

Notice of Modification

Section 75W of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning, under the instrument of delegation executed on 14 September 2011, I hereby approve the modification of the Development Consent referred to in Schedule 1, subject to the conditions in Schedule 2.



**A/Director
Industry, Key Sites and Social Projects**

Sydney 27 MAY 2014

SCHEDULE A

Application Number:	DA463/93 MOD 1
Applicant:	Elgas Limited
Consent Authority:	Minister for Planning and Environment
Land:	30 Friendship Road, Port Botany (Lot 21 DP 112332 and Lot 52 DP 1182618) and as shown in Appendix 1
Development:	Development Consent No. 463/93 granted by the Minister for Planning on 5 May 1994 for the Elgas Liquid Petroleum Gas Storage Cavern Facility.

The development consent is modified by:

1. Replacing the following references:
 - "Department of Water Resources" with "NSW Office Water"
 - "Director of Planning" with "Secretary"
 - "Environmental Noise Control Manual" with "Interim Construction Noise Guideline"

SCHEDULE C

General

2. Replacing condition 2 with new condition 2 as follows:
 2. The Applicant shall carry out the development generally in accordance with the:
 - (a) DA 463/93 and accompanying Environmental Impact Statement dated October 1993 and prepared by Dames and Moore Pty Ltd and as modified by the Applicant during the Commission of Inquiry;
 - (b) project layout plan as modified by DA 463/93 MOD 1 (see Appendix 1);
 - (c) modification application DA 463/93 MOD 1, including the Environmental Assessment dated 31 January 2014 and the Response to Submissions Report dated 28 March 2014 prepared by Kellogg Brown & Root Pty Ltd;
 - (d) statement of commitments dated 28 March 2014 prepared by Kellogg Brown & Root Pty Ltd (see Appendix 2); and
 - (e) conditions of this consent.
3. Insert new conditions 2A, 2B and 2C as follows:
 - 2A. If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any inconsistency.
 - 2B. The Applicant shall comply with any reasonable requirement/s of the Secretary arising from the Department's assessment of:
 - (a) any reports, plans, strategies, programs or correspondence that are submitted in accordance with this consent; and
 - (b) the implementation of any actions or measures contained in these reports, plans, strategies, programs or correspondence.
 - 2C. The Applicant shall ensure that all licences, permits and approval/consents are obtained as required by law and maintained as required throughout the life of the Development as modified by DA 463/93 MOD 1. No condition of this consent removes the obligation for the Applicant to obtain, renew or comply with such licences, permits or approval/consents.
4. Replace condition 7 with conditions 7A, 7B, 7C and 7D as follows:
 - 7A. One year after the commencement of operation of DA 463/93 MOD 1, and annually thereafter, unless the Secretary directs otherwise, the Applicant shall review the environmental performance of the development to the satisfaction of the Secretary. The review shall:
 - (a) describe the operations that were carried out in the past year;
 - (b) analyse the monitoring results and complaints records of the development over the past year, which includes a comparison of these results against the
 - relevant statutory requirements, limits or performance measures/criteria;
 - monitoring results of previous years; and
 - relevant predictions in the EIS;
 - (c) identify any non-compliance over the last year, and describe what actions were (or are being) taken to ensure compliance;
 - (d) identify any trends in the monitoring data over the life of the development;
 - (e) provide a summary of results required for the EPL; and
 - (f) describe what measure will be implemented over the next year to improve the environmental performance of the development.

- 7B. Within 3 months of the submission of an:
- (a) incident report under Condition 29 of this schedule;
 - (b) annual review under Condition 7A of this schedule;
 - (c) any modifications to this consent,
- the Applicant shall review, and if necessary revise, the strategies, plans, and programs required under this consent to the satisfaction of the Secretary.

