

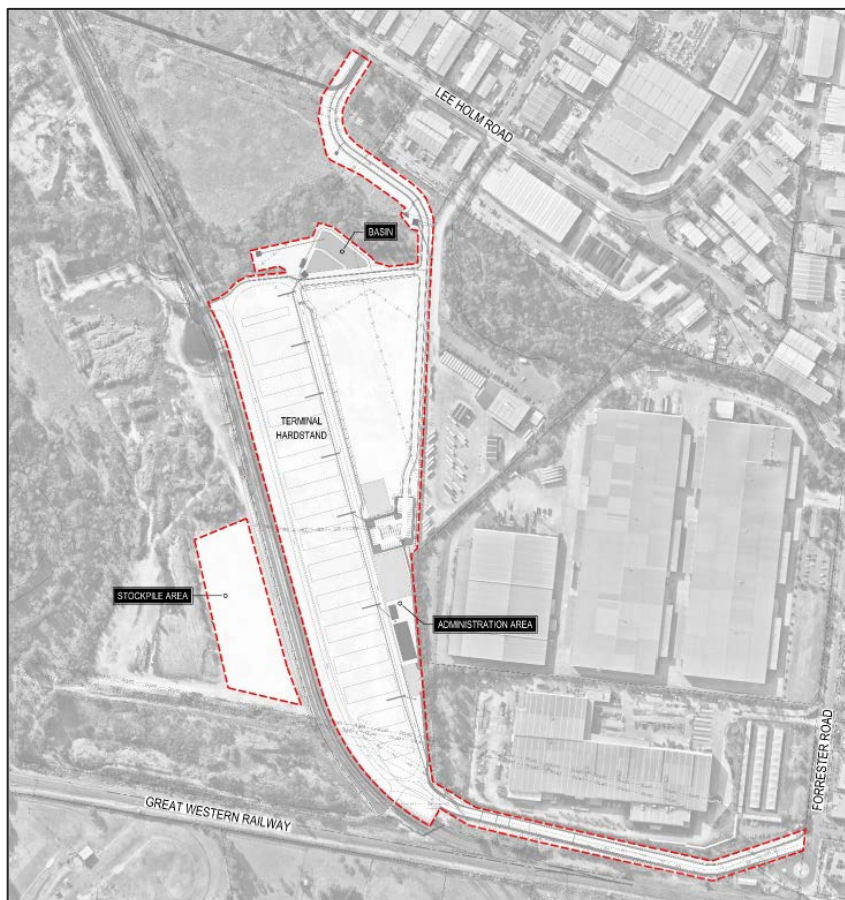
# St Marys Intermodal Modification 3

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Inclusion of a construction stockpile site, revised development layout and additional land.

State Significant Development Modification Assessment  
(SSD 7308 MOD 3)

October 2020



Published by the NSW Department of Planning, Industry and Environment

[dpie.nsw.gov.au](http://dpie.nsw.gov.au)

Title: **St Marys Intermodal Modification 3**

Subtitle: Inclusion of a construction stockpile site, revised development layout and additional land.

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

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# Glossary

Abbreviation	Definition
<b>AEP</b>	Annual Exceedance Probability
<b>AHD</b>	Australian Height Datum
<b>Applicant</b>	Pacific National Pty Ltd
<b>BDAR</b>	Biodiversity Development Assessment Report prepared by Eco Logical, dated 31 August 2020.
<b>BCA</b>	Building Code of Australia
<b>CIV</b>	Capital Investment Value
<b>Council</b>	Penrith City Council
<b>Department</b>	Department of Planning, Industry and Environment
<b>EESG</b>	Environment, Energy and Science Group, DPIE
<b>EIS</b>	Environmental Impact Statement
<b>EPA</b>	Environment Protection Authority
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	Environmental Planning and Assessment Regulation 2000
<b>EPI</b>	Environmental Planning Instrument
<b>Minister</b>	Minister for Planning and Public Spaces
<b>PCT</b>	Plant Community Type
<b>Planning Secretary</b>	Secretary of the Department of Planning, Industry and Environment
<b>PLEP</b>	Penrith Local Environmental Plan
<b>RtS</b>	Response to Submissions
<b>SEARs</b>	Planning Secretary's Environmental Assessment Requirements
<b>SRD SEPP</b>	State Environmental Planning Policy (State and Regional Development) 2011
<b>SSD</b>	State Significant Development
<b>TEU</b>	Twenty-foot equivalent unit (freight container)
<b>TfNSW</b>	Transport for NSW

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# 1 Introduction

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

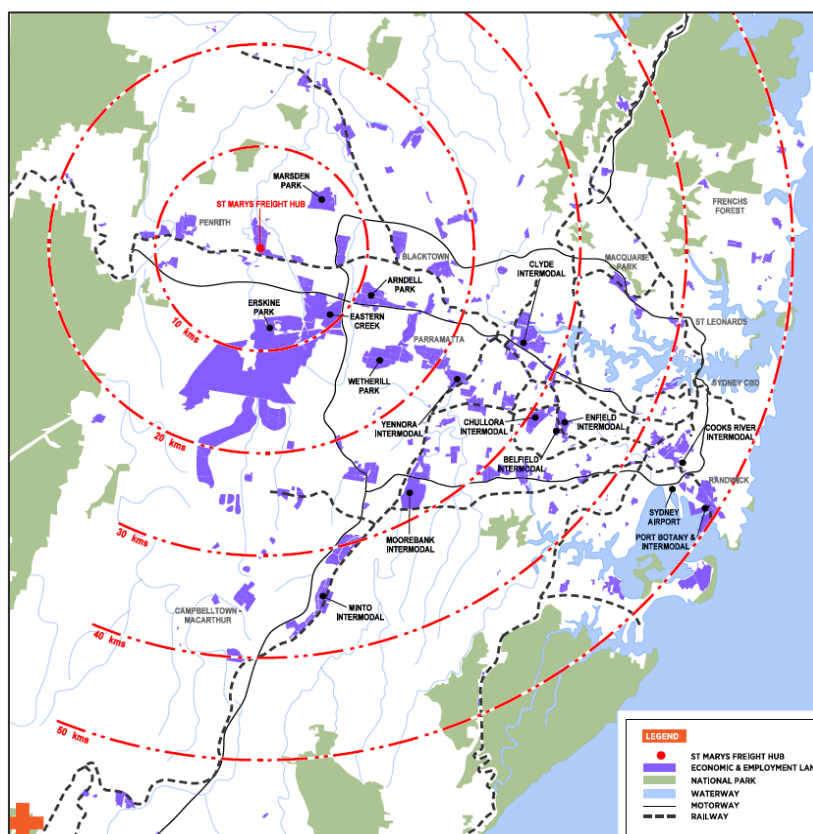
The modification application seeks approval for the following amendments to the St Marys Intermodal development consent:

