

**DETERMINATION OF A DEVELOPMENT APPLICATION
FOR STATE SIGNIFICANT AND DESIGNATED DEVELOPMENT
UNDER SECTION 80 OF THE
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

I, the Minister for Planning, pursuant to section 80 (4) and (5) of the *Environmental Planning and Assessment Act 1979*, determine the development application referred to in Schedule 1 by granting development consent subject to the conditions set out in Schedule 2.

The reason for the imposition of conditions is to:

- a) minimise any adverse environmental impacts associated with the construction of the development;
- b) minimise any adverse environmental impacts associated with the on-going operation of the development;
- c) provide a staged framework for strategic planning of port development in line with demand for port facilities and further investigations into alternative port development options.

Frank Sartor MP
Minister for Planning

Sydney, 13 October 2005

File No. S01/02520

MOD 1 – MOD-107-9-2006-i approved 11 September 2007
MOD 2 – MOD-134-11-2006-i approved 11 September 2007
MOD 3 – MOD-149-12-2006-i approved 11 September 2007
MOD 4 – MOD-78-9-2007-i approved 17 September 2007
MOD 5 – MOD-60-9-2008 approved 21 September 2008
MOD 6 – MOD-68-12-2008 approved 12 December 2008
MOD 7 – MOD-08-03-2009 approved 20 March 2009
MOD 8 – 494-11-2003-i MOD 8 approved 30 May 2009

SCHEDULE 1

Application made by:	Sydney Ports Corporation
To:	Minister for Planning
In respect of:	Land described as: 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.
Development Application:	Development Application DA-494-11-2003-i, lodged with the Department on 26 November 2003, accompanied by <i>Port Botany Expansion Environmental Impact Statement</i> (ten volumes), prepared by URS Pty Ltd and dated November 2003;
State Significant Development	Under Section 76A(7) of the Act, the development is classified as State Significant development by virtue of a declaration made by the Minister for Planning on 29

June 2001 for berths for shipping, shipping terminals and associated buildings, structures and works within certain lands within the Botany Bay Local Government Area.

Commission of Inquiry

The development was subject to a Commission of Inquiry under section 119 of the *Environmental Planning and Assessment Act 1979*. The primary session of the Inquiry was held from 19 to 28 October 2004. The reply session of the Inquiry was held from 14 to 18 February 2005. The Commission's recommendations following the Inquiry are detailed in *Report to the Honourable Craig Knowles MP, Minister for Infrastructure and Planning, Minister for Natural Resources – Proposed Port Botany Expansion, City of Botany Bay, Sydney Ports Corporation*, dated May 2005

Staged Consent

In accordance with Section 80(4) and (5) of the *Environmental Planning and Assessment Act 1979*, this consent only permits works associated with Stage 1 of the development as defined in Schedule 2, Sub-schedule A. Stage 2 works will require the issue of further development consent.

Appeal Rights

There is no right of appeal to the Land and Environment Court under section 97 or section 98 of the *Environmental Planning and Assessment Act 1979*, as the development is a State Significant Development into which a Commission of Inquiry was held.

Commencement of Consent

Pursuant to section 83(1)(b) of the *Environmental Planning and Assessment Act 1979*, this consent operates from the date that is endorsed on the notice of determination given to the Applicant, because a Commission of Inquiry has been held into the development.

Lapse of Consent

Pursuant to section 95 of the *Environmental Planning and Assessment Act 1979*, this development consent is liable to lapse five years after the date from which it operates unless the use of any land, building or work the subject of the consent is actually commenced before the date on which the consent would otherwise lapse.

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SCHEDULE 2

Schedule 2 is divided into three sub-schedules as follows:

- Schedule A – Overall Scope of Development Works and General Provisions
- Schedule B – Construction and on-going Management of non-operational aspects of the Terminal
- Schedule C – Terminal Operations

In this consent, except in so far as the context or subject-matter otherwise indicates or requires, the following terms have the meanings indicated:

Act	<i>Environmental Planning and Assessment Act, 1979</i>
Applicant	Sydney Ports Corporation or any terminal operator(s) with a lease agreement with Sydney Ports Corporation to operate a terminal within the development area.
AQIS	Australian Quarantine and Inspection Service
ARTC	Australian Rail Track Corporation
Construction	all works associated with the construction of the development
Council	Botany City Council
DEC	NSW Department of Environment and Conservation
Department	NSW Department of Planning
development	the development to which this consent applies
DOP	Department of Planning
Director-General	Director-General of the NSW Department of Planning, or nominee
DPI	Department of Primary Industries
DNR	Department of Natural Resources
EPA	NSW Environment Protection Authority, as part of the Department of Environment and Conservation
Minister	Minister for Planning, or nominee
Operation	all activities associated with the operation of the development, being the movement of freight to and from the new container terminal and associated activities
RailCorp	Rail Corporation New South Wales
RTA	NSW Roads and Traffic Authority
site	the land to which this consent applies, including both dry-land and wet-land components of the site
SSROC	Southern Sydney Region of Councils
Stage 1	development defined in condition A2.1(a).
Stage 2	development defined in condition A2.1(b)
Terminal Footprint Infrastructure	those aspects of the development associated with the establishment of the Stage 1 port footprint (as generally outlined in sections 8.2 – 8.5 of Volume 1 of the EIS) including dredging and reclamation, compaction and preloading, wharf construction, road and rail infrastructure linkages, Penrhyn Estuary enhancement works.
Terminal Operations Infrastructure	those aspects of the development associated with the establishment of terminal operations (as generally described in section 8.6 of Volume 1 of the EIS) including hardstand areas (container storage, car parks and truck queuing areas), quay cranes, rail mounted gantries, administration facilities, workshops etc.

SCHEDULE A
OVERALL SCOPE OF DEVELOPMENT WORKS AND GENERAL PROVISIONS

A1. GENERAL

Scope of Development

A1.1 The approved aspects of the development shall be carried out generally in accordance with:

- a) Development Application DA-494-11-2003-i, lodged with the Department on 26 November 2003.
- b) *Port Botany Expansion: Environmental Impact Statement* (ten volumes), prepared by URS Pty Ltd and dated November 2003;
- c) *Port Botany Expansion Commission of Inquiry – Primary Submission* (two volumes), prepared by URS Pty Ltd and dated May 2004
- d) *Port Botany Expansion Commission of Inquiry – Supplementary Submission to Environmental Impact Statement*, prepared by URS Pty Ltd and dated August 2004
- e) *Port Botany Expansion Environmental Impact Statement – Supplementary Submission* (two volumes), prepared by URS Pty Ltd and dated October 2004; and, and
- f) modification application MOD-107-9-2006-i, accompanied by *Port Botany Expansion, Section 96(1A) Application: Modification of Consent Conditions*, prepared by Sydney Ports Corporation and dated September 2006;
- g) modification application MOD-134-11-2006-i, accompanied by *Port Botany Expansion, Section 96(1A) Modification – Wharf Structure Design*, prepared by Sydney Ports Corporation and dated November 2006;
- 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) modification application MOD-78-9-2007-i, accompanied by *Port Botany Expansion – Modification of Conditions C2.20 & C2.25*, prepared by Sydney Ports Corporation and dated July 2007;
- j) modification application MOD-60-9-2008, accompanied by *Port Botany Expansion – Modification of Conditions B2.46 and C2.25*, prepared by Sydney Ports Corporation and dated 27 August 2008;
- k) modification application MOD-68-12-2008, accompanied by a letter from Sydney Ports Corporation and dated December 2008;
- l) modification application MOD-08-03-2009, accompanied by a letter from Sydney Ports Corporation dated 16 February 2009 and assessment report titled *Port Botany Expansion – Rail Operations Section 96(1A) Modification* dated February 2009;
- m) modification application 494-11-2003-I MOD 8, accompanied by an assessment report titled *Port Botany Expansion – Ship Turning Area Dredging Section 96(1A) Modification* dated May 2009; and
- n) the conditions of this consent.

Insofar as they relate to the approved development.

