

Notice of decision

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	Critical State significant infrastructure
Application number and project name	SSI 8863 Western Harbour Tunnel and Warringah Freeway Upgrade
Proponent	Transport for NSW
Approval Authority	Minister for Planning and Public Spaces

Decision

The Minister for Planning and Public Spaces has, under section 5.19 of the *Environmental Planning and Assessment Act 1979 (the Act)* approved the infrastructure application subject to the recommended conditions.

A copy of the infrastructure approval and conditions is available [here](#).

A copy of the Planning Secretary's Assessment Report is available [here](#).

Date of decision

21 January 2021

Reasons for decision

The following matters were taken into consideration in making this decision:

- the matters listed in the statutory context section of the Planning Secretary's Assessment Report
- the objects of the Act
- all information submitted to the Department during the assessment of the application
- the findings and recommendations in the Planning Secretary's Assessment Report
- the views of the community about the project (see **Attachment 1**).

The findings and recommendations set out in the Planning Secretary's Assessment Report were accepted and adopted as the reasons for making this decision.

The key reasons for approving the application are as follows:

- the project would:
 - Reduce congestion on distributor roads around the Sydney CBD
 - Increase reliability of cross-harbour journeys, particularly for traffic wishing to bypass the CBD
 - Provide a third harbour crossing to reduce congestion pressure on Sydney Harbour Bridge, Sydney Harbour Tunnel and the ANZAC Bridge
 - Improve productivity along the Eastern Economic Corridor due to improved journey times
 - Improve traffic performance on the Warringah Freeway and support long-term increased demand
- the project has been endorsed by the NSW Government and is a key component of:
 - Australian Infrastructure Plan: Priorities and Reforms for Our Nations Future
 - Future Transport Strategy 2056
 - State Infrastructure Strategy 2018-2038
 - A Metropolis of Three Cities – the Greater Sydney Region Plan
 - North District Plan
 - Eastern City District Plan
 - NSW Freight and Ports Plan 2018-2023
- the impacts on the community and the environment can be appropriately managed, minimised, or offset to an acceptable level, in accordance with applicable NSW Government policies and standards

- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through the Proponent's response to submissions and environmental management commitments, and the recommended conditions of approval
- weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The Environmental Impact Statement (EIS) was publicly exhibited from Wednesday 29 January 2020 until Monday 30 March 2020 (a total of 62 days) on the Department’s website, electronically at NSW Service Centres and hard copies exhibited at ten locations across Sydney. During the exhibition period, the Department received a total of 1454 submissions from 1082 individual submitters (not including late submissions provided to the Proponent for consideration following the conclusion of the exhibition period). Of the submitters, 13 were NSW Government agencies, five were local council, 48 were interest groups, and 1016 were community members (a number made more than one submission).

The Department also undertook the following consultation activities:

- three site visits prior to and during the EIS exhibition and assessment process;
- attendance at Community Information Sessions before and during EIS exhibition;
- attendance at agency briefings conducted by TfNSW; and
- meetings with local councils and community interest groups.

The key issues raised by the community and considered in the Planning Secretary’s Assessment Report and by the decision maker include traffic and transport, noise and vibration, air quality, public open space, tunnel depth and settlement, dredging, heritage, justification and procedure, climate change and sustainability.

