

Development Consent

Section 89E of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Infrastructure under delegation from the Minister dated 14 September 2011, the Planning Assessment Commission of New South Wales (the Commission) approves the development application referred to in Schedule A, subject to the conditions specified in Schedules B to F.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.

Member of the Commission

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Sydney

2013

SCHEDULE A

Application No:

SSD_5353

Applicant

Caltex Refineries (NSW) Pty Ltd

Consent Authority:

Minister for Planning & Infrastructure

Land:

Off Prince Charles Parade in Botany Bay

Development:

Upgrade of the Kurnell ports and berthing facility including:

- dredging berths, turning circle and approaches;
- reuse of a proportion of the dredged material to cover an exposed section of the subsea fuel pipelines and a former anchor point;
- disposal of the remaining dredged material offshore;
- upgrade of the fixed berth infrastructure;
- upgrade of the sub berth; and
- use of this infrastructure.

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DEFINITIONS

Act, the	<i>Environmental Planning and Assessment Act, 1979</i>
Ancillary Facility	Temporary facility for construction, including for example an office and amenities compound, construction compound, batch plant (concrete or bitumen), materials storage compound, maintenance workshop, testing laboratory or material stockpile area.
Applicant / Applicant	Caltex Refineries (NSW) Pty Ltd
Conditions of consent	The Minister's conditions of consent for the Development
Construction	Includes all work in respect of the Development other than: • survey, acquisitions, building/ road dilapidation surveys; • investigative drilling, excavation, or salvage; • establishing ancillary facilities/ construction work sites (in the locations nominated in the EIS, unless otherwise agreed to by the Director General); • installation of environmental impact mitigation measures and fencing; • other activities determined by the Environmental Representative to have minimal environmental impact (e.g. minor access roads, minor adjustments to services/ utilities, minor clearing or translocation of native vegetation etc). Note: work where heritage, threatened species, populations or endangered ecological communities would be affected is classified as construction, unless otherwise approved by the Director General.
Department, the	Department of Planning and Infrastructure
Development	The Development the subject of this development consent as generally described in Schedule A
Director General, the	Director General of the Department of Planning and Infrastructure
Director General's approval, agreement or satisfaction	A written approval from the Director General (or delegate). Where the Director General's approval, agreement or satisfaction is required under a condition of this consent, the Director General will endeavour to provide a response within one month of receiving an approval, agreement or satisfaction request. The Director General may ask for additional information if the approval, agreement or satisfaction request is considered incomplete. When further information is requested, the time taken for the Applicant to respond in writing will be added to the one month period.
DPI	Department of Primary Industries
Dust	Any solid material that may become suspended in air or deposited
EEC	Endangered ecological community(ies)
EIS	Environmental Impact Statement
EPA	Environment Protection Authority.
EPL	Environment Protection Licence under the <i>Protection of the Environment Operations Act 1997</i> .
Feasible and Reasonable	Consideration of best practice taking into account the benefit of proposed measures and their technological and associated operational application in the NSW and Australian context. Feasible relates to engineering considerations and what is practical to build. Reasonable relates to the application of judgement in arriving at a decision, taking into account mitigation benefits and cost of mitigation versus benefits provided, community views and nature and extent of potential improvements. Where requested by the Director General, the Applicant shall provide evidence as to how feasible and reasonable measures were considered and taken into account.
Heritage	Encompasses both Aboriginal and historic heritage including sites that predate European settlement, and a shared history since European settlement such as a shared associations in pastoral landscapes as well as associations linked with the mission period.

Heritage Item	An item as defined under the <i>Heritage Act 1977</i> , and assessed as being of local, State and/ or National heritage significance, and/or an Aboriginal Object or Aboriginal Place as defined under the <i>National Parks and Wildlife Act 1974</i> .
Minister, the	Minister for Planning and Infrastructure.
NTU	Nephelometric Turbidity Units
OEH	Office of Environment and Heritage
Operation	Means the operation of the Development, but does not include commissioning trials of equipment or temporary use of parts of the Development during construction.
Publicly available	Available for inspection by a member of the general public (for example available on an internet website).
Relevant council(s)	Sutherland Shire Council
RMS	Roads and Maritime Services
Sensitive marine receivers	Aquaculture lease number ALDI/098, the seagrass communities shown on Figure 10-2 of the EIS, the intertidal areas around Kamay Botany Bay National Park and other intertidal habitat used by threatened and migratory shorebirds along the eastern shore of Botany Bay.
Sensitive land receivers	Residence, education institution (e.g. school, university, TAFE college), health care facility (e.g. nursing home, hospital), religious facility (e.g. church) and children's day care facility.
Site	Land to which Development Application SSD_5353 applies.
SPC	Sydney Ports Corporation
TBT	Tributyltin

