

Infrastructure approval

Section 115B of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning under delegation executed on 16 February 2015, I grant approval to the carrying out of the State significant infrastructure (SSI) referred to in Schedule 1, subject to the conditions in Schedule 2.

David Gainsford

Executive Director

PRIORITY PROJECTS ASSESSMENT

Sydney

2017

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

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

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SCHEDULE 1

Application Number:	SSI-7734
Proponent:	NSW Department of Industry – Lands and Forestry, now Port Authority of NSW
Approval Authority:	Minister for Planning
Site:	Breakwater Wharf and dredging footprint partly within Lot 111 DP839683 and vacant Crown land at Snug Cove, Twofold Bay, within the Port of Eden.
State Significant Infrastructure:	<p>The proposed infrastructure includes:</p> <ul style="list-style-type: none">• dredging of approximately 231,500m³ of in-situ material from the bed of Snug Cove/Twofold Bay;• extension of the existing Breakwater Wharf by approximately 95m;• installation of four mooring dolphins and two berthing dolphins;• installation of three mooring bollards on the existing wharf;• walkway extension projecting from the extended Breakwater Wharf to beyond the first mooring dolphin;• extension of existing services (lighting, potable water and emergency fire-fighting water);• installation of navigation aids;• operation of the extended wharf for use by cruise ships (up to 370m LOA) and associated land-based facilities and services for management of passenger visitation including disembarkation, embarkation and transport, subject to the environmental parameters being met; and• operation of extended wharf for use by non-cruise ships (excluding dry/wet bulk cargo (liquid or solid bulk materials) and dangerous goods or hazardous materials vessels) and associated land-based facilities and services for operational activities such as loading/unloading, refuelling and general vessel maintenance and servicing (including sewer, waste and sullage offload) subject to the environmental parameters being met.• allow vessels up to 100m in length to load/unload, refuel, carry out maintenance and servicing, and passengers embarking/disembarking at the Eden Cruise Facility between 7:00am and 10:00pm and to remain at berth 24 hours per day when a cruise ship is not at berth.

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SUMMARY OF MODIFICATIONS

Application Number	Determination Date	Decider	Modification Description
SSI-7734-MOD-1	7 NOVEMBER 2018	Executive Director	Modification of operational noise and air quality conditions.
SSI-7734-MOD-2	21 OCTOBER 2020	Director	<p>The modification includes:</p> <ul style="list-style-type: none"> • Use of the Facility when not occupied by a cruise ship other vessels with sizes up to 100 metres in length. • Loading and unloading of fish, equipment, gear, parts, materials and other general dry and/or containerised freight and cargo during the day and evening periods. • Refuelling of vessels and general vessel maintenance and servicing. • Hours of operations: <ul style="list-style-type: none"> ○ Vessels would be allowed to remain at berth on a 24/7 basis. ○ Vessel operational activities during the time period between 7:00am and 10:00pm.
SSI-7734-MOD-3	Xx May 2024	Executive Director	<p>The modification includes the extension of the use of the Eden Cruise Wharf including:</p> <ul style="list-style-type: none"> • Construction of an additional mooring dolphin; • Construction of a new passenger walkway from the extended Breakwater Wharf to beyond the first mooring dolphin; • Use by cruise ships up to approximately 370m length overall subject to environmental parameters being met; • Use by non-cruise, including operations (excluding dry/wet bulk cargo (liquid or solid bulk materials) and dangerous goods or hazardous materials vessels) and associated land-based facilities and services for operational activities such as loading/unloading, refuelling and general vessel maintenance and servicing (including sewer, waste and sullage offload) between 7:00am to 10:00pm

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			<p>subject to environmental parameters being met;</p> <ul style="list-style-type: none">• All vessels permitted to remain at berth 24 hours per day;• An unrestricted number of vessel visits.
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DEFINITIONS

Table 1: Definitions

Ancillary Facility	Temporary facility required for Construction of the project including an office and amenities compound, construction compound, material crushing and screening plant, materials storage compound, maintenance workshop, testing laboratory and material stockpile area.
BCS	Biodiversity, Conservation and Science Group of DCCEEW
CEMP	Construction Environmental Management Plan.
Completion of construction	The date upon which all construction works and activities described in the EIS/Submissions Report are completed, all requirements of the Planning Secretary (if any) have been met and the whole of the SSI has been constructed to the appropriate standard for operation.
Consistency assessment	An assessment of whether a proposed activity for the purpose of the SSI is consistent with the terms of this approval.
Construction	Includes all physical work required to construct the SSI, other than the following low impact work: <ul style="list-style-type: none"> (a) survey works including carrying out general alignment survey, installing survey controls (including installation of global positioning system (GPS)), installing repeater stations, carrying out survey of existing and future utilities and building and road dilapidation surveys, and hydrographic survey; (b) background and/or baseline monitoring works; (c) investigations including investigative drilling and excavation; (d) establishment of ancillary facilities in approved locations or in locations meeting the criteria identified in Condition A9 and Condition A11 of this approval including constructing ancillary facility access roads and providing utilities to the facility; (e) operation of ancillary facilities if the ER has determined the operational activities will have minimal impact on the environment and community; (f) minor clearing and relocation of native vegetation, as identified in the EIS/Submissions Report; (g) installation of mitigation measures including erosion and sediment controls, temporary exclusion fencing for sensitive areas and acoustic treatments; (h) relocation and connection of utilities where the relocation or connection does not present a significant risk to the environment as determined by the ER; (i) archaeological testing under the Code of practice for archaeological investigation of Aboriginal objects in NSW (DECCW, 2010) or archaeological monitoring undertaken in association with [a]-[i] above to ensure that there is no impact on heritage items; (j) other activities determined by the ER to have minimal environmental impact which may include construction of

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	<p>minor access roads, temporary relocation of pedestrian and cycle paths and the provision of property access; and</p> <p>(k) maintenance of existing buildings and structures required to facilitate the carrying out of the SSI.</p> <p>However, where items, or threatened species, populations or ecological communities (within the meaning of the EP&A Act) are affected or potentially affected by any low impact work, that work is construction, unless otherwise determined by the Planning Secretary in consultation with OEH BCS or DPI Fisheries (in the case of impact upon fish, aquatic invertebrates or marine vegetation).</p> <p>The low impact work described in this definition becomes construction with the approval of a Construction Environmental Management Plan.</p>
Council	Bega Valley Shire Council
Cruise Season	Arrival of the first cruise ship in the last half of the calendar year until the departure of the last cruise ship in the first half of the following calendar year.
Department	NSW Department of Planning, Industry and Environment Housing and Infrastructure
Department of Industry	Including NSW Department of Industry – Lands & Forestry
DECC	Former NSW Department of Environment and Climate Change
DECCW	Former NSW Department of Environment, Climate Change and Water
DPI	Department of Primary Industries including DPI Agriculture, DPI Biosecurity and Food Safety, DPI Water and DPI Fisheries
DPI Fisheries	NSW Department of Primary Industries - Fisheries
DPI Aquatic Biosecurity Unit	NSW Department of Primary Industries – Aquatic Biosecurity Unit
EESG NSW DCCEW	Environment, Energy and Science Group of the Department of Planning, Housing and Infrastructure (former NSW Office of Environment and Heritage (OEH)). NSW Department of Climate Change, Energy, the Environment and Water
EIS	The <i>Eden Breakwater Wharf Extension State Significant Infrastructure – Environmental Impact Statement</i> , dated 3 November 2016, submitted to the Planning Secretary seeking approval to carry out the SSI and as revised if required by the Planning Secretary under the EP&A Act.
Environmental parameters	Limits and criteria which have been identified in the documents listed in Condition A1(c)(ix) and (x) as the expected environmental performance of the increased vessel movements and vessel size permitted by Modification 3.
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i> (NSW)
EPA	Environment Protection Authority.
EPL	Environment Protection Licence under the POEO Act
ER	The Environmental Representative for the SSI.

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Extended Use	Use of the Facility when not occupied by a cruise ship by fishing vessels, tugs, barges, lines, boats, yachts and other vessels with sizes up to 100 metres in length.
Extended Use OEMP	Extended Use Operational Environmental Management Plan
Facility	Eden Cruise Ship Facility, including all infrastructure required to allow cruise ships to berth at the extended Eden Breakwater Wharf and land side areas, facilities and services for management of passenger visitation including disembarkation, embarkation and transport.
Heritage Item	A place, building, work, relic, archaeological site, tree, movable object or precinct of heritage significance, that is listed or may be eligible to be listed under one or more of the following registers: the State Heritage Register under the Heritage Act 1977 (NSW), a state agency heritage and conservation register under section 170 of the Heritage Act 1977 (NSW), a Local Environmental Plan under the EP&A Act, the World, National or Commonwealth Heritage lists under the Environment Protection and Biodiversity Conservation Act 1999 (Commonwealth), and an Aboriginal object or Aboriginal place as defined in section 5 of the National Parks and Wildlife Act 1974 (NSW).
Highly noise affected	As defined in the <i>Interim Construction Noise Guideline</i> (DECC, 2009)
Incident	<p>An occurrence or set of circumstances that:</p> <ul style="list-style-type: none"> causes, or threatens to cause, material harm to the environment, community or any member of the community, being actual or potential harm to the health or safety of human beings or to threatened species, endangered ecological communities or ecosystems that is not trivial; or results in non-compliance with this approval. <p>Note: This meaning of “material harm” applies for the purpose of this approval only.</p>
Involve / involvement	Has the same meaning as in the International Association for Public Participation (IAP2) Spectrum.
LOA	Length overall
Land	Has the same meaning as in the EP&A Act.
Landowner	Has the same meaning as “owner” in the <i>Local Government Act 1993</i> and in relation to a building means the owner of the building.
MARPOL (short for Marine Pollution)	<p>MARPOL (short for Marine Pollution) means the International Convention for the Prevention of Pollution from Ships, 1973:</p> <ul style="list-style-type: none"> (a) as corrected by the Procès-Verbal of Rectification dated 13 June 1978, and (b) as affected by any amendment made under Article 16 of MARPOL, other than an amendment not accepted by Australia, and (c) as modified and added to by the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, as