A1.2 In the event of an inconsistency between:

- a) the conditions of this consent and any document listed from condition A1.1(a) to (m) inclusive, the conditions of this consent shall prevail to the extent of the inconsistency; and
- b) any document listed from condition A1.1(a) to (n) inclusive, the most recent document shall prevail to the extent of the inconsistency.

Statutory Requirements

- A1.3 All licences, permits and approvals shall be obtained and maintained as required throughout the life of the development. No condition of this consent removes the obligation to obtain, renew or comply with such licences, permits or approvals.

Port Throughput Capacity Limits

- A1.4 Port throughput capacity generated by operations in accordance with this consent shall be consistent with the limits specified in the EIS, that is, a maximum throughput capacity at the terminal of 1.6 million TEUs per annum and a total throughput at Port Botany of 3.2 million TEUs. These limits may not be exceeded by the development without further environmental assessment and approval. Sydney Ports Corporation shall prepare, or have prepared on its behalf, such further environmental assessment for the determination of the Minister.

A2. STAGING AND TIMING OF WORKS

Staging of Development

- A2.1 Pursuant to sections 80(4) and (5) of the Act, the development shall be undertaken in stages as follows:
- a) Stage 1 comprising the construction and operation of a container terminal and associated infrastructure within the development application area as described in Schedule 1, and generally consistent with the development layout and envelope shown in Schedule 3, and described as follows:
 - ⇒ Additional 550m plus 980m of berth face and approximately 51 hectares of land to the west of Brotherson Dock North
 - ⇒ Provision for an extra 4 nominal berths
 - ⇒ Dedicated road access to Foreshore Road via a bridge across the channel separating the terminal from the existing shoreline
 - ⇒ Rail access to the new terminal area by means of an extension of the existing Botany Freight Rail Line parallel to Foreshore Road including a rail bridge and culverts
 - ⇒ Two new rail sidings
 - ⇒ An inter-terminal access road and two additional rail storage sidings parallel to the northern boundary of the Patrick Terminal
 - ⇒ Reclamation adjacent to Foreshore Road to create a recreational boat ramp, tug and support vessel facility
 - ⇒ Restoration and enhancement of Foreshore Beach and adjoining landscape area; and,
 - ⇒ Ecological habitat mitigation and enhancement works within Penrhyn Estuary.
 - b) Stage 2 comprising the construction and operation of approximately 12 hectares of additional terminal area and approximately 320m of additional quay line to accommodate a nominal fifth berth located at the northern end of the Stage 1 development.
- A2.2 Stage 2 works will be, with the approval of the Minister, the subject of a separate consent. Prior to the Minister considering granting consent for Stage 2 works:
- a) The Applicant shall submit, for the endorsement of the Minister, a report, prepared by an independent panel of experts appointed by the Minister and funded by the Applicant, that investigates and evaluates the following:
 - ⇒ environmental impacts and economic feasibility of an extension (eastern or western) to Brotherson Dock South to accommodate an additional shipping berth; and,
 - ⇒ an evaluation of the environmental and economic merits of an extension of Brotherson Dock South against Stage 2 of the development (Brotherson Dock North).
 - b) The report shall be submitted to the Minister within 3 months of the date of this consent or as otherwise directed by the Minister. The requirements of the report in terms of its scope and level of assessment shall be determined by the Director General.

A2.3 In seeking the Minister's approval for Stage 2 consent, the following matters must be demonstrated to the Minister's satisfaction:

- a) The provision of additional quay line for a nominal fifth berth would not preclude or hinder the introduction of an additional stevedore operation at the port; and
- b) That the environmental and economic benefits of an expansion in this location outweighs the benefits of providing additional quay line in the form of an extension to Brotherson Dock South.

Note: under the provisions of Section 80(5) of the Act, the development subject to the Stage 2 consent has been assessed as part of DA-49411-2003-i and would not require a separate development application to be lodged.

Port Freight Logistics Plan

A2.4 Prior to the commencement of construction, the applicant shall prepare, and submit, for the approval of the Minister, a Port Freight Logistics Plan which:

- (a) examines existing container freight logistics and identifies areas for improvement in the efficiency of container movements and rail interfacing through operational, technological or administrative changes;
- (b) proposes and develops an implementation program to maximise the use of rail infrastructure;
- (c) proposes and develops measures to improve the scheduling and utilisation of container truck movements so as to minimise the number of trucks attending the port and truck turnaround times; and
- (d) proposes an implementation program (including deliverable milestones and efficiency indicators) so as to ensure efficient and advanced Port freight logistics consistent with best practice.

The plan must be submitted and approved by the Minister prior to the commencement of construction.

A3. COMMENCEMENT OF CONSTRUCTION OF TERMINAL OPERATIONS INFRASTRUCTURE

A3.1 Commencement of the construction of terminal operations infrastructure on the area of the Stage 1 port footprint shown hatched in Schedule 3, shall not occur until such time as the Sydney Ports Corporation has submitted documentation, to the satisfaction of the Minister, by way of a copy of a contract(s) or agreement(s), by way of lease(s) or similar arrangement, between the Sydney Ports Corporation and any other party or parties, in respect of the construction and operation of new terminal facilities on that area that demonstrate that the area shall operate as a stand alone terminal. The Minister may exempt areas of the approved footprint from the requirements of this condition where it can be demonstrated that option agreements relating to such areas were in force prior to consent being granted.

SCHEDULE B
CONSTRUCTION WORKS AND ON GOING ENVIRONMENTAL MANAGEMENT OF
THE NON-OPERATIONAL ASPECTS OF THE TERMINAL

B1. GENERAL REQUIREMENTS

Application of Schedule

- B1.1 The conditions in this Schedule of the consent relate the following aspects of the development:
development activities and works associated with the construction phase(s) of terminal footprint infrastructure including transportation and delivery of materials and construction personnel to and from the site;
development activities associated with the construction of terminal operations infrastructure;
on-going management, mitigation and monitoring associated with the development, excluding direct terminal operation matters subject to the conditions in Schedule C.
- B1.2 The conditions in this Schedule of the consent must be complied with by the Applicant, or any party undertaking the activities and works referred to under condition B1.1 on behalf of the Applicant.

Construction Environmental Management Plan (CEMP)

- B1.3 The Applicant shall prepare a Construction Environmental Management Plan (CEMP) which, must be approved by the Director-General prior to the commencement of any site preparation or construction works. The CEMP must:
- Describe all activities to be undertaken on the site during site establishment and construction of the development;
 - Describe the relevant stages/phases of construction, including a work program outlining relevant timeframes for each stage/phase.
 - clearly outline stages/phases of construction that require on-going environmental management monitoring and reporting up to and beyond the commencement of operations of the terminal;
 - detail statutory and other obligations that the Applicant is required to fulfil during site establishment and construction, including all approvals, consultations and agreements required from authorities and other stakeholders, and key legislation and policies;
 - include specific consideration of measures to address any requirements of the Department, DEC, DNR and the Council during site establishment and construction;
 - describe the roles and responsibilities for all relevant employees involved in the site establishment or construction of the development;
 - detail how the environmental performance of the site preparation and construction works will be monitored, and what actions will be taken to address identified adverse environmental impacts;
 - include all Management Plans/Studies and Monitoring Programs required in this schedule;
 - include arrangements for community consultation and complaints handling procedures during construction; and
 - be made available for public inspection after approval of the Director General.

Separate CEMPs may be prepared and submitted for works associated with the construction of the terminal footprint.

Compliance Certification

- B1.4 Prior to each of the events listed from a) to c) below, or within such period otherwise agreed by the Director-General, documentation certifying that all conditions of this

consent applicable prior to that event have been complied with shall be submitted to the satisfaction of the Director-General. Where an event is to be undertaken in stages, submission of compliance certification may be staged consistent with the staging of activities relating to that event, subject to the prior agreement of the Director-General.

- a) commencement of construction works associated with the development;
- b) commencement of each phase of construction works established under the program required under condition B1.3; and
- c) completion of each phase of construction works established under the program required by condition B1.3.

The certifying documentation shall clearly outline any on-going environmental management, monitoring or reporting requirements associated with the concluded construction works phase.

- B1.5 Notwithstanding condition B1.4 of this consent, the Director-General may require an update report on compliance with all, or any part, of the conditions of this consent. Any such update shall meet the requirements of the Director-General and be submitted within such period as the Director-General may agree.