- revise the development layout boundary for the intermodal facility
- include use of a temporary excavated material stockpile site on Lot 2031 DP 815293
- modify Schedule 1 of the development consent to include Lot 2031 DP 815293 as part of the 'site' within the development consent.

The application was lodged on 3 September 2020 by Urbanco Group Pty Limited on behalf of Pacific National Pty Limited (the Applicant) pursuant to section 4.55(1A) 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** below shows the location of the site within the context of Sydney.



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

The site is located partially on Lot 2 DP 876781, Lot 3 DP 876781 and Lot 196 DP 31912, which forms part of a broader 43 ha land area. The subject site comprises only 9.6 ha of this area, mapped as the 'development site' in **Figure 2**.

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 2** | Development site, subject land and broader site (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 is proposed to commence in Q4 2020.

The development consent has been previously modified on one occasion. Two modifications are currently under assessment (see **Table 2**).

**Table 2 | Summary of Modifications**

<b>Mod No.</b>	<b>Summary of Modifications</b>	<b>Approval Authority</b>	<b>Type</b>	<b>Approval Date</b>
<b>MOD 1</b>	Re-lay existing rail sidings (x2) within the existing corridor, upgrade of an existing level crossing, construction of a 3.5 m wide one-way access track, and construction of associated stormwater management facilities.	Department	4.55(2)	Under assessment
<b>MOD 2</b>	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
<b>MOD 3</b>	Inclusion of a stockpile site and revised development layout of the intermodal facility.	Department	4.55(1A)	Under assessment (subject of this modification)

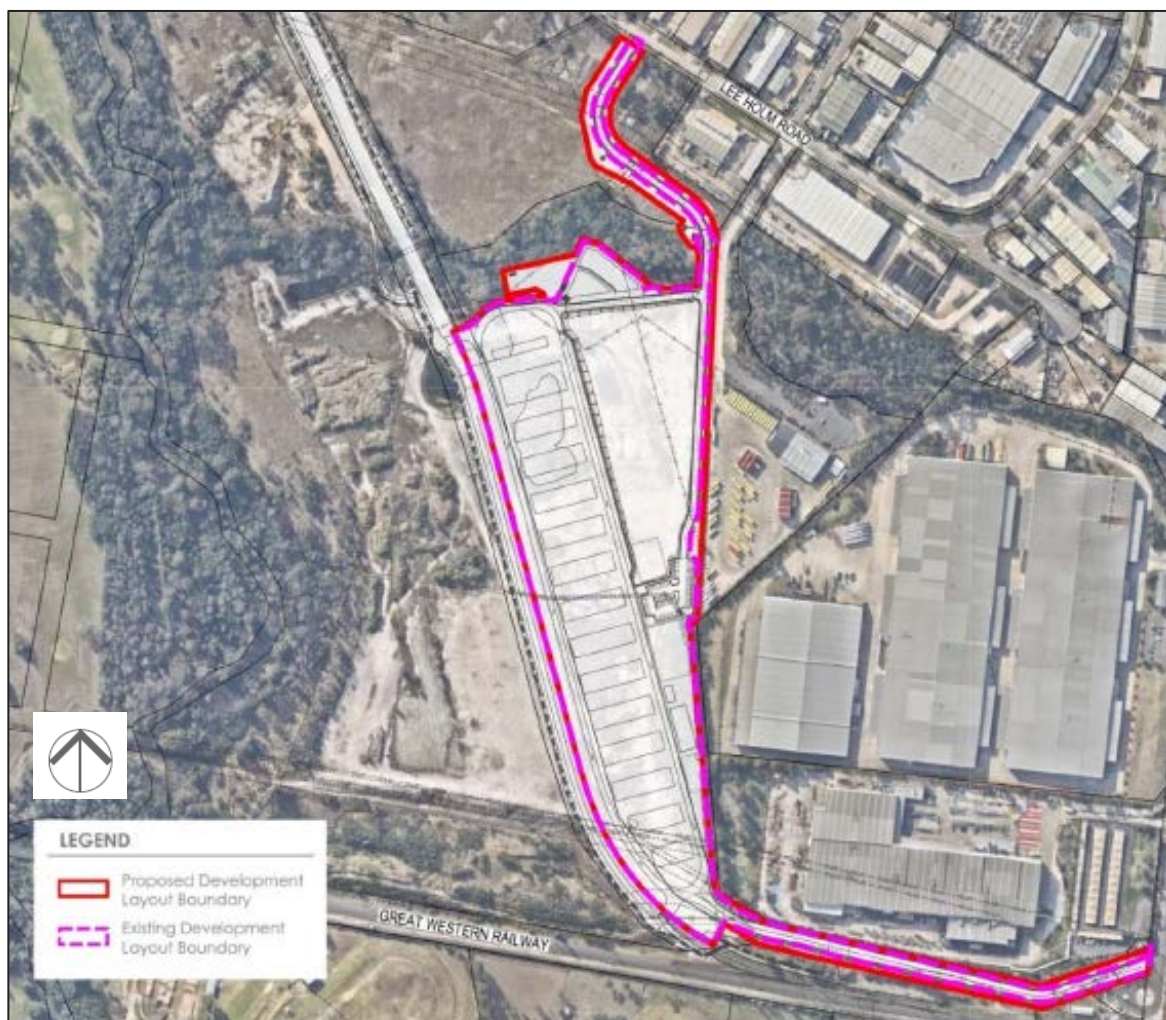
## 2 Proposed modification

On 3 September 2020, the Applicant lodged a modification application seeking approval to amend the St Marys Intermodal development consent.

