

NSW Planning Industry and Environment
LOCKED BAG 5112
PARRAMATTA NSW 2124

APPLICATION

DE-2022/4

Date

1 February 2022

Dear Sir/Madam

Development	Bitumen Import and Dispatch Facility - State Significant Development (SSD-35282103)
Location	Lot 6 Foreshore Road, PORT KEMBLA NSW 2505

Thank you for the opportunity to comment on the proposed State Significant Development SSD-35282103 for the Port Kembla Bitumen Import and Dispatch Facility.

On 11 November 2021 Council wrote to Minister Stokes in relation to the Production, Storage and Transport of Products at Port Kembla. In summary, Council is concerned that further intensification and concentration of the production, storage and transport of highly volatile products at Port Kembla, could have potential negative impacts on -

- The community with cumulative noise and pollution levels on adjoining access roads;
- Council assets and local amenity especially trucking noise; and
- The Port through increased risk of a chain reaction with cumulative hazardous operations.

The community expects these concerns to be addressed in an assessment process and communicated accordingly to residents.

1. General

Council has reviewed the Scoping Report (the Report) prepared by Aurecon Australasia Pty Ltd 510032 Revision 2 dated 18 January 2022 and provides the following comments regarding input in the SEARs for any future application.

As part of the EIS submitted to the Department, Council requests that the cumulative impacts of the proposal together with the Manildra bitumen plant proposed on adjacent land to the east of the site (SSD-33042483) be considered and included in the relevant consultant reports.

The comments provided below are based on the level of detail provided in this preliminary scoping stage. Council will provide comprehensive commentary once the detailed documentation is provided for comment. In addition to the comments below, a list of relevant Chapters of Wollongong Development Control Plan 2009 that should be considered forms attachment 1.

2. Environmental considerations

Hazards and Fire Safety

- The Hazard Analysis, HAZOP Report and Fire Safety Study accompanying the EIS should be prepared by suitably qualified persons approved by the Secretary of the Department of Planning, Industry and Environment.

- The Hazard Analysis and HAZOP Report should include consideration of transport.

Contamination

- The EIS should be accompanied by a Contamination Assessment Report that demonstrates the land is, or can be made suitable for the purpose of the proposed development, in accordance with SEPP 55–Remediation of Land and the associated Managing Land Contamination: Planning Guidelines SEPP 55–Remediation of Land (DUAP and EPA 1998).

Acid Sulfate Soils

- The site is mapped as being affected by Class 3 and 4 Acid Sulfate Soils. The EIS should be accompanied by an Acid Sulfate Soils Management Plan prepared in accordance with the Acid Sulfate Soils Manual, or alternatively, a preliminary assessment of the proposed works prepared in accordance with the Acid Sulfate Soils Manual indicating that an Acid Sulfate Soils Management Plan is not required for the works.

Surface Water

- The EIS should be accompanied by a Site Based Stormwater Management Report and Plan that details a stormwater site isolation design in the event of a pollution incident.
- The EIS should be accompanied by a Pollution Incident Prevention and Response Plan for the site and the ethanol transit/transport period that addresses the containment of waste waters generated from a site or transport (including in transit) spill and/or firefighting response.
- The EIS should detail all construction erosion and sediment controls that will be implemented.

Noise and Vibration

- The EIS should be accompanied by a Noise Impact Assessment Report that assesses the likely noise and vibration impacts of the proposed development during the construction and operational phases, including the likely noise impacts from the associated transport to and/or from the site.

Air Quality and Odour

- The EIS should be accompanied by a comprehensive Air Quality and Odour Impact Assessment Report that assesses the potential air quality and odour impacts of the proposed development in accordance with relevant NSW EPA guidelines and that also addresses transport and a worst-case air pollution scenario in the event of an explosion or fire at the site and/or a truck (in transit or on site).
- The EIS should be accompanied by Greenhouse Gas Emission Assessment.

Biodiversity/Ecology

- The EIS should detail an assessment of the terrestrial and aquatic biodiversity values and the likely ecological impacts of the proposed development including an assessment of the likely impacts of the proposed development on the Green and Golden Bell Frog.

Coastal

- The site is identified as being within the Coastal Environment Area and the Coastal Use Area under SEPP (Coastal Management) 2018. The EIS will need to address the relevant clauses of SEPP (Coastal Management) 2018.

Ecologically Sustainable Development

- The EIS should demonstrate how the proposed development will promote the achievement of the principles of ecologically sustainable development including energy and water efficiency measures, water sensitive urban design strategies, best practice waste management and operational practices.
- On-site energy production and storage is encouraged to reduce reliance on the grid and increase the resilience of the proposal.

Climate Change

- The EIS should include a Climate Change Statement addressing potential sea level rise using the 100-year time horizon.
- All studies and assessments for the proposal shall take into consideration extreme weather events that are likely as a result of climate change.

Wollongong Local Government Area's 2050 Net Zero Carbon Emissions Target

- Wollongong City Council has declared a Climate Emergency and has adopted a target of net zero carbon emissions for the local government area by 2050. The EIS should provide details of how the proposed development has considered the target and the use of low emission methods and technology in all aspects of the proposed development.

Waste management

- Identification, quantification and classification of the likely waste streams likely to be generated during construction and operation, and describe the measures to be implemented to manage, reuse, recycle and safely dispose of this waste.

Cumulative impacts

- Discussion of the likely cumulative impact of the proposed development on the *local* built and natural environment and how they will be avoided, minimised and managed. Discussion of the cumulative impact of the proposed development on the *broader* natural environment and how they will be avoided, minimised and managed. The cumulative impacts should also consider recent approvals including but not limited to the proposed Manildra bulk ethanol storage facility directly adjoining the Site to the west.

3. Heritage matters

- The proposed facility site is in proximity to the Hill 60 Reserve State Heritage Area and a number of other locally significant heritage items listed on both the Wollongong LEP 2009 and Three Ports SEPP, including the Breakwater Battery Museum building. There are also a large number of Aboriginal sites and areas of cultural significance nearby.
- It is acknowledged that the subject site is located in an existing industrial area and has been subject to earthworks and disturbance. However the Port Kembla Area is a highly significant Aboriginal Community and the Hill 60 Reserve Area has documented cultural values at a State level. The Scoping document notes an assessment of cultural values will be undertaken including consultation with the local Aboriginal community. Council recommends that a full Aboriginal Cultural Assessment Report (ACHAR) is prepared to ensure the cultural values are captured and any recommended archaeological testing is undertaken.
- Consultation with Heritage NSW, the Illawarra Local Aboriginal Land Council (ILALC) and the local Aboriginal Community should be ongoing throughout assessment of the proposal.

- Due to the proximity of the subject site to the Hill 60 State Heritage Area and local heritage item, a Heritage Impact Statement (HIS) should be prepared that addresses the potential impacts of the proposal on the surrounding heritage items. The HIS should include an assessment of key views to and from significant locations within the Precinct due to the large scale of the tanks and other infrastructure proposed. This is not addressed in the scoping report.
- There also appears to be substantial buildings in the 1938 aerial photography on or in close proximity to the site. Therefore a non-Aboriginal Archaeological Assessment that identifies any archaeological potential of the subject site should be undertaken and included in the SEARs.
- Council recommends the following documents are included in the SEARs:
 - Heritage Impact Statement including visual assessment;
 - Non-Aboriginal Archaeological Assessment Report;
 - Aboriginal Cultural Heritage Assessment Report (ACHAR)
- The following consultation should continue to be undertaken:
 - WCC should be provided with the above documentation for comment;
 - The local Aboriginal Community, ILALC and Heritage NSW should be consulted with throughout the process;
- Heritage NSW should comment on the impacts to Hill 60 Reserve State Heritage Area and any non-Aboriginal Archaeological potential

4. Traffic matters

General

- The applicant should refer to Chapter E3 – Car Parking, Access, Servicing/ Loading Facilities and Traffic Management of the Wollongong Development Control Plan 2009.
- A Traffic Impact Assessment needs to be prepared by a suitably qualified consultant in accordance with Table 2.1 of the RTA Guide to Traffic Generating Development.
- Traffic Generation and Access
- The applicant will need to provide an assessment of the proposed traffic generation based on the expected construction/delivery requirements, vehicle capacities etc. The different types of heavy vehicle and passenger vehicles need to be identified and quantified as part of the assessment.
- The analysis should determine the peak operating hours of the development and provide details of the split of vehicle types, as well as a multi modal analysis across a 24-hour period for both weekdays and weekends.
- If changes are proposed to the access arrangements, the proposed access design must comply with the AS2890 series and be designed for the largest anticipated vehicle to enter the site with adequate clearances.

Network Analysis

- Where possible construction deliveries should be sent by rail freight to reduce heavy vehicle impacts on the surrounding road network.
- For road access, heavy vehicle routes are to be outlined ensuring that construction traffic is directed to the State Road Network, and not Council's local roads.

- The applicant will need to assess the capacity of the existing road network/access to and from the site and the capacity and level of service at relevant intersections under baseline conditions and a future 10-year scenario with background traffic growth.
- The applicant needs to provide details of likely traffic impacts at all relevant intersections and provide details of any required upgrades that are required to ensure an acceptable level of service. The applicant will need to demonstrate acceptable management of any potential safety and capacity impacts as a result of the expected traffic increase.
- Details of required upgrades to the road network will need to be put forward by the applicant to ensure that the network is able to accommodate future background traffic growth as well as development-generated traffic. The applicant will also need to demonstrate how the safety of all road users will be maintained i.e. a review of relevant pedestrian and cyclist infrastructure.

Internal Layout

- The applicant must provide all internal access dimensions on the site plan, including grades, access widths, parking aisle widths which comply with AS2890.1 and AS2890.2.
- Car parking, bicycle parking and motorcycle parking must be in accordance with Schedule 1 of Chapter E3 of the Wollongong City Council DCP.
- Disabled car parking also needs to be provided in accordance with BCA requirements and the design specification must meet the requirements of AS2890.6.
- A series of vehicle movement plans will be required to demonstrate that the internal road network is able to accommodate all sizes of vehicles likely to enter the site and access all areas with forward ingress and egress. As per the requirements of AS2890.1, a B99 vehicle must be shown passing a B85 vehicle on all critical corners. A service vehicle must also be shown passing a B85 vehicle throughout the development.
- The applicant will need to clarify emergency access arrangements.

Loading, Servicing and Waste Collection

- Loading and servicing arrangements must comply with Chapter E3 of the Wollongong City Council DCP.
- AS2890.2 requires a maximum grade of 15.4% for service vehicles which should also be taken into consideration.

5. Stormwater and flooding matters

- Chapters E13 (Floodplain Management) and E14 (Stormwater Management) of the Wollongong Development Control Plan (WDGP) 2009 should be referred to and also Clause 5.21 Flood Planning of the Wollongong LEP 2009.
- Council's records indicate that the subject lot is located within a Flood Affected - Uncategorised Flood Risk precinct and falls within the Allans Creek Catchment
- Flooding information for the site can be obtained from SES Flood Portal, or alternatively levels can be obtained from Wollongong City Council. The site is inundated in both the 1% AEP and PMF flood event and in this regard the detailed design of the facilities, storage of materials must consider both the internal and external impacts of the proposal.
- A suitably qualified civil engineer would need to be engaged to delineate the flood risk precincts for the site and to demonstrate that the detailed design satisfies all the relevant controls, performance criteria, and objectives in Chapter E13 of the Wollongong DCP2009.