B2. CONSTRUCTION ENVIRONMENTAL PERFORMANCE

Air Quality Management

Odour Impacts and Sediment Sampling

- B2.1 Unless otherwise permitted by an Environment Protection Licence applicable to the development, the Applicant shall ensure that construction works are undertaken in compliance with section 129 of the *Protection of the Environment Operations Act 1997*.
- B2.2 During dredging and slewing activities, the Applicant must monitor for odours using field screening. The results of olfactory determination of the degree and extent of odour must be recorded together with a description of concurrent operational activities. Reports must be kept on the premises and made available to DEC officers on request.
- B2.3 The Applicant must undertake sediment sampling, in accordance with the Australian and New Zealand Guidelines for Fresh and Marine Water Quality (2000) and CSIRO's Handbook for Sediment Quality Assessment, prior to construction to identify presence of sediments that have the potential to create odours – for example peat and mud layers. The Applicant shall identify appropriate mitigation measures, if required, and as determined in consultation with DEC.

Dust Management Plan

- B2.4 The Applicant shall prepare a Dust Management Plan in consultation with DEC, RTA, DOP, Botany and Randwick Councils. The Applicant shall address the requirements of these organisations in the Plan. The Applicant shall also consult with the Community Consultative Committee in preparation of the Plan. Plan must include, but not be limited to strategies in which the construction shall:
- minimise or prevent the emission of dust from the site;
 - ensure that all trafficable areas and vehicle manoeuvring areas in or on the premises shall be maintained, at times, in a condition that will minimise the generation, or emission from the premises, of wind blown or traffic generated dust;
 - ensure that all vehicles entering and leaving the site and 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 at all times; and
 - ensure that all dust source surfaces are sealed.

The Plan shall be approved by the Director-General of DOP prior to commencement of construction.

Soil and Water Management

Soil and Water Management Plan

- B2.5 The Applicant shall prepare a Soil and Water Management Plan in consultation with DEC, RTA, DOP, DNR, Botany and Randwick Councils. The Applicant shall address the requirements of these organisations in the Plan. The Applicant shall also consult with the Community Consultative Committee in preparation of the Plan. The Plan must detail erosion and sediment controls, prepared in accordance with Managing Urban Stormwater: Soils and Construction (available from the Department of Housing) and must:
- identify the management responses to activities that could cause soil erosion or result in the discharge of sediments and/or other pollutants from the site;
 - specify standards/performance criteria for erosion, sediment, and pollution control including water sediment basin locations and discharge points, for example parameters, frequency, duration location and method; and
 - describe what actions and measures will be implemented, the effectiveness these actions and measures and how they will be monitored during the works, clearly indicating who will conduct the monitoring, how the results of this monitoring would be recorded; and, if any non-compliance is detected.

The Plan shall be approved by the Director-General of DOP prior to commencement of construction.

Acid Sulphate Soils

- B2.6 Prior to the commencement of construction activities, the Applicant must prepare an Acid Sulphate Soils Management Plan to assess and manage any Acid Sulphate Soils (ASS) or potential ASS (PASS). The Plan shall be prepared in accordance with the Acid Sulphate Soils Manual 1998 published by the NSW Acid Sulphate Soil Management Advisory Committee. In the event that ASS are encountered during the works, the Applicant shall notify the NSW Maritime Authority immediately.

Pollution Prevention

- B2.7 Unless permitted through an environment protection licence applicable to the development, the Applicant must comply with section 120 of the *Protection of the Environment Operations Act 1997*, which prohibits the pollution of waters.

Impact of Dredging

- B2.8 All activities associated with dredging and reclamation works shall be carried out in a manner that protects seagrass beds between the dredge area and Foreshore Beach, and between the dredge area and the Parallel Runway.

Impact of Dredging on Water Quality

- 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) 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 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:
- immediately cease the dredging works contributing to the exceedance of the limit;
 - within one hour report the result of the water quality monitoring to the DECC's Environment Line on 131 555;
 - investigate the cause of the increased levels of turbidity and develop and implement additional measures to prevent recurrence; and
 - implement those measures outlined in Table 4 of the document referred to in condition 1.1(m).
- 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.
- B2.10 The floating boom and silt curtain system shall be retained after the completion of dredging operations until the turbidity of water within the system returns to background levels.
- B2.10A Dredged spoil shall not be disposed of outside the construction area in Botany Bay, or in other NSW State waters. For the purpose of this condition, the construction area shall be those areas identified as "area to be dredged" and "area to be reclaimed", as generally outlined in Figure 8.4 of the document referred to under Condition A1.1b).
- B2.11 All activities associated with dredging and reclamation must be carried out to avoid spreading of *Caulerpa taxifolia* and be consistent with the current management plan for that species issued by the NSW Department of Primary Industries.
- B2.12 Dredging operations may not commence until a sediment sampling study has been undertaken in accordance with the Australian and New Zealand Guidelines for Fresh and Marine Water Quality (2000) and CSIRO's Handbook for Sediment Quality Assessment, and any subsequent recommendations for the management of the sediment during construction are adopted.

Consultation with Sydney Water

- B2.13 Prior to commencement of construction, the Applicant is required to consult with Sydney Water regarding the likely requirements from Sydney Water to obtain a section 73 Compliance Certificate.

Traffic, Transport and Infrastructure Management

Construction Traffic Management Plan

- B2.14 Prior to the commencement of any construction works, the applicant must prepare a Construction Traffic Management Plan in consultation with RTA, DOP, Botany and Randwick Councils and SSROC. The Applicant shall address the requirements of these organisations in the Plan. The Applicant shall also consult with the Community Consultative Committee in preparation of the Plan. Plan must include, but not be confined to, mitigation measures identified in EIS such as:
- identification of preferred haulage routes;
 - access routes and, signage and access arrangements on site;
 - measures to limit the impact on Foreshore Rd. and Botany Rd.;

- need for restrictions on delivery hours and/or routes; and,
- development of traffic management measures during construction works to ensure traffic disruptions are minimised.

The plan must be submitted and approved by the Director-General prior to the commencement of construction.

Safety Audit

- B2.15 The Applicant must undertake a safety audit in accordance with RTA guidelines upon completion of works but prior to operation to ensure the safety of any road works, traffic management facilities, cycling and pedestrian provisions undertaken as part of the proposed works.

Port Traffic Handbook

- B2.16 Prior to construction the Applicant must prepare a handbook and distribute it to drivers of construction related vehicles providing information on accepted routes, constraints to traffic and preferred hours of use and amenities on such routes to ensure that the impact of traffic growth on local traffic is minimised.

Rail Siding Capacity

- B2.17 To maximise the increase in rail mode share associated with the expansion of the Port, rail siding capacity shall be provided in accordance with the Plan required by condition A2.4 of Schedule A.

Rail Access to New Terminal

- B2.18 The Applicant shall ensure that Grade separation of Penrhyn Road over the rail access to the new berth includes the grade separation of the inter-terminal road over the rail access to Patrick's terminal. This is required to ensure efficient operation of both road and rail access to all existing and proposed new berths.

Noise and Vibration Management

Restrictions to Hours

- B2.19 The Applicant shall only undertake construction activities associated with the project (with the exception of dredging construction activities) that would generate an audible noise at any residential premises during the following hours:
- 7:00 am to 6:00 pm, Mondays to Fridays, inclusive;
 - 8:00 am to 1:00 pm on Saturdays; and
 - at no time on Sundays or public holidays.

Audible noise is defined as "noise that can be heard at the receiver".

This condition does not apply in the event of a direction from police or other relevant authority for safety or emergency reasons.

Note: 'safety or emergency reasons' refers to emergency works which may need to be undertaken to avoid loss of life, property loss and/or to prevent environmental harm.

- B2.19A The Applicant must seek the Director-General's approval to conduct construction activities audible at residential premises (with the exception of dredging construction activities) outside the hours specified under condition B2.19 on a case-by-case basis. In seeking the Director-General's approval, the Applicant shall demonstrate a need for activities to be conducted during varied hours and how local acoustic amenity will be protected, as well as details of how the EPA's requirements with respect to the variation of hours have been addressed.

