



Response to Submissions Report

Eden Breakwater Wharf Extension MOD 1 (SSI 7734)

3 September 2018

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Synopsis

The Response to Submissions (RTS) Report has been prepared by Advisian to respond to the comments raised in the submissions received during public exhibition of the Modification Request (MOD 1) for the approved Eden Breakwater Wharf Extension Project (SSI 7734), being carried out by NSW Department of Industry (the Department).

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Acronyms

Acronym/Term	Definition
AWS	Automatic Weather Station
CCC	Community Consultative Committee
Construction	<p>Includes all physical work required to construct the SSI, other than the following low impact work:</p> <ul style="list-style-type: none"> (a) survey works including carrying out general alignment survey, installing survey controls (including installation of global positioning system (GPS)), installing repeater stations, carrying out survey of existing and future utilities and building and road dilapidation surveys and hydrographic survey; (b) background and/or baseline monitoring works; (c) investigations including investigative drilling and excavation; (d) establishment of ancillary facilities in approved locations or in locations meeting the criteria identified in Condition A9 and Condition A11 of the Infrastructure Approval including constructing ancillary facility access roads and providing utilities to the facility; (e) operation of ancillary facilities if the ER has determined the operational activities will have minimal impact on the environment and community (f) minor clearing and relocation of native vegetation, as identified in the EIS/RTS; (g) installation of mitigation measures including erosion and sediment controls, temporary exclusion fencing for sensitive areas and acoustic treatments; (h) relocation and connection of utilities where the relocation or connection does not present a significant risk to the environment as determined by the ER; (i) archaeological testing under the <i>Code of practice for archaeological investigation of Aboriginal objects in NSW (DECCW, 2010)</i> or archaeological monitoring undertaken in association with (a)-(i) above to ensure that there is no impact on heritage items; (j) other activities determined by the ER to have minimal environmental impact which may include construction of minor access roads, temporary relocation of pedestrian and cycle paths and the provision of property access; and (k) maintenance of existing buildings and structures required to facilitate the carrying out of the SSI. <p>However, where heritage items, or threatened species, populations or ecological communities (within the meaning of the EP&A Act) are affected or potentially affected by any low impact work, that work is construction, unless otherwise determined by the Secretary in consultation with OEH or DPI Fisheries (in the case of impact upon fish, aquatic invertebrates or marine vegetation).</p>
The Department	NSW Department of Industry
DP&E	Department of Planning and Environment
EIS	Environmental Impact Statement
EPA	NSW Environment Protection Authority



Acronym/Term	Definition
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
ERM	ERM Australia Pacific Pty Ltd
IMO	International Maritime Organization
Infrastructure Approval	Infrastructure Approval (SSI 7734) issued by the Executive Director, Priority Projects Assessment (as delegate of the Minister for Planning) DP&E under Section 115ZB of the <i>Environmental Planning and Assessment Act 1979</i> , dated 5 July 2017)
LAeq	Equivalent Continuous Sound Pressure Level
MOD 1	The Modification Request for a modification of the Infrastructure Approval SSI 7734 made in accordance with Section 5.25(2) of the EP&A Act.
NSW	New South Wales
OEMP	Operational Environmental Management Plan
Operation	The operation of the SSI (whether in full or in part) for its intended purpose, excluding the following activities carried out during construction: <ul style="list-style-type: none"> • commissioning trials of equipment; • temporary use of any part of the SSI; and • maintenance works
Project	Eden Breakwater Wharf Extension
Proponent	NSW Department of Industry
Proposed Mitigation Measures	As detailed in the Summary of Proposed Mitigation Measures contained in Response to Submissions Report Eden Breakwater Wharf Extension, dated 24 February 2017
RTS	Response to Submissions
Secretary	Secretary of the NSW Department of Planning and Environment
Sensitive Receiver	Includes residences, educational institutions (including preschools, schools, universities, TAFE colleges), health care facilities (including nursing homes, hospitals) religious facilities (including churches), child care centres, passive recreation areas (including outdoor grounds used for teaching), active recreation areas (including parks and sports grounds), commercial premises (including film and television studios, research facilities, entertainment spaces, temporary accommodation such as caravan parks and camping grounds, restaurants, office premises, retail spaces and industrial premises), and others as identified by the Secretary
SO ₂	Sulfur dioxide
SSI	State Significant Infrastructure



