

Modification of Infrastructure Approval

Section 5.25 of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces under delegation executed on 28 September 2011, the Independent Planning Commission approve/refuse the modification of the State significant infrastructure approval referred to in Schedule 1, subject to the conditions in Schedule 2.

Member of commission

Member of Commission

Sydney

2026

SCHEDULE 1

Infrastructure Approval:

MP08_0249 granted by the Minister for Planning on 3 March 2011

For the following:

Stage 1 of the Port Kembla Outer Harbour Development Project, including associated infrastructure.

Modification:

(MP08_0249 MOD 5): Demolition Berth 206, Jetty No. 6; and the tug boat facility, dredging and reconfiguration of reclamation of land; construction of berth structures, civil works (including utility services drainage and road access).

SCHEDULE 2

Note: Words that have been deleted are shown as: ~~deleted~~
Words that have been added are shown as: added

1. Amend the description of the project in Schedule 1 as follows:

Stage 1 (~~1A, 1B and 1C~~) of the Port Kembla Outer Harbour Development comprising:

- demolition of No.3, ~~and~~ No. 4 Jetties, Berth 206 and Jetty No. 6;
- reclamation and dredging for the footprint of the total development (~~except for the northern area of the multi-purpose terminal~~);
- ~~construction and operation of one new multi-purpose terminal (central area)~~;
- construction of ~~first container~~ berths;
- extension of Salty Creek and Darcy Road drain, through the reclamation area, to the Outer Harbour;
- ~~relocation of utilities for import of sulphuric acid (currently at Berth 206) to the multi-purpose terminal~~;
- new road link from Christy Drive (known as Arawata Drive);
- ~~rail infrastructure upgrade in South Yard, including extension of No.13 siding; and~~
- civil works ~~for construction of terminal facilities including services; and~~
- demolition of tug boat facility.

2. In the 'Definitions' table, delete the definitions for "Department, the", "Director General, the", "DPI", "Minister, the", "OEH", "Operation" "Proponent" and "RTA", and insert in alphabetical order the following:

Term	Definition
<u>DCCEEW Water Group</u>	<u>Water Group of NSW Department of Climate Change, Energy, the Environment and Water</u>
<u>Department</u>	<u>Department of Planning, Housing and Infrastructure</u>
<u>DPIRD – Fisheries</u>	<u>Fisheries agency of NSW Department of Primary Industries and Regional Development</u>
<u>EPA</u>	<u>NSW Environment Protection Authority</u>
<u>Heritage NSW</u>	<u>Heritage NSW of NSW Department of Climate Change, Energy, the Environment and Water</u>
<u>Incident</u>	<u>An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a noncompliance.</u> <u>Note: "material harm" is defined in this approval.</u>
<u>Material harm</u>	<u>is harm that:</u> a) <u>involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or</u> b) <u>results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$50,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment).</u>
<u>Minister</u>	<u>NSW Minister for Planning and Public Spaces</u>

<u>Non-compliance</u>	<u>An occurrence, set of circumstances or development that is a breach of this approval.</u>
<u>Planning Secretary</u>	<u>Planning Secretary of the Department (or nominee, whether nominated before or after the date on which this approval was granted).</u>
<u>Proponent</u>	<u>Port Kembla Operations Pty Ltd as trustee for Port Kembla Unit Trust.</u>
<u>Project</u>	<u>The project, as generally described in Schedule 1 of this approval, the carrying out of which is approved under the terms of this approval.</u>
<u>TfNSW</u>	<u>Transport for NSW</u>

3. Replace all references of “Director General” with “Planning Secretary”.

4. Replace all references of “I&I NSW” with “DPIRD Fisheries”.

5. Replace references of “OEH” with “EPA” in the following conditions:

B13, C4(d), C23, C27, C28, C29 and C30.

6. Replace references of “the Department (Heritage Branch)” with “Heritage NSW” in the following conditions:

B26, C33, and C34.

7. Amend Condition A1 as follows:

- A1 The Proponent shall carry out the project generally in accordance with:
- the Major Project Application 08_0249;
 - the *Port Kembla Outer Harbour Development Environmental Assessment Report*, Volumes 1 to 7, prepared by AECOM Australia Pty Ltd and dated March 2010;
 - the *Revised Port Kembla Outer Harbour Development Submissions Report*, prepared by AECOM Australia Pty Ltd and dated 27 October 2010; ~~and~~
 - correspondence from Port Kembla Port Corporation, dated 4 May 2011;
 - modification application MP08 0249 accompanied by Port Kembla Outer Harbour Reconfiguration MOD 5 - SSI Modification – prepared by Arup October 2025;
 - Port Kembla Outer Harbour Reconfiguration MOD 5 - Submissions Report - prepared by Arup 18 December 2025 and
 - the conditions of this approval.

