

Infrastructure Approval

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

As delegate of the Minister for Planning and Infrastructure, under delegation from the Minister dated 27 February 2013, I grant approval to the State Significant Infrastructure application referred to in Schedule A, subject to the conditions in Schedules B to E.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts including economic and social impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development.



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Executive Director
Development Assessment Systems and Approvals

Sydney

24 December 2013

File No: 10/22320

SCHEDULE A

Application no.:	SSI 10_0203
Proponent:	Newcastle Port Corporation
Consent Authority:	Minister for Planning and Infrastructure
Land:	South Arm of the Hunter River, Port of Newcastle, as shown in Appendix 1
State significant infrastructure:	<p>Capital dredging of twelve berths within the South Arm of the Hunter River: Mayfield berths 1 to 7; Walsh Point berths 1 to 3; Kooragang 1 berth; and Dyke 3 berth, and including:</p> <ul style="list-style-type: none">• dredging of the above 12 berths and foreshore treatment works;• limited land-based excavation of existing industrial foreshore land at Mayfield berths 1 and 2;• ancillary dredging at Mayfield 1 and 2 berths and Walsh Point berths 1 to 3 for channel widening between these berths and the existing shipping channel;• stockpiling, treatment and transport for reuse or disposal of contaminated sediment from Walsh Point berths 1 to 3 and land-based excavation at Mayfield berths 1 and 2.

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DEFINITIONS

Act, the	<i>Environmental Planning and Assessment Act, 1979</i>
CEMP	Construction Environmental Management Plan
Conditions of Approval	The Minister's conditions of approval for the SSI.
Construction	<p>Includes all work in respect of the Project, inclusive of dredging and land-based excavation required at Mayfield berths 1 and 2, other than:</p> <ul style="list-style-type: none"> • survey, acquisitions, building/ road dilapidation surveys; • investigative drilling, fencing or salvage; • other activities determined by the Environmental Representative to have minimal environmental impact (e.g. minor access roads, minor adjustments to services/ utilities, minor clearing or translocation of native vegetation etc). <p><i>Note: work where heritage, threatened species, populations or endangered ecological communities would be affected is classified as construction, unless otherwise approved by the Director General.</i></p>
Council	Newcastle City Council
Department, the	Department of Planning and Infrastructure
Director-General, the	Director-General of the Department of Planning and Infrastructure (or nominee).
Director-General's approval, agreement or satisfaction or dispute resolution	A written approval from the Director-General (or nominee) where the Director-General's Approval is required under a condition. Where the Director-General's approval, agreement or satisfaction is required under a condition of this approval, the Director-General would endeavour to provide a response within one month of receiving an approval, agreement or satisfaction request. The Director-General may however ask for additional information if the approval, agreement or satisfaction request is considered incomplete.
Dredging Stage	The part or whole construction, excavation and dredging activities associated with the Project.
Dust	Any solid material that may become suspended in air or deposited.
EIS	<i>Environmental Impact Statement Assessment – Newcastle Port Corporation - Capital Strategic Dredging Project, South Arm, Hunter River</i> prepared by GHD Pty Ltd for Newcastle Port Corporation and dated March 2013.
EPA	NSW Environment Protection Authority
EPL	Environment Protection Licence, issued under the <i>Protection of the Environment Operations Act 1997</i>
HCRCMA	Hunter-Central Rivers Catchment Management Authority
Minister, the	Minister for Planning and Infrastructure
NOW	NSW Office of Water
OEH	NSW Office of Environment and Heritage. The OEH includes the heritage branch which provides advice on historical heritage, under delegation from the NSW Heritage Council.
Site(s)	The lands and waters to which this approval applies, as relevant, and shown in the figure in Appendix 1.
SSI	State Significant Infrastructure under Part 5.1 of the <i>Environmental Planning and Assessment Act, 1979</i> and subject to SSI Application 10_0203.
Statement of Commitments (or SOC)	The Proponent's Statement of Commitments for the carrying out of the Project, as provided in email correspondence from the Proponent to the Department, dated 25 September 2013.
Submissions Report	<i>Newcastle Port Corporation – Capital Strategic Dredging Project, South Arm, Hunter River – Submissions Report</i> prepared by GHD Pty Ltd for Newcastle Port Corporation and dated 23 September 2013
Proponent	Newcastle Port Corporation or any other future party contractually agreed to be the Proponent for part or whole of the Project. It is the responsibility of Newcastle Port Corporation to ensure any such contractual agreement is sound and accurate for the purposes of the Project (in part or as a whole) being carried out in accordance with the conditions of this approval.

