

NSW Planning Industry and Environment  
LOCKED BAG 5112  
PARRAMATTA NSW 2124

<b>APPLICATION</b>	<b>DE-2021/185</b>
<b>Date</b>	<b>21 December 2021</b>

Dear Sir/Madam

<b>Development</b>	Manildra – Port Kembla Bulk Liquid Terminal - State Significant Development SSD 33042483
<b>Location</b>	Foreshore Road, PORT KEMBLA NSW 2505

Thank you for the opportunity to comment on the proposed State Significant Development SSD-33042483 for the Manildra – Port Kembla Bulk Liquid Terminal.

On 11 November 2021 Council wrote to Minister Stokes in relation to the Production, Storage and Transport of Products at Port Kembla. In summary, Council is concerned that further intensification and concentration of the production, storage and transport of highly volatile products at Port Kembla, could have potential negative impacts on -

- The community with cumulative noise and pollution levels on adjoining access roads;
- Council assets and local amenity especially trucking noise; and
- The Port through increased risk of a chain reaction with cumulative hazardous operations.

The community expects these concerns to be addressed in an assessment process and communicated accordingly to residents.

## 1. General

Council has reviewed the Scoping Report (the Report) prepared by TFA Project Group 20399 dated December 2021 and provides the following comments regarding input in the SEARs for any future application.

Council recognises that a number of specialist reports were prepared in conjunction with the Complying Development Application lodged with Council in November 2021. It is noted that these reports will form part of the EIS submitted to the Department but will also be required to assess the cumulative impacts of the proposal together with the bitumen plant proposed on adjacent land to the east of the site.

The comments provided below are based on the level of detail provided in this preliminary scoping stage. Council will provide comprehensive commentary once the detailed documentation is provided for comment. In addition to the comments below, a list of relevant Chapters of Wollongong Development Control Plan 2009 that should be considered forms attachment 1.

## 2. Environmental considerations

### Hazards and Fire Safety

- The Hazard Analysis, HAZOP Report and Fire Safety Study accompanying the EIS should be prepared by suitably qualified persons approved by the Secretary of the Department of Planning, Industry and Environment.
- The Hazard Analysis and HAZOP Report should include consideration of transport.

### Contamination

- The EIS should be accompanied by a Contamination Assessment Report that demonstrates the land is, or can be made suitable for the purpose of the proposed development, in accordance with SEPP 55–Remediation of Land and the associated Managing Land Contamination: Planning Guidelines SEPP 55–Remediation of Land (DUAP and EPA 1998).

### Acid Sulfate Soils

- The site is mapped as being affected by Class 2, 3 and 4 Acid Sulfate Soils. The EIS should be accompanied by an Acid Sulfate Soils Management Plan prepared in accordance with the Acid Sulfate Soils Manual, or alternatively, a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicating that an Acid Sulfate Soils Management Plan is not required for the works.

### Surface Water

- The EIS should be accompanied by
  - a Site Based Stormwater Management Report and Plan that details a stormwater site isolation design in the event of a pollution incident.
  - a Pollution Incident Response Plan for the site and the ethanol transit/transport period that addresses the containment of waste waters generated from a site or transport (including in transit) spill and/or firefighting response.
  - Details of all construction erosion and sediment controls that will be implemented.

### Noise and Vibration

- The EIS should be accompanied by a Noise Impact Assessment Report that assesses the likely noise and vibration impacts of the proposed development during the construction and operational phases, including the likely noise impacts from the associated transport.

### Air Quality and Odour

- The EIS should be accompanied by a comprehensive Air Quality Impact Assessment Report that assesses the potential air quality and odour impacts of the proposed development in accordance with relevant NSW EPA guidelines and that also addresses transport and a worst-case air pollution scenario in the event of an explosion or fire at the site and/or a truck (in transit or on site).
- The EIS should be accompanied by Greenhouse Gas Emission Assessment.

### Biodiversity

- The EIS should detail an assessment of the biodiversity values and the likely biodiversity impacts of the proposed development including an assessment of the likely impacts of the proposed development on the Green and Golden Bell Frog.

## Coastal

- The site is identified as being within the Coastal Environment Area and the Coastal Use Area under SEPP (Coastal Management) 2018. The EIS will need to address the relevant clauses of SEPP (Coastal Management) 2018.

## Ecologically Sustainable Development

- The EIS should demonstrate how the proposed development will promote the achievement of the principles of ecologically sustainable development including energy and water efficiency measures, water sensitive urban design strategies, best practice waste management and operational practices.

## Climate Change

- The EIS should include a Climate Change Statement addressing potential sea level rise using the 100-year time horizon.

## Wollongong Local Government Area's 2050 Net Zero Carbon Emissions Target

- Wollongong City Council has declared a Climate Emergency and has adopted a target of net zero carbon emissions for the local government area by 2050. The EIS should provide details of how the proposed development has considered the target and the use of low emission methods and technology in all aspects of the proposed development

## Waste management

- Identification, quantification and classification of the likely waste streams likely to be generated during construction and operation, and describe the measures to be implemented to manage, reuse, recycle and safely dispose of this waste.

## Cumulative impacts

- Discussion of the likely cumulative impact of the proposed development on the *local* built and natural environment and how they will be avoided, minimised and managed. Discussion of the cumulative impact of the proposed development on the *broader* natural environment and how they will be avoided, minimised and managed. The cumulative impacts should also consider recent approvals including but not limited to the proposed bitumen plant directly adjoining the Site to the east.

## **3. Heritage matters**

- The subject site is located in the vicinity of the State Heritage listing Hill 60 Reserve area, which has both historic and Aboriginal Cultural Heritage values, as well as a number of locally listed items on Schedule 5 of the Wollongong LEP 2009 as well as herbage items that are listed under the Three Ports SEPP.
- A Heritage Impact Statement (HIS) should be prepared by a suitably qualified heritage consultant and included in the SEARs that addresses the NSW Heritage Act 1977 and Clause 5.10 of the Wollongong LEP 2009 and Chapter E11: Heritage Conservation.
- Although the site has been subject to industrial disturbance, from the historic aerials this largely looks like there has been fill placed on the site, rather than excavation. As the site is located near a dune system, it is considered that the proposal has the potential to impact on Aboriginal sites and object. Therefore, a full Aboriginal Cultural Heritage Assessment Report (ACHAR) should be prepared as part of the SEARs.

- Archaeological Test Excavation should be undertaken to determine whether any sites will be impacted and if an Aboriginal Heritage Impact Permit (AHIP) is required under the NSW National Parks and Wildlife Act 1974. Given the high cultural significance of the surrounding area to the local Aboriginal Community, if any sites are identified mitigation measures to avoid impacts should be carefully considered.
- Ongoing consultation with Heritage NSW and the local Aboriginal Community should be undertaken as part of the State Significant Development process.
- Council should be provided with the HIS and ACHAR for comment.

#### 4. Traffic matters

- The applicant should refer to Chapter E3 – Car Parking, Access, Servicing/ Loading Facilities and Traffic Management of the Wollongong Development Control Plan 2009.
- A Traffic Impact Assessment needs to be prepared by a suitably qualified consultant in accordance with Table 2.1 of the RTA Guide to Traffic Generating Development.

#### Construction

- The applicant will need to provide an assessment of the proposed traffic generation based on the expected construction/delivery requirements, vehicle capacities etc. The different types of heavy vehicle and passenger vehicles need to be identified and quantified as part of the assessment.

#### Internal Layout

- All internal access dimensions on the site plan, including grades, access widths, parking aisle widths should comply with AS2890.1 and AS2890.2.
- Car parking, bicycle parking and motorcycle parking must be in accordance with Schedule 1 of Chapter E3 of the Wollongong City Council DCP.
- Disabled car parking also needs to be provided in accordance with BCA requirements and the design specification must meet the requirements of AS2890.6.
- A series of vehicle movement plans will be required to demonstrate that the internal road network is able to accommodate all sizes of vehicles likely to enter the site and access all areas with forward ingress and egress. As per the requirements of AS2890.1, a B99 vehicle must be shown passing a B85 vehicle on all critical corners. A service vehicle must also be shown passing a B85 vehicle throughout the development.
- Emergency access arrangements need to be clarified.

#### Loading, Servicing and Waste Collection

- Loading and servicing arrangements must comply with Chapter E3 of the Wollongong City Council DCP.
- AS2890.2 requires a maximum grade of 15.4% for service vehicles which should also be taken into consideration.

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## 5. Stormwater and flooding matters

- The development is subject to the controls in Chapters E13 (Floodplain Management) and E14 (Stormwater Management) of the Wollongong Development Control Plan (WDGP) 2009 and Wollongong LEP2009.
- Council's records indicate that the site is Flood Affected and falls within the Allans Creek Catchment. Flooding information for the site can be obtained from SES Flood Portal, or alternatively levels can be obtained from Wollongong City Council. The site is inundated in both the 1% AEP and PMF flood event and in this regard the detailed design of the facilities, storage of materials must consider both the internal and external impacts of the proposal. The detailed design must be in accordance with the requirements of Chapter E13 of Wollongong DCP 2009.
- A concept Stormwater plan for the development is to be prepared by a suitably qualified civil engineer in accordance with Chapter E14, with a design of water quality facilities in accordance with Chapter E15 of Wollongong DCP 2009.
- Stormwater discharge must be to an appropriate location as per section 9.3 of Chapter E14.

Any queries regarding this letter can be directed to Senior Development Project Officer Rebecca Welsh.

This letter is authorised by:

**Pier Panozzo**

**Manager Development Assessment and Certification**

Wollongong City Council

Telephone (02) 4227 7111

Attachment 1 – Relevant chapters of Wollongong Development Controls Plan 2009

## Wollongong Council planning controls

Generally speaking, any proposal should have regard to the following Wollongong Council controls:

- Wollongong Development Control Plan 2009:
  - Chapter E03 - Car Parking Access Servicing Loading Facilities
  - Chapter E07 - Waste Management
  - Chapter E10 - Aboriginal Heritage
  - Chapter E11 - Heritage Conservation
  - Chapter E12 - Geotechnical Assessment of Slope Instability
  - Chapter E13 - Floodplain Management
  - Chapter E14 - Stormwater Management
  - Chapter E16 - Bushfire Management
  - Chapter E17 - Preservation and Management of Trees and Vegetation
  - Chapter E18 - Threatened Species Impact Assessment
  - Chapter E19 – Earthworks
  - Chapter E20 - Contaminated Land Management
  - Chapter E22 - Soil Erosion and Sedimentation
  - Chapter E23 - Riparian Land Management

## Sally Munk

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**From:** Sohan Fernando <Sohan.Fernando@safework.nsw.gov.au>  
**Sent:** Friday, 17 December 2021 2:09 PM  
**To:** Sally Munk  
**Cc:** Troy Stephens; Doris Yau; Andrew Battye; Erwin Kasman  
**Subject:** Manildra- Port Kembla Bulk Liquid terminal

Hi Sally,

### **Manildra-Port Kembla Bulk Liquid Terminal**

Regarding your e mail dated 13 December 2021 requesting SEARS for the above proposal, SafeWork NSW has reviewed the Scoping document for SSD-33042483 and make the following comments.

