



Approval

Moorebank Intermodal Terminal Project – Concept, Moorebank, New South Wales (EPBC 2011/6086)

This decision is made under sections 130(1) and 133 of the *Environment Protection and Biodiversity Conservation Act 1999*.

Proposed action

person to whom the approval is granted	Moorebank Intermodal Company Limited
proponent’s ACN	ACN 161 635 105
proposed action	To construct and operate the Moorebank Intermodal Terminal Project, in Southwest Sydney, NSW. [see referral EPBC 2011/6086; and variations approved on 1 July 2014 and 2 February 2016].

Approval

Controlling provision	Decision
Listed threatened species and communities (sections 18 & 18A)	approve
Commonwealth action (section 28)	approve

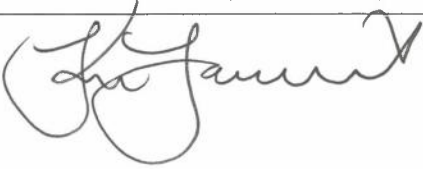
conditions of approval

This approval is subject to the conditions specified below.

expiry date of approval

This approval has effect until 31 August 2035.

Decision-maker

name and position	Kim Farrant Assistant Secretary Assessments (NSW, ACT) and Fuel Branch
signature	
date of decision	27. 9. 16

Conditions attached to the approval

Disturbance limits

1. The person taking the action must not undertake (or permit to be undertaken) any **construction** activities or **operations** outside the development footprint as depicted in **Annexure 1**.

Environmental management plans

2. For the protection of the environment, including **listed threatened species and communities**, the person taking the action must prepare a construction environmental management plan (CEMP) addressing at least the elements outlined in Conditions 5 to 13. Apart from **early works** as described in Condition 3, **construction** must not **commence** until all specified CEMP approvals have been obtained in writing, and once approved, the CEMP must be implemented.

The CEMP may be prepared in stages, in which case the corresponding stage must be clearly defined, and **construction** of that stage must not **commence** until all specified approvals have been obtained in writing.

3. For the protection of the environment, including **listed threatened species and communities**, the person taking the action must ensure that **early works** are undertaken in accordance with **SSD 5066** and comply with the measures described in Condition 8 wherever perfluoroalkyl substance (PFAS) contamination is identified.

4. For the protection of the environment, including **listed threatened species and communities**, the person taking the action must prepare an operational environmental management plan (OEMP) addressing at least the elements outlined in Conditions 5 to 13. **Operations** must not **commence** until all specified OEMP approvals have been obtained in writing, and once approved, the OEMP must be implemented.

The OEMP may be prepared in stages, in which case the corresponding stage must be clearly defined, and **operations** of that stage must not **commence** until all specified approvals have been obtained in writing.

5. Sections of the CEMP and OEMP relating to traffic must be prepared by a **suitably qualified expert** and must:
 - a) be consistent with the *Traffic, Transport and Access Provisional Environmental Management Framework* (2 July 2014), provided at Appendix O to the **finalised EIS**
 - b) incorporate all measures 4A to 4Q from Table 7.1 of the **finalised EIS** that are described as 'mandatory'
 - c) explain how all measures 4A to 4Q from Table 7.1 of the **finalised EIS** that are described as 'subject to review' have been addressed
 - d) be approved by **the Minister** or a **relevant New South Wales regulator**.

6. Sections of the CEMP and OEMP relating to noise and vibration must be prepared by a **suitably qualified expert** and must:
 - a) be consistent with the *Noise and Vibration Provisional Environmental Management Framework* (2 July 2014), provided at Appendix O to the **finalised EIS**
 - b) incorporate all measures 5A to 5T (CEMP only) and 5U to 5AJ (OEMP only) from Table 7.1 of the **finalised EIS** that are described as 'mandatory'
 - c) explain how all measures 5A to 5T (CEMP only) and 5U to 5AJ (OEMP only) from Table 7.1 of the **finalised EIS** that are described as 'subject to review' have been addressed
 - d) be approved by **the Minister** or a **relevant New South Wales regulator**.

