



***DEVELOPMENT APPLICATION
ASSESSMENT REPORT***

**USE OF EXISTING HARD STAND AREA FOR
UNCOVERED FREIGHT STORAGE**

Mayfield, Port of Newcastle

DA 8137



*Assessment under Part 4 of the Environmental Planning
and Assessment Act 1979*

June 2017

ABBREVIATIONS

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| Applicant | Port of Newcastle Operations Pty Limited as trustee for the Port of Newcastle Unit Trust |
| Consent | The development consent (see Appendix A) for the Site as an open-air freight storage facility |
| Council | City of Newcastle |
| Department | Department of Planning and Environment |
| Development | The development as described in the SEE and RTS being for the use of the site as an open-air freight storage facility |
| EP&A Act | <i>Environmental Planning and Assessment Act 1979</i> |
| EP&A Regulation | <i>Environmental Planning and Assessment Regulation 2000</i> |
| EPI | Environmental planning instrument |
| LEP | Local Environmental Plan |
| Minister | Minister for Planning |
| POEO Act | <i>Protection of the Environment Operations Act 1997</i> |
| PoN | Port of Newcastle |
| RMS | Roads and Maritime Services |
| RTS | Response to Submissions titled, 'DA 8137 Mayfield Cargo Storage Facility', received from PoN via e-mail dated 5 May 2017, together with supplementary information titled, 'DA 8137 Mayfield Cargo Storage Facility', received from PoN via e-mail dated 8 May 2017 |
| Secretary | Secretary of the Department |
| SEE | Statement of Environmental Effects titled 'Cargo Storage Facility, Mayfield' prepared by AECOM and dated 25 November 2016 |
| SEPP | State Environmental Planning Policy |
| Site | Part Lot 42 and part Lot 45 DP 1191982, Mayfield, PoN |
| Three Ports SEPP | <i>State Environmental Planning Policy (Three Ports) 2013</i> |

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1. INTRODUCTION

Port of Newcastle Operations Pty Limited as Trustee for the Port of Newcastle Unit Trust (the Applicant) is seeking development consent under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) to use an existing 12 hectare (ha) uncovered hard stand area for the open-air storage of freight¹.

1.1. Site Context and Location

The site is located at Mayfield (part Lot 42 and part of Lot 45 DP 1191982) within the Port of Newcastle Lease Area (PoNLA (see Figure 1). The site is predominantly contained within Lot 45 while access would be through Lot 42. The site is within the area covered by the Mayfield concept plan (MCP) approval (09_0096).

The Port of Newcastle (PoN) is one of the largest industrial ports in Australia and is the economic and trading gateway for the Hunter Valley and northern NSW. The site is located within the PoN's Mayfield precinct, one of four precincts within the PoN (the other precincts being Carrington, Walsh Point, and Kooragang).

The site is part of the former BHP steelworks which operated on the site from 1915 to 1999. The site comprises approximately 12 hectare (ha) of uncovered hard stand within a larger open hard stand area with frontage to the south arm of the Hunter River known as the "closure area". The site has been maintained as a hard stand area following completion of remediation of the former steelworks area in 2011. There are no other built structures or infrastructure within the site.

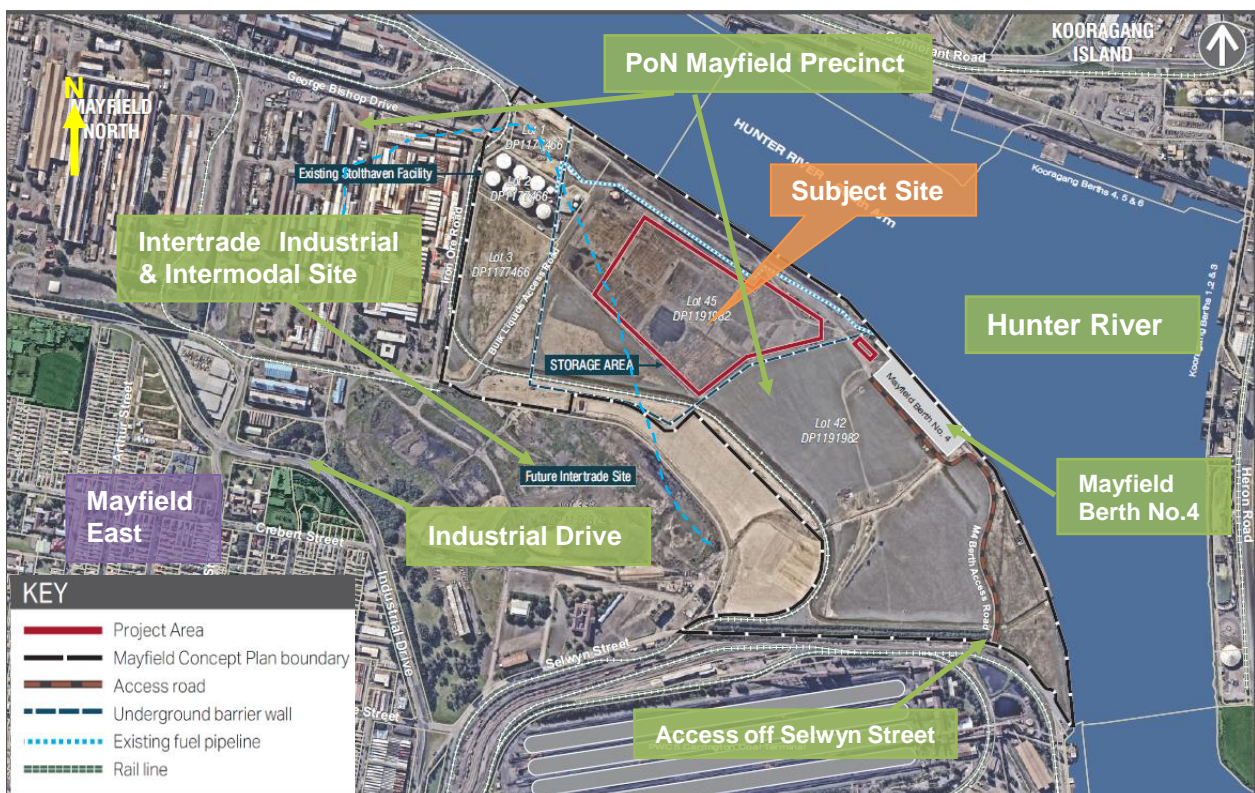


Figure 1: Site location and context

The site is surrounded by other hard stand areas which also formed part of the former BHP steelworks and have been remediated. Between the northern boundary of the site and the frontage to the south arm of the Hunter River, there is an additional 70 metres (m) width of hard stand containing an existing fuel pipeline connecting Mayfield Berth No. 4 to the Stolthaven Bulk Fuel storage facility. The Hunter River is approximately 400 m wide in this location. On the opposite side of the Hunter River are the coal loading facilities of the Newcastle Coal Infrastructure Group.

¹ Under *State Environmental Planning Policy (Three Ports) 2013* **freight** means any item, goods or produce being transported and includes containers (whether empty or otherwise), gases, livestock, liquids, minerals, plant and equipment, raw materials, vehicles and vessels. For the purposes of this report, freight and cargo have the same meaning.

To the south of the site is vacant land known as the Intertrade Industrial Site and Intermodal Site. This land contains open grassed areas with sparse tree covering, together with a number of vacant former steelworks buildings.