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- A detailed stormwater drainage plan should be prepared detailing the proposed stormwater drainage system, designed in accordance with Wollongong DCP 2009, Chapter E14: Stormwater Management with a design of water quality facilities in accordance with Chapter E15 of Wollongong DCP 2009.
 - Stormwater disposal from the development will need to be in accordance with Section 9.3 of Chapter E14 of the Wollongong DCP2009
 - On-site stormwater detention (OSD) will not be required if the as the site if the stormwater drainage system is designed to drain directly to the harbour.
 - The landscape and stormwater plans for the development must be compatible.

6. Landscape matters

- Special consideration be given to how pedestrians and cyclists movement on existing on road shared pathway will be protected in consideration of the proposed truck and vehicle entry/ exit and parking.
- The integrating earth mounding within the proposed five metre landscaped area to elevate planting.
- The integration of additional large tree species such as *Araucaria heterophylla* (Norfolk Island Pines) to address to scale of the bulk storage tanks as the proposed *Banksia integrifolia* are small coastal trees.
- New street trees to be provide along the Foreshore Road verge to provide shade and amenity. Street trees to be planted with masonry edging, mulching and stakes and positioned in consideration of existing services.
- A landscape area be provided to the western boundary to address the scale and bulk of the tanks viewed from Foreshore road.

Any queries regarding this letter can be directed to Senior Development Project Officer Rebecca Welsh.

This letter is authorised by:

Rebecca Welsh

Senior Development Project Officer
Wollongong City Council
Telephone (02) 4227 7111

Attachment 1 – Relevant chapters of Wollongong Development Controls Plan 2009

Wollongong Council planning controls

Generally speaking, any proposal should have regard to the following Wollongong Council controls:

- Wollongong Development Control Plan 2009:
 - Chapter E03 - Car Parking Access Servicing Loading Facilities
 - Chapter E06 - Landscaping
 - Chapter E07 - Waste Management
 - Chapter E10 - Aboriginal Heritage
 - Chapter E11 - Heritage Conservation
 - Chapter E12 - Geotechnical Assessment of Slope Instability
 - Chapter E13 - Floodplain Management
 - Chapter E14 - Stormwater Management
 - Chapter E15 Water Sensitive Urban Design
 - Chapter E16 - Bushfire Management
 - Chapter E17 - Preservation and Management of Trees and Vegetation
 - Chapter E18 - Threatened Species Impact Assessment
 - Chapter E19 – Earthworks
 - Chapter E20 - Contaminated Land Management
 - Chapter E22 - Soil Erosion and Sedimentation
 - Chapter E23 - Riparian Land Management



DOC22/35076-2

Ms Sally Munk
Department of Planning, Industry and Environment
4 Parramatta Square, 12 Darcy Street
PARRAMATTA NSW 2150

Email: Sally.Munk@planning.nsw.gov.au

SEARs - PORT KEMBLA BITUMEN IMPORT AND DISPATCH FACILITY, PORT KEMBLA

I am writing in response to your email of 19 January 2022 regarding the above development proposal. The NSW Environment Protection Authority (EPA) has met with, and provided previous correspondence to Simosa Oil Company Limited (Simosa) regarding the information required to support an environmental assessment for the proposal (our reference DOC21/316528).

Based on the information presented to date, it is likely the development will require a licence issued under the Protection of the Environment Operations Act 1997 (POEO Act) for *Chemicals Storage*, *Petroleum Products Storage* and possibly other scheduled activities e.g. *Shipping in Bulk*.

To inform and support an environmental assessment, the information in **Attachment A** is required to assist the EPA in the review of this proposal. This includes:

- Details of Activity and Location;
- Licensing Requirements and assessment against the POEO Act;
- Air Quality (including odour);
- Water Quality;
- Noise and Vibration;
- Traffic and Transport;
- Waste Management; and
- Contaminated Land Management.

The supporting information should document how these matters will be addressed in the design, construction and operation of the proposed development. The information should be presented and assessed in accordance with the relevant guidelines/documents listed in **Attachment B**.

The EPA is also required to consider section 45 of the POEO Act "*Matters to be taken into consideration in licensing functions*". This includes consideration of:

- 1) *Part (c) the pollution caused or likely to be caused by the carrying out of the activity or work concerned and the likely impact of that pollution on the environment; and*
- 2) *Part (d) the practical measures that could be taken:*
 - *To prevent, control, abate or mitigate that pollution; and*
 - *To protect the environment from harm as a result of that pollution*

The EPA will undertake consideration of Part (d) through a comparison with reasonable and feasible mitigation measures.

If you have any queries regarding this matter, please contact Greg Newman on ph (02) 4224 4100.

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Yours sincerely

A handwritten signature in blue ink, appearing to read 'Greg Newman', with a long horizontal flourish extending to the right.

28/1/2022

Greg Newman

Unit Head – Metropolitan South

Attachments (2)

A Information to assist in preparing the supporting information and

B Relevant guidelines and documents

ATTACHMENT A: Information to assist in preparing the supporting information

Details of Activity and Location

The supporting information should fully describe the proposed activity including the premises and its location. It should also include a detailed process flow description and diagram that describes all activities to be undertaken at the site. This includes, but is not limited to, details on the transfer and handling of bitumen (product) including tanks, bunds, pipelines, waste product/condensate handling, heating systems to help transfer product, any blending activities, truck and ship loading facilities. Information should include times of operation for the handling of product including trucking and shipping activities, unloading and loading rates, and number of truck movements.

The information should also provide a detailed assessment of the key issues including but not necessarily be limited to the following:

1. A description of the existing local and regional environment, including the analysis of the surrounding land uses, planning zones and potential sensitive receptors;
2. Details on the quality of the product including source, chemical characteristics, any potential contaminants, and variability;
3. An assessment of the potential impacts of the development, including any cumulative impacts associated with the operation of the development and any other approved or proposed port or industrial operations in the area;
4. A detailed review of best mitigation measures and controls available for this type of industry.
5. The proposed controls should be benchmarked against best practice and their effectiveness and reliability must be assessed;
6. Robust justification must be provided for any identified best practice mitigation measure and/or controls that are not proposed for implementation;
7. A description of the measures that would be implemented to avoid, minimise, mitigate, rehabilitate/remediate, monitor and/or offset the potential impacts of the development, including detailed contingency plans for managing any significant risks to human health and the environment; and
8. Information to demonstrate any Australian Standards relevant to the proposal and describe how the requirements of the Standards will be achieved.

Licensing Requirements

The proposed development will require licensing under the *Protection of the Environment Operations Act 1997* (POEO Act). The EPA's Guide to Licensing should be consulted to assist in preparing the EPL application and supporting information. The application should also be accompanied with the complying development certificate required under the SEPP and details of land-owners consent. Information on community consultation undertaken in relation to the proposal should also be included.

Air Quality

Air emissions are a key environmental consideration associated with the development. The proposal should include a comprehensive identification and description of all sources of air pollution at the premises. Supporting information should include a modelling assessment (Air and Odour Impact Assessment) and an assessment of proposed controls that robustly justifies they are appropriate for the proposed activities. (Reasonably Available Control Technology Assessment).

Air and Odour Impact Assessment

The supporting information should include an assessment of the likely air quality impacts of the project in accordance with the *Approved Methods for the Modelling and Assessment of Air Pollutants in NSW* and the Odour Technical Framework. This should include an assessment of the odour risk of the project in accordance with the Odour Technical Framework. An assessment of odour risk involves putting the modelling result into context through the consideration of additional information.

This additional information includes the robustness and appropriateness of the assessment input data, degree of compliance with the assessment criteria, results of any sensitivity analysis, proposed odour mitigation measures and availability of additional feasible mitigation measures. It should also demonstrate ability to comply with the relevant regulatory framework, specifically the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Clean Air) Regulation 2021*.

Reasonably Available Control Technology Assessment

A suitably qualified expert should be engaged to provide the following information to support the application:

1. Detailed description of the proposed activities. Consideration must be given to, but not necessarily be limited to:
 - a) A detailed process description of activities and/or unit operations that are proposed to be undertaken at the premises.
 - b) A detailed description of process input and outputs, including those inputs that affect air emission discharges to the environment associated with the handling and storage of product including transfer from ships to shore, movement of product including associated storage, any blending of product and truck and handling or product and materials.
2. A detailed characterisation of all emissions sources from the proposed operations, including working and breathing losses of the tanks. In characterising emission sources, consideration must be given to:
 - a) Frequency and/or magnitude of emissions from proposed sources, due to such factors as:
 - Number of batches for those unit operations/processes that are batch processes
 - Operating hours
 - Operating capacity of specific unit operations/processes
 - Potential operational variability, and the implications that this variability may have on the frequency and/or magnitude of air emissions
3. A detailed description of all reasonable and feasible measures that will be undertaken to:
 - a) prevent, control, mitigate or abate air emissions; and
 - b) protect the environment from harm as a result of the emissions.
4. The proposed mitigation measures should be benchmarked against current best practice for emissions control from similar facilities, and may include, but not be limited to:
 - a) a large loading gantry with a vapor recovery unit, and
 - b) floating roof tanks with secondary seals.

Where priority is not given to the highest level of control, the proponent should provide robust justification with supporting evidence on why these measures are not feasible or practical for implementation. In doing so, consideration must be given but not be limited to the following aspects:

- a) Air quality and health impacts;
- b) Plant efficiency;
- c) Implementation timeframe;
- d) Technical and engineering constraints; and
- e) An assessment of the risk and potential impacts associated with point and fugitive source emissions from the proposed operations. The assessment of risk relates to environmental harm, risk to human health and amenity.

Water Quality

The supporting information should identify any potential construction, stormwater, or process water discharges from the premises against the relevant NSW Water Quality Objectives and values for the waters of Port Kembla and demonstrate how the project will be designed and operated to protect, maintain or restore these requirements.

The supporting information should also describe the nature and degree of any likely impacts that the proposed project (during both construction and operation) may have on the receiving environment and clearly outline the proposed mitigation, monitoring and management measures the proponent intends to apply to the project to ensure the above goals are satisfied.

The information should address document and any spill protection measures from the site including bunding and/or spill management contingency measures and management measures that may need to be implemented.

Noise and Vibration

The supporting information should include a Noise Impact Assessment that address both the construction and operational phases of the project with respect to noise and vibration that addresses the following matters, but not necessarily be limited to:

- a) a quantitative noise and vibration impact assessment to consider impacts to nearby sensitive receivers for both construction and operational phases of the project;
- b) the cumulative impacts of other developments; and
- c) details of proposed mitigation, management and monitoring measures.

The assessment should be undertaken by a suitably qualified person, and carried out in accordance with the procedures described in the noise policies and guidelines in **Attachment B**.

If there is likely to be any vibration impacts associated with the proposed project, the supporting information should also include an assessment of the predicted vibration impacts associated with the project.

Traffic and Transport

The EPA would support a proposal that delivers an environmental outcome that minimise air and noise emissions due to heavy vehicle movements from the project. In this regard the supporting information should include predictions of expected traffic volumes likely to be generated during the construction and operation of the project, including proposed transport routes and details of any upgrades to road or shipping infrastructure.