Project	Activity to which SSI Application 10_0203 applies.
Public Authority	As defined in Part 1, Section 4 of the <i>Environmental Planning and Assessment Act 1979</i> .
Publicly Available	Available for inspection by a member of the general public (for example available on an internet site or at a display centre).
Reasonable and feasible	Consideration of best practice taking into account the benefit of proposed measures and their technological and associated operational application in the New South Wales and Australian context. Feasible relates to engineering considerations and what is practical to build. Reasonable relates to the application of judgement in arriving at a decision, taking into account mitigation benefits and cost of mitigation versus benefits provided, community views and nature and extent of potential improvements.
Relevant Roads Authority	Newcastle City Council or the NSW Roads and Maritime Services, as relevant.
RLMC	Regional Land Management Corporation

SCHEDULE B ADMINISTRATIVE CONDITIONS

TERMS OF APPROVAL

- B1 The Proponent shall carry out the project generally in accordance with the:
- (a) State Significant Infrastructure Application SSI 10_0203;
 - (b) Environmental Impact Statement;
 - (c) Submissions Report;
 - (d) Statement of Commitments; and
 - (e) conditions of this approval.
- B2 In the event of an inconsistency between:
- (a) the conditions of this approval and any document listed from condition B1(a) to B1(d) inclusive, the conditions of this approval shall prevail to the extent of the inconsistency; and
 - (b) any document listed from condition B1(a) to B1(d) inclusive, and any other document listed from condition B1(a) to B1(d) inclusive, the most recent document shall prevail to the extent of the inconsistency.
- B3 The Proponent shall comply with the reasonable requirements(s) of the Director-General arising from the Department's assessment of:
- (a) any reports, plans or correspondence that are submitted in accordance with this approval; and
 - (b) the implementation of any actions or measures contained within these reports, plans or correspondence.
- B4 Subject to confidentiality, the Proponent shall make all documents required under this approval publicly available.

LIMITS OF APPROVAL

- B5 This approval shall lapse ten (10) years after the date on which it is granted, unless works subject of this approval are physically commenced on or before that date.

STATUTORY REQUIREMENTS

- B6 No condition of this approval removes the obligation for the Proponent to obtain, renew or comply with any licences, permits or approvals required by any other legislation.

STAGING AND NOTIFICATION

- B7 The construction and dredging of the berths may occur in stages. Where staging is proposed, the Proponent must submit a **Staging Report** to the Director-General prior to the commencement of each stage. The Staging Report shall provide details of:
- (a) the overall plan for the implementation of the project (or if this is not available, the information required in condition B7 (b) below); or
 - (b) details of the proposed stage (including number of berths subject to the stage) and the anticipated construction period for that stage including how it relates to this approval and whether the stage is likely to occur concurrently with other separate stages to the project; and to the extent possible, information regarding proposed future stages including the order and timing of the construction of those future stages;
 - (c) the noise goals for the stage, agreed by the EPA and Director-General, including cumulative goals should the stage be implemented concurrently with another (separate) project stage, with specific reference to the review of the noise goals stipulated under condition E5 of this approval; and
 - (d) the relevant conditions of approval which would apply to the subject stage and how these would be complied with across, and to the extent possible, between the stages.

Where staging of the project is proposed, these conditions of approval are only required to be complied with at the relevant time and to the extent that they are relevant to the specific stage(s).

Note: The EIS assessed environmental and human amenity impacts based on all 12 berths being constructed at the one time.

- B8 The Proponent shall ensure that all plans, sub-plans and other management documents required by the conditions of this approval and relevant to each stage (as identified in the Staging Report) are submitted to the Director-General no later than one month prior to the commencement of the relevant stages, unless otherwise agreed by the Director-General.

- B9 To remove doubt, this approval does not authorise or permit the management, storage, reuse or disposal of material not identified and quantified in condition C20 of this approval. The Proponent must ensure the necessary approvals and/or permits for the management, storage, reuse or disposal of that material is sought and obtained.

COMPLIANCE

- B10 The Proponent shall ensure that employees, contractors and sub-contractors are aware of, and comply with, the conditions of this approval relevant to their respective activities.
- B11 The Proponent shall be responsible for environmental impacts resulting from the actions of all persons that it invites onto the site(s), including contractors, sub-contractors and visitors.
- B12 In the event of a dispute between the Proponent and a Public Authority, in relation to an applicable requirement in this approval or relevant matter relating to the Project, either party may refer the matter to the Director-General for resolution. The Director-General's determination of any such dispute shall be final and binding on the parties.