The modification application seeks approval for the following amendments, to:

- revise the development layout boundary for the intermodal facility
- include use of a temporary excavated material stockpile site on Lot 2031 DP 815293
- modify Schedule 1 of the development consent to include Lot 2031 DP 815293 as part of the 'site' within the development consent.

The existing and proposed development layout boundaries are shown at **Figure 3**. The location of the proposed stockpile site is shown at **Figure 4** and Lot 2031 DP 815293 is mapped at **Figure 5**.



**Figure 3** | Existing and proposed development layout boundaries (Source: Applicant's modification report)



Figure 4 | Proposed stockpile site (Source: Applicant's modification report)



Figure 5 | Inclusion of Lot 2031 DP 815293 (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 can be characterised as a modification involving minimal environmental impact as the proposal:

- 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(1A) 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(1A) 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.
- public exhibition of the application was not required and therefore no public submissions objecting to the proposal were received.

### 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

Clause 117(3B) of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation) specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1A) modifications with minimal environmental impact applications. Accordingly, the modification application was not advertised. Due to the minor nature of the modification, the application was not placed on public exhibition. The modification application was made publicly available on the Department's website on 9 September 2020.

The modification application was referred to Penrith City Council, Environment, Energy and Science Group (EESG) of the Department and the Environment Protection Authority (EPA) for comment.

## 5.2 Summary of submissions

The Department received a total of three submissions on the proposal, including one submission from Penrith City Council and two from government agencies. No public submissions were received.

**Table 3 | Summary of Council and government agency submissions**

### Council

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

- the riparian corridors running north-south and east-west on Lot 2031 be included within the existing Vegetation Management Plan for the project
- fencing to the stockpile area must ensure all materials, including construction waste, be retained within the boundary of the stockpile area.
- sediment controls should be put in place to ensure there is no impact on the creek, during works to prepare the stockpile area and infrastructure.
- the amended development layout boundary raises concerns from a biodiversity conservation perspective, as the addition of this infrastructure represents an incursion into the riparian vegetation along Little Creek. This incursion should be minimised or avoided. Council recommend that alternatives be sought, including revision of the spatial arrangement of the development, to avoid this additional impact.
- raised no concerns to the stockpile location from an environmental management perspective, subject to the following being implemented:
  - management controls being included in the construction environmental management plan (CEMP) and being implemented during construction activities, to ensure that stockpiling does not result in contamination
  - a rehabilitation plan being developed and incorporated into the CEMP to ensure lot 2031 is reinstated to a state that is suitable for future industrial/commercial use.
- unclear if this modification seeks to alter access locations to/from the public road networks into the development, due to the scale and conceptual level of the site plans provided.

### EESG

EESG did not object to the proposal and provided no comments on the Biodiversity Development Assessment Report (BDAR) submitted as Appendix 2 to the modification report, including the biodiversity credit report. Further, EESG provided no comment on the recommended modified conditions for credits proposed by the Applicant. EESG provided no comment in regard to flooding impacts.

### EPA

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

- recommended that the Applicant update the *Remediation Action Plan – Stage 1 St Marys Freight Terminal*, Rev 1, dated 12 August 2019, prepared by Douglas Partners, to include remediation measures for the entire site, inclusive of the additional parcel of land.
- recommended changes to condition D25, to reflect the update to the *Remediation Action Plan*
- recommended changes to condition D26 to fully reflect the site audit process
- advised that any construction must remain consistent with the existing (pre-modification) consent requirements.

### 5.3 Response to submissions

The Department placed copies of all submissions on its website and requested the Applicant provide a response to the issues raised in government agency and Council submissions.

On 7 October 2020, the Applicant submitted a Response to Submissions (RtS) (**Appendix A**), which was made publicly available on the Department’s website. The RtS was forwarded to Council and the EPA for comment, and their responses are summarised at **Table 4**.

**Table 4 | Summary of Council and EPA submissions on RtS**

#### Council

Council provided the following comments on the RtS:

- the land for the proposed stockpile site location is zoned RE1 (public recreation) which adjoins E2 zoned land further west. This land is separately zoned to the majority of the site which is IN1. The development works as defined and approved in the SSD determination, are not automatically permissible on the RE1 zoned land.
- clause 5.3 of the PLEP 2010 regarding 20m zone extensions is not available to land zoned RE1 or E2, and as such it must be demonstrated that the amended works are permissible on the land as now revised through the additional lot inclusion.
- the proposal must demonstrate compliance with the objectives of the RE1 zone.
- it is considered imperative that the Vegetation Management Plan (VMP) be expanded to include the existing riparian corridor and all works, including amended drainage works, that are proposed within the RE1 zoned land. Alternatively, a separate VMP should be prepared and submitted to the Department for approval.
- requested that NRAR comments on compliance with best practice riparian corridor requirements given the land is part of the Little Creek Riparian area.

#### EPA

The EPA advised that they were satisfied with the Applicant’s suggested edits to the EPA’s recommended condition E26(a), and that the EPA has no further comment on the modification.

### 5.4 Supplementary information

On 19 October 2020, the Applicant provided a response to comments provided by Penrith City Council on the RtS. The additional information submitted by the Applicant provided further justification for use of the proposed stockpile site on Lot 2031 DP 815293 (zoned RE1 – Public Recreation under the PLEP), including consistency with the zone objectives for the RE1 zone and measures proposed to manage use of the stockpile site.