**SCHEDULE B
ADMINISTRATIVE CONDITIONS**

TERMS OF CONSENT

- B1. The Applicant shall carry out the development generally in accordance with the:
- (a) State Significant Development Application No. 5353;
 - (b) Environmental Impact Statement, Kurnell Ports and Berthing Facility (URS, February 2013);
 - (c) Response to Submissions, Kurnell Ports and Berthing Facility (URS, June 2013); and
 - (d) conditions of this consent.
- B2. In the event of an inconsistency between:
- (a) the conditions of this consent and any document listed from condition B1(a) to B1(c) inclusive, the conditions of this consent shall prevail to the extent of the inconsistency; and
 - (b) any document listed from condition B1(a) to B1(c) inclusive, and any other document listed from condition B1(a) to B1(c) inclusive, the most recent document shall prevail to the extent of the inconsistency.
- B3. The Applicant shall comply with any reasonable requirement(s) of the Director General arising from the Department's assessment of:
- (a) any reports, plans or correspondence that are submitted in accordance with this consent; and
 - (b) the implementation of any actions or measures contained within these reports, plans or correspondence.
- B4. Subject to confidentiality, the Applicant shall make all documents required under this consent available for public inspection on request.

LIMITS OF CONSENT

- B5. The Applicant may carry out dredging for a period of no more than six (6) months, unless otherwise agreed to in writing by the Director-General.

LAPSPING OF CONSENT

- B6. This consent shall lapse five (5) years from the date of this approval unless the works associated with the development have physically commenced.

STATUTORY REQUIREMENTS

- B7. The Applicant shall ensure that all licences, permits and approval/consents are obtained as required by law and maintained as required throughout the life of the Development. No condition of this consent removes the obligation for the Applicant to obtain, renew or comply with such licences, permits or approval/consents.

STAGING

- B8. The Applicant may elect to construct and/ or operate the Development in stages. Where staging is proposed, the Applicant shall submit a Staging Report to the Director General prior to the commencement of the first proposed stage. The Staging Report shall provide details of:
- (a) how the Development would be staged, including general details of work activities associated with each stage and the general timing of when each stage would commence; and
 - (b) details of the relevant conditions of consent, which would apply to each stage and how these shall be complied with across and between the stages of the Development.
- B9. Where staging of the Development is proposed, these conditions of consent are only required to be complied with at the relevant time and to the extent that they are relevant to the specific stage(s).
- B10. The Applicant shall ensure that an updated Staging Report (or advice that no changes to staging are proposed) is submitted to the Director General prior to the commencement of each stage, identifying any changes to the proposed staging or applicable conditions.
- B11. The Applicant shall ensure that all plans, sub-plans and other management documents required by the conditions of this consent and relevant to each stage (as identified in the Staging Report) are submitted to the Director General no later than one month prior to the commencement of the relevant stages, unless otherwise agreed by the Director General.

Note: Conditions B8 to B11 do not relate to staged development within the meaning of section 83B of the Act.

COMPLIANCE

- B12. The Applicant shall ensure that employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent relevant to their respective activities.

- B13. The Applicant shall be responsible for environmental impacts resulting from the actions of all persons that it invites onto the site, including contractors, sub-contractors and visitors.
- B14. In the event of a dispute between the Applicant and a public authority, in relation to an applicable requirement in this consent or relevant matter relating to the Development, either party may refer the matter to the Director General for resolution. The Director General's determination of any such dispute shall be final and binding on the parties.

SCHEDULE C
ENVIRONMENTAL PERFORMANCE AND MANAGEMENT

SEDIMENT, WATER QUALITY AND HYDROLOGY

- C1. The Development shall comply with section 120 of the *Protection of the Environment Operations Act 1997*, which prohibits the pollution of waters, except as expressly provided in an EPL.
- C2. The Applicant shall implement all feasible and reasonable mitigation and management measures for the duration of dredging to minimise the dispersion of dissolved and sediment-bound TBT and suspended sediment concentrations outside the Development site during construction, including:
- (a) no overflow dredging within the fixed berths and in the front of the submarine berths; and
 - (b) installing and maintaining a silt boom around the dredger head to capture sediment that falls into the water across the slewing zone.

