

Development Consent

Section 4.16 of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure under delegation dated 16 February 2015, I hereby grant consent to the development application referred to in Schedule 1, subject to the conditions in Schedule 2.



10/4/2018

Karen Harragon
Director
Social and Other Infrastructure Assessments

Sydney

2018

SCHEDULE 1

Application Number:	DA-8796-2017
Applicant:	Roads and Maritime Services
Consent Authority:	Minister for Planning
Land:	Part Lot 5 DP1104199
Approved Development:	Redevelopment of Stockton Boat Harbour involving demolition of the existing boat harbour and jetty, reconstruction of revetment walls; installation of floating berths and maintenance dredging/excavation to improve existing navigational depths.
DA and Review of Environmental Factors	It is noted that this DA consent applies to land under State Environmental Planning Policy (Three Ports) 2013 associated with the redevelopment works under Part 4 of the EP&A Act (see Attachment 1). Ancillary works are the subject of a separate REF and being assessed under Part 5 of the EP&A Act.

TABLE OF CONTENTS

DEFINITIONS

AN	Advisory Note as Attachment 2
Applicant	Roads and Maritime Services (RMS)
ARA	Appropriate regulatory authority, in this case the NSW Environment Protection Authority (Crown works)
AS	Australian Standard
ASS	Acid Sulphate Soil
BCA	Building Code of Australia
Blue Book	<i>Managing Urban Stormwater: Soils and Construction Volumes 1 and 2 (Landcom 2004)</i>
Construction	Includes all physical works associated with the development other than low impact work. Low impact works include: - survey works - background and/or baseline monitoring works - intrusive investigations - establishment and operation of ancillary facilities - installation of mitigation measures including erosion and sediment controls, temporary exclusion fencing for sensitive areas and acoustic treatments - relocation and connection of utilities where relocation and connection does not permit a significant risk to the environment - archaeological testing under the <i>Code of Practice for archaeological investigation of Aboriginal objects in NSW (DECCW, 2010)</i> or archaeological monitoring to ensure there is no impact on heritage items Where heritage items, threatened species, populations or ecological communities (within the meaning of the EP&A Act) are affected or potentially affected by any low impact work, that work is construction, unless otherwise determined by the Secretary in consultation with OEH or DPI Fisheries (where the impact is on aquatic vertebrates, aquatic invertebrates or marine vegetation).
Council	Newcastle City Council
DA	Development application, that being for the waterside works under State Environmental Planning Policy (Three Ports) 2013
Day Time	The period from 7am to 6pm Monday to Friday and 8am to 1pm Saturday
Demolition	The deconstruction and removal of buildings, sheds and other structures on the site
Department	NSW Department of Planning and Environment
Development	The development as described in the Statement of Environmental Effects (SEE – see definition below)
DCP	Newcastle Development Control Plan 2012

DPI	NSW Department of Primary Industries including DPI Agriculture, DPI Biosecurity and Food Safety, DPI Water and DPI Fisheries
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPA	Environment Protection Authority
Evening	The period between 6pm and 7am on Monday to Saturday
Heritage item	A place, building, work, relic, archaeological site, tree, moveable object or precinct of heritage significance, that is listed or may be eligible to be listed under one or more of the following registers: the State Heritage Register under the <i>Heritage Act 1977</i> (NSW), a state agency heritage and conservation register under section 170 of the <i>Heritage Act 1977</i> (NSW), a Local Environment Plan under the EP&A Act, the World, National or Commonwealth Heritage lists under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Commonwealth), and an Aboriginal object or Aboriginal place as defined in section 5 of the <i>National Parks and Wildlife Act 1974</i> (NSW)
Incident	An occurrence or set of circumstances that causes, or threatens to cause material harm
ISEPP	Infrastructure State Environmental Planning Policy 2007
Material Harm	Is harm that: (a) involves actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial; or (b) results in actual or potential loss of property damage of an amount, or amounts in aggregate, exceeding \$10,000 (such as loss of reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
Minister	Minister for Planning
OEH	Office of Environment and Heritage
OEMP	Operational Environmental Management Plan
Operation	Operation of the development for its intended purpose as a boat harbour. This excludes activities carried out during construction such as commissioning trials of equipment, temporary use of any part of the development and maintenance works
PASS	Potential Acid Sulphate Soil
RAP	Remediation Action Plan
REF	Review of Environmental Factors
REF Site	Lots 1 and 2 DP1217154, Lot 2 DP753191 and Lot 737 DP1157637
Secretary	Secretary of the Department, or nominee
SEE	Statement of Environmental Effects, entitled <i>Stockton Boat Harbour Redevelopment Statement of Environmental Effects, August 2017</i> (MG Planning Pty Ltd and RMS)
SEPP (Three Ports)	State Environmental Planning Policy (Three Ports)