To the east is more open hard stand area. Mayfield Berth No. 4 (M4) is approximately 200 m south-east of the site (see Figure 2). The M4 is a general purpose berth, 265 m in length and has an adjoining 10,000 square metres (m²) hard stand area. It is anticipated the large cargos proposed to stored on the site would be predominantly imported through M4. The site is accessed off Selwyn Street, via the existing internal M4 access road.

To the west of the site lies the Stolthaven Bulk Fuel terminal which currently stores approximately 130 mega litres (ML) of combustible fuels. Beyond the fuel terminal is the OneSteel Industrial complex.

The nearest residential area is located approximately 800 m south-west of the site in the suburb of Mayfield. The nearest residence in the suburb of Stockton is located approximately 2,000 m to the east of the site.

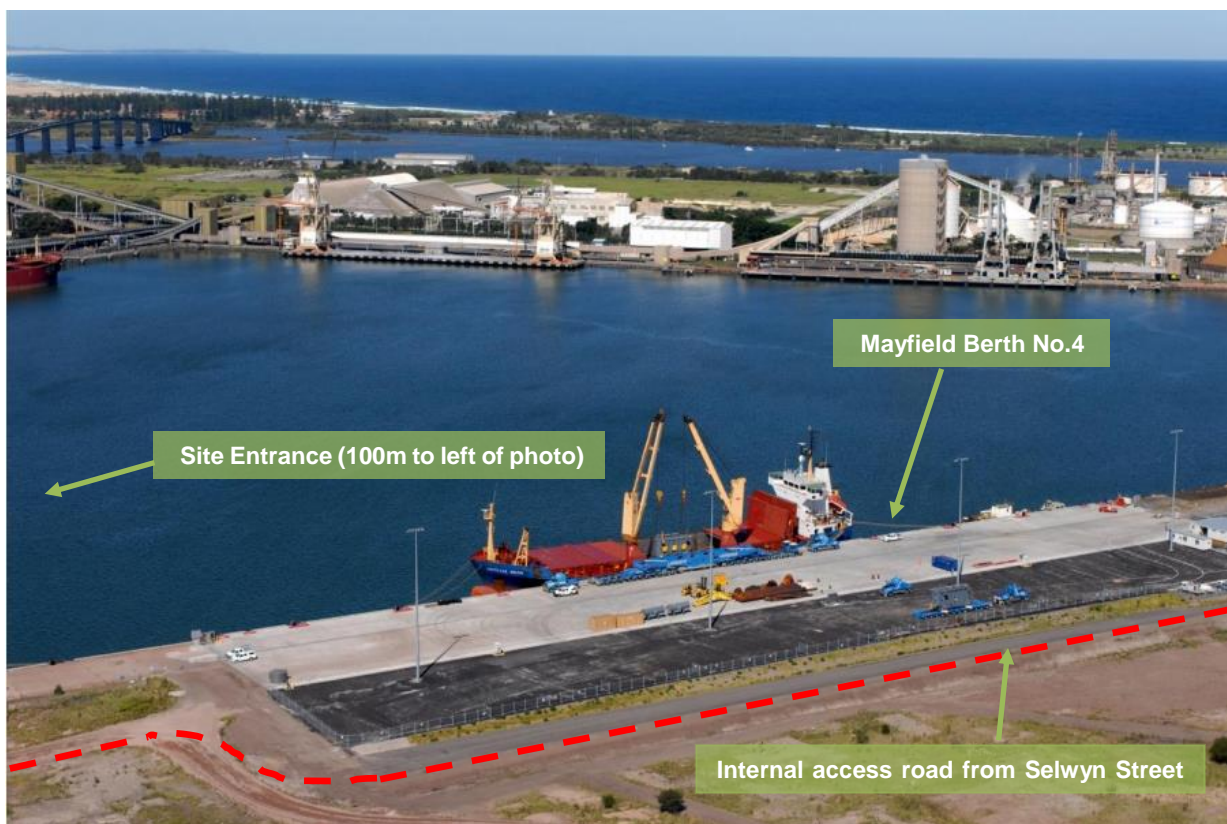


Figure 2: Looking East over Mayfield Berth No.4 towards Kooragang Island. Note cargo being unloaded using ship's cranes as proposed.

1.2. Previous Use and Approved Developments on the Site

The BHP Steelworks operated on land in the Mayfield precinct, including the site, with frontage to the south arm of the Hunter River from 1915 to 1999. The former BHP steelworks site is known as the "closure area".

On 6 April 2001, the then Minister for Urban Affairs and Planning approved development application DA 293-08-00 for the remediation of the closure area and the development of a multi-purpose terminal comprising a container terminal and a general cargo handling facility (GCHF) and associated road, rail and wharf infrastructure, and dredging of the south arm of the Hunter River.

M4 operates in accordance with development consent DA 293-08-00 as modified (specifically, MOD-56-7-2008), and Environment Protection Licence (EPL) 13181 for shipping in bulk. The consent also provides for the use of 8 ha of hard stand area adjoining the M4 as a GCHF. The Applicant has indicated that 1 ha of GCHF immediately behind the M4 has been developed, while the remaining 6.8 ha of the GCHF has not yet been developed. The location of the approved GCHF is shown in Figure 3.

On 14 June 2001, the Environment Protection Authority (EPA) declared the closure area to be a remediation site and a remedial action plan was prepared in 2004 to address soil and groundwater contamination issues. Remediation works were completed in 2011 and the closure area was capped and returned to a hard stand area.

On 16 July 2012, the Mayfield Concept Plan (MCP, 09_0096), was approved by the then Minister for Planning and Infrastructure. The site is within the boundaries of the MCP approval area (see Figure 1) and development applications subject to Part 4 of the EP&A Act, are required to address all relevant environmental assessment requirements in Schedule 3 of the MCP approval. Further, Condition 1.14, Schedule 2 of the MCP approval requires the, "operational environmental impacts associated with existing and approved development not subject to this concept plan approval", to be considered in the assessment of projects associated with the MCP. In this regard, the proposal must consider the operational traffic impacts of DA 293-08-00 (MOD-56-7-2008).



Figure 3: The MCP Approval Area showing the site and the GCHF

Current Use

Under the exempt and complying provisions of the *State Environmental Planning Policy (Three Ports) 2013* (the Three Ports SEPP), the site is able to be used as a port facility for 182 days a year without development consent. The PoN has advised that freight is currently stored on the site in accordance with these provisions. Figure 4 shows wind turbine blades and other components destined for the White Rock wind farm project currently stored on the site. As discussed in the following section, the PoN is seeking to continue this use on a permanent basis.

