



Mayfield Cargo Storage Facility Modification 1

Expansion of the Mayfield Cargo Storage Facility
Part 4 Modification Assessment (DA 8137 MOD 1)

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Glossary

Abbreviation	Definition
Applicant	Port of Newcastle (PON)
Council	Newcastle City Council
Department	Department of Planning, Industry and Environment
Development	DA 8137 – Mayfield Cargo Storage Facility
DA	Development Application
EPA	Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
ESD	Ecologically Sustainable Development
LOS	Level of Service
LGA	Local Government Area
MCP	Mayfield Concept Plan
Minister	Minister for Planning and Public Spaces
Modification	DA 8137 – Modification 1
NM	Noise Memorandum
Planning Secretary	Secretary of the Department of Planning, Industry and Environment
RSA	Road Safety Audit
RORO	Roll On / Roll Off
RTS	Response to Submissions
SEE	Statement of Environmental Effects
Site	189 Selwyn Street, Mayfield North
SSD	State Significant Development
Three Ports SEPP	State Environmental Planning Policy (Three Ports) 2013

TIA	Traffic Impact Assessment
TfNSW	Transport for NSW
TM	Transport Memorandum
VRA	Voluntary Remediation Agreement

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1 Introduction

1.1 The Department's Assessment

This report details the NSW Department of Planning, Industry and Environment's (**Department**) assessment of an application to modify the development consent for the Mayfield Cargo Storage Facility - DA 8137 (**Development**). The Development is located within the Newcastle local government area (**LGA**) on land known as Part Lot 42 DP 1191982, Part Lot 51 DP 1229869 and Part Lot 54 DP 1229869, 189 Selwyn Street, Mayfield North.

The modification application (**Modification**) seeks approval to:

- increase the site area to expand the loading and unloading area of the Mayfield Cargo Storage Facility from 12 hectares (**ha**) to 18.6 ha
- to include roll-on / roll-off cargo (**RORO**) as a permitted cargo type.

The Modification was lodged on 20 February 2020 by Port of Newcastle (**Applicant**) pursuant to section 4.55 (1A) of the *Environmental Planning and Assessment Act 1979* (**EP&A Act**).

The Department's assessment considers all documentation submitted by the Applicant, including the Statement of Environmental Effects (**SEE**) and Response to Submissions (**RTS**), as well as submissions received from public authorities. The Department's assessment also considers the legislation and planning instruments relevant to the development.

This report describes the Modification, surrounding environment, relevant statutory planning provisions and the issues raised in submissions. The Department's assessment evaluates the key issues associated with the Modification and provides recommendations for managing any impacts during construction and operation. The Department's assessment of the Modification has concluded that it is in the public interest and should be approved, subject to the recommended modifying conditions of consent.

1.2 Site Description

The area of land which is the subject of the Modification (**Site**) is located within the Port of Newcastle's (**PON**) Mayfield Precinct, within the Newcastle LGA. The Site is located on land legally known as Part Lots 51 and 54 DP 1229869 and Part Lot 42 DP 1191982, which is also known as 189 Selwyn Street, Mayfield North – see Figures 1 and 2. The Department notes that since the approval of the Development, Lots 51 and 54 DP 1229869 were created from the subdivision of Lot 45 DP 1191982.

The site is zoned SP1 – Special Activities under State Environmental Planning Policy (Three Ports) 2013 (**Three Ports SEPP**), and is currently utilised for the permanent use as a shipborne freight storage facility under the existing Development consent (area as approved only) and the remainder of the Site, which is the subject of the Modification is used for the temporary storage of shipborne freight which is permitted for up to 182 days per year under Schedule 1 of the Three Ports SEPP.

The Site is located on the western foreshore of the southern arm of the Hunter River and is predominately level hardstand which is devoid of any existing vegetation. The area immediately surrounding the Site consists largely of industrial and port related activities, with the nearest residential receivers located approximately 800 metres (**m**) to the south-west of the Site.