1 Introduction

1.1 Report Purpose

Advisian has been commissioned by the NSW Department of Industry (the Department) to prepare this Response to Submissions (RTS) Report. The purpose is to respond to the comments raised in the submissions received during public exhibition of the Modification Request – MOD 1 for the approved Eden Breakwater Wharf Extension Project (SSI 7734) (the Project), being carried out by the Department.

1.2 Project Background

Construction of the Project comprises the extension of the existing Eden Breakwater Wharf and dredging of the approach channel and berth pocket with offshore disposal, to accommodate the berthing of cruise ships of up to 325m in length during Operation. Construction of Stage 1 (Dredging Contract) of the Project commenced on 4 September 2017 and was completed on 21 February 2018. Construction of Stage 2 (Marine Structures Contract) commenced on 27 March 2018 and is forecasted to be completed in the first quarter of 2019. Operation of the Project is expected to commence at the end of the first quarter of 2019 and will benefit the local economy by enabling a range of cruise ships to access the region and raise the profile of Eden and surrounds.

The Infrastructure Approval, dated 5 July 2017 provides conditions for the Construction and Operation of the Project. The Department has identified, following further analysis and stakeholder engagement, Operation conditions within the Infrastructure Approval that ought to be modified to ensure the conditions are not unreasonable for the Port of Eden while maximising the project benefits and potential for economic growth in the local and regional economy.

The conditions proposed to be modified are E17, E18, E20, and E22 and relate to environmental management of noise and vibration, air quality, and the complaint handling process. These proposed modifications do not remove the Proponent's commitment to environmental management, including complaint handling. The Modification Request was lodged with the Department of Planning and Environment (DP&E) on 2 July 2018. The Modification Request was placed on public exhibition from 12 July 2018 to 27 July 2018.

1.3 Report Structure

The RTS is structured as follows:

- Section 2 provides a summary of the total number of submissions and by whom they were made.
- Section 3 provides an update on consultation undertaken since the submission of the Modification Request to DP&E.
- Section 4 provides comprehensive responses to each of the comments raised by regulatory agencies.
- Section 5 provides comprehensive responses to each of the comments raised by organisations and private stakeholders.
- Section 6 identifies whether any amended or new mitigation measures are proposed in this RTS Report.

Technical input was provided by ERM Australia Pacific Pty Ltd (ERM) during the preparation of this report.



2 Submissions Received

During the public exhibition of the Modification Request, DP&E received a total of 18 submissions from various stakeholders including:

- Five regulatory agencies as described in Section 2.1.
- Four organisations as described in Section 2.2.
- Nine private stakeholders as described in Section 2.3.

Of the 18 submissions, only one submission objected to the Modification Request related to the proposed modification of Conditions E20 and E22. Their key concerns were:

- No financial information submitted in support of contention that cruise ship visitations will be reduced unless the emissions standard is removed.
- The ERM air quality modelling is not based on a factual representation of sulphur emissions once the wharf extension is operational.
- The Department appears to be acting as an advocate for private commercial interests.

Detailed responses to these issues are contained in Sections 4 and 5.

2.1 Regulatory Agencies

The following regulatory agencies provided a submission:

- NSW Office of Environment and Heritage (OEH) – dated 20 July 2018.
- NSW Environment Protection Authority (EPA) – dated 21 August 2018.
- NSW Department of Industry (DPI) – dated 30 July 2018.
- Transport for NSW (TfNSW) – dated 30 July 2018.
- Bega Valley Shire Council (BVSC) – dated 27 July 2018.

A response to each of the matters raised in the abovementioned submissions is provided in Section 4.

2.2 Organisations

The following organisations provided a submission:

- Cat Balou Cruises – undated.
- Bega Valley Shire Residents & Ratepayers Association Inc – 27 July 2018.
- Eden Tourism Incorporated – 21 July 2018.
- Sapphire Coast Buslines – undated.

