

Modification of Development Consent

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*

The Independent Planning Commission, as delegate of the Minister for Planning and Public Spaces under the delegation executed on 14 September 2011, approves the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.

(Name of Commissioner)
Member of the Commission

(Name of Commissioner)
Member of the Commission

Sydney

2026

SCHEDULE 1

Development consent: **293-08-00** granted by the Minister for Urban Affairs and Planning on 6 April 2001

For the following: Stage 1, being the remediation of the Closure Area including the demolition and removal of structures, and the development of a Multi-Purpose Terminal comprising a container terminal and a general cargo handling facility, and associated road, rail and wharf infrastructure and dredging of the South Arm of the Hunter River

Applicant: Port of Newcastle Operations Pty Limited

Consent Authority: Minister for Planning and Public Spaces

The Land: Multi Purpose Terminal, Mayfield

Within the BHP Steelworks 'Closure Area' (Lots 41, 42 and 44 DP 1191982 and Lots 51, 52, 53 and 54 DP 1229869)
(Previously Lot 33 DP 1116571)

Modification: To remove the operational timeframe and prescriptive boundary of the General Cargo Handling Facility, and make administrative changes to conditions to reflect process, agency names and standard terminology.

SCHEDULE 2

The above consent is modified as follows:

In Schedule 2: Definitions

1. Amend by the insertion of the **bold and underlined** words / numbers and deletion of the struckout words as follows:

Term	Definition
<u>Applicant</u>	<u>Port of Newcastle Operations Pty Limited</u>
<u>Department</u>	<u>NSW Department of Planning, Housing and Infrastructure</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 non-compliance.</u> <u>Note: “material harm” is defined in this consent</u>
<u>Material Harm</u>	<u>Is harm that:</u> <u>(a) involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial, or</u> <u>(b) 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>Minister for Planning and Public Spaces</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>
The Department	The Department of Planning, Housing and Infrastructure
The Director-General	The Director-General of the Department of Urban Affairs and Planning, or her delegate
The Regulation	Environmental Planning and Assessment Regulation 1994 <u>2021</u>

In Schedule 2: Part 1 – Staged Development

2. Conditions 1.1A, 1.1B and 1.2 are amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words / numbers as follows:

~~1.1A The approval for the General Cargo Handling Facility granted under MOD 56-7-2008 shall operate for a maximum period of ten years from the date of this modification, or as otherwise agreed to by the Director General.~~

~~1.1B At five yearly intervals following commencement of operation of the General Cargo Handling Facility, the applicant shall submit a report to the Director General on the need or otherwise for the General Cargo Handling Facility to be retained on site and to remain operational. The report must include supporting justification.~~

- 1.2 Under Section 80(5) of the Act, the Applicant will require a further consent from the Minister for Stage 2 of the development.

*Note: A consent granted in accordance with Condition 1.2 does not require a further development application under section 78A of the Act. However the Applicant shall submit further detailed information, as required by the ~~Director-General~~ **Planning Secretary** and the Integrated Approval Bodies at that time. The ~~Director-General~~ **Planning Secretary** shall consult with any relevant authorities and consider any submissions before Stage 2 of the development is determined.*

In Schedule 2: Part 2 – General

3. Condition 2.2 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words / numbers as follows:

Terms of Approval

- 2.2 The Applicant shall carry out the development generally in accordance with the:

- (a) **Development application DA-293-08-00** submitted to the Department of Urban Affairs and Planning, accompanied and amended by:
- (i) the letter from the Applicant to the Director-General, dated 28 September 2000, specifically excluding Stage 2 and all works;
 - (ii) Environmental Impact Statement, titled "Development of a Multi-Purpose Terminal and Remediation of the Closure Area, BHP Newcastle Steelworks" dated 11 August 2000, and prepared by URS Corporation Volumes 1 – 3;
 - (iii) Additional information supplied to the Environment Protection Authority by URS Corporation including:
 - Development of a Multi-Purpose Terminal and Remediation of the Closure Area, BHP Newcastle Steelworks Environmental Impact Summary Document;