#### **SEARS**

SafeWork NSW has set out below the matters that need to be considered when preparing the EIS/PHA and addressed in the EIS/PHA as appropriate.

1. A Preliminary Hazard Analysis (PHA), prepared in accordance with the Department's *Hazardous Industry Planning Advisory Paper No. 6, 'Hazard Analysis'* (DoP, 2011) and *Multi level Risk Assessment* (DoP, 2011), that demonstrates that the risks from the project would comply with the Department's *Hazardous Industry Planning Advisory Paper No. 4, 'Risk Criteria for Land Use Safety Planning'* (DoP, 2011). The PHA is to include the 'Applying SEPP 33' screening of the transport of dangerous goods movements and must evaluate the risks for the **entire operation including and not limited** to the following:
  - Releases from storage of ethanol;
  - Releases from loading and unloading of ethanol at truck gantry; and
  - Releases from pipework within the site and pipeline from the site to the wharf until the ship loading point.
2. In addition, in accordance with the Work Health and Safety (WHS) Act 2011 and Regulation 2017, the PHA must also include the following details in relation to the requirements of the Work Health and Safety (WHS) Act 2011 and Regulation 2017, in particular, Sections 17, 18 and 19 of the WHS Act:
  - a. For the tank facility and the pipelines, the PHA should consider the credible incidents that can pose a risk to people, both onsite and offsite, and identify all possible risk reduction measures and those that will be included in the project design to reduce risks "*So Far As Is Reasonably Practicable*" (SFARP).
  - b. An outline of how the recommendations made by the UK HSE and other industry bodies in relation to the Buncefield fuel storage depot explosion and fire in 2005 will be addressed in this proposal.
  - c. Details of the standards and codes used in the construction of the tanks and pipelines, the protection systems and spill control systems
  - d. **Discussion of the approach to be taken, materials of construction in particular, for the tank bunding design in relation to minimizing risk of soil contamination in the event of a spill and/or from contaminated fire-fighting water. If cost-benefit analysis is adopted, confirmation that the cost of remediation of any contaminated soil has been included in the analysis.**
  - e. Details of compliance with the requirements of the WHS Regulation, Clauses 389 to 391 of Chapter 7 in particular, for the proposed pipelines.

Should you have any queries, please contact me or Doris in the DOP Hazards Team

Regards

**Sohan Fernando**

**Senior Safety Analyst - Major Hazard Facilities**

**Chemicals, Explosives and Safety Systems**

SafeWork NSW

Better Regulation Division, Department of Customer Services

**p:** 02 8867 2747 Mob 0409646444

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DOC21/1079615-2

Ms Sally Monk  
Department of Planning, Industry and Environment  
Locked Bag 5022  
PARRAMATTA NSW 2124

Email: [sally.monk@planning.nsw.gov.au](mailto:sally.monk@planning.nsw.gov.au)

**ENVIRONMENTAL ASSESSMENT REQUIREMENTS -  
PROPOSED ETHANOL TANK FARM, PORT KEMBLA (SSD 33042483)**

I am writing in response to your request dated the 6 December 2021 seeking information from the NSW Environment Protection Authority (EPA) on key environmental assessment requirements to support a review of the above proposal.

Based on discussions with Manildra (the proponent) at a pre-application meeting on 12 April 2021 and the EPA's previous letter of 20 April 2021 to (EPA reference DOC21/254964), the information in **Attachment A** is required to assist the EPA in reviewing an Environmental Assessment and considering any subsequent licence application. This information includes:

- Details of Activity and Location;
- Licensing Requirements;
- Air Quality;
- Water Quality;
- Noise and Vibration;
- Traffic and Transport;
- Waste Management; and Contaminated Land Management.

The supporting information should document how these matters will be addressed in the design, construction, and operation of the proposed development. The information should be presented and assessed in accordance with the relevant guidelines/documents listed in **Attachment B**.

The infrastructure, proposed controls, and management procedures should include a comparison with reasonable and feasible mitigation measures in relation to minimising air emissions. EPA also supports the DPIE position that the above key environmental assessment requirements must incorporate a cumulative assessment with the neighbouring Simosa bitumen plant.

If you have any queries regarding this matter, please contact Chris Kelly on phone (02) 4224 4100.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Greg Newman', written over a horizontal line.

16/12/2021

**Greg Newman**  
Unit Head Regulatory Operations

Attachments (2) 1 Information to assist in preparing the Environmental Assessment Requirements and  
2. Relevant guidelines and documents

Phone 131 555  
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(from outside NSW)

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## **ATTACHMENT A: Information To Assist In Preparing An Environmental Impact Statement**

### **Details of Activity and Location**

The supporting information should fully describe the proposed activity including the premises and its location. It should also include details on the transfer and handling of product including tanks, bunds, pipelines, waste product/condensate handling, truck and ship loading facilities. Information should include time of operation for the handling of product including trucking and shipping activities, unloading and loading rates, and number of truck movements. This should include details on the affected environment to place it in its local and regional environmental context including surrounding land uses, planning zonings, and potential sensitive receptors.

The information should also provide a detailed assessment of the key issues specified below, and any other significant issues, including but not necessarily be limited to the following:

- A description of the existing environment;
- An assessment of the potential impacts of the development, including any cumulative impacts associated with the operation of the development and any other approved or proposed port or industrial operations in the area;
- A description of the measures that would be implemented to avoid, minimise, mitigate, rehabilitate/remediate, monitor and/or offset the potential impacts of the development, including detailed contingency plans for managing any significant risks to human health and the environment. Appropriate Best Management Techniques should also be outlined. This should include an assessment of the effectiveness and reliability of the measures and any residual impacts after these measures are implemented; and
- Information to demonstrate any Australian Standards relevant to the proposal and describe how the requirements of the Standards will be achieved

The assessment should also incorporate a cumulative assessment with the proposed Simosa bitumen plant bordering this proposed facility.

### **Licensing Requirements**

The proposed development will require licensing under the *Protection of the Environment Operations Act 1997* (POEO Act). The EPA's *Guide to Licensing* should be consulted to assist in preparing the EPL application and supporting information. The application should also be accompanied with the complying development certificate required under the SEPP and details of land-owners consent. Information on community consultation undertaken in relation to the proposal should also be included.

### **Air Quality**

A suitably qualified expert should be engaged to provide the following information to support the application:

1. Detailed description of the proposed activities. Consideration must be given to, but not necessarily be limited to:
  - a) A detailed process description of activities and/or unit operations that are proposed to be undertaken at the premises.
  - b) A detailed description of process input and outputs, including those inputs that affect air emission discharges to the environment.
2. A detailed characterisation of all emissions sources from the proposed operations, (including working and breathing losses of the tanks). In characterising emission sources, consideration must be given to:
  - a) Frequency and/or magnitude of emissions from proposed sources, due to such factors as:
    - Number of batches for those unit operations/processes that are batch processes
    - Operating hours

- Operating capacity of specific unit operations/processes
  - Potential operational variability, and the implications that this variability may have on the frequency and/or magnitude of air emissions
3. A detailed description of all reasonable and feasible measures that will be undertaken to:
    - a) prevent, control, mitigate or abate air emissions; and
    - b) protect the environment from harm as a result of the emissions
  4. The proposed mitigation measures should be benchmarked against current best practice for emissions control from similar facilities, and may include, but not be limited to:
    - a) a large loading gantry with a vapor recovery unit, and
    - b) floating roof tanks with secondary seals.
  5. Where priority is not given to the highest level of control, the proponent should provide robust justification with supporting evidence on why these measures are not feasible or practical for implementation. In doing so, consideration must be given but not be limited to the following aspects:
    - a) Air quality and health impacts;
    - b) Plant efficiency;
    - c) Implementation timeframe;
    - d) Technical and engineering constraints; and
    - e) An assessment of the risk and potential impacts associated with point and fugitive source emissions from the proposed operations. The assessment of risk relates to environmental harm, risk to human health and amenity.

The assessment should also incorporate a cumulative assessment with the proposed Simosa bitumen plant bordering this proposed facility.

### **Water Quality**

The supporting information should identify any potential construction, stormwater, or process water discharges from the premises against the relevant NSW Water Quality Objectives and values for the waters of Port Kembla and demonstrate how the project will be designed and operated to protect, maintain or restore these requirements.

The supporting information should also describe the nature and degree of any likely impacts that the proposed project (during both construction and operation) may have on the receiving environment and clearly outline the proposed mitigation, monitoring and management measures the proponent intends to apply to the project to ensure the above goals are satisfied.

The information should address document and any spill protection measures from the site including bunding and/or spill management contingency measures and management measures that may need to be implemented.

### **Noise and Vibration**

The supporting information should include a Noise Impact Assessment that address both the construction and operational phases of the project with respect to noise and vibration that addresses the following matters, but not necessarily be limited to:

- a) a quantitative noise and vibration impact assessment to consider impacts to nearby sensitive receivers for both construction and operational phases of the project;
- b) the cumulative impacts of other developments;
- c) details of proposed mitigation, management and monitoring measures.

The assessment should be undertaken by a suitably qualified person, and carried out in accordance with the procedures described in the noise policies and guidelines in **Attachment B**.

If there is likely to be any vibration impacts associated with the proposed project, the supporting information should also include an assessment of the predicted vibration impacts associated with the project.

The assessment should also incorporate a cumulative assessment with the proposed Simosa bitumen plant bordering this proposed facility.

### **Traffic and Transport**

The EPA would support a proposal that delivers an environmental outcome that minimise air and noise emissions due to heavy vehicle movements from the project. In this regard the supporting information should include predictions of expected traffic volumes likely to be generated during the construction and operation of the project, including proposed transport routes and details of any upgrades to road or shipping infrastructure.

The supporting information should include a feasibility assessment of Best Management Practices for all on-road diesel trucks associated with the project. Best Management Practices could include, but not necessarily be limited to:

- a) The development and implementation of a truck noise auditing program to confirm trucks achieve noise standards for engine brake noise; and
- b) All on-road diesel trucks associated with the project should:
  - Conform with relevant and current emission standards as prescribed in Australian Design Rules for heavy-duty engines and vehicles (EURO IV); or
  - Where the vehicle is older than the 2006 model year (that is, EURO I, EURO II or EURO III standards), the vehicle should be fitted with a diesel exhaust treatment device.
  - Consider emission reduction options in the diesel NEPM.

The assessment should also incorporate a cumulative assessment with the proposed Simosa bitumen plant bordering this proposed facility.