SCHEDULE C

ENVIRONMENTAL PERFORMANCE

CONTAMINATION

- C1 The Proponent shall install, subject to detailed design and unless otherwise agreed by the Director-General, appropriate measures at Walsh Point berths 1 to 3 and Kooragang 1 berth to minimise the potential for disturbance of contaminated material and impacts on groundwater quality with respect to groundwater contamination at the adjacent Orica facility.
- C2 This Infrastructure Approval does not limit or affect the requirements of the Voluntary Remediation Agreement issued to the RLMC pursuant to section 26 of the *Contaminated Land Management Act, 1997*, dated 14 September 2005.
- C3 Prior to landside excavation works at Mayfield berths 1 and 2, the Proponent must engage a suitably qualified and independent auditor, accredited under the *Contaminated Land Management Act, 1997* to ensure the landside excavation works at Mayfield berths 1 and 2, including the handling and processing of the excavated contaminated material, are undertaken in accordance with relevant management plans for the Former BHP Steelworks site.
- C4 Within three (3) months of the completion of the stockpiling, dewatering, treatment and transport for reuse or disposal of the contaminated material referred to in Condition C3, the auditor must provide a written statement to EPA and the Director-General outlining whether the landside excavation and spoil handling works at Mayfield berths 1 and 2 have satisfied the objectives and commitments of the Voluntary Remediation Agreement referred to in condition C1 and any associated existing management plans.
- C5 In the event dredging or the construction of the foreshore treatment works at Mayfield berths 1 to 7 inclusive cause disturbance to the remediated areas of the Former BHP Steelworks site, the Proponent shall employ a suitably qualified and independent auditor, accredited under the *Contaminated Land Management Act, 1997*, to:
- (a) investigate the level of disturbance caused through surveys of the affected areas and a review of the *Contaminated Site Management Plan(s)* for the Former BHP Steelworks site;
 - (b) determine compliance or otherwise with the Voluntary Remediation Agreement referred to in Condition 1; and
 - (c) where non-compliance is found, ensure the implementation of rectification measures in consultation with EPA and at the full cost of the Proponent.

WATER QUALITY

- C6 Except as may be provided by an EPL, the Project shall be undertaken to comply with section 120 of the *Protection of the Environment Operations Act 1997*, which prohibits the pollution of waters.
- C7 The Proponent shall store and handle all dangerous goods (as defined by the Australian Dangerous Goods Code) and combustible liquids, strictly in accordance with:
- (a) all relevant Australian Standards;
 - (b) a minimum bund volume requirement of 110% of the volume of the largest single stored volume within the bund; and
 - (c) the EPA's Environment Protection Manual Technical Bulletin *Bunding and Spill Management*.
- In the event of an inconsistency between requirements listed from a) to c) above, the most stringent requirement shall prevail to the extent of the inconsistency.
- C8 The Proponent shall ensure backhoe or cutter suction dredging methods are used unless demonstrated to the Director-General's satisfaction, in consultation with EPA, that a trailer suction hopper is the only reasonable and feasible option available or that turbidity impacts will be no worse than using backhoe or cutter suction dredging.
- C9 Appropriate soil and water management controls must be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during activities involving stockpiling, processing and treatment of materials consistent with *Managing Urban Stormwater – Soils and Construction Vols 1 and 2, 4th Edition* (Landcom, 2004), or any future guideline and/or policy that may supersede that document.

BIODIVERSITY

- C10 The Proponent shall implement appropriate mitigation and management measures during construction and dredging to avoid the introduction or spread of exotic weed species.
- C11 The Proponent shall prepare, prior to the commencement of dredging, a monitoring strategy to identify potential impacts to Coastal Saltmarsh in the South Arm of the Hunter River that are attributable to the project. The strategy is to be implemented at the times outlined below and shall include, but not be limited to:
- (a) prior to the commencement of each stage, establishing the extent of tidal inundation and ambient salinity, temperature and dissolved oxygen levels, and extent of mangrove incursion, at Ironbark Creek and Tourle Street Bridge and other locations considered appropriate;
 - (b) appropriate monitoring, including frequency and methodology during and between stages to determine whether the project is resulting in changes to the extent and species composition of Coastal Saltmarsh;
 - (c) monitoring following completion of the final project stage, for a period of time that encompasses the range of tidal conditions to identify the extent of impact of the project, if any, on the identified parameters that could affect Coastal Saltmarsh distribution; and
 - (d) management measures to be implemented to minimise the impacts, where identified during each stage(s) of the project on Coastal Saltmarsh distribution or other relevant parameters identified in condition C11 (b) or (c) above.

The Strategy shall be prepared in consultation with OEH and HCRCMA (or relevant successor agencies) to the satisfaction of the Director-General.

- C12 Apart from the three isolated individuals of *Avicennia marina* (grey mangrove) which have been established in the rocky intertidal area (on reclaimed land) at Walsh Point, no other known individuals or areas of grey mangrove are to be affected by the Project, including those occurring along the benches of the 'eastern Drain' which runs parallel to Selwyn Street, as described in section 15.2.5 of Volume 1 of the EIS.
- C13 The Proponent shall prepare a contingency plan for the management of aquatic reptile (such as turtles) and mammal species detected during dredging works. The contingency plan shall be outlined in the CEMP required in condition E13 of this approval.
- C14 The Proponent shall ensure appropriate measures are employed to avoid the removal and disturbance of native vegetation as a result of any stockpiling required at Walsh Point.
- C15 Prior to the development of stockpile areas for the temporary storage of contaminated dredged material at Walsh Point, pre-work inspections for fauna shall be undertaken in those areas. The inspections and any subsequent relocation of species shall be undertaken under the guidance of a qualified ecologist and the results recorded in the Pre-Construction Compliance Report required under Condition D6.

AIR QUALITY

Odour Impacts

- C16 The Proponent must not cause or permit the emission of offensive odour beyond the boundary of the site, as defined under Section 129 of the *Protection of the Environment Operations Act 1997*.