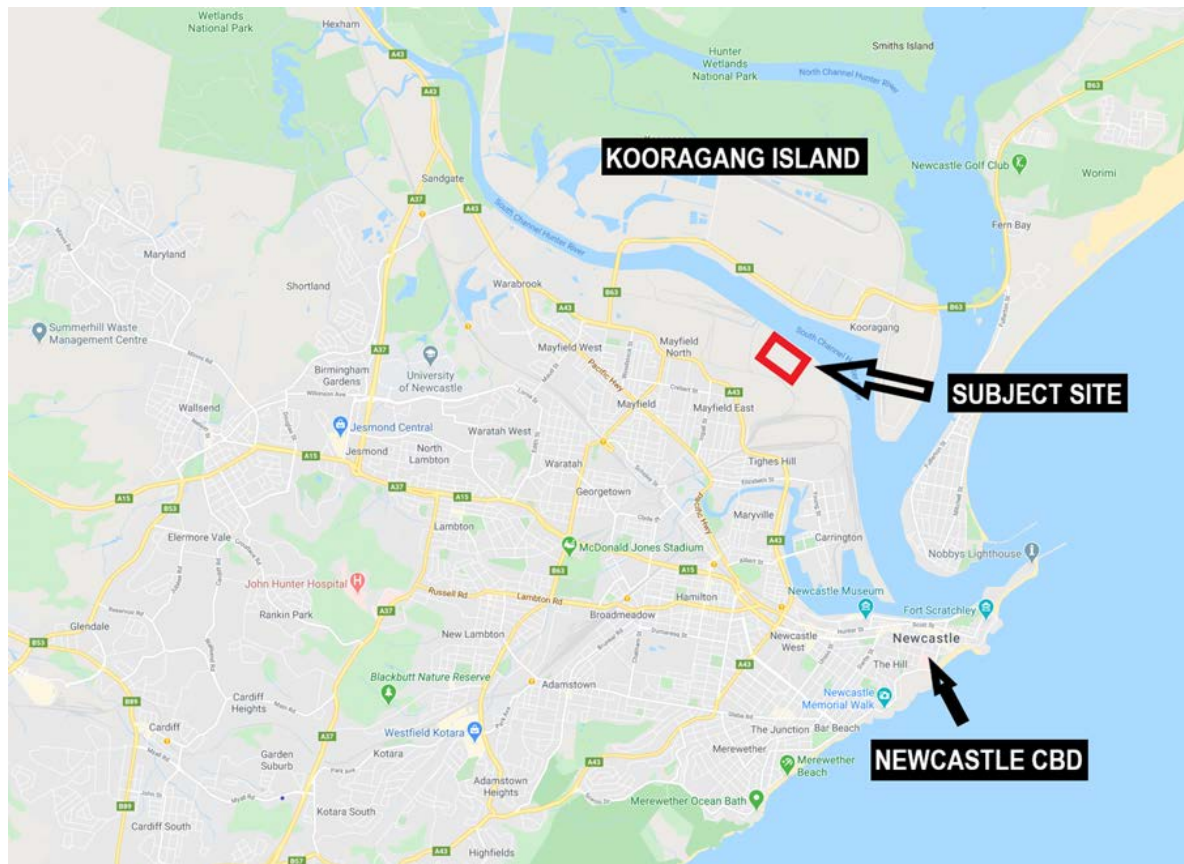


Figure 1 | Local Context Map

1.3 Site History

The Site forms part of the former BHP steelworks site which was in operation from 1915 to 1999. Post closure, on 6 April 2001, the then Minister for Urban Affairs and Planning approved development application (DA) DA 293-08-00 for the remediation of the BHP site and the development of a multi-use terminal, comprising a container terminal and a general cargo handling facility which is located to the south of the Site. This consent governs the operation of Mayfield Berth No.4 which is immediately to the south of the Site and is the primary berth utilised by shipping which services the Site.

On 14 June 2001, the Environment Protection Authority (EPA) declared the BHP site to be a remediation site and a remedial action plan was prepared in 2004 to address legacy soil and groundwater contamination associated with the former steelworks. In 2018, the final remediation works were completed, with the exception of a small section in the north-east corner of the Site.

On 16 July 2012, the then Minister for Planning and Infrastructure approved the Mayfield Concept Plan (MCP)(09_0096) which the Site is located fully within. The MCP approved a conceptual layout of port-related land uses which included five indicative precincts. The Site is located within the Bulk Liquids and Container Terminal precincts. The MCP has been modified on two separate occasions. Term 2.1 of Schedule 3 of the MCP approval lists the environmental assessment requirements for future developments under Part 4 of the EP&A Act.