7. Sections of the CEMP and OEMP relating to biodiversity must be prepared by a **suitably qualified expert** and must:
 - a) be consistent with the *Biodiversity Provisional Environmental Management Framework* (3 July 2014), provided at Appendix O to the **finalised EIS**
 - b) incorporate all measures 6A to 6R, 6T, 6V and 6X from Table 7.1 of the **finalised EIS** that are described as 'mandatory'
 - c) explain how all measures 6A to 6R, 6T, 6V and 6X from Table 7.1 of the **finalised EIS** that are described as 'subject to review' have been addressed
 - d) include detailed biosecurity protocols, prepared in consultation with relevant New South Wales and Commonwealth biosecurity agencies, in relation to international and interstate container movement
 - e) be approved by **the Minister**.

8. Sections of the CEMP and OEMP relating to contamination and soils must be prepared by a ***suitably qualified expert*** and must:
- a) be consistent with the *Soils and Contamination Provisional Environmental Management Framework* (2 July 2014), provided at Appendix O to the ***finalised EIS***
 - b) incorporate all measures 7A to 7K, and 8A to 8AA, from Table 7.1 of the ***finalised EIS*** that are described as 'mandatory'
 - c) explain how all measures 7A to 7K, and 8A to 8AA, from Table 7.1 of the ***finalised EIS*** that are described as 'subject to review' have been addressed
 - d) in relation to management of PFAS:
 - i) be consistent with:
 - *National Environment Protection (Assessment of Site Contamination) Measure 1999* (as amended 2013)
 - *Australian and New Zealand Guidelines for Fresh and Marine Water Quality* (under the National Water Quality Management Strategy) including the draft default guideline values for perfluorooctanoic acid (PFOS) and perfluorooctane sulfonic acid (PFOA) in freshwater as applied by the state government
 - relevant Commonwealth environmental management guidance on PFOS and PFOA
 - ii) detail implementation and operational procedures, appropriate to the risk posed by any contamination, including:
 - roles and responsibilities
 - management of potential PFAS contaminated sites as yet un-investigated
 - management of areas of known PFAS contamination, including strategies to reduce runoff, dewatering and migration of contamination across and off the proposed site
 - a contingency action plan for unexpected PFAS contaminant discoveries
 - iii) detail soil, groundwater and surface water PFAS contamination monitoring requirements and testing and disposal procedures appropriate to the risk posed by any contamination
 - iv) include requirements for site validation reports appropriate to the risk posed by any contamination
 - v) include requirements for remedial action plans appropriate to the risk posed by any contamination
 - vi) detail review procedures appropriate to the risk posed by any contamination
 - vii) impose the following performance measures for managing earthworks and the potential for effects to occur due to disturbance of PFAS contaminated soils during construction:
 - contaminated sediment to be discharged outside the site of the action to be minimised
 - contaminated waste material, including excavated soil, to be released through dewatering to be handled appropriately to the risk posed by the contamination and disposed of in an environmentally sound manner such that potential for the PFAS content to enter the environment is minimised