Issue	Consideration
<u>Traffic and Transport</u>	<i>Assessment</i>
<p><i>Construction</i></p> <ul style="list-style-type: none"> • Concern over the volume of construction vehicles traversing residential areas and around schools. • Construction workers parking on local streets. • Temporary closure of Birchgrove Ferry Wharf. 	<ul style="list-style-type: none"> • There will be traffic impacts during construction, however these impacts can be mitigated through the implementation of established management measures. • Most construction ancillary sites have direct access to the arterial road network, and although intersection delays will occur, this network is best equipped to accommodate construction vehicular traffic. • The project will reduce traffic volumes and congestion on harbour crossings, improve north-south accessibility and deliver a new western bypass of the CBD. However, the project would also result in localised congestion at tunnel portals at Rozelle, North Sydney and Gore Hill Freeway. • The project is primarily focused on delivering improvements to the regional road network and in this circumstance the Department considers that the project could improve the delivery of a more holistic and integrated transport outcome.
<i>Operation</i>	<i>Recommended Conditions/Response</i>
<ul style="list-style-type: none"> • Changes in local access to and from the Sydney Harbour Bridge and Sydney Harbour Tunnel, potentially resulting in rat-runs. • Permanent removal of car parking on local streets including Alfred Street North. • Minimal travel time saving not justifying impacts. • Increasing congestion at intersections across North Sydney. • Rerouting B-line buses into North Sydney will impact on traffic flows in the North Sydney CBD 	<ul style="list-style-type: none"> • The Proponent must maximise tunnel spoil disposal by non-road methods. • Restrictions on the use of local roads to access Yurulbin Point and Berrys Bay construction sites. • An alternative public transport service be provided prior to the closure of the Birchgrove ferry wharf. • Safe pedestrian and cyclist access must be maintained around construction sites or an alternative route must be provided. • Preparation and implementation of a Construction Parking and Access Strategy to manage impacts from on and off-street parking changes and construction worker parking. • Mitigate the loss of on-street parking on Alfred Street North. • Access to all properties must be maintained during construction, unless otherwise agreed with the landowner or occupier. • Prepare a Road Network Performance Plan to review the predicted localised traffic impacts as a result of the project and to implement mitigation measures to manage impacts. • Undertake Operational Road Network Performance Reviews at 12 months and at five years to confirm the operational traffic impacts of the project on surrounding arterial roads and whether the mitigation measures identified in the Road Network Performance Plan are adequate. • Undertake a Public Transport Review, identifying changes and measures to ensure bus travel times are maintained.

Noise and Vibration

Construction

- Construction noise associated with heavy vehicle movements and out-of-hours works.
- Noise abatement should be provided for impacted schools and respite during exam periods.
- Noise and vibration impact from pile driving for coffer dams.

Operation

- Unsatisfactory location of proposed noise walls.
- Inadequate provision of at-property acoustic treatments.
- Increases in operational traffic noise.

Assessment

- Construction noise and vibration impacts are unavoidable for a project of this magnitude and in a highly complex and developed urban environment. The impacts will be managed using industry best practice underpinned by a robust community consultation strategy.
- Construction noise impacts from the Warringah Freeway Upgrade are significant and have the potential to cause major disturbances on the adjoining community. Most works along the Warringah Freeway corridor can only occur at night to minimise impacts to traffic on one of Sydney's most important road corridors. The Proponent has developed a Noise Insulation Program for the Warringah Freeway Upgrade to outline how at-property noise treatments would be implemented to aid in managing night time construction noise impacts.
- The Proponent will engage an independent Acoustic Advisor, to be approved by and regularly report to the Department, to oversee construction noise and vibration planning, management, monitoring and mitigation.

Recommended Conditions/Response

- Active and ongoing consultation, flexibility in construction techniques, at source and at property mitigation, and coordinating and scheduling work to provide respite will be applied to manage noise impacts.
- Construction of the Massey to Amherst Street noise barrier in Cammeray will be undertaken early in the construction program to provide construction and operational noise benefits.
- Out of hours works would be approved and regulated through an Environment Protection Licence for work that cannot be performed during standard construction hours.
- Noise impacts associated with the Warringah Freeway Upgrade will be mitigated through the implementation at-property noise treatment in accordance with the Proponent's Noise Insulation Program and the application of criteria to ensure appropriate respite for the community.
- Noise generating work in the vicinity of sensitive receivers, including schools, that result in noise levels above noise management levels must not occur during sensitive periods such as exams.
- Operational noise mitigation measures will be subject to review and compliance monitoring.

