

Submissions Report - Phase 1A

Modification to Bulk Fuel Storage Facility, Mayfield NSW

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Modification to Bulk Fuel Storage Facility, Mayfield NSW

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1.0 Introduction

1.1 Overview of the Project

Stolthaven Terminals Pty Ltd (Stolthaven) proposes to modify its Phase 1 Project Approval (08_0130) for a bulk liquid fuel storage facility (the Facility) at Mayfield, New South Wales. The Facility, which is currently under construction, would be modified to include an additional:

- 2 x 18ML Diesel tanks; and
- 1 x 4.2 ML biodiesel tanks.

The additional tanks would utilise the truck loading infrastructure, pipes and pumps approved as part of Phase 1 for the movement and management of fuels. The modification is known as Phase 1A of the Facility.

1.2 Overview of the EA Planning Approval Process

Project Approval (08_0130) for Phase 1 was issued by the Minister for Planning on 8 June 2012. Approval for the proposed modification is being sought under Section 75W of the Part 3A transitional provisions of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the *Environmental Planning and Assessment Regulation 2000*.

As the proposal is being assessed as a modification under Section 75W of EP&A Act, exhibition was undertaken at the discretion of the Director General (DG) of the Department of Planning and Infrastructure (DP&I). Therefore as advised by DP&I, the Environmental Assessment (EA) for the proposed modification was placed on public exhibition for a period of two weeks starting from 26 March 2013.

The EA was made available on the DP&I web site (<http://majorprojects.planning.nsw.gov.au/>), the Stolthaven's website (<http://www.stolt-nielsen.com/Stolthaven-Terminals/Terminal-Network/Australia/Stolthaven-Newcastle.aspx>), and was supplied to the following agencies:

- Newcastle City Council (NCC).
- The Nature Conservation Council.
- Environment Protection Authority (EPA).
- Roads and Maritime Services (RMS) – Land use, Development and Infrastructure Services.
- Roads and Maritime Services (RMS) – Maritime Property Planning and Infrastructure.
- Department of Primary Industries – Office of Water.
- The Newcastle Port Corporation (NPC).
- Hunter Development Corporation (HDC).
- NSW Health – Hunter New England Local Health District.

Consultation with key stakeholders continued through, and in some cases beyond, the exhibition period. Submissions received during and outside the exhibition period are considered in this report.

1.3 Purpose of this Report

The purpose of this report is to detail and provide responses to issues raised in submissions received during the EA exhibition period from businesses, individuals, community groups and Government agencies.

1.4 Structure of this Report

The Submissions Report has been set out to address each of the issues raised in the submissions and is structured as follows:

- **Section 1** provides an overview of the proposed modification, the EA process and the Submissions Report purpose and structure.
- **Section 2** provides a summary of the submissions received and outlines the key issues raised in the submissions.
- **Section 3** provides responses to each of the issues raised in submissions received from State and local Government agencies.
- **Section 4** provides responses to each of the issues raised in submissions received from community stakeholders (individuals, community groups and businesses).
- **Section 5** provides a response to key issues raised in submissions.
- **Section 6** presents the final Statement of Commitments.
- **Appendix A** presents the submissions received from State and local Government agencies.
- **Appendix B** presents the submissions received from community groups and individuals.

2.0 Summary of Submissions

2.1 Submissions Process

During the exhibition period, and for a short period thereafter, submissions in relation to the proposed modification were accepted by the DP&I. Submissions were provided to the Proponent for response. All submissions were reviewed and issues raised have been addressed in this Submissions Report.

2.2 Submissions Received

In total, nine submissions were received:

- Six submissions were from State and local Government agencies (refer **Appendix A**) including:
 - DP&I, Major Hazards Unit;
 - HDC;
 - RMS;
 - EPA;
 - NCC; and
 - NPC.
- Three submissions were received from the general public, including special interest groups, neighbouring industry and a resident (refer **Appendix B**):
 - Correct Planning & Consultation for Mayfield Group (CPCFM);
 - A resident (Mr Rick Banyard) from Maryville; and
 - OneSteel.

2.3 Key Issues Raised in Submissions

Submissions received were reviewed and tabulated. A summary of the key issues raised is provided in **Table 1** and **Table 2**. Key issues raised are discussed further in **Section 5.0** of this Submissions Report. Issues raised in relation to matters such as traffic, air quality and noise impacts primarily related to the management plans required by the Mayfield Concept Plan approval. These are addressed in the context of the Mayfield Concept Plan and not as specific traffic, air quality or noise issues.

2.3.1 Planning Matters

Submissions, particularly the submission from the CPCFM, raised the matter of the correct application of planning assessment procedures and the application of tests when determining modification proposals. In addition the relationship with the environmental management requirements of the Mayfield Concept Plan approval (09_0096) was also questioned.

2.3.2 Safety and Risk

Safety and risk matter are of particular interest to community members. Safety and risk issues associated with the proposed modification related to potential hazards generated by the proposed facility alone, and cumulative risks associated with other industrial facilities in and around the Port of Newcastle.

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3.0 Response to Agency Submissions

This section contains a summary of all submissions received from agencies, and provides Stolthaven's response to each of the submissions. Refer to **Appendix A** for full submission issue details.

Table 1 Response to Agency Submissions

No.	Issue	Response	Relevant Section
Department of Planning and Infrastructure – Major Hazards Unit			
1	<i>'Taking into account that the modification does not introduce new materials or type of operations it is not expected new hazards to be introduced as a result of this modification. The risks posed by the site to the surrounding land uses would be acceptable'.</i>	Noted	NA
Hunter Development Corporation			
2	<i>'The Corporation made comments on the original application which have been captured in Approval 08_0130. On the basis that this application was based on unchanged DGR's and the determination of this application if approved would be consistent with the relevant 08_0130 conditions then the Corporation has no new issues to raise.'</i>	Noted	NA
NSW Roads & Maritime Services (RMS) – Infrastructure Services			
3	The proposed modification will not have any significant impact on the traffic and access related matters addressed in the current Project Approval (MP 08_0130). No objections to the proposed modification. Matters raised in previous submission in relation to Phase 1 dated 24 July 2012 still apply.	Noted. A review of RMS's submission from 24 July 2012 did not raise any issues which require further consideration. All matters as raised in RMS's 2012 submissions were addressed in the Phase 1 Submission Report. These responses would continue to be applicable to the modification as the traffic generated by Phase 1A would continue to be within existing network capacities.	Refer to Section 13.0 of the EA.
EPA			
4	No further comment.	Noted	NA

No.	Issue	Response	Relevant Section
Newcastle City Council			
NPC Mayfield Concept Plan			
5	Clarification sought regarding the legal relationship between the Mayfield Concept Plan and the proposed development.	Condition 1.6, Schedule 2 of the Mayfield Concept Plan Approval states that, <i>this Concept Plan approval does not apply to activities approved....at the date of this Concept Plan approval</i> . MP 08_0130 was approved prior to the Mayfield Concept Plan approval. While this condition indicates that the Mayfield Concept Plan approval does not apply, Stolthaven has taken an approach of consistently applying the Mayfield Concept Plan conditions to its terminal facility, where applicable.	Refer to Sections 3.7 and 22.0 to the EA.
6	The proponent has not provided detail in relation to any preconditions imposed on the proponent (NPC) of the Mayfield Concept Plan and any implications this may have on the proposal.	Conditions imposed on the Mayfield Concept Plan proponent are the responsibility of that proponent. For example management plans required by the Mayfield Concept Plan approval, which Stolthaven's Terminal (Phase 1A inclusive) would fall under are the responsibility of NPC. Until these management plans are prepared Stolthaven only has a consultative role in their preparation.	Refer to Sections 3.7 and 22.0 to the EA.
7	Schedule 3 of the Concept Plan Approval requires NPC to prepare and implement a range of environmental monitoring, management plans and environmental mitigation strategies. NCC requested additional information to address such matters.	Stolthaven acknowledges that there are a number of plans required by the Mayfield Concept Plan approvals which would have implications for all operators within the Concept Plan site, including Stolthaven's Terminal. It is understood that the plans required by NPC are currently in preparation. Stolthaven intends to adopt the requirements of Mayfield Concept Plan management documents, if applicable to the facility and the proposed modification. It should also be noted that the approved facility, and the proposed modification, have been assessed in accordance with the 'environmental envelope' established by the Mayfield Concept Plan approval.	Refer to Sections 3.7 and 22.0 to the EA.

No.	Issue	Response	Relevant Section
Contamination			
8	The subject site was subject to intensive contamination and remediation works and that the proposed modification has the potential to impact contaminated materials below the capping layer. Supports the use of the Contaminated Site Management Plan (CSMP) to address any onsite contamination issues and recommends that any materials that require disposal should be done so offsite in accordance with the relevant guidelines of the Environment Protection Authority.	Noted.	Refer to Section 11.0 of the EA.
Section 75W modification			
9	Discussion in relation to the Land and Environment Court case cited in the EA in relation to what constitutes a project that can be approved under Section 75W of the EP&A Act.	While NCC provides no assessment of the applicability of the proposal against Section 75W, the proponent considers that the modification meets the three general requirements listed by NCC as necessary for a project to be considered under Section 75W, which are: - The approval must be one to which Part 3A applies; - The proposed modification must have '<i>limited environmental consequences beyond those which had been the subject of the application</i>'; and - The consent authority must be the Minister for Planning.	Refer Section 4.3.1 of the EA.
Section 94A Development Contributions Plan			
10	Request that the Section 94A contributions payable by the proponent be reviewed in accordance with the capital investment value of the proposed modification.	It is anticipated that if approved, DP&I would condition the approval of the modification to require the proponent to pay Section 94A contributions. Stolthaven are to meet with NCC in the near future regarding payment of contributions for Phase 1.	Refer to Appendix F of the EA.
Newcastle Local Environmental plan and Newcastle Development Control Plan			
11	The relevant versions of the Newcastle LEP and DCP as identified in the EA are not applicable to the proposed modification due to State Environmental Planning Policy (Major Development) 2005.	This matter is considered in the statutory planning section of the EA.	Refer to Section 4.1.2 of the EA.

No.	Issue	Response	Relevant Section
Newcastle Port Corporation			
12	Item 3.6.3 Proposed Modification to the Existing Remediation – refers to the clay capping directly to the north and south of the site perimeter to be drained and regraded by NPC to ensure all surrounding surface water is directed away from the site. Please clarify what this statement is referring to?	Stolthaven has designed drainage at the northern and southern boundaries of the site to redirect overland stormwater flows, from neighbouring catchment areas, to the existing open drain at the western end of the site. NPC is not required to regrade the clay capping immediately north or south of the Stolthaven site.	NA
13	Table 25 Other Environmental issues in section 19.0 Other Environmental Considerations – Reference to gas and sewer provision are incorrect.	Noted. NPC is not providing sewer or gas. An onsite waste water management system will be installed and no gas connection is required.	NA
14	Item 6.1 Electricity Consumption – Proposed total maximum electrical demand for the current proposed electricity supply from Ausgrid only allows up to 3MVA to the entire Bulk Liquids Precinct.	Stolthaven's initial planning indicated that with the modification, the fuel terminal would require 720kVA. There is adequate existing capacity to accommodate the modification.	NA

4.0 Response to Community Submissions

This section contains a summary of all submissions received from the general public – interest groups and individuals, and Stolthaven's response to each of the submissions. Refer to **Appendix B** for full submission issue details.

