

## ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

### INTEGRATED STATE SIGNIFICANT DEVELOPMENT DETERMINATION OF DEVELOPMENT APPLICATION PURSUANT TO SECTIONS 76A(9) & 80(4)

I, the Minister for Urban Affairs and Planning, pursuant to Sections 76A(9) & 80(4) of the Environmental Planning and Assessment Act, 1979 ("the Act") and Clause 8 of State Environmental Planning Policy No.34 – Major Employment Generating Industrial Development determine the development application ("the application") referred to in Schedule 1 by granting consent to the application subject to the conditions set out in Schedule 2.

The reasons for the imposition of the conditions are to:

- (i) minimise the adverse impact the development may cause through impacts on water quality, air quality, noise and visual disturbance, heritage conservation and soil and groundwater contamination; and,
- (ii) provide for environmental monitoring and reporting of the future performance of the development.

**This consolidated instrument includes modifications approved:**

1. under section 96(1) on 29 June 2001 – DA 293-08-00-M1;
2. under section 96(1) on 13 August 2001 – DA 293-08-00-M2;
3. under section 96(1A) on 15 February 2002 – DA 293-08-00-M3;
4. under section 96(1A) on 16 September 2003 – MOD-77-7-2003-i;
5. under section 96(1A) on 15 September 2005 – MOD-60-4-2005-i;
6. under section 96(1A) on 21 August 2007 – MOD-64-7-2007-i;
7. under section 96(2) on 21 November 2008 – MOD-56-7-2008;
8. under section 96(1A) on 30 March 2009 – MOD-06-02-2009 (**amendments in red type**); and
9. under section 75W on 29 August 2013 – DA 293-08-00 MOD 9 (**amendments in blue type**).

Andrew Refshauge MP  
Minister for Urban Affairs and Planning,

Sydney, 6 April 2001

File No. S99/00601

#### Schedule 1

<b>Application made by:</b>	Broken Hill Proprietary Company Limited Selwyn Street, Mayfield NSW 2034
<b>To:</b>	The Minister for Urban Affairs and Planning (DA 293-08-00)
<b>In respect of:</b>	Land described as the "Closure Area" being Lot 221 DP 1013964, Industrial Drive, Mayfield.

*Note: the "Closure Area" is now known as Lot 33 DP1116571. Part of this area (Direct Port Industry Precinct) is owned by the Newcastle Port Corporation and the remainder, by the Hunter Development Corporation.*

<b>For the following:</b>	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.
<b>Development Application:</b>	Development Application (DA) No. 293-08-00, lodged with the Department of Urban Affairs and Planning on 5 September 2000, accompanied by the Environmental Impact Statement prepared by URS Corporation, dated August 2000.
<b>State Significant Development</b>	In accordance with section 76A(7)(b)(iii) of the EP&A Act , by notice in the Gazette, the Minister for Urban Affairs and Planning has declared the proposal to be State Significant Development.
<b>Integrated Development:</b>	The proposed development requires separate approvals from the Environment Protection Authority under the <i>Protection of the Environment Operations Act 1997</i> , The NSW Waterways Authority under the <i>River and Foreshores Improvement Act 1948</i> and the Roads and Traffic Authority under the <i>Roads Act 1993</i> . It is therefore classified as Integrated Development Under Section 91 of the EP&A Act.
<b>BCA Classification:</b>	Class 5 – administration building, quarantine/customs building Class 8 - workshop Class 10(b) – wharf structures, pavements, truck/trailer marshalling area, car parking areas, access roads, fences, rail infrastructure, fuel depot,

**NOTE:**

- 1) To ascertain the date upon which the consent becomes effective, refer to section 83 of the Act.
- 2) To ascertain the date upon which the consent is liable to lapse, refer to section 95 of the Act.
- 3) Section 97 of the Act confers on Proponents who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court exercisable within 12 months after receipt of notice.

## SCHEDULE 2

### CONDITIONS OF DEVELOPMENT CONSENT

#### DEFINITIONS

ANZECC	Australian and New Zealand Environment Conservation Council
Council	Newcastle City Council
DA	Development Application
DLWC	The Department of Land and Water Conservation
EIS	Environmental Impact Statement
EMP	Environmental Management Plan
EPA	Environment Protection Authority
GTA	General Terms of Approval
$L_{AEQ15min}$	Average noise level, when measured over a 15 minute period.
MPT	Multi-Purpose Terminal
M	Metres
The Act	Environmental Planning and Assessment Act 1979
The Applicant	BHP Limited
The Department	The Department of Urban Affairs and Planning
The Director-General	The Director-General of the Department of Urban Affairs and Planning, or her delegate
The Regulation	Environmental Planning and Assessment Regulation 1994

#### 1. STAGED DEVELOPMENT

- 1.1 Under Section 80(4) of the Act, this consent applies to Stage 1 of the development, as described in Schedule 1, only.
- 1.1A The approval for the General Cargo Handling Facility granted under **MOD-56-7-2008** shall operate for a maximum period of ten years from the date of this modification, or as otherwise agreed to by the Director-General.
- 1.1B At five yearly intervals following commencement of operation of the General Cargo Handling Facility, the applicant shall submit a report to the Director-General on the need or otherwise for the General Cargo Handling Facility to be retained on site and to remain operational. The report must include supporting justification.
- 1.2 Under Section 80(5) of the Act, the Applicant will require a further consent from the Minister for Stage 2 of the development.

*Note: A consent granted in accordance with Condition 1.2 does not require a further development application under section 78A of the Act. However the Applicant shall submit further detailed information, as required by the Director-General and the Integrated Approval Bodies at that time. The Director-General shall consult with any relevant authorities and consider any submissions before Stage 2 of the development is determined.*

## 2. GENERAL

### Obligation to Minimise Harm to the Environment

2.1 <sup>1</sup>The Applicant must implement all practicable measures to prevent or minimise any harm to the environment that may result from the construction, operation, and where relevant, the decommissioning of the development.

### Terms of Approval

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;

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<sup>1</sup> EPA GTA No.1.2

- (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; and
- (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.

## **Restriction on Operations**

2.3 The Container Terminal must not handle more than 350, 000 containers per annum.

*Note: Any increase above 350,000 containers a year will require further assessment under the Act.*

## **Structural Adequacy**

2.4 Before any construction work starts, the Applicant must obtain a construction certificate for the proposed development from the Principal Certifying Authority.

2.5 Before commissioning the development, the Applicant must obtain an occupation certificate for the development from the Principal Certifying Authority.

2.6 The applicant shall engage an EPA Accredited Site Auditor to provide to Director-General and the Department of Environment and Climate Change prior to construction of the hardstand area:

- (a) a statement detailing whether the design of the hardstand area complies with the requirements of the relevant consent conditions; and
- (b) provide a written confirmation that the hardstand area is suitable for its final intended use.

## **3. COMPLIANCE AND COMPLIANCE REPORTS**

3.1 Throughout the life of the development, the Applicant must secure, renew, maintain, and comply with all the relevant statutory approvals applying to the development.

3.2 The Applicant must ensure that all contractors and sub-contractors are aware of, and comply with, the conditions of this consent and the approved environmental management plans required under the consent (Conditions 4.1 to 4.4.).

3.3 At least two weeks before:

- (a) Site preparation works commence (including demolition and or remediation);
- (b) construction works commence; and
- (c) Operations commence,

the Applicant must certify in writing to the Director-General that it has obtained all the necessary statutory approvals for, and complied with all the relevant conditions of this consent and/or any other statutory requirements related to each respective component of the development.

