

# ASSESSMENT REPORT

## Fuel Depot, Kooragang Island MP 07\_0066 MOD 4

### 1. INTRODUCTION

This report is an assessment of a request to modify the Project Approval (MP 07\_0066) for a marine fuel storage, distribution and bio-diesel production facility at Kooragang Island, in the Newcastle Local Government Area. The request has been lodged by Umwelt Australia Pty Ltd on behalf of Park Pty Ltd (the Proponent) pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act). It seeks to modify the approval by including additional land into the Project Approval area, the occupation and use of an office and workshop building as well as a new fuel storage tank to store diesel additive.

### 2. SUBJECT SITE

The subject site is located at Greenleaf Road, on the southern end of Kooragang Island, approximately 20 kilometers (km) north-west of Newcastle Central Business District (see **Figure 1**). The site sits adjacent to the north arm of the Hunter River in the Port of Newcastle (PoN), the site is managed by the PoN under a 98-year lease from the NSW Government which commenced on 30 May 2014.

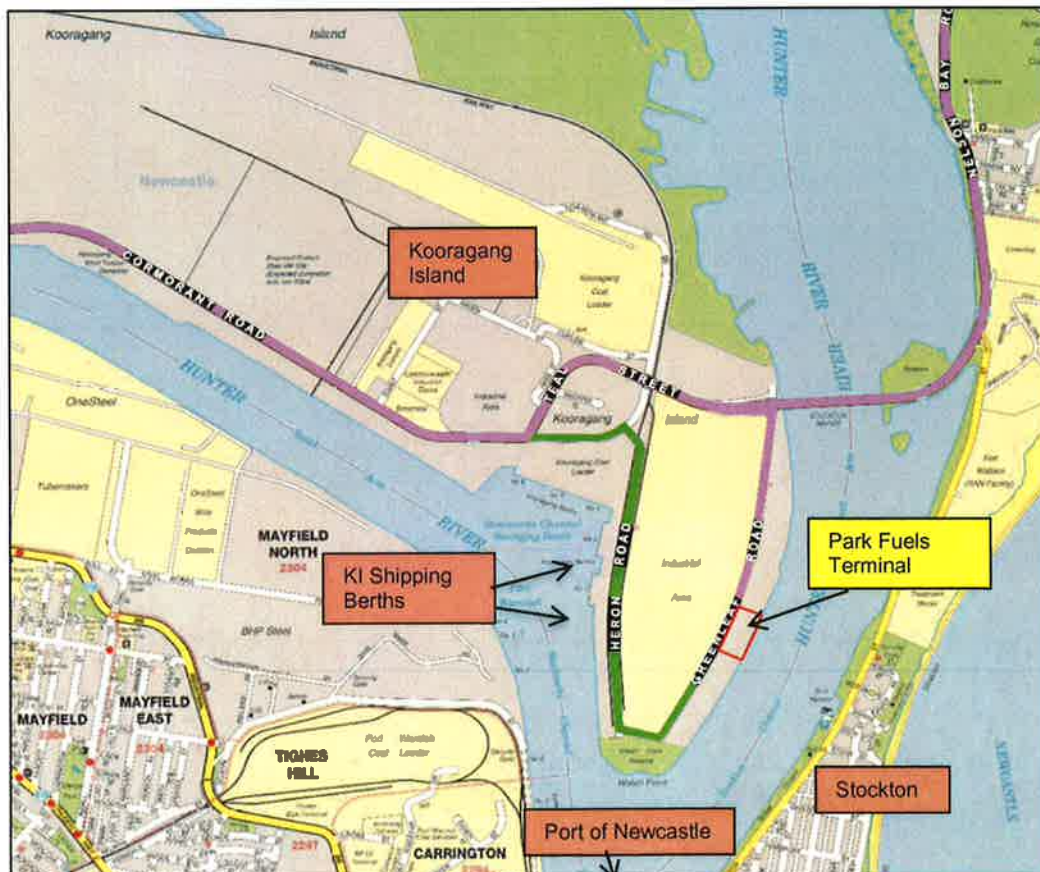


Figure 1: Site location (source: Google Maps)

Industrial neighbours to the site include Orica Australia Pty Ltd and Incitec Pivot Ltd which manufacture a range of chemicals primarily for the mining and infrastructure markets.

The closest residential suburbs to the site are Stockton (600 metres to the east), Fern Bay (over 1 km to the north) and Carrington (1.6 km to the south-west).