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	affected by any amendment to that Protocol made under Article VI of that Protocol other than an amendment not accepted by Australia or that has not entered into force in Australia.
MARPOL Annex VI	Regulations for the prevention of air pollution from ships.
Minister	NSW Minister for Planning and Public Spaces
Minor Ancillary Facility	Facilities such as lunch sheds, office sheds and portable toilets.
MOD 1	<i>Eden Breakwater Wharf Extension Modification Request to Infrastructure Approval SSI 7734 (2 July 2018)</i>
MOD 1 Addendum	<i>SSI 7734 Mod 1 – Addendum Modification report (14 October 2018)</i>
NPWS	National Parks and Wildlife Service
NO ₂	Nitrogen dioxide
NSW Heritage Council	Heritage Council of NSW
Oasis Class (or equivalent)	Cruise ships approximately 370m LOA
OEH	The former Office of Environment and Heritage
OEMP	Operational Environmental Management Plan
Offensive noise	Has the same meaning as in the POEO Act
Offensive odour	Has the same meaning as in the POEO Act
Operation	The operation of the SSI (whether in full or in part) for its intended purposes, excluding the following activities carried out during construction: <ul style="list-style-type: none"> • commissioning trials of equipment; • temporary use of any part of the SSI; and • maintenance works.
Planning Secretary, the	Secretary of the NSW Department of Planning, Housing and Infrastructure, Industry and Environment, or nominee as delegated (formerly known as the Director-General). All references to the Secretary are to be read as references to the Planning Secretary.
Planning Secretary's Approval	A written approval from the Planning Secretary (or nominee). Where the Planning Secretary's Approval is required under a condition, the Planning Secretary will endeavour to provide a response within one month of receiving an approval request. The Planning Secretary may require additional information if the approval request is considered incomplete. When further information is required, the time taken for the Proponent to respond in writing will be added to the one month period.
POEO Act	<i>Protection of the Environment Operations Act 1997 (NSW)</i>
Ports NSW	Port Authority of NSW
Proponent	The person identified as such in Schedule 1 of this approval and any other person carrying out any part of the SSI from time to time.

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Proposed Mitigation Measures	As detailed in the Summary of Proposed Mitigation Measures, contained in <i>Response to Submissions Report Eden Breakwater Wharf Extension</i> , dated 24 February 2017.
Refined SO ₂ Emission Modelling	Appendix C to the <i>Eden Breakwater Wharf Extension Modification Request to Infrastructure Approval SSI 7734</i> (2 July 2018)
Relevant Maritime Acts	Commonwealth protection of the Sea (Prevention of Pollution from Ships) Act 1983 and Commonwealth Navigation Act 2012 as amended from time to time, or the relevant Act(s) applying at the time.
Relevant Maritime Authority	Harbour Master or authorised officer as defined in the <i>Marine Safety Act</i> 1998, or authorised officer or inspector under the <i>Marine Pollution Act</i> 2012.
Sensitive Receiver	Includes residences, educational institutions (including preschools, schools, universities, TAFE colleges), health care facilities (including nursing homes, hospitals), religious facilities (including churches), child care centres, passive recreation areas (including outdoor grounds used for teaching), active recreation areas (including parks and sports grounds), commercial premises (including film and television studios, research facilities, entertainment spaces, temporary accommodation such as caravan parks and camping grounds, restaurants, office premises, retail spaces and industrial premises), and others as identified by the Planning Secretary
Submissions Report	<i>Response to Submissions Report Eden Breakwater Wharf Extension</i> , dated 24 February 2017, including the Summary of Proposed Mitigation Measures.
SSI	The State Significant Infrastructure, as generally described in Schedule 1 (SSI 7734), the carrying out of which is approved under the terms of this approval.
Threatened Flora and Fauna	Threatened species, populations and ecological communities listed under the NSW <i>Threatened Species Conservation Act 1995</i> , NSW <i>Fisheries Management Act 1994</i> and Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i>
Unexpected find	Any unexpected find that has consequences for the project and/or requires further assessment including unexpected services, contaminated soil or sediments, threatened or thought to be extinct flora and fauna species and heritage items.
Unexpected heritage find	An unexpected heritage find is a potential heritage item that is discovered (usually during construction), where further assessment is required to determine if the item has heritage significance, or is an Aboriginal object, and the Proponent does not have approval to impact the item or object. Unexpected heritage finds do not include human remains, which are dealt with separately.
Quantum Class (or equivalent)	Cruise ships approximately 348m LOA.

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SUMMARY OF REPORTING, NOTIFICATION AND APPROVAL REQUIREMENTS

Reports and notifications that must be provided to the **Planning** Secretary under the terms of this approval are listed in **Table 2**.

Table 2: Reports and Notifications that must be submitted to the **Planning Secretary**

Condition	Report / Notification	Timing ¹	Purpose
Part A – Administrative			
A14	Approval of Environmental Representative	One month prior to commencement of Construction or within another timeframe agreed with the Planning Secretary.	Approval
A16(l)	Environmental Representative Reports	Within seven days following the end of each month for the duration of Construction or as otherwise agreed with the Planning Secretary.	Information
A17	Construction and Operation Compliance Tracking Programs	One month prior to commencement of Construction and Operation, respectively, or within another timeframe agreed with the Planning Secretary.	Approval
A19	Pre-Construction and Pre-Operation Compliance Reports	One month prior to commencement of Construction and Operation respectively or within another timeframe agreed with the Planning Secretary	Information
A21	Construction and Operation Compliance Reports	<p>6-monthly from the date of the commencement of Construction.</p> <p>One month from the end of the first calendar year of Operation and one month after the end of the 2019/2020 cruise season and following that, one month after the end of the cruise season.</p>	Information
A23(g)	Five Year Operational Compliance Summary Reports	Within 3 months of the end of each five years of operation	Information
A25	Approval of compliance auditor	One month prior to the compliance audit being undertaken	Approval
A26	Compliance Audit Reports	Within six weeks of completing the audit or within another timeframe agreed with the Planning Secretary.	Information
A29	Complaints Register	On request during Construction and Operation or within another timeframe agreed with the Planning Secretary.	Information
A33	Notification of incident	As early as possible and within 24 hours of the Proponent being made aware of the incident	Information
A36	Notification of incident notified to the EPA under the POEO Act	Within 24 hours of notifying the Environment Protection Authority (EPA)	Information

¹ Where a project is staged, all required approvals must be obtained before the commencement of the relevant stage.

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Condition	Report / Notification	Timing ¹	Purpose
A37	Staging report (if required)	No later than one month before the commencement of Construction of the first of the proposed stages of Construction (or if only staged Operation is proposed, one month before the commencement of operation of the first of the proposed stages of operation), or within another timeframe agreed with the Planning Secretary.	Information
Part B - Communication Information and Reporting			
B2	Community Consultative Committee Report	Five years after commencement of the Community Consultative Committee.	Information
B4	Community Communication Strategy	One month prior to commencement of any work	Approval
B6	Website	One month prior to commencement of works	Information
Part C - Construction Environmental Management			
C7	CEMP and CEMP Sub-plans	One month prior to commencement of Construction.	Approval
C13	Construction Monitoring Programs	One month prior to commencement of Construction or within another timeframe agreed with the Planning Secretary.	Approval
C16	Construction Monitoring Report	As specified in Construction Monitoring Programs.	Information
Part D - Operation Environmental Management			
D4 D5	OEMP, OEMP Sub-plans and Extended Use OEMP	One month prior to commencement of Operation or within another timeframe agreed with the Planning Secretary. Five Year Revision within one month of submission of the Five Year Operation Compliance Summary Reports.	Approval
D10	Air Quality Operation Monitoring Program	At least one month prior to operation.	Approval
D13	Operational Monitoring Programs	At least three (3) months prior to the first visit/cruise season to be monitored is expected to occur.	Approval
D24	Operational Monitoring Report	Within three (3) months of monitoring being undertaken for each event identified within the Operational Monitoring Programs.	Information, upon request.
Part E – Key Issues			
E11	Night Dredging Protocol	One month prior to commencement of Construction (as part of the Noise and Vibration CEMP Sub-plan).	Approval
E13	Night Dredging Assessment Period Report	Within one week of the end of the assessment period required under Condition E13.	Approval
E14	Updated Night Dredging Protocol	Within one week of the Planning Secretary's determination of the Night Dredging Assessment Period Report	Approval
E24	Social Impact Management Plan	At least three (3) months prior to the commencement of the first cruise	Approval

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Condition	Report / Notification	Timing ¹	Purpose
		season with more than 60 cruise ship visits is expected to occur.	