Table 2 Response to Individual Submissions

No.	Issue	Response	Relevant Section
Correct Planning and Consultation for Mayfield Group (CPCFM)			
Objection to project being assessed as a modification			
15	Due to the relative size and capital cost of the modification, the use of Section 75W modification is not deemed appropriate and a new application should be lodged to allow stakeholder to properly assess impacts.	Stolthaven in consultation with the DP&I agreed Section 75W is the appropriate approvals pathway due to the highly disturbed nature of the site and the relatively minor impact the additional storage tanks would have. Additionally the proposed tanks will be within Stolthaven's existing leave footprint. The potential impacts of the modification have been found to be minimal, further supporting the use of Section 75W.	Refer Section 4.3.1. of the EA.
Consistency with the Mayfield Concept Plan			
16	Assessed both Stolthaven and NPC tracking and compliance documents for the separate projects. Little commonality between these documents for very specific requirements from the Director General in regard to their approvals.	Currently the Management Plans required by the Mayfield Concept plan approval are in preparation and not yet in force. Stolthaven has prepared its own Management Plans for its site as an interim measure. Regardless, the terminal is not currently operational and cannot commence operations until relevant management plans have been prepared in consultation with NPC. Any management plans in force at the time of the modification approval, if approved, would be updated to include the elements of the proposed modification.	Refer to Sections 3.7 and 22.0 to the EA.
Throughput need and quantity clarification			
17	Confirmation on who the additional storage capacity is proposed to cater for.	The additional capacity would cater for existing market demand to partially displace fuels being trucked to Newcastle from Sydney. End customers would vary but would generally be businesses and industry throughout the Hunter Valley.	Refer Section 3.1 of the EA.

No.	Issue	Response	Relevant Section
18	Section 3.2 includes a figure of 4400 million litres of fuels per year.	This is a typo and should read 400 million litres per year.	NA
Hazard and Risk			
19	The intent of the Director General in referencing the Mayfield Concept (09_0096) in the Phase 1 application was to assess cumulative impacts and manage Hazards and Risks. How can the community understand whether the hazards and risks are being managed properly?	Stolthaven fully intends to assist in the preparation of the Hazard and Risk management Plans required by NPC as part of the Mayfield Concept Plan approval. Currently there are no other approved facilities in the Concept Plan area which would require similar input or consideration of cumulative impacts.	NA
20	The timing for Stolthaven's input into the Mayfield Concept Plan's Hazard and Risk Plans is "For future development that is subject to Part 4 (other than complying development) or Part 5 of the Act." Therefore the NPC timeline on their conditions of consent do not reflect the Director General requirements for Stolthaven's conditions of consent.	The Phase 1 Project Approval (8 June 2012) was issued prior to the Mayfield Concept Plan approval (16 July 2012) and the Phase 1A modification was subject to Part 3A of the EP&A Act 1979. There is therefore no timing inconsistency. Regardless Stolthaven is required by its own Project Approval to provide relevant input into the Mayfield Concept Plan, Hazard and Risk Management Plans in due course.	NA
Air Quality and Odour			
21	With the increase in ship movements, the Phase 1A modelling scenario does not take into account the ships' air pollution source. The EPA has a list of air pollutants included in combustion emissions from ships. Additional combustion emissions in the area will add to an already constrained air shed; and an assessment has not been made by Stolthaven on the impact this proposed modification will have on the air environment of these pollutants.	Shipping movements would occur at approximately 1 every 2 weeks, representing between 0.9% - 1.4% of shipping in Newcastle and which is considered to result in a negligible impact in the Ports air shed. An assessment was however made of the Greenhouse Gas Emissions of shipping as part of the GHG assessment.	Refer to Section 1.1 of Appendix B of the EA.
22	If there are no monitoring networks in place (as part of the Mayfield Concept Plan), how can community and other stakeholders assess cumulative impacts?	An air quality monitoring network will operate in accordance with an Air Quality Management Plan currently being prepared by NPC. There are no other approved facilities in the Mayfield Concept Plan area that would require a cumulative impact monitoring network at this time.	NA

No.	Issue	Response	Relevant Section
23	The timing for Stolthaven's input into the Mayfield Concept Plan's Air Quality Plans is "For future development that is subject to Part 4 (other than complying development) or Part 5 of the Act." Therefore the NPC time line on its conditions of consent does not reflect the DG requirement for Stolthaven conditions of consent set out by the DG.	The Phase 1 Project Approval (8 June 2012) was issued prior to the Mayfield Concept Plan approval (16 July 2012) and the Phase 1A modification was subject to Part 3A of the EP&A Act 1979. There is therefore no timing inconsistency. Regardless Stolthaven is required by its own Project Approval to provide relevant input into the Mayfield Concept Plan, Hazard and Risk Management Plans in due course.	NA
Stormwater and Drainage			
24	A Stormwater Management Plan which includes a strategy to integrate a site stormwater management system within the broader Mayfield Concept Plan area needs to be prepared. In accordance with the Mayfield Concept Plan approval this should be submitted to the Director General prior to the lodgement or consideration of any project application associated with the Mayfield Concept Plan approval.	The Phase 1 Project Application submitted by Stolthaven included stormwater management details. The site drains directly to the stormwater drainage channel which runs along the western site boundary. Regardless the modification does not represent a project application.	NA
Noise and Vibration			
25	The Noise and Vibration Impact Assessment was prepared at a higher rate of throughput (800ML / year) compared to the pursued throughput (400ML year) which is confusing and doesn't allow proper assessment of cumulative impacts.	Initial project planning called for an assessment of a theoretical maximum throughput for the proposed facility at 800ML / year. This assessment found that with the proposed management and mitigation measure in place all relevant air quality criteria would be met based on a throughput of 800ML/year. The Air Quality Impact Assessment was included in the EA based on 800ML to provide a conservative assessment and provide greater surety to the community.	Refer to Section 12.0 of the EA.
Traffic and Transport			
26	There is confusion surrounding the number of proposed shipping and truck movements that will occur as a result of Phase 1A alone, and Phase 1 and 1A combined.	Proposed traffic and shipping movements for Phase 1 and 1A combined are: - Ships: 18 – 20 per year; and - Traffic: 48 truck movements (24 trucks) / day. These figures are current best estimates and represent a small fraction of the 240,104 truck movements per year approved for the whole Mayfield Concept Plan.	NA

No.	Issue	Response	Relevant Section
OneSteel			
27	The proposed modification represents a potential risk to OneSteel operation if electricity is sourced directly or indirectly from OneSteel infrastructure. OneSteel suggest amendments to Condition 21 of the Project Approval to include the preparation of a Utilities and Services Plan.	The electricity infrastructure is commonly owned and Stolthaven will undertake connection to this infrastructure in a manner that minimises the chances of disruption to other users. The power required by the modification would be within the supply capacity of the existing system.	See response to No. 14
28	The proposed use of Steelworks Road for operational traffic is a concern as the operation of this road is critical to its business and cannot be impacted. OneSteel suggests the Condition 15 of the Project Approval be updated to include a requirement for Stolthaven to use Selwyn Street for all operational traffic until agreement has been reached with NPC regarding traffic arrangements.	NPC is required to provide legal access to Stolthaven's terminal. As indicated by OneSteel negotiations between NPC and OneSteel are ongoing. Stolthaven considers that the existing Condition 15 does not require amendment as regardless of the operation of this condition, Stolthaven cannot use the access until agreement has been reached between NPC and OneSteel.	NA
29	OneSteel requests that the existing Project Approval conditions 18 and 19 relating to the Fire Safety Study and Emergency Plans be updated to include the need for the proposed modification of these plans to be undertaken in consultation with OneSteel.	Stolthaven acknowledges that the Fire Safety Study and Emergency Management Plans prepared for Phase 1 will need to be updated to include the proposed Phase 1A elements. It is not considered that these conditions need amending as requested by OneSteel, rather these conditions should only be amended to refer to Phase 1A.	NA
Rick Banyard			
30	The Phase 1A project should have been assessed through a separate planning approval process.	Stolthaven in consultation with the DP&I agreed the use of Section 75W is the appropriate approvals pathway. It was considered that Section 75W is appropriate due to the highly disturbed nature of the site and the relatively minor impact the additional storage tanks would have. The potential impacts of the modification have been found to be minimal, further supporting the use of Section 75W.	Refer Section 4.3.1. of the EA.

No.	Issue	Response	Relevant Section
31	The additional fuel tank capacity appears to be excessive for the proposed throughput. It is likely the proponent will try to increase throughput in the future to utilise the additional capacity if approved.	Fuel tank capacity is not directly related to proposed throughput. Rather the volume of static storage provided must provide capacity to respond to market demand and commercial considerations. Any future increase in throughput for the facility would be subject to a separate environmental assessment and chance for community benefit. Future increases would be subject to market forces.	NA
32	There has been no valid consideration of alternatives.	Alternative locations were considered, however the subject site is considered ideal as the proposed tanks will be constructed in association with an approved bulk fuels storage facility and can utilise the wharf, pumps and truck loading facilities that are already approved and under construction. This sharing of infrastructure would create increased efficiencies that would not be available at any other site.	Refer Section 3.3 of the EA.
33	No Traffic Management Plan has been prepared detailing offsite traffic and associated impacts.	Construction and Operational Traffic Management Plans would be prepared for the modification. To date a Construction Traffic Management Plan has been prepared by Stolthaven for the construction of Phase 1. This was reviewed by DP&I prior to construction commencing for Phase 1.	Refer Section 13.3 of the EA.
34	No shipping management plan has been prepared therefore the impacts of shipping on the community cannot be fully considered.	Shipping would be managed in accordance with the existing management framework as administered by the Harbour Master and the Port of Newcastle. The proposed modification will generate only a slight increase in shipping movements and as a consequence there is no need for additional management plans.	NA