Site	DA proposal land known as part Lot 5 DP1104199, on the western shoreline of Stockton Peninsula, as shown in Attachment 1
Technical Provisions	As defined under the EP&A Act, Part 4A Div. 2, 109R
Threatened Flora and Fauna	Threatened species, populations and ecological communities listed under the NSW <i>Threatened Species Conservation Act 1995</i> , NSW <i>Fisheries Management Act 1994</i> and Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i> .
TSC	Threatened Species Conservation Act 1995
Unexpected find	Any unexpected find that has consequences for the project and/or requires further assessment including, but not limited to, unexpected services, contaminated soil or sediments, threatened or thought to be extinct flora and fauna species and heritage items
UFP	Unexpected Finds Protocol

SCHEDULE 2

PART A – ADMINISTRATIVE CONDITIONS

Obligation to Minimise Harm to the Environment

- A1. In addition to meeting the specific criteria under this consent, the Applicant shall implement all reasonable measures to prevent and/or minimise any harm to the environment that may result from the construction or operation of the development.

Terms of Consent

- A2. The Applicant shall carry out the development:
- a) in compliance with the conditions of this consent;
 - b) in accordance with all written directions of the Secretary;
 - c) in accordance with the SEE and its associated plans; and
 - d) in accordance with the management and mitigation measures.
- A3. If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any inconsistency.
- A4. The Applicant shall comply with any reasonable requirement/s of the Secretary arising from the Department's assessment of:
- a) any reports, plans, strategies, programs, studies or correspondence that are submitted in accordance with this consent;
 - b) the implementation of any actions or measures contained in these reports, plans, strategies, programs, studies or correspondence submitted by the Applicant; and
 - c) any complaints submitted by the public regarding noise, emissions or impacts associated with the Development.

Limits on Consent

- A5. This consent lapses five years after the date from which it operates, unless the development has physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse under section 95 of the EP&A Act.

Structural Adequacy

- A6. The Applicant shall ensure that all structures, and any alterations or additions to existing structures, are constructed in accordance with the relevant requirements of the BCA, and Australian Standard AS 3962 – *Guidelines for Design of Marinas*.

Notes:

Under Part 4A of the EP&A Act, the Applicant is required to obtain certification prior to Construction by, or on behalf of the Crown to comply with the technical provisions of the States Building Laws. Part 4A, section 109R outlines the requirements for certification of the project.

Demolition

- A7. The demolition must be carried out in accordance with *Australian Standard AS 2601-2001 The demolition of structures* (Standards Australia, 2001).

Protection of Public Infrastructure

- A8. The Applicant shall:
- a) repair or pay the full cost associated with repairing, any public infrastructure that is damaged by the development; and
 - b) relocate, or pay the full cost associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

Compliance

- A9. The Applicant shall ensure all employees, contractors and subcontractors are aware of, and comply with the conditions of this consent relevant to their respective activities.
- A10. The Applicant shall be responsible for any environmental impacts resulting from the actions of all persons that it invites onto the site, including contractors, sub-contractors and visitors.

Complaints Register

- A11. A complaints register shall be maintained for the duration of the construction. Information must be available to facilitate community enquiries and complaints, such as a phone number, a postal address to which written complaints and enquiries can be sent, an email address for electronic correspondence, and a mediation system for complaints unable to be resolved.
- A12. The complaints register must record the number of complaints received, number of people affected in relation to the complaint, and how the complaint was addressed and whether a resolution was reached with or without mediation.

Operation of Plant and Equipment

- A13. All plant and equipment used on site, or to monitor the performance of the development, must be:
- a) maintained in proper and efficient condition; and
 - b) operated in a proper and efficient manner.

Incident Notification

- A14. If an incident occurs during construction it should be notified to the ARA within 24 hours of the Applicant being made aware of the incident. Details of the time, date of incident and details shall be recorded of any non-compliance with this approval.
- A15. If statutory notice is given to the EPA as required under the POEO Act, notification must be provided to the Secretary within 24 hours after the notification was given to the EPA.

