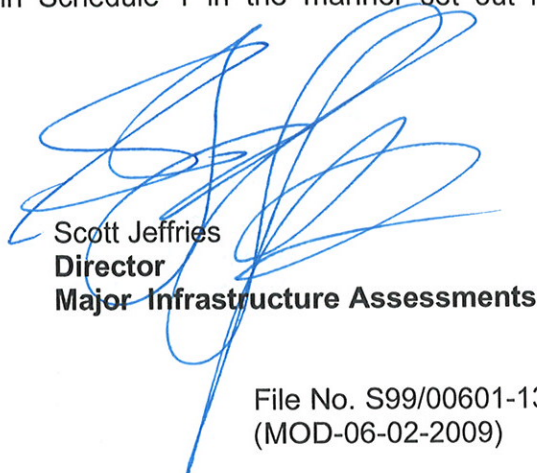


**NOTICE OF MODIFICATION OF A DEVELOPMENT CONSENT GRANTED UNDER
SECTION 80 PURSUANT TO SECTION 96(1A) OF THE ENVIRONMENTAL PLANNING
AND ASSESSMENT ACT 1979**

I, Scott Jeffries, Director, Major Infrastructure Assessments, as delegate of the Minister for Planning, as described by the Instrument of Delegation dated 4 March 2009, pursuant to section 96(1A) of the *Environmental Planning and Assessment Act 1979* ("the Act"), modify the development consent referred to in Schedule 1 in the manner set out in Schedule 2.


Scott Jeffries
Director
Major Infrastructure Assessments

Sydney, *30 March* 2009

File No. S99/00601-13
(MOD-06-02-2009)

SCHEDULE 1

- Development consent:** Granted by the Minister for Urban Affairs and Planning on 6 April 2001.
- In respect of:** Development application DA No. 293-08-00 made by Broken Hill Proprietary Company Limited, in relation to land described as the "Closure Area" being Lot 221 DP 1013964, Industrial Drive, Mayfield.
- Note: the "Closure Area" is currently known as Lot 33 DP1116571. Part of this area (port side lands) is owned by the Newcastle Port Corporation and the remainder, by the Hunter Development Corporation.*
- For the following:** Stage 1, being the remediation of the Closure Area, including the demolition and removal of structures and the development of a Multi-Purpose Terminal comprising a container terminal and a general cargo handling facility and associated road, rail and wharf infrastructure and dredging of the South Arm of the Hunter River.
- Modification Application:** Modification of the development consent to allow a minor change to the rail line layout.

SCHEDULE 2

The development consent is modified by:

1) replacing existing condition 2.2 with a new condition 2.2, as follows:

2.2 The Applicant shall carry out the development generally in accordance with the:

- (a) **Development application DA-293-08-00** submitted to the Department of Urban Affairs and Planning, accompanied and amended by:
 - (i) the letter from the Applicant to the Director-General, dated 28 September 2000, specifically excluding Stage 2 and all works;
 - (ii) Environmental Impact Statement, titled "Development of a Multi-Purpose Terminal and Remediation of the Closure Area, BHP Newcastle Steelworks" dated 11 August 2000, and prepared by URS Corporation Volumes 1 – 3;
 - (iii) Additional information supplied to the Environment Protection Authority by URS Corporation including:
 - Development of a Multi-Purpose Terminal and Remediation of the Closure Area, BHP Newcastle Steelworks Environmental Impact Summary Document;
 - "Response to EPA Request for Additional Information – Air Quality Issues, BHP Newcastle Steelworks Development", prepared for BHP Newcastle, 11 November 2000;
 - "Response to EPA Request for Additional Information – Noise Issues, BHP Newcastle Steelworks Development", prepared for BHP Newcastle, 14 November 2000.
 - (iv) The document titled *Proposed Multi-Purpose Terminal Consequence Analysis for URS*, prepared by Quest Consulting Engineers Pty Ltd and dated February 2001;
- (b) **Modification application DA-293-08-00-M1**, approved on 29 June 2001, in relation to the timing of establishment of a Community Consultative Committee;
- (c) **Modification application DA-293-08-00-M2**, approved on 13 August 2001, in relation to excision of heritage areas from the development area;
- (d) **Modification application DA-293-08-00-M3**, approved on 15 February 2002, in relation to protection of fig trees and noise monitoring requirements;
- (e) **Modification application MOD-77-7-2003-i**, approved on 16 September 2003, in relation to the burial of Blast Furnace No.1 slag stump, accompanied and amended by:
 - (i) the letter, titled *BHP Newcastle Development of a Multi-Purpose Terminal and Closure Area Remediation – Development Application DA 293-08-00. Your File S99/00601 – Condition 6.1 – Item 1, Remnants of No.1 Blast Furnace*, prepared by BHP Billiton and dated 23 April 2003, relating to the modifications to the consent;
 - (ii) the letter, titled *BHP Steelworks Newcastle, Burial of Heritage Structure (No. 1 Blast Furnace Stump) – Development Consent Condition 6.1 DA 293-08-00. Your Ref S99/00601*, prepared by BHP Billiton Ltd and dated 8 June 2003, relating to the modifications to the consent;
 - (iii) the report, titled *BHP Steelworks Newcastle, Burial of Heritage Structure (No. 1 Blast Furnace Stump) – Development Consent*