No.	Issue	Response	Relevant Section
35	There are no details in the EA regarding emergency management in relation to ship fires or spills.	The existing Emergency Management Plans for the facility will be reviewed and include emergency management procedures to control ship fires and spillage. Where fires/spills occur on ships at sea or in the Port, other management plans and agencies will have input to the management of incidents. The Statement of commitments accompanying this application for modification include a range of mitigation measures including: - Prior to operation, Stolthaven will prepare an Emergency Plan for the proposed Facility (to be available onsite) and a Wharf Emergency Plan (available at the wharf) in consultation with the NSW Fire Brigade, NPC and NSW Maritime. These plans are to include: • Spill response procedures. • Fire response procedures. • Response procedures for other identified environmental impacts. • Procedures for emergency drills/exercises. • Spill kits shall be available and staff trained in use. (Refer Section 6 of this report).	NA
36	The proximity of the fuels berth in relation to the Orica facility is a concern.	The approved facility, proposed modification and Orica operate under strict conditions relating to the transport and storage of fuel and other products such as ammonium nitrate. They also operate under a range of safety, security and contingency measures to manage and plan for a range of emergencies. The two plants have no common boundary or access points. Other fuel storage facilities such as BP have been operating in close proximity to the subject site without incident. Ammonium nitrate is already handled in isolation of surrounding industries and will continue to do so.	NA
37	There is no explanation of how ISGOTT and AS 3846-2005 would be policed or regulated.	ISGOTT (International Safety GUIDELINES for Oil Tanker Terminals) provides guidelines for ships at Berth. The	NA

No.	Issue	Response	Relevant Section
		operational activities will be checked / operated against the mandatory local regulations of Australian Standard 3846-2005 (The handling and transport of dangerous cargoes in port areas.) would be addressed by the appropriate regulatory body. For example Australian Standards in relation to fire, hazard and safety would be reviewed by Fire and Rescue NSW when they review a Fire Safety Study as prepared (or updated) for the modification.	
38	Emissions (air, noise etc.) generally have not been appropriately assessed.	Stolthaven considers potential emissions impacts from the proposed modification have been adequately addressed. This is supported by the EPA's submission which agrees that relevant emissions criteria for the proposal have been met. Further control of emissions is provided during operation through the use of a site specific Environmental Protection License (EPL) to be issued by the NSW EPA.	Refer to response No. 4.
39	No cost benefit to the community has been demonstrated.	Stolthaven's operations provide an efficient means of supplying local businesses and industries with the fuels they require to operate. This will be increasingly important as current supply sources become stretched e.g. the Sydney-Newcastle pipeline. The Proposed modification would generate positive economic benefits for Newcastle and the Hunter Region through additional capital investment at the Port and flow on effects. The modification would support the development and growth of the Hunter Region. It would also contribute to the beneficial industrial reuse of the former Site and fits with the Regional Economic Development Strategy. The modification will see the further development of currently idle port land for a port related use, and provide a diversified use of port land in Newcastle. Diversification is seen as a key factor in improving the resilience of economies when responding to economic downturns or corrections.	NA

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5.0 Response to Key Issues Raised

5.1 Planning Matters

Planning matters raised by submissions primarily related to the relationship between the Mayfield Concept Plan approval, the bulk fuel storage facility Phase 1 and proposed Phase 1A. Specifically there are a number of management plans required by the Mayfield Concept Plan approval which will apply to all future development in the Mayfield Concept Plan area. The fuel terminal is required to adhere to these plans given its location within the Mayfield Concept Plan area. Concern was also raised in relation to the ability of the community to monitor both individual and cumulative impacts from the Mayfield Concept Plan area in the absence of the required management plans.

As the first project within the Mayfield Concept Plan area to have been approved and begin construction, Stolthaven has undertaken to meet all relevant requirements of the Mayfield Concept Plan approval as applicable. It is acknowledged that there are a number of management plans required by the Mayfield Concept Plan approval which would be applicable to the fuel terminal and proposed modification when they are enacted.

5.2 Safety and Risk

Safety and risk issues were raised as a general concern in relation to resident / community safety and wellbeing regarding the day-to-day operation of the facility, as well as the potential for an incident (fire, spill, shipping accident).

The EA outlined various safety measures that would be incorporated into the facility to reduce any potential for an incident. It assessed the potential for the modification to result in additional risk to the community and found that the additional storage would not result in a measurable increase in risk. The only products that would be stored in the proposed tanks are diesel and biodiesels. Biodiesel and diesel are combustible liquids and do not flash or vaporise at ambient temperatures. Therefore, they do not cause vapours relative to standard unleaded petrol and have a lower risk profile. The safety measure adopted as part of Phase 1 would be extended to Phase 1A.

The EA provides a thorough review of the safety and environmental concerns raised by the submissions. It concludes that with the recommended measure in place to mitigate and manage any impacts, the proposed modification can safely proceed without significantly increasing hazard and risk associated with the facility.

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6.0 Statement of Commitments

In accordance with the requirements under Part 3A of the EP&A Act, a draft Statement of Commitments (SoC) was prepared for the EA. Following exhibition of the project only minor amendments have been required to the SoC as presented in the EA.

The final Statement of Commitments is provided in **Table 3**. Additions to the draft commitments are shown as bold and deletions are shown by a strikethrough line in text.

Table 3 Statement of Commitments

Environmental Matter	Commitments and Mitigations
Management Plan	- Prior to construction, a Construction Environmental Management Plan will be developed in consultation with Office of Environment and Heritage incorporating the management of soils, surface waters, weed management, air quality and odour, noise and waste management. - Prior to operation, Stolthaven will prepare an Emergency Plan for the proposed Facility (to be available onsite) and a Wharf Emergency Plan (available at the wharf) in consultation with the NSW Fire Brigade, NPC and NSW Maritime. These plans are to include: • Spill response procedures. • Fire response procedures. • Response procedures for other identified environmental impacts. • Procedures for emergency drills/exercises. - Prior to operation, a Site Management Plan will be developed in consultation with OEH detailing the ongoing monitoring and environmental management requirements for the facility. - Eight weeks prior to the first vessel entering the port, a Port Operations Management Plan shall be developed in consultation with NPC. - A Tank Farm Bunding Detailed Design and Construction Report shall be provided prior to the commencement of construction as per OEH requirements.
Hazards and Risks	- All ship movements and fuel unloading shall be undertaken in accordance with procedures outlined in ISGOTT with AS3846 2005 (The handling and transport of dangerous cargoes in port areas.) and the safeguards outlined in Table 9 of the EA and coordinated to compounding cumulative risk. - The proponent shall install a 50 kg dry powder extinguisher on wheels. - The proponent shall install a fire water tank and fire hydrants within 60 m of the fuel transfer location. Portable fire monitors with foam generation shall be installed near to fuel storage and transfer points. - Existing fire hydrants at NPC's Mayfield 4 berth will be utilised to connect the portable equipment. - The proponent shall implement a fuel transfer procedure in which an inspection of the pipeline route would be conducted. - The proponent shall install a fire monitor at a minimum of 29 m from the wharf hose connection point. - Plant maintenance schedules shall include the following: • Annual testing of fire detectors at the site. • Weekly tests of the fire pump systems and foam activation valves. - Spill containment booms shall be available to be deployed around the ship and wharf for all delivery/transfer operations. - Spill kits shall be available and staff trained in use.

Environmental Matter	Commitments and Mitigations
Surface Water Management	<i>Construction</i> - The proponent shall prepare and implement a Construction Environmental Management Plan which will include a detailed Erosion and Sediment Control Plan. <i>Operation</i> - The proponent shall prepare a stormwater management system that is designed and implemented to capture stormwater from the Site, to prevent leaks and spills from occurring and to facilitate the discharge of clean stormwater to the Hunter River. - Surface water will be managed in accordance with the Stormwater Management Plan developed for the Site. - The proponent will implement an inspection and testing program of the stormwater system as detailed in the Stormwater Management Plan. - Pipeworks, fuel storage and tanker/loading areas will be fully bunded. - Tanks will be monitored during filling by ship and shore and levelling alarms will be fitted. - Tanks regularly inspected for corrosion and leaks. Water build up in tanks will be regularly drained to prevent internal corrosion. - Tank level monitoring will be conducted at all times to identify rapid leaks. - Pump operation will only be conducted when Facility staffed and operations can be continually monitored.
Groundwater	- A claymix liner will be installed over the Site (nonconcrete areas) and overlain with bitumen to create an impervious seal across the Site and up the sides of the bund wall. - The proponent will prepare and implement a Site Management Plan which will include a schedule for groundwater sampling for pH, EC, TPH, BTEX, and metals and groundwater flow rate.
Soil	- Excavation, classification, treatment and disposal of Potential contaminated materials will be undertaken in accordance with requirements detailed in the Construction Environment Management Plan and Contaminated Site Management Plan. - All works to be undertaken onsite will comply with the existing Contaminated Site Management Plan relevant to the Site. - There is to be no transportation of material from below the Virgin Excavated Natural Material capping layer without prior approval from OEH. - Material imported to the Site will be classified in accordance with NSW EPA (December 1994) prior to receipt. - Ongoing soils management will include any applicable actions as required by the Contaminated Sites Management Plan.
Air Quality	- Dust mitigation strategies will be implemented as part of the Construction Environmental Management Plan and will include: • Disturbed surfaces will be stabilised as soon as practical. • All vehicles leaving the Site will not have excessive soil on their tyres which may fall onto the roadways creating dust emissions. • Roadways are to be kept clean during construction and operation. • Any stockpiled material will be sprayed with water during times of high wind.
Noise and Vibration	- Other than during the unloading of ships, the proponent will not conduct noise sensitive activities exceeding the EPA approved on Sundays and public holidays. During operation of the facility, the proponent will liaise with residents

Environmental Matter	Commitments and Mitigations
	potentially affected by noise.
Traffic and Transport	- Off street car parking will be available to staff and visitors during normal operations. - All trucks will enter and exit the Site via left in and left out right out configuration.
Visual and Landscaping	- The Site will remain clean and free of rubbish or debris as a result of operations.
Waste Management	- Purchasing requirements for construction will be such that products purchased for the Site will align with site demands to avoid wastage of unwanted products. - The proponent will implement a system for recycled paper, cardboard, glass and plastics. Bins will be collected by a waste management contractor on a regular basis. - Recycling of waste material will be maximised wherever possible during operation of the facility.
Indigenous and Non-Indigenous Heritage	- Monitoring of the Site will be undertaken in the event natural soil profiles are to be excavated.
Security	- A comprehensive security system will be installed onsite and will include monitoring of all fences and entry/exit points to the Site. - The gantry area will be under closed circuit television (CCTV) surveillance at all times, with viewing screens in the main site office.
Soils and Landform	- The proponent will minimise the erosion and potential discharge of sediments from the Site as outlined above for Surface Water and Groundwater.

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7.0 References

AECOM. July 2010. *Environmental Assessment: Mayfield Site Port-Related Activities Concept Plan Concept Approval*.

AECOM. November 2011. *Environmental Assessment: Bulk Fuel Storage Facility*.

AECOM. April 2013. *Environmental Assessment: Bulk Fuel Storage Facility – Phase 1A*.

DP&I 1994. *Applying SEPP 33: Hazardous and Offensive Industry Development Application Guidelines*.

DP&I, 2012. *Project Approval 08_0130*, July 2012.

