

Notice of decision – SSI 7734 Eden Breakwater Wharf Extension – MOD 1: Modification of operational noise and air quality conditions

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant infrastructure modification
Application number and project name	SSI 7734 Eden Breakwater Wharf Extension MOD 1: Modification of operational noise and air quality conditions
Applicant	NSW Department of Industry – Lands & Forestry
Approving authority	Executive Director, Priority Projects Assessments, under delegation from the Minister for Planning

Decision

The Executive Director, Priority Projects Assessments, under delegation from the Minister for Planning has, under s.5.25 of the Environmental Planning and Assessment Act 1979 (the Act) approved the modification subject to the recommended conditions.

A copy of the instrument of modification is available at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9456.

A copy of the Planning Secretary's Assessment Report is available at:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9456.

Date of decision

7 November 2018

Reasons for decision

The following matters were taken into consideration in making this decision:

- the matters listed in the statutory context section of the Planning Secretary's assessment report, which include the findings and recommendations in the Planning Secretary's Assessment Report
- the objects of the EP&A Act
- all information submitted to the Department during the assessment of the application and any additional information considered in the Planning Secretary's Assessment Report
- the findings and recommendations in the Planning Secretary's Assessment Report
- the views of the community about the project (see Attachment 1).

The findings and recommendations set out in the Planning Secretary's Assessment Report were accepted and adopted as the reasons for making this decision.

The key reasons for approving the modification are as follows:

- the project is consistent with NSW Government strategic planning, including the South East and Tablelands Regional Plan 2036, which includes Action 2.1 — Promote business and industry development to attract visitors and cruise vessels to Eden
- the impacts on the community and the environment can be appropriately minimised and managed to an acceptable level, with conditions that require the Applicant to implement specific measures to reduce emissions from cruise ships, reflecting the Proponent's proposed mitigation measures identified in the EIS and specialist reports, and a procedure for management of non-compliant cruise ships including details on proposed actions, timeframes and consequences to provide certainty for the local community that operational impacts will be minimised
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through the recommended conditions of consent
- weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The Department exhibited the modification request from 13 July 2018 until 27 July 2018 (15 days) and received 13 submissions, including 1 objection.

The key issues raised by the community (including in submissions) and considered in the Planning Secretary's Assessment Report and by the decision maker include economic, noise and air quality impacts. Other issues are addressed in detail in the Planning Secretary's Assessment Report.

<i>Issue</i>	<i>Consideration</i>
<ul style="list-style-type: none"> • Limitations and restrictions will hamper Eden cruise industry growth and economic benefits • Residents surrounding the Port of Eden are used to noise associated with a working port • The topography and typical climatic conditions at Eden during the day and over the cruise season would act to disperse ship exhaust emissions and direct these away from residences. 	<p>The MOD 1 Request Report and submissions contained little information to justify the first statement, however, information was provided to support reducing some limits and restrictions and it was considered reasonable to:</p> <ul style="list-style-type: none"> • adjust the cruise ship emission cap in line with new international regulations • remove specific air quality and noise requirements for cruise ships while underway given the short transit time through the Port of Eden.
<ul style="list-style-type: none"> • Commercial interests of cruise ship and local tourism operators are being considered more important than the health and well-being of the Eden community. 	<p>The proposed changes to some conditions were not supported as it was considered they did not sufficiently protect local amenity now and into the future.</p> <p>Hence, recommended conditions include:</p> <ul style="list-style-type: none"> • retention of measures to reduce cruise ship emissions while at berth • preparation of a procedure for management of non-compliant cruise ships including details on proposed actions, timeframes and consequences for non-compliance • ongoing community consultation on environmental management • a review of operations ever five years to verify modelling predictions, assess complaints and identify and implement additional mitigation measures as required.