

Development Consent

Section 80 (1)(a) of the *Environmental Planning and Assessment Act 1979*

As delegate for the Minister for Planning under delegation dated 16 February 2015, I hereby grant consent to the development application referred to in Schedule 1, subject to the conditions in Schedule 2.

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; and
- provide for the ongoing environmental management of the development.

Chris Ritchie
Director
Industry Assessments

Sydney

2017

SCHEDULE 1

Application No.:

DA 8137

Applicant:

Port of Newcastle Operations Pty Limited as trustee for the Port of Newcastle Unit Trust

Consent Authority:

Minister for Planning

Land:

Part Lot 42 DP 1191982, Part Lot 51 DP 1229869 and Part Lot 54 DP 1229869

Development:

Use the existing hardstand area as port facilities for the storage of freight, including the loading and unloading of freight on the site

This consolidated instrument includes modifications approved:

1. Approved on 23 June 2020 – DA 8137 MOD 1 (amendments in red type)

DEFINITIONS

Applicant	Port of Newcastle Operations Pty Limited as trustee for the Port of Newcastle Unit Trust
Construction	The demolition of buildings or works, the carrying out of works, including bulk earthworks, and erection of buildings and other infrastructure covered by this consent
Council	City of Newcastle
Day time	The period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays
Department	Department of Planning, Industry and Environment
Development	The development as described in Schedule 1, the SEE, RTS and Modification Assessments, involving the use of the existing hardstand area as port facilities for the storage of freight, including the loading and unloading of freight in the site
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation 2000	<i>Environmental Planning and Assessment Regulation 2000</i>
EPA	Environment Protection Authority
Evening	The period from 6pm to 10pm
MCP	Mayfield Concept Plan (09_0096), approved by the Minister on 16 July 2012 and as modified
Minister	Minister for Planning and Public Spaces
Modification Assessments	The document assessing the environmental impact of a proposed modification of this consent and any other information submitted with the following modification applications made under the EP&A Act: a) DA 8137 MOD 1, accompanied by <i>Statement of Environmental Effects Development Consent Modification – Mayfield Cargo Storage Facility</i> , dated 11 October 2019, prepared by Aurecon Australasia Pty Ltd, and Response to Submissions dated 13 May 2020, prepared by Aurecon Australasia Pty Ltd.
NCC	National Construction Code
Night time	The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
Operation	Use of the existing hardstand area as port facilities for the storage of freight, including the loading and unloading of freight on the site
PCA	Principal Certifying Authority
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
PoN	Port of Newcastle
Reasonable	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements
RMS	Roads and Maritime Services
RTS	Response to Submissions email from PoN dated 5 May 2017, and all attached documents including the letter report titled, <i>Road Safety Review – Selwyn Street, Mayfield, NSW</i> , prepared by SECA Solution, dated 28 April 2017, and supplementary information provided by email from PoN, dated 8 May 2017
Secretary	Secretary of the Department, or nominee
SEE	Statement of Environmental Effects titled, <i>Cargo Storage Facility, Mayfield</i> , prepared by AECOM, and dated 25 November 2016
Site	Land referred to in Schedule 1
Site Noise Model	A model developed by PoN for the assessment and management of cumulative noise from the MCP area

SCHEDULE 2

PART A – ADMINISTRATIVE CONDITIONS

Obligation to Minimise Harm to the Environment

- A1. In addition to meeting the specific performance criteria established under this consent, the Applicant must implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the Development.

Terms of Consent

- A2. The Applicant must use the site in accordance with:
- a) Development Application 8137, including the SEE and RTS: and
 - b) the Modification Assessments.
- A3. If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any inconsistency.
- A4. Notwithstanding condition A3, the Applicant must carry out the development in accordance with the requirements of the Mayfield Concept Plan Approval (09_0096), as modified (MCP). If there is an inconsistency between this consent and the MCP, the concept plan approval shall prevail to the extent of the inconsistency.
- A5. The Applicant must comply with any written requirement(s) of the Secretary arising from the Department's assessment of:
- a) any reports, plans, strategies, programs, studies or correspondence that are submitted in accordance with this consent; and
 - b) the implementation of any actions or measures contained in these reports, plans, strategies, programs, studies or correspondence.

Limits of Consent

- A6. This consent lapses five years after the date from which it operates, unless the use has physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse under section 4.53 of the EP&A Act.
- A7. This consent is limited to the use of the site as Port Facilities as described in the SEE, RTS and the Modification Assessments.

Statutory Requirements

- A8. The Applicant must ensure that all necessary licences, permits and approvals are obtained and kept up to date as required throughout the life of the development. No condition of this consent removes the obligation of the Applicant to obtain, renew or comply with such licences, permits or approvals.

Compliance

- A9. The Applicant must ensure that employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent relevant to their respective activities.

PART B – OPERATIONAL ENVIRONMENTAL PERFORMANCE AND MANAGEMENT

Hours of Operation

B1. The Development is permitted to operate the development 24 hours-a-day, seven days-a-week.

Operational Noise Limits

B2. The Applicant must ensure that noise generated by the development does not exceed the noise limits in Table 1.

