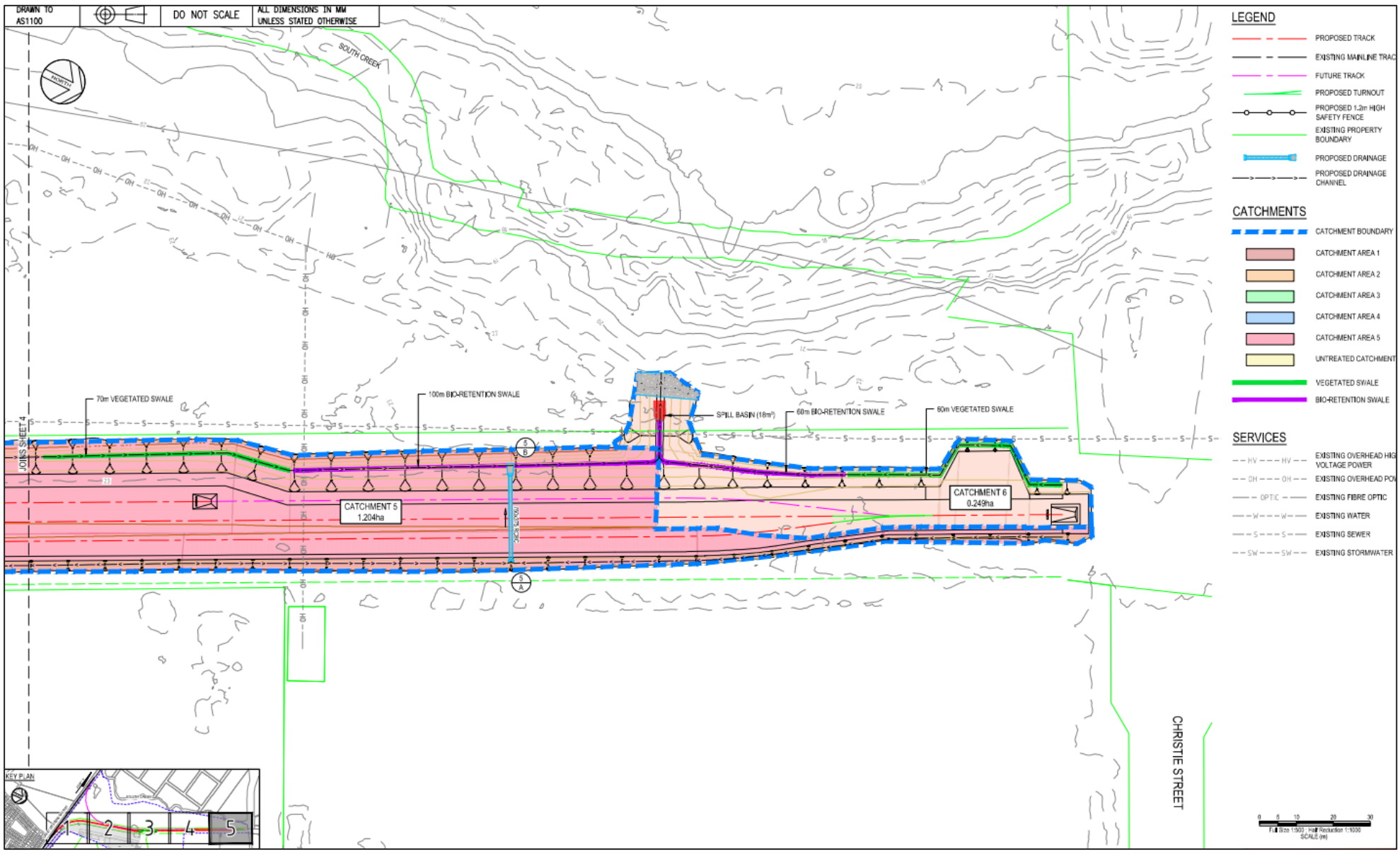

Figure 10 | Proposed stormwater infrastructure for northern section of rail refurbishment works (Source: Applicant's Stormwater Management Design)

6.2 Temporary construction compound area

The proposal seeks to establish a temporary construction compound in the far northern section of the site, to support construction works for the rail refurbishment works area. The compound is proposed to include vehicle parking, site offices, storage area, fenced stabling area, rubbish bins and material stockpile area. The Applicant advised that the compound would exist for less than six months. The location of the proposed compound is provided at **Figure 12**.

