

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-9371 Inland Rail – North Star to the NSW/Queensland Border
Proponent	Australian Rail Track Corporation
Approval Authority	Minister for Planning

Decision

The Minister for Planning 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 <https://www.planningportal.nsw.gov.au/major-projects/projects/inland-rail-north-star-nswqueensland-border>.

A copy of the Planning Secretary's Assessment Report is available <https://www.planningportal.nsw.gov.au/major-projects/projects/inland-rail-north-star-nswqueensland-border>.

Date of decision

20/2/2023



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; and
- 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:
 - improve freight transport outcomes and travel times between Melbourne and Brisbane by increasing the capacity of the freight network as part of the Inland Rail program;
 - remove approximately 160 trucks for every train minimising congestion and improving safety for road users;
 - provide a new, efficient connection between regional farms in the area and international export markets; and
 - encourage growth and investment in the surrounding area, expanding on regional economic and development opportunities in logistics and agriculture.
- the project has been endorsed by the NSW Government and is a key component of:
 - *2020 Infrastructure Priority List*
 - *NSW State Infrastructure Strategy 2018-2038*
 - *Future Transport Strategy 2056*
 - *Regional NSW Service and Infrastructure Plan*
 - *NSW Freight and Ports Plan 2018-2023*
 - *New England North West Regional Plan 2036*

- 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; and
- 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 26 August 2020 until Tuesday 6 October 2020 (a total of 42 days) on Major Projects on the NSW Planning Portal and electronically at NSW Service Centres. The Department received 11 community (including various organisations and community interest groups) and three local council submissions and advice from 10 government agencies. Seven community and interest group submissions objected to the proposal.

Due to the timing of the exhibition period and assessment during the COVID-19 pandemic, standard exhibition procedures such as displaying physical copies of the EIS for public inspection at local libraries and council offices, and community information sessions were unable to proceed in a COVID-safe manner to comply with NSW Government Public Health Orders.

The Department also undertook the following consultation activities:

- two site visits in June and December 2018 during the scoping and EIS development stages of the project
- the Department’s independent hydrologist undertook a site inspection in March 2021
- attendance at four virtual Community Information Sessions held by the Proponent during EIS exhibition;
- attendance at briefings to agencies, Councils and Toomelah Local Aboriginal Land Council conducted by ARTC; 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 flooding and hydrology; biodiversity; noise and vibration; traffic, transport and access; Aboriginal cultural heritage; visual impacts; soils, agriculture and land use and social impact.

Issue	Consideration
<p>Project need and context</p> <ul style="list-style-type: none"> • Lack of proper cost benefit analysis for the project • Concern that methodology used to consider economic costs and benefits is not appropriate • Alignment and location of crossing loop • Consultation on key issues including the alignment. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The project is consistent with Commonwealth and State strategic planning and transport documents. • The location of the crossing loop was not confirmed but would be within the approved project footprint. • The Department required remodelling of flooding and hydrology impact and consideration of the 1976 event. • The Department exhibited the EIS and has met with the NSW Macintyre Floodplain Landholders to discuss concerns raised in their submission. <p><i>Recommended Conditions/Response</i></p> <ul style="list-style-type: none"> • No part of the crossing loop can cross over any driveway, private road or public road unless determined in consultation with relevant landowners and adjacent landowners. • A number of conditions require consultation with landowners including conditions related to extended hours of work, flooding and hydrology, traffic and access, visual amenity and land use and property impacts. • The Department does not assess the project’s business case.

Flooding and hydrology

- The modelling is incorrect/inadequate
- Accuracy of a 1% AEP that is inconsistent with the Border Rivers Valley Floodplain and that used by Goondiwindi Regional Council (Qld)
- The project should be designed for the 1976 flood event
- Impacts should be assessed based on the 1976 flood event
- Modelling assumptions used may not be appropriate
- Impacts will be worse than predicted
- Flows will be redirected
- Appropriateness of the flood objectives
- Impacts of debris on the operation of culverts/bridges
- Damage to and risk the rail infrastructure will fail during flood events.