Condition 6.1 DA 293-08-00. Your Ref S99/00601, prepared by BHP Billiton Ltd and dated 2 July 2003, relating to the modifications to the consent;

- (f) **Modification application MOD-60-4-2005-i**, approved on 15 September 2005, in relation to land description, soil capping, hours of operation, groundwater management, stormwater, capping exemptions and transport infrastructure, accompanied by *Application to Vary Development Conditions for the Multi Purpose Terminal and Remediation of the Former BHP Site, Mayfield (2001)*, prepared by URS Australia Pty Ltd and dated 19 April 2005; and
- (g) **Modification application MOD-64-7-2007-I**, approved on 21 August 2007, in relation to alteration of the alignment of the railway lines and relocation of two major stormwater drainage lines on the site, accompanied and amended by:
 - (i) *Application to Vary Development Conditions for the Multi Purpose Terminal and Remediation of the Former BHP Site, Mayfield (2000)*, prepared by the Regional Land Management Corporation Pty Ltd and dated 10 July 2007;
 - (ii) the letter, titled *Remediation Civil Design Works – Main Works Site – Stormwater Analysis* prepared by Patterson Britton & Partners and dated 12 July 2007, relating to the modification to consent;
 - (iii) the report, titled *Preliminary Design Stormwater Strategy Issue No 2* prepared by Patterson Britton & Partners and dated August 2006, relating to the modification to consent;
 - (iv) the plans, titled *Selwyn Street Drain (Drawing Nos 6073-500, 501 & 502 Issue 1)* prepared by Patterson Britton & Partners; and
- (h) **Modification application MOD-56-7-2008** in relation to the alterations to, and temporary relocation of, the general cargo handling facility, refurbishment of the existing wharf and a change in site access from Crebert Street to Selwyn Street, accompanied and amended by:
 - (i) Section 96 Modification Application, Multi-purpose Terminal and Remediation of former BHP Site, Mayfield, prepared by Connell Wagner Pty Ltd and dated 15 August 2008;
 - (ii) Plans titled *Mayfield Berth Refurbishment Plans* prepared by Patterson Britton & Partners Pty Ltd dated July 2008;
 - (iii) Plans titled *Selwyn Road Upgrade Plans* prepared by Worley Parsons Pty Ltd and dated August 2008; and
 - (iv) The report titled *Traffic Impact Statement, Proposed Interim Port Side Industrial Development, Selwyn Street, Mayfield, NSW* prepared by Better Transport Futures and dated October 2008.
- (i) **Modification application MOD-06-02-2009** in relation to a minor change to the rail line layout, accompanied and amended by:
 - (i) Section 96 Modification Application, Multi-purpose Terminal and Remediation of the Closure Area, BHP Newcastle Steelworks, submitted by Hunter Development Corporation and dated 12 February 2009; and
 - (ii) *Application to Vary Development Conditions for the Multi Purpose Terminal and Remediation of the Former BHP Site, Mayfield (2000)*, prepared by Hunter Development Corporation dated January 2009; and
- (j) the conditions of this consent.

If there is any inconsistency between the above, these conditions shall prevail.

- 2) inserting a new condition 5.50 following existing condition 5.49, as follows:

Rail crossing on Selwyn Street

- 5.50 The applicant shall obtain the approval of the Australian Rail Track Corporation (ARTC) prior to the construction of a rail connection at Selwyn Street to the ARTC rail network at the location marked "A1-grade crossing 2 (unchanged) on *Figure 2: Proposed Revised Rail Line*, of the Section 96(1A) application prepared by Hunter Development Corporation dated January 2009.