### **Waste Management**

The supporting information should identify, characterise and classify all waste that will be generated and disposed of as a result of the project. Proposed quantities of waste including storage, any treatment and disposal locations must be detailed in the information and should include waste that is intended for reuse and/or recycling where it is safe and practical to do so. All waste must be classified in accordance with EPA's *Waste Classification Guidelines*. Any waste (including liquid waste) stored on site should be documented in the supporting information as such storage may require an EPL under the POEO Act 1997.

The supporting information should also provide details of how waste will be handled and managed both onsite and offsite to minimise pollution. This should include information on the procedures and protocols to be implemented to ensure that any waste leaving the site is transported and disposed of lawfully and does not pose a risk to human health or the environment. If the waste possesses hazardous characteristics, the supporting information should provide details of how the waste will be treated or immobilised to render it suitable for transport and disposal.

### **Contaminated Land**

A range of activities can result in land contamination and significant environmental and health risks if the land is not appropriately classified, assessed and rehabilitated. In cases where land has potential for land contamination, the supporting information should include information that satisfies the requirements and procedures in SEPP 55. Due to the Port area containing current and past

industrial activities it is important that there is a full understanding of any potential land contamination at the site and whether specific management is needed to help guide design of the proposal including construction.

The supporting information should include a Detailed Site Investigation which determines the full nature and extent of any potential contamination in different media including, but not limited to soil, groundwater, and surface water media. This is to provide baseline data that characterises the current nature and extent of contamination at the site. The Detailed Site Investigation must be a stand-alone document. The Detailed Site Investigation and any subsequent report/s must:

- a) be prepared, or reviewed and approved, by consultants certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme.
- b) be prepared in accordance with Consultants Reporting on Contaminated Land: Contaminated Land Guidelines (EPA, 2020) and relevant guidelines made or approved by the EPA under section 105 of the *Contaminated Land Management Act 1997*.

The EPA also reminds all licence applicants about the requirements to notify the EPA of contamination under the *Contaminated Land Management Act 1997* if the relevant triggers are met. Please refer to our website for further information about the duty to report contamination <https://www.epa.nsw.gov.au/your-environment/contaminated-land/managing-contaminated-land/duty-report-contaminated-land>

**ATTACHMENT B: Relevant guidelines and documents**

<b>Title</b>	<b>Web address</b>
<b>Licensing</b>	
Protection of the Environment Operations Act 1997	<a href="http://www.legislation.nsw.gov.au/maintop/view/inforce/act+156+1997+cd+0+N">http://www.legislation.nsw.gov.au/maintop/view/inforce/act+156+1997+cd+0+N</a>
EPA Guide to Licensing	<a href="https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/licensing/licensing-guide-160369.pdf">https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/licensing/licensing-guide-160369.pdf</a>
<b>Air</b>	
Approved Methods for Modelling and Assessment of Air Pollutants in NSW (2005)	<a href="http://www.epa.nsw.gov.au/resources/air/ammodelling05361.pdf">http://www.epa.nsw.gov.au/resources/air/ammodelling05361.pdf</a>
Approved Methods for the Sampling and Analysis of Air Pollutants in NSW (2007)	<a href="http://www.epa.nsw.gov.au/resources/air/07001amsaap.pdf">http://www.epa.nsw.gov.au/resources/air/07001amsaap.pdf</a>
Technical Notes - Assessment and Management of Odour from Stationary Sources in NSW	<a href="http://www.epa.nsw.gov.au/air/odour.htm">http://www.epa.nsw.gov.au/air/odour.htm</a>
POEO (Clean Air) Regulation 2010	<a href="http://www.austlii.edu.au/cgi-bin/viewdb/au/legis/nsw/consol_reg/poteoar2010601/">http://www.austlii.edu.au/cgi-bin/viewdb/au/legis/nsw/consol_reg/poteoar2010601/</a>
National Environment Protection (Diesel Vehicle Emissions) Measure	<a href="http://www.scew.gov.au/nepms/diesel-vehicle-emissions">http://www.scew.gov.au/nepms/diesel-vehicle-emissions</a>
The Assessment and Management of Odour from Stationary Sources in NSW: Technical Notes	<a href="http://www.environment.nsw.gov.au/resources/air/20060441notes.pdf">http://www.environment.nsw.gov.au/resources/air/20060441notes.pdf</a>
<b>Water</b>	
Water Quality Objectives	<a href="http://www.environment.nsw.gov.au/leo/index.htm">http://www.environment.nsw.gov.au/leo/index.htm</a>
Australian and New Zealand Guidelines for Fresh and Marine Water Quality (2018)	<a href="https://www.waterquality.gov.au/guidelines/anz-fresh-marine">https://www.waterquality.gov.au/guidelines/anz-fresh-marine</a>
Using the ANZECC Guidelines and Water Quality Objectives in NSW (DEC, 2006)	<a href="https://www.environment.nsw.gov.au/research-and-publications/publications-search/using-the-anzecc-guidelines-and-water-quality-objectives-in-nsw">https://www.environment.nsw.gov.au/research-and-publications/publications-search/using-the-anzecc-guidelines-and-water-quality-objectives-in-nsw</a>
Approved Methods for the Sampling and Analysis of Water Pollutant in NSW (2004)	<a href="http://www.epa.nsw.gov.au/resources/legislation/approved-methods-water.pdf">http://www.epa.nsw.gov.au/resources/legislation/approved-methods-water.pdf</a>
<b>Stormwater Management</b>	<a href="https://www.environment.nsw.gov.au/research-and-publications/publications-search/managing-urban-stormwater-soils-and-construction-volume-1-4th-edition">https://www.environment.nsw.gov.au/research-and-publications/publications-search/managing-urban-stormwater-soils-and-construction-volume-1-4th-edition</a>

Title	Web address
<b>Noise and Vibration</b>	
Interim Construction Noise Guideline (2009) or if superseded by the Draft Construction Noise Guideline currently being exhibited	<a href="http://www.epa.nsw.gov.au/noise/constructnoise.htm">http://www.epa.nsw.gov.au/noise/constructnoise.htm</a>
Assessing Vibration: a technical guideline (2006)	<a href="http://www.epa.nsw.gov.au/noise/vibrationguide.htm">http://www.epa.nsw.gov.au/noise/vibrationguide.htm</a>
Noise Policy for Industry (EPA, 2017)	<a href="https://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)">https://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)</a>
NSW Road Noise Policy (2011)	<a href="https://www.epa.nsw.gov.au/~media/EPA/Corporate%20Site/resources/noise/2011236nswroadnoisepolicy.ashx">https://www.epa.nsw.gov.au/~media/EPA/Corporate%20Site/resources/noise/2011236nswroadnoisepolicy.ashx</a>
Noise Policy for Industry (EPA, 2017)	<a href="https://www.epa.nsw.gov.au/publications/noise/17p0524-noise-policy-for-industry">https://www.epa.nsw.gov.au/publications/noise/17p0524-noise-policy-for-industry</a>
NSW Rail Infrastructure Noise Guideline (EPA, 2013)	<a href="https://www.epa.nsw.gov.au/~media/epa/corporate-site/resources/noise/20130018eparig.pdf#:~:text=The%20Rail%20infrastructure%20noise%20guidelinereplaces%20the%20Interim%20guideline,are%20evaluated%20in%20a%20consistent%20and%20transparent%20manner">https://www.epa.nsw.gov.au/~media/epa/corporate-site/resources/noise/20130018eparig.pdf#:~:text=The%20Rail%20infrastructure%20noise%20guidelinereplaces%20the%20Interim%20guideline,are%20evaluated%20in%20a%20consistent%20and%20transparent%20manner</a>
<b>Waste</b>	
Waste Classification Guidelines (DECC, 2008)	<a href="https://www.epa.nsw.gov.au/your-environment/waste/classifying-waste/waste-classification-guidelines">https://www.epa.nsw.gov.au/your-environment/waste/classifying-waste/waste-classification-guidelines</a>
Resource Recovery Exemptions	<a href="https://www.epa.nsw.gov.au/your-environment/recycling-and-reuse/resource-recovery-framework/current-orders-and-exemption">https://www.epa.nsw.gov.au/your-environment/recycling-and-reuse/resource-recovery-framework/current-orders-and-exemption</a>
Circular Economy Policy	<a href="https://www.epa.nsw.gov.au/your-environment/recycling-and-reuse/response-to-china-national-sword/circular-economy-policy">https://www.epa.nsw.gov.au/your-environment/recycling-and-reuse/response-to-china-national-sword/circular-economy-policy</a>
Managing Industrial Waste	<a href="https://www.epa.nsw.gov.au/your-environment/waste/industrial-waste">https://www.epa.nsw.gov.au/your-environment/waste/industrial-waste</a>
<b>Contaminated Land</b>	
State Environmental Planning Policy 55 – Remediation of Land.	<a href="http://www.planning.nsw.gov.au/assessingdev/pdf/gu_contam.pdf">http://www.planning.nsw.gov.au/assessingdev/pdf/gu_contam.pdf</a>

Title	Web address
<b>Bunding and Spill Management</b>	
Storing and Handling Liquids: Environmental Protection - Participants Manual	<a href="https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/licensing/2007210liquidsmanual.pdf?la=en&amp;hash=F58F9A86A4293434464AC43554AEEEB7FDCF6E01">https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/licensing/2007210liquidsmanual.pdf?la=en&amp;hash=F58F9A86A4293434464AC43554AEEEB7FDCF6E01</a>
Environmental Compliance Report: Liquid Chemical Storage, Handling and Spill Management - Part B Review of Best Practice and Regulation	<a href="https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/licensing/ecrchemicalsb055590.pdf?la=en&amp;hash=5BDC31AB157E52F9F3098E663F6808709DEBE76F">https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/licensing/ecrchemicalsb055590.pdf?la=en&amp;hash=5BDC31AB157E52F9F3098E663F6808709DEBE76F</a>



20 December 2021

Department of Planning, Industry & Environment  
Locked Bag 5022  
Parramatta NSW 2124  
Via: Major Projects Portal

Attention: Sally Munk, [sally.munk@planning.nsw.gov.au](mailto:sally.munk@planning.nsw.gov.au)

Dear Sally,

**Request for SEARs for the proposed Manildra Port Kembla Bulk Liquid Terminal (SSD 33042483)**

Thank you for requesting input from Port Authority of NSW (Port Authority) on the Secretary's Environmental Assessment Requirements (SEARs) for the Manildra Port Kembla Bulk Liquid Terminal (SSD 33042483).

Port Authority is responsible for navigation, security and operational safety needs of commercial shipping in Port Kembla, which includes the role of Harbour Master. This includes safe navigation of shipping movements within the port, pilotage, port security, emergency response including marine oil and chemical spill response, and dangerous goods. In this regard, the following key issues and assessment requirements are provided as input to the SEARs for this project.

**Port Navigation** – an assessment of:

- the project's impacts on vessel navigation within Port Kembla during construction and operation, including consideration of current and future port operations.
- protocols for safe handling of ethanol vessels including under adverse meteorological conditions and including consideration of upcoming changes to Port Kembla from the construction of the Australian Industrial Energy facility and its emplacement cell (SSI 9471).
- any additional and/or upgraded port resources that may be required.