### 3. APPROVAL HISTORY

On 2 June 2008, the then Minister for Planning approved MP 07\_0066 to construct and operate a marine fuel storage and distribution facility at Greenleaf Road, on the southern end of Kooragang Island.

On 10 December 2014, the Department of Planning and Environment (the Department) approved the following concurrent modification applications under delegation:

- Modification 1 (MP 07\_0066 MOD 1) for the construction and installation of an additional offtake pipeline connecting the site to the wharf (Berth K2.5); and
- Modification 2 (MP 07\_0066 MOD 2) to modify the design of three tanks at the terminal site by replacing the internal floating roofs with standard fixed roofs and revising the use of Tank T7 for the storage of biodiesel rather than methanol.

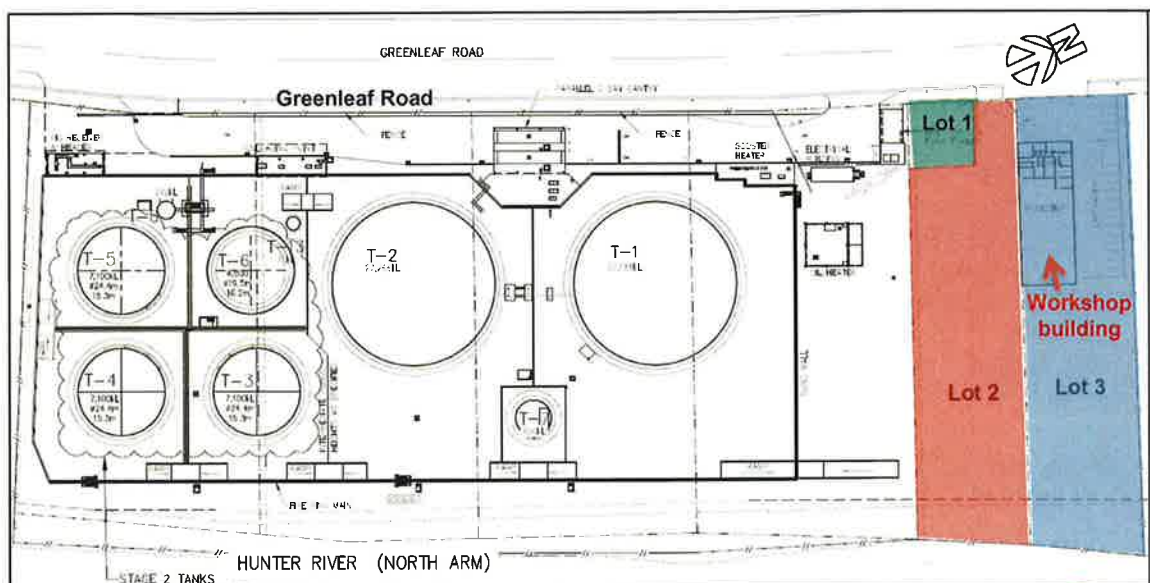
In September 2014, Secretary's Environmental Assessment Requirements were issued in relation to a further Modification (MP07\_0066 MOD 3) for a change to the alignment of the distribution pipeline between the wharf and facility, but the application was subsequently withdrawn.

### 4. PROPOSED MODIFICATION

On 6 November 2015, the Department received a modification application (MP 07\_0066 MOD 4) seeking approval for:

1. *Inclusion of additional land adjacent to the approved project area.*

The additional land is approximately 7,900 m<sup>2</sup> and comprises lots 1, 2 and 3 in DP 557904. The land includes an administration office and workshop building. The Proponent has a lease over this land from the PoN. The additional land is illustrated in **Figure 2**.