- “Response to EPA Request for Additional Information – Air Quality Issues, BHP Newcastle Steelworks Development”, prepared for BHP Newcastle, 11 November 2000;
 - “Response to EPA Request for Additional Information – Noise Issues, BHP Newcastle Steelworks Development”, prepared for BHP Newcastle, 14 November 2000.
- (iv) The document titled *Proposed Multi-Purpose Terminal Consequence Analysis for URS*, prepared by Quest Consulting Engineers Pty Ltd and dated February 2001;
- (b) **Modification application DA-293-08-00-M1**, approved on 29 June 2001, in relation to the timing of establishment of a Community Consultative Committee;
- (c) **Modification application DA-293-08-00-M2**, approved on 13 August 2001, in relation to excision of heritage areas from the development area;
- (d) **Modification application DA-293-08-00-M3**, approved on 15 February 2002, in relation to protection of fig trees and noise monitoring requirements;
- (e) **Modification application MOD-77-7-2003-i**, approved on 16 September 2003, in relation to the burial of Blast Furnace No.1 slag stump, accompanied and amended by:
- (i) the letter, titled *BHP Newcastle Development of a Multi-Purpose Terminal and Closure Area Remediation – Development Application DA 293-08-00. Your File S99/00601 – Condition 6.1 – Item 1, Remnants of No.1 Blast Furnace*, prepared by BHP Billiton and dated 23 April 2003, relating to the modifications to the consent;
 - (ii) the letter, titled *BHP Steelworks Newcastle, Burial of Heritage Structure (No. 1 Blast Furnace Stump) – Development Consent Condition 6.1 DA 293-08-00. Your Ref S99/00601*, prepared by BHP Billiton Ltd and dated 8 June 2003, relating to the modifications to the consent; Page 5
 - (iii) the report, titled *BHP Steelworks Newcastle, Burial of Heritage Structure (No. 1 Blast Furnace Stump) – Development Consent Condition 6.1 DA 293-08-00. Your Ref S99/00601*, prepared by BHP Billiton Ltd and dated 2 July 2003, relating to the modifications to the consent;
- (f) **Modification application MOD-60-4-2005-i**, approved on 15 September 2005, in relation to land description, soil capping, hours of operation, groundwater management, stormwater, capping exemptions and transport infrastructure, accompanied by *Application to Vary Development Conditions for the Multi Purpose Terminal and Remediation of the Former BHP Site, Mayfield (2001)*, prepared by URS Australia Pty Ltd and dated 19 April 2005; and
- (g) **Modification application MOD-64-7-2007-i**, approved on 21 August 2007, in relation to alteration of the alignment of the railway lines and relocation of two major stormwater drainage lines on the site, accompanied and amended by:

- (i) *Application to Vary Development Conditions for the Multi Purpose Terminal and Remediation of the Former BHP Site, Mayfield* (2000), prepared by the Regional Land Management Corporation Pty Ltd and dated 10 July 2007;
- (ii) the letter, titled *Remediation Civil Design Works – Main Works Site – Stormwater Analysis* prepared by Patterson Britton & Partners and dated 12 July 2007, relating to the modification to consent;
- (iii) the report, titled *Preliminary Design Stormwater Strategy Issue No 2* prepared by Patterson Britton & Partners and dated August 2006, relating to the modification to consent;
- (iv) the plans, titled *Selwyn Street Drain* (Drawing Nos 6073-500, 501 & 502 Issue 1) prepared by Patterson Britton & Partners; and
- (h) **Modification application MOD-56-7-2008** in relation to the alterations to, and temporary relocation of, the general cargo handling facility, refurbishment of the existing wharf and a change in site access from Crebert Street to Selwyn Street, accompanied and amended by:
 - (i) Section 96 Modification Application, Multi-purpose Terminal and Remediation of former BHP Site, Mayfield, prepared by Connell Wagner Pty Ltd and dated 15 August 2008;
 - (ii) Plans titled *Mayfield Berth Refurbishment Plans* prepared by Patterson Britton & Partners Pty Ltd dated July 2008;
 - (iii) Plans titled *Selwyn Road Upgrade Plans* prepared by Worley Parsons Pty Ltd and dated August 2008; and
 - (iv) The report titled *Traffic Impact Statement, Proposed Interim Port Side Industrial Development, Selwyn Street, Mayfield, NSW* prepared by Better Transport Futures and dated October 2008; and
- (i) **Modification application MOD-06-02-2009** in relation to a minor change to the rail line layout, accompanied and amended by:
 - (i) Section 96 Modification Application, Multi-purpose Terminal and Remediation of the Closure Area, BHP Newcastle Steelworks, submitted by Hunter Development Corporation and dated 12 February 2009; and
 - (ii) *Application to Vary Development Conditions for the Multi Purpose Terminal and Remediation of the Former BHP Site, Mayfield* (2000), prepared by Hunter Development Corporation dated January 2009; and
- (j) **Modification Application DA293-08-00-Mod-10 titled *Mayfield multi-purpose terminal reconfiguration Modification Report*, dated 25 March 2026 prepared by AECOM; and Response to Submissions titled *Modification 10 to DA293-08-00 – Mayfield Multi-Purpose Terminal Reconfiguration – response to Submissions*, dated 14 May 2026 prepared by Port of Newcastle; and**
- (k) the conditions of this consent.

If there is any inconsistency between the above, these conditions shall prevail.

4. Condition 2.2A is inserted by the **bold and underlined** words / numbers as follows:

2.2A The Applicant must comply with any requirement/s of the Planning Secretary arising from the Department's assessment of:

- a) **any strategies, plans or correspondence that are submitted in accordance with this consent;**
- b) **any reports, reviews or audits commissioned by the Department regarding compliance with this consent; and**
- c) **the implementation of any actions or measures contained in these documents.**

5. Condition 2.3A is inserted by the **bold and underlined** words / numbers as follows:

2.3A This consent does not permit the storage of dangerous goods in the General Cargo Handling Facility, except in accordance with:

- (a) **development consent DA8137; and**
- (b) **Condition 7.3 of this consent.**

