

Infrastructure approval

Section 115ZB of the *Environmental Planning & Assessment Act 1979*

As delegate of the Minister for Planning under delegation executed on 16 February 2015, I grant approval to the carrying out of the State significant infrastructure (SSI) referred to in Schedule 1, subject to the conditions in Schedule 2.

David Gainsford
Executive Director
PRIORITY PROJECTS ASSESSMENT

Sydney

2017

SCHEDULE 1

Application no.:	SSI 7734
Proponent:	NSW Department of Industry – Lands & Forestry
Approval Authority:	Minister for Planning
Land:	Breakwater Wharf and dredging footprint partly within Lot 111 DP839683 and vacant Crown land at Snug Cove, Twofold Bay, within the Port of Eden.
Description of State Significant Infrastructure:	<p>The proposed infrastructure includes:</p> <ul style="list-style-type: none">• dredging of approximately 231,500m³ of in-situ material from the bed of Snug Cove/Two-fold Bay;• extension of the existing Breakwater Wharf by approximately 95m;• installation of three mooring dolphins and two berthing dolphins;• installation of three mooring bollards on the existing wharf;• extension of existing services (lighting, potable water and emergency fire-fighting water);• installation of navigation aids; and• operation of the extended wharf for use by up to 60 cruise ships per annum and associated land-based facilities and services for management of passenger visitation including disembarkation, embarkation and transport.
State Significant Infrastructure	<p>The proposal is State Significant Infrastructure because it is development for the purpose of “port and wharf facilities or boating facilities (not including marinas) by or on behalf of a public authority that has a capital investment value (CIV) of more than \$30 million” in accordance with Schedule 3 of <i>State Environmental Planning Policy (State and Regional Development) 2011 (SRD SEPP)</i>.</p>

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DEFINITIONS

Table 1: Definitions

Term	Definition
Ancillary Facility	Temporary facility required for Construction of the project including an office and amenities compound, construction compound, material crushing and screening plant, materials storage compound, maintenance workshop, testing laboratory and material stockpile area
CEMP	Construction Environmental Management Plan
Completion of construction	The date upon which all construction works and activities described in the EIS/Submissions Report are completed, all requirements of the Secretary (if any) have been met and the whole of the SSI has been constructed to the appropriate standard for operation
Consistency assessment	An assessment of whether a proposed activity for the purpose of the SSI is consistent with the terms of this approval
Construction	Includes all physical work required to construct the SSI, other than the following low impact work: <ul style="list-style-type: none"> (a) survey works including carrying out general alignment survey, installing survey controls (including installation of global positioning system (GPS)), installing repeater stations, carrying out survey of existing and future utilities and building and road dilapidation surveys, and hydrographic survey; (b) background and/or baseline monitoring works; (c) investigations including investigative drilling and excavation; (d) establishment of ancillary facilities in approved locations or in locations meeting the criteria identified in Condition A9 and Condition A11 of this approval including constructing ancillary facility access roads and providing utilities to the facility; (e) operation of ancillary facilities if the ER has determined the operational activities will have minimal impact on the environment and community; (f) minor clearing and relocation of native vegetation, as identified in the EIS/Submissions Report; (g) installation of mitigation measures including erosion and sediment controls, temporary exclusion fencing for sensitive areas and acoustic treatments; (h) relocation and connection of utilities where the relocation or connection does not present a significant risk to the environment as determined by the ER; (i) archaeological testing under the <i>Code of practice for archaeological investigation of Aboriginal objects in NSW (DECCW, 2010)</i> or archaeological monitoring undertaken in association with [a]-[i] above to ensure that there is no impact on heritage items;

Term	Definition
Construction (continued)	<p>(j) other activities determined by the ER to have minimal environmental impact which may include construction of minor access roads, temporary relocation of pedestrian and cycle paths and the provision of property access; and</p> <p>(k) maintenance of existing buildings and structures required to facilitate the carrying out of the SSI.</p> <p>However, where heritage items, or threatened species, populations or ecological communities (within the meaning of the EP&A Act) are affected or potentially affected by any low impact work, that work is construction, unless otherwise determined by the Secretary in consultation with OEH or DPI Fisheries (in the case of impact upon fish, aquatic invertebrates or marine vegetation).</p> <p>The low impact work described in this definition becomes construction with the approval of a Construction Environmental Management Plan.</p>
Cruise season	Arrival of the first cruise ship in the last half of a calendar year until departure of the last cruise ship in the first half of the following calendar year
Department	NSW Department of Planning and Environment
Department of Industry	including NSW Department of Industry — Lands & Forestry
DECC	Former NSW Department of Environment and Climate Change
DECCW	Former NSW Department of Environment, Climate Change and Water
DPI	NSW Department of Primary Industries including DPI Agriculture, DPI Biosecurity and Food Safety, DPI Water and DPI Fisheries
EIS	The <i>Eden Breakwater Wharf Extension State Significant Infrastructure – Environmental Impact Statement</i> , dated 3 November 2016, submitted to the Secretary seeking approval to carry out the SSI and as revised if required by the Secretary under the EP&A Act
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i> (NSW)
EPA	NSW Environment Protection Authority
EPL	Environment Protection Licence under the POEO Act
ER	The Environmental Representative for the SSI
Heritage item	A place, building, work, relic, archaeological site, tree, movable object or precinct of heritage significance, that is listed or may be eligible to be listed under one or more of the following registers: the State Heritage Register under the <i>Heritage Act 1977</i> (NSW), a state agency heritage and conservation register under section 170 of the <i>Heritage Act 1977</i> (NSW), a Local Environmental Plan under the EP&A Act, the World, National or Commonwealth Heritage lists under the <i>Environment Protection and Biodiversity Conservation Act 1999</i> (Commonwealth), and an Aboriginal object or Aboriginal place as defined in section 5 of the <i>National Parks and Wildlife Act 1974</i> (NSW).
Highly noise affected	As defined in the <i>Interim Construction Noise Guideline</i>