8. In Condition A2, replace all references of “A1c)” with “A1f)”.

9. Replace Condition A3 with the following:

- A3 The Proponent must comply with all written requirements or directions of the Planning Secretary, including in relation to:
- the environmental performance of the project;
 - any document or correspondence in relation to the project;
 - any notification given to the Planning Secretary under the terms of this approval;
 - any audit of the construction of the project;
 - the terms of this approval and compliance with the terms of this approval (including anything required to be done under this approval);
 - the carrying out of any additional monitoring or mitigation measures; and
 - in respect of ongoing monitoring and management obligations, compliance with an updated or revised version of a guideline, protocol, Australian Standard or policy required to be complied with under this approval.

10. Insert the following conditions after Condition A3:

A3A. References in the terms of this approval to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Australian Standards or policies in the form they are in as at the date of this approval, unless otherwise approved by the Planning Secretary.

A3B. The Proponent must update management and monitoring documents, plans, and strategies prepared and/or submitted as a requirement of MP08 249 to reflect the modified project and conditions where they are intended to be implemented to fulfil requirements of this modification. The Proponent must also consult and seek the relevant approval, endorsement, agreement or other for the modified document, plan or strategy where the condition requires that action.

Note: This condition is intended to require that existing relevant documents are updated to reflect the changed project which is the subject of this modification. For example, if a condition required(s) a document to be approved by the Planning Secretary before commencement of construction, the revised document must be approved by the Planning Secretary before commencement of construction of the modified project.

11. Delete Conditions A5, A6, A7, A8, A9 and A10.

12. Insert the following titles and conditions after Condition A10:

Timing and Approvals

A11 Any action required to be undertaken within a timeframe specified in or under the terms of this approval may be undertaken within a different timeframe agreed in writing with the Planning Secretary. This condition does not apply to the written notification required in respect of an incident or a non-compliance.

Evidence of Consultation

A12 Where the terms of this approval require consultation to be undertaken, evidence of the consultation undertaken must be submitted to the Planning Secretary with the corresponding documentation. The evidence must include:

- a) documentation of the consultation with the party identified in the condition of approval that has occurred before submitting the document for approval;
- b) a log of the dates of engagement or attempted engagement with the identified party;
- c) documentation of the follow-up with the identified party where engagement has not occurred to confirm that they do not wish to engage or have not attempted to engage after repeated invitations;
- d) outline of the issues raised by the identified party and how they have been addressed; and
- e) a description of the outstanding issues raised by the identified party and the reasons why they have not been addressed.

Staging the Delivery of the Project

A13 The project may be constructed in stages (including but not limited to temporal, location or activity based staging). Where staged construction is proposed, a **Staging Report** must be prepared. The **Staging Report** must be submitted to the Planning Secretary for approval no later than two months before the commencement of construction of the first of the proposed stages of construction.

Note: The Staging Report needs to be approved and finalised before any post-approval matters or documents subject to the staging are submitted (or not submitted).

A14 The **Staging Report** must:

- a. if staged construction is proposed, set out how the construction of the whole of the project will be staged, including details of activities to be carried out in each stage and the general timing of when construction of each stage will commence and finish;
- b. specify how compliance with conditions will be achieved across and between each of the stages of the project; and
- c. set out mechanisms for managing any cumulative impacts arising from the proposed staging.

Note: A Staging Report may reflect the staged construction and operation of the project through geographical activities, temporal activities or activity-based contracting and staging.

- A15 Where staging is proposed, the project must be staged in accordance with the **Staging Report**.
- A16 Where staging is proposed, the terms of this approval that apply or are relevant to the activities to be carried out in a specific stage must be complied with at the relevant time for that stage.
***Note:** Where an inconsistency arises between the Staging Report and the terms of this approval, the terms of this approval prevail.*
- A17 Where changes are proposed to the staging of construction, a revised **Staging Report** must be prepared, and submitted to the Planning Secretary for information no later than one month before the proposed change in the staging.

Staging, Combining and Updating Strategies, Plans or Programs

- A18 Strategies, plans or programs required by this approval can be submitted on a progressive basis as long these documents are required for the relevant stage identified in the **Staging Report**, with the agreement of the Planning Secretary.

With the agreement of the Planning Secretary, the Proponent may prepare the updated strategy, plan or program without undertaking all the consultation required under the applicable condition in this approval.

Notes:

1. While any strategy, plan or program may be submitted on a progressive basis, the Proponent must ensure that activities on site are covered by suitable strategies, plans or programs at all times; and
2. If any strategy, plan or program is to be submitted on a progressive basis, then the relevant strategy, plan or program must clearly describe the specific stage / activities to which strategy, plan or program applies, the relationship of this stage / activity to future stages / activities, and the trigger for updating the strategy, plan or program.

Notification of Commencement

- A19 The Department must be notified in writing of the dates of commencement of Construction at least one month before those dates.
- A20 If the construction of the project is to be staged, the Department must be notified in writing at least one month before the commencement of each stage.

Independent Audits

- A21 Independent Audits of the project must be conducted and carried out in accordance with the Independent Audit Post Approval Requirements in force at the time the audit commences, as approved by the Secretary and published on the Department's website.