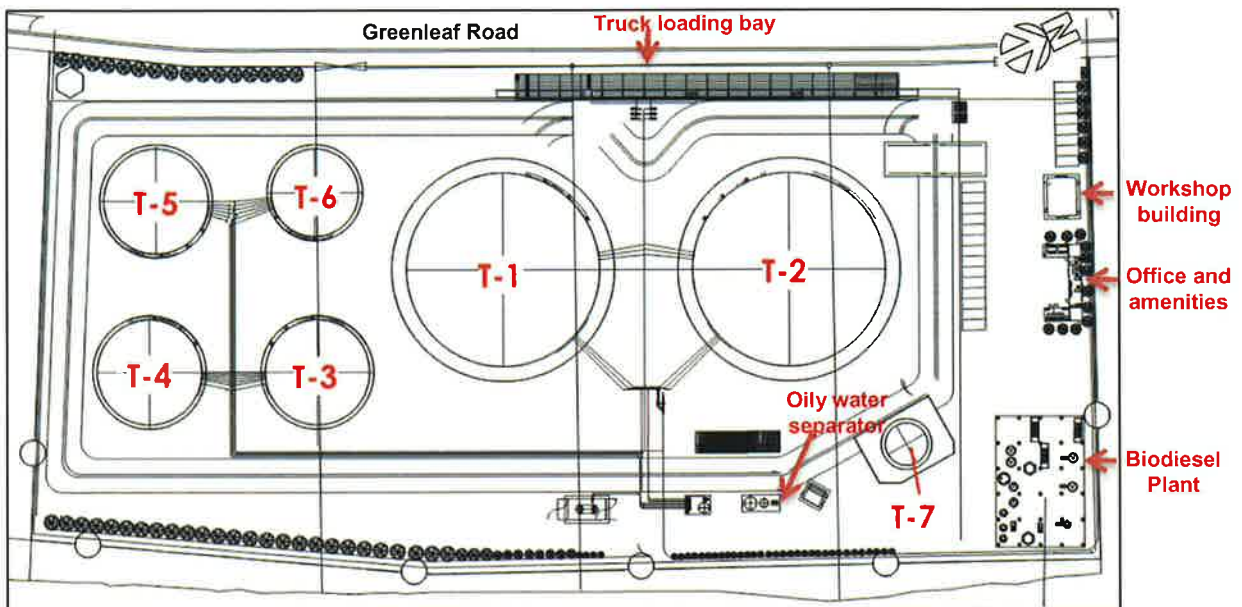
**Figure 2:** Proposed inclusion of additional land (lots 1, 2 and 3 highlighted) (Source: Proponent Application)

2. Occupation of a refurbished office and workshop building.

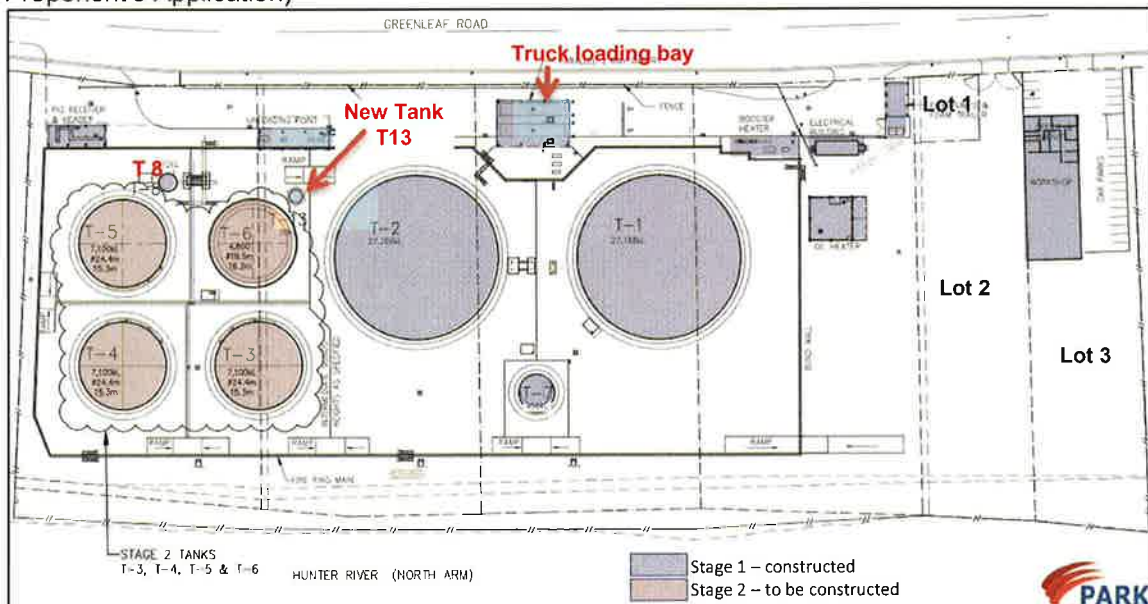
The refurbished office and workshop building is located on the additional land to be included in the Project Approval (Lot 3 DP 557904). It is an existing building (approved by Newcastle Council in 1972) and has been refurbished by the proponent without prior approval. The Building Certifier has undertaken an inspection of the completed works and has issued a BCA Compliance Statement to confirm the refurbishment works comply with the relevant provision of the BCA and are fit for the proposed use. The refurbished building provides administrative, amenities and service functions integral to the operation of the fuel terminal. The office and workshop buildings approved in the original development have not been built and are no longer proposed. The approved site layout is shown in **Figure 3** and the proposed site layout is shown in **Figure 4**.