## **4. ENVIRONMENTAL MANAGEMENT PLANS**

### **Contaminated Site Environmental Management Plan**

4.1 <sup>2</sup>Prior to commencing site remediation works the Applicant must prepare an environmental management plan. The management plan must include, but need not be limited to, providing information for employees, contractors, and subcontractors working on the closure area site remediation, Multi-Purpose Terminal, or any other activities on the site of:

- (a) procedures required to maintain the integrity of the capping system;

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<sup>2</sup> EPA GTA No.6.10

- (b) procedures for ensuring that disturbance of any part of the during construction, or any other activities on the site, is rectified to maintain the integrity of the capping system and meet the requirements of Conditions 5.17 and 5.18 are met; and
- (c) legal responsibilities under the *Protection of the Environment Operations Act 1997*.

### Site Preparation Environmental Management Plan

- 4.2 The Applicant must prepare and implement a Site Preparation Environmental Management Plan addressing all demolition and site remediation activities. The management plan must include, but need not be limited to:
  - (a) A description of the proposed site preparation works;
  - (b) An outline the proposed site preparation work program;
  - (c) Identification of all the relevant statutory requirements and conditions of consent that apply to the site preparation phase of the development including legal responsibilities under the *Protection of the Environment Operations Act 1997*;
  - (d) Standards and performance measures for each of the relevant environmental matters associated with the site preparation works;
  - (e) A Description of what actions and measures will be implemented to mitigate the potential impacts of the site preparation works, and to ensure that these works will comply with the relevant standards and performance measures;
  - (f) A detailed description of what measures and procedures will be implemented to:
    - Manage potential pollutants exposed to air, and surface and groundwater during demolition of structures;
    - Manage traffic;
    - Mitigate potential noise impacts;
    - Mitigate potential dust impacts;
    - Mitigate pollution of surface and groundwater;
    - Register and respond to complaints;
    - Ensure the occupational health and safety of workers;
    - Respond to any emergencies; and
    - Respond to the discovery of any archaeological relics or sites during site works.
  - (g) An explanation as to how the environmental performance of the site preparation works will be monitored, and what actions will be taken if any non-compliance is detected;
  - (h) A description of the role, responsibility, authority, accountability, and reporting of key personnel involved in the site preparation phase of the development;
  - (i) The following plans:
    - Contaminated Site Management Plan (Condition 4.1);
    - Site Preparation and Construction Noise Management Plan (Condition 5.8);
    - Soil and Water Management Plan (Condition 5.27);
    - Heavy Vehicle Route Plan (Condition 5.46)
    - Archaeological Management Plan (Condition 6.3).

The plan must be submitted and approved by the Director-General prior to site preparation works commencing.

## Construction Environmental Management Plan

4.3 The Applicant must prepare and implement a Construction Management Plan for the Multi-Purpose Terminal development. This plan must:

- (a) Describe the proposed construction works;
- (b) Outline the proposed construction work program;
- (c) Identify all the relevant statutory requirements and conditions of consent that apply to the construction phase of the development;
- (d) Set standards and performance measures for each of the relevant environmental matters associated with the construction work;
- (e) Describe what actions and measures will be implemented to mitigate the potential impacts of the construction works, and to ensure that these works will comply with the relevant standards and performance measures;
- (f) Describe in detail what measures and procedures will be implemented to:
  - Manage construction traffic;
  - Mitigate any potential dust impacts;
  - Register and respond to complaints during the construction period;
  - Ensure the occupational health and safety of construction workers;
  - Respond to any emergencies; and
  - Respond to the discovery of any archaeological relics or sites during site works.
- (g) Explain how the environmental performance of the construction works will be monitored, and what actions will be taken if any non-compliance is detected;
- (h) Describe the role, responsibility, authority, accountability, and reporting of key personnel involved in the construction of the development;
- (i) Include the following plans:
  - Soil and Water Management Plan (Condition 5.27)
  - Site Preparation and Construction Noise Management Plan (Condition 5.8);
  - Heavy Vehicle Route Plan (Condition 5.46)
  - Landscape Management Plan (Condition 5.47)
  - Contaminated Site Management Plan (Condition 4.1)
  - Archaeological Management Plan (Condition 6.3)

No construction work on the Multi-Purpose Terminal may occur before this plan has been approved by the Director-General.

## Operation Environmental Management Plan

4.4 The Applicant must prepare and implement an Operation Environmental Management Plan (OEMP) for all future operations of the Multi-Purpose Terminal. This plan must:

- (a) Describe the proposed operations;
- (b) Identify all the relevant statutory requirements that apply to the operation of the development;
- (c) Set standards and performance measures for each of the relevant environmental issues;
- (d) Describe what actions and measures will be implemented to mitigate the potential impacts of the development, and to ensure that the development meets these standards and performance measures;
- (e) Describe what measures and procedures will be implemented to:
  - Register and respond to complaints;
  - Ensure the operational health and safety of the workers; and
  - Respond to potential emergencies, such as plant failure;

- (f) Describe the role, responsibility, authority, and accountability of all the key personnel involved in the operation of the development;
- (g) Incorporate the detailed Environmental Monitoring Program (see Condition 8.1); and
- (h) Include the following:
  - Stormwater Management Plan (condition 5.30);
  - Capping Maintenance Plan (Condition 5.20);
  - Contaminated Site Environmental Management Plan (Condition 4.1); and,
  - Heavy Vehicle Route Plan (Condition 5.46).

4.5 The Applicant must ensure that a copy of the OEMP is publicly available.

4.6 The Applicant must review and update the OEMP regularly, or as directed by Director-General.

4.7 The OEMP must be approved by the Director-General before operations at the MPT can commence.

## 5. ENVIRONMENTAL STANDARDS AND CONDITIONS

### Hours of Site Preparation and Construction

5.1 <sup>3</sup>All site preparation and construction activities in relation to the MPT must only be conducted between the hours specified below unless otherwise agreed by the Director-General in consultation with the appropriate regulatory authority:

- (a) Monday to Friday 7am to 6pm;
- (b) Saturday, 8am to 1pm if audible at residential receivers, otherwise 7am to 1pm; and
- (c) No construction work to take place on Sundays or Public Holidays.

5.1A. Notwithstanding condition 5.1 of this consent, activities associated with remediation of the site may be undertaken at any time, subject to compliance with the noise limits specified under condition 5.7.

### Blasting

5.2 <sup>4</sup>The applicant must notify the community with the postcodes 2304 and 2297 by way of a community service announcement in a widely distributed print media and local broadcast media of the proposed date and time of any blasting to be done on the site. The notification must provide a timely warning of the intended blast and provide a contact name and phone number that the public may use to obtain further details of the proposed blast.

5.3 <sup>5</sup>Noise caused by blasting operations must not exceed an over-pressure level of 115dB (linear peak) for more than 5% of the total number of blasts when measured at any noise sensitive locations (such as residential premises, schools or hospitals).

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<sup>3</sup> EPA GTA No. 5.11

<sup>4</sup> EPA GTA No. 5.1

<sup>5</sup> EPA GTA No. 5.2

5.4 <sup>6</sup>Noise caused by blasting operations must not exceed an over-pressure level 120dB (linear peak) at any time when measured at any noise sensitive locations (such as residential premises, schools or hospitals).

5.5 <sup>7</sup>Ground vibration caused by blasting operations must not exceed a peak particle velocity of 5 millimetres for more than 5% of the total number of blasts carried out over any 12 month period, when measured at any point within one metre of any residential boundary or in or on any noise sensitive areas (such as residential premises, schools or hospitals).

5.6 <sup>8</sup>Ground vibration caused by blasting operations on the site must not exceed a peak particle velocity of 10 millimetres per second (peak particle velocity) when measured at any point within one metre of the boundary of any premises not owned or leased by the applicant.