A response to each of the matters raised in the abovementioned submissions is provided in Section 5.



2.3 Private Stakeholders

The following private stakeholders provided a submission:

- Marge Snijder – undated.
- Arthur Robb – undated.
- Gail Ward – undated.
- Jenny Robb – undated.
- Karen Lott – undated.
- Michael Snijder – undated.
- Peter Barber – undated.
- Robert Whiter – undated.
- Name withheld – undated.

A response to each of the matters raised in the abovementioned submissions is provided in Section 5.



3 Consultation

During preparation of the Modification Request, consultation with key stakeholders and the community was primarily undertaken through the Community Consultative Committee (CCC) for the Project. The consultation activities are documented in Section 2 of the Modification Request.

Following submission of the Modification Request, CCC meetings were held on 27 June 2018 and 25 July 2018. Copies of all CCC Minutes, are available on the Project website.

Consultation with community representatives and all key stakeholders remains an ongoing process.



4 Regulatory Submissions

This section responds to the submissions received from regulatory agencies. A response to each of the issues identified by the respective submissions is provided below.

4.1 NSW Environment Protection Authority

Issue

The Commonwealth Government is responsible for regulating fuel used by ships in all Australian Ports (including NSW). Commonwealth amendments to Protection of the Sea (Prevention of Pollution from Ships) Act 1983, effective January 2016 made state Government powers to regulate low sulfur requirements for shipping inoperative. The Commonwealth introduced requirements for cruise ships to use 0.1 per cent or less sulfur fuel at berth in Sydney Harbour (mirroring previous NSW at berth requirements).

The main air pollutant from ships is fine particles (PM 2.5). Low sulfur marine fuel is the most common measure used overseas to reduce particle emissions from ships.

In relation to broader shipping requirements, the International Convention for the Prevention of Pollution from Ships (MARPOL) is the principal convention covering prevention of pollution of the marine environment. The Australian Maritime Safety Authority (AMSA) implements the MARPOL limits on sulfur in fuel. The EPA notes that from January 2020 the International Maritime Organization reduces the global sulfur cap from 3.5% to 0.5% for fuel oil used by ships. This will be the minimum requirement for all ships.

The EPA supports the broad application of the global cap and considers that it will deliver good air quality outcomes for local communities from January 2020.

Response

The submission is noted, particularly the comments that the 'Commonwealth Government is responsible for regulating fuel used by ships in all Australian Ports'....and that 'amendments to Protection of the Sea (Prevention of Pollution from Ships) Act 1983, effective January 2016 made state Government powers to regulate low sulfur requirements for shipping inoperative.'

Further, and perhaps of most importance is that the 'Commonwealth introduced requirements for cruise ships to use 0.1 per cent or less sulfur fuel at berth in Sydney Harbour' and that this performance criteria is not applicable to the Port of Eden. Lastly, it is noted that the EPA supports the January 2020 MARPOL global limits on sulfur in fuel.

No further response is required.

4.2 NSW Office of Environment and Heritage

OEH advised that it had reviewed the documentation and had no comments. The submission is noted and no further response is required.



4.3 NSW Department of Industry

DoI advised that it had reviewed the documentation and had no comments. The submission is noted and no further response is required.

4.4 Transport for NSW

TfNSW advised that it had reviewed the documentation and had no comments. The submission is noted and no further response is required.

4.5 Bega Valley Shire Council

4.5.1 Noise and Vibration

Issue

Conditions E17(a), E17(b), E18 Noise and Vibration

The proposed modifications to the consent to remove announcement restrictions in transit, upgrade generators/engines/exhausts and amended complaints handling process and actions is appropriate to help support the practical functioning of the wharf extension and associated cruise shipping into the future. As such Council has no objections to these modifications.

However, Council stresses that genuine follow up and attention must be given to noise complaints if they eventuate. Council is often the first receiver of complaints in this regards and a timely, efficient and proactive response to complaints must be followed through by the responsible authority. Council expects that the Noise Management OEMP Sub-plan be fully implemented during operation of the port.