1.4 Approval history

On 30 June 2017, the Development was approved under delegation by the Director – Industry Assessments for the “*Use of existing hardstand area as port facilities for the storage of freight, including the loading and unloading of freight on the site*”. The Development formalised the ability to use the area for permanent storage of shipborne freight as exempt development provisions of the Three Ports SEPP only allow the use of the area as a port facility for 182 days per year.

The Development did not require any demolition or building construction works to occur and is not used for the storage of any cargos which are classified as being dangerous, hazardous or a waste product, or bulk commodities such as coal, bulk liquids and RORO cargo.



Figure 2 | DA 8137 - Site Layout

2 Proposed modification

The Applicant is seeking to modify the Development to facilitate two changes as discussed below.

Increase in storage area:

The Modification is proposing an increase in the area of existing hardstand that can be utilised for cargo storage by 6.6 ha which represents a change from 12 ha to 18 ha – See Figure 3. This amendment will also require the updating of the subject land description as Lot 45 DP 1191982, which was referenced in the development consent, has since been subdivided, and the land which relates to the Modification now sits within Part Lots 51 and 54 DP 1229869 and Part Lot 42 DP 1191982.

According to the Applicant, the Modification will be consistent with the Development and will not result in any significant design changes, while maintaining the existing hours of operation, staffing and servicing as before. The Applicant has indicated there will be an increase in heavy vehicle movements as a direct result of the increase in the area available for storage. Impacts associated with the Modification are discussed in greater detail in Section 5 of this report.

The Applicant has justified the increase in storage area on the basis that it will support the existing operations and to support the growth experienced by the PoN.

Addition of Roll-on / Roll-off cargo types:

RORO cargo is a cargo type that is either loaded by way of a wheeled platform or is equipped with its own wheels which are traditionally loaded via ramps which are built into the ship. Trucks, buses and cars are all examples of typical RORO cargo.

It is understood that under the Development, the Applicant excluded RORO cargo being used for storage at the Site, and it is noted there was no specific reason provided for doing so. The Applicant is now seeking to have RORO cargo included in the Site operations. The primary difference between RORO cargo and those currently utilised at the Site is that RORO cargo can be wheeled out or driven out under its own power (i.e. cars) into the storage area, whereas current cargo dictates the use of ship mounted cranes for loading and unloading activities.



Figure 3 | Modification Proposal

3 Statutory context

3.1 Scope of modification

The Department has reviewed the scope of the Modification and considers it can be characterised as a modification involving minimal environmental impacts as the proposal:

- would not have any notable increase in the environmental impacts of the Development as approved
- is substantially the same development as originally approved.

Therefore, the Department is satisfied the proposed modification is within the scope of section 4.55 (1A) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55 (1A) of the EP&A Act rather than requiring a new development application to be lodged.

3.2 Consent authority

Minister's delegate as consent authority

The Minister for Planning and Public Spaces (**Minister**) is the consent authority for the application under section 4.5(a) of the EP&A Act.

In accordance with the Minister's delegation, dated 9 March 2020, the Director, Industry Assessments, may determine this application as:

- the application has not been referred to the Independent Planning Commission prior to the date of the delegation and
- a political disclosure statement has not been made and
- there are no public submissions in the nature of objection.

3.3 Matters for consideration

The Department has undertaken a comprehensive assessment of the Modification against the mandatory matters for consideration that are of relevance to the Modification. The Department has concluded that the Modification does not result in any significant changes that would alter the mandatory matters for consideration under section 4.15 of the EP&A Act, the objects of the EP&A Act under section 1.3, including the principles of Ecologically Sustainable Development (**ESD**) and the conclusions made as part of the original assessment.

The further assessment of the mandatory matters for consideration as they relate to the Modification can be found further in this report.

3.4 Consistency with Concept Plan

The Applicant's SEE has included a table which details the consistency of the Modification against the MCP. The Department has reviewed the MCP against the amendments proposed by the Modification and is satisfied that the increase in land use for the laydown of cargo is consistent with the MCP and that no amendments of the MCP are required.

