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# Mayfield 4 Berth

## Independent Environmental Audit



## Mayfield 4 Berth Independent Environmental Audit

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Description **Ramboll were engaged by Port of Newcastle to undertake an Independent Environmental Audit of the Mayfield 4 Berth approved under Development Application number DA-293-08-00.**

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## Executive Summary

Ramboll Australia Pty Ltd (Ramboll) has been engaged by Port of Newcastle (PON) to conduct an Independent Environmental Audit (IEA) of the Mayfield 4 Berth (the 'facility') located at Selwyn Street, Mayfield, New South Wales (NSW) (the 'site').

Mayfield 4 Berth is a multi-purpose common use berth for bulk shipping operations. Development consent conditions were issued for the facility on 6 April 2001 by the Minister for Urban Affairs and Planning as Development Application (DA) number 293-08-00 (DA-293-08-00). DA-293-08-00 has since been subject to nine modifications, with the most recent modification being approved on 29 August 2013.

DA-293-08-00 applies to *'the remediation of the closure area, 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'*. Mayfield 4 Berth (the *'general cargo handling facility'* or *'GCHF'*) is the only component of the *'Multi-Purpose Terminal'* that has been completed, with operations commencing in January 2010. The berth comprises a concrete area, a hardstand covered with bituminous material used for temporary shipping container storage, a site office, security guard hut and amenities.

The Audit is a statutory requirement by the then Department of Planning, Housing and Infrastructure (the Department) under conditions 9.4 to 9.5 of DA-293-08-00. In accordance with condition 9.4, an Independent Environmental Audit is required to be undertaken within 12 months of commissioning the Multi-Purpose Terminal and every three years thereafter. The audit period covered by the previous Independent Environmental Audit ended on 4 November 2020. The audit period covered by this Audit is from 5 November 2020 to 10 November 2023.

The Auditors assessed the development to be generally compliant with the conditions of Development Consent DA-293-08-00. The overarching environmental management plans were considered to be generally inadequate for environmental management and outdated with respect to reflecting the current stage of development at the site. The Auditor considers this an opportunity for PON to update management plans going forward.

A total of eight non-compliance issues were identified relating to thirteen conditions including:

- Conditions 2.4, 2.6 and 3.3 – conflicts between the requirements of the development consent and the requirements of the exempt development planning pathway arose for the berth upgrade construction works undertaken during the audit period.
- Condition 3.1 – Non-compliances with DA 293-08-00 were identified.
- Condition 4.3 - The documents comprising the Construction Environmental Management Plan for the construction works undertaken at the site were not approved by the Director-General (or equivalent) prior to works commencing.
- Condition 4.4 – The environmental management plans were considered to be outdated and not reflective of the current state of development.
- Conditions 5.7, 5.8 and 5.9 - Noise monitoring was not undertaken for construction activities undertaken at the site during the audit period and compliance with construction noise criteria could not be verified.
- Conditions 5.17 and 5.18 - No evidence was available to demonstrate capping integrity following the construction works undertaken during the audit period.
- Condition 5.19 – A geotechnical engineer certification was not provided to confirm the permeability of the seal bearing layer at the site.

- Condition 5.21 - Sub-surface pipes associated with stormwater collection and drainage systems installed on the premises during construction works were not flexible jointed pipes designed installed in accordance with Australian Standard AS/NZS 2566.1:1998.

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Independent Audit Declaration Form

## Glossary and Acronyms

AEMR	Annual Environmental Management Report
Applicant	Port of Newcastle or any other person carrying out the development
AS	Australian Standard
Closure Area	Lot 33 in Deposited Plan (DP) 1116571
DA	Development Application
DA-293-08-00	Development Application number DA-293-08-00 issued for the project, as modified
DP	Deposited Plan
Department	NSW Department of Planning, Housing and Infrastructure
EIS	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
EIS	Environmental Impact Statement
EP&A Act	Environmental Planning and Assessment Act 1979
EPA	NSW Environment Protection Authority
EPL	Environment Protection Licence
HCCDC	Hunter and Central Coast Development Corporation
HVAS	High Volume Air Sampler
IAPAR 2020	Department of Planning Industry and Environment <i>Independent Audit: Post Approval Requirements</i> (May 2020) (now the Department of Planning, Housing and Infrastructure)
IEA	Independent Environmental Audit
IEA 2020	The previous Independent Environmental Audit by Ramboll dated 2020
ISO	International Organisation for Standardisation
Mayfield 4 Berth	The multi-purpose common use berth for bulk shipping operations located at Selwyn Street, Mayfield, New South Wales comprising a concrete area, a hardstand covered with bituminous material used for temporary shipping container storage, a site office, security guard hut and amenities
Mayfield Concept Approval	The Mayfield Site Port Related Activities Concept Plan (Mayfield Concept Plan) approved by the NSW Department for Planning, Industry and Environment under section 75O of the Environmental Planning and Assessment Act 1979
MPT	Multi-Purpose Terminal
Multi-purpose Terminal	Comprises a container terminal and a general cargo handling facility and associated road rail and wharf infrastructure as approved under DA-293-08-00
NC	Non-compliance
NSW	New South Wales
OEMP	Operational Environmental Management Plan

POEO Act	NSW Protection of the Environment Operations Act 1997
PON	Port of Newcastle
Ramboll	Ramboll Australia Pty Ltd
RCA Australia	RCA Australia Pty Ltd
The facility	The Mayfield 4 Berth
The site	The 90 ha parcel of land inclusive of the Mayfield 4 Berth located at Selwyn Street, Mayfield, New South Wales
TSP	Total Suspended Particulate



## 1. Introduction

### 1.1 Background

Ramboll Australia Pty Ltd (Ramboll) has been engaged by Port of Newcastle (PON) to conduct an Independent Environmental Audit (IEA) of the Mayfield 4 Berth (the 'facility') located at Selwyn Street, Mayfield, New South Wales (NSW) (the 'site').

Mayfield 4 Berth is a multi-purpose common use berth for bulk shipping operations. Development consent conditions were issued for the facility on 6 April 2001 by the Minister for Urban Affairs and Planning as Development Application (DA) number 293-08-00 (DA-293-08-00). DA-293-08-00 has since been subject to nine modifications, with the most recent modification being approved on 29 August 2013.

DA-293-08-00 applies to *'the remediation of the closure area, 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'*.

Mayfield 4 Berth (the *'general cargo handling facility'* or 'GCHF') is the only component of the 'Multi-Purpose Terminal' that has been completed, with operations commencing in January 2010. The location of the facility is provided as **Figure 1**. The berth comprises a concrete area, a hardstand covered with bituminous material used for temporary shipping container storage, a site office, security guard hut and amenities. The berth and hardstand has been fully remediated in compliance with the Voluntary Remediation Agreement requirements and is now isolated from the remainder of the site in terms of stormwater and groundwater.

The berth generally operates Monday to Friday during standard business hours; however, can operate 24-hours a day, seven days a week during loading or unloading activities. During loading and unloading activities, mobile equipment such as cranes, forklifts and mobile conveyors were used. Potential cargos for the berth include project cargos (e.g. wind turbines, transformers, mining equipment and materials), break bulk (inert materials only), general containerized freight, bulk cargoes, ammonia nitrate in containers or bulk bags.

The 'Closure Area' referred to in DA-293-08-00 is located on Lot 33 in Deposited Plan (DP) 1116571. Part of this area is owned by PON and the remainder by Hunter and Central Coast Development Corporation (HCCDC).

The Audit is a statutory requirement by the Department under conditions 9.4 to 9.5 of DA-293-08-00. In accordance with condition 9.4, an Independent Environmental Audit is required to be undertaken *within 12 months of commissioning the Multi-Purpose Terminal and every three years thereafter*. The previous Independent Environmental Audit period ended on 4 November 2020.

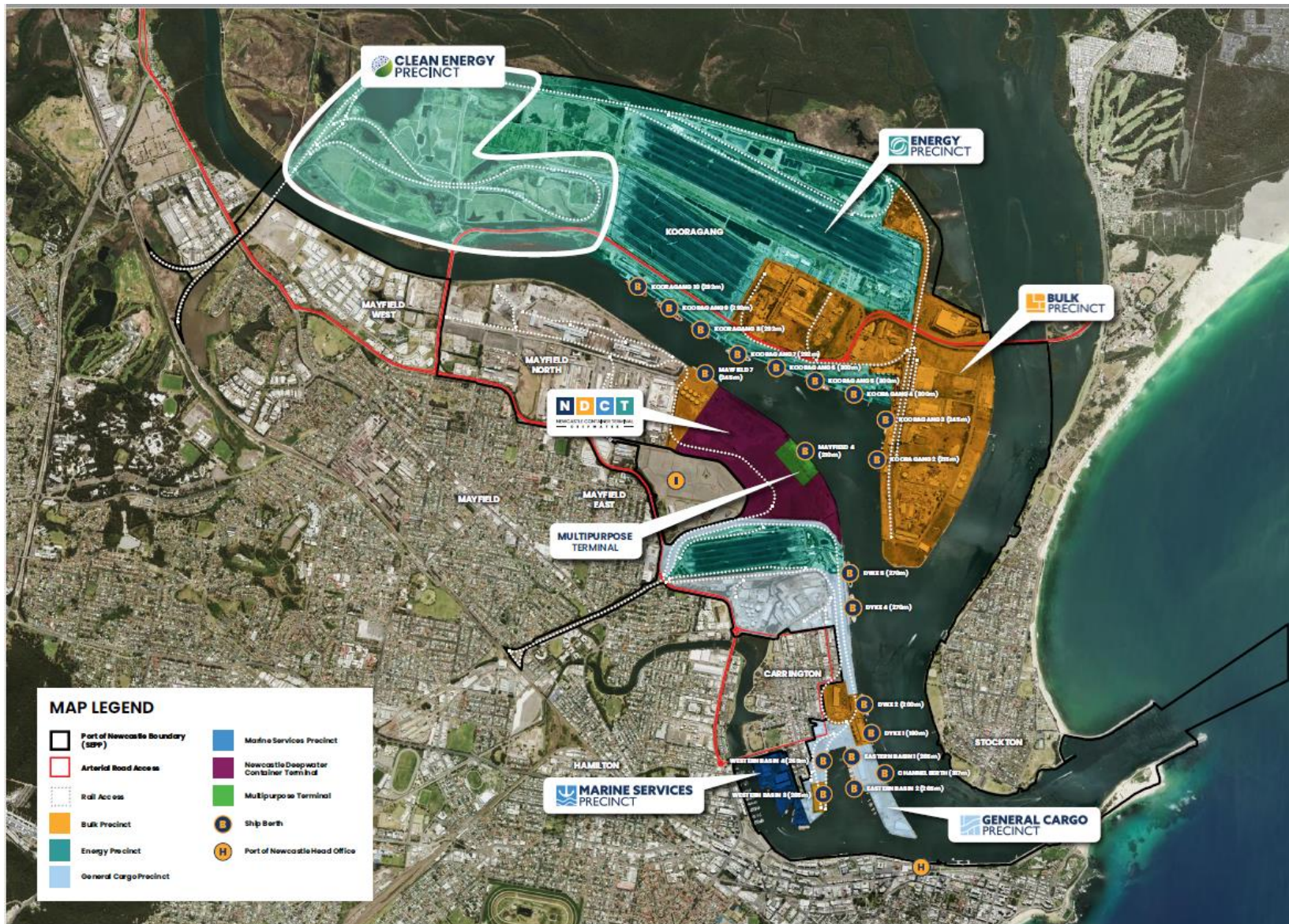


Figure 1: Site Layout (PON, 2023)

## 1.2 Audit team

The Audit Team comprised Victoria Sedwick (Lead Auditor), Shaun Taylor (Auditor) and Charyssa Lawrence (Auditor Assistant) of Ramboll. Additional support was provided by Taylor Hancock (Auditor Assistants). The Audit Report was prepared by the Auditor Assistant, checked by the Auditor and reviewed and authorised by the Lead Auditor.

## 1.3 Audit objectives

The objective of the audit was to independently assess the environmental performance and compliance status of the facility under DA-293-08-00 during the audit period.

## 1.4 Audit scope

To assess the environmental performance of the site as required under conditions 9.4 to 9.5 of DA-293-08-00, the Audit is required to verify and report as per the following:

### **"Independent Environmental Audit**

*9.4 Within 12 months of commissioning the Multi-Purpose Terminal and every three years thereafter, unless the Director-General directs otherwise, the Applicant must commission and pay the full cost of an Independent Environmental Audit. The Independent Environmental Audit must:*

- (a) Be conducted by a suitably qualified, experienced, and independent person whose appointment has been endorsed by the Director-General;*
- (b) Be consistent with ISO 14010 – Guidelines and General Principles for Environmental Auditing, and ISO 14011 – Procedures for Environmental Auditing, or updated versions of these guidelines/manuals;*
- (c) Assess the environmental performance of the development, and its effects on the surrounding environment;*
- (d) Assess whether the development is complying with the relevant standards, performance measures, and statutory requirements;*
- (e) Review the adequacy of the Applicant's Environmental Management Plan, and Environmental Monitoring Program; and, if necessary,*
- (f) Recommend measures or actions to improve the environmental performance of the plant, and/or the environmental management and monitoring systems.*

*9.5 Within 2 months of commissioning the audit, the Applicant must submit a copy of the audit report to the Director-General. After reviewing the report, the Director General may require the Applicant to address certain matters identified in the report. The Applicant must comply with any reasonable requirements of the Director-General."*

The focus of this audit is on the operations of the Mayfield 4 Berth in addition to any ancillary activities and/or management activities undertaken within the broader site as relevant to the audit period.

PON also holds an Environmental Protection Licence (EPL) issued by the Environmental Protection Authority (EPA) under the NSW *Protection of the Environment Operations Act 1997* (POEO Act) for Mayfield 4 Berth (EPL No. 13181). Compliance with EPL 13181 does not form part of the Audit scope in accordance with audit scope being limited to the requirements of the development consent.

### 1.5 Audit period

The audit period covered by the previous Independent Environmental Audit ended on 4 November 2020 (the '2020 IEA'). The 2020 IEA was documented in the report by Ramboll titled *Mayfield 4 Berth: Independent Environmental Audit* (Ramboll, 2020).

The audit period covered by this Audit is from 5 November 2020 to 10 November 2023. The site visit was conducted by members of the Audit Team, Shaun Taylor and Charyssa Lawrence on 10 November 2023.

## 2. Audit Methodology

### 2.1 Overview

The Audit has been conducted at the site to review the facility's: activities; management of impacts on the environment from these activities; and, to confirm compliance against the relevant Development Consent conditions for the facility.

The Audit was conducted in accordance with Australian Standard *AS/NZS ISO 19011:2014* (Australian/New Zealand Standards: Guidelines for quality and/or environmental management systems auditing) and in accordance with the *Independent Audit Post Approval Requirements* (Department of Planning, Industry and Environment, 2020) (IAPAR).

### 2.2 Independent audit scope development

The scope of the Audit was developed with consideration to the following:

- the compliance requirements and environmental performance requirements under DA-293-08-00 including all post approval documents prepared to satisfy the conditions relevant to the audit period
- the recommendations made within the 2020 IEA
- the requirements contained within the IAPAR 2020.
- consultation with the Department of Planning and Environment, the Environmental Protection authority (EPA), and PON's Community Liaison Group (CLG) (refer to **Section 3.8**).

A comprehensive protocol (Audit Table) was developed for the development consent to facilitate onsite interviews and inspection for the assessment of compliance in accordance with IAPAR 2020. The Audit Tables includes:

- A unique identification number for each condition of consent (ID)
- The exact wording of the compliance requirement
- Evidence used to assess and determine whether each requirement has been complied with
- Commentary on findings and recommendations
- Recording the status of compliance
- A unique identification number for each non-compliance (NC).

The completed Audit Table is provided in **Appendix 1**.

### 2.3 Selection and endorsement of the audit team

The Ramboll Auditors referred to in **Section 1.2** have experience conducting environmental compliance audits and are independent from the facility. Victoria Sedwick is a certified Lead Auditor with Exemplar Global (Certificate No. 13180). The Department issued a letter of endorsement for the Audit Team on 23 October 2023 which is provided in **Appendix 2**.

### 2.4 Site inspection and interviews

A one-day site visit was undertaken on 10 November 2023 by the Auditor, Shaun Taylor, and the Auditor Assistant, Charyssa Lawrence. The Auditor and Auditor Assistant was accompanied by PON representatives Brigid Kelly (Environmental Advisor) and Phillip Carroll (Planning Advisor). During this site visit, the Auditor observed operations and activities at the facility, interviewed the two accompanying PON representatives and clarified any issues identified during the document review task.

A closing meeting was undertaken on 10 January 2024 by the Auditor, Shaun Taylor and PON representatives Brigid Kelly (Environmental Advisor) and Phillip Carroll (Planning Advisor). Preliminary audit findings and recommendations for post-audit actions were discussed.

## 2.5 Consultation

The Auditors consulted with the Department, the EPA and PON's Community Liaison Group (CLG) in accordance with IAPAR 2020 requirements. Outcomes of consultation undertaken during the audit are included in **Section 3.8**.

## 2.6 Compliance status descriptors

All information gathered throughout the Audit process was reviewed, evaluated and collated into this Audit Report to assess compliance with DA-293-08-00.

This Audit Report has been prepared in accordance with IAPAR 2020 including adoption of compliance status descriptors outlined in the IAPAR 2020 and reproduced in the following **Table 2-1**. These compliance status descriptors have been used to assess compliance requirements in the Audit table presented as **Appendix 1**.

**Table 2-1: Compliance status descriptors**

Status	Description
Compliant	The auditor has collected sufficient verifiable evidence to demonstrate that all elements of the requirement have been complied with within the scope of the audit.
Non-compliant	The auditor has determined that one or more specific elements of the conditions or requirements have not been complied with within the scope of the audit.
Not triggered	A requirement has an activation or timing trigger that has not been met at the time when the Audit is undertaken, therefore an assessment of compliance is not relevant.

Observations have also been made that identify opportunities for improvement with recommendations given where relevant (refer to **Section 4.2**).

### 3. Audit Findings

#### 3.1 Approval and document list

Approvals and documents provided by PON and/or available on the applicant’s website, as well as the Department’s Major Projects website, reviewed by the Auditors included:

- Development consent for DA-293-08-00
- Environmental assessment documents
- Management plans and other documentation
- Previous independent environmental audit
- Environmental monitoring reports (air quality, noise and water)
- Site registers including for complaints, incidents, vessel movements and dangerous goods
- Email/letter correspondence records
- Legal advice provided to PON by their external legal advisors

Consent conditions relevant only to the audit period have been assessed in this audit.

#### 3.2 Compliance performance

Compliance performance with the Project Approval was assessed from a review of project documentation, audit observations and interviews with site representatives. **Table 3-1** provides a summary of the compliance performance. Full details of the auditors’ findings are documented within **Appendix 1** of this report. Non-compliances are identified in **Section 3.4**.

**Table 3-1: Summary of compliance performance**

Total number of compliance requirements	120
Total number of ‘compliant’ conditions	44
Total number of ‘non-compliant’ conditions	13
Total number of ‘not triggered’ conditions	63

#### 3.3 Summary of agency notices, orders, penalty notices or prosecutions

The Auditors are not aware of any agency notices, orders, penalty notices or prosecutions made against the facility during the audit period.

#### 3.4 Non-compliances

Key non-compliances with the conditions of DA-293-08-00 are noted in **Table 3-2**.

Recommendations associated with each non-compliance detailed below are summarised in **Section 4.1**.

**Table 3-2: Summary of non-compliances**

NC#	Condition(s)	Recommendation
NC1	2.4, 2.6, 3.3	<p>A Construction Certificate for the construction works undertaken during the audit period was not obtained from the Principal Certifying Authority prior to construction works starting.</p> <p>No evidence was provided to indicate the Site Auditor provided the Director-General and the Department written evidence of compliance with condition 2.6 (a) and (b) prior to construction works on the hardstand commencing.</p>

NC#	Condition(s)	Recommendation
		No evidence was provided to demonstrate PON certified in writing to the Director-General that PON had obtained all the necessary statutory approvals for and complied with all the relevant conditions of this consent and/or any other statutory requirements at least two weeks prior to construction works commencing.
NC2	3.1	Non-compliances with DA 293-08-00 were identified as noted in this table.
NC3	4.3	No evidence has been provided to demonstrate the various sub-plans forming the construction environmental management plan documents for the berth upgrade works were approved by the Director-General prior to construction works commencing.
NC4	4.4	<p>The Auditor understands that the construction activities undertaken during the audit period to upgrade the berth (refer to condition 2.4 for construction activities) were undertaken as exempt development which is generally not in accordance with the CSMP.</p> <p>The Auditor is of the view the OEMP and associated CSMP is generally not adequate or clear to support environmental management of the site.</p>
NC5	5.7, 5.8, 5.9	No noise monitoring was undertaken for construction works carried out in the audit period. As such, compliance with the noise criteria outlined in condition 5.7 cannot be verified.
NC6	5.17, 5.18	The Auditor has not reviewed any evidence to demonstrate capping integrity following the construction works undertaken during the audit period to redevelop and upgrade the berth. It is understood that a site audit statement and site audit report are currently underway for the berth upgrade construction works that may provide sufficient evidence to confirm compliance with the requirement of this condition.
NC7	5.19	The Auditor has not reviewed any evidence to demonstrate capping integrity following the construction works undertaken during the audit period to redevelop and upgrade the berth by a qualified Geo-technical engineer certification.
NC8	5.21	All sub-surface pipes associated with stormwater collection and drainage systems installed on the premises were not flexible jointed pipes designed and installed in accordance with Australian Standard AS/NZS 2566.1:1998.