3. Use of an additional minor tank for the storage of diesel additive.

An additional tank of 30,000 litres (L) (known as T13) is used to store diesel fuel additive. The diesel fuel is a chlorine free detergent type additive to clean diesel engines and improve their performance. The location of this new tank is shown on **Figure 4**. The tank has been constructed without approval and approval for the use of the tank is being sought under this modification request.



**Figure 3:** Layout of approved Marine Fuel Storage and Biodiesel Production Facility (Source: Proponent's Application)



**Figure 4:** Proposed layout of modified terminal (Source: Proponent's Application)

The proposal is accompanied by an updated site plan which incorporates a number of additional changes. These include:

- relocation of the car parking area to lot 3;
- relocation of Tank T-7 consistent with the documentation submitted with modification 2;
- deletion of the future biodiesel plant (as it is no longer intended to proceed with this aspect of the approval);
- deletion of the workshop and office buildings (as they are replaced by the refurbished building); and
- a range of other changes previously approved by a private certifier under a modified construction certificate including:
  - deletion of the oily water separator and replacement with Tank T-8 in a different location
  - redesign of the truck loading bay and gantry area; and
  - changes to the location of bund walls and ramps.

## **5. STATUTORY CONSIDERATION**

### **5.1 Section 75W**

The project was originally approved under Part 3A of the EP&A Act. Although Part 3A was repealed on 1 October 2011, the project remains a 'transitional Part 3A project' under Schedule 6A of the EP&A Act, and hence any modification to this approval must be made under the former section 75W of the EP&A Act.

The Department is satisfied the proposed modification is within the scope of section 75W of the EP&A Act, as the primary function and purpose of the approved project would not change as a result of the proposed modifications and any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of approval.

### **5.2 Permissibility**

The proposal seeks to use an existing building for administration and workshop purposes ancillary to the fuel depot and to use a new diesel fuel additive storage tank as part of the fuel depot. The fuel depot use is permissible with development consent within the SP1 Special Activities zone, under the State Environmental Planning Policy (Three Ports) 2013 (the Three Ports SEPP).

### **5.3 Approval Authority**

The Minister for Planning is the approval authority for the application. However, the Executive Director, Key Sites and Industry Assessments may determine the application under delegation as:

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

## **6. CONSULTATION**

The Department made the modification application publicly available on its website, and consulted with the Environment Protection Authority (EPA) and Newcastle City Council (Council) on the proposed modification.

The EPA raised no objection to the proposed modification and noted the proposal:

- is retrospective as the works have already been undertaken;
- the additional tank (T13) to store diesel fuel additive will be fully sealed and will not result in any increase in emissions beyond those identified in the original air quality assessment conducted for the Project Approval in 2007;
- the proposal is unlikely to have any additional environmental impacts; and

- the proposal will not require a variation to the existing Environment Protection Licence (EPL).

**Council** does not object to the proposed modification, but provided the following comments:

- further information is needed to clarify and confirm the details of all modifications proposed due to inconsistencies in the information submitted, particularly the construction status of Tanks T-8 and T-13;
- the need for information regarding the permissibility of the proposed modifications with reference to the EP&A Act and the Three Ports SEPP;
- the need for further information to demonstrate the parking and landscaping requirements of the Newcastle Development Control Plan 2012 (DCP) have been complied with;
- the need for a more comprehensive consideration of the Building Code of Australia (BCA); and
- consideration for an additional contribution in accordance with the Newcastle Section 94A Development Contributions Plan 2009, if the capital investment value (CIV) has increased.

No public submissions were received.

The Proponent provided the Department with a Response to Submissions (RtS) report to clarify the issues raised by Council.

## 7. ASSESSMENT

The key assessment issues associated with the proposed modification are considered in **Table 1** below.

