

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 9714 Botany Rail Duplication
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 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

28 July 2020

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:
 - alleviate constraints on and increase the capacity of metropolitan Sydney's freight rail network;
 - increase freight rail capacity and the reliability of Port Botany;
 - improve reliability for freight customers;
 - support the operation of intermodal terminals, including Enfield, Chullora and Moorebank;
 - increase operational reliability, efficiency and flexibility of freight transportation;
 - increase rail market share for containerised freight and reduce reliance on heavy trucks and associated pollution and traffic congestion around Sydney Airport and Port Botany.
- the project has been endorsed by the NSW Government and is a key component of:
 - *NSW Freight and Ports Plan 2018-2038*;
 - *2020 Infrastructure Priority List*; and
 - *Sydney Metropolitan Freight Strategy*;
- 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 recommended conditions of approval (where applicable); 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 16 October 2019 until Wednesday 13 November 2019 (29 days) and received submissions from seven State government agencies, three local government councils and 22 community submitters. The community submitters comprised 15 individuals and seven special interest groups and organisations. Eight community submissions objected to the proposal.

The Department also undertook the following consultation activities:

- one site visit before the exhibition of the EIS; and
- attended a Community Information Session at Eastlakes during the EIS exhibition.

The key issues raised by the community (including in submissions) and considered in the Planning Secretary's Assessment Report include noise and vibration; land use planning; strategic context; contamination; traffic and transport; and health.

Issue	Consideration
<u>Noise and Vibration</u>	<i>Assessment</i>
<ul style="list-style-type: none"> • Concern with adequacy of noise monitoring completed as part of EIS • Concern regarding construction and operational noise and vibration impacts • Increased frequency of trains • Request for noise treatment including noise barriers and at-property treatment • Independent noise monitoring requested 	<ul style="list-style-type: none"> • Construction noise and vibration impacts in a highly developed urban, industrial and commercial environment are unavoidable. The complex construction environment with Sydney Airport, major arterial roads to and around the airport, and the need to continue existing freight operations, necessitates overnight and early morning work for personnel and public safety • Active and ongoing consultation, flexibility in construction techniques, at source and at property mitigation, and coordinating and scheduling work to provide respite can be applied to manage these impacts • Wheel squeal (caused by the interaction of rail bogeys on sections of tight curve rail track) is likely to result in peak noise level exceedances during operation. A track lubrication system is proposed to manage these effects and is expected to reduce resultant noise levels by up to 8 dBA • Further investigation is required understand the underlying geology to determine the design response to potential ground borne noise impacts
	<i>Recommended Conditions/Response</i>
	Conditions include:
	<ul style="list-style-type: none"> • Daytime construction noise managed using industry best-practice and underpinned by a robust community consultation strategy • Out of hours works would be approved and regulated through an Environment Protection Licence or Out of Hours Work Protocol for work that cannot be performed during standard construction hours • Respite from construction must be provided • Additional mitigation such as temporary alternative accommodation or other agreed mitigation measures must be considered for out of hours work planned for more than 2 nights over a seven-day rolling period • An Operational Noise and Vibration Review to confirm efficacy of operational noise and vibration control measures, including track lubrication, prepared by a noise and vibration expert
<u>Active Transport</u>	<i>Assessment</i>
<ul style="list-style-type: none"> • Missed opportunity to provide active transport connections • Opportunity to improve active transport route connectivity • Project does not align with policies and plans in respect of active transport 	<ul style="list-style-type: none"> • Incorporation of active transport links were considered by the Proponent during design and development phase of the project • construction and operation would occur in the existing rail corridor with no permanent impact to existing active transport routes; limited scope to provide active transport links outside of the rail corridor. • limited space to provide an active transport route in the freight rail corridor; residual space required for track maintenance • Opportunity for active transport links not diminished by proposal
	<i>Recommended Conditions/Response</i>
	No conditions are required in relation to this matter

Issue	Consideration
<p><u>Contamination</u></p> <ul style="list-style-type: none"> • Management of pollutants • Independent water sampling requested • Concern over release of contaminants/pollutants into the air and run off during construction 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • existing rail corridor with soil contamination from filling, rail activities and off-site contamination from industrial and commercial activities • exposure and mobilisation of contaminants and acid sulfate soils (ASS) possible but negligible impact on surface water • EPA noted that significant air quality impacts were unlikely from construction or operation but recommended further contamination assessment and preparation of management plans • Mitigation measures proposed by the Proponent, and recommended conditions of approval are sufficient to manage water quality, soil and contamination risks <p><i>Recommended Conditions/Response</i></p> <p>Conditions include:</p> <ul style="list-style-type: none"> • A Remediation Action Plan (RAP) and Validation Report are required to be prepared • Site Audit Statement and Site Audit Reports are required to be prepared by a NSW EPA Accredited Site Auditor to confirm the site is suitable for the intended use following remediation • Site Contamination Report is required to be prepared, documenting the outcomes of Stage 1 and Stage 2 contamination assessments that are suspected or known to be contaminated
<p><u>Health</u></p> <ul style="list-style-type: none"> • Impact of lack of sleep on mental health • Impact of 24hr operation on health and wellbeing 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • air quality would not exceed relevant air quality criteria • Sleep disturbance screening criteria is expected to be exceeded without mitigation <p><i>Recommended Conditions/Response</i></p> <p>Conditions include:</p> <ul style="list-style-type: none"> • A three-monthly forward schedule of likely out-of-hours works are to be provided to the community. • Respite from construction must be provided • Additional mitigation such as temporary alternative accommodation or other agreed mitigation measures must be considered for out of hours work planned for more than 2 nights over a seven-day rolling period • The implementation of noise and vibration mitigation measures and an Operational Noise and Vibration Review to confirm efficacy of these measures • Ongoing monitoring or track lubrication where used as a mitigation measure for operational noise (wheel squeal)