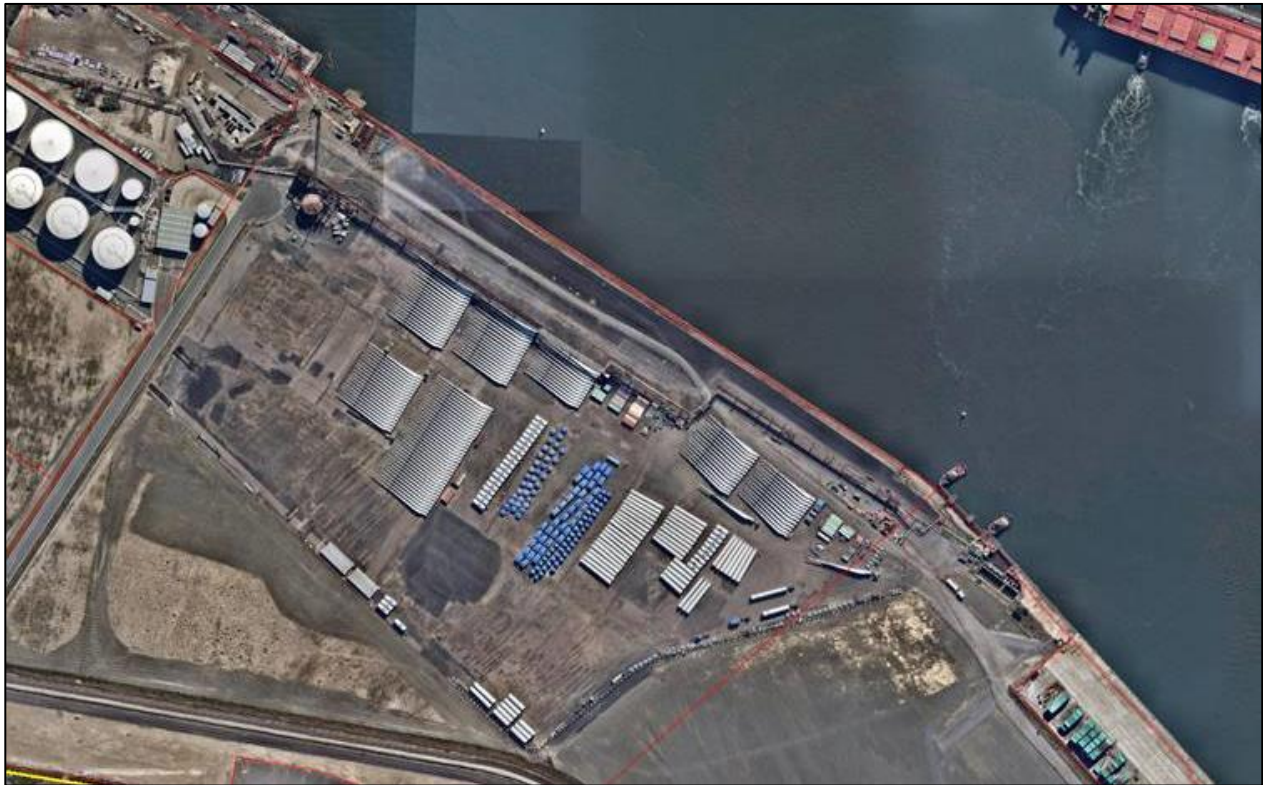


Figure 4: Wind turbine blades and other components currently stored on the site

1.3. Applicant's Justification and the Need for the Development

The establishment of the proposed cargo storage facility is necessary as there is an increasing demand in NSW for large project cargos and appropriate storage areas driven by:

- the growth of the wind power sector and the need to import related equipment and components;
- the ongoing operation of the mining sector particularly in the Hunter region; and
- the increase in large infrastructure projects in NSW including road and rail projects in Sydney and the Hunter region.

Port facilities with the following characteristics are required for the temporary storage of such cargos:

- access to a deep-water channel and berth;
- access to a berth with landside design capacities to manage large and heavy loads;
- available land adjoining the berth for use as a laydown area; and
- connection to the arterial road network to enable land transportation.

The SEE indicates that the site satisfies all of the above and is ideally suited for the land side storage and management of large project cargos.

The SEE indicates alternative ports for the temporary storage of the proposed project cargos (Port Botany Port Kembla and Port of Brisbane) are unsuitable due to:

- the large area of land required for the project cargos;
- constraints arising from the need to transport oversize cargos through congested urban areas; and
- costs associated with significant distances from end markets and project locations.

There are no alternative sites in PoN able to provide the combination of access to:

- a heavy lift berth and the deep-water channel;
- a significant area of established hard stand; and
- suitable transport routes.

The do-nothing option would see the use of the proposed cargo hard stand area restricted to six months (182 days) within a given year as provided for in the Three Ports SEPP. This would impede PoN's capacity to meet the demand for the importation of project cargos some of which may be required to be stored for up to 2 years until it is transported for specific projects. Given that these projects form an important economic driver for New South Wales, it is important the proposed facility is available to meet this demand.

2. PROPOSED DEVELOPMENT

The Applicant proposes to use the site as a 'port facility' for the storage of a variety of freight (see Figure 5). The proposal includes the loading, unloading, moving and stacking of freight, at the site using forklifts and other machinery. No demolition or building construction works are proposed and the site would generally remain in its current state (existing hard stand).

The proposal includes:

- line marking to designate truck and vehicle parking areas;
- installation of a portable demountable office and amenities building (if required by individual tenants);
- installation of temporary lighting (mobile standalone units, battery or generator powered) for night-time operations (if required by individual tenants); and
- installation of temporary fencing and lighting, including security fencing and lighting, (if required by individual tenants) to delineate individual leased areas.

The proposal would provide for the storage of a range of freight and cargo, including:

- wind turbine components;
- large industrial and mining components;
- luxury boats;
- electrical transformers and related machinery;
- general cargo such as farm machinery, excavators, and construction machinery;
- breakbulk² such as steel or timber products; and
- containerised cargo associated with specific project cargos. For example, windfarm components may be accompanied by containers for the transportation of smaller supporting components.

The site would not be used for the storage of any cargos classified as dangerous, hazardous or a waste product. Bulk commodities such as coal, bulk liquids, and roll-on roll-off cargoes, would not be stored at the site.

Cargo would be unloaded via ship's cranes onto trucks at the M4 berth (refer to Figure 6) and transported to the site for unloading and storage. Distribution of cargo would be via truck to its destination. Cargo may also be trucked from its point of origin to the site for export. However, it is anticipated the majority of cargo stored at the site would be for onward transport by road.

It is proposed to use the site 24 hours-a-day, seven days-a-week. Site establishment and general day-to-day activities, such as moving or stacking of cargo are likely to occur during standard working hours (Monday to Friday between 7am and 6pm and Saturday between 8am and 1pm). Plant and machinery to be used would include reach stackers and forklifts for unloading, moving, stacking and loading cargo.

Trucks and other vehicles would access the site via the existing internal M4 access road at the northern end of Selwyn Street. The site entrance is located approximately 140 m east of the M4. Trucks leaving the site laden with cargo would access the Pacific Highway and the arterial road network via Selwyn Street and the intersection of George Street with Industrial Drive. Industrial Drive is indicated in Figure 1.

If an amenities building is required, it will be placed near the proposed site entrance as indicated on Figure 5. Associated staff amenities may include portable toilets. Electricity will be provided by onsite generators.

Light vehicle parking for staff would be provided adjoining the amenities building. The size and layout of light vehicle parking area will be subject to the specific requirements of each tenant.

All or part of the site would be leased to various tenants for various lengths of time.

² *break bulk cargo* are goods that must be loaded individually, and not in intermodal containers or in bulk as with oil or grain. These goods may not be in shipping containers. Break bulk cargo is transported in bags, boxes, crates, drums, or barrels, often secured to a pallet or skid.



Figure 5: Proposed access, security fencing, amenities and parking



Figure 6: Wind turbine blades being unloaded using ship's cranes, as proposed.

3. STATUTORY CONTEXT AND STRATEGIC CONTEXT

3.1 Part 4 Development

The site is located in the PoNLA as defined in the Three Ports SEPP. The Three Ports SEPP was created following the NSW Government's decision to lease the three main ports in NSW to private operators. The Three Ports SEPP provides a streamlined planning and assessment framework for State significant port infrastructure facilities in Port Botany, Port Kembla and Port of Newcastle.