Sediment and Water Quality Management Plan

- C3. Prior to commencement of construction, or as otherwise agreed by the Director-General, the Applicant shall prepare (and implement following approval) a **Sediment and Water Quality Management Plan** in consultation with the EPA and DPI (Fisheries). The Plan must:
- (a) be prepared by a suitably qualified expert and be approved in writing by the Director-General;
 - (b) identify representative monitoring locations which can be used to determine the extent to which TBT in the water column (dissolved) and sediment-bound TBT, suspended sediment concentrations, pH and Dissolved Oxygen generated and dispersed by dredging has affected the distribution and condition of sensitive marine receivers;
 - (c) identify specific measures to minimise the generation and dispersion of these sediments outside the Development site during dredging in addition to those identified in Condition C2;
 - (d) include dry weather baseline water quality monitoring data at these locations, including dissolved and sediment-bound TBT and suspended sediment concentrations against which levels during construction can be compared;
 - (e) include a sediment and water quality monitoring program to be followed during and post dredging including the frequency and procedures for water quality monitoring (including in real-time) of dissolved and sediment bound TBT and suspended sediment concentrations, and other water quality parameters at the identified water quality monitoring locations; and
 - (f) establish upper threshold water quality performance criteria and interim threshold water quality performance criteria and identify contingency measures to be implemented where these water quality performance criteria are triggered at sensitive marine receivers, including temporarily ceasing and reducing the rate of dredging (including overflow dredging) operations.
- C4. Within three (3) months of completing the post-dredging water quality monitoring required by Condition C3(e), the Applicant shall submit a report to the Director-General, the EPA, DPI (Fisheries) and SPC documenting the results of the baseline water quality monitoring undertaken before construction and the sediment and water quality monitoring program to be followed during and post dredging, to confirm that residual sediment and water quality is consistent with the predictions made in the EIS, with particular consideration to dissolved and sediment-bound TBT concentrations and impacts to the aquatic health of sensitive marine receivers (condition C8).

BIODIVERSITY

Aquatic Weeds

- C5. The Applicant shall implement all mitigation and management measures during construction to avoid the introduction or spreading of pest flora and fauna species including *Caulerpa taxifolia* consistent with the *NSW Control Plan for the Noxious Marine Alga Caulerpa taxifolia* (DII, 2009).

Marine Fauna

- C6. The Applicant shall implement measures and management to minimise the risk of ship collision and minimise underwater noise generation with marine fauna with particular consideration of cetaceans, pinnipeds, marine turtles and dugongs. This shall include (but not necessarily be limited to):
- (a) carrying out observations for cetaceans, pinnipeds, marine turtles and dugongs within 420 metres of dredging, piling or rock revetment works;
 - (b) temporary cessation of dredging and dredger tugboat reduced to a speed of 4 knots if the marine fauna comes within the 420 metres of dredging;
 - (c) the temporary cessation of underwater noise generating activities associated with piling and rock revetment where marine fauna comes within the 250 metres of these activities. Noise generating activities shall not recommence until 30 minutes after the fauna has left the zone; and
 - (d) the temporary cessation of dredging where marine fauna comes within the 150 metres of dredging. Dredging shall only recommence when marine fauna has moved out of this zone. Noise generating activities would not commence until 30 minutes following the fauna leaving the zone.

Ausgrid Seagrass Rehabilitation Project

- C7. Prior to commencement of construction, the Applicant shall notify DPI (Fisheries) and Ausgrid of the commencement date and schedule of dredging operations and keep them informed during dredging operations.

Aquatic Health Management Plan

- C8. Prior to commencement of construction, or as otherwise agreed by the Director-General, the Applicant shall prepare (and implement following approval) an **Aquatic Health Management Plan** in consultation with OEH and DPI (Fisheries). The Plan must:
- (a) be prepared by a person who has been approved in writing by the Director-General;
 - (b) include baseline aquatic surveys and data to confirm the distribution and condition of sensitive marine receivers, with appropriate consideration of seasonal variations, and identification of potential no-go areas;
 - (c) identify representative monitoring locations which can be used to determine the distribution and condition of sensitive marine receivers, taking into account the Ausgrid seagrass rehabilitation project;
 - (d) identify performance measures to assess the distribution and condition of the sensitive marine receivers during dredging; and
 - (e) include an aquatic health monitoring program to be followed for the duration of dredging including the frequency and procedures for surveys, monitoring and visual observations.
- C9. Within twelve (12) months of completing the post dredging water quality monitoring required by Condition C3(e), unless otherwise agreed to in writing by the Director-General, the Applicant shall submit a report to the Director-General, EPA, OEH, DPI (Fisheries) and SPC setting out whether dissolved and sediment-bound TBT and suspended sediment concentrations generated and dispersed by dredging are likely to have affected the distribution and condition of the sensitive marine receivers compared to baseline conditions drawing on all sediment and water quality and aquatic health monitoring data required to be collected by conditions C3 and C8.
- C10. If considered necessary by the Director-General, the Applicant shall identify rehabilitation (and monitoring) or offset measures to be implemented to compensate for any adverse impacts to sensitive marine receivers identified in the report required by condition C9 attributable to the Development to the written satisfaction of the Director-General.