Response

The Council's position in support of the Modification Request to conditions E17(a), E17(b) and E18 is noted. In relation to the Noise Management OEMP Sub-plan, the Department confirms its commitment to the development and implementation of an appropriate and effective complaint handling process.

4.5.2 Air Quality

Issue

Conditions E20(a) (b) E22 Air Quality

It is noted that the current condition requires 0.1% sulphur fuel to be used by cruise ships in the harbour once the wharf breakwater extension project is complete. Industry related information suggests that this fuel type is only required for Sydney Harbour and that all other ports have a higher sulphur content allowance. Requiring this type of fuel to be used at Eden is either impractical for all ships or cost prohibitive for many which may ultimately affect the viability of the emerging cruise industry in Eden. It is also noted that there will be a world industry standard in place by 2020 of 0.5% sulphur content fuel.

In order not to place onerous costs ships visiting an emerging port, Council supports the modifications proposed and move to the world 0.5% sulphur content fuel by 2020. This approach will help the port maintain and attract ships in order to grow to a sustainable working base.



In the interim period Council supports and expects that the Air Quality Management OEMP Sub-plan is developed and fully implemented to ensure appropriate air quality monitoring and responses are delivered. Again, proactive, timely and genuine monitoring and complaints handling processes must be adhered to.

Response

The Council's position in support of the Modification Request to conditions E20(a),(b) and (c) and E22 is noted. In relation to the Air Quality Management OEMP Sub-plan, the Department confirms its commitment to the development and implementation of an appropriate and effective monitoring program and complaint handling process.



5 Organisations and Private Stakeholder Submissions

This section responds to the submissions received from organisations and private stakeholders. A response to each of the issues identified by the respective submissions is provided below.

5.1 Bega Valley Shire Residents & Ratepayers Association Inc

5.1.1 Supporting Financial Information

Issue

1. The BVSRRRA notes that the Advisian submission misquotes Condition E20(b) contained in the Infrastructure Approval dated July 5th, 2017 by omitting the words "(1 hour prior to arrival and following departure)" (Section 3.2, page 6), potentially implying that the current provisions are unduly harsh.
2. The BVSRRRA notes that the Advisian proposal claims that unless the "restrictive" sulphur emission standards currently approved to apply from the date of completion of the project are relaxed, there is a risk that the number of cruise ship visitations to the Port of Eden will decline, thus negatively affecting the local economy.

BVSRRRA Comments

The BVSRRRA notes that the applicant has offered no financial information in support of the contention that cruise ship visitations will be reduced unless the emissions standard mandated in the current Infrastructure Approval (Conditions E20 & E22) are removed; effectively rendering that claim baseless.

a) The BVSRRRA has been advised by a representative of the Eden Community Consultative Committee that the cost of compliance with the currently approved sulphur emissions standard to come into operation on completion of the project will add \$25,000 to the cost of each cruise ship visit.

b) The BVSRRRA has analysed the cruise ship visitation schedule between February 2019 & December, 2019. The BVSRRRA notes the following:

i) 8 individual cruise ships are currently planning to visit the Port of Eden, making a total of 11 visits (as opposed to the 8 visits claimed in the Advisian submission);

ii) of the 8 visiting cruise ships, four are owned by Carnival Corporation, & these four cruise ships will make a total of 6 visits during the period; more than 50% of the total scheduled visits;

iii) In 2017, Carnival Corporation reported Revenues of more than A\$23.6 Billion & Profits of A\$3.78 Billion. In the same year, Carnival cruise ships carried 11.5 million passengers, with each passenger contributing an average of A\$2,054 in Revenue & A\$329 in Profits to Carnival Corporation;

iv) the BVSRRRA has calculated that the Carnival Corporation owned cruise ships scheduled to visit Eden during the period February, 2019 to December, 2019 will carry 8,304 passengers (based on the published capacity of each vessel) & that these visits will generate A\$17.06 Million in Revenue & A\$2.73 Million in Profits for the corporation;



