

Concept Approval

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

I, the Minister for Planning, under the *Environmental Planning and Assessment Act 1979* (the Act), determine:

- a) pursuant to section 75O of the Act, grant concept plan approval referred to in Schedule 1, subject to the terms of approval in Schedule 2 and the modifications in Schedule 3;
- b) pursuant to section 75P(1)(a) of the Act, that development relating to Stages 2 and 3 of the Port Kembla Outer Harbour Development require further environmental assessment under Part 3A of the Act, except that development described in item c);
- c) pursuant to section 75P(1)(b) of the Act, that development listed in clause 68, 69, 70 and 71 of *State Environmental Planning Policy (Infrastructure) 2007*, being development permitted without consent, development permitted with consent, exempt development, and complying development, and which has a capital investment value of no more than \$30 million, or which is not development for any of the following purposes: dredging, reclamation activities, construction and operation of berths, terminals, roads or rail lines undertaken as part of the Port Kembla Outer Harbour Development (as described in Schedule 1), shall be subject to the relevant provisions of the Act and of *State Environmental Planning Policy (Infrastructure) 2007*;
- d) pursuant to section 75P(1)(b) of the Act, that development listed in clause 10A of *State Environmental Planning Policy (Major Development) 2005*, being development permitted without consent, and which has a capital investment value of no more than \$30 million, or which is not development for any of the following purposes: dredging, reclamation activities, construction and operation of berths, terminals, roads or rail lines undertaken as part of the Port Kembla Outer Harbour Development (as described in Schedule 1), shall be subject to the relevant provisions of the Act and of *State Environmental Planning Policy (Major Development) 2005*;
- e) pursuant to section 75P(1)(a) and 75P(2)(c) of the Act, all future projects for the remaining Stages 2 and 3 (under Part 3A or Part 5 of the Act), are subject to further environmental assessment requirements (as specified in Schedule 3 of this approval); and
- f) pursuant to section 75P(1)(c) of the Act, that Stage 1 of the Port Kembla Outer Harbour Development requires no further environmental assessment, but is subject to a separate instrument of approval.



Tony Kelly MLC
Minister for Planning

03 MAR 2011

Sydney

2011

SCHEDULE 1

Application No:	08_0249
Proponent:	Port Kembla Port Corporation
Approval Authority:	Minister for Planning
Land:	The project will be located within the Port Kembla Outer Harbour, within the Wollongong local government area.

Proposal:

The Port Kembla Outer Harbour Development is comprised of three stages as follows:

Stage 1

- demolition of No.3 and No. 4 Jetties;
- reclamation and dredging for the footprint of the total development (except for the northern area of the multi-purpose terminal);
- construction and operation of one new multi-purpose terminal (central area);
- construction of first container berth;
- extension of Salty Creek and Darcy Road drain, through the reclamation area, to the Outer Harbour;
- relocation of utilities for import of sulphuric acid (currently at Berth 206) to the multi-purpose terminal;
- new road link from Christy Drive;
- rail infrastructure upgrade in South Yard, including extension of No.13 siding; and
- civil works for construction of terminal facilities including services.

Stage 2

- reclamation for the northern area of the multi-purpose terminals;
- operation of the first container berth;
- construction and operation of second container berth;
- construction and operation of second multi-purpose terminal;
- extension of new road link from Christy Drive (and option for a new parallel road to Foreshore Road);
- new road link from Darcy Road to the recreational boat harbour;
- new rail overbridge across Foreshore Road; and
- new rail link and siding to the container terminals.

Stage 3

- demolition of No. 6 Jetty;
- reclamation and dredging for northern area for the multi-purpose terminals and berth;
- dredging to widen swing basin in northern Outer Harbour;
- construction and operation of second and third multi-purpose berth and terminal;
- construction and operation of the eastern container terminals; (including third and fourth container berths); and
- construction of the container terminal northern piled structure.

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DEFINITIONS

Act, the	<i>Environmental Planning and Assessment Act, 1979</i>
ARTC	Australian Rail Track Corporation
Concept Plan Construction	The concept plan the subject of this approval Construction, dredging, emplacement and reclamation works and activities associated with the project other than survey, acquisitions, fencing, investigative drilling or excavation, and building/road dilapidation surveys or other activities determined by the Environmental Representative to have minimal environmental impact such as minor access roads, minor adjustments to services / utilities, establishing temporary construction sites (in accordance with the requirements of this project approval), or minor clearing (except where threatened species, populations or ecological communities would be affected).
Council	Wollongong City Council
DECCW	Department of Environment, Climate Change and Water
Department, the	Department of Planning
Director General, the	Director General of the Department of Planning (or delegate).
Director General's Approval	A written approval from the Director General (or delegate). Where the Director General's Approval is required, the Director General will endeavour to provide a response within one month of receiving an approval request. The Director General may ask for additional information if the approval request is considered incomplete. When further information is requested, the time taken for the Proponent to respond in writing will be added to the one month period.
I&I NSW	Industry and Investment NSW
Minister, the	Minister for Planning
Mtpa	Million tonnes per annum
NOW	NSW Office of Water
Project	Development as described in the Concept Plan (including development to be assessed under Part 3A, Part 4 and Part 5 of the Act).
Project Approval	Approval granted for a project in accordance with section 75J of <i>Environmental Planning and Assessment Act, 1979</i>
Proposal	Port Kembla Outer Harbour Development - Concept Plan
Proponent	Port Kembla Port Corporation
Publicly Available	Available for inspection by a member of the general public (for example available on an internet site or at a display centre).
NSW RTA	Roads and Traffic Authority
Site	Land on which all components of the Port Kembla Outer Harbour Development will be located.
TEU	Twenty foot equivalent units