- B2.19B For activities subject to an environment protection licence issued by the EPA under the *Protection of the Environment Operations Act 1997*, conditions B2.19 and

B2.19A do not apply if the EPA has approved activities to be conducted outside the hours permitted by condition B2.19.

Construction Noise Management Plan

B2.20 Prior to the commencement of construction, the Applicant must prepare a Construction Noise Management Plan in consultation with DEC, DOP, Botany and Randwick Councils. The Plan shall include noise mitigation for piling works for diesel powered machinery, provision of training to ensure that construction workers are aware of the noise created during construction and are appropriately trained to minimise noise where possible. In addition, the Construction Noise Management Plan must:

- identify general activities that will be carried out and associated noise sources;
- assess construction noise impacts at the relevant receivers;
- provide details of overall management methods and procedures that will be implemented to control noise during the construction stage;
- identification of all feasible and reasonable measures to minimise noise and vibration, including but not limited to:
 - o using least noisy construction methods, vehicles, plant and equipment;
 - o positioning and orientating noisy plant and equipment so as to minimise noise impacts on noise sensitive receivers and wildlife in Penrhyn Estuary;
 - o positioning items of noisy plant and equipment as far apart as is practicable from each other;
 - o minimising noisy activities by adopting alternative construction measures;
 - o carrying out above ground loading and unloading activities as far away as is practicable from noise sensitive receivers and wildlife in Penrhyn Estuary;
 - o designing each work site to minimise the need for truck reversing movements;
 - o ensuring all vehicles and self-propelled plant and equipment enter and leave the premises in a forward direction unless unforeseen accidents or other unforeseeable circumstances arise that may require reversing movements, in which case minimising any such reversing movements;
 - o taking all practicable steps to avoid reversing movements on the surface within the premises, and where it is impracticable to avoid reversing movements, taking all necessary steps to minimise reversing movements; and
 - o preventing vehicle, plant and equipment queuing and idling outside the hours of construction prescribed by this consent.
- include a pro-active and reactive strategy for dealing with complaints including achieving the construction noise goals, particularly with regard to verbal and written responses;
- detail noise monitoring, reporting and response procedures consistent with DEC requirements;
- provide for internal audits of compliance of all plant and equipment;
- indicate site establishment timetabling to minimise noise impacts;
- include procedures for notifying residents of construction activities likely to affect their noise amenity;
- address the requirements of DEC; and
- be approved by the Director-General prior to the commencement of any works on the site.

Construction Noise Goals

- B2.21 The goal for noise from construction activities as the $L_{A10(15 \text{ minute})}$ should not exceed the Rating Background Level (RBL) plus 5dB(A) at sensitive receivers.

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:
- Evening period includes Monday to Sunday, and public holidays, from 6:00 pm to 10:00 pm; and
 - 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:

- using treated equipment, installing noise barriers and using minimal land based equipment;
 - programming works to minimise the amount of land-based dredging activities that are required to be undertaken at night; and
 - 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:
- procedures to ensure that all reasonable noise mitigation measures are applied to night-time dredging construction activities;
 - identification of the associated noise sources and activities that will be carried out during night-time dredging construction activities;
 - assessment of night-time dredging construction activities noise impacts against applicable noise limits at all relevant receivers;
 - details of overall management methods and procedures that will be implemented to control noise from during night-time dredging construction activities;
 - a pro-active and reactive strategy for dealing with complaints, with particular regard to verbal and written responses;
 - noise monitoring, reporting and response procedures;
 - internal compliance audits of all relevant plant and equipment;
 - night-time dredging construction activity timetabling to minimise noise impacts;
 - procedures for notifying residents of night-time dredging construction activities likely to affect their noise amenity; and
 - arrangements established with the Community Consultative Committee in relation to night-time noise.

Construction of Noise Barrier

B2.23 To help minimise the impact of operational noise on the surrounding area, a noise barrier shall be constructed by the Applicant along northern and eastern boundaries of the site prior to the commencement of operations. The applicant must seek appropriate independent expert advice to ensure the design of the noise barrier has regard to the flight path requirements of bird species using the area.

B2.23A Subject to the alternative rail option being implemented as described within the report listed in condition A1.1I), the Applicant shall construct a three metre high noise barrier along the northern edge of the Inter-terminal Access Road Corridor prior to the commencement of operations. The bottom two metres of the barrier shall be opaque and the top one metre shall be of transparent material sufficiently patterned to minimise impacts to bird species utilising the adjacent Penrhyn Estuary.

Other Construction Noise Matters

B2.24 The Applicant is required to identify measures to be implemented to ensure that where movement alarms are fitted to vehicles, plant or equipment entering or operating on the site, such alarms are of a type that minimises noise at noise sensitive receivers.

B2.25 The Applicant must install all physical noise management measures as early as is practicable during construction of the Port Botany Expansion project.

B2.26 The Applicant must not undertake any blasting on the premises

Port Traffic and Rail Noise Management Plan

B2.27 Within two years of commencement of terminal operations at the development, a Port Traffic and Rail Noise Management Plan shall be prepared by the Applicant in consultation with relevant stakeholders, including the Community Consultative Committee, DEC, DOP, Botany Council, SSROC and RailCorp. The Plan shall include consideration for traffic re-routing, traffic clustering and traffic rescheduling.

Rail Noise Working Group

B2.28 While expansion will generate an increase of trains on freight rail lines, the manager of the freight line RailCorp is subject to an Environment Protection licence with the EPA. The Applicant must establish a Rail Noise Working Group prior to the operation of the development. The Rail Noise Working Group shall address all associated rail noise issues and shall include but not be limited to RailCorp, ARTC, SPC, DOP, relevant councils and representatives of Community Consultative Committee and is required to consult with relevant regulatory authorities including DEC .

Rail Noise Assessment – Botany Yard – Cooks River

B2.29 Prior to construction of Stage 4 – rail duplicated line, a noise assessment should be conducted by the Rail Noise Working Group to identify potential impacts on residents along duplicated line and to recommend mitigation measures, including identification of responsibility for implementation of such measures.

Penrhyn Estuary (aquatic and terrestrial, surface water quality and related issues)

Terminal Design and Flushing of Penrhyn Estuary

B2.30 Prior to the commencement of construction, the Applicant must demonstrate to the satisfaction of the Director-General that the detailed terminal design will achieve predicted water quality outcomes in Penrhyn Estuary. Where appropriate, measures such as culverts, pipes or other water channelling devices shall be incorporated into the design to ensure enhanced flushing and maximum maintenance of water quality in Penrhyn Estuary.

Penrhyn Estuary Habitat Enhancement Plan

- B2.31 Prior to the commencement of enhancement works, the Applicant shall prepare a Penrhyn Estuary Habitat Enhancement Plan in consultation with Botany and Randwick Councils and the Community Consultative Committee, to be agreed between SPC, DEC, DPI (Fisheries), DNR and DOP. The Plan is to include:
- details of the proposed enhancement works, including design, staging and timing for completion of key tasks and timeframe for completion of works;
 - staging to include definition of completion of Stage 1 for purposes of evaluation of success;
 - details of success criteria for enhancement works, including measurement of impacts on bird numbers in accordance with a monitoring plan, levels and concentrations of food organisms required for birds, acceptable saltmarsh cover; use of existing environmental status as the benchmark for 'no negative impact' together with comparison of relevant reference sites; agreement on time periods for determination of success;
 - details of contingency plans for specific components for example, erosion of sand/mudflats;
 - inclusion of a Vegetation Management Plan, providing details of method for mangrove removal and control
 - inclusion of Marine Mammal Management Plan, prepared in consultation with DEC and DPI (Fisheries);
 - details of management and monitoring requirements including management and monitoring of surface water quality and groundwater (in liaison with DEC);
 - details of monitoring of extent, expansion and condition of estuary seagrass, including impact of turbidity, and required management responses;
 - details of responsibilities for ongoing maintenance of estuary, including maintenance of Stormwater Quality Improvement Devices (SQIDS); and
 - any other requirements identified and agreed on between the Applicant and relevant agencies.

