

Notice of decision

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

Application type	State significant infrastructure
Application number and project name	SSI-8896 Belmont Drought Response Desalination Plant
Applicant	Hunter Water Corporation
Consent Authority	Minister for Planning and Public Spaces

Decision

The Director under delegation from 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](#).

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

Date of decision

23 July 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, which include the findings and recommendations in the Planning Secretary's Assessment Report;
- the objects of the Act;
- the considerations under s 7.14(2) and 7.16(3) of *Biodiversity Consideration Act 2016* (NSW);
- 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 provide a water supply to the local and regional community in times of drought;
- the project has been endorsed by the NSW Government by being a key component of the Lower Hunter Water Plan 2014 and the Lower Hunter Water Security Plan;
- 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; and
- 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 (where applicable); and
- weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The Department exhibited the application on two occasions; from 21 November 2019 until 19 December 2019 (28 days) and again from 10 September 2020 to 7 October 2020 (28 days). The Department received 18 submissions during the first exhibition and a further 14 submissions during the second exhibition.

The Department also undertook the following consultation activities:

- two site visits
- attended one community information session; and
- held one meeting with a special interest group that lodged a submission.

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 the marine environment, biodiversity and coastal processes. Other issues are addressed in detail in the Planning Secretary's Assessment Report.

<i>Issue</i>	<i>Consideration</i>
<p><i>Site suitability</i></p> <ul style="list-style-type: none"> • Site is surrounded by environmentally sensitive lands. • Given the coastal location of the site, impacts of flood and sea level rise on the site should be considered. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The site of the proposal is identified as SP2 – Water supply infrastructure and E2 – Environmental conservation. The desalination plant would constitute water supply infrastructure which is consistent with the objectives of the SP2 zone. The works are not a permissible land use within the E2 zone. • Notwithstanding, section 5.22(2) of the EP&A Act provides that Part 3 of the EP&A Act and environmental planning instruments (EPIs) do not apply to State significant infrastructure. Therefore, the application can be determined, subject to an environmental assessment under section 5.28 of the EP&A Act. • The Department considered both the sensitivities associated with the land and marine components of the proposal as part of its assessment. <p><i>Conditions</i></p> <p>Conditions include requiring the retirement of offset credits prior to the commencement of works, ongoing monitoring of the marine ecological environment and water quality monitoring, ongoing monitoring of land-based vegetation and implementation of erosion and sedimentation controls to ensure that impacts associated with the spread of sediments across sensitive lands is managed and minimised.</p>
<p><i>Energy consumption</i></p> <ul style="list-style-type: none"> • Significant energy demand of the plant should be considered and alternative energy sources considered. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Department considered the proposal against the principles of ecologically sustainable development (ESD) in accordance with the <i>Protection of the Environment Administration Act 1991</i>. • The precautionary and intergenerational equity principles have been applied in the decision-making process via an assessment of the environmental impacts of the proposed development. The proposed development is consistent with ESD principles as described in Section 7.7 of the Proponent's EIS, which aligns with Clause 7(4) of Schedule 2 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation). • Overall, the proposal is consistent with ESD principles and the Department is satisfied the proposed and recommended sustainability initiatives will encourage ESD, in accordance with the objects of the EP&A Act. <p><i>Conditions</i></p> <p>To ensure the proposal is designed to reflect national best practice sustainable principles, the Department has recommended a condition requiring the development to be designed and certified under the Infrastructure Sustainability rating scheme.</p>
<p><i>Contamination</i></p> <ul style="list-style-type: none"> • Presence of asbestos at the site. • Potential contamination at the ocean outfall. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Department acknowledges that there is potential for contamination to be encountered during construction works. • The Department considered the results of the Detailed Site Investigation (DSI) that was undertaken within the northern portion of the Project site. • Due to soils within the southern extent of the site having been identified as having the potential to contain Aboriginal cultural materials, sampling within the southern extent of the amended site could be completed until the implementation of an Aboriginal Cultural Heritage Management Plan