**Hazards and Risk** - an assessment of hazards and risk including a quantitative risk assessment covering all aspects of the project which may impose public risks including:

- identification of all potential hazards and associated control measures for all aspects of the project.
- a quantitative risk assessment to estimate the risks from activities of ethanol carrier ships and site operations, with reference to applicable international and/or Australian standards and

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**SYDNEY**

ABN: 50 825 884 846

[www.portauthoritiesnsw.com.au](http://www.portauthoritiesnsw.com.au)

**YAMBA**

PO Box 143  
Yamba NSW 2464  
T: 61 2 6646 2002

**NEWCASTLE**

PO Box 663  
Newcastle NSW 2300  
T: 61 2 4985 8222

**SYDNEY**

PO Box 25  
Millers Point NSW 2000  
T: 61 2 9296 4999

**PORT KEMBLA**

PO Box 89  
Port Kembla NSW 2505  
T: 61 2 4275 0100

**EDEN**

PO Box 137  
Eden NSW 2551  
T: 61 2 66461596

industry best practice. The risk assessment should consider the worst-case scenarios from all identified potential hazards that may result in off-site impact. It should also consider:

- potential risk exposure to all shipping terminal activities at the port, including cruise shipping; and
- the potential propagation risks to and from neighbouring industrial facilities.
- a quantitative pipeline risk assessment.
- a fire safety study.
- proposed on-going maintenance and safety management of the project inclusive of pipeline infrastructure.

Please don't hesitate to contact me for any further information.

Yours sincerely,



**Ryan Bennett**

Senior Planning and Sustainability Manager

Our ref: STH21/00171/01  
Contact: Timothy Mahoney  
Your ref: SSD-33042483

21 December 2021

Sally Munk  
Industry Assessments  
Department of Planning, Industry and Environment  
BY EMAIL: [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au)

**REQUEST FOR SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS (SEARS) –  
MANILDRA BULK LIQUID TERMINAL– NO.974 FORESHORE ROAD, PORT KEMBLA (SSD-33042483)**

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Dear Sally,

Transport for NSW refers to the notification it received on 6 December 2021 regarding the above request for input into SEARs for the Manildra Bulk Liquid Terminal.

TfNSW has completed a review of the information provided (report from TFA Project Group dated 3 December 2021, Rev C) while focussing on the impact to the state road network, rail corridors and waterways. This has included consultation with Sydney Trains and NSW Maritime. For this development the key classified/state roads are Old Port Road and Five Islands Road.

TfNSW notes:

- Input has been requested by the Secretary under Schedule 3 of the *Environmental Planning and Assessment Regulation 2000*; and
- The development will generate additional traffic that may impact upon TfNSW assets. These impacts need to be considered and adequately mitigated.

Having regard for the above, TfNSW requests the matters outlined in **Attachment 1** be included in any SEARS issued and as such should be addressed in the Environmental Impact Statement (EIS) prepared for the development.

If you have any questions, please contact Timothy Mahoney on 9549 9966. Please ensure that any further email correspondence is sent to [development.south@transport.nsw.gov.au](mailto:development.south@transport.nsw.gov.au).

Yours faithfully



Timothy Mahoney  
Development Case Officer  
Community and Place | South Region

Cc: [sally.munk@planning.nsw.gov.au](mailto:sally.munk@planning.nsw.gov.au);  
Cc: [Andris.Galvins@transport.nsw.gov.au](mailto:Andris.Galvins@transport.nsw.gov.au)  
Cc: [Navsouth@transport.nsw.gov.au](mailto:Navsouth@transport.nsw.gov.au)  
Cc: [DA\\_sydneytrains@transport.nsw.gov.au](mailto:DA_sydneytrains@transport.nsw.gov.au)

1. **Traffic Impact Study (TIS):** A TIS is required to examine any potential transport related implications of the development. As a guide Table 2.1 of the RTA's Guide to Traffic Generating Developments outlines the key issues that should be considered in preparing a TIS. In addition, regard should be had for the Austroads publications, particularly the *Austroads Guide to Traffic Management Part 12: Integrated Transport Assessments for Developments* and *Part 3: Traffic Studies and Analysis Methods*.

Noting the above, the TIS also needs to address, but not be limited to, the following:

- a) TfNSW considers that the traffic related issues relevant to the development should be considered and addressed in 2 distinct stages as follows:
  - i. *Construction phase* – The transport of materials and equipment/components for the establishment of the facility, ancillary infrastructure and the movement and parking of construction related vehicles including workers vehicles;
  - ii. *Operational phase* – The ongoing traffic generation due to the operation, maintenance and servicing of the various elements of the project.
- b) Noting the above stages the following need to be addressed for each stage:
  - i. Details of all traffic types (both heavy and light vehicles) and volumes, for each, likely to be generated by the proposed development during operation, including a description of heavy vehicle types and haul route origins and destinations;
  - ii. For heavy vehicles, details are required on their size and their associated carrying capacity for the receipt of materials;
  - iii. Daily inbound and outbound traffic profile by time of day and day of week broken down per vehicle types. This includes a summary of the peak hour movements and maximum daily movements for both heavy and light vehicles, including how these numbers correlate to the daily and annual limits for which approval is being sought;
  - iv. Details on how maximum vehicle numbers will be monitored to ensure ongoing compliance;
  - v. Road safety assessment including the impact of truck movements on public transport, pedestrian connectivity and cycling;
  - vi. Intersection performance impacts for times of peak construction activity
- c) An assessment of the cumulative impact of traffic from this development and nearby developments that use the same access to and from Five Islands Road/Old Port Road.
- d) An assessment of the suitability of the local road connections with the state road network at each access point being investigated as well as details on any works required (e.g. intersections of Old Port Road/Five Islands Road). This is including a schedule/timeframe for their provision;
- e) Traffic management plan on how to manage the number of vehicles likely to be generated during operation and awaiting loading, unloading or servicing that can be accommodated on the site to avoid queuing in the surrounding road network. This to demonstrate how internal and external traffic can be managed in conjunction with the operations on site;
- f) A site layout to demonstrate that the site will be able to accommodate the most productive vehicle types and parking on site is in accordance with the relevant Australian Standard and Council's Development Control Plan;
- g) Swept path diagrams to demonstrate the largest vehicles that will be using the classified road network where it connects with the local road network can undertake all required manoeuvres to enable access to and from the development site.

- h) A clearly illustrated site access and circulation plan, including swept paths, loading, storage and handling facilities and lines of sight for heavy vehicles
- i) Details of options for emergency services vehicles, with details on dangerous goods handling and storage areas.
- j) Proposed fuels and other dangerous goods required, their sources and vehicles to be used
- k) Plans for the proposed storage and handling facilities for dangerous goods within site.

Please note the above relates only to potential impacts on the state road network. Discussions should be had with Wollongong Council in relation to the information they may require to be included in the TIS concerning local road impacts.

2. **Dangerous Goods:** Demonstrate actions undertaken (and to be undertaken) to comply with the legislative and regulatory compliance associated with movement of dangerous goods including incident management.
3. **State Environmental Planning Policy (Infrastructure) 2007:** The provisions of Section 84, 85 and 104 need to be addressed as part of any EIS prepared.
4. **State Environmental Planning Policy (Three Ports) 2013:** Noting that this SEPP applies to the subject land, consultation with NSW Ports is recommended when developing the EIS.
5. **Strategic/Concept Design:** Should it be identified as part of preparing the EIS or during the assessment of the application that mitigation measures are required that will impact a state/classified road then a concept design for the proposed works will need to be prepared and submitted. This is needed to clarify the scope of works, demonstrate the works can be constructed within the road reserve and allow the consent authority to consider any environmental impacts of the works as part of their assessment.

The concept design submitted must include, but not be limited to, legal property boundaries (including the existing road reserve boundaries based on a survey), existing and proposed lane configurations and lane widths at a number of locations along the length of the proposed works, etc. The design provided should be based on a design speed that is 10km/h over the posted speed limit and should demonstrate compliance with the applicable requirements in *Austroads Guide to Road Design* and the relevant TfNSW supplements.

6. **Consultation:** TfNSW encourages further consultation, if required, during the preparation of the EIS to discuss issues/impacts on state classified roads (i.e. [development.south@transport.nsw.gov.au](mailto:development.south@transport.nsw.gov.au)) and/or rail corridors (please see to additional comments below).
7. **NSW Maritime:** NSW Maritime have reviewed the submitted documents and raised no concerns on the grounds of impact to safe navigation. Noting that the proponent, or any entity or contractor acting on their behalf, are not exempt from the provisions of the Marine Safety Act 1998, or any other relevant legislation, and all parties must comply with any direction given by NSW Maritime Authorised officers with regard to safe navigation or the prevention of pollution.
8. **Sydney Trains:** Sydney Trains have reviewed the submitted documents and raise no concerns. Sydney Trains requests to be consulted as a separate agency prior to lodgement of the EIS and when the EIS is formally exhibited (i.e. [DA\\_sydneytrains@transport.nsw.gov.au](mailto:DA_sydneytrains@transport.nsw.gov.au)).



Our ref: DOC21/1079634-2

Ms. Sally Munk  
Principle Planning Officer  
Energy Resource Assessment  
Department of Planning, Industry and Environment  
[sally.munk@planning.nsw.gov.au](mailto:sally.munk@planning.nsw.gov.au)

Dear Ms. Munk,

**Heritage NSW - Aboriginal Cultural Heritage - Manildra - Port Kembla Bulk Liquid Terminal - State Significant Infrastructure - (SSI-33042483) (Wollongong City) - Advice on SEARs.**

Thank you for your referral dated 6 December 2021, inviting comments on the on the proposed SEARs on the above State Significant Infrastructure (SSI) proposal, with respect to Aboriginal cultural heritage.

HNSW has reviewed the Manildra - Port Kembla Scoping Report, with respect to Aboriginal cultural heritage. Heritage NSW notes that the Port Kembla Outer Harbour Development, has undergone a previous Environmental Assessment, for the Outer Harbour Concept Plan, Application No: 08\_0249 in 2011. The assessment for that proposal was undertaken in accordance with relevant guidance material at the time, *Guidelines for Aboriginal Cultural Heritage Impact Assessment and Community Consultation, 2005* and the *Aboriginal Cultural Heritage Standards and Guidelines Kit, NPWS, 1997*. The initial assessment found that there were no Aboriginal sites are located within the proposed footprint and that impacts to Aboriginal heritage was considered unlikely, noting that no further assessment was required.

Heritage NSW recommends that the identification of cultural heritage values be conducted in accordance with the *Code of Practice for Archaeological Investigation in NSW (2010)*, and be guided by the *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW (2011)*. Consultation with Aboriginal people should be undertaken and documented in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010)*. Based on the previous assessment, Heritage NSW does not require the applicant to prepare an Aboriginal Cultural Heritage Assessment Report (ACHAR), however, an assessment of cultural values in consultation with the Aboriginal community should be undertaken, as the initial assessment was prepared under superseded guidance material. The significance of cultural heritage values for Aboriginal people who have a cultural association with the land should be recorded to support the project moving forward.