## 6 Assessment

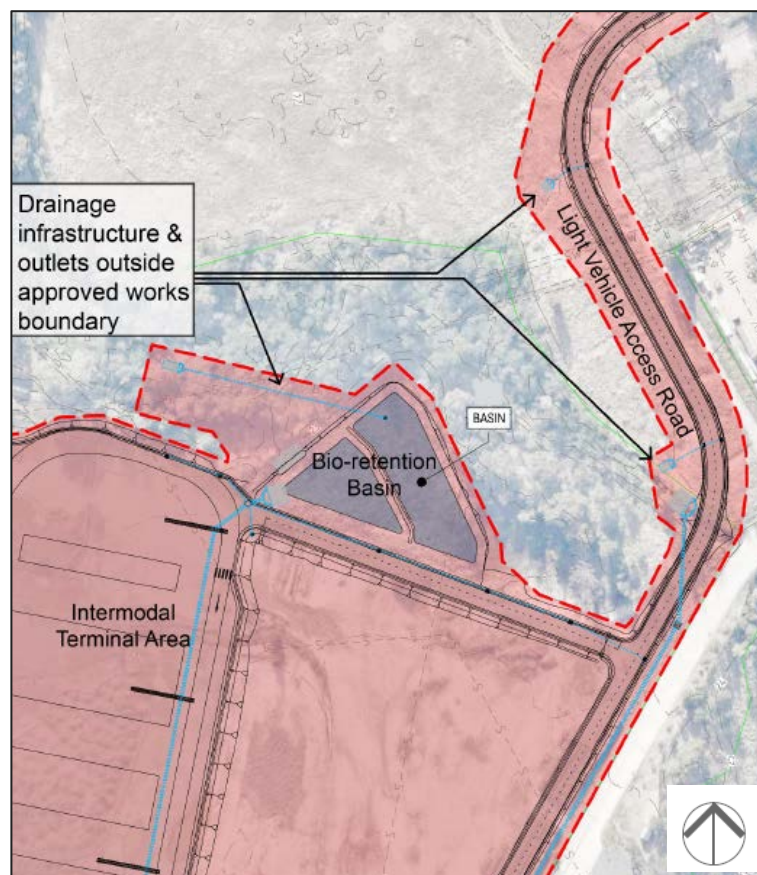
The Department has considered the modification application, the matters raised in submissions and the Applicant's RtS in its assessment of the proposal. The key issues identified are discussed in detail below under the main elements of the proposed modification. Other issues were taken into consideration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

### 6.1 Changed development layout boundary

The proposal seeks to amend the development layout at Appendix 1 of the development consent to accommodate changes to drainage infrastructure and outlet design for the site. The proposed changes are outlined in **Figure 6** and **Figure 7** and include the following:

- extending the development layout to the immediate west of the bio-retention basin (to the north of the intermodal terminal area, within the Little Creek Riparian area) (**Figure 6**)
- widening of the Lee Holm Road light vehicle access road (**Figure 6**)
- widening of the works area either side of the Forrester Road heavy vehicle access road (**Figure 7**).

The proposed amended development layout also incorporates use of a temporary stockpile site on Lot 2031 DP 815293, which is assessed in detail at **Section 6.2** and **Section 6.3**.



**Figure 6** | Revised development boundary within red dotted line (Source: Applicant's modification report)



**Figure 7 |** Revised development boundary within red dotted line (Source: Applicant’s modification report)

The Applicant submits that the proposed drainage works encroach outside the approved development layout boundary at Appendix 1 of the development consent. The proposed drainage works would require the removal of additional native vegetation within the Little Creek Riparian area (to the immediate west of the bio-retention basin), along the Lee Holm Road light vehicle access road and also along the Forrester Road heavy vehicle access road.

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 5 ecosystem credits and 2 species credits are required to be retired as a result of the modification (**Table 5** and **Table 6**). The Department notes EESG provided no comment on the revised BDAR or additional credits proposed.

**Table 5 |** 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	4
5	1071 – Phragmites australis and Typha orientalis coastal freshwater wetlands of the Sydney Basin Bioregion	Moderate	0.01	1

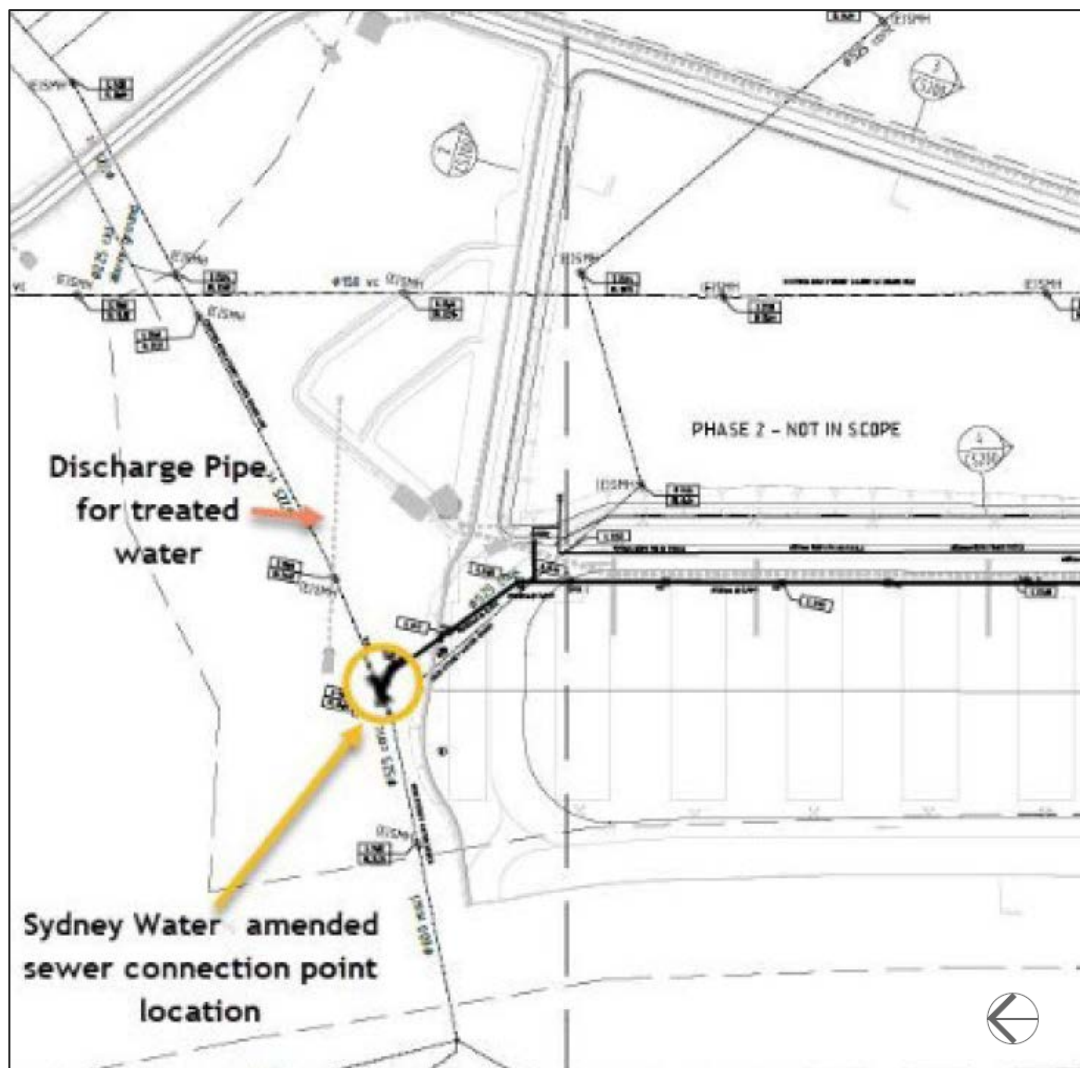
**Table 6 |** Additional species credit requirements (Source: Applicant’s BDAR)