The supporting information should include a feasibility assessment of Best Management Practices for all on-road diesel trucks associated with the project. Best Management Practices could include, but not necessarily be limited to:

- a) The development and implementation of a truck noise auditing program to confirm trucks achieve noise standards for engine brake noise; and
- b) All on-road diesel trucks associated with the project should:
 - Conform with relevant and current emission standards as prescribed in Australian Design Rules for heavy-duty engines and vehicles (EURO IV); or
 - Where the vehicle is older than the 2006 model year (that is, EURO I, EURO II or EURO III standards), the vehicle should be fitted with a diesel exhaust treatment device.
 - Consider emission reduction options in the diesel NEPM.

Waste Management

The supporting information should identify, characterise and classify all waste that will be generated and disposed of as a result of the project. Proposed quantities of waste including storage, any

treatment and disposal locations must be detailed in the information and should include waste that is intended for reuse and/or recycling where it is safe and practical to do so. All waste must be classified in accordance with EPA's *Waste Classification Guidelines*. Any waste (including liquid waste) stored on site should be documented in the supporting information as such storage may require an EPL under the POEO Act 1997.

The supporting information should also provide details of how waste will be handled and managed both onsite and offsite to minimise pollution. This should include information on the procedures and protocols to be implemented to ensure that any waste leaving the site is transported and disposed of lawfully and does not pose a risk to human health or the environment. If the waste possesses hazardous characteristics, the supporting information should provide details of how the waste will be treated or immobilised to render it suitable for transport and disposal.

Contaminated Land

A range of activities can result in land contamination and significant environmental and health risks if the land is not appropriately classified, assessed and rehabilitated. In cases where land has potential for land contamination, the supporting information should include information that satisfies the requirements and procedures in SEPP 55. Due to the Port area containing current and past industrial activities it is important that there is a full understanding of any potential land contamination at the site and whether specific management is needed to help guide design of the proposal including construction.

The supporting information should include a Detailed Site Investigation which determines the full nature and extent of any potential contamination in different media including, but not limited to soil, groundwater, and surface water media. This is to provide baseline data that characterises the current nature and extent of contamination at the site. The Detailed Site Investigation must be a stand-alone document. The Detailed Site Investigation and any subsequent report/s must:

- a) be prepared, or reviewed and approved, by consultants certified under either the Environment Institute of Australia and New Zealand's Certified Environmental Practitioner (Site Contamination) scheme (CEnvP(SC)) or the Soil Science Australia Certified Professional Soil Scientist Contaminated Site Assessment and Management (CPSS CSAM) scheme.
- b) be prepared in accordance with Consultants Reporting on Contaminated Land: Contaminated Land Guidelines (EPA, 2020) and relevant guidelines made or approved by the EPA under section 105 of the *Contaminated Land Management Act 1997*.

The EPA also reminds all licence applicants about the requirements to notify the EPA of contamination under the *Contaminated Land Management Act 1997* if the relevant triggers are met. Please refer to our website for further information about the duty to report contamination <https://www.epa.nsw.gov.au/your-environment/contaminated-land/managing-contaminated-land/duty-report-contaminated-land>

ATTACHMENT B: Relevant guidelines and documents

Title	Web address
Licensing	
Protection of the Environment Operations Act 1997	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+156+1997+cd+0+N
EPA Guide to Licensing	https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/licensing/licensing-guide-160369.pdf
Air	
Approved Methods for Modelling and Assessment of Air Pollutants in NSW (2005)	http://www.epa.nsw.gov.au/resources/air/ammodelling05361.pdf
Approved Methods for the Sampling and Analysis of Air Pollutants in NSW (2007)	http://www.epa.nsw.gov.au/resources/air/07001amsaap.pdf
Technical Notes - Assessment and Management of Odour from Stationary Sources in NSW	http://www.epa.nsw.gov.au/air/odour.htm
POEO (Clean Air) Regulation 2021	https://www.austlii.edu.au/cgi-bin/viewdb/au/legis/nsw/consol_reg/poteoar2021601/
National Environment Protection (Diesel Vehicle Emissions) Measure	http://www.scew.gov.au/nepms/diesel-vehicle-emissions
The Assessment and Management of Odour from Stationary Sources in NSW: Technical Notes	http://www.environment.nsw.gov.au/resources/air/20060441notes.pdf
Water	
Water Quality Objectives	http://www.environment.nsw.gov.au/ieo/index.htm
Australian and New Zealand Guidelines for Fresh and Marine Water Quality (2018)	https://www.waterquality.gov.au/guidelines/anz-fresh-marine
Using the ANZECC Guidelines and Water Quality Objectives in NSW (DEC, 2006)	https://www.environment.nsw.gov.au/research-and-publications/publications-search/using-the-anzecc-guidelines-and-water-quality-objectives-in-nsw
Approved Methods for the Sampling and Analysis of Water Pollutant in NSW (2004)	http://www.epa.nsw.gov.au/resources/legislation/approved-methods-water.pdf
Stormwater Management	https://www.environment.nsw.gov.au/research-and-publications/publications-search/managing-urban-stormwater-soils-and-construction-volume-1-4th-edition

Title	Web address
Noise and Vibration	
Interim Construction Noise Guideline (2009) or if superseded by the Draft Construction Noise Guideline currently being exhibited	http://www.epa.nsw.gov.au/noise/constructnoise.htm
Assessing Vibration: a technical guideline (2006)	http://www.epa.nsw.gov.au/noise/vibrationguide.htm
Noise Policy for Industry (EPA, 2017)	https://www.epa.nsw.gov.au/your-environment/noise/industrial-noise/noise-policy-for-industry-(2017)
NSW Road Noise Policy (2011)	https://www.epa.nsw.gov.au/~media/EPA/Corporate%20Site/resources/noise/2011236nswroadnoisepolicy.ashx
Noise Policy for Industry (EPA, 2017)	https://www.epa.nsw.gov.au/publications/noise/17p0524-noise-policy-for-industry
NSW Rail Infrastructure Noise Guideline (EPA, 2013)	https://www.epa.nsw.gov.au/~media/epa/corporate-site/resources/noise/20130018eparig.pdf#:~:text=The%20Rail%20infrastructure%20noise%20guidelinereplaces%20the%20Interim%20guideline,are%20evaluated%20in%20a%20consistent%20and%20transparent%20manner
Waste	
Waste Classification Guidelines (DECC, 2008)	https://www.epa.nsw.gov.au/your-environment/waste/classifying-waste/waste-classification-guidelines
Resource Recovery Exemptions	https://www.epa.nsw.gov.au/your-environment/recycling-and-reuse/resource-recovery-framework/current-orders-and-exemption
Circular Economy Policy	https://www.epa.nsw.gov.au/your-environment/recycling-and-reuse/response-to-china-national-sword/circular-economy-policy
Managing Industrial Waste	https://www.epa.nsw.gov.au/your-environment/waste/industrial-waste
Contaminated Land	
State Environmental Planning Policy 55 – Remediation of Land.	http://www.planning.nsw.gov.au/assessingdev/pdf/gu_contam.pdf

Title	Web address
Bunding and Spill Management	
Storing and Handling Liquids: Environmental Protection - Participants Manual	https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/licensing/2007210liquidsmanual.pdf?la=en&hash=F58F9A86A4293434464AC43554AEEEB7FDCF6E01
Environmental Compliance Report: Liquid Chemical Storage, Handling and Spill Management - Part B Review of Best Practice and Regulation	https://www.epa.nsw.gov.au/-/media/epa/corporate-site/resources/licensing/ecrchemicalsb055590.pdf?la=en&hash=5BDC31AB157E52F9F3098E663F6808709DEBE76F

28 January 2022

Department of Planning, Industry & Environment
Locked Bag 5022
Parramatta NSW 2124
Via: Major Projects Portal

Attention: Sally Munk, sally.munk@planning.nsw.gov.au

Dear Sally,

Request for SEARs for the proposed Port Kembla Bitumen Import and Dispatch Facility (SSD 35282103)

Thank you for requesting input from Port Authority of NSW (Port Authority) on the Secretary's Environmental Assessment Requirements (SEARs) for the Port Kembla Bitumen Import and Dispatch Facility (SSD 35282103).

Port Authority is responsible for navigation, security and operational safety needs of commercial shipping in Port Kembla, which includes the role of Harbour Master. This includes safe navigation of shipping movements within the port, pilotage, port security, emergency response including marine oil and chemical spill response, and dangerous goods. In this regard, the following key issues and assessment requirements are provided as input to the SEARs for this project.

Port Navigation

Port Authority notes the proponent's commitment to undertaking a 'Port Navigation Assessment'. Port Authority requests the Port Navigation Assessment to include consideration of:

- the project's impacts on vessel navigation within Port Kembla during construction and operation, including consideration of current and future port operations.
- protocols for safe handling of bitumen vessels including under adverse meteorological conditions and including consideration of upcoming changes to Port Kembla from the construction of the Australian Industrial Energy facility and its emplacement cells (SSI 9471).
- any additional and/or upgraded port resources that may be required.

Hazards and Risk

Port Authority notes the proponent commits to updating the Hazard Analysis, Fire Safety Study and Hazard and Operability Study previously undertaken for the complying development certificate application (transitioned to current SSD application).

SYDNEY

ABN: 50 825 884 846

www.portauthoritiesnsw.com.au

YAMBA

PO Box 143
Yamba NSW 2464
T: 61 2 6646 2002

NEWCASTLE

PO Box 663
Newcastle NSW 2300
T: 61 2 4985 8222

SYDNEY

PO Box 25
Millers Point NSW 2000
T: 61 2 9296 4999

PORT KEMBLA

PO Box 89
Port Kembla NSW 2505
T: 61 2 4275 0100

EDEN

PO Box 137
Eden NSW 2551
T: 61 2 66461596

Port Authority notes that the product in question is hydrocarbon based and will be heated to high temperatures to flow through the pipeline to the storage tanks. It is expected that the heated pipeline will continue to produce hydrocarbon vapour long after discharge is complete.

There is substantial infrastructure and assets on the wharf (to Berth 206), which is also located in proximity to the boat harbour adjacent to the east of the berth.

Port Authority therefore requests the following be required as part of the consideration of hazards and risk for the proposal:

- the need for a permanent gas monitoring system to be installed on the wharf with an alarm that would be audible and visible.

Port Authority understands that this mitigation is in line with best practice for bitumen terminals.

Please don't hesitate to contact me for any further information.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Ryan Bennett', with a long horizontal flourish extending to the right.

Ryan Bennett

Senior Manager Planning & Sustainability

Our ref: STH21/00171/02
Contact: Timothy Mahoney
Your ref: SSD-35282103

1 February 2022

Sally Munk
Industry Assessments
Department of Planning, Industry and Environment
BY EMAIL: Sally.Munk@planning.nsw.gov.au
Cc: information@planning.nsw.gov.au

**REQUEST FOR SECRETARY'S ENVIRONMENTAL ASSESSMENT REQUIREMENTS (SEARS) –
BITUMEN IMPORT AND DISPATCH FACILITY– LOT 6 DP 1236743 AND LOT 2 DP 1182823 FORESHORE
ROAD, PORT KEMBLA (SSD-35282103)**

Dear Sally,

Transport for NSW refers to the notification it received on 19 January 2022 regarding the above request for input into SEARs for the Bitumen Import and Dispatch Facility.