Term	Definition
Incident	<p>An occurrence or set of circumstances that:</p> <ul style="list-style-type: none"> causes, or threatens to cause, material harm to the environment, community or any member of the community, being actual or potential harm to the health or safety of human beings or to threatened species, endangered ecological communities or ecosystems that is not trivial; or results in non-compliance with this approval. <p><i>Note: This meaning of “material harm” applies for the purpose of this approval only</i></p>
Land	Has the same meaning as in the EP&A Act
Landowner	Has the same meaning as “owner” in the <i>Local Government Act 1993</i> and in relation to a building means the owner of the building
MARPOL (short for Marine Pollution)	<p>MARPOL means the International Convention for the Prevention of Pollution from Ships, 1973:</p> <ul style="list-style-type: none"> (a) as corrected by the Procès-Verbal of Rectification dated 13 June 1978, and (b) as affected by any amendment made under Article 16 of MARPOL, other than an amendment not accepted by Australia, and (c) as modified and added to by the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, as affected by any amendment to that Protocol made under Article VI of that Protocol other than an amendment not accepted by Australia or that has not entered into force in Australia.
MARPOL Annex VI	Regulations for the prevention of air pollution from ships
Minister	NSW Minister for Planning
Minor Ancillary Facilities	Facilities such as lunch sheds, office sheds and portable toilets
MOD 1	<i>Eden Breakwater Wharf Extension Modification Request to Infrastructure Approval SSI 7734 (2 July 2018)</i>
MOD 1 Addendum	<i>SSI 7734 Mod 1 – Addendum Modification report (14 October 2018)</i>
NO ₂	Nitrogen dioxide
NSW Heritage Council	Heritage Council of NSW
OEH	NSW Office of Environment and Heritage
OEMP	Operational Environmental Management Plan
Offensive noise	Has the same meaning as in the POEO Act
Offensive odour	Has the same meaning as in the POEO Act
Operation	<p>The operation of the SSI (whether in full or in part) for its intended purpose, excluding the following activities carried out during construction:</p> <ul style="list-style-type: none"> commissioning trials of equipment; temporary use of any part of the SSI; and maintenance works
POEO Act	<i>Protection of the Environment Operations Act 1997 (NSW)</i>
Ports NSW	Port Authority of NSW

Term	Definition
Proponent	The person identified as such in Schedule 1 of this approval and any other person carrying out any part of the SSI from time to time
Proposed Mitigation Measures	As detailed in the Summary of Proposed Mitigation Measures, contained in <i>Response to Submissions Report Eden Breakwater Wharf Extension</i> , dated 24 February 2017.
Refined SO ₂ Emission Modelling	Appendix C to the <i>Eden Breakwater Wharf Extension Modification Request to Infrastructure Approval SSI 7734</i> (2 July 2018)
Relevant Maritime Acts	Commonwealth protection of the Sea (Prevention of Pollution from Ships) Act 1983 and Commonwealth Navigation Act 2012 as amended from time to time, or the relevant Act(s) applying at the time
Relevant Maritime Authority	Harbour Master or authorised officer as defined in the <i>Marine Safety Act 1998</i> , or authorised officer or inspector under the <i>Marine Pollution Act 2012</i>
Secretary	Secretary of the NSW Department of Planning and Environment (or nominee, whether nominated before or after the date on which this approval was granted)
Sensitive Receiver	Includes residences, educational institutions (including preschools, schools, universities, TAFE colleges), health care facilities (including nursing homes, hospitals), religious facilities (including churches), child care centres, passive recreation areas (including outdoor grounds used for teaching), active recreation areas (including parks and sports grounds), commercial premises (including film and television studios, research facilities, entertainment spaces, temporary accommodation such as caravan parks and camping grounds, restaurants, office premises, retail spaces and industrial premises), and others as identified by the Secretary
Submissions Report	<i>Response to Submissions Report Eden Breakwater Wharf Extension</i> , dated 24 February 2017, including the Summary of Proposed Mitigation Measures.
SSI	The State Significant Infrastructure, as generally described in Schedule 1 (SSI 7734), the carrying out of which is approved under the terms of this approval
Threatened Flora and Fauna	Threatened species, populations and ecological communities listed under the NSW <i>Threatened Species Conservation Act 1995</i> , NSW <i>Fisheries Management Act 1994</i> and Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i>
Unexpected find	Any unexpected find that has consequences for the project and/ or requires further assessment including unexpected services, contaminated soil or sediments, threatened or thought to be extinct flora and fauna species and heritage items
Unexpected heritage find	An unexpected heritage find is a potential heritage item that is discovered (usually during construction), where further assessment is required to determine if the item has heritage significance, or is an Aboriginal object, and the Proponent does not have approval to impact the item or object. Unexpected heritage finds do not include human remains, which are dealt with separately

SUMMARY OF REPORTING REQUIREMENTS

Reports and notifications that must be provided to the Secretary under the terms of this approval are listed in **Table 2**.

Table 2: Reports and Notifications that must be submitted to the Secretary

Condition	Report / Notification	Timing ¹	Purpose
Part A - Administrative			
A14	Approval of Environmental Representative	One month prior to commencement of Construction or within another timeframe agreed with the Secretary	Approval
A16(l)	Environmental Representative Reports	Within seven days following the end of each month for the duration of Construction or as otherwise agreed with the Secretary	Information
A17	Construction and Operation Compliance Tracking Programs	One month prior to commencement of Construction and Operation, respectively, or within another timeframe agreed with the Secretary	Approval
A19	Pre-Construction and Pre-Operation Compliance Reports	One month prior to commencement of Construction and Operation respectively or within another timeframe agreed with the Secretary	Information
A21	Construction and Operation Compliance Reports	6-monthly from the date of the commencement of Construction One month from the end of the first calendar year of Operation and one month after the end of the 2019/2020 cruise season and following that, one month after the end of the cruise season	Information
A23(g)	Five Year Operational Compliance Summary Reports	Within 3 months of the end of each five years of operation	Information
A25	Approval of compliance auditor	One month prior to the compliance audit being undertaken	Approval
A26	Compliance Audit Reports	Within six weeks of completing the audit or within another timeframe agreed with the Secretary	Information
A29	Complaints Register	On request during Construction and Operation or within another timeframe agreed with the Secretary	Information
A33	Notification of incident	As early as possible and within 24 hours of the Proponent being made aware of the incident	Information
A36	Notification of incident notified to the EPA under the POEO Act	Within 24 hours of notifying the Environment Protection Authority (EPA)	Information
A37	Staging report (if required)	No later than one month before the commencement of Construction of the first of the proposed stages of Construction (or if only staged Operation is proposed, one month before the commencement of operation of the first of the proposed stages of operation), or	Information

¹ Where a project is staged, all required approvals must be obtained prior to the commencement of the relevant stage.

Condition	Report / Notification	Timing ¹	Purpose
		within another timeframe agreed with the Secretary	
Part B - Communication Information and Reporting			
B2	Community Consultative Committee Report	Five years after commencement of the Community Consultative Committee	Information
B4	Community Communication Strategy	One month prior to commencement of any work	Approval
B6	Website	One month prior to commencement of works	Information
Part C - Construction Environmental Management			
C7	CEMP and CEMP Sub-plans	One month prior to commencement of Construction	Approval
C13	Construction Monitoring Programs	One month prior to commencement of Construction or within another timeframe agreed with the Secretary	Approval
C16	Construction Monitoring Report	As specified in Construction Monitoring Programs	Information
Part D - Operation Environmental Management			
D5	OEMP and OEMP Sub-plans	<p>One month prior to commencement of Operation or within another timeframe agreed with the Secretary</p> <p>Five Year Revision within one month of submission of the Five Year Operation Compliance Summary Reports</p>	Approval
D10	Air Quality Operation Monitoring Program	At least one month prior to operation	Approval
Part E – Key Issue Conditions			
E11	Night Dredging Protocol	One month prior to commencement of Construction (as part of the Noise and Vibration CEMP Sub-plan)	Approval
E13	Night Dredging Assessment Period Report	Within one week of the end of the assessment period required under condition E13	Approval
E14	Updated Night Dredging Protocol	Within one week of the Secretary's determination of the Night Dredging Assessment Period Report	Approval