### 3.5 Previous audit recommendations

The most recent Independent Environmental Audit of DA-293-08-00 was conducted by Ramboll in 2020 (the '2020 IEA'). An assessment of progress on the recommendations made in the previous audit, the 2020 IEA, is presented in **Table 3-3**.

**Table 3-3: Previous Independent Environmental Audit recommendations**

Con.	DA-293-08-00 Requirement	Previous audit non-compliances	Previous audit recommendations	Status	Auditor comment
3.1	Throughout the life of the development, the Applicant must secure, renew, maintain, and comply with all the relevant statutory approvals applying to the development.	Non-compliant.	Review and respond as appropriate to the recommendations described in this audit to remedy and/or prevent future non-compliances with the conditions of the development consent.	Complete	All recommendations were completed by PON during the audit period, as listed in this table.
7.4	The Applicant shall initiate and maintain a Dangerous Goods Register with an aim to ensure that the maximum quantity of dangerous goods on the site, as specified in a Final Hazard Analysis approved by the Director-General, and the in-transit time-limit for dangerous goods on the site are not exceeded. The Register shall include, but not necessarily be limited to:  (a) the date and time of arrival of all dangerous goods to the site;	Non-compliant.  It was noted in the 2020 IEA that the dangerous good register did not include: details on the time of arrival/dispatch of all dangerous goods to the site; quantities of dangerous goods; and packaging specifications and UN number.	The dangerous goods register should be updated to include all the requirements under Condition 7.4. It is noted by the Auditor that some of this information may be sensitive but should be included on an internal register if not published in the AEMRs.	Complete	The dangerous goods register has been updated to include all the requirements under Condition 7.4.

Con.	DA-293-08-00 Requirement	Previous audit non-compliances	Previous audit recommendations	Status	Auditor comment
	<p>(b) the exact location of all quantities of dangerous goods on the site;</p> <p>(c) details of all dangerous goods classes on the site, packaging specifications and UN number; and</p> <p>(d) the date and time of dispatch of all dangerous goods from the site.</p> <p>The Register shall be made available for inspection by the Director-General at any time.</p>				
9.1	<p>The Applicant shall employ a suitably qualified and experienced Environmental Officer(s) throughout the life of the project, whose appointment is acceptable to the Director-General. The Officer(s) will:</p> <p>(a) be responsible for the preparation of the environmental management plans (refer Conditions 4.1 – 4.4);</p> <p>(b) be responsible for considering and advising on matters specified in the conditions of this consent and advising on compliance with such matters;</p>	<p>Non-compliant.</p> <p>It was noted in the 2020 IEA that formal notification to the Department of the name and contact details of the current Environmental Officer was not provided during the environment officer role changeover at PON. However, following submission of the draft 2020 IEA, PON representative Brigid Kelly (Environmental Officer) advised that <i>“As the transition period was quite rapid, and close to the end of the audit period, the lack of formal</i></p>	<p>No recommendations were required as the non-compliance was addressed following submission of the draft 2020 Audit Report.</p>	Complete	<p>The non-compliance was addressed following submission of the draft 2020 IEA report.</p>

Con.	DA-293-08-00 Requirement	Previous audit non-compliances	Previous audit recommendations	Status	Auditor comment
	<p>(c) be responsible for receiving and responding to complaints in accordance with Condition 9.9);</p> <p>(d) facilitate an induction and training program for all persons involved with site preparation and construction activities; and</p> <p>(e) advise the Site Manager to require reasonable steps to be taken to avoid or minimise unintended or adverse environmental impacts and failing the effectiveness of such steps, to stop work immediately if an adverse impact on the environment is likely to occur.</p> <p>The Applicant shall notify the Director-General of the name and contact details of the Environmental Officer(s) upon appointment and any changes to that appointment.</p>	<p><i>notification was an administrative oversight” and a formal notification was submitted to the Department on 19 November 2020.</i></p>			
9.2	<p>(a) Twelve months after commencement of operations at the MPT, and annually thereafter for the duration of the development, the Applicant</p>	<p>Non-compliant.</p> <p>It was noted in the 2020 IEA that no evidence was provided to demonstrate that the AEMRs were submitted to the EPA</p>	<p>Ensure all future AEMRs are sent to the EPA.</p>	Complete	<p>Evidence was provided to indicate AEMRs are being sent to the EPA.</p>

Con.	DA-293-08-00 Requirement	Previous audit non-compliances	Previous audit recommendations	Status	Auditor comment
	<p>must submit an Annual Environmental Management Report to the Director-General and EPA. This report must:</p> <ul style="list-style-type: none"> <li>(b) Identify all the standards, performance measures, and statutory requirements the development is required to comply with;</li> <li>(c) Review the environmental performance of the development to determine whether it is complying with these standards, performance measures, and statutory requirements.</li> <li>(d) Identify all the occasions during the previous year when these standards, performance measures, and statutory requirements have not been complied with;</li> <li>(e) Include a summary of any complaints made about the development, and indicate what actions were taken (or are being taken) to address these complaints;</li> <li>(f) Include the detailed reporting from the Environmental Monitoring Program (see</li> </ul>	<p>during the 2020 IEA audit period.</p>			

Con.	DA-293-08-00 Requirement	Previous audit non-compliances	Previous audit recommendations	Status	Auditor comment
	<p>Condition 8.1), and identify any trends in the monitoring over the life of the project; and (g) Where non-compliance is occurring, describe what actions will be taken to ensure compliance, who will be responsible for carrying out these actions, and when these actions will be implemented.</p>				
9.3	<p>After reviewing the Annual Environmental Management Report, the Director-General may require the Applicant to address certain matters identified in the report. The Applicant must comply with any reasonable requirements of the Director-General.</p>	<p>Non-compliant. It was noted in the 2020 IEA that an update on the previous Independent Environmental Audit was not provided in the 2019 AMER.</p>	<p>Include an update on an actions from the most recent Independent Environmental Audit in all future AEMRs.</p>	Complete	<p>AEMRs have included an update on actions from the most recent IEA or AEMRs.</p>

### 3.6 Environmental management plans, sub-plans and compliance documents

The *Operational Environmental Management Plan* (Port of Newcastle, 2021) (OEMP) is the overarching management tool used on site. The OEMP includes the following sub-plans as appendices:

- Contaminated Site Management Plan (Appendix D)
- Heavy Vehicle Route Plan (Appendix E)

Construction works were undertaken during the audit period to redevelop and upgrade the berth facility including:

- Extension of the hardstand area
- New internal service road
- Installation of water, electricity and communications infrastructure
- Security fencing and gates
- Relocation of the existing gatehouse
- Installation of a wash bay
- Installation of new lighting
- Commissioning of two mobile harbour cranes

The 2022 AEMR by PON (2023) states the following in relation to the construction works:

*"PON (as Superintendent) engaged contractors KCE to perform the works under the existing development approval and as exempt development under State Environmental Planning Policy (Transport and Infrastructure) 2021."*

The *Contaminated Land Management Plan* prepared by Qualtest dated 18 November 2021 for the berth redevelopment and upgrade works describes the potential for the penetration of the capping layer during piling, earthworks and trenching construction activities in section 3.1 of the plan.

Section 4.2 of the Contaminated Site Management Plan (Appendix D of the OEMP) states:

*"Generally, it will not be appropriate for any development on the site which involves any of:*

- *the penetration of the ground*
- *earthworks of any sort*
- *the use of lands in areas ###,*

*to be declared to be exempt development"*

Therefore, it is considered that the existing management plans do not adequately address the current stage of development at the site or appropriately address environmental management of contaminated land. Further the CSMP was considered to be vague and unclear in its reference "lands in areas ###", and as such should be updated to provide clarity on the location of containment cells within the site.

Compliance with remaining management plans was assessed during the Audit as relevant to the current project stage (refer to Appendix 1). The Auditors have reviewed these plans and provided recommendations for improvement, where relevant. Activities during the audit period were considered to be generally consistent with the OEMP with the exception of Appendix D being the CSMP.

### 3.7 Environmental performance

#### 3.7.1 Stormwater

Management of surface water along Mayfield 4 Berth and hardstand is necessary to protect water quality within the Hunter River.

Stormwater from the berth area is collected in the power drain located between the wharf front and cement apron and runs along the extent of the berth. The drainage system includes three treatment systems to remove hydrocarbons and suspended solids from the stormwater. When there is sufficient water within the drainage system, the stormwater is discharged into the Hunter River.

Stormwater from the hardstand area at the rear of the berth drains into a stormwater swale outside the boundaries of the berth area. The swale has been designed to remove contaminants and other pollution that may be contained in the runoff. The swale connects to a stormwater culvert for discharge to the Hunter River. The construction works included extension of the M4 berth hardstand area as well as extension of the associated stormwater management system.

Discharge water monitoring is undertaken at the Mayfield No.4 Berth on the first discharge event following a loose bulk cargo operation from three stormwater pits (Pit 1, Pit 2 and Pit 3). Reporting on the discharge monitoring program is provided by RCA Australia Pty Ltd (RCA Australia) on a monthly basis.

Stormwater monitoring is conducted in accordance with the criteria stipulated in condition L2 and M2.202.3 of the EPL 13181. No non-compliances were reported for the audit period as evidenced in the EPL Annual Returns for the period 2020-2022. The Auditor is therefore of the opinion that stormwater impacts were adequately managed during operations.

#### 3.7.2 Noise

Management of operational noise within the Mayfield 4 Berth and hardstand is necessary to reduce potential disturbances to the amenity experienced by nearby residents and other land users. Noise associated with facility operations is limited to berth operations.

Operational noise monitoring was undertaken on an annual basis during operations at nearby receivers with the results analysed to ensure that the site is operating in a manner consistent with the expectations of the local community and regulatory approvals. During the audit period, the annual noise monitoring reports prepared by AECOM reported no exceedances of the noise criteria specified in Condition 5.11 of the development consent. No complaints had been received in relation to noise during the audit period. The Auditor is therefore of the opinion that noise impacts were adequately managed during operation of the facility during operations. Construction noise management however was not undertaken and should be monitored for future construction works undertaken at the site

#### 3.7.3 Air quality and dust

Management of air quality and dust within the Mayfield 4 Berth and hardstand is necessary to minimise incidence of particulate matter, offensive odour, vapours or emissions. Air quality impacts associated with facility operations are generally minimal given the site is completely sealed.

Air quality monitoring stations are maintained by PON to capture operational air quality impacts. A PM<sub>10</sub> High Volume Air Sampler (HVAS) and Total Suspended Particulate (TSP) sampler are installed on the site.

Air quality monitoring is undertaken by RCA Australia. PON receives a monthly report from RCA Australia detailing results of the air quality program. Example reports were provided to the Auditors during the audit. A total of 15 exceedances of air quality criteria were reported for the audit period (refer to response to Condition 8.9 in Appendix 1 for details). However, only four of those 15 exceedances occurred when a vessel was berthed at the M4 facility when operational. The remaining exceedances occurred at times when M4 was not operational and are attributed to offsite activities. The Auditor is therefore of the opinion that air quality impacts were adequately managed during operation of the facility.

### 3.8 Consultation outcomes

A summary of consultation undertaken between government agencies and the Auditor(s) during the audit period is provided in **Table 3-4**. There are no specific consultation requirements specified in the Development Consent.

**Table 3-4: Consultation outcomes**

Agency	Comments	Where addressed
PON Community Liaison Group (CLG)	No comment or issues raised.	N/A
Environment Protection Authority (EPA)	None received.	N/A
Department of Planning and Environment (DPE)	Please review the management plans for adequacy as well as implementation.	<b>Section 3.6</b>
	As noted in the endorsement letter, the audit for the approval DA 293-08-00 must include the whole site referenced in the approval, not just the 4 berth area.	<b>Section 1.4 Appendix 1</b>

### 3.9 Complaints

The complaints handling procedure is included in Section 4.5 of the OEMP. Complaints may be made via the website, phone, post, email or in person. Complaints received are subsequently entered into the incident management database with relevant division managers being notified.

The following **Table 3-5** provides a summary of the complaints received during the audit period as recorded by PON.

**Table 3-5: Summary of complaints during the audit period**

Date	Complaint	Details
25/10/2021	Odour complaint from a port tenant regarding Koppers	Wade Covey of NCIG contacted Brigid Kelly on the morning of 26 October 2021. Wade reported an incident overnight – details in point form below as communicated by Wade over the phone: At around 10pm on 25 October 2021 two NCIG operators in the ship loader cabin noticed odorous fumes.



### 3.10 Incidents

The Auditors understand from the site interview and the incident management database maintained by PON that no incidents requiring notification to the Department occurred during the audit period. The following **Table 3-6** provides a summary of incidents received during the audit period as recorded by PON.

**Table 3-6: Summary of incidents during the audit period**

Date	Incident	Details
25/07/2023	Benzene vent fencing removed and vents damaged	While undertaking an inspection of groundwater monitoring bores in the Mayfield Storage Area, it was identified that a benzene vent (SV-1) had the temporary fencing compound removed, and the vent piping broken. The remains of the warning light which was previously attached to the fencing were also found in the vicinity. Further inspection of the area showed that other benzene vents had had fencing removed as well.
31/01/2023	Environmental - Hydraulic oil leak	Peter Wright from Husky Demolition was reversing his Volvo A 30D Articulated Dump truck towards the stockpile to dump the material which was loaded in his tray. As Peter began reversing, he heard a hissing sound. Peter then observed hydraulic oil spraying out from a hydraulic hose located behind the cab of his truck.
30/01/2023	Water used for site irrigation at Mayfield with water quality parameters outside of limits	KCE obtained a Dewatering licence from Water NSW to allow extraction of groundwater during deep excavations as part of the M4 Landside hardstand expansion project. The approved licence nominated water quality limits for specific parameters. The licence required extracted groundwater to be treated to improve water quality, and then re-use of the treated water on site for irrigation and re-infiltration. Lab sampling was undertaken on the treated water after it was re-used on site, which indicated some parameters exceeded the limits included in the water licence. Exceeded parameters included nitrogen, phosphorus and conductivity.
01/12/2022	Missing Groundwater Loggers	The Mayfield Concept Area approval requires PON to monitor groundwater levels at the site on an hourly basis. To achieve this, groundwater level loggers are permanently installed in the specified wells. RCA are contracted to retrieve and download the loggers on a quarterly basis. During the October 2022 retrieval round, RCA noted that the loggers in MW05Fa and MW05Sa were missing. The failure to collect the monitoring data is a potential breach of compliance obligations.

Date	Incident	Details
06/10/2022	Oil spill on posi-track attachment	Greg Brodie was using the Positrack to sweep the Rex road when Mitch noticed oil leaking from the broom. We immediately stop work and parked Positrack in heavy vehicle park area. We then immediately utilised sawdust from the spill kit and sand as well to soak up hydraulic oil. Why has this incident occurred? Wear and tear on broom
16/09/2022	Hydraulic Oil Leak on Dozer	<p>William McMaster (D&amp;D Lumsden Earthmoving) was operating the CAT D6T XL Dozer pushing material into a stockpile when he felt the blade control system become unresponsive. William then observed oil on the top step of the machine (outside cab window).</p> <p>William parked his machine up, isolated it using his red personal lock and contacted KCE Leading Hand Mitchell Atkinson and informed him of the situation.</p> <p>William and Mitchell obtained the spill kit from the site compound and placed absorbent floor sweep, sand and an absorbent sock on and around the spill to contain it.</p> <p>The hydraulic hose underneath the hydraulic tank and cab area has split causing a minor oil spill of approximately 500ml; 250ml - on machine; and, 250ml - on ground.</p>
07/06/2022	Small oil leak (~300ml) from the backhoe	<p>Description of the Incident: Ron Wilkinson (P&amp;D Cook) had just reversed his backhoe into the Heavy Vehicle parking area for crib break. As Ron exited the cab of the machine, he observed oil on the ground under the back left wheel. Ron created a gravel bund around the oil spill to contain it. Ron then contacted KCE Leading Hand Mitchell Atkinson, who was in the area and informed him about the oil spill / leak. Mitchell then contacted myself (KCE HSEQ Coordinator Chris Cashman) and informed him of the situation. Chris then informed PoN Supervisor Darren Hollier and explained what had happened. Darren, Mitchell and Chris attended the area to investigate the spill. Chris obtained a absorbent sock from the spill kit and placed behind the spill while Mitchell created a sand bund as an extra precaution.</p> <p>Why has this incident occurred? A blown hub seal on the back left wheel of the backhoe caused a minor oil spill (diff oil) of approximately 300ml onto the ground.</p>
18/04/2021	Diesel spill from filtration skid	On the morning of Sunday the 18th of April at 04:16 Driver Malcom O'Reilly from JL Pierce carriers started loading Diesel in Bay 3 at Stolthaven Newcastle. During this loading at 04:22am a leak occurred at the Diesel filtration unit which resulted in Diesel spraying from a rubber bellow flanged joint. Due to the nature of the leak Diesel was sprayed inside and outside of the containment area. At approx. 04:44am the leak reduced when the

Date	Incident	Details
		truck loading had completed, and as the driver walked to the driver's room, past the filtration unit to obtain his paperwork, he detected the spill.
25/02/2021	Grounds maintenance vehicle bogged on vacant land opposite Stolthaven	Grounds Maintenance contractor accessed the vacant land next to Stolthaven in a vehicle to access the far drain to carry out grounds maintenance. Recent ongoing rain resulted in the ground being wet and not suitable for vehicular access but this was ignored by the apprentice operating the vehicle and the vehicle became bogged.

### 3.11 Actual versus predicted impacts

The Auditors have not identified significant inconsistencies between actual environmental impacts and the predicted environmental impacts. As the berth is the only operational component of the facility, the impacts are considered to be less than those predicted in the EIS.

### 3.12 Site inspection

Photos from the site inspection are provided in **Appendix 3**. In general, the facility site was observed to be well maintained and in a tidy condition. The berth comprised a concrete area, a hardstand covered with bituminous material used for temporary shipping container storage, a site office, security guard hut and amenities. Mobile equipment such as cranes, forklifts and mobile conveyors were located on site but were not being used at the time of the site inspection.

General environmental controls observed at the site included:

- Spill kits located near the site entrance
- Skip bin located near the site entrance. It was advised by site personnel that this is serviced on a fortnightly basis
- Lighting was directed downwards and away from surrounding sensitive receivers and land uses
- Site security measures including onsite security guard, fencing, locked entry/exit gate and surveillance cameras.

These controls are generally consistent with those described in the OEMP.

### 3.13 Site interviews

Interviews with PON representatives Brigid Kelly (Environmental Advisor) and Phillip Carroll (Planning Advisor) were conducted on the day of the site visit. Information regarding the history of the site and the current operations was provided. Further information was later provided on request via email and has been incorporated into this Audit Report where relevant.

### 3.14 Previous annual review or compliance report recommendations

The previous AEMR identified no non-compliances with the standards, performance measures and statutory requirements for the development.

### 3.15 Key strengths

Environmental performance including environmental monitoring and responsiveness to opportunities for improvement are considered by the Auditor to be of a high standard. All non-compliance recommendations from the previous 2020 IEA were promptly acted upon by PON as described in **Section 3.5**. Impacts to sensitive receivers were well managed during operations as evident by the absence of complaints, exceedances of environment monitoring criteria and incidents.

## 4. Recommendations and Conclusion

### 4.1 Non-compliance recommendations

A summary of non-compliance recommendations identify as part of this Audit is provided in **Table 4-1** with further details provided in the Independent Audit Table presented as **Appendix 1**.

**Table 4-1: Non-compliance recommendations**

NC#	Condition(s)	Recommendation
NC1	2.4, 2.6, 3.3	The Proponent should resolve the conflicts arising between the requirements contained in this development consent and the requirements of the exempt development planning pathway with the Department regarding the berth upgrade construction works undertaken in the audit period at the site.
NC2	3.1	Review and respond as appropriate to the recommendations described in this audit to remedy and/or prevent future non-compliances with the conditions of the development consent.
NC3	4.3	Prior to future construction works undertaken in relation to this consent, PON should prepare an integrated Construction Environmental Management Plan (or appropriate updated plan) to address the requirements under condition 4.3(a) through to 4.3(i). PON should ensure no construction works on the Multi-Purpose Terminal occurs before the plan has been approved by the Director-General.
NC4	4.4	PON should update the OEMP including the CSMP to reflect the current stage of development and environmental management.
NC5	5.7, 5.8, 5.9	PON should ensure noise monitoring is undertaken for any construction activities undertaken in relation to this consent to confirm compliance with the noise criteria outlined in condition 5.7.
NC6	5.17, 5.18	The Site Audit Statement and Site Auditor Report for the construction works should be supplied to the Department to confirm compliance with the requirements of condition 5.17.
NC7	5.19	A qualified Geo-technical Engineer must be engaged to provide certification of the permeability of the seal bearing layer as detailed in Conditions 5.17 and 5.18 above.
NC8	5.21	PON should ensure all subsurfaces pipes associated with stormwater collection and drainage systems installed on the premises are flexible jointed pipes designed and installed in accordance with Australian Standard AS/NZS 2566.1:1998. Alternatively, PON should seek to approval for a non-standard approach.