Scientific Name	Common Name	Additional Impacts (ha)	Additional Credits
<i>Myotis macropus</i>	Southern Myotis	0.14	2

As part of their submission on the modification report, Council raised concerns in regard to the amended development layout and drainage infrastructure proposed. In particular, Council stated that the revised development layout would represent an incursion into the Little Creek Riparian area and recommended that the Applicant investigate alternatives to the spatial arrangement of drainage infrastructure to avoid impacts to biodiversity.

As part of the RtS, the Applicant advised that changes made to drainage infrastructure connections within the Little Creek Riparian area are a result of:

- Sydney Water changing the approved connection point into the Little Creek Riparian area (**Figure 8**)
- a discharge pipe for treated water (extending from the bio-retention basin to Little Creek) is required to dispose of filtered water from the bio-retention basin and to comply with water quality objectives for the project.



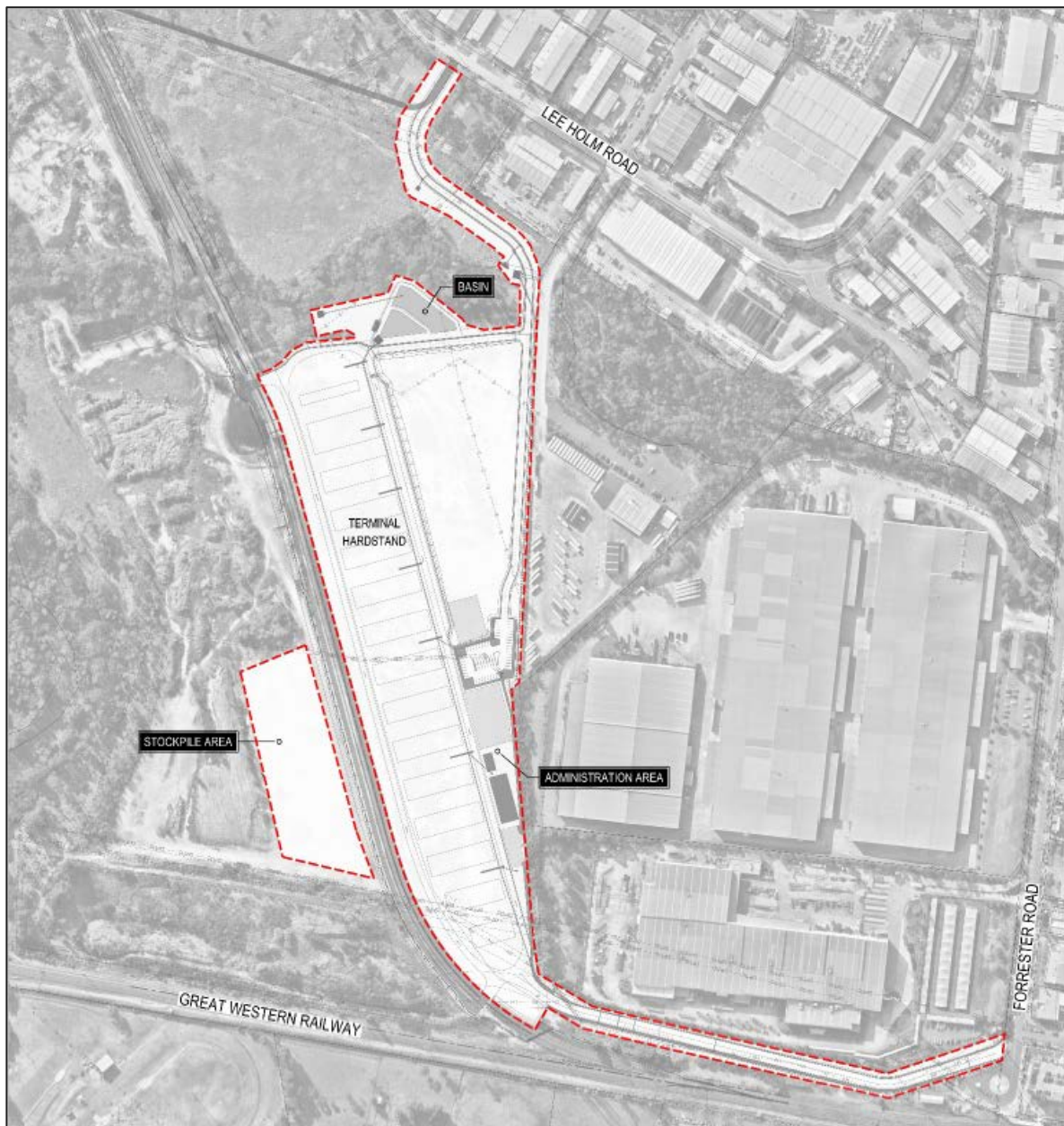
**Figure 8** | Sydney Water approved connection point (Source: Applicant's modification report)

The Applicant asserts that the work area footprint for the proposed drainage infrastructure has been reduced to the smallest practical size, based on findings from design and construction reviews undertaken by the construction contractor for the project. The Applicant considered that design, constructability and safety considerations have been optimised to mitigate impacts to the Little Creek Riparian area, as far as practical.