Should you require any further information, please contact Nicole Davis, Archaeologist, Aboriginal Cultural Heritage Regulation, Heritage NSW [nicole.davis@environment.nsw.gov.au](mailto:nicole.davis@environment.nsw.gov.au)

Yours sincerely

Nicole Y Davis - Archaeologist  
**Aboriginal Cultural Heritage Regulation**  
**Heritage NSW**  
**Department of Premier and Cabinet**  
20 December 2021

**Our Ref: C21/791**

20 December 2021

Sally Munk  
Principal Planning Officer  
DPIE Industry Assessments  
c/o: sally.munk@planning.nsw.gov.au

Dear Ms Munk,

**Re: SSD-33042483 – Manildra Port Kembla Bulk Liquid Terminal - Request for Secretary's environmental Assessment Requirements (SEARs)**

Thank you for your referral of 14 December 2021 seeking comment on DPI Fisheries (a division of NSW Department of Primary Industries) environmental assessment requirements for the Port Kembla Power Station.

DPI Fisheries is responsible for ensuring that fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend. To achieve this, DPI Fisheries ensures that developments comply with the requirements of the *Fisheries Management Act 1994* (FM Act) (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act, respectively), and the associated *Policy and Guidelines for Fish Habitat Conservation and Management (2013)* (DPI Policy). DPI Fisheries is also responsible for ensuring the sustainable management of commercial, recreational and Aboriginal cultural fishing, aquaculture, marine parks and aquatic reserves within NSW.

Port Kembla and its surrounding waters provides important key fish habitat and aquatic biodiversity values that sustain fish stocks and local fishing activity. Much effort has been placed into improving the aquatic environment within Port Kembla Harbour over the years and this has been valued by the community. The area of foreshore to the south and west of the wharf to be used as part of this proposal (shown in the diagram below) is a highly popular land-based recreational fishing location within Port Kembla. It is important that the project be designed to avoid, minimise, mitigate and then offset impacts on this key fish habitat, the aquatic environment and fishing activity in the area.





DPI Fisheries has reviewed the Manildra Port Kembla Scoping Report for for this proposal (TFA Project Group, ref 20399, dated 3 December 2021). Water quality impacts both during the construction and operational stages of this project have the potential to impact upon the aquatic environment and appropriate measures should be proposed to mitigate such impacts. The Scoping Study has made no mention of nor considered the potential impact to community/social uses to the area, such as recreational fishing. It mentions increased use of the wharf facility, however this has not been quantified and it does not include consideration of whether any changes to the current 50m exclusion zone around this wharf is proposed.

DPI Fisheries provides the following environmental assessment requirements for this proposal:

- 1) A clear description of the project and construction methodologies, including a clear justification for the proposal and proposed design of the works.
- 2) A description of the key fish habitat, aquatic biodiversity and recreational fishing activities adjacent to the footprint of the proposal.
- 3) An assessment of the potential for water quality impacts on the aquatic environment during construction and operation of the facility (from stormwater discharge and potential emergency incidents).
- 4) A clear description of design and operational measures to mitigate potential water quality impacts on the aquatic environment.
- 5) An assessment of the potential impact of the construction and operation of this facility (including shipping movements) on recreational fishing amenity.
- 6) A clear description of design and operational measures to avoid, minimise and mitigate impacts on recreational fishing amenity.



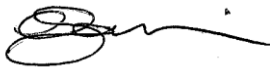
- 7) Consideration of potential offsetting measures should loss of recreational fishing amenity at the land-based fishing site (shown above) or increase in the exclusion zone around the wharf be proposed either directly or indirectly as part of this proposal.

A list of DPI Fisheries general information requirements for environmental assessment of development proposals is also provided in section 3.3 of the DPI Policy.

Considering the large losses in amenity to land-based fishing activity at Port Kembla with the closure of the eastern breakwater to recreational fishing, and existing exclusion zones to vessel-based recreational fishing within the port, additional closures to recreational fishing are not supported.

Please contact Carla Ganassin on 4222 8342 or [carla.ganassin@dpi.nsw.gov.au](mailto:carla.ganassin@dpi.nsw.gov.au) should you wish to discuss this response.

Yours sincerely,



**Carla Ganassin**

Senior Fisheries Manager, Coastal Systems



OUT21/17757

Sally Munk  
Planning and Assessment Group  
NSW Department of Planning, Industry and Environment

[sally.munk@planning.nsw.gov.au](mailto:sally.munk@planning.nsw.gov.au)

Dear Ms Munk

**Manildra - Port Kembla Bulk Liquid Terminal (SSD-33042483)  
Comment on the Secretary's Environmental Assessment Requirements (SEARs)**

I refer to your email of 6 December 2021 to the Department of Planning, Industry and Environment (DPIE) Water and the Natural Resources Access Regulator (NRAR) about the above matter.

The following recommendations are provided by DPIE Water and NRAR.

The SEARS should include:

- The identification of an adequate and secure water supply for the life of the project. This includes confirmation that water can be sourced from an appropriately authorised and reliable supply. This is also to include an assessment of the current market depth where water entitlement is required to be purchased.
- A detailed and consolidated site water balance.
- Assessment of impacts on surface and ground water sources (both quality and quantity), related infrastructure, adjacent licensed water users, basic landholder rights, watercourses, riparian land, and groundwater dependent ecosystems, and measures proposed to reduce and mitigate these impacts.
- Proposed surface and groundwater monitoring activities and methodologies.
- Consideration of relevant legislation, policies and guidelines, including the NSW Aquifer Interference Policy (2012), the Guidelines for Controlled Activities on Waterfront Land (2018) and the relevant Water Sharing Plans (available at <https://water.dpie.nsw.gov.au/home>).

Any further referrals to DPIE Water and NRAR can be sent by email to [water.assessments@dpie.nsw.gov.au](mailto:water.assessments@dpie.nsw.gov.au), or to the following coordinating officer within DPIE Water: Alistair Drew, Project Officer, E: [Alistair.drew@dpie.nsw.gov.au](mailto:Alistair.drew@dpie.nsw.gov.au)

Yours sincerely

Alistair Drew  
Project Officer, Assessments, Knowledge Division  
**Department of Planning, Industry and Environment: Water**  
9 December 2021



Our ref: DOC21/1112440  
Senders ref: PAE-33041055

Sally Munk  
Energy, Resources and Industry Division  
Department of Planning, Industry and  
Environment  
E-mail: [Sally.munk@planning.nsw.gov.au](mailto:Sally.munk@planning.nsw.gov.au)

Dear Ms Munk

**Subject:** Major Projects – New Request for Advice – Manildra Port Kembla Bulk Liquid Terminal (SSD-33042483)

Thank you for your email of 6 December 2021, requesting input on the abovementioned major project.

Attachment A lists the suggested environmental assessment requirements that will need to be addressed for the project. Attachment B lists the guidance material that will assist the preparation of the environmental assessment.

We note that the project proponent intends to seek a waiver for a biodiversity development assessment report (BDAR) under section 7.9 of the *Biodiversity Conservation Act 2016*. Please find enclosed the Fact Sheet - How to apply for a BDAR waiver for a Major Project Application. If a BDAR waiver is not pursued, the biodiversity requirements in Attachment A must be addressed as part of the environmental assessment for the project.

If you have any questions regarding this advice, please do not hesitate to contact Chris Page, Senior Team Leader, Planning (Illawarra), via [chris.page@environment.nsw.gov.au](mailto:chris.page@environment.nsw.gov.au) or 4224 4180.

Yours sincerely



17/12/2021

Michael Saxon

**Director South East**

**Biodiversity and Conservation Division**

Attachment A: EES Recommended Environmental Assessment Requirements (EARs) for Manildra Port Kembla Bulk Liquid Terminal Project

Attachment B: Guidance Material

**Attachment A – EES Recommended Environmental Assessment Requirements (EARs)  
for the proposed Manildra Port Kembla Bulk Liquid Terminal Project (SSI-33042483)**

**1. Biodiversity**

1. Biodiversity impacts related to the proposed project are to be assessed in accordance with the [Biodiversity Assessment Method](#) and documented in a Biodiversity Development Assessment Report (BDAR). The BDAR must include information in the form detailed in the *Biodiversity Conservation Act 2016* (s6.12), *Biodiversity Conservation Regulation 2017* (s6.8) and [Biodiversity Assessment Method](#).
2. The BDAR must document the application of the avoid, minimise and offset hierarchy including assessing all direct, indirect and prescribed impacts in accordance with the [Biodiversity Assessment Method](#).
3. The BDAR must include details of the measures proposed to address the offset obligation as follows;
  - The total number and classes of biodiversity credits required to be retired for the project;
  - The number and classes of like-for-like biodiversity credits proposed to be retired;
  - The number and classes of biodiversity credits proposed to be retired in accordance with the variation rules;
  - Any proposal to fund a [biodiversity conservation action](#);
  - Any proposal to conduct ecological rehabilitation (if a mining project); and
  - Any proposal to make a payment to the Biodiversity Conservation Fund.

If seeking approval to use the variation rules, the BDAR must contain details of the [reasonable steps](#) that have been taken to obtain requisite like-for-like biodiversity credits.
4. The BDAR must be prepared by a person accredited in accordance with the Accreditation Scheme for the Application of the Biodiversity Assessment Method Order 2017 under s6.10 of the *Biodiversity Conservation Act 2016*.

**2. Water and Soils**

1. The Environmental Impact Statement (EIS) must map the following features relevant to water and soils including:
  - a. Acid sulfate soils (Class 1, 2, 3 or 4 on the Acid Sulfate Soil Planning Map).
  - b. Rivers, streams, estuaries (as described in s4.2 of the [Biodiversity Assessment Method](#)).

- c. Wetlands (as described in s4.2 of the [Biodiversity Assessment Method](#). Coastal wetlands include all areas mapped as 'Coastal Wetlands' under the [NSW Coastal Management State Environmental Planning Policy](#) 2018.
  - d. Groundwater.
  - e. Groundwater dependent ecosystems.
  - f. Proposed intake and discharge locations.
2. The EIS must describe background conditions for any water resource likely to be affected by the project, including:
  - a. Existing surface and groundwater.
  - b. Hydrology, including volume, frequency and quality of discharges at proposed intake and discharge locations.
  - c. Water Quality Objectives (as endorsed by the NSW Government <http://www.environment.nsw.gov.au/ieo/index.htm>) including groundwater as appropriate that represent the community's uses and values for the receiving waters.
  - d. Indicators and trigger values/criteria for the environmental values identified at (c) in accordance with the [ANZECC \(2000\) Guidelines for Fresh and Marine Water Quality](#) and/or local objectives, criteria or targets endorsed by the NSW Government.
  - e. [Risk-based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions](#).
3. The EIS must assess the impacts of the project on water quality, including:
  - a. The nature and degree of impact on receiving waters for both surface and groundwater, demonstrating how the project protects the Water Quality Objectives where they are currently being achieved, and contributes towards achievement of the Water Quality Objectives over time where they are currently not being achieved. This should include an assessment of the mitigating effects of proposed stormwater and wastewater management during and after construction.
  - b. Identification of proposed monitoring of water quality.
  - c. How the development meets the objectives of the *Coastal Management Act 2016* and management objectives of relevant Coastal Management Areas defined under this Act.
  - d. Consistency with any relevant certified Coastal Management Program (or Coastal Zone Management Plan)
4. The EIS must assess the impact of the project on hydrology, including:
  - a. Water balance including quantity, quality and source.
  - b. Effects to downstream rivers, wetlands, estuaries, marine waters and floodplain areas.
  - c. Effects to downstream water-dependent fauna and flora including groundwater dependent ecosystems.