TfNSW has completed a review of the information provided (report from aurecon dated 18 January 2022, Revision 2) while focussing on the impact to the state road network, rail corridors and waterways. This has included consultation with Sydney Trains and NSW Maritime. For this development the key classified/state roads are Old Port Road and Five Islands Road.

TfNSW notes:

- Input has been requested by the Secretary under Schedule 3 of the *Environmental Planning and Assessment Regulation 2000*; and
- The development will generate additional traffic that may impact upon TfNSW assets. These impacts need to be considered and adequately mitigated.

Having regard for the above, TfNSW requests the matters outlined in **Attachment 1** be included in any SEARS issued and as such should be addressed in the Environmental Impact Statement (EIS) prepared for the development.

If you have any questions, please contact Timothy Mahoney on 9549 9966. Please ensure that any further email correspondence is sent to development.south@transport.nsw.gov.au.

Yours faithfully



Timothy Mahoney
Development Case Officer
Community and Place | South Region

Cc: Andris.Galvins@transport.nsw.gov.au
Cc: Navsouth@transport.nsw.gov.au
Cc: DA_sydneytrains@transport.nsw.gov.au

1. **Traffic Impact Study (TIS):** A TIS is required to examine any potential transport related implications of the development. As a guide Table 2.1 of the RTA's Guide to Traffic Generating Developments outlines the key issues that should be considered in preparing a TIS. In addition, regard should be had for the Austroads publications, particularly the *Austroads Guide to Traffic Management Part 12: Integrated Transport Assessments for Developments* and *Part 3: Traffic Studies and Analysis Methods*.

Noting the above, the TIS also needs to address, but not be limited to, the following:

- a) TfNSW considers that the traffic related issues relevant to the development should be considered and addressed in 2 distinct stages as follows:
 - i. *Construction phase* – The transport of materials and equipment/components for the establishment of the facility, ancillary infrastructure and the movement and parking of construction related vehicles including workers vehicles;
 - ii. *Operational phase* – The ongoing traffic generation due to the operation, maintenance and servicing of the various elements of the project.
- b) Noting the above stages the following need to be addressed for each stage:
 - i. Details of all traffic types (both heavy and light vehicles) and volumes, for each, likely to be generated by the proposed development during operation, including a description of heavy vehicle types and haul route origins and destinations;
 - ii. For heavy vehicles, details are required on their size and their associated carrying capacity for the receipt of materials;
 - iii. Daily inbound and outbound traffic profile by time of day and day of week broken down per vehicle types. This includes a summary of the peak hour movements and maximum daily movements for both heavy and light vehicles, including how these numbers correlate to the daily and annual limits for which approval is being sought;
 - iv. Details on how maximum vehicle numbers will be monitored to ensure ongoing compliance;
 - v. Road safety assessment including the impact of truck movements on public transport, pedestrian connectivity and cycling;
 - vi. Intersection performance impacts for times of peak construction activity
- c) An assessment of the cumulative impact of traffic from this development and nearby developments that use the same access to and from Five Islands Road/Old Port Road.
- d) An assessment of the suitability of the local road connections with the state road network at each access point being investigated as well as details on any works required (e.g. intersections of Old Port Road/Five Islands Road). This is including a schedule/timeframe for their provision;
- e) Traffic management plan on how to manage the number of vehicles likely to be generated during operation and awaiting loading, unloading or servicing that can be accommodated on the site to avoid queuing in the surrounding road network. This to demonstrate how internal and external traffic can be managed in conjunction with the operations on site;
- f) A site layout to demonstrate that the site will be able to accommodate the most productive vehicle types and parking on site is in accordance with the relevant Australian Standard and Council's Development Control Plan;
- g) Swept path diagrams to demonstrate the largest vehicles that will be using the classified road network where it connects with the local road network can undertake all required manoeuvres to enable access to and from the development site.

- h) A clearly illustrated site access and circulation plan, including swept paths, loading, storage and handling facilities and lines of sight for heavy vehicles
- i) Details of options for emergency services vehicles, with details on dangerous goods handling and storage areas.
- j) Proposed fuels and other dangerous goods required, their sources and vehicles to be used
- k) Plans for the proposed storage and handling facilities for dangerous goods within site.

Please note the above relates only to potential impacts on the state road network. Discussions should be had with Wollongong Council in relation to the information they may require to be included in the TIS concerning local road impacts.

2. **Dangerous Goods:** Demonstrate actions undertaken (and to be undertaken) to comply with the legislative and regulatory compliance associated with movement of dangerous goods including incident management.
3. **State Environmental Planning Policy (Infrastructure) 2007:** The provisions of Section 84, 85 and 104 need to be addressed as part of any EIS prepared.
4. **State Environmental Planning Policy (Three Ports) 2013:** Noting that this SEPP applies to the subject land, consultation with NSW Ports is recommended when developing the EIS.
5. **Strategic/Concept Design:** Should it be identified as part of preparing the EIS or during the assessment of the application that mitigation measures are required that will impact a state/classified road then a concept design for the proposed works will need to be prepared and submitted. This is needed to clarify the scope of works, demonstrate the works can be constructed within the road reserve and allow the consent authority to consider any environmental impacts of the works as part of their assessment.

The concept design submitted must include, but not be limited to, legal property boundaries (including the existing road reserve boundaries based on a survey), existing and proposed lane configurations and lane widths at a number of locations along the length of the proposed works, etc. The design provided should be based on a design speed that is 10km/h over the posted speed limit and should demonstrate compliance with the applicable requirements in *Austroads Guide to Road Design* and the relevant TfNSW supplements.

6. **Consultation:** TfNSW encourages further consultation, if required, during the preparation of the EIS to discuss issues/impacts on state classified roads (i.e. development.south@transport.nsw.gov.au) and/or rail corridors (please see to additional comments below).
7. **NSW Maritime:** NSW Maritime have reviewed the submitted documents and raised no concerns on the grounds of impact to safe navigation. Noting that the proponent, or any entity or contractor acting on their behalf, are not exempt from the provisions of the Marine Safety Act 1998, or any other relevant legislation, and all parties must comply with any direction given by NSW Maritime Authorised officers with regard to safe navigation or the prevention of pollution.
8. **Sydney Trains:** Sydney Trains have reviewed the submitted documents and raise no concerns. Sydney Trains requests to be consulted as a separate agency prior to lodgement of the EIS and when the EIS is formally exhibited (i.e. DA_sydneytrains@transport.nsw.gov.au).

Our Ref: C22/29

1 February 2022

Sally Munk
Principal Planning Officer
DPIE Industry Assessments
c/o: sally.munk@planning.nsw.gov.au

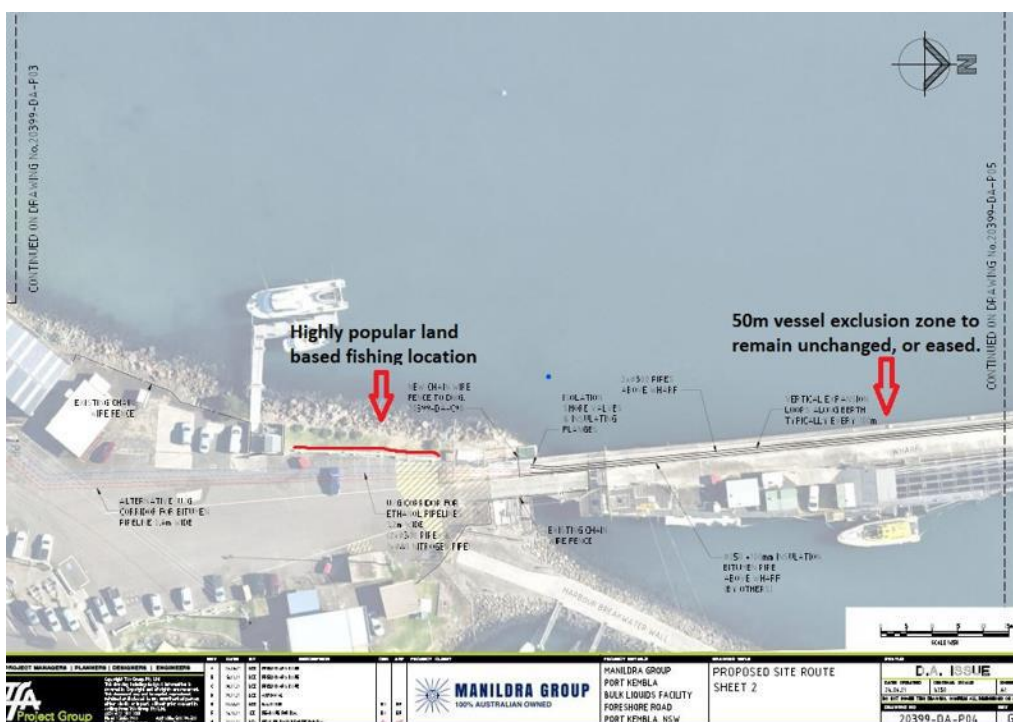
Dear Ms Munk,

**Re: SSD-35282103 – Port Kembla Bitumen Import and Dispatch Facility – Simosa Oil Pty Ltd
– Port Kembla Outer Harbour**

Thank you for your referral of 19 January 2022 seeking environmental assessment requirements for the above stated proposal from DPI Fisheries (a division of NSW Department of Primary Industries).

DPI Fisheries is responsible for ensuring that fish stocks are conserved and that there is no net loss of key fish habitats upon which they depend. To achieve this, DPI Fisheries ensures that developments comply with the requirements of the *Fisheries Management Act 1994* (FM Act) (namely the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act, respectively), and the associated *Policy and Guidelines for Fish Habitat Conservation and Management (2013)*. DPI Fisheries is also responsible for ensuring the sustainable management of commercial, recreational and Aboriginal cultural fishing, aquaculture, marine parks and aquatic reserves within NSW.

Port Kembla and its surrounding waters provides important key fish habitat and aquatic biodiversity values that sustain fish stocks and local fishing activities. Much effort has been placed into improving the aquatic environment within Port Kembla over the years and this has been valued by the community. The area of foreshore to the south and west of the existing wharf (shown in the diagram below) is a highly popular land-based recreational fishing location within in Port Kembla. It is important that the project be designed to avoid, minimise, mitigate and then offset impacts on this key fish habitat, the aquatic environment and fishing activity in the area.



DPI Fisheries has reviewed the *Port Kembla Bitumen Import and Dispatch Facility Scoping Report – Simosa Oil Pty Ltd* (Aurecon, Ref 510032, Rev 2, 18 January 2022). It has been noted that an above ground wharf line is proposed through the popular recreational fishing area depicted above. The Scoping Study has made no mention of nor considered the potential impact of the proposal on the community/social use/value recreational fishing in the area. The scoping study mentions the expected use of the wharf facility would be one ship per month. However, it does not include any consideration of whether any changes to the current 50m exclusion zone around this wharf is proposed, and what impact that would have on recreational fishing. Water quality impacts both during the construction and operational stages of this project have the potential to impact upon the aquatic environment and appropriate measures should be proposed to mitigate such impacts.