COASTAL AND HYDRODYNAMICS

- C11. Pre, during and post dredging, the Applicant shall (unless otherwise agreed to in writing by the Director General) undertake monitoring of coastal and hydrodynamic processes on Silver Beach.
- C12. Within three (3) months of completing the post dredging monitoring, the Applicant shall submit a report to the Director General and SPC documenting the results of this monitoring to confirm that impacts to coastal and hydrodynamic processes on Silver Beach are no greater than those predicted in the EIS and will not result in significant ongoing residual impacts to the beach (including impacts to associated aquatic habitat such as intertidal habitat at Silver Beach).
- C13. Where Development related impacts are identified to be significantly higher than those predicted, the Applicant shall identify measures to counteract any beach depletion impacts at Silver Beach and identify whether monitoring of other locations in Botany Bay are warranted and/or require rehabilitation.
- C14. If considered necessary by the Director-General, the Applicant shall identify rehabilitation (and monitoring) or offset measures to be implemented to compensate for any adverse impacts to coastal and hydrodynamic processes identified in the report required by condition C13 attributable to the Development to the written satisfaction of the Director-General.

NOISE AND VIBRATION

Construction Hours

- C15. With the exception of dredging and sub berth upgrade works, all construction works including all high noise generating works (such as piling and rock revetment) shall be confined to standard working hours:
- (a) 7:00am to 6:00pm Mondays to Fridays, inclusive; and
 - (b) 8:00am to 1:00pm Saturdays; and
 - (c) at no time on Sundays or public holidays.

The upgrade of the sub berth may be undertaken during the additional hours of 1.00 pm and 6.00 pm on Saturdays and 8.00 am and 6.00 pm on Sundays. Dredging associated with the Development may be undertaken on a 24 hour basis, 7 days a week.

- C16. Construction works outside of the work hours identified in condition C15 may be undertaken in the following circumstances:
- (a) works that are inaudible at nearest sensitive land receivers;
 - (b) for the delivery of materials required outside these hours by the NSW Police Force or other authorities for safety reasons;
 - (c) where it is required in an emergency to avoid the loss of lives, property and/or to prevent environmental harm;
 - (d) works approved through an approved EPL; or
 - (e) works as approved through the out-of-hours work protocol outlined in the Construction Noise and Vibration Management Plan required under condition C36(b).

Construction Noise and Vibration

- C17. The Development shall be constructed with the aim of achieving the construction noise management levels detailed in the *Interim Construction Noise Guideline* (DECC, 2009). All feasible and reasonable noise mitigation measures shall be implemented and any activities that could exceed the construction noise management levels shall be identified and managed in accordance with the Construction Noise and Vibration Management Plan required under condition C36(b). This shall include the implementation of respite periods in response to noise complaints, particularly in relation to high noise generating activities (including piling and rock revetment).
- C18. The Applicant shall undertake attended monitoring on a monthly basis during construction works outside of standard construction hours and at the commencement of and during high noise generating works (including piling and rock revetment) to confirm noise levels at residences along Prince Charles Parade and at the Ranger's residence at Kamay Botany Bay National Park.
- C19. The Development shall be constructed with the aim of achieving the following construction vibration goals:
- (a) for structural damage, the vibration limits set out in the *German Standard DIN 4150-3: Structural Vibration - effects of vibration on structures*; and
 - (b) for human exposure, the acceptable vibration values set out in the *Environmental Noise Management Assessing Vibration: A Technical Guideline* (Department of Environment and Conservation, 2006).

HERITAGE MANAGEMENT

Maritime Heritage

- C20. Prior to the commencement of construction, the Applicant shall commission an appropriately qualified maritime archaeologist to:
- (a) undertake magnetic or side sonar scans of the Development site to determine the presence of any previously unidentified items of maritime heritage (including ship wrecks) to the satisfaction of the Heritage Council of NSW; and
 - (b) should any items be identified, develop a management strategy for the items during the construction and operation of the Development in consultation with the Heritage Council of NSW.
- C21. The management strategy shall be submitted for the Director General's approval providing written evidence of consultation and agreement with the recommendations from the Heritage Council of NSW. Construction must not commence in the area where items have been uncovered until written approval has been received from the Director General for the management strategy.

Archival Record

- C22. Prior to the commencement of construction, the Applicant shall commission an appropriately qualified heritage expert to undertake archival recording of the existing fabric and operation of the Kurnell Wharf, in particular the existing infrastructure at Fixed Berth 1, which would be replaced as part of the Development. The archival recording shall be submitted to the Heritage Council of NSW Library prior to the removal or demolition of any existing elements.