SCHEDULE 2

1. TERMS OF CONCEPT PLAN APPROVAL

- 1.1 The Proponent shall carry out the project generally in accordance with:
- a) Major Project Application 08_0249;
 - b) the *Port Kembla Outer Harbour Development Environmental Assessment Report*, Volumes 1 to 7, prepared by AECOM Australia Pty Ltd and dated March 2010;
 - c) the *Revised Port Kembla Outer Harbour Development Submissions Report*, prepared by AECOM Australia Pty Ltd and dated 27 October 2010; and
 - d) the terms of this approval.
- 1.2 In the event of an inconsistency between:
- a) the terms of this approval and any document listed from term 1.1a) and 1.1c) inclusive, the terms of this approval shall prevail to the extent of the inconsistency; and
 - b) any document listed from terms 1.1a) and 1.1c) inclusive, and any other document listed from terms 1.1a) and 1.1c) inclusive, the most recent document shall prevail to the extent of the inconsistency.
- 1.3 If there is any inconsistency between this concept plan approval and any related approvals, this concept plan approval shall prevail to the extent of the inconsistency.
- 1.4 The Proponent shall comply with any reasonable requirement(s) of the Director General arising from the Department of Planning's assessment of:
- a) any reports, plans or correspondence that are submitted in accordance with this concept plan approval or any related approvals; and
 - b) the implementation of any actions or measures contained in these reports, plans or correspondence.
- 1.5 For the purpose of this concept plan approval and any approval granted under it, the concept plan shall be defined in components as follows:
- a) **Stage 1**, being the development as generally described in Schedule 1 to this approval;
 - b) **Stages 2 and 3** being the balance of the development required for the concept plan, as generally described in Schedule 1 to this approval, other than those defined as Stage 1 development.
- 1.6 With the approval of the Director General, the Proponent may prepare and submit any management plan or monitoring program required by this approval on a progressive basis. Where a management plan and monitoring program is required before carrying out any development or stage of development, the plans/programs may be prepared and submitted in relation to either discrete components of the project or for a specified time period.

SCHEDULE 3

2. MODIFICATIONS TO THE CONCEPT PLAN

Limits of Approval

- 2.1 This concept plan approval shall lapse ten years after the date on which it is granted, unless the works that are the subject of this approval are physically commenced on or before that time.
- 2.2 This concept plan approval does not apply to the proposed new tug facilities wharf, which will be subject to separate assessment under the Act.
- 2.3 The cement facility proposed to be located on the western side of the central portion of the multi-purpose terminal shall be subject to a separate approval under the Act.

Note: The future assessment of such a proposal will need to consider whether the project is generally consistent with the relevant cumulative environmental criteria and impacts established by this concept plan.

Future Projects and Further Requirements

- 2.4 The construction and operation of Stage 2 and Stage 3 are subject to further assessment under Part 3A of the Act, except as excluded by the terms of this approval.

This assessment shall clearly demonstrate, prior to the construction and operation of Stages 2 and 3, that the following requirements are able to be met:

- a) adequate rail infrastructure and intermodal capacity is in place or will be provided in a timely manner to accommodate the transport of the projected volumes of bulk, general and container cargo by rail, including the ability to achieve the transport modal split contained in Table 4.4, Appendix I (Volume 6) of the Environmental Assessment for bulk, general and container cargo; and
 - b) road traffic generation is generally consistent with the forecast levels contained in Table 4.4 of Appendix I (Volume 6) of the Environmental Assessment.
- 2.5 Pursuant to section 75P(1)(a) and 75P(2)(c) of the Act, the following environmental assessment requirements apply with respect to any project applications or activity undertakings, for Stage 2 and Stage 3, under Part 3A or Part 5 of the Act:

General Requirements

- a) demonstration that the project is generally consistent with the requirements of this approval and generally consistent with the scope and intent of the concept plan outlined in the documents under condition 1.1 of this approval;
- b) detailed project description, including construction, operation, maintenance, and staging; and the design and location of ancillary infrastructure;
- c) details of the consultation process and outcomes with relevant stakeholders potentially impacted by the project;
- d) updated assessment of relevant statutory matters and issue specific requirements for both construction and operation phases and the identification of mitigation and management measures; and
- e) detailed project-specific Statement of Commitments, generally consistent with the Statement of Commitments prepared for the concept plan, clearly identifying any new or amended commitments relating to the project.