v) based on the claimed cost of compliance made by the representative of the CCC, the total cost to Carnival Corporation will amount to A\$150,000; an amount equal to 5.5% of its estimated profits from those visits, or A\$18 per passenger;

vi) the BVSRRRA does not accept that a corporation that operates more than 100 cruise ships internationally, employs more than 120,000 people & generates earnings of 16% on revenue would look to cancel cruise ship visits as a result of incurring such a marginal increase in costs;

vii) at the same time, the BVSRRRA notes that if Carnival Cruises was able to remove the current regulatory compliance hurdle it faces, it would bank an A\$150,000 saving against its forward operating costs; the equivalent of booking an additional A\$937,000 in Revenue;

viii) the BVSRRRA contends that the prospect of banking an almost "no cost" \$150,000 in Profit through persuading the DPE to relax the sulphur emissions standards is highly attractive, in particular as the cost of the advocacy in support of the proposal is being borne by NSW taxpayers.

c) the BVSRRRA recognises that the economics for all cruise ship operators will not be the same however it does believe that the estimates offered for Carnival Corporation will be reasonably indicative; &

d) finally, if the BVSRRRA's contention is accepted, then there will be no impact on the local tourism economy of the higher cost of compliance to cruise ship operators of meeting the higher sulphur emissions standard.

Response

In relation to Item 1, Advisian confirms that the present Condition E20(b) in the Infrastructure Approval does contain the words "...*(1 hour prior to arrival and following departure)*..." and the recitation in Section 3.2, page 6 of the Modification Request is an oversight only.

In relation to Item 2, the justification for the Modification Request is not based on a financial decision, rather the Department has identified, following further analysis and stakeholder engagement, Operation conditions that are not reasonable for the Port of Eden. Refer to Section 2 of the Modification Request for details of the consultation undertaken. The Modification Request does not remove the Proponent's commitment to environmental management as set out in the Environmental Impact Statement (Advisian, 2016) and proposed Operational Environmental Management Plan (OEMP) and OEMP Sub-plans.

The SSI is expected to commence Operation in March 2019. Having regard to the current cruise ship schedule published by the Port Authority of New South Wales (PANSW), there are presently six cruise ships scheduled to visit between March 2019 and December 2019. This number remains within the stated "*maximum of eight cruise ships...*" referred to in Section 3.2.1, page 7 of the Modification Request.

Advice was sought from the Port Authority of New South Wales (PANSW) in relation to methods utilised by cruise ship operators to reduce sulfur emissions. It is acknowledged that that the operational programs and costs for all cruise ship operators is not the same. PANSW advised that:

"Unless there was a regulatory requirement to use low sulphur fuel in Eden prior to 2020 cruise lines would not voluntarily make that choice, as there are additional costs involved with using low sulphur fuel, or operating scrubbers to meet with requirements. The industry has been preparing for many years in advance of the 2020 requirements and it would be unreasonable to require compliance with MARPOL at a particular berth at short notice from 2019."



5.1.2 Air Quality Modelling

Issue

The BVSRRRA notes that the Advisian submission relies on the findings of the "Refined SO2 Emission Modelling (ERM, 2018b)" conducted on its behalf by ERM Australia Pacific Pty Ltd (ERM) & detailed in Appendix C of the submission.

a) While the BVSRRRA has previously acknowledged that it does not have the expertise to challenge the "technical" information assembled by ERM in support of the submission, it nevertheless believes that that information is simply irrelevant & should not be considered in assessing the submission.

b) The BVSRRRA understands that the ERM modelling is based on observations carried- out in the area where the new wharf & port are being constructed however, given that visiting cruise ships are presently anchoring within the broader confines of Twofold Bay & not the cove area where that construction is being undertaken, means that any such readings are not a factual representation of sulphur emissions that will occur once the wharf & port are completed & visiting cruise ships are actually berthing at the wharf.

Cruise ships berthed at the new wharf will be immediately adjacent to & below residential areas, with those areas directly exposed to emissions from such vessels, powered as they will be by there on-board oil fired generators.