Potential for Discovery of Aboriginal and Non-Aboriginal Heritage Objects

- C23. If during the course of construction the Applicant becomes aware of any previously unidentified heritage object(s), all work likely to affect the object(s) shall cease immediately and the Heritage Council of New South Wales shall be notified immediately in accordance with section 146 of the *Heritage Act 1977*. Relevant works shall not recommence until written authorisation from the Heritage Council of NSW is received by the Applicant.
- C24. If during the course of construction the Applicant becomes aware of any previously unidentified Aboriginal object(s), all work likely to affect the object(s) shall cease immediately and the OEHS informed in accordance with section 89A of the *National Parks and Wildlife Act 1974*. Relevant works shall not recommence until written authorisation from OEHS is received by the Applicant.

AIR QUALITY MANAGEMENT

Odour Impacts

- C25. The Applicant shall implement an odour screening protocol for sediments excavated during dredging and implement all feasible and reasonable mitigation measures to ensure that odour generation during dredging do not exceed an odour limit of 2 odour units at the nearest residential receivers during the construction works.

Dust Generation

- C26. The Applicant shall implement all feasible and reasonable mitigation measures to ensure that the Development is constructed in a manner that minimises dust emissions from the site, including wind-blown and traffic-generated dust and tracking of material onto public roads. All works shall be undertaken with the objective of preventing visible emissions of dust from the site. Should such visible dust emissions occur at any time, the Applicant shall identify and implement all feasible and reasonable dust mitigation measures, including cessation of relevant works, as appropriate, such that emissions of visible dust cease.

TRANSPORT AND ACCESS

Construction Access

- C27. The designated construction access route for the delivery of materials for construction purposes shall be via Captain Cook Drive, Prince Charles Parade and Solander Street. Unless otherwise agreed to by the Director General (supported by appropriate traffic and transport justification), at no time shall construction vehicles use residential streets in Kurnell for construction access. Should any additional roads be agreed to by the Director General for construction access, these roads would be subject to the requirement for a road dilapidation survey and report to be prepared prior to their use as identified in condition C28.

Road Dilapidation

- C28. Prior to the commencement of construction, The Applicant shall commission an independent and qualified person or team to undertake a road dilapidation survey of all roads proposed to be used for construction material haulage as specified in condition C27 and prepare a Road Dilapidation Report. The report shall assess the current condition of the road and describe mechanisms to restore any damage that may result due to traffic and transport related to the construction of the Development. The Report shall be submitted to the relevant road authority for review prior to the commencement of construction vehicle haulage.

Following completion of construction, a subsequent report shall be prepared to assess any damage that may have resulted from the construction of the Development.

Measures undertaken to restore or reinstate roads affected by the Development shall be undertaken in a timely manner, in accordance with the reasonable requirements of the relevant road authority, and at the full expense of the Applicant.

- C29. The Applicant shall provide sufficient parking facilities at its temporary laydown facility for construction personnel and heavy vehicles to ensure that construction traffic associated with the Development does not utilise public and residential streets or public parking facilities for parking.

PROPERTY IMPACTS

- C30. Any damage caused to property or public infrastructure as a result of the Development shall be rectified or the property or asset owner appropriately compensated, within a reasonable timeframe, with the costs borne by the Applicant.

WASTE MANAGEMENT

Waste Management On-site

- C31. The Applicant shall not cause, permit or allow any waste generated outside the site to be received at the site for storage, treatment, processing, reprocessing, or disposal on the site, except as expressly permitted by a licence under the *Protection of the Environment Operations Act 1997*, if such a licence is required in relation to that waste.
- C32. The Applicant shall maximise the reuse and/or recycling of waste materials generated on site, to minimise the need for treatment or disposal of those materials outside the site.
- C33. The Applicant shall ensure that all liquid and/or non-liquid waste generated on the site is assessed and classified in accordance with *Waste Classification Guidelines* (DECC, 2008), or any future guideline that may supersede that document and where removed from the site is only directed to a waste management facility lawfully permitted to accept the materials.