DPI Fisheries provides the following environmental assessment requirements for this proposal:

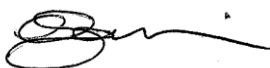
- 1) A clear description of the project and construction methodologies, including a clear justification for the proposal and proposed design of the works.
- 2) A description of the key fish habitat, aquatic biodiversity and recreational fishing activities adjacent to the footprint of the proposal.
- 3) An assessment of the potential for water quality impacts to the aquatic environment during construction and operation of the facility (from stormwater discharge and potential emergency incidents).
- 4) A clear description of design and operational measures to mitigate potential water quality impacts on the aquatic environment.
- 5) An assessment of the potential impact of the construction and operation of this facility (including shipping movements) on recreational fishing amenity.
- 6) A clear description of design and operational measures to avoid, minimise and mitigate the impacts on recreational fishing access and amenity.
- 7) Consideration of potential offsetting measures should loss of recreational fishing activity amenity at the land-based fishing site (shown above) or increase in the exclusion zone around the wharf be proposed either directly or indirectly as part of this proposal.

A list of DPI Fisheries general information requirements for environmental assessment of development proposals is also provided in section 3.3. of the DPI Policy.

Considering the large losses in amenity of land-based fishing activity at Port Kembla with the closure of the eastern breakwater to recreational fishing, and existing exclusion zones to the vessel-based recreational fishing within the port, additional closures to recreational fishing within and around the port are not supported.

Please contact Carla Ganassin on 4222 8342 or carla.ganassin@dpi.nsw.gov.au should you wish to discuss this response.

Yours sincerely,



Carla Ganassin

Senior Fisheries Manager, Coastal System

OUT22/441

Sally Munk
Planning and Assessment Group
NSW Department of Planning and Environment

sally.munk@planning.nsw.gov.au

Dear Ms Munk

**Port Kembla Bitumen Import and Dispatch Facility (SSD-35282103)
Comment on the Secretary's Environmental Assessment Requirements (SEARs)**

I refer to your email of 19 January 2022 to the Department of Planning and Environment (DPE) Water and the Natural Resources Access Regulator (NRAR) about the above matter.

The following recommendations are provided by DPE Water and NRAR.

The SEARS should include:

- The identification of an adequate and secure water supply for the life of the project. This includes confirmation that water can be sourced from an appropriately authorised and reliable supply. This is also to include an assessment of the current market depth where water entitlement is required to be purchased.
- A detailed and consolidated site water balance.
- Assessment of impacts on surface and ground water sources (both quality and quantity), related infrastructure, adjacent licensed water users, basic landholder rights, watercourses, riparian land, and groundwater dependent ecosystems, and measures proposed to reduce and mitigate these impacts.
- Proposed surface and groundwater monitoring activities and methodologies.
- Consideration of relevant legislation, policies and guidelines, including the NSW Aquifer Interference Policy (2012), the Guidelines for Controlled Activities on Waterfront Land (2018) and the relevant Water Sharing Plans (available at <https://water.dpie.nsw.gov.au/home>).

Any further referrals to DPE Water and NRAR can be sent by email to water.assessments@dpie.nsw.gov.au. or to the following coordinating officer within DPE Water:

Alistair Drew, Project Officer, E: Alistair.drew@dpie.nsw.gov.au

Yours sincerely



Judy Court
A/Project Officer, Assessments, Knowledge Division
Department of Planning and Environment: Water
25 January 2022



File Ref. No: FRN22/211 BFS22/172 8000019274
TRIM Doc. No: D22/5544
Contact: Station Officer Aaron Ross

25 January 2022

Sally Munk
NSW Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 5022

Dear Sally Munk

Re: Comment on Secretary's Environmental Assessment Requirements (SEARs) for Port Kembla Bitumen Import and Dispatch Facility (SSD-35282103)

Fire & Rescue NSW (FRNSW) acknowledge correspondence received on 19 January 2022, requesting input into the preparation of the SEARs for the Port Kembla Bitumen Import and Dispatch Facility (SSD-35282103)

FRNSW have reviewed the SEAR's and Scoping Report and make the following recommendations:

FRNSW note that a Hazards Analysis (in accordance with Hazardous Industry Planning Advisory Paper No 6), Fire Safety Study (FSS) (in accordance with Hazardous Industry Planning Advisory Paper No 2) and a Hazard Operability Study (in accordance with Hazardous Industry Planning Advisory Paper No 8) are reported in the Scoping Report as having been already undertaken. These assessments will be updated for the project and included in the Environmental Impact Study (EIS).

FRNSW recommend that the development of the FSS to the satisfaction of the operational requirements of FRNSW be a condition of consent.

We request that we be given the opportunity to review and provide comment once approvals have been granted and the project has progressed such that there is more relevant detailed information available. FRNSW note that a SEPP 33 screening process will be conducted for the proposal.

As additional details become available FRNSW requests to be consulted with respect to the proposed fire and life safety systems and their configuration at the project's preliminary and final design phases.

For further information please contact the Operational Liaison and Special Hazards Unit, referencing FRNSW file number BFS22/172. Please ensure that all correspondence in relation to this matter is submitted electronically to firesafety@fire.nsw.gov.au.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'John Hawes', written in a cursive style.

Superintendent John Hawes
Manager
Operational Liaison and Special Hazards Unit

Cc: sally.munk@planning.nsw.gov.au



Our ref: DOC22/34897-3

Ms. Sally Munk
Principle Planning Officer
Energy Resource Assessment
Department of Planning and Environment
sally.munk@planning.nsw.gov.au

Dear Ms. Munk

Heritage NSW - Aboriginal Cultural Heritage - State Significant Development (SSD - 35282103) (Wollongong City) - Revised Advice on Secretary's Environmental Assessment Requirements (SEAR's).

Thank you for your additional referral dated 31 January 2022, requesting that Heritage NSW review previously issued SEAR's (DOC22/34897), dated 24 January 2022, with respect to Aboriginal cultural heritage.

Heritage NSW has undertaken an additional review of the Scoping Report (dated 18 January 2022) and notes that a Complying Development Certificate (CDC) application has been previously prepared for Wollongong City Council for the purpose of bulk storage liquid tanks. An amendment was made to the State Environmental Planning Policy (Three Ports) 2013 (SEPP Three Ports) - Clause 25(7) on 12 November 2021, prohibiting development within Port Kembla to be considered Complying Development, therefore, the Project is now considered State Significant Development (SSD) as per Clause 27 of the SEPP (Three Ports). Heritage NSW notes that the proposal requires an Environmental Impact Statement (EIS) be developed and the Scoping Report has been prepared to support the applicants request for SEAR's to complete the EIS.

Heritage NSW understands that as part of the CDC application, specialist investigations were previously undertaken, including Aboriginal cultural heritage. The project is in an existing industrial area and has been subject to extensive earthworks, limiting any potential for Aboriginal sites to present. Heritage NSW notes that the applicant will undertake an assessment of cultural values in consultation with the local Aboriginal community and that the previously completed Outer Harbour Concept Plan will be used where appropriate.

Heritage NSW requires that the assessment of cultural values be conducted in accordance with the *Code of Practice for Archaeological Investigation in NSW* (2010), and be guided by the *Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW* (2011). Consultation with Aboriginal people must be undertaken in accordance with the *Aboriginal Cultural Heritage Consultation Requirements for Proponents* (2010). The significance of any cultural heritage values Aboriginal people identify as part of this process must be documented.

Should you require any further information, please contact Nicole Davis, Manager Assessments, Heritage NSW on 4927 3156 or nicole.davis@environment.nsw.gov.au

Yours sincerely

A handwritten signature in black ink, appearing to read 'N Y Davis'.

Nicole Y Davis

Manager Assessments

Community Engagement

Heritage NSW

Department of Premier and Cabinet

1 February 2022



Department of Planning and Environment

Our ref: DOC22/40014
Senders ref: PAE-35293238

Sally Munk
Energy, Resources and Industry Division
Department of Planning and Environment
E-mail: Sally.munk@planning.nsw.gov.au

31 January 2022

Dear Ms Munk

Subject: Major Projects – New Request for Advice – Port Kembla Bitumen Import and Dispatch Facility (SSD-35282103)

Thank you for your email of 19 January 2022, requesting input on the abovementioned major project.

Attachment A lists the suggested standard environmental assessment requirements that will need to be addressed for the project. An emphasis should be placed on coastal management/hazard issues given the site's foreshore location and the long-term sustainability of any approved development.

Attachment B lists the guidance material that will assist the preparation of the environmental assessment.

We note that the project proponent intends to seek a waiver for a biodiversity development assessment report (BDAR) under section 7.9 of the *Biodiversity Conservation Act 2016*. Please find enclosed the Fact Sheet - How to apply for a BDAR waiver for a Major Project Application. If a BDAR waiver is not pursued, the biodiversity requirements in Attachment A must be addressed as part of the environmental assessment for the project.

If you have any questions regarding this advice, please do not hesitate to contact Vanessa Allen, Senior Conservation Planning Officer (Illawarra), via vanessa.allen@environment.nsw.gov.au or 4224 4186.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Michael Saxon'.

Michael Saxon
**Director South East
Biodiversity and Conservation Division**

Attachment A: EES Recommended Environmental Assessment Requirements (EARs) for Manildra Port Kembla Bulk Liquid Terminal Project

Attachment B: Guidance Material

**Attachment A – EES Recommended Environmental Assessment Requirements (EARs)
for the proposed Port Kembla Bitumen Import and Dispatch Facility (SSD-35282103)**

1. Biodiversity

1. Biodiversity impacts related to the proposed project are to be assessed in accordance with the [Biodiversity Assessment Method](#) and documented in a Biodiversity Development Assessment Report (BDAR). The BDAR must include information in the form detailed in the *Biodiversity Conservation Act 2016* (s6.12), *Biodiversity Conservation Regulation 2017* (s6.8) and [Biodiversity Assessment Method](#).
2. The BDAR must document the application of the avoid, minimise and offset hierarchy including assessing all direct, indirect and prescribed impacts in accordance with the [Biodiversity Assessment Method](#).
3. The BDAR must include details of the measures proposed to address the offset obligation as follows;
 - The total number and classes of biodiversity credits required to be retired for the project;
 - The number and classes of like-for-like biodiversity credits proposed to be retired;
 - The number and classes of biodiversity credits proposed to be retired in accordance with the variation rules;
 - Any proposal to fund a [biodiversity conservation action](#);
 - Any proposal to conduct ecological rehabilitation (if a mining project); and
 - Any proposal to make a payment to the Biodiversity Conservation Fund.

If seeking approval to use the variation rules, the BDAR must contain details of the [reasonable steps](#) that have been taken to obtain requisite like-for-like biodiversity credits.
4. The BDAR must be prepared by a person accredited in accordance with the Accreditation Scheme for the Application of the Biodiversity Assessment Method Order 2017 under s6.10 of the *Biodiversity Conservation Act 2016*.

2. Water and Soils

1. The Environmental Impact Statement (EIS) must map the following features relevant to water and soils including:
 - a. Acid sulfate soils (Class 1, 2, 3 or 4 on the Acid Sulfate Soil Planning Map).
 - b. Rivers, streams, estuaries (as described in s4.2 of the [Biodiversity Assessment Method](#)).