SCHEDULE 2

PART A

ADMINISTRATIVE CONDITIONS

GENERAL

- A1 The SSI must be carried out:
- (a) in compliance with the conditions of this consent;
 - (b) in accordance with all written directions of the Planning Secretary;
 - (c) generally in accordance with the EIS and Response to Submissions:
 - i. the *Eden Breakwater Wharf Extension State Significant Infrastructure – Environmental Impact Statement*, dated 3 November 2016,
 - ii. *Response to Submissions Report Eden Breakwater Wharf Extension*, dated 24 February 2017; and
 - (d) generally in accordance with Modification Assessments:
 - i. *Eden Breakwater Wharf Extension Modification Request to Infrastructure Approval SSI 7734*, dated 2 July 2018;
 - ii. Letter titled “Re: Eden Breakwater Wharf MOD 1 – Response to Submissions – Air Quality and Noise”, dated 17 August 2018;
 - iii. *Response to Submission Eden Breakwater Wharf Extension MOD 1 (SSI 7734)*, dated 3 September 2018; and
 - iv. *SSI 7734 Mod 1 – Addendum Modification Report*, dated 14 October 2018.
- A2 The SSI must be carried out generally in accordance with all procedures, commitments, preventative actions, performance criteria and mitigation measures set out in the documents referred to in conditions A1(c) and A1(d) unless otherwise specified in, or required under, this approval.
- A3 The SSI must be carried out in accordance with the terms and conditions of all other approvals, permits and licences.
- A4 The conditions of this consent and directions of the Planning Secretary prevail to the extent of the inconsistency, ambiguity or conflict between them and a document listed in condition A1(c) or A1(d). In the event of any inconsistency, ambiguity or conflict between any of the documents listed in condition A1(c) and A1(d), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.
- A5 The Proponent must comply with all requirements of the Secretary in relation to:
- (a) the environmental performance of the SSI;
 - (b) any document or correspondence;
 - (c) any notification given to the Secretary under the terms of this approval;
 - (d) any audit of the Construction or Operation of the SSI;
 - (e) compliance with the terms of this approval (including anything required to be done under this approval); and
 - (f) the carrying out of any additional monitoring or mitigation measures.
- A6 Without limitation, all strategies, plans, programs, reviews, audits, report recommendations, protocols and other documents must be implemented in accordance with all requirements issued by the Secretary from time to time in respect of them.
- A7 Where the terms of this approval require consultation with identified parties, details of the consultation undertaken, matters raised by the parties, and how the matters were considered must accompany the strategies, plans, programs, reviews, audits, protocols and the like submitted to the Secretary.

- A8 This approval lapses five years after the date on which it is granted, unless Construction of the SSI has commenced on or before that date.

ANCILLARY FACILITIES

- A9 Ancillary Facilities that are not identified by description and location in the EIS/Submissions Report must not be established unless they satisfy the following criteria:
- (a) the Ancillary Facility is development of a type that would, if it were not for the purpose of the SSI, otherwise be exempt or complying development; or
 - (b) the Ancillary Facility is located as follows:
 - v. at least 50 metres from any waterway unless an erosion and sediment control plan is prepared and implemented so as not to affect water quality in the waterway in accordance with *Managing Urban Stormwater: Soils and Construction* (4th ed)_(Landcom, 2004);
 - vi. within or adjacent to land upon which the SSI is being carried out;
 - vii. with ready access to a road network;
 - viii. on level land;
 - ix. so as to be in accordance with the *Interim Construction Noise Guideline* (DECC 2009) or as otherwise agreed in writing with affected landowners and occupiers;
 - x. so as not to require vegetation clearing beyond the extent of clearing approved under other terms of this approval except as approved by the ER as minor clearing;
 - xi. so as not to have any impact on heritage items (including areas of archaeological sensitivity)
 - xii. so as not to affect lawful uses of adjacent properties that are being carried out at the date upon which establishment of the Ancillary Facility is to commence;
 - xiii. to enable use of the Ancillary Facility during flood/oceanic inundation events and to avoid or minimise, to the greatest extent practicable, adverse flood impacts on the surrounding environment and other properties and infrastructure; and
 - xiv. so as to have sufficient area for the storage of materials to minimise, to the greatest extent practicable, the number of deliveries required outside standard construction hours.
- A10 Prior to establishment of any Ancillary Facility that satisfies the criteria in **Condition A9**, the Proponent must update the **CEMP** required under **Condition C1** to include the ancillary facility and any additional environmental management measures.
- A11 Minor Ancillary Facilities comprising lunch sheds, office sheds, and portable toilet facilities, that are not identified in the EIS/Submissions Report and which do not satisfy the criteria set out in **Condition A9** of this approval must satisfy the following criteria in order to be established:
- (a) have no greater environmental and amenity impacts than those that can be managed through the implementation of environmental measures detailed in the **CEMP** required under **Condition C1** of this approval; and
 - (b) have been assessed by the ER to have:
 - i. minimal amenity impacts to surrounding residences and businesses, after consideration of matters such as compliance with the *Interim Construction Noise Guideline* (DECC 2009), traffic and access impacts, dust and odour impacts, and visual (including light spill) impacts;
 - ii. minimal environmental impact with respect to waste management and flooding; and
 - iii. no impacts on biodiversity, soil and water, and heritage items beyond those already approved under other terms of this approval.
- A12 Boundary screening must be erected around all Ancillary Facilities (including Minor Ancillary Facilities) that are adjacent to Sensitive Receivers for the duration of Construction unless otherwise agreed with Council, and affected residents, business operators or landowners.

- A13 Boundary screening required under **Condition A12** of this approval must minimise visual, noise and air quality impacts on adjacent Sensitive Receivers.