Dust Generation

- C17 The Proponent shall implement all feasible and reasonable mitigation measures to ensure that the Project is constructed in a manner that minimises dust emissions from the site, including wind-blown and traffic-generated dust and trucking of material onto public roads. All works shall be undertaken with the objective of preventing visible emissions of dust from the site. The Proponent shall identify and implement all feasible and reasonable dust mitigation measures including cessation of relevant works, as appropriate, such that emissions of visible dust cease.

WASTE AND SPOIL MANAGEMENT

- C18 Waste material removed from the site, inclusive of waste generated from foreshore treatment works and contaminated dredged or excavated material (refer to condition C20), shall be directed to a waste management facility(ies) or premises lawfully permitted to accept the materials.

C19 Waste generated outside the site shall not be received at the site for storage, treatment, processing, reprocessing, or disposal on the site. Waste generated at the site shall not be disposed of at the site, except as expressly permitted by the conditions of this approval and an Environment Protection Licence under the *Protection of the Environment Operations Act 1997*, if such a licence is required in relation to that waste.

C20 This approval only permits the stockpiling, dewatering, treatment and transport for reuse or disposal of approximately 30,000 cubic metres of contaminated sediments dredged at Walsh Point berths 1, 2 and 3 and approximately 2,500 cubic metres of excavated contaminated landside material adjacent to Mayfield berths 1 and 2, subject to the Proponent obtaining all other required permits and licences.

Note: This approval does not permit any other land based transport or disposal options, including beach nourishment. The disposal of dredged material at sea is subject to a separate approval currently being sought under the Commonwealth Environment Protection (Sea Dumping) Act 1981.

C21 All liquid and/or non-liquid waste excavated, dredged and stockpiled on the site shall be assessed and classified in accordance with *Waste Classification Guidelines, Part 1: Classifying Waste* (Department of Environment, Climate Change and Water, 2009), or any superseding document.

C22 The Proponent must ensure waste identified for recycling is stored separately from other waste.

ABORIGINAL HERITAGE

C23 Nothing in this approval permits impacts on any items or sites of Aboriginal heritage significance.

C24 If during the course of construction and dredging works the Proponent becomes aware of any previously unidentified Aboriginal object(s), all work likely to affect the object(s) shall cease immediately and the OEH informed in accordance with section 89A of the *National Parks and Wildlife Act 1974*. Relevant works shall not recommence until written authorisation from OEH is received by the Proponent.

HISTORIC HERITAGE

Maritime Heritage

C25 Prior to the removal and demolition of the underwater potential archaeological remains that may be associated with the Walsh Point Dockyard and Engineering Works on Walsh Point, at Walsh Point Berth 3 and Kooragang Berth 1 (collectively referred to as the "Walsh Point Potential Heritage Items"), the Proponent shall commission an appropriately qualified maritime archaeologist to undertake, in consultation with the Heritage Branch of OEH, underwater surveys of the Walsh Point Berth 3 and Kooragang Berth 1 to confirm the presence or otherwise of any Walsh Point Potential Heritage Items.

Where any Walsh Point Potential Heritage Items are identified, the Proponent shall confirm the heritage significance of the finds in consultation with the Heritage Branch of OEH and prepare a strategy for the recording and removal of these finds consistent with condition C26 and to the satisfaction of the Director-General.

Archival Recording of Maritime Heritage

C26 Prior to the commencement of construction associated with Dyke 3 and if required from Condition C25, prior to the commencement of construction at Walsh Point Berth 3, Kooragang Berth 1, the Proponent shall commission an appropriately qualified maritime archaeologist to undertake archaeological and engineering recording of the Walsh Point Potential Heritage Items, Dyke Point 3 Crane Bases 14 and 15, and the base of the McMyler Hoist at Dyke Point 3. The archaeological and engineering recordings shall be undertaken to the satisfaction of the Director-General in consultation with the Heritage Branch of OEH and be submitted to the Heritage Branch of OEH, the Local Studies section of Newcastle Region Library and the Newcastle and Hunter District Historical Society prior to the removal and/or demolition of any existing elements associated with these heritage items.

Potential for Discovery of Historic Heritage Objects

C27 If during the course of construction and dredging works the Proponent becomes aware of any previously unidentified heritage object(s), all work likely to affect the object(s) shall cease immediately and the Heritage Council of NSW shall be notified immediately in accordance with section 146 of the *Heritage Act 1977*. Relevant works shall not recommence until written authorisation from the Heritage Council of NSW is received by the Proponent.

PROPERTY IMPACTS

- C28 Any damage caused to property or public infrastructure as a result of the Project shall be rectified or the property or asset owner appropriately compensated, within a reasonable timeframe of the damage occurring, with the costs borne by the Proponent.

UTILITIES AND SERVICES

- C29 Utilities, services and other infrastructure potentially affected by construction shall be identified prior to construction to determine requirements for access, diversion, protection, and/or support. Suitable arrangements for access to, diversion, protection, and/or support of the affected infrastructure, as required, shall be undertaken in consultation with the relevant owner and/or provider of services. The cost of any such arrangements shall be borne by the Proponent.

