

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 - 9406 Inland Rail – Illabo to Stockinbingal
Applicant	Australian Rail Track Corporation
Consent 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 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 4/9/24

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 interstate, intercity and intracity freight transport connections;
 - improve freight efficiency, last mile logistics, travel times and increased network capacity;
 - increase access for freight across the rail network, as well as ensure safe, efficient and sustainable freight access between regional NSW, ports, and local and international market destinations; and
 - provide transport and economic development opportunities in regional NSW.
- the project has been endorsed by the NSW Government and is a key component of:
 - 2024 Infrastructure Priority List of Infrastructure Australia;
 - NSW State Infrastructure Strategy 2018-2038;
 - Future Transport Strategy 2056;
 - Regional NSW Services and Infrastructure Plan; and
 - NSW Freight and Ports Plan 2018-2038.
- 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

After accepting the EIS, the Department:

- publicly exhibited the proposal from Wednesday 14 September 2022 until Wednesday 26 October 2022 on the NSW planning portal.
- notified occupiers and landowners in the vicinity of the site about the public exhibition.
- notified and invited comment from relevant government agencies and Junee Shire Council and Cootamundra-Gundagai Regional Council.

As the proposal is a 'controlled action' under the EPBC Act, a newspaper advertisement was placed in The Australian newspaper in accordance with the NSW Assessment Bilateral Agreement.

The Department met with stakeholders prior to, during, and following exhibition of the EIS, including Councils, the Cootamundra Aboriginal Working Party, and landowners to provide an opportunity for stakeholders to discuss the proposal. The Department gained an understanding of local concerns, constraints, and issues. Ongoing engagement with government and non-government stakeholders has occurred prior to and during the assessment of the proposal.

The Department received 14 submissions¹ during the public exhibition period of the EIS (2 submissions from special interest groups, and 12 submissions from individuals). The submissions varied in positions towards the proposal, and each submission raised a number of matters, in some cases going into detail.

The Proponent established a Community Consultative Committee (CCC) for the proposal in early 2019 and has scheduled regular meetings.

The key issues raised by the community (including in submissions) and considered in the Planning Secretary's assessment report and by the decision maker include Flooding, Noise and Vibration, Traffic and Transport, and Biodiversity.

Issue	Consideration
<p>Route Selection</p> <ul style="list-style-type: none"> • Concerns about how the preferred route was selected and the lack of transparency behind this process • Lack of consideration of how the Proposal could benefit and service other areas of NSW, including agricultural and rural communities across Australia • Need to consider other alternatives including the more westerly alignment through Narrandera or further to the east, as originally proposed • Route selection did not appear to follow cadastral boundaries or roads • Lack of a quantitative and robust business case 	<p>The Proponent's route selection process is discussed in Section Error! Reference source not found.</p> <p>The Department acknowledges community concerns regarding the route selection.</p> <p>It is not the Department's role to comparatively assess the proposed route against other potential routes or variations to the proposed route. Route selection is a matter for the Proponent, and the Department must assess the environmental impacts of the route as proposed.</p> <p>The merits or otherwise of the proposal's business case are not a matter for the Department. The Department notes concerns raised about a lack of benefits to regional communities through connections to the proposal. While the proposal does not include intermodal facilities, the proposal does not preclude development and rail network access of such facilities by others.</p> <p>The Department has assessed the impacts of the selected route. Submissions relating to property and land use impacts, particularly those related to agriculture, biodiversity and flooding impacts, and benefits to communities are assessed in Section Error! Reference source not found. of the assessment report.</p> <p><i>Recommended conditions</i></p> <p>See conditions relating to property and land use, hydrology and flooding, social and biodiversity.</p>

¹ Each petition or submission that contains the same or substantially the same text is counted as one submission in accordance with section 2.7(6) of the Planning System SEPP.