PART B – CONSTRUCTION ENVIRONMENTAL MANAGEMENT

PRIOR TO COMMENCEMENT OF CONSTRUCTION AND DURING CONSTRUCTION

Construction environmental management

- B1. A Construction Environmental Management Plan (CEMP) shall be prepared to detail the performance outcomes, commitments and mitigation measures specified in the SEE to be implemented and achieved during construction. A copy of the CEMP shall be submitted to Council and the Department prior to commencement of construction. The CEMP is to be complied with throughout the construction phase.
- B2. The CEMP shall outline:
- a) a description of activities to be conducted during construction, including scheduling where required. Where the CEMP covers construction to be carried out under other approvals, licences or permits, the CEMP must clearly identify which approvals are to be conducted under this approval;
 - b) details of environmental policies, guidelines and principles to be followed during construction;
 - c) an outline of key environmental risks from construction activities;
 - d) a list of all CEMP sub-plans;
 - e) details of how the activities will be conducted under the CEMP and sub-plans, how they will achieve environmental outcomes, how mitigation measures will be implemented, how the works will comply with this approval and how issues will be managed during construction;
 - f) details on any heritage restoration works that may be performed and their management;
 - g) details on hoarding or fencing between the work site and public access areas;
 - h) soil erosion controls, including the installation of fabric silt curtains for suspended solids in the water;
 - i) details of signage;
 - j) details of regular inspections to be conducted ensuring compliance;
 - k) a description of roles and environmental responsibilities of employees
 - l) training and induction for employees, contractors and sub-contractors in environmental compliance and obligations under this approval;
 - m) the CEMP shall be reviewed and updated as required, as well as all associated plans and programs; and
 - n) any barge movements associated with the works shall be conducted at times when there is sufficient depth of water over the seabed to avoid harm of any vegetation that may be present such as seagrasses, including propeller action. Where damage to vegetation may occur, there is to be no anchoring during construction.

Construction traffic management

- B3. A Construction Traffic Management Plan shall be prepared in accordance with AS1742 and relevant RMS publications. A copy of the Construction Traffic Management Plan shall be submitted to Council and the Department prior to the commencement of construction. The plan is to be complied with throughout construction. Safe access is to be provided at all times. The plan shall address, but not be limited to:
- a) hours of work (including delivery times);
 - b) ingress and egress of vehicles to the site;
 - c) loading and unloading, including construction zones;
 - d) predicted construction traffic volumes, types, routes and control methods; and
 - e) pedestrian/cyclist and traffic management and control methods.

Notice of Commencement of Works

- B4. 48 hours prior to commencing works for the construction of the development, the Applicant shall notify Council, Port of Newcastle and the Department.

DURING DREDGING

- B5. All activities associated with dredging works shall be carried out in a manner that protects any vegetation and the seabed outside the site.
- B6. Throughout dredging activities, the Applicant must monitor for odours using field screening. Olfactory results shall be recorded, as well as the extent of odour and concurrent operational activities. Reports shall be kept on site and available upon request to the ARA.
- B7. Dredging works undertaken for this project shall be conducted in a manner that does not impact on the water quality outside the site area. Silt curtains or similar shall be implemented at the site to reduce turbidity levels associated with dredging. Suspended sediment concentrations are not to increase greater than 50mg/L than existing background levels.
- If turbidity levels exceed the above limit, the Applicant shall:
- a) immediately cease dredging works contributing to the exceedance of the limit;
 - b) within one hour report the result of the water quality monitoring to the ARA (Environment Line – 131 555);
 - c) investigate the cause of the increased turbidity levels and develop and implement additional measures to prevent a reoccurrence; and
 - d) implement measures to decrease the turbidity levels. Measures shall be incorporated into the CEMP.
- B8. The silt curtain shall remain in place until the turbidity levels are similar within and outside the silt curtain.
- B9. All disposal of dredged material is to be conducted in accordance with relevant permits/approvals.

Construction Noise – Dredging

- B10. Dredging works are only permitted during standard hours of work, as identified in condition D2.
- B11. Noise from these works shall not exceed existing background levels by greater than 10 dB(A) at the nearest sensitive receptors when expressed as $L_{eq}(15 \text{ minute})$. The Applicant shall apply all reasonable and feasible measures to mitigate noise during construction works to ensure that the requirements of the consent and any other permits are met.