SPOIL DISPOSAL

- C30 The Proponent shall ensure that should the material to be dredged by the project be of quality suitable for its beneficial reuse, including for beach nourishment, the material shall not be disposed of at sea should other developments in the local region be interested and able to accept the material for reuse. This arrangement is subject to the user of the dredging material having all relevant planning and environmental consents in place at the time of the dredging activities and the location of reuse not resulting in additional costs to the Proponent.

SCHEDULE D COMMUNITY INFORMATION, REPORTING AND AUDITING

COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT

- D1 Prior to the commencement of construction, a **Community Communication Strategy** shall be prepared and implemented to facilitate communication between the Proponent (and its contractor(s)), the Environmental Representative (see condition E12), Council and community stakeholders (particularly adjoining landowners) on the environmental management of the Project. The Strategy shall be prepared to the satisfaction of the Director-General, and include, but not be limited to:
- (a) Identification of stakeholders to be consulted as part of the Strategy, including affected and adjoining landowners;
 - (b) procedures and mechanisms for the regular distribution of information to community stakeholders on construction progress and matters associated with environmental management;
 - (c) procedures and mechanisms through which the community stakeholders can discuss or provide feedback to the Proponent and/or Environmental Representative in relation to the environmental management and delivery of the Project;
 - (d) procedures and mechanisms through which the Proponent can respond to enquiries or feedback from the community stakeholders in relation to the environmental management and delivery of the Project; and
 - (e) procedures and mechanisms that would be implemented to resolve issues/disputes that may arise between parties on the matters relating to environmental management and the delivery of the Project. This may include the use of an appropriately qualified and experienced independent mediator.

Issues that shall be addressed through the Community Communication Strategy include (but are not necessarily limited to) the finalisation of measures to mitigate and/or minimise human amenity and environmental impacts.

Complaints and Enquiries Procedure

- D2 Prior to the commencement of construction, or as otherwise agreed by the Director-General, the Proponent shall ensure that the following are available for community enquiries and complaints for the duration of construction:
- (a) a 24-hour telephone number(s) on which complaints and enquiries about construction may be registered;
 - (b) a postal address to which written complaints and enquiries may be sent;
 - (c) an email address to which electronic complaints and enquiries may be transmitted; and
 - (d) a mediation system for complaints unable to be resolved.

The telephone number, postal address and email address shall be published in newspaper(s) circulating in the area of the Project on at least one occasion prior to the commencement of construction and at six-monthly intervals during construction and dredging. This information shall also be provided on the website (or dedicated pages) required by this approval. At a minimum, the telephone number shall also be displayed on a sign near the entrance to each construction site, in a position that is clearly visible to the public.

- D3 The Proponent shall record details of all complaints received through the means listed in condition D2 of this approval, and/or through any other means, in an up-to-date Complaints Register. The Register shall record, but not necessarily be limited to:
- (a) the date and time of the complaint;
 - (b) the means by which the complaint was made (telephone, mail or email);
 - (c) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
 - (d) the nature of the complaint;
 - (e) any action(s) taken by the Proponent in relation to the complaint, including any follow-up contact with the complainant; and
 - (f) if no action was taken by the Proponent in relation to the complaint, the reason(s) why no action was taken.

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

- D4 The Proponent shall provide an initial response to any complaints in relation to the Project during construction or dredging works within 48 hours of the complaint being made. The response and any subsequent action taken shall be recorded in accordance with condition D3(e). Any subsequent detailed response or action is to be provided within two weeks of the original complaint, or as otherwise agreed by the complainant/Director-General.

Provision of Electronic Information

- D5 Prior to the commencement of construction, or as otherwise agreed by the Director-General, the Proponent shall establish and maintain a new website, or dedicated pages within an existing website, for the provision of electronic information associated with the Project, for the duration of construction and dredging and for 12 months following completion of the Project. The Proponent shall, subject to confidentiality, publish and maintain up-to-date information on the website or dedicated pages including, but not necessarily limited to:
- (a) information on the current implementation status of the Project;
 - (b) a copy of, or a link to the Department website for, the documents referred to under condition B1 of this approval, and any documentation supporting modifications to this approval that may be granted from time to time;
 - (c) a copy of, or a link to the Department website for, this approval and any future modification to this approval;
 - (d) a description of the current environmental approval, licence or permit required and obtained in relation to the Project;
 - (e) a list of each current strategy, plan, program or other document required under this approval;
 - (f) a description of the outcomes of compliance tracking in accordance with condition D6 of this approval, including a list of the documents prepared under that condition; and
 - (g) details of contact point(s) to which community complaints and enquiries may be directed, including a telephone number, a postal address and an email address.

