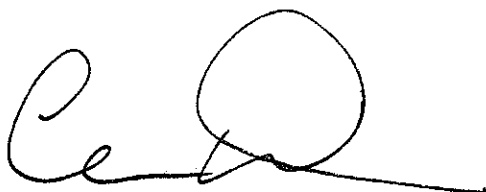


Modification Approval

Section 96(1A) of the *Environmental Planning and Assessment Act 1979*

I, the Executive Director, Major Project Assessments, as delegate for the Minister for Planning, pursuant to section 96(1A) of the *Environmental Planning and Assessment Act 1979*, modify the development consent referred to in Schedule 1 in the manner set out in Schedule 2.



Chris Wilson
Executive Director
Major Project Assessments

Sydney 11 SEPTEMBER 2007

File No: S01/02520

SCHEDULE 1

- Development consent:** granted by the Minister for Planning on 13 October 2005.
- In respect of:** Lot 2 DP 1009870, Lot 6 DP 1053768, Lots 301 & 302 DP 712992, Part of Crown Reserve R91288, Lots 203 & 205 DP 712991 and Lot 401 DP 816961, Botany Bay Local Government Area.
- For the following:** The construction and operation of a new container terminal and associated infrastructure.
- Modification Application:** Modification to permit:
- land based activities associated with dredging to be undertaken at night; and
 - dredging activities to be undertaken within specific turbidity limits.
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SCHEDULE 2

The development consent is modified by:

1) replacing existing condition A1.1 h) with the following:

- h) modification application MOD-149-12-2006-i, accompanied by *Port Botany Expansion, Section 96(1A) Modification – Application to Modify Conditions B2.9 and B2.22 of the Port Botany Consent*, prepared by Sydney Ports Corporation and dated 1 December 2006;
- i) the conditions of this consent.

2) replacing existing condition B2.9 with new conditions B2.9 and B2.9A as follows:

B2.9 All dredging works associated with the project shall be undertaken in a manner that does not cause turbidity outside the silt curtain(s) installed south of the works area to exceed the background turbidity by more than an equivalent suspended sediment concentration of 50mg/L. This limit applies within the waters of Botany Bay south of the works area outside the edge of the silt curtain, when measured in accordance with the Soil and Water Management Plan required under condition B2.5. If turbidity levels exceed the above limit, the Applicant shall:

- a) immediately cease the dredging works contributing to the exceedance of the limit;
- b) within one hour report the result of the water quality monitoring to the DEC's Environment Line on 131 555; and
- c) investigate the cause of the increased levels of turbidity and develop and implement additional measures to prevent recurrence.

B2.9A In the existing bird feeding habitat to be retained as part of the Penrhyn Estuary Habitat Enhancement Plan required under condition B2.31, sediment deposition over the area shall not exceed an average of 2 centimetres per year.

3) replacing existing condition B2.22 with new conditions B2.22 and B2.22A, as follows:

Construction Noise Criteria - Dredging

B2.22 During the evening and night-time periods, the Applicant shall undertake all dredging construction activities, including any associated land-based works, such that noise from those activities does not exceed the Rating Background Level by more than 5 dB(A) at the nearest sensitive receptor when expressed as $L_{A10(15\text{ minute})}$. This condition applies under acoustically neutral meteorological conditions and for winds considered to be a feature of the area. For the purpose of this condition:

- a) Evening period includes Monday to Sunday, and public holidays, from 6:00 pm to 10:00 pm; and
- b) Night-time period includes Monday to Saturday, 10.00 pm to 7.00 am and Sundays and public holidays 10.00 pm to 8.00 am.

For other meteorological conditions, the Applicant shall apply all reasonable and feasible noise mitigation measures to the construction works, to ensure that the requirements of this consent and the requirements of any Environment Protection Licence issued with respect to the development are met, including, but not necessarily limited to the following measures, where applicable:

- a) using treated equipment, installing noise barriers and using minimal land based equipment;
- b) programming works to minimise the amount of land-based dredging activities that are required to be undertaken at night; and
- c) conducting works away from sensitive receivers.

B2.22A Prior to the commencement of any dredging construction activities during the night-time period, including any associated land-based works, the Applicant shall prepare and submit for the approval of the Director-General, a **Night-Time Works Noise Management Protocol** to detail specific noise mitigation, management and monitoring measures to be applied to night-time dredging construction activities. The Protocol shall be developed in consultation with the DEC and the Community Consultative Committee for the development, and shall be prepared and implemented with the principal aim of protecting local acoustic amenity during night-time works. The Protocol shall include, but not necessarily be limited to:

- a) procedures to ensure that all reasonable noise mitigation measures are applied to night-time dredging construction activities;
 - b) identification of the associated noise sources and activities that will be carried out during night-time dredging construction activities;
 - c) assessment of night-time dredging construction activities noise impacts against applicable noise limits at all relevant receivers;
 - d) details of overall management methods and procedures that will be implemented to control noise from during night-time dredging construction activities;
 - e) a pro-active and reactive strategy for dealing with complaints, with particular regard to verbal and written responses;
 - f) noise monitoring, reporting and response procedures;
 - g) internal compliance audits of all relevant plant and equipment;
 - h) night-time dredging construction activity timetabling to minimise noise impacts;
 - i) procedures for notifying residents of night-time dredging construction activities likely to affect their noise amenity; and
 - j) arrangements established with the Community Consultative Committee in relation to night-time noise.
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