### **Noise – Site Preparation and Construction Phases**

5.7 <sup>9</sup>Noise emissions arising from demolition and site remediation of the closure area and construction of the MPT, and associated activities must not exceed the following noise levels:

Location	Noise Limits (dBA)
1. 52 Arthur Street	55
2. Mayfield East Public School	47
3. 21 Crebert Street	56
4. Newcastle TAFE	49
5. 1 Arthur Street	51

*Note: The shaded area represents the applicable criteria to all construction related activity for the closure area.*

The Noise limits apply during the day or night-time under winds up to 3 metres per second (measured at 10 metres above ground level) and Pasquill stability class from A to F.

5.8 <sup>10</sup>To achieve the levels specified in Condition 5.7, the Applicant must develop and implement an appropriate Site Preparation and Construction Noise Management Plan. The plan must include, but need not be limited to:

- identification of all noise sources;
- noise mitigation measures both in terms of engineering best practice and operational procedures;
- proposed times for noise propagating site activities;
- monitoring methods and programs;
- contingency measures where monitoring indicates non compliance; and
- complaints handling procedures.

The plan will form part of the Site Preparation EMP (Condition 4.2) and the Construction EMP (Condition 4.3) and be approved by the Director-General prior to works commencing.

<sup>6</sup> EPA GTA No. 5.3

<sup>7</sup> EPA GTA No. 5.4

<sup>8</sup> EPA GTA No. 5.5

<sup>9</sup> EPA GTA No. 5.7

<sup>10</sup> EPA GTA No. 5.8

5.9 <sup>11</sup>In the event that the Applicant is unable to achieve the noise levels specified in Condition 5.7, the Director-General, in consultation with the EPA may agree to a request by the applicant to negotiate noise limits above the limits specified in Condition 5.7, provided the Director-General is satisfied that the applicant has demonstrated that all feasible and reasonable means to mitigate noise impacts have been considered. The application should include but need not be limited to:

- (a) full details of the measures proposed to mitigate noise impacts associated with the construction related activity for the Closure Area, with particular reference to piling operations;
- (b) a quantitative analysis of the extent to which the mitigation measures will achieve the noise limits specified in Condition 5.7;
- (c) identify all residential properties and sensitive receivers likely to be affected when all feasible and reasonable on-site mitigation strategies have been taken into account; and
- (d) details of the outcome of a community consultation process to be implemented by the Applicant to identify alternative on-site or off-site mitigation strategies that may be acceptable to the community.

5.10 Piling operations must be conducted using best available technology. The appropriate regulatory authority may require acoustic shrouding of the hammer to limit impact noise if the appropriate regulatory authority receives justifiable complaints.

### Noise – Operation Phase

5.11 The following noise limits apply to the operation of the Multi-Purpose Terminal at the locations shown are as follows:

Noise Limits dB(A)			
Location	Day 7:00 am to 6:00 pm Mondays to Saturdays 8:00 am to 6:00 pm Sundays and public holidays	Evening 6:00 pm to 10:00 pm on any day	Night 10:00 pm to 7:00 am Mondays to Saturdays 10:00 pm to 8:00 am Sundays and public holidays
	$L_{Aeq}$ (15 minute)	$L_{Aeq}$ (15 minute)	$L_{Aeq}$ (15 minute)
1. 52 Arthur Street	49	38	38
2. Mayfield East Public School	47	37	37
3. 21 Crebert Street	49	39	39
4. Newcastle TAFE	44	38	38
5. 1 Arthur Street	48	33	33

The noise limits apply during all assessment periods under winds up to 3 metres per second (measured at 10 metres above ground level) and Pasquill stability classes from A to F.

5.12 In the event that the Applicant is unable to achieve the noise levels specified in Condition 5.11, the Director-General, in consultation with the EPA may agree to a request by the applicant to negotiate noise limits up to 5 dB(A) above the limits specified in Condition 5.11, provided the Director-General is satisfied that the applicant has demonstrated that all feasible and reasonable means to mitigate

<sup>11</sup> EPA GTA No. 5.9

noise impacts have been considered. The application should include but need not be limited to:

- (a) full details of the measures proposed to mitigate noise impacts associated with the operation of the container terminal and the rail terminal;
- (b) a quantitative analysis of the extent to which the mitigation measures will achieve the noise limits specified in Condition 5.11;
- (c) identify all residential properties and sensitive receivers likely to be affected when all feasible and reasonable on-site mitigation strategies have been taken into account; and
- (d) details of the outcome of a community consultation process to be implemented by the Applicant to identify alternative on-site or off-site mitigation strategies that may be acceptable to the community.

### **Vibration**

5.13 Prior to construction of the railway linking the MPT to the Morandoo sidings inroad, the Applicant shall prepare a vibration assessment report identifying the predicted impacts of rail related vibration as a result of the development. The assessment report shall be prepared in consultation with the Rail Infrastructure Corporation and be submitted for the approval of the Director-General. The Report shall include measurements of predicted vibration associated with the new rail line connecting the MPT and identify mitigation measures to be incorporated into the detailed design of the rail line.

### **Odour**

5.14 <sup>12</sup>No offensive odour, as defined under Section 129 of the *Protection of the Environment Operations Act 1997*, may be emitted from the premises.

*Note: The Protection of the Environment Operations Act 1997, provides that the licensee must not cause or permit the emission of any offensive odour from the premises but provides a defence if the emission is identified in the relevant protection licence as a potentially offensive odour and the odour is identified in the relevant environment protection licence as a potentially offensive odour and the odour was emitted in accordance with the conditions of a licence directed at minimising odour.*

### **Dust**

5.15 <sup>13</sup>Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises

5.16 <sup>14</sup>All trafficable areas and vehicle manoeuvring areas in or on the premises must be maintained, at all times, in a condition that will minimise the generation, or emission from the premises, of wind blown or traffic generated dust.

### **Site Remediation – Site capping**

5.17 The Closure Area as identified in Figure 1.3 of the EIS: *Layout of the Steelworks Site Showing the Closure Area and MPT*, other than the proposed hard stand paved areas, and pre-construction surfaces must:

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<sup>12</sup> EPA GTA No. 2.1

<sup>13</sup> EPA GTA No. 2.2

<sup>14</sup> EPA GTA No. 2.3

- (a) have a seal bearing layer consisting of a properly designed and engineered layer of material. This layer must consist of a material at least 500mm thick and have a permeability less than  $K = 10^{-7} \text{ ms}^{-1}$ ; and
- (b) be constructed and maintained to permit free drainage and to avoid surface water ponding; or
- (c) an alternative seal bearing layer that meets the objectives of (a) and (b) above and demonstrates a high level of engineering reliability may be approved in writing by the EPA.

For the purposes of this condition the following areas are exempted for the requirements above:

- the areas delineated to be landscaped in areas M11 and M23 on Figure 1 'Plan of Closure Area M11 (Heritage Precinct)' dated 8 May 2001, and Figure 2 'Plan of Closure Area M23' dated 8 May 2001, submitted to the Department on 6 August 2001;
- the area marked as 'Fig Tree Preservation Area' in the plan titled 'Newcastle Steelworks Main Site Redevelopment - Figtree Canopy along Industrial Drive - General Arrangement', dated 24 October 2001, and submitted to the Department on 15 October 2001; and
- the western portion of area M17, which is an established landscaped area located behind the fig trees along Industrial Drive between Crebert Street and Selwyn Street. The area extends for approximately 80 metres to the east, to the proposed location of the railway line.

However, should any of the areas listed above be re-developed then this exemption no longer applies.

*Note: "hard stand" is for the purpose of this condition, concrete or asphalt.*

5.18 Unless otherwise approved by the EPA in accordance with condition 5.18A of this consent, the areas listed below and identified in Figure 1.3 of the EIS must be capped with hard stand or incorporate a seal bearing layer consisting of a material at least 500mm thick and have a permeability less than  $K = 10^{-9} \text{ ms}^{-1}$ .