Note: *Table 2 is not a condition of this approval. If there is an inconsistency between a requirement in Table 2 and a requirement in a condition, the requirement of the condition prevails.*

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SCHEDULE 2

PART A

ADMINISTRATIVE CONDITIONS

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

A1 The SSI must be carried out:

- (a) in compliance with the conditions of this consent;
- (b) in accordance with all written directions of the Planning Secretary;
- (c) generally in accordance with the ~~EIS and Response to Submissions~~:
 - i. the *Eden Breakwater Wharf Extension State Significant Infrastructure – Environmental Impact Statement*, dated 3 November 2016,
 - ii. *Response to Submissions Report Eden Breakwater Wharf Extension*, dated 24 February 2017; and
- ~~(d) generally in accordance with Modification Assessments:~~
 - iii. *Eden Breakwater Wharf Extension Modification Request to Infrastructure Approval SSI 7734*, dated 2 July 2018;
 - iv. Letter titled “Re: Eden Breakwater Wharf MOD 1 – Response to Submissions – Air Quality and Noise”, dated 17 August 2018;
 - v. Response to Submission Eden Breakwater Wharf Extension MOD 1 (SSI 7734), dated 3 September 2018;
 - vi. *SSI 7734 Mod 1 – Addendum Modification Report*, dated 14 October 2018;
 - vii. *Eden Cruise Facility Modification 2 to SSI 7734 Extending Use of Cruise Facility to other Vessels*, dated July 2020; and
 - viii. *Eden Cruise Facility Response to Submissions - Modification 2 to SSI 7734 Extending Use of Cruise Facility to other Vessels*, dated August 2020.
 - ix. *Environmental Assessment Report Eden Cruise Wharf – Modification 3 to SSI 7734* dated 14 September 2023; and
 - x. *Submissions Report Eden Cruise Wharf – Modification 3 to SSI 7734* dated 16 February 2024.

A2 The SSI must be carried out generally in accordance with all procedures, commitments, preventative actions, performance criteria and mitigation measures set out in the documents referred to in Conditions A1(c) ~~and A1(d)~~ unless otherwise specified in, or required under, this approval.

A3 The SSI must be carried out in accordance with the terms and conditions of all other approvals, permits and licences.

A4 The conditions of this consent and directions of the Planning Secretary prevail to the extent of the inconsistency, ambiguity or conflict between them and a document listed in Condition A1(c) ~~or A1(d)~~. In the event of any inconsistency, ambiguity or conflict between any of the documents listed in Condition A1(c) ~~and A1(d)~~, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

A5 The Proponent must comply with all written requirements of the Planning Secretary in relation to:

- (a) the environmental performance of the SSI;
- (b) any document or correspondence **in relation to the SSI**;

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- (c) any notification given to the **Planning** Secretary under the terms of this approval;
 - (d) any audit of the Construction or Operation of the SSI;
 - (e) **the terms of this approval and** compliance with the terms of this approval (including anything required to be done under this approval);
 - (f) the carrying out of any additional monitoring or mitigation measures; and
 - (g) in respect of ongoing monitoring and management obligations, compliance with an updated or revised version of a guideline, protocol, Australian Standard or policy required to be complied with under this approval.**
- A6 Without limitation, all strategies, plans, programs, reviews, audits, report recommendations, protocols and other documents must be implemented in accordance with all requirements issued by the **Planning** Secretary from time to time in respect of them.
- A7 Where the terms of this approval require consultation with identified parties, details of the consultation undertaken, matters raised by the parties, and how the matters were considered must accompany the strategies, plans, programs, reviews, audits, protocols and the like submitted to the **Planning** Secretary.
- A8 This approval lapses five years after the date on which it is granted, unless Construction of the SSI has commenced on or before that date.

ANCILLARY FACILITIES

- A9 Ancillary Facilities that are not identified by description and location in the **~~EIS/Submissions—Report~~ documents listed in Condition A1(c)** must not be established unless they satisfy the following criteria:
- (a) the Ancillary Facility is development of a type that would, if it were not for the purpose of the SSI, otherwise be exempt or complying development; or
 - (b) the Ancillary Facility:
 - i. *at least* 50 metres from any waterway unless an erosion and sediment control plan is prepared and implemented so as not to affect water quality in the waterway in accordance with Managing Urban Stormwater: Soils and Construction (4th ed)_(Landcom, 2004);
 - ii. within or adjacent to land upon which the SSI is being carried out;
 - iii. with ready access to a road network;
 - iv. on level land;
 - v. so as to be in accordance with the *Interim Construction Noise Guideline* (DECC 2009) or as otherwise agreed in writing with affected landowners and occupiers;
 - vi. so as not to require vegetation clearing beyond the extent of clearing approved under other terms of this approval except as approved by the ER as minor clearing;
 - vii. so as not to have any impact on heritage items (including areas of archaeological sensitivity)
 - viii. so as not to affect lawful uses of adjacent properties that are being carried out at the date upon which establishment of the Ancillary Facility is to commence;
 - ix. to enable use of the Ancillary Facility during flood/oceanic inundation events and to avoid or minimise, to the greatest extent practicable, adverse flood impacts on the surrounding environment and other properties and infrastructure; and

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- x. so as to have sufficient area for the storage of materials to minimise, to the greatest extent practicable, the number of deliveries required outside standard construction hours.
- A10 Prior to establishment of any Ancillary Facility that satisfies the criteria in **Condition A9**, the Proponent must update the CEMP required under **Condition C1** to include the ancillary facility and any additional environmental management measures.
- A11 Minor Ancillary Facilities comprising lunch sheds, office sheds, and portable toilet facilities, that are not identified in the ~~EIS/Submissions Report~~ documents listed in **Condition A1(c)** and which do not satisfy the criteria set out in **Condition A9** of this approval must satisfy the following criteria in order to be established:
- (a) have no greater environmental and amenity impacts than those that can be managed through the implementation of environmental measures detailed in the CEMP required under **Condition C1** of this approval; and
 - (b) have been assessed by the ER to have:
 - i. minimal amenity impacts to surrounding residences and businesses, after consideration of matters such as compliance with the *Interim Construction Noise Guideline* (DECC 2009), traffic and access impacts, dust and odour impacts, and visual (including light spill) impacts;
 - ii. minimal environmental impact with respect to waste management and flooding; and
 - iii. no impacts on biodiversity, soil and water, and heritage items beyond those already approved under other terms of this approval.
- A12 Boundary screening must be erected around all Ancillary Facilities (including Minor Ancillary Facilities) that are adjacent to Sensitive Receivers for the duration of Construction unless otherwise agreed with Council, and affected residents, business operators or landowners.
- A13 Boundary screening required under **Condition A12** of this approval must minimise visual, noise and air quality impacts on adjacent Sensitive Receivers.

ENVIRONMENTAL REPRESENTATIVE

- A14 A suitably qualified and experienced ER who is independent of the construction personnel must be nominated by the Proponent, approved by the **Planning** Secretary and engaged for the duration of Construction of the SSI. Additional ERs may be engaged for the purpose of this condition, in which case the obligations to be carried out by an ER under the terms of this approval may be satisfied by any ER that is approved by the **Planning** Secretary. The details of nominated ER(s) must be submitted to the **Planning** Secretary for approval no later than one month prior to the commencement of Construction, or within another timeframe agreed with the **Planning** Secretary.
- A15 Works must not commence until an ER nominated under **Condition A14** of this approval has been approved by the **Planning** Secretary.
- A16 From the commencement of Construction until Completion of Construction, the approved ER must:
- (a) on behalf of the Proponent, receive and respond to communication from the **Planning** Secretary in relation to the environmental performance of the SSI;

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- (b) consider and inform the **Planning** Secretary on matters specified in the terms of this approval;
- (c) consider and recommend any improvements that may be made to work practices to avoid or minimise adverse impact to the environment and to the community;
- (d) review all documents required to be prepared under the terms of this approval, ensure they are consistent with requirements in or under this approval and if so, endorse them prior to submission to the **Planning** Secretary (if required to be submitted to the **Planning** Secretary) or prior to implementation (if not required to be submitted to the **Planning** Secretary);
- (e) regularly monitor the implementation of all documents required to be prepared under the terms of this approval to ensure implementation is being carried out in accordance with what is stated in the document and the terms of this approval;
- (f) notify the **Planning** of an incident in accordance with **Condition A33** of this approval;
- (g) as may be requested by the **Planning** Secretary, help plan, attend or undertake Department audits of the SSI including scoping audits, programming audits, briefings, and site visits, but not audits required under **Condition A24** of this approval;
- (h) if conflict arises between the Proponent's construction contractor(s) and the community in relation to the environmental performance of the SSI, follow the procedure in the **Community Communication Strategy** approved under **Condition B4** of this approval to attempt to resolve the conflict, and if it cannot be resolved, notify the **Planning** Secretary;
- (i) review any draft consistency assessment that may be carried out by the Proponent, provide advice to the Proponent on whether the work that is the subject of the draft consistency assessment is consistent with the terms of this approval and provide advice on any additional mitigation measures required to minimise the impact of the work;
- (j) consider any minor amendments to be made to the **CEMP**, **CEMP Sub-plans** and monitoring programs that comprise updating or are of an administrative nature, and are consistent with the terms of this approval and the **CEMP**, **CEMP Sub-plans** and **Monitoring Programs** approved by the **Planning** Secretary and, if satisfied such amendment is necessary, approve the amendment. This does not include any modifications to the terms of this approval;
- (k) assess the impacts of Minor Ancillary Facilities as required by **Condition A11** of this approval; and
- (l) prepare and submit to the **Planning** Secretary and other relevant regulatory agencies, for information, a monthly **Environmental Representative Report** detailing the ER's actions and decisions on matters for which the ER was responsible in the preceding month (or other timeframe agreed with the **Planning** Secretary). The **Environmental Representative Report** must be submitted within seven days following the end of each month for the duration of Construction of the SSI, or as otherwise agreed with the **Planning** Secretary.