At the same time, prevailing breezes in the immediate area of the new wharf & port will carry emissions over & into the local Eden community, the effect of which has not been captured by the ERM modelling.

c) The Advisian submission proposes that, rather than requiring visiting cruise ships to burn low sulphur content bunker fuels when approaching, leaving or berthing in Eden, so as to minimise the level of emissions, the Eden community should place their confidence & trust in flawed technical modelling, with any detected breaches of expected emissions to be investigated after the event, even if they are detected.

The BVSRA would argue that such an approach would reflect the abandonment of any pretence that the health & wellbeing of the Eden community is considered relevant or important when weighed-up against the commercial interests of cruise ship or local tourism operators.

Response

Advice from ERM confirms that the air quality modelling (ERM, 2018b) references meteorological observations from Merimbula Airport Automatic Weather Station (AWS), which is the closest AWS to the site (and considered to be representative) with the remainder of the modelling based around derived estimates of shipping emissions. These emissions data were fed into an internationally recognised atmospheric dispersion model that makes predictions of down-wind impacts based on the meteorological observations (in this case, those gathered at Merimbula Airport AWS). In the model, the cruise ship exhaust stack was positioned to be representative of a ship berthed at the Breakwater Wharf, immediately adjacent the closest residential areas.

ERM confirms that it is correct that prevailing breezes will carry emissions from their point of emission; both of which were characterised within the computer modelling completed.

It is submitted that the ERM modelling has utilised an industry recognised methodology to estimate potential cruise ship emissions at the site when in operation.



5.1.3 Commercial Interests

Issue

The BVSRRA is concerned that the DI appears to be acting as an advocate for private commercial interests without acknowledging that fact & without requiring those interests to publicly produce evidence in support of the claims being advanced on their behalf.

The BVSRRA's concerns are heightened by the fact that DI commissioned & funded the Advisian submission made to the DPE in support of the proposal, in particular as it believes that the department should be acting independently in the community's best interests & not as a partisan advocate for commercial interests.

Response

The Department is responsible for the delivery of the Project and has proposed the modifications to ensure the conditions are not unreasonable for the Port of Eden while maximising the project benefits and potential for economic growth in the local and regional economy. The EPA (the State regulator of air quality) raised no objection to the Modification Request and advised "The EPA supports the broad application of the global cap and considers that it will deliver good air quality outcomes for local communities from January 2020".

5.2 Eden Tourism Incorporated

5.2.1 Sulphur Content Fuel

Issue

We understand that the majority of cruise ships, as well as all other ships visiting the Port of Eden and all other ports across Australia (with the exception of Sydney) use bunker fuel when at berth and that this fuel has a higher sulphur content. We also understand that The Australian Maritime Safety Authority (AMSA) has directed cruise ships to use, when at berth in Sydney Harbour:

- *low sulphur fuel with a sulphur content of less than 0.1% or*
- *approved air pollution control equipment that reduces emissions to an equivalent level to using low sulphur fuel, or*
- *a power source external to the vessel; or*
- *a combination of any of the above measures.*

Currently, the Port of Eden is excluded from AMSA requirements with respect to the use of low sulphur fuel by cruise ships at berth and in transit.

The International Maritime Organisation (IMO), under the International Convention for the Prevention of Pollution from Ships (MARPOL) has set a global limit for sulphur in fuel used on-board ships to 0.5% from 1 January 2020 and we believe that the cruise ship industry has been proactive in gearing up to meet these requirements. We also understand that many cruise ship operators have undertaken the installation and certification of Exhaust Gas Cleaning Systems (EGCS) on their vessels. As far as we can determine these systems have been installed and certified on 17 Carnival Cruise Line vessels, 13 Holland America Line vessels, 10 Princess Cruises vessels, seven Costa Cruises vessels, five AIDA Cruises vessels, four P&O Cruises UK vessels, three Cunard vessels and one P&O Cruises Australia vessel.