- (a) M18
- (b) M19
- (c) M20
- (d) M25
- (e) M12
- (f) M14
- (g) M15

*Note: An alternative seal bearing layer including existing hard stand areas that meets the objectives of the above and demonstrates a high level of engineering reliability may be approved in writing by the EPA.*

5.18A The Applicant may seek the approval of the EPA to alter the permeability requirements specified under condition 5.18 of this consent, following completion of installation of the barrier wall and associated capping works. In considering any application to vary permeability requirements, the EPA may require the Applicant to provide an independent assessment of whether the barrier wall and associated capping works have achieved the remediation outcomes for the site.

5.19 <sup>15</sup>A qualified Geo-technical Engineer must be engaged to provide certification of the permeability of the seal bearing layer as detailed in Conditions 5.17 and 5.18 above. The certification must be retained by the Applicant for a minimum period of 5 years.

5.20 <sup>16</sup>A capping maintenance plan must be developed for the closure area as identified by Figure 1.3 titled *Layout of Steelworks Site Showing the Closure Area and MPT* in the EIS. This plan must include, but need not be limited to the following:

- (a) procedures for ensuring the integrity of the cap is maintained during any construction or any other activities on the closure area;
- (b) procedures for ensuring that disturbance of any part of the cap during construction or any other activities on the site, is rectified to maintain the integrity of the capping system and meet the requirements of Conditions 5.17 and 5.18.

5.21 <sup>17</sup>All sub-surface pipes associated with stormwater collection and drainage systems installed on the premises must be flexible jointed pipes designed and installed in accordance with Australian Standard AS/NZS 2566.1:1998.

### **Remediation of Contamination - Soil**

5.22 <sup>18</sup>The EPA must be notified, in writing, of any free phase contamination and any other type of contamination not identified in the EIS that is encountered during any activities on the closure area. Notification must be submitted as soon as practicable after the material is identified.

*Note: The EPA may require any free phase contamination or any other type of contamination not identified in the EIS that is encountered during any activities on the closure area to be contained or treated on site or removed off site for disposal or treatment.*

5.23 <sup>19</sup>Prior to commencing construction of the Multi-Purpose Terminal or remediation of the closure area as identified in Figure 1.3 of the EIS, any stockpiled soil from the area surrounding the decommissioned Coke Ovens 1, 2, and 3 located adjacent to the western side of Blast Furnace Road must be removed from this location and either:

- (a) Contained in areas proposed to be covered by hard stand pavement: or
- (b) Managed by an alternative method approved in writing by the EPA.

### **Remediation of Contamination - Groundwater**

5.24 <sup>20</sup>For the purposes of investigating the options for interception and treatment of contamination migrating in groundwater to the Hunter River, the Applicant must submit a report to the EPA's Regional Manager Hunter.

5.25 <sup>21</sup>The report must include, but need not be limited to, a detailed investigation of funnel and gate technology, or of an alternative technology identified by the Applicant, to intercept and treat groundwater flowing in the direction of the hard

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<sup>15</sup> EPA GTA No. 6.3

<sup>16</sup> EPA GTA No. 6.4

<sup>17</sup> EPA GTA No. 6.5

<sup>18</sup> EPA GTA No. 6.6

<sup>19</sup> EPA GTA No. 6.7

<sup>20</sup> EPA GTA No. 6.8

<sup>21</sup> EPA GTA No. 6.9

stand areas of the proposed Multi-Purpose Terminal and area M12 as identified by Figure 1.3 titled *Layout of Steelworks Site Showing the Closure Area and MPT* in the EIS;

The report must include, but need not be limited to:

- (a) design details of the funnel and gate technology;
- (b) options for the reactive media to be placed within the “gates” to treat the contaminants in the groundwater to be consistent with the relevant guidelines specified by the Australian and New Zealand Environment and Conservation Council (ANZECC) in the document titled *Australian Water Quality Guidelines for Fresh and Marine Waters* (1992);
- (c) if an alternate technology is identified by the Applicant, the design details of the alternate technology and an assessment of the ability of the alternate technology to treat the contaminants in the groundwater to be consistent with the relevant guidelines specified by ANZECC in the document titled *Australian Water Quality Guidelines for Fresh and Marine Waters* (1992);
- (d) justification for any alternate technology identified by the Applicant;
- (e) details of a monitoring program to evaluate the effectiveness of the funnel and gate system or any alternative technology identified by the Applicant to be consistent with the relevant guidelines specified by the ANZECC in the document titled *Australian Water Quality Guidelines for Fresh and Marine Waters* (1992);
- (f) an estimate of costs to implement and maintain the funnel and gate system and any alternative technology identified by the Applicant; and
- (g) a timetable and detailed schedule of works to implement the funnel and gate system and any alternative technology identified by the Applicant.

The report must be submitted to the EPA prior to construction of any hard stand areas of the Multi-Purpose Terminal. “hard stand” is, for the purpose of this condition, concrete or asphalt.

*Note: The EPA intends to require implementation of a system which the EPA determines as appropriate in order to ensure that the Applicant manages and treats groundwater contamination to be consistent with the relevant guidelines specified by the ANZECC in the document titled *Australian Water Quality Guidelines for Fresh and Marine Waters* (1992). The preferred system will be implemented either through the conditions of the Environment Protection Licence for the premises or through the provisions of the Contaminated Land Management Act 1997.*

5.25A The Applicant shall construct groundwater management works, as a component of the site remediation activity, in accordance with EPA approval under the *Contaminated Land Management Act 1997*.

### **Stormwater and Sediment Control – Site Preparation and Construction Phase**

5.26 <sup>22</sup>Except as may be expressly provided in a licence issued by the EPA, the Applicant must comply with Section 120 of the *Protection of the Environment Operations Act 1997* prohibiting the pollution of waters.

5.27 <sup>23</sup>A Soil and Water Management Plan (SWMP) must be prepared and implemented. The SWMP must describe the measures that will be implemented

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<sup>22</sup> EPA GTA No. 3.1

<sup>23</sup> EPA GTA No. 3.2, WWA GTA No. 3

to minimise soil erosion and the discharge of sediment and other pollutants to waters during site remediation of the closure area and construction of the MPT. The SWMP should be prepared in accordance with the relevant specifications and standards contained in the document titled *Managing Urban Stormwater: Soils and Construction* (Department of Housing 1998) and any other relevant agency requirements. The SWMP should include, but not necessarily be limited to, those measures outlined in Table 10.2 *Environmental Safeguards* in the EIS.

5.28 The proposed system for erosion and sediment control must be installed and stabilised before commencement of site works. This does not include the construction of the appropriate controls.

5.29 The stormwater drainage system for the site may only discharge to the Hunter River or the stormwater system via an appropriately engineered stormwater detention basin(s).

Prior to construction, the design capacity of the stormwater detention basin(s) must be approved in writing by the EPA.

5.29A The Eastern and Western drains are to be designed to satisfactorily accommodate stormwater runoff from the entire respective contributing catchments. The contributing catchment to the Eastern Drain shall include the catchment that drains to the existing open drain within Selwyn Street, such as to permit possible future upgrading/widening of Selwyn Street.

5.29B The Applicant is to fund and construct, in consultation with the Council, stormwater drainage pipe connections from the Eastern Drain to the boundary of Selwyn Street in sufficient number, location and size such to adequately service the existing Selwyn Street drain without the need to undertake construction activity within the constructed drain.

5.29C Upon achieving practical completion of all construction and landscaping works associated with the Eastern Drain, an easement to drain water shall be created over the Eastern Drain and associated structures. The terms of such an easement shall be established by the Proponent in consultation with the Council.