COMPLIANCE TRACKING PROGRAM

- A17 **Construction and Operation Compliance Tracking Programs** to monitor compliance with the terms of this approval must be prepared. The **Construction Compliance Tracking Program** must be endorsed by the ER and then submitted to the **Planning** Secretary for approval no later than one month prior to the commencement of Construction or within another timeframe agreed with the **Planning** Secretary. The **Operation Compliance Tracking Program** must be submitted to the **Planning** Secretary for approval no later than one month prior to commencement of Operation or within another timeframe agreed with the **Planning** Secretary.

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- A18 The Construction and Operation **Compliance Tracking Programs** must be implemented for the duration of Construction and Operation, or within another timeframe agreed with the **Planning** Secretary based on the outcomes of independent audits, **Environmental Representative Reports** and regular compliance reviews submitted through **Compliance Reports**.
- A19 A **Pre-Construction Compliance Report** and **Pre-Operation Compliance Report** must be prepared and submitted to the **Planning** Secretary for information no later than one month prior to the commencement of Construction and Operation respectively or within another timeframe agreed with the **Planning** Secretary.
- A20 Construction and Operation must not commence until the **Pre-Construction Compliance Report** and **Pre-Operation Compliance Report** respectively have been submitted to the **Planning** Secretary.
- A21 **Construction Compliance Reports must be prepared and submitted to the Planning Secretary for information every six months from the date of the commencement of Construction and Operation Compliance Reports must be prepared and submitted to the Planning Secretary for information after the first calendar year of operation, the end of the 2019/2020 cruise season and following that, after the end of each cruise season, or within another timeframe agreed with the Planning Secretary.**

COMPLIANCE REPORTS

- A22 The **Pre-Construction** and **Pre-Operation Compliance Reports** must include:
- (a) details of how the terms of this approval that must be addressed prior to the commencement of Construction and Operation respectively have been complied with;
 - (b) in the event of a non-compliance with the terms of this approval that must be addressed prior to the commencement of Construction and Operation respectively, details of the noncompliance and action taken to rectify the non-compliance; and
 - (c) the commencement date for Construction and Operation respectively.
- A23 **Construction and Operation Compliance Reports must include:**
- (a) **a results summary and analysis of environmental monitoring;**
 - (b) **a summary of the Complaints Register required under Condition A28 including the number of any complaints received, a summary of main areas of complaint, action taken, response given and proposed strategies for reducing the recurrence of such complaints;**
 - (c) **details of any review of, and minor amendments made to, the CEMP or OEMP;**
 - (d) **a register of any consistency assessments undertaken and their status;**
 - (e) **results of any independent environmental audits and details of any actions taken in response to the recommendations of an audit;**
 - (f) **a summary of all incidents notified in accordance with Condition A33 and Condition A34 of this approval including actions taken to address the cause or impact of an incident;**

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- (g) a **Five Year Operational Compliance Summary Report** every five years from commencement of Operation, unless otherwise agreed by the Planning Secretary, which includes:
 - i. the name and size of visiting cruise ships and date of visits,
 - ii. the number and nature of complaints in relation to specific cruise ships,
 - iii. results of air quality monitoring and any noise monitoring undertaken to investigate repeated noise complaints, iv. identification of any issues that need to be addressed through revision of the OEMP and/or Sub-plans; and
- (h) any other matter relating to compliance with the terms of this approval or as requested by the Planning Secretary.

COMPLIANCE AUDITING

- A24 Compliance audits of the SSI must be conducted annually, commencing within a year of the commencement of Construction, by an independent, suitably qualified and experienced expert or within another timeframe agreed with the Planning Secretary.
- A25 Details of the nominated independent auditor must be submitted to the Planning Secretary for approval no later than one month prior to the audit being undertaken.
- A26 The Proponent must submit a copy of the audit report to the Planning Secretary with a response to any recommendations contained in the audit report within six weeks of completing the audit, or within another timeframe agreed with the Planning Secretary.
- A27 The audit report must:
- (a) assess the environmental performance of the SSI, and its effects on the surrounding environment;
 - (b) assess whether the project is complying with the terms of this approval;
 - (c) review the adequacy of any document required under this approval; and
 - (d) recommend measures or actions to improve the environmental performance of the SSI, and improvements to any document required under this approval.

COMPLAINTS REGISTER

- A28 A **Complaints Register** must be maintained for the duration of Construction and Operation.
- A29 The **Complaints Register** must be provided to the Planning Secretary upon request, within the timeframe stated in the request.
- A30 The following information must be available to facilitate community enquiries and complaints within one (1) month from the date of this approval:
- (a) a 24 hour telephone number for the registration of complaints and enquiries about the SSI;
 - (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.

This information must be accessible to all in the community regardless of age, ethnicity, disability or literacy level.

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- A31 The telephone number, postal address and email address required under **Condition A30** of this approval must be published in a newspaper circulating in the local area prior to the commencement of Construction and published in the same way again prior to the commencement of Operation. This information must also be provided on the website required under **Condition B6** of this approval.
- A32 The **Complaints Register** must record the:
- (a) number of complaints received;
 - (b) number of people affected in relation to a complaint;
 - (c) means by which the complaint was addressed and whether resolution was reached, with or without mediation.

INCIDENT NOTIFICATION

- A33 The Planning Secretary must be notified as soon as possible and in any event within 24 hours of the Proponent being made aware of any incident.
- A34 Notification of an incident under **Condition A33** of this approval must include the time and date of the incident, details of the incident and must identify any non-compliance with this approval.
- A35 Any requirements of the **Planning** Secretary or relevant public authority (as determined by the **Planning** Secretary) to address the cause or impact of an incident reported in accordance with **Condition A33** of this approval, must be met within the timeframe determined by the Planning Secretary or relevant public authority.
- A36 If statutory notification is given to the EPA as required under the POEO Act in relation to the SSI, such notification must also be provided to the Planning Secretary within 24 hours after the notification was given to the EPA.

STAGING

- A37 The SSI may be constructed and operated in stages. Where staged construction or operation is proposed, a **Staging Report** (for either or both construction and operation as the case requires) must be prepared and submitted to the **Planning** Secretary for information. The **Staging Report** must be submitted to the **Planning** Secretary no later than one month before the commencement of construction of the first of the proposed stages of construction (or if only staged operation is proposed, one month before the commencement of operation of the first of the proposed stages of operation), or within another timeframe agreed with the Planning Secretary.
- A38 The Staging Report must:
- (a) if staged construction is proposed, set out how the construction of the whole of the SSI will be staged, including general details of work and other activities to be carried out in each stage and the general timing of when construction of each stage will commence;
 - (b) if staged operation is proposed, set out how the operation of the whole of the SSI will be staged, including general details of work and other activities to be carried out in each stage and the general timing of when operation of each stage will commence;

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- (c) specify the relevant conditions of approval that apply to each stage and how compliance with those conditions will be achieved across and between each of the stages of the SSI; and
- (d) set out mechanisms for managing any cumulative impacts arising from the proposed staging.

A39 The SSI must be staged in accordance with the Staging Report, as submitted to the Planning Secretary.

A40 Where staging is proposed, the terms of this approval that apply or are relevant to the works or activities to be carried out in a specific stage must be complied with at the relevant time for that stage.

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PART B

COMMUNITY INFORMATION AND REPORTING

COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT

- B1 Prior to commencement of Construction, the Proponent is required to establish a **Community Consultative Committee**.

The **Community Consultative Committee** is to be established in accordance with the Department's Community Consultative Committee Guidelines for State Significant Projects, dated November 2016, or from an existing group that can be demonstrated to meet the purposes and objectives of the Guidelines as agreed by the **Planning Secretary**.

The committee is to include representatives from port businesses, maritime user groups, residents surrounding the Port of Eden and the Relevant Maritime Authority and is to operate during Construction and during Operation of the SSI for a period as agreed with the **Planning Secretary**, but not for less than five years from commencement of operation of the committee.

- B2 A Report endorsed by the Community Consultative Committee is to be submitted to the Planning Secretary five years after commencement of Operation of the SSI, reporting on whether the purpose of the Committee has been achieved and completed, and recommending a timeframe for continued operation. Where disbandment of the committee is recommended, it is to be replaced with a community-based forum, as provided for in the Community Communication Strategy, operating for the life of the SSI unless otherwise agreed by the Planning Secretary. The Community Consultative Report recommending disbandment must be submitted to the Planning Secretary for consideration and include:

- (a) minutes of the Community Consultative Committee meeting documenting member agreement to disbandment; and
- (b) proposed membership of the community-based forum. Note: the community-based forum must include local residents and may be an existing community liaison group.