Issue-Specific Requirements

- f) an updated **Traffic and Transport Assessment** to address the traffic and transport impacts associated with each stage of the project, including:
 - i. consideration of the findings of the Rail Master Plan required by modification 2.6;
 - ii. the current traffic performance of the local and regional road network;
 - iii. approved and future development that will influence local and regional road network performance;

- iv. rail and road infrastructure upgrade requirements and associated impacts and the availability of rail paths;
 - v. access changes, including the proposed closure of Foreshore Road, the rail overbridge of Foreshore Road and impacts to the Darcy Road sidings; and
 - vi. construction transport routes and associated traffic impacts, including capacity constraints, changes to access and safety impacts.
- g) an updated **Noise and Vibration Impact Assessment** addressing both worst case and representative construction and operational noise impacts (including cumulative impacts as relevant). The assessment shall:
- i. identify noise sensitive receivers, baseline conditions, the levels and character of noise, noise criteria and modelling assumptions and outcomes, including on and offsite rail noise impacts;
 - ii. include details of the noise attenuation measures to be implemented should the predicted noise emissions from construction and operation exceed project specific noise criteria, along with a schedule for implementing such works;
 - iii. take into account the following guidelines or any documents that supersede them: *NSW Industrial Noise Policy* (EPA, 2000) for operational noise; *Interim Construction Noise Guideline* (DECC, 2009) for site establishment and construction; *Environmental Noise Management – Assessing Vibration: A Technical Guideline* (DECC, 2006) for vibration; the *Environmental Criteria for Road Traffic Noise* (Environment Protection Authority, 1999) for traffic noise and the *Interim Guideline for the Assessment of Noise from Rail Infrastructure Projects* (DECC and DoP, 2007) for offsite rail noise;
- h) an updated **Air Quality Assessment** that identifies sensitive receptors that may be impacted by particulate matter, total suspended particulates and other air pollutants generated by the project. The assessment shall include specific mitigation and management measures for identified impacts to prevent adverse impact to local and regional air quality and sensitive receptors.
- i) an updated **Harbour Sediment Assessment** that details harbour sediment investigations in locations subject to dredging and disturbance, to determine the scope and properties of contaminants, required management and remediation measures, including the suitability of the emplacement of dredged sediment into reclaimed areas.
- j) an updated **Soil Contamination Assessment** that details the outcomes of Phase 1 and 2 investigations at the site (as relevant), the remediation strategy for addressing any contamination that has been encountered (if required), and how the environmental and health risks will be appropriately mitigated and managed during the disturbance, remediation (if applicable) and removal of contaminated soil. The assessment shall take into account the requirements of the *Contaminated Land Management Act 1997* and associated guidelines.
- k) an updated **Non-Indigenous Heritage Assessment**, including identification of heritage items affected by the project and an assessment of the impact of the project on the heritage significance of the items. The assessment shall be prepared in consultation with the Department (Heritage Branch).
- l) an updated **Hazards and Risks Assessment** that details a hazards assessment and the identification of risk reduction measures to ensure that risk levels for the projects are maintained within acceptable levels, including taking into account *State Environmental Planning Policy No.33 – Hazardous and Offensive Development* and associated guidelines and the recommendations listed in section 13.4.1 of the Environmental Assessment.

The assessments shall include but not be limited to hazard analysis, fire safety, construction safety, transport of hazardous materials and shall include a revised Preliminary Hazard Analysis (PHA) prepared in accordance with the Department of Planning's *Hazardous Industry Planning Advisory Paper No. 6: Guidelines for Hazard Analysis*.

The potential fatality/injury risks from toxic gas release and Ammonium Nitrate explosions shall also be assessed against the Departments criteria set out in *Hazardous Industry Planning Advisory Paper No.4: Risk Criteria for Land Use Safety Planning*.

- m) an assessment at an appropriate level of detail, of other environmental issues associated with Stages 2 and 3 projects, but not limited to: coastal hydrodynamics; hydrology

(including potential water quality impacts and flooding); erosion and sediment control, ecology, climate change adaptation and waste management. The assessment shall identify the measures for managing and mitigating any impacts, consistent with best environmental practice.