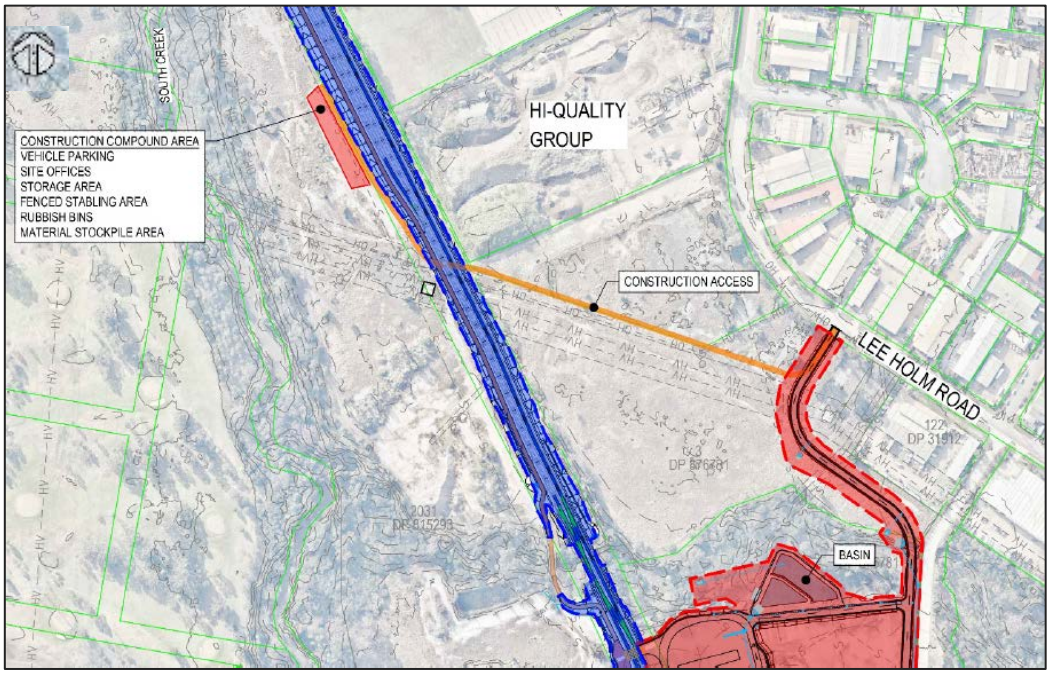

Figure 12 | Construction compound area at northern portion of the site (source: Applicant's Modification Report)

The Department acknowledges that the proposed construction compound area is located within Lot 2031 DP 815293, which is zoned RE1 Public Recreation under the PLEP (separate to the majority of the St Marys Intermodal site which is zoned IN1 General Industrial). As part of its submission on the modification application, Council advised that the proposed construction compound is not considered to be permissible in the RE1 Public Recreation zone.

The Applicant provided additional information to address Council's concerns, and noted the following:

- the compound site (inclusive of lot 2031 DP 815293) is owned by Pacific National
- the site is not used for public recreation purposes and is not identified for acquisition purposes. There is no known future role for public recreation purposes
- the lot has been historically used for industrial purposes
- the boundary of the site is fenced to prevent public access and avoid people accessing the operational rail sidings within the site
- the construction compound is temporary and would be in use for six months in total
- the Applicant advised that if the land within Lot 2031 DP 815293 is to be developed for future industrial use, then a Planning Proposal to rezone that land would be required at a later date.

The Department notes Council's concerns, however, considers that use of the temporary construction compound is an integral component to the efficient and coordinated construction of the rail refurbishment works area. To manage use of the temporary construction compound area, the Department recommends a condition that enforces a six month time limit on use of the compound area during construction.

Further, as part of its submission on the modification application, and consistent with advice provided as part of SSD 7308 MOD 3, Council recommended that the Vegetation Management Plan (VMP) required under condition B33(g) be expanded to include the scope of works proposed on Lot 2031 DP 815293. In particular, Council recommended that the temporary construction compound area be rehabilitated to 'natural vegetation conditions', rather than 'pre-existing conditions' that are currently present on the exotic/cleared compound area.

In response to Council's concerns, the Applicant considered that rehabilitation of the construction compound area and revision of the VMP is not feasible for the following reasons:

- site surveys of the construction compound area found that no biodiversity values exist on the compound site. The area is cleared and has no vegetation (**Figure 13**)
- the construction compound area is used for access and storage, and will continue to be used as such until the rail refurbishment works are complete
- Lot 2031 DP 815293 may continue to be used for industrial activities in the future.

Figure 13 | Construction works compound site (within red box) (source: Nearmap)

The Applicant also advised that environmental management measures, including demarcation of the works boundary and use of on-board GPS sensors on plant and equipment would be used to accurately manage the works boundary within Lot 2031 DP 815293.