Issue	Consideration
<p>Lack of detail in EIS</p> <ul style="list-style-type: none"> • Assessment based on concept design with refinements later. • Lack of certainty in EIS statements • Concerns around the adequacy of technical assessments 	<p>The Department's assessment of the proposal included an assessment of the risk and magnitude of impacts and proposed mitigation measures. This considered advice from independent experts and specialist government agencies. The Department's considers that the EIS and RtS contain an appropriate level of detail and have recommended conditions that require the Proponent adopt appropriate mitigation measures as set out in the EIS and RtS, in addition to further conditions to enable appropriate environmental and social outcomes in line with government policy.</p>
<p>Traffic and Transport</p> <ul style="list-style-type: none"> • The impact of heavy vehicles on road degradation, and the requirement to repair impacted roads • The safety and functionality of level crossings for vehicles, pedestrians and livestock crossing them • Delays from level crossing events • Final designs and specifications of the New Burley Griffin Way to accommodate pedestrians and farm vehicle movements • Cumulative impact of construction traffic from this and other IR proposals 	<p>The Department acknowledges community concerns regarding safety and delays at level crossings, and the impact heavy construction vehicles can have on surrounding roads.</p> <p>The Department's review of the traffic impact assessments for both construction and operation found that they were appropriate. The assessments showed that there would be minimal impact to the surrounding area. The area is a low traffic rural area, and the proposal's construction vehicles and work sites are dispersed across it. Impacts from level crossings would be minimal with between 1 and 3 cars having to queue during a train crossing event.</p> <p>The proposal would require traffic diversions to deliver the works. The Proponent seeks to minimise impacts during these diversions and works by developing Construction Traffic Management Plans to ensure safe operation of the road network is maintained.</p> <p>The Department is satisfied traffic impacts during construction and operation can be appropriately managed.</p> <p>Recommended Conditions</p> <p>Prior to new or upgraded level crossings a report detailing the assessment and proposed mitigations is required to be submitted to the Planning Secretary for approval.</p> <p>Once operational the performance and safety of the level crossings are required to be reviewed and if required, modifications made.</p> <p>The Proponent is required to consult with relevant road authorities for the design and delivery of key road infrastructure to ensure it meets standards and any dilapidation caused by the Proponent or contractor is repaired.</p> <p>The traffic management plan required to be implemented for the proposal would include management measures for cumulative traffic impacts from this and other major proposals.</p>
<p>Noise and Vibration</p> <ul style="list-style-type: none"> • Issues relating to noise criteria, out of hours construction, blasting and sleep disturbance • Validity of noise modelling based on limited validation • Noise measurements may not represent seasonal variations • Lack of direct vibration measurements near sensitive receivers • Impacts on livestock • Vibration impacts on older buildings foundations • Construction impact on property and farming operations 	<p>Construction noise would exceed the guideline levels at residential properties, particularly in Stockinbingal when work is occurring nearby. This is reflective of the low background noise levels and nature of the work being carried out.</p> <p>Noise levels would vary throughout the construction period as sections are completed and work moves away from a particular receiver.</p> <p>Out of hours works are proposed, however would be subject to certain activities and time periods. Regular respite periods would be provided, which limit the potential for sleep disturbance.</p> <p>The Department is satisfied vibration impacts during construction and operation can be appropriately managed. Vibration impacts would be managed using pre-construction inspections and vibration monitoring.</p> <p>The Department has reviewed the Proponent's response on noise impacts to livestock and considers the mitigation measures identified in the RtS can form part of the Individual Property Management Plans.</p>