#### 4.2 Opportunities for improvement

A summary of the additional continuous improvement recommendations identified as part of this Audit is provided in **Table 4-2** with further details provided in the Independent Audit Table presented as **Appendix 1**.

**Table 4-2: Continual improvement recommendations**

Condition(s)	Recommendation
4.6	PON should advise the Director-General in advance of the OEMP revision schedule due date of any potential late submissions.

5.29	Figure F5 of the OEMP should be updated in the next revision to the OEMP to reflect the changes to the stormwater management system.
7.4	Dangerous goods quantities as recorded in the dangerous goods register includes packaging weight. The dangerous goods register should be updated to include an additional column that records the dangerous goods weight only.
8.16	It was observed at time of site inspection that the berth redevelopment and upgrades works have been completed. PON should now pursue an application to vary the EPL requirements to include the new stormwater monitoring point.
9.2	Document the submission and review by the EPA within future AEMR quality control tables.
9.3	Future AEMRs should all include quality control tables and should document the review and approval process by the Department.

#### 4.3 Conclusion

The Auditors assessed the development to be generally compliant with the conditions of Development Consent DA-293-08-00. Whilst the undertaking of construction works that may breach the capping layer as exempt development is considered inconsistent with the Contaminated Site Management Plan, the Auditor considers this an opportunity for PON to confirm their compliance status for future construction works that may occur. Some opportunities for improvement were also identified. Environmental performance of the development is generally adequate for the stage of development.

## 5. Limitations

Ramboll Australia Pty Ltd prepared this report in accordance with the scope of work as outlined in our proposal to Port of Newcastle dated 6 August 2023 and in accordance with our understanding and interpretation of current regulatory standards.

Site conditions may change over time. This report is based on conditions encountered at the site at the time of the report and Ramboll Australia Pty Ltd disclaims responsibility for any changes that may have occurred after this time.

The conclusions presented in this report represent Ramboll Australia Pty Ltd's professional judgment based on information made available during the course of this assignment and are true and correct to the best of Ramboll Australia Pty Ltd's knowledge as at the date of the assessment.

Ramboll Australia Pty Ltd did not independently verify all of the written or oral information provided to Ramboll Australia Pty Ltd during the course of this investigation. While Ramboll Australia Pty Ltd has no reason to doubt the accuracy of the information provided to it, the report is complete and accurate only to the extent that the information provided to Ramboll Australia Pty Ltd was itself complete and accurate.

This report does not purport to give legal advice. This advice can only be given by qualified legal advisors.

### 5.1 User reliance

This report has been prepared exclusively for Port of Newcastle for the purposes of an Independent Environmental Audit of the Mayfield 4 Berth. It may not be relied upon by any other person or entity without Ramboll Australia Pty Ltd's express written permission.

Whilst reasonable attempts have been made to ensure that the contents of this report are accurate and complete at the time of writing, Ramboll Australia Pty Ltd disclaims any responsibility for loss or damage that may be occasioned directly or indirectly through the use of, or reliance on, the contents of this report.

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## Appendix 1 Independent Audit Table



CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
<b>1</b>	<b>STAGED DEVELOPMENT</b>				
1.1	Under Section 80(4) of the Act, this consent applies to Stage 1 of the development, as described in Schedule 1, only.	<ul style="list-style-type: none"> <li>DA 293-08-00</li> <li>OEMP (PON, 2021)</li> <li>Site visit observation</li> </ul>	<p>Stage 1 is defined in Schedule 1 as: <i>"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."</i></p> <p>Remediation of the Closure Area was completed in 2012. Mayfield 4 Berth is the only component of the 'Multi-Purpose Terminal' that has been completed, with operations commencing in January 2010. This audit considers the activities associated with operation of the Mayfield 4 Berth in addition to any ancillary activities occurring in the broader site as relevant to the audit period.</p>	Compliant	
1.1A	The approval for the General Cargo Handling Facility granted under <b>MOD-56-7-2008</b> shall operate for a maximum period of ten years from the date of this modification, or as otherwise agreed to by the Director-General.	<ul style="list-style-type: none"> <li>DA 293-08-00</li> <li>NSW Government Major projects website for <i>Site Remediation BHP Steelworks Site</i> project (DA 293-08-00)</li> <li><i>General Cargo Handling Facility Condition 1.1B Report Berth</i> (PON, 2022)</li> </ul>	<p>MOD-56-7-2008 was granted on 21 November 2008 and was due to lapse on 21 November 2018. PON submitted a request on 5 May 2017 to the Department for the continued operation of the General Cargo Handling Facility indefinitely. The Department granted approval for a five-year extension up until 23 November 2023 on the 13 April 2018.</p> <p>PON notified the Department of their intention to seek an extension of time to utilise the General Cargo Handling Facility for up to 15 years from 2023 at a meeting on 16 February 2022.</p> <p>The Auditor understands this request was formalised by the submission of the <i>General Cargo Handling</i></p>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
		<ul style="list-style-type: none"> <li>Letter from the Department subject: <i>Site Remediation of BHP Steelworks Site (DA293-08-00) – General Cargo Handling Facility</i> dated 22 April 2022</li> <li>Letter from the Department subject: <i>Extension of operation of the General Cargo Handling Facility under Condition 1.1A</i> dated 20 November 2023</li> </ul>	<p><i>Facility Condition 1.1B Report 2022</i> (PON, 2022) to the Department.</p> <p>The Department responded to the submission of the 2022 1.1B Report in a letter dated 22 April 2022 stating that an indefinite extension of the General Cargo Handling Facility would require modification of the 2001 consent or an application for planning approval under the Mayfield Concept Plan development consent (DA 09_0096).</p> <p>There is no evidence to suggest PON has made an application to modify the 2001 consent or a planning approval under the separate Mayfield Concept Plan development consent (DA 09_0096). As such, the Department may only approve the facility for a five year extension only as consistent with this consent.</p> <p>The Department approved the five year extension of the facility to 21 November 2028 under this condition, as evidenced in the letter from DPE dated 20 November 2023.</p> <p><b>Observation:</b> Where PON intends to request an extension of operations that is inconsistent with the requirements of this consent, PON should follow up with the Department’s advice to seek a modification of the 2001 consent or apply for planning approval under the Mayfield Concept Plan development consent (DA 09_0096).</p>		
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	<ul style="list-style-type: none"> <li><i>General Cargo Handling Facility Condition 1.1B Report Berth (PON, 2022)</i></li> </ul>	Operation of the General Cargo Handling Facility commenced in January 2010. The first five yearly report was submitted on 28 February 2017. Amendments were made to the report following review	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>Facility to be retained on site and to remain operational. The report must include supporting justification.</p>	<ul style="list-style-type: none"> <li>Letter from the Department subject: <i>Site Remediation of BHP Steelworks Site (DA293-08-00) – General Cargo Handling Facility</i> dated 22 April 2022</li> <li>Previous Independent Environmental Audit (Ramboll, 2020)</li> </ul>	<p>comments provided by the Department. The report was updated in October 2017 and January 2018. A table was included in Section 4 of the updated report summarising the updates made to the report in response to the Department’s request including justification on the facilities continued operation.</p> <p>The Auditor viewed the most recent report ‘<i>General Cargo Handling Facility Condition 1.1.B Report 2022</i>’ prepared by PON for the period January 2017 to December 2021. The report is dated 28 February 2022, five years following the previous report, initially submitted 28 February 2017.</p> <p>Supporting justification for an extension for continued operation was provided in Section 3.5 and Section 4 of the 2022 report.</p>		
1.2	<p>Under Section 80(5) of the Act, the Applicant will require a further consent from the Minister for Stage 2 of the development.</p> <p><i>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 and the Integrated Approval Bodies at that time. The Director-General shall consult with any relevant authorities and consider any submissions before Stage 2 of the development is determined.</i></p>	<ul style="list-style-type: none"> <li>DA 293-08-00</li> <li>OEMP (PON, 2021)</li> <li>Site visit observation</li> </ul>	<p>The Auditor understands that no requests have been made for Stage 2 of the development. Stage 1 activities have not yet been completed (refer to response to Condition 1.1).</p>	Not triggered	
<b>2</b>	<b>GENERAL</b>				
	<b>Obligation to Minimise Harm to the Environment</b>				

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
2.1	The Applicant must implement all practicable measures to prevent or minimise any harm to the environment that may result from the construction, operation, and where relevant, the decommissioning of the development.	<ul style="list-style-type: none"> <li>• OEMP (PON, 2022)</li> <li>• Compliance Report (PON, 2023)</li> <li>• 2021 AEMR</li> <li>• 2022 AEMR</li> <li>• PON combined incident and complaints register for the period 2021-2023</li> <li>• Site visit observation</li> </ul>	<p>Activities onsite were observed to be undertaken generally in accordance with the current OEMP.</p> <p>The OEMP provides the system to manage and control environmental aspects of the facility to prevent environmental harm. The Auditor noted evidence of spills occurring during operations at the facility as recorded in PON’s combined incident and complaints register, however, the Auditor noted spill kits were used to contain to manage environmental impacts. General environmental management on site was observed to be of a high standard.</p>	Compliant	
<b>Terms of Approval</b>					
2.2	<p>The Applicant shall carry out the development generally in accordance with the:</p> <p>(a) <b>Development application DA-293-08-00</b> submitted to the Department of Urban Affairs and Planning, accompanied and amended by:</p> <p>(i) the letter from the Applicant to the Director-General, dated 28 September 2000, specifically excluding Stage 2 and all works;</p> <p>(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;</p> <p>(iii) Additional information supplied to the Environment Protection Authority by URS Corporation including:</p>	<ul style="list-style-type: none"> <li>• DA 293-08-00</li> <li>• This audit table</li> <li>• The EIS (URS, 2000)</li> <li>• Site visit observation</li> </ul>	<p>The approvals relevant to the current stage of the development are (a) and (j) as listed in the adjacent column.</p> <p>Activities observed on site were generally in accordance with the approval as relevant to the current stage of operations and activities that were undertaken in the audit period with minor exceptions as outlined in this table.</p> <p>The wharf is comprised of a concrete area while the land-based hardstand has been sealed with bituminous material. Shipping containers were temporarily stored on the bitumen hardstand area. A site office, security guard hut and amenities are located at the southern end of the site. During loading and unloading activities, mobile equipment such as</p>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>(iv) Development of a Multi-Purpose Terminal and Remediation of the Closure Area, BHP Newcastle Steelworks Environmental Impact Summary Document;</p> <p>(v) "Response to EPA Request for Additional Information – Air Quality Issues, BHP Newcastle Steelworks Development", prepared for BHP Newcastle, 11 November 2000;</p> <p>(vi) "Response to EPA Request for Additional Information – Noise Issues, BHP Newcastle Steelworks Development", prepared for BHP Newcastle, 14 November 2000.</p> <p>(vii) The document titled <i>Proposed Multi-Purpose Terminal Consequence Analysis for URS</i>, prepared by Quest Consulting Engineers Pty Ltd and dated February 2001;</p> <p>(b) <b>Modification application DA-293-08-00-M1</b>, approved on 29 June 2001, in relation to the timing of establishment of a Community Consultative Committee;</p> <p>(c) <b>Modification application DA-293-08-00-M2</b>, approved on 13 August 2001, in relation to excision of heritage areas from the development area;</p> <p>(d) <b>Modification application DA-293-08-00-M3</b>, approved on 15 February 2002, in relation to protection of fig trees and noise monitoring requirements;</p> <p>(e) <b>Modification application MOD-77-7-2003-i</b>, approved on 16 September 2003, in relation to the burial of Blast Furnace No.1 slag stump, accompanied and amended by:</p>		<p>cranes, forklifts and mobile conveyors are used. These were not being used during the site inspection.</p>		

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>(i) the letter, titled <i>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</i>, prepared by BHP Billiton and dated 23 April 2003, relating to the modifications to the consent;</p> <p>(ii) the letter, titled <i>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</i>, prepared by BHP Billiton Ltd and dated 8 June 2003, relating to the modifications to the consent;</p> <p>(iii) the report, titled <i>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</i>, prepared by BHP Billiton Ltd and dated 2 July 2003, relating to the modifications to the consent;</p> <p>(f) <b>Modification application MOD-60-4-2005-i</b>, 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 <i>Application to Vary Development Conditions for the Multi Purpose Terminal and Remediation of the Former BHP Site, Mayfield (2001)</i>, prepared by URS Australia Pty Ltd and dated 19 April 2005; and</p> <p>(g) <b>Modification application MOD-64-7-2007-i</b>, approved on 21 August 2007, in relation to alteration of the alignment of the railway lines and relocation of</p>				

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>two major stormwater drainage lines on the site, accompanied and amended by:</p> <ul style="list-style-type: none"> <li>(i) <i>Application to Vary Development Conditions for the Multi Purpose Terminal and Remediation of the Former BHP Site, Mayfield (2000)</i>, prepared by the Regional Land Management Corporation Pty Ltd and dated 10 July 2007;</li> <li>(ii) the letter, titled <i>Remediation Civil Design Works – Main Works Site – Stormwater Analysis</i> prepared by Patterson Britton &amp; Partners and dated 12 July 2007, relating to the modification to consent;</li> <li>(iii) the report, titled <i>Preliminary Design Stormwater Strategy Issue No 2</i> prepared by Patterson Britton &amp; Partners and dated August 2006, , relating to the modification to consent;</li> <li>(iv) the plans, titled <i>Selwyn Street Drain (Drawing Nos 6073-500, 501 &amp; 502 Issue 1)</i> prepared by Patterson Britton &amp; Partners; and</li> <li>(h) <b>Modification application MOD-56-7-2008</b> 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: <ul style="list-style-type: none"> <li>(i) <i>Section 96 Modification Application, Multi-purpose Terminal and Remediation of former BHP Site, Mayfield</i>, prepared by Connell Wagner Pty Ltd and dated 15 August 2008;</li> <li>(ii) <i>Plans titled Mayfield Berth Refurbishment Plans</i> prepared by Patterson Britton &amp; Partners Pty Ltd dated July 2008;</li> </ul> </li> </ul>				

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>(iii) Plans titled Selwyn Road Upgrade Plans prepared by Worley Parsons Pty Ltd and dated August 2008; and</p> <p>(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</p> <p>(i) <b>Modification application MOD-06-02-2009</b> in relation to a minor change to the rail line layout, accompanied and amended by:</p> <p>(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</p> <p>(ii) <i>Application to Vary Development Conditions for the Multi Purpose Terminal and Remediation of the Former BHP Site, Mayfield (2000)</i>, prepared by Hunter Development Corporation dated January 2009; and</p> <p>(j) the conditions of this consent.</p> <p>If there is any inconsistency between the above, these conditions shall prevail.</p>				
	<b>Restriction on Operations</b>				
2.3	<p>The Container Terminal must not handle more than 350,000 containers per annum.</p> <p><i>Note: Any increase above 350,000 containers a year will require further assessment under the Act.</i></p>	<ul style="list-style-type: none"> <li>An extract from PON's online recording system for container numbers handled at M4 Berth was provided for the</li> </ul>	<p>Annual container numbers at the berth have reportedly not exceeded more than 350,000 containers per annum as reported in the site recording system as follows:</p> <ul style="list-style-type: none"> <li>2020: 57</li> </ul>	Compliant	



CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
		audit period in an email from PON personnel Hiren Patel (Business Intelligence Manager) dated 27 November 2023.	<ul style="list-style-type: none"> <li>• 2021: 462</li> <li>• 2022: 39</li> <li>• 2023 (January to October): 412.</li> </ul>		
	<b>Structural Adequacy</b>				
2.4	Before any construction work starts, the Applicant must obtain a construction certificate for the proposed development from the Principal Certifying Authority.	<ul style="list-style-type: none"> <li>• Email correspondence from PON representative Phillip Carroll (Planning Advisor) dated 27 November 2023.</li> <li>• Email correspondence from Phillip Carroll (Planning Advisor) dated 14 October 2022.</li> <li>• Letter from Sparke Helmore Lawyers dated 18 January 2024</li> </ul>	The construction of the berth was completed prior to the audit period. Construction activities undertaken during the audit period to upgrade the berth were: <ul style="list-style-type: none"> <li>• Extension of the hardstand area</li> <li>• New internal service road</li> <li>• Installation of water, electricity and communications infrastructure</li> <li>• Security fencing and gates</li> <li>• Relocation of the existing gatehouse</li> <li>• Installation of a wash bay</li> <li>• Installation of new lighting</li> <li>• Commissioning of two mobile harbour cranes</li> </ul> PON representative, Phillip Carroll, advised the following in response to this condition: <p><i>"The works have been undertaken under the exempt development provisions of State Environmental Planning Policy (Transport and Infrastructure) 2021 and as such construction certificates and occupations certificates were not required.</i></p> <p><i>In addition, due to the nature of the works a construction certificate nor an occupation</i></p>	<b>Non-compliant</b>	NC1

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			<p><i>certificate was triggered under the Environmental Planning &amp; Assessment Act 1979 (the Act). Under section 6.3 of the Act, a certificate (construction certificate) is required for building work”.</i></p> <p>Based on this interpretation PON concluded that the requirement for a construction certificate was not triggered for works undertaken as exempt development.</p> <p>The Auditor notes that the requirements of this condition were satisfied in the initial construction works which was undertaken outside of the audit period.</p> <p><b>A Construction Certificate for the construction works undertaken during the audit period was not obtained from the Principal Certifying Authority prior to construction works starting.</b></p> <p><b>The Auditor notes that PON received legal counsel advising that a construction certificate was not required for the works undertaken as exempt development under the <i>State Environmental Planning Policy (Transport and Infrastructure) 2021</i>.</b></p> <p><b>Recommendation:</b> The Proponent should resolve the conflicts arising between the requirements contained in this development consent and the requirements of the exempt development planning pathway with the Department regarding the berth upgrade construction works undertaken in the audit period at the site.</p>		

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
2.5	Before commissioning the development, the Applicant must obtain an occupation certificate for the development from the Principal Certifying Authority.		Commencement of operations of the berth occurred in 2010 prior to the audit period. No changes to operation or occupation have occurred during the audit period to warrant an occupation certificate.	Not triggered	
2.6	<p>The applicant shall engage an EPA Accredited Site Auditor to provide to Director-General and the Department of Environment and Climate Change prior to construction of the hardstand area:</p> <p>(a) a statement detailing whether the design of the hardstand area complies with the requirements of the relevant consent conditions; and</p> <p>(b) provide a written confirmation that the hardstand area is suitable for its final intended use.</p>	<ul style="list-style-type: none"> <li><i>Contaminated Land Management Plan: Berth M4 Upgrades, Mayfield NSW</i> (Qualtest, 2021)</li> </ul>	<p>The Auditor notes that the requirements of this condition were satisfied in the initial construction works which was undertaken outside of the audit period.</p> <p>Review of the <i>Contaminated Land Management Plan: Berth M4 Upgrades, Mayfield NSW</i> (Qualtest, 2021) report prepared for the berth construction activities (refer to condition 2.4) details that Fiona Robinson of Ramboll was appointed the role of EPA Accredited Independent Site Auditor for the construction works.</p> <p>As noted in response to Condition 2.4, PON concluded that written evidence of compliance submitted to the Department was not required for works undertaken as exempt development.</p> <p><b>No evidence was provided to indicate the Site Auditor provided the Director-General and the Department written evidence of compliance with condition 2.6 (a) and (b) prior to construction works on the hardstand commencing.</b></p> <p><b>Recommendation:</b> refer to recommendation provided in NC1.</p>	<b>Non-compliant</b>	Refer to NC1
<b>3</b>	<b>COMPLIANCE AND COMPLIANCE REPORTS</b>				
3.1	Throughout the life of the development, the Applicant must secure, renew, maintain, and comply with all the relevant statutory approvals applying to the development.	<ul style="list-style-type: none"> <li>DA 293-08-00</li> <li>This table</li> </ul>	The relevant statutory approvals are DA 293-08-00 (as modified) and the EPL. Both were provided to the Auditor and were current for the operation. <b>Non-</b>	<b>Non-compliant</b>	NC2

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
		<ul style="list-style-type: none"> <li>EPL 13181 Annual Return 2020-2021</li> <li>EPL 13181 Annual Return 2021-2022</li> <li>EPL 13181 Annual Return 2022-2023</li> </ul>	<p><b>compliances with DA 293-08-00 were identified as noted in this table.</b></p> <p><b>Recommendation:</b> Review and respond as appropriate to the recommendations described in this audit to remedy and/or prevent future non-compliances with the conditions of the development consent.</p>		
3.2	<p>The Applicant must ensure that all contractors and sub-contractors are aware of, and comply with, the conditions of this consent and the approved environmental management plans required under the consent (Conditions 4.1 to 4.4.).</p>	<ul style="list-style-type: none"> <li><i>WHS 0001 Access Induction.pptx</i></li> <li><i>WHS 0002 Work Induction.pptx</i></li> </ul>	<p>PON's Induction System (Rapid Global) and associated induction PowerPoints were viewed by the Auditor at the time of the audit. Example induction materials were also provided to the Auditor and included environmental components.</p> <p>The Auditors were required to undertake inductions prior to the site inspection.</p>	Compliant	
3.3	<p>At least two weeks before:</p> <p>(a) Site preparation works commence (including demolition and or remediation);</p> <p>(b) construction works commence; and</p> <p>(c) Operations commence,</p> <p>the Applicant must certify in writing to the Director-General that it has obtained all the necessary statutory approvals for, and complied with all the relevant conditions of this consent and/or any other statutory requirements related to each respective component of the development.</p>	<ul style="list-style-type: none"> <li>Email correspondence from PON representative Phillip Carrol (Planning Advisor) dated 1 December 2023.</li> </ul>	<p>The construction of the berth was completed prior to the audit period. Construction activities undertaken during the audit period were for the upgrade of the berth (refer to condition 2.4 for construction activities).</p> <p>PON Representative, Phillip Carroll (Planning Advisor), advised the following in relation to this condition:</p> <p><i>"The subject works were undertaken under Schedule 10 – Exempt development of State Environmental Planning Policy (Transport and Infrastructure) 2021. Under the exempt development provisions of the SEPP and the Environmental Planning and Assessment Act 1979, existing development approvals are not drawn on or called up."</i></p>	Non-compliant	Refer to NC1

