

Notice of decision

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

Application type	State significant development
Application number and project name	SSD-7308 St Marys Intermodal
Applicant	Pacific National Pty Ltd
Consent Authority	Minister for Planning and Public Spaces

Decision

The Executive Director Infrastructure Assessments under delegation from the Minister for Planning and Public Spaces has, under section 4.38 of the *Environmental Planning and Assessment Act 1979* (**the Act**) granted consent to the development application subject to the recommended conditions.

A copy of the development consent and conditions is available [here](#).

A copy of the Department of Planning, Industry and Environment's Assessment Report is available [here](#).

Date of decision

7 May 2020.

Reasons for decision

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

- the relevant matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the objects of the Act;
- the considerations under s 7.14(2) of the *Biodiversity Conservation Act 2016*;
- all information submitted to the Department during the assessment of the development;
- the findings and recommendations in the Department's Assessment Report; and
- the views of the community about the project (see Attachment 1).

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

The key reasons for granting consent to the development application are as follows:

- the project would provide a range of benefits for the region and the State, including a new intermodal facility, \$33,212,000 capital investment, up to 168 operational jobs and 60 construction jobs;
- the project is permissible with development consent, and is consistent with NSW Government policies including the:
 - *A Metropolis of Three Cities – The Greater Sydney Plan*
 - *Western District Plan*
 - *Future Transport Strategy 2056*
 - *State Infrastructure Strategy 2018-2038*;
- the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards as identified in the Department's Assessment Report. The consent authority has imposed conditions relating to traffic and access, construction and operational noise, contamination, biodiversity, stormwater and flooding, and air quality;
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the recommended conditions of consent; and
- weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The Department exhibited the Environmental Impact Statement for the project from 31 May 2019 until 27 June 2019 (28 days) and received two public submissions along with one submission from Penrith City Council.

The Department also undertook a site inspection on 2 July 2019.

The key issues raised by the community and Council (including in submissions) and considered in the Department's Assessment Report and by the decision maker include operational heavy vehicle access and haulage routes; operational traffic and access to the arterial road network; construction and operational noise; contamination; stormwater, drainage and flooding; and biodiversity. Other issues are addressed in detail in the Department's Assessment Report.

<i>Issue</i>	<i>Consideration</i>
<p><i>Operational traffic and access</i></p> <ul style="list-style-type: none"> • traffic generation has been under-predicted • heavy vehicle traffic should be directly connected to the arterial road network and not use local roads • the arterial road network should be upgraded to accommodate the operational traffic volumes, and the Applicant should contribute to or undertake any necessary upgrade • Lee Holm Road is too narrow to accommodate two-way heavy vehicle movements • heavy vehicles access via Forrester Road is not acceptable due to its proximity to St Marys Station • use of (the wider) Forrester Road for heavy vehicle access would be preferable to use of Lee Holm Drive 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Department is satisfied that trip generation assumptions are satisfactory provided that actual generation and impacts to the road network are audited and addressed as container throughput at the site increases. • Following exhibition, the Applicant changed the preferred heavy vehicle access route to avoid operational heavy vehicle access via Lee Holm Road, and submitted a road safety audit to address potential risks to road safety at the proposed Forrester Road entrance. • Overall, the Department is satisfied that operational traffic can be managed effectively within the existing road network, provided the Applicant implements an adaptive management approach to managing access the site, with the objectives to ensure road and site safety and avoid queuing on surrounding the road, in a manner similar to those required for other intermodal proposals. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • The Department has recommended conditions requiring: <ul style="list-style-type: none"> ◦ Operation traffic audits when yearly throughput exceeds 50,000 TEU, 150,000 TEU and 300,000 TEU, and require an independent, approved auditor to recommend reasonable traffic improvements where impacts exceed those predicted ◦ Implementation of an Operational Traffic and Access Management Plan, including a Biannual Trip Origin and Destination Report that records key details of heavy vehicle usage of the development, and commitment to a driver code of conduct.
<p><i>Construction and operational noise</i></p> <ul style="list-style-type: none"> • construction noise impacts are predicted at the closest sensitive receivers during construction. • requested that conditions for the proposal reference operational noise criteria and require monitoring, to ensure the noise criteria is achieved. • recommended additional management measures be implemented to manage noise impacts at the closest sensitive receivers during operation. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Department notes the Applicant must comply with the recommended standard construction work hours outlined in the <i>Interim Construction Noise Guideline</i> (ICNG). • The Department considers that construction and implementation of a 3m high Camira Street barrier would substantially mitigate noise impacts at impacted dwellings within NCA 2 from both operational noise from the facility (avoiding the need to at-property treatments) as well as noise from rail operations on the Main Western Line. • The Department considers rail noise impacts generated from operation of the rail sidings can be effectively managed through detailed rail noise monitoring and reporting requirements and at-source measures on the rail sidings during operation. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • To manage construction noise impacts, the Department has recommended a condition requiring the Applicant to prepare and implement a Construction Noise and Vibration Management Sub-Plan, and submit to the Secretary prior to the commencement of construction. • To manage operational on-site and rail noise impacts, the Department has recommended a series of achievable and enforceable conditions including: <ul style="list-style-type: none"> ◦ compliance-based operational noise limits, based on predicted noise levels as measures at sensitive receivers ◦ requiring construction of a 3m high noise barrier on the southern side of the Main Western rail corridor. ◦ preparation of a pre-operation Brake Squeal Report to identify, mitigate and monitor brake squeal impacts ◦ requirements for port shuttle locomotives to use available best practice noise technologies ◦ maintenance of a rail noise monitoring system at the commencement of operation.