The plan must be submitted and approved by the Director-General prior to the commencement of construction and all works undertaken to the satisfaction of the Director-General.

Penrhyn Estuary Habitat Enhancement Plan – Alternative Compensatory Habitat Options

- B2.32 The Applicant is required to identify, in consultation with DEC, appropriate compensatory conservation projects for funding that are consistent with the Green Offsets paper prepared by DEC (EPA, 2002). The identification of suitable projects and funding arrangements would need to be decided on, prior to dredging works or construction works commence within Penrhyn Estuary.

Note: The rationale to this condition is that the Applicant has committed to evaluation of the Stage 1 habitat enhancement works. If it is determined in consultation with DEC that the works have not been successful and that further works would also be unlikely to be successful, the Applicant would then be required to provide funding for compensatory conservation outcomes that are consistent with the Green offsets paper prepared by the DEC (EPA, 2002).

Waste Management

Construction Waste Management Plan

B2.33 Prior to the commencement of construction, the Applicant is required to prepare a Construction Waste Management Plan in consultation with Botany Council and DEC. The Plan must provide details of proposed waste management measures to minimise production and impact of wastes generated at the site including but not limited to:

- identification of the type and quantities of waste that would be generated, a description of how the waste would be handled, stored, re-used, recycled, and if necessary, appropriately treated;
- identification of a designated area for the storage and collection of waste and recyclable materials to be provided on the site;
- description of how the effectiveness of these measures would be monitored and, if non-compliance detected, actions to be required; and
- measures to involve and encourage employees and contractors to minimise domestic waste production on site and to reuse/recycle where possible.

Waste Management On-site

B2.34 Management of waste must be in accordance with the environment protection licence issued by EPA under the Protection of the Environment Operations Act 1997.

B2.35 All wastes and material generated on the site during construction and operation shall be classified in accordance with the DEC's Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-Liquid Wastes prior to transporting the waste off site and be disposed of to a facility that may lawfully accept the waste.

Hazardous and Industrial Waste

B2.36 Except as expressly permitted by a licence issued by the EPA under the Protection of the Environment Operations Act 1997, only the hazardous and/or industrial and/or Group A waste listed below may be generated and/or stored at the premises:

- waste oil/water, hydrocarbons/water mixtures or emulsions; and
- grease trap waste.

Visual amenity

Visual Amenity Plan

B2.37 Prior to the commencement of construction, the Applicant is to prepare a Visual Amenity Management Plan in consultation with Botany and Randwick Councils, SSROC and the Community Consultative Committee. The Plan shall include a Public Recreation and Ecological Plan as described in the EIS, and details of other measures to reduce the visual impact of the development. The Plan shall include details of:

- landscaping plans;
- design of pedestrian bridge linking Foreshore Beach with Sir Joseph Banks Park;
- quay crane specification;
- container stacking heights;
- terminal lighting;
- materials and colours; and
- noise wall design.

Heritage Management

Protection of Remains of Government Pier and Associated Cultural Deposits

B2.38 The Applicant shall develop measures to protect remains of Government Pier in consultation with the NSW heritage Office and incorporate those measures into Construction Environmental Management Plan.

Potential for Discovery of Aboriginal Heritage Objects

B2.39 If an Aboriginal object is discovered during the construction of the development, works should cease in the subject area and the Applicant shall notify DEC immediately.

Hydrodynamic and Coastal Processes

B2.40 To ensure that any impacts of the development on hydrodynamics and coastal processes over time is understood, a monitoring program, as outlined in the EIS, is to be implemented which will include:

- continuous recording of the wind and wave climate in Botany Bay and offshore;
- beach profiling or aerial photographic record/photogrammetric analysis of Silver Beach, Towra Beach, Spit Island, Lady Robinsons Beach and near-shore shoals; and
- ongoing assessment of the need for removal of accumulated sand at the groyne and any replenishment required at the new boat ramp.

B2.40A In the event that monitoring indicates that wave action at Foreshore Beach intensifies beach erosion in a manner that adversely impacts on seagrasses, the Proponent shall identify in consultation with the DPI, and submit for the approval of the Director-General, additional protection measures (such as wave energy dissipation devices) that the Proponent will implement to address these adverse impacts. The Proponent shall specify the scope and timing of additional protection measures, and shall implement those measures to the satisfaction of the Director-General, within such period as the Director-General may require.

Hazards and Risk Management

Construction Safety Study

B2.41 The Applicant shall prepare a Construction Safety Study prior to the commencement of construction of the terminal operations infrastructure, in accordance with *Hazardous Industry Planning Advisory Paper No. 7 – Construction Safety Study Guidelines* (DoP, 1992). The commissioning portion of the Construction Safety Study may be submitted two months prior to the commencement of commissioning. The Study shall be submitted for the approval of the Director-General prior to the commencement of construction of the terminal operations infrastructure.

Fire Safety Study

B2.42 The Applicant shall prepare a Fire Safety Study prior to the commencement of construction of the terminal operations infrastructure, in accordance with *Hazardous Industry Planning Advisory Paper No. 2 – Fire Safety Study Guidelines* (DoP, 1993). The Study shall be submitted for the approval of the Director-General and the Commissioner of the NSW Fire Brigades prior to the commencement of construction of the terminal operations infrastructure.

Emergency Incident Management

Emergency Response and Incident Management Plan

B2.43 The Applicant shall develop an Emergency Response and Incident Management Plan in consultation with DEC, DOP, Council and the Community Consultative Committee. The Plan must be approved by the Director-General prior to the commencement of construction and shall detail:

- terminal security and public safety issues;
- effective spill containment and management;
- effective fire fighting capabilities;
- effective response to emergencies and critical incidents; and
- a single set of emergency procedures, consistent with the existing Port Botany Emergency Plan, should be developed that can be scaled as appropriate for any incident or emergency.

Aviation Construction Management

Impact on Aviation Operations at Sydney Airport

B2.44 The Applicant shall ensure that all aspects associated with the construction of the development considers the required lateral separation distances to minimise the interference to Sydney Airport radar and navigational systems.

B2.45 The Applicant shall ensure design of the navigation channel and ship turning areas considers the required lateral separation distances to minimise interference to Sydney Airport radar and navigational systems. The design shall be undertaken in consultation with Air Services Australia.

Obstacle limitation Surface

B2.46 The Applicant shall ensure that all construction equipment is below the obstacle limitation surface, unless otherwise permitted by an approval under the *Airports (Protection of Airspace) Regulation 1996* and following consultation with the Department of Infrastructure, Transport, Regional Development and Local Government, Civil Aviation Safety Authority and Sydney Airport Corporation Limited.

Terminal Construction Lighting Design

B2.47 The Applicant shall ensure design specifications of any construction lighting conform to the requirements of Regulation 94 of the Civil Aviation Regulations 1988.

Development and Certification of Navigational and Surveillance Technologies

B2.48 Construction may not commence until details regarding the steps and timeframes for resolution of aviation issues, including certification, has been endorsed by Air Services Australia and to the Minister for and Planning.

B3. COMMUNITY INFORMATION, INVOLVEMENT AND CONSULTATION

Community Information and Complaints Handling

B3.1 The Applicant must meet the following requirements in relation to community consultation and complaints management:

- all monitoring, management and reporting documents required under the development consent shall be made publicly available;
- provide means by which public comments, inquiries and complaints can be received, and ensure that those means are adequately publicised; and
- includes details of a register to be kept of all comments, inquiries and complaints received by the above means, including the following register fields:
 - the date and time, where relevant, of the comment, inquiry or complaint;

- the means by which the comment, inquiry or complaint was made (telephone, fax, mail, email or in person);
- any personal details of the commenter, inquirer or complainant that were provided, or if no details were provided, a note to that effect;
- the nature of the complaint;
- any action(s) taken by the Applicant in relation to the comment, inquiry or complaint, including any follow-up contact with the commenter, inquirer or complainant; and
- if no action was taken by the Applicant in relation to the comment, inquiry or complaint, the reason(s) why no action was taken.
- Provide quarterly reports to the Department and DEC, where relevant, outlining details of complaints received.