The Department has carefully considered Council's concerns regarding biodiversity impacts to the Little Creek Riparian area and has recommended a condition requiring the Applicant to update the Vegetation Management Plan under condition B33(g), to consider the scope of impact to the Little Creek Riparian area as a result of the modification.

Further, the Department considers the revised ecosystem and species credits proposed in **Table 5** and **Table 6** 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.

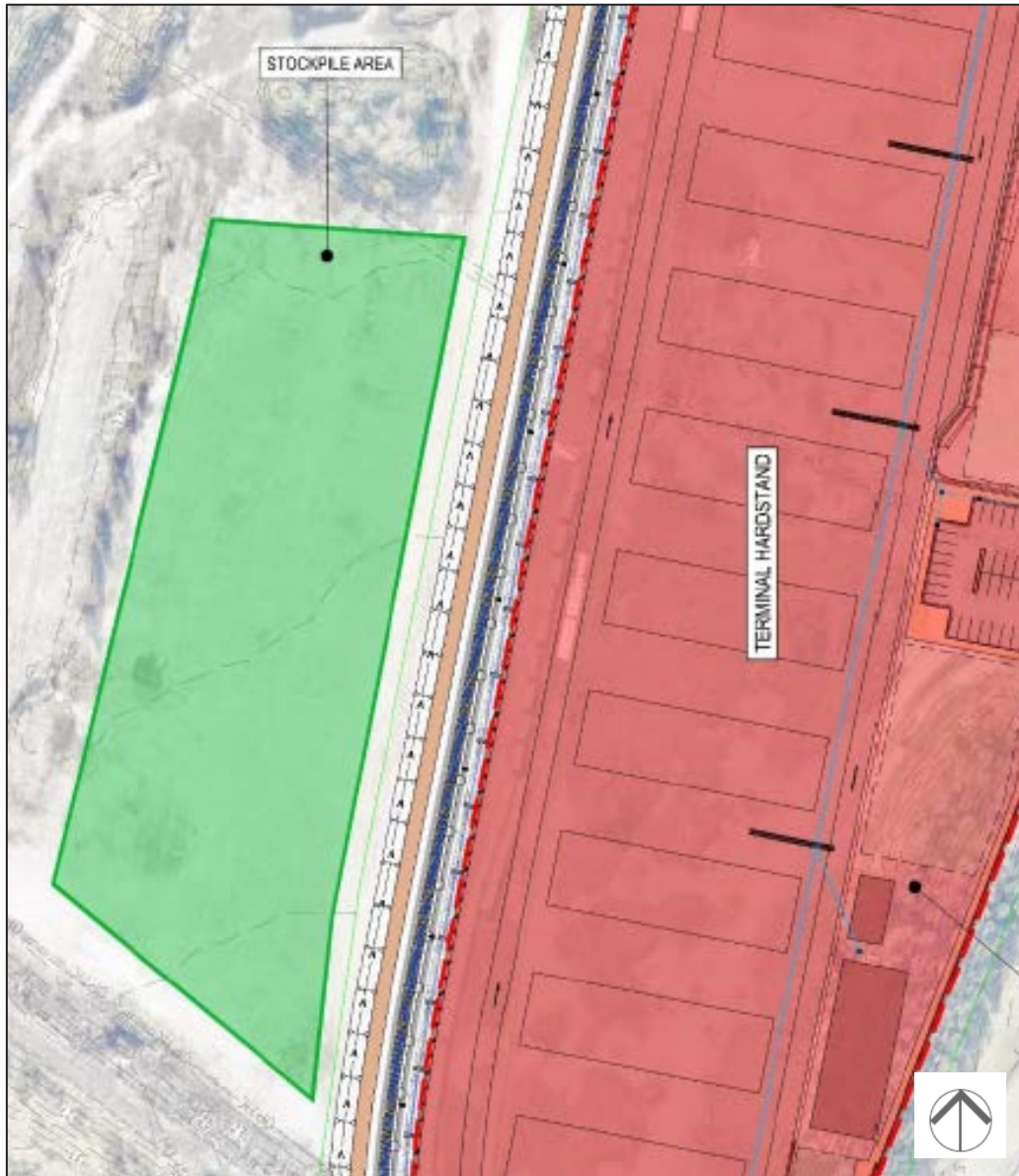
The Department has reviewed the proposed changes to the development layout for the purposes of revised drainage infrastructure and outlet design for the site, and considers the changes to be acceptable. The Department's consideration of the proposed stockpile site is detailed separately in **Sections 6.2** and **6.3**. Subject to the assessment undertaken at **Section 6.2**, the Department proposes to amend Appendix 1 of the development consent to include the revised development layout boundary as shown at **Figure 9**.



**Figure 9** | Proposed revised development layout (Source: Applicant's modification report)

## 6.2 Inclusion of temporary stockpile site

The proposal seeks to further amend the development layout at Appendix 1 to include use of a temporary excavated material stockpile site on Lot 2031 DP 815293. The inclusion of Lot 2031 DP 815293 as part of the site is considered in detail at **Section 6.3**. The excavated material stockpile site is proposed to be located on a cleared section of Lot 2031 DP 815293, to the immediate west of the existing rail spur (**Figure 10**).

