

Consolidated Consent

The Department has prepared a consolidated version of the consent which is intended to include all modifications to the original determination instrument.

The consolidated version of the consent has been prepared by the Department with all due care. This consolidated version is intended to aid the consent holder by combining all consents relating to the original determination instrument but it does not relieve a consent holder of its obligation to be aware of and fully comply with all consent obligations as they are set out in the legal instruments, including the original determination instrument and all subsequent modification instruments.

SCHEDULE 1

Application Number:	MP05_0037
Applicant:	Cleanaway Pty Ltd
Consent Authority:	Minister for Planning and Public Spaces
Site:	41 Kyle Street Rutherford Lot 223 DP1037300
Development:	Construction and operation of a Resource Recovery and Recycling Facility.

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SUMMARY OF MODIFICATIONS

Application Number	Determination Date	Decider	Modification Description
MP05_0037-Mod-1	16 May 2007	Minister	To allow the continued use of additional and non-complying infrastructure at the site including tanks, a cooling tower, a gas fired heater, a thermal oil system and a Flash Point Correction Column (FPCC)
MP05_0037-Mod-2	18 October 2011	Department	To enable Transpacific to comply with the PM10 (coarse particle) limit at the Fired Heater Stack. This stack is referred to as "point 19" in the site's Environmental Protection Licence (EPL). MOD 2 also streamlined the Project Approval with the EPL in terms of monitoring and reporting requirements.
MP05_0037-Mod-3	Withdrawn		Withdrawn
MP05_0037-Mod-4	10 December 2014	Department	To demolish its existing 16 metre (m) tall gas fired 'Thermal Oil Heater' stack, and replace it with a new stack which is approximately 9m taller. The new stack would be equivalent in height to the highest structures on the site
MP05_0037-Mod-5	9 September 2016	Department	Construction and operation of new equipment (oil polishing system, multi fuel burner, six additional oil storage tanks with total combined storage of 2.4ML and safety and firefighting systems) and increase the height of the Multi-Fuel Burner Stack, to enable the facility to produce both Class I and Class II oils
MP05_0037-Mod-6	20 August 2021	Department	Construction and operation of a Mobile Oil Polishing Plant (MOPP) for a trial period of 30 months
MP05_0037-Mod-7	11 October 2023	Department	Construct an additional waste gas stack to separate emission flow from the existing stack into two distinct emission points

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SCHEDULE 2

Act	<i>Environmental Planning and Assessment Act, 1979.</i>
Applicant	Cleanaway Pty Ltd
Construction	Includes any activity requiring a Construction Certificate, significant excavation work, road works, demolition, or any construction related activity as described in Major Projects Application 05_0037.
Council	Maitland City Council
Department	Department of Planning and Environment
Director-General	Director-General of the Department (or delegate).
DNR	Department of Natural Resources.
EAR	<i>Resource Recovery and Recycling Facility, Kyle Street, Rutherford – Environmental Assessment</i> (four volumes), prepared by Parsons Brinckerhoff Australia Pty Ltd and dated January 2006.
EPA	Environment Protection Authority
EPL	Environment Protection Licence issued under the <i>Protection of the Environment Operations Act 1997</i> .
Minister	Minister for Planning and Public Spaces
Modification Assessments	<p>The document assessing the environmental impact of a proposed modification of this consent and any other information submitted with the following modification applications made under the EP&A Act:</p> <ul style="list-style-type: none"> a) Modification application titled Environmental Assessment for Transpacific Refiners, Modifications to Existing Development prepared by Transpacific Industries Pty Ltd, dated 12 April 2007 (MOD 1); b) Modification application titled Streamlining the Project Approval for the Construction and Operation of a Resource Recovery and Recycling Facility prepared by Transpacific Industries Pty Ltd and dated 7 July 2011 (MOD 2); c) Modification application titled Environmental Assessment for Replacement Stack at Transpacific Refiners Rutherford prepared by Transpacific Industries Group Ltd and dated November 2014 (MOD 4); d) Modification application titled Transpacific Refiners Diversification Project prepared by AECOM and dated 14 January 2016 (MOD 5); e) Modification application titled Cleanaway Mobile Oil Polishing Plant Modification Report prepared by AECOM and dated 6 May 2021 (MOD 6); and f) Modification application Cleanaway Stack Modification Project prepared by AECOM Australia Pty Ltd and dated 4 August 2023 (MOD 7).
MOPP	Mobile Oil Polishing Plant
Operation	Commissioning of any works as described in the Major Projects Application 05_0037.
OEH	Office of Environment and Heritage

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Planning Secretary	Planning Secretary of the Department of Planning and Environment
POEO Act 1997	Protection of the Environment Operations Act 1997
Project	The project described in the Preferred Project Report, prepared by Parsons Brinckerhoff Australia Pty Ltd and dated May 2006.
Proponent	Transpacific Industries Group Ltd
Publicly Available	Available for inspection by a member of the general public (for example available on an internet site or at a display centre).
Statement of Commitments	The revised Statement of Commitments in Attachment 1 to this Schedule.
Sensitive Receptor	A location where people are likely to work or reside; this may include a dwelling, school, hospital, office or public recreational area and the location of known or likely future sensitive receptors.
Site	Land to which Major Projects Application 05_0037 applies.

1. ADMINISTRATIVE CONDITIONS

Terms of Approval

1.1 ~~The Proponent shall carry out the project generally in accordance with the:~~

- a) ~~EAR as amended by the preferred project report (*Resource Recovery and Recycling Facility, Rutherford – Preferred Project Report*) prepared by Parsons Brinckerhoff Australia Pty Ltd, and dated May 2006~~
- b) ~~statement of commitments, prepared by Parsons Brinckerhoff Australia Pty Ltd, and dated 19 May 2006;~~
- c) ~~Modification application titled *Environmental Assessment for Transpacific Refiners, Modifications to Existing Development* prepared by Transpacific Industries Pty Ltd, dated 12 April 2007;~~
- d) ~~Modification application titled *Streamlining the Project Approval for the Construction and Operation of a Resource Recovery and Recycling Facility* prepared by Transpacific Industries Pty Ltd and dated 7 July 2011;~~
- e) **MOD 4;**
- f) **MOD 5; and**
- g) ~~conditions of this approval.~~

1.1 The Proponent shall carry out the project generally in accordance with the:

- a) EAR as amended by the preferred project report (*Resource Recovery and Recycling Facility, Rutherford – Preferred Project Report*) prepared by Parsons Brinckerhoff Australia Pty Ltd, and dated May 2006
- b) statement of commitments, prepared by Parsons Brinckerhoff Australia Pty Ltd, and dated 19 May 2006;
- c) Modification assessments
- d) conditions of this approval.

1.2 If there is any inconsistency between the above, the conditions of this approval shall prevail to the extent of the inconsistency.