HDC 2009. *Contaminated Site Management Plan: Intertrade Industrial Park, Closure Area of Former Steelworks Site Mayfield*.

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Appendix A

Government Submissions

Appendix A Government Submissions

17 April 2013

SF2011/001260
CR2011/002177
MJ

Director, Major Projects Assessment
NSW Department of Planning
GPO Box 39
SYDNEY NSW 2001

Attention: Mr Chris Richie

**INDUSTRIAL DRIVE (MR316): MARSTEL BULK FUEL STORAGE AND DISPATCH FACILITY
MODIFICATION 1 – EXHIBITION OF ENVIRONMENTAL ASSESSMENT (08_0130 MOD 1)**

Dear Mr Ritchie,

I refer to your letter dated 22 March 2013, received on 27 March 2013, (Your reference: 08_0130 MOD 1) requesting comment from Roads and Maritime Services (RMS) regarding the Environmental Assessment for the proposed modification to the subject development. Please accept my apologies for not responding earlier.

RMS Responsibilities and Obligations

Transport for NSW and RMS primary interests are in the road network, traffic and broader transport issues. In particular, the efficiency and safety of the classified road network, the security of property assets and the integration of land use and transport.

In accordance with the *Roads Act 1993*, RMS has powers in relation to road works, traffic control facilities, connections to roads and other works on the classified road network. Industrial Drive (MR316) is a classified (State) Road. RMS concurrence is required for connections to the road with Council consent, under Section 138 of the Act. RMS consent is required for traffic control signals and facilities under Section 87 of the Act. Council is the roads authority for this road and all other public roads in the area. Should road works be required on the classified (State) road, RMS would exercise the functions of roads authority under Sections 64 and 71 of the Act.

RMS Response and Requirements

RMS has noted that the proposed modification relates specifically to increasing storage capacity and throughput of the plant currently under construction. RMS has reviewed the information provided, including the Traffic and Transport - Section 13.0, and considers that the proposed modification will not have any significant impact on the traffic and access related matters addressed in the current Project Approval (MP 08_0130) dated 8 June 2012 and as such RMS has

Roads & Maritime Services

no objections to the proposed modification. However, all matters raised in my letters dated 19 December 2011 and 24 July 2012 still apply.

On the Minister's determination of this matter, it would be appreciated if a copy of the Project Approval is forwarded to RMS for record and / or action purposes.

Please contact me on 4924 0240 if you require further information.

Yours sincerely,



Dave Young
Manager, Land Use Development
Infrastructure Services
Hunter Region

CC General Manager
Newcastle City Council

Mr Tim Dewey
Transport for NSW

Murphy, Simon

From: Darryn Costanzo <Darryn.C@newportcorp.com.au>
Sent: Tuesday, 23 April 2013 9:24 AM
To: Murphy, Simon; 'Jeff Hibbert'
Subject: Re: Stolthaven s75 W EA

Importance: High

Simon / Jeff,

I have a couple of queries regarding your recent s75 W EA submission to DPI as follows:

1. Item 3.6.3 Proposed Modification to the Existing Remediation – What is the 2nd line item referring to?? It refers to the clay capping directly to the north and south of the site perimeter to be drained and regraded by NPC to ensure all surrounding surface water is directed away from the site...please clarify what this statement is referring to???
2. Table 25 Other Environmental issues in section 19.0 Other Environmental Considerations – Under Utilities section please remove the references to gas and sewer as these services will not be supplied by NPC to the Stolthaven terminal or berth area.
3. Item 6.1 Electricity Consumption – Please confirm proposed total maximum electrical demand for as the current proposed supply from Ausgrid only allows up to 3MVA to the entire Bulk Liquids Precinct.

Regards,

Darryn Costanzo
Development Manager

Newcastle Port Corporation
Cnr Scott & Newcomen Sts (PO Box 663) Newcastle NSW 2300
T: 02 4985 8325 F: 02 4925 0605 M: 0402 540 981
E: darryn.c@newportcorp.com.au W: www.newportcorp.com.au

This message is intended for the addressee named and may contain confidential information. If you are not the intended recipient, please delete it and notify the sender. Views expressed in this message are those of the individual sender, and are not necessarily the views of the Newcastle Port Corporation.

Please consider the environment before you print this e-mail...

From: Geoff Wade
To: Ashley Cheong
CC: Mike Bardsley; Valentina Misevska
Date: 4/12/2013 5:00 pm
Subject: Marstel Bulk Fuel Mayfield: Mod to Approval 08_0130: Planning Invitation to Comment on Exhibited EA

Hi Ashley,

Thankyou for the opportunity to comment on the above proposed Modification application. The Corporation made comments on the original application which have been captured in Approval 08_0130. On the basis that this application was based on unchanged DGR's and the determination of this application if approved would be consistent with the relevant 08_0130 conditions then the Corporation has no new issues to raise.

Should you require any clarification then please contact me.

Regards
Geoff Wade

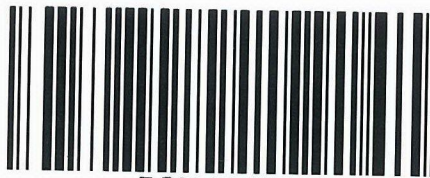
Geoff Wade | [SDM Capital Works](#)

Hunter Development Corporation

PO Box 813, Newcastle NSW 2300

P: 02 4904 2774 | F: 02 4904 2751 | M: 0407 006 436
geoff.wade@hdc.nsw.gov.au

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PCU043271

Your reference: 08_0130 MOD 1
Our reference: DOC13/12184, File No. LIC12/672
Contact: Hamish Rutherford, (02) 4908 6824

Mr Chris Ritchie
Manager, Major Projects Assessment
Department of Planning and Infrastructure
GPO Box 39
SYDNEY NSW 2001

Department of Planning
Received
9 APR 2013
Scanning Room

Attention: Mr Ashley Cheong

Dear Mr Ritchie

MODIFICATION TO BULK FUEL STORAGE FACILITY, MAYFIELD NORTH (08_0130 MOD 1)

Reference is made to your letter to the Environment Protection Authority ("the EPA") dated 22 March 2013 regarding an application and Environment Assessment by Stolthaven Australia Pty Ltd to modify Project Approval (08_0130) in respect of their bulk fuel storage facility located at Mayfield North.

The EPA understands the proposal includes:

- Two additional 18ML diesel storage tanks
- One additional 4.2ML biodiesel storage tank; and
- An additional fuel throughput of 100ML per annum.

The EPA has reviewed the proposal and supporting documentation and notes that the likely impacts from the modified proposal are within the relevant assessment criteria and guidelines. The EPA has nothing further to add to its Recommended Conditions of Approval that were provided to you on 28 March 2012 (reference DOC12/12268).

If you require any further information regarding this matter please contact Hamish Rutherford on (02) 4908 6824.

Yours sincerely

Rebecca Scrivener 4/4/2013.

REBECCA SCRIVENER
A/Head Regional Operations Unit – Hunter
Environment Protection Authority

Memorandum

To Ashley Cheong

cc.

From Lilia Donkova, Technical Specialist
Industry and Mining

Phone: (02) 9228 6110 Fax: (02) 9228 6169 Email: lilia.donkova@planning.nsw.gov.au

Date 17 April 2013

File no

File DP&I MHU.doc

Subject: Marstel Terminal: Bulk Fuel Storage Facility, Phase 1A Modification

I have reviewed the EA for the above project in relation to hazards and risks and my comments are summarised below.

The proposal is for the modification of Project Approval 08_0130 to increase the allowable throughput of fuels through the construction and operation of:

- 2 x 18 ML diesel storage tanks
- 1 x 4.2 ML biodiesel storage tank.

The modification also seeks an increase of the annual fuel throughput of 100 ML per year.

Only combustible materials (diesel and biodiesel), which are not classified as dangerous goods, will be stored on site. Therefore SEPP 33 does not apply and the development is not considered as "potentially hazardous industry". Notwithstanding that, the proponent undertook a qualitative preliminary hazards analysis (PHA) to demonstrate that the modification will not significantly increase the risks from the site. The proponent also commits to extend the mitigation measures listed in the PHA to the new tanks. This will include update of the fire safety, spill retention and emergency system to include the proposed tanks.

Taking into account that the modification does not introduce new materials or type of operations it is not expected new hazards to be introduced as a result of this modification. The risks posed by the site to the surrounding land uses would be acceptable.

Based on the information provided in the EA and assuming all safety measures will be implemented there are no hazards related issues which will preclude approval of the project.

.

Lilia Donkova

Future City: G.Mansfield
Reference: 4192984
Phone: 02 4974 2767
Email: gmansfield@ncc.nsw.gov.au



12 April 2013

Mr Chris Ritchie
Manager-Industry
Major Project Assessment
Department of Planning and Infrastructure
PO Box 39
SYDNEY NSW 2001

PO Box 489, Newcastle
NSW 2300 Australia
Phone 02 4974 2000
Facsimile 02 4974 2222
Email mail@ncc.nsw.gov.au
www.newcastle.nsw.gov.au

Attention: Ashley Cheong

Dear Mr Ritchie

**PROPOSED BULK FUEL STORAGE AND DISPATCH FACILITY
LOT 33, DP 1116571, MAYFIELD NORTH (08_0130 MOD 1)**

I refer to your letter of 22 March, 2013 inviting Council to comment on the Environmental Assessment (EA) submitted in support of the application by Stolthaven Terminals to modify the project approval for the above development.

Council officers have examined the EA and the following comments are submitted for consideration by the Department in the assessment of the application:

1. Mayfield Site Port –Related Activities Concept Plan

The Mayfield Site Port-Related Activities Concept Plan (09_0096) approved by the Minister for Planning and Infrastructure on 16 July 2012, outlines the development objectives and environmental assessment requirements for future port-related industrial activities on the former BHP Newcastle Steelworks site. In essence, the Concept Plan Approval seeks to set up an 'environmental envelope' for the former BHP Closure site with each future development being required to demonstrate compliance with traffic, noise, air quality, stormwater and monitoring requirements.

According to the Concept Plan Approval, future applications for development within the area of the Mayfield Concept Plan would be assessed and determined under Part 4 or Part 5 of the *Environmental Planning and Assessment (EP&A) Act, 1979*.

According to the EA, the modification to the Project Approval 08_0130 dated 8 June, 2012 is being sought under section 75W of the EP& A Act, 1979 and under the transitional arrangements of Part 3A of the Act the Minister for Planning and Infrastructure would be the approval authority. It is understood that, while the amended facility is located within the boundaries of the Mayfield Concept Plan, as a *'stand-alone project'* (which pre-dates the approval of the Plan) it is not legally bound by the requirements of the Plan. In this regard, it being noted that condition 1.6 of the Concept Plan Approval states the Approval does not apply to *'activities approved or legally operating at the site in accordance with other project approvals at the date of this Concept plan Approval'*.