Table 1: Noise Limits (dB(A))

No.	MCP Receiver	Location	Day	Evening	Night	Night	Night
			Leq(15min)	Leq(15min)	Leq(15min)	Leq(9hr)	L1(1min)
R1	A	1 Arthur Street, Mayfield	35	35	35	35	46
R2	B	2 Crebert Street, Mayfield	39	39	39	35	51
R3	-	24 Crebert Street, Mayfield	40	39	39	35	52
R4	C	32 Elizabeth Street, Carrington	35	35	35	35	41
R5	D	186 Fullerton Road, Stockton	35	35	35	35	40

Note:

- To identify a noise receiver location, refer to the figure in **Appendix A**.
- Noise generated by the development is to be measured in accordance with the relevant procedures and exemptions (including certain meteorological conditions) of the EPA's NSW Industrial Noise Policy.

Mayfield Concept Plan Noise Quota

B3. The Applicant must:

- ensure noise from the site does not exceed the noise quotas provided by the PoN in accordance with the Site Noise Model; and
- comply with the directions of the PoN in relation to the management of noise from the Site.

Operating Conditions

B4. The Applicant must:

- implement all reasonable and feasible noise management and mitigation measures to prevent and minimise noise from the site;
- implement, where possible, a safe system of work so that tonal movement alarms, such as reversing beepers, are not needed on the site;
- maintain the effectiveness of any noise suppression equipment or plant at all times and ensure defective plant that may generate offensive noise is not used operationally until fully repaired; and
- regularly assess noise monitoring data and relocate, modify and/or stop operations to ensure compliance with the relevant conditions of this consent.

Mayfield Concept Plan Site Noise Model

B5. Prior to the commencement of operation of the development, the *Noise and Vibration Impact Assessment* included in the SEE, including all modelling data, is to be provided to the PoN for the purposes of updating the Site Noise Model.

Selwyn Street Improvements

B6. Within six months of the commencement of operation, the Applicant must undertake the following roadworks at its own expense:

- provide a white centre line for the length of Selwyn Street between the site access and the level crossing;
- provide a white line along each edge of Selwyn Street between the site access and the level crossing to highlight the edge of the road. The vegetation on both sides of the road must be regularly maintained to ensure this line remains visible; and

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- c) provide a chevron marker board on Selwyn Street opposite the side road to reinforce the presence of the intersection for drivers exiting the site.

Operational Environmental Management Plan

- B7. The Applicant must prepare an Operational Environmental Management Plan (OEMP) for the development. The Plan must:
- a) be prepared by a suitably qualified and experienced expert;
 - b) provide the strategic framework for environmental management of the development;
 - c) identify the statutory approvals that apply to the development;
 - d) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
 - e) describe the procedures that would be implemented to:
 - i) keep the local community and relevant agencies informed about the operation and environmental performance of the development;
 - ii) receive, handle, respond to, and record complaints;
 - iii) respond to any non-compliance with the conditions of consent, such as noise mitigation measures;
 - iv) respond to emergencies;
 - f) detail measures to manage noise generated by the development;
 - g) detail measures to manage traffic generated by the development, in accordance with the MCP's *Traffic Management Plan*;
 - h) include details of a monitoring program that is to be undertaken in accordance with the *NSW Industrial Noise Policy* and the *Noise Verification Monitoring Plan, October 2015*, or its latest version;
 - i) include details of a reporting program to be provided annually to the PoN that:
 - i) demonstrates compliance with the noise limits in this consent and the noise quotas determined in accordance with the MCP; and
 - ii) is prepared in accordance with the MCP's *Traffic Monitoring and Review Plan*. The traffic monitoring program shall include details of traffic movements to and from the site (during peak periods and daily volumes), including along Selwyn Street.

Note: *The monitoring requirements could be satisfied by the monitoring network required for the Mayfield Concept Plan*

- B7A** Prior to the commencement of operations under DA 8137 MOD 1, the Applicant is to update the OEMP required under condition B7. It must include a restriction that no more than 104 movements of cargo under its own power are permitted from the site during the course of a calendar year and are to occur outside of the AM and PM peak. A record of all cargo movements made under its own power is to be kept by the Applicant and incorporated into the monitoring program required under Condition B7

- B8. The Applicant must operate the development in accordance with the OEMP (and as revised from time to time), unless otherwise agreed by the Secretary. A copy of the OEMP shall be provided to the Secretary.

Contamination

- B9.** Prior to the occupation and operation of the additional 6.6 hectares of loading / unloading area approved under DA 8137 MOD 1 the land is to be remediated in accordance with the requirements of Development Application 293-08-00 and Voluntary Remediation Agreement 26025.

- B10.** Upon completion of the remediation works required under condition B9 and prior to the use of that land, the Applicant must submit to the Planning Secretary, a Site Audit Report and a Section B Site Audit Statement, prepared in accordance with the *NSW Contaminated Land Management – Guidelines for the NSW Site Auditor Scheme 2017*, which demonstrates the site is suitable for its intended industrial use.

APPENDIX A MAP SHOWING THE LOCATION OF NOISE SENSITIVE RESIDENTIAL RECEIVERS