- contaminated waste material, including excavated soil, with a PFOS or PFOA content above 50 milligrams per kilogram (mg / kg) to be stored or disposed of in an environmentally sound manner, such that PFAS content does not enter the environment
 - all soil remaining at the site of the action to be suitable for purpose.
- e) be approved by **the Minister**.
9. Sections of the CEMP and OEMP relating to water must be prepared by a **suitably qualified expert** and must:
- a) be consistent with the *Water Quality, Stormwater and Flooding Provisional Environmental Management Framework* (2 July 2014), provided at Appendix O to the **finalised EIS**
 - b) incorporate all measures 9A to 9AG from Table 7.1 of the **finalised EIS** that are described as 'mandatory'
 - c) explain how all measures 9A to 9AG from Table 7.1 of the **finalised EIS** that are described as 'subject to review' have been addressed
 - d) be approved by **the Minister** or a **relevant New South Wales regulator**.
10. Sections of the CEMP and OEMP relating to air quality must be prepared by a **suitably qualified expert** and must:
- a) be consistent with the *Air Quality Provisional Environmental Management Framework* (2 July 2014), provided at Appendix O to the **finalised EIS**
 - b) incorporate all measures 10A to 10U (CEMP only) and 10V to 10AH and 11A to 11H (OEMP only) from Table 7.1 of the **finalised EIS** that are described as 'mandatory'
 - c) explain how all measures 10A to 10U (CEMP only) and 10V to 10AH and 11A to 11H (OEMP only) from Table 7.1 of the **finalised EIS** that are described as 'subject to review' have been addressed
 - d) be approved by **the Minister** or a **relevant New South Wales regulator**.
11. Sections of the CEMP and OEMP relating to Aboriginal heritage must be prepared by a **suitably qualified expert** and must:
- a) be consistent with the *Aboriginal Heritage Provisional Environmental Management Framework* (2 July 2014), provided at Appendix O to the **finalised EIS**
 - b) incorporate all measures 12A to 12G from Table 7.1 of the **finalised EIS** that are described as 'mandatory'
 - c) explain how all measures 12A to 12G from Table 7.1 of the **finalised EIS** that are described as 'subject to review' have been addressed
 - d) be approved by **the Minister** or a **relevant New South Wales regulator**.

12. Sections of the CEMP and OEMP relating to European heritage must be prepared by a **suitably qualified expert** and must:
 - a) be consistent with the *European Heritage Provisional Environmental Framework* (2 July 2014), provided at Appendix O to the **finalised EIS**
 - b) incorporate all measures 13A to 13M from Table 7.1 of the **finalised EIS** that are described as 'mandatory'
 - c) explain how all measures 13A to 13M from Table 7.1 of the **finalised EIS** that are described as 'subject to review' have been addressed
 - d) be approved by **the Minister** or a **relevant New South Wales regulator**.

13. Sections of the CEMP and OEMP relating to visual impacts (including light spill) must be prepared by a **suitably qualified expert** and must:
 - a) be consistent with the *Light Spill Provisional Environmental Management Framework* (2 July 2014), provided at Appendix O to the **finalised EIS**
 - b) incorporate all measures 14A to 14H from Table 7.1 of the **finalised EIS** that are described as 'mandatory'
 - c) explain how all measures 14A to 14H from Table 7.1 of the **finalised EIS** that are described as 'subject to review' have been addressed
 - d) be approved by **the Minister** or a **relevant New South Wales regulator**.

Biodiversity offsets

14. To address residual impacts on protected biodiversity values, including **listed threatened species and communities**, the person taking the action must finalise a biodiversity offset strategy (BOS). The BOS must be approved in writing within twelve (12) months of **commencement of early works**, by a **relevant New South Wales regulator**, and once approved must be implemented. The BOS must be prepared by a **suitably qualified expert** and must:
 - a) be consistent with the biodiversity offsets strategy provided at Appendix E to the **finalised EIS**
 - b) incorporate all measures 6S, 6U, 6W and 6Y to 6AA from Table 7.1 of the **finalised EIS** that are described as 'mandatory'
 - c) incorporate all measures 6S, 6U, 6W and 6Y to 6AA from Table 7.1 of the **finalised EIS** that are described as 'subject to review' or justify any alternative protocols
 - d) offset impacts on protected biodiversity values including **listed threatened species and communities** in accordance with the **FBA**
 - e) include map(s) and **shapefiles** that identify the location and boundaries of all offset sites
 - f) be approved by a **relevant New South Wales regulator**, and also by **the Minister** if the BOS does not involve the protection and management in perpetuity of the 'Casula', 'Moorebank' and 'Wattle Grove' Offset Areas identified at **Annexure 2**.

15. Until the BOS described in Condition 14 is approved, the person taking the action must manage the 'Casula', 'Moorebank' and 'Wattle Grove' Offset Areas identified at **Annexure 2**, for the protection of native vegetation, and in particular the vulnerable Small-Flower Grevillea (*Grevillea parviflora* subsp. *parviflora*) and endangered Nodding Geebung (*Personia nutans*).