Note: This is to ensure the strategies, plans and programs are updated on a regular basis, and incorporate any recommended measures to improve the environmental performance of the development

- 7C. Within a year of the date of this consent as modified by DA 463/93 MOD 1, and every 3 years thereafter, unless the Secretary directs otherwise, the Applicant shall commission and pay the full cost of an Independent Environmental Audit of the development as modified by DA 463/93 MOD 1. This audit must:
- (a) be conducted by suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Secretary;
 - (b) include consultation with the relevant agencies;
 - (c) assess the environmental performance of the development as modified by DA 463/93 MOD 1 and whether it is complying with the relevant requirements in this consent and any relevant EPL and/or Water License (including any assessment, plan or program required under these approvals);
 - (d) review the adequacy of any approved strategy, plan or program required under these approvals; and
 - (e) recommend measures or actions to improve the environmental performance of the development as modified by DA 463/93 MOD 1, and/or any assessment, plan or program required under these approvals.

Note: This audit team must be led by a suitably qualified auditor and include experts in any fields specified by the Secretary.

- 7D. Within 3 months of commissioning this audit, or as otherwise agreed by the Secretary, the Applicant shall submit a copy of the audit report to the Secretary, together with its response to any recommendations contained in the audit report.

5. Insert new condition 23 follows:

23. Hazard Audit

Twelve months after the commencement of operations of DA 463/93 MOD 1 or within such further period as the Secretary may agree in writing, the Applicant shall carry out a comprehensive hazard audit of the development including DA463/93 MOD 1 and submit a report on the audit to the Secretary. This audit is to be carried out at the Applicant's expense by a qualified independent person or team, to be approved in writing prior to the audit by the Secretary. Further audits shall be approved every three years or as may be requested by the Secretary. Hazard audits shall be carried out according to the Department's Hazardous Industry Planning Advisory Paper No. 5 Hazard Audit Guidelines.

6. Insert new condition 23A and 23B as follows:

- 23A. Prior to commencement of detailed design and hazard/risk related studies, the Applicant must consult with WorkCover with regard to complying with the regulations application to Major Hazard Facilities (clauses 534 and 569 of the Work Health and Safety Regulations 2011) and agree on the extent of revision of the site Safety Case associated with the MHF conditional licence granted by WorkCover on 4 March 2014. The Applicant must comply with all requirements provided by WorkCover.

23B Prior to completion of detailed design of DA 463/93 MOD 1, the Applicant must provide an outline to WorkCover with regard to following the Management of Change procedure as described in the Elgas Safety Management System.

7. Insert new condition 25A as follows:

25A. Hazard Studies: Prior to Construction of DA 463/93 MOD 1

At least 1 month prior to the commencement of construction of DA 463/93 MOD 1 (other than preliminary works), the Applicant shall submit the following hazard studies to the Secretary, or within such further period as the Secretary may agree. Construction, other than of preliminary works that are outside the scope of the hazard studies, shall not commence until study recommendations have been considered and, where appropriate, acted upon.

(a) Fire Safety Study

The company's Fire Safety Study for the development shall be updated to include any changes due to DA 463/93 MOD 1. The study shall cover the relevant aspects of the Department of Planning's Hazardous Industry Planning Advisory Paper No. 2, 'Fire Safety Study Guidelines' and the New South Wales Government's 'Best Practice Guidelines for Contaminated Water Retention and Treatment Systems'. The updated study shall meet the requirements of Fire and Rescue NSW.

(b) Hazard and Operability Study

A Hazard and Operability Study for DA 463/93 MOD 1, chaired by a qualified person, independent of the development. The study shall be consistent with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 8, 'HAZOP Guidelines'.

(c) Final Hazard Analysis

A Final Hazard Analysis of DA 463/93 MOD 1, consistent with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 6, 'Hazard Analysis'.

(d) Construction Safety Study

A Construction Safety Study for DA 463/93 MOD 1, consistent with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 7, 'Construction Safety'.

8. Insert new condition 26A, 26B and 26C as follows

26A Hazard: Pre-commissioning of DA 463/93 MOD 1

At least 2 months prior to the commencement of commissioning the development as modified by DA 463/93 MOD 1, or within such further period as the Secretary may agree, the Applicant shall develop and implement the plans and systems set out under subsections 26A(a) and (b) and provide documentation describing the plans and systems to the Secretary.