- B3 A Community Communication Strategy must be prepared to provide mechanisms to facilitate communication between the Proponent, the ER, the relevant Council, the Community Consultative Committee and/ or community-based forum, others directly impacted by the SSI during Construction of the SSI and for the life of the Operation of the SSI, unless otherwise agreed by the Planning Secretary .

- B4 The **Community Communication Strategy** must be submitted to the **Planning Secretary** for approval no later than one month prior to commencement of any work (excluding works described in paragraphs (a) to (c) in the definition of Construction) for the purposes of the SSI, or within another timeframe agreed with the **Planning Secretary**. Work for the purposes of the SSI (excluding works described in paragraphs (a) to (c) in the definition of Construction) must not commence until the **Community Communication Strategy** has been approved by the **Planning Secretary**.

- B5 The Community Communication Strategy must:

- (a) identify people to be consulted during Construction and Operation;

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- (b) set out procedures and mechanisms for the regular distribution of accessible information about or relevant to the SSI;
- (c) provide for the formation of community-based forums that focus on key environmental management issues for the SSI arising from Compliance Reports; and
- (d) set out procedures and mechanisms:
 - i. through which the community can discuss or provide feedback to the Proponent;
 - ii. through which the Proponent will respond to enquiries or feedback from the community; and
 - iii. to resolve any issues and mediate any disputes that may arise in relation to environmental management and delivery of the SSI.

PROVISION OF ELECTRONIC INFORMATION

- B6 A website providing information in relation to the SSI must be established prior to commencement of Construction and maintained for the duration of Construction and Operation. Up-to-date information (excluding confidential commercial information) must be published and maintained on the website or dedicated pages including: (a)
- (a) information on the current implementation status of the SSI;
 - (b) a copy of the documents listed in **Condition A1** and **Condition A2** of this approval, and any documentation relating to any modifications made to the SSI or the terms of this approval;
 - (c) a copy of this approval in its original form, a current consolidated copy of this approval (that is, including any approved modifications to its terms), and copies of any approval granted by the Minister to a modification of the terms of this approval;
 - (d) a copy of each statutory approval, licence or permit required and obtained in relation to the SSI including Commonwealth permits or approvals;
 - (e) a current copy of each document required under the terms of this approval and any endorsements, approvals or requirements from the ER and Planning Secretary, all of which must be published prior to the commencement of any works to which they relate or prior to their implementation as the case may be; and
 - (f) the outcomes of compliance tracking required under this approval.

Information relating solely to construction may be removed from the website 12 months following completion of construction.

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PART C

CONSTRUCTION ENVIRONMENTAL MANAGEMENT

CONSTRUCTION ENVIRONMENTAL MANAGEMENT FRAMEWORK

- C1 A **Construction Environmental Management Plan (CEMP)** must be prepared to detail how the performance outcomes, commitments and mitigation measures specified in the **EIS and Submissions Report documents listed in Condition A1(c)** will be implemented and achieved during Construction.
- C2 The CEMP must provide:
- (a) a description of activities to be undertaken during Construction (including the scheduling of Construction). Where the CEMP covers construction to be carried out under other approvals, licences and permits, the CEMP must clearly identify which activities are to be carried out under this approval;
 - (b) details of environmental policies, guidelines and principles to be followed in the Construction of the SSI;
 - (c) a program for ongoing analysis of the key environmental risks arising from the activities described in subsection (a) of this condition, including an initial risk assessment undertaken prior to the commencement of Construction of the SSI;
 - (d) a list of all the **CEMP Sub-plans** required in respect of construction, as set out in **Condition C3**;
 - (e) details of how the activities described in subsection (a) of this condition will be carried out under the CEMP and Sub-plans to:
 - i. achieve the environmental performance outcomes identified in **EIS/Submissions Report documents listed in Condition A1(c)**,
 - ii. implement the mitigation measures identified in **EIS/Submissions Report documents listed in Condition A1(c)**,
 - iii. comply with the relevant terms of this approval, and
 - iv. manage issues during construction, as identified through the ongoing environmental risk analysis referred to in subsection (c) of this condition;
 - (f) an inspection program detailing the activities to be inspected and frequency of inspections;
 - (g) a description of the roles and environmental responsibilities for relevant employees and their relationship with the ER including for management of any matters which are to be reported in the **Construction Compliance Reports** required under **Condition A21**
 - (h) for training and induction for employees, including contractors and sub-contractors, in relation to environmental and compliance obligations under the terms of this approval;
 - (i) a description of the categories of minor amendments that may be considered by the Environmental Representative under **Condition A16(j)**; and
 - (j) for periodic review and update of the CEMP and all associated plans and programs.
- C3 The following **CEMP Sub-plans** must be prepared in consultation with the relevant government agencies and stakeholders identified for each **CEMP Sub-plan**, and in consideration of the relevant requirements in this approval and the Proposed Mitigation Measures:

Required CEMP Sub-plan	Relevant government agencies and stakeholders to be consulted
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(a)	Traffic, Access and Transport	Council, Community Consultative Committee required under Condition B1
(b)	Noise and Vibration	Council, EPA, Community Consultative Committee required under Condition B1
(c)	Aquatic Ecology	DPI, OEHS BCS
(d)	Water Quality	Council, EPA, DPI

C3A The CEMP sub-plans for the works associated with Modification 3 do not require consultation with the relevant government agencies and stakeholders listed in Condition C3.

- C4 The **CEMP Sub-plans** must include, to the written satisfaction of the **Planning Secretary**, details of all information requested by an agency to be included in a **CEMP Sub-plan**, including copies of all correspondence from those agencies.
- C5 The Aquatic Ecology CEMP Sub-plans is to make reference to management measures and requirements of the Australian Government specified in the *Environment Protection and Biodiversity Conservation Act 1999* (Commonwealth) referral decision EPBC 2016/7828 and *Environment Protection (Sea Dumping) Act 1981* (Commonwealth) sea dumping permit no. SD 2015/3102.
- C6 Any of the **CEMP Sub-plans** may be submitted along with, or subsequent to, the submission of the **CEMP** but in any event, no later than one month prior to construction.
- C7 The **CEMP** must be endorsed by the ER and then submitted to the **Planning Secretary** for approval no later than one month prior to the commencement of construction or within another timeframe agreed with the **Planning Secretary**.
- C8 Any future amendments to the **CEMP** or **CEMP Sub-plans** are to **be** submitted to the **Planning Secretary** for approval, other than amendments that can be approved by the ER under **Condition A16(j)**.
- C9 Construction must not commence until the **CEMP** and all **CEMP Sub-plans** have been approved by the **Planning Secretary**. The **CEMP** and **CEMP Sub-plans**, as approved by the Planning Secretary, including any minor amendments approved by the ER in accordance with **Condition A16**, must be implemented for the duration of construction.

CONSTRUCTION MONITORING PROGRAMS

- C10 The following **Construction Monitoring Programs** must be prepared in consultation with the relevant government agencies identified for each **Construction Monitoring Program** to compare actual performance of construction of the SSI against performance predicted in the **EIS/Submissions Report documents listed in Condition A1(c)** or in the **CEMP**:

	Required Construction Monitoring Programs	Relevant government agencies to be consulted
(a)	Noise Monitoring triggered by Condition E11	Council, EPA

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(b)	Marine Ecology Monitoring	DPI, QEH BCS
(c)	Water Quality (Turbidity) Monitoring	DPI, EPA

C10A Construction Monitoring Programs as required by Condition C10 are not required for the works associated with Modification 3.

C11 Each Construction Monitoring Program must provide:

- (a) details of baseline data available;
- (b) details of baseline data to be obtained and when;
- (c) details of all monitoring of the project to be undertaken;
- (d) the parameters of the project to be monitored;
- (e) the frequency of monitoring to be undertaken;
- (f) the location of monitoring;
- (g) the reporting of monitoring results;
- (h) procedures to identify and implement additional mitigation measures where results of monitoring are unsatisfactory; and
- (i) any consultation to be undertaken in relation to the monitoring programs.

C12 The **Construction Monitoring Programs** must include, to the written satisfaction of the **Planning** Secretary, information requested by an agency to be included in a Construction Monitoring Program including copies of all correspondence from those agencies.

C13 The **Construction Monitoring Programs** must be endorsed by the ER and then submitted to the **Planning** Secretary for approval at least one month prior to the commencement of Construction or within another timeframe agreed with the **Planning** Secretary.

C14 Construction must not commence until the **Planning** Secretary has approved the required **Construction Monitoring Programs**, and all relevant baseline data for the specific construction activity has been collected.

C15 The **Construction Monitoring Programs**, as approved by the **Planning** Secretary including any minor amendments approved by the ER in accordance with **Condition A16** must be implemented for the duration of Construction and for any longer period set out in the monitoring program or specified by the **Planning** Secretary, whichever is the greater.

C16 The results of the **Construction Monitoring Programs** must be submitted to the **Planning** Secretary, and relevant regulatory agencies, for information in the form of a **Construction Monitoring Report** at the frequency identified in the relevant **Construction Monitoring Program**.

C17 Where a relevant CEMP Sub-plan exists, the relevant Construction Monitoring Program may be incorporated into that CEMP Sub-plan.

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PART D

OPERATIONAL ENVIRONMENTAL MANAGEMENT

OPERATIONAL ENVIRONMENTAL MANAGEMENT

- D1 An **Operational Environmental Management Plan (OEMP)** must be prepared to detail how the performance outcomes, commitments and mitigation measures made and identified in the ~~EIS and Submission Report documents listed in Condition A1(c)~~ will be implemented and achieved during Operation.