Administrative conditions

16. Within ten (10) days after the **commencement of construction**, the person taking the action must advise **the Department** in writing of the actual date of **commencement**.
17. The person taking the action must provide **the Department** with copies of all management plans or strategies required by this approval within one (1) month of their approval.
18. The person taking the action must maintain accurate records substantiating all activities associated with or relevant to the conditions of approval, including measures taken to implement any management plans or strategies required by this approval, and make them available upon request to **the Department**. Such records may be subject to audit by **the Department** or an independent auditor in accordance with section 458 of **the EPBC Act**, or used to verify compliance with the conditions of approval. Summaries of audits will be posted on **the Department's** website. The results of audits may also be publicised through the general media.
19. Unless otherwise agreed in writing by **the Minister**, within three (3) months of every twelve (12) month anniversary of the **commencement of construction**, the person taking the action must publish a report on their website addressing compliance with each of the conditions of this approval, including implementation of any management and strategies as specified in the conditions. Documentary evidence providing proof of the date of publication and non-compliance with any of the conditions of this approval must be provided to **the Department** at the same time as the compliance report is published. Reports must remain published for the life of this approval. The person taking the action must continue to publish these reports each year until such time as agreed in writing by **the Minister**.
20. Upon the direction of **the Minister**, the person taking the action must ensure that an independent audit of compliance with the conditions of approval is conducted and a report submitted to **the Minister**. The independent auditor, and audit criteria, must be approved by **the Minister** prior to the commencement of the audit. Audit criteria must be agreed to by **the Minister** and the audit report must address the criteria to the satisfaction of **the Minister**.
21. The person taking the action may choose to revise a management plan or strategy approved by **the Minister** under Conditions 2, 4 or 14 without submitting it for approval under section 143A of **the EPBC Act**, if the taking of the action in accordance with the revised plan or strategy would not be likely to have a **new or increased impact**. If the person taking the action makes this choice they must:
 - a) notify **the Department** in writing that the approved plan or strategy has been revised and provide **the Department** with an electronic copy of the revised plan or strategy
 - b) implement the revised plan or strategy from the date that the plan or strategy is submitted to **the Department**
 - c) for the life of this approval, maintain a record of the reasons the approval holder considers that taking the action in accordance with the revised plan or strategy would not be likely to have a **new or increased impact**.

Note: Condition 21 does not affect any obligation to consult or seek approval from a **relevant New South Wales regulator** when revising a management plan or strategy.

22. The person taking the action may revoke their choice under Condition 21 at any time by notice to **the Department**. If the person taking the action revokes the choice to implement a

revised plan or strategy, without approval under section 143A of **the EPBC Act**, the plan or strategy approved by **the Minister** must be implemented.

23. Condition 21 does not apply if the revisions to the approved plan or strategy include changes to environmental offsets provided under the plan or strategy in relation to a matter protected by a controlling provision for the action, unless otherwise agreed in writing by **the Minister**. This does not otherwise limit the circumstances in which the taking of the action in accordance with a revised plan or strategy would, or would not, be likely to have **new or increased impacts**.
24. If **the Minister** gives a notice to the person taking the action that **the Minister** is satisfied that the taking of the action in accordance with the revised plan or strategy would be likely to have a **new or increased impact**, then:
 - a) Condition 21 does not apply, or ceases to apply, in relation to the revised plan or strategy
 - b) the person taking the action must implement the plan or strategy approved by **the Minister**.

To avoid any doubt, this condition does not affect any operation of Conditions 21, 22 or 23 in the period before the day the notice is given.

At the time of giving the notice **the Minister** may also notify that for a specified period of time, Condition 21 does not apply for one or more specified plans or strategies required under the approval.

25. Conditions 21 to 24 are not intended to limit the operation of section 143A of **the EPBC Act** which allows the person taking the action to submit a revised plan or strategy to **the Minister** for approval.
26. If, at any time after five (5) years from the date of this approval, the person taking the action has not **commenced construction**, then the person taking the action must not **commence construction** without the written agreement of **the Minister**.
27. Unless otherwise agreed to in writing by **the Minister**, the person taking the action must publish all management plans and strategies referred to in these conditions of approval (including the **finalised EIS**) on their website. Each management plan and strategy must be published on the website within one (1) month of being approved by **the Minister** or being submitted under Condition 21.