Assessment

- The Department required remodelling of flooding and hydrology impacts and the consideration of the 1976 event and is satisfied the revised modelling is appropriate.
- The 1976 event and the revised flood modelling form the basis of the Department's consideration of impacts.
- The Department did not support the Flood Management Objectives proposed by the Proponent.
- The Department has confidence that through design refinement and consideration of Quantitative Design Limits, the potential for impacts on adjoining properties can be mitigated.
- Where residual impacts persist, these can be resolved through an agreement with the landholder which may include mitigation such as scour protection being applied to adjoining land.

Recommended Conditions/Response

- Flood modelling of the final design to consider compliance with specific Quantitative Design Limits (QDLs) in all flood events up to the 1976 flood.
- The QDLs are specific limits for flood impacts from the project and include limits for flow redistribution.
- Non-compliances with the QDLs require agreement with the landowner or roads authority.
- An Independent Flood Impact Assessment Panel will be able to consider non-compliances with the QDLs where agreement cannot be reached
- A Flood Design Verification Report must document all compliances and non-compliances with the QDLs including consideration of risk to life due to formation failure.

Soils

- Flows concentrated by the project will cause erosion of highly erodible clay soils
- Potential for irreversible impacts from erosion at some distance from the rail line
- The existing rail line has caused erosion and should be mitigated.

Assessment

- The project is located on highly erodible clay soils with the potential for concentrated flows to create erosion that could result in ongoing impacts to adjoining private property and infrastructure.
- Design changes such as additional and wider spaced culverts and longer bridge spans reduced the number of structures likely to exceed the erosion threshold velocity.

Recommended Conditions/Response

- Recommended conditions require compliance with a scour/erosion potential QDL and a default erosion threshold velocity for highly erodible soils unless site specific assessments determine the erosive threshold velocity is larger.
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- An Operational Erosion Mitigation and Monitoring Program is required for all areas that exceed the scour/erosion potential QDL or are actively eroding.

Agriculture and rural business

- Impacts of fencing, including preventing livestock from reaching higher ground during floods, lack of fencing, and maintenance of fencing
- Impacts to the Travelling Stock Routes
- Restoration of borrow pits and laydown areas
- Removal/replacement of shade trees for stock
- Offer of a new potential borrow pit at North Star
- Concern about financial impacts to rural businesses from changes in land values, equity availability and insurance costs.
- Access to travelling stock routes and consequences for farming operations

Assessment

- Rail operations would result in changes to access and affect the movement of vehicles, farm machinery and stock. Formal and informal rail crossings would be closed and/or consolidated and the rail corridor fenced.
- Types of fencing and impacts to the travelling stock route would be determined in consultation with the landowner or relevant agency.
- All borrow pits would be rehabilitated in accordance with the Rehabilitation Strategy.
- The borrow pit suggested by a submitter was not included as part of the project. Further assessment and approval of this additional borrow pit is required should the Proponent decide to use it for the project.
- Connectivity of the travelling stock routes and reserves would be maintained, where possible, in consultation with Crown Lands.

Recommended Conditions/Response

- The Proponent must consult with all landowners that are either temporarily or permanently impacted by the project. Individual property management plans are required to document the results of consultation and agreed outcomes with each landowner.
- A Borrow Pit Management Plan is to be prepared which details management and rehabilitation of each borrow pit.

Access and traffic

- Movement of stock and vehicles for properties severed by the alignment
- Access for properties landlocked as a result of the project
- How access will be maintained between farms and paddocks impacted, severed or sterilised by the project
- Reinstatement of access should be covered by the EIS even when outside the project boundaries
- Project does not eliminate level crossings
- Traffic counts were completed during drought conditions and do not reflect true volumes

Assessment

- Rail operations will result in changes to access and affect the movement of vehicles, farm machinery and stock.
- Formal and informal rail crossings will be closed and/or consolidated and the rail corridor fenced. 26 level crossings would be closed, 8 upgraded and 8 would be grade separated.
- Road safety audits will be completed for all level crossings.
- Bridges transecting private property will have a sufficient clearance to enable cattle and vehicles to pass underneath.
- Design aspects for crossings will be in consultation with affected landowners.