(a) Emergency Plan

The Emergency Plan and detailed emergency procedures for the development shall be updated to include DA 463/93 MOD 1. The plan shall include detailed procedures for the safety of all people outside of the development who may be at risk from the development. The plan shall be in accordance with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 1, 'Industry Emergency Planning Guidelines'.

- (b) **Safety Management System**
The Safety Management System for the development shall be updated to include DA 463/93 MOD 1. The document shall clearly specify all safety related procedures, responsibilities and policies, along with details of mechanisms for ensuring adherence to the procedures. Records shall be kept on-site and shall be available for inspection by the Secretary upon request. The Safety Management System shall be developed in accordance with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 9, 'Safety Management'.

An inspection, testing, and preventive maintenance program should be developed, implemented, and maintained to ensure the reliability and availability of the key safety critical controls is, at a minimum, consistent with the data estimated in the PHA.

- 26B. At least 1 month prior to the commencement of operation of DA 463/93 MOD 1, the Applicant shall submit to the Secretary, a report detailing compliance with conditions 25A and 26A, including:
- (a) dates of study/plan/system completion, commencement of construction and commissioning; and
 - (b) actions taken or proposed, to implement recommendations made in the studies/plans/systems; and
 - (c) responses to each requirement imposed by the Secretary under condition 26C.
- 26C. The Applicant shall comply with all reasonable requirements of the Secretary in respect of the implementation of any measures arising from the reports submitted in respect of conditions 23, 25A, 26A and 26B, within such time as the Secretary may agree.

9. Insert condition 28A as follows:

Construction Environmental Management Plan

- 28A. The Applicant shall prepare and implement a Construction Environmental Management Plan for DA 463/93 MOD 1 to the satisfaction of the Secretary. The Plan must:
- (a) be prepared by a suitably qualified and experienced expert or team of experts;
 - (b) be approved by the Secretary prior to the commencement of construction;
 - (c) identify the statutory consents that apply to the development;
 - (d) include a copy of all relevant management plans and monitoring programs relevant under this consent;
 - (e) incorporate all relevant management and mitigation measures outlined in this consent;
 - (f) outline all environmental management practices and procedures to be followed during construction and demolition works associated with the development;
 - (g) describe all activities to be undertaken on the site during construction, including a clear indication of construction stages;
 - (h) detail how the environmental performance of the construction works will be monitored, and what actions will be taken to address identified adverse environmental impacts. In particular, the following shall be included in the CEMP:
 - i. Soil Management Strategy;
 - ii. Groundwater Management Plan; and

- iii. Traffic Management procedures in consultation with NSW Ports.
- (i) describe the roles and responsibilities for all relevant employees involved in construction and demolition works associated with the development;
- (j) include arrangements for community consultation at key stages of the development;
- (k) include a complaints handling procedure during construction, demolition and operation; and,
- (l) include appropriate procedures to allow the regular review of the requirements of each plan to ensure that they are effective and allow for adaptive management to address contingencies that may arise over the life of the development.

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

Note: Construction of the development shall not commence until written consent of this plan has been received from the Secretary.

10. Replace condition 29 with new condition 29 as follows:

29. The Applicant shall notify the Secretary and any other relevant agencies of any incident or potential incident with actual or potential significant off-site impacts on people or the biophysical environment associated with the development as modified by DA 463/93 MOD 1 immediately after the Applicant becomes aware of the incident. Within 7 days of the date of this incident, the Applicant shall provide the Secretary and any relevant agencies with a detailed report on the incident.

11. Insert condition 32A as follows:

32A. The Applicant shall comply with the construction hours in Table 1, unless otherwise agreed in writing by the EPA.

Table 1: Construction Hours

Activity	Day	Hours
Construction	Monday – Friday	7am to 6pm
	Saturday	7am to 4pm
	Sunday & Public Holidays	No Construction

12. Insert condition 33A as follows:

33A. The Applicant must use its best endeavours to participate in the development and implementation of a precinct-wide noise map for Port Botany, should one be developed to the satisfaction of the Secretary.