PRIOR TO CERTIFICATION

Stormwater Drainage and Management

- B12. All stormwater runoff from the development shall be managed in accordance with Council's requirements, the latest issue of AS3500.3 as applicable, and the concept design report, included in the SEE. Details are to be included prior to certification of the development.

Erosion and Sediment Control

- B13. A soil erosion and sediment control plan shall be prepared in accordance with the document '*Managing Urban Stormwater – Soils and Construction Volume 1 (2004)*' by Landcom. Details are to be provided prior to certification of the development.

Water Supply

- B14. The Applicant shall comply with all the requirements of the Hunter Water Corporation regarding the connection of water supply. A copy of the compliance certificate (s.50 of the Hunter Water Act 1991) should be provided prior to certification of the development.

Waste

- B15. The Applicant must demonstrate that it has adequate facilities for the storage of garbage, or other forms of trade waste and make arrangements for regular removal and disposal. Details are to be provided prior to certification of the development.

DURING CONSTRUCTION

Hours of Work

- B16. The hours of construction for the development, which includes the hours for delivery of materials to and from the site are restricted as follows at Table 1:

Table 1: Construction Hours

Activity	Day	Hours
Construction	Monday – Friday	7:00am to 6:00pm
	Saturdays	8:00am to 1:00pm
	Sundays and Public Holidays	NIL

Vibration Criteria

- B17. Vibration resulting from construction and dredging activities must not exceed evaluation criteria *Environmental Noise Management – Assessing Vibration: A Technical Guide (DEC, 2006)*.

Waste

- B18. If a waste oil storage facility is to be included at the site, it shall be fully bunded and disposal managed by a suitably qualified waste disposal contractor. The removal of bilge absorbing pads or similar are to be serviced by a suitably qualified waste contractor.

Fire Safety

- B19. The Applicant shall include a full list of fire safety measures proposed to be installed on the site of the development. The extent, capability and design of each measure should be outlined. These details should be provided prior to operation of the development.

Site Security

- B20. The Applicant shall ensure that the site is secured by a perimeter fence and security gates for the duration of the construction.

Signage

- B21. Prior to construction commencing, signage must be erected in a prominent position on the site:
- a) showing the name, address and telephone number of the site contact for the work;
 - b) showing the name of the principal contractor (if applicable) for any building work and a telephone number they can be contacted on outside of working hours;
 - c) stating that unauthorised entry to the site is prohibited; and
 - d) the sign is to be maintained throughout construction works, but must be removed once the works have been completed.

Surface Water and Runoff

- B22. Any surface water runoff to adjoining properties or impounded groundwater shall be managed by the Applicant.

Soil and Erosion

- B23. The Applicant shall implement suitable erosion and sediment controls during construction. These controls shall be in accordance with relevant requirements of the Blue Book and the CEMP.

Acid Sulphate Soil

- B24. If there is PASS or ASS identified in the excavation works area, the Applicant shall follow the procedures to manage/treat the soil in accordance with the NSW Acid Sulphate Soil Management Advisory Committee's *Acid Sulphate Soil Manual (1998)*.

Dust Minimisation

- B25. The Applicant shall conduct all reasonable and feasible measures to minimise and mitigate dust generated by construction activities. Dust suppression measures shall be undertaken.

Heritage

- B26. During construction, if the Applicant becomes aware of any previously unidentified Aboriginal object(s), all works in the area shall cease immediately and OEH notified in accordance with section 89A of the *National Parks and Wildlife Act 1974*. Works will shall not recommence until written approval is received by the Applicant from OEH.

PART C – PRIOR TO AND DURING OPERATION

Vehicle Access

- C1. Prior to commencement of operation, the Applicant shall demonstrate that the vehicle access arrangements to and from the development have been constructed in accordance with the documents listed in condition A2 and other associated conditions. Details are to be submitted to the Secretary prior to commencement of operation.

Hours of Operation

- C2. The development is permitted to operate 24 hours a day, seven days a week.

Noise

- C3. The Applicant shall ensure that the use and operation of the development does not cause offensive noise, as defined in the POEO Act.

Lighting

- C4. Lighting associated with the development shall:
- a) comply with the most recent version of *AS 4282(Int) – Control of Obtrusive Effects of Outdoor Lighting*; and
 - b) is mounted, screened and directed in such a way that it does not cause nuisance to surrounding properties or the public road network.