### **Stormwater and Sediment Control – Operation Phase**

5.30 <sup>24</sup>A Stormwater Management Plan must be developed and implemented to mitigate the impacts of stormwater runoff from the site following the completion of the site remediation activities. The plan must identify contaminant likely to be present in stormwater from the closure area as identified in Figure 1.3 of the EIS and the measures proposed to prevent or control their discharge to waters such as the Hunter River. The measures should include, but not necessarily be limited to those outlined in Table 10.2 *Environmental Safeguards* in the EIS. The Plan must address the provisions of Newcastle City Council's *DCP No.50 – Stormwater Management for Development Sites*.

### **Waste – Closure Area**

5.31 <sup>25</sup>The Applicant must not cause, permit, or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing, or disposal; or any waste generated at the premises to be disposed

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<sup>24</sup> Incorporates EPA GTA No.3.5

<sup>25</sup> EPA GTA No.4.1

at the premises, except as expressly permitted by a licence under the *Protection of the Environment Operations Act 1997*.

This condition only applies to the storage, treatment, processing, reprocessing, or disposal; or any waste generated at the premises if it requires an environment protection licence under the *Protection of the Environment Operations Act 1997*.

5.32 Prior to the commencement of operations, the Applicant must demonstrate to the satisfaction of the Australian Quarantine Inspection Service and the Director-General that appropriate arrangements have been put in place for the disposal of quarantine wastes.

5.33 <sup>26</sup>Prior to any material being stored in the emplacement area as identified in Figure 6.4 titled *Proposed Final Landform and Surface water Drainage* of the EIS, the following must be conducted:

- (a) the Applicant must provide the EPA with details of how the environmental goals will be met through the relevant benchmark techniques specified in the EPA's document titled *Environmental Guidelines: Solid Waste Landfills*; and provide a comprehensive environmental management plan; and,
- (b) the emplacement area must have a leachate barrier system that meets the requirements of the EPA's document titled *Environmental Guidelines: Solid Waste Landfills*.

### **Waste - Hazardous and Industrial**

5.34 <sup>27</sup>Hazardous or industrial waste proposed to be removed from the Closure Area must be stored and disposed of in a manner to minimise its impact on the environment including appropriate segregation for storage and separate disposal by a waste transporter licensed by the EPA.

### **Dredging and Sediment Disposal**

5.35 Prior to commencement of any dredging work, a Dredging Management Plan shall be prepared in consultation with the Newcastle Port Corporation and once completed provided to the Waterways Authority. The plan shall address, but is not limited to, the following issues:

- (i) installation and effective operation of an appropriately designed silt curtain to control turbidity around the dredge site;
- (ii) details of the dredging footprint, weekly dredging rate, equipment and pipeline for the transfer of sediment (size and location);
- (iii) Range of river and weather conditions necessitating the temporary cessation of dredging operations; and
- (iv) Provide details on contingency plans to deal with potential adverse impacts resulting from dredging operations.

5.36 Following the conclusion of Stage 1 dredging works, a hydrographic survey is to be carried out and is to be submitted to the Waterways Authority.

5.37 Should the dredging works require the use of explosives in water, then a permit shall be obtained from NSW Fisheries prior to the commencement of dredging operations.

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<sup>26</sup> EPA GTA No. 4.2

<sup>27</sup> EPA GTA No. 4.3

## **Lighting**

5.38 The Applicant must ensure that any external lighting associated with the development is mounted, screened, and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting must be the minimum level of illumination necessary.

## **Traffic**

5.39 The applicant is to fund and construct the following road works to the satisfaction of the Newcastle City Council and/or Roads and Traffic Authority prior to commencement of operations at the Multi-Purpose Terminal:

- (a) localised widening along Selwyn Street to meet minimum travel lane (Austroads) requirements;
- (b) line marking and signage to control parking along the Selwyn Street approach to the Multi-Purpose Terminal; and
- (c) intersection access from the eastern end of Selwyn Street into the Multi-Purposed Terminal.

Prior to the above road and traffic control works being undertaken, the applicant must obtain the approval of the Newcastle City Council and the concurrence of the Roads and Traffic Authority for these works under the *Roads Act 1993*.

5.40 <sup>28</sup>The design of all works is to be in accordance with Austroads and RTA Road Design Guide Standards and is subject to RTA review.

5.41 The Applicant shall consult with the local community on the proposed roadworks prior their construction.

5.42 <sup>29</sup>The applicant shall not commence physical work in the State Road reserve until:

- (a) all approvals or acceptances have been given by the RTA,
- (b) all administration and management fees and the performance bond have been received by the RTA, and
- (c) the applicant has entered a Deed of Agreement with the RTA.

5.43 <sup>30</sup>All provision for traffic is to be in accordance with the requirements of the RTA publication "Traffic Control at Work Sites" and Australian Standards AS 1742.3.

5.44 <sup>31</sup>The Applicant is to prepare the following documentation to the satisfaction of the RTA in respect of the proposed road works:

- (a) Full Engineering Plans detailing the scope of the proposed works;
- (b) Review of Environmental Factors (REF);
- (c) Geotechnical Investigation Report and Pavement Design;
- (d) Environmental Management Plan;
- (e) Occupational Health and Safety Plan;
- (f) Traffic Control Plan (TCP);
- (g) Traffic Management Plan (TMP); and,
- (h) Road Safety Audit.

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<sup>28</sup> RTA GTA No.1

<sup>29</sup> RTA GTA No.2

<sup>30</sup> RTA GTA No.3

<sup>31</sup> RTA GTA No.4

The Applicant shall consult with the RTA regarding the requirements of the above plans.

5.45 <sup>32</sup>Works are to be undertaken in accordance with the Roads and Traffic Authority's procedures and the undertaking of privately funded works within a State Road reserve by private developers as outlined in the RTA publication *Private Sector Development Work on the Road Network – Notes for Developers*.

5.46 Prior to site remediation works commencing, the Applicant submit to the Director-General for approval, a Heavy Vehicle Route Plan that identifies the shows the proposed routes for heavy vehicle movements to and from the site during all phases of the Stage 1 development. The plan shall be prepared in consultation with the Council and the RTA and demonstrate that proposed routes avoid the use of local streets in the Mayfield and Mayfield East localities. The plan shall also outline what measures will be undertaken to ensure that all drivers of heavy vehicles servicing the site are made aware of the approved routes.

### **Landscape Management Plan**

5.47 The Applicant must prepare and implement a Landscape Management Plan for the development, in consultation with Council. This plan must:

- (a) Be consistent with Newcastle City Council DCP No.33 – Landscape Design Principles and Guidelines;
- (b) Describe in detail the proposed future landform of the site;
- (c) Describe in detail how the site will be landscaped, including the location and species of all planting; and
- (d) Explain how this landscaping will be managed and maintained over time.

5.48 The Landscape Management Plan must have been approved by the Director-General before construction certificate/s may be issued.

5.49 After reviewing the Landscape Management Plan, the Director-General may require the Applicant to address certain matters identified in the plan. The Applicant must comply with any reasonable requirements of the Director-General.

### **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.

## **6. CULTURAL HERITAGE**

6.1 Prior to the demolition of any of the items listed in Figure 6.3 of the EIS: *Heritage Structures to be Removed*, and listed in the table below, the Applicant shall submit documentation, to the satisfaction of the Minister, confirming that the proposed Multi-Purpose Terminal is to proceed or that the item to be demolished represents a safety hazard. The required documentation shall be in the form of a copy of a contract(s) or agreement(s) between the Applicant and another party or parties, in respect of the construction and operation of the MPT, or a report from a suitably qualified person(s) on the safety or integrity of the heritage item and demonstrating that the item could not feasibly be repaired or stabilised.