***Note:** This condition does not apply to the engagement of auditors / audits required under Part B or Part C of this approval.*

Incident Notification, Reporting and Response

- A22 The Proponent must notify the Department within 24 hours of becoming aware of an incident. The notification must be made via the NSW planning portal (Major Projects) and address details of the incident including:
- a) date, time and location;
 - b) a brief description of what occurred and why it has been classified as an incident;
 - c) a description of what immediate steps were taken in relation to the incident; and
 - d) identifying a contact person for further communication regarding the incident.
- A23 The Proponent must provide the Department with a subsequent incident report in accordance with **Appendix A** (Incident Notification and Reporting Requirements).
- A24 Where an incident involves an actual or potential fish kill, the Proponent shall also notify the EPA and DPIRD Fisheries of the incident, consistent with the requirements of condition A22, and the *Protocol for Investigating and Reporting Fish Kills* (DPI Fisheries, December 2023).

Non-Compliance Notification

A25 Within seven days of becoming aware of a non-compliance, the Proponent must notify the Department of the non-compliance. The notification must be in writing and must be submitted via the NSW planning portal (Major Projects). The notification must identify the project (including the application number and the name of the project if it has one), set out the condition of this approval that the project is non-compliant with, why it does not comply, the reasons for the non-compliance (if known), and what actions have been undertaken, or will be undertaken, and when, to address the non-compliance.

***Note:** A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.*

Complaints Management System

A26 A **Complaints Management System** must be prepared and implemented before the commencement of any Construction and maintained for the duration of Construction.

***Note:** In the situation where there are different entities constructing and operating the project, continuity of access to the Complaints Management System must be maintained.*

A27 The following information must be available to facilitate community enquiries and manage complaints one month before the commencement of Construction and for 12 months following the completion of construction:

- a) a 24- hour telephone number for the registration of complaints and enquiries about the project;
- b) a postal address to which written complaints and enquires 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.

This information must be accessible to all in the community regardless of age, ethnicity, disability or literacy level.

***Note:** This information may be located on site hoardings and on the project's website page.*

A28 A **Complaints Register** must be maintained recording information on all complaints received about the project during the carrying out of any Construction and for a minimum of 12 months following the completion of construction. The **Complaints Register** must record the:

- a) number of complaints received;
- b) the date and time of the complaint;
- c) the method by which the complaint was made;
- d) any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
- e) the nature of the complaint, including the issues raised;
- f) means by which the complaint was addressed and whether resolution was reached, with or without mediation; and
- g) if no action was taken, the reason(s) why no action was taken.

A29 Complainants must be advised of the following information before, or as soon as practicable after, providing personal information:

- a) the Complaints Register may be forwarded to government agencies, including the Department and its representatives, to allow them to undertake their regulatory duties;
- b) by providing personal information, the complainant authorises the Proponent to provide that information to government agencies;
- c) the supply of personal information by the complainant is voluntary; and
- d) the complainant has the right to contact government agencies to access personal information held about them and to correct or amend that information (**Collection Statement**).

The **Collection Statement** must be included on the Proponent's or project's website to make prospective complainants aware of their rights under the *Privacy and Personal Information Protection Act 1998* (NSW). For any complaints made in person, the complainant must be made aware of the **Collection Statement**.

Notes:

1. *For any complaints made in person, the complainant must be made aware of the Collection Statement.*
2. *Should a complainant disagree with the Collection Statement, a note to that effect must be recorded in the Complaints Register.*

- A30 The **Complaints Register** must be provided to the Planning Secretary upon request, within the timeframe stated in the request.

Provision of Electronic Information

- A31 A website or webpage providing information in relation to the project must be established before commencement of Construction and be maintained for the duration of construction, and for a minimum of 24 months following the completion of construction or unless an alternative timeframe is agreed by the Planning Secretary. The following up-to-date information (excluding confidential, personal, commercial information or any other information that the Planning Secretary has approved to be excluded) must be published before the relevant construction activity commences and maintained on the website or dedicated pages including:
- a) information on the current implementation status of the project;
 - b) a copy of the documents listed in condition A1, and any documentation relating to any modifications made to the project or the terms of this approval;
 - c) a copy of this approval in its original form, a current consolidated copy of this approval (that is, including any approved modifications to its terms), and copies of any approval granted by the Minister to a modification of the terms of this approval;
 - d) a copy of each statutory approval, licence or permit required and obtained in relation to the project;
 - e) a copy of the current version of each document required under the terms of this approval; and
 - f) a copy of the audit reports required under this approval.

Where the information / document relates to a particular construction activity or is required to be implemented, it must be published before the commencement of the relevant construction activity to which it relates or before its implementation.

All information required in this condition must be provided on the Proponent's website, ordered in a logical sequence, easy to navigate, searchable and with documents titles clearly presented.

