

# Modification Approval

## Section 96(1A) of the *Environmental Planning and Assessment Act 1979*

I, the Director-General, as delegate for the Minister for Planning, pursuant to section 96(1A) of the *Environmental Planning and Assessment Act 1979*, modify the development consent referred to in Schedule 1 in the manner set out in Schedule 2.



Sam Haddad  
Director-General

Sydney 20<sup>th</sup> March

2009

File No: S01/02520

MOD-08-03-2009

### SCHEDULE 1

- Development consent:** granted by the Minister for Planning on 13 October 2005.
- In respect of:** Lot 2 DP 1009870, Lot 6 DP 1053768, Lots 301 & 302 DP 712992, Part of Crown Reserve R91288, Lots 203 & 205 DP 712991 and Lot 401 DP 816961, Botany Bay Local Government Area.
- For the following:** The construction and operation of a new container terminal and associated infrastructure.
- Modification Application:** Modification to allow operational rail sidings to be constructed and operated along the Inter-terminal Access Road Corridor, as an option, whilst maintaining the EIS approval for operational rail sidings within the new terminal. Only one option will be implemented with the determination of the option following confirmation of leasing arrangements for the new terminal.

## SCHEDULE 2

The development consent is modified by:

**1) replacing existing condition A1.1 l) with the following:**

- l) modification application MOD-08-03-2009, accompanied by a letter from Sydney Ports Corporation dated 16 February 2009 and assessment report titled "*Port Botany Expansion – Rail Operations Section 96(1A) Modification*" dated February 2009;
- m) the conditions of this consent.

**2) replacing existing condition A1.2 with the following:**

**A1.2** In the event of an inconsistency between:

- a) the conditions of this consent and any document listed from condition A.1.1(a) to (l) inclusive, the conditions of this consent shall prevail to the extent of the inconsistency; and
- b) any document listed from condition A1.1(a) to (m) inclusive, the most recent document shall prevail to the extent of the inconsistency.

**3) insertion of condition B2.23A as follows:**

**B2.23A** Subject to the alternative rail option being implemented as described within the report listed in condition A1.1l), the Applicant shall construct a three metre high noise barrier along the northern edge of the Inter-terminal Access Road Corridor prior to the commencement of operations. The bottom two metres of the barrier shall be opaque and the top one metre shall be of transparent material sufficiently patterned to minimise impacts to bird species utilising the adjacent Penrhyn Estuary.

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