**Table 1: Assessment of Issues**

<b>Issue</b>	<b>Consideration</b>	<b>Recommendation</b>
<i>Clarification of approved and Proposed Works</i>	<ul style="list-style-type: none"> <li>• Council raised concern about some discrepancies between the existing approval and what has currently been constructed on the site.</li> <li>• The Proponent's RtS provides further details clarifying the construction and operational status of various project components.</li> <li>• The Department understands Tanks T-1, T-2, and T7 were clearly identified in the original Project Approval, with some minor changes approved as part of MOD 2. These tanks have all been constructed.</li> <li>• Tanks T-3, T-4, T-5 and T-6 were also clearly identified in the original Project Approval and have not yet been constructed.</li> <li>• Tank T-8 was envisaged in the original Project Approval as part of the oily water separator system and has now been altered to provide storage for waste diesel (slops) for recycling. Changes to tank T-8 were approved under a modified Construction Certificate issued by a Building Certifier (included in Appendix 2 of the RtS). Tank T-8 has been constructed.</li> <li>• A number of other minor changes have been made through a modified Construction Certificate, issued by a private certifier. These include changes to the truck gantry layout, minor change to the location of bund walls and bund liner, inclusion of T-8 as described above, relocation of a pipeline, relocation of a ramp and other minor changes.</li> <li>• Tank T-13 is the subject of this Modification Application. It has already been constructed without approval. The Department has assessed the potential environmental impacts of T-13 in the following sections of this report.</li> <li>• The Department is satisfied the changes outlined above are all minor and do not change the approved use or the environmental impacts of the proposal.</li> <li>• The Proponent has submitted an updated plan showing the location of all existing and proposed tanks. The incorporation of the plan into the instrument of approval would ensure the modified approval is consistent with the existing and the proposed site layout.</li> </ul>	No additional conditions or changes required.
<i>BCA Compliance</i>	<ul style="list-style-type: none"> <li>• The Department notes the RtS includes a BCA Compliance Statement for the refurbished administration building which confirms it complies with the relevant provisions of the BCA and is fit for the proposed use, with the exception of the external southern wall. The wall does not currently comply with the required fire rating level as the building is located on the southern boundary of Lot 3 (see <b>Figure 4</b>).</li> <li>• To ensure compliance with the BCA, the Proponent advised it could amalgamate the allotments so the building does not sit on a lot boundary. The</li> </ul>	The Department has recommended conditions to modify the description of the approval to include lots 1, 2 and 3, and to require consolidation of the

	<p>Department therefore recommends a condition which requires the Proponent to consolidate lots 1, 2 and 3 DP 557904 into one lot or carry out a boundary adjustment to ensure the building is located on one parcel of land and not on a lot boundary. The Department considers subject to the recommended condition, the workshop building would comply with the relevant fire rating levels.</p>	lots or a boundary adjustment prior to use of the new building.
<i>Air Quality</i>	<ul style="list-style-type: none"> <li>• An existing EPL and the Project Approval set emission limits for the facility.</li> <li>• The additional tank T-13 stores diesel fuel additive. The tank is fully sealed and would not result in any increase in emissions beyond those identified in the air quality assessment prepared by Holmes Air Sciences (now Pacific Environment Limited) included in the original Project Approval.</li> <li>• Tank T-8 was envisaged in the original Project Approval as part of the oily water separator system. This tank has now been altered to provide storage for waste diesel (slops) for recycling.</li> <li>• The Proponent predicts there would be no increase in air quality emissions in addition to those predicted for the original Project Approval.</li> <li>• The EPA raised no concerns regarding the tanks.</li> <li>• The Department is satisfied the proposal would not result in additional air quality impacts and notes any potential impacts associated with the proposed modification would be appropriately managed through the EPL and existing conditions of the approval.</li> </ul>	The Department considers the existing conditions appropriately address any potential air quality impacts. No changes required.
<i>Hazards and Risk</i>	<ul style="list-style-type: none"> <li>• The application was referred to the Department's Hazards and Risk Team for review. The Hazards and Risk Team raised no objection to the proposal and advised: <ul style="list-style-type: none"> <li>○ the proposed new office and workshop buildings are positioned further away from the potential on-site risks of the fuel terminal, when compared to the original approved location;</li> <li>○ the additional minor diesel fuel additive tank (T-13) will hold Dangerous Goods Class 9 Product, is located within the approved bunded area, and in the event of a release, it would be unlikely to affect people off-site; and</li> <li>○ the Emergency Plan and Safety Management System should be updated for the modified site layout.</li> </ul> </li> <li>• Subject to the Emergency Plan and Safety Management System being updated to reflect the modified site layout, the Department's assessment concludes there are no significant additional risks associated with the proposed modification.</li> </ul>	Recommended conditions require the Proponent to update the Emergency Plan and Safety Management System to reflect the changes to the site from the MOD 4 application.
<i>Section 94 Contributions</i>	<ul style="list-style-type: none"> <li>• Council requested consideration be given to an additional section 94A contribution, if the CIV has increased.</li> <li>• The proposed modifications results in an overall reduction in the CIV of the project, as the cost of refurbishing the existing office and amenities building, (in conjunction with the provision of a new small tank), remains significantly less than constructing a new building. Therefore there is no requirement to pay additional section 94A contributions.</li> <li>• Further, existing Condition 7 does not specify a contribution amount, but rather it requires appropriate contributions be paid to Council, in accordance with the Council's Contributions Plan.</li> <li>• The Department is satisfied the existing condition appropriately addresses the requirement for section 94A contributions, and enables any variations in CIV to be taken into account at the time of payment.</li> </ul>	The Department considers the existing conditions appropriately address the Section 94 Contributions. No changes required.
<i>Parking</i>	<ul style="list-style-type: none"> <li>• Council requested the Proponent to submit additional information to demonstrate the proposal complies with Council's DCP with regards to parking.</li> <li>• In response, the Proponent advised under Part 3A of the EP&amp;A Act the DCP does not apply to the assessment of the application.</li> <li>• The proposal would provide 23 on-site parking spaces on the new allotments, consistent with the number of parking spaces shown on the originally approved plans. Further, there is ample space adjacent to the proposed car park area to accommodate additional parking spaces, should further demand arise in the future.</li> <li>• The modification does not seek to materially increase the annual storage capacity of the site, the number of employees, or create any intensification of development on the site. The Department is therefore satisfied no additional on-site parking is required.</li> </ul>	No changes required.
<i>Landscaping</i>	<ul style="list-style-type: none"> <li>• Some limited landscaping was included in the original approval, including some native shrub and grass species along parts of the site boundaries.</li> <li>• The Department recognises there is limited potential for landscaping on the site, due to the nature of the proposed use and the constraints of the site layout. However, it is considered appropriate to require an updated landscaping scheme, which takes into account the additional land and</li> </ul>	A new condition is recommended requiring an updated landscape plan to reflect the amended site layout