ENVIRONMENT REPRESENTATIVE

- A14 A suitably qualified and experienced ER who is independent of the construction personnel must be nominated by the Proponent, approved by the Secretary and engaged for the duration of Construction of the SSI. Additional ERs may be engaged for the purpose of this condition, in which case the obligations to be carried out by an ER under the terms of this approval may be satisfied by any ER that is approved by the Secretary. The details of nominated ER(s) must be submitted to the Secretary for approval no later than one month prior to the commencement of Construction, or within another timeframe agreed with the Secretary.
- A15 Works must not commence until an ER nominated under **Condition A14** of this approval has been approved by the Secretary.
- A16 From commencement of Construction until Completion of Construction, the approved ER must:
- on behalf of the Proponent, receive and respond to communication from the Secretary in relation to the environmental performance of the SSI;
 - consider and inform the Secretary on matters specified in the terms of this approval;
 - consider and recommend any improvements that may be made to work practices to avoid or minimise adverse impact to the environment and to the community;
 - review all documents required to be prepared under the terms of this approval, ensure they are consistent with requirements in or under this approval and if so, endorse them prior to submission to the Secretary (if required to be submitted to the Secretary) or prior to implementation (if not required to be submitted to the Secretary);
 - regularly monitor the implementation of all documents required to be prepared under the terms of this approval to ensure implementation is being carried out in accordance with what is stated in the document and the terms of this approval;
 - notify the Secretary of an incident in accordance with **Condition A33** of this approval;
 - as may be requested by the Secretary, help plan, attend or undertake Department audits of the SSI including scoping audits, programming audits, briefings, and site visits, but not audits required under **Condition A24** of this approval;
 - if conflict arises between the Proponent's construction contractor(s) and the community in relation to the environmental performance of the SSI, follow the procedure in the **Community Communication Strategy** approved under **Condition B4** of this approval to attempt to resolve the conflict, and if it cannot be resolved, notify the Secretary;
 - review any draft consistency assessment that may be carried out by the Proponent, provide advice to the Proponent on whether the work that is the subject of the draft consistency assessment is consistent with the terms of this approval and provide advice on any additional mitigation measures required to minimise the impact of the work;
 - consider any minor amendments to be made to the **CEMP**, **CEMP Sub-plans** and monitoring programs that comprise updating or are of an administrative nature, and are consistent with the terms of this approval and the **CEMP**, **CEMP Sub-plans** and **Monitoring Programs** approved by the Secretary and, if satisfied such amendment is necessary, approve the amendment. This does not include any modifications to the terms of this approval;
 - assess the impacts of Minor Ancillary Facilities as required by **Condition A11** of this approval; and
 - prepare and submit to the Secretary and other relevant regulatory agencies, for information, a monthly **Environmental Representative Report** detailing the ER's actions and decisions on matters for which the ER was responsible in the preceding month (or other timeframe agreed with the Secretary). The **Environmental Representative Report** must be submitted within seven days following the end of each month for the duration of Construction of the SSI, or as otherwise agreed with the Secretary.

COMPLIANCE TRACKING PROGRAM

- A17 **Construction and Operation Compliance Tracking Programs** to monitor compliance with the terms of this approval must be prepared. The **Construction Compliance Tracking Program** must be endorsed by the ER and then submitted to the Secretary for approval no later than one month prior to the commencement of Construction or within another timeframe agreed with the Secretary. The **Operation Compliance Tracking Program** must be submitted to the Secretary for approval no later than one month prior to commencement of Operation or within another timeframe agreed with the Secretary.
- A18 The Construction and Operation **Compliance Tracking Programs** must be implemented for the duration of Construction and Operation, or within another timeframe agreed with the Secretary based on the outcomes of independent audits, **Environmental Representative Reports** and regular compliance reviews submitted through **Compliance Reports**.
- A19 A **Pre-Construction Compliance Report** and **Pre-Operation Compliance Report** must be prepared and submitted to the Secretary for information no later than one month prior to the commencement of Construction and Operation respectively or within another timeframe agreed with the Secretary.
- A20 Construction and Operation must not commence until the **Pre-Construction Compliance Report** and **Pre-Operation Compliance Report** respectively have been submitted to the Secretary.
- A21 **Construction Compliance Reports** must be prepared and submitted to the Secretary for information every six months from the date of the commencement of Construction and **Operation Compliance Reports** must be prepared and submitted to the Secretary for information after the first calendar year of operation, the end of the 2019/2020 cruise season and following that, after the end of each cruise season, or within another timeframe agreed with the Secretary.

COMPLIANCE REPORTS

- A22 The **Pre-Construction** and **Pre-Operation Compliance Reports** must include:
- (a) details of how the terms of this approval that must be addressed prior to the commencement of Construction and Operation respectively have been complied with;
 - (b) in the event of a non-compliance with the terms of this approval that must be addressed prior to the commencement of Construction and Operation respectively, details of the non-compliance and action taken to rectify the non-compliance; and
 - (c) the commencement date for Construction and Operation respectively.
- A23 **Construction and Operation Compliance Reports** must include:
- (a) a results summary and analysis of environmental monitoring;
 - (b) a summary of the **Complaints Register** required under **Condition A28** including the number of any complaints received, a summary of main areas of complaint, action taken, response given and proposed strategies for reducing the recurrence of such complaints;
 - (c) details of any review of, and minor amendments made to, the **CEMP** or **OEMP**;
 - (d) a register of any consistency assessments undertaken and their status;
 - (e) results of any independent environmental audits and details of any actions taken in response to the recommendations of an audit;
 - (f) a summary of all incidents notified in accordance with **Condition A33** and **Condition A34** of this approval including actions taken to address the cause or impact of an incident;
 - (g) a **Five Year Operational Compliance Summary Report** every five years from commencement of Operation, unless otherwise agreed by the Secretary, which includes:
 - i. the name and size of visiting cruise ships and date of visits,
 - ii. the number and nature of complaints in relation to specific cruise ships,

- iii. results of air quality monitoring and any noise monitoring undertaken to investigate repeated noise complaints,
- iv. identification of any issues that need to be addressed through revision of the OEMP and/or Sub-plans; and
- (h) any other matter relating to compliance with the terms of this approval or as requested by the Secretary.

COMPLIANCE AUDITING

- A24 Compliance audits of the SSI must be conducted annually, commencing within a year of the commencement of Construction, by an independent, suitably qualified and experienced expert or within another timeframe agreed with the Secretary.
- A25 Details of the nominated independent auditor must be submitted to the Secretary for approval no later than one month prior to the audit being undertaken.
- A26 The Proponent must submit a copy of the audit report to the Secretary with a response to any recommendations contained in the audit report within six weeks of completing the audit, or within another timeframe agreed with the Secretary.
- A27 The audit report must:
- (a) assess the environmental performance of the SSI, and its effects on the surrounding environment;
 - (b) assess whether the project is complying with the terms of this approval;
 - (c) review the adequacy of any document required under this approval; and
 - (d) recommend measures or actions to improve the environmental performance of the SSI, and improvements to any document required under this approval.

COMPLAINTS REGISTER

- A28 A **Complaints Register** must be maintained for the duration of Construction and Operation.
- A29 The **Complaints Register** must be provided to the Secretary upon request, within the timeframe stated in the request.
- A30 The following information must be available to facilitate community enquiries and complaints within one (1) month from the date of this approval:
- (a) a 24 hour telephone number for the registration of complaints and enquiries about the SSI;
 - (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.
- A31 The telephone number, postal address and email address required under **Condition A30** of this approval must be published in a newspaper circulating in the local area prior to the commencement of Construction and published in the same way again prior to the commencement of Operation. This information must also be provided on the website required under **Condition B6** of this approval.
- A32 The **Complaints Register** must record the:
- (a) number of complaints received;
 - (b) number of people affected in relation to a complaint;
 - (c) means by which the complaint was addressed and whether resolution was reached, with or without mediation.