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<sup>32</sup> RTA GTA No.5

No.	Item
1	Remnant of No.1 Blast Furnace
2	No. 1 Blower House
3	Open Hearth Building
4	No.1 Bloom Mill and Rail Mill
6	Steel Foundry
10	DC Substation
11	Wharves (in part)
14	No.3 Blast Furnace
15	AC Pump House
16	Power House
19	Open Hearth Change House
20	Mould Conditioning Building
21	BOS Plant
23	No.4 Blast Furnace

Notwithstanding the above, structures may be demolished, with the approval of the Minister, where required to enable soil or groundwater remediation to take place in accordance with EPA requirements under an Environment Protection Licence or the *Contaminated Land Management Act 1997*. The Applicant will need to demonstrate, by way of a report, that all feasible alternatives to demolition have been investigated.

6.2 The Applicant shall prepare and submit to the Director-General strategy for the interpretation of the industrial heritage of the Closure Area. The strategy must be prepared in consultation with the NSW Heritage Office and Newcastle City Council and approved by the Director-General prior to the demolition of any structures listed in the table in Condition 6.1. The strategy shall examine and put forward proposals for the following:

- (a) The establishment of a heritage precinct on the Western Portion of the Closure area, including:
  - re-use of Delprats Quarters as an Iron and Steel Interpretive Centre;
  - re-use of the ex-Tools Room as a State Industrial Archaeological Repository;
  - conservation of the remnants of the original botanic gardens established.
- (b) an assessment of industrial artefacts able to be retained and made available for interpretation within the Closure Area, either in situ or, if in situ preservation is not possible, relocated.
- (c) Funding, ownership and on-going management arrangements.

6.3 The Applicant shall prepare and submit an Archaeological Management Plan for the closure area prior to the commencement of site preparation works. The plan shall be prepared in consultation with the NSW Heritage Office and approved by the Director-General.

6.4 If, during the site preparation and/or construction phases of the development, an unexpected archaeological relic is uncovered, excavation shall cease and an excavation permit under the *Heritage Act 1977* shall be obtained from the NSW Heritage Office.

*Note: a relic is defined under the Heritage Act as any deposit, object or material evidence:*

- (a) *which relates to the settlement of the area that comprises NSW, not being Aboriginal settlement, and*  
(b) *which are more than 50 years old.*
- 6.5 Prior to the commencement of any works associated with the burial of the remnants of the No.1 Blast Furnace, the Applicant shall submit details to the Director-General on the disposal location of excavated soil on-site and the interim management procedures for this material. Activities associated with this item shall not commence until the Director-General has approved these measures.
- 6.6 The final location of the remnants of the No.1 Blast Furnace shall be to the satisfaction of the Regional Land Management Corporation, with respect to the provision of sufficient clearance for future development or services.
- 6.7 Following the completion of works associated with the burial of the remnants of the No.1 Blast Furnace, the Applicant shall provide the Regional Land Management Corporation with detailed plans of the final position of the item, including its dimensions and depth.

## 7. HAZARDS

### Restrictions to Operation

- 7.1 The Container Terminal and General Cargo Handling Facility shall neither receive as cargo nor dispatch as cargo any material classified as a "Class 7 dangerous good" (radioactive material) under the Australian Dangerous Goods Code.
- 7.2 The Applicant shall not use or store, temporarily or otherwise, any dangerous good of Class 1 (explosives) on the site without the prior written approval of the Director-General. In seeking the Director-General's approval, the Applicant shall provide the following information:
  - (a) the name, dangerous goods Class (including subclass), and quantity of the explosive material to be used and/or stored on the site;
  - (b) the purpose for using and/ or storing the explosive material on the site, and the maximum duration of that use and/ or storage;
  - (c) the location of the use and/ or storage of the explosive material on the site, including consideration of the storage requirements of the material in accordance with relevant legislation and Australian Standards;
  - (d) the mode of transport and route for bringing the explosive material to the site, and if relevant, for removing the explosive material from the site;
  - (e) identification and assessment of the hazards associated with the use and/ or storage of the explosive material on the site and the risk impacts of the use and/ or storage on surrounding land uses.
- 7.3 All dangerous goods received as cargo at either the Container Terminal or the General Cargo Handling Facility shall be dispatched from the site within 72 hours of receiving those goods. In the event that the Newcastle Port Corporation, or any relevant body having a statutory role in the control and/ or handling of dangerous goods at the site, requires dangerous goods to be dispatched from the site in less than 72 hours, then the requirement of the Newcastle Port Corporation or relevant body shall prevail over this condition.
- 7.4 The Applicant shall initiate and maintain a Dangerous Goods Register with an aim to ensure that the maximum quantity of dangerous goods on the site, as specified in a Final Hazard Analysis approved by the Director-General, and the

in-transit time-limit for dangerous goods on the site are not exceeded. The Register shall include, but not necessarily be limited to:

- (a) the date and time of arrival of all dangerous goods to the site;
- (b) the exact location of all quantities of dangerous goods on the site;
- (c) details of all dangerous goods classes on the site, packaging specifications and UN number; and
- (d) the date and time of dispatch of all dangerous goods from the site.

The Register shall be made available for inspection by the Director-General at any time.

## Demolition

- 7.5 At least one month prior to the commencement of any demolition activity, or within such period otherwise agreed by the Director-General, the Applicant shall prepare and submit for the approval of the Director-General a Demolition Safety Study, prepared in accordance with the relevant sections of the Department's publication *Hazardous Industry Planning Advisory Paper No. 7 - Construction Safety Study Guidelines*.
- 7.6 All demolition works undertaken on the site shall be conducted in strict accordance with the provisions of AS2601-1991 *The Demolition of Structures*, as in force at 1 July 1993.
- 7.7 The Applicant shall meet the requirements of WorkCover NSW with respect to all demolition activities associated with the handling of asbestos or asbestos-containing materials.

## Pre-Construction Hazards Studies

- 7.8 At least one month prior to the commencement of construction, or within such period otherwise agreed by the Director-General, the Applicant shall prepare and submit for the approval of the Director-General the studies set out under a) and b) below. Construction shall not commence until approval has been given by the Director-General and, with respect to the Fire Safety Study, approval has also been given by the Commissioner of the NSW Fire Brigades
  - (a) A Fire Safety Study. The Study shall cover all aspects detailed in the Department's *Hazardous Industry Planning Advisory Paper No. 2 - Fire Safety Study Guidelines* and the NSW Government's *Best Practice Guidelines for Contaminated Water Retention and Treatment Systems*. The Study shall also be submitted to the NSW Fire Brigades for approval; and
  - (b) A Final Hazard Analysis. The Analysis shall be prepared in accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 6 - Guidelines for Hazard Analysis*. The Analysis shall include, but not necessarily be limited to:
    - i) maximum and likely average quantities of each class of dangerous good to be located on the site;
    - ii) a demonstration that the maximum quantities of dangerous goods to be located on the site at any time are consistent with the *Proposed Multi Purpose Terminal Consequence Analysis for URS*, prepared by Qest Consulting Engineers Pty Ltd (dated 28 February 2000), accepted Australian and international best practice, and any current guideline published by the Department or other body having a statutory role in the control and/ or handling of dangerous goods; and
    - iii) details of the location of dangerous goods storage on the site with specific reference to location relative to the site boundary, location

relative to other dangerous goods, provision of bunding and fire safety measures.

The Applicant shall not exceed the dangerous goods storage quantities, storage locations, frequency of receipt/ dispatch, or vary the dangerous goods handling procedures specified in any Final Hazard Analysis approved by the Director-General.

### **Pre-Operation Hazards Studies**

7.9 No later than two months prior to the commencement of operation, or within such period otherwise agreed by the Director-General, the Applicant shall prepare and submit for the approval of the Director-General the studies set out under a) to c) below. Operation shall not commence until approval has been given by the Director-General.