Issue	Consideration
<ul style="list-style-type: none"> Notification should be given throughout the proposal 	<p>The Proponent seeks to minimise impacts through developing specific mitigation measures during detailed construction planning, agreements, or alternative mitigation measures and respite developed in consultation with affected receivers.</p> <p>Operational noise would exceed rail noise triggers at 6 residences and one residence for road traffic noise associated with the realignment of Burley Griffin Way. These residences would be considered for at-property treatment.</p> <p>Recommended Conditions</p> <p>Limits on hours during the night period and limits on the use and duration of highly intensive noise activities.</p> <p>A Construction Noise and Vibration Plan that details construction practices to reduce noise and vibration impacts and mitigation impacts when noise exceeds guidelines.</p> <p>An Operational Noise and Vibration Review for both road and rail components that confirms modelled operational noise and vibration impacts (including additional technical requirements for modelling), the receivers eligible for noise mitigation and the types of noise mitigation. Noise mitigation must consider building conditions, cooling devices and all feasible barrier options.</p> <p>An Operational Noise Compliance Report for road and rail components once the proposal is operational that compares modelled and actual impacts and informs any additional mitigation.</p>
<p>Air Quality</p> <p>Qualitative nature of assessment, limited clarity on magnitude of impacts</p>	<p>The Department is satisfied the Proponent's air quality impact assessment adequately considers construction and operational impacts.</p> <p>The assessment referenced quantitative assessments from other Inland Rail Sections and the Department has reviewed more in-depth assessments from other sections which indicate that air quality during operation of this proposal would be within acceptable levels as receivers are sufficiently distant from emissions sources.</p> <p>Risks of air quality impact during construction are expected to be low when the proposed mitigation is implemented.</p> <p>Recommended Conditions</p> <p>Preparation and implementation of an Air Quality Management Plan as part of the CEMP.</p>
<p>Landscape and visual</p> <p>Inadequate assessment of operational visual impact and mitigation</p>	<p>While the visual impact assessment identifies the aspects of the proposal that would cause impacts, the Department considers that there would be a moderate and in some cases high visual impact and would require the Proponent to consult with neighbouring residents about landscaping and screening.</p> <p>The Department considered the proposed mitigation measures that included strategic planting, sympathetic design and appropriate materials acceptable in addition to a requirement to prepare a Visual and Landscape Management Plan which details all measures to be implemented to minimise visual and landscape impacts.</p> <p>Recommended Conditions</p> <p>A Visual and Landscape Impact Management Plan to mitigate impacts is required to be prepared, in consultation with landowners and residents within 500 m of the proposal in rural areas and 100 m in towns.</p>

Issue	Consideration
<p>Flooding and Hydrology</p> <ul style="list-style-type: none"> Concerns relating to flood warnings, particularly around level crossings Concerns regarding farm dams, diversion of overland flows, relocating or restocking of dams and associated costs and lack of assessment of existing dams Culvert quality appears limited and would increase flow concentration, and divert flows that would inundate areas without sufficient drainage Lack of assessment relating to wetlands at Bethungra Dam Isolated flooding and increases of flood velocity due to flow concentrations and increased erosion in watercourses Properties have existing drainage systems developed in consultation with Soil Conservation Service, and changes to drainage design is counterintuitive to prior efforts Concerns of water damming caused by new rail alignment Concerns relating to the unknown impacts to specific properties and lack of information to appease landowners through poor stakeholder engagement Concerns regarding blocked drainage infrastructure and who would maintain it in future Increases in flood depth would make passage on private property very difficult Concerns that the flooding assessment incorrectly identifies water sources and extent of impacts 	<p>The Department undertook a detailed review of the Proponent's flooding assessment, having regard to advice received from the Department's independent hydrology expert and relevant Government agencies.</p> <p>The Department required remodelling of flooding and hydrology impacts, as well as thorough responses to community and agency submissions, which was provided in the RtS.</p> <p>The Department is satisfied that the flood modelling and presentation of its results in the RtS is adequate to allow the project's determination.</p> <p>The Department considers that the Proponent's assessment of velocity increases and potential soil erosion requires additional clarification, and acknowledges the Proponent's commitment to develop an approach to directly measure erosion and scour potential at each culvert location. Maintenance of culverts during operation would form part of the required Operational Environmental Management Plan.</p> <p>The 137 farm dams within the vicinity of the proposal are predominantly located on overland flow paths that either opportunistically capture surface flows or are located to capture the surface run off from artificial contours and drainage lines. Of these, 14 farm dams would be directly affected by construction.</p> <p>Flow distribution impacts are identified by the assessment, resulting in minor amounts of newly flooded land, however waterways, drainage channels and dams would potentially receive reduced amounts of surface water flow. In addition, a number of exceedances of the QDLs for afflux, duration, hazard and velocity are noted at a number of locations.</p> <p>QDL exceedances are generally minor with some exceptions and would trigger a requirement for the Proponent to reach agreement with landholders about QDL non-compliance, including the mitigation measures to be applied.</p> <p>Recommended Conditions</p> <p>The Proponent is required to prepare a Flood Design Verification Report (FDVR) for the Planning Secretary's approval prior to the commencement of construction. The FDVR will document the project's QDL compliance and management and mitigation measures where exceedances occur.</p> <p>The flooding assessment noted an increase in afflux exceedances affecting habitable buildings, plus a large increase in flood levels in Stockinbingal for the 1% AEP plus climate change scenario. It is recommended that the final project design is modelled for this event and includes measures to reduce these impacts to acceptable levels through further design refinement.</p> <p>Additional requirements to ensure a greater level of detail is captured on the management of surface and groundwater flows on farm properties, which is to be compiled in a register for the information of the Department and landowners. In addition, design of longitudinal and cross drainage structures must ensure there are no significant impacts to farm dams on impacted properties.</p> <p>Revised flood modelling of the final design of the CSSI is to be independently peer reviewed by a suitably qualified and experienced hydrologist.</p>