	amended layout of the site. A condition is therefore recommended, requiring the provision of an updated landscape plan to reflect the amended site layout.	
<i>Other Impacts</i>	<ul style="list-style-type: none"> <li>• Visual impacts were considered in the original assessment. The proposal results in no adverse visual impacts as viewed from the water way or nearby areas as: <ul style="list-style-type: none"> <li>○ the additional storage tank would be very small and barely discernible in the context of the other much larger approved tanks; and</li> <li>○ the deletion of the previously approved office and workshop building in favour of refurbishing an existing building, results in a net reduction in built forms on the site, and an improvement to the appearance of the existing building.</li> </ul> </li> <li>• As the proposal does not seek to change the annual storage capacity of the site or the way in which it operates, there would be no expected changes to transport movements, noise emissions, waste management requirements or other operational impacts.</li> </ul>	No changes required.

## 8. CONCLUSION

The Department has assessed the proposed modification and supporting information in accordance with the relevant requirements of the EP&A Act. The Department's assessment concludes the proposed modifications are appropriate given the use of the refurbished office and workshop building and additional fuel tank (T13) would not significantly change the risk profile of the approved Project or result in additional environmental impacts beyond those already assessed and approved.

Consequently the Department is satisfied the proposed modifications are minor, are in the public interest and should be approved subject to the amended conditions of approval as set out in the notice of modification at **Appendix A**.

## 9. RECOMMENDATION

It is RECOMMENDED the Executive Director, Key Sites and Industry Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **approves** the application under section 75W, subject to conditions; and
- **signs** the notice of modification (**Appendix A**).

Prepared by Anna Scott  
Consultant Planner

Endorsed by:



Natasha Harras  
**Acting Director**  
**Modification Assessments**

Approved by:



Anthea Sargeant 29/7/16  
**Executive Director**  
**Key Sites and Industry Assessments**

## **APPENDIX A: NOTICE OF MODIFICATION**

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The Notice of Modification can be found on the Department's website at the following address:

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=7368](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7368)

## **APPENDIX B: SUPPORTING INFORMATION**

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The following supporting documents and supporting information to this assessment report can be found on the Department of Planning and Environment's website as follows:

1. Modification request

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=7368](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7368)

2. Submissions

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=7368](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7368)

3. Response to Submissions

[http://majorprojects.planning.nsw.gov.au/index.pl?action=view\\_job&job\\_id=7368](http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7368)