ENVIRONMENTAL REPRESENTATIVE

- C34. Prior to the commencement of construction, or as otherwise agreed by the Director General, the Applicant shall nominate for the approval of the Director General a suitably qualified and experienced Environmental Representative(s) that is independent of the design, construction and operational personnel. The Applicant shall employ the Environmental Representative(s) for the duration of construction, or as otherwise agreed by the Director General. The Environmental Representative(s) shall:
- (a) be the principal point of advice in relation to the environmental performance of the Development;
 - (b) monitor the implementation of environmental management plans and monitoring programs required under this consent and advise the Applicant upon the achievement of these plans/ programs;
 - (c) have responsibility for considering and advising the Applicant on matters specified in the conditions of this consent, and other licences and consents related to the environmental performance and impacts of the Development;
 - (d) be given the authority to review and confirm whether works associated with the Development are classified as Construction (or not) under this development consent, and if classified as Construction, advise on the relevant pre-Construction and Construction requirements that the works would be subject to under this consent;
 - (e) be given the authority to approve/ reject minor amendments to the Construction Environment Management Plan. What constitutes a “minor” amendment shall be clearly explained in the Construction Environmental Management Plan required under condition C35;
 - (f) be given the authority and independence to require reasonable steps be taken to avoid or minimise unintended or adverse environmental impacts, and failing the effectiveness of such steps, to direct that relevant actions be ceased immediately should an adverse impact on the environment be likely to occur; and
 - (g) be consulted in responding to the community concerning the environmental performance of the Development where the resolution of points of conflict between the Applicant and the community is required.

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

- C35. Prior to the commencement of construction, or as otherwise agreed by the Director General, the Applicant shall prepare and implement (following approval) a Construction Environmental Management Plan for the Development. The Plan shall outline the environmental management practices and procedures that are to be followed during construction, and shall be prepared in consultation with the relevant government agencies and in accordance with the *Guideline for the Preparation of Environmental Management Plans* (Department of Infrastructure, Planning and Natural Resources, 2004). The Plan shall include, but not necessarily be limited to:
- (a) a description of activities to be undertaken during construction of the Development (including staging and scheduling);
 - (b) statutory and other obligations that the Applicant is required to fulfil during construction, including approval/consents, consultations and agreements required from authorities and other stakeholders under key legislation and policies;
 - (c) a description of the roles and responsibilities for relevant employees involved in the construction of the Development, including relevant training and induction provisions for ensuring that employees, including contractors and sub-contractors are aware of their environmental and compliance obligations under these conditions of consent;
 - (d) an environmental risk analysis to identify the key environmental performance issues associated with the construction phase; and
 - (e) details of how environmental performance would be managed and monitored to meet acceptable outcomes, including what actions will be taken to address identified potential adverse environmental impacts (including any impacts arising from the staging of the construction of the Development). In particular, the following environmental performance issues shall be addressed in the Plan:
 - (i) sediment and water quality management within the Bay;
 - (ii) marine ecology management;
 - (iii) noise and vibration;
 - (iv) odour and air quality management;
 - (v) traffic and access;
 - (vi) management of Aboriginal and non-Aboriginal heritage;
 - (vii) waste management;
 - (viii) emergency, including spill management;
 - (ix) compounds and ancillary facilities management;
 - (x) operational and navigation safety during construction within the Bay; and
 - (xi) means for assessing (and where identified) for managing interactions and cumulative impacts from the concurrent construction of other development works in the area should these coincide with the Development (e.g. the Caltex Refinery upgrade works).
 - (f) The Plan shall be submitted for the approval of the Director General prior to the commencement of construction. The Plan may be prepared in stages, however, construction works shall not commence until written approval has been received from the Director General.

The approval of a Construction Environmental Management Plan does not relieve the Applicant of any requirement associated with this development consent. If there is an inconsistency with an approved Construction Environmental Management Plan and the conditions of this development consent, the requirements of this development consent prevail.

C36. As part of the Construction Environmental Management Plan for the Development required under condition C35 the Applicant shall prepare and implement (but not necessarily be limited to) the following:

- (a) a **Dredging and Spoil Management Plan** to address the management of sediment and water quality during dredging within the Bay, prepared in consultation with the EPA and including, but not necessarily be limited to:
 - (i) a Sediment and Water Quality Monitoring Program in accordance with the requirements of condition C3;
 - (ii) measures to address the management and monitoring of any potential acid sulfate soils excavated during dredging in the Bay to prevent their oxidation into actual acid sulfate soils prior to final re-use or disposal, including contingency measures to be implemented in case of acid generation; and
 - (iii) a Spill Control Plan;
- (b) a **Construction Noise and Vibration Management Plan** to detail how construction noise and vibration impacts will be minimised and managed. The Plan shall be consistent with the guidelines contained in the *Interim Construction Noise Guidelines* (DECC, 2009) be prepared in consultation with the EPA. The Plan shall include, but not necessarily be limited to:
 - (i) identification of sensitive land receivers and relevant construction noise and vibration goals applicable to the Development stipulated in this consent;
 - (ii) details of construction activities and an indicative schedule for construction works; including the identification of key noise and/or vibration generating construction activities (based on representative construction scenarios, including at ancillary facilities) that have the potential to generate noise and/or vibration impacts on surrounding sensitive land receivers, particularly residential areas;
 - (iii) identification of feasible and reasonable measures proposed to be implemented to minimise and manage construction noise and vibration impacts, with particular consideration to works outside of standard construction hours;
 - (iv) a description of how the effectiveness of these actions and measures would be monitored during the proposed works, clearly indicating how often this monitoring would be conducted, the locations where monitoring would take place, how the results of this monitoring would be recorded and reported, and, if any exceedance is detected, how any non-compliance would be rectified; and
 - (v) an out-of-hours work (OOHW) protocol for the assessment, management and approval of works outside of standard construction hours (not already allowed under this consent) as defined in condition C16, including a risk assessment process under which an Environmental Representative may approve out-of-hour construction activities deemed to be of low environmental risk and refer high risk works for the Director General's approval. The OOHW protocol shall detail standard assessment, mitigation and notification requirements for high and low risk out-of-hour works, and detail a standard protocol for referring applications to the Director General;
- (c) an **Air Quality Management Plan** outlining procedures to be implemented to monitor and manage odour and dust generation from the Development site in accordance with conditions C25 and C26; and
- (d) a **Construction Traffic and Access Management Plan** to manage and minimise access and traffic impacts associated with the Development particular to residential streets at Kurnell, focusing on those periods (such as the concrete pour period) when peaks in traffic generation are expected to occur. The sub-plan shall include, but not necessarily be limited to:
 - (i) identification of designated construction traffic access routes and periods of high traffic generation;
 - (ii) details of designated vehicle parking, turning areas and ingress and egress points into temporary construction work compounds/ laydown areas; and
 - (iii) how shift changes and delivery times shall be restricted to standard day time hours where practicable;
 - (iv) details of management measures to minimise traffic impacts, including avoiding vehicle queuing and parking on public roads, safe pedestrian access and disruptions to traffic.

SCHEDULE D COMMUNITY INFORMATION AND REPORTING

COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT

Community Consultation

- D1. The Applicant shall continue the existing community consultative committee for the life of the Development with the Kurnell community.
- D2. Prior to the commencement of construction the Applicant shall prepare (and following approval) implement a Community Consultation Plan, for the approval of the Director General to identify the consultation and notification procedures that would be undertaken during the construction of the Development to keep the general community and stakeholder groups informed of the construction works and measures to minimise impacts to these groups. The Plan shall include but not be limited to:
- (a) identification of key stakeholder groups that require notification and engagement on the construction works including (but not necessarily limited to):
 - (i) recreational users of the Bay such as recreational fishing and boating groups and divers;
 - (ii) users of Silver Beach;
 - (iii) residents along Prince Charles Parade;
 - (iv) the local community at Kurnell;
 - (v) DPI (Fisheries) personnel working on the Ausgrid cable laying project seagrass rehabilitation site; and
 - (vi) Local Council;
 - (b) key matters on which these stakeholders groups would be kept informed of including: the commencement of construction works, access restrictions and exclusion zones within the Bay and near Silver Beach, the commencement and location of dredging, high noise generating works, traffic disruptions and means for providing comment or complaints on the Development;
 - (c) procedures for engagement with and notification of these stakeholder groups by means that best targets each stakeholder group (e.g. on site signage, newspaper notifications, letter box drops, website updates, community meetings, notifications in stakeholder specific websites such as recreational fishing posts etc.), including frequency of notification; and
 - (d) the means for ongoing engagement (as required) with relevant public authorities (e.g. EPA, OEH, DPI (Fisheries), Sydney Ports Corporation, Council and the Department) and notification in the case of an environmental incident.

Complaints and Enquiries Procedure

- D3. Prior to the commencement of construction, or as otherwise agreed by the Director General, the Applicant shall ensure that the following are available for community enquiries and complaints for the duration of construction:
- (a) a 24 hour telephone number(s) on which complaints and enquiries about the Development may be registered;
 - (b) a postal address to which written complaints and enquires may be sent;
 - (c) an email address to which electronic complaints and enquiries may be transmitted; and
 - (d) a mediation system for complaints unable to be resolved.
- D4. The telephone number, the postal address and the email address shall be published in newspaper(s) circulating in the local area prior to the commencement of construction and prior to the commencement of operation. This information shall also be provided on the website (or dedicated pages) required by this consent.
- D5. Prior to the commencement of construction, or as otherwise agreed by the Director General, the Applicant shall prepare and implement a **Construction Complaints Management System** consistent with AS 4269: *Complaints Handling* and maintain the System for the duration of construction and up to 12 months following completion of the Development. Information on all complaints received, including the means by which they were addressed and whether resolution was reached, with or without mediation, shall be maintained as part of the System and included in the construction compliance reports required by this consent. The information contained within the System shall be made available to the Director General on request.