The proposal is classified as a Part 4 development under the EP&A Act and is permissible with development consent.

3.2 Consent Authority

Under clause 8 of the Three Ports SEPP, the Minister for Planning is the consent authority for development on land within the PoNLA or land that is unzoned under the Three Ports SEPP. As the site is located in the PoNLA, the Minister for Planning is the consent authority for the proposed development.

3.3 Delegated Authority

On 16 February 2015, the Minister for Planning delegated responsibility for determination of applications under section 80 of the EP&A Act to Directors who report to Executive Directors in Planning Services where:

- the relevant local council has not made an objection;
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of objection.

There are no formal submissions by way of objection as the application was not publicly exhibited under the EP&A Act (see section 3.5). No reportable political donation disclosures were made. Accordingly, the application can be determined by the Director, Industry Assessments, under delegation.

3.4 Permissibility

The site is zoned SP1 (Special Activities) under the Three Ports SEPP. The proposed development involves the use of the existing 12 ha hard stand area for the storage of freight. The proposed use is best characterised as a 'port facility'.

Under the Three Ports SEPP, **port facilities** means *facilities on land in the Lease Area used in connection with the carrying of freight and persons by water from one port to another for business or commercial purposes, and includes... facilities for the loading or unloading of freight onto or from vessels and freight receipt, processing, land transport and storage facilities.*

Accordingly, the proposal is permissible with consent in the SP1 zone.

3.5 Exhibition and Notification

There is no legislative requirement to formally notify or exhibit the proposed development.

3.6 Consideration under section 79C of the EP&A Act

Under section 79C of the EP&A Act, in determining a DA, a consent authority is required to take a number of matters into consideration in relation to the proposed development. The Department's detailed consideration of the proposed development against the provisions of section 79C of the EP&A Act is contained in Section 5 and within Appendix B of this report. In summary, the Department is satisfied the proposed development is consistent with the requirements of section 79C of the EP&A Act.

3.7 Environmental Planning Instruments

Under section 79C of the EP&A Act, the consent authority, when determining a DA, must take into consideration the provisions of any environmental planning instrument (EPI), draft EPI (that has been subject to public consultation and notified under the EP&A Act) and development control plan/s (DCP) that apply to the proposal.

The Department has assessed the proposal against the relevant provisions of the EPIs that apply to the site, and is satisfied that, subject to the implementation of the recommended conditions of consent, the proposal is consistent with the aims, objectives and provisions of these instruments (see Appendix C).

3.8 Objects of the EP&A Act

In determining the application, the consent authority should consider whether the proposal is consistent with the relevant objects of the EP&A Act. These objects are detailed in section 5 of the EP&A Act, and include:

- (a) *to encourage:*
 - (i) *the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,*
 - (ii) *the promotion and co-ordination of the orderly and economic use and development of land, provision and co-ordination of community services and facilities, and*
 - (vii) *ecologically sustainable development, and*
- (b) *to promote the sharing of the responsibility for environmental planning between the different levels of government in the State.*

The Department has fully considered the objects of the EP&A Act, including the encouragement of Ecologically Sustainable Development (ESD), in its assessment of the application.

The Department considers that the proposal is generally consistent with the objects of the EP&A Act, and particularly objects (a) (i), (ii) and (vii) as the proposal will enable the proper management and the orderly and economic use of existing underutilised land and existing port infrastructure to support the surrounding industrial and port related uses. The Department's assessment in Section 5 demonstrates that with the implementation of recommended conditions of consent, the impacts of the proposal can be mitigated and/or managed to ensure the environment is protected.

3.9 Ecologically Sustainable Development

The EP&A Act adopts the definition of ESD found in the *Protection of the Environment Administration Act 1991*. Section 6(2) of that Act states that ESD requires the effective integration of economic and environmental considerations in decision-making processes and that ESD can be achieved through the implementation of:

- (a) *the precautionary principle;*
- (b) *inter-generational equity;*
- (c) *conservation of biological diversity and ecological integrity; and*
- (d) *improved valuation, pricing and incentive mechanisms.*

The potential environmental impacts of the proposal have been assessed and, where potential impacts have been identified, mitigation measures and environmental safeguards have been recommended.

Given that the DA is confined to the use of the existing hard stand area and no construction works are proposed, the proposal is not anticipated to have any adverse impacts on native flora or fauna, including threatened species, populations and ecological communities, and their habitats. As such, the Department considers that the proposed development would not adversely impact on the environment and is consistent with the objectives of the EP&A Act and the principles of ESD.

3.10 Strategic Context

Hunter Regional Plan 2036

The Department released the *Hunter Regional Plan 2036* (HRP) in October 2016. The HRP recognises the PoN as a nationally significant gateway, with connectivity to the Asia-Pacific region, significant international exports and the capacity to generate associated industry, regional and local employment.

Goal 1 of the Regional Plan relates to the Hunter as the "leading regional economy in Australia". The proposal is consistent with the relevant Directions and Actions under Goal 1 including, *Direction 2: Enhance connections to the Asia-Pacific through global gateways*, and *Direction 4: Enhance inter-regional linkages to support economic growth*. The proposal achieves consistency with Direction 2 by enhancing global gateways to the Asia-Pacific through providing enhanced import-export capabilities in the PoN.

The proposal is consistent with the identified need to grow and diversify the PoN's operations as it involves the use of existing underutilised portside land for port facilities on a site that is specifically zoned for port related industries. The proposal is therefore considered to be generally consistent with the HRP.

4. CONSULTATION AND SUBMISSIONS

4.1 Consultation by the Applicant

The Applicant undertook a range of consultation activities throughout preparation of the SEE including:

- briefing representatives of the Department on the proposal on 25 August 2016;
- briefing representatives of the Council on 15 September 2016 and representatives of the RMS on 29 September 2016; and
- undertaking consultation with the Community via the Applicant's established community consultation forums and the latest quarterly community liaison newsletter issued in October 2016. The Applicant also operates a community enquiry hotline and enquiry service on its website.

The Department undertook further consultation with these stakeholders during the notification of the DA and throughout the assessment of the application. These consultation activities are described in detail in the following sections.

4.2 Consultation by the Department

Whilst the DA and SEE were not required to be formally exhibited under the EP&A Act, the Department nonetheless made the documents publicly available on the Department's website and notified the RMS and Council.

The Department received four responses on the proposed development, including three from public authorities and one from the general public. The public submission objected to the development. A summary of the issues raised is provided below, with a copy of each response included in Appendix E.

4.3 Responses

4.3.1 Public Authorities

Council did not object to the proposed development and provided the following comment:

- PoN should provide street lighting in Selwyn Street as the proposal represents the first intensification and expanded use of the site that proposes vehicular access via Selwyn Street;
- PoN should provide a road safety audit of Selwyn Street to determine if the current road conditions (pavement) are adequate for the proposed access and determine whether upgrade works are required to ensure safe and efficient traffic movements associated with the proposal;
- concern over off-site traffic impacts;
- incremental increase in road traffic noise and consequent decrease in acoustic amenity of residents adjacent to Industrial Drive as a consequence of the cumulative impact of the proposal and future large projects needs to be considered from a long-term strategic perspective;
- all feasible measures to reduce traffic noise impacts are incorporated into the development consent;
- appropriate conditions of consent should be applied to ensure that recommendations of the noise impact assessment are implemented; and
- the use of mobile cranes having an overall height of 30 m above ground level will require the written approval of RAAF Williamstown.