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- 1.3 The Proponent shall comply with any reasonable requirement/s of the **Planning Secretary** arising from the Department's assessment of:
- any reports, plans or correspondence that are submitted by the Proponent in accordance with this approval; and
 - the implementation of any actions or measures contained in those reports, plans or correspondence submitted by the Proponent.

Note: Nothing in this consent approves the following components of the original project:

- the oily water treatment and waste oil transfer facility;
- the Chemical Fixation, Stabilisation and Solidification (CFS) process facilities;
- the waste water treatment plant;
- the dangerous goods store; and
- the soil conditioning and composting facility.

1.3A The Applicant shall:

- design and construct tanks in MOD 5 in accordance with API 650: Welded Steel Tanks for Oil Storage;
- comply with the requirements of the current edition of AS1940: The storage and handling of flammable and combustible liquids

Limits on Approval

- 1.4 The Proponent shall not process more than 40,000 tonnes of waste lubricant oils a year at the hydrogenation plant.
- 1.5 This approval shall lapse five years after the date on which it is granted, unless the works the subject of this approval are physically commenced on or before that time.
- 1.6 The Applicant must ensure the Mobile Oil Polishing Plant (MOPP) trial as described under MOD 6:
- operates in accordance with the requirements of EPL 21402;
 - is commissioned, operated and decommissioned for a total combined period of 30 months, unless otherwise agreed by the Secretary; and
 - is decommissioned prior to the construction and operation of MOD 5.
- 1.7 For the purposes of the MOPP under MOD 6, the Applicant must notify the Secretary in writing 7 days prior to the following:
- the commencement of commissioning; and
 - decommissioning.

2. SPECIFIC ENVIRONMENTAL CONDITIONS

WASTE

- 2.1 Except as provided in condition 2.2 of this consent and/or expressly permitted by an EPL, the Proponent shall not cause, permit or allow any waste generated outside the site to be received at the site for storage, treatment, processing, reprocessing or disposal.

Note: The above condition only applies to the storage, treatment processing, reprocessing or disposal of waste at the site if it requires an EPL under the Protection of the Environment Operations Act 1997.

- 2.2 The Proponent shall only receive, store, treat, process or reprocess the following wastes at the site:
- waste lubricant oils
- 2.3 The Proponent is prohibited from storing green waste and septic waste on site.

AIR QUALITY

Dust

- 2.4 The Proponent shall design, construct, operate and maintain the project in a manner that prevents and/or minimises air pollution.

Odour

- 2.5 The Proponent shall not cause or permit the emission of offensive odours from the site, as defined under Section 129 of the *Protection of the Environment Operations Act 1997*.

Note: Section 129 of the Protection of the Environment Operations Act 1997, provides that the Proponent must not cause or permit the emission of any offensive odour from the site, but provides a defence if the emission is identified in the relevant environment protection licence as a potentially offensive odour and the odour was emitted in accordance with the conditions of a licence directed at minimising odour.

Air Quality Criteria

- 2.6 The Proponent shall design, operate and maintain the project in a manner that would achieve emissions compliance with the EPL. The Proponent must advise the Department of any variations to the EPL as approved by EPA.

Design Requirements

- 2.7 The Proponent shall design, operate and maintain the project in a manner that would achieve Best Available Control Technology for toxic air pollutants specified in *Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales (August 2005)*.
- 2.8 The Proponent shall ensure that all stack air emission points at the site are designed to:
- a) broadly conform to the general requirements of *Guidelines for Determination of Good Engineering Practice Stack Height (Technical Support Document for the Stack Height Regulations)* (US EPA); and
 - b) to accommodate and be built with sampling ports that conform with TM-1 as specified in *Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales (August 2005)*.
- 2.9 The Proponent shall ensure that the flare is designed, constructed and operated in accordance with the requirements of Clauses 38 – 41 of the *Protection of the Environment (Clean Air) Amendment (Industrial and Commercial Activities and Plant) Regulation 2005*.

The manufacture's design specification for the flare must include the design destruction efficiency and must be submitted to the EPA for approval. The EPA approval in writing must be obtained by the Proponent prior to the installation of the flare.

- 2.10 The Proponent shall design, operate and maintain the project in a manner that complies with all requirements of the EPA as specified in the EPL for the project with respect to volatile organic liquid control equipment prescribed in Part 5 of the *Protection of the Environment Operations (Clean Air) Amendment (Industrial and Commercial Activities and Plant) Regulation 2005*.

Operation of Flare

- 2.11 The Proponent shall not vent the flare except during start-up, shutdown and process upsets.

For the purposes of this condition, process upsets shall not exceed 2% of the process operating time per annum. This excludes the initial commissioning period of the project, which is defined as being three months from the start-up date of the project.

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- 2.12 Throughout the life of the project, the Proponent shall keep and maintain detailed records of each use of the flare on site, and the details of all process upsets, start-ups and shutdowns. The records shall be made available to the EPA upon request, and shall include:
- a) the flare start and stop time, and the reasons for its use;
 - b) the process start and stop time, and the reason for each process upset.

Boilers

- 2.13 The Proponent shall not burn or use waste oil and other non-standard fuels as fuel at the site.
- 2.14 Air supply to the boilers at the site may include vent air emissions from the hydrogenated oil storage, feed stock storage, light ends storage and sour water storage.

2.14 A The sulphur composition of all fuel utilised for the project must not exceed 0.5 per cent.

SOIL AND WATER

- 2.15 Except as may be expressly provided in an EPL for the project, the Proponent shall comply with section 120 of the *Protection of the Environment Operations Act 1997*.
- 2.16 Prior to the commencement of operations, the Proponent shall ensure that stormwater management measures are implemented to mitigate the impacts of stormwater run-off from and within the site in a manner that is consistent with the Stormwater Management Plan for the catchment. Where a Stormwater Management Plan has not yet been prepared, the measures shall be consistent with the guidance contained in *Managing Urban Stormwater: Council Handbook* (DEC).

Soil Contamination

- 2.17 Prior to the commencement of construction, the Proponent shall submit to the Planning Secretary for approval, a soil contamination validation report to confirm the presence, or otherwise, of any contamination within the construction footprint of the development, and to demonstrate that any contamination on the site is not inconsistent with the development. The validation report shall be prepared by a suitably qualified and independent person(s), and shall detail any additional measures that shall be implemented to address contamination, if identified, and if required.

Groundwater Contamination

- 2.18 Within 6 months of the granting of modified consent, the Proponent must complete the following groundwater contamination investigations and works which includes, but need not be limited to, the following:
- a) An assessment of the potential for off-site migration of chemicals of potential concern (including Tetrachloroethene);
 - b) Identification, based on the activities carried out at the site, of suspected source locations. If suspected source locations are identified, an evaluation of the presence of DNPLs trapped in or above lower permeability zones above the regional groundwater aquifer must be undertaken (note that care must be taken to ensure that the regional aquifer is not penetrated at suspected source locations);
 - c) Works to assess regional groundwater and determination of hydrogeological characteristics (such as flow and direction). Such works must include the installation of additional wells across the site to:
 - enable the groundwater flow direction to be determined;
 - further investigate the lateral and vertical extent of groundwater contamination;
 - enable more accurate falling head tests and/or a pump test to be undertaken; and
 - allow collection of soil samples within the water bearing zone.