Rail Master Plan

2.6 The Proponent shall prepare a **Rail Master Plan** to provide a strategic framework for the development and implementation of the rail infrastructure and upgrades necessary for Stages 2 and 3 of the concept plan and the achievement of the transport mode splits contained in Table 4.4, Appendix 1 (Volume 6) of the Environmental Assessment for bulk, general and container cargo. The plan shall be developed in consultation with transport agencies, rail and intermodal operators, including but not limited to Transport NSW, RailCorp, ARTC, Pacific National and other relevant agencies and corporations. The Plan shall include, but not necessarily be limited to:

- a) the objectives and scope of the plan;
- b) identification of stakeholders associated with the development of the plan and the consultation undertaken;
- c) forecast demand for freight movement, including a demand and supply analysis and description of the freight supply chain for the concept plan for a range of growth scenarios;
- d) consideration of national and state freight and port strategies, including the Maldon to Dombarton Feasibility Study;
- e) identification and alignment of freight movement volumes with required rail infrastructure upgrades, access paths, intermodal terminals and any other infrastructure or servicing requirements required to meet desired modal splits and the road volume limits set under condition 2.7 and Table 4.4 of Appendix I (Volume 6) of the Environmental Assessment, including the consideration of local, regional and state requirements, as relevant;
- f) the economic feasibility, viability and performance of port freight movements utilising existing and identified infrastructure and service provision measures for the proposal;
- g) identification of how and when the required infrastructure improvements will be delivered, including bodies responsible for the funding and implementation of the works; and
- h) a contingency plan in the event that the necessary rail and intermodal infrastructure and capacity for Stages 2 and 3 are not delivered in a timely manner.

The Plan shall be submitted to the Director General, consulted agencies and rail operators prior to the construction of Stage 1B and Stage 1C and any project applications relating to Stages 2 and 3 of this concept plan approval, unless otherwise agreed by the Director General, and shall be made publicly available.

Road Traffic Volume Limits

2.7 The total traffic movements associated with the operation of projects associated with this concept plan approval shall be generally consistent with the limits specified in Table 1, as follows:

Table 1 - Total Road Traffic Volumes

Element	Bulk	General	Containers
Volume per year	4.25 mt	2 mt	1,200,000 teu
Volume by road per year	2.125 mt	1.6 mt	120,000 teu
Truck loading (per truck)	35 tonnes	25 tonnes	2 containers
Trucks per year	60,714	64,000	60,000
Trucks per day (average)	166	175	164
Trucks per hour (peak)	10	11	10
Two-way peak hour truck movements	21	22	21
Total for Stage 1	29 vehicles per hour (bulk only + 8 employees)		
Total for Concept Plan	84 vehicles per hour (bulk, general cargo and containers + 20 employee vehicles)		

2.8 The Proponent shall develop a program of periodic monitoring of the road traffic movements resulting from all projects associated with this concept plan approval to confirm that the road

shall be submitted to the RTA and the Director General on a six monthly basis, or at such other interval as agreed by the Director-General, and within one month of each six month period of operation. The monitoring and reporting program shall be integrated with the Compliance Tracking Program.

Aquatic Biological Monitoring Program

- 2.9 The Proponent shall develop and implement an **Aquatic Biological Monitoring Program** including a sessile invertebrate recruitment study to monitor the effects of dredging and dredge spoil emplacement on larval settlement in relation to projects associated with this concept plan approval. The Program shall be developed in consultation with I & I NSW and shall include, but not necessarily be limited to:
- a) the objectives of the Program;
 - b) baseline data set of sessile invertebrates;
 - c) a timeline for the implementation of the Program;
 - d) a sampling and monitoring program, including methodology and frequency and reporting mechanisms, including annual reporting to I & I NSW;
 - e) responsibilities for the ongoing implementation of the Program; and
 - f) contingency measures to be undertaken should monitoring against the baseline data indicate a detrimental impact to sessile invertebrates.
- 2.10 The Program shall be submitted to the Director General and I&I NSW prior to the commencement of any dredging or dredge spoil emplacement activities for any project associated with this concept plan approval, unless otherwise agreed by the Director General. The monitoring and reporting program shall be integrated with the Compliance Tracking Program.

Habitat Offsets Package

- 2.11 The Proponent shall develop and submit for the approval of the Director General, a **Habitat Offsets Package** to detail how the ecological values of the Coastal Saltmarsh and Red Beach soft substrate habitat lost, as a result of the projects associated with this concept plan approval, will be compensated. The Package shall be developed in consultation with DECCW, I & I NSW and Council and shall include, but not necessarily be limited to:
- a) the identification of the extent of habitat, both terrestrial and aquatic, that would be lost or degraded as a result of the final detailed design of the projects footprint;
 - b) the objectives and biodiversity outcomes that would be achieved through the Package;
 - c) details of the offset measures selected to provide compensatory habitat within the region, including options in Tom Thumb Lagoon and Garungaty Waterway;
 - d) the mechanisms for securing the biodiversity values of the offset measures in perpetuity;
 - e) a timeline for the implementation of the identified measures;
 - f) a monitoring program and performance criteria, including methodology and reporting mechanisms;
 - g) responsibilities for the ongoing management, maintenance and monitoring of offset and rehabilitation measures; and
 - h) contingency measures to be undertaken should monitoring against performance criteria indicate that the offset/rehabilitation measures have not achieved performance outcomes.
- 2.12 The Package shall be approved by the Director General prior to the commencement of any construction activity for any project associated with this concept plan approval that would result in the disturbance of Red Beach and/or Coastal Saltmarsh, unless otherwise agreed by the Director General. The monitoring and reporting program shall be integrated with the Compliance Tracking Program.