Notes:

1. The intention of this condition is to increase transparency and for information/documents required as part of the approval to be provided proactively and publicly in an easily accessible manner. Where information is excepted by this condition, it is intended that these documents are provided in their redacted form.
2. The Planning Secretary may instruct the Proponent to finalise and upload any report or documents to the project's website in accordance with condition A3.
3. The publishing of documents should occur a minimum of a week before the relevant Construction / activity is going to commence.
4. In determining what information should be published under this condition, the proponent should have regard to the principles in Division 2 of Part 2 of the Government Information (Public Access) Act, 2009.
5. Documents should be named to be consistent with the conditions of approval where possible. The name should also give an overall impression of what the document is about. The names should be simple and concise (no more than 50 characters) without any unnecessary punctuation or under scoring in the title.

- A32 Where the agreement of the Planning Secretary is sought to cease providing information via a website or webpage in accordance with condition A31, the Proponent must demonstrate:
- a) compliance through independent audits completed in accordance with condition A21; and
 - b) how the public can request access to information that will no longer be available through a website or webpage.

13. Delete Conditions B3, B4, B5, B6 and B7.

14. Amend Condition B9 as follows:

- B9. The Proponent shall minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters ~~during construction and operation of the project.~~

15. Amend Condition B10 as follows:

- B10. The Proponent shall verify that the design of the berths and reclamation, and the characteristics of the associated reclamation material will not significantly alter groundwater flows and that a similar hydraulic conductivity to the existing outer harbour shoreline will be maintained. The verification

shall be submitted to the ~~Director General~~ Planning Secretary upon request prior to the commencement of construction of any berth or reclamation.

16. Amend Condition B11 as follows:

- B11. Prior to the commencement of construction, the Proponent shall develop a groundwater monitoring program ~~to the satisfaction of the DPI in consultation with DCCEE Water Group~~. The program shall be submitted to the ~~Director General~~ Planning Secretary upon request and be implemented throughout the duration of the construction and operation of the project, or until otherwise agreed by the ~~Director General~~ Planning Secretary.

17. Amend Condition B13 as follows:

- B13. The Proponent shall, within six months of the start of construction, unless otherwise agreed by the ~~Director General~~ Planning Secretary, prepare and implement an **Integrated Water Cycle Management Plan** for the project to facilitate Water Sensitive Urban Design measures and ensure that storm water systems are designed and built to minimise pollutant discharges into receiving waterways. The Plan shall be prepared in consultation with ~~OEPA~~ EPA and ~~I&I NSW DPIRD Fisheries~~ and shall include, but not be limited to:
- (a) the identification of existing hydrology conditions, including an investigation of the use of the culvert at the north of the reclaimed land;
 - (b) objectives and performance standards for water cycle outcomes that are to be achieved during operation of the project, including the identification and consideration of relevant design guidelines, standards and catchment management plans;
 - (c) water management measures that may be applied so as to meet the objectives and performance standards, including but not limited to:
 - i) on-site storage for rainwater reuse;
 - ii) storm water treatment devices to remove gross pollutants, sediments, oils and greases from first flush stormwater run-off;
 - iii) the incorporation of pollution control devices (eg gross pollutant traps) in the extensions of Salty Creek and Darcy Road drains;
 - iv) bioremediation swales; and
 - (d) ongoing operation maintenance, management and monitoring measures, for the achievement of the identified objectives and performance standards.

The Plan shall be prepared by a qualified practicing Civil Engineer with relevant experience in storm water and environmental engineering and implemented, ~~and shall be suitably incorporated into the Operational Environmental Management Plan.~~

18. Amend Condition B14 as follows:

- B14. Unless otherwise agreed by the ~~Director General~~ Planning Secretary, the Proponent shall design, construct, maintain and operate surface water and storm water management infrastructure on the Site to accommodate a ~~1 in 100 ARI~~ two exceedances per year (2EY) Average Recurrence Interval (ARI) rainfall event.

19. Amend Condition B16 as follows:

- B16. All demolition work shall be carried out in accordance with ~~AS 2601-2004~~ 25 The Demolition of Structures.

20. Amend Condition B17 as follows:

- B17. All imported fill material shall be classified as Virgin Excavated Natural Materials (VENM), unless applied in accordance with the terms of a Resource Recovery Exemption under the *Protection of the Environment Operations (Waste) Regulations 2005* 2014, or as otherwise agreed by the ~~Director General~~ Planning Secretary.

21. Amend Condition B22 as follows:

- B22. Prior to the commencement of land based excavation activities, the Proponent shall prepare a Soil Contamination Report detailing the outcomes of Phase 2 contamination investigations at excavation locations, to detail whether or not the soil is suitable for the intended land use, or can be made suitable for reuse through remediation (where reasonably practicable), the likely remediation strategy for addressing any contamination that has been encountered (if required), and how the environmental and health risks will be appropriately mitigated and managed during the disturbance, remediation (if applicable) and/or removal of contaminated soil.