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- d) Soil samples collected must be analysed for organic carbon content and cation exchange capacity to allow fate and transport modelling to assess the potential for adsorption and retardation of dissolved organic compounds;
- e) An assessment of risk posed by the contamination and recommendations for appropriate management requirements.

The **Planning Secretary** and the **EPA** must be provided with a copy of the report detailing the results of the investigations within 7 months of the modified development consent being granted.

The Proponent shall comply with all reasonable requirements of the **Planning Secretary** and the **EPA** in respect of the implementation of any measures presented in the Report. Any such works shall be completed within such time as the **Planning Secretary** or the **EPA** may require.

Note: Should it be established that there are no ongoing contamination sources at the site, that the regional groundwater has no beneficial uses, and that groundwater is not used in the area, then more detailed investigations into contaminant concentrations in the regional aquifer, groundwater flow direction and flow velocity may not be necessary. If applicable, the reasons for not undertaking this further investigation must be detailed in the report.

2.18A Prior to commencement of operations of MOD 5, the Applicant shall submit to the EPA details of an inventory system to accurately measure and report product losses from the tank farm.

2.18B The Applicant shall ensure the bund for the tank farm in MOD 5:

- a) includes a bund lining system to achieve an impermeable barrier;
- b) is designed, constructed and maintained in accordance with AS 1940:2004 and the DECC Technical Guideline *Bunding and Spill Management*;
- c) includes the installation of an early warning leak detection and prevention systems, prior to commencement of operations, that are certified by a site auditor accredited under the *Contaminated Land Management Act, 1997*;
- d) includes measures to manage liquids within the bund to ensure no migration of contaminants occurs that could cause pollution of land and/or groundwater;
- e) demonstrates that materials contained within the bund are compatible with bund construction such that its long-term function is not impaired; and
- f) is included in monitoring programs to ensure the bund achieves its performance objectives and continues to provide an effective barrier for the prevention of pollution of land and waters

2.18C Prior to commencement of operations of MOD 5, the Applicant shall submit to the satisfaction of the **Planning Secretary**, a report confirming the bunds have been installed in accordance with condition 2.18B. The report shall include:

- a) as-constructed drawings from field surveys depicting the base elevation of the bund, upper surface of the liner(s), geotextiles, engineered liners and sealed layers of the bund;
- b) construction quality control results; and
- c) written advice from the person(s) overseeing the works that the bunds were installed in accordance with the approved design and construction specifications.

2.18D Prior to commencement of operations of MOD 5, the Applicant shall implement a Containment Bund, Tank and Pipeline Integrity Assessment Program. The program must detail measures to assess and maintain the integrity of the tank farm containment bund, other containment structures, tanks and pipelines during the life of the facility

NOISE

Construction Hours

2.19 The Proponent shall only undertake construction activities associated with the project, that are audible at any residential receptor, between the following hours:

- a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive;
- b) 8:00 am to 1:00 pm on Saturdays; and
- c) at no time on Sundays or public holidays.

Noise Limits

2.20 The Proponent shall ensure that noise from the project at the nearest sensitive receiver does not exceed the criteria specified in Table 1 at those locations and during those periods indicated.

Table 1 – Noise Criteria

Location	Day 7am – 6pm Monday to Saturday and 8am – 6pm Sundays and Public Holidays	Evening 6pm – 10pm Monday to Sunday	Night 10pm – 7am Monday to Saturday and 10pm – 8am Sunday	
	L _{Aeq} (15 minute) (dB(A))	L _{Aeq} (15 minute) (dB(A))	L _{Aeq} (15 minute) (dB(A))	L _{A1} (1 minute) (dB(A))
Receptor B	37	37	37	49
Receptor A – P (excluding B)	35	35	35	49

Note: For the purposes of this condition:

- a) noise emission limits apply under meteorological conditions of wind speeds up to 3 m/s at 10 metres above ground level and temperature inversions conditions of 3⁰C/100m. To determine compliance with this condition, noise from the development must be measured at any point within the residential boundary of a noise sensitive receiver location, or at any point within 30 metres of the dwelling at a noise sensitive receiver location where the dwelling is more than 30 metres from the boundary. However, where it can be demonstrated that direct measurement of noise from the development is impractical, the EPA may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy). The modification factors in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise levels where applicable.
- b) Locations specified in Table 1 as per Noise Impact Assessment, Figure ES-1 as presented in the EAR.

HAZARDS AND RISKS

2.21 Prior to the commencement of construction of the project, the Proponent shall prepare and submit for the approval of the **Planning Secretary**, the following studies:

- a) a **Fire Safety Study** covering the relevant aspects of the Department of Planning's *Hazardous Industry Planning Advisory Paper No. 2 - Fire Safety Study Guidelines* and the NSW Government's *Best Practice Guidelines for Contaminated Water Retention and Treatment Systems*. In addition to approval from the **Planning Secretary**, approval for this study shall also be obtained from the Commissioner of the NSW Fire Brigades/Rural Fire Service.
- b) a **Hazard and Operability Study**, undertaken by an independent qualified person approved by the **Planning Secretary**. The study shall be carried out in accordance with Department of Planning's *Hazardous Industry Planning Advisory Paper No. 8 - HAZOP Guidelines*. The study report shall be accompanied by a program for the implementation of all recommendations made in the report. If the Proponent proposes to defer the implementation of a recommendation, full justification must be included. In particular, the HAZOP must address:
 - i) the adequacy of the vent and pressure relief systems, such as relief valves and bursting discs, in the hydrogen system and the process systems;
 - ii) the adequacy of measures to ensure that oil/sludge is not built up on the upstream side of relief devices;
 - iii) that adequate provision has been made for isolating the hydrogen line and the process area with 'blowing through' with inert gas prior to maintenance work such as welding in the vicinity;
 - iv) the details of the hazardous classification area and the adequacy of safety measures for the hydrogen manufacturing area, process area and the area surrounding the hydrogen supply pipes; and
 - v) the separation distances between the hydrogen system, and the natural gas and the boiler house system.
- c) a **Final Hazard Analysis** prepared in accordance with the Department of Planning's *Hazardous Industry Planning Advisory Paper No. 6 – Guidelines for Hazard Analysis*.
- d) a **Construction Safety Study** prepared in accordance with the Department of Planning's *Hazardous Industry Planning Advisory Paper No. 7 - Construction Safety Guidelines*. The "commissioning" portion of the study may be completed prior to the commencement of operations rather than prior to the commencement of construction. In particular, risks during the construction period from and to the existing plant shall be considered in the study.