Fire Safety

- C5. A copy of the fire safety certificate (together with a copy of the current fire safety schedule) shall be submitted to the Commissioner of FRNSW and a further copy of the certificate (together with a copy of the current fire safety schedule) should be prominently displayed at the site.
- C6. An annual fire safety statement in the form of that described clause 175 of the EP&A Regulation shall be submitted to the Secretary and Council, and a copy (with a copy of the current fire safety schedule) must be given to the Commissioner of FRNSW. A further copy of the Statement (together with a copy of the current fire safety schedule) shall be prominently displayed at the site.

ATTACHMENT 1

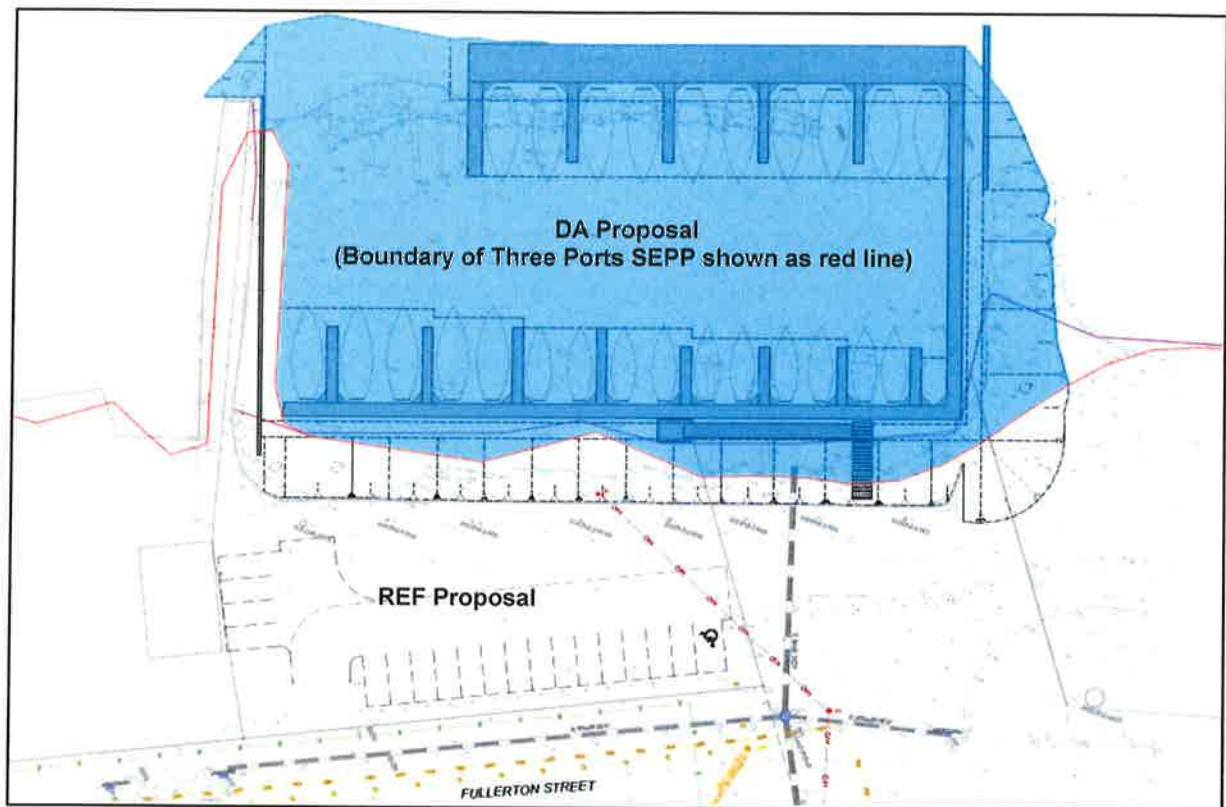


Figure 1: Overall proposal areas (covered by the DA and REF)

ATTACHMENT 2

Advisory Note

This consent does not approve any activity associated on the REF land; only the works to be conducted within the SEPP (Three Ports) area as shown on Figure 1.

It is noted however, that elements of the work will be constructed in both areas, these being:

- a) access gangway
- b) southern groyne upgrade
- c) maintenance dredging and excavation along the eastern foreshore
- d) installation of services
- e) land remediation

to which these conditions will apply to those elements on the land described in Schedule 1.