The **RMS** did not object to the proposed development and provided the following comment:

- The Department should ensure that satisfactory arrangements are in place for the equitable collection of contributions towards the ultimate intersection upgrades as required under the MCP approval.

NSW Health – Hunter New England Local Health District (HNELHD) did not object to the proposed development and provided the following comment:

- the proposed development should comply with the provisions of the MCP approval;
- the operation of the proposed development should include all reasonable and feasible measures to minimise public exposure to noise and avoid air quality impacts on nearby sensitive receivers; and
- a mosquito management plan should be implemented to manage nuisance biting mosquitoes and disease transmitting mosquitos affecting employees, visitors and the local population.

4.3.2 General Public

One submission objecting to the proposal was received from the general public. The grounds for objection include:

- proposed 300 vehicle movements a day will impact on the amenity of local residents;
- concerned that local streets will become transitways and parking areas for heavy trucks and staff associated with the proposal; and

- request the imposition of conditions to ensure no heavy vehicle access through Mayfield East residential streets and no parking of heavy vehicles on Industrial Drive.

4.4 Supplementary Information

On 5 May 2017 and 9 May 2017, the Applicant provided email responses (the RTS) to the issues raised during the notification of the proposal (see Appendix F). The RTS included a Road Safety Audit (RSA), prepared by Seca Solution which reviewed the current condition of Selwyn Street and indicated that street lighting and pavement improvements were not required. The RTS also included information to address the remainder of Council's issues, and all the issues identified in the government authority and public's responses. No changes were made to the proposed development.

The RTS was made publicly available on the Department's website and was provided to Council to consider whether it adequately addressed the issues raised.

Council provided the following additional comments:

- acknowledged that there are no specific provisions in the modified development consent (DA 293-08-00 MOD-56-7-2008) and the subsequent Mayfield concept plan approval (09_0096) requiring the provision of street lighting in Selwyn Street, however, maintained that the issue of street lighting is a legitimate planning consideration required to be addressed;
- noted that the RSA identifies Selwyn Street as a local road and indicates street lighting (P4/5 level) is only required once traffic flows reach a level of 2,000 vehicles per day (VPD);
- the Traffic Impact Assessment (TIA) which informed the RSA has not included the traffic associated with the ICL cement terminal project approval (08_0198) which is anticipated to generate an additional 116 truck movements which when added to the 1,835 vpd identified by the TIA, gives a total of 1,985 vpd, just below the 2,000 VPD threshold; and
- the predominant use of Selwyn Street will be vehicular traffic but noting that the Traffic Management Plan for the MCP (Condition 2.5 of 09_0096) also identifies that cycle and pedestrian paths may ultimately be required to encourage staff to travel to and from the site by modes other than car; and
- reiterate concerns over the suitability of the existing pavement of Selwyn Street to support a significant increase in heavy vehicle numbers using Selwyn Street to access this and other developments within the concept plan area.

The additional comments provided by Council were forwarded to PON. In response, PON provided supplementary information indicating the project approval for the ICL terminal lapsed on 1 October 2016 because no part of the project was physically commenced before the lapse date. Furthermore, condition 2.5 of 09_0096 does not specifically identify the need for cycle and pedestrian paths rather, "measures to encourage staff access to the site by means other than private vehicles", and that PON operational requirements prohibit staff accessing the site on foot or bicycle.

The Department has considered the issues raised in submissions, the RTS and the supplementary information provided by the Applicant in its assessment of the development, in Section 5.

5. ASSESSMENT

The Department has considered the SEE, the issues raised by Council, government authorities and the public, the Applicant's RTS and supplementary information and the MCP approval in its assessment of the proposed development. The Department considers the key assessment issues to be traffic and noise.

A number of other issues have also been considered. These issues are considered to be minor and are addressed in Table 1 in Section 5.3.

5.1 Traffic and Access

The Traffic Impact Assessment (TIA) undertaken for the development indicates the proposed development would generate additional traffic of up to 200 heavy vehicle movements per day, equivalent to 73,000 additional truck movements per year. Increases in traffic are considered in the context of the MCP which establishes limits on truck movements for each stage of the concept plan.

Trucks and other vehicles would access the site via the existing internal M4 access road at the northern end of Selwyn Street. The site entrance is located approximately 140 m east of the M4. Trucks leaving the site laden with cargo would access the Pacific Highway and the arterial road network via Selwyn Street and the intersection of George Street with Industrial Drive. Industrial Drive is indicated in Figure 1. Selwyn Street is

a local road and Newcastle City Council is responsible for the management and safe operation of local roads, including the condition of the pavement.

The TIA analysed the performance of the Industrial Drive/ George Street intersection for existing traffic and concluded the intersection performs at a Level of Service (LoS) B and LoS A during the AM and PM peak periods, respectively which indicates there are acceptable delays and spare capacity. When the additional traffic from the development is included, the intersection is predicted to continue to perform at the same levels of service. When considering future traffic growth (year 2027), as required by RMS guidelines, the intersection is predicted to continue to perform at a satisfactory LoS, operating at LoS C and LoS B during the AM and PM peak periods, respectively. The RMS did not raise any concern with the performance of the intersections. The TIA concluded that the proposed development would have a negligible impact on the future operation of the George Street/ Industrial Drive intersection and as such, no intersection upgrades would be required. The proposed development would also contribute less than 1% to the daily traffic volumes along Industrial Drive.

The MCP specifies limits on truck movements for particular stages of the concept plan's development and links this to requirements for future road and intersection upgrades. Upgrades are only required to be considered once the volume of traffic exceeds 1,268 traffic movements per day. The proposed development would generate approximately 16% of this volume. Coupled with the nearby operations at Stolthaven (464 movements or 36%), traffic generated by these developments would represent just over half of the initial stage of development at the site. As the George St/ Industrial Drive intersection is predicted to continue to perform at a satisfactory LoS and the traffic generation is below the thresholds identified in the MCP, the Department is satisfied that intersection upgrades are not required to support the proposed development.

To minimise traffic impacts, the Applicant has committed to implementing an Operational Environmental Management Plan (OEMP) that incorporates the relevant traffic management measures outlined in the MCP's *Traffic Management Plan*. This includes measures such as minimising heavy vehicle movements during peak times, restricting heavy vehicle movements to approved routes and preventing movements through residential areas and requiring appropriate permits for the haulage of oversized or overmass loads.

A submission received from a member of the public objected to the proposal on the basis that local streets will become transitways and parking areas for heavy trucks and staff waiting to access the site or seeking proper toilet facilities and meals. The Department notes the existing Traffic Management Plan for the MCP addresses these matters and includes a requirement that all drivers visiting the site be inducted to a level suitable for each operation. The Department supports the Applicant's commitment to incorporate the management measures into an OEMP for the site and has reflected this in the recommended instrument of consent. With regard to the concern in relation to the provision of amenities, temporary amenities are proposed and will be implemented, if required by individual operators. There are also permanent amenities (toilet facilities and a meals room) available at M4.

In its initial submission on the application, Council raised concern in relation to the condition of the road surface of Selwyn Street and the absence of street lighting. Council requested the Applicant provide appropriate street lighting and a road safety audit (RSA) to address its concerns over the need to upgrade Selwyn Street.