6. Condition 2.6 is amended by replacing 'Director-General' with 'Planning Secretary'.

In Schedule 2: Part 3 – Compliance and Compliance Reports

7. Condition 3.3 is amended by replacing 'Director-General' with 'Planning Secretary'.

8. Conditions 3.3A, 3.3B, 3.3C, 3.3D and 3.3E are inserted by the **bold and underlined** words / numbers as follows:

3.3A The Applicant must comply with all written requirements or directions of the Planning Secretary, including in relation to:

- a) **the environmental performance of this consent;**
- b) **any document or correspondence in relation to the consent;**
- c) **any notification given to the Planning Secretary under the terms of this consent;**
- d) **any audit of the construction or operation of the consent;**
- e) **the terms of this approval and compliance with the terms of this approval (including anything required to be done under this consent); and**
- f) **the carrying out of any additional monitoring or mitigation measures.**
- g) **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 consent.**

Incident Notification, Reporting and Response

3.3B The Planning Secretary must be notified via the Major Projects Website immediately after the Applicant becomes aware of an Incident. The

notification must identify the SSD (including the application number and the name of the SSD if it has one) and set out the location and nature of the Incident.

3.3C Subsequent notification must be given and reports submitted in accordance with the requirements set out in Appendix A.

Non-Compliance Notification

3.3D The Planning Secretary must be notified via the Major Projects Website within seven days after the Applicant becomes aware of any non-compliance. The notification must identify the SSD (including the application number and the name of the SSD if it has one), identify the condition/s against which the SSD is non-compliant, the nature of the non-compliance; the reason for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

3.3E A non-compliance which has been notified as an Incident under Condition 3.3B does not need to be notified as a non-compliance.

In Schedule 2: Part 4 – Environmental Management Plans

9. Conditions 4.2, 4.3, 4.6, and 4.7 are amended by replacing 'Director-General' with 'Planning Secretary'.

In Schedule 2: Part 5 – Environmental Standards and Conditions

10. Conditions 5.1, 5.8, 5.9, 5.12, 5.13, 5.46, 5.48, and 5.49 are amended by replacing 'Director-General' with 'Planning Secretary'.

In Schedule 2: Part 6 – Cultural Heritage

11. Conditions 6.2, 6.3, and 6.5 are amended by replacing 'Director-General' with 'Planning Secretary'.

In Schedule 2: Part 7 – Hazards

12. Conditions 7.2, 7.4, 7.5, 7.8, 7.9, 7.10, and 7.11 are amended by replacing 'Director-General' with 'Planning Secretary'.

In Schedule 2: Part 8 – Environmental Monitoring Program

13. Conditions 8.1, 8.2, 8.3, and 8.4 are amended by replacing 'Director-General' with 'Planning Secretary'.

In Schedule 2: Part 9 – Environmental Management and Reporting

14. Conditions 9.1, 9.2, 9.3, 9.4, 9.5, 9.6 and 9.7 are amended by replacing 'Director-General' with 'Planning Secretary'.

In Schedule 2: Part 10 – Dispute Resolution

15. Condition 10.1 is amended by the insertion of the **bold and underlined** words / numbers and deletion of the ~~struckout~~ words / numbers as follows:

10.1 If the Applicant, Newcastle City Council, and/or any NSW Government agency, other than the Department of ~~Urban Affairs and Planning~~, cannot agree on any aspect of this consent, other than a General Term of Approval, the matter may be referred by any of these parties to the ~~Director General~~ **Planning Secretary** or, if necessary, the Minister, whose determination on the dispute shall be binding on all parties.

16. Appendix A – Incident Notification and Reporting Requirements is inserted by the **bold and underlined** words / numbers as follows:

APPENDIX A

INCIDENT NOTIFICATION AND REPORTING REQUIREMENTS

INCIDENT NOTIFICATION REQUIREMENTS

1. **A written Incident notification addressing the requirements set out below must be submitted to the Department via the Major Projects website within seven (7) days after the Applicant becomes aware of an Incident. Notification is required to be given under this condition even if the Applicant fails to give the notification required under Condition 3.3B or, having given such notification, subsequently forms the view that an incident has not occurred.**
2. **Written notification of an Incident must:**
 - (a) **identify the SSD and application number;**
 - (b) **provide details of the Incident (date, time, location, a brief description of what occurred and why it is classified as an Incident);**
 - (c) **identify how the incident was detected;**
 - (d) **identify when the Applicant became aware of the Incident;**
 - (e) **identify any actual or potential non-compliance with conditions of consent;**
 - (f) **describe what immediate steps were taken in relation to the Incident;**
 - (g) **identify further action(s) that will be taken in relation to the Incident; and**
 - (h) **identify a project contact for further communication regarding the Incident**
3. **Within 30 days of the date on which the Incident occurred or as otherwise agreed to by the Planning Secretary, the Applicant must provide the Planning Secretary and any relevant public authorities (as determined by the Planning Secretary) with a detailed report on the incident addressing all requirements below, and such further reports as may be requested.**
4. **The Incident Report must include:**
 - (a) **a summary of the Incident;**

- (b) outcomes of an Incident investigation, including identification of the cause of the Incident;
- (c) 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
- (d) details of any communication with other stakeholders regarding the Incident.

End of modification
(DA 293-08-00 MOD 10)