~~D1A An Extended Use Operational Environmental Management Plan (Extended Use OEMP) must be prepared to detail how the performance outcomes and commitments made and identified in the Eden Cruise Facility Modification 2 to SSI 7734 Extending Use of Cruise Facility to other Vessels and Eden Cruise Facility Response to Submissions – Modification 2 to SSI 7734 Extending Use of Cruise Facility to other Vessels will be implemented and achieved during the Extended Use operations.~~

- D2 The **OEMP** ~~required under Condition D1~~ must provide:
- (a) a description of management and monitoring activities. Where the **OEMP** covers activities to be carried out under other approvals, licences and permits, the **OEMP** must clearly identify which activities are to be carried out under this approval;
 - (b) details of environmental policies, guidelines and principles to be followed in the operation of the SSI;
 - (c) a list of all the **OEMP Sub-plans** required in respect of Operation, as set out in **Condition D3**.
 - (d) details of how the Operation of the SSI will be carried out under the OEMP and OEMP Subplans to:
 - i. achieve the environmental performance outcomes identified in the ~~EIS and Submission Report documents listed in Condition A1(c)~~;
 - ii. implement the mitigation measures identified in the ~~EIS and Submission Report documents listed in Condition A1(c)~~ and any additional measures recommended in Compliance Audits or to address any issues identified in the Five Year Operational Compliance Summary Reports;
 - iii. comply with the relevant terms of this approval; and
 - iv. address issues during Operation, as identified through the Community Consultative Committee, community-based forums provided for under Condition B5, Complaints Register or Monitoring Programs, through a process of continual improvement;
 - (e) an inspection program detailing the activities to be inspected and frequency of inspections;
 - (f) a description of the roles and environmental responsibilities of the Proponent's employees and their relationship with the Relevant Maritime Authority and Council including roles and responsibilities for management of any matters which are to be reported in the Operation Compliance Reports required under Condition A21;
 - (g) for training and induction for employees, including contractors and sub-contractors, in relation to environmental and compliance obligations under the terms of this approval;
 - (h) a mechanism for communicating the environmental and compliance obligations under this approval to cruise ship operators;

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- (i) procedures for the notification of the NSW Food Authority in relation to sewage, fuel and oil sillage spill events;
- (j) procedures for the avoidance of and timeframes for the notification of vessel strikes of marine fauna that are observed under pilotage to NPWS;
- (k) procedures for the expedite notification of DPI Aquatic Biosecurity Unit of any new sightings of *C.lepadiformis*;
- (l) reference to potential turbidity impacts from larger vessel classes as an operational risk; and
- (m) for the periodic review and update of the OEMP and all associated plans and programs.

Note: DPI Aquatic Biosecurity is the direct contact for all marine pests and diseases. Contact for suspected reports should be via the 24-hour hotline 1800 675 888 and queries directed to the mailbox: aquatic.biosecurity@dpi.nsw.gov.au. Refer to Schedule 2 of the Biosecurity Act 2015, and Schedule 1 of the Biosecurity Regulation 2017 for prohibited and notifiable matters.

- D3 The following **OEMP Sub-plans** must be prepared in consultation with the relevant government agencies identified for each **OEMP Sub-plan**, and in consideration of the relevant requirements in this approval and the Proposed Mitigation Measures:

	Required OEMP Sub-plan	Relevant government agencies to be consulted
(a)	Traffic, Transport and Access	Council, Relevant Maritime Authority
(b)	Noise Management	Council, EPA, Relevant Maritime Authority
(c)	Air Quality Management	EPA, Relevant Maritime Authority
(d)	Water Quality	DPI Fisheries

- D4 The **OEMP Sub-plans** must include, to the written satisfaction of the **Planning Secretary**, information requested by an agency to be included in an **OEMP Sub-plan**, including copies of all correspondence from those agencies.
- D5 The **OEMP and OEMP Sub-plans** ~~and Extended Use OEMP~~, must be submitted to the **Planning Secretary** for approval no later than one month prior to the commencement of relevant operations, unless another timeframe is agreed with the **Planning Secretary**. Revised OEMP and OEMP sub-plans resulting from the findings of Five Yearly Compliance Summary Report ~~(except the Extended Use OEMP)~~ are to be submitted to the **Planning Secretary** for approval no later than one month following submission of the Five Yearly Compliance Summary Reports.
- D5A The approved OEMP and OEMP Sub-plans must be updated to address the requirements and mitigation measures proposed in the documents listed in Condition A1(c) in relation to Modification 3.
- D6 The **OEMP** ~~and Extended Use OEMP~~, as approved by the **Planning Secretary** and amended from time to time, must be implemented for the duration of relevant operations and must be made publicly available prior to the commencement of and for the duration of the relevant operations.

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OPERATIONAL MONITORING PROGRAM

Operational Air Quality Monitoring (Pre-Modification 3)

- D7 The Air Quality Operation Monitoring Program, as approved prior to Modification 3, and as amended from time to time, must be implemented until the end of the 2023/24 cruise season.
- D8 The results of the Air Quality Operation Monitoring Program as approved prior to Modification 3, must be submitted to the Planning Secretary, and relevant regulatory agencies, for information in the form of an Operation Monitoring Report at the frequency identified in the Air Quality Operation Monitoring Program.

Operational Monitoring Programs (Modification 3)

- D9 Conditions D10 to D25 apply to operations associated with Conditions D17 and D20.
- D10 Operational Monitoring Program(s) must be prepared to compare actual operational performance against predicted performance of that identified in Condition A1(c)(ix) and (x). The Operational Monitoring Program(s) must be prepared in consultation with the identified relevant authorities. Details of information requested by an agency during consultation must be provided to the Planning Secretary as part of any submission of the relevant Operational Monitoring Program, including copies of correspondence from those agencies as required by Condition Error! Reference source not found..
- D11 Each Operational Monitoring Program must include:
- (a) details of baseline data;
 - (b) the relevant environmental performance criteria or parameter (including reference to where the criteria or parameter are identified in the documents listed in Condition A1(c)(ix) and (x))
 - (c) details of monitoring of the project to be undertaken;
 - (d) the parameters of the project to be monitored;
 - (e) the frequency and lifespan of monitoring to be undertaken;
 - (f) the location of monitoring;
 - (g) the reporting of monitoring and analysis of results against the relevant environmental performance criteria or parameter;
 - (h) details of the methods that will be employed to analyse the monitoring data;
 - (i) procedures to identify and implement additional mitigation measures where results of monitoring are unsatisfactory; and
 - (j) any consultation to be undertaken in relation to the monitoring programs.
- D12 Where a relevant OEMP Sub-plan exists, the relevant Operation Monitoring Program may be incorporated into that OEMP Sub-plan.
- D13 The Operational Monitoring Program(s) must be submitted to the Planning Secretary for approval at least three (3) months prior to the first visit/cruise season to be monitored is expected to occur.
- D14 The Operational Monitoring Program(s), as approved by the Planning Secretary, must be implemented for the duration identified in the terms of this approval. Where no duration is specified in this approval, they must be implemented for the

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duration specified in the relevant Operational Monitoring Program or as specified by the Planning Secretary.

- D15 Operation of the scenarios to be monitored, as identified in Conditions D17 and D20, must not commence until the Planning Secretary has approved the required Operational Monitoring Program(s), and relevant baseline data has been collected.

Operational Air Quality Monitoring (Modification 3)

- D16 An Operational Air Quality Monitoring Program must be prepared in consultation with Council.
- D17 The Operational Air Quality Monitoring Program must enable the monitoring of the first cruise seasons which are scheduled to have:
- (a) more than 60 cruise ship visits; and
 - (b) a Quantum class (or equivalent) visit, and
 - (c) an Oasis class (or equivalent) visit.

Note: Monitoring must be undertaken for the entire cruise season in which events listed in (a) – (c) are expected to occur.

- D18 The Operational Air Quality Monitoring Program must include:
- (a) details and frequency of the monitoring of SO₂, NO₂, and PM_{2.5} at locations most likely to be impacted from cruise ship emissions, as identified in the documents listed in Condition A1(c);
 - (b) a review of the monitoring results that considers the performance of the SSI relative to the ambient air quality standards and the environmental parameters.

Note: Where monitoring at the most impacted receptor location(s) cannot be done for logistical or access reasons, a standardised procedure to adjust the measured result to reflect the most likely value that would have occurred at the receptor location is to be implemented (e.g. a look up table for the prevailing wind condition to determine the adjustment or scaling factor, per modelling result differences between the measured location and likely most impacted receptor location under such wind conditions).

Operational Water Quality Monitoring (Modification 3)

- D19 An Operational Water Quality Monitoring Program must be prepared in consultation with DPI Fisheries.
- D20 The Operational Water Quality Monitoring Program must enable the monitoring of the first:
- (a) cruise season with more than 60 vessel visits; and
 - (b) visit of a Quantum class (or equivalent); and
 - (c) visit of an Oasis class (or equivalent).

- D21 The Operational Water Quality Monitoring Program must include:

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- (a) details of the type and frequency of monitoring to be undertaken for single vessel events (the first Quantum class or equivalent and first Oasis class or equivalent) and the first cruise season with more than 60 vessel visits;
- (b) a review of the monitoring results that considers the performance of the SSI relative to the environmental parameters.