Green and Golden Bell Frog Master Plan

- 2.13 The Proponent shall prepare a Green and Golden Bell Frog (GGBF) Master Plan to provide a strategic framework on how GGBF and their habitat will be managed within the working harbour area, and inform the development of GGBF Management Plans for each project associated with this concept plan approval.

The Plan shall:

- a) be prepared in consultation with the DECCW and by a suitably qualified and independent expert whose appointment has been approved by the Director General;
- b) be prepared with consideration of the *Draft Recovery Plan: Green and Golden Bell Frog (Lesson 1829) Recovery Plan* (DECCW, 2005), *Management Plan for the Green and Golden Bell Frog Port Kembla* (DECCW, 2007) and the *Best Practice Guidelines: Green and Gold Bell Frog Habitat* (DECCW, 2008);
- c) include the following performance criteria/objectives:
 - i) the improvement and protection of GGBF habitat and increasing the viability of the GGBF at key sites across the Outer Harbour;
 - ii) the creation of additional habitat components at strategic locations;
 - iii) the reduction of current operating threats at key sites;
 - iv) the establishment of an integrated habitat rehabilitation, creation and management program (involving the community where possible) to address long term on-going management issues at key sites; and
 - v) an increased level of community awareness, knowledge and skills relevant to GGBF conservation issues as well as increased participation by staff and contractors in recovery initiatives.
- d) identify:
 - i) existing and potential threats to GGBF habitat;
 - ii) existing or potential areas to be protected, managed and enhanced as GGBF habitat, including breeding, shelter, refuge and movement habitat, including security mechanisms for key sites
 - iii) actions and measures to be considered to enhance and protect GGBF habitat, including planting and landscaping suitable for GGBF foraging and shelter, and structures to facilitate movement and over wintering habitat;
 - iv) an adaptive monitoring program to measure the success of proposed works and actions and the inclusion of baseline data;
 - v) person(s) responsible for the protection, management, enhancement and monitoring of each GGBF habitat area;
 - vi) resources required for the protection, management and enhancement and monitoring of each GGBF habitat area;
 - vii) legal mechanism(s) and/or instrument(s) to secure each GGBF habitat area in perpetuity; and
 - viii) demarcated Port Kembla Outer Harbour boundary, internal lot boundaries, land title information and environmental zonings on an annotated map or aerial photograph.
- e) include:
 - i) a feasibility assessment of retaining and refurbishing existing or potential habitats, including but not necessarily limited to Sites 6, 8, 17 and 18, as identified in the *Assessment of Habitat, Dispersal, Corridors and Management Actions to conserve the Port Kembla key population of Green and Golden Bell Frog* (Gaia Research, 2008); and
 - ii) a timeline for the implementation of proposed works and actions.

2.14 The GGBF Master Plan shall be submitted to the Director General and DECCW prior to the commencement of construction for any project associated with this concept plan approval, unless otherwise agreed by the Director General. The monitoring and reporting elements of the Plan shall be integrated with the Compliance Tracking Program. In the event that the Proponent seeks to defer the submission of the GGBF Master Plan, the Director General shall consider the extent to which construction works that may occur prior to submission of the GGBF Master Plan are likely to impact upon existing and potential GGBF habitat areas and movement corridors.

Dredging

2.15 The ongoing operational dredging requirements for Port Kembla, including maintenance dredging do not form part of this concept plan approval and are subject to the assessment requirements of the Act.

Non-Indigenous Heritage

2.16 The Proponent shall prior to any project applications or activity undertakings, for Stage 2 or Stage 3, under Part 3A or Part 5 of the Act, prepare and implement a Conservation Management Plan

for the ongoing management of the Mobile Block Setting Steam Crane and associated components, consistent with recommendation 3 of the *Historic Heritage Assessment and Statement of Heritage Impact* (Environmental Assessment Appendix M) and shall address requirements of the need to relocate the items as a result of these stages. The Plan shall be prepared by a qualified heritage consultant, in consultation with the Department (Heritage Branch) and submitted for approval by the Director General.

The relocation of the Mobile Block Setting Steam Crane and associated components shall be consistent with the approved Conservation Management Plan and shall be conserved in accordance with the approved plan prior to any relocation.

- 2.17 Dredging works shall be subject to a shipwreck mitigation strategy to manage the unexpected discovery of shipwrecks.
- 2.18 The access road between the Historical Military Museum and gun pill box shall be designed and constructed to minimise impacts on these heritage items. The road shall provide equitable access to and between items for visitors of the Museum and shall be developed in consultation with the Historical Military Museum and the Department (Heritage Branch).