Notes

Management plans or strategies referred to in Conditions 2, 4 and 14 may be reorganised for administrative efficiency provided that all specified requirements are addressed and that each document is submitted with a clear description of the condition(s) it is intended to satisfy.

Definitions

Commencement (also **commence**, **commenced** etc) means the first instance of an activity.

Construction means the erection of any structures or the formation of any hardstand surfaces, as well as any preparatory earthworks or clearing of vegetation, in relation to the action, with the exception of:

- installation of temporary signage
- installation of temporary fencing
- erection of temporary site compounds and construction facilities or relocation of services not requiring the clearance of any **listed threatened species and communities** or endangered ecological communities for the purpose of the New South Wales *Threatened Species Conservation Act 1995*
- exploratory, mitigation or asset protection measures required in the fulfilment of these or other conditions of regulatory approval.

The Department means the Australian Government department or other agency with responsibility for administration of the EPBC Act.

Early works, also known as pre-construction works, have the definition provided in **SSD 5066**.

The EPBC Act is the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, as amended from time to time.

The **finalised EIS** means the environmental impact statement, dated December 2015, published pursuant to the assessment of the action under **the EPBC Act**, and also includes such portions of the draft environmental impact statement dated October 2014 as are referenced by the finalised environmental impact statement.

The **FBA** is the Framework for Biodiversity Assessment – a public policy framework administered by the New South Wales Office of Environment and Heritage for the assessment of impacts on biodiversity and the corresponding implementation of offsets (compensation).

Listed threatened species and communities are flora and fauna species and ecological communities that are listed under the **EPBC Act** as vulnerable, endangered or critically endangered.

The Minister is the Australian Government minister responsible for administration of the **EPBC Act**, and includes any delegate of that minister.

A **new or increased impact** is a new or increased impact on any matter protected by the controlling provisions for the action, when compared to a plan or strategy that has already been approved by **the Minister**.

Operations means any handling of freight at the site of the action, including introduction to the site, storage, transfer or transit but explicitly excluding **construction** activities.

A **relevant New South Wales regulator** is a New South Wales minister or government agency whose official role includes providing advice, developing policy and / or implementing regulation in relation to the subject matter to which a condition relates. To be clear, their ordinary functions need not be strictly regulatory in nature.

Shapefiles are ESRI ARCGIS Shapefiles, containing '.shp', '.shx' and '.dbf' files and other files. Shapefiles must include appropriate metadata capturing attributes including but not limited to the EPBC reference number of the approved action and details of the **listed threatened species and communities** present within the offset, covenant or legal protection details, including type and

identification. **The Department** prefers shapefiles using the Geocentric Datum of Australia (GDA) 94.




SSD 5066 is the development consent, reference SSD 5066, granted in relation to the action under section 89E of the New South Wales *Planning and Environment Act 1979*.

Suitably qualified expert refers to a person with tertiary qualifications and a minimum of five (5) years demonstrated experience relevant to the task in question.

Annexure 1 – development footprint

Annexure 1 - Development Footprint



- LEGEND
-  Development footprint
 -  Watercourse
 -  Existing railway

ARCADIS AUSTRALIA PACIFIC PTY LTD
10/11/2018 10:44:22 AM
PROJECT: EAST HILLS RAIL CORRIDOR
SCALE: 1:15,000 @ A4

Scale: 1:15,000 @ A4



Development Footprint

Annexure 2 – proposed offset areas

Annexure 2 - Proposed Offset Areas



LEGEND

-  Development footprint
-  Offset area
-  Watercourse
-  Existing railway

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 15/170 TONKIN AVE
 SYDNEY NSW 2000
 PH: 61 2 9550 6000 FAX: 61 2 9550 6001

Scale: 1:20,000 @ A4



Location of proposed biodiversity offset areas