Issue	Consideration
<p>Water use and availability</p> <ul style="list-style-type: none"> • Capability of existing water infrastructure to provide for the accommodation camp • Lack of assessment for construction impacts on Stockinbingal Reservoir • Impacts to farm water use during construction • Concerns of impacts to groundwater 	<p>The Department is not responsible for approving the supply of water for construction. However, the Department acknowledges that the Proponent and Goldenfields Water County Council have engaged on this issue to supply both construction activities and the accommodation camp whilst maintaining the usual supply for both residential and farm use.</p> <p>The Department has reviewed the groundwater assessment and considers that the risk to groundwater is low and adequate mitigation and management controls have been proposed.</p> <p>The Proponent would implement controls including dilapidation surveys of Stockinbingal Reservoir and would not relocate the NBN tower to minimise impacts on the reservoir. The Department considers these measures acceptable.</p> <p><i>Recommended Conditions</i></p> <p>A Soil and Water Management Plan which includes a balance of water, and protocols for storage and use of water across the proposal.</p>
<p>Biodiversity</p> <ul style="list-style-type: none"> • Inadequate assessment of tree removal along fauna connectivity corridors to water courses • Concern regarding long term environmental impacts of the proposal and degree of construction impacts 	<p>The Department has reviewed the Biodiversity assessment and after the provision of additional information considers the assessment adequate.</p> <p>The Department acknowledges the community's concern and has recommended a number of conditions to manage construction and operational impacts.</p> <p><i>Recommended conditions</i></p> <p>Conditions requiring fauna connectivity and predator prevention monitoring and mitigation programs during the operational phase have been included.</p> <p>With regard to biodiversity impacts during construction, the Proponent and their contractors are required to implement a Biodiversity Management Plan and remediate land after it has been used for construction.</p>
<p>Biosecurity</p> <ul style="list-style-type: none"> • Concerns regarding the spread of weeds and pests during construction and operation, and the management issues associated with such an impact • Increased risk of biosecurity impacts due to corridor crossing multiple properties 	<p>The Proponent conducted a detailed assessment of biosecurity risk and has proposed mitigation measures for both construction and operation.</p> <p>To ensure these measures are implemented, the Department has recommended conditions to reflect these proposals.</p> <p><i>Recommended conditions</i></p> <p>Conditions that require specific consideration of biosecurity during both operation and construction.</p>
<p>Property and land use</p> <ul style="list-style-type: none"> • Loss of operational farmland and financial compensation are not adequately assessed • Inadequate explanation of the land acquisition process and the Proponent's lack of understanding of NSW compulsory land acquisition legislation • Concerns regarding the delay in compensation payments of legal and 	<p>The proposal would permanently acquire 458 hectares affecting 21 landowners. Acquisitions would reduce the size of properties and in some cases bisect, fragment or isolate them. This would affect access to and within properties, including the ability to move livestock and specialised agricultural equipment across the rail line.</p> <p>Property impacts of land acquisition would be primarily considered through the acquisition process under the <i>Land Acquisition (Just Terms) Compensation Act 1991</i> as a matter for the Proponent.</p> <p>Property impacts are inevitable for a proposal of this scale. The Department considers that the Proponent should make all reasonable accommodations for landholder preferences for access and fencing. The Department also acknowledges that there would be impacts to</p>