The Department has carefully considered advice provided by Council and the Applicant in relation to the existing and proposed future use of the temporary construction compound area (**Figure 13**), and notes the proposed future industrial use of the compound area, and has concluded that rehabilitation of the compound area is not required at this stage. Notwithstanding, the Department considers that any future industrial use on Lot 2031 DP 815293 may require rezoning of the existing RE1 zoned land. Prior to any potential future rezoning of that land, the Applicant would be required to undertake detailed environmental surveying of Lot 2031 DP 815293 and a rigorous assessment of riparian protection areas in accordance with the NRAR 'Guidelines for controlled activities on waterfront land'.

6.3 Changed development layout boundary

The proposal seeks to amend the development layout at Appendix 1 of the development consent to accommodate the rail refurbishment works area. The proposed changes include the following:

- incorporate the full length of the rail refurbishment area as part of the development layout, including the rail access track running adjacent to the rail sidings
- identify the proposed temporary construction compound area
- identify a proposed internal construction access road.

The proposed development layout is shown at **Figure 4**.

The Applicant submits that the amended development layout boundary would require the minor removal of native vegetation adjacent to the rail sidings. Consequently, the Applicant prepared a revised Biodiversity Development Assessment Report (BDAR) as part of the proposed modification, to address additional impacts to biodiversity values as a result of the modification, in accordance with the Biodiversity Assessment Method (BAM). The revised BDAR found an additional 3 ecosystem credits and 6 species credits are required to be retired as a result of the modification (**Table 7** and **Table 8**).

Table 7 | Additional ecosystem credit requirements (Source: Applicant's BDAR)

Vegetation zone	PCT	Condition	Additional Impact (ha)	Additional Credits
1	835 – Forest Red Gum - Rough-barked Apple grassy woodland on alluvial flats of the Cumberland Plain, Sydney Basin Bioregion	Degraded	0.19	3

Table 8 | Additional species credit requirements (Source: Applicant's BDAR)

Scientific Name	Common Name	Additional Impacts (ha)	Additional Credits
Grevillea juniperina subsp. juniperina	Juniper-leaved Grevillea	0.29	2
Myotis macropus	Southern Myotis	0.27	4

The Department notes that EESG provided no comment on the revised BDAR or additional credits proposed.

The Department considers the revised ecosystem and species credits proposed in **Table 7** and **Table 8** as appropriate to offset biodiversity impacts from the modification request. As such, the Department proposes to amend Table 1 of condition B27 and Table 2 of condition B30 to reflect the total number of credits required to be retired by the Applicant.

Construction access road

The proposal seeks to include an internal construction access road as part of the amended development layout. The access road is proposed to be accessed at the Lee Holm Road entrance and would align with an existing internal gravel road. The access road would provide direct access to the temporary construction compound area in the northern section of the site (see **Figure 12**).

During exhibition of the modification application, Council raised concerns that the proposed construction access road had not been previously investigated for land contamination and recommended that the area be investigated prior to use. To address Council's concerns, the Applicant advised that the Unexpected Finds Protocol (UFP) for the development would be implemented for all works on the site, including the construction access road, to appropriately manage any potential contamination finds.

Further, the Applicant advised that the construction access road does not require excavation and a road base is proposed to be constructed to ensure the road is accessible in all weather conditions. The EPA provided no comment on potential contamination within the construction access road, however, recommended that the UFP for the development is applied during construction works. The Department is satisfied that implementation of the development's UFP is appropriate the manage potential unexpected contamination finds on the site.

The Department has reviewed the proposed changes to the development layout for the purposes of the rail refurbishment works area, construction compound area and internal construction access road, and considers the changes to be acceptable. The Department proposes to amend Appendix 1 of the development consent to include the revised development layout boundary as shown at **Figure 4**.

6.4 Other issues

Issue	Findings	Recommendations
Waste	• The Applicant provided a draft Waste Management Plan (WMP) as part of the modification application. The draft WMP provided a framework for collection, storage, disposal and onsite management of waste material from the rail refurbishment works, including the reuse and stockpiling of railway sleepers. • The Applicant advised that all timber and concrete sleepers taken out of the track would be stockpiled on site, with good and bad sleepers to be stockpiled separately. Concrete sleepers are proposed to be reused (as appropriate). • As part of its submission on the modification application, Council raised concerns that stockpiled sleepers may be impacted by treatment or potential asbestos fibres. • As part of the RtS, the Applicant advised that most sleepers are made of concrete and asbestos is not a material used in their construction. It is noted that some concrete sleepers stored on site would be reused as part of the rail refurbishment works and any damaged concrete sleepers that have been stored on site would be recycled. In response, Council advised that issues associated with the treatment of timber sleepers, or asbestos fibres impacting old timber sleepers from historic rail activities, do not apply to the concrete sleepers. • The Applicant advised that old timber sleepers would be tested prior to any disposal, and then disposed of in accordance with appropriate removal and disposal requirements. • The Department considers that potential waste impacts from the stockpiling and reuse of railway sleepers can be appropriately managed through the incorporation of measures set out in the draft WMP into the Construction Waste Management Plan for the development.	• No additional conditions or amendments necessary.
Flooding impacts from filling of rail corridor	• The Applicant provided updated flood modelling as part of the modification application. The flood modelling indicated that there is no predicted increase in flood levels as a result of the rail refurbishment works, and that the works would lead to an improvement in local flood conditions by directing floodwaters more effectively to Little Creek. • As part of its submission on the modification application, Council noted that the flood assessment utilised data from the Little Creek Flood Model. Council requested that the flood impact assessment also consider the impact of filling of the rail corridor on South Creek. • In response, the Applicant advised that filling of the rail corridor is minimal and there is a cut and	• The Department recommends a condition requiring further investigation to be undertaken and modelled, and mitigation works undertaken, 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.