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			<p>As noted in response to Condition 2.4, using this interpretation PON concluded that the requirement for a construction certificate was not triggered for works undertaken as exempt development.</p> <p><b>No evidence was provided to demonstrate PON certified in writing to the Director-General that PON had obtained all the necessary statutory approvals for and complied with all the relevant conditions of this consent and/or any other statutory requirements at least two weeks prior to construction works commencing.</b></p> <p><b>Recommendation:</b> Refer to recommendation provided in NC1.</p>		
<b>4</b>	<b>ENVIRONMENTAL MANAGEMENT PLANS</b>				
	<b>Contaminated Site Environmental Management Plan</b>				
4.1	<p>Prior to commencing site remediation works the Applicant must prepare an environmental management plan. The management plan must include, but need not be limited to, providing information for employees, contractors, and subcontractors working on the closure area site remediation, Multi-Purpose Terminal, or any other activities on the site of:</p> <p>(a) procedures required to maintain the integrity of the capping system;</p> <p>(b) procedures for ensuring that disturbance of any part of the during construction, or any other activities on the site, is rectified to maintain the integrity of the capping system and meet the requirements of Conditions 5.17 and 5.18 are met; and</p>		<p>Remediation work within the Mayfield 4 Berth were completed in 2012 prior to the audit period.</p>	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	(c) legal responsibilities under the Protection of the Environment Operations Act 1997.				
	<b>Site Preparation Environmental Management Plan</b>				
4.2	<p>The Applicant must prepare and implement a Site Preparation Environmental Management Plan addressing all demolition and site remediation activities. The management plan must include, but need not be limited to:</p> <ul style="list-style-type: none"> <li>(a) A description of the proposed site preparation works;</li> <li>(b) An outline the proposed site preparation work program;</li> <li>(c) Identification of all the relevant statutory requirements and conditions of consent that apply to the site preparation phase of the development including legal responsibilities under the <i>Protection of the Environment Operations Act 1997</i>;</li> <li>(d) Standards and performance measures for each of the relevant environmental matters associated with the site preparation works;</li> <li>(e) A Description of what actions and measures will be implemented to mitigate the potential impacts of the site preparation works, and to ensure that these works will comply with the relevant standards and performance measures;</li> <li>(f) A detailed description of what measures and procedures will be implemented to:               <ul style="list-style-type: none"> <li>• Manage potential pollutants exposed to air, and surface and groundwater during demolition of structures;</li> <li>• Manage traffic;</li> <li>• Mitigate potential noise impacts;</li> </ul> </li> </ul>		Remediation and site preparation work within the Mayfield 4 Berth were completed prior to the audit period.	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<ul style="list-style-type: none"> <li>• Mitigate potential dust impacts;</li> <li>• Mitigate pollution of surface and groundwater;</li> <li>• Register and respond to complaints;</li> <li>• Ensure the occupational health and safety of workers;</li> <li>• Respond to any emergencies; and</li> <li>• Respond to the discovery of any archaeological relics or sites during site works.</li> </ul> <p>(g) An explanation as to how the environmental performance of the site preparation works will be monitored, and what actions will be taken if any non-compliance is detected;</p> <p>(h) A description of the role, responsibility, authority, accountability, and reporting of key personnel involved in the site preparation phase of the development;</p> <p>(i) The following plans:</p> <ul style="list-style-type: none"> <li>• Contaminated Site Management Plan (Condition 4.1);</li> <li>• Site Preparation and Construction Noise Management Plan (Condition 5.8);</li> <li>• Soil and Water Management Plan (Condition 5.27);</li> <li>• Heavy Vehicle Route Plan (Condition 5.46)</li> <li>• Archaeological Management Plan (Condition 6.3).</li> </ul> <p>The plan must be submitted and approved by the Director-General prior to site preparation works commencing.</p>				

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<b>Construction Environmental Management Plan</b>				
4.3	<p>The Applicant must prepare and implement a Construction Management Plan for the Multi-Purpose Terminal development. This plan must:</p> <p>(a) Describe the proposed construction works;</p> <p>(b) Outline the proposed construction work program;</p> <p>(c) Identify all the relevant statutory requirements and conditions of consent that apply to the construction phase of the development;</p> <p>(d) Set standards and performance measures for each of the relevant environmental matters associated with the construction work;</p> <p>(e) Describe what actions and measures will be implemented to mitigate the potential impacts of the construction works, and to ensure that these works will comply with the relevant standards and performance measures;</p> <p>(f) Describe in detail what measures and procedures will be implemented to:</p> <ul style="list-style-type: none"> <li>• Manage construction traffic;</li> <li>• Mitigate any potential dust impacts;</li> <li>• Register and respond to complaints during the construction period;</li> <li>• Ensure the occupational health and safety of construction workers;</li> <li>• Respond to any emergencies; and</li> <li>• Respond to the discovery of any archaeological relics or sites during site works.</li> </ul> <p>(g) Explain how the environmental performance of the construction works will be monitored, and what</p>	<ul style="list-style-type: none"> <li>• <i>Contaminated Land Management Plan: Berth M4 Upgrades, Mayfield NSW</i> (Qualtest, 2021)</li> <li>• <i>Acid Sulfate Soil Management Plan: Mayfield Berth 4, Mayfield NSW</i> (Qualtest, 2022)</li> <li>• <i>Work Health &amp; Safety and Environmental: POLICY MANUAL</i> (KCE Pty Ltd, 2021)</li> <li>• <i>Site Specific WHS &amp; Environmental Project Management Plan: Job No. 22025 Mayfield Cargo Handling Facility Selwyn Street, Mayfield (KCE Pty Ltd, 2022)</i></li> <li>• <i>Erosion &amp; Sediment Control Plan: Job no. 22025 Mayfield Cargo Handling Facility (KCE Pty Ltd 2022)</i></li> </ul>	<p>The Auditor notes that the requirements of this condition were satisfied in the initial construction works which was undertaken outside of the audit period.</p> <p>The construction of the berth was completed prior to the audit period. Construction activities undertaken during the audit period were for the upgrade the berth facility (refer to condition 2.4 for construction activities).</p> <p>The following plans prepared for berth construction activities included:</p> <ul style="list-style-type: none"> <li>• <i>Contaminated Land Management Plan: Berth M4 Upgrades, Mayfield NSW</i> (Qualtest, 2021) report (CLMP)</li> <li>• <i>Erosion &amp; Sediment Control Plan: Job no. 22025 Mayfield Cargo Handling Facility (KCE Pty Ltd 2022)</i> (ESCP)</li> <li>• <i>Site Specific WHS &amp; Environmental Project Management Plan: Job No. 22025 Mayfield Cargo Handling Facility Selwyn Street (KCE Pty Ltd, 2022)</i> (PMP)</li> </ul> <p>The aforementioned plans include the requirements as under this condition as follows:</p> <p>(a) CLMP Section 3.1 – Proposed Upgrade Works</p> <p>(b) ESCP Section 5 – Sequencing of Works</p> <p><b>Note:</b> sequence of work phases is included however, the expected dates for construction phases are not listed.</p> <p>(c) CLMP Section 5.2 – Regulatory Requirements</p>	<b>Non-compliant</b>	NC3



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	<p>actions will be taken if any non-compliance is detected;</p> <p>(h) Describe the role, responsibility, authority, accountability, and reporting of key personnel involved in the construction of the development;</p> <p>(i) Include the following plans:</p> <ul style="list-style-type: none"> <li>• Soil and Water Management Plan (Condition 5.27)</li> <li>• Site Preparation and Construction Noise Management Plan (Condition 5.8);</li> <li>• Heavy Vehicle Route Plan (Condition 5.46)</li> <li>• Landscape Management Plan (Condition 5.47)</li> <li>• Contaminated Site Management Plan (Condition 4.1)</li> <li>• Archaeological Management Plan (Condition 6.3)</li> </ul> <p>No construction work on the Multi-Purpose Terminal may occur before this plan has been approved by the Director-General.</p>		<p><b>Note:</b> Regulatory requirements specified in the plan do not include the requirements under the DA 293-08-00.</p> <p>(d) CLMP Section 5.2.2 Standards</p> <p><b>Note:</b> Reference is made to the relevant standards and guidelines for contaminated land management, however, no specific measures that apply to the constructions works have been pulled from the standards and included as site-specific environmental performance metrics.</p> <p>(e) CLMP Section 4.0 – Materials Management Plan CLMP Section 6.0 – Site Management Plan</p> <p>(f) Construction traffic: PMP Section 17 – Traffic Control Dust: CLMP Section 6.2.2 – Dust, Odours, VOCs and gases Complaints: PMP Section 9 – Incident Reporting Occupational health and safety: CLMP Section 6.2 – Occupation Health and Safety Monitoring Emergency response: PMP Section 11 – Emergency Response Archaeological unexpected finds: PMP Section 14 – Heritage &amp; Archaeology</p> <p><b>No evidence has been provided to demonstrate the various sub-plans forming the construction environmental management plan documents for the berth upgrade works were approved by the Director-General prior to construction works commencing.</b></p> <p><b>Recommendation:</b> Prior to future construction works undertaken in relation to this consent, PON should</p>		

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			prepare an integrated Construction Environmental Management Plan (or appropriate updated plan) to address the requirements under condition 4.3(a) through to 4.3(i). PON should ensure no construction works on the Multi-Purpose Terminal occurs before the plan has been approved by the Director-General.		
	<b>Operation Environmental Management Plan</b>				
4.4	<p>The Applicant must prepare and implement an Operation Environmental Management Plan (OEMP) for all future operations of the Multi-Purpose Terminal. This plan must:</p> <ul style="list-style-type: none"> <li>(a) Describe the proposed operations;</li> <li>(b) Identify all the relevant statutory requirements that apply to the operation of the development;</li> <li>(c) Set standards and performance measures for each of the relevant environmental issues;</li> <li>(d) Describe what actions and measures will be implemented to mitigate the potential impacts of the development, and to ensure that the development meets these standards and performance measures;</li> <li>(e) Describe what measures and procedures will be implemented to: <ul style="list-style-type: none"> <li>• Register and respond to complaints;</li> <li>• Ensure the operational health and safety of the workers; and</li> <li>• Respond to potential emergencies, such as plant failure;</li> </ul> </li> <li>(f) Describe the role, responsibility, authority, and accountability of all the key personnel involved in the operation of the development;</li> <li>(g) Incorporate the detailed Environmental Monitoring Program (see Condition 8.1); and</li> </ul>	<ul style="list-style-type: none"> <li>• OEMP (PON, 2021)</li> <li>• Site visit observations</li> <li>• Example site inspection record from 31 August 2023</li> </ul>	<p>The requirements under this condition are met in the OEMP as follows:</p> <ul style="list-style-type: none"> <li>(a) Section 1.4 – Mayfield No. 4 Berth Description</li> <li>(b) Section 3.0 – Statutory Requirements</li> <li>(c) Section 2.2 – Environmental Policy Objectives and Section 7.0 – Environmental Monitoring Plan</li> <li>(d) Section 4.0 – Reporting and Monitoring through to Section 7.0 – Operation Environmental Management Plan</li> <li>(e) Section 4.5 – Complaints Handling. Section 10.0 – Work Health and Safety Section 8.0 – Emergency Response and Contact Details</li> <li>(f) Section 2.0 – Environmental Management Responsibilities</li> <li>(g) Section 4.1 – Environmental Monitoring Program</li> <li>(h) Section 7.2 – Stormwater Section 7.4 – Capping Maintenance Section 7.5 – Contaminated Site Management and Appendix D – Contaminated Site Management Plan Section 7.6.1 – Heavy Vehicle Routes and Appendix E – Heavy Vehicle Route Plan.</li> </ul>	<b>Non-compliant</b>	NC4

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>(h) Include the following:</p> <ul style="list-style-type: none"> <li>Stormwater Management Plan (condition 5.30);</li> <li>Capping Maintenance Plan (Condition 5.20);</li> <li>Contaminated Site Environmental Management Plan (Condition 4.1); and,</li> <li>Heavy Vehicle Route Plan (Condition 5.46).</li> </ul>		<p>Evidence of implementation of the OEMP was observed by the Auditor during the site inspection including:</p> <ul style="list-style-type: none"> <li>Operational air quality monitors</li> <li>Skip bins available for waste management</li> <li>Site security measures (e.g. fencing, cameras, security hut).</li> </ul> <p>Evidence of implementation of the environmental monitoring program is included in the response to Conditions 5.11 (noise), 8.5 (meteorological), 8.9 (air quality), 8.14 (groundwater) and 8.16 (surface water).</p> <p>Section 4.2 of the Contaminated Site Management Plan (Appendix D of the OEMP) states:</p> <p><i>"Generally, it will not be appropriate for any development on the site which involves any of:</i></p> <ul style="list-style-type: none"> <li><i>the penetration of the ground</i></li> <li><i>earthworks of any sort</i></li> <li><i>the use of lands in areas ###,</i></li> </ul> <p><i>to be declared to be exempt development"</i></p> <p><b>The Auditor understands that the construction activities undertaken during the audit period to upgrade the berth (refer to condition 2.4 for construction activities) were undertaken as exempt development which is generally not in accordance with the CSMP.</b></p> <p><b>The Auditor is of the view the OEMP and associated CSMP is generally not adequate or clear to support environmental management of the site.</b></p>		

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			<b>Recommendation:</b> PON should update the OEMP including the CSMP to reflect the current stage of development and environmental management.		
4.5	The Applicant must ensure that a copy of the OEMP is publicly available.	<ul style="list-style-type: none"> <li><a href="https://www.portofn ewcastle.com.au/wp-content/uploads/2021/12/M4-Operational-Environment-Management-Plan-2021-04-11-2021-WEB.pdf">https://www.portofn ewcastle.com.au/wp-content/uploads/2021/12/M4-Operational-Environment-Management-Plan-2021-04-11-2021-WEB.pdf</a></li> </ul>	The OEMP is publicly available at the web address in the adjacent column.	Compliant	
4.6	The Applicant must review and update the OEMP regularly, or as directed by Director-General.	<ul style="list-style-type: none"> <li>OEMP (PON, 2021)</li> <li>Letter from the Department Subject: <i>Mayfield Berth No. 4 (DA293-08-00) Operational Environmental Management Plan</i> dated 28 October 2021</li> </ul>	<p>The version control register in the OEMP notes that the 2021 version is the third update of the OEMP. Previous versions were released on 9 January 2015 and 28 September 2018 and were approved by the Department.</p> <p><b>Observation:</b> Review of the letter from the Department Subject: <i>Mayfield Berth No. 4 (DA293-08-00) Operational Environmental Management Plan</i> dated 28 October 2021 indicates the 2021 OEMP was submitted late.</p> <p><b>Recommendation:</b> PON should advise the Director-General in advance of the OEMP revision schedule due date of any potential late submissions.</p>	Compliant	
4.7	The OEMP must be approved by the Director-General before operations at the MPT can commence.	<ul style="list-style-type: none"> <li>OEMP (PON, 2021)</li> <li>Letter from the Department</li> </ul>	Commencement of operations of the berth occurred in 2010 prior to the audit period. The version control register in the OEMP notes that subsequent revisions	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
		Subject: <i>Mayfield Berth No. 4 (DA293-08-00) Operational Environmental Management Plan</i> dated 28 October 2021	to the OEMP were approved by the Department. The current, 2021 OEMP was approved by the Department on 4 November 2021.		
<b>5</b>	<b>ENVIRONMENTAL STANDARDS AND CONDITIONS</b>				
	<b>Hours of Site Preparation and Construction</b>				
5.1	All site preparation and construction activities in relation to the MPT must only be conducted between the hours specified below unless otherwise agreed by the Director-General in consultation with the appropriate regulatory authority:  (a) Monday to Friday 7am to 6pm; (b) Saturday, 8am to 1pm if audible at residential receivers, otherwise 7am to 1pm; and (c) No construction work to take place on Sundays or Public Holidays.	<ul style="list-style-type: none"> <li>Site Specific WHS &amp; Environmental Project Management Plan: Job No. 22025 Mayfield Cargo Handling Facility Selwyn Street, Mayfield (KCE Pty Ltd, 2022)</li> </ul>	The construction of the berth was completed prior to the audit period. Construction activities were undertaken during the audit period to redevelop and upgrade the berth (refer to condition 2.4 for construction activities).  The Site Specific WHS & Environmental Project Management Plan: Job No. 22025 Mayfield Cargo Handling Facility Selwyn Street, Mayfield (KCE Pty Ltd, 2022) prepared for the berth construction activities describes the following:  <i>"Hours of Work. Weekdays 7am to 5pm. Saturdays 8pm to 1pm."</i>	Compliant	
5.1A	Notwithstanding condition 5.1 of this consent, activities associated with remediation of the site may be undertaken at any time, subject to compliance with the noise limits specified under condition 5.7.		Remediation work within the Mayfield 4 Berth were completed in 2012 prior to the audit period.	Not triggered	
	<b>Blasting</b>				
5.2	The applicant must notify the community with the postcodes 2304 and 2297 by way of a community service announcement in a widely distributed print media and	<ul style="list-style-type: none"> <li>Site personnel interview</li> </ul>	Blasting has not been undertaken during the audit period.	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	local broadcast media of the proposed date and time of any blasting to be done on the site. The notification must provide a timely warning of the intended blast and provide a contact name and phone number that the public may use to obtain further details of the proposed blast.				
5.3	Noise caused by blasting operations must not exceed an over-pressure level of 115dB (linear peak) for more than 5% of the total number of blasts when measured at any noise sensitive locations (such as residential premises, schools or hospitals).	<ul style="list-style-type: none"> <li>Site personnel interview</li> </ul>	Blasting has not been undertaken during the audit period.	Not triggered	
5.4	Noise caused by blasting operations must not exceed an over-pressure level 120dB (linear peak) at any time when measured at any noise sensitive locations (such as residential premises, schools or hospitals).	<ul style="list-style-type: none"> <li>Site personnel interview</li> </ul>	Blasting has not been undertaken during the audit period.	Not triggered	
5.5	Ground vibration caused by blasting operations must not exceed a peak particle velocity of 5 millimetres for more than 5% of the total number of blasts carried out over any 12 month period, when measured at any point within one metre of any residential boundary or in or on any noise sensitive areas (such as residential premises, schools or hospitals).	<ul style="list-style-type: none"> <li>Site personnel interview</li> </ul>	Blasting has not been undertaken during the audit period.	Not triggered	
5.6	Ground vibration caused by blasting operations on the site must not exceed a peak particle velocity of 10 millimetres per second (peak particle velocity) when measured at any point within one metre of the boundary of any premises not owned or leased by the applicant.	<ul style="list-style-type: none"> <li>Site personnel interview</li> </ul>	Blasting has not been undertaken during the audit period.	Not triggered	
	<b>Noise – Site Preparation and Construction Phases</b>				
5.7	Noise emissions arising from demolition and site remediation of the closure area and construction of the	<ul style="list-style-type: none"> <li><i>Mayfield No. 4 Berth: Operational Noise Compliance</i></li> </ul>	The Auditor notes that the requirements of this condition were satisfied in the initial construction	<b>Non-compliant</b>	NC5