INCIDENT NOTIFICATION

- A33 The Secretary must be notified as soon as possible and in any event within 24 hours of the Proponent being made aware of any incident.
- A34 Notification of an incident under **Condition A33** of this approval must include the time and date of the incident, details of the incident and must identify any non-compliance with this approval.
- A35 Any requirements of the Secretary or relevant public authority (as determined by the Secretary) to address the cause or impact of an incident reported in accordance with **Condition A33** of this approval, must be met within the timeframe determined by the Secretary or relevant public authority.
- A36 If statutory notification is given to the EPA as required under the POEO Act in relation to the SSI, such notification must also be provided to the Secretary within 24 hours after the notification was given to the EPA.

STAGING

- A37 The SSI may be constructed and operated in stages. Where staged construction or operation is proposed, a **Staging Report** (for either or both construction and operation as the case requires) must be prepared and submitted to the Secretary for information. The **Staging Report** must be submitted to the Secretary no later than one month before the commencement of construction of the first of the proposed stages of construction (or if only staged operation is proposed, one month before the commencement of operation of the first of the proposed stages of operation), or within another timeframe agreed with the Secretary.
- A38 The **Staging Report** must:
- (a) if staged construction is proposed, set out how the construction of the whole of the SSI will be staged, including general details of work and other activities to be carried out in each stage and the general timing of when construction of each stage will commence;
 - (b) if staged operation is proposed, set out how the operation of the whole of the SSI will be staged, including general details of work and other activities to be carried out in each stage and the general timing of when operation of each stage will commence;
 - (c) specify the relevant conditions of approval that apply to each stage and how compliance with those conditions will be achieved across and between each of the stages of the SSI; and
 - (d) set out mechanisms for managing any cumulative impacts arising from the proposed staging.
- A39 The SSI must be staged in accordance with the **Staging Report**, as submitted to the Secretary.
- A40 Where staging is proposed, the terms of this approval that apply or are relevant to the works or activities to be carried out in a specific stage must be complied with at the relevant time for that stage.

PART B
COMMUNITY INFORMATION AND REPORTING

COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT

- B1 Prior to commencement of Construction, the Proponent is required to establish a **Community Consultative Committee**.

The **Community Consultative Committee** is to be established in accordance with the Department's *Community Consultative Committee Guidelines for State Significant Projects*, dated November 2016, or from an existing group that can be demonstrated to meet the purposes and objectives of the Guidelines as agreed by the Secretary.

The committee is to include representatives from port businesses, maritime user groups, residents surrounding the Port of Eden and the Relevant Maritime Authority and is to operate during Construction and during Operation of the SSI for a period as agreed with the Secretary, but not for less than five years from commencement of operation of the committee.

- B2 A **Report** endorsed by the **Community Consultative Committee** is to be submitted to the Secretary five years after commencement of Operation of the SSI, reporting on whether the purpose of the Committee has been achieved and completed, and recommending a timeframe for continued operation.

Where disbandment of the committee is recommended, it is to be replaced with a community-based forum, as provided for in the **Community Communication Strategy**, operating for the life of the SSI unless otherwise agreed by the Secretary. The Community Consultative Report recommending disbandment must be submitted to the Secretary for consideration and include:

- (a) minutes of the Community Consultative Committee meeting documenting member agreement to disbandment; and
- (b) proposed membership of the community-based forum.

Note: the community-based forum must include local residents and may be an existing community liaison group.

- B3 A **Community Communication Strategy** must be prepared to provide mechanisms to facilitate communication between the Proponent, the ER, the relevant Council, the **Community Consultative Committee** and/ or community-based forum, others directly impacted by the SSI during Construction of the SSI and for the life of the Operation of the SSI, unless otherwise agreed by the Secretary.

- B4 The **Community Communication Strategy** must be submitted to the Secretary for approval no later than one month prior to commencement of any work (excluding works described in paragraphs (a) to (c) in the definition of Construction) for the purposes of the SSI, or within another timeframe agreed with the Secretary. Work for the purposes of the SSI (excluding works described in paragraphs (a) to (c) in the definition of Construction) must not commence until the **Community Communication Strategy** has been approved by the Secretary.

- B5 The **Community Communication Strategy** must:

- (a) identify people to be consulted during Construction and Operation;
- (b) set out procedures and mechanisms for the regular distribution of accessible information about or relevant to the SSI;
- (c) provide for the formation of community-based forums that focus on key environmental management issues for the SSI arising from Compliance Reports; and
- (d) set out procedures and mechanisms:
 - i. through which the community can discuss or provide feedback to the Proponent;

- ii. through which the Proponent will respond to enquiries or feedback from the community; and
- iii. to resolve any issues and mediate any disputes that may arise in relation to environmental management and delivery of the SSI.

PROVISION OF ELECTRONIC INFORMATION

- B6 A website providing information in relation to the SSI must be established prior to commencement of Construction and maintained for the duration of Construction and Operation. Up-to-date information (excluding confidential commercial information) must be published and maintained on the website or dedicated pages including:
- (a) information on the current implementation status of the SSI;
 - (b) a copy of the documents listed in **Condition A1** and **Condition A2** of this approval, and any documentation relating to any modifications made to the SSI 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 SSI including Commonwealth permits or approvals;
 - (e) a current copy of each document required under the terms of this approval and any endorsements, approvals or requirements from the ER and Secretary, all of which must be published prior to the commencement of any works to which they relate or prior to their implementation as the case may be; and
 - (f) the outcomes of compliance tracking required under this approval.

Information relating solely to construction may be removed from the website 12 months following completion of construction.

PART C
CONSTRUCTION ENVIRONMENTAL MANAGEMENT

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

- C1 A **Construction Environmental Management Plan (CEMP)** must be prepared to detail how the performance outcomes, commitments and mitigation measures specified in the EIS and Submissions Report will be implemented and achieved during Construction.
- C2 The CEMP must provide:
- (a) a description of activities to be undertaken during Construction (including the scheduling of Construction). Where the CEMP covers construction to be carried out under other approvals, licences and permits, the CEMP must clearly identify which activities are to be carried out under this approval;
 - (b) details of environmental policies, guidelines and principles to be followed in the Construction of the SSI;
 - (c) a program for ongoing analysis of the key environmental risks arising from the activities described in subsection (a) of this condition, including an initial risk assessment undertaken prior to the commencement of Construction of the SSI;
 - (d) a list of all the **CEMP Sub-plans** required in respect of construction, as set out in **Condition C3**;
 - (e) details of how the activities described in subsection (a) of this condition will be carried out under the CEMP and Sub-plans to:
 - i. achieve the environmental performance outcomes identified in the EIS/Submissions Report,
 - ii. implement the mitigation measures identified in the EIS/Submissions Report,
 - iii. comply with the relevant terms of this approval, and
 - iv. manage issues during construction, as identified through the ongoing environmental risk analysis referred to in subsection (c) of this condition;
 - (f) an inspection program detailing the activities to be inspected and frequency of inspections;
 - (g) a description of the roles and environmental responsibilities for relevant employees and their relationship with the ER including for management of any matters which are to be reported in the **Construction Compliance Reports** required under **Condition A21**.
 - (h) for training and induction for employees, including contractors and sub-contractors, in relation to environmental and compliance obligations under the terms of this approval;
 - (i) a description of the categories of minor amendments that may be considered by the Environmental Representative under condition A16(j); and
 - (j) for periodic review and update of the **CEMP** and all associated plans and programs.
- C3 The following **CEMP Sub-plans** must be prepared in consultation with the relevant government agencies and stakeholders identified for each **CEMP Sub-plan**, and in consideration of the relevant requirements in this approval and the Proposed Mitigation Measures:

	Required CEMP Sub-plan	Relevant government agencies and stakeholders to be consulted
(a)	Traffic, Access and Transport	Council, Community Consultative Committee required under condition B1
(b)	Noise and Vibration	Council, EPA, Community Consultative Committee required under condition B1
(c)	Aquatic Ecology	DPI, OEH
(d)	Water Quality	Council, EPA, DPI

- C4 The **CEMP Sub-plans** must include, to the written satisfaction of the Secretary, details of all information requested by an agency to be included in a **CEMP Sub-plan**, including copies of all correspondence from those agencies.