The Applicant prepared a RSA to address Council's concerns. The RSA determined that for a local road such as Selwyn Street, street lighting is required once the daily traffic flows exceed 2,000 vehicles per day. Taking into consideration the proposed development, the current activity at Mayfield 4 berth and the current traffic generated by other road users, the daily traffic volumes would be in the order of 1,835 vehicles per day. As this is less than the 2,000 trigger, the RSA concludes that no street lighting is required to be installed. Further, in terms of road safety, the RSA notes there is significant light spill along much of the length of Selwyn Street from the adjoining Port Waratah Coal Services site; the alignment of Selwyn Street is relatively straight, providing good visibility for drivers in both directions; and the only hazard along this road is an at-grade rail crossing which is illuminated, has stop signs and warning lights and very low usage.

The RSA does, however, recommend some minor road improvements to Selwyn Street, including a requirement to:

- provide a white centre line for the length of Selwyn Street between the site access and the level crossing to provide guidance for drivers and ensure drivers do not cross over the centre of the road;
- provide a white line along the edge of Selwyn Street between the site access and the level crossing to highlight the edge of the road. This will also require regular maintenance of the vegetation to both sides of the road to ensure this line remains visible; and

- provide a chevron marker board on Selwyn Street opposite the internal site road entrance to reinforce the presence of the intersection for drivers exiting the cargo storage facility.

The Applicant has committed to undertaking these works. Council considered this further information and noted that if 2000 vehicles is the trigger for requiring lighting, then it would be expected that the next development that exceeds this threshold would be expected to complete all upgrading works to the requirements of Council as the relevant roads authority and at the developer's expense.

As the proposed development would not exceed the 2,000 vehicles per day threshold, the Department does not consider it appropriate to require the Applicant to install street lighting along Selwyn Street. The Department agrees with Council that when traffic generated by further development at the Port is predicted to exceed the 2,000 threshold, it is at that point that the developer would be expected to install street lighting along this road.

As part of the recommended conditions, the Department has recommended the Applicant undertake a traffic monitoring program in accordance with the *Traffic Monitoring and Review Program* required under the MCP that includes details of traffic movements to and from the site. This data will be used to inform the management and operation of this and future development within the Port.

The submission from a member of public also raised concern regarding parking and movement of heavy vehicles through residential streets. The Applicant highlighted that Industrial Drive is a classified road managed by the RMS. Enforcement of the current parking regime, including the "No Stopping" zone along the Industrial Drive frontage of McDonalds and in the vicinity of the service station, is the responsibility of the RMS.

Further, the operational requirements and RMS approvals for oversize and over mass (OSOM) vehicles (refer to Figure 7) would effectively prevent any traffic movements through residential streets. OSOM vehicles would be unable to physically access local residential streets because of their length and width. OSOM vehicles are required to be accompanied by safety escort light vehicles with drivers inducted to follow the approved heavy vehicle access route identified in the MCP TMP.



Figure 7: Turbine blade being transported by an OSOM vehicle.

Overall, the Department is satisfied that the proposal is consistent with the MCP TMP and other relevant aspects of the MCP approval. The Department considers the proposed Selwyn Street access is suitable to accommodate the existing and proposed additional traffic flows as part of the development, subject to the recommended conditions. The Department is satisfied the proposed development will have a minor impact on the performance of the Industrial Drive/George Street intersection and that no intersection upgrades are required as it will continue to operate at a satisfactory level. The Department's assessment concludes the proposed development is satisfactory from a transport and access point of view.

5.2 Noise

The proposal has the potential to impact on the amenity of nearby sensitive receivers, including residences in Mayfield, Carrington and Stockton, from:

- the movement of freight internally within PoN from M4 to the site;
- the unloading, loading, stacking and storage of freight within the site; and
- the off-site transportation of freight from the site to its final destination, via Selwyn Street, George Street and Industrial Drive.

Council and NSW Health have raised concerns over the potential impact of noise generated by the proposal on nearby sensitive receivers. Council has raised specific concerns in relation to the exposure of residential receivers adjacent to Industrial Drive from cumulative road traffic noise.

The proposal was accompanied by a *Noise and Vibration Impact Assessment* (NVIA) undertaken using the Site Noise Model, required by the MCP approval. The NVIA also assessed road traffic noise on Industrial Drive. The NVIA was undertaken in accordance with the NSW Environment Protection Authority's (EPA) *NSW Industrial Noise Policy* (INP) and associated application notes, the *NSW Road Noise Policy* (RNP) and *Assessing Vibration: A Technical Guideline* (DECCW, 2006).

As the site is in the MCP approval area, the NVIA also addressed the MCP approval requirements and identified the sensitive receivers for development proposals within the MCP approval, shown on Figure 8.

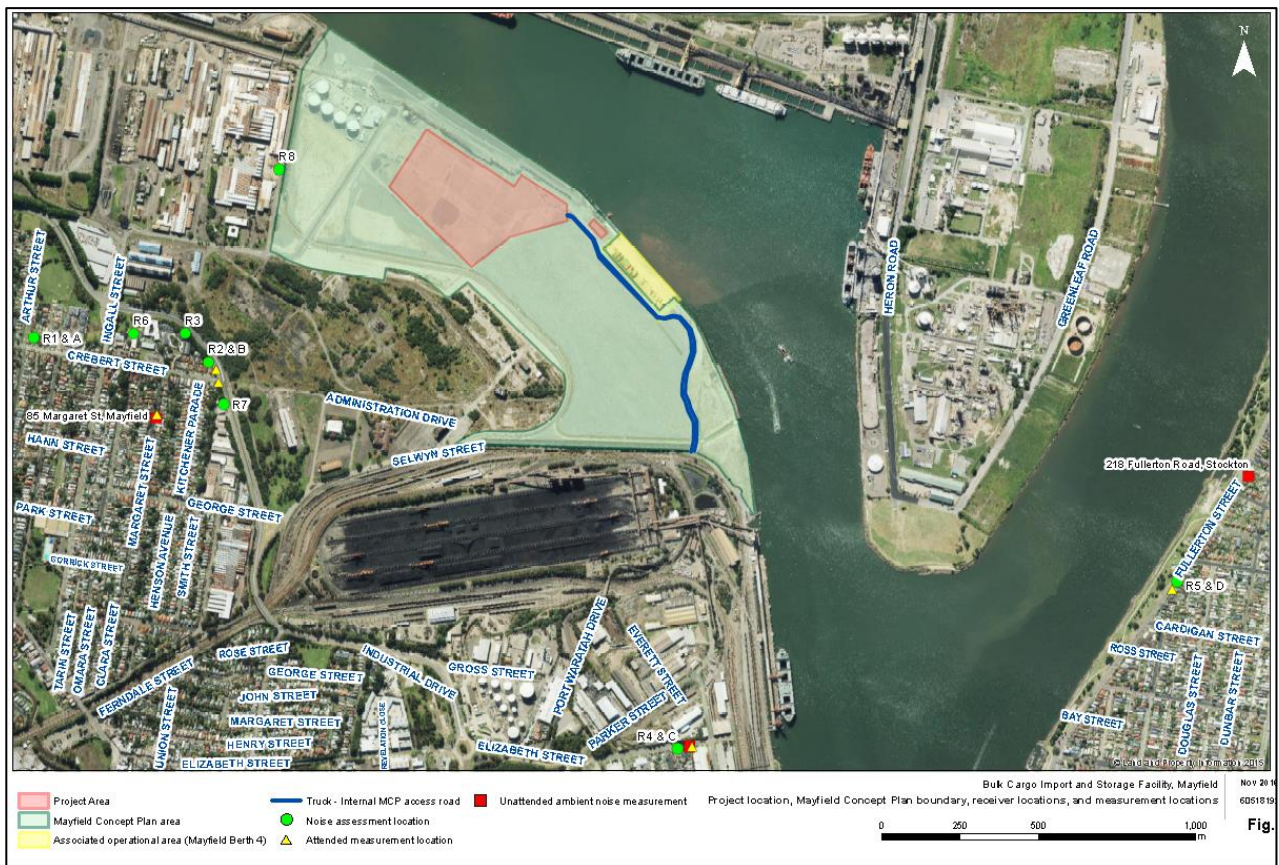


Figure 8: MCP Residential Receiver locations (Green dots).