4 Engagement

4.1 Department's engagement

Clause 117(3B) of the *Environmental Planning and Assessment Regulation 2000* (**EP&A Regulation**) specifies that the notification requirements of the EP&A Regulation do not apply to section 4.55(1A) modifications with minimal environmental impact. Furthermore, the Department's Community Participation Plan notes the exhibition requirements for section 4.55(1A) modifications are discretionary and based on the urgency, scale and nature of the proposal. Accordingly, the Modification was not notified or advertised. However, it was made publicly available on the Department's website on 24 February 2020 and was referred to Transport for NSW (**TfNSW**) and Newcastle City Council (**Council**) for comment on 21 February 2020.

4.2 Key issues raised in submissions

The Department received submissions from both TfNSW and Council who made the following comments:

TfNSW – identified that the Industrial Drive and George Street intersection currently operates well, and that the additional vehicle movements associated with the Modification are unlikely to reduce the efficiency of the intersection.

Council – requested the Applicant provide further information on the cumulative impacts of the Modification, having regard to other existing or approved developments within the MCP area. Further information was also sought regarding the nature of the RORO cargo and clarification around some of the assumptions made in the consideration of traffic related impacts associated with the Modification. Neither agency objected to the Modification.

4.3 Response to submissions

On 24 March 2020, the Department requested the Applicant respond to comments raised in submissions. The Applicant provided its RTS on 19 May 2020 which addressed the issues raised in submissions.

The RTS was provided to Council who responded on 2 June 2020. Council was satisfied with the information provided in the RTS and recommended the inclusion of a condition to require all RORO cargo be transported to or from the Site by truck or ship only. The Department supports this approach.

5 Assessment

The Department has assessed the merits of the Modification and during this assessment, the Department has considered the following:

- SEE provided to support the Modification
- Submissions received from TfNSW and Council
- the EIS, RTS and assessment report for the Development
- existing conditions of consent
- relevant environmental planning instruments, policies and guidelines
- requirements of the EP&A Act, including the objects of the EP&A Act.

The Department considers that the key issue is the increase in heavy vehicle movements associated with the increase in cargo storage area, with some associated minor issues relating to noise and contamination.

5.1 Heavy Vehicle Movements

The Applicant is seeking to expand the cargo storage area from 12 ha to 18.6 ha. Due to the increase in available storage area, the amount of truck movements are also predicted to increase. The Applicant has submitted a Traffic Memorandum (**TM**) prepared by Aurecon which compared the heavy vehicle movements predicted by the Development's Traffic Impact Assessment (**TIA**) against those predicted for the Modification, the actual realised heavy vehicle movements since commencing operations, and the predicted increase in heavy vehicle movements for the Modification.

The TIA predicted for the Development that the worst-case heavy vehicle movements would be in the order of 200 movements per day with a maximum of 14 movements in the AM / PM peak hour. The TIA also anticipated 60 light vehicle movements per day. The TM considered the heavy vehicle movements predicted for both the Development and the Modification. The TM has anticipated that the 55% increase in storage area will conservatively correspond with a 55% increase in heavy vehicle movements. This represents an additional 110 heavy vehicle movement per day, with an additional eight heavy vehicle movements during the AM / PM peak hour. Light vehicles are not anticipated as there will be no increase in onsite employment.

The TM provided an analysis of actual experienced heavy vehicles movements since the Development achieved operational status in 2017. The analysis has shown that average daily heavy vehicle movements have not exceeded 10 movements, and the maximum experienced was less than 20 heavy vehicle movements in any single day. The Department understands from the SEE that the Development was fully operational during this period, and this included the use of the temporary storage area which is the subject of this Modification. The TM concluded that *"actual daily truck movements generated by the original development appears to be less than 10% of the predicted worst-case truck movements predicted in the TIA"*.

The TM also addressed the potential impact of the Modification on the intersection performance of Industrial Drive and George Street. The TM had predicted that the Modification would have a negligible impact with a predicted Level of Service (**LOS**) as follows:

Period	2017 Predicted LOS	2027 Predicted LOS
AM Peak	B	C
PM Peak	A	B

According to the TM, the predicted worst-case scenario of an additional eight heavy vehicle movements during the AM / PM peak is the equivalent of a 0.2% increase in total vehicle movements in both 2017 and 2027. The TM concluded that this would result in a negligible impact on the operation of the intersection of Industrial Drive and George Street.