It is recommended that the proponent be requested to provide further information which clarifies the legal relationship between the Mayfield Concept Plan and the proposed development.

Notwithstanding the above, it is noted that the Director-General's Requirements for the preparation of the EA required that the EA must include:

'A clear demonstration that the project is consistent with all environmental assessment requirements set out in the Concept Plan for the Port Facilities at Mayfield (09_0096) (if approved)'

While the EA contains a summary of the conditions of the Plan *'which may have an effect on the proposed modification'* and provides discussion on how these conditions would be met, it has not addressed the preconditions imposed on the proponent of the Mayfield Concept Plan -the Newcastle Port Corporation and any implications this may have for the proposed modification.

Some of the conditions imposed in Schedule 3 of the Concept Plan Approval require the Corporation to prepare and implement a multitude of different reports including environmental monitoring, management plans, mitigation strategies, as well as infrastructure works to be undertaken *'prior to the commencement of operations for any project associated with this Concept Plan approval'* or *'prior to commencement of construction of any project associated with this Concept Plan approval'*, and in some instances *'prior to the lodgement or consideration of any project associated with this Concept Plan approval'*. It is noted that in some cases the timing for compliance with these conditions may be varied if *'otherwise agreed by the Director-General'*.

It is requested that proponent be requested to provide additional information which addresses the above matter.

2. Contamination

The former BHP Steelworks site was subject to extensive contamination investigation and remediation works. This was undertaken through a Voluntary Investigation and Remediation Agreement (VRA 26025) including installation of a capping layer.

A potential issue is that the capping layer may be compromised during earth works in the construction stage of the proposed development. It is noted section 11.2 of the EA states *'Excavation works may penetrate the VENM cap into the soils below. The soils below the VENM cap may contain contamination that would require management if found to be contaminated when excavated.'* It is also noted the EA states a Contaminated Site Management Plan (CSMP) has been developed whereby:

'Any excavated soils found to be contaminated would be managed according to the existing CSMP though appropriate containment, handling and if necessary, offsite disposal at a licensed facility.'

The use of the CSMP to address onsite contamination issues is supported. It is recommended any materials that need to be disposed of off-site be undertaken in accordance with the relevant guidelines of the Environment Protection Authority.

3. Section 75W modification

The EA comments on the NSW Court of Appeal decision in *Barrick Australia Ltd v Williams* [2009] NSWCA 275 which clarified the Minister for Planning's power to grant modifications to Part 3A projects under section 75W of the *Environmental Planning and Assessment Act, 1979*.

The EA indicates that in considering whether modifications to a major project can be considered through a section 75W modification to an existing project approval, as proposed, there is no specific test to determine whether the proposed works would constitute a modification or require a fresh planning application. It is stated that the decision of the Court avoided adopting a prospective test.

While the Court considered that it was not appropriate to define a strict division between what constitutes a modification and what does not, Justice Basten (with Justice McColl agreeing) summarised three 'general' requirements that must be met for a modification to be considered by the Minister under section 75W:

- the approval must be one to which Part 3A applies;
- the proposed modification must have *'limited environmental consequences beyond those which had been the subject of the application'* (of the original application); and
- the consent authority must be the Minister for Planning.

4. Section 94A Development Contributions Plan

Condition 14 of the Project Approval requires the proponent to pay to The City of Newcastle a maximum contribution of \$300,000 in accordance with Council's Section 94A Development Contributions Plan. This contribution is based on the original estimated capital investment value (CIV). It is requested that this contribution be reviewed in light of any increase in the CIV as a result of the proposed modifications to the approved project.

5. Newcastle Local Environmental Plan and Newcastle Development Control Plan

The EA refers to the *Newcastle Local Environmental Plan (NLEP), 2003* and *Newcastle Development Control Plan (DCP), 2005* as the relevant local environmental planning instrument and development control plan, respectively, for the Newcastle Local Government Area.

The NLEP, 2003 and the *Newcastle City Centre Local Environmental Plan, 2008* were repealed following the gazettal on 15 June, 2012 of the *Newcastle Local Environmental Plan, 2012*. At the same time, DCP, 2005 was replaced by *Newcastle Development Control Plan, 2012*.

Notwithstanding the above, the EA correctly identifies that the relevant environmental planning instrument in respect of the subject site is *State Environmental Planning policy (Major Development) 2005*.

If you have any questions concerning the matters canvassed in this letter, please contact me on the details listed above.

Yours faithfully

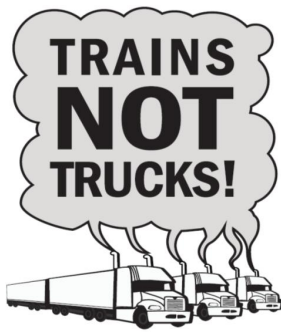


Geof Mansfield
PRINCIPAL PLANNER (DEVELOPMENT)

Appendix B

Community Submissions

Appendix B Community Submissions



Correct Planning & Consultation for Mayfield Group

For the seven new wharfs of Mayfield.

Planning New South Wales
information@planning.nsw.gov.au

Dear Sir/Madam,

Submission: Stolthaven Plan Phase 1A

Opposition:

We, Correct Planning & Consultation for Mayfield Group (CPCFM) object to the Stolthaven Plan Phase 1A.

We also object to the Stolthaven Plan Phase 1A being assessed as a Modification.

About us:

CPCFM is a major Newcastle Community Group. Our Group now has about 500 members and supporters.

We were formed in 2010 as a direct result of the Newcastle Port Corp. exhibiting the Mayfield Wharf Concept Plan; because we thought the Planning Proposal and the Community Consultation were very poor.

Since that time, we have been contacted and called upon to engage in many Environmental and Planning issues around the Port of Newcastle; and also a wider area of both Newcastle and The Hunter.

We hold Public meetings from time to time on Planning and Environmental issues relevant to our members and supporters – including several since our formation that have attracted 200 + people;

We meet with, and lobby, Local Councillors and State and Federal Parliamentary Members; and Council and Departmental Officers and Bureaucrats.

We write submissions and encourage our members and supporters to do likewise, on Environmental and Planning matters, and Development Applications, etc;

Our senior office bearers are members of many Community Reference Groups including some of those of Newcastle Council; Hunter Water; Port Waratah Coal Services; Orica; Incitec Pivot; Marstell / Stolthaven, and many more.

CPCFM is a member of the Coal Terminal Action Group (CTAG) – an Alliance of 18 Community groups, opposed to the vast expansion of Coal Handling in Newcastle known as T4 - moving from about 120M tonnes in 2012 /13 to 330M tonnes at the fully operational maximum; and all the increased Mining (15 new Mega Coal Mines); and vast increase in Coal train movements – Full and empty, so there would be one Coal train on the Newcastle / Hunter Lines every 4 minutes 24 x 7 x 365.

Some of our executive members are also members of the CTAG Dust and Health Subcommittee which has done its own Dust monitoring in 2012 /13; and released its own University of Newcastle reviewed “Dust in our Suburbs” Report – which has been handed to the EPA.

We are happy to provide a copy of this report to you. Please contact the writer if you would like one.

We, and many of our members and supporters, live in Mayfield or nearby, and so, in our own homes, are subject to, on a regular basis:

Coal Dust Pollution;

Diesel Pollution and exhaust (now identified by international bodies as a Class 1 Carcinogen) from Trucks, Coal and other trains, Tugs and Commercial Boats;

Noise and Vibration from an increasing number of Coal trains and other freight trains in our closely settled inner city suburbs;

Loud horns and whistles etc, at all hours of the day and night. from Trains and Commercial boats;

Bad smells and other Pollution events;

Sometimes, serious Chemical escapes from nearby industries at Mayfield, Carrington and Kooragang Island.

More and more Industrial Road traffic, and other passenger traffic; much of which is directly generated by Increasing Activity around the Port; and the increasing activities of the Coal Mines in the Hunter.

Two examples of the latter being more and more Diesel on Trucks, semi trailers, and b Doubles;
and more and more Ammonium Nitrate being transported by road.

So we talk from first hand experience, and with some authority, and detail our objections, as follows.

Stolthaven 1 A Needs to be assessed as a New Application – not a sec 75 W modification for the following reasons:

While the modification states it is for a 1/3 capacity increase in the throughput of fuel, the facts are:

The construction and footprint of the modification is an actual 2/3 increase of the original application Phase 1:

The costs of the construction are 2/3 of the costs of the original application of Phase 1.

Because of these two facts we assert that the Phase 1A application does not meet the parameters for a 75W;

And that therefore it should be considered as a New Application, so that the community and other stakeholders are properly able to assess the cumulative impacts.

We note that

“The NSW Court of Appeal (Barrick Australia Ltd v Williams [2009] NSWCA 275) has clarified that the Minister for Planning’s power to modify a Part 3A approval under section 75W of the Environmental Planning Assessment Act,1979 (NSW) can only be used for changes that have ‘ limited environmental consequences ‘ beyond those approved in the original project assessment.”

“Bulk Fuel Storage Facility, Mayfield Submissions Report

- Proposed Bulk Fuel Storage Facility, Mayfield NSW”

“Future Capacity

52 The EA anticipates that operations may double in the future. All aspects of the physical facility as well as the environmental assessment must consider and plan for this impact particularly in relation to product containment (slops, separator and tank

holding capacities), cumulative noise, waste management, hazards and risks on site.”

and the Application states that:

“Project Approval is only being sought for the Proposed Facility as documented in the EA.

Should any additional capacity or need for expansion be required in the future, this would be subject to a separate environmental approval and assessment process.”

Stolthaven have assured the community and other stakeholders that any expansion would be subject to a separate EA and a new assessment process.

How can the community have faith in a system if the processes are not adhered to?

Therefore this modification should be assessed as a New Application

As this project sits within the Mayfield Concept Plan we believe that the intent of the DG approvals of Marstel's / Southaven's first application was for community and other stakeholders to have adequate information on the cumulative impacts within the whole of site.

“Consistency with Mayfield Concept Plan

The proposed bulk fuels facility sits within a larger area to which the Port Terminal Facilities at Mayfield Concept Plan (09_0096) apply.

The Minister approved this Concept Plan for Planning and Infrastructure on 16 July 2012. The Concept Plan environmental assessment included provision for a bulk fuels precinct, which was planned to house facilities such as that proposed. From the review of applicable conditions, it has been concluded that the proposed modification is consistent with the Concept Plan. pg.vi”

The DG has made reference numerous times to the “Mayfield Concept Plan “ within the Stolthaven Phase 1 original approval.

We have accessed both Stolthaven and NPC tracking and compliance documents for the separate projects,
We see little commonality between these documents for very specific requirements from the DG in regard to their approvals.

Therefore this modification does not meet the intent of the DG requirements and should be assessed as a New Application.