Coastal Hydrodynamics

- 2.19 The Project and each stage of the project shall be designed and constructed to minimise increases in infragravity (long) wave and gravity (ocean swell) wave parameters within both the inner and outer harbours and not to have a detrimental effect on harbour tidal flushing.

Air Quality

- 2.20 The Proponent shall design, construct, and operate any projects associated with this concept plan approval with the objective of meeting the relevant pollutant assessment criteria described in section 3 of the report *Air Quality Impact Assessment Port Kembla Outer Harbour*, dated 10 September 2010, and prepared by AECOM (or as may be updated by the source documents), including in a manner that minimises the potential generation of particulate matter emissions from stockpiles, plant and equipment.
- 2.21 The Proponent shall install, operate and maintain a **meteorological monitoring station** to monitor weather conditions representative of those on the Site, in accordance with:
- AM-1 Guide to Siting of Sampling Units (AS 2922-1987);
 - AM-2 Guide for Horizontal Measurement of Wind for Air Quality Applications (AS 2923-1987); and
 - AM-4 On-Site Meteorological Monitoring Program Guidance for Regulatory Modelling Applications.

The meteorological monitoring station shall be installed at or near the site and the Proponent shall use the meteorological monitoring station to undertake the monitoring required under this approval. This requirement does not preclude the Proponent from reaching agreement with any other relevant party for the installation, operation and maintenance of a shared monitoring station, or shared use of an existing monitoring station representative of the Site, provided the outcomes of this requirement are achieved.

- 2.22 From the commencement of construction of any project associated with this concept plan approval, the Proponent shall continuously monitor, utilising the meteorological monitoring station required under this approval, for each of the parameters listed in Table 2.

Table 2 – Meteorological Monitoring

Parameter	Units of Measure	Frequency	Averaging Period	Sampling Method
Rainfall	mm	Continuous	1 hour	AM-4
Temperature at two metres	°C	Continuous	15 minute	AM-4

Temperature at ten metres	°C	Continuous	15 minute	AM-4
Wind speed at ten metres	m/s	Continuous	15 minute	AM-2 and AM-4
Wind direction at ten metres	°	Continuous	15 minute	AM-2 and AM-4
Sigma theta at ten metres	°	Continuous	15 minute	AM-2 and AM-4
Solar radiation	W/m ²	Continuous	15 minute	AM-4

- 2.23 Prior to the commencement of operations for any project associated with this concept plan approval, unless otherwise agreed by the Director General, the Proponent shall develop and submit for the approval of the Director General, an **Ambient Dust Monitoring Program**, to outline how the particulate matter impacts of the projects associated with this Concept plan approval will be monitored and proactively managed. The Program shall be prepared by an appropriately qualified person(s). The Program shall include, but not necessarily be limited to:
- identification of an air quality monitoring network and meteorological monitoring,
 - locations, frequencies and methods for monitoring total suspended particles, PM₁₀ and deposited particulate matter;
 - the use of appropriate sampling or monitoring methods to measure the parameters described above and a meteorological station capable of monitoring wind direction and speed;
 - the utilisation of real-time monitoring data to inform environmental management decision associated with the project;
 - a framework for identifying actual and potential particulate matter impacts, and for applying pro-active and reactive mitigation and management measures to address those impacts;
 - provisions for reporting monitoring results to DECCW and the Department and for independent review and auditing of the Program (to be incorporated into the Compliance Tracking Program); and
 - mechanisms for updating the Program as may be required from time to time.

Operational Noise

- 2.24 The Proponent shall design and operate any projects associated with this concept plan approval with the objective of meeting noise limits as described in the *New South Wales Industrial Noise Policy* (EPA, 2000).
- 2.25 Prior to the commencement of operations for any project associated with this concept plan approval, the Proponent shall develop and submit for the approval of the Director General, a **Noise Verification Monitoring Program**, to outline how the noise impacts of the projects associated with this concept plan approval will be monitored and proactively managed. The Program shall be prepared by an appropriately qualified person(s) and in consultation with DECCW. The Program shall include, but not necessarily be limited to:
- identification of a noise monitoring network, consistent with the guidelines provided in the *New South Wales Industrial Noise Policy* (EPA, 2000);
 - locations, timing and methods for monitoring noise impacts as operations commence for each stage of the concept plan to assess compliance with cumulative and project specific operational noise limits, including identification of monitoring sites at which pre- and post-project noise levels can be ascertained;
 - a framework for identifying actual and potential noise impacts, and for applying pro-active and reactive mitigation and management measures to address those impacts;
 - provisions for reporting monitoring results and complaints and enquiries received to DECCW and the Department and for independent review and auditing of the Program (to be incorporated into the Compliance Tracking Program); and
 - mechanisms for updating the Program as may be required from time to time including a system that allows for the periodic assessment of Best Management Practices and Best Available Technology Economically Achievable to satisfy operational noise limits.