Where the above investigations identify that the site is suitable for the intended land use and that there is no need for a specific remediation strategy, measures to identify, handle and manage potential contaminated soils, materials and groundwater shall be incorporated into the **Construction Environmental Management Plan** prepared in accordance with condition C36 of this approval. Should a remediation strategy be required, the Report shall include a remediation strategy for addressing the site contamination, and how the environmental and human health risks will be managed during the disturbance, remediation and/or removal of contaminated soil or groundwater.

The Report and recommendations shall be prepared in accordance with the requirements of the *Contaminated Land Management Act 1997* and associated guidelines. If required, the Report shall be accompanied by a Site Audit Statement(s), prepared by an accredited Site Auditor under the *Contaminated Land Management Act 1997*, verifying that the site is suitable or can be remediated to a standard consistent with the intended land use. A final Site Audit Statement(s), if required, shall be prepared by an accredited Site Auditor, certifying that the contaminated areas have been remediated to a standard consistent with the intended land use and shall be submitted to the Director-General Planning Secretary prior to ~~operation of the site~~ the submission of any project applications for Stages 2 and 3.

22. Delete Condition B23 and replace with the following:

- B23. Before the commencement of dredging, reclamation and emplacement activities, the Proponent must update and submit to the Planning Secretary, a **Containment Structures and Emplacement Report** which reflects the revised project. The report must be prepared by an appropriately qualified person(s) and describe how construction impacts to the emplacement cell have been considered to ensure that environmental and health risks will be appropriately mitigated and managed. The report must describe (with plans):
- a) the revised design of the emplacement cell;
 - b) the construction methodology for the revised design; and
 - c) the management of disturbance to and relocation of existing emplaced sediment, additional sediment emplacement and emplacement cell capping.

23. Amend Condition B25 as follows:

- B25. The box culverts for conveying Salty Creek flows shall be designed ~~to the satisfaction of I & I NSW~~ in consultation with DPIRD Fisheries and shall incorporate a V-shaped recess to facilitate the movement of fish and other mobile aquatic species during periods of low flow and be designed so as not to preclude light access as part of future project applications, unless otherwise agreed by the ~~Director-General~~ Planning Secretary.

24. Amend Condition B26 as follows:

- B26. The Proponent shall, prior to demolition, prepare photographic archival recordings of Jetties No. 3, ~~and No. 4~~ and No. 6, including a comprehensive history of these jetties. The recordings shall be in accordance with the ~~guideline *How to Prepare Archival Records of Heritage Items* (Heritage Office, 1998)~~ Guidelines for preparing archival recordings of heritage items as a condition of consent (DCCEEW, 2025), or any superseding document, and shall include copies of current and/or historical plans or drawings. Copies of the recordings are to be lodged with the State Library of NSW, ~~the Department (Heritage Branch)~~ Heritage NSW and the Council.

25. Delete Conditions B30, B31, B32, B33, B34 and B35.

26. Amend Condition B36 as follows:

- B36. The Proponent shall take all practicable measures to mitigate off-site lighting impacts from the project site and ensure all external lighting associated with the project complies with Australian Standard AS4282 ~~1997~~ :2023 – *Control of the Obtrusive Effects of Outdoor Lighting*.

27. Delete Conditions B37 and B38.

28. Delete Conditions B39, B40 and B41 and include the following under each deleted condition:

Note: Community consultation must be undertaken in accordance with the concept plan approval requirements.

29. Delete Conditions B42, B43, B44, B45 and B46.

30. Insert the following title and condition after Condition B46:

COASTAL HYDRODYNAMICS

- B47. The project and each stage of the project (as relevant) must be designed and constructed to minimise increases in infragravity (long) wave and gravity (ocean swell) wave parameters within both the inner and outer harbours and not to have a detrimental effect on harbour tidal flushing.

Notes:

1. A mooring analysis must be undertaken during detailed design to ensure that appropriate mooring loads are applied in the design.
2. A less reflective structure, such as an armoured revetment, could be considered for the northern reclamation quay wall in place of vertical or hard-faced structures.

31. Amend Condition C1 as follows:

- C1. The Proponent shall construct the project in a manner that minimises dust emissions from construction sites, including wind-blown and traffic-generated dust. ~~All~~ Construction activities shall be undertaken with the objective of preventing visible emissions of dust from construction sites and the Proponent shall, unless otherwise agreed by the ~~Director General~~ Planning Secretary, implement a range of mitigation measures, which may include but is not limited to:
- a) covering of truck loads, except during loading and unloading;
 - b) road sweeping, vehicle speed limits, truck washes and shaker grids at site exits;
 - c) unloading of fill trains through a below track system;
 - d) the sealing of trafficable areas and areas susceptible to windblown dust impacts; including the use of stockpile veneers and the watering of dusty areas; and
 - e) the cessation of relevant works, as appropriate.

The Proponent shall evaluate other dust control mitigations measures, including barriers, internal storage of fine construction materials (less than 3mm), exhaust emission controls and the use of mains electricity. These management measures shall be incorporated into the **Construction Air Quality Environmental Management Plan**.