Construction, other than of preliminary works, shall not commence until approval is given to the studies listed in a)- d). The Proponent shall consider and implement, as appropriate, all recommendations arising out of the studies and/or shall comply with all reasonable requirements of the **Planning Secretary** in respect of the implementation of any measures presented in the Report. Any such works shall be completed within such time as the **Planning Secretary** may require.

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2.21A Prior to the commencement of stack demolition associated with MOD 4, the Proponent shall submit a Construction Safety Study prepared in accordance with the Department of Planning's *Hazardous Industry Planning Advisory Paper No. 7, 'Construction Safety'* to the satisfaction of the **Planning Secretary**.

2.21 B. At least one month prior to the commencement of construction of MOD 5, or within such further period as the **Planning Secretary** may agree, the Applicant shall prepare and submit for the approval of the **Planning Secretary** an update of the following studies to include MOD 5.

Construction of MOD 5, other than preliminary works, shall not commence until approval has been given by the **Planning Secretary** and, with respect to the Fire Safety Study, approval has also been given by Fire and Rescue NSW.

- a) Fire Safety Study : An updated Fire Safety Study in accordance with Condition 2.21 a).
- b) Final Hazard Analysis: A Final Hazard Analysis in accordance with Condition 2.21 c) and include the implementation of recommendations of the Preliminary Hazard Analysis in MOD 5.
- c) Construction Safety Study: An updated Construction Safety Study in accordance with Condition 2.21 d).

Pre-commissioning

2.22 Prior to the commencement of operation of the project, the Proponent shall prepare and submit for the approval of the **Planning Secretary**, the following studies:

- a) an **Emergency Plan** and detailed emergency procedures shall for the site. An update of the existing site Emergency Plan will be acceptable for the purpose of this condition. The plan shall include detailed procedures for the safety of all people outside of the development who may be at risk from the development. The plan shall be prepared in accordance with the Department of Planning's *Hazardous Industry Planning Advisory Paper No. 1 - Industry Emergency Planning Guidelines*.
- b) a **Safety Management System** covering all on-site operations and associated transport activities involving hazardous materials. The document shall clearly specify all safety related procedures, responsibilities and policies, along with details of mechanisms for ensuring adherence to the procedures. Records shall be kept on-site and shall be available for inspection by the **Planning Secretary** or nominee. The Safety Management System shall be developed in accordance with the Department of Planning's *Hazardous Industry Planning Advisory Paper No. 9 - Safety Management*.

Operations shall not commence until approval is given to the studies outlined in a) - b). The Proponent shall consider and implement, as appropriate, all recommendations arising out of the studies and/or shall comply with all reasonable requirements of the **Planning Secretary** in respect of the implementation of any measures presented in the Report. Any such works shall be completed within such time as the **Planning Secretary** may require.

2.22A. At least two months prior to the commencement of commissioning of MOD 5, or within such further period as the **Planning Secretary** may agree, The Applicant shall submit for the approval of the **Planning Secretary**, an updated Emergency Plan including updated emergency procedures to incorporate changes due to MOD 5. The Emergency Plan shall be prepared in accordance with Condition 2.22 a).

2.22 B. At least two months prior to the commencement of commissioning of MOD 5, or within such further period as the **Planning Secretary** may agree, The Applicant shall submit for the approval of the **Planning Secretary**, an updated Safety Management System to incorporate changes due to MOD 5. The Safety Management System shall be prepared in accordance with Condition 2.22 b).

Post-commissioning

- 2.23 Prior to commencement of operations, the Proponent shall submit to the **Planning Secretary**, a Pre-Start up Compliance Report, detailing compliance with conditions 2.21 and 2.22, including:
- a) dates of commissioning of plant;
 - b) an action plan to implement the recommendations made in the studies listed in conditions 2.21 and 2.22; and
 - c) responses to each requirement imposed by the **Planning Secretary** in respect of the implementation of any measures arising from recommendations of the studies or reports referred to in conditions 2.21 and 2.22 above and the hazards-related conditions of this approval, within such time as the **Planning Secretary** may agree.

Dangerous Goods

- 2.24 All chemicals, fuels and oils shall be stored in appropriately bunded areas, with impervious flooring and sufficient capacity to contain 110% of the largest container stored within the bund. The bund(s) shall be designed and installed in accordance with:
- a) the requirements of all relevant Australian Standards; and
 - b) the DEC's Environmental Protection Manual *Technical Bulletin Bunding and Spill Management*.

In the event of an inconsistency between the requirements listed from a) to b) above, the most stringent requirement shall prevail to the extent of the inconsistency.

TRANSPORT

Road Improvements

- 2.25 Prior to the commencement of operations or as otherwise agreed to by the **Planning Secretary**, the Proponent shall provide a monetary contribution of \$60,000 to the RTA towards the upgrade of the New England Highway and Kyle Street intersection to accommodate B-Double movements.
- 2.26 The Proponent shall ensure that B-Doubles associated with the site do not use the New England Highway and Kyle Street intersection at any time until the intersection has been upgraded to cater for B-Double movements. In the interim, B-Doubles associated with the site shall only use the Racecourse Road/New England Highway intersection to access the site via Racecourse Road and Kyle Street.
- 2.27 To enforce the nominated B-Double route, as conditioned in condition 2.26, the Proponent shall implement a Transport Code of Conduct for the project. The Code of Conduct shall include, but not necessarily be limited to, the following:
- a) details of the measures that would be implemented to enforce this route. This shall include, but not be restricted to, contractual arrangements and disciplinary action;
 - b) a program of driver training to ensure that drivers are aware of route restrictions applicable to the development;
 - c) communication and management strategies for both the Proponent's own fleet and contracted fleet to ensure the requirements of the Code are met;
 - d) the incorporation of a regular audit and monitoring program for the Code to determine compliance with the Strategy by heavy vehicles associated with the development and to evaluate the effectiveness of Code in enforcing this route.

The Applicant shall not commence operations until the Director General has approved the Transport Code of Conduct. The Code shall be incorporated into the Operational Environmental Management Plan for the development (refer to condition 3.5 and condition 3.6 of this consent).

Internal Road Works and Parking

2.28 The Proponent shall ensure that:

- a) all car parking on the site is constructed in accordance with the relevant requirements in AS 2890.1-2004;
- b) the internal road network can accommodate the largest vehicles that would be used on site in accordance with the relevant requirements of AS 2890.2-2002;
- c) no vehicles from the project park, queue or stand in any of the road reserves outside the site.

2.29 Prior to the commencement of construction work, the Proponent shall submit to the **Planning Secretary** documentation detailing the internal traffic management plan, particularly the internal road works and car parking arrangement for the project. This shall include:

- a) measures to ensure the conflict between passenger vehicles and heavy vehicles are minimised. This includes reversing passenger vehicles into road carriage ways utilised by heavy vehicles;
- b) measures to ensure the conflict between pedestrians and vehicles on-site are minimised;
- c) the arrangement for the unloading and loading of heavy vehicles; and
- d) demonstration of adequate turning-paths for all heavy vehicles accessing various components of the project.