- C5 The Aquatic Ecology CEMP Sub-plans is to make reference to management measures and requirements of the Australian Government specified in the *Environment Protection and Biodiversity Conservation Act 1999* (Commonwealth) referral decision EPBC 2016/7828 and *Environment Protection (Sea Dumping) Act 1981* (Commonwealth) sea dumping permit no. SD 2015/3102.
- C6 Any of the **CEMP Sub-plans** may be submitted along with, or subsequent to, the submission of the **CEMP** but in any event, no later than one month prior to construction.
- C7 The **CEMP** must be endorsed by the ER and then submitted to the Secretary for approval no later than one month prior to the commencement of construction or within another timeframe agreed with the Secretary.
- C8 Any future amendments to the CEMP or CEMP Sub-plans are to submitted to the Secretary for approval, other than amendments that can be approved by the ER under **Condition A16(j)**.
- C9 Construction must not commence until the **CEMP** and all **CEMP Sub-plans** have been approved by the Secretary. The **CEMP** and **CEMP Sub-plans**, as approved by the Secretary, including any minor amendments approved by the ER in accordance with **Condition A16**, must be implemented for the duration of construction.

CONSTRUCTION MONITORING PROGRAMS

- C10 The following **Construction Monitoring Programs** must be prepared in consultation with the relevant government agencies identified for each **Construction Monitoring Program** to compare actual performance of construction of the SSI against performance predicted in the EIS/Submissions Report or in the **CEMP**:

	Required Construction Monitoring Programs	Relevant government agencies to be consulted
(a)	Noise Monitoring triggered by Condition E11	Council, EPA
(b)	Marine Ecology Monitoring	DPI, OEH
(c)	Water Quality (Turbidity) Monitoring	DPI, EPA

- C11 Each Construction Monitoring Program must provide:
- details of baseline data available;
 - details of baseline data to be obtained and when;
 - details of all monitoring of the project to be undertaken;
 - the parameters of the project to be monitored;
 - the frequency of monitoring to be undertaken;
 - the location of monitoring;
 - the reporting of monitoring results;
 - procedures to identify and implement additional mitigation measures where results of monitoring are unsatisfactory; and
 - any consultation to be undertaken in relation to the monitoring programs.
- C12 The **Construction Monitoring Programs** must include, to the written satisfaction of the Secretary, information requested by an agency to be included in a **Construction Monitoring Program** including copies of all correspondence from those agencies.
- C13 The **Construction Monitoring Programs** must be endorsed by the ER and then submitted to the Secretary for approval at least one month prior to the commencement of Construction or within another timeframe agreed with the Secretary.

- C14 Construction must not commence until the Secretary has approved the required **Construction Monitoring Programs**, and all relevant baseline data for the specific construction activity has been collected.
- C15 The **Construction Monitoring Programs**, as approved by the Secretary including any minor amendments approved by the ER in accordance with **Condition A16** must be implemented for the duration of Construction and for any longer period set out in the monitoring program or specified by the Secretary, whichever is the greater.
- C16 The results of the **Construction Monitoring Programs** must be submitted to the Secretary, and relevant regulatory agencies, for information in the form of a **Construction Monitoring Report** at the frequency identified in the relevant **Construction Monitoring Program**.
- C17 Where a relevant **CEMP Sub-plan** exists, the relevant **Construction Monitoring Program** may be incorporated into that **CEMP Sub-plan**.

PART D
OPERATIONAL ENVIRONMENTAL MANAGEMENT

OPERATIONAL ENVIRONMENTAL MANAGEMENT

D1 An **Operational Management Plan (OEMP)** must be prepared to detail how the performance outcomes, commitments and mitigation measures made and identified in the EIS and Submissions Report will be implemented and achieved during Operation.

D2 The OEMP must provide:

- (a) a description of management and monitoring activities. Where the OEMP covers activities to be carried out under other approvals, licences and permits, the OEMP must clearly identify which activities are to be carried out under this approval;
- (b) details of environmental policies, guidelines and principles to be followed in the operation of the SSI;
- (c) a list of all the **OEMP Sub-plans** required in respect of Operation, as set out in **Condition D3**.
- (d) details of how the Operation of the SSI will be carried out under the **OEMP** and **OEMP Sub-plans** to:
 - i. achieve the environmental performance outcomes identified in the EIS/Submissions Report;
 - ii. implement the mitigation measures identified in the EIS/Submissions Report and any additional measures recommended in **Compliance Audits** or to address any issues identified in the **Five Year Operational Compliance Summary Reports**;
 - iii. comply with the relevant terms of this approval; and
 - iv. address issues during Operation, as identified through the **Community Consultative Committee**, community-based forums provided for under **Condition B5, Complaints Register** or **Monitoring Programs**, through a process of continual improvement;
- (e) an inspection program detailing the activities to be inspected and frequency of inspections;
- (f) a description of the roles and environmental responsibilities of the Proponent's employees and their relationship with the Relevant Maritime Authority and Council including roles and responsibilities for management of any matters which are to be reported in the **Operation Compliance Reports** required under **Condition A21**;
- (g) for training and induction for employees, including contractors and sub-contractors, in relation to environmental and compliance obligations under the terms of this approval;
- (h) a mechanism for communicating the environmental and compliance obligations under this approval to cruise ship operators; and
- (i) for periodic review and update of the OEMP and all associated plans and programs.

D3 The following **OEMP Sub-plans** must be prepared in consultation with the relevant government agencies identified for each **OEMP Sub-plan**, and in consideration of the relevant requirements in this approval and the Proposed Mitigation Measures:

	Required OEMP Sub-plan	Relevant government agencies to be consulted
(a)	Traffic, Transport and Access	Council, Relevant Maritime Authority
(b)	Noise Management	Council, EPA, Relevant Maritime Authority
(c)	Air Quality Management	EPA, Relevant Maritime Authority

D4 The **OEMP Sub-plans** must include, to the written satisfaction of the Secretary, information requested by an agency to be included in an **OEMP Sub-plan**, including copies of all correspondence from those agencies.