Provision of Electronic Information

- D6. Prior to the commencement of construction, or as otherwise agreed by the Director General, the Applicant shall establish and maintain a new website, or dedicated pages within an existing website, for the provision of electronic information associated with the Development, for the duration of construction and for 12 months following completion of the Development. The Applicant shall, subject to confidentiality, publish and maintain up-to-date information on the website or dedicated pages including, but not necessarily limited to:
- (a) information on the current implementation status of the Development;

- (b) a copy of the documents referred to under condition B1 of this consent, and any documentation supporting modifications to this consent that may be granted from time to time;
- (c) a copy of this consent and any future modification to this consent;
- (d) a copy of each relevant environmental approval/consent, licence or permit required and obtained in relation to the Development;
- (e) a copy of each current strategy, plan, program or other document required under this consent;
- (f) the outcomes of compliance tracking in accordance with condition D7 of this consent; and
- (g) details of contact point(s) to which community complaints and enquiries may be directed, including a telephone number, a postal address and an email address.

COMPLIANCE MONITORING AND TRACKING

Compliance Tracking Program

- D7. The Applicant shall develop and implement a **Compliance Tracking Program** to track compliance with the requirements of this consent. The Program shall be submitted to the Director General for approval prior to the commencement of construction and operate for a minimum of one year following commencement of operation, subject to the Director General's review of the outcomes of the environmental auditing referred to in condition F1. The Program shall include, but not necessarily be limited to:
- (a) provisions for the notification of the Director General prior to the commencement of construction and prior to the commencement of operation of the Development (including prior to each stage, where works are being staged);
 - (b) provisions for periodic review of the compliance status of the Development against the requirements of this consent;
 - (c) provisions for periodic reporting of compliance status to the Director General, including a Pre-Construction Compliance Report, construction reporting, and a Pre-Operation Compliance Report;
 - (d) a program for independent environmental auditing in accordance with *ISO 19011:2003 - Guidelines for Quality and/ or Environmental Management Systems Auditing* during construction;
 - (e) mechanisms for recording environmental incidents during construction and actions taken in response to those incidents;
 - (f) provisions for reporting environmental incidents to the Director General and relevant public authorities during construction;
 - (g) procedures for rectifying any non-compliance identified during environmental auditing, review of compliance or incident management; and
 - (h) provisions for ensuring all employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent relevant to their respective activities.

Incident Reporting

- D8. The Applicant shall notify the Director General of any incident with actual or potential significant off-site impacts on people or the biophysical environment within 24 hours of becoming aware of the incident. The Applicant shall provide full written details of the incident to the Director General within seven days of the date on which the incident occurred.
- D9. The Applicant shall meet the requirements of the Director General to address the cause or impact of any incident, as it relates to this consent, reported in accordance with condition D8 of this consent, within such period as the Director General may require.

SCHEDULE E
OPERATION ENVIRONMENTAL MANAGEMENT

HAZARD AND RISK

Safety Management System

- E1. At least two months prior to the commencement of commissioning, the Applicant shall update its Safety Management System to include any changes due to the development. The document shall clearly specify all safety related procedures, responsibilities and policies, along with details of mechanisms for ensuring adherence to the procedures. Records shall be kept on-site and shall be available for inspection by the Director General upon request. The updated Safety Management System shall be developed in accordance with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 9, 'Safety Management'.

OPERATIONAL ENVIRONMENTAL MANAGEMENT

- E2. Prior to the commencement of operation, the Applicant shall incorporate the Development into any existing environmental management systems administered by the Applicant and prepared in accordance with the *AS/NZS ISO 14000 Environmental Management System* series.

SCHEDULE F
ENVIRONMENTAL MONITORING AND AUDITING

ENVIRONMENTAL AUDITING

- F1. Within one year of the commencement of operations and for a period of at least 5 years thereafter (unless otherwise agreed to by the Director General), the Applicant shall fund a full independent environmental audit. The audit shall be undertaken by a suitably qualified person/team approved by the Director General. The audits shall be made publicly available and would:
- (a) be carried out in accordance with ISO 14010 – Guidelines and General Principles for Environmental Auditing and ISO 14011 – Procedures for Environmental Auditing;
 - (b) assess compliance with the requirements of this consent, and other licences and approvals that apply to the development;
 - (c) assess the construction against the predictions made and conclusions drawn in the development application and EIS;
 - (d) review the effectiveness of the environmental management of the development, including any environmental impact mitigation works and mitigation implemented to address matters identified in previous audits; and
 - (e) where required identify any additional or ongoing monitoring or mitigation measures to be put in place to manage residual environmental impacts associated with the Development.

A copy of the audit report and the measures proposed by the Applicant to respond to matters identified in the audit including timeframe for their implementation shall be submitted for the Director General's approval within three months of the completion of the audit, unless otherwise agreed to by the Director General.