- (a) A Transport of Hazardous Materials Study detailing arrangements covering the transport of hazardous materials including details of routes to be used for the movement of vehicles carrying hazardous materials to or from the site. The Study shall be carried out in accordance with the Department's draft *Route Selection* guidelines. Suitable routes identified in the Study shall be used except where departures are necessary for local deliveries or emergencies;
- (b) A comprehensive Emergency Plan and detailed emergency procedures. The Plan shall include detailed procedures for the safety of all people outside the development who may be at risk from the development. The Plan shall be prepared in accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 1 Industry Emergency planning Guidelines*; and
- (c) A comprehensive Safety Management System, covering all operations on-site and associated transport activities involving hazardous materials. The System shall clearly specify all safety-related procedures, responsibilities and policies, along with details of mechanisms for ensuring adherence to procedures. Records shall be kept on-site and shall be used except where departures are necessary for local deliveries or emergencies.

### **Incident Reporting**

7.10 Within 24 hours of any incident or potential incident with actual or potential significant off-site impacts on people or the biophysical environment, a report shall be supplied to the Department outlining the basic facts. A further detailed report shall be prepared and submitted following investigations of the causes and identification of necessary additional preventative measures. The report shall be submitted to the Director-General no later than 14 days after the incident or potential incident. The Applicant shall maintain a register of accidents, incidents and potential incidents. The register shall be made available, at any time, for inspection by the Director-General. The Applicant shall comply with any reasonable requirement of the Director-General in response to an incident report or register entry.

### **Hazard Audit**

7.11 Twelve months after the receipt of the first dangerous goods cargo at either the Container Terminal or the General Cargo Handling Facility, or with such period otherwise agreed by the Director-General, the Applicant shall carry out a comprehensive Hazard Audit of the development, and submit a report to the Director-General on the Audit within one month of completion of the Audit. The Audit shall be carried out at the Applicant's expense by a duly qualified

independent person or team approved by the Director-General prior to the commencement of the Audit. Further Audits shall be carried out every three years, or as determined by the Director-General and a report of each Audit shall be submitted to the Director-General within one month of the Audit. Hazard Audits shall be carried out in accordance with the Department's *Hazardous Industry Planning Advisory paper No. 5 - Hazard Audit Guidelines*.

## 8. ENVIRONMENTAL MONITORING PROGRAM

8.1 The Applicant must prepare and implement a detailed Environmental Monitoring Program for the development in consultation with the EPA, and Newcastle City Council. The program must:

- (a) Identify what environmental issues will be monitored;
- (b) Set standards and performance measures for these environmental issues;
- (c) Describe in detail how these issues will be monitored, who will conduct the monitoring, how often the monitoring will be conducted, and how the results of this monitoring will be recorded and reported to the Director-General and other relevant authorities;
- (d) Include the following:
  - Meteorological monitoring (condition 8.5)
  - Air quality monitoring (conditions 8.6-8.10)
  - Noise and vibration monitoring (Conditions 8.11-8.13);
  - Groundwater monitoring (condition 8.14-8.15); and,
  - Surface water monitoring (Condition 8.16);

8.2 The Environmental Monitoring Program must be submitted for the approval of the Director-General as part of the Environmental Management Plans required in Conditions 4.2, 4.3 and 4.4.

8.3 After reviewing the Environmental Monitoring Program, the Director-General may require the Applicant to address certain matters identified in the program. The Applicant must comply with any reasonable requirements of the Director-General.

8.4 The Applicant must include the detailed results from the Environmental Monitoring Program in the Annual Environmental Management Report to the Director-General.

### Meteorological Monitoring

8.5 <sup>33</sup>Meteorological monitoring must be conducted for the site. The meteorological Station must be sited, operated and maintained in accordance with *The Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales* as follows:

AM-1	Guide for the siting of sampling units;
AM-2	Guide for measurement of horizontal wind for air quality applications; and
AM-4	On-site meteorological monitoring program guidance for regulatory modelling applications.

### Air Quality Monitoring – Site Preparation Phase

8.6 <sup>34</sup>The Applicant must conduct ambient air quality monitoring as follows:

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<sup>33</sup> EPA GTA No. 2.7

<sup>34</sup> EPA GTA No. 2.4

- (a) Continuous real-time ambient air quality monitoring of TSP and PM<sub>10</sub> concentrations at the site boundary;
- (b) Ambient air quality monitoring for TSP, PM<sub>10</sub>, heavy metals(Mn, Pb, As and Fe)16 USEPA priority PAHs, benzo (a) pyrene, benzene, ethyl benzene, toluene, xylene and phenols at points that are representative of the nearest sensitive receptors.

8.7 <sup>35</sup>Sampling and analysis must be conducted in accordance with *The Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales* as follows:

AM-1	Guide for the siting of sampling units
AM-11	Lead – particulate collection by high volume sampler
AM-15	Particulate matter – TSP high volume sampler method
AM-16	Particulate matter – PM <sub>10</sub> – high volume sampler with size select inlet
AM-21	Volatile organic compounds; and

A method approved in writing by the EPA for 16 USEPA priority PAHs, benzo (a) pyrene, benzene, ethyl benzene, toluene, xylene and phenols and heavy metals (Mn, As and Fe).

8.8 <sup>36</sup>Prior to any cut and fill operations, commencing on the closure area, as identified in Figure 1.3 titled *Layout of Steelworks Site Showing the Closure Area and MPT* in the Environmental Impact Statement, the Applicant must design an ambient air monitoring sampling network to measure the parameters specified in Condition 8.6. Details of the air monitoring network, and the frequency of ambient air quality monitoring referred to in Condition 8.6, must be submitted to the EPA for approval in writing prior to implementation.

### **Air Quality Monitoring – Operation**

8.9 During the operation of the MPT, the Applicant must conduct ambient air quality monitoring for TSP and PM<sub>10</sub>.

8.10 Sampling and analysis must be conducted in accordance with *The Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales* as follows:

AM-1	Guide for the siting of sampling units
AM-15	Particulate matter – TSP high volume sampler method
AM-18	Particulate matter – PM <sub>10</sub> – high volume sampler with size select inlet.

### **Noise and Vibration Monitoring – Site Preparation and Construction**

8.11 <sup>37</sup>The Applicant must develop a program to effectively monitor noise emissions at the locations identified in Condition 5.7, and to determine compliance with the noise limits specified in those conditions. Details of the noise monitoring program must be submitted to DUAP and the EPA for approval before demolition or site remediation work commences on the site.

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<sup>35</sup> EPA GTA No. 2.5

<sup>36</sup> EPA GTA No. 2.6

<sup>37</sup> EPA GTA No. 5.10

8.12 <sup>38</sup>Monitoring of noise and vibration caused by blasting operations must be conducted in accordance with the ANZECC document titled *Technical Basis for Guidelines to Minimise Annoyance Due to Blasting Overpressure and Ground Vibration*.

### **Noise Monitoring – MPT Construction and Operation**

8.13 <sup>39</sup>The Applicant must develop a program to effectively monitor noise emissions at the locations identified in Conditions 5.7 and 5.11, and to determine compliance with the noise limits specified in those conditions. Details of the noise monitoring program must be submitted to DUAP and the appropriate regulatory authority for approval before demolition or site remediation work commences on the site.

### **Groundwater Monitoring**

8.14 <sup>40</sup>A number of Groundwater bores from the existing network must be retained and maintained on the site. The Applicant must ensure that the following requirements are met in determining the number and location of bores to be retained:

- (a) groundwater flow paths and changing groundwater gradients can be measured over the life of the project or until such time as agreed with the EPA;
- (b) groundwater contamination levels across the site can be measured; and
- (c) the level of contaminants in groundwater migrating off the site can be measured.

8.15 <sup>41</sup>The Applicant must submit a list of proposed parameters to monitor groundwater contaminants to the EPA for approval prior to any cut and fill operations commencing on the site.