D5 The **OEMP** and **OEMP Sub-plans** must be submitted to the Secretary for approval no later than one month prior to the commencement of Operation unless another timeframe is agreed with the

Secretary. Revised OEMP and OEMP sub-plans resulting from the findings of **Five Yearly Compliance Summary Report** are to be submitted to the Secretary for approval no later than one month following submission of the **Five Yearly Compliance Summary Reports**.

- D6 The **OEMP**, as approved by the Secretary and amended from time to time, must be implemented for the duration of Operation and the **OEMP** must be made publicly available prior to the commencement of Operation and for the duration of Operation.

OPERATION MONITORING PROGRAM

- D7 An **Air Quality Operation Monitoring Program** must be prepared in consultation with the EPA, Council and Relevant Maritime Authority.
- D8 The **Air Quality Operation Monitoring Program** must provide:
- (a) details of baseline data available;
 - (b) details of baseline data to be obtained and when;
 - (c) details of all monitoring of the project to be undertaken;
 - (d) the parameters of the project to be monitored;
 - (e) the frequency of monitoring to be undertaken;
 - (f) the trigger for operational monitoring
 - (g) the location of monitoring;
 - (h) the reporting of monitoring results;
 - (i) procedures to identify and implement additional mitigation measures where results of monitoring are unsatisfactory; and
 - (j) any consultation to be undertaken in relation to the monitoring programs.
- D9 The **Air Quality Operation Monitoring Program** must include, to the written satisfaction of the Secretary, information requested by an agency to be included in the Operation Monitoring Program including copies of all correspondence from those agencies.
- D10 The **Air Quality Operation Monitoring Program** must be submitted to the Secretary for approval at least one month prior to the commencement of Operation or within another timeframe agreed with the Secretary.
- D11 Operation must not commence until the Secretary has approved the required Air Quality Operation Monitoring Program, and all relevant baseline data has been collected.
- D12 The **Air Quality Operation Monitoring Program**, as approved by the Secretary, and amended from time to time must be implemented during cruise seasons for five years from commencement of Operation of the SSI or another time period as agreed or directed by the Secretary. From commencement of Operation to the end of the 2019/2020 cruise season, real-time air quality monitoring results during the cruise season must be available on the website required under **Condition B6**.
- D13 The results of the **Air Quality Operation Monitoring Program** must be submitted to the Secretary, and relevant regulatory agencies, for information in the form of an Operation Monitoring Report at the frequency identified in the relevant Operation Monitoring Program.
- D14 Where a relevant **OEMP Sub-plan** exists, the relevant **Air Quality Operation Monitoring Program** may be incorporated into that **OEMP Sub-plan**.

PART E KEY ISSUE CONDITIONS

TERMS OF APPROVAL

- E1 No cruise ship is permitted to berth before 7.00am or after 10pm unless extenuating circumstances prevail such as mechanical failure, an on-board emergency or severe weather conditions.
- E2 In addition to the performance outcomes, commitments and mitigation measures specified in the EIS and Submissions Report, all reasonably practicable measures must be implemented to minimise noise impacts and the emission of air pollutants during Operation of the SSI.

DILAPIDATION REPORT

- E3 A **Road Dilapidation Report** must be prepared for all roads within the control of Council proposed to be used by heavy vehicles prior to the commencement of use by such vehicles. Copies of the **Road Dilapidation Report** must be provided to Council within three weeks of completing the surveys and no later than one week prior to the commencement of Construction of the SSI.
- E4 On Completion of Construction, a Road Dilapidation Report must be prepared for all roads within the control of Council that were used by heavy vehicles during Construction. Copies of the Road Dilapidation Report must be provided to Council within three weeks of completing the surveys. If damage to roads occurs as a result of Construction of the SSI, the Proponent must either (at Council's discretion):
- (a) agree with Council the amount of compensation to be paid to Council for the damage so caused; or
 - (b) rectify the damage so as to restore the road to at least the condition it was pre-construction.

TRAFFIC, TRANSPORT AND ACCESS

- E5 The SSI must be constructed so that it does not adversely impact on the safety and efficiency of the transport system (road and maritime) in the vicinity of the SSI or businesses within the Port of Eden.
- E6 The **Traffic, Transport and Access CEMP Sub-plan** must include the following:
- (a) identify roads to be utilised as part of Construction and measures to ensure construction vehicles follow this route;
 - (b) identify marine construction and vessel mooring zones and measures to delineate these areas;
 - (c) measures to maintain access to the Multipurpose Jetty or other arrangements for vessels utilising this jetty;
 - (d) measures for safe passenger access, if cruise ships moor in Twofold Bay and tenders to and from the Port of Eden operated during Construction;
 - (e) measures to minimise disruptions to Port businesses including maintenance of pedestrian and vehicle access and parking and provision of directional signage.
 - (f) measures to physically separate pedestrian and construction vehicle movements, such as temporary barriers.
- E7 The **Traffic, Transport and Access OEMP Sub-plan** must include detail on the provision of infrastructure, facilities and services to cater for cruise ship passengers and ensure safe access including:
- (a) pedestrian access to Eden Town Centre and Port of Eden retail areas;
 - (b) pedestrian access to tourist facilities and other local businesses;
 - (c) passenger transport services for visits to local and regional businesses and attractions;

- (d) bus parking bays, waiting areas, shelters, signage and the like at the wharf and at pick up points in the local area; and
- (e) provision of personnel to oversee pedestrian movements on the wharf and surrounding areas during cruise ship visits.

NOISE AND VIBRATION

- E8 The SSI is to be constructed and operated to minimise noise impacts on surrounding residents.
- E9 Construction (except for dredging and offshore disposal activities) must only be undertaken during the following standard construction hours:
- (a) 7:00am to 6:00pm Mondays to Fridays, inclusive;
 - (b) 8:00am to 1:00pm Saturdays; and
 - (c) at no time on Sundays or public holidays.
- except in the following circumstances:
- i. for the delivery of materials required by the NSW Police Force or other authority for safety reasons;
 - ii. where it is required in an emergency to avoid injury or the loss of life, to avoid damage or loss of property or to prevent environmental harm;
 - iii. where different construction hours are permitted or required under an EPL in force in respect of the Construction, in which case those construction hours must be complied with;
 - iv. for the works described in the *SSI 7734 Mod 1 – Addendum Modification Report*, dated 14 October 2018, which may be carried out until 10pm Mondays to Fridays inclusive; and
 - v. with the approval of the Secretary.
- E10 Respite periods must be provided where noise exceeds the Highly Noise Affected Level of 75dB L_{Aeq,15 minute}. The timing of respite is to be determined in consultation with the Community Consultative Committee.
- E11 Notwithstanding **condition E9**, offshore disposal activities may be undertaken 24 hours a day, seven days a week, provided they are undertaken in accordance with a **Noise and Vibration CEMP Sub-Plan** and the terms of this approval.
- E12 Notwithstanding **condition E9**, dredging activities may be undertaken 24 hours a day, seven days a week, provided dredging activities between 10pm and 7am are undertaken in accordance with a **Night Dredging Protocol** detailing the assessment and management of noise, and the requirements of **Conditions E13 to E16**.
- E13 The **Night Dredging Protocol** must provide for:
- (a) noise monitoring at a representative number of sensitive receivers (including closest and furthest) to confirm the predicted noise levels;
 - (b) targeted consultation with the noise affected sensitive receivers;
 - (c) timeframes and methods for investigation of noise complaints;
 - (d) operation of a 24-hour complaints line;
 - (e) mitigation measures (such as respite periods, additional control of noise at the source, staging of works to locate noisy equipment further away from noise affected sensitive receivers, negotiated agreements etc.);
 - (f) submission of weekly complaints reports for the life of dredging activities between 10pm and 7am;
 - (g) continual refinement of mitigation measures based on consultation with the noise affected sensitive receivers; and
 - (h) implementation of work practices set out in section 5.2 of the Interim Construction Noise Guideline.
- E14 The **Night Dredging Protocol** must provide for a three-week assessment period, during the first three weeks of dredging activities between 10pm and 7am. The purpose of the three-week