COMPLIANCE MONITORING AND TRACKING

Compliance Tracking Program

- D6 Prior to the commencement of construction, the Proponent shall develop and implement a **Compliance Tracking Program** to track compliance with the requirements of this approval during the construction of the Project and shall include, but not necessarily be limited to:
- (a) provisions for the periodic reporting of compliance status to the Director-General including at least prior to the commencement of construction of the Project (Pre-Construction Compliance Report), including prior to each stage, where works are being staged;
 - (b) provisions for periodic review of the compliance status of the Project against the requirements of this approval;
 - (c) a programme for independent environmental auditing in accordance with *AS/NZ ISO 19011:2003 - Guidelines for Quality and/or Environmental Management Systems Auditing*, for construction;
 - (d) mechanisms for recording environmental incidents during construction and actions taken in response to those incidents;
 - (e) provisions for reporting environmental incidents to the Director-General and relevant public authorities;
 - (f) procedures for rectifying any non-compliance identified during environmental auditing, review of compliance or incident management; and
 - (g) provisions for ensuring all employees, contractors and sub-contractors are aware of, and comply with, the conditions of this approval relevant to their respective activities.

Incident Reporting

- D7 The Proponent shall notify the Director-General of any incident with actual or potential significant offsite impacts on people or the biophysical environment within 24 hours of becoming aware of the incident. The Proponent shall provide full written details of the incident to the Director-General within seven days of the date on which the incident occurred.
- D8 The Proponent shall meet the requirements of the Director-General to address the cause or impact of any incident, as it relates to this approval, reported in accordance with condition D7 of this approval, within such period as the Director-General may require.

SCHEDULE E

CONSTRUCTION ENVIRONMENTAL MANAGEMENT

NOISE AND VIBRATION

Standard Construction Hours

- E1 With the exception of dredging and piling, all construction works including the stockpiling, transfer and processing of landside contaminated soil shall be confined to standard working hours:
- (a) 7:00am to 6:00pm Mondays to Fridays, inclusive; and
 - (b) 8:00am to 1:00pm Saturdays; and
 - (c) at no time on Sundays or public holidays.

Dredging associated with the Project may be undertaken on a 24 hour basis, 7 days a week.

Piling Construction Hours

- E2 Except as expressly permitted by an EPL, piling shall be confined to the following working hours:
- (d) 9:00am to 5:00pm Mondays to Fridays, inclusive; and
 - (e) 9:00am to 1:00pm Saturdays; and
 - (f) at no time on Sundays or public holidays.
- E3 Construction outside of the standard construction hours identified in condition E1 and piling outside construction hours specified in condition E2 may be undertaken in the following circumstances:
- (a) construction works that generate noise that is:
 - (i) no more than 5 dB(A) above rating background level at any residence in accordance with the *Interim Construction Noise Guideline* (Department of Environment and Climate Change, 2009); and
 - (ii) no more than the noise management levels specified in Table 3 of the *Interim Construction Noise Guideline* (Department of Environment and Climate Change, 2009) at other sensitive receivers; or
 - (b) for the delivery of materials required outside these hours by the NSW Police Force or other authorities for safety reasons; or
 - (c) where it is required in an emergency to avoid the loss of lives, property and/or to prevent environmental harm;
 - (d) works approved through an EPL; or
 - (e) works as approved through the out-of-hours work protocol outlined in the Noise and Vibration Management Plan required under condition E14(c).

Construction Noise and Vibration

- E4 Nothing in this approval permits blasting during construction or operation of the Project.
- E5 Noise generated by the Project must not exceed the noise limits specified in Table 1 below. In accordance with condition B7, the noise management levels must be reviewed as relevant to each proposed stage and appropriate noise goals established with respect to actual works for each stage(s).

Table 1: Noise Goals

Locality	Location	Construction Outside the Standard Construction Hours defined in condition E1 ($L_{Aeq(15min)}$) – Dredging Activities	Within the Standard Construction Hours defined in condition E1	
			Noise Management Level – Noise Affected criteria ($L_{Aeq(15min)}$)	Noise Management Level – Highly Affected criteria ($L_{Aeq(15min)}$)
N1	1 Arthur Street, Stockton	51	56	75
N2	2 Crebert Street, Mayfield	45	59	75
N3	32 Elizabeth Street, Carrington	44	54	75
N4	Stockton	48	51	75

- E6 All feasible and reasonable noise mitigation measures shall be implemented to ensure the noise levels stipulated in condition E5 (or as amended by condition B7) are met. This shall include the implementation of respite periods during high noise generating activities (including piling and rock revetment).
- E7 The Project shall be constructed with the aim of achieving the following construction vibration goals:
- (a) for damage to heritage structures, the vibration limits set out in the German Standard DIN 4150-3:1999 Structural Vibration Part 3 – *Effects of vibration on structures*;
 - (b) for damage to other buildings and/or structures, the vibration limits set out in the British Standard BS 7385-1:1990 – *Evaluation and measurement for vibration in buildings. Guide for measurement of vibration and evaluation of their effects on buildings*; and
 - (c) for human comfort, the acceptable vibration values set out in the *Environmental Noise Management Assessing Vibration: A Technical Guideline* (Department of Environment and Conservation, 2006).