The proposed operational conditions (E20 (a)) require cruise ships visiting the Port of Eden to use 0.1% sulphur content fuel and we understand that cruise ships operating in Australian waters carry just enough 0.1% sulphur content fuel to comply with regulations in place when visiting Sydney. In order to comply with the proposed conditions for Eden, cruise ships would need to carry additional 0.1% sulphur content fuel at considerable expense. It is estimated that this would add significant extra in costs to the cruise lines per ship, per visit to Eden and likely make such a visit uneconomic. This would limit the growth of the port and severely affect the momentum and work that 'Cruise Eden' has undertaken to promote Eden as a preferred port of call amongst cruise ship operators.

Response

The submission supports the proposed amendments to Condition E20(a). No further response is required.

5.2.2 Noise and Vibration**Issue**

The proposed condition (E17 (a)) requires that there be "no deck announcements and music from open decks while in the Port of Eden or transit with the exception of safety announcements".

While it is not an issue to restrict deck announcements while berthed, it is important to allow deck announcements while in transit. Deck announcements while enroute into and out Eden generally include necessary passenger movement information. With passenger numbers in the thousands, these are the only way important information can be relayed to this number of passengers efficiently; therefore we should not be restricting this information:

- *Logistics*
- *Passenger movement*
- *Port announcements*
- *Announcements at these times are not entertainment related*

It should be noted; any complaint received would be the subject of notification, investigation and close out processes in accordance with Noise Management OEMP Sub-plan.

We recommend that the condition be amended to exclude "in transit".

Response

The submission supports the proposed amendment to Condition E17(a). No further response is required.



5.2.3 Complaints Handling Process

Issue

The proposed condition (E18) states that "In the event of complaints from Sensitive Receivers in relation to a specific cruise ship, the source of the offensive noise must be identified and action taken to reduce noise levels with details submitted to the Secretary. The ship must not be permitted to berth at the SSI in the future, unless it can be demonstrated that measures have been taken to reduce noise levels".

We contend that while it is possible that a noise complaint may be received while the ship is in transit, or at berth, these noise complaints (along with all other complaints) would be the subject of notification, investigation and close out processes in accordance with Noise Management OEMP Sub-plan.

Action that would preclude a cruise ship not returning to Eden is an over-reaction that will negatively impact port ratings and limit future visitation. It is highly likely, with this condition in place, that this condition would potentially reduce the number of ships visiting Eden and may require the ship to anchor at a buoy to avoid the Infrastructure Approval condition. This opposes the purpose of the Breakwater Wharf Extension, with a detrimental impact to the local economy.

Condition E1 already precludes cruise ships permitting before 7:00am or after 10:00pm unless extenuating conditions apply, Ship arrivals generally take place between 7:00am and 10:00am with departures generally taking place between 3:00pm and 6:00pm. These hours are considered acceptable across most industries in terms of noise, therefore there is no reason to restrict this single industry when restrictions are not made across the board.

Indeed, noise from cruise ships relating to deck announcements would be intermittent, if at all, and would fall below the noise levels experienced in other industries such as construction and road works. A worst-case scenario from a cruise ship at berth (emergency announcement) would be a 15-minute average noise (LAeq, 15min). In this case, all reasonable and feasible noise mitigation options would be exercised.

We propose that Condition E18 be amended as follows:

"Where a complaint is received from a Sensitive Receiver in relation to a specific cruise ship at the SSI in the Port of Eden, the source and nature of the noise will be investigated. If there are further complaints or the investigation indicates ongoing exceedance of the predicted noise levels, reasonable and feasible measures shall be investigated and implemented where reasonable and feasible".

Response

The submission proposes an amendment to Condition E18 which generally aligns with the Modification Request. No further response is required.

5.2.4 Growth of Cruise Industry

Issue

It is important to note that the Port of Eden is still a juvenile port that is very much in growth phase within the industry. Adding unnecessary limitations and restrictions will only serve to hamper its growth, which collectively we've worked so hard to achieve. As a non-marquee port, Eden does not yet have the runs on the board to exercise demands such as this, without negative implications such as reduced visitation.



The cruise business now accounts for 5% of annual visitation to the Sapphire Coast, along with significant roll on effect of return visitation. The 2017/18 cruise season was valued at \$8.1m to the local economy. This is an economic injection that our local businesses look forward to, and indeed count on. It is for this reason we support the modification of conditions, to ensure the ongoing growth of the Port of Eden.