Background and MCP Approval requirements

The Applicant is required to ensure noise from the operation is consistent with the requirements of the MCP approval. The PoN has completed its requirements for managing the cumulative noise from all developments within the MCP approval area. This includes:

- the Site Noise Model, used to assess noise from developments in the Concept Plan area;
- noise quotas for each development within the MCP (currently provisional);
- a Noise Verification Monitoring Plan; and
- a cumulative environmental noise management tool (CENMT).

Operational noise

The NVIA noise assessments are based on a reasonable worst case operating scenario, which has considered freight and container handling operations that involve high levels of impact noise (see Figure 9 for examples of noisy activities at the site). Noise sources in the assessments have also been modelled in the location closest to the nearest residential receiver to the site, and assumed all operations will occur in this location. This will not happen in practice. The NVIA also considered worst-case meteorological conditions including night time temperature inversions and winds exacerbating operational noise from the site to the receivers.



Figure 9: Reach stackers moving shipping containers and a wind turbine blade

As discussed in section 1.2, freight is currently stored on the site in a similar manner to that proposed as part of this application. Noise currently generated at the site is similar to that predicted by the NVIA. In particular, the NVIA predicted the operation of the proposal would comply with the EPA criteria at all receiver locations, during all weather conditions in the day, evening and night time periods.

The highest predicted noise level is 40 dB(A) during the day under worst-case meteorological conditions at a residential receiver at 24 Crebert Street, which is well below the intrusive noise criteria of 48 dB(A). The Department is satisfied that noise generated from the operation of the development is well within the criteria established for the site and is unlikely to be perceptible above the existing road traffic and industrial noise experienced by nearby residences.

Sleep Disturbance

The NVIA considered predicted noise levels against criteria for sleep disturbance. The noise sources with the greatest potential for causing sleep disturbance are the operation of truck airbrakes, truck reversing alarms, and the dropping of freight onto the hard stand storage area and/or trucks. The NVIA night-time sleep disturbance assessment was undertaken against the worst-case meteorological conditions. With a maximum predicted noise level of 52 dB(A), the recommended screening criteria is not exceeded at any residential receiver location. Accordingly, the Department's assessment concludes the operation of the proposal will not result in sleep disturbance to nearby residential receivers.

Concept Plan Noise Quota

The MCP approval aims to address cumulative noise impacts from all sites within the MCP approval area, with the aim of addressing cumulative noise impacts as the MCP area is developed over time. PoN has developed a CENMT so that when the MCP is fully developed, the cumulative noise impacts from all MCP development sites meet the overall MCP noise limits.

The predicted operational noise from the proposal was compared with the noise quota provided by the PoN. Operational noise is not predicted to exceed the noise quotas at any of MCP residential receiver locations. The Department is satisfied that the cumulative noise contribution of the proposal has been addressed and the Applicant's NVIA has demonstrated compliance with the MCP noise quotas.

The Applicant has committed to assessing the performance of the development following commencement of operation in accordance with the *Noise Verification Monitoring Plan* prepared in accordance with the MCP Approval. The Department concurs with this and has recommended a condition to incorporate this into an OEMP for the site.

Road traffic noise

The NVIA included monitoring of road traffic noise on Industrial Drive and indicated existing road noise levels are above the criteria in the RNP. Where the criteria are already exceeded, the Policy indicates that any additional noise should be kept within 2 dB as this is considered to be barely perceptible to the average

person. Comparing the existing volume of traffic on Industrial Drive with the proposed increases from the development, the NVIA concluded the development would increase road traffic noise by less than 1 dB(A).

Council raised concerns in relation to the exposure of sensitive residential receivers adjacent to Industrial Drive from cumulative road traffic noise and has indicated this issue needs to be considered from a long-term strategic perspective. Whilst Council's concerns are acknowledged, given the negligible noise impact of the proposal, it would not be reasonable or feasible to require mitigation measures as part of any consent for this proposal. The long-term strategy to manage the acoustic privacy of dwellings adjacent to Industrial Drive is a matter for the RMS to address as Industrial Drive is a classified road under the control of the RMS.

The Department's assessment concludes the impact of road traffic noise from the proposal on the amenity of sensitive receivers adjacent to Industrial Drive would be negligible.

Construction noise

There would be no direct construction activities associated with the proposal. All setup and establishment activities would be associated with the proposed operations. Temporary fencing, lighting and buildings would be brought to the site as required by individual tenants during different storage activities. The Applicant has committed to undertake site establishment during standard working hours and manage noise as described in the EPA's *Interim Construction Noise Guidelines* (ICNG). The Department supports this approach and concludes construction noise can be managed in accordance with the EPA's guideline.

Ship Noise and Noise from the M4 Berth

The NVIA did not consider noise from ship unloading activities at the M4 as:

- the EPA's *Industrial Noise Policy* does not cover shipping;
- the noise emissions from the operation of the M4 are the subject of a separate development consent and operational noise criterion outlined in the M4's EPL; and
- the control and regulation of shipping is the responsibility of the Port Authority of NSW and the Newcastle Harbour Master.

The Department is satisfied the proposal is not required to evaluate or control noise from shipping as it does not form part of the proposal and other agencies regulate shipping activities.

Overall, the Department concludes that noise from the proposed development will be acceptable and within the noise limits set by the MCP subject to the implementation of the recommended conditions which include operational noise limits and a requirement to prepare an OEMP that includes noise monitoring and management measures.

5.3 Other Issues

The Department's assessment of other issues is provided in Table 1.

Table 1: Assessment of other issues

| Assessment | Recommendation |
|--|---|
| Air Quality <ul style="list-style-type: none"> NSW Health has raised concerns over short and long-term exposure to PM_{2.5} and PM₁₀ particulate air pollution and has requested that mitigation measures be implemented during the operation of the proposal which include all reasonable and feasible measures to avoid PM_{2.5} and PM₁₀ pollution. The Applicant's assessment concludes that the air quality impacts of the proposal are negligible and there is limited potential to generate dust as it is for the static storage of project cargo. The facility will not store loose bulk or dusty cargos. To minimise the impact of emissions, the Applicant states that: <ul style="list-style-type: none"> all operational vehicles will be maintained in good working order; and plant or equipment idling for prolonged periods should be switched off. The Department is satisfied with the Applicant's assessment and concludes that the risk to the health of nearby workers and residents from particulates resulting from the operation of the proposed development is negligible. | No conditions are required. |
| Water Management and Monitoring <ul style="list-style-type: none"> NSW Health indicated that the proposal needs to include a comprehensive Water Management Plan (WMP) to address all aspects of assessment, management and continuous monitoring of water associated with the proposal. The RTS indicates: <ul style="list-style-type: none"> surface water is proposed to be directed to the PoN's established drainage network; | A condition has been recommended to prepare an OEMP to manage operations at the site. |