Community Consultative Committee

B3.2 Within 6 months of this consent or prior to commencement of construction, whichever is earlier, the Applicant shall establish a Community Consultative Committee to oversee the environmental performance of the development. This committee shall:

- (a) be comprised of:
 - 2 representatives from the Applicant, including the person responsible for environmental management;
 - 1 representative from Botany Bay City Council; and
 - at least 3 representatives from the local community, whose appointment has been approved by the Director-General in consultation with the Council;
- (b) be chaired by an independent party approved by the Director-General;
- (c) meet at least four times a year, or as otherwise agreed by the CCC;
- (d) review and provide advice on the environmental performance of the development, including any construction or environmental management plans, monitoring results, audit reports, or complaints; and

Note: The Applicant may, with the approval of the Director-General, combine the function of this CCC with the function of other Community Consultative mechanisms the area, however, if it does this it must ensure that the above obligations are fully met in the combined process.

B3.3 The Applicant shall, at its own expense:

- (a) ensure that 2 of its representatives attend the Committee's meetings;
- (b) provide the Committee with regular information on the environmental performance and management of the development;
- (c) provide meeting facilities for the Committee;
- (d) arrange site inspections for the Committee, if necessary;
- (e) take minutes of the Committee's meetings;
- (f) make these minutes available on the Applicant's website within 14 days of the Committee meeting, or as agreed to by the Committee;
- (g) respond to any advice or recommendations the Committee may have in relation to the environmental management or performance of the development; and
- (h) forward a copy of the minutes of each Committee meeting, and any responses to the Committee's recommendations to the Director-General within a month of the Committee meeting.

Community Enhancement

B3.4 Prior to the commencement of construction of terminal footprint infrastructure, the Applicant shall prepare and submit for the approval of the Director General, a Community Enhancement Program (CEP) to fund (or provide in kind) community infrastructure and services in the vicinity of Port Botany. The CEP shall include a contribution toward the development of a multi-purpose hall / gymnasium at Mascot High School. The Applicant establish a fund and contribute to it the sum of \$3 million

for the purposes of implementing the CEP. In preparing the Community Enhancement Program the Applicant shall consult with the Community Consultative Committee, Botany Bay City Council and Randwick City Council.

- B3.5 As part of terminal footprint infrastructure construction, the Applicant shall construct a pedestrian bridge accessible to wheelchairs over the Botany Freight Rail line at Banksia Street.

Note: the pedestrian bridge required in condition B3.5 does not form part of the Community Enhancement Program in Condition B3.4

B4. ENVIRONMENTAL MANAGEMENT, REPORTING AND AUDITING

Incident Reporting

- B4.1 The Director-General shall be notified of any incident with actual or potential significant off-site impacts on people or the biophysical environment within 12 hours of the Applicant, or other relevant party undertaking the development, becoming aware of the incident. Full written details of the incident shall be provided to the Director-General within seven days of the date on which the incident occurred. The Director-General may require additional measures to be implemented to address the cause or impact of any incident, as it relates to this consent, reported in accordance with this condition, within such period as the Director-General may require.

Annual Environmental Management Report (AEMR)

- B4.2 The Applicant must prepare an Annual Environmental Management Report for the development. The Annual Environmental Management Report must:
- detail compliance with the conditions of this consent;
 - contain a copy of the Complaints Register (for the preceding twelve-month period, exclusive of personal details) and details of how these complaints were addressed and resolved;
 - include a comparison of the environmental impacts and performance predicted in the EIS and additional information documents provided to the Department and Commission of Inquiry;
 - detail results of all environmental monitoring required under the development consent and other approvals, including interpretations and discussion by a suitably qualified person;
 - contain a list of all occasions in the preceding twelve-month period when environmental performance goals have not been achieved, indicating the reason for failure to meet the goals and the action taken to prevent recurrence of that type of incident;
 - be prepared within twelve months of the commencement of construction, and every twelve months thereafter;
 - be approved by the Director-General; and
 - be made available for public inspection.

Environmental Representative

- B4.3 Prior to the commencement of construction, a suitably qualified and experienced Environmental Representative(s) shall be nominated and approved by the Director-General. The Environmental Representative(s) shall be employed for the duration of the construction and the on-going management, mitigation and monitoring associated with the development, excluding direct terminal operation matters subject to the conditions in Schedule C, or as otherwise agreed by the Director-General. The Environmental Representative shall be:
- a) the primary contact point in relation to the environmental performance of the construction phases;
 - b) responsible for all Management Plans and Monitoring Programs required under this consent, in relation to the construction phases;

- c) responsible for considering and advising on matters specified in the conditions of this consent, and all other licences and approvals relating to the environmental performance and impacts of the construction phases;
- d) responsible for the management of procedures and practices for receiving and responding to complaints and inquiries in relation to the environmental performance of the construction phases;
- e) required to facilitate an induction and training program for relevant persons involved with the construction phases; and
- f) given the authority and independence to require reasonable steps be taken to avoid or minimise unintended or adverse environmental impacts, and failing the effectiveness of such steps, to direct that relevant actions be ceased immediately should an adverse impact on the environment be likely to occur.

Environmental Training

B4.4 Prior to the commencement of any dredging, reclamation and construction an Environmental Training Program shall be developed and implemented to establish a framework in which relevant employees will be trained in environmental management and the operation of plant and equipment, including pollution control equipment, where relevant. The Program shall include, but not necessarily be limited to:

- a) identification of relevant employment positions associated with the development that have an operational or management role related to environmental performance;
- b) details of appropriate training requirements for relevant employees;
- c) a program for training relevant employees in operational and/ or management issues associated with environmental performance; and
- d) a program to confirm and update environmental training and knowledge during employment of relevant persons.

Environmental Auditing

B4.5 Within one year of the commencement of construction and every year thereafter for the duration of construction a full independent environmental audit shall be undertaken by a suitably qualified person/team approved by the Director-General. The audits would be made publicly available and would:

- be carried out in accordance with ISO 14010 – Guidelines and General Principles for Environmental Auditing and ISO 14011 – Procedures for Environmental Auditing;
- assess compliance with the requirements of this consent, and other licences and approvals that apply to the development;
- assess the construction against the predictions made and conclusions drawn in the development application, EIS, additional information and Commission of Inquiry material; and
- review the effectiveness of the environmental management of the development, including any environmental impact mitigation works.

Note: An independent and transparent environmental audit can verify compliance (or otherwise) with the Minister's consent and various approvals. Auditing also provides an opportunity for continued improvement in environmental performance.

Maintenance and Management Plan for Expanded Area

B4.6 Within 1 month of full reclamation, or as otherwise agreed to by the Director-General, the Applicant shall prepare a Maintenance and Management Plan for the expanded area to address maintenance issues including safety, vegetation management, feral pest management and other issues identified by the Applicant in consultation with DOP. The preparation and implementation of the Plan is required in the event that the expanded area is not leased to a new operator immediately upon completion of construction. The Plan of the developed area is required until such time as a lease is signed.

SCHEDULE C

TERMINAL OPERATIONS

C1 GENERAL REQUIREMENTS

Application of Schedule

- C1.1 The conditions in this Schedule of the consent relate to all the development and activities associated with the operation of the container terminal and associated infrastructure.
- C1.2 The conditions in this sub-schedule of the consent must be complied with by the Applicant, or any party undertaking the activities and works referred to under condition C1.1. Should more than one terminal operator undertake operations within the terminal area, compliance with the conditions of this Schedule may be undertaken individually by operators, or collectively.

Operation Environmental Management Plan (OEMP)

- C1.3 The Applicant shall prepare an Operation Environmental Management Plan (OEMP) which must be approved by the Director-General prior to commencement of any operations at the terminal. The OEMP must:
- identify all statutory obligations that the Applicant is required to fulfil in relation to operation of the development, including all consents, licences, approvals and consultations;
 - describe any relevant staging or phasing of the commencement of operations within the terminal envelope and any relevant timeframes;
 - clearly outline what aspects of environmental management, monitoring and reporting would be undertaken by the Applicant or jointly with other operators within the terminal area;
 - include a description of the roles and responsibilities for all key employees involved in the operation of the development;
 - include overall environment policies and principles to be applied to the operation of the facility;
 - include specific consideration of measures to address any requirements of DOP, DEC, and the Council during operation;
 - detail standards and performance measures to be applied to the development, and a means by which environmental performance can be periodically reviewed and improved, where appropriate;
 - detail management policies to ensure that environmental performance goals are met and to comply with the conditions of this consent;
 - include the Management Plans relevant to operation, include the environmental monitoring requirements relevant to operation; and
 - be made available for public inspection after approval of the Director General.