This internal traffic management plan shall be prepared in consultation with Council.

Documentary evidence of this consultation shall be provided to the **Planning Secretary**.

2.30 Prior to the commencement of construction work, the Proponent shall demonstrate to the **Planning Secretary** that any applicable consent for the site access road works have been granted under section 138 of the *Roads Act 1993*. The site access point shall be completed prior to the commencement of operations.

FLORA AND FAUNA

2.31 The Proponent shall minimise any clearing of vegetation during construction work, and shall retain the vegetation community, referred to as 'Remnant 4' on Map Reference 2118506A_2001 (Figure No.11 of the EAR), and partially retain the vegetation community, referred to as 'Remnant 3', throughout the life of the development in a healthy and tidy state.

VISUAL

2.32 The Proponent shall ensure that all external lighting associated with the project:

- a) does not create a nuisance to surrounding properties or roadways; and
- b) complies with AS 4282(INT) 1995 – *Control of Obtrusive Effects of Outdoor Lighting*.

ASBESTOS

2.33 The Proponent shall handle and dispose of asbestos containing materials in accordance with the Protection of the *Environment Operations (Waste) Regulation 1996*.

2.34 Prior to the commencement of construction work at the site, the Proponent shall ensure that all asbestos-containing materials, including friable asbestos particles within soil, are identified, treated and/or removed to ensure no long-term impact on human health and safety for personal located at the site and neighbouring properties.

Note: The Proponent is required to comply with the statutory requirements of the Occupational Health and Safety Regulation 2001 to manage risks to human health as a result of handling, treatment and removal of asbestos at the site.

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- 2.35 The Proponent shall ensure that all demolition work is carried out in accordance with Australian Standard AS 2601-2001: The Demolition of Structures, or its latest version.
- 2.36 The Proponent shall ensure that any demolition waste generated as a result of MOD 4 should be classified in accordance with the EPA's waste classification guidelines and disposed of to (or recycled at) an appropriately licenced facility.

3. ENVIRONMENTAL MANAGEMENT AND MONITORING

ENVIRONMENTAL REPRESENTATIVE

- 3.1 Prior to the commencement of construction, the Proponent shall employ a suitably qualified and experienced environmental representative/s, whose appointment has been endorsed by the **Planning Secretary**. The Proponent shall employ this representative/s throughout the life of the project, and notify the Director General of any changes to the appointment that may occur from time to time. This environmental representative must be:
- a) the primary contact point in relation to the environmental performance of the project;
 - b) responsible for all the environmental requirements under this approval;
 - c) responsible for considering and advising on matters specified in the conditions of this approval, and all other licences and approvals related to the environmental performance and impacts of the project;
 - d) responsible for receiving and responding to complaints about the project; and
 - e) given the authority and independence to require reasonable steps be taken to avoid or minimise unintended or adverse environmental impacts, and failing the effectiveness of such steps, to direct that relevant actions be ceased immediately should an adverse impact on the environment be likely to occur.

OPERATIONAL MONITORING – AIR

- 3.2 Air quality monitoring will be undertaken in strict accordance with the requirements set out in the EPL covering the operation of the facility and the [Rutherford Resource Recovery and Recycling Facility Air Quality Management Plan \(AQMP\)](#) prepared by Pacific Air and Environment (PAE), dated 20 March 2007.

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN (CEMP)

- 3.3 Prior to the commencement of construction, the Proponent shall prepare (and following approval implement) a **Construction Environmental Management Plan (CEMP)** for the project to the satisfaction of the **Planning Secretary**. This plan must outline the environmental management practices and procedures that would be implemented during each stage of construction, and include:
- a) a description of all activities to be undertaken on the site during construction of the project, including an indication of stages of construction, where relevant;
 - b) statutory and other obligations that the Proponent is required to fulfil during construction, including all approvals, consultations and agreements required from authorities and other stakeholders;
 - c) details of how the environmental performance of the construction works would be monitored, and what actions would be taken to address identified adverse environmental impacts;
 - d) a description of the roles and responsibilities for all relevant employees involved in the construction of the project; and
 - e) complaints handling procedures during construction and site preparation.

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Site preparation and construction works associated with any stage of the project shall not commence until the **Planning Secretary** has approved the CEMP for that stage. Upon receipt of the **Planning Secretary's** approval, the Proponent shall supply a copy of the CEMP to the EPA, DNR and Council as soon as practicable.

3.4 The CEMP for the project shall include the following Management Plans:

- a) an **Soil, Water and Dust Management Plan** to detail measures to minimise the disturbance of soil, erosion and the generation of dust during construction of the project. This plan shall include:
 - i) the results of investigations into soils associated with the site, in particular the presence of friable asbestos and/or contaminants within the construction work footprint;
 - ii) a description of the proposed erosion and sediment control measures, which must be consistent with best practice, including the Landcom's publications *Soil and Water Management for Urban Development* and the *Managing Urban Stormwater – Soils and Construction*;
 - iii) a description of the measures that would be employed to prevent the generation of dust during construction work;
 - iv) a description of the proposed monitoring that would be carried out during construction, clearly indicating who would conduct the monitoring, how the results would be recorded; and, if any non-compliance is detected, what corrective action would be taken; and
 - v) a description of procedures that would be implemented to ensure that the control measures are maintained at all times, and to address any non-compliance, should it occur.
- b) a **Soil Contamination Protocol** to manage soil contamination during site preparation and construction works. The Protocol shall detail procedures for the identification, isolation and removal of any contaminated soil, asbestos (including friable asbestos fibres) and munitions disturbed during site preparation and construction works, and detail measures for addressing any detected contamination.
- c) a **Vegetation Management Plan** to detail measures to minimise the impact of vegetation clearing associated with the project and manage the rehabilitation of remaining remnants throughout the life of the development. This plan shall include:
 - i) a detailed plan showing the area and type of vegetation that is to be removed;
 - ii) a description of the measures that would be implemented to protect the vegetation that would not be cleared (such as fencing);
 - iii) identification of plant material to be used for rehabilitation, and the densities and species mix for areas to be rehabilitated; and
 - iv) a description of establishment methods, sequencing of tasks, maintenance and performance monitoring.

3.4A. Prior to the commencement of construction of MOD 5, the Applicant shall prepare (and following approval implement) an updated CEMP for MOD 5 to the Satisfaction of the Certifying Authority. The CEMP shall be prepared in accordance with the requirements of Condition 3.3 and Condition 3.4.