32. Amend Condition C2 as follows:

- C2. ~~During~~ In response to odour complaints, during dredging activities, the Proponent shall monitor for odours ~~using field screening in accordance with the procedures identified in the~~ **Construction Environmental Management Plan** required under condition C36. The results of olfactory determination of the degree and extent of odour shall be recorded together with a description of concurrent operational activities. Reports shall be kept on the premises and made available to the ~~Director General~~ Planning Secretary on request.

33. Amend Condition C3 as follows:

C3. Construction activities associated with the project (except blasting and dredging activities) and which are audible at sensitive receivers, shall only be undertaken during the following hours:

- a) 7:00 am to 6:00 pm, Mondays to Fridays, inclusive;
- b) 8:00 am to 1:00 pm on Saturdays; and
- c) at no time on Sundays or public holidays.

~~Note: Dredging activities may be conducted at all times in accordance with the noise limits specified in condition C6.~~

34. Amend Condition C4 as follows:

C4. Construction outside the hours stipulated in condition C3 of this approval is permitted in the following circumstances:

- a) construction work that causes $L_{Aeq(15\text{minute})}$ noise levels that are:
 - i. no more than 5dB above rating background level at any residence in accordance with the *Interim Construction Noise Guideline* (DECC, 2009); and
 - ii. no more than the noise management levels specified in Table 3 of the *Interim Construction Noise Guideline* (DECC, 2009) at other sensitive land uses; or
- b) for the delivery of materials required outside these hours by the Police 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; or
- d) for out of hours works approved by ~~OE~~ EPA in an Environment Protection Licence (EPL) applying to the project; ~~or~~
- e) dredging may be conducted at all times in accordance with the noise limits specified in condition C6.

35. Amend Condition C6 as follows:

C6. The Proponent shall implement all reasonable and feasible noise mitigation measures as necessary to achieve the construction noise management levels as described in the *Interim Construction Noise Guideline* (DECC, 2009). Such measures may include, but not limited to efficient silencers, low-noise mufflers (residential standard) to plant and equipment, and screening worksites.

For the purpose of this condition, rating background levels shall be those established in the document referred to under condition A1 of this approval. Where rating background levels were not established in this document, the Proponent shall ensure that rating background levels are determined prior to the commencement of construction.

Any activities that have the potential to exceed the noise ~~objectives~~ management levels must be identified and managed in accordance with the ~~Construction Noise and Vibration Management Plan required under condition C37 of this approval~~ Construction Environmental Management Plan required under condition C36.

36. Amend Condition C7 as follows:

C7. The Proponent shall minimise noise emissions from plant and equipment, including the operation of bulldozers, cranes, graders, excavators, dredgers and trucks and the like. The plant and equipment shall have sound power levels ~~consistent with~~ no greater than those levels identified in Table 19 of the *Port Kembla Outer Harbour Noise Impact Assessment*, dated 20 September 2010 and prepared by AECOM Australia Pty Ltd, unless otherwise agreed by the ~~Director General~~ Planning Secretary.

37. Amend Condition C13 as follows:

C13. The Proponent shall ensure that construction vehicles associated with the project:

- a) minimise idling and queuing on public streets and that all parking is undertaken on-site;
- b) avoid the use of local roads to gain access to construction sites and adhere to nominated haulage routes identified in condition C14 and the ~~Construction Traffic Management Plan required under condition C37b) of this approval~~ **Construction Environmental Management Plan** required under condition C36; and
- c) adhere to a Construction Vehicle Code of Conduct prepared to manage driver behaviour along the local road network to address traffic impacts (and associated noise) along nominated haulage routes.

38. Amend Condition C14 as follows:

C14. The primary access route for construction vehicles shall be via Flinders Street and Old Port Road and along ~~the new link road off Christy Drive~~ Arawata Drive. Construction access to the site via the Five Islands Road and Darcy Road route shall be minimised to the greatest extent practicable.

39. Amend Condition C17 as follows:

C17. Prior to commencement of construction and after construction is complete, the Proponent shall commission road dilapidation reports for public roads that are to be used by construction traffic within the vicinity of the site, as nominated in the ~~Construction Traffic Management Plan (as required under condition C37b) of this approval~~ **Construction Environmental Management Plan** required under condition C36. Copies of the reports shall be provided to the relevant road authority. Any road/footpath damage, aside from that resulting from normal wear and tear, shall be repaired to a standard at least equivalent to that existing prior to the damage, in accordance with the requirements and to the satisfaction of the relevant road authority, and at the full expense of the Proponent.

