

DEPARTMENT OF PLANNING & ENVIRONMENT

Planning Services

SUBJECT: NPC PORT TERMINAL FACILITIES MAYFIELD CONCEPT PLAN - MODIFICATION 2

PURPOSE

To determine a modification of the Newcastle Port Corporation Port Terminal Facilities Mayfield Concept Plan to correct typographical errors in the approval and to clarify an intended ambiguity in requirement 2.3.

BACKGROUND

The Minister approved the Newcastle Port Corporation Port Terminal Facilities Mayfield Concept Plan (MP09_0096) on 16 July 2012. The subject site is a portion of the former BHP steelworks site on the south arm of the Hunter River at Mayfield, approximately seven kilometres north-west of Newcastle.

The Concept Plan provided for five precincts within the site based on an indicative volume scenario. The Concept Plan as initially approved specified maximum road and rail traffic movements and noise limits for each of the five precincts.

Modification 1 was approved by the Director, Infrastructure Projects on 17 March 2014. It replaced the precinct-based road and rail traffic limits (requirements 2.3 and 2.4) with limits that apply across the Concept Plan-site. The requirements for maximum sound power limits for each precinct (requirement 2.16) were also removed and replaced with a Site Noise Model to ensure that the noise goals at sensitive receivers surrounding the site are met, as required by requirement 2.17. Modification 1 also included corresponding changes (such as cross references and table numbers) to several other requirements.

Port of Newcastle (PoN), the port lessee following the transaction with the New South Wales Government, has reviewed the modified Concept Plan and noted two typographical errors (in requirements 2.1(g) and 2.3(b) respectively) and an ambiguity in the wording of requirement 2.4. Rectification of these is the subject of the current modification (Modification 2), for which PoN is the proponent.

PROPOSED MODIFICATION

The proposed modification includes the following changes to conditions (new wording in ***bold italics***, deleted wording in ~~strikethrough~~):

- Amend requirement 2.1(g)(iii) to read “identify baseline and future requirements ***and*** the levels and character of noise and vibration sources; ~~and sound power levels, including consistency with precinct criteria levels specified in this approval;~~”;
- Amend requirement 2.3(b)(ii) to read “the implementation of a *Transport Infrastructure Strategy* as per requirement ~~0~~ ***2.4***, which has been endorsed by Transport for NSW and RMS”; and
- Amend requirement 2.4 to read “Truck movements by road, which exceed the limits specified in ~~requirement 2.3b) and Table 2~~ ***requirement 2.3 (Table 2)***, may be undertaken following the preparation, endorsement and implementation of a Transport Infrastructure Strategy. The Strategy shall provide a framework for the development and implementation of local, regional and State road and rail infrastructure improvements or traffic management measures necessary for an increase in truck movements beyond the limits identified in ~~requirement 2.3b) and~~

~~Table 2~~ **requirement 2.3 (Table 2)**. The Strategy shall be developed in consultation with the Department, Transport for NSW, RMS, Council, adjoining land owners and the local community.” ...

CONSULTATION

In accordance with section 75X of the EP&A Act and clause 8G of the *Environmental Planning and Assessment Regulation 2000*, the modification request was made available on the Department's website. Due to the administrative nature of the proposed modification (correcting typographic errors and clarifying an unintended ambiguity), the modification request was not exhibited by any other means or referred to any council or agency. No submissions were received on the modification request.

DELEGATED AUTHORITY

On 10 November 2014, the Minister for Planning delegated her powers and functions under section 75W of the EP&A Act to Directors and Managers who report to the Executive Director, Infrastructure and Industry Assessment in cases where the local Council has not made an objection, a political disclosure statement has not been made, and there are no public submissions in the nature of objections in respect of the modification request. The Director, Infrastructure Projects may determine the modification request under delegated authority as no public or Council submissions, or political disclosure statements were received.

ISSUES

Typographic Errors

The proposed wording to requirements 2.1(g)(iii) and 2.3(b)(ii) matches that proposed in Modification 1. The requested change to requirement 2.1(g)(iii) was omitted from the Modification 1 Instrument, and the cross reference from requirement 2.3(b)(ii) to requirement 0 was a formatting error that was intended to refer to requirement 2.4.

The proposed modifications to requirements 2.1(g)(iii) and 2.3(b)(ii) were notified to the City of Newcastle and relevant agencies in the assessment of Modification 1. Moreover, they were changes that were consequences of the more substantial changes to requirements 2.3, 2.4 and 2.16. The amendments correct two errors in the Modification 1 Instrument and are supported by the Department.

Clarification

Requirement 2.4 is the development of a *Transport Infrastructure Strategy*, which is triggered when truck movements associated with the Concept Plan site reach thresholds established in requirement 2.3.

Modification 1 changed the original Concept Plan approval references to requirement 2.3(b) in the first and second paragraphs of requirement 2.4 “requirement 2.3(b) and Table 2”, as requested by the Proponent. The Proponent now suggests that this wording may be ambiguous as Table 2, which provides truck limits for the ‘intermediate’ level (i.e. the maximum level before the *Transport Infrastructure Strategy* is triggered), falls under requirement 2.3(a). This may create uncertainty regarding when the *Transport Infrastructure Strategy* is required.

The Department considers that the proposed change of "requirement 2.3(b) and Table 2" to "requirement 2.3 (Table 2)" maintains the 'intermediate' truck limit beyond which the *Transport Infrastructure Strategy* is required, and concurs with the Proponent that the change will reduce potential ambiguity. The proposed change is supported.

RECOMMENDATION

It is RECOMMENDED that the Director, Infrastructure:

- note the information provided in this briefing;
- approve the modification request; and
- sign the attached modifying instrument (Tab A).

Prepared by:



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Approved by:



Karen Jones 12-12-14
Director, Infrastructure