- The project alignment requires the rail to be crossed multiple times
- Road alignment and school bus route impacts.
- There will be property severance impacts to existing farming operations, rendering some land parcels landlocked. The proponent has committed to consulting with landowners during detailed design phase to ensure appropriate access is provided.
- Delays from the level crossings would not impact the road network performance and would result in localised delays affecting a small number of vehicles.
- Construction would increase the total vehicle movements but would not impact the road network performance including during peak harvest periods.

Recommended Conditions/Response

- The Proponent must consult with all landowners that are either temporarily or permanently impacted by the project. Individual property management plans are required to document the agreed outcomes with each landowner.
- Public and Private Level Crossing Treatment Reports are required to be developed in consultation with landowners or road authority to ensure convenient property access is maintained.
- A Traffic, Transport and Access Management Sub-plan must be prepared to minimise impacts on seasonal traffic and inform road users and freight operators of changes to traffic conditions during construction.
- The realignment of Bruxner Way must be designed to a minimum design speed of 110km/hr and endorsed by the road authority.
- Relocation of bus stops during construction must occur in consultation with the relevant council and bus operator.
- The Proponent must document procedures and mechanisms for resolving and mediating disputes in relation to property and infrastructure impacts.

Crown Land

- The project should not be approved with undetermined Aboriginal Land Claims.

Assessment

- The Proponent would confirm the status of any land claims when acquisition commences.
- If any undetermined land claims remain, the Proponent would work with the Local Aboriginal Land Council and NSW Aboriginal Land Council to reach an agreement to the extent that it affects the claim.

Recommended Conditions/Response

No conditions recommended.

Biodiversity

- Does not adequately identify impacts to threatened species and ecological communities
- Concerns surveys only completed during drought conditions and not within the optimal survey seasons
- Does not consider indirect impacts from changes in hydrology.

Assessment

- The revised Terrestrial Biodiversity Technical Assessment Report includes additional data obtained between October 2018 and March 2021.
- The BDAR considered impacts to threatened ecological communities and threatened flora and fauna species listed under the NSW *Biodiversity Conservation Act 2016* (BC Act) and the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).
- The Proponent has committed to implementing a Biodiversity Offset Package including additional measures and to obtaining and retiring biodiversity credits in accordance with the BC Act and the EPBC Act, and will apply like-for-like or variation rules (the variation rule would not apply to any Matters of National Environment Significance (MNES) under the EPBC Act) by securing offset credits or payment of funds to the Biodiversity Conservation Trust.

Recommended Conditions/Response

- The requirement to offset impacts to threatened ecological communities and species in accordance with the specified retirement credits before impacts to the biodiversity values.
- Restrictions on high-risk construction activities that may impact Murray Cod habitat during the spawning period and provision of beneficial aquatic habitat within one kilometre downstream of the bridge.
- Fauna passages must be provided beneath the Mobbindry Creek, Back Creek, Forest Creek, Whalan Creek and Macintyre River rail bridges.
- Pre-clearing surveys prior to construction along with other management measures specified in a Biodiversity Management Sub plan.
- A Five-clawed Worm Skink Management Plan is required to manage potential impacts during construction and for post-operation monitoring

Noise and vibration

- Does not adequately consider sleep disturbance
- Not all sensitive receivers identified
- No commitment to appropriate mitigation treatments including relocation of dwellings highly impacted by noise
- Concern that appropriate noise mitigation isn't possible to mitigate sleep disturbance.

Assessment

- Sleep disturbance impacts were identified in the noise and vibration assessment.
 - The number and location of sensitive receivers was updated.
 - Day and night time construction activities and operational noise would impact sensitive receivers.
 - A Construction Noise and Vibration Management Sub-Plan would outline measures to mitigate noise impacts during construction and include measures such as machine shielding, and at-receiver noise treatment for those impacted by both construction and operational noise.
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- The Proponent has made an offer to relocate or purchase a residence that would be highly noise affected.

Recommended Conditions/Response

- Relocation or purchase of a dwelling that would be highly noise affected is supported by the Department.
- Extended hours of construction of 6:30am to 7:00pm with construction ceasing every second Sunday would be permitted where consultation about the works and mitigation measures occurs every three months with all affected receivers.
- Out of hours work must be approved in accordance with the Out of Hours Work protocol or an Environmental Protection Licence.
- An Operational Noise and Vibration Review must be undertaken to monitor effectiveness of mitigation treatments and noise performance and determine whether additional mitigation is required. These treatments will be offered after landowner consultation.
- Operational noise mitigation measures, such as architectural treatments will be brought forward and implemented during the early stages of construction to assist in addressing construction noise impacts.
- An Operational Noise Compliance Report (ONCR) must be provided to report on operational stages of the project to verify noise performance and to detail performance of the proposed mitigation measures.