40. Amend Condition C29 as follows:

C29. Prior to the commencement of any dredging and dredge spoil emplacement works, a **Dredging Water Quality Monitoring Program** to monitor turbidity and pollutant concentrations surrounding the works, and changes to those concentrations as a result of the project shall be developed. The Program shall be developed in consultation with ~~OEPA~~ EPA and ~~L&I DPIRD Fisheries~~ and include, but not necessarily be limited to:

- a) establishment of water quality criteria, consistent with any requirements of this approval and the EPL for the project, against which the water quality performance of the project will be assessed;
- b) procedures for monitoring of turbidity at the monitoring points established under condition C25 of this approval and monthly flyovers to assess for turbidity;
- c) procedures for monitoring contaminant concentrations as a result of the dredging works;
- d) procedures for toxicant monitoring using diffusive gradients in thin-films, including frequency of analysis;
- e) a broader sampling program to monitor harbour-wide trends in Outer Harbour water quality;
- f) an ongoing ecological monitoring program ~~to assess the ecological health of the Port Kembla Outer Harbour~~ in accordance with condition C32A;
- g) assessment, management processes, and trigger values to establish whether water quality criteria are being exceeded, or are likely to be exceeded as a result of the dredging reclamation or emplacement works; and
- h) contingency measures and actions to be taken in the event that elevated turbidity, pollutant or toxicity levels are detected, including investigations, variation of work methods, installation of additional pollutant controls, stop work, and notification to ~~OEPA~~ EPA.

The Program shall be integrated into the ~~Dredging and Reclamation~~ **Construction Environmental Management Plan** required under condition ~~C35~~ C36 and implemented for the duration of dredging, reclamation and emplacement works (or each phase of the works).

41. Amend Condition C30 as follows:

- C30. ~~At least two months prior to the commencement of any reclamation works, which do not include dredging or dredge spoil emplacement, a~~ **Reclamation Water Quality Monitoring Program** to monitor turbidity and other physico-chemical parameters surrounding the works, and changes to those parameters as a result of the project shall be developed. The Program shall be developed in consultation with ~~OEPA and L&I DPIRD Fisheries~~ and include but not necessarily be limited to:
- ~~establishment of water quality criteria, consistent with any requirements of this approval and the EPL for the project, against which the water quality performance of the project will be assessed;~~
 - ~~procedures for monitoring of turbidity and pH at the monitoring points established under condition C25 of this approval and monthly flyovers to assess for turbidity;~~
 - ~~assessment, management processes, and trigger values to establish whether water quality criteria are being exceeded, or are likely to be exceeded as a result of the reclamation works; and~~
 - ~~contingency measures and actions to be taken in the event that elevated turbidity levels are detected, including investigations, variation of work methods, installation of additional pollutant controls, stop work, and notification to OEPA.~~

The Program shall be integrated into the **Construction Environmental Management Plan** required under condition C36 and implemented for the duration of reclamation works (or each phase of the works).

42. Amend Condition C31 as follows:

- C31. The Proponent shall engage an appropriately qualified person to audit the construction of the emplacement cells and the emplacement of dredged sediments at the practical completion of each of the following stages:
- ~~construction of bunds within the reclamation footprint;~~
 - ~~the dredging of the existing spoil emplacement area;~~
 - ~~new bund walls to encapsulate spoil within the existing spoil emplacement area;~~
 - ~~deposition of dredged spoil; and~~
 - ~~the emplacement cell capping.~~

The audit shall consider the commitments contained in the documents referred to in condition A1 and the conditions of approval, in particular condition B23. The auditor shall provide the ~~Director General~~ Planning Secretary with a report within one month of each audit confirming that the cell construction and sediment emplacement are in accordance with the approval and the Containment Structures and Emplacement Report required under condition B23. ~~The Audit Reports shall be incorporated into the Compliance Tracking Program required in condition B42.~~

43. Delete Condition C32 and replace with the following:

- C32. Measures to manage impacts to aquatic fauna (including *Syngnathiformes*) from underwater blasting must have regard to the *Underwater Piling and Dredging Noise Guidelines* (Government of South Australia, 2023) and be documented in the **Construction Environmental Management Plan** required under condition C36.

44. Insert the following title and conditions after Condition C32:

Aquatic Biological Monitoring Program

- C32A The Proponent shall develop and implement an **Aquatic Biological Monitoring Program** including a sessile invertebrate recruitment study to monitor the effects of dredging and dredge spoil emplacement on larval. The Program shall be developed in consultation with DPIRD Fisheries and shall include, but not necessarily be limited to:
- the objectives of the Program;
 - baseline data set of sessile invertebrates and *Syngnathiformes*;
 - a timeline for the implementation of the Program;
 - a sampling and monitoring program, including methodology and frequency and reporting mechanisms, including annual reporting to DPIRD Fisheries;

- e) responsibilities for the ongoing implementation of the Program; and
- f) contingency measures to be undertaken should monitoring against the baseline data indicate a detrimental impact to sessile invertebrates and Syngnathiformes species.

C32B The Program shall be submitted to the Planning Secretary upon request and DPIRD Fisheries for information prior to the commencement of any dredging or dredge spoil emplacement activities, unless otherwise agreed by the Planning Secretary.

C32C The management of temporary lighting impacts on aquatic ecosystems, including migratory birds, during construction must have regard to the principles of best practice lighting design in the *National Light Pollution Guidelines for Wildlife* (Commonwealth of Australia, 2023).