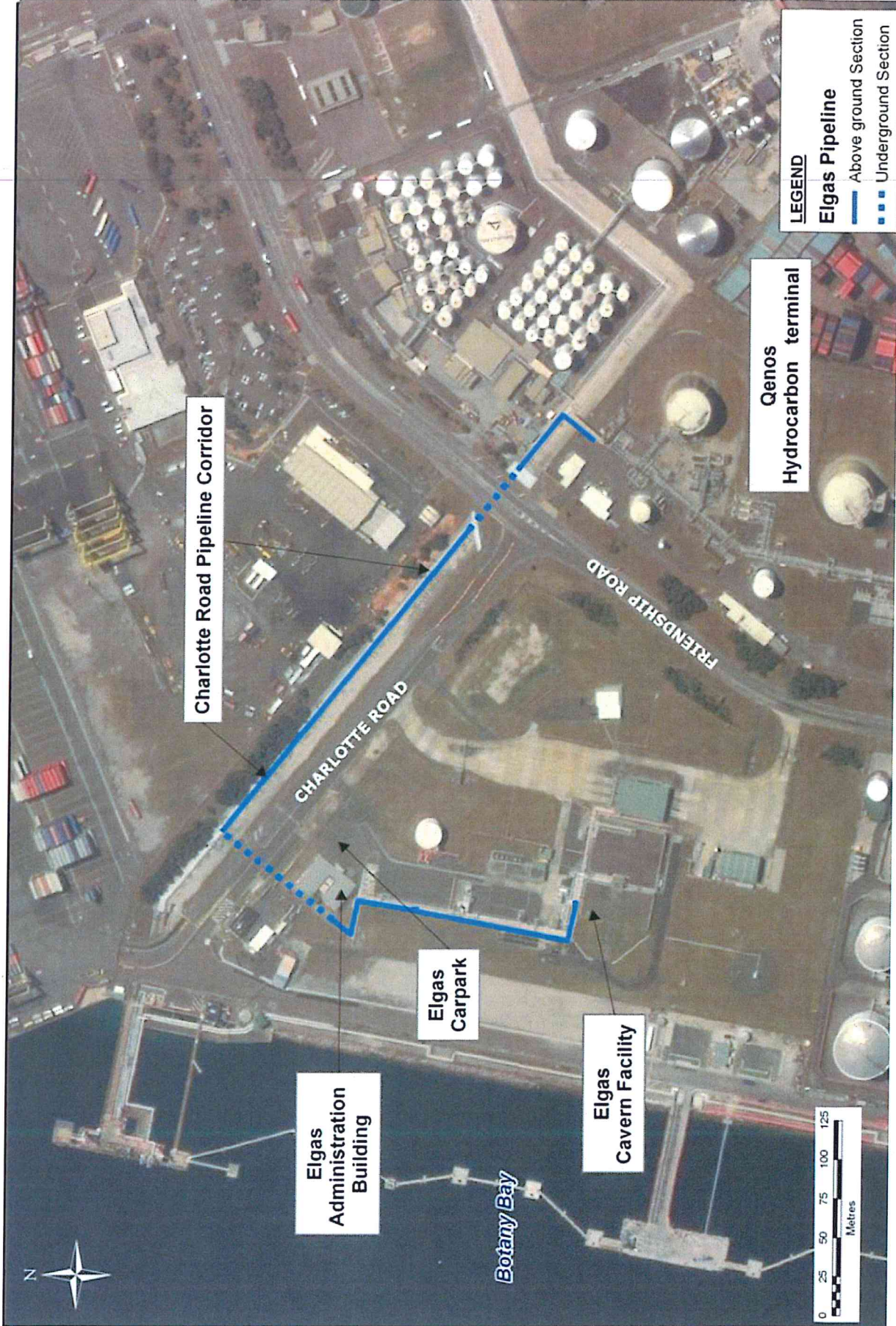
Note: The aim of a noise map is to establish an efficient, equitable and cumulative noise management, monitoring and reporting framework across the precinct.