TRAFFIC, TRANSPORT AND ACCESS

- E8 Prior to the commencement of construction of each stage, the Proponent shall commission an independent and qualified person or team to undertake a road dilapidation survey of all local and private roads, including Selwyn Street, proposed to be used for construction material haulage (inclusive of excavation, dredging and spoil disposal) and prepare a **Pre-Construction Road Dilapidation Report**. The report shall include an assessment of the current structural condition of the roads, including photographic evidence, identify any upgrades required to enable their use for haulage for the Project and describe mechanisms to restore any damage that may result due to traffic and transport related to the construction of the Project. The Report shall be submitted to the relevant roads authority for review prior to the commencement of construction vehicle haulage.
- E9 With reference to condition E8 and within three (3) weeks after the date of the completion of each stage of haulage operations, a **Post-Construction Dilapidation Report** shall be prepared to assess any damage that may have resulted from the construction of the Project. Measures undertaken to restore or reinstate roads affected by the Project shall be undertaken in a timely manner, in accordance with the reasonable requirements of the relevant roads authority(ies), and at the full expense of the Proponent.
- E10 Construction vehicles (including staff vehicles) associated with the Project shall be managed to:
- (a) minimise parking or queuing on public roads;
 - (b) minimise idling and queuing in local residential streets; and
 - (c) minimise the use of local roads through residential streets and town centres to access and egress construction sites and compounds.

SEDIMENT AND WATER QUALITY

Water Quality Management Protocol

- E11 Prior to the commencement of each project stage within the Hunter River, or as otherwise agreed by the Director-General, a **Water Quality Monitoring Protocol** shall be prepared (and implemented after approval) to monitor turbidity and potential contaminants to manage dredging operations. The Protocol shall be developed in consultation with EPA and OEH and be submitted to the Director-General for approval and shall include, but not be necessarily limited:
- (a) a sampling, data collection and analysis regime to monitor water quality during, and post dredging (for approximately one month), at nominated monitoring locations upstream and downstream of the Project, with specific consideration to heavy metals at Walsh Point berths 1 to 3, Dyke 3 and Mayfield berths 1 and 2 and polycyclic aromatic hydrocarbons (PAH) at Walsh Point berths 1 and 2;
 - (b) frequency and procedures for water quality monitoring, including real time turbidity monitoring (including for baseline) of the parameters at nominated monitoring locations upstream and downstream of the Project;
 - (c) trigger levels to actively manage dredging operations, such as when operations are to be slowed down or ceased, or other measures to mitigate turbidity or resuspension of contaminants into the water column, having regard to the existing conditions and the *Australian and New Zealand Guidelines for Fresh and Marine Water Quality 2000* (Australian and New Zealand Environment Conservation Council, 2000); and
 - (d) groundwater quality monitoring for works related to Kooragang 1 berth to ensure potential interaction of groundwater contamination at the Orica facility located on Walsh Point is monitored.

ENVIRONMENTAL REPRESENTATIVE

- E12 Prior to the commencement of construction of the Project, or as otherwise agreed by the Director-General, the Proponent shall nominate for the approval of the Director-General a suitably qualified and experienced Environmental Representative(s) that is independent of the design, construction and dredging personnel. The Proponent shall employ the Environmental Representative(s) for the duration of construction and dredging, or as otherwise agreed by the Director-General. The Environmental Representative(s) shall:
- (a) be the principal point of advice in relation to the environmental performance of the Project;
 - (b) monitor the implementation of environmental management plans and monitoring programs required under this approval;
 - (c) have responsibility for considering and advising the Proponent on matters specified in the conditions of this approval, and other licences and consents related to the environmental performance and impacts of the Project;
 - (d) ensure that environmental auditing is undertaken in accordance with the conditions of this approval, including any auditing regime approved in the Construction Environmental Management Plan;
 - (e) be given the authority to approve/ reject minor amendments to the Construction Environmental Management Plan. What constitutes a "minor" amendment shall be clearly explained in the Construction Environmental Management Plan required under condition E13;
 - (f) be given the authority and independence to require reasonable steps be taken to avoid or minimise unintended or adverse environmental impacts, and failing the effectiveness of such steps, to direct that relevant actions cease immediately should an adverse impact on the environment be likely to occur; and
 - (g) be consulted in responding to the community concerning the environmental performance of the Project where the resolution of points of conflict between the Proponent and the community is required.