- c. Wetlands (as described in s4.2 of the [Biodiversity Assessment Method](#). Coastal wetlands include all areas mapped as 'Coastal Wetlands' under the [NSW Coastal Management State Environmental Planning Policy](#) 2018.
 - d. Groundwater.
 - e. Groundwater dependent ecosystems.
 - f. Proposed intake and discharge locations.
2. The EIS must describe background conditions for any water resource likely to be affected by the project, including:
 - a. Existing surface and groundwater.
 - b. Hydrology, including volume, frequency and quality of discharges at proposed intake and discharge locations.
 - c. Water Quality Objectives (as endorsed by the NSW Government <http://www.environment.nsw.gov.au/ieo/index.htm>) including groundwater as appropriate that represent the community's uses and values for the receiving waters.
 - d. Indicators and trigger values/criteria for the environmental values identified at (c) in accordance with the [ANZECC \(2000\) Guidelines for Fresh and Marine Water Quality](#) and/or local objectives, criteria or targets endorsed by the NSW Government.
 - e. [Risk-based Framework for Considering Waterway Health Outcomes in Strategic Land-use Planning Decisions](#).
3. The EIS must assess the impacts of the project on water quality, including:
 1. The nature and degree of impact on receiving waters for both surface and groundwater, demonstrating how the project protects the Water Quality Objectives where they are currently being achieved, and contributes towards achievement of the Water Quality Objectives over time where they are currently not being achieved. This should include an assessment of the mitigating effects of proposed stormwater and wastewater management during and after construction.
 2. Identification of proposed monitoring of water quality.
 3. How the development meets the objectives of the *Coastal Management Act 2016* and management objectives of relevant Coastal Management Areas defined under this Act.
 4. Consistency with any relevant certified Coastal Management Program (or Coastal Zone Management Plan)
4. The EIS must assess the impact of the project on hydrology, including:
 - a. Water balance including quantity, quality and source.
 - b. Effects to downstream rivers, wetlands, estuaries, marine waters and floodplain areas.
 - c. Effects to downstream water-dependent fauna and flora including groundwater dependent ecosystems.

- d. Impacts to natural processes and functions within rivers, wetlands, estuaries and floodplains that affect river system and landscape health such as nutrient flow, aquatic connectivity and access to habitat for spawning and refuge (e.g. river benches).
- e. Changes to environmental water availability, both regulated/licensed and unregulated/rules-based sources of such water.
- f. Mitigating effects of proposed stormwater and wastewater management during and after construction on hydrological attributes such as volumes, flow rates, management methods and re-use options.
- g. Identification of proposed monitoring of hydrological attributes.

3. Flooding

1. The EIS must map the following features relevant to flooding as described in the Floodplain Development Manual 2005 (NSW Government 2005) including:
 - a. Flood prone land
 - b. Flood planning area, the area below the flood planning level.
 - c. Hydraulic categorisation (floodways and flood storage areas).
2. The EIS must describe flood assessment and modelling undertaken in determining the design flood levels for events, including a minimum of the 1 in 10 year, 1 in 100 year flood levels and the probable maximum flood, or an equivalent extreme event.
3. The EIS must model the effect of the proposed project (including fill) on the flood behaviour under the following scenarios:
 - a. Current flood behaviour for a range of design events as identified in 3 above. This includes the 1 in 200 or 1 in 500 year flood events as proxies for assessing sensitivity to an increase in rainfall intensity of flood producing rainfall events due to climate change.
4. Modelling in the EIS must consider and document:
 - a. The impact on existing flood behaviour for a full range of flood events including up to the probable maximum flood.
 - b. Impacts of the development on flood behaviour resulting in detrimental changes in potential flood affection of other developments or land. This may include redirection of flow, flow velocities, flood levels, hazards and hydraulic categories.
 - c. Relevant provisions of the NSW Floodplain Development Manual 2005.
5. The EIS must assess the proposed project on merits, including:
 - a. Whether there will be detrimental increases in the potential flood affectation of other properties, assets and infrastructure.
 - b. Consistency with Council floodplain risk management plans.
 - c. Compatibility with the flood hazard of the land.

- d. Compatibility with the hydraulic functions of flow conveyance in floodways and storage in flood storage areas of the land.
 - e. Whether there will be adverse effect to beneficial inundation of the floodplain environment, on, adjacent to or downstream of the site.
 - f. Whether there will be direct or indirect increase in erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses.
 - g. Any impacts the development may have upon existing community emergency management arrangements for flooding. These matters are to be discussed with the SES and Council.
 - h. Whether the proposal incorporates specific measures to manage risk to life from flood. These matters are to be discussed with the SES and Council.
 - i. Emergency management, evacuation and access, and contingency measures for the development considering the full range of flood risk (based upon the probable maximum flood or an equivalent extreme flood event). These matters are to be discussed with and have the support of Council and the SES.
 - j. Any impacts the development may have on the social and economic costs to the community as consequence of flooding.
6. The EIS must describe the potential effects of coastal processes and hazards (within the meaning of the *Coastal Management Act 2016*), including sea level rise and climate change:
- a. On the proposed development
 - b. Arising from the proposed development.
7. The EIS must consider have regard to any certified Coastal Management Program (or Coastal Zone Management Plan) and be consistent with the management objectives described in the Coastal Management Act 2016 and development controls for coastal management areas mapped under the *State Environmental Planning Policy (Coastal Management) 2018*.

The EIS must also address the following site-specific requirements:

8. The EIS must detail:
- a. The storage levels of any hazardous materials.
 - b. The structural integrity of any proposed storage buildings / structures in events up to and including the PMF.
 - c. An assessment of impacts, risks and controls associated with inundation of the facility or structures containing hazardous materials including any off-site impacts in large to extreme floods up to the PMF.

4. Coastal Hazards & Coastal Management Areas

1. The EIS must describe the potential effects of coastal processes and hazards (within the meaning of the *Coastal Management Act 2016*), including sea level rise and climate change:
 - a. On the proposed development
 - b. Arising from the proposed development.
2. The EIS must consider the effects of coastal processes and hazards (within the meaning of the *Coastal Management Act 2016*), impacting the site under the following scenarios:
 - a. Current sea level.
 - b. Projected future climate change (including sea level rise) scenarios that have been peer-reviewed and widely accepted by scientific opinion.
3. The EIS must have regard to and document:
 - a. Consistency with any certified Coastal Management Program (or Coastal Zone Management Plan) and coastal zone emergency action subplans
 - b. Consistency with management objectives of Coastal Management Areas described in the *Coastal Management Act 2016* and relevant development controls described in the *Coastal Management SEPP 2018*.
 - c. Consistency with any existing entrance management policies or strategies for coastal lakes and lagoons

Attachment B – Guidance Material

Title	Web address
<u>Relevant Legislation</u>	
<i>Biodiversity Conservation Act 2016</i>	https://www.legislation.nsw.gov.au/#/view/act/2016/63/full
<i>Coastal Management Act 2016</i>	https://www.legislation.nsw.gov.au/#/view/act/2016/20/full
<i>State Environmental Planning Policy (Coastal Management) 2018</i>	https://www.legislation.nsw.gov.au/#/view/EPI/2018/106/full
<i>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</i>	http://www.austlii.edu.au/au/legis/cth/consol_act/epabca1999588/
<i>Environmental Planning and Assessment Act 1979</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+203+1979+cd+0+N
<i>Fisheries Management Act 1994</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+38+1994+cd+0+N
<i>Marine Parks Act 1997</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+64+1997+cd+0+N
<i>National Parks and Wildlife Act 1974</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+80+1974+cd+0+N
<i>Protection of the Environment Operations Act 1997</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+156+1997+cd+0+N
<i>Water Management Act 2000</i>	http://www.legislation.nsw.gov.au/maintop/view/inforce/act+92+2000+cd+0+N
<i>Wilderness Act 1987</i>	http://www.legislation.nsw.gov.au/viewtop/inforce/act+196+1987+FIRST+0+N
<u>Biodiversity</u>	
Biodiversity Assessment Method (OEH, 2017)	http://www.environment.nsw.gov.au/resources/bcact/biodiversity-assessment-method-170206.pdf
Guidance and Criteria to assist a decision maker to determine a serious and irreversible impact (OEH, 2017)	http://www.environment.nsw.gov.au/resources/bcact/guidance-decision-makers-determine-serious-irreversible-impact-170204.pdf
Fisheries NSW policies and guidelines	http://www.dpi.nsw.gov.au/fisheries/habitat/publications/policies,-guidelines-and-manuals/fish-habitat-conservation
List of national parks	http://www.environment.nsw.gov.au/NationalParks/parksearchatoz.aspx
Revocation, recategorisation and road adjustment policy (OEH, 2012)	http://www.environment.nsw.gov.au/policies/RevocationOfLandPolicy.htm
Guidelines for developments adjoining land and water managed by the	http://www.environment.nsw.gov.au/protectedareas/developmntadjoiningdecc.htm

Title	Web address
Department of Environment, Climate Change and Water (DECCW, 2010)	
<u>Water and Soils</u>	
Acid sulphate soils	
Acid Sulfate Soils Planning Maps via Data.NSW	http://data.nsw.gov.au/data/
Acid Sulfate Soils Manual (Stone et al. 1998)	http://www.environment.nsw.gov.au/resources/epa/Acid-Sulfate-Manual-1998.pdf
Acid Sulfate Soils Laboratory Methods Guidelines (Ahern et al. 2004)	http://www.environment.nsw.gov.au/resources/soils/acid-sulfate-soils-laboratory-methods-guidelines.pdf This replaces Chapter 4 of the Acid Sulfate Soils Manual above.
Flooding and Coastal Hazards	
Coastal management	https://www.environment.nsw.gov.au/topics/water/coasts/coastal-management
Floodplain development manual	http://www.environment.nsw.gov.au/floodplains/manual.htm
Coastal Management Manual	https://www.environment.nsw.gov.au/topics/water/coasts/coastal-management/manual
NSW Climate Impact Profile	http://climatechange.environment.nsw.gov.au/
Climate Change Impacts and Risk Management	Climate Change Impacts and Risk Management: A Guide for Business and Government, AGIC Guidelines for Climate Change Adaptation
Water	
Water Quality Objectives	http://www.environment.nsw.gov.au/ieo/index.htm
ANZECC (2000) Guidelines for Fresh and Marine Water Quality	www.environment.gov.au/water/publications/quality/australian-and-new-zealand-guidelines-fresh-marine-water-quality-volume-1
Applying Goals for Ambient Water Quality Guidance for Operations Officers – Mixing Zones	http://deccnet/water/resources/AWQGuidance7.pdf
Approved Methods for the Sampling and Analysis of Water Pollutant in NSW (2004)	http://www.environment.nsw.gov.au/resources/legislation/approvedmethods-water.pdf
Water	https://www.environment.nsw.gov.au/topics/water
Stormwater management	https://www.environment.nsw.gov.au/stormwater/index.htm

Title	Web address
Waterway health assessment	https://www.environment.nsw.gov.au/water/waterway-health-assessment.htm
Using NSW Water Quality Objectives	https://www.environment.nsw.gov.au/water/planningusingwqos.htm
Risk based framework for considering waterway health.	https://www.environment.nsw.gov.au/research-and-publications/publications-search/risk-based-framework-for-considering-waterway-health-outcomes-in-strategic-land-use-planning

How to apply for a BDAR waiver for a Major Project Application



Fact Sheet

October 2019

This fact sheet provides information on when a biodiversity development assessment report (BDAR) under the *Biodiversity Conservation Act 2016* may not be required for State Significant Development (SSD) and State Significant Infrastructure (SSI) applications. It also explains how to lodge an application to waive this requirement with the Department of Planning, Industry and Environment.