13. Insert Appendix 1 which illustrates the project layout for DA 463/93 MOD 1

14. Insert Appendix 2 which details the Applicant’s Statement of Commitments

End of Modification DA 463/93 MOD 1

Appendix 1 – Project Layout Plan (DA463/93 MOD 1)



Appendix 2 – Statement of Commitments

Objective	Action	Timing
Minimise Impacts to Soil	<ul style="list-style-type: none"> • A soil management strategy to be prepared that details how excavated spoil will be managed on the site, including contaminated soil. The plan is to include stockpile locations as well as stormwater management measures. • A contingency plan to provide guidance should either acid sulphate soils or contaminated soils are encountered during works. This should make reference to the following guidelines: <ul style="list-style-type: none"> • Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites (ANZECC & NHMRC) • National Environment Protection (Assessment of Site Contamination) Measures 1999 (NEPC) • Managing Land Contamination – Planning Guidelines SEPP 55 – Remediation of Land (DOP) • Acid Sulphate Soils Assessment Guidelines 1998 (ASSMAC). • A frac-out contingency plan should be developed for use during the drilling works. 	Prior to and During Construction

Objective	Action	Timing
* Avoid and minimise impacts to Groundwater	<ul style="list-style-type: none"> • A groundwater management plan (as part of the CEMP) is to be developed to manage any dewatering works. The plan is to include suitable control measures for the collection, treatment (as necessary) and disposal of contaminated groundwater that may be pumped from excavations during construction. • In the event that groundwater or site stormwater collected requiring dewatering is discharged into Botany Bay, the water discharged must meet the requirements of the <i>Australian and New Zealand Guidelines for the Assessment and Management of Contaminated Sites (ANZECC & NHMRC)</i> and the <i>National Environment Protection (Assessment of Site Contamination) Measures 1999 (NEPC)</i>. • The CEMP is to include measures for managing spills or potential release of contaminated materials during the drilling works (e.g. frac-out situations). • A frac-out contingency plan to be developed for use during the drilling works • If the works encounter groundwater, it is unlikely to be of a sufficient volume to require an aquifer interference licence (as per the correspondence received from DPI (Office of Water) – Appendix C), however, monitoring during works should be undertaken to ensure this is the case. • In the event that groundwater monitoring shows the works would intercept or extract 3 ML or more of water, the Office of Water is to be contacted and a licence must be obtained for the works. 	Prior to and During Construction
Minimise impacts to Surface Water	<ul style="list-style-type: none"> • The contractor is to ensure systems are in place to prevent pollution of waters from handling, transport and storage of liquids and to ensure that activities are undertaken in accordance with the <i>Contaminated Land Management Act 1997 (CLM Act)</i>, EPA guidelines and the POEO Act. Creating site specific tailored actions for staged construction activities would be the responsibility of the contractor and be portrayed in the CEMP. • Development of a frac-out contingency plan to protect nearby aquatic habitats • Use of the <i>Botany Bay Precinct Emergency Sub Plan 2011 (Major Hazard Facility – Port Botany South)</i> • Appropriate stockpile locations to be notified in the CEMP and development of stormwater management plan following relevant guidelines: <ul style="list-style-type: none"> • <i>Managing Urban Stormwater: Soils & Construction (Landcom)</i> • <i>Managing Urban Stormwater: Treatment Techniques (DECC)</i> 	During Construction and Operation