“Proposal Justification

Furthermore, the proposed modification is considered to be in accordance with both the current and future consumer demand for diesel and biofuels in the region.” Pg.vi

“Modification Need

Notably the modification will not specifically cater for increased demand in the market place; rather the modification is aimed at satisfying the demand for fuels generated in the Newcastle market.” pg.9

We believe theses statements to be at odds with each other; and we cannot understand who it is Stolthaven are catering for with this modification Phase 1A.

“4400 million litres of diesel and biodiesel combined per year.”

We have concerns with this figure as it is at odds with modification application.

“Hazard and Risk

The Proponent shall contribute to, in so far as it relates to the Project, Preparation of the following plans and audits for the Mayfield Concept Plan, in Consultation with NPC:

- a) a Port Emergency Response Plan, consistent with the Department’s *Hazardous Industry Advisory Paper No. 1 – Emergency Planning*;**
- b) a Safety Management System, consistent with the Department’s *Hazardous Industry Advisory Paper No. 9 – Safety Management*; and**
- c) hazard audits, consistent with the Department’s *Hazardous Industry Advisory Paper No. 5 – Hazard Audit Guidelines*.**

Notes:

Condition 20 only applies if the Mayfield Concept Plan (09_0096) is approved. The intent of the condition is to ensure any cumulative hazard issues across the Mayfield Concept Plan area are identified and managed. The relative contribution by the Proponent and timing shall be determined in consultation with NPC, to the satisfaction of the Director-General.”

NPC tracking and compliance and compliance document states:

Timing

“For future development that is subject to Part 4 (other than complying development) or Part 5 of the Act.”

Therefore NPC time line on their conditions of consent does not reflect the DG requirement for Stolthaven conditions of consent set out by the DG.

We believe the intent of the DG in referencing The Mayfield Concept (09_0096) in the Phase 1 application was to assess cumulative impacts and manage Hazards and Risks. How can the community understand whether the hazards and risks are being **managed properly?**

This at odds with the approvals of Phase 1.

Therefore this modification should be assessed as a New Application

“Air Quality and Odour

While the proposed modification is associated with an increase in GHG emissions, it was found that the scale of these emissions in the broader context of GHG emissions from the transport sector and from Australia as a whole, is not considered significant.
“pg.iii

“Modeling Scenario

The dispersion modeling was undertaken for worst-case conditions, assuming the plant was operating at full capacity with the following operational characteristics:

- Continuous operation of the facility (24 hours per day, 7 days per week, 365 days per year);
- Continuous emissions from the truck filling activities; and
- All emissions from the site operations assessed (i.e. truck filling activities and fugitive emissions from the fuel storage tanks) tanks were assumed to be VOCs. Cumene was selected as the indicator pollutant for the assessment due to its toxicity; as such, only cumene emissions were assessed.”4.2 pg.9

With the increase in ship movements, the Phase 1A modeling scenario does not take in to account the ships’ air pollution source.

The EPA has a list of air pollutants included in combustion emissions from ships.

Additional combustion emissions in the area will add to an already constrained air shed; and an assessment has not been made by Stolthaven on the impact this proposed modification will have on the air environment of these pollutants.

“NSW Government 12

Department of Planning and Infrastructure”

“Air Quality and Greenhouse Gas Management Plan”

“34. The Proponent must prepare and implement an Air Quality and Greenhouse Gas Management Plan for the Project to the satisfaction of the Director-General. This plan must:

- a) be submitted to the Director-General for approval prior to carrying out any works on site;**
- b) describe the measures that would be implemented to ensure compliance with the relevant conditions of this approval;**
- c) include an air monitoring program to measure the performance of the Project against the relevant conditions of this approval;**
- d) describes a protocol that has been agreed with NPC for the provision of input to the**

broader site air quality model required under the Mayfield Concept Plan.”

“Notes:

The monitoring requirements of condition 30(c) could be satisfied by the monitoring network required for the Mayfield Concept Plan, if sufficient justification is provided; and

Condition 30(d) only applies if the Mayfield Concept Plan (09_0096) is approved.”

NPC tracking and compliance and compliance document states

Timing

“For future development that is subject to Part 4 (other than complying development) or Part 5 of the Act.”

Therefore NPC time line on their conditions of consent does not reflect the DG requirement for Stolthaven conditions of consent set out by the DG.

We believe the intent of the DG in referencing The Mayfield Concept (09_0096) in the Phase 1 application was to assess cumulative impacts.

If there are no monitoring networks in place, how can community and other stakeholders assess cumulative impacts? ?

This state of affairs is at odds with the approvals of Phase 1.

Therefore this modification should be assessed as a New Application

“Stormwater and Drainage Management Plan” pg. 8

“10. The Proponent shall prepare and implement a Stormwater and Drainage Management Plan for the project to the satisfaction of the Director-General. This plan must be prepared in consultation with NPC, HDC and the Site Auditor and be submitted to the Director-General for approval prior to carrying out any works on site. The Plan must:

a) be prepared in accordance with OEH’s *Managing Urban Stormwater* publication any other relevant guidelines;

b) show what stormwater, treatment and control infrastructure will be installed as part of the stormwater and drainage system for the project and how it will integrate with other stormwater and drainage systems in the area;

c) describe the measures that will be implemented to maintain this infrastructure over time;

d) include a program to monitor stormwater quality and quantity; and

e) include a strategy to integrate the stormwater management system with the broader

system to be provided by NPC for the Mayfield Concept Plan area.”

“Notes:

***Condition 10(e) only applies if the Mayfield Concept Plan (09_0096) is approved.
The intent of condition 10(e) is to ensure coordinated delivery of infrastructure across the Mayfield Concept Plan area.”***

NPC tracking and compliance and compliance document states:

Timing

“Submitted to the Director- General prior to the lodgment or consideration of any project application associated with this Concept Plan approval.”

We believe the intent of the DG in referencing The Mayfield Concept Plan (09_0096) in the Phase 1 application is not being adhered to.

In light of this, how can community and other stakeholders have access to the information required, so that it is clearly demonstrated that stormwater and drainage is properly managed.

This is at odds with the approvals of Phase 1

Therefore this modification should be assessed as a New Application.

Noise and Vibration

Condition 24, Schedule 3 Project Approval would require amendment to account for the implementation of a Mayfield Concept Plan site noise model. The site noise model will apply to the entire Mayfield Concept Plan site once implemented with all operations within the Concept Plan site, the subject facility inclusive, being required to operate under that plan. pg. 10

A Phase 1A Noise and Vibration Impact Assessment (AECOM, 2012) (refer Appendix C) was prepared to provide an assessment of potential noise and vibration impacts, and recommend appropriate mitigation measures for the proposed Phase 1A modification.

This was prepared assuming that the facility would have an end throughput of 800ML per year when fully operational, with the modification contributing an additional 500ML per year.

Whilst the proposed modification as detailed in this EA is only seeking to increase the total site throughput by 100ML per year to 400ML per year, noise and vibration impacts have been assessed at an assumed end throughput of 800ML to provide a conservative assessment. pg.49

“NSW Government pg.11

“Department of Planning and Infrastructure”

“Noise Management Plan”

“28. The Proponent must prepare and implement a Noise Management Plan for the Project to the satisfaction of the Director-General. This plan must:

- a) be prepared by a suitably qualified expert, in accordance with EPA Guidelines;**
- b) be submitted to the Director-General for approval prior to carrying out any works on site;**
- c) describe the measures that would be implemented to ensure compliance with the relevant conditions of this approval;**
- d) include a noise monitoring program to measure the performance of the Project against the relevant conditions of this approval;**
- e) detail procedures to receive, record and respond to complaints;**
- f) describe the contingencies that would be implemented, and the timing for implementation, should non compliances be detected; and**
- g) describe a protocol that has been agreed with NPC for the provision of input into the broader Mayfield Concept Plan Site Noise Model required under the Mayfield Concept Plan.”**

“Notes:

The monitoring requirements of condition 27(d) could be satisfied by the monitoring network required for the Mayfield Concept Plan, if sufficient justification is provided to the Director General; and Condition 28(g) only applies if the Mayfield Concept Plan (09_0096) is approved.”

NPC tracing and compliance document states

Timing

“For future development that is subject to Part 4 (other than complying development) or Part 5 of the Act.”

Therefore NPC time line on their conditions of consent does not reflect the DG requirement for Stolthaven conditions of consent set out by the DG.

We believe the intent of the DG in referencing The Mayfield Concept Plan (09_0096) in the Phase 1 application was to assess cumulative impacts.

If there is no monitoring network for the overall site in place, how can community and other stakeholders assess these cumulative impacts?

This is at odds with the approvals of Phase 1.

Why are assessments/ modeling done at higher rates of throughput compared to other assessments?

This is confusing, and therefore we cannot assess the cumulative impact.

What will be the end throughput be from this modification?

Stolthaven has used 3 different numbers in the assessment of throughput on Noise and Vibration

Therefore this modification should be assessed as a New application.

"Traffic and Transport"

"The proposal would result in the generation of construction traffic over the approximate 12 month expected construction period and daily light vehicle and truck movements when operational. At the peak of construction staff/visitor demand levels are not expected to exceed ten trips and are not likely to have an adverse impact on the road network.

Construction access to the site via Selwyn Street and operational access via Ingall Street." pg.1

Stolthaven tracking and compliance documents

"It is unlikely that the operational traffic route (Ingall street extension) will be complete therefore approval from the DG would be required prior to the use of the construction route for operation."

No consideration within this document is given to the construction route being used as both an operational route and a construction route at the same time. We note pg. 83 Consistency with the Mayfield Concept Plan approval no mention of this is made.

"During operation of the terminal facility, daily traffic movements will consist of fuel tanker deliveries and the movements of employees and visitors. Estimated truck movements when the terminal facility is operating at start- up will be in the order of 48 B-double movements (from 24 truck movements), and 20 light vehicle movements (from 10 light vehicles) per day for dispatch and delivery of fuels, and staff movements spread throughout the day.

Intersection analysis found that the main site access point from Industrial Drive would continue to perform at acceptable Levels of Service with operational traffic loads. pg. iv

The increase in ship traffic from 15 ships per year to 27 ships per year is not considered likely to be distinguishable over the existing Port-wide traffic level of

approximately 2,000 – 3,000 berthing events per annum (0.9 – 1.4 % increase);

and Trucks entering the terminal (45 trucks per day, spread over 12 – 24 hours will switch off engines while transferring product to/from tanks. Again, the level of emissions from the trucks within the terminal is not considered likely to be distinguishable from other local port traffic sources. 1.1 pg.1

Delivery and dispatch of the fuel at the proposed throughput level would be undertaken by 45 trucks per day.” 2.1 pg.3

“4.3.1 Operations phase Hours and workforce”

“The Project would generate 54 truck movements and four staff vehicles per day. Operational activity would take place 24 hours a day, 7 days a week in accordance with Schedule 3, Condition 26 of the Project Approval. No shift working pattern is anticipated.” Pg.12

**“AECOM Bulk Fuel Storage Facility - Environmental Assessment (Phase 1)
3.5.3 Transport Movements “Pg.17**

“During operations of the terminal facility, daily traffic movements would consist of fuel tanker deliveries and the movements of employees and visitors. Estimated truck movements when the terminal facility commences operations in 2013 would be in the order of 18 B-double trucks accessing the site per day, resulting in 36 daily movements (16 trucks for diesel dispatch and two for biodiesel receipt). Ship movements in 2013 would be in the order of 8 vessels per year for imports of diesel.”