OPERATION ENVIRONMENTAL MANAGEMENT PLAN (OEMP)

3.5 Prior to the commencement of operations, the Proponent shall prepare (and following approval implement) an **Operation Environmental Management Plan (OEMP)** for the project, in consultation with the EPA, DNR, and Council), and to the satisfaction of the **Planning Secretary**. This plan must describe the environmental management framework, practices and procedures that would be followed during operations, and include:

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- a) identification of all statutory and other obligations that the Proponent is required to fulfil in relation to operation of the development, including all approvals, licences, approvals and consultations;
- b) a description of the roles and responsibilities for all relevant employees involved in the operation of the development;
- c) overall environmental policies and principles that will be/ are applied to the operation of the development;
- d) standards and performance measures that will be applied/ are to the development, and a means by which environmental performance can be periodically reviewed and improved;
- e) management policies to ensure that environmental performance goals are met and to comply with the conditions of this approval;
- f) details of all landscaping to be undertaken on the site;
- g) the various management plans required under this approval; and
- h) contingency measures should monitoring of environmental issues under this approval indicate that the development has had, or is having an adverse environmental impact.

Operations shall not commence until the **Planning Secretary** has approved the OEMP. Upon receipt of the **Planning Secretary's** approval, the Proponent shall supply a copy of the OEMP to the **EPA** and Council as soon as practicable.

3.6 The OEMP for the project shall include the following Management Plans:

- a) an **Air Quality Management Plan** outlining the measures that would be implemented to minimise and manage air quality impacts of the proposal, particularly odour. The Plan shall include, but not necessarily be limited to:
 - i) identification of all point and diffuse sources of air quality emissions associated with the project;
 - ii) a detailed description of the mitigation methods and management practices that would be used throughout the project, particularly methods to ensure offensive odour impacts do not occur off site, and a demonstration that these measures are consistent with industry best practice;
 - iii) a detailed monitoring program for the project;
 - iv) details of the contingency measures that would be implemented if non-compliance with air quality emission criteria is detected or if offensive odour impacts occur; and
 - v) a procedure for handling complaints.
- b) a **Transport Code of Conduct** to outline measures to manage all heavy vehicle traffic movements associated with the project to minimise impacts on the local and regional road network, including traffic noise. The Code shall address the requirements of Council and the RTA and shall include, but not necessarily be limited to:
 - i) restrictions to routes, where relevant;
 - ii) management measures to reduce volumes of heavy vehicles travelling to and from the site during peak hours, particularly B-Double movements at the Kyle Street/New England Highway intersection during peak hours; and
 - iii) details of what disciplinary actions would be taken should any non-compliance with the Transport Code of Conduct be detected.
- c) a **Groundwater Management Plan** to detail measures to monitor, and where applicable, manage the impact on groundwater. The Plan shall be prepared in consultation with DNR and **EPA**, and shall include, but not necessarily be limited to:
 - i) details of baseline groundwater quality, as present prior to the commencement of construction of the development;
 - ii) groundwater assessment criteria for a broad range of parameters, including, heavy metals, total nitrogen and total phosphorous;
 - iii) monitoring program of groundwater quality, including frequency of monitoring and monitoring locations;

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- iv) details of contingency measures and management options should monitoring of groundwater quality indicate that the development has had, or is having, an adverse effect on groundwater quality;
- v) details of the nominated contingency measures and management options, should monitoring of groundwater quality indicate that the development has exceeded this criteria. These levels and contingency and management options must be developed to the satisfaction of the EPA and DNR.

3.7 Within three months of the submission of an:

- a) incident report under condition 5.1 of Schedule 5;
- b) annual Environmental Management Report under condition 5.2 of Schedule 5; and
- c) the approval of any modification of the conditions of this consent

the strategies, plans and programs required under this consent must be reviewed, and the Planning Secretary must be notified in writing of the outcomes of any review.

If necessary to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, to the satisfaction of the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review required under condition 3.7 of Schedule 3, or such other timing as agreed by the Planning Secretary.

Note: This is to ensure the plans and programs are updated on a regular basis and incorporate any recommended measures to improve the environmental performance of the Project.

4. COMPLIANCE, AUDITING AND INDEPENDENT AUDITING

COMPLIANCE

- 4.1 Prior to the commencement of construction and operations, the Proponent shall certify in writing to the satisfaction of the Planning Secretary, that it has complied with all the applicable conditions of this approval.

AIR QUALITY AND NOISE VALIDATION REPORT

- 4.2 Within three months of commissioning operations at the site, the Proponent shall submit an **Operational Air and Noise Validation Report** for the project. This Report shall:
 - a) be undertaken by a suitability qualified and experienced person(s);
 - b) assess whether the project is complying with the noise criteria specified in condition 2.20 of this approval, and identify what additional measures could be implemented to ensure compliance should any non-compliance be detected;
 - c) validate that the performance of the project reflects the assumptions and conclusions made in the Preferred Project Report and the *Environmental Assessment for Transpacific Refiners, Modifications to Existing Development*, dated 12 April 2007;
 - d) undertake air quality validation and performance verification reporting as detailed in the AQMP prepared by PAE, dated 20 March 2007 to validate compliance with the *Protection of the Environment Operations (Clean Air) Amendment (Industrial and Commercial Activities and Plant) Regulation 2005* and the emissions inventory of the project as detailed in the *Environmental Assessment for Transpacific Refiners, Modifications to Existing Development*, dated 12 April 2007;
 - e) provide details of each round of Performance Verification Monitoring such that the monitoring frequency for all pollutants can be reviewed, as specified in the AQMP;
 - f) identify what additional measures could be implemented to ensure compliance should any non-compliance be detected; and
 - g) provide details of any complaints received relating to air quality generated by the project,

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and action taken to respond to those complaints.

4.3 If the Report identifies any non-compliance with the air quality limits imposed under this approval, an EPL for the development and/or does not reflect the conclusions made within the [Environmental Assessment for Transpacific Refiners, Modifications to Existing Development, dated 12 April 2007](#), the Proponent shall detail what additional measures would be implemented to ensure compliance, clearly indicating who would implement these measures, when these measures would be implemented, and how the effectiveness of these measures would be measured and reported to the [Planning Secretary](#) and the [EPA](#). The Proponent shall comply with all reasonable requirements of the [Planning Secretary](#) or the [EPA](#) in respect to the findings presented in the Report. Any such works shall be completed within such time as the [Planning Secretary](#) or the [EPA](#) may require.

4.3A Within six (6) months of the date of commencement of the modified operation for MOD 7, the Applicant must submit for the approval of the Planning Secretary, an Operational Air and Odour Validation Report.