- d. Impacts to natural processes and functions within rivers, wetlands, estuaries and floodplains that affect river system and landscape health such as nutrient flow, aquatic connectivity and access to habitat for spawning and refuge (e.g. river benches).
- e. Changes to environmental water availability, both regulated/licensed and unregulated/rules-based sources of such water.
- f. Mitigating effects of proposed stormwater and wastewater management during and after construction on hydrological attributes such as volumes, flow rates, management methods and re-use options.
- g. Identification of proposed monitoring of hydrological attributes.

### 3. Flooding

1. The EIS must map the following features relevant to flooding as described in the Floodplain Development Manual 2005 (NSW Government 2005) including:
  - a. Flood prone land
  - b. Flood planning area, the area below the flood planning level.
  - c. Hydraulic categorisation (floodways and flood storage areas).
2. The EIS must describe flood assessment and modelling undertaken in determining the design flood levels for events, including a minimum of the 1 in 10 year, 1 in 100 year flood levels and the probable maximum flood, or an equivalent extreme event.
3. The EIS must model the effect of the proposed project (including fill) on the flood behaviour under the following scenarios:
  - a. Current flood behaviour for a range of design events as identified in 3 above. This includes the 1 in 200 or 1 in 500 year flood events as proxies for assessing sensitivity to an increase in rainfall intensity of flood producing rainfall events due to climate change.
4. Modelling in the EIS must consider and document:
  - a. The impact on existing flood behaviour for a full range of flood events including up to the probable maximum flood.
  - b. Impacts of the development on flood behaviour resulting in detrimental changes in potential flood affection of other developments or land. This may include redirection of flow, flow velocities, flood levels, hazards and hydraulic categories.
  - c. Relevant provisions of the NSW Floodplain Development Manual 2005.
5. The EIS must assess the proposed project on merits, including:
  - a. Whether there will be detrimental increases in the potential flood affectation of other properties, assets and infrastructure.
  - b. Consistency with Council floodplain risk management plans.
  - c. Compatibility with the flood hazard of the land.

- d. Compatibility with the hydraulic functions of flow conveyance in floodways and storage in flood storage areas of the land.
  - e. Whether there will be adverse effect to beneficial inundation of the floodplain environment, on, adjacent to or downstream of the site.
  - f. Whether there will be direct or indirect increase in erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.
  - g. Any impacts the development may have upon existing community emergency management arrangements for flooding. These matters are to be discussed with the SES and Council.
  - h. Whether the proposal incorporates specific measures to manage risk to life from flood. These matters are to be discussed with the SES and Council.
  - i. Emergency management, evacuation and access, and contingency measures for the development considering the full range of flood risk (based upon the probable maximum flood or an equivalent extreme flood event). These matters are to be discussed with and have the support of Council and the SES.
  - j. Any impacts the development may have on the social and economic costs to the community as consequence of flooding.
6. The EIS must describe the potential effects of coastal processes and hazards (within the meaning of the *Coastal Management Act 2016*), including sea level rise and climate change:
- a. On the proposed development
  - b. Arising from the proposed development.
7. The EIS must have regard to any certified Coastal Management Program (or Coastal Zone Management Plan) and be consistent with the management objectives described in the Coastal Management Act 2016 and development controls for coastal management areas mapped under the *State Environmental Planning Policy (Coastal Management) 2018*.

**The EIS must also address the following site-specific requirements:**

8. The EIS must detail:
- a. The storage levels of any hazardous materials.
  - b. The structural integrity of any proposed storage buildings / structures in events up to and including the PMF.
  - c. An assessment of impacts, risks and controls associated with inundation of the facility or structures containing hazardous materials including any off-site impacts in large to extreme floods up to the PMF.

#### 4. Coastal Hazards & Coastal Management Areas

1. The EIS must describe the potential effects of coastal processes and hazards (within the meaning of the *Coastal Management Act 2016*), including sea level rise and climate change:
  - a. On the proposed development
  - b. Arising from the proposed development.
2. The EIS must consider the effects of coastal processes and hazards (within the meaning of the *Coastal Management Act 2016*), impacting the site under the following scenarios:
  - a. Current sea level.
  - b. Projected future climate change (including sea level rise) scenarios that have been peer-reviewed and widely accepted by scientific opinion.
3. The EIS must have regard to and document:
  - a. Consistency with any certified Coastal Management Program (or Coastal Zone Management Plan) and coastal zone emergency action subplans
  - b. Consistency with management objectives of Coastal Management Areas described in the *Coastal Management Act 2016* and relevant development controls described in the *Coastal Management SEPP 2018*.
  - c. Consistency with any existing entrance management policies or strategies for coastal lakes and lagoons



## Attachment B – Guidance Material

Title	Web address
<b><u>Relevant Legislation</u></b>	
<i>Biodiversity Conservation Act 2016</i>	<a href="https://www.legislation.nsw.gov.au/#/view/act/2016/63/full">https://www.legislation.nsw.gov.au/#/view/act/2016/63/full</a>
<i>Coastal Management Act 2016</i>	<a href="https://www.legislation.nsw.gov.au/#/view/act/2016/20/full">https://www.legislation.nsw.gov.au/#/view/act/2016/20/full</a>
<i>State Environmental Planning Policy (Coastal Management) 2018</i>	<a href="https://www.legislation.nsw.gov.au/#/view/EPI/2018/106/full">https://www.legislation.nsw.gov.au/#/view/EPI/2018/106/full</a>
<i>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</i>	<a href="http://www.austlii.edu.au/au/legis/cth/consol_act/epabca1999588/">http://www.austlii.edu.au/au/legis/cth/consol_act/epabca1999588/</a>
<i>Environmental Planning and Assessment Act 1979</i>	<a href="http://www.legislation.nsw.gov.au/maintop/view/inforce/act+203+1979+cd+0+N">http://www.legislation.nsw.gov.au/maintop/view/inforce/act+203+1979+cd+0+N</a>
<i>Fisheries Management Act 1994</i>	<a href="http://www.legislation.nsw.gov.au/maintop/view/inforce/act+38+1994+cd+0+N">http://www.legislation.nsw.gov.au/maintop/view/inforce/act+38+1994+cd+0+N</a>
<i>Marine Parks Act 1997</i>	<a href="http://www.legislation.nsw.gov.au/maintop/view/inforce/act+64+1997+cd+0+N">http://www.legislation.nsw.gov.au/maintop/view/inforce/act+64+1997+cd+0+N</a>
<i>National Parks and Wildlife Act 1974</i>	<a href="http://www.legislation.nsw.gov.au/maintop/view/inforce/act+80+1974+cd+0+N">http://www.legislation.nsw.gov.au/maintop/view/inforce/act+80+1974+cd+0+N</a>
<i>Protection of the Environment Operations Act 1997</i>	<a href="http://www.legislation.nsw.gov.au/maintop/view/inforce/act+156+1997+cd+0+N">http://www.legislation.nsw.gov.au/maintop/view/inforce/act+156+1997+cd+0+N</a>
<i>Water Management Act 2000</i>	<a href="http://www.legislation.nsw.gov.au/maintop/view/inforce/act+92+2000+cd+0+N">http://www.legislation.nsw.gov.au/maintop/view/inforce/act+92+2000+cd+0+N</a>
<i>Wilderness Act 1987</i>	<a href="http://www.legislation.nsw.gov.au/viewtop/inforce/act+196+1987+FIRST+0+N">http://www.legislation.nsw.gov.au/viewtop/inforce/act+196+1987+FIRST+0+N</a>
<b><u>Biodiversity</u></b>	
Biodiversity Assessment Method (OEH, 2017)	<a href="http://www.environment.nsw.gov.au/resources/bcact/biodiversity-assessment-method-170206.pdf">http://www.environment.nsw.gov.au/resources/bcact/biodiversity-assessment-method-170206.pdf</a>
Guidance and Criteria to assist a decision maker to determine a serious and irreversible impact (OEH, 2017)	<a href="http://www.environment.nsw.gov.au/resources/bcact/guidance-decision-makers-determine-serious-irreversible-impact-170204.pdf">http://www.environment.nsw.gov.au/resources/bcact/guidance-decision-makers-determine-serious-irreversible-impact-170204.pdf</a>
Fisheries NSW policies and guidelines	<a href="http://www.dpi.nsw.gov.au/fisheries/habitat/publications/policies,-guidelines-and-manuals/fish-habitat-conservation">http://www.dpi.nsw.gov.au/fisheries/habitat/publications/policies,-guidelines-and-manuals/fish-habitat-conservation</a>
List of national parks	<a href="http://www.environment.nsw.gov.au/NationalParks/parksearchatoz.aspx">http://www.environment.nsw.gov.au/NationalParks/parksearchatoz.aspx</a>
Revocation, recategorisation and road adjustment policy (OEH, 2012)	<a href="http://www.environment.nsw.gov.au/policies/RevocationOfLandPolicy.htm">http://www.environment.nsw.gov.au/policies/RevocationOfLandPolicy.htm</a>
Guidelines for developments adjoining land and water managed by the	<a href="http://www.environment.nsw.gov.au/protectedareas/developmntadjoiningdecc.htm">http://www.environment.nsw.gov.au/protectedareas/developmntadjoiningdecc.htm</a>