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

- E13 The Proponent shall prepare and implement a **Construction Environmental Management Plan (CEMP)** for the Project in accordance with the *Guideline for the Preparation of Environmental Management Plans* (Department of Infrastructure, Planning and Natural Resources 2004). No construction associated with the Project shall commence until written approval of this plan has been received from the Director-General or his nominee. The Plan must:
- (a) be submitted to the Director-General no later than one (1) month prior to the commencement of construction or within such period otherwise agreed by the Director-General;
 - (b) include the following sub-plans, as relevant:
 - (i) a Soil and Water Management Plan;
 - (ii) a Stockpile Odour Management Plan;
 - (iii) a Noise and Vibration Management Plan;
 - (iv) a Traffic and Access Management Plan; and
 - (v) a Heritage Management Plan;
 - (c) details of how environmental performance will be managed and monitored for:
 - (i) validation of the EIS predictions of minimal and limited hydrological change within the lower Hunter River (using real-time data);
 - (ii) waste management; and
 - (iii) hazard and risk management.
- E14 The Proponent shall ensure that the following specific requirements, as relevant, are considered in developing the sub-plans or procedures identified in condition E13, but not limited to:
- (a) a **Soil and Water Quality Management Plan**
 - (i) prepared by a suitably qualified person in consultation with EPA, OEH and NOW to outline measures to be employed to manage surface water and groundwater, to minimise soil erosion and the discharge of sediments and other pollutants to lands/or waters for the duration of dredging and excavation works;
 - (ii) include a copy of the Water Quality Monitoring Protocol required under condition E11;
 - (iii) consideration of all feasible and reasonable options to manage the volume of contaminated water generated by dredging and measures to ensure no mixing of 'clean' and 'dirty' waters occurs;
 - (iv) management measures to minimise surface and groundwater impacts, including surface water runoff and sources of, handling, stockpile, reuse and management of spoil and fill; erosion and sediment control measures; salinity control measures and the consideration of flood events, and including:
 - a soil and water management strategy (inclusive of acid sulfate soil management), including water quality monitoring, retention and treatment of wastewater from dewatering of stockpiled dredged and excavated material at Walsh Point and Mayfield to ensure any return water to the harbour meets Section 120 of the *Protection of the Environment Operations Act 1997*;

- identification of foreshore treatment works, including batter design to be adopted to prevent leaching of contaminated soil and/or groundwater into the Hunter River;
 - procedures and contingency actions associated with the installation, operation (and removal where relevant) of foreshore treatment works (such as sheet piled walls, vertical retaining structures, silt curtains or floating booms);
 - contingency actions for flood, heavy rainfall and storm-surges into dredging and excavation areas or damage to foreshore treatment works; and
 - contingency actions for failure of any sediment controls.
- (v) a contingency plan, consistent with the *Acid Sulfate Soils Manual* (Acid Sulfate Soil Management Advisory Committee, 1998) or update to deal with the discovery of actual or potential acid sulfate soils, with specific consideration to the Walsh Point Berth Pocket, including procedures for the investigation, handling, treatment and management of such soils and water seepage;
- (vi) management and remedial measures for contaminated material and a contingency plan to be implemented in the case of unanticipated discovery of contaminated material during construction, excavation and dredging; and
- (vii) mechanisms for the monitoring, review, reporting of the effectiveness of measures (including non-compliance and rectification) and amendment of this plan.
- (b) a Stockpile Management Plan**
- (i) prepared in consultation with EPA;
 - (ii) include identification of contaminated material stockpile locations;
 - (iii) methodology for monitoring and managing odour emission rates having regard to *Technical notes: assessment and management of odour from stationary sources in NSW* (DEC, 2006);
 - (iv) include the suite of feasible and reasonable options for the management, reuse and/or disposal of contaminated material to be stockpiled, including cement stabilisation and an assessment of the relevant environmental and human amenity impacts with respect to each option, having regard to the limits and requirements of this approval; and
 - (v) details of mitigation measures, including for odour, to be employed, where required.
- (c) a Noise and Vibration Management Plan**
- (i) developed and implemented in accordance with the *Interim Construction Noise Guidelines* (DECC, 2009);
 - (ii) identification of feasible and reasonable measures to be implemented to minimise and manage construction noise and vibration impacts, including noise from traffic;
 - (iii) a description of how the effectiveness of these actions and measures would be monitored during the proposed works; and
 - (iv) an out-of-hours work (OOHW) protocol for the assessment, management and approval of works outside the standard construction hours defined in condition E1, including a risk assessment process under which an Environmental Representative may approve out-of-hour construction activities deemed to be of low environmental risk and refer high risk works for the Director General's approval in consultation with EPA. The OOHW protocol shall detail standard assessment, mitigation and notification requirements for high and low risk out-of-hour works, and detail a standard protocol for referring applications to the Director General.
- (d) a Traffic and Access Management Plan**
- (i) prepared in consultation with Council, the RMS and any other relevant roads authority;
 - (ii) details of traffic routes for heavy vehicles, including any necessary route or timing restriction for oversized loads;
 - (iii) details on the access and parking arrangements for the site; and
 - (iv) details of measures to be employed to ensure safety of motorists and pedestrians using the roads required for construction traffic, such as the installation of warning signs for motorists.
- (e) a Heritage Management Plan**
- (i) prepared in consultation with the Heritage Branch of OEH;
 - (ii) measures to minimise and manage impacts on non-indigenous heritage, including the specific measures stipulated in conditions C25, C26 and C27 of this approval; and
 - (iii) corrective actions or rectification procedures in the event that non-compliance with the Heritage Management Plan is identified.
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APPENDIX 1

PROJECT LAYOUT PLANS (1)



Note: a potential stockpile area adjacent to Mayfield berths M1 and M2 is also proposed as part of the Project for the approximate 2,500 cubic metres of potentially contaminated landside material to be excavated.