Visual

- Does not adequately address visual impacts including from private residences
- Lack of appropriate mitigation strategies.

Assessment

- The visual impact assessment utilised viewpoints that are spread out evenly across the project.
- While additional viewpoints from private residences would have provided greater clarity the viewpoints selected are considered reasonably representative of the impacts on a relatively flat landscape.

Recommended Conditions/Response

- A Visual and Landscape Impact Management Plan to mitigate impacts is required to be prepared in consultation with landowners and residents within 100 m of the project in North Star and within 500 m of the project elsewhere.
- Opportunities for Aboriginal interpretation, such as Aboriginal designs, patterns, and motifs, on the Macintyre River bridge and Tucka Road rail bridge must be considered in consultation with the Toomelah LALC and the local community.

Heritage/Aboriginal Heritage

- Support for the relocation of heritage items to the Travelling Stock Route
- Toomelah Local Aboriginal Land Council requests active involvement in

Assessment

- RAPs and Toomelah LALC would be involved in ensuring impacts to Aboriginal heritage are minimised and managed appropriately.

all stages of mitigation of cultural heritage places

Recommended Conditions/Response

- Prior to commencement of any work within areas identified as requiring archaeological investigation or salvage an Aboriginal Archaeological Test Excavation Methodology must be prepared in consultation with Heritage NSW and RAPs.
- Work must stop should any unidentified Aboriginal objects or Places be discovered.

Contamination

- Existing contamination along the entire unused rail line should be rehabilitated not just the portion needed for the project.

Assessment

- The project would use the existing rail corridor to minimise impacts to land resources and contamination.
- A preliminary contamination site investigation was completed with all contaminants being below the adopted soil assessment criteria.

Recommended Conditions/Response

- If soils suspected to be contaminated are unexpectedly found, the Proponent must engage a suitably experienced and qualified contaminated land consultant to undertake further investigations to determine the type and extent of any contamination.

Acquisition

- Concern that indirect impacts from flooding, ecology, noise and vibration and visual impact cannot be appropriately compensated without the land also being acquired.

Assessment

- The project would result in indirect impacts.

Recommended Conditions/Response include:

- The requirement for consultation with landowners and residents with respect to flooding, noise and vibration, property and visual impacts. Acquisition is an option to address impacts including flooding impacts, or when no agreement is reached about non-compliances with QDLs.

Social

- Project will benefit a few and impact many
- Concerns costs will blow out
- Location and legacy of the construction worker's camp.

Assessment

- There will be significant impacts on individuals and communities, with the majority of impacts categorised as high.
- Costs of the project is not within the scope of the environmental impact assessment.
- The demographic of North Star is likely to change during construction, with a workers' accommodation camp increasing the temporary population sevenfold. Impacts from this are both positive and negative.

Recommended Conditions/Response

- A revised Social Impact Management Plan is to be prepared for the Planning Secretary's approval
- An Accommodation Camp Management Sub-plan is to be prepared to regulate/govern the camps operations.

Safety

- Lack of mobile service and use of proposed mobile app to advise of trains
- Ongoing consultation during construction, particularly during harvest times

Assessment

- Options to address telecommunications network coverage are being considered by Inland Rail, the Department of Infrastructure and Telstra separate to this project.
- The Proponent has committed to ongoing consultation with relevant Councils, police, emergency services and affected

- Risk of blackouts and the need for backup power at level crossings
 - Access to the rail line (particularly children).
- landowners/occupiers to inform of likely traffic disruptions during harvest season.
 - All active level crossings are provided with a backup battery that provides 36-48 hours of backup. Following this alarms are sent to Network Control and trains are warned. In these instances, trains would stop before proceeding across the level crossing.

Recommended Conditions/Response

- The requirement for a Traffic, Transport and Access Management Sub-plan to include measures to minimise impacts on seasonal traffic including harvest related vehicles.
-