Title	Web address
Department of Environment, Climate Change and Water (DECCW, 2010)	
<b><u>Water and Soils</u></b>	
<b>Acid sulphate soils</b>	
Acid Sulfate Soils Planning Maps via Data.NSW	<a href="http://data.nsw.gov.au/data/">http://data.nsw.gov.au/data/</a>
Acid Sulfate Soils Manual (Stone et al. 1998)	<a href="http://www.environment.nsw.gov.au/resources/epa/Acid-Sulfate-Manual-1998.pdf">http://www.environment.nsw.gov.au/resources/epa/Acid-Sulfate-Manual-1998.pdf</a>
Acid Sulfate Soils Laboratory Methods Guidelines (Ahern et al. 2004)	<a href="http://www.environment.nsw.gov.au/resources/soils/acid-sulfate-soils-laboratory-methods-guidelines.pdf">http://www.environment.nsw.gov.au/resources/soils/acid-sulfate-soils-laboratory-methods-guidelines.pdf</a> This replaces Chapter 4 of the Acid Sulfate Soils Manual above.
<b>Flooding and Coastal Hazards</b>	
Coastal management	<a href="https://www.environment.nsw.gov.au/topics/water/coasts/coastal-management">https://www.environment.nsw.gov.au/topics/water/coasts/coastal-management</a>
Floodplain development manual	<a href="http://www.environment.nsw.gov.au/floodplains/manual.htm">http://www.environment.nsw.gov.au/floodplains/manual.htm</a>
Coastal Management Manual	<a href="https://www.environment.nsw.gov.au/topics/water/coasts/coastal-management/manual">https://www.environment.nsw.gov.au/topics/water/coasts/coastal-management/manual</a>
<a href="#">NSW Climate Impact Profile</a>	<a href="http://climatechange.environment.nsw.gov.au/">http://climatechange.environment.nsw.gov.au/</a>
Climate Change Impacts and Risk Management	<a href="#">Climate Change Impacts and Risk Management: A Guide for Business and Government, AGIC Guidelines for Climate Change Adaptation</a>
<b>Water</b>	
Water Quality Objectives	<a href="http://www.environment.nsw.gov.au/ieo/index.htm">http://www.environment.nsw.gov.au/ieo/index.htm</a>
ANZECC (2000) Guidelines for Fresh and Marine Water Quality	<a href="http://www.environment.gov.au/water/publications/quality/australian-and-new-zealand-guidelines-fresh-marine-water-quality-volume-1">www.environment.gov.au/water/publications/quality/australian-and-new-zealand-guidelines-fresh-marine-water-quality-volume-1</a>
Applying Goals for Ambient Water Quality Guidance for Operations Officers – Mixing Zones	<a href="http://deccnet/water/resources/AWQGuidance7.pdf">http://deccnet/water/resources/AWQGuidance7.pdf</a>
Approved Methods for the Sampling and Analysis of Water Pollutant in NSW (2004)	<a href="http://www.environment.nsw.gov.au/resources/legislation/approvedmethods-water.pdf">http://www.environment.nsw.gov.au/resources/legislation/approvedmethods-water.pdf</a>
Water	<a href="https://www.environment.nsw.gov.au/topics/water">https://www.environment.nsw.gov.au/topics/water</a>
Stormwater management	<a href="https://www.environment.nsw.gov.au/stormwater/index.htm">https://www.environment.nsw.gov.au/stormwater/index.htm</a>

Title	Web address
Waterway health assessment	<a href="https://www.environment.nsw.gov.au/water/waterway-health-assessment.htm">https://www.environment.nsw.gov.au/water/waterway-health-assessment.htm</a>
Using NSW Water Quality Objectives	<a href="https://www.environment.nsw.gov.au/water/planningusingwqos.htm">https://www.environment.nsw.gov.au/water/planningusingwqos.htm</a>
Risk based framework for considering waterway health.	<a href="https://www.environment.nsw.gov.au/research-and-publications/publications-search/risk-based-framework-for-considering-waterway-health-outcomes-in-strategic-land-use-planning">https://www.environment.nsw.gov.au/research-and-publications/publications-search/risk-based-framework-for-considering-waterway-health-outcomes-in-strategic-land-use-planning</a>

# How to apply for a BDAR waiver for a Major Project Application



## Fact Sheet

October 2019

This fact sheet provides information on when a biodiversity development assessment report (BDAR) under the *Biodiversity Conservation Act 2016* may not be required for State Significant Development (SSD) and State Significant Infrastructure (SSI) applications. It also explains how to lodge an application to waive this requirement with the Department of Planning, Industry and Environment.

### Background

SSD and SSI are regulated under the *Environmental Planning and Assessment Act 1979*, which requires proponents to apply to the Minister of Planning for development consent or infrastructure approval, supported by an environmental impact statement (EIS). These applications are also subject to biodiversity assessment requirements under the *Biodiversity Conservation Act 2016* (BC Act).

The BC Act requires that an SSD or SSI application must be accompanied by a biodiversity development assessment report (BDAR) unless,

- the Planning Agency Head, and
- the Environment Agency Head

determine that the proposed development is not likely to have any significant impact on biodiversity values.

This determination is referred to here as a BDAR waiver.

### What is a BDAR?

A BDAR is a report required under the BC Act and is prepared by a person accredited (under section 6.10 of the BC Act) to apply the biodiversity assessment method (BAM). The BAM is an assessment manual that provides a consistent method for the assessment of biodiversity, including assessing certain impacts on threatened species and threatened ecological communities, their habitats, and impacts on biodiversity values. A BDAR provides guidance on how a proponent can avoid and minimise potential biodiversity impacts and identifies the number and class of biodiversity credits that need to be offset to achieve a standard of 'no net loss' of biodiversity.

### In what circumstances is it likely that a BDAR waiver be issued?

A BDAR waiver will only be issued in limited circumstances where it is clearly demonstrated, based on information provided in accordance with this fact sheet, that the proposed development is not likely to have any significant impact on biodiversity values. For example, internal works to an existing building or development on a brownfield site with no threatened species habitat. Development that requires clearing of native vegetation is likely to require a BDAR. If there is doubt regarding potential impacts, or where information is not made available, a BDAR waiver will not be issued.

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**Note:** A BDAR or BDAR waiver is not required if the SSD or SSI is proposed to be carried out on 'biodiversity certified land' as described in Part 8 of the BC Act.

## When do I request a waiver?

A BDAR waiver request should be lodged before the SSD or SSI application is made.

For SSD, it is recommended that proponents wishing to request a BDAR waiver do so at the same time a request for SEARs is made. This will help ensure that proponents are made aware of all relevant biodiversity assessment requirements for the proposed development as early as possible.

For SSI the proponent should lodge a waiver application before applying for approval from the Minister to carry out SSI, which triggers the requirement for the Secretary to prepare environmental assessment requirements. A BDAR waiver application should be lodged and the request determined prior to the SEARs being issued so that the SEARs reflect the biodiversity assessment requirements for the proposal.

## Can a BDAR waiver be issued for a concept development application (SSD) or a staged infrastructure proposal (SSI)?

Concept development applications for SSD and certain staged infrastructure proposals<sup>1</sup> for SSI trigger the requirement for a BDAR unless the requirement is waived under s7.9(2) of the BC Act.

To apply for a BDAR waiver for a concept development application or staged infrastructure proposal, the concept proposals must be sufficiently defined to enable impacts on biodiversity values to be identified. The proponent will need to address the likely impact of the concept proposals on biodiversity values, including any clearing of native vegetation that is required or likely to be required for the concept proposals. As a minimum, the proponent must identify a development footprint and address the information requirements in Tables 1 and 2 at Attachment A.

Whether a separate BDAR waiver determination is required for subsequent SSD or SSI applications associated with a concept development consent or staged infrastructure approval will depend on whether the subsequent application is consistent with the description of 'proposed development' in the initial waiver determination.

## Who should prepare the BDAR waiver application?

The request for a BDAR waiver and the accompanying information (as explained later in this fact sheet) does not need to be prepared by a BAM accredited person. However, a **suitably qualified person**<sup>2</sup> should prepare the BDAR waiver application when one or more biodiversity values are relevant to the proposed development, ie, one or more biodiversity values are present on the development site or there is potential for direct or indirect impacts on a biodiversity value off-site.

<sup>1</sup> A BDAR or a BDAR waiver determination may not be required for a staged infrastructure application that is for concept approval only, and not also the first stage of the project. In such cases please contact the Department to discuss the biodiversity assessment requirements of the proposal.

<sup>2</sup> A suitably qualified person is a person with tertiary qualifications in natural sciences including subjects that relate to the observation and description of terrestrial biodiversity and landforms, and at least three years of work experience in environmental assessment including field identification of plant and animal species and habitats.

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### What information must accompany a BDAR waiver request?

A request for a BDAR waiver is to include the information set out in Table 1 and Table 2 in Attachment A. This includes information on the proponent, site and project and the likely impacts on the biodiversity values.

Proponents must address all of the impacts on biodiversity values to which the biodiversity offsets scheme applies under section 6.3 of the BC Act. Biodiversity values are defined in the BC Act and the Biodiversity Conservation Regulation 2017 (BC Regulation). The BC Regulation (clause 6.1) prescribes additional impacts on biodiversity values to be assessed under the biodiversity offsets scheme. The BDAR waiver request must explain whether each value is relevant to the site and/or the proposed development and provide supporting information to explain the likelihood and extent of any potential impacts, including prescribed impacts.

### Impacts to threatened species habitat for non-native vegetation and human made structures

If the proposed development includes demolition of buildings and/or impacts to other human made structures, such as water bodies or other derived habitat features, there may be impacts to threatened species. Where relevant, the BDAR waiver request should include the details of potential habitat in non-native vegetation and human made structures and demonstrate how surveys have been conducted for the presence of threatened species.

For example, to survey for threatened Microbats in buildings proposed to be demolished, daytime roost searches should be carried out. A search is to be undertaken by looking for bats or signs of bats in suitable roost habitat during the daytime. All roost searches should use a torch to shine in holes, cracks and crevices, and carry a handheld bat detector to locate bats that may call. If bats are detected, observers must confirm the identity of the species and determine if the roost is a maternity roost. A description of the searches undertaken should be provided in the report.

**Note:** A BDAR for SSD or SSI does not need to assess the impacts of any clearing of native vegetation and loss of habitat on land classified as **'Category 1-exempt land'** other than impacts **'prescribed'** in [clause 6.1 of the BC Regulation](#). Therefore, for any part of the proposed development that is on Category 1-exempt land, only 'prescribed impacts' on biodiversity values are required to be considered in a request for a BDAR waiver.

In such cases proponents must provide information demonstrating how the relevant parts of the land meets any of the following criteria for Category 1 land;

- Land cleared of native vegetation as at 1 January 1990 or lawfully cleared after 1 January 1990
- Low conservation grasslands
- Land containing only low conservation groundcover (not being grasslands)
- Native vegetation identified as regrowth in a Property Vegetation Plan under the repealed Native Vegetation Act 2003
- Land bio-certified under the Biodiversity Conservation Act 2016 (BC Act)

### Where do I lodge a BDAR waiver request?

The BDAR waiver request can be lodged with the Department of Planning, Industry and Environment (The Department) via the Major Projects website (or via [information@planning.nsw.gov.au](mailto:information@planning.nsw.gov.au)). All necessary information must be provided with the request in

# How to apply for a BDAR waiver for a Major Project Application

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accordance with the information requirements outlined in Attachment A. The Department may contact you if more information is required to process the request.

## How long will it take to determine the application?

A BDAR waiver determination will generally be made within 28 days of the request being received.