45. Amend Condition C33 as follows:

C33. If during the course of dredging and other construction activities, shipwreck material is encountered, works in the immediate vicinity shall cease and ~~the Department (Heritage Branch)~~ Heritage NSW contacted to assess the discovery and provide advice of mitigation or other management measures. A qualified maritime archaeologist shall be engaged to assess the shipwreck and undertake any required underwater archival recording. Relevant works shall not recommence until written authorisation from ~~the Department (Heritage Branch)~~ Heritage NSW advising otherwise is received by the Proponent.

46. Amend Condition C34 as follows:

C34. If during the course of construction, the Proponent uncovers unidentified non-indigenous heritage items or relics, all works likely to affect the item(s) or relics shall cease in the immediate area to prevent impact to the find(s) and ~~the Department (Heritage Branch)~~ Heritage NSW be notified. A suitably qualified heritage consultant shall be contacted to determine the significance of the find(s) and appropriate management measures. Relevant works shall not recommence until written authorisation from ~~the Department (Heritage Branch)~~ Heritage NSW advising otherwise is received by the Proponent.

47. Delete Condition C35.

48. Replace Condition C36 with the following:

C36. A **Construction Environmental Management Plan(s) (CEMP)** must be prepared in consultation with EPA, DPIRD Fisheries, TfNSW and the Port Authority of NSW to manage construction related activities The **CEMP(s)** must be prepared having regard to the *Environmental Management Plan Guideline for Infrastructure Projects (Department of Planning, Industry and Environment, 2020)* and shall include, but not necessarily be limited to:

- a) the activities to be undertaken during the demolition of old jetties; and construction of berth structures, and any civil works (including utility services and drainage upgrades);
- b) a description of activities to be undertaken during dredging, reclamation and emplacement works, including proposed dredging methods, maps of dredge areas, disposal areas, containment structures and depths for each stage, marine blasting activities and blasting locations;
- c) a tiered (trigger level) approach to progressively implementing additional management actions, based on the results of real-time and visual monitoring, to ensure that suspended sediment concentrations do not exceed the criteria specified in condition C24; and
- d) details of how the environmental performance of the construction works will be managed and monitored, and what actions will be taken to avoid and/or manage impacts on the following environmental issues:
 - i) site preparation;
 - ii) construction noise and vibration, including details on how marine blasting will be managed;
 - iii) construction traffic, including importation of fill (via road or barge) and constructor working parking;

- iv) soil and water quality (including turbidity levels) and spoil management, including acid sulfate soil management;
- v) air quality (including odour, during handling of sediments) and dust management;
- vi) fauna and flora (terrestrial and aquatic);
- vii) measures for non-indigenous heritage items, including a shipwreck mitigation strategy;
- viii) waste management; and
- ix) unexpected find protocols for but not limited to heritage, shipwrecks, fauna and flora (including aquatic fauna).

The **CEMP(s)** must be submitted to the Planning Secretary for approval at least two months prior to the commencement construction.

Notes:

1. Condition C24 identifies Turbidity criteria
2. Condition C29 and C30 identify criteria for water quality criteria and monitoring.
3. Condition C32 refers to marine blasting.
4. Condition C4 permits dredging to be undertaken at all times in accordance with the noise limits specified in condition C6.
5. Incorporate measures from the Green and Golden Bell Frog Master Plan prepared to meet the requirements of concept plan approval MP 08_0249).
6. The CEMP(s) may reflect the construction of the project through geographical activities, temporal activities or activity-based staging - consistent with the **Staging Report** prepared under condition A13.

49. Delete Conditions C37 and C38.

50. Delete all conditions in Part D.

51. Insert the following title and condition after Condition D7:

MAINTENANCE OF SITE

- D8. The site must be managed and maintained until such time future operations under the Concept Plan approval have been activated.

52. Insert the following Appendix A after the end of Part D.

APPENDIX A

Incident Notification Requirements

1. All incident notifications and reports must be submitted via the NSW planning portal (Major Projects).
2. The Proponent must provide notification as required under these requirements, even if the Proponent fails to give the notification required under condition A22 or, having given such notification, subsequently forms the view that an incident has not occurred.
3. Within **7 days** (or as otherwise agreed by the Planning Secretary) of the Proponent making the immediate incident notification (in accordance with condition A22), the Proponent is required to submit a subsequent incident report that:
 - (a) identifies how the incident was detected;
 - (b) identifies when the Proponent became aware of the incident;
 - (c) identifies any actual or potential non-compliance with conditions of consent;
 - (d) identifies further action(s) that will be taken in relation to the incident;
 - (e) a summary of the incident;
 - (f) outcomes of an incident investigation, including identification of the cause of the incident;
 - (g) details of the corrective and preventative actions that have been, or will be, implemented to address the incident and prevent recurrence, including the period for implementing any corrective and/or preventative actions; and
 - (h) details of any communication with other stakeholders regarding the incident.

4. The Proponent must submit any further reports as directed by the Planning Secretary.

[end of modification]