Air Quality

- Adequacy of the air quality assessment.
- Adverse construction (dust and odour) and operational air quality impacts (emissions from ventilation outlets).
- Odour impacts from the dredged contaminated sediments.

Assessment

- A review of the air quality assessment was undertaken by the NSW Chief Health Officer and considered advice from the Office of the NSW Chief Scientist and Engineer and the Advisory Committee for Tunnel Air Quality. The Chief Health Officer noted that any potential air pollution related health effects would be primarily due to traffic on surface roads and not as a result of the tunnel ventilation outlets.
- An independent air quality consultant was engaged by the Department to assist in undertaking a technical review of the Proponent's air quality assessment.
- The Proponent has committed to implementing construction dust suppression management measures to minimise windblown dust and odour impacts.
- The Department is satisfied that the project is unlikely to result in significant adverse impacts on ambient air quality or significant increases in health risks.
- The tunnel ventilation facilities will be licensed and regulated by the EPA.

Recommended Conditions/Response

- Requiring the preparation of a Construction Air Quality and Odour Management Plan.
- Imposition of limits to the level of air pollutants discharged from the ventilation outlets.
- Appointment of an Air Quality Independent Reviewer to review and endorse the adequacy of in-tunnel ventilation and ventilation outlet design, air quality monitoring design and air quality reporting.
- Establishment of a regime of air quality monitoring and reporting with operating procedures, monitoring equipment and monitoring data reviewed by an independent auditor and other quality assurance measures.

- Provision of real time air quality data recorded at air quality monitoring stations.
- Establishment of an Air Quality Consultative Committee comprising community representatives and relevant local councils to provide comment on the location of ambient air quality monitoring sites and review air quality reports.
- Designing the ventilation system to avoid emissions from the entry and exit portals, except in emergency situations.

Land Use, Place Making, Public Open Space and Active Transport

- There should be an increase in public open space, not just no loss.
- Project should provide multiple land bridges across the Warringah Freeway.
- Temporary loss of access to Yurulbin Park, Berrys Bay and other parks during construction.
- All trees that are removed must be replaced with mature trees and not seedlings.
- Operational facilities in Cammeray Golf Course should be undergrounded to provide more open space.
- Insufficient active transport linkages across the Warringah Freeway and with the Harbour Bridge.
- The proposed Falcon Street bus overpass would have visual and amenity impacts to adjoining residents.
- The project will direct traffic through North Sydney CBD which is in conflict with future pedestrianisation and strategic planning.

Assessment

- The Proponent has committed to developing a Place, Design and Landscape Plan to ensure that the detailed design of the built form, public open space and landscape design components of the project include details of where vegetation would be retained, planting is proposed and how Aboriginal and non-Aboriginal heritage interpretation and public art would be incorporated into a final design.
- The Proponent has committed to redeveloping Berrys Bay into a new public open space area in consultation with the local community and North Sydney Council. It will also provide a new path along the foreshore linking Carradah Park with Balls Head Road, as soon as practicable following the completion of construction activities at the site.
- The Department supports the Proponents commitment to engage the original landscape architect of Yurulbin Park, Bruce Mackenzie, to assist in developing the final design of the new park post construction.

Recommended Conditions/Response

- High quality design outcomes would be informed by an independent Design Review Panel and incorporated into the Place, Design and Landscape Plan.
- A net-increase in the provision of public open space is required.
- Establishment of an altered Cammeray Golf Course must provide an equivalent standard golf course or the provision of works to offset the loss in standard.
- As many existing trees as possible must be retained and replacement trees and plantings must deliver a net increase in trees and tree canopy.
- Berrys Bay would be redeveloped into a new public space in consultation with the local community and North Sydney Council.
- Yurulbin Park would be redesigned by the original landscape architect to achieve the intended vision of the park.
- St Leonards Park construction ancillary site must be rehabilitated in consultation with Council and opened to the public as soon as practicable following completion of construction.
- Active transport links and connections to be investigated further and enhanced.
- The design of the Falcon Street bus on ramp must be refined to have a greater setback to the apartments along Merlin Street, Neutral Bay.
- The project must consider the delivery of the objectives proposed by the North Sydney Integrated Transport Program.