If a BDAR waiver is not granted, there is no appeal mechanism and a BDAR must be submitted with the SSD/ SSI.

**Note:** Regardless of whether a BDAR is required or not, SSD and SSI proponents may need to undertake a separate biodiversity assessment as part of their project application. The SEARs may outline further biodiversity matters that need to be addressed in the EIS (e.g. aquatic habitat including rivers, wetlands, lakes, estuaries, GWD ecosystems, marine environments; environmental flows, fish passage and water quality; marine protected areas; fish conservation including threatened fish and aquatic flora species protection; marine mammals, wandering sea birds).

If you wish to contact the Department to discuss the specific information requirements that may be relevant to your site, prior to lodging your request for a BDAR waiver you can contact the Department on 1300 305 695.



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### Attachment A – Information to include with BDAR waiver request

All requests for a BDAR waiver are to include the information requirements set out in **Tables 1 and 2** below.

**TABLE 1: BDAR waiver request information requirements**

<b>Admin</b>	<ul style="list-style-type: none"> <li>Proponent name and contact details</li> <li>Project ID (Information to identify which SSD or SSI project the request relates to and where the project is up to in the assessment process)</li> <li>Name and ecological qualifications of person completing <b>TABLE 2</b></li> </ul>
<b>Site details</b>	<ul style="list-style-type: none"> <li>Street address, Lot and DP, local government area</li> <li>Description of existing development site, ie, the area of land that is subject to the proposed development application. If any part of the land is considered 'Category 1-exempt land' information must be provided to demonstrate how the land meets the <a href="#">criteria</a><sup>3</sup> that applies to Category 1 – Exempt Land.</li> <li>Location map showing the development site in the context of surrounding areas and landscape features. Satellite image of site in context of adjoining sites.</li> <li>Site Map (to scale, ideally as a spatial shapefile)</li> </ul>
<b>Proposed development</b>	<ul style="list-style-type: none"> <li>Project Description providing enough information to enable an understanding of the nature and scale of the proposed development and any associated activities (including construction etc)</li> <li>Proposed Site Plan</li> </ul>
<b>Impacts on biodiversity values</b>	<ul style="list-style-type: none"> <li>Complete <b>TABLE 2</b> below on Biodiversity Values</li> <li>For each biodiversity value, the proponent must either: <ul style="list-style-type: none"> <li>explain why the value is not relevant to the proposed development; or,</li> <li>where a biodiversity value may be relevant, provide an explanation of how impacts have been avoided and identify the likelihood and extent of any remaining impacts of the proposed development, including impacts prescribed under clause 6.1 of the BC Regulation.</li> </ul> </li> <li>A biodiversity value is not relevant to a proposed development if the value is not present on the development site AND there is no potential for direct or indirect impacts on the biodiversity value if it occurs off-site.</li> <li>Where one or more biodiversity values may be relevant to the proposed development, TABLE 2 is to be completed by a <b>suitably qualified person</b> with tertiary qualifications in natural sciences including subjects that relate to the observation and description of terrestrial biodiversity and landforms, and at least three years of work experience in environmental assessment including field identification of plant and animal species and habitats. The person does not need to be an accredited person under the BC Act.</li> <li>Attach any additional information required where biodiversity values are relevant to the site. E.g. Vegetation Map (indicating plant community types), Ecology Reports, Water Quality data, BioNet Atlas, Directory of Important Wetlands (DIWA), migratory bird flyway information.</li> </ul>

<sup>3</sup> <https://www.ils.nsw.gov.au/sustainable-land-management/facts-sheets2/land-categorisation-and-the-land-management-framework>



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**TABLE 2: Impacts of the proposed development on biodiversity values**

Biodiversity value	Meaning	Relevant (✓ or NA)	Explain and document potential impacts including additional impacts prescribed under the BC Regulation Attach additional supporting documentation where appropriate
Vegetation abundance -  1.4(b) BC Regulation	Occurrence and abundance of vegetation at a particular site		<p>Where vegetation is present on the development site, provide a map on digital aerial photography or the best available imagery of the development site showing:</p> <ul style="list-style-type: none"> <li>• native vegetation (including grasslands and other non-woody vegetation types) and non-native vegetation, and</li> <li>• the area of land that is directly impacted by the proposed development, including related infrastructure such as roads, pipelines, access tracks, temporary material stockpiles, asset protection zones and powerlines, if applicable.</li> </ul> <p>Describe how the proposed development avoids impacts on native vegetation and identify the likelihood and extent of any remaining impacts including removal of isolated or cultivated native plants.</p>
Vegetation integrity  1.5(2)(a) BC Act	Degree to which the composition, structure and function of vegetation at a particular site and the surrounding landscape has been altered from a near natural state		Describe the vegetation integrity and any impacts on vegetation integrity of identified plant communities. For example, information on impacts from proposed development to vegetation cover, structure, condition and function. This can include details on the presence of weeds, disturbance, planted native vegetation and species and growth form diversity.
Habitat suitability  1.5(2)(b) BC Act	Degree to which the habitat needs of threatened species are present at a particular site		<p>Identify any threatened species or ecological communities or their habitat on the development site.</p> <p>Describe how the proposed development avoids impacts on habitat suitability and identify the likelihood and extent of any remaining impacts including the impacts of development on the following habitat of threatened species or ecological communities:</p> <ul style="list-style-type: none"> <li>(i) karst, caves, crevices, cliffs and other geological features of significance,</li> <li>(ii) rocks,</li> <li>(iii) human made structures,</li> <li>(iv) non-native vegetation,</li> </ul> <p><b>(prescribed under clause 6.1(1)(a) of the BC Regulation)</b></p>

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Biodiversity value	Meaning	Relevant (✓ or NA)	Explain and document potential impacts including additional impacts prescribed under the BC Regulation Attach additional supporting documentation where appropriate
			Impacts may include the removal or modification (eg. noise, light etc) of the habitat of threatened species or ecological communities.
Threatened species abundance  1.4(a) BC Regulation	Occurrence and abundance of threatened species or threatened ecological communities, or their habitat, at a particular site		Describe how the proposed development avoids impacts on threatened species abundance and identify the likelihood and extent of any remaining impacts including; <ul style="list-style-type: none"> <li>- impacts of vehicle strikes on threatened species of animals or on animals that are part of a threatened ecological community (prescribed under clause 6.1(1)(f) of the Regulation);</li> <li>- impacts on threatened species, for example Microbats, associated with the demolition of human made structures (prescribed by 6.1 (1) a (iii) of the Regulation);</li> <li>- impacts on threatened species habitat associated with non-native vegetation (prescribed by 6.1 (1) a (iv) of the Regulation);</li> <li>- impacts on threatened species habitat associated with non-natural water bodies (prescribed by 6.1 (1) a (iii) of the Regulation). For example, threatened frogs such as the green and golden bell frog in landfill areas, drains and brick pits.</li> </ul>
Habitat connectivity  1.4(c) BC Regulation	Degree to which a particular site connects different areas of habitat of threatened species to facilitate the movement of those species across their range		Identify whether the development site contributes to habitat connectivity.  Describe how the proposed development avoids impacts on habitat connectivity and identify the likelihood and extent of any remaining impacts of development on the connectivity of different areas of habitat of threatened species that facilitates the movement of those species across their range ( <b>prescribed</b> under clause 6.1(1)(b) of the BC Regulation).
Threatened species movement  1.4(d) BC Regulation	Degree to which a particular site contributes to the movement of threatened species to maintain their lifecycle		Describe how the proposed development avoids impacts on threatened species movement and identify the likelihood and extent of any remaining impacts of development on movement of threatened species that maintains their lifecycle ( <b>prescribed</b> under clause 6.1(1)(c) BC Regulation).

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## Fact Sheet

Biodiversity value	Meaning	Relevant (✓ or NA)	Explain and document potential impacts including additional impacts prescribed under the BC Regulation Attach additional supporting documentation where appropriate
Flight path integrity  1.4(e) BC Regulation	Degree to which the flight paths of protected animals over a particular site are free from interference		<p>Identify whether flight paths of protected animals occur over the development site. Protected animals are animals of a species listed or referred to in Schedule 5 of the BC Act. They include any species of birds, mammals, amphibians or reptiles that are native to Australia or that periodically or occasionally migrate to Australia.</p> <p>Describe how the proposed development avoids impacts on flight path integrity and identify the likelihood and extent of any remaining impacts.</p> <p>Note: The impacts of wind turbine strikes on protected animals are <b>prescribed</b> under clause 6.1(1)(e) of the BC Regulation. It is, therefore, unlikely that a BDAR waiver would be issued for a proposed wind farm.</p>
Water sustainability  1.4(f) BC Regulation	Degree to which water quality, water bodies and hydrological processes sustain threatened species and threatened ecological communities at a particular site.		<p>Describe how the proposed development avoids impacts on water sustainability and identify the likelihood and extent of any remaining impacts of development on water quality, water bodies and hydrological processes that sustain threatened species and threatened ecological communities (including from subsidence or upsidence resulting from underground mining or other development) (<b>prescribed</b> under clause 6.1(1)(d) of the BC Regulation).</p>



File Ref. No: FRN21/3599 BFS21/4808 8000018651  
TRIM Doc. No: D21/134489  
Contact: Leading Firefighter Timothy Wilson

20 December 2021

Sally Munk  
NSW Department of Planning, Industry and Environment  
Locked Bag 5022  
PARRAMATTA NSW 5022

Dear Sally

**Re: Request for advice on Secretary's Environmental Assessment Requirements (SEARs) for Manildra-Port Kembla Bulk Liquids Terminal (SSD-33042483)**

Fire & Rescue NSW (FRNSW) acknowledge correspondence received on 6 December 2021, requesting input into the preparation of the SEARs for Manildra-Port Kembla Bulk Liquids Terminal (SSD-33042483).

FRNSW have reviewed the *Manildra-Port Kembla-Drawings* and *Manildra-Port Kembla\_Scoping Report\_C* documents and make the following recommendations:

FRNSW will not be providing comment at this time as there is currently insufficient information available regarding the fire safety and emergency response management aspects of the project.

FRNSW note the proposed development has been assessed against SEPP 33 and Preliminary Hazard Analysis (PHA), Fire Safety Study (FSS) and HAZOP have been prepared by Pinnacle Risk Management with the intention of submission as part of the Environmental Impact Statement (EIS).

We request that we be given the opportunity to review and provide comment once approvals have been granted and the project has progressed such that the relevant details of the prepared documents become available.

For further information please contact the Operational Liaison and Special Hazards Unit, referencing FRNSW file number BFS21/4808. Please ensure that all correspondence in relation to this matter is submitted electronically to [firesafety@fire.nsw.gov.au](mailto:firesafety@fire.nsw.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to be 'John Hawes', written in a cursive style.

Superintendent John Hawes  
Manager  
Operational Liaison and Special Hazards Unit

Cc: [sally.munk@planning.nsw.gov.au](mailto:sally.munk@planning.nsw.gov.au)