Objective	Action	Timing
	<ul style="list-style-type: none"> • <i>Managing Urban Stormwater: Source Control (DECC).</i> • Development of contingency plan for spill management: • <i>Technical Guidelines: Bunding and Spill Management (DECC).</i> • All machinery and equipment to be checked daily and maintained to ensure there are no oil, fuel or other liquids leaking. • A spill kit to be kept on site to manage any unexpected spills. • Update the Pollution Incident Response Management (PIRMP) to include the LPG pipeline as part of the ELGAS Port Botany facilities. 	
* Minimise impacts of noise and vibration	<ul style="list-style-type: none"> • The NSW EPA <i>Interim Construction Noise Guideline (DECC, 2009)</i> to be used to inform CEMP and management of construction noise. • Construction to take place between 7:00am and 6:00pm (Monday to Friday) and 7:00am to 4:00pm on Saturday, with the noisiest activities (such as horizontal drilling, truck and supply movements, use of generators, pumps, compressors and excavators and hand digging machinery) to be scheduled during recommended standard hours (DECC, 2009) of 7:00am to 6:00pm Monday to Friday and 8:00am to 1:00pm on Saturday. • Nearby commercial and industrial properties to be notified of works. • Noise generated by work equipment to comply with noise control standard AS 1055. • Works involving noise-generating machinery should be undertaken within the shortest possible timeframe, with minimum delays. All efforts should be made to schedule noisier work activities during the daytime on week days. 	During Construction
Minimise air quality impacts through dust and Greenhouse gas emissions	<ul style="list-style-type: none"> • Best practice dust management practices to be included in the CEMP. These should include procedures for stockpile management, particularly during dry and windy weather conditions. • Vehicles to be maintained and operated efficiently, be serviced according to the manufacturer's specifications and be fitted with emission control devices complying with Australian Design Standards so as to minimise air emissions (including greenhouse gases). • Work machinery to be turned off when not in use and not left running or idling 	During Construction

Objective	Action	Timing
Minimise impacts to flora and fauna	<ul style="list-style-type: none"> Potential impacts from the works centre on the potential for run-off from the site, or contaminated groundwater to affect water quality in the adjacent Botany Bay. Therefore mitigation measures focus on managing storm-water run-off as well as reducing the potential for works to contaminate groundwater. Whilst it is unlikely that there would be a significant impact, management of site run-off and protection of groundwater will be subject to standard mitigation measures as detailed in Sections 5.3.3 and 5.4.3. 	During Construction
Minimise impacts to unidentified items of heritage significance	<ul style="list-style-type: none"> In the event that Aboriginal or European artefacts are discovered during works, all works should cease and the Contractor should notify ELGAS for further advice. 	During Construction and Operation
Minimise impacts to traffic and access within Port and the surrounding road network.	<ul style="list-style-type: none"> Consultation should be undertaken with NSW Ports in regards to the Traffic management requirements prior to the commencement of construction. Any requirements should be implemented into the CEMP or a Traffic Management Control Plan, if deemed required by NSW Ports. Where possible, roads and pedestrian paths should not be obstructed during the construction works. The appropriate alternative access pathways and Traffic Controls should be enforced prior to the commencement of construction if obstructions cannot be avoided. Signage should be placed on Friendship Road and Charlotte Road indicating the presence of construction works as per Australian Standards. All vehicles should be parked off Charlotte Road and Friendship Road within the ELGAS property as far as practicable. All work sites and any compound established should be secured when not in use to ensure the safety of landholders and the public and maintain security of materials and equipment. 	During Construction

Objective	Action	Timing
* Encourage waste minimisation and management in accordance with the WARR Act	<ul style="list-style-type: none"> • The <i>Protection of the Environment Operations Act 1997</i> (POEO Act) defines waste for regulatory purposes and established management and licensing requirements. The <i>Protection of the Environment Operations (Waste) Regulation 2005</i> sets out the provisions covering the way waste is managed in terms of storage and transportation. • Waste management should consider the hierarchy of resource management in the <i>Waste Avoidance and Resource Recovery Act 2001</i> (WARR Act). • Contractor waste management arrangements to include waste minimisation, containment, segregation and appropriate reuse, recycling, treatment and disposal. • Classification of waste as per the Environment Protection Authority (EPA) (DECC 2009a) guidelines • Adherence to the measures proposed for the management of potentially contaminated soil in this EA when determining the appropriate waste disposal methods. 	During Construction, Post-Construction and Operation.