Background

SSD and SSI are regulated under the *Environmental Planning and Assessment Act 1979*, which requires proponents to apply to the Minister of Planning for development consent or infrastructure approval, supported by an environmental impact statement (EIS). These applications are also subject to biodiversity assessment requirements under the *Biodiversity Conservation Act 2016* (BC Act).

The BC Act requires that an SSD or SSI application must be accompanied by a biodiversity development assessment report (BDAR) unless,

- the Planning Agency Head, and
- the Environment Agency Head

determine that the proposed development is not likely to have any significant impact on biodiversity values.

This determination is referred to here as a BDAR waiver.

What is a BDAR?

A BDAR is a report required under the BC Act and is prepared by a person accredited (under section 6.10 of the BC Act) to apply the biodiversity assessment method (BAM). The BAM is an assessment manual that provides a consistent method for the assessment of biodiversity, including assessing certain impacts on threatened species and threatened ecological communities, their habitats, and impacts on biodiversity values. A BDAR provides guidance on how a proponent can avoid and minimise potential biodiversity impacts and identifies the number and class of biodiversity credits that need to be offset to achieve a standard of 'no net loss' of biodiversity.

In what circumstances is it likely that a BDAR waiver be issued?

A BDAR waiver will only be issued in limited circumstances where it is clearly demonstrated, based on information provided in accordance with this fact sheet, that the proposed development is not likely to have any significant impact on biodiversity values. For example, internal works to an existing building or development on a brownfield site with no threatened species habitat. Development that requires clearing of native vegetation is likely to require a BDAR. If there is doubt regarding potential impacts, or where information is not made available, a BDAR waiver will not be issued.

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Note: A BDAR or BDAR waiver is not required if the SSD or SSI is proposed to be carried out on 'biodiversity certified land' as described in Part 8 of the BC Act.

When do I request a waiver?

A BDAR waiver request should be lodged before the SSD or SSI application is made.

For SSD, it is recommended that proponents wishing to request a BDAR waiver do so at the same time a request for SEARs is made. This will help ensure that proponents are made aware of all relevant biodiversity assessment requirements for the proposed development as early as possible.

For SSI the proponent should lodge a waiver application before applying for approval from the Minister to carry out SSI, which triggers the requirement for the Secretary to prepare environmental assessment requirements. A BDAR waiver application should be lodged and the request determined prior to the SEARs being issued so that the SEARs reflect the biodiversity assessment requirements for the proposal.

Can a BDAR waiver be issued for a concept development application (SSD) or a staged infrastructure proposal (SSI)?

Concept development applications for SSD and certain staged infrastructure proposals¹ for SSI trigger the requirement for a BDAR unless the requirement is waived under s7.9(2) of the BC Act.

To apply for a BDAR waiver for a concept development application or staged infrastructure proposal, the concept proposals must be sufficiently defined to enable impacts on biodiversity values to be identified. The proponent will need to address the likely impact of the concept proposals on biodiversity values, including any clearing of native vegetation that is required or likely to be required for the concept proposals. As a minimum, the proponent must identify a development footprint and address the information requirements in Tables 1 and 2 at Attachment A.

Whether a separate BDAR waiver determination is required for subsequent SSD or SSI applications associated with a concept development consent or staged infrastructure approval will depend on whether the subsequent application is consistent with the description of 'proposed development' in the initial waiver determination.

Who should prepare the BDAR waiver application?

The request for a BDAR waiver and the accompanying information (as explained later in this fact sheet) does not need to be prepared by a BAM accredited person. However, a **suitably qualified person**² should prepare the BDAR waiver application when one or more biodiversity values are relevant to the proposed development, ie, one or more biodiversity values are present on the development site or there is potential for direct or indirect impacts on a biodiversity value off-site.

¹ A BDAR or a BDAR waiver determination may not be required for a staged infrastructure application that is for concept approval only, and not also the first stage of the project. In such cases please contact the Department to discuss the biodiversity assessment requirements of the proposal.

² A suitably qualified person is a person with tertiary qualifications in natural sciences including subjects that relate to the observation and description of terrestrial biodiversity and landforms, and at least three years of work experience in environmental assessment including field identification of plant and animal species and habitats.

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What information must accompany a BDAR waiver request?

A request for a BDAR waiver is to include the information set out in Table 1 and Table 2 in Attachment A. This includes information on the proponent, site and project and the likely impacts on the biodiversity values.

Proponents must address all of the impacts on biodiversity values to which the biodiversity offsets scheme applies under section 6.3 of the BC Act. Biodiversity values are defined in the BC Act and the Biodiversity Conservation Regulation 2017 (BC Regulation). The BC Regulation (clause 6.1) prescribes additional impacts on biodiversity values to be assessed under the biodiversity offsets scheme. The BDAR waiver request must explain whether each value is relevant to the site and/or the proposed development and provide supporting information to explain the likelihood and extent of any potential impacts, including prescribed impacts.

Impacts to threatened species habitat for non-native vegetation and human made structures

If the proposed development includes demolition of buildings and/or impacts to other human made structures, such as water bodies or other derived habitat features, there may be impacts to threatened species. Where relevant, the BDAR waiver request should include the details of potential habitat in non-native vegetation and human made structures and demonstrate how surveys have been conducted for the presence of threatened species.

For example, to survey for threatened Microbats in buildings proposed to be demolished, daytime roost searches should be carried out. A search is to be undertaken by looking for bats or signs of bats in suitable roost habitat during the daytime. All roost searches should use a torch to shine in holes, cracks and crevices, and carry a handheld bat detector to locate bats that may call. If bats are detected, observers must confirm the identity of the species and determine if the roost is a maternity roost. A description of the searches undertaken should be provided in the report.

Note: A BDAR for SSD or SSI does not need to assess the impacts of any clearing of native vegetation and loss of habitat on land classified as '**Category 1-exempt land**' other than impacts '**prescribed**' in [clause 6.1 of the BC Regulation](#). Therefore, for any part of the proposed development that is on Category 1-exempt land, only 'prescribed impacts' on biodiversity values are required to be considered in a request for a BDAR waiver.

In such cases proponents must provide information demonstrating how the relevant parts of the land meets any of the following criteria for Category 1 land;

- Land cleared of native vegetation as at 1 January 1990 or lawfully cleared after 1 January 1990
- Low conservation grasslands
- Land containing only low conservation groundcover (not being grasslands)
- Native vegetation identified as regrowth in a Property Vegetation Plan under the repealed Native Vegetation Act 2003
- Land bio-certified under the Biodiversity Conservation Act 2016 (BC Act)

Where do I lodge a BDAR waiver request?

The BDAR waiver request can be lodged with the Department of Planning, Industry and Environment (The Department) via the Major Projects website (or via information@planning.nsw.gov.au). All necessary information must be provided with the request in

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accordance with the information requirements outlined in Attachment A. The Department may contact you if more information is required to process the request.

How long will it take to determine the application?

A BDAR waiver determination will generally be made within 28 days of the request being received.

If a BDAR waiver is not granted, there is no appeal mechanism and a BDAR must be submitted with the SSD/ SSI.

Note: Regardless of whether a BDAR is required or not, SSD and SSI proponents may need to undertake a separate biodiversity assessment as part of their project application. The SEARs may outline further biodiversity matters that need to be addressed in the EIS (e.g. aquatic habitat including rivers, wetlands, lakes, estuaries, GWD ecosystems, marine environments; environmental flows, fish passage and water quality; marine protected areas; fish conservation including threatened fish and aquatic flora species protection; marine mammals, wandering sea birds).

If you wish to contact the Department to discuss the specific information requirements that may be relevant to your site, prior to lodging your request for a BDAR waiver you can contact the Department on 1300 305 695.

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Attachment A – Information to include with BDAR waiver request

All requests for a BDAR waiver are to include the information requirements set out in **Tables 1 and 2** below.

TABLE 1: BDAR waiver request information requirements

Admin	<ul style="list-style-type: none"> Proponent name and contact details Project ID (Information to identify which SSD or SSI project the request relates to and where the project is up to in the assessment process) Name and ecological qualifications of person completing TABLE 2
Site details	<ul style="list-style-type: none"> Street address, Lot and DP, local government area Description of existing development site, ie, the area of land that is subject to the proposed development application. If any part of the land is considered 'Category 1-exempt land' information must be provided to demonstrate how the land meets the criteria³ that applies to Category 1 – Exempt Land. Location map showing the development site in the context of surrounding areas and landscape features. Satellite image of site in context of adjoining sites. Site Map (to scale, ideally as a spatial shapefile)
Proposed development	<ul style="list-style-type: none"> Project Description providing enough information to enable an understanding of the nature and scale of the proposed development and any associated activities (including construction etc) Proposed Site Plan
Impacts on biodiversity values	<ul style="list-style-type: none"> Complete TABLE 2 below on Biodiversity Values For each biodiversity value, the proponent must either: <ul style="list-style-type: none"> explain why the value is not relevant to the proposed development; or, where a biodiversity value may be relevant, provide an explanation of how impacts have been avoided and identify the likelihood and extent of any remaining impacts of the proposed development, including impacts prescribed under clause 6.1 of the BC Regulation. A biodiversity value is not relevant to a proposed development if the value is not present on the development site AND there is no potential for direct or indirect impacts on the biodiversity value if it occurs off-site. Where one or more biodiversity values may be relevant to the proposed development, TABLE 2 is to be completed by a suitably qualified person with tertiary qualifications in natural sciences including subjects that relate to the observation and description of terrestrial biodiversity and landforms, and at least three years of work experience in environmental assessment including field identification of plant and animal species and habitats. The person does not need to be an accredited person under the BC Act. Attach any additional information required where biodiversity values are relevant to the site. E.g. Vegetation Map (indicating plant community types), Ecology Reports, Water Quality data, BioNet Atlas, Directory of Important Wetlands (DIWA), migratory bird flyway information.