Shore Side Power

- 2.26 Prior to the completion of the reclamation phase in Stage 1 the Proponent shall prepare a Shore Side Power (cold ironing) Feasibility Report, in consultation with DECCW, for shore side power at each berth. The assessment shall be undertaken by an appropriately qualified person(s) and shall include, but not limited to:
- a) a discussion of best management practice for Shore Side Power, including any relevant international standards;
 - b) consideration of all feasible and reasonable measures that could be adopted at the berths, including the consideration and quantification of air quality and noise benefits; and
 - c) potential options and future recommendations.

The Proponent shall submit the Report for the Director General's consideration and shall comply with any requirements of the Director General.

Hazards, Dangerous Goods and Chemical Storage

- 2.27 The Proponent shall implement for each project associated with this concept plan approval, the recommendations listed in section 13.4.1 of the Environmental Assessment, as relevant; and shall incorporate the proposed safeguards listed in Appendix A of the report *Port Kembla Outer Harbour Development Preliminary Hazard Analysis*, dated 4 March 2010, for the projects associated with this concept plan approval.

- 2.28 Twelve months after the commencement of operations of each project associated with this concept plan approval and every three years thereafter, or at such intervals as the Director General may agree, the Proponent shall carry out a comprehensive Hazard Audit of the project and within one month of each audit submit a report to the Director General.

The audits shall be carried out at the Proponent's expense by a qualified person or team, independent of the project, and shall be consistent with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 5, '*Hazard Audit Guidelines*'.

The three yearly site Hazard Audits for each project associated with this concept plan approval shall be consolidated.

Cumulative Impacts

- 2.29 Prior to the commencement of construction of stage 2 and 3 of the concept plan approval, or as otherwise agreed by the Director General, the Proponent shall prepare and submit for the Director General's approval a **Cumulative Impact Protocol**, which details the measures to be implemented to manage and monitor the cumulative impacts associated with the concurrent construction and operation of project stages, particularly in relation to road and rail traffic, air quality and noise control. The Protocol shall include:
- a) an environmental risk assessment identifying likely cumulative impacts of activities included within the concept plan approval on neighbouring development during construction and operation;
 - b) management procedures to be implemented during construction and operation where cumulative impacts are identified, specifically focusing on those issues identified to be of high risk; and
 - c) procedures for periodic review of the Protocol.

3. ENVIRONMENTAL MANAGEMENT

Environmental Representative

- 3.1 Prior to the commencement of construction of any projects associated with this concept plan approval, or as otherwise agreed by the Director General, the Proponent shall nominate for the approval of the Director General a suitably qualified and experienced Environmental Representative(s) independent of the design and construction personnel. The Proponent shall engage the Environmental Representative(s) during any construction activities, or as otherwise agreed by the Director General. The Environmental Representative(s) shall:

- a) oversee the implementation of all construction-related environmental management plans and monitoring programs required under this approval, and advise the Proponent upon the achievement of these plans/programs;
- b) consider and advise the Proponent on its compliance obligations against all matters specified in the requirements of this approval, the documents referred to under term 1.1 of this approval, and all other applicable permits, approvals and licences required and obtained in relation to the project;
- c) have the authority and independence to recommend to the Proponent reasonable steps to be taken to avoid or minimise unintended or adverse environmental impacts associated with the construction of the project; and
- d) have the authority to recommend to the Proponent cessation of activities if there is a significant risk that adverse environmental impacts are likely to occur.

4. COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT

4.1 Subject to confidentiality, the Proponent shall make all documents required under this approval and projects associated with this approval available for public inspection on request.

Provision of Electronic Information

- 4.2 Prior to the commencement of construction of any projects associated with this concept plan approval, the Proponent shall establish a dedicated website or maintain dedicated pages within its existing website for the provision of electronic information associated with the project(s) subject to confidentiality requirements. The Proponent shall publish and maintain up-to-date information on this website or dedicated pages including, but not necessarily limited to:
- a) information on the statutory context of project (including on any existing approvals obtained under the *Environmental Planning and Assessment Act 1979*) and the current implementation status of the project;
 - b) a copy of this approval, any related project approvals and any future modification to this approval;
 - c) a copy of each relevant environmental approval, licence or permit required and obtained in relation to the project; and
 - d) details of the outcomes of compliance reviews and audits of the project.

Community Communication Strategy

- 4.3 The Proponent shall prepare and implement a **Community Communication Strategy** for the project. This Strategy shall be designed to provide mechanisms to facilitate communication between the Proponent, the Contractor, the Environmental Representative, Council and local community (broader and local stakeholders) on the progress and the related environmental management of the project. The Strategy shall include, but not necessarily limited to:
- a) identification of stakeholders to be consulted as part of the Strategy, including affected and adjoining landowners;
 - b) procedures and mechanisms for the regular distribution of information to stakeholders on the progress of the project and matters associated with environmental management;
 - c) procedures and mechanisms through which stakeholders can discuss or provide feedback to the Proponent and/or Environmental Representative in relation to the environmental management and delivery of the project;
 - d) procedures and mechanisms through which the Proponent can respond to any enquiries or feedback from stakeholders in relation to the environmental management, detailed design and delivery of the project; and
 - e) procedures and mechanisms that would be implemented to resolve any issues/disputes that may arise between parties on the matters relating to environmental management and the delivery of the project. This may include the use of an appropriately qualified and experienced independent mediator.