The Report must:

- a) be prepared by a suitably qualified and experienced person(s) in consultation with the EPA;
- b) include a revised Air Quality Impact Assessment of air quality impacts from the project 'as constructed' and include actual measured emissions;
- c) assess the operation of MOD 7 against the air quality and odour predictions made in the documents:
 - "Cleanaway Rutherford AQIA – EPL Point 19 Modification and Pilot Scale Oil Polishing Unit" prepared by AECOM Australia Pty Ltd and dated 6 May 2021;
 - "Updated Stack Height Dispersion Comparison" prepared by AECOM Australia Pty Ltd and dated 24 January 2022;
 - "EPL Point Modification and Pilot Scale Oil Polishing Unit AQIA PM2.5 addendum – Ref: MP05_0037-Mod-7" prepared by AECOM Australia Pty Ltd and dated 3 August 2023; and
 - any subsequent air quality impact assessment prepared for the facility 'as constructed'.
- d) include an action plan that identifies and priorities any air quality and odour mitigation measures that may be necessary to reduce air quality and odour emissions; and
- e) provide details of any complaints received relating to air quality impacts generated by the project and action taken to respond to those complaints.

INDEPENDENT ENVIRONMENTAL AUDIT

4.4 Within one year of the commencement of operations, and then as directed by the [Planning Secretary](#), the Proponent shall commission an Independent Environmental Audit of the development. This audit must:

- a) be carried out by a suitably qualified, experienced and independent audit team, that contains an odour specialist and hazard specialist, whose appointment has been endorsed by the [Planning Secretary](#);
- b) be carried out in accordance with *ISO 14010 - Guidelines and General Principles for Environmental Auditing* and *ISO 14011 - Procedures for Environmental Auditing*, the Department's guideline *Hazardous Industry Planning Advisory Paper No. 5 - Hazard Audit Guidelines*;
- c) assess whether the project is complying with the conditions of both this approval and the EPL for the project;
- d) assess whether the project is being carried out in accordance with industry best practice;
- e) review the adequacy of the Operation Environmental Management Plan for the project; compliance with the requirements of this approval, and other licences and approvals;

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- and
- f) recommend measures or actions to improve the environmental performance of the project, and/or the Operation Environmental Management Plan for the project.

- 4.5 Within 2 months of commissioning this audit, or as otherwise agreed by the **Planning Secretary**, the Proponent shall submit a copy of the audit report to the **Planning Secretary**, with a response to any recommendations contained in the audit report.
- 4.6 Twelve months after the commencement of operations of the MOD 5 project and every three years thereafter, or at such intervals as the Planning Secretary may agree, the Applicant shall carry out a comprehensive Hazard Audit of the proposed project and within one month of each audit submit a report to the **Planning Secretary** for an approval. The audits shall be carried out at the Applicant's expense by a qualified person or team, independent of the project, approved by the **Planning Secretary** prior to commencement of each audit. Hazard Audits shall be consistent with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 5, 'Hazard Audit Guidelines'. The audit report must be accompanied by a program for the implementation of all recommendations made in the audit report. If the Applicant intends to defer the implementation of a recommendation, reasons must be documented.

5. ENVIRONMENTAL REPORTING

INCIDENT REPORTING

- 5.1 The Proponent shall notify the **EPA** and the **Planning Secretary** of any incident with actual or potential significant off-site impacts on people or the biophysical environment as soon as practicable after the occurrence of the incident. The Proponent shall provide written details of the incident to the **EPA** and the **Planning Secretary** within seven days of the date on which the incident occurred.

ANNUAL PERFORMANCE REPORTING

- 5.2 The Proponent shall submit an Annual Environmental Management Report (AEMR) for the project to the **EPA**, Council, and the Department. The AEMR shall be submitted annually on the 22 December, unless otherwise approved by the Department, and include:
- a) details of compliance with the conditions of this approval, and any other licences and approvals for the project;
 - b) a list of variations obtained to approvals applicable to the development and to the site during the preceding twelve-month period;
 - c) a copy of the Complaints Register for the preceding twelve month period (exclusive of personal details), and a description of how these complaints were addressed and resolved;
 - d) results of all environmental monitoring required under this approval and other approvals, including interpretations and discussion by a suitably qualified person;
 - e) a list of all occasions in the preceding twelve-month period when environmental performance goals for the development have not been achieved, indicating the reason for failure to meet the goals and the action taken to prevent recurrence of that type of incident;
 - f) a comparison of the environmental impacts and performance of the development against the environmental impacts and performance predicted in the EA and the additional information listed under condition 1.1;
 - g) identification of trends in monitoring data over the life of the development to date; and
 - h) environmental management targets and strategies for the following twelve-month period, taking into account identified trends in monitoring results.

6. COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT

ACCESS TO INFORMATION

- 6.1 Subject to confidentiality, the Proponent shall make all documents required under this approval publicly available.

COMPLAINTS PROCEDURE

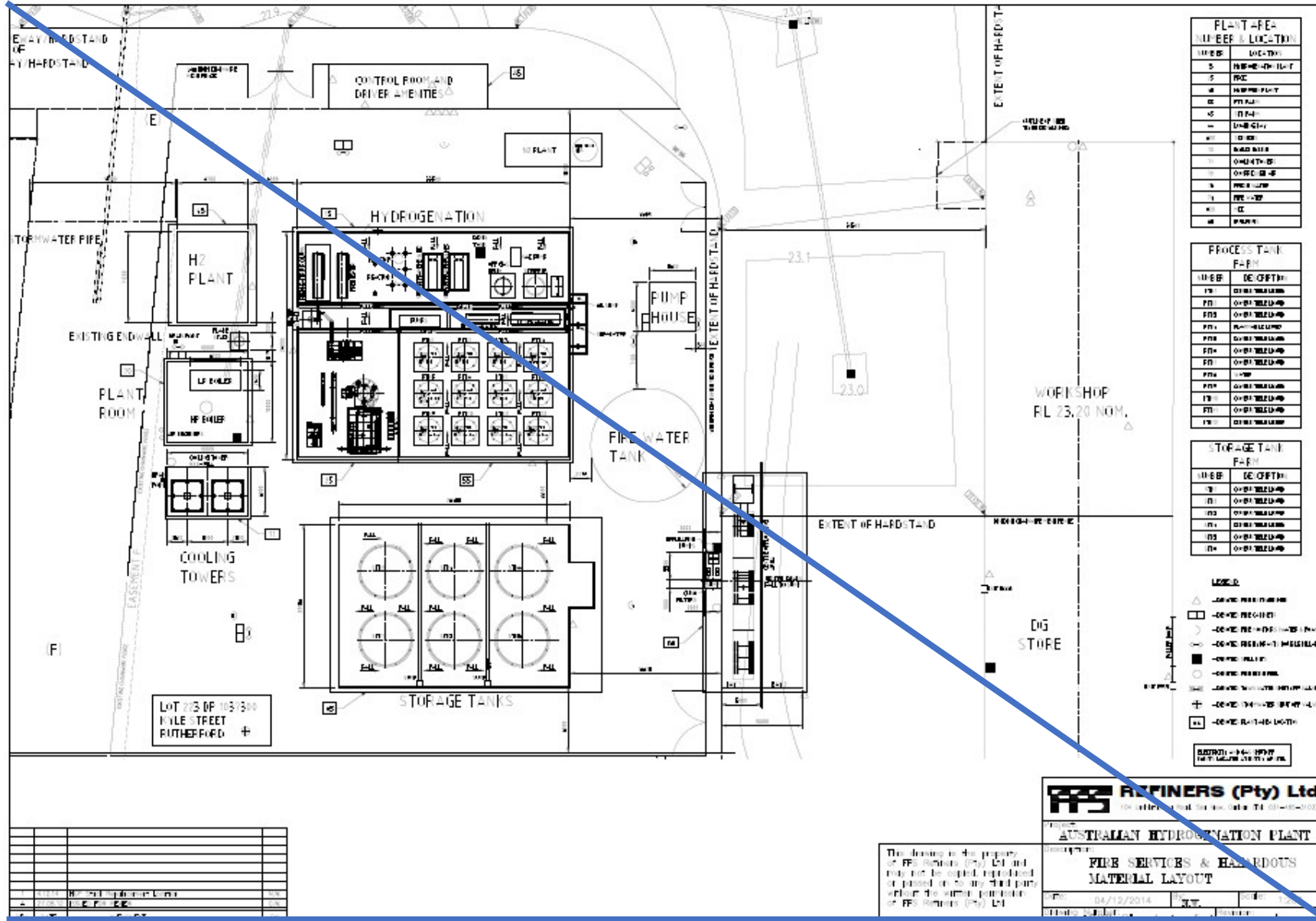
- 6.2 Prior to the commencement of construction, the Proponent shall establish community complaints system to the satisfaction of the **Planning Secretary**. This system must include:
- a) a 24-hour telephone number on which complaints about operations on the site may be registered;
 - b) a postal address to which written complaints may be sent; and
 - c) an email address to which electronic complaints may be transmitted, should the Proponent have email capabilities.