The Applicant's RTS provided further clarification around predicted traffic impacts which included the consideration of the cumulative impacts of the Modification and other significant developments what have been either approved, or under assessment by the Department that are located either within the MCP or the surrounding locality. The RTS, in consultation with Council, adopted a 2% per year traffic growth rate and concluded that under a worst-case scenario (based on the original predicted traffic volumes plus 55% of additional movements) there would be no material impact on intersection performance.

The RTS also included a Bi-Monthly Traffic Management Report prepared by PoN which showed total truck movements for the past 12 months for the whole of the MCP. This includes both the Development and SSD 6664 (Stolthaven Fuel Terminal). Total annual truck movements for the MCP were shown as 24,079 movements. This translated to a daily average of 67.58 movements and an hourly average of 2.82 movements. This represents a significant shortfall in movements to that originally predicted by the TIA for the Development.

Under the assessment of the Development a Road Safety Audit (**RSA**) was provided in relation to Selwyn Street. The RSA identified that once traffic flows reached 2,000 vehicles per day street lighting would be required to be provided. At the time of the assessment it was concluded that predicted daily movements with the Development would be in the order of 1,835 vehicles per day.

No updated traffic figures have been provided for Selwyn Street as part of the Modification and obtaining current data as part of the RTS process was not supported with traffic volumes significantly reduced due to COVID 19 impacts. In lieu of this, the Applicant and Council agreed to apply a traffic growth increase for 2017 of 1.94% (AM volumes) and 2.4% (PM volumes) which is consistent with the approach adopted by the TIA. A further annual 2% increase was then applied to predict 2020 traffic volumes. The predicted volumes remain just below 2,000 vehicles per day, however, given that the realised traffic levels have been significantly less than predicted by the Development, the Department is satisfied that it is unlikely that the 2,000 vehicles per day threshold will be exceeded by the Modification.

As a result of concerns raised by Council in relation to the transport to and from the Site of RORO cargo, the Applicant provided clarification in its RTS. This clarification confirmed the transferring of cargo under its own power was generally not supported for all cargo and suggested that a condition could be applied to require all cargo to be transported to and from the Site by either truck or ship only, with only limited annual movements (102 per year) being permitted. This solution would limit small scale, high volume cargos such as passenger cars being driven to and from the Site which would have significant impact on the local road network due to increase traffic volumes. Council supported this approach.

Conclusion

The Department has fully considered the information submitted by the Applicant in both the SEE and RTS. Based on the information before it, the Department agrees that traffic generation from the Site should be minimised to reduce pressure on existing intersections in the locality. As such, the Department has recommended a new condition to require most RORO cargo to arrive and depart the Site by either truck or boat. This requirement is to be incorporated into the Applicant's existing Operational Environmental Management Plan (OEMP), which is to be updated prior to the permanent use of the new land.

The Department concludes that that whilst actual heavy vehicle movements for the Development have been significantly less than predicted, even with an assumed worst case scenario the Modification will have an inconsequential impact on the local road network in regard to heavy vehicle movements, and any potential traffic impacts on the locality are acceptable.

5.2 Assessment of Other Issues

The Department's assessment noise and contamination is provided in **Table 1** below.

Table 1 | Assessment of Issues

Issue	Findings	Recommendations
Noise	The Modification has the potential to increase noise impacts due to the increase in heavy vehicle movements and from port equipment used for loading and unloading cargo to and from the expanded cargo storage area. The MCP consent (Condition 2.17) provides total operational noise limits for the cumulative MCP area and all developments / operations contained within its boundary. The Development consent (Condition B2 – Part B) provides for Project specific operational noise limits. The Applicant submitted a Noise Memorandum (NM) which was accompanied with an Operational Noise Compliance Assessment (2019) for the Modification which was prepared by AECOM. The SEE identified that: • a noise model was created to confirm noise impacts associated with the Modification and to establish compliance with the existing noise limits. This included attended noise monitoring at the residential receivers listed under Condition B2 • the attended noise monitoring recorded noise levels which exceeded consented limits. However, the monitoring could not identify the specific noise sources • the model indicated that the noise contribution from the Modification was	The Applicant has not requested any change to the existing operational noise limits under the Modification. It is recommended that the existing noise limits and compliance protocols remain in place.

negligible and that it would comply with both noise limits set under the Development consent and MCP.