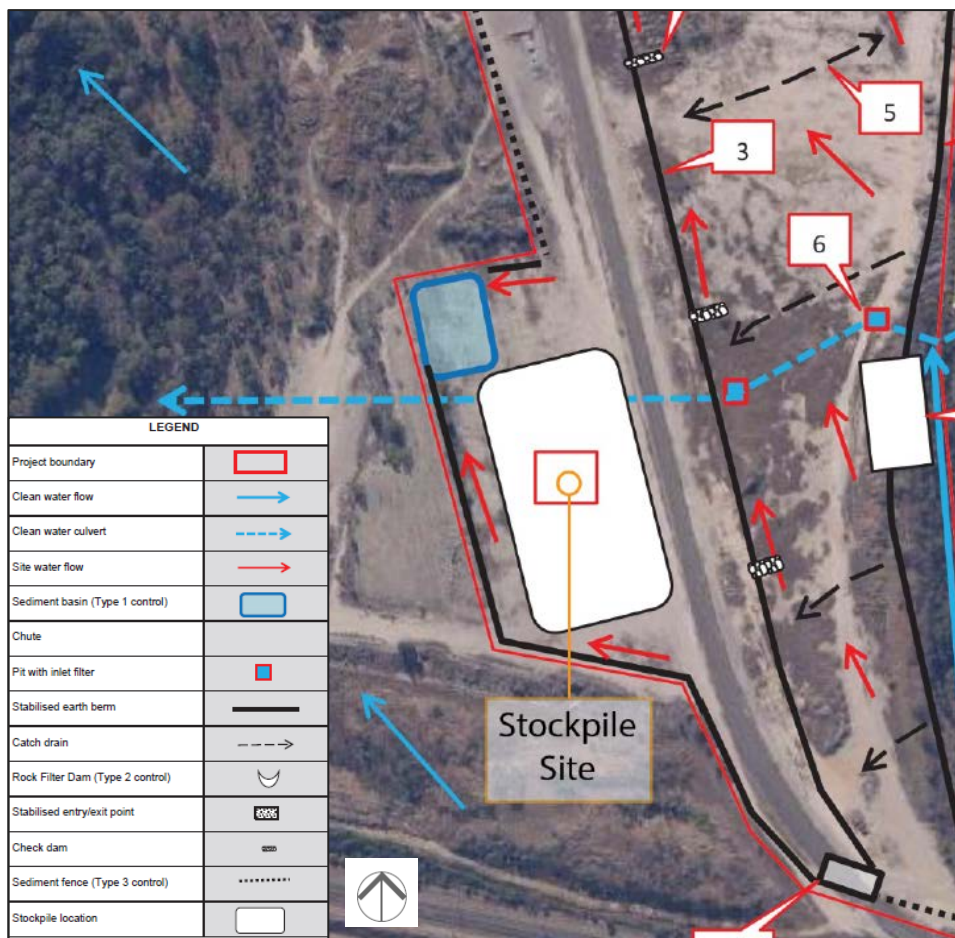


**Figure 10** | Proposed stockpile site (green shading) (Source: Applicant's modification report)

The Applicant asserts that the proposed stockpile site is required to support site management during construction of the hardstand area, reduce double handling of excavated material and reduce the overall period of construction. **Table 7** provides an overview of key components of the proposed excavated material stockpile site and **Figure 11** outlines proposed erosion and sediment controls for the proposed temporary stockpile site.

**Table 7 | Key components of proposed stockpile site**

Component	Details
<b>Source of material</b>	Stockpile material would consist of excavated crushed sandstone material that has been excavated from within the approved intermodal terminal development boundary only.
<b>Volume of material</b>	Approximately 40,000m <sup>3</sup> of material would be excavated for the intermodal terminal, with 12,000m <sup>3</sup> to be reused as structural fill for the proposed rail refurbishment works. The Applicant proposes to stockpile a residue volume of 28,000m <sup>3</sup> within the stockpile site.
<b>Height of stockpile</b>	The height of stockpiles within the stockpile site is proposed to be 3 to 4 metres above the ground. Batters should not exceed 45 degrees from base of stockpile.
<b>Lifespan of stockpile</b>	The expected lifespan of the stockpile site is 5 years.
<b>Access to stockpile</b>	Access to the stockpile site would be via an existing access road within Lot 2031 DP 815293, on the western edge of the existing rail spur (see <b>Figure 11</b> ).
<b>Ongoing management of stockpile material</b>	During construction the stockpile site would be managed by the construction contractors. Post-construction the stockpile site would be shaped, surveyed and stabilised with hydroseed until such time that the material can be used for future development projects within the project area or offsite.



**Figure 11 | Extract of soil and erosion control proposed for stockpile site (Source: Applicant's Modification Report)**

As part of the modification request, the Applicant engaged Douglas Partners to prepare a supplementary contamination assessment, to assess potential contamination within the proposed stockpile site. The Department understands that the proposed stockpile site is located on land historically used for the placement of fill imported from the Northside Sewerage Tunnel project. Overall, the assessment found that land on which the stockpile site is located is predominantly sandstone material, consistent with historic filling of the site, and concluded that the stockpile site is not contaminated and is considered suitable for the stockpiling of excavated material.

In its submission on the modification application, the EPA requested that the Applicant update the approved Remediation Action Plan under condition D25, to include remediation measures for the entire site, inclusive of Lot 2031 DP 815293 and the proposed stockpile site. The EPA also recommended amending condition D26 to include additional procedural requirements for preparation of a site audit statement for the development. The Department considers the recommended changes appropriate and proposes to amend condition D25 and condition D26 in line with EPA's recommendations.

Further, the Department notes that the revised BDAR submitted as part of the modification request included consideration of the proposed temporary stockpile site. The BDAR concluded that the stockpile site would be located in an entirely cleared/exotic landscape and that the stockpile area would have no additional impact to biodiversity values. The Department accepts this conclusion.

