

**APPENDIX E    RECOMMENDED MODIFYING INSTRUMENT**

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# Modification of Minister's Approval

## Section 75W of the *Environmental Planning & Assessment Act 1979*

The Planning Assessment Commission of New South Wales (**the Commission**) as delegate of the Minister for Planning and Infrastructure under delegation made on the 14 September 2011, approves the modification application referred to in Schedule 1, subject to the conditions in Schedule 2.

Member of the Commission

Member of the Commission

Sydney

2013

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### SCHEDULE 1

**Development Consent:**

DA 453-12-2002-i granted by the Minister for Planning on 27 October 2003.

**For the following:**

Modification to the layout and operation of the container terminal, comprising:

- Demolition and removal of structures;
- Construction of new road, rail and wharf infrastructure;
- Installation of new operational equipment;
- Construction of the Exceptions Administration Office; and
- Relocation of the road access to the public boat ramp to the north of Penrhyn Road.

In addition, the development includes the scope of activities described in the document listed in condition 1.2(i) which comprises:

- Removal or demolition of redundant buildings and infrastructure;
- Construction of new buildings and the installation of associated infrastructure;
- Pavement improvement works; and
- Modifications to a range of utilities and services.

**Modification:**

DA 453-12-2002-i MOD 7 to undertake a range of demolition and construction activities at the Patrick Container Terminal.

## SCHEDULE 2

**1) Replace existing condition 1.2 (i) with the following:**

- (i) modification application DA-453-12-2002-i MOD 7, accompanied by an assessment report titled *Section 75W Modification Port Botany Container Terminal Environmental Assessment* prepared by GHD and dated June 2013; and
- (j) the conditions of this consent.

**2) Delete condition 1.4 and the associated Note.**

**3) Replace the table in condition 3.3 with the following table:**

Location	Day		Evening		Night	
	L <sub>Aeq</sub> (15 minute)	L <sub>A1</sub> (1 minute)	L <sub>Aeq</sub> (15 minute)	L <sub>A1</sub> (1 minute)	L <sub>Aeq</sub> (15 minute)	L <sub>A1</sub> (1 minute)
Most affected residential premises	55	55	43	55	43	55

**4) Replace existing condition 3.5 and Note with the following:**

- 3.5 <sup>5</sup>Within six (6) months of the date of this consent, the Applicant shall submit a Noise Assessment Report to the Director-General and the EPA for approval. The report shall be prepared by a suitably qualified and experienced specialist in the field of acoustics. The report shall contain the following information:
- (a) A critical review of all measures capable of achieving a reduction in noise emitted by operation of the facility during and upon completion of the development phase including the timetable for implementation of each measure. The report shall contain sufficient information to justify the claim that all reasonable and feasible noise control measures have been incorporated into the redevelopment of the facility so that the noise limits specified in condition 3.3 of this consent, have been achieved as early as possible prior to that date;
  - (b) A timetable specifying dates by which all reasonable and feasible measures will be implemented as identified in (a) above; and
  - (c) Identification and timetabling of noise control measures to reduce noise from existing plant and equipment.

**5) Replace existing condition 3.6 with the following:**

- 3.6 <sup>6</sup>Noise from the site shall be measured at the most affected point on or within the residential boundary, to determine compliance with the noise limits in condition 3.3 of this consent.

Where it can be demonstrated that direct measurement of noise from the site is impractical, the EPA may accept alternative means of determining compliance. See Chapter 11 of the *NSW Industrial Noise Policy*.

<sup>5</sup> EPA General Terms of Approval – E 3.1

<sup>6</sup> EPA General Terms of Approval – L 6.3

The modification factors provided in Section 4 of the *NSW Industrial Noise Policy* shall be applied to the measured noise levels where applicable.

**6) Insert two new conditions 3.15A and 3.15B, as follows:**

3.15A All parking associated with construction shall be temporary, provided within construction compounds and located wholly within the site.

3.15B The site shall provide a maximum of 333 car parking spaces within two new car parks. Of the total number of spaces, at least two shall be for visitor parking and one mobility impaired space provided, located adjacent to building entries and clearly delineated. All car parking, landscaping and bicycle parking shall be provided and designed in accordance with the *Port Botany Development Code 2012*.

**7) Delete the Note that follows existing condition 3.28.**

**8) Replace existing condition 3.47 with the following:**

3.47 During construction of the development, the Applicant shall ensure that all vehicles entering or leaving the site, carrying a load that may generate dust, are covered at all times, except during loading and unloading. Any such vehicles shall be covered or enclosed in a manner that will prevent emissions of dust from the vehicle.

**9) Replace existing condition 6.2(c) with the following:**

6.2(c) A **Traffic Management Plan (TMP)** shall be prepared to the satisfaction of the Director-General and submitted at least two weeks prior to the commencement of construction of, or the modification to, the truck and rail portals. The TMP shall specifically address the management of construction traffic and the alternate arrangements for truck/rail movements around the Terminal during construction.

**10) Insert a new condition 6.10, as follows:**

6.10 Where standards, guidelines or other documents are referred to in the conditions, the latest version of these standards, guidelines or documents shall apply, unless otherwise agreed by the Director-General.

**11) Replace existing condition 7.13 with the following:**

***Emergency Spill Response Management Plan***

7.13 The Applicant shall develop an Emergency Response and Incident Management Plan in consultation with the EPA and Council. The Plan must be approved by the Director-General prior to the commencement of operations and shall include the following:

- (a) list of chemicals and maximum quantities to be stored at the site;
- (b) identification of potentially hazardous situations;
- (c) procedure for incident reporting;
- (d) details of spill stations and signage;
- (e) containment and clean-up facilities and procedures; and
- (f) the roles of all staff in the Plan and details of staff training.

**12) Replace existing condition 7.16 with the following:**

***Spray Painting***

- 7.16 All spray painting is to be carried out in a spray booth constructed and ventilated in accordance with AS 1668.2-2002 – The Use of Mechanical Ventilation and Air-Conditioning in Buildings. Exhausts from the spray booth shall be discharged through a single stack with a minimum height of 3 metres above the ridge of the building. The stack shall be located not less than 6 metres from any fresh air intake or openable window. Disposal of wastewater from wet scrubbing shall be disposed of in accordance with Sydney Water's *Trade Waste Policy and Management Plan*.
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