Issue	Consideration
<p>valuation costs</p> <ul style="list-style-type: none"> The fragmentation of farming properties reduces the availability of land for agriculture, functionality, property values and increases costs Concerns with private dedicated crossings within properties to enable property owners to move stock and machinery across the rail corridor, safety, farming operations and travel times. Access points functionality during flood or heavy rainfall events Inadequate fencing structure, standards and maintenance plans Costs associated with the reconfiguration of paddocks Loss of paddock shade trees where land is acquired for the rail corridor Concern that farming practices would be impacted by the alignment of the rail corridor, as it is not straight and the use of A-B GPS equipment would create inefficiencies Objections raised on locations of compounds (16, 17 and 29) due to property impacts Loss of productivity of livestock due to construction and operation impacts. 	<p>farming operations and has recommended conditions to require Individual Property Management Plans which would address all access, level crossing, fencing, farming infrastructure and stock/machinery crossing related to the project. The plans would be negotiated between the landowner and Proponent.</p> <p>Impacts on existing rural-residential development has been considered in this assessment and any future such development would need to respond to the proposal.</p> <p>Impacts on property values, and costs associated with providing submissions on the project are not a planning consideration, although matters that affect values, such as amenity and the productive capacity of land have been considered in this assessment.</p> <p>The Department has considered the potential safety risks to people and livestock for level crossings and has recommended a number of conditions to address this including safety assessments and a communication system for advanced warnings of train movements.</p> <p>The Department has considered the assessment of impacts to livestock and considers that measures are available to landowners to minimise impacts and given the potential for habituation, does not consider additional specific measures required.</p> <p>Recommended conditions</p> <p>The Proponent must consult with affected landholders, make reasonable accommodations and document agreements in Individual Property Management Plans to complement the property acquisition process.</p> <p>The Proponent must provide alternative and convenient property access where access is temporarily changed during construction.</p>
<p>Hazards and Safety</p> <ul style="list-style-type: none"> Safety concerns surrounding Train Order Working (TOW) and Advance Train Management System (ATMS) during use, noting the delayed implementation. Concerns relating to the introduction of fire hazards from construction and operation. Bushfire and emergency response concerns for Rural Fire Service access across the rail corridor Issues relating to emergency response time delays resulting from changes to access roads and gate positions Concerns related to the number of affected Rural Fire Brigades and Volunteer Rescue Association (VRA) brigades located in surrounding regional towns 	<p>The Department has reviewed the assessment and response to submissions relating to emergency services and considers the engagement with RFS and Councils, which included engagement on the design and access requirements of emergency services and the proposed mitigation and management measures acceptable.</p> <p>The Department considers that the level crossing assessments and proposed call train control process which are part of the proposal's mitigation measures to be acceptable.</p> <p>Recommended Conditions</p> <p>The provision of an advanced warning system for landowners and stock operators for rail crossings.</p> <p>Consultation with the Rural Fire Service to manage bushfire risk during construction and operation.</p> <p>The preparation of level crossing treatment reports.</p>

Issue	Consideration
<p>Social</p> <ul style="list-style-type: none"> Concerns relating to town and regional events that community members frequently attend, including ANZAC day services Reduction in tranquillity at homes, gardens and outdoor areas 	<p>The Proponent has committed to consultation with Council and stakeholders to work with them to provide suitable management of events during the construction period. The Department is satisfied that disruption can be minimised with the use of appropriate management measures.</p> <p>The Department is aware that some reduction in rural amenity would take place with the operation of the proposal. Measures that form part of the Social Impact Management Plan are proposed to address this in addition to measures that minimise impacts from noise, vibration, dust and visual amenity. The implementation of the SIMP has been recommended as a condition of approval.</p> <p>Recommended Conditions</p> <p>The implementation of a Social Impact Management Plan which considers impacts to local events.</p>
<p>Community and stakeholder consultation</p> <ul style="list-style-type: none"> Unsatisfactory consultation and engagement between community and the Proponent Design changes, such as the moving of the passing loop, were made without consultation Clarification was requested on how communication would work between the operator of the line and the users of the surrounding land 	<p>The Department acknowledges the Proponent's program of community consultation before and during the EIS exhibitions and through the Community Consultative Committee (CCC), and the community concerns about information presented at these forums.</p> <p>The Department exhibited the EIS in accordance with legislative requirements.</p> <p>Departmental staff attended the Proponent's exhibition consultation sessions and some CCC meetings to provide advice on the Department's assessment process and how to make submissions.</p> <p>Departmental staff also visited affected landowners' properties in February 2024.</p> <p>Recommended conditions</p> <p>The Department has recommended a comprehensive suite of conditions to ensure meaningful community consultation about construction and environmental impacts.</p> <p>A Communication Strategy that details who would be consulted about the construction and initial operation of the proposal and how they would be consulted, including mediation of unresolved complaints.</p> <p>A Complaints Management System, including mediation of unresolved complaints through a Community Complaints Mediator.</p>