Key issues that should be addressed in the Community Communication Strategy should include (but not necessarily be limited to):

- i) construction activities;

- ii) traffic management (including property access, construction traffic routes and any potential disruptions to traffic flows and amenity impacts);
- iii) noise and vibration mitigation and management;
- iv) air quality and odour mitigation and management;
- v) heritage; and
- vi) cumulative impacts.

The Proponent shall maintain and implement the Strategy throughout construction. The Strategy shall be submitted to the Director General prior to the commencement of any construction of the projects associated with this concept plan approval.

Complaints and Enquiries Procedure

- 4.4 Prior to the commencement of construction of any projects associated with this concept plan approval, the Proponent shall ensure that the following are available for community complaints for the life of the project (including construction and operation):
- a) a telephone number on which complaints about construction and operational activities at the site may be registered;
 - b) a postal address to which written complaints may be sent; and
 - c) an email address to which electronic complaints may be transmitted.

The telephone number, the postal address and the e-mail address must be advertised in a newspaper circulating in the locality on at least one occasion prior to the commencement of construction and at six-monthly intervals thereafter. These details must also be provided on the Proponent's internet site. The telephone number, the postal address and the email address shall be displayed on a sign near the development site and/or main access roads, in a position that is clearly visible to the public.

- 4.5 The Proponent shall record details of all complaints received through the means listed under term 4.4 of this approval in an up-to-date Complaints Register. The Register shall record, but not necessarily be limited to:
- a) the date and time, where relevant, of the complaint;
 - b) the means by which the complaint was made (telephone, mail or email);
 - c) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
 - d) the nature of the complaint;
 - e) any action(s) taken by the Proponent in relation to the complaint, including any follow-up contact with the complainant; and
 - f) if no action was taken by the Proponent in relation to the complaint, the reason(s) why no action was taken.

The Complaints Register shall be made available for inspection by the Director General upon request.

5. COMPLIANCE MONITORING AND TRACKING

Compliance Tracking Program

- 5.1 The Proponent shall develop and implement a **Compliance Tracking Program** to track compliance with the requirements of this approval and the requirements of any approval granted for the project(s) subject to this concept plan approval. The Program shall be submitted to the Director General for approval prior to the commencement of construction of any project associated with this concept plan approval, unless otherwise agreed by the Director General. The Program shall relate to both construction and operational stages of the projects associated with this concept plan approval, and shall include, but not necessarily limited to:
- a) provisions for periodic review of the compliance status of the project against the requirements of this approval, the Statement of Commitments (as referred to in term 1.1 of this approval) and any relevant conditions of approval granted for the projects associated with this concept plan approval;

- b) provisions for the notification of the Director General prior to the commencement of construction and prior to the commencement of operation of projects associated with this concept plan approval;
- c) provisions for periodic reporting of environmental monitoring and compliance status to the Director General;
- d) a program for independent environmental auditing in accordance with *ISO 19011:2003 - Guidelines for Quality and/ or Environmental Management Systems Auditing*;
- e) mechanisms for recording incidents and actions taken in response to those incidents; and
- f) provisions for reporting environmental incidents to the Director General during construction and operation; and
- g) procedures for rectifying any non-compliance identified during environmental auditing or review of compliance.

Nothing in this approval restricts the Proponent from developing a single compliance tracking program for each project or consolidated compliance tracking program for multiple projects associated with this concept plan approval.

6. ENVIRONMENTAL REPORTING

Incident Reporting

- 6.1 The Proponent shall notify the Director General of any incident with actual or potential significant off-site impacts on people or the biophysical environment within 12 hours of becoming aware of the incident. The Proponent shall provide full written details of the incident, including demonstration that it has notified the appropriate owner of any assets which have been impacted from the incident, to the Director General within seven days of the date on which the incident occurred.
- 6.2 Where an incident involves an actual or potential fish kill, the Proponent shall also notify the DECCW and I&I NSW of the incident, consistent with the requirements of term 6.1.
- 6.3 The Proponent shall maintain a register of accidents, incidents and potential incidents with actual or potential significant off-Site impacts on people or the biophysical environment. The register shall be made available for inspection at any time by the independent qualified person or team conducting the Environmental Audit and/or the Director General.
- 6.4 The Proponent shall meet the requirements of the Director General to address the cause or impact of any incident, as it relates to this approval, reported in accordance with term 6.1 of this approval, within such period as the Director General may require.