*Note: In order to meet the above requirements the Applicant may need to establish new bores or re-establish existing bores across the site.*

### **Surface Water Monitoring**

8.16 <sup>42</sup>Stormwater from the discharge point of the stormwater detention basin(s) or from stormwater collected in the basin(s) where no discharge is occurring, must be monitored in accordance with the following table unless otherwise directed or approved by the EPA:

<b>Pollutant</b>	<b>Unit of Measure</b>	<b>Frequency</b>	<b>Sampling Method</b>
Total Suspended Solids	mg/L	Monthly	Grab Sample
pH	pH units	Monthly	Grab Sample
Iron	ug/L	Monthly	Grab Sample
Zinc	ug/L	Monthly	Grab Sample
Copper	ug/L	Monthly	Grab Sample
Lead	ug/L	Monthly	Grab Sample

<sup>38</sup> EPA GTA No. 5.6

<sup>39</sup> EPA GTA No. 5.10

<sup>40</sup> EPA GTA No. 6.11

<sup>41</sup> EPA GTA No. 6.11

<sup>42</sup> EPA GTA No.3.4

Manganese	ug/L	Monthly	Grab Sample
Cyanide	ug/L	Monthly	Grab Sample
Mercury	ug/L	Monthly	Grab Sample
Phenols	ug/L	Monthly	Grab Sample
Total PAH	ug/L	Monthly	Grab Sample
Arsenic	ug/L	Monthly	Grab Sample
C6-C36	ug/L	Monthly	Grab Sample
BTEX	ug/L	Monthly	Grab Sample

A note must be recorded in accordance with the above table where:

- (a) a sample is taken from the stormwater in the stormwater detention basin(s) but there is no discharge occurring;
- (b) the stormwater basin(s) are empty of stormwater.

## 9. ENVIRONMENTAL MANAGEMENT AND REPORTING

### Environmental Officer

9.1 The Applicant shall employ a suitably qualified and experienced Environmental Officer(s) throughout the life of the project, whose appointment is acceptable to the Director-General. The Officer(s) will:

- (a) be responsible for the preparation of the environmental management plans (refer Conditions 4.1 – 4.4);
- (b) be responsible for considering and advising on matters specified in the conditions of this consent and advising on compliance with such matters;
- (c) be responsible for receiving and responding to complaints in accordance with Condition 9.9);
- (d) facilitate an induction and training program for all persons involved with site preparation and construction activities; and
- (e) advise the Site Manager to require reasonable steps to be taken to avoid or minimise unintended or adverse environmental impacts and failing the effectiveness of such steps, to stop work immediately if an adverse impact on the environment is likely to occur.

The Applicant shall notify the Director-General of the name and contact details of the Environmental Officer(s) upon appointment and any changes to that appointment.

### Annual Environmental Management Report

9.2 Twelve months after commencement of operations at the MPT, and annually thereafter for the duration of the development, the Applicant must submit an Annual Environmental Management Report to the Director-General and EPA. This report must:

- (a) Identify all the standards, performance measures, and statutory requirements the development is required to comply with;
- (b) Review the environmental performance of the development to determine whether it is complying with these standards, performance measures, and statutory requirements.
- (c) Identify all the occasions during the previous year when these standards, performance measures, and statutory requirements have not been complied with;
- (d) Include a summary of any complaints made about the development, and indicate what actions were taken (or are being taken) to address these complaints;

- (e) Include the detailed reporting from the Environmental Monitoring Program (see Condition 8.1), and identify any trends in the monitoring over the life of the project; and
- (f) Where non-compliance is occurring, describe what actions will be taken to ensure compliance, who will be responsible for carrying out these actions, and when these actions will be implemented.

9.3 After reviewing the Annual Environmental Management Report, the Director-General may require the Applicant to address certain matters identified in the report. The Applicant must comply with any reasonable requirements of the Director-General.

### **Independent Environmental Audit**

9.4 Within 12 months of commissioning the Multi-Purpose Terminal and every three years thereafter, unless the Director-General directs otherwise, the Applicant must commission and pay the full cost of an Independent Environmental Audit. The Independent Environmental Audit must:

- (a) Be conducted by a suitably qualified, experienced, and independent person whose appointment has been endorsed by the Director-General;
- (b) Be consistent with *ISO 14010 – Guidelines and General Principles for Environmental Auditing*, and *ISO 14011 – Procedures for Environmental Auditing*, or updated versions of these guidelines/manuals;
- (c) Assess the environmental performance of the development, and its effects on the surrounding environment;
- (d) Assess whether the development is complying with the relevant standards, performance measures, and statutory requirements;
- (e) Review the adequacy of the Applicant's Environmental Management Plan, and Environmental Monitoring Program; and, if necessary,
- (f) Recommend measures or actions to improve the environmental performance of the plant, and/or the environmental management and monitoring systems.

9.5 Within 2 months of commissioning the audit, the Applicant must submit a copy of the audit report to the Director-General. After reviewing the report, the Director-General may require the Applicant to address certain matters identified in the report. The Applicant must comply with any reasonable requirements of the Director-General.

### **Community Consultative Committee**

9.6 The Applicant shall establish a Community Consultative Committee (CCC) and ensure that the first meeting is held prior to the commencement of any construction work on site, or as otherwise agreed to by the Director-General. The members of the CCC shall include:

- An independent chairperson nominated by the Councils and approved by the Director-General;
- At least four community representatives residing within two (2) kilometres of the site boundary;
- Not more than two representatives appointed by the Applicant, one of which must be the Environmental Officer appointed under Condition 9.1; and
- At least one representative from the Council.

9.7 The Applicant shall advertise for expressions of interest for membership with respect to the community representative positions. Advertising shall be in an appropriate local newspaper on at least one occasion. Based on the expressions

of interest received, the Applicant shall nominate appropriate representatives and submit details of the nominated representatives for the approval of the Director-General.

Meetings shall be held at regular intervals from the date of this consent as determined by the chairperson.

Representatives from relevant government agencies or other individuals may be invited to attend meetings as required by the Chairperson. The CCC shall act as the interface between the Applicant and its operation, and the broader community. A charter for the CCC is to be approved by the Director-General in consultation with the Council and shall provide for the provision of information and procedures for bringing to the Applicant's attention, issues associated with the environmental performance of the site remediation, and construction and operation of the MPT, and implementation of conditions of consent.

9.8 The Applicant shall, at its own expense:

nominate two (2) representatives to attend all meetings of the Committee;

- (a) provide to the Committee regular information on the progress of work and monitoring results;
- (b) promptly provide to the Committee such other relevant information as the Chair of the Committee may reasonably request concerning the environmental performance of the development;
- (c) provide access for site inspections by the Committee upon arrangement;
- (d) provide meeting facilities for the Committee, and take minutes of Committee meetings. These minutes shall be available for public inspection at the Councils within 14 days of the meeting; and
- (e) meet all reasonable administrative costs associated with operating the CCC up to a value of \$2000 per annum indexed according to the Consumer Price Index (CPI) at the time of payment.

### **Complaints Procedure**

9.9. <sup>43</sup>Prior to the commencement of site remediation activities the Applicant shall arrange:

- (a) a toll free number for the purpose of receiving any complaints from members of the public in relation to activities conducted at the site, unless otherwise specified in an environment protection licence issued by the EPA; and
- (b) a postal address where written complaints can be lodged.

The Applicant must notify the public of the telephone number and postal address via an advertisement in the appropriate local newspaper prior to commencement of site preparation works. The telephone number and postal address shall be displayed near the entrance to the site, in a position visible from the nearest public road.

### **10. DISPUTE RESOLUTION**

10.1 If the Applicant, Newcastle City Council, and/or any NSW Government agency, other than the Department of Urban Affairs and Planning, cannot agree on any aspect of this consent, other than a General Term of Approval, the matter may be referred by any of these parties to the Director-General or, if necessary, the Minister, whose determination on the dispute shall be binding on all parties.

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<sup>43</sup> EPA GTA Nos. 7.3 & 7.4