Compliance Certification

- C1.4 Prior to each of the events listed from a) to c) below, or within such period otherwise agreed by the Director-General, documentation certifying that all conditions of this consent applicable prior to that event have been complied with shall be submitted to the satisfaction of the Director-General. Where an event is to be undertaken in stages, submission of compliance certification may be staged consistent with the staging of activities relating to that event, subject to the prior agreement of the Director-General.
- a) commencement of any operations within the terminal area; and
 - b) commencement of each stage or phase of operations.
- C1.5 Notwithstanding condition C1.4 of this consent, the Director-General may require an update report on compliance with all, or any part, of the conditions of this consent.

Any such update shall meet the requirements of the Director-General and be submitted within such period as the Director-General may agree.

C2 OPERATIONAL ENVIRONMENTAL PERFORMANCE

Air Quality Management

Odour

- C2.1 The development shall be undertaken so as not to permit any offensive odour, as defined under section 129 of the *Protection of the Environment Operations Act 1997*, to be emitted beyond the boundary of the site.

Dust Emissions

- C2.2 All activities shall be undertaken in a manner that minimises or prevents dust emissions from the site, including wind-blown and traffic-generated dust. All activities undertaken on the site shall be undertaken with the objective of preventing visible emissions of dust from the site. Should such visible dust emissions occur at any time, all practicable dust mitigation measures, including cessation of relevant works, as appropriate, shall be identified and implanted such that emissions of visible dust cease.
- C2.3 All trafficable and vehicle manoeuvring areas shall be maintained at all times in a condition that minimises the generation and emission of dust.
- C2.4 All vehicles entering or leaving the site carrying a load must be covered or otherwise enclosed at all times, except during loading and unloading, to minimise the generation and emission of dust.

Noise Management

Operation Noise Management Plan

- C2.5 Prior to the commencement of operations, the Applicant must prepare an Operation Noise Management Plan in consultation with DEC, DOP, Botany and Randwick Councils. The Plan shall include noise management, mitigation monitoring and reporting to ensure that local acoustic amenity is not adversely impacted. In addition, the Operational Noise Management Plan must:
- identify general activities that will be carried out and associated noise sources;
 - assess operation noise impacts at the relevant receivers;
 - a primary objective of achieving the operational noise limits outlined in this consent;
 - provide details of overall management methods and procedures that will be implemented to control noise from the development;
 - include a pro-active and reactive strategy for dealing with complaints including achieving the operation noise limits , particularly with regard to verbal and written responses;
 - detail noise monitoring, reporting and response procedures consistent with the requirements of DEC;
 - provide for internal audits of compliance of all plant and equipment;
 - indicate site establishment timetabling to minimise noise impacts;
 - include procedures for notifying residents of operation activities likely to affect their noise amenity;
 - address the requirements of DEC;
 - a strategy to identify operational practices and noise controls that can minimise/or reduce noise levels from container impacts, audible alarms and other short duration high level noise events;
 - identify opportunities to reduce operational noise levels including, but not necessarily limited to, selection of equipment, engineering noise controls and shore based power; and,

- be approved by the Director-General prior to the commencement of operation.

Noise Limits

C2.6 Noise from the premises must not exceed the sound pressure level (noise) limits presented in the Table below. Note the limits represent the sound pressure level (noise) contribution, at the nominated receiver locations in the table.

Noise Limits (dB(A))

Most affected residential Location	Day	Evening	Night		
	L _{Aeq} (15 minute)	L _{Aeq} (15 minute)	L _{Aeq} (15 minute)	L _{Aeq,9hrs}	L _{A1} (1 minute)
Chelmsford Avenues	40	40	40	38	53
Dent Street	45	45	45	43	59
Jennings Street	36	36	36	35	55
Botany Road (north of Golf Club)	47	47	47	45	59
Australia Avenue	35	35	35	35	57
Military Road	42	42	42	40	60

For the purpose of this condition;

- Day is defined as the period from 7am to 6pm Monday to Saturday and 8am to 6pm Sundays and Public Holidays,
- Evening is defined as the period from 6pm to 10pm
- Night is defined as the period from 10pm to 7am Monday to Saturday and 10pm to 8am Sundays and Public Holidays

C2.7 Noise from the premises is to be measured at the most affected point within the residential boundary, or at the most affected point within 30 metres of the dwelling where the dwelling is more than 30 metres from the boundary, to determine compliance with the noise level limits in [Condition C2.6](#) unless otherwise stated.

C2.8 Noise from the premises is to be measured at 1m from the dwelling façade to determine compliance with the L_{A1} (1 minute) noise level in [Condition C2.6](#).

C2.9 Where it can be demonstrated that direct measurement of noise from the premises is impractical, the DEC may accept alternative means of determining compliance. See Chapter 11 of the NSW Industrial Noise Policy.

C2.10 The modification factors presented in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise levels where applicable.

C2.11 The noise emission limits identified in Condition C2.6 apply under meteorological conditions of wind speed up to 3 metres per second at 10 metres above ground level, and temperature inversion conditions up to 1.5°C/100m positive lapse rate.

Operational Traffic Management Plan

C2.12 Prior to the commencement of terminal operations, the applicant must prepare a Operational Traffic Management Plan in consultation with RTA, DOP, Botany and Randwick Councils and SSROC. The Applicant shall address the requirements of these organisations in the Plan. The Applicant shall also consult with the Community Consultative Committee in preparation of the Plan. The plan must include, but not be confined to, mitigation measures identified in EIS such as:

- identification of preferred routes to minimise noise impacts on the surrounding community;
- physical and operational measures (including signage) to mitigate noise impacts from vehicles accessing and leaving the terminal;
- measures to limit the impact of traffic noise on Foreshore Road and Botany Road;
- driver education and information to promote driver habits to minimise noise; and
- timetabling, scheduling and details of vehicle booking systems.

The plan must be submitted and approved by the Director-General prior to the commencement of operations.

Waste Management On-Site

C2.13 Management of waste must be in accordance with the environment protection licence issued by EPA under the Protection of the Environment Operations Act 1997.

Water and Wastewater Management

C2.14 Except as may be expressly permitted by a licence under the *Protection of the Environment Operations Act 1997* in relation to the development, section 120 of that Act (prohibition of the pollution of waters) shall be complied with in connection to the development.

Pollutant Concentration Limits

C2.15 For each monitoring/discharge point or utilisation area, the concentration of any pollutant discharged at that point, or applied to that area, must not exceed concentration limits specified in the relevant environment protection licence.

Hazards and Risk Management

Storage and Handling of Dangerous Goods

C2.16 Prior to the commencement of operation, the Applicant shall develop management measures in consultation with the Major Hazards Unit of DOP regarding the use of the new terminal for loading, unloading and storage of dangerous goods of Classes 2.3 and 6.

C2.17 The Applicant shall ensure that the throughput of dangerous goods of each Class and the unit size shall not exceed those listed in table 6.8 of the Preliminary Hazard Analysis (Revision 7, June 2004) and is required to submit periodic reports to the Director-General detailing information on the actual tonnages, numbers of TEUs and package sizes for each class of dangerous goods handled in the previous five years for all port terminals.

C2.18 The Applicant shall not store or handle or permit to be stored or handled, dangerous goods of Class 2.3, toxic compressed or liquefied gases above the quantities stored or handled in 1995/96 except in accordance with recommendations 1.1 and 1.2 in the *Port Botany Land Use safety Study (1996)*.