The telephone number, the postal address and the email address shall be advertised in a newspaper circulating within the locality on at least one occasion prior to the commencement of construction of each stage of the development. These details must also be displayed on a sign near the entrance to the site, in a position that is clearly visible to the public and on the Proponent's internet site, should one exist. The telephone number, postal address and email address must be maintained throughout the life of the development.

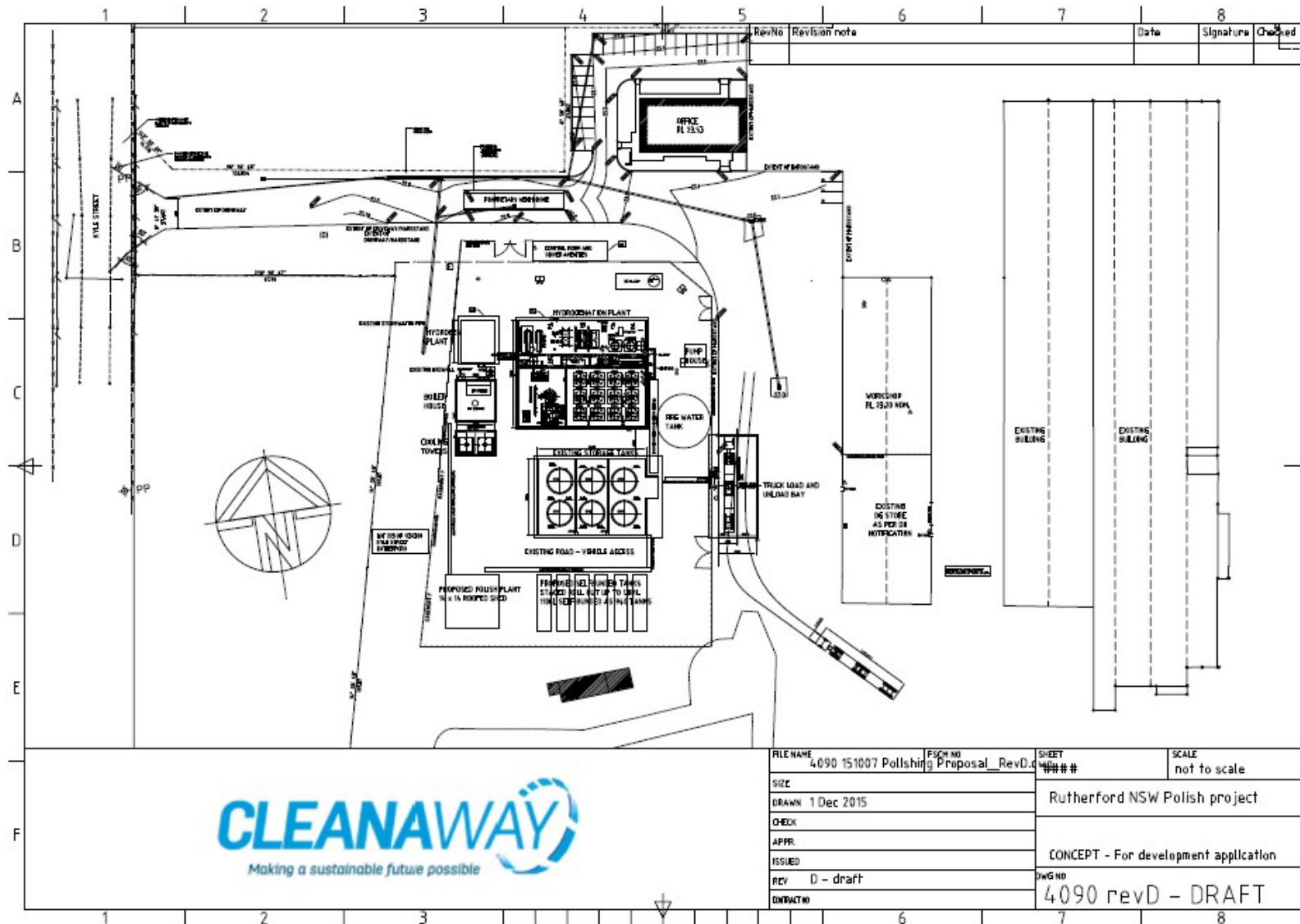
- 6.3 The Proponent must record details of all complaints received about the project in an up-to-date Complaints Register. This register must record, but not necessarily be limited to:
- a) the date and time, where relevant, of the complaint;
 - b) the means by which the complaint was made (telephone, mail or email);
 - c) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
 - d) the nature of the complaint;
 - e) any action(s) taken by the Proponent in relation to the complaint, including any follow-up contact with the complainant; and
 - f) if no action was taken by the Proponent in relation to the complaint, the reason(s) why no action was taken.

The Complaints Register must be made available for inspection by the **Planning Secretary** upon request.

7. APPENDIX A – SITE LAYOUT PLAN



8. APPENDIX B – SITE LAYOUT PLAN



9. APPENDIX C – AERIAL IMAGE OF THE SITE



10. APPENDIX D – PROPOSED MOPP LOCATION – MOD 6



11. APPENDIX E – PROPOSED STACK LOCATION – MOD 7