The Department acknowledges that there is an issue with noise exceedances within the locality, however the Department also acknowledges that the Development's contribution is minor and potentially less than currently thought given the realised traffic volumes are significantly less than originally predicted.

The Department further acknowledges that there are existing conditions of consent, which address both traffic and operational noise impacts, including by way of the OEMP. The Department has not recommended changes to the existing consented noise limits, and as such, will ensure no additional noise emissions will be generated by the Modification. The Department's assessment concludes that the Modification will not generate unreasonable noise impacts and that existing noise mitigation and management conditions remain relevant and current to the Modification.

Contamination

Remediation of the Site is required under Development Application 293-08-00 and Voluntary Remediation Agreement 26025 (VRA).

The Site has been largely remediated with the exception of a small portion of land in the eastern portion which remains uncapped which is shown in Figure 3.

The Development and Modification does not alter the requirements of DA 293-08-00 and VRA 26025 which requires the Site to be remediated in order to use the site for the current purpose and proposed use.

The Department has recommended a condition requiring this remediation to be

A condition has been recommended to require any land within the Site to be remediated in accordance with the requirements of DA 293-08-00 and the VRA and that a Site Audit Statement is to be provided confirming the site is suitable for its intended use.

undertaken prior to carrying out the Modification on this part of the site.

The Department's assessment concludes that subject to new conditions, the Modification will not be negatively impacted by contamination.

6 Evaluation

The Department has assessed the Modification, SEE and RTS, and considered the submissions provided by TfNSW and Council. The Department has also considered the objectives and relevant considerations under section 4.55(1A) of the EP&A Act.

The key issue of the Modification relates to traffic impacts from heavy vehicle movements to and from the Site, and the Department's assessment has concluded that whilst there will be a negligible increase in heavy vehicle movements, these movements will be significantly less than originally envisaged by the original Development assessment. The Department is satisfied that the local and regional road network can adequately accommodate the predicted heavy vehicle movements.

The Department is also satisfied that noise impacts will remain consistent with the original Development assessment, with no increase to the existing noise limits being sought by the Modification. The Department is also satisfied that Site contamination can be appropriately remediated before occupation, in a manner consistent with the relevant existing approvals.

The Department is satisfied that all potential impacts can be appropriately managed or mitigated by the existing conditions of consent and recommended modifying conditions and considers the Modification to be acceptable and in the public interest as it will permit a further expansion in cargo operations at the Port of Newcastle without any notable change in existing impacts.

Consequently, the Department is satisfied that the Modification should be approved, subject to the recommended modifying conditions of consent.

7 Recommendation

It is recommended that the Director – Industry Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report
- **determines** that the Mayfield Cargo Storage Facility DA 8137 MOD 1 falls within the scope of section 4.55(1A) of the EP&A Act
- **accepts and adopts** all of the findings and recommendations in this report as the reasons for making the decision to approve the modification
- **agrees** with the key reasons for approval listed in the draft notice of decision
- **modify** the consent DA 8173 subject to the conditions in the attached modifying instrument
- **signs** the attached approval of the modification (**Appendix B**).

Prepared by:
David Koppers
Senior Environmental Assessment Officer

Recommended by:



Joanna Bakopanos
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Industry Assessments

8 Determination

The recommendation is **Adopted** by:



23 June 2020

Chris Ritchie

Director

Industry Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – List of Referenced Documents

The Department has relied upon the following key documents during its assessment of the modification:

Modification Application

Statement of Environmental Effects – Mayfield Cargo Storage Facility. Prepared by Aurecon Australasia Pty Ltd, dated 11 October 2019;

Response to Submissions. Prepared by Aurecon Australasia Pty Ltd, dated 13 May 2020.

Submissions

submissions received from Council and the relevant public authorities.

Statutory Documents

relevant environmental planning instruments, policies and guidelines

relevant requirements of the EP&A Act.

Other Documents

Mayfield Cargo Storage Facility – Development Application Assessment (DA 8137), prepared by the Department of Planning and Environment, dated 30 June 2017 (including existing conditions of consent).

Appendix B – Notice of modification

Attach relevant modification instrument or instrument of refusal