<p><i>Contamination</i></p> <ul style="list-style-type: none"> • recommendation that the Applicant prepare a revised Remediation Action Plan (RAP), to calculate the extent of contaminated material and identify the preferred remedial strategy for the site. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant prepared a revised RAP as part of the RtS that considered several remediation options in accordance with relevant policies and guidelines. The preferred remediation option proposes the use of an on-site containment cell, as detailed in an Interim Environmental Management Plan. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • Conditions require the Applicant to: <ul style="list-style-type: none"> ○ undertake all remediation approved as part of the proposal in accordance with the revised RAP ○ undertake waste classification (for materials to be removed) and validation (for materials to remain) as part of the Construction Environmental Management Plan (CEMP) for the proposal, prior to the commencement of construction ○ verify the adequacy of remediation works on site by commissioning an accredited Site Auditor to prepare a Site Audit Report and Section A Site Audit Statement ○ prepare an Unexpected Finds Procedure to manage the risk of unexpected contamination finds on site.
<p><i>Stormwater, drainage and flooding</i></p> <ul style="list-style-type: none"> • recommendation that all stormwater drainage is to be designed in accordance with Council adopted policies and guidelines, including Council's Water Sensitive Urban Design (WSUD) principles, and be consistent with the stormwater management system outlined in the Applicant's Stormwater Management Report. • requested a Flood Evacuation Management Plan be prepared and approved by the Certifier, and submitted to Council for information prior to commencement of works. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Applicant's Response to Submissions (RtS) included: <ul style="list-style-type: none"> ○ a revised stormwater treatment system that would comply with Council's WSUD principles ○ a combined sediment, bio-retention and attenuation basin in the north of the site ○ a Dam Dewatering Plan to address water quality and re-use concerns from conversion of the existing former sediment basin as the combined sediment, bio-retention and attenuation basin. • The Department reviewed the proposed stormwater management measures, in consultation with Council, and concluded that stormwater measures can adequately manage stormwater flows from the site. • The Department accepts the Applicant's position that adjacent properties are not likely to be exposed to unacceptable levels of flood hazard from the proposal, subject to implementation of all management measures stipulated in the Applicant's Flood Impact Assessment. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • The Department has recommended conditions to manage the discharge of stormwater to surrounding waterways during construction and operation, including requiring implementation of: <ul style="list-style-type: none"> ○ a Construction Soil and Water Management Plan and erosion and sediment controls in accordance with Managing Urban Stormwater: Soils & Construction (4th Editions, Landcom 2004) – aka the 'Blue Book' ○ operation stormwater drainage to a final design in accordance with relevant Council adopted policies and guidelines. • The Department has also recommended conditions requiring preparation of an Operational Stormwater Quality Management Plan to ensure stormwater quality measures are effective for the life of the project. • In regard to flood evacuation, the Department has recommended the Applicant prepare a Flood Emergency Response Sub-Plan, submitted as part of the CEMP, to manage flood emergency response for both construction and operation phases of the development.
<p><i>Biodiversity</i></p> <ul style="list-style-type: none"> • Blacktown & District Environment Group Inc objected to the loss of remnant ecological communities on the site. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Department, in consultation with EES Group, is satisfied that the proposal's biodiversity impacts have been assessed in accordance with the Biodiversity Assessment Method (BAM) and the <i>Biodiversity Conservation Act 2016</i> (BC Act) including the calculation of a requirement for biodiversity offsets. The Department considers that the Applicant's Biodiversity Development Assessment Report outlines an acceptable process of avoiding and minimising impact and proposals to manage and offset residual impacts in accordance with the policy requirements. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • The Department has recommended conditions requiring that 15 ecosystem and 19 species credits must be offset. • The Department has also recommended a condition requiring the Applicant to prepare a Biodiversity Management Sub-Plan that would detail measures to minimise impacts on species on site, protect biodiversity values not directly impacted by the proposal, and provide procedures for weed control.