assessment period is to evaluate night time noise impacts from dredging, determine noise levels when the dredge is operating at different distances from sensitive receivers, and to demonstrate that night time dredging complies with the predicted noise levels.

The assessment period must include:

- (a) implementation of the monitoring and mitigation measures set out in the **Noise and Vibration CEMP Sub-Plan** (including the **Night Dredging Protocol**);
- (b) weekly reporting to the Secretary of:
 - i. the number, nature and time of all complaints relating to dredging activities between 10pm and 7am,
 - ii. actions taken to address complaints with the objective of resolution, and
 - iii. in the event that additional noise impacts are identified, how the Proponent has developed additional management and mitigation measures, evaluated their likely effectiveness in reducing noise impacts, and implemented any additional measures; and
- (c) a **Night Dredging Assessment Period Report**, submitted for the approval of the Secretary within one week of the end of the assessment period, providing:
 - i. an analysis of the effectiveness of the monitoring and mitigation measures set out in the **Noise and Vibration CEMP Sub-Plan** (including the **Night Dredging Protocol**);
 - ii. how mitigation measures have been refined during the assessment period, and/or will be refined following the assessment period; and
 - iii. how complaints have been resolved, mediated or otherwise addressed.

- E15 The mitigation and management measures developed under conditions **E13** and **E14** are to be detailed in an **updated Night Dredging Protocol**, submitted for the approval of the Secretary within one week of her determination of the **Night Dredging Assessment Period Report**.

The **updated Night Dredging Protocol** as approved by the Secretary must be incorporated into the **Noise and Vibration CEMP Sub-plan**.

- E16 The Proponent will comply with all requirements of the Secretary arising from the review of the weekly complaints reports required under condition **E13** and **Night Dredging Assessment Period Report**.

- E17 **The Noise Management OEMP Sub-plan** must identify measures to reduce noise impacts on Sensitive Receivers including:

- (a) no deck announcements and music from open decks while berthed at the Breakwater Wharf Extension, with the exception of safety announcements;
- (b) ship engine, generator, exhaust and ventilation systems including air conditioning must be maintained and operated efficiently to reduce noise emissions while in the Port of Eden;
- (c) ships must run on the minimum generator/engine power required while at the berth;
- (d) in the event of an overnight berth due to extenuating circumstances, community information and notification; and
- (e) a procedure for management of non-compliant cruise ships including details on proposed actions, timeframes and consequences in the event of non-compliance with (a) to (c) in this condition.

- E18 Where a complaint is received from a Sensitive Receptor in relation to a specific cruise ship at the Breakwater Wharf Extension, the source and nature of the noise must be investigated while the ship is at berth (unless this is not possible due to the timing of the complaint or imminent departure of the ship) and corrective actions implemented as required.

If there are further complaints or the investigation indicates ongoing exceedance of the noise levels predicted in the EIS and Modification Assessments on the return of the cruise ship, future visits must be managed in accordance with the requirements of the **Noise Management OEMP Sub-plan** and specific actions, timeframes and consequences agreed by the Secretary in the event of repeat non-compliance.

AIR QUALITY

- E19 The SSI is to be operated to:
- (a) minimise the risk to Sensitive Receivers from adverse health impacts from exposure to cruise ship emissions;
 - (b) support management strategies to reduce exposure; and
 - (c) national environmental protection standards (as revised from time to time) set out in the *National Environment Protection (Ambient Air Quality) Measure*.
- E20 The **OEMP Air Quality Management OEMP Sub-plan** must include the following measures to reduce emissions from cruise ships:
- (a) prior to 1 January 2020:
 - i. no more than 20 cruise ship visits to the Breakwater Wharf Extension (which represents the “typical operations” modelled in the Refined SO₂ Emission Modelling); and
 - ii. emissions from cruise ships berthed at the Breakwater Wharf Extension must not result in an exceedance of the maximum cumulative SO₂ concentration at the most affected sensitive receiver as predicted in the Refined SO₂ Emission Modelling for “typical operations”;
 - (b) from 1 January 2020, cruise ships must meet emission restrictions specified under MARPOL Annex VI, as implemented through the relevant Maritime Acts, or more stringent emission restrictions under these Acts;
 - (c) ship engine, generator, exhaust and ventilation systems must be maintained and operated efficiently to reduce air emissions while at berth at the Breakwater Wharf Extension; and
 - (d) a procedure for management of non-compliant cruise ships including details on proposed actions, timeframes and consequences in the event of non-compliance with (a)ii, (b) and (c) in this condition.
- E21 Unless otherwise agreed with the Secretary, the **Operation Monitoring Program** required under **Condition D7** must, as a minimum, include monitoring of NO₂, SO₂ and PM_{2.5} at the closest potentially impacted sensitive receiver (taking into account prevailing winds) at least two days prior to the arrival of the first three cruise ship of the season, while they are at berth and for at least two days following departure. Where there is less than two days between departure of a cruise ship and arrival of the next cruise ship, monitoring must continue until there is at least two days between ship departures and arrivals.
- E22 Where a complaint is received from a Sensitive Receiver in relation to a specific cruise ship at the Breakwater Wharf Extension about dark smoke emissions or offensive odours, the source and nature of the dark smoke emission or offensive odour must be investigated while the ship is at berth (unless this is not possible due to the timing of the complaint or imminent departure of the ship) and corrective actions implemented as required.

If there are further complaints and the investigation indicates exceedance of emission restrictions (being those restrictions described in **Condition E20**) on return of the cruise ship, future visits must be managed in accordance with the requirements of the **OEMP Air Quality Management Sub-plan** and specific actions, timeframes and consequences agreed by the Secretary in the event of repeat non-compliances.

LIGHTING

- E23 All maritime lighting to be implemented as part of the SSI shall have regard to the location of nearby residential dwellings. Lighting impacts shall be minimised to the extent possible, and comply with AS 4282:1997 – *Control of the Obtrusive Effects of Outdoor Lighting* and relevant Australian Standards in the series AS/NZ 1158 – *Lighting for Roads and Public Spaces*.