	<p>(ACHMP).</p> <ul style="list-style-type: none"> Due to the relative proximity of some construction areas to drainage lines and coastal wetlands, acid leachate and toxic metals could be released into waterways. This has the potential to result in damaging effects on the environment, including aquatic flora and fauna, corrosion of materials and health impacts to humans. Further, there is potential for the additional discharge via the ocean outfall to result in contamination in the immediate vicinity of the outlet. During full operation of the plant, brine would be co-mingled with existing WWTW effluent. Any exceedances of the water quality objectives for recreational swimming would be <1 km from the nearest beach and would not pose a material risk to swimmers. <p><i>Conditions</i></p> <p>Conditions include the engagement of a NSW EPA-accredited Site Auditor to provide advice throughout the duration of works to ensure any works in relation to soil or groundwater contamination are appropriately managed; development of an ASSMP as part of the Construction Soil and Water Management plan; development of a management plan relating to contamination as well as waste management prior to the commencement of construction; water quality and ecological monitoring programs for the marine environment.</p>
<p><i>Consultation</i></p> <ul style="list-style-type: none"> Additional consultation time requested 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> In accordance with Schedule 1 of the EP&A Act, the Department publicly exhibited the application from 21 November 2019 to 19 December 2019. The Department placed a public exhibition notice in the Newcastle Star on 20 November 2019 and the Lake Macquarie Lakes Mail on 21 November 2019 and notified relevant State and local government authorities in writing. During the exhibition, the Department received 18 submissions. On 31 August 2020, the Proponent provided a Response to Submissions (RtS) and an amended application within an Amendment Report. As a result of the significant changes to the proposal and infrastructure requirements, the Department exhibited the RtS and Amendment Report from 10 September 2020 to 7 October 2020 (28 days) on its website. During the exhibition of the RtS and Amendment Report, the Department received a total of 14 further submissions <p><i>Conditions</i></p> <p>No conditions are required.</p>
<p><i>Consideration of alternate options and technologies</i></p> <ul style="list-style-type: none"> Preferred consideration of increased water restrictions or reduced water demand rather than desalination. A new bulk water supply, such as a dam, should be considered. Alternate intake should be considered and additional studies undertaken. Requested additional storage of potable water at the site. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The consideration of water restrictions and other methods to reduce water demand are matters for the Proponent and Government policy and are not considered as part of the planning assessment process. The desalination plant seeks to deliver infrastructure identified by government to assist in the delivery of potable water during periods of extreme drought. The Lower Hunter Water Plan and the government review of the plan seek to establish the most suitable and reliable approach to maintaining a potable water supply for the Lower Hunter Region. The plan and review have concluded a drought response desalination plant is a suitable approach. With regards to the design of the of the sea water intake infrastructure, including the intake pipeline, the Proponent has proposed two methodologies that were considered by the Department as part of its assessment. The Department has considered the potable water storage proposed and, based on the capacity of the desalination plant, considers it to be suitable. <p><i>Conditions</i></p> <p>No conditions are required.</p>
<p><i>Plant capacity</i></p> <ul style="list-style-type: none"> Insufficient capacity for the region. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> The Department acknowledges the water supplies of the Lower Hunter region are susceptible to drought conditions as storages are typically small or shallow, resulting in water levels dropping quickly. The Lower Hunter Water Plan 2014 developed a range of response measures to respond to these conditions which included the operation of a 15ML/day desalination plant during severe drought where water storage levels reach critical levels. A whole-of-government review of the Lower

	<p>Hunter Water Plan, referred to as the Lower Hunter Water Security Plan (LHWSP) seeks to determine the preferred portfolio of supply options to ensure a resilient supply of water across the region over the long-term as well as during drought conditions.</p> <ul style="list-style-type: none"> • The review to date has indicated that with the implementation of the measures identified within the Lower Hunter Water Plan 2014 would result in a shortfall in supply and that a desalination plan with a nominal capacity of up to 30ML/day would provide increased reliability in meeting the water supply needs of the region, in conjunction with other approaches. • As such, the development grants approval for a desalination plant that would deliver up to 30ML/day of potable water to the Lower Hunter region in times of severe drought. It is the Department's understanding that the desalination plant would form part of a suite of potable water supplies to cater to the region <p><i>Conditions</i></p> <p>No conditions are required.</p>
<p><i>Expense</i></p> <ul style="list-style-type: none"> • Significant expenditure on temporary infrastructure. • Impact of the desalination on consumer water prices. 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The project expenditure and consumer pricing are not considered as part of the planning assessment process. <p><i>Conditions</i></p> <p>No conditions are required.</p>