D22 If an exceedance of the environmental parameters identified in the Operational Water Quality Monitoring Program occurs, the Proponent must notify the Planning Secretary and DPI Fisheries as soon as possible and within 24 hours of the identification of the exceedance.

This notification must provide details of the circumstances of the event, including:

- (a) the nature of the event;
- (b) the parameters that were exceeded;
- (c) the timing and duration of the event; and
- (d) the measures employed to minimise the exceedance.

D23 Following a notification of an exceedance of environmental parameters (as required by Condition D22), the Planning Secretary may direct the Proponent to prepare a Report on Environmental Parameter Exceedance and submit it to the Planning Secretary within the time frame specified by the Planning Secretary. The Report must detail the cause and major contributor of the exceedance, the effectiveness of any action(s) taken in response the exceedance and the options available to prevent recurrence.

Operational Monitoring Report

D24 An Operational Monitoring Report(s) must be submitted to the Planning Secretary upon request, and to the relevant authorities and Council (listed in Condition D16 and D19) within 3 months of the monitoring being completed for each event identified within the Operational Monitoring Program. The Operational Monitoring Report must include:

- (a) a summary of the results of Operational Monitoring Program(s);
- (b) identification of additional mitigation measures required (where results of monitoring are unsatisfactory or where environmental parameters are exceeded); and
- (c) timeframes for the implementation of the proposed measures.

The recommendations identified must be implemented as part of the SSI in the timeframes outlined in the Operational Monitoring Report. Additional mitigation measures must be included in the relevant OEMP Sub-plan.

D25 If an Operational Monitoring Report identifies an exceedance of parameters that cannot be mitigated following the implementation of mitigation measures, the Proponent must write to the Planning Secretary within 30 days of the completion of the Operational Monitoring Report and identify how any non-compliant operations would be prevented from reoccurring to ensure compliance with the environmental parameters identified in the Operational Monitoring Program. The Planning Secretary may require the Operational Monitoring Program(s) to be updated and re-submitted for approval.

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Note: The intent of this condition is to address systemic issues and not respond to a single non-compliance.

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PART E

KEY ISSUE CONDITIONS

TERMS OF APPROVAL

- E1 ~~Deleted. No cruise ship is permitted to berth before 7.00am or after 10.00pm unless extenuating circumstances prevail such as mechanical failure, an on-board emergency or severe weather conditions.~~

~~Vessels other than cruise ships up to 100m in length are permitted to remain at berth 24 hours per day when a cruise ship is not at berth.~~

- E2 In addition to the performance outcomes, commitments and mitigation measures specified in the ~~EIS and Submissions Report~~, documents listed in **Conditions A1(c)**, all reasonably practicable measures must be implemented to minimise noise impacts and the emission of air pollutants during Operation of the SSI.

DILAPIDATION REPORT

- E3 A **Road Dilapidation Report** must be prepared for all roads within the control of Council proposed to be used by heavy vehicles prior to the commencement of use by such vehicles. Copies of the **Road Dilapidation Report** must be provided to Council within three weeks of completing the surveys and no later than one week prior to the commencement of Construction of the SSI.
- E4 On Completion of Construction, a **Road Dilapidation Report** must be prepared for all roads within the control of Council that were used by heavy vehicles during Construction. Copies of the Road Dilapidation Report must be provided to Council within three weeks of completing the surveys. If damage to roads occurs as a result of Construction of the SSI, the Proponent must either (at Council's discretion):
- (j) agree with Council the amount of compensation to be paid to Council for the damage so caused; or
 - (k) rectify the damage so as to restore the road to at least the condition it was pre-construction.

TRAFFIC, TRANSPORT AND ACCESS

- E5 The SSI must be constructed so that it does not adversely impact on the safety and efficiency of the transport system (road and maritime) in the vicinity of the SSI or businesses within the Port of Eden.
- E6 The **Traffic, Transport and Access CEMP Sub-plan** must include the following:
- (a) identify roads to be utilised as part of Construction and measures to ensure construction vehicles follow this route;
 - (b) identify marine construction and vessel mooring zones and measures to delineate these areas;
 - (c) measures to maintain access to the Multipurpose Jetty or other arrangements for vessels utilising this jetty;
 - (d) measures for safe passenger access, if cruise ships moor in Twofold Bay and tenders to and from the Port of Eden operated during Construction;
 - (e) measures to minimise disruptions to Port businesses including maintenance of pedestrian and vehicle access and parking and provision of directional signage;

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- (f) measures to physically separate pedestrian and construction vehicle movements, such as temporary barriers.
- E7 The **Traffic, Transport and Access OEMP Sub-plan** must include detail on the provision of infrastructure, facilities and services to cater for cruise ship passengers and ensure safe access including:
- (a) pedestrian access to Eden Town Centre and Port of Eden retail areas;
 - (b) pedestrian access to tourist facilities and other local businesses;
 - (c) passenger transport services for visits to local and regional businesses and attractions;
 - (d) **shuttle bus routes for Quantum and Oasis class vessels;**
 - (e) bus parking bays, waiting areas, shelters, signage and the like at the wharf and at pick up points in the local area; and
 - (f) provision of personnel to oversee pedestrian movements on the wharf and surrounding areas during cruise ship visits.
- E7A Shuttle buses servicing Quantum and Oasis class (or equivalent) vessels must not use the Barclay Street/Princes Highway intersection, unless agreed to by the relevant road authority.**

NOISE AND VIBRATION

- E8 The SSI is to be constructed and operated to minimise noise impacts on surrounding residents.
- E9 **Construction (except for dredging and offshore disposal activities) must only be undertaken during the following standard construction hours:**
- (a) **7:00am to 6:00pm Mondays to Fridays, inclusive;**
 - (b) **8:00am to 1:00pm Saturdays; and**
 - (c) **at no time on Sundays or public holidays.**
- except in the following circumstances:**
- i. **for the delivery of materials required by the NSW Police Force or other authority for safety reasons;**
 - ii. **where it is required in an emergency to avoid injury or the loss of life, to avoid damage or loss of property or to prevent environmental harm;**
 - iii. **where different construction hours are permitted or required under an EPL in force in respect of the Construction, in which case those construction hours must be complied with;**
 - iv. **for the works described in the SSI 7734 Mod 1 – Addendum Modification Report, dated 14 October 2018, which may be carried out until 10pm Mondays to Fridays inclusive; and**
 - v. **with the approval of the Planning Secretary.**
- E10 Respite periods must be provided where noise exceeds the Highly Noise Affected Level of 75dB $L_{Aeq,15 \text{ minute}}$. The timing of respite is to be determined in consultation with the Community Consultative Committee.
- E11 Notwithstanding **Condition E9**, offshore disposal activities may be undertaken 24 hours a day, seven days a week, provided they are undertaken in accordance with a **Noise and Vibration CEMP Sub-Plan** and the terms of this approval.

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- E12 Notwithstanding **Condition E9**, dredging activities may be undertaken 24 hours a day, seven days a week, provided dredging activities between 10pm and 7am are undertaken in accordance with a **Night Dredging Protocol** detailing the assessment and management of noise, and the requirements of **Conditions E13 to E16**.
- E13 The **Night Dredging Protocol** must provide for:
- (a) noise monitoring at a representative number of sensitive receivers (including closest and furthest) to confirm the predicted noise levels;
 - (b) targeted consultation with the noise affected sensitive receivers;
 - (c) timeframes and methods for investigation of noise complaints;
 - (d) operation of a 24-hour complaints line;
 - (e) mitigation measures (such as respite periods, additional control of noise at the source, staging of works to locate noisy equipment further away from noise affected sensitive receivers, negotiated agreements etc.);
 - (f) submission of weekly complaints reports for the life of dredging activities between 10pm and 7am;
 - (g) continual refinement of mitigation measures based on consultation with the noise affected sensitive receivers; and
 - (h) implementation of work practices set out in section 5.2 of the Interim Construction Noise Guideline.
- E14 The **Night Dredging Protocol** must provide for a three-week assessment period, during the first three weeks of dredging activities between 10pm and 7am. The purpose of the three-week assessment period is to evaluate night time noise impacts from dredging, determine noise levels when the dredge is operating at different distances from sensitive receivers, and to demonstrate that night time dredging complies with the predicted noise levels.
- The assessment period must include:
- (a) implementation of the monitoring and mitigation measures set out in the **Noise and Vibration CEMP Sub-Plan** (including the **Night Dredging Protocol**);
 - (b) weekly reporting to the **Planning** Secretary of:
 - i. the number, nature and time of all complaints relating to dredging activities between 10pm and 7am,
 - ii. actions taken to address complaints with the objective of resolution, and
 - iii. in the event that additional noise impacts are identified, how the Proponent has developed additional management and mitigation measures, evaluated their likely effectiveness in reducing noise impacts, and implemented any additional measures; and
 - (c) a **Night Dredging Assessment Period Report**, submitted for the approval of the **Planning** Secretary within one week of the end of the assessment period, providing:
 - i. an analysis of the effectiveness of the monitoring and mitigation measures set out in the **Noise and Vibration CEMP Sub-Plan** (including the **Night Dredging Protocol**);
 - ii. how mitigation measures have been refined during the assessment period, and/or will be refined following the assessment period; and
 - iii. how complaints have been resolved, mediated or otherwise addressed.
- E15 The mitigation and management measures developed under **Conditions E13 and E14** are to be detailed in an updated **Night Dredging Protocol**, submitted for the approval of the **Planning** Secretary within one week of her determination of the **Night Dredging Assessment Period Report**.