	fill balance. The flood impact assessment showed a reduction in peak flood levels to land north of Little Creek on both sides of the rail sidings. Consequently, there is not likely to be any increase in flood levels from South Creek as there is no net loss of flood storage. • Further, Council advised that filling works should not increase flood levels on adjoining lands, and that drainage works, and earthworks should be undertaken within this area to ensure there are no increases in flood levels on adjoining properties. • To address concerns raised by Council, the Department recommends a condition requiring the Applicant to undertake further investigation and modelling 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.	
Contamination	• The Applicant engaged Douglas Partners to prepare a supplementary contamination assessment as part of the modification application, to investigate potential contamination within the rail refurbishment works area. • That assessment considered previous contamination assessments undertaken as part of the EIS for the original application, a desktop review of the works area and a site walk over. The Department notes that the previously prepared Preliminary Site Contamination Investigation (Douglas Partners, March 2019a) identified one small fragment of asbestos contaminated material (ACM) in the northern portion of the site. Notwithstanding, Douglas Partners concluded that the fragment is considered to be an anomalous isolated occurrence and not indicative of widespread contamination. Further, subsequent site walkovers have not identified any additional ACM fragments on the site surface and the results of previous and current investigations have not identified asbestos. • The EPA reviewed the supplementary contamination assessment and considered that the fragment of ACM appears to be an isolated occurrence. The EPA considered it appropriate for the Applicant to implement the Unexpected Finds Protocol for the development, to manage any unexpected finds during construction works. • The Department acknowledges that unexpected contamination finds is a risk on all construction sites. To manage the potential for unexpected finds within the rail refurbishment works area, the Department recommends the Applicant implement the Unexpected Finds Protocol for the development.	• No additional conditions or amendments necessary.

7 Evaluation

The Department has reviewed the proposed modification and RtS and assessed the merits of the modified proposal. The Department is satisfied that with the recommended conditions the proposed changes will be of minimal environmental impact and the project remains substantially the same development as per the original approval.

The Department concludes the following:

- the Department has assessed the application and followed relevant procedures in accordance with the EP&A Act and the Regulations
- the proposed modification does not change the use of the site
- the proposal is in the public interest.

The Department's assessment concludes that the proposed modification is appropriate. This conclusion is based on the fact the proposal is substantially the same as the original approved development, the condition changes proposed do not change the use of the site, and the impacts are minor and subject to acceptable measures, including the development of additional management procedures.

Consequently, the Department considers the proposed modification to be approvable with conditions.

8 Recommendation

It is recommended that the Director, Social and Infrastructure Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the application (SSD 7308 MOD 1) falls within the scope of section 4.55(2) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **agrees** with the key reasons for approval listed in the draft notice of decision
- **modifies** the consent SSD 7308
- **signs** the attached approval of the modification (**Appendix B** – Instrument of Modification).

Recommended by:

Nathan Heath
Planning Officer
Social and Infrastructure Assessments

Recommended by:

Dominic Crinnion
Team Leader
Water and Intermodal Assessments

9 Determination

The recommendation is **Adopted** by:

29 January 2021

Karen Harragon
Director
Social and Infrastructure Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – List of referenced documents

1. Modification Report

   https://www.planningportal.nsw.gov.au/major-projects/project/36971

2. Submissions

   https://www.planningportal.nsw.gov.au/major-projects/project/36971

3. Response to Submissions

   https://www.planningportal.nsw.gov.au/major-projects/project/36971

Appendix B – Instrument of Modification

https://www.planningportal.nsw.gov.au/major-projects/project/36971

Appendix C – Consolidated Consent

https://www.planningportal.nsw.gov.au/major-projects/project/36971

Appendix D – Notice of Modification

https://www.planningportal.nsw.gov.au/major-projects/project/36971