Tunnel Depth

- Vibration impacts to properties, particularly around Balmain/Birchgrove and Waverton, where there are older properties on shallow or no foundations.
- After detailed design, WestConnex tunnel depths were shallower than in the EIS, concern the same will happen on this project.
- Inadequacy of 50 metre distance limit for dilapidation surveys, concern property damage will occur further away.

Assessment

- Construction vibration impacts are unavoidable for a project of this magnitude and in a highly complex and developed urban environment. The impacts will be manageable with the implementation of appropriate mitigation and management measures.
- The Proponent has committed to rectifying damage to properties.
- Construction of the project must be carried out generally in accordance with the EIS and the Response to Submissions.

Recommended Conditions/Response

- A geotechnical model of geological and groundwater conditions must be prepared prior to excavation and must include details of proposed construction excavation and potential impacts to properties and structures.
- Offering pre-construction surveys on the current condition of surface and sub-surface properties and structures identified as at risk from settlement or vibration by the above geotechnical model, which is not limited to 50 metre boundary. The survey and report will be undertaken by suitably qualified independent assessors.

<ul style="list-style-type: none"> Commitment that the project or Government will rectify all damage caused by excavation and tunnelling. 	<ul style="list-style-type: none"> The establishment of an Independent Property Impact Assessment Panel before works commence which must comprise geotechnical and engineering experts independent of the design and construction team to review pre and post-construction building condition survey reports and resolve disputes relating to property damage.
<p><u>Dredging</u></p>	<p><i>Assessment</i></p>
<ul style="list-style-type: none"> Investigate alternative construction methods rather than immersed tubes so contaminated material is not disturbed. Concern that the report outlining the harbour bed contamination has not been published. The community cannot review and comment on the full impacts of dredging. Dredging impacts on marine species, including from the dredge plume, boat strikes and coffer dam trapping. Impacts to human health from the dredging of contaminated material in the water. Use of full depth silt curtains deemed not appropriate due to tidal currents and boat movements, so why are the shallower depth curtains appropriate. 	<ul style="list-style-type: none"> The Response to Submissions Report included the <i>Contamination Factual Report – Marine Investigations</i> prepared by Douglas Partners/Golder Associates. The backhoe dredger will be fitted with a closed environmental bucket designed to contain dredged contaminated materials, minimise suspended sediment mass and reduce turbidity while the bucket is raised up through the water column and swung over the receiving hopper barge. Real time monitoring of the backhoe dredging and control systems will occur and dredging will not occur during strong wind conditions. The Department supports the additional use of silt curtains to protect sensitive marine environments during dredging operations. The Department considers that the dredging of contaminated sediment from the harbour and its transport and treatment at White Bay can be appropriately managed. <p><i>Recommended Conditions/Response</i></p> <ul style="list-style-type: none"> The preparation and implementation of a Dredging and Disposal Management Plan and a Dredging Monitoring Program prior to the commencement of construction– to be approved by the Department and reviewed by the EPA and Harbour Master/Port Authority. The preparation of Detailed Site Investigation Reports prior to the commencement of works by qualified Contaminated Land Consultants certified under schemes approved by the EPA. Limiting suspended sediment and turbidity impacts in Sydney Harbour during dredging activities. Requiring construction activities in Sydney Harbour to be undertaken in a manner that protects nearby intertidal rocky reefs, seagrass beds and other sensitive marine habitats.
<p><u>Heritage</u></p>	<p><i>Assessment</i></p>
<ul style="list-style-type: none"> Concern was raised in relation to potential impacts to heritage listed items. Impacts to Whale Rock and other Aboriginal cultural heritage sites, yet to be assessed. Requirement for specific vibration criteria to protect heritage items 	<ul style="list-style-type: none"> Design of the construction site layout and reinstatement of Yurulbin Park will be undertaken in consultation with the park’s original architect to protect significant features of the item and to enhance the existing character and design intent. The Proponent has committed to formulating a site-specific conservation management plan for Yurulbin Park; archaeological investigation; to investigate the temporary removal and storage of heritage features of the item; and to retain and protect established trees where possible. The Proponent has committed to rectify any damage to heritage items. The Proponent has committed to open space rehabilitation of the effected parts of St Leonards Park, as well as standard vibration and settlement mitigation measures. For Aboriginal cultural heritage sites including Whale Rock, the Proponent has committed to structural integrity assessment and, if required, vibration monitoring. For structurally unsound sites, works will be undertaken to minimise vibration levels to below 2.5mm/s. <p><i>Recommended Conditions/Response</i></p> <ul style="list-style-type: none"> Requiring archival recording for the Coal Loader, St Leonards Park and Yurulbin Park. Prohibiting destruction, modification or impact to the Coal Loader and associated maritime infrastructure. The Proponent must conduct vibration testing before and during vibration generating activities that have the potential to impact on heritage items to identify minimum working distances to prevent cosmetic damage.
<p><u>Justification and Procedure</u></p>	<p><i>Assessment</i></p>
	<ul style="list-style-type: none"> This project was exhibited from 29 January 2020 to 30 March 2020, a total of 62 days, more than double the legislated requirement for State Significant Infrastructure projects