Condition 2.19 deleted

Emergency Incident Management

Emergency Response and Incident Management Plan

C2.20 The Applicant shall develop an Emergency Response and Incident Management Plan in consultation with DEC, DOP, Council and the Community Consultative Committee. The Plan must be approved by the Director-General prior to the commencement of operations and shall detail:

- terminal security and public safety issues;
- effective spill containment and management;
- effective fire fighting capabilities;
- effective response to emergencies and critical incidents; and
- a single set of emergency procedures, consistent with the existing Port Botany Emergency Plan, should be developed that be scaled as appropriate for any incident or emergency.

Aviation Operational Impacts

Impact on Aviation Operations at Sydney Airport

C2.21 The Applicant shall ensure that the location of fixed terminal operating infrastructure adequately takes into account the required lateral separation distances to minimise the interference to Sydney Airport radar and navigational systems.

Obstacle Limitation Surface

C2.22 The Applicant shall ensure that all operation equipment is below the obstacle limitation surface in consultation with Air Services Australia.

Terminal Lighting

C2.23 The Applicant shall ensure design specifications of the terminal lighting conform to the requirements of Regulation 94 of the Civil Aviation regulations 1988.

Light Spill

C2.24 The Applicant shall adopt measures to ensure that there is minimal light spill from ships which may cause distraction, confusion or glare to pilots. These may include:

- minimising ship board lighting while berthed;
- orientating ships in a specific direction; and or
- providing temporary shielding on the ship mounted floodlights while docked.

Bird Hazard Management Plan

C2.25 Prior to operations, the Applicant shall develop a Bird Hazard Management Plan to minimise the attraction of bird species that pose a risk to aircraft movements. The Plan is to be prepared in consultation with the Department of Transport and Regional Services, Sydney Airport Corporation and Botany and Randwick Councils. The Plan must be approved by the Director-General prior to the commencement of operations.

C3 COMMUNITY INFORMATION, INVOLVEMENT AND CONSULTATION

Community Information Complaints Handling

C3.1 The Applicant must meet the following requirements in relation to community consultation and complaints management:

- all monitoring, management and reporting documents required under the development consent shall be made publicly available;
- provide means by which public comments, inquiries and complaints can be received, and ensure that those means are adequately publicised; and
- includes details of a register to be kept of all comments, inquiries and complaints received by the above means, including the following register fields:

- the date and time, where relevant, of the comment, inquiry or complaint;
- the means by which the comment, inquiry or complaint was made (telephone, fax, mail, email or in person);
- any personal details of the commenter, inquirer or complainant that were provided, or if no details were provided, a note to that effect;
- the nature of the complaint;
- any action(s) taken by the Applicant in relation to the comment, inquiry or complaint, including any follow-up contact with the commenter, inquirer or complainant; and
- if no action was taken by the Applicant in relation to the comment, inquiry or complaint, the reason(s) why no action was taken.
- Provide quarterly reports to the Department and DEC, where relevant, outlining details of complaints received.

Community Consultative Committee

C3.2 At least 6 months prior to commencement of operations, the Applicant shall establish a Community Consultative Committee to oversee the environmental performance of the development. This committee shall:

- (a) be comprised of:
 - 2 representatives from the Applicant, including the person responsible for environmental management;
 - 1 representative from Botany Bay City Council; and
 - at least 3 representatives from the local community, whose appointment has been approved by the Director-General in consultation with the Council;
- (b) be chaired by an independent party approved by the Director-General;
- (c) meet at least four times a year, or as otherwise agreed by the CCC;
- (d) review and provide advice on the environmental performance of the development, including any construction or environmental management plans, monitoring results, audit reports, or complaints; and

Note: The Applicant may, with the approval of the Director-General, combine the function of this CCC with the function of other existing Community Consultative mechanisms the area, including the construction phase CCC (Condition B3.2) however, if it does this it must ensure that the above obligations are fully met in the combined process.

C3.3 The Applicant shall, at its own expense:

- (a) ensure that 2 of its representatives attend the Committee's meetings;
- (b) provide the Committee with regular information on the environmental performance and management of the development;
- (c) provide meeting facilities for the Committee;
- (d) arrange site inspections for the Committee, if necessary;
- (e) take minutes of the Committee's meetings;
- (f) make these minutes available on the Applicant's website within 14 days of the Committee meeting, or as agreed to by the Committee;
- (g) respond to any advice or recommendations the Committee may have in relation to the environmental management or performance of the development; and
- (h) forward a copy of the minutes of each Committee meeting, and any responses to the Committee's recommendations to the Director-General within a month of the Committee meeting.

C4 ENVIRONMENTAL MONITORING AND AUDITING

Incident Reporting

- C4.1 The Director-General shall be notified of any incident with actual or potential significant off-site impacts on people or the biophysical environment within 12 hours of the Applicant, or other relevant party undertaking the development, becoming aware of the incident. Full written details of the incident shall be provided to the Director-General within seven days of the date on which the incident occurred. The Director-General may require additional measures to be implemented to address the cause or impact of any incident, as it relates to this consent, reported in accordance with this condition, within such period as the Director-General may require.

Annual Environmental Management Report (AEMR)

- C4.2 The Applicant must prepare an Annual Environmental Management Report for the development. The Annual Environmental Management Report must:
- detail compliance with the conditions of this consent;
 - contain a copy of the Complaints Register (for the preceding twelve-month period, exclusive of personal details) and details of how these complaints were addressed and resolved;
 - include a comparison of the environmental impacts and performance predicted in the EIS and additional information documents provided to the Department and Commission of Inquiry;
 - detail results of all environmental monitoring required under the development consent and other approvals, including interpretations and discussion by a suitably qualified person;
 - contain a list of all occasions in the preceding twelve-month period when environmental performance goals have not been achieved, indicating the reason for failure to meet the goals and the action taken to prevent recurrence of that type of incident;
 - be prepared within twelve months of the commencement of operation, and every twelve months thereafter;
 - be approved by the Director-General each year; and
 - be made available for public inspection.

Environmental Representative

- C4.3 Prior to the commencement of operations, a suitably qualified and experienced Environmental Representative(s) shall be nominated to and approved by the Director-General. The Environmental Representative(s) shall be employed for the duration of operations, or as otherwise agreed by the Director-General. The Environmental Representative shall be:
- the primary contact point in relation to the environmental performance of the terminal operations;
 - responsible for all Management Plans and Monitoring Programs required under this consent, in relation to the terminal operations;
 - responsible for considering and advising on matters specified in the conditions of this consent, and all other licences and approvals relating to the environmental performance and impacts of the terminal operations;
 - responsible for the management of procedures and practices for receiving and responding to complaints and inquiries in relation to the environmental performance of the terminal operations;
 - required to facilitate an induction and training program for relevant persons involved with the terminal operations; and
 - given the authority and independence to require reasonable steps be taken to avoid or minimise unintended or adverse environmental impacts, and failing the effectiveness of such steps, to direct that relevant actions be ceased immediately should an adverse impact on the environment be likely to occur.

Environmental Training

- C4.4 Prior to the commencement of operations an Environmental Training Program shall be developed and implemented to establish a framework in which relevant employees will be trained in environmental management and the operation of plant and equipment, including pollution control equipment, where relevant. The Program shall include, but not necessarily be limited to:
- a) identification of relevant employment positions associated with the development that have an operational or management role related to environmental performance;
 - b) details of appropriate training requirements for relevant employees;
 - c) a program for training relevant employees in operational and/ or management issues associated with environmental performance; and
 - d) a program to confirm and update environmental training and knowledge during employment of relevant persons.

Environmental Auditing

- C4.5 Within one year of the commencement of operations and every year thereafter, the Applicant shall fund a full independent environmental audit. The audit must be undertaken by a suitably qualified person/team approved by the Director-General. The audits would be made publicly available and would:

- be carried out in accordance with ISO 14010 – Guidelines and General Principles for Environmental Auditing and ISO 14011 – Procedures for Environmental Auditing;
- assess compliance with the requirements of this consent, and other licences and approvals that apply to the development;
- assess the construction against the predictions made and conclusions drawn in the development application, EIS, additional information and Commission of Inquiry material; and
- review the effectiveness of the environmental management of the development, including any environmental impact mitigation works.

Note: An independent and transparent environmental audit can verify compliance (or otherwise) with the Minister's consent and various approvals. Auditing also provides an opportunity for continued improvement in environmental performance.