There is considerable inconsistency:

in this document Phase 1A ;

and also in relation to the Phase 1 application over the movements of trucks and ships.

The community cannot understand what the cumulative impacts will be either on the Stolthaven site or on the overall site in relation to the Mayfield Concept Plan.

Therefore this modification should be assessed as a New Application.

“Community Consultation Strategy”

“14. The Proponent shall contribute to the Community Communication Strategy required for the Mayfield Concept Plan. The level and timing of this contribution by the Proponent and timing shall be determined in consultation with NPC to the satisfaction of the Director-General.”

“Note: This condition only applies if the Mayfield Concept Plan (09_0096) is approved. pg. F-19”

NPC tracing and compliance document states:

“Subject to confidentiality, NPC shall make all documents required under this approval available for public inspection on request.

NPC shall establish and maintain a dedicated website or maintain dedicated pages within its existing website for the provision of electronic information associated with this Concept Plan approval subject to confidentiality requirements.

NPC shall publish and maintain up-to-date information on this website or dedicated pages including items in 3.2 b) - e).

- i) NPC shall prepare and implement a Community Communication Strategy for the project.**

This Strategy shall be designed to provide mechanisms to facilitate communication between the Proponent, Council and local community (broader and local stakeholders) on the progress and the related environmental management of the project and include items in 3.3 a) - e) and include key issues specified in 3.3 i) - iv).

- ii) NPC shall maintain and implement the Strategy throughout the development of the Project. The Strategy shall be submitted to the Director-General prior to the lodgment or consideration of any project application or commencement of works associated with this Concept Plan approval, unless otherwise agreed by the Director-General. Maintain for duration of Project.**

Timing

Submitted to the Director- General prior to the lodgment or consideration of any project application or commencement of works associated with this Concept Plan approval.

Status

Developed a concept design. To be made live online by mid March 2013.

None of the NPC DG requirements have been done in accordance to their community consultation requirements.

We note the intent of the DG to incorporate Phase 1 into Mayfield Concept Plan (09_0096) in the communications strategy plan, to facilitate the ease of access of information to the community and other stakeholders.

This is at odds with the approvals of Phase 1.

Therefore this modification should be assessed as a New Application.

CONCLUSION

“As part of this EA the DG has requested an assessment of the potential impacts of all stages of the project on the environment, including any associated cumulative impacts associated with the operation of the project and any other approved or proposed port or industrial operations in the area;”

“29/8/2012

The EA should also address the relevant conditions in the Port Terminal Facilities Mayfield Concept Plan (09_0096), which was approved following approval of the Stolthaven project.

Nick Hall

Senior Planner,

Major Projects Assessment

NSW Department of Planning

Infrastructure

| GPO Box 39 | SYDNEY NSW 2001”

Throughout our submission we have shown the inconsistency in the environmental impacts and how it is impossible to judge the cumulative impacts of the three Project Approvals or Applications, being:

Stolthaven Phase 1A application

Stolthaven Phase 1 in relation to Phase 1A

Stolthaven Phase 1 & 1A in relation to NPC Mayfield Concept Plan (09_0096)

We have seen no connection in the phase 1A application that is consistent with the relevant conditions of the approval in the Mayfield Concept Plan (09_0096). We do not believe this was the intent of the DG or DoPI.

We note that: in referencing the Mayfield Concept Plan, not only in the approval of Phase 1; but also in the clear instruction - “The EA should also address the relevant conditions in the Port Terminal Facilities Mayfield” ; that it was to the clear intention to unite this site.

Throughout our submission we have demonstrated;

The inconsistency within the Southaven’s application for a modification;

Southaven’s application does not meet the requirements to be assessed as a

75W;

Because

Stolthaven cannot prove that this application would have limited environmental impacts.

Stolthaven has misled the community and other stakeholders many times in written responses to submissions (Phase 1); and at community meetings; by saying that “ if any expansion was to occur on the site they would apply for a new EA “. Their clear intention in 1A is to achieve a massive expansion!

They have failed to meet their obligations to the community and other stakeholders, to be a good corporate citizen of Newcastle.

Claire Charles

Secretary

For

Correct Planning & Consultation for Mayfield Group*

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Objection Stolthaven Phase 1a Fuel Terminal Newcastle

I wish to strongly object to the proposal by Stolthaven to increase the size of their Newcastle fuel terminal at Mayfield North with a modification of their current proposal.

Whilst this is an individual submission I point out that I am involved with many community groups and would be very confident that my comments would be supported widely.

I base my objection on the following:-

1. The project as proposed does not seem to represent the real intent of the proposal.

The facilities currently under construction were promoted and approved on the basis of being a unique facility with future expansion plans to be subject to separate development applications.

Whilst it is acknowledged that the site plan made provision for future expansion and no doubt some plant and infrastructure had spare capacity the information provided in the original assessment and subsequent approve did not provide for a staged development under the original application.

For this EA to be put forward as Phase 1a is simply manipulating the planning process.

2. The size of the additional storages and plant and equipment seems greatly excessive for the extra throughput.

The proposal put forward was basically to double the throughput of the terminal by increasing the storage. This was rejected as it was considered to be outside the provisions of a 75W.

The expansion proposal as expressed in the exhibited EA is now for basically the same physical infrastructure with the stated throughput limited to about a 35% increase.

It should also be noted that the cost of the 35% increase is about 2/3 of the original project cost.

I believe circumstantial evidence suggests that the intent of the proponent is to double the terminals capacity by gaining approval for a physical expansion based on a gross underutilisation of the new infrastructure.

If Planning decides to approve this project then a condition of consent must

- specify a monthly, quarterly and annual volumetric limit on the throughput of the terminal based on the existing approved capacity plus the volume approved in this phase.
- Detail a mechanism for determining and reporting the throughput (including public exhibition.)
- Document the penalties for exceeding the approved throughput.

The community and other stakeholders have been assured by Stolthaven repeatedly that any expansion or change of handled product would be subject to a separate EA and a new assessment process. We now have a large increase in product, changes to the supply of biodiesel and a possible change to the product being handled. I ask how can the community have faith in a system if the basis of the approval request are not adhered to?

I note there would seem to be a major error in the EA as the new limit is reported as 4400 million litres. It is understood that the correct figure is 400ml of Diesel and 100ml of biodiesel.

3.2 Modification to Project Approval 08_0130

A review of the existing Project Approval was undertaken to examine which conditions would require amendment. Refer **Appendix F**

Condition 5, Schedule 3 of the Project Approval would require amending to account for the proposed increase in fuels throughput:

Existing Condition:

Limits on Approval

The Proponent shall not receive, store and dispatch more than:

- a) 264 million litres of diesel a year; and
- b) 36 million litres of biodiesel a year.

Proposed Amended Condition:

Limits on Approval

The Proponent shall not receive, store and dispatch more than:

4400 million litres of diesel and biodiesel combined per year.

3.3 Alternatives

3.3.1 Alternative Location

A number of alternative locations exist in and around the Port of Newcastle which could be used for the establishment of additional bulk fuels storage. The subject site is considered ideal as the proposed tanks will be constructed in association with an approved bulk fuels storage facility and can utilise the wharf, pumps and truck loading facilities that are already approved and under construction. This

3. No valid consideration of alternatives.

The EA in section 3.3.1 does not identify alternate sites or provide site evaluations. The only criteria is it is claimed the site is “considered ideal” because of its association with the approved facilities of Phase 1.

The use of a pipeline “ up the valley” would provide a major alternate to the port side storage and is likely to be a viable alternate. The Caltex Sydney to Newcastle pipe line is a model of what could be done.

It must also be noted that between 5% and 10% of the product dispatched from the site is also delivered to the site by road tankers. The EA does not discuss alternates for this product movement.

By way of example there are two sites that could be used for offsite storage and feed by pipeline. They are the loco service centres at Greta and at Hexham. (both are large diesel fuel users)

A pipe line between locations such as these would eliminate all inward tanker movements to the Mayfield site and a large proportion of all outward tanker movements.

A pipeline to the existing Shell depot at Hamilton North should also be examined.

The proponent should be required to formally consider the use of a pipeline to Hexham (or further west).

4. There is no traffic management plan detailing the off site impacts

The operation of a fuel terminal is unlike most other commercial activities.

A fuel terminal is about the product input, storage, handling and blending and then the discharge of the product.

The proposal only seems to have dealt with the in terminal activity.

The terminal must also consider and detail all three phases.

The consequences of the shipping movements and the transport of the product should be detailed in the EA and regulated by the conditions of consent.

With the road tankers the vehicle data, vehicle major routes, and the impacts of those truck movements should form part of the EA as they are a fundamental component of the Stolthaven Operation.

For the EA to simply say the product will be transferred from the wharf to the terminal and then from the terminal by road to Industrial Drive is simple inadequate.

5. There is no ship management plan

There is no ship management plan and therefore there is no way of assessing the impact on the shipping movements on the community.

By way of example will the ships be permitted to enter the port during the normal hours of sleep thereby raising the ambient noise levels and the ship horn blasts.

There is no detail in the EA as to how a ship spill or fire would be handled. These are identifiable risks and as such should be addressed in the EA.

The proximity of the fuel berth, the shipping channel and ship turning bay to Orica (ammonium nitrate production and storage) is on major concern and should also have been addressed in the EA.

Once again the data in the EA would seem to be inaccurate as section 3.6.5 states

It is proposed that approximately 12 extra ships per year would enter Newcastle Port to unload at Mayfield M4, resulting in a total of 20 ships per year for Phases 1 and 1A combined.

Section 4.3.0 states

The increase in ship traffic from 15 ships per year to 27 ships per year

The documentation provided for the new Wharf M7 indicates the use of considerably larger tankers.

The EA also seems to downplay the significance of the ship movements in the Port of Newcastle and the impact on the community.

Firstly 27 ships equates to 54 shipping movements or an extra one per week.

The extra shipping reduces the safety of the harbour, creates extra noise and vibration and in particular extra particulate emissions.

Shipping exhaust emissions are a major problem within the port.

The EA does not provide details of the environmental issues as a result of shipping directly related to Stolthaven Terminal activities.

Whilst it is noted that the ships and terminal will operate under the ISGOTT and AS3846-2005 guidelines and regulations the issue of how these will be policed is not explained in the EA.