Eden's growth has now gained significant momentum and is projected to place the region as a major beneficiary of the cruise industry. This reason, along with the fact that many other regional ports are looking for the same opportunities is a strong impetus to continue our progress without unnecessary limiting restrictions.

Response

The submission is noted and no further response is required.

5.3 Cat Balou Cruises

Cat Balou Cruises supports the Modification Request as follows:

"Cat Balou Cruises operate tourism charters out of the Port of Eden around Twofold bay. We are chartered by the visiting cruise ship companies to provide a two hour historical cruise around the bay.

Visiting cruise ships provide the organisation with an influx of passengers on our vessel, and due to the increase in passengers, we are therefore required to utilise more employees therefore providing extra employment.

It is my personal opinion that putting extra noise and fuel carriage conditions on the visiting ships will have a detrimental effect on all the work that has been done to entice them into the port. I fear that imposing these conditions will result in ships choosing not to visit this Port and the effects will be felt throughout Eden and the surrounding area's

I see no reason to make the ships carry reduced sulphur emitting fuel when the IMO changes will take effect in early 2020 anyway. I am currently residing overlooking where the cruise ships anchor and feel that any noise emitting from engines or announcements are very minimal and have no negative effect."

The submission is noted and no further response is required.

5.4 Sapphire Coast Buslines

Sapphire Coast Buslines supports the Modification Request and as per the following extract:

"The Cruise industry at the Port of Eden is an important part of our charter work and we pride ourselves on operating a large number of low emission Euro 5 and 6 buses transporting passengers to the wharf during the Cruise season.

We support the submission that Cruise Eden submitted to the CCC regarding a request to amend the Operating Conditions of Cruise ships when in port at Eden.

We, as the lead transport provider to cruise, have allocated a large amount of resources towards the upcoming cruise seasons and planned port entries to ensure we satisfy the cruise requirement and present ourselves as an effective and efficient regional port. If the formal approval for



amendments to change the operational requirements to Sulphur emission levels prior to 01/01/2020 is approved, we believe strongly this will detract many ships from entering Eden prior to 2020 and this will significantly affect Sapphire Coast Buslines, our employees and other operators financially.

I sincerely hope a common-sense approach can be considered in this rural region to ensure the financial viability of efforts that have already been invested into Eden Port and all affiliated stake holders."

The submission is noted and no further response is required.

5.5 Private Stakeholders

The following private stakeholders provided a submission, all of which noted their support for the Modification Request:

- Marge Snijder.
- Arthur Robb.
- Gail Ward.
- Jenny Robb.
- Karen Lott.
- Michael Snijder.
- Peter Barber.
- Robert Whiter.
- Name withheld.

The above submissions are noted and no further response is required.



6 Summary of Proposed Mitigation Measures

No changes to the Proposed Mitigation Measures as detailed in the Summary of Proposed Mitigation Measures in the Response to Submission Report Eden Breakwater Wharf Extension Report (Advisian, 2017) are proposed arising from either the Modification Request or this RTS Report.



7 Conclusion

The Department has identified, following further analysis and stakeholder engagement, Operation conditions within the Infrastructure Approval that ought to be modified to ensure the conditions are not unreasonable for the Port of Eden while maximising the project benefits and potential for economic growth in the local and regional economy.

This RTS Report responds to the matters raised in submissions by regulatory agencies, organisations and private stakeholders during the public exhibition period. It is noted that the Modification Request has the in-principle support of all regulatory agencies, in particular the EPA and BVSC.

The Modification Request does not remove the Proponent's commitment to environmental management, including complaint handling. It is submitted that the conclusions made in Section 5 of the Modification Request remain valid.



8 References

Advisian (2016), *Eden Breakwater Wharf Extension State Significant Infrastructure – Environmental Impact Statement*.

Advisian (2017), *Response to Submission Report Eden Breakwater Wharf Extension Report*.

ERM (2018b), *Eden Breakwater Wharf Extension Project – Refined SO₂ Emission Modelling*.