<ul style="list-style-type: none"> No published Business Case for the project. Beaches Link is not included in Western Harbour Tunnel EIS, these two projects should be assessed together to fully understand the true impact to communities. Calls for the suspension of the exhibition during COVID-19 and re-exhibited after. Communication engagement sessions cancelled, and the community could not engage with each other due to social distancing requirements. No real assessment of alternatives to the project such as public transport. Impact to property values. 	<p>and primarily prior to the imposition of any Public Health Orders due to the COVID-19 Pandemic.</p> <ul style="list-style-type: none"> The Department is satisfied the views of the community were adequately heard and conveyed to the Proponent. The Western Harbour Tunnel and Warringah Freeway Upgrade, and the Beaches Link and Gore Hill Freeway Connection Projects are components of the Western Harbour Tunnel and Beaches Link program of works and subject to separate but coordinated environmental assessment and approval processes. This project has been endorsed by the NSW Government and is a key component of several strategic infrastructure and planning documents including <i>Future Transport Strategy 2056</i> and <i>A Metropolis of Three Cities – the Greater Sydney Region Plan</i>. The Department considered impact to land use and property in its assessment and concluded that any impacts can be managed. <p><i>Recommended Conditions/Response</i></p> <ul style="list-style-type: none"> Any damage to property as a result of the project must be rectified at no cost to the landowner within 12 months of the completion of construction.
<p><u>Climate Change and Sustainability</u></p> <ul style="list-style-type: none"> Use of potable water in a time of drought. Increase in CO₂ emissions as a result of the project is not sustainable and does not align with the NSW Government's commitment to reducing greenhouse gas emissions. The government should be considering mass transport solutions that produce less CO₂ emissions and are more effective at moving large volumes of people. Consideration of more remote working would mean that this project is no longer required. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> Various alternatives including public transport were assessed as part of the project and documented within the EIS. The project forms part of a complementary integrated multi-modal transport strategy being implemented by the NSW Government. <p><i>Recommended Conditions/Response</i></p> <ul style="list-style-type: none"> A Water Reuse Strategy to set out options for the reuse of collected stormwater and groundwater during construction and operation. Retention of as many trees as possible, and that replacement trees must deliver a net increase in tree canopy and aim to enhance the relevant council's position with regard to the Sydney Green Grid. Achieve a minimum "Excellent" Design and As Built rating under the Infrastructure Sustainability Council of Australia Infrastructure rating tool.