| Assessment | Recommendation |
|--|-----------------------------|
| <ul style="list-style-type: none"> there is limited potential for water quality impacts to occur due to the types of cargos proposed to be stored; spill kits will be available to manage potential waste; refuelling will occur only within bunded areas; and wastewater from portable amenities will be contained and removed from the site for disposal by a licenced contractor. <p>The Department is satisfied with the measures proposed to be implemented by the Applicant and concludes that the risk of water quality impacts arising from the operation of the development is low. The Department has recommended an OEMP be prepared as part of the recommended conditions. This OEMP would be expected to include the relevant measures to manage water quality at the site.</p> | |
| Mosquitoes and public health | |
| <ul style="list-style-type: none"> NSW Health raised concern over the risk of nuisance biting mosquitoes and disease transmitting mosquitoes affecting employees, visitors and the local population. The RTS indicates the management of mosquitoes, within the PoNLA is the responsibility of the Commonwealth Department of Agriculture and Water Resources (DAWR). PoN has an Integrated Pest Management Procedure as part of its Environmental Management System (EMS). The EMS specifies that surveys are undertaken bi-annually as part of a cooperative arrangement with DAWR to assist in the control of vectors that pose a potential biosecurity risk. The Department's assessment concludes the risk of nuisance biting mosquitoes and disease transmitting mosquitoes is already being addressed by the Applicant. | No conditions are required. |
| Use of Mobile Cranes | |
| <ul style="list-style-type: none"> Council has indicated that the site is within the nominated 15 km radius of protected airspace of RAAF Base Williamtown, and that if any of the proposed storage activities involve the use of mobile cranes having an overall height of 30 m above ground level, the prior written approval of RAAF Williamtown will be required. The RTS indicates: <ul style="list-style-type: none"> the proposal does not involve the loading of cargo from landside cranes; there are no mobile or fixed cranes at M4 and none are to be installed as part of the proposal; and all cargo would be loaded and unloaded using ships cranes (see Figure 2 and Figure 6). The Department is satisfied that the operation of the proposal will not involve the use of mobile cranes having an overall height of 30 m above ground level. | No conditions are required. |

6. CONCLUSION

The DA has been assessed in accordance with the matters for consideration under Part 4 and section 79C of the EP&A Act, and all relevant environmental planning instruments, and is considered to comply with all relevant items.

The proposal will result in the provision 12 ha of port-side freight storage area in the PoN. The proposal provides for the efficient use of an existing hard stand area with negligible environmental impact. The site is within the MCP approval area and the Department's assessment has found that the proposal is consistent with the relevant aspects of the MCP approval, as modified.

The Department's assessment concludes that the proposed Selwyn Street access is suitable in its current condition subject to the implementation of improvements identified in the Applicant's road safety audit (RSA) which are reflected in the recommended conditions of consent.

The Department is satisfied that any increase in noise associated with the proposed use would be negligible and within the EPA's noise limits and concludes that the cumulative of noise impact of the proposal is acceptable and within the noise quota for the site identified by the MCP noise model.

It is recommended that the DA be approved on the basis of its planning merit, subject to conditions, as recommended by the Department.

7. RECOMMENDATION

It is recommended that the Director, Industry Assessments:

- a) **consider** all relevant matters prescribed under section 79C of the EP&A Act, including the findings and recommendations of this report; and
- b) **approve** the development application DA 8137, subject to conditions, under section 80(1)(a) of the EP&A Act by signing the instrument of consent at Appendix A.

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30/6/17.

APPENDIX A INSTRUMENT OF CONSENT

APPENDIX B CONSIDERATIONS UNDER SECTION 79C

Section 79C of the EP&A Act requires that the consent authority, when determining a development application, must take into consideration the following matters:

| | |
|---|---|
| <p>(a) the provisions of:</p> <p>(i) any environmental planning instrument, and</p> <p>(ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and</p> <p>(iii) any development control plan, and</p> <p>(iii) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and</p> <p>(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and</p> <p>(v) any coastal zone management plan (within the meaning of the <i>Coastal Protection Act 1979</i>)</p> <p>that apply to the land to which the development application relates,</p> | <p>Consideration of the provisions of all environmental planning instruments (including draft instruments subject of public consultation under the EP&A Act) that apply to the proposed development is provided in Appendix C of this report.</p> <p>The Applicant has not entered into any planning agreement under section 93F.</p> <p>The Department has undertaken its assessment of the proposed development in accordance with all relevant matters as prescribed by the regulations, the findings of which are contained within this report.</p> <p>The Department is not aware of any coastal zone management plan that applies to the proposed development and in any case, is satisfied that the proposal would have a negligible impact on the coastal zone.</p> |
| <p>(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,</p> | <p>The Department has considered the likely impacts of the development in detail in Section 5 of this report. The Department is satisfied that all environmental impacts can be appropriately managed and mitigated through recommended conditions of consent.</p> |
| <p>(c) the suitability of the site for the development,</p> | <p>Sections 1, 3.10, 5 and Appendix C of the Department's Assessment Report provide details on the suitability of the site for the proposed development. The site is located within the lease area of the PoN, is zoned for special activities and is permissible with development consent. The access is suitable subject to the implementation of recommendations identified in the Applicant's Road Safety Audit.</p> |
| <p>(d) any submissions made in accordance with this Act or the regulations,</p> | <p>The issues raised in the submissions are considered in Section 5 of the Assessment Report.</p> |
| <p>(e) the public interest.</p> | <p>The PoN is considered to be a significant resource that provides substantial direct and indirect economic benefits to the State of NSW and the national economy. The proposed development will make a positive economic contribution by allowing the greater utilisation, orderly and economic use of land in the PoNLA.</p> <p>As such the proposal is considered to be in the public interest.</p> |

APPENDIX C CONSIDERATION OF ENVIRONMENTAL PLANNING INSTRUMENTS

State Environmental Planning Policy (Three Ports) 2013

The site is located in the PoN Lease Area and the Three Ports SEPP applies to the proposed development.

The proposal is consistent with key aims of the Three Ports SEPP which are to allow the efficient development, re-development and protection of land for port purposes and to ensure that land around the Lease Area is maintained for port-related and industrial uses.

The site is zoned SP1 (special activities) under the Three Ports SEPP and the proposed development is permissible with consent. The proposed development would be consistent with relevant aims of this zone including:

- *To facilitate development that is in keeping with the special characteristics of the site or its existing or intended special use, and that minimises any adverse impacts on surrounding land.*
- *To maximise the use of waterfront areas to accommodate port facilities and industrial, maritime industrial, freight and bulk storage premises that benefit from being located close to port facilities.*
- *To provide for port related facilities and development that support the operations of Port Botany, Port Kembla and the Port of Newcastle.*

The proposal would facilitate the ongoing efficient movement of freight to and from the PoN through the use of an underutilised existing hard stand area, with negligible additional environmental impact. The PoN provides substantial direct and indirect economic benefits to the State of NSW. The proposed development would therefore make a positive contribution to the NSW economy by supporting the existing port related activities in the area.

The Department is satisfied that the proposed development is consistent with relevant provisions of the Three Ports SEPP.

APPENDIX D
DEVELOPMENT APPLICATION AND ACCOMPANYING DOCUMENTS (INCLUDING
STATEMENT OF ENVIRONMENTAL EFFECTS AND RESPONSE TO SUBMISSIONS)

APPENDIX E RESPONSES DURING NOTIFICATION PERIOD