Notwithstanding, as part of its submission on the modification application, 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 stockpile site be rehabilitated to 'natural vegetation conditions', rather than 'pre-existing conditions' that are currently present on the exotic/cleared stockpile site. The Department acknowledges Council's concerns regarding appropriate rehabilitation of the stockpile site and supports the recommended updates to the VMP. Consequently, the Department recommends the Applicant be required to update the VMP to include measures to rehabilitate and revegetate the stockpile site after use.

Overall, the Department acknowledges that use of the temporary stockpile site is an integral and critical component of construction works for the development. To appropriately manage use of the temporary stockpile site during construction, the Department recommends the Applicant be required to update the development's Construction Soil and Water Management Sub Plan to consider the location of the stockpile site and proposed erosion and sediment control measures, as relevant.

To appropriately manage use of the temporary stockpile site during operation of the development, the Department recommends enforcement of a five year time-limit on use of the stockpile site (from establishment of the stockpile site). Further, the Department recommends a series of performance based conditions to manage use of the stockpile site during operation, including a requirement to shape, survey and hydroseed the stockpiles as required.

### **6.3 Inclusion of additional land as part of approval**

The proposal seeks to amend Schedule 1 of the development consent to include Lot 2031 DP 815293 as part of the site for the development. The Department notes that Lot 2031 DP 815293 is owned by

Pacific National (the Applicant) and is identified as part of the 'broader site' in the EIS for the original St Marys Intermodal application (**Figure 5**).

The Applicant advised that inclusion of Lot 2031 DP 815293 as part of the site would allow use of the proposed stockpile site on that lot. The Department notes that under this modification, use of Lot 2031 DP 815293 would be restricted to use of the stockpile site area defined in **Section 6.2** only. No further use of that lot for construction or operational activities are permitted as part of this modification.

In its submission on the RtS, Council advised that Lot 2031 DP 815293 is zoned RE1 Public Recreation under the PLEP, which is separate to the rest of the St Marys Intermodal site which is zoned IN1 General Industrial. The proposed stockpile site is not an activity listed as permissible under the RE1 zone in the PLEP. Consequently, Council requested that the Applicant provide further information to demonstrate that the proposed stockpile site and use of the lot would not undermine the RE1 zone.

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

- the lot is privately owned by Pacific National
- the site is not identified for acquisition and there is no known future role to use and develop the land for public recreation purposes
- the lot has been historically used for industrial purposes and there are numerous stockpiles of variable and unknown types of material that are not suitable for public recreation use
- the boundary of the lot is fenced to prevent public access, and it is essential that unauthorised access is prevented given the use of operational rail sidings within the site.

Further, the Applicant considered the proposal's consistency with the RE1 zone objectives and concluded that use of the temporary stockpile site does not prevent or limit the objectives of the RE1 zone being met in the future, if it can be demonstrated that the land, or a portion of the land, is suitable for public recreation purposes. Council considered the Applicant's response acceptable as a short-term measure, subject to the VMP for the development being expanded to include the land subject of the stockpile proposal. The Department considers this acceptable, and recommends the Applicant update the VMP to include measures to rehabilitate the stockpile site.

The Department acknowledges the Applicant's intention to further utilise Lot 2031 DP 815293 as part of SSD 7308 MOD 1, to support construction of the proposed rail refurbishment works. Those works include use of a temporary construction compound, use of a construction access route and construction of drainage infrastructure that encroach on Lot 2031 DP 815293. The Department considers that those activities are subject to a separate planning approval process under SSD 7308 MOD 1 and have not been considered as part of this modification.

Overall, the Department is satisfied that the modification request is substantially the same development as originally approved and that use of Lot 2031 DP 815293 can be appropriately managed through existing and recommended conditions of consent. The Department proposes to modify schedule 1 of SSD 7308 to include Lot 2031 DP 815293 as part of the site.

## 6.4 Other issues

Issue	Findings	Recommendations
<b>Flooding</b>	<ul style="list-style-type: none"> <li>The Applicant provided updated flood modelling as part the modification application. The flood modelling provided indicated that the majority of the proposed stockpile site is located outside of the 1% AEP extent for Little Creek. The Applicant advised that only the northern section of the stockpile site is located within shallow flood waters of the 1% AEP extent for Little Creek, located within the flood fringe.</li> <li>The proposed stockpile site is not expected to be significantly impacted by flooding until events greater than the 0.5% AEP event.</li> <li>EESG and Council provided no comment on potential flooding impacts as a result of the modification application.</li> <li>The Department considers that potential flooding impacts to the proposed stockpile site are low and can be appropriately managed through existing conditions of consent. In particular, the Applicant must comply with flood management requirements prescribed under condition B25 of the consent, including flood warning and notification procedures, evacuation and refuge protocols and the Flood Emergency Response sub plan required under condition B18.</li> </ul>	<ul style="list-style-type: none"> <li>No additional conditions or amendments necessary.</li> </ul>
<b>Noise</b>	<ul style="list-style-type: none"> <li>The Applicant advised that construction noise associated with the proposed stockpile site was assessed as part of the original noise assessment for the development.</li> <li>The Applicant confirmed that no significant noise impacts to nearby sensitive receivers would occur from use of the stockpile site.</li> <li>The EPA provided no noise related comments on the proposed modification.</li> <li>The Department considers that potential noise impacts associated with the proposed stockpile site can be appropriately managed through existing conditions of consent, including mitigation measures in the Construction Noise and Vibration Management sub plan.</li> </ul>	<ul style="list-style-type: none"> <li>No additional conditions or amendments necessary.</li> </ul>

## 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 approval, 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 3) falls within the scope of section 4.55(1A) 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.
- **modify** 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:

A handwritten signature in black ink, appearing to read 'KH', with a large circular flourish on the left side and a long horizontal stroke extending to the right.

29 October 2020

**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/39721>

2. Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/39721>

3. Response to Submissions

<https://www.planningportal.nsw.gov.au/major-projects/project/39721>

## Appendix B – Instrument of Modification

<https://www.planningportal.nsw.gov.au/major-projects/project/39721>

## Appendix C – Consolidated Consent

<https://www.planningportal.nsw.gov.au/major-projects/project/39721>