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The **updated Night Dredging Protocol** as approved by the **Planning** Secretary must be incorporated into the **Noise and Vibration CEMP Sub-plan**.

- E16 The Proponent will comply with all requirements of the **Planning** Secretary arising from the review of the weekly complaints reports required under **Condition E13** and **Night Dredging Assessment Period Report**.
- E17 **The Noise Management OEMP Sub-plan must identify measures to reduce noise impacts on Sensitive Receivers including:**
- (a) **no deck announcements and music from open decks while berthed at the Breakwater Wharf Extension, with the exception of safety announcements;**
 - (b) **ship engine, generator, exhaust and ventilation systems including air conditioning must be maintained and operated efficiently to reduce noise emissions while in the Port of Eden;**
 - (c) **ships must run on the minimum generator/engine power required while at the berth; and**
 - (d) **~~in the event of an overnight berth due to extenuating circumstances, community information and notification; and~~**
 - (e) **a procedure for management of non-compliant cruise ships including details on proposed actions, timeframes and consequences in the event of non-compliance with (a) to (c) in this condition.**
- E18 **Where a complaint is received from a Sensitive ~~Receptor~~ Receiver in relation to a specific cruise ship at the Breakwater Wharf Extension, the source and nature of the noise must be investigated while the ship is at berth (unless this is not possible due to the timing of the complaint or imminent departure of the ship) and corrective actions implemented as required.**

If there are further complaints or the investigation indicates ongoing exceedance of the noise levels predicted in the ~~EIS and Modification Assessments documents listed in Condition A1(c)~~ on the return of the cruise ship, future visits must be managed in accordance with the requirements of the Noise Management OEMP Sub-plan and specific actions, timeframes and consequences agreed by the Planning Secretary in the event of repeat non-compliance.

- E18A The Proponent must prepare a Cruise Noise Mitigation Plan (CNMP) to identify the mitigation for operational noise that would be implemented for scheduled overnight berthing of cruise ships. The CNMP must:**

- (a) identify the appropriate project noise trigger levels (as per the *NSW Noise Policy for Industry* (EPA, 2017)) that are applicable to the night-time period for the overnight berthing of cruise ships, including consideration of the predicted operational noise levels;**
- (b) consider the impacts of low-frequency noise on the predicted impacts identified in the Noise Assessment Report (Appendix C2 of the Modification Report) as listed in Condition A1(c)(ix);**
- (c) investigate and identify noise mitigation measures required to address noise exceedances above the project noise trigger levels;**
- (d) review any residual impacts from the operations associated with Modification 3.**

The CNMP must be verified by an independent acoustic expert. The CNMP must be made publicly available prior to the first scheduled overnight berthing of a cruise ship. Identified noise mitigation measures must be implemented prior to the scheduled overnight berthing of cruise ships.

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E18B The CNMP must be reviewed and updated every ten (10) years, unless otherwise agreed to by the Planning Secretary.

Operational Noise Monitoring

E18C The Proponent must undertake monitoring of operational noise to compare actual noise performance of Modification 3 against the noise performance predicted for the following scenarios:

- (a) the first scheduled overnight berthing of a cruise ship;
- (b) the first scheduled overnight berthing of a Quantum Class (or equivalent);
- (c) the first scheduled overnight berthing of an Oasis Class (or equivalent); and
- (d) the first berthing of a large non-cruise ship over 325m LOA.

The noise monitoring must be undertaken in accordance with the EPA's Approved methods for Measurement and Analysis of Environmental Noise in NSW (EPA, 2022).

Operational Noise Compliance Report

E18D An Operational Noise Compliance Report (ONCR) must be prepared to document the findings of the operation noise monitoring carried out under Condition E18C. The ONCR must address the following:

- (a) compliance with the operational noise levels predicted in noise assessment;
- (b) methodology, location and frequency of noise monitoring undertaken, including monitoring sites at which noise levels are ascertained, with specific reference to locations indicative of impacts on receivers;
- (c) any recalibrations, if required, of the noise model taking into consideration factors such as noise monitoring;
- (d) an assessment of the performance and effectiveness of applied noise mitigation measures together with a review and if necessary, reassessment of mitigation measures; and
- (e) identification of additional measures to those identified in the CNMP (required by Condition E18A) and reported to the Planning Secretary.

The Operational Noise Compliance Report must be finalised within 90 days of completing the operational noise monitoring for each scenario and made publicly available.

AIR QUALITY

E19 The SSI is to be operated to

- (a) minimise the risk to Sensitive Receivers from adverse health impacts from exposure to cruise ship emissions;
- (b) support management strategies to reduce exposure; and
- (c) national environmental protection standards (as revised from time to time) set out in the *National Environment Protection (Ambient Air Quality) Measure*.

E20 The OEMP Air Quality Management OEMP Sub-plan must include the following measures to reduce emissions from cruise ships:

- (a) prior to 1 January 2020:
 - i. no more than 20 cruise ship visits to the Breakwater Wharf Extension (which represents the "typical operations" modelled in the Refined SO₂ Emission Modelling); and

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- ii. emissions from cruise ships berthed at the Breakwater Wharf Extension must not result in an exceedance of the maximum cumulative SO₂ concentration at the most affected sensitive receiver as predicted in the Refined SO₂ Emission Modelling for “typical operations”;
 - (b) from 1 January 2020, cruise ships must meet emission restrictions specified under MARPOL Annex VI, as implemented through the relevant Maritime Acts, or more stringent emission restrictions under these Acts;
 - (c) ship engine, generator, exhaust and ventilation systems must be maintained and operated efficiently to reduce air emissions while at berth at the Breakwater Wharf Extension; and
 - (d) a procedure for management of non-compliant cruise ships including details on proposed actions, timeframes and consequences in the event of non-compliance with (a)ii, (b) and (c) in this condition.
- E21 Unless otherwise agreed with the **Planning** Secretary, the **Operation Monitoring Program** required under **Condition D7** must, as a minimum, include monitoring of NO₂, SO₂ and PM_{2.5} at the closest potentially impacted sensitive receiver (taking into account prevailing winds) at least two days prior to the arrival of the first three cruise ship of the season, while they are at berth and for at least two days following departure. Where there is less than two days between departure of a cruise ship and arrival of the next cruise ship, monitoring must continue until there is at least two days between ship departures and arrivals.
- E22 **Where a complaint is received from a Sensitive Receiver in relation to a specific cruise ship at the Breakwater Wharf Extension about dark smoke emissions or offensive odours, the source and nature of the dark smoke emission or offensive odour must be investigated while the ship is at berth (unless this is not possible due to the timing of the complaint or imminent departure of the ship) and corrective actions implemented as required in accordance with the Complaints Procedure in the OEMP and the procedure for non-compliant ships under the Air Quality OEMP Sub-Plan, and actions undertaken in accordance with these procedures.**
- ~~If there are further complaints and the investigation indicates exceedance of emission restrictions (being those restrictions described in Condition E20) on return of the cruise ship, future visits must be managed in accordance with the requirements of the OEMP Air Quality Management Sub-plan and specific actions, timeframes and consequences agreed by the Planning Secretary in the event of repeat non-compliances.~~

LIGHTING

- E23 All maritime lighting to be implemented as part of the SSI shall have regard to the location of nearby residential dwellings. Lighting impacts shall be minimised to the extent possible, and comply with AS 4282:1997 – *Control of the Obtrusive Effects of Outdoor Lighting* and relevant Australian Standards in the series AS/NZ 1158 – *Lighting for Roads and Public Spaces*.

SOCIAL

- E24 **The Proponent must prepare and implement a Social Impact Management Plan (SIMP) to guide the management, monitoring, reporting and rectification of social impacts during operation. The SIMP must be submitted to the Planning Secretary**

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for approval at least three (3) months prior to the commencement of the first cruise season with more than 60 cruise ship visits is expected to occur.

- E25 The SIMP must be prepared:
- (a) in accordance with the Social Impact Assessment Guideline (DPE) by suitably qualified and experienced person(s) in the social sciences in accordance with Appendix B of the Social Impact Assessment Guideline (DPE); and
 - (b) with the involvement of the affected community and stakeholders including, but not limited to the Eden Community Consultative Committee, the Local Aboriginal Land Council, Council and NPWS.
- E26 The SIMP must include specific details of the commitments, targets, programs and timing to secure and enhance positive social outcomes associated with the SSI, including:
- (a) revisions to or refinement of the assessment of social impacts and risks;
 - (b) additional mitigation measures to address social impacts based on those committed to in the documents listed in Condition A1(c);
 - (c) details of how measures will be targeted and adapted to meet the needs of affected communities;
 - (d) a monitoring program, prepared in accordance with Section 5.2 of the Social Impact Assessment Guideline (DPE), to:
 - i. monitor, review, and report on the effectiveness of the identified measures;
 - ii. report on community engagement and complaints in relation to social issues; and
 - iii. report on adaptative management measures implemented or proposed.
- E27 The SIMP must be updated with involvement of community and stakeholders every ten (10) years, unless otherwise agreed to by the Planning Secretary.