In the event of approval of this proposal the consent conditions and the EPL must spell out very clearly that Stolthaven is totally responsible for the emissions of the ships carrying its product into or out of the Newcastle harbour.

6. The emissions would seem to be unassessed

Noise, odours and other emissions would seem to have been poorly assessed due to the methods used, the use of old and inaccurate data and the failure to assess off site issues.

The cumulative impacts seem to have been glossed over.

The emissions from the terminal for this proposal were not discussed with the community.

7. There is no cost benefit analysis to demonstrate the community benefit.

Any facility or enterprise must be of net benefit to the owners, the community and to the region.

The EA has no cost benefit analysis that shows there is benefit to the region and in particular to the adjoining community.

The EA does show that employment is very minimal, that economic activity for Newcastle is very low and that the hazards are quite high.

Where are the benefits? What would be lost to Newcastle if the application was rejected?

Clearly there are many other issues that are not adequately considered in the EA.

Conclusion

This proposal is very confusing and should be considered as a totally new activity.

This proposal uses overcapacity of the original facility to raise throughput by the addition of disproportionately large tanks.

It would seem that once this phase is implemented it is highly likely that there will be a request to have added through put “by more efficiently utilising the existing plant”.

The processing of the initial EA, this EA and future EA’s would seem to be circumnavigating the assessment of the cumulative impacts. This is unacceptable.

It is also of major concern that the community consultation has been almost zero and that the proposal under consideration was simply delivered to the community liaison group as a fait accompli.

The EA fails to assess the significant off site impacts of the activity on the community.

Finally the project shows no evidence of significant economic, social or community benefit of the project for Mayfield, The Newcastle LGA or the Hunter region. By contrast the proposal identifies many very serious negatives many of which are not accurately assessed in the published EA.

The DG required

An assessment of the potential hazards and risks to adjacent port and industrial operation, people and/or the environment associated with the modified project;

- How ecological and human risks posed by contaminants in the context of past, existing and future land uses would be managed; and
- How the modified project would not interfere with the remediation works previously undertaken on the site.

This information is not in the EA.

There would seem to be little consistency with the Mayfield Concept Plan approval however I consider some of this to be due to failures of the Newcastle Port Corporation to fulfil their obligations.

I believe this project should be rejected outright.

If the proponent wishes to proceed then a new accurate and fully detailed EA needs to be prepared and exhibited.

I am prepared to answer questions or clarify points if required.

Rick Banyard

19 April 2013

Mining & Industry Projects
Department of Planning and Infrastructure
Attention: Ashley Cheong - Planning Officer (Major Projects Assessment)
GPO Box 39
Sydney NSW 2001

By email: ashley.cheong@planning.nsw.gov.au

Dear Ashley

**Re: Marstel Bulk Fuel and Dispatch Facility Modification Application (08_0130 MOD1)
Submissions on s 75W Environmental Assessment (the "EA")**

We refer to the above mentioned modification which seeks permission to expand the Marstel Bulk Fuel and Dispatch Facility proposed for Mayfield (the "Proposed Expansion").

The Department would be aware from previous submissions by OneSteel on the original (and smaller) Marstel Bulk Fuel Storage Facility Project (the "Proposed Original Development") including the submissions in our letters dated 13 December 2011, 8 May 2012 and 24 May 2012 that OneSteel had numerous concerns about the Proposed Original Development and its potential impact on OneSteel operations. We have attached copies of each of those submissions for your convenience.

We have undertaken a review of the s 75W Environmental Assessment detailing the Proposed Expansion and we have even greater concerns about the potential impact of the Marstel facility on our operations.

We have set out below our concerns and submissions in relation to the Proposed Expansion.

Power - Section 3.4 Access and Services p 11 of EA

The Proposed Expansion states "currently during construction, NPC provides Stolthaven with potable water, electricity and communications. These services would be extended to the proposed modification works as necessary with no further off site servicing connections required".

As the Department would be aware from our previous submissions, there are power distribution facilities owned by and/or located on land owned by OneSteel in the Mayfield area ("OneSteel Infrastructure"). It had previously been suggested by Stolthaven in its initial Proposed Development that NPC would be sourcing power to service the Proposed Development and that it would be relying directly or indirectly on OneSteel Infrastructure for that power. As the Department is also aware, OneSteel has not granted its consent to the Original Proposed Development using the OneSteel Infrastructure.

We note that whilst there is no detail provided in the EA about how or where power is being sourced from and what increase there may be in terms of power requirements or loads as a result of the Proposed Expansion, we are of the view it is likely the Proposed Expansion would have an even greater need for electricity than the Original Proposed Development. Therefore, we are also of the view the Proposed Expansion poses an even greater potential risk to OneSteel and its operations if any power is sourced directly or indirectly from OneSteel Infrastructure.

We can confirm OneSteel and NPC have been discussing the possibility of the parties entering into a private arrangement which would temporarily permit Stolthaven to source power directly or indirectly from OneSteel Infrastructure for a period of up to say two years.



After this two year period, NPC would arrange for Stolthaven (and any other development on its land) to be serviced completely independent of any OneSteel Infrastructure - as we understand it this would most likely involve NPC constructing a substation on its own land which directly feeds into the Ausgrid network

Whilst these discussions with NPC have been positive and productive, to date, there has been no agreement reached by the parties and we note OneSteel has not yet provided its consent to either the Original Proposed Development or the Proposed Expansion using OneSteel Infrastructure. We are currently waiting for NPC to provide us with a formal written proposal confirming the above arrangements for our consideration but it has not been received as at the date of this letter.

Given the potential for further impact to OneSteel and its operations should the Proposed Expansion rely on OneSteel Infrastructure and the fact that OneSteel and NPC have not yet reached agreement about power for the Original Proposed Development (or the Proposed Expansion), OneSteel requests the following amendments to the current condition 21 (Utilities and Services - our suggested changes are shown in tracking:

Condition 21 - Utilities and Services

Prior to commencement of operations, the Proponent shall prepare and implement a Utilities and Services Plan to the satisfaction of the Director General. The plan must:

- a) be prepared in consultation and show evidence of agreements with relevant utility and service providers and adjacent landowners, where relevant. In particular, the development must not rely directly or indirectly on infrastructure owned by and/or located on land owned by OneSteel Manufacturing Pty Ltd or any of its related bodies corporate (OneSteel Infrastructure) unless an agreement permitting such a use on a temporary basis has been entered into between OneSteel and NPC and/or the Proponent ("Temporary Access Agreement"); ;*
- b) include an implementation schedule which shows how all essential utilities and services are to be provided to the site In addition, where a Temporary Access Agreement has been entered into as described in condition a), the implementation schedule must also include written confirmation from NPC and OneSteel of the date when the relevant utilities and services will be provided completely independently of any OneSteel Infrastructure;*
- c) provide a copy of all necessary approvals from relevant utility and service providers showing that access to these utilities and services is available and secured; and*
- d) include a strategy to integrate all utilities and services with the broader system to be provided by NPC for the Mayfield Concept Plan."*

If the condition were to be amended as set out above, then OneSteel is of the view its concerns with respect to power and the Proposed Expansion would have been adequately addressed.

Steelworks Road - Section 3.4 Access and Services - p 11 of EA

The Proposed Expansion currently states "During the operational phase, NPC would provide Stolthaven and its contractors with access to the Site with a permanent road and services access from Ingall Street, along Steelworks Road and down the eastern side of the Facility".

As the Department would be aware from our previous submissions, OneSteel had been approached by the Hunter Development Corporation and Newcastle Port Corporation about the possible use of Steelworks Road for the Original Proposed Development.

The EA indicates there will be between 32 and up to an additional 74 more vehicle movements each day along the operational access route in connection with the Proposed Expansion (including both tankers and light traffic). This brings the total potential vehicle

movements associated with the development as a whole to between 68 and up to a total of 110 movements per day

At present, Steelworks Road has approximately 740, 000 vehicle movements associated with OneSteel's operations each year (which on average translates to 2027 vehicle movements per day and is a conservative estimate) and its use is critical to our operations. Therefore, the proposed increase in vehicle movements on the road in connection with not only the Original Proposed Development but now the Proposed Expansion is of serious concern to us.

We also note that the previous environmental assessment for the Proposed Development suggested all traffic other than fuel tankers would use Selwyn Street as the operational access route and our discussions with the Proponent previously had also indicated this to be the case. Therefore, we are also concerned by the suggestion of all traffic (not just the tankers) utilising Steelworks Road.

At this stage, OneSteel has not yet provided its consent to use of Steelworks Road by Stolthaven either for the Original Proposed Development or the Proposed Expansion. We confirm OneSteel and NPC have been discussing the possibility of the parties entering into a private agreement permitting a certain number of Stolthaven's fuel trucks only (not any other traffic associated with their operations) to use Steelworks Road on a temporary basis. Whilst again these discussions with NPC have been positive and productive, to date there has been no agreement reached and OneSteel is waiting for NPC to provide a formal written proposal to us regarding the agreement for our consideration.

The vehicle movements associated with the Proposed Expansion is of significant concern to OneSteel for reasons set out above. Given this and the ongoing discussions with NPC regarding this road, OneSteel requests that the existing condition 15 "Operational Access Route" is deleted and replaced with the following:

"a) Subject to condition b below, all vehicles (including fuel tankers) associated with the development must use Selwyn Street as the operational access route to the Site;

b) the Proponent must not use Steelworks Road for its fuel tankers unless OneSteel Manufacturing Pty Ltd and Newcastle Ports Corporation have reached agreement permitting such a use and provided the Proponent uses the road in accordance with the terms of any such agreement; and

c) the Proponent must consult with OneSteel in preparing the Traffic Management Plan required by Condition 16."

Fire Safety Study and Emergency Plans

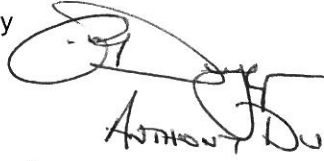
OneSteel notes there is nothing including in the Environmental Assessment about a review and update of the Fire Safety Study and Emergency Plans which the Proponent is required to prepare under Conditions 18 and 19. OneSteel requests that a condition be included in any approval requiring the Proponent to review and update in consultation with OneSteel the Fire Safety Study and Emergency Plans given the potential increased risks associated with the Proposed Expansion.

Overall, OneSteel remains concerned about the development, not only in its original form but even more so now with the Proposed Expansion. However, if the Department were to incorporate the above conditions and amendments we have requested in this letter into its approval, OneSteel would be satisfied that its concerns would have been adequately addressed and we would not object to the Proposed Expansion.

OneSteel requests confirmation from the Department as soon as possible that it will adopt the conditions and amendments as we have worded into this letter. If the Department has any

concerns regarding the proposed wording of the amendments, we ask the Department to please contact us to discuss as soon as possible.

Yours faithfully



[Insert signature]

ANTHONY DUGGAN
GM ONESTEEL HERE.