³ <https://www.ils.nsw.gov.au/sustainable-land-management/facts-sheets2/land-categorisation-and-the-land-management-framework>

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TABLE 2: Impacts of the proposed development on biodiversity values

Biodiversity value	Meaning	Relevant (✓ or NA)	Explain and document potential impacts including additional impacts prescribed under the BC Regulation Attach additional supporting documentation where appropriate
Vegetation abundance - 1.4(b) BC Regulation	Occurrence and abundance of vegetation at a particular site		<p>Where vegetation is present on the development site, provide a map on digital aerial photography or the best available imagery of the development site showing:</p> <ul style="list-style-type: none"> native vegetation (including grasslands and other non-woody vegetation types) and non-native vegetation, and the area of land that is directly impacted by the proposed development, including related infrastructure such as roads, pipelines, access tracks, temporary material stockpiles, asset protection zones and powerlines, if applicable. <p>Describe how the proposed development avoids impacts on native vegetation and identify the likelihood and extent of any remaining impacts including removal of isolated or cultivated native plants.</p>
Vegetation integrity 1.5(2)(a) BC Act	Degree to which the composition, structure and function of vegetation at a particular site and the surrounding landscape has been altered from a near natural state		<p>Describe the vegetation integrity and any impacts on vegetation integrity of identified plant communities. For example, information on impacts from proposed development to vegetation cover, structure, condition and function. This can include details on the presence of weeds, disturbance, planted native vegetation and species and growth form diversity.</p>
Habitat suitability 1.5(2)(b) BC Act	Degree to which the habitat needs of threatened species are present at a particular site		<p>Identify any threatened species or ecological communities or their habitat on the development site.</p> <p>Describe how the proposed development avoids impacts on habitat suitability and identify the likelihood and extent of any remaining impacts including the impacts of development on the following habitat of threatened species or ecological communities:</p> <ul style="list-style-type: none"> (i) karst, caves, crevices, cliffs and other geological features of significance, (ii) rocks, (iii) human made structures, (iv) non-native vegetation, <p>(prescribed under clause 6.1(1)(a) of the BC Regulation)</p>

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Biodiversity value	Meaning	Relevant (✓ or NA)	Explain and document potential impacts including additional impacts prescribed under the BC Regulation Attach additional supporting documentation where appropriate
			Impacts may include the removal or modification (eg. noise, light etc) of the habitat of threatened species or ecological communities.
Threatened species abundance 1.4(a) BC Regulation	Occurrence and abundance of threatened species or threatened ecological communities, or their habitat, at a particular site		Describe how the proposed development avoids impacts on threatened species abundance and identify the likelihood and extent of any remaining impacts including; <ul style="list-style-type: none"> - impacts of vehicle strikes on threatened species of animals or on animals that are part of a threatened ecological community (prescribed under clause 6.1(1)(f) of the Regulation); - impacts on threatened species, for example Microbats, associated with the demolition of human made structures (prescribed by 6.1 (1) a (iii) of the Regulation); - impacts on threatened species habitat associated with non-native vegetation (prescribed by 6.1 (1) a (iv) of the Regulation); - impacts on threatened species habitat associated with non-natural water bodies (prescribed by 6.1 (1) a (iii) of the Regulation). For example, threatened frogs such as the green and golden bell frog in landfill areas, drains and brick pits.
Habitat connectivity 1.4(c) BC Regulation	Degree to which a particular site connects different areas of habitat of threatened species to facilitate the movement of those species across their range		Identify whether the development site contributes to habitat connectivity. Describe how the proposed development avoids impacts on habitat connectivity and identify the likelihood and extent of any remaining impacts of development on the connectivity of different areas of habitat of threatened species that facilitates the movement of those species across their range (prescribed under clause 6.1(1)(b) of the BC Regulation).
Threatened species movement 1.4(d) BC Regulation	Degree to which a particular site contributes to the movement of threatened species to maintain their lifecycle		Describe how the proposed development avoids impacts on threatened species movement and identify the likelihood and extent of any remaining impacts of development on movement of threatened species that maintains their lifecycle (prescribed under clause 6.1(1)(c) BC Regulation).

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Biodiversity value	Meaning	Relevant (✓ or NA)	Explain and document potential impacts including additional impacts prescribed under the BC Regulation Attach additional supporting documentation where appropriate
Flight path integrity 1.4(e) BC Regulation	Degree to which the flight paths of protected animals over a particular site are free from interference		<p>Identify whether flight paths of protected animals occur over the development site. Protected animals are animals of a species listed or referred to in Schedule 5 of the BC Act. They include any species of birds, mammals, amphibians or reptiles that are native to Australia or that periodically or occasionally migrate to Australia.</p> <p>Describe how the proposed development avoids impacts on flight path integrity and identify the likelihood and extent of any remaining impacts.</p> <p>Note: The impacts of wind turbine strikes on protected animals are prescribed under clause 6.1(1)(e) of the BC Regulation. It is, therefore, unlikely that a BDAR waiver would be issued for a proposed wind farm.</p>
Water sustainability 1.4(f) BC Regulation	Degree to which water quality, water bodies and hydrological processes sustain threatened species and threatened ecological communities at a particular site.		<p>Describe how the proposed development avoids impacts on water sustainability and identify the likelihood and extent of any remaining impacts of development on water quality, water bodies and hydrological processes that sustain threatened species and threatened ecological communities (including from subsidence or upsidence resulting from underground mining or other development) (prescribed under clause 6.1(1)(d) of the BC Regulation).</p>



1/02/2022

Record Number: 22/00069#07

[Planning Number: SSD-35282103 PAE-35293241](#)

Port Kembla Bitumen Import and Dispatch Facility

The Department of Planning and Environment – Crown Lands have reviewed the proposal.

As no Crown land, roads or waterways are in the vicinity of the proposal/are affected by the proposal, Crown Lands has no comments at this time.

If the proponent requires further information, or has any questions, please contact Helen Wheeler, NRM PMO in Crown Lands, at nowra.crownlands@crowland.nsw.gov.au

Yours sincerely

Mark Edwards

Group Leader

E mark.edwards@crowland.nsw.gov.au

OUT22/446

Sally Munk
Principal Planning Officer
Industry Assessments
Department of Planning and Environment
Parramatta NSW 2150

Sally.Munk@planning.nsw.gov.au

Dear Ms Munk,

**Port Kembla Bitumen Import and Dispatch Facility (SSD-35282103) (Wollongong City)-
Request for SEARs**

Thank you for your request dated 19 January 2022 requesting Environmental Assessment Requirements (EARs) for the above proposal.

The NSW Department of Primary Industries (NSW DPI) Agriculture has reviewed the Scoping Report. The proposal is not located on agricultural land and does not impact on agriculture so NSW DPI – Agriculture has no comments to provide on this development.

Should you wish to contact me in relation to this project please contact Wendy Goodburn, Agricultural Land Use Planning Officer, on 0402 069 605 or by email at landuse.ag@dpi.nsw.gov.au

Yours sincerely



Lilian Parker
A/Manager
Agricultural Land Use Planning Officer

Esigned 19/1/2022

Sally Munk

From: Cornelis Duba <Cornelis.Duba@endeavourenergy.com.au>
Sent: Tuesday, 1 February 2022 8:39 AM
To: Sally Munk
Subject: [WARNING: ATTACHMENT UNSCANNED]NSW Planning Industry & Environment Request for SEARs SSD-35282103 Port Kembla Bitumen Import and Dispatch Facility
Attachments: EE SSD-35282103 SEARS Port Kembla Bitumen Import and Dispatch Facility.pdf; EE STANDARD DA CONDITIONS V2 DECEMBER 2021.pdf; EE Safety on the job.pdf; EE Safety Plumbing.pdf; SW Work near overhead power lines.pdf; ENA EMF What We Know.pdf; SW08773 Work near underground assets.pdf; EE FPJ 6007 Technical Review Request Aug 2019.pdf; EE MDI0044 Easements and Property Tenure.pdf

Hello Sally

I refer to the your below email of 19 January 2022 regarding the request for the Planning Secretary's Environmental Assessment Requirements (SEARs) for State Significant Development SSD-35282103 Port Kembla Bitumen Import and Dispatch Facility for 'Construction and operation of a bitumen import and dispatch facility with a maximum annual throughput of approximately 100,000 t, comprised of: two 10,000 m3 storage tanks; two 750 m3 day tanks; and ancillary infrastructure and pipelines' at Foreshore Road, Port Kembla (Lot 6 DP 1236743, Lot 2 DP 1182823) in the Wollongong City Council Local Government Area (LGA). Submissions needed to be made to the Department by 1 February 2021.

Endeavour Energy would expect that the Planning Secretary would require the applicant to address utilities as a key issue in the future Environmental Impact Statement, with the following being an example of the 'Utilities' section for other recent notifications received by Endeavour Energy from the Department.

14. Utilities

- In consultation with relevant service providers:
 - assess of the impacts of the development on existing utility infrastructure and service provider assets surrounding the site.
 - identify any infrastructure upgrades required off-site to facilitate the development and any arrangements to ensure that the upgrades will be implemented on time and be maintained.
 - provide an infrastructure delivery and staging plan, including a description of how infrastructure requirements would be co-ordinated, funded and delivered to facilitate the development.

The following is a combination of the various requests for SEARs for other State Significant Development referred to Endeavour Energy which attempts to capture are the possible 'Utilities' related matters.

Prepare an Infrastructure Management Plan in consultation with relevant agencies / authorities to:

- *address the existing capacity of the site to service the proposed development and any extension or augmentation, property tenure or staging requirements for the provision of utilities, including arrangements for electrical network requirements, drinking water, waste water and recycled water and how the upgrades will be co-ordinated, funded and delivered on time and be maintained to facilitate the development; and*
- *identify the existing infrastructure on the site or within the network which may be impacted by the construction and operation of the proposal and the measures to be implemented to address any impacts on this infrastructure.*

Endeavour Energy believes that either of the foregoing would adequately require the applicant to investigate and address in utilities required for the State Significant Development.

Please find attached Endeavour Energy's submission which is based on the system being used for submissions to concurrence and referrals received via the NSW Planning Portal. The introduction of standard type conditions was required to keep up with the work load and expedite responses. I appreciate not all the issues in the submission may be directly or immediately relevant or significant to the Development Application. However, Endeavour Energy's preference is to alert proponents / applicants of the potential matters that may arise should development within closer proximity of the existing and/or required electricity infrastructure needed to facilitate the proposed development on or in the vicinity of the site occur.

Could you please pass on a copy of this submission and the attached resources to the applicant? Should you wish to discuss this matter, or have any questions, please do not hesitate to contact me or the contacts identified in Endeavour Energy's submission in relation to the various matters. Due to the high number of development application / planning proposal notifications submitted to Endeavour Energy, to ensure a response contact by email to property.development@endeavourenergy.com.au is preferred.

With the COVID-19 health risk a significant number of Endeavour Energy staff are working from home. Access to emails and other internal stakeholders can accordingly be somewhat limited. As a result it may sometimes take longer than usual to respond to enquiries. Thank you for your ongoing understanding during this time.

Yours faithfully
Cornelis Duba
Development Application Specialist
Sustainability & Environment
M: 0455 250 981
E: cornelis.duba@endeavourenergy.com.au
51 Huntingwood Drive, Huntingwood NSW 2148
www.endeavourenergy.com.au



From: Sally Munk <Sally.Munk@planning.nsw.gov.au>
Sent: Wednesday, 19 January 2022 12:37 PM
To: Property Development <Property.Development@endeavourenergy.com.au>; DPE PSVC Hazards Mailbox <hazards@planning.nsw.gov.au>
Subject: Request for Advice - Simosa Bitumen Facility, Port Kembla - Request for Input to SEARs

The Department of Planning and Environment has received a request from Simosa Oil Pty Ltd (the Applicant) for the Planning Secretary's Environmental Assessment Requirements (SEARs) for the Port Kembla Bitumen Import and Dispatch Facility (SSD-35282103). The proposed development is a State Significant Development under the *Environmental Planning and Assessment Act 1979*. The Applicant's Scoping Report is attached for your review.

Your organisation is invited to review the Scoping Report and provide input into the SEARs for the proposal including details of any key issues and assessment requirements as soon as possible, not no later than **Tuesday 1 February 2022**.

If you have any enquiries, please contact me via phone or email.

Kind regards
Sally

Sally Munk
Principal Planning Officer
Industry Assessments

Planning and Assessment | Department of Planning and Environment
T 02 9274 6431 E sally.munk@planning.nsw.gov.au
4 Parramatta Square, 12 Darcy Street | Locked Bag 5022 | Parramatta NSW 2124
www.dpie.nsw.gov.au



The Department of Planning and Environment acknowledges that it stands on Aboriginal land. We acknowledge the traditional custodians of the land and we show our respect for elders past, present and emerging through thoughtful and collaborative approaches to our work, seeking to demonstrate our ongoing commitment to providing places in which Aboriginal people are included socially, culturally and economically.