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.												
	<p>MPT, and associated activities must not exceed the following noise levels:</p> <table border="1" data-bbox="253 368 882 639"> <thead> <tr> <th data-bbox="253 368 613 411">Location</th> <th data-bbox="613 368 882 411">Noise Limits (dBA)</th> </tr> </thead> <tbody> <tr> <td data-bbox="253 411 613 454">1. 52 Arthur Street</td> <td data-bbox="613 411 882 454">55</td> </tr> <tr> <td data-bbox="253 454 613 497">2. Mayfield East Public School</td> <td data-bbox="613 454 882 497">47</td> </tr> <tr> <td data-bbox="253 497 613 541">3. 21 Crebert Street</td> <td data-bbox="613 497 882 541">56</td> </tr> <tr> <td data-bbox="253 541 613 584">4. Newcastle TAFE</td> <td data-bbox="613 541 882 584">49</td> </tr> <tr> <td data-bbox="253 584 613 627">5. 1 Arthur Street</td> <td data-bbox="613 584 882 627">51</td> </tr> </tbody> </table> <p><i>Note: The shaded area represents the applicable criteria to all construction related activity for the closure area.</i></p> <p>The Noise limits apply during the day or night-time under winds up to 3 metres per second (measured at 10 metres above ground level) and Pasquill stability class from A to F.</p>	Location	Noise Limits (dBA)	1. 52 Arthur Street	55	2. Mayfield East Public School	47	3. 21 Crebert Street	56	4. Newcastle TAFE	49	5. 1 Arthur Street	51	<p><i>Assessment (AECOM, 2022)</i></p>	<p>works which was undertaken outside of the audit period.</p> <p>The construction of the berth was completed prior to the audit period. Construction activities were undertaken during the audit period to redevelop and upgrade the berth (refer to condition 2.4 for construction activities). Construction works for the berth upgrade commenced in September 2022.</p> <p>Noise monitoring was undertaken during the audit period to satisfy condition 5.11 of DA-293-08-00 concerning operational noise. Review of the 2022 operational noise report titled, <i>Mayfield No. 4 Berth: Operational Noise Compliance Assessment (AECOM, 2022)</i>, states the following:</p> <p><i>“Note that due to temporary construction works adjacent to Mayfield No. 4 Berth, the 2022 noise compliance measurements were not able to be completed prior to the end of the reporting year, generally aimed to be completed in November each year. PON requested for an extension of time from the Department of Planning and Environment (DPE) to undertake the 2022 annual noise compliance monitoring as required under the conditions of DA 293-08-00, DA 8137 and CA 09-0096. The request was granted by the Planning Secretary as documented in DPE letter dated 3 February 2023.”</i></p> <p><b>No noise monitoring was undertaken for construction works carried out in the audit period. As such, compliance with the noise</b></p>		
Location	Noise Limits (dBA)																
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CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			<p><b>criteria outlined in condition 5.7 cannot be verified.</b></p> <p><b>Recommendation:</b> PON should ensure noise monitoring is undertaken for any construction activities undertaken in relation to this consent to confirm compliance with the noise criteria outlined in condition 5.7.</p>		
5.8	<p>To achieve the levels specified in Condition 5.7, the Applicant must develop and implement an appropriate Site Preparation and Construction Noise Management Plan. The plan must include, but need not be limited to:</p> <ul style="list-style-type: none"> <li>(a) identification of all noise sources;</li> <li>(b) noise mitigation measures both in terms of engineering best practice and operational procedures;</li> <li>(c) proposed times for noise propagating site activities;</li> <li>(d) monitoring methods and programs;</li> <li>(e) contingency measures where monitoring indicates non compliance; and</li> <li>(f) complaints handling procedures.</li> </ul> <p>The plan will form part of the Site Preparation EMP (Condition 4.2) and the Construction EMP (Condition 4.3) and be approved by the Director-General prior to works commencing.</p>		<p>The construction of the berth was completed prior to the audit period. Construction activities were undertaken during the audit period to upgrade the berth (refer to condition 2.4 for construction activities). Construction works for the berth upgrade commenced in September 2022.</p> <p><b>No construction Noise Management Plan for the berth construction works was provided to the Auditor as no noise monitoring was undertaken during the audit period for construction works</b></p> <p><b>Recommendation:</b> Refer to the recommendation provided as NC5.</p>	<b>Non-compliant</b>	Refer to NC5
5.9	<p>In the event that the Applicant is unable to achieve the noise levels specified in Condition 5.7, the Director-General, in consultation with the EPA may agree to a request by the applicant to negotiate noise limits above the limits specified in Condition 5.7, provided the Director-General is satisfied that the applicant has demonstrated that all feasible and reasonable means to mitigate noise</p>		<p>The construction of the berth was completed prior to the audit period. Construction activities were undertaken during the audit period to r upgrade the berth (refer to condition 2.4 for construction activities). Construction works for the berth upgrade commenced in September 2022.</p>	<b>Non-compliant</b>	Refer to NC5



CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>impacts have been considered. The application should include but need not be limited to:</p> <ul style="list-style-type: none"> <li>(a) full details of the measures proposed to mitigate noise impacts associated with the construction related activity for the Closure Area, with particular reference to piling operations;</li> <li>(b) a quantitative analysis of the extent to which the mitigation measures will achieve the noise limits specified in Condition 5.7;</li> <li>(c) identify all residential properties and sensitive receivers likely to be affected when all feasible and reasonable on-site mitigation strategies have been taken into account; and</li> <li>(d) details of the outcome of a community consultation process to be implemented by the Applicant to identify alternative on-site or off-site mitigation strategies that may be acceptable to the community.</li> </ul>		<p><b>No construction noise monitoring results are available for the construction works undertaken during audit period. As such, compliance with the noise criteria outlined in condition 5.7 cannot be verified.</b></p> <p><b>Recommendation:</b> Refer to the recommendation provided as NC5.</p>		
5.10	<p>Piling operations must be conducted using best available technology. The appropriate regulatory authority may require acoustic shrouding of the hammer to limit impact noise if the appropriate regulatory authority receives justifiable complaints.</p>	<ul style="list-style-type: none"> <li>• <i>Contaminated Land Management Plan: Berth M4 Upgrades, Mayfield NSW</i> (Qualtest, 2021)</li> <li>• PON combined incident and complaints register for the period 2021-2023</li> </ul>	<p>Section 3.1 of the <i>Contaminated Land Management Plan: Berth M4 Upgrades, Mayfield NSW</i> (Qualtest, 2021) report prepared for the Berth construction and upgrade works states piling may be carried out to facilitate the berth upgrade works.</p> <p>No noise complaints were received during the audit period, as recorded in the combined complaints/incident register maintained by PON, to justify the requirement for acoustic shrouding.</p>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.																												
	<b>Noise – Operation Phase</b>																																
5.11	<p>The following noise limits apply to the operation of the Multi-Purpose Terminal at the locations shown are as follows:</p> <table border="1"> <thead> <tr> <th colspan="4">Noise Limits dB(A)</th> </tr> <tr> <th>Location</th> <th>Day</th> <th>Evening</th> <th>Night</th> </tr> </thead> <tbody> <tr> <td></td> <td>7:00 am to 6:00 pm Mondays to Saturdays 8:00 am to 6:00 pm Sundays and public holidays</td> <td>6:00 pm to 10:00 pm on any day</td> <td>10:00 pm to 7:00 am Mondays to Saturdays 10:00 pm to 8:00 am Sundays and public holidays</td> </tr> <tr> <td></td> <td>L<sub>Aeq</sub> (15 minute)</td> <td>L<sub>Aeq</sub> (15 minute)</td> <td>L<sub>Aeq</sub> (15 minute)</td> </tr> <tr> <td>1. 52 Arthur Street</td> <td>49</td> <td>38</td> <td>38</td> </tr> <tr> <td>2. Mayfield East Public School</td> <td>47</td> <td>37</td> <td>37</td> </tr> <tr> <td>3. 21 Crebert Street</td> <td>49</td> <td>39</td> <td>39</td> </tr> </tbody> </table>	Noise Limits dB(A)				Location	Day	Evening	Night		7:00 am to 6:00 pm Mondays to Saturdays 8:00 am to 6:00 pm Sundays and public holidays	6:00 pm to 10:00 pm on any day	10:00 pm to 7:00 am Mondays to Saturdays 10:00 pm to 8:00 am Sundays and public holidays		L <sub>Aeq</sub> (15 minute)	L <sub>Aeq</sub> (15 minute)	L <sub>Aeq</sub> (15 minute)	1. 52 Arthur Street	49	38	38	2. Mayfield East Public School	47	37	37	3. 21 Crebert Street	49	39	39	<ul style="list-style-type: none"> <li>OEMP (PON, 2021)</li> <li>Mayfield No. 4 Berth: Operational Noise Compliance Assessment (2020) (AECOM, 2021)</li> <li>Letter from the Department Subject: Mayfield No. 4 Berth (DA293-08-00) Operational Noise Compliance Assessment dated 19 March 2021</li> <li>2020 AMER (PON, 2021)</li> <li>Mayfield No. 4 Berth: Operational Noise Compliance Assessment (2021) (AECOM, 2022)</li> <li>2021 AEMR (PON, 2022)</li> <li>Mayfield No. 4 Berth: Operational Noise Compliance Assessment (2022) (AECOM, 2023)</li> <li>Letter from the Department Subject:</li> </ul>	<p>Operational Noise Compliance Assessments are undertaken on an annual basis by AECOM. The results of AECOM’s noise assessment are published in annual Operational Noise Compliance reports by AECOM as well as the annual AEMRs by PON.</p> <p>The Operational Noise Compliance Assessments demonstrate that the facility is compliant with the site noise limits at the nominated noise sensitive receivers outlined in Condition 5.11.</p> <p>The previous IEA audit (the 2020 IEA) stated the following observation regarding discontinued operational noise compliance monitoring:</p> <p><i>“PON requested to discontinue operational noise compliance monitoring on the basis that there have been no changes to operations and that Mayfield 4 berth has not been subject to any noise complaints since operations commenced in a letter to the Department dated 21 December 2017. Another letter of the same nature was sent on 14 February 2019. The Department acknowledged the request in a letter dated 17 April 2019 and responded that “any alteration to the noise monitoring program would require a revision and Department approval of the OEMP.”. The OEMP has not been updated to remove the requirement for noise monitoring.</i></p> <p><b>Observation:</b> If PON intends to remove the requirement for annual noise monitoring on the basis that there have been no changes to</p>	Compliant	
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CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)				EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	4. Newcastle TAFE	44	38	38	<i>Site Remediation BHP steelworks site (DA293-08-00)</i> <i>Extension of time request dated 3 February 2023</i> <ul style="list-style-type: none"> <li>2022 AEMR (PON, 2023)</li> <li>Previous Independent Environmental Audit (Ramboll, 2020)</li> </ul>	<i>operations since 2017 and that compliance with the noise criteria has been demonstrated in the assessments undertaken by AECOM since 2017 to 2019, the OEMP should be updated and sent to the Department for approval as requested."</i>  This observation remains unchanged as of this 2023 IEA. If PON intends to remove the requirement for annual noise monitoring, a modification to DA293-08-00 (conditions 5.11 and 5.12) would be required and subsequent revisions to the OEMP would be required.		
	5. 1 Arthur Street	48	33	33				
	The noise limits apply during all assessment periods under winds up to 3 metres per second (measured at 10 metres above ground level) and Pasquill stability classes from A to F.							
5.12	In the event that the Applicant is unable to achieve the noise levels specified in Condition 5.11, the Director-General, in consultation with the EPA may agree to a request by the applicant to negotiate noise limits up to 5 dB(A) above the limits specified in Condition 5.11, provided the Director-General is satisfied that the applicant has demonstrated that all feasible and reasonable means to mitigate noise impacts have been considered. The application should include but need not be limited to: <ul style="list-style-type: none"> <li>(a) full details of the measures proposed to mitigate noise impacts associated with the operation of the container terminal and the rail terminal;</li> <li>(b) a quantitative analysis of the extent to which the mitigation measures will achieve the noise limits specified in Condition 5.11;</li> <li>(c) identify all residential properties and sensitive receivers likely to be affected when all feasible and reasonable on-site mitigation strategies have been taken into account; and</li> </ul>				<ul style="list-style-type: none"> <li><i>Mayfield No. 4 Berth: Operational Noise Compliance Assessment (2020) (AECOM, 2021)</i></li> <li><i>Mayfield No. 4 Berth: Operational Noise Compliance Assessment (2021) (AECOM, 2022)</i></li> <li><i>Mayfield No. 4 Berth: Operational Noise Compliance Assessment (2022) (AECOM, 2023)</i></li> <li>2020 AMER (PON, 2021)</li> <li>2021 AEMR (PON, 2022)</li> </ul>	The noise levels specified in Condition 5.11 have been complied with as evident by the Operational Noise Compliance Assessments undertaken by AECOM (refer to condition 5.11).	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	(d) details of the outcome of a community consultation process to be implemented by the Applicant to identify alternative on-site or off-site mitigation strategies that may be acceptable to the community.	<ul style="list-style-type: none"> <li>2022 AEMR (PON, 2023)</li> </ul>			
	<b>Vibration</b>				
5.13	Prior to construction of the railway linking the MPT to the Morandoo sidings inroad, the Applicant shall prepare a vibration assessment report identifying the predicted impacts of rail related vibration as a result of the development. The assessment report shall be prepared in consultation with the Rail Infrastructure Corporation and be submitted for the approval of the Director-General. The Report shall include measurements of predicted vibration associated with the new rail line connecting the MPT and identify mitigation measures to be incorporated into the detailed design of the rail line.		The Mayfield 4 Berth is the only component of the Multi-purpose Terminal that has been constructed and therefore this railway has not been constructed.	Not triggered	
	<b>Odour</b>				
5.14	No offensive odour, as defined under Section 129 of the Protection of the Environment Operations Act 1997, may be emitted from the premises.  <i>Note: The Protection of the Environment Operations Act 1997, provides that the licensee must not cause or permit the emission of any offensive odour from the premises but provides a defence if the emission is identified in the relevant protection licence as a potentially offensive odour and the odour is identified in the relevant environment protection licence as a potentially offensive odour and the odour was emitted in accordance with the conditions of a licence directed at minimising odour.</i>	<ul style="list-style-type: none"> <li>PON combined incident and complaints register for the period 2021-2023 Site inspection observation</li> <li>OEMP (PON, 2021)</li> </ul>	No odour complaints have been received in the audit period in relation to odour.  Management measures relating to odour are detailed in Section 7.9 of the OEMP. No offensive odours or potential odour sources (such as spills) were noted during the site inspection.	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<b>Dust</b>				
5.15	Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.	<ul style="list-style-type: none"> <li>Site inspection observation</li> <li>OEMP (PON, 2021)</li> <li>EPL 13181 Annual Return 2020-2021</li> <li>EPL 13181 Annual Return 2021-2022</li> <li>EPL 13181 Annual Return 2022-2023</li> <li>Monthly Surface Water &amp; Air Quality Monitoring Reports by RCA Australia for the period November 2020 to August 2023</li> </ul>	<p>The facility is completely sealed with concrete, bitumen and grassed areas which minimises the generation of dust. No dust or potential dust generating activities were observed during the site inspection.</p> <p>Condition O3.2 of the EPL 13181 requires that all operations and activities occurring at the premises must be carried out in a manner that will minimise the emission of dust from the premises. No non-compliances with this condition are identified in the annual returns for the audit period.</p> <p>PON undertake regular meteorological and air quality monitoring to manage air emissions. Details on compliance with the meteorological and air quality monitoring programs are included in the response to Conditions 8.5, 8.9 and 8.10.</p>	Compliant	
5.16	All trafficable areas and vehicle manoeuvring areas in or on the premises must be maintained, at all times, in a condition that will minimise the generation, or emission from the premises, of wind blown or traffic generated dust.	<ul style="list-style-type: none"> <li>Site inspection observation</li> </ul>	The facility is completely sealed with concrete, bitumen and grassed areas which minimises the generation of wind blown or traffic generated dust.	Compliant	
	<b>Site Remediation – Site capping</b>				
5.17	<p>The Closure Area as identified in Figure 1.3 of the EIS: Layout of the Steelworks Site Showing the Closure Area and MPT, other than the proposed hard stand paved areas, and pre-construction surfaces must:</p> <p>(a) have a seal bearing layer consisting of a properly designed and engineered layer of material. This layer</p>	<ul style="list-style-type: none"> <li>Figure 1.3 of the EIS (URS, 2000)</li> <li><i>Contaminated Land Management Plan: Berth M4 Upgrades, Mayfield NSW</i> (Qualtest, 2021)</li> </ul>	The Auditor notes that the requirements of this condition were satisfied in the initial construction works which was undertaken outside of the audit period.	Non-compliant	NC6

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>must consist of a material at least 500mm thick and have a permeability less than <math>K = 10^{-7} \text{ms}^{-1}</math>; and</p> <p>(b) be constructed and maintained to permit free drainage and to avoid surface water ponding; or</p> <p>(c) an alternative seal bearing layer that meets the objectives of (a) and (b) above and demonstrates a high level of engineering reliability may be approved in writing by the EPA.</p> <p>For the purposes of this condition the following areas are exempted for the requirements above: the areas delineated to be landscaped in areas M11 and M23 on Figure 1 'Plan of Closure Area M11 (Heritage Precinct)' dated 8 May 2001, and Figure 2 'Plan of Closure Area M23' dated 8 May 2001, submitted to the Department on 6 August 2001; the area marked as 'Fig Tree Preservation Area' in the plan titled 'Newcastle Steelworks Main Site Redevelopment - Figtree Canopy along Industrial Drive - General Arrangement', dated 24 October 2001, and submitted to the Department on 15 October 2001; and the western portion of area M17, which is an established landscaped area located behind the fig trees along Industrial Drive between Crebert Street and Selwyn Street. The area extends for approximately 80 metres to the east, to the proposed location of the railway line.</p> <p>However, should any of the areas listed above be re-developed then this exemption no longer applies.</p> <p><i>Note: "hard stand" is for the purpose of this condition, concrete or asphalt.</i></p>		<p>Remediation work including capping activities within the Mayfield 4 Berth were completed in 2012 prior to the audit period.</p> <p>The <i>Contaminated Land Management Plan: Berth M4 Upgrades, Mayfield NSW</i> (Qualtest, 2021) prepared for the berth construction works describes that the capping layer would be penetrated as part of construction activities (piling, earthworks, and trenching for services).</p> <p><b>The Auditor has not reviewed any evidence to demonstrate capping integrity following the construction works undertaken during the audit period to redevelop and upgrade the berth. It is understood that a site audit statement and site audit report are currently underway for the berth upgrade construction works that may provide sufficient evidence to confirm compliance with the requirement of this condition.</b></p> <p><b>Therefore, at the time of writing, the Auditor was not able to confirm compliance with the requirements of condition 5.17.</b></p> <p><b>Recommendation:</b> The Site Audit Statement and Site Auditor Report for the construction works should be supplied to the Department to confirm compliance with the requirements of condition 5.17.</p>		
5.18	Unless otherwise approved by the EPA in accordance with condition 5.18A of this consent, the areas listed below and	<ul style="list-style-type: none"> <li>Figure 1.3 of the EIS (URS, 2000)</li> </ul>	The Auditor notes that the requirements of this condition were satisfied in the initial construction	<b>Non-compliant</b>	Refer to NC6

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>identified in Figure 1.3 of the EIS must be capped with hard stand or incorporate a seal bearing layer consisting of a material at least 500mm thick and have a permeability less than <math>K = 10^{-9}</math>ms<sup>-1</sup>.</p> <p>(a) M18 (b) M19 (c) M20 (d) M25 (e) M12 (f) M14 (g) M15</p> <p><i>Note: An alternative seal bearing layer including existing hard stand areas that meets the objectives of the above and demonstrates a high level of engineering reliability may be approved in writing by the EPA.</i></p>	<ul style="list-style-type: none"> <li><i>Contaminated Land Management Plan: Berth M4 Upgrades, Mayfield NSW (Qualtest, 2021)</i></li> </ul>	<p>works which was undertaken outside of the audit period.</p> <p>Remediation work including capping activities within the Mayfield 4 Berth were completed in 2012 prior to the audit period.</p> <p>The <i>Contaminated Land Management Plan: Berth M4 Upgrades, Mayfield NSW (Qualtest, 2021)</i> prepared for the berth construction works describes that the capping layer would be penetrated as part of construction activities (piling, earthworks, and trenching for services).</p> <p><b>The Auditor has not reviewed any evidence to demonstrate capping integrity following the construction works undertaken during the audit period to redevelop and upgrade the berth. It is understood that a site audit statement and site audit report are currently underway for the berth upgrade construction works that may provide sufficient evidence to confirm compliance with the requirement of this condition.</b></p> <p><b>Therefore, at the time of writing, the Auditor was not able to confirm compliance with the requirements of condition 5.18.</b></p> <p><b>Recommendation:</b> refer to the recommendation provided as NC6.</p>		
5.18A	<p>The Applicant may seek the approval of the EPA to alter the permeability requirements specified under condition 5.18 of this consent, following completion of installation of the barrier wall and associated capping works. In considering any application to vary permeability</p>		<p>Remediation work within the Mayfield 4 Berth were completed in 2012 prior to the audit period.</p> <p>The Auditor understands that PON has not sought the approval of the EPA to alter the permeability</p>	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	requirements, the EPA may require the Applicant to provide an independent assessment of whether the barrier wall and associated capping works have achieved the remediation outcomes for the site.		requirements specified under condition 5.18 during the audit period.		
5.19	A qualified Geo-technical Engineer must be engaged to provide certification of the permeability of the seal bearing layer as detailed in Conditions 5.17 and 5.18 above. The certification must be retained by the Applicant for a minimum period of 5 years.		<p>The Auditor notes that the requirements of this condition were satisfied in the initial construction works which was undertaken outside of the audit period.</p> <p>Remediation work including capping activities within the Mayfield 4 Berth were completed in 2012 prior to the audit period.</p> <p><b>The Auditor has not reviewed any evidence to demonstrate capping integrity following the construction works undertaken during the audit period to redevelop and upgrade the berth by a qualified Geo-technical engineer certification. Therefore, the Auditor was not able to confirm compliance with the requirements of condition 5.19.</b></p> <p><b>Recommendation:</b> A qualified Geo-technical Engineer must be engaged to provide certification of the permeability of the seal bearing layer as detailed in Conditions 5.17 and 5.18 above.</p>	<b>Non-compliant</b>	NC7
5.20	A capping maintenance plan must be developed for the closure area as identified by Figure 1.3 titled Layout of Steelworks Site Showing the Closure Area and MPT in the EIS. This plan must include, but need not be limited to the following:	<ul style="list-style-type: none"> <li>OEMP (PON, 2021)</li> </ul>	<p>Remediation work within the Mayfield 4 Berth were completed in 2012 prior to the audit period.</p> <p>The OEMP (PON, 2021) covers the operation and maintenance of the Mayfield No. 4 Berth and includes the requirements under this condition including requirements (a) and (b) within Section 7.4 'Capping</p>	Compliant	



CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>(a) procedures for ensuring the integrity of the cap is maintained during any construction or any other activities on the closure area;</p> <p>(b) procedures for ensuring that disturbance of any part of the cap during construction or any other activities on the site, is rectified to maintain the integrity of the capping system and meet the requirements of Conditions 5.17 and 5.18.</p>		<p>Maintenance' including Table 11: Capping Maintenance Management Measures.</p>		
5.21	<p>All sub-surface pipes associated with stormwater collection and drainage systems installed on the premises must be flexible jointed pipes designed and installed in accordance with Australian Standard AS/NZS 2566.1:1998.</p>	<ul style="list-style-type: none"> <li>Email correspondence with PON subject: Condition 6.6</li> <li><i>Mayfield 4 Berth: Multi-Purpose Cargo Handling Facility (MPCHF) Detailed Design – Stage 1 (WSP, 2022)</i></li> <li>Email correspondence with PON subject: FW: stormwater dated 21 December 2023</li> </ul>	<p>The construction of the berth was completed prior to the audit period. Construction activities were undertaken during the audit period to upgrade the berth (refer to condition 2.4 for construction activities).</p> <p>PON representative, Shane Ambrose (Project Manager – Projects &amp; Assets), advised the Auditor of the following in relation to the berth construction works:</p> <p><i>"Flexible pipes were not used for this work. All stormwater pipes are reinforced concrete pipes with rubber ring joints... The stormwater system has been designed and installed in accordance with TfNSW specifications."</i></p> <p>The Auditor reviewed the Mayfield 4 Berth: Multi-Purpose Cargo Handling Facility (MPCHF) Detailed Design – Stage 1 (WSP, 2022) plans and confirmed the works were undertaken in accordance with AS/NZS 3725:2007 <i>Design for Installation of Buried Concrete Pipe</i>.</p> <p>Further correspondence was provided from PON representative, Brigid Kelly (Environmental Manager), advised the Auditor of the following:</p>	<p><b>Non-compliant</b></p>	<p>NC8</p>

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			<p>"The M4 hardstand extension was designed to store shipping containers stacked up to 4 containers high across the hardstand area. Due to the large ground pressure loading created by the containers, it was deemed that flexible stormwater pipes beneath the hardstand were not suitable, as the flexible pipes (typically PVC or HDPE) deform under large loads. Therefore reinforced concrete pipes with rubber ring joints were deemed most suitable for this project due to their ability to withstand the higher loads. All concrete stormwater pipelines were designed in accordance with AS 3725."</p> <p><b>All sub-surface pipes associated with stormwater collection and drainage systems installed on the premises were not flexible jointed pipes designed and installed in accordance with Australian Standard AS/NZS 2566.1:1998.</b></p> <p><b>Recommendation:</b> PON should ensure all subsurfaces pipes associated with stormwater collection and drainage systems installed on the premises are flexible jointed pipes designed and installed in accordance with Australian Standard AS/NZS 2566.1:1998. Alternatively, PON should seek to approval for a non-standard approach.</p>		
	<b>Remediation of Contamination - Soil</b>				
5.22	The EPA must be notified, in writing, of any free phase contamination and any other type of contamination not identified in the EIS that is encountered during any activities on the closure area. Notification must be	<ul style="list-style-type: none"> <li><i>Contaminated Land Management Plan: Berth M4 Upgrades,</i></li> </ul>	<p>Remediation work within the Mayfield 4 Berth were completed in 2012 prior to the audit period.</p> <p>The <i>Contaminated Land Management Plan: Berth M4 Upgrades, Mayfield NSW</i> (Qualtest, 2021) prepared for</p>	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>submitted as soon as practicable after the material is identified.</p> <p><i>Note: The EPA may require any free phase contamination or any other type of contamination not identified in the EIS that is encountered during any activities on the closure area to be contained or treated on site or removed off site for disposal or treatment.</i></p>	<p><i>Mayfield NSW</i> (Qualtest, 2021)</p> <ul style="list-style-type: none"> <li>• PON combined incident and complaints register for the period 2021-2023</li> </ul>	<p>the berth construction works details the EPA consultation requirements for free phase contamination identification in Section 7.2 of the plan.</p> <p>Review of the PON's combined incident and complaints register indicates no contamination events occurred during the audit period requiring EPA notification.</p>		
5.23	<p>Prior to commencing construction of the Multi-Purpose Terminal or remediation of the closure area as identified in Figure 1.3 of the EIS, any stockpiled soil from the area surrounding the decommissioned Coke Ovens 1, 2, and 3 located adjacent to the western side of Blast Furnace Road must be removed from this location and either:</p> <p>(a) Contained in areas proposed to be covered by hard stand pavement: or</p> <p>(b) Managed by an alternative method approved in writing by the EPA.</p>		<p>Remediation work within the Mayfield 4 Berth were completed in 2012 prior to the audit period. The Mayfield 4 Berth is the only component of the Multi-Purpose Terminal that has been completed.</p>	Not triggered	
<b>Remediation of Contamination - Groundwater</b>					
5.24	<p>For the purposes of investigating the options for interception and treatment of contamination migrating in groundwater to the Hunter River, the Applicant must submit a report to the EPA's Regional Manager Hunter.</p>		<p>Remediation work within the Mayfield 4 Berth were completed in 2012 prior to the audit period. The Mayfield 4 Berth is the only component of the Multi-Purpose Terminal that has been completed.</p>	Not triggered	
5.25	<p>The report must include, but need not be limited to, a detailed investigation of funnel and gate technology, or of an alternative technology identified by the Applicant, to intercept and treat groundwater flowing in the direction of the hardstand areas of the proposed Multi-Purpose Terminal and area M12 as identified by Figure 1.3 titled</p>		<p>Remediation work within the Mayfield 4 Berth were completed in 2012 prior to the audit period. The Mayfield 4 Berth is the only component of the Multi-Purpose Terminal that has been completed.</p>	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>Layout of Steelworks Site Showing the Closure Area and MPT in the EIS;</p> <p>The report must include, but need not be limited to:</p> <ul style="list-style-type: none"> <li>(a) design details of the funnel and gate technology;</li> <li>(b) options for the reactive media to be placed within the "gates" to treat the contaminants in the groundwater to be consistent with the relevant guidelines specified by the Australian and New Zealand Environment and Conservation Council (ANZECC) in the document titled Australian Water Quality Guidelines for Fresh and Marine Waters (1992);</li> <li>(c) if an alternate technology is identified by the Applicant, the design details of the alternate technology and an assessment of the ability of the alternate technology to treat the contaminants in the groundwater to be consistent with the relevant guidelines specified by ANZECC in the document titled Australian Water Quality Guidelines for Fresh and Marine Waters (1992);</li> <li>(d) justification for any alternate technology identified by the Applicant;</li> <li>(e) details of a monitoring program to evaluate the effectiveness of the funnel and gate system or any alternative technology identified by the Applicant to be consistent with the relevant guidelines specified by the ANZECC in the document titled Australian Water Quality Guidelines for Fresh and Marine Waters (1992);</li> <li>(f) an estimate of costs to implement and maintain the funnel and gate system and any alternative technology identified by the Applicant; and</li> </ul>				

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>(g) a timetable and detailed schedule of works to implement the funnel and gate system and any alternative technology identified by the Applicant.</p> <p>The report must be submitted to the EPA prior to construction of any hard stand areas of the Multi-Purpose Terminal. "hard stand" is, for the purpose of this condition, concrete or asphalt.</p> <p><i>Note: The EPA intends to require implementation of a system which the EPA determines as appropriate in order to ensure that the Applicant manages and treats groundwater contamination to be consistent with the relevant guidelines specified by the ANZECC in the document titled Australian Water Quality Guidelines for Fresh and Marine Waters (1992). The preferred system will be implemented either through the conditions of the Environment Protection Licence for the premises or through the provisions of the Contaminated Land Management Act 1997.</i></p>				
5.25A	The Applicant shall construct groundwater management works, as a component of the site remediation activity, in accordance with EPA approval under the Contaminated Land Management Act 1997.		Remediation work within the Mayfield 4 Berth were completed in 2012 prior to the audit period. The Mayfield 4 Berth is the only component of the Multi-Purpose Terminal that has been completed.	Not triggered	
	<b>Stormwater and Sediment Control – Site Preparation and Construction Phase</b>				
5.26	Except as may be expressly provided in a licence issued by the EPA, the Applicant must comply with Section 120 of the Protection of the Environment Operations Act 1997 prohibiting the pollution of waters.	<ul style="list-style-type: none"> <li>Contaminated Land Management Plan: Berth M4 Upgrades, Mayfield NSW (Qualtest, 2021)</li> </ul>	The construction of the berth was completed prior to the audit period. Construction activities were undertaken during the audit period to redevelop and upgrade the berth (refer to condition 2.4 for construction activities). Construction works for the berth upgrade commenced in September 2022.	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
		<ul style="list-style-type: none"> <li>• 2022 AEMR (PON, 2023)</li> </ul>	<p>Review of the <i>Contaminated Land Management Plan: Berth M4 Upgrades, Mayfield NSW</i> (Qualtest, 2021) prepared for construction works identifies the following environmental controls relating to the protection of waters:</p> <ul style="list-style-type: none"> <li>• Appropriate erosion and sediment controls including:               <ul style="list-style-type: none"> <li>○ Control of run-on water by constructing earth bunds or similar</li> <li>○ Separation of 'clean' and 'dirty' water</li> <li>○ Prevention of 'ponding'</li> <li>○ Protection of the land surface from erosion</li> <li>○ Prevent sediment from leaving the site</li> </ul> </li> <li>• Dust suppression techniques</li> <li>• Erosion and sediment controls for stockpiled contaminated soils</li> <li>• Prevention of stormwater or rainfall ingress techniques including:               <ul style="list-style-type: none"> <li>○ Bunding of all excavated areas</li> <li>○ Planning of works around forecasted weather conditions</li> </ul> </li> </ul>		

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
5.27	<p>A Soil and Water Management Plan (SWMP) must be prepared and implemented. The SWMP must describe the measures that will be implemented to minimise soil erosion and the discharge of sediment and other pollutants to waters during site remediation of the closure area and construction of the MPT. The SWMP should be prepared in accordance with the relevant specifications and standards contained in the document titled Managing Urban Stormwater: Soils and Construction (Department of Housing 1998) and any other relevant agency requirements. The SWMP should include, but not necessarily be limited to, those measures outlined in Table 10.2 Environmental Safeguards in the EIS.</p>	<ul style="list-style-type: none"> <li><i>Erosion &amp; Sediment Control Plan: Job No. 22025 MAYFIELD CARGO HANDLING FACILITY (KCE Pty Ltd, 2022)</i></li> </ul>	<p>The Auditor viewed the ESCP prepared for the berth upgrade construction works (refer to condition 2.4 for construction activities) and considered the ESCP to sufficiently address the requirements of this condition.</p>	Compliant	
5.28	<p>The proposed system for erosion and sediment control must be installed and stabilised before commencement of site works. This does not include the construction of the appropriate controls.</p>	<ul style="list-style-type: none"> <li><i>Erosion &amp; Sediment Control Plan: Job No. 22025 MAYFIELD CARGO HANDLING FACILITY (KCE Pty Ltd, 2022)</i></li> <li><i>Email correspondence from Brigid Kelley dated 17 January 2-24</i></li> </ul>	<p>The Auditor viewed the ESCP prepared for the berth upgrade construction works.</p> <p>PON representative Brigid Kelley (Environment Manager) provided correspondence that the Department attended the site on 2 November 2022 and raised no concerns at the time of inspection nor following the site inspection.</p>	Compliant	
5.29	<p>The stormwater drainage system for the site may only discharge to the Hunter River or the stormwater system via an appropriately engineered stormwater detention basin(s).</p> <p>Prior to construction, the design capacity of the stormwater detention basin(s) must be approved in writing by the EPA.</p>	<ul style="list-style-type: none"> <li><i>OEMP (PON, 2021)</i></li> <li><i>Annual Compliance Report – 2022-2023 (PON, 2023)</i></li> </ul>	<p>The construction of the berth was completed prior to the audit period. Construction activities were undertaken during the audit period to redevelop and upgrade the berth (refer to condition 2.4 for construction activities). Construction works for the berth upgrade commenced in September 2022.</p> <p>The construction works included extension of the M4 berth hardstand area as well as extension of the</p>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			<p>associated stormwater management system. The Auditor understands no changes have been made to the discharge location (the Hunter River) or the existing stormwater detention basins during berth redevelopment and upgrade works.</p> <p><b>Observation:</b> Figure F5 of the OEMP 'Mayfield Berth No. 4 Stormwater Management System' is no longer current with the changes made to the stormwater management system during the berth redevelopment and upgrade works.</p> <p><b>Recommendation:</b> Figure F5 of the OEMP should be updated in the next revision to the OEMP.</p>		
5.29A	<p>The Eastern and Western drains are to be designed to satisfactorily accommodate stormwater runoff from the entire respective contributing catchments. The contributing catchment to the Eastern Drain shall include the catchment that drains to the existing open drain within Selwyn Street, such as to permit possible future upgrading/widening of Selwyn Street.</p>		<p>The construction of the berth was completed prior to the audit period. Construction activities were undertaken during the audit period to redevelop and upgrade the berth (refer to condition 2.4 for construction activities).</p> <p>Design of the Eastern and Western drains was completed prior to the audit period.</p>	Not triggered	
5.29B	<p>The Applicant is to fund and construct, in consultation with the Council, stormwater drainage pipe connections from the Eastern Drain to the boundary of Selwyn Street in sufficient number, location and size such to adequately service the existing Selwyn Street drain without the need to undertake construction activity within the constructed drain.</p>		<p>The construction of the berth was completed prior to the audit period. Construction activities were undertaken during the audit period to redevelop and upgrade the berth (refer to condition 2.4 for construction activities).</p> <p>Design and construction of the Eastern drain was completed prior to the audit period.</p>	Not triggered	



CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
5.29C	Upon achieving practical completion of all construction and landscaping works associated with the Eastern Drain, an easement to drain water shall be created over the Eastern Drain and associated structures. The terms of such an easement shall be established by the Proponent in consultation with the Council.		The construction of the berth was completed prior to the audit period. Construction activities were undertaken during the audit period to redevelop and upgrade the berth (refer to condition 2.4 for construction activities).  Design and construction of the Eastern drain was completed prior to the audit period.	Not triggered	
	<b>Stormwater and Sediment Control – Operation Phase</b>				
5.30	A Stormwater Management Plan must be developed and implemented to mitigate the impacts of stormwater runoff from the site following the completion of the site remediation activities. The plan must identify contaminant likely to be present in stormwater from the closure area as identified in Figure 1.3 of the EIS and the measures proposed to prevent or control their discharge to waters such as the Hunter River. The measures should include, but not necessarily be limited to those outlined in Table 10.2 Environmental Safeguards in the EIS. The Plan must address the provisions of Newcastle City Council’s DCP No.50 – Stormwater Management for Development Sites.	<ul style="list-style-type: none"> <li>• OEMP (PON, 2021)</li> <li>• Site visit observation</li> </ul>	<p>The operational Stormwater management plan is included in Section 7.1 ‘Soil and Water’ and more specifically within Section 7.2 ‘Stormwater Management’ in the OEMP.</p> <p>The plan identifies the key contaminants associated with operational use as hydrocarbons and suspended solids. Tables 9 and 10 of the OEMP outline the management measures relating to stormwater management.</p> <p>Table 7 of the OEMP identifies how the Environmental Safeguards in Table 10.2 of the EIS have been incorporated.</p> <p>Table 8 in the OEMP identifies how provisions of the Newcastle City Council’s <i>DCP No.50 – Stormwater Management for Development Sites</i> have been incorporated.</p> <p>Details on compliance with the surface water monitoring program are included in the response to Condition 8.16.</p>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<b>Waste – Closure Area</b>				
5.31	<p>The Applicant must not cause, permit, or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing, or disposal; or any waste generated at the premises to be disposed at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.</p> <p>This condition only applies to the storage, treatment, processing, reprocessing, or disposal; or any waste generated at the premises if it requires an environment protection licence under the Protection of the Environment Operations Act 1997.</p>	<ul style="list-style-type: none"> <li>• Site visit observation</li> <li>• Site interview</li> <li>• OEMP (PON, 2021)</li> <li>• EPL 13181 Annual Return 2020-2021</li> <li>• EPL 13181 Annual Return 2021-2022</li> <li>• EPL 13181 Annual Return 2022-2023</li> </ul>	<p>The Waste Management Plan is outlined in Section 7.10 of the OEMP. Waste management measures for the operation of the facility are detailed within Table 16 of the OEMP.</p> <p>No wastes generated from outside the premises were observed on site. It was confirmed by site personnel that no waste was brought onto the site during the audit period. This is consistent with Section 7.10 of the OEMP. Further, the EPL Annual Returns note compliance with this condition.</p> <p>A skip bin was available near the site amenities building for general waste and is understood to be emptied on a fortnightly basis.</p>	Compliant	
5.32	<p>Prior to the commencement of operations, the Applicant must demonstrate to the satisfaction of the Australian Quarantine Inspection Service and the Director-General that appropriate arrangements have been put in place for the disposal of quarantine wastes.</p>		<p>Commencement of operations of the berth occurred in 2010 prior to the audit period.</p>	Not triggered	
5.33	<p>Prior to any material being stored in the emplacement area as identified in Figure 6.4 titled Proposed Final Landform and Surface water Drainage of the EIS, the following must be conducted:</p> <p>(a) the Applicant must provide the EPA with details of how the environmental goals will be met through the relevant benchmark techniques specified in the EPA's document titled Environmental Guidelines: Solid Waste Landfills; and provide a comprehensive environmental management plan; and,</p>	<ul style="list-style-type: none"> <li>• Previous Independent Environmental Audit (Ramboll, 2020)</li> <li>• Email correspondence from PON with Subject: Timeframe dated 14 December 2023</li> </ul>	<p>It is noted in the previous Independent Environmental Audit (2020 IEA) that there is a Remediation Deed which is part of the Port Lease Transaction which states that PON must make the emplacement area available to the NSW Government for placement of contaminated materials and this obligation remains in force until 31 May 2020.</p> <p>Email correspondence with PON representative confirmed that the Remediation Deed is still in place and no variation of the deed has taken place.</p>	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	(b) the emplacement area must have a leachate barrier system that meets the requirements of the EPA's document titled Environmental Guidelines: Solid Waste Landfills.	<ul style="list-style-type: none"> <li>Remediation Deed: Port of Newcastle dated 20 May 2014</li> </ul>			
	<b>Waste - Hazardous and Industrial</b>				
5.34	Hazardous or industrial waste proposed to be removed from the Closure Area must be stored and disposed of in a manner to minimise its impact on the environment including appropriate segregation for storage and separate disposal by a waste transporter licensed by the EPA.	<ul style="list-style-type: none"> <li><i>Contaminated Land Management Plan: Berth M4 Upgrades, Mayfield NSW</i> (Qualtest, 2021)</li> </ul>	<p>Remediation works were completed in 2012 prior to the audit period.</p> <p>Review of the <i>Contaminated Land Management Plan: Berth M4 Upgrades, Mayfield NSW</i> (Qualtest, 2021) prepared for berth redevelopment and upgrade works identifies provisions for hazardous materials management including appropriate segregation for storage and separate disposal by a waste transporter licensed by the EPA.</p>	Compliant	
	<b>Dredging and Sediment Disposal</b>				
5.35	<p>Prior to commencement of any dredging work, a Dredging Management Plan shall be prepared in consultation with the Newcastle Port Corporation and once completed provided to the Waterways Authority. The plan shall address, but is not limited to, the following issues:</p> <p>(i) installation and effective operation of an appropriately designed silt curtain to control turbidity around the dredge site;</p> <p>(ii) details of the dredging footprint, weekly dredging rate, equipment and pipeline for the transfer of sediment (size and location);</p> <p>(iii) Range of river and weather conditions necessitating the temporary cessation of dredging operations; and</p>	<ul style="list-style-type: none"> <li>Site interview with PON Brigid Kelly (Environment Advisor)</li> </ul>	Advice from the PON representative Brigid Kelly (Environment Advisor) at the time of site inspection indicated that there had been no capital dredging works at the facility for the audit period.	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	(iv) Provide details on contingency plans to deal with potential adverse impacts resulting from dredging operations.				
5.36	Following the conclusion of Stage 1 dredging works, a hydrographic survey is to be carried out and is to be submitted to the Waterways Authority.	<ul style="list-style-type: none"> <li>Site interview with PON Brigid Kelly (Environment Advisor)</li> </ul>	Advice from the PON representative Brigid Kelly (Environment Advisor) at the time of site inspection indicated that there had been no capital dredging works at the facility for the audit period.	Not triggered	
5.37	Should the dredging works require the use of explosives in water, then a permit shall be obtained from NSW Fisheries prior to the commencement of dredging operations.	<ul style="list-style-type: none"> <li>Site interview with PON Brigid Kelly (Environment Advisor)</li> </ul>	Advice from the PON representative Brigid Kelly (Environment Advisor) at the time of site inspection indicated that there had been no capital dredging works at the facility for the audit period.	Not triggered	
	<b>Lighting</b>				
5.38	The Applicant must ensure that any external lighting associated with the development is mounted, screened, and directed in such a manner so as not to create a nuisance to surrounding land uses. The lighting must be the minimum level of illumination necessary.	<ul style="list-style-type: none"> <li>OEMP (PON, 2021)</li> <li>Site visit observation</li> <li>PON Mayfield 4 Berth Expansion: Lighting Layout XBLADE 960 (Coolon LED Lighting, 2022)</li> <li>Mayfield 4 Berth: Multi-purpose Cargo Handling Facility (MPCHF) Detailed Design – Stage 1 (WSP, 2021)</li> </ul>	<p>Lighting provided on site includes wharf flood lighting, exterior lighting, bulk head lighting, fender lighting and edge lighting. New lighting was installed during the berth upgrade construction works. The management of lighting at the facility is included as Section 7.13 of the OEMP and includes controls to prevent lighting impacts to nearby receivers. The OEMP states <i>'The maximum height of lighting will be 30 m and lighting spill will be limited to the edge of the wharf and hardstand area to minimise disturbances to other river users.'</i></p> <p>New lights were installed during the construction activities undertaken during the audit period to redevelop and upgrade the berth (refer to condition 2.4 for construction activities). Review of the <i>Mayfield 4 Berth: Multi-purpose Cargo Handling Facility (MPCHF) Detailed Design – Stage 1 (WSP, 2021)</i></p>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			<p>demonstrates the mounting height of new light infrastructure is six meters.</p> <p>The Auditor reviewed the <i>PON Mayfield 4 Berth Expansion: Lighting Layout XBLADE 960</i> (Coolon LED Lighting, 2022) which demonstrated that the proposed lighting layout contains lighting spill to the edge of the wharf and hardstand area.</p> <p>The lighting observed during the site inspection was directed downwards and away from surrounding sensitive receivers and land uses, consistent with the requirements of the OEMP.</p>		
	<b>Traffic</b>				
5.39	<p>The applicant is to fund and construct the following road works to the satisfaction of the Newcastle City Council and/or Roads and Traffic Authority prior to commencement of operations at the Multi-Purpose Terminal:</p> <ul style="list-style-type: none"> <li>(a) localised widening along Selwyn Street to meet minimum travel lane (Austroads) requirements;</li> <li>(b) line marking and signage to control parking along the Selwyn Street approach to the Multi-Purpose Terminal; and intersection access from the eastern end of Selwyn Street into the Multi-Purposed Terminal.</li> <li>(c) Prior to the above road and traffic control works being undertaken, the applicant must obtain the approval of the Newcastle City Council and the concurrence of the Roads and Traffic Authority for these works under the Roads Act 1993.</li> </ul>		<p>The Mayfield 4 Berth is the only component of the Multi-Purpose Terminal that has been constructed and therefore this condition has not been triggered.</p>	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
5.40	The design of all works is to be in accordance with Austroads and RTA Road Design Guide Standards and is subject to RTA review.		The Mayfield 4 Berth is the only component of the Multi-Purpose Terminal that has been constructed and therefore the road works described in condition 5.39 have not been undertaken.	Not triggered	
5.41	The Applicant shall consult with the local community on the proposed roadworks prior their construction.		The Mayfield 4 Berth is the only component of the Multi-Purpose Terminal that has been constructed and therefore the road works described in condition 5.39 have not been undertaken.	Not triggered	
5.42	The applicant shall not commence physical work in the State Road reserve until: (a) all approvals or acceptances have been given by the RTA, (b) all administration and management fees and the performance bond have been received by the RTA, and (c) the applicant has entered a Deed of Agreement with the RTA.		The Mayfield 4 Berth is the only component of the Multi-Purpose Terminal that has been constructed and therefore the road works described in condition 5.39 have not been undertaken.	Not triggered	
5.43	All provision for traffic is to be in accordance with the requirements of the RTA publication "Traffic Control at Work Sites" and Australian Standards AS 1742.3.		The Mayfield 4 Berth is the only component of the Multi-Purpose Terminal that has been constructed and therefore the road works described in condition 5.39 have not been undertaken.	Not triggered	
5.44	The Applicant is to prepare the following documentation to the satisfaction of the RTA in respect of the proposed road works: (a) Full Engineering Plans detailing the scope of the proposed works; (b) Review of Environmental Factors (REF); (c) Geotechnical Investigation Report and Pavement Design; (d) Environmental Management Plan;		The Mayfield 4 Berth is the only component of the Multi-Purpose Terminal that has been constructed and therefore the road works described in condition 5.39 have not been undertaken.	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>(e) Occupational Health and Safety Plan; (f) Traffic Control Plan (TCP); (g) Traffic Management Plan (TMP); and, (h) Road Safety Audit.</p> <p>The Applicant shall consult with the RTA regarding the requirements of the above plans.</p>				
5.45	<p>Works are to be undertaken in accordance with the Roads and Traffic Authority's procedures and the undertaking of privately funded works within a State Road reserve by private developers as outlined in the RTA publication Private Sector Development Work on the Road Network – Notes for Developers.</p>		<p>The Mayfield 4 Berth is the only component of the Multi-Purpose Terminal that has been constructed and therefore the road works described in condition 5.39 have not been undertaken.</p>	Not triggered	
5.46	<p>Prior to site remediation works commencing, the Applicant submit to the Director-General for approval, a Heavy Vehicle Route Plan that identifies the shows the proposed routes for heavy vehicle movements to and from the site during all phases of the Stage 1 development. The plan shall be prepared in consultation with the Council and the RTA and demonstrate that proposed routes avoid the use of local streets in the Mayfield and Mayfield East localities. The plan shall also outline what measures will be undertaken to ensure that all drivers of heavy vehicles servicing the site are made aware of the approved routes.</p>		<p>Remediation works within the Mayfield 4 Berth were completed in 2012 prior to the audit period.</p>	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<b>Landscape Management Plan</b>				
5.47	The Applicant must prepare and implement a Landscape Management Plan for the development, in consultation with Council. This plan must: <ul style="list-style-type: none"> <li>(a) Be consistent with Newcastle City Council DCP No.33 – Landscape Design Principles and Guidelines;</li> <li>(b) Describe in detail the proposed future landform of the site;</li> <li>(c) Describe in detail how the site will be landscaped, including the location and species of all planting; and</li> <li>(d) Explain how this landscaping will be managed and maintained over time.</li> </ul>	<ul style="list-style-type: none"> <li>• OEMP (PON, 2021)</li> </ul>	<p>The Landscape Management Plan relates to works completed prior to the audit period. Ongoing landscaping management for the facility is outlined in Section 7.13 of the OEMP.</p> <p>No landscaping is planned for Mayfield No. 4 Berth. The area is covered entirely by hardstand and wharf area that provides no opportunity for landscaping. The final landform for the facility is in accordance with the Contaminated Site Management Plan provided as Appendix D in the OEMP.</p>	Not triggered	
5.48	The Landscape Management Plan must have been approved by the Director-General before construction certificate/s may be issued.		The Landscape Management Plan relates to works completed prior to the audit period.	Not triggered	
5.49	After reviewing the Landscape Management Plan, the Director-General may require the Applicant to address certain matters identified in the plan. The Applicant must comply with any reasonable requirements of the Director-General.		The Landscape Management Plan relates to works completed prior to the audit period.	Not triggered	
	<b>Rail crossing on Selwyn Street</b>				
5.50	The applicant shall obtain the approval of the Australian Rail Track Corporation (ARTC) prior to the construction of a rail connection at Selwyn Street to the ARTC rail network at the location marked "A1-grade crossing 2 (unchanged) on Figure 2: Proposed Revised Rail Line, of the Section 96(1A) application prepared by Hunter Development Corporation dated January 2009.		The Mayfield 4 Berth is the only component of the Multi-Purpose Terminal that has been constructed and therefore the railway has not been constructed.	Not triggered	



CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.																										
<b>6</b>	<b>CULTURAL HERITAGE</b>																														
6.1	<p>Prior to the demolition of any of the items listed in Figure 6.3 of the EIS: Heritage Structures to be Removed, and listed in the table below, the Applicant shall submit documentation, to the satisfaction of the Minister, confirming that the proposed Multi-Purpose Terminal is to proceed or that the item to be demolished represents a safety hazard. The required documentation shall be in the form of a copy of a contract(s) or agreement(s) between the Applicant and another party or parties, in respect of the construction and operation of the MPT, or a report from a suitably qualified person(s) on the safety or integrity of the heritage item and demonstrating that the item could not feasibly be repaired or stabilised.</p> <table border="1" data-bbox="250 794 871 1383"> <thead> <tr> <th data-bbox="250 794 349 837">No.</th> <th data-bbox="349 794 871 837">Item</th> </tr> </thead> <tbody> <tr> <td data-bbox="250 837 349 880">1</td> <td data-bbox="349 837 871 880">Remnant of No.1 Blast Furnace</td> </tr> <tr> <td data-bbox="250 880 349 924">2</td> <td data-bbox="349 880 871 924">No. 1 Blower House</td> </tr> <tr> <td data-bbox="250 924 349 967">3</td> <td data-bbox="349 924 871 967">Open Hearth Building</td> </tr> <tr> <td data-bbox="250 967 349 1010">4</td> <td data-bbox="349 967 871 1010">No.1 Bloom Mill and Rail Mill</td> </tr> <tr> <td data-bbox="250 1010 349 1053">6</td> <td data-bbox="349 1010 871 1053">Steel Foundry</td> </tr> <tr> <td data-bbox="250 1053 349 1096">10</td> <td data-bbox="349 1053 871 1096">DC Substation</td> </tr> <tr> <td data-bbox="250 1096 349 1139">11</td> <td data-bbox="349 1096 871 1139">Wharves (in part)</td> </tr> <tr> <td data-bbox="250 1139 349 1182">14</td> <td data-bbox="349 1139 871 1182">No.3 Blast Furnace</td> </tr> <tr> <td data-bbox="250 1182 349 1225">15</td> <td data-bbox="349 1182 871 1225">AC Pump House</td> </tr> <tr> <td data-bbox="250 1225 349 1268">16</td> <td data-bbox="349 1225 871 1268">Power House</td> </tr> <tr> <td data-bbox="250 1268 349 1311">19</td> <td data-bbox="349 1268 871 1311">Open Hearth Change House</td> </tr> <tr> <td data-bbox="250 1311 349 1355">20</td> <td data-bbox="349 1311 871 1355">Mould Conditioning Building</td> </tr> </tbody> </table>	No.	Item	1	Remnant of No.1 Blast Furnace	2	No. 1 Blower House	3	Open Hearth Building	4	No.1 Bloom Mill and Rail Mill	6	Steel Foundry	10	DC Substation	11	Wharves (in part)	14	No.3 Blast Furnace	15	AC Pump House	16	Power House	19	Open Hearth Change House	20	Mould Conditioning Building	<ul style="list-style-type: none"> <li>OEMP (PON, 2021)</li> <li>Site interview</li> </ul>	<p>The Auditor understands from the site interview that demolition works have not been undertaken during the audit period.</p> <p>No listed items of heritage significance are located within the Mayfield No. 4 Berth site.</p>	Not triggered	
No.	Item																														
1	Remnant of No.1 Blast Furnace																														
2	No. 1 Blower House																														
3	Open Hearth Building																														
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CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)		EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	21	BOS Plant				
	23	No.4 Blast Furnace				
	<p>Notwithstanding the above, structures may be demolished, with the approval of the Minister, where required to enable soil or groundwater remediation to take place in accordance with EPA requirements under an Environment Protection Licence or the Contaminated Land Management Act 1997. The Applicant will need to demonstrate, by way of a report, that all feasible alternatives to demolition have been investigated.</p>					
6.2	<p>The Applicant shall prepare and submit to the Director-General strategy for the interpretation of the industrial heritage of the Closure Area. The strategy must be prepared in consultation with the NSW Heritage Office and Newcastle City Council and approved by the Director-General prior to the demolition of any structures listed in the table in Condition 6.1. The strategy shall examine and put forward proposals for the following:</p> <p>(a) The establishment of a heritage precinct on the Western Portion of the Closure area, including: re-use of Delprats Quarters as an Iron and Steel Interpretive Centre; re-use of the ex-Tools Room as a State Industrial Archaeological Repository; conservation of the remnants of the original botanic gardens established.</p> <p>(b) an assessment of industrial artefacts able to be retained and made available for interpretation within the Closure Area, either in situ or, if in situ preservation is not possible, relocated.</p>			<p>The Auditor understands that no structures listed in Condition 6.1 have been demolished nor have any demolition works been undertaken during the audit period based on site interviews.</p>	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	(c) Funding, ownership and on-going management arrangements.				
6.3	The Applicant shall prepare and submit an Archaeological Management Plan for the closure area prior to the commencement of site preparation works. The plan shall be prepared in consultation with the NSW Heritage Office and approved by the Director-General.		Site preparation works for the Mayfield 4 Berth were completed prior to the audit period.	Not triggered	
6.4	If, during the site preparation and/or construction phases of the development, an unexpected archaeological relic is uncovered, excavation shall cease and an excavation permit under the Heritage Act 1977 shall be obtained from the NSW Heritage Office.  <i>Note: a relic is defined under the Heritage Act as any deposit, object or material evidence: (a) which relates to the settlement of the area that comprises NSW, not being Aboriginal settlement, and (b) which are more than 50 years old.</i>	<ul style="list-style-type: none"> <li>Site interview</li> </ul>	Site preparation works for the Mayfield 4 Berth were completed prior to the audit period.  The construction of the berth was completed prior to the audit period. Construction activities undertaken during the audit period were for the upgrade of the berth (refer to condition 2.4 for construction activities). It was confirmed during the site inspection that no unexpected archaeological finds were identified during the construction works.	Compliant	
6.5	Prior to the commencement of any works associated with the burial of the remnants of the No.1 Blast Furnace, the Applicant shall submit details to the Director-General on the disposal location of excavated soil on-site and the interim management procedures for this material. Activities associated with this item shall not commence until the Director-General has approved these measures.		Remediation activities associated with the burial of No.1 Blast Furnace materials were completed prior to the audit period.	Not triggered	
6.6	The final location of the remnants of the No.1 Blast Furnace shall be to the satisfaction of the Regional Land Management Corporation, with respect to the provision of sufficient clearance for future development or services.		Remediation activities associated with the disposal of No.1 Blast Furnace materials were completed prior to the audit period.	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
6.7	Following the completion of works associated with the burial of the remnants of the No.1 Blast Furnace, the Applicant shall provide the Regional Land Management Corporation with detailed plans of the final position of the item, including its dimensions and depth.		Remediation activities associated with the disposal of No.1 Blast Furnace materials were completed prior to the audit period.	Not triggered	
<b>7</b>	<b>HAZARDS</b>				
	<b>Restrictions to Operation</b>				
7.1	The Container Terminal and General Cargo Handling Facility shall neither receive as cargo nor dispatch as cargo any material classified as a "Class 7 dangerous good" (radioactive material) under the Australian Dangerous Goods Code.	<ul style="list-style-type: none"> <li>• Site interview</li> <li>• Site visit observations</li> <li>• OEMP (PON, 2021)</li> <li>• 2020 AMER (PON, 2021)</li> <li>• 2021 AEMR (PON, 2022)</li> <li>• 2022 AEMR (PON, 2023)</li> <li>• <i>ENVRG013 - M4 Dangerous Goods Register.xls</i></li> <li>• <i>Hazard Audit (2020) Mayfield Berth No. 4 (Arriscar, 2021)</i></li> </ul>	<p>It was confirmed during the site interview and site inspection that Class 7 Dangerous Goods are not being handled at the facility. This was confirmed in the OEMP, the AEMRs and on the Vessel Movements Register. The dangerous goods register maintained by PON includes details of the following:</p> <ul style="list-style-type: none"> <li>• secure berth date</li> <li>• vessel name; berth</li> <li>• movement no.</li> <li>• secure berth time</li> <li>• clear berth time</li> <li>• time at berth (hours)</li> <li>• commodity code</li> <li>• commodity description</li> <li>• quantity inwards (tonnes)</li> <li>• quantity outwards (tonnes)</li> <li>• storage and handling method</li> <li>• dwell time (minutes)</li> <li>• storage type</li> <li>• UNDG Code</li> <li>• UNDG Class and Packaging Group.</li> </ul>	Compliant	
7.2	The Applicant shall not use or store, temporarily or otherwise, any dangerous good of Class 1 (explosives) on	<ul style="list-style-type: none"> <li>• Site interview</li> </ul>	It was confirmed during the site interview and inspection that Class 1 (explosives) Dangerous Goods	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>the site without the prior written approval of the Director-General. In seeking the Director-General's approval, the Applicant shall provide the following information:</p> <p>(a) the name, dangerous goods Class (including subclass), and quantity of the explosive material to be used and/or stored on the site;</p> <p>(b) the purpose for using and/ or storing the explosive material on the site, and the maximum duration of that use and/ or storage;</p> <p>(c) the location of the use and/ or storage of the explosive material on the site, including consideration of the storage requirements of the material in accordance with relevant legislation and Australian Standards;</p> <p>(d) the mode of transport and route for bringing the explosive material to the site, and if relevant, for removing the explosive material from the site;</p> <p>(e) identification and assessment of the hazards associated with the use and/ or storage of the explosive material on the site and the risk impacts of the use and/ or storage on surrounding land uses.</p>	<ul style="list-style-type: none"> <li>• Site visit observations</li> <li>• OEMP (PON, 2021)</li> <li>• 2020 AMER (PON, 2021)</li> <li>• 2021 AEMR (PON, 2022)</li> <li>• 2022 AEMR (PON, 2023)</li> <li>• <i>ENVRG013 – M4 Dangerous Goods Register.xls</i></li> <li>• <i>Hazard Audit (2020) Mayfield Berth No. 4 (Arriscar, 2021)</i></li> </ul>	<p>are not being handled at the facility. This was confirmed in the OEMP, the AEMRs and on the Vessel Movements Register.</p>		
7.3	<p>All dangerous goods received as cargo at either the Container Terminal or the General Cargo Handling Facility shall be dispatched from the site within 72 hours of receiving those goods. In the event that the Newcastle Port Corporation, or any relevant body having a statutory role in the control and/ or handling of dangerous goods at the site, requires dangerous goods to be dispatched from the site in less than 72 hours, then the requirement of the Newcastle Port Corporation or relevant body shall prevail over this condition.</p>	<ul style="list-style-type: none"> <li>• 2020 AMER (PON, 2021)</li> <li>• 2021 AEMR (PON, 2022)</li> <li>• 2022 AEMR (PON, 2023)</li> <li>• <i>ENVRG013 – M4 Dangerous Goods Register.xls</i></li> </ul>	<p>Review of the <i>ENVRG013 – M4 Dangerous Goods Register.xls</i> demonstrates that the requirement for dangerous goods to be handled at the facility for no greater than 72 hours was complied with during the audit period as recorded in the 'Dwell time (mins)' column of the register.</p>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
7.4	<p>The Applicant shall initiate and maintain a Dangerous Goods Register with an aim to ensure that the maximum quantity of dangerous goods on the site, as specified in a Final Hazard Analysis approved by the Director-General, and the in-transit time-limit for dangerous goods on the site are not exceeded. The Register shall include, but not necessarily be limited to:</p> <p>(a) the date and time of arrival of all dangerous goods to the site;</p> <p>(b) the exact location of all quantities of dangerous goods on the site;</p> <p>(c) details of all dangerous goods classes on the site, packaging specifications and UN number; and</p> <p>(d) the date and time of dispatch of all dangerous goods from the site.</p> <p>The Register shall be made available for inspection by the Director-General at any time.</p>	<ul style="list-style-type: none"> <li>• Previous Independent Environmental Audit (Ramboll, 2020)</li> <li>• 2020 AMER (PON, 2021)</li> <li>• 2021 AEMR (PON, 2022)</li> <li>• 2022 AEMR (PON, 2023)</li> <li>• ENVRG013 – M4 Dangerous Goods Register.xls</li> <li>• Hazard Audit (2020) Mayfield Berth No. 4 (Arriscar, 2021)</li> <li>• Email correspondence from Alicia Matrix-Evans dated 17 January 2024</li> </ul>	<p>Review of the Dangerous Goods Register maintained by PON includes the requirements as under this condition as follows:</p> <p>(a) Columns 'secure berth date' and 'secure berth time'</p> <p>(b) The location is not recorded because dangerous goods are not held on site. Column 'storage / handling method' provides details of handling location (i.e. direct to truck).</p> <p>(c) Columns 'commodity description', 'storage / handling methods', 'packing group', 'UNDG Code'</p> <p>(d) Columns 'clear berth date' and 'clear berth time'</p> <p>The maximum quantities of dangerous good allowed onsite include:</p> <ul style="list-style-type: none"> <li>• Ammonium nitrate – 6,500 tonnes on ship (export and import) and 30 tonnes on berth</li> <li>• Explosives classes 1.1, 1.5 and 1.6 – 10,000 kg</li> <li>• Explosives classes 1.2, 1.3 and 1.4 – 250,000 kg</li> <li>• Diesel and biodiesel – 1,300 ML</li> </ul> <p>Review of the Dangerous Goods Register maintained by PON demonstrates the aim to ensure that the maximum quantity of dangerous goods on the site is satisfied.</p> <p><b>Recommendation:</b> dangerous goods quantities as recorded in the dangerous goods register includes packaging weight. The dangerous goods register should be updated to include an additional column that records the dangerous goods weight only.</p>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			=		
	<b>Demolition</b>				
7.5	At least one month prior to the commencement of any demolition activity, or within such period otherwise agreed by the Director-General, the Applicant shall prepare and submit for the approval of the Director-General a Demolition Safety Study, prepared in accordance with the relevant sections of the Department's publication Hazardous Industry Planning Advisory Paper No. 7 - Construction Safety Study Guidelines.	<ul style="list-style-type: none"> <li>Site interview</li> </ul>	Demolition works were not undertaken during the audit period.	Not triggered	
7.6	All demolition works undertaken on the site shall be conducted in strict accordance with the provisions of AS2601-1991 The Demolition of Structures, as in force at 1 July 1993.	<ul style="list-style-type: none"> <li>Site interview</li> </ul>	Demolition works were not undertaken during the audit period.	Not triggered	
7.7	The Applicant shall meet the requirements of WorkCover NSW with respect to all demolition activities associated with the handling of asbestos or asbestos-containing materials.	<ul style="list-style-type: none"> <li>Site interview</li> </ul>	Demolition works were not undertaken during the audit period.	Not triggered	
	<b>Pre-Construction Hazards Studies</b>				
7.8	At least one month prior to the commencement of construction, or within such period otherwise agreed by the Director-General, the Applicant shall prepare and submit for the approval of the Director-General the studies set out under a) and b) below. Construction shall not commence until approval has been given by the Director-General and, with respect to the Fire Safety Study, approval has also been given by the Commissioner of the NSW Fire Brigades		<p>The construction of the berth was completed prior to the audit period. Construction activities were undertaken during the audit period to redevelop and upgrade the berth (refer to condition 2.4 for construction activities).</p> <p>The submission and approval of studies outlined in Condition 7.8 was undertaken prior to the audit period.</p>	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>(a) A Fire Safety Study. The Study shall cover all aspects detailed in the Department's Hazardous Industry Planning Advisory Paper No. 2 - Fire Safety Study Guidelines and the NSW Government's Best Practice Guidelines for Contaminated Water Retention and Treatment Systems. The Study shall also be submitted to the NSW Fire Brigades for approval; and</p> <p>(b) A Final Hazard Analysis. The Analysis shall be prepared in accordance with the Department's Hazardous Industry Planning Advisory Paper No. 6 - Guidelines for Hazard Analysis. The Analysis shall include, but not necessarily be limited to:</p> <ul style="list-style-type: none"> <li>(i) maximum and likely average quantities of each class of dangerous good to be located on the site;</li> <li>(ii) a demonstration that the maximum quantities of dangerous goods to be located on the site at any time are consistent with the Proposed Multi Purpose Terminal Consequence Analysis for URS, prepared by Qest Consulting Engineers Pty Ltd (dated 28 February 2000), accepted Australian and international best practice, and any current guideline published by the Department or other body having a statutory role in the control and/or handling of dangerous goods; and</li> <li>(iii) details of the location of dangerous goods storage on the site with specific reference to location relative to the site boundary, location relative to other dangerous goods, provision of bunding and fire safety measures.</li> </ul> <p>The Applicant shall not exceed the dangerous goods storage quantities, storage locations, frequency of receipt/</p>				



CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID NO.
	dispatch, or vary the dangerous goods handling procedures specified in any Final Hazard Analysis approved by the Director-General.				
	<b>Pre-Operation Hazards Studies</b>				
7.9	<p>No later than two months prior to the commencement of operation, or within such period otherwise agreed by the Director-General, the Applicant shall prepare and submit for the approval of the Director-General the studies set out under a) to c) below. Operation shall not commence until approval has been given by the Director-General.</p> <p>(a) A Transport of Hazardous Materials Study detailing arrangements covering the transport of hazardous materials including details of routes to be used for the movement of vehicles carrying hazardous materials to or from the site. The Study shall be carried out in accordance with the Department's draft Route Selection guidelines. Suitable routes identified in the Study shall be used except where departures are necessary for local deliveries or emergencies;</p> <p>(b) A comprehensive Emergency Plan and detailed emergency procedures. The Plan shall include detailed procedures for the safety of all people outside the development who may be at risk from the development. The Plan shall be prepared in accordance with the Department's Hazardous Industry Planning Advisory Paper No. 1 Industry Emergency planning Guidelines; and</p> <p>(c) A comprehensive Safety Management System, covering all operations on-site and associated transport activities involving hazardous materials. The System shall clearly specify all safety-related</p>		Commencement of operations of Mayfield 4 Berth occurred in 2010 prior to the audit period.	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	procedures, responsibilities and policies, along with details of mechanisms for ensuring adherence to procedures. Records shall be kept on-site and shall be used except where departures are necessary for local deliveries or emergencies.				
	<b>Incident Reporting</b>				
7.10	Within 24 hours of any incident or potential incident with actual or potential significant off-site impacts on people or the biophysical environment, a report shall be supplied to the Department outlining the basic facts. A further detailed report shall be prepared and submitted following investigations of the causes and identification of necessary preventative measures. The report shall be submitted to the Director-General no later than 14 days after the incident or potential incident. The Applicant shall maintain a register of accidents, incidents and potential incidents. The register shall be made available, at any time, for inspection by the Director-General. The Applicant shall comply with any reasonable requirement of the Director-General in response to an incident report or register entry.	<ul style="list-style-type: none"> <li>PON combined incident and complaints register for the period 2021-2023</li> <li>Site interview</li> <li>2020 AMER (PON, 2021)</li> <li>2021 AEMR (PON, 2022)</li> <li>2022 AEMR (PON, 2023)</li> </ul>	No reportable incidents occurred during the audit period according to the incident register, site interview and AEMRs.	Not triggered	
	<b>Hazard Audit</b>				
7.11	Twelve months after the receipt of the first dangerous goods cargo at either the Container Terminal or the General Cargo Handling Facility, or with such period otherwise agreed by the Director-General, the Applicant shall carry out a comprehensive Hazard Audit of the development, and submit a report to the Director-General on the Audit within one month of completion of the Audit. The Audit shall be carried out at the Applicant's expense	<ul style="list-style-type: none"> <li><i>Mayfield No. 4 Berth Hazard Audit (2017)</i> (Arriscar, 2017)</li> <li><i>Hazard Audit (2020) Mayfield Berth No. 4</i> (Arriscar, 2021)</li> <li>Quote for Hazard Audit (2023) from</li> </ul>	<p>Previous hazard audits that fall outside of the audit period have been completed by Arriscar Pty Limited (Arriscar) and finalised on the following dates:</p> <ul style="list-style-type: none"> <li>17 December 2014</li> <li>6 December 2017</li> </ul> <p>A hazard audit was undertaken during the audit period dated 14 February 2021. Section 1.3 of the 2020</p>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>by a duly qualified independent person or team approved by the Director-General prior to the commencement of the Audit. Further Audits shall be carried out every three years, or as determined by the Director-General and a report of each Audit shall be submitted to the Director-General within one month of the Audit. Hazard Audits shall be carried out in accordance with the Department's Hazardous Industry Planning Advisory paper No. 5 - Hazard Audit Guidelines.</p>	<p>Arriscar to PON dated 4 July 2023</p> <ul style="list-style-type: none"> <li>• 2022 AEMR (PON, 2023)</li> <li>• Letter correspondence from the Department of Planning and Environment (previously the Department of Planning, Industry and Environment at time of letter) subject: Port of Newcastle Mayfield No4 Berth - Hazard Audit 2020 (DA 293-08-00) Hazard Audit 2020 dated 17 February 2021</li> </ul>	<p>hazard audit notes compliance with the Department's <i>Hazardous Industry Planning Advisory paper No. 5 - Hazard Audit Guidelines</i>.</p> <p>The auditor undertaking the audit was approved by the Department as documented in Section 1.4 of the audit report. The audit interviews were undertaken on 19-20, 23-25 and 27 November and 3 December 2020. The site inspection was undertaken on 16 December. The audit report was submitted to the Department in February 2021.</p> <p>Under the schedule outlined in condition 7.11, the next hazard audit is required to be completed in 2023. The Auditor understands the provisions for the next audit is currently underway and will be completed by Arriscar. This was confirmed by the quote from Arriscar to PON for a 2023 Hazard Audit.</p>		
<b>8</b>	<b>ENVIRONMENTAL MONITORING PROGRAM</b>				
8.1	<p>The Applicant must prepare and implement a detailed Environmental Monitoring Program for the development in consultation with the EPA, and Newcastle City Council. The program must:</p> <p>(a) Identify what environmental issues will be monitored;</p>	<ul style="list-style-type: none"> <li>• OEMP (PON, 2021)</li> </ul>	<p>The environmental monitoring program requirements are included in Section 3.3 of the OEMP. The monitoring program includes:</p> <ul style="list-style-type: none"> <li>• Air quality monitoring – Section 5.0</li> <li>• Noise monitoring – Section 6.0</li> <li>• Groundwater monitoring – Section 7.0</li> </ul>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>(b) Set standards and performance measures for these environmental issues;</p> <p>(c) Describe in detail how these issues will be monitored, who will conduct the monitoring, how often the monitoring will be conducted, and how the results of this monitoring will be recorded and reported to the Director-General and other relevant authorities;</p> <p>(d) Include the following:</p> <ul style="list-style-type: none"> <li>• Meteorological monitoring (condition 8.5)</li> <li>• Air quality monitoring (conditions 8.6-8.10)</li> <li>• Noise and vibration monitoring (Conditions 8.11-8.13); Groundwater monitoring (condition 8.14-8.15); and,</li> <li>• Surface water monitoring (Condition 8.16);</li> </ul>		<ul style="list-style-type: none"> <li>• Surface water quality monitoring – Section 8.0</li> <li>• Meteorological monitoring – Section 9.2</li> </ul> <p>Details on compliance with the air quality monitoring program are included in the response to Conditions 8.9-8.10.</p> <p>Details on compliance with the noise monitoring program are included in the response to Condition 5.11.</p> <p>Details on compliance with the surface water monitoring program are included in the response to Condition 8.16.</p> <p>Details on compliance with meteorological monitoring program are included in the response to Condition 8.5.</p>		
8.2	The Environmental Monitoring Program must be submitted for the approval of the Director-General as part of the Environmental Management Plans required in Conditions 4.2, 4.3 and 4.4.		This condition relates to a previous audit period.	Not triggered	
8.3	After reviewing the Environmental Monitoring Program, the Director-General may require the Applicant to address certain matters identified in the program. The Applicant must comply with any reasonable requirements of the Director-General.		This condition relates to a previous audit period.	Not triggered	
8.4	The Applicant must include the detailed results from the Environmental Monitoring Program in the Annual Environmental Management Report to the Director-General.	<ul style="list-style-type: none"> <li>• 2020 AMER (PON, 2021)</li> <li>• 2021 AEMR (PON, 2022)</li> <li>• 2022 AEMR (PON, 2023)</li> </ul>	<p>Details of the Environmental Monitoring Program are included in the AEMRs as follows:</p> <ul style="list-style-type: none"> <li>• Section 5.0 – Review of Air Quality Monitoring and Management</li> <li>• Section 6.0 – Review of Noise Monitoring and Management</li> </ul>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			<ul style="list-style-type: none"> <li>Section 7.0 – Review of Groundwater Monitoring and Management</li> <li>Section 8.0 – Review of Surface Water Quality Monitoring and Management</li> <li>Section 9.2 – Meteorological Monitoring Compliance regarding the submission of the AEMRs is included in the response to Condition 9.2.</li> </ul>		
	<b>Meteorological Monitoring</b>				
8.5	<p>Meteorological monitoring must be conducted for the site. The meteorological Station must be sited, operated and maintained in accordance with the Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales as follows:</p> <p>AM-1 Guide for the siting of sampling units;</p> <p>AM-2 Guide for measurement of horizontal wind for air quality applications; and</p> <p>AM-4 On-site meteorological monitoring program guidance for regulatory modelling applications.</p>	<ul style="list-style-type: none"> <li>OEMP (PON, 2021)</li> <li>EPL 13181 Annual Return 2020-2021</li> <li>EPL 13181 Annual Return 2021-2022</li> <li>EPL 13181 Annual Return 2022-2023</li> <li>2020 AMER (PON, 2021)</li> <li>2021 AEMR (PON, 2022)</li> <li>2022 AEMR (PON, 2023)</li> </ul>	<p>PON maintain an automated weather station (AWS) onsite for meteorological monitoring. The AWS provides real time data for sigma theta, wind speed or run, wind direction, rainfall, temperature, humidity, barometric pressure and solar radiation. Results of the meteorological monitoring are discussed in Section 9.2 of the AEMRs.</p> <p>Condition M4.1 of the EPL requires meteorological monitoring to be undertaken in accordance with the <i>Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales</i>. No non-compliances with this condition are identified in the annual returns for the audit period</p> <p>The EPL requires that loose bulk cargo operations must cease for a period of at least 15 minutes if the average wind speed exceeds seven metres per second (m/s) for a five-minute period, or if wind gusts exceed 12m/s except for specified cargo loads with minimal potential for dust generation (e.g. cotton seed pellets, wet silica sands etc.).</p>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			The AWS is fitted with an alarm and flashing light that activate when the specified wind parameters are exceeded to trigger a management response.		
	<b>Air Quality Monitoring – Site Preparation Phase</b>				
8.6	<p>The Applicant must conduct ambient air quality monitoring as follows:</p> <p>(a) Continuous real-time ambient air quality monitoring of TSP and PM10 concentrations at the site boundary;</p> <p>(b) Ambient air quality monitoring for TSP, PM10, heavy metals(Mn, Pb, As and Fe)16 USEPA priority PAHs, benzo (a) pyrene, benzene, ethyl benzene, toluene, xylene and phenols at points that are representative of the nearest sensitive receptors.</p>		Site preparation works for the Mayfield 4 Berth were completed prior to the audit period.	Not triggered	
8.7	<p>Sampling and analysis must be conducted in accordance with The Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales as follows:</p> <p>AM-1 Guide for the siting of sampling units</p> <p>AM-11 Lead – particulate collection by high volume sampler</p> <p>AM-15 Particulate matter – TSP high volume sampler method</p> <p>AM-16 Particulate matter – PM10 – high volume sampler with size select inlet</p> <p>AM-21 Volatile organic compounds; and</p> <p>A method approved in writing by the EPA for 16 USEPA priority PAHs, benzo (a) pyrene, benzene, ethyl benzene, toluene, xylene and phenols and heavy metals (Mn, As and Fe).</p>		Site preparation works for the Mayfield 4 Berth were completed prior to the audit period.	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
8.8	Prior to any cut and fill operations, commencing on the closure area, as identified in Figure 1.3 titled Layout of Steelworks Site Showing the Closure Area and MPT in the Environmental Impact Statement, the Applicant must design an ambient air monitoring sampling network to measure the parameters specified in Condition 8.6. Details of the air monitoring network, and the frequency of ambient air quality monitoring referred to in Condition 8.6, must be submitted to the EPA for approval in writing prior to implementation.		Site preparation works for the Mayfield 4 Berth were completed prior to the audit period.	Not triggered	
<b>Air Quality Monitoring – Operation</b>					
8.9	During the operation of the MPT, the Applicant must conduct ambient air quality monitoring for TSP and PM10.	<ul style="list-style-type: none"> <li>• OEMP (PON, 2021)</li> <li>• 2020 AMER (PON, 2021)</li> <li>• 2021 AEMR (PON, 2022)</li> <li>• 2022 AEMR (PON, 2023)</li> <li>• <i>HVAS – Master Spreadsheet – Mayfield Berth 4 updated for May 2023.xls</i></li> <li>• Monthly Surface Water &amp; Air Quality Monitoring Reports by RCA Australia for the period November 2020 to August 2023</li> </ul>	<p>High-Volume Air Samplers (HVAS) for PM10 and TSP are installed and operated on the site. The AEMRS for the audit period describe that the HVASs are operated in accordance with the required six days run schedule.</p> <p>Air quality monitoring is undertaken by RCA Australia. PON receives a monthly report from RCA Australia detailing results of the air quality program. Monthly reports for the period November 2020 to August 2023 were provided to the Auditors. A master spreadsheet for PM10 and TSP data was also provided to the Auditors.</p> <p>Results of the air quality monitoring is reported in the AEMRs. Air quality criteria</p> <p>Exceedances against air quality criteria are recorded in the AEMRs for the audit period as follows:</p> <ol style="list-style-type: none"> <li>1. PM10 measurements over a 24 hour period must not exceed 50 µg/m<sup>3</sup>. Exceedances for this air quality criteria that occurred during the audit period as recorded in the AEMRs included:</li> </ol>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			<ul style="list-style-type: none"> <li>• 53 µg/m<sup>3</sup> recorded on 1 August 2021</li> <li>• 53 µg/m<sup>3</sup> recorded on 12 September 2021</li> <li>• 84 µg/m<sup>3</sup> recorded on 24 September 2021</li> <li>• 62 µg/m<sup>3</sup> recorded on 5 November 2021</li> <li>• 152 µg/m<sup>3</sup> recorded on 5 December 2021</li> <li>• 65 µg/m<sup>3</sup> recorded on 29 December 2021</li> <li>• 58 µg/m<sup>3</sup> recorded on 4 January 2022</li> <li>• 57 µg/m<sup>3</sup> recorded on 3 February 2022</li> <li>• 71 µg/m<sup>3</sup> recorded on 16 April 2022</li> <li>• 70 µg/m<sup>3</sup> recorded on 27 June 2022</li> <li>• 69 µg/m<sup>3</sup> recorded on 13 October 2022</li> <li>• 65 µg/m<sup>3</sup> recorded on 31 October 2022</li> <li>• 60 µg/m<sup>3</sup> recorded on 18 November 2022</li> <li>• 55 µg/m<sup>3</sup> recorded on 30 November 2022</li> <li>• 95 µg/m<sup>3</sup> recorded on 6 December 2022</li> </ul> <p>2. TSP measurements averaged over a one-year period must not exceed 90 µg/m<sup>3</sup>. No exceedances for this air quality criteria were recorded in the AEMRs for the audit period.</p> <p>For the 15 recoded events of PM10 exceedances for the audit period, PON included a discussion of results in the AEMRs as follows:</p> <ul style="list-style-type: none"> <li>• Four of the 15 exceedances occurred when a vessel was berthed at M4 and the facility was operational (16/04/2022, 27/06/2022, 13/10/2022, and 30/11/2022). The remaining exceedances occurred at times when M4 was not operational and are attributed to offsite activities.</li> <li>• Exceedances recorded between 13 October and 30 November 2022 did not overlap with an occurrence of a vessel at the berth or M4 operations. The</li> </ul>		



CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			<p>exceedances coincided with the commencement of the berth upgrade construction works (refer to condition 2.4 for construction activities). The 2022 AEMR notes that trench excavation occurred within 4 metres of the PM10 HVAS. As such the exceedances that occurred between the 13 October and 20 November 2022 are most likely attributed to construction activities.</p> <p><b>Note:</b> In October 2016, the EPA removed the condition in the EPL to monitor air quality at the site. The removal of this condition was based on the low risk nature of the site and PON's contribution to the establishment and ongoing running costs of the EPA's Lower Hunter Air Quality monitoring network.</p>		
8.10	<p>Sampling and analysis must be conducted in accordance with the Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales as follows:</p> <p>AM-1 Guide for the siting of sampling units</p> <p>AM-15 Particulate matter – TSP high volume sampler method</p> <p>AM-18 Particulate matter – PM10 – high volume sampler with size select inlet.</p>	<ul style="list-style-type: none"> <li>Monthly Surface Water &amp; Air Quality Monitoring Reports by RCA Australia for the period November 2020 to August 2023</li> <li>Email correspondence from PON with Subject: M4 expansion – siting of air monitoring equipment dated 17 May 2023</li> </ul>	<p>The location of the two HVAS samplers described in condition 8.9 were moved during the audit period (in August 2023) due the change in site layout from the berth redevelopment and upgrade works (refer to condition 2.4 for construction activities).</p> <p>RCA Australia noted the following in the August 2023 Monthly Surface Water &amp; Air Quality Monitoring Report:</p> <ul style="list-style-type: none"> <li>The TSP unit was installed in accordance with the guidelines provided in AS/NZS 3580.1.1:2007 Methods for sampling and analysis of ambient air-Part 1.1: Guide to siting air monitoring equipment.</li> <li>The PM10 unit was installed in accordance with the guidelines provided in AS/NZS 3580.1.1:2007 Methods for sampling and analysis of ambient air-Part 1.1: Guide to siting air monitoring equipment.</li> </ul>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			<p>The change of air monitoring location is documented in Appendix 1 of the August 2023 Monthly Surface Water &amp; Air Quality Monitoring Report by RCA.</p> <p>Quality assurance of sampling and analysis of air pollutants is detailed in Section 2.4 of the monthly reports by RCA. RCA operates under a third party certified quality assurance system complying with AS/NZS ISO 9001:2008 which includes RCA's NATA registered laboratories.</p> <p>The analytical procedures used by RCA Laboratories are based on established internationally recognised procedures such as APHA and Australian Standards. Sampling and analysis of HVAS by RCA Laboratories staff are covered under RCA's NATA Scope of Accreditation.</p>		
	<b>Noise and Vibration Monitoring – Site Preparation and Construction</b>				
8.11	The Applicant must develop a program to effectively monitor noise emissions at the locations identified in Condition 5.7, and to determine compliance with the noise limits specified in those conditions. Details of the noise monitoring program must be submitted to DUAP and the EPA for approval before demolition or site remediation work commences on the site.		Remediation works for the Mayfield 4 Berth were completed prior to the audit period. No demolition activities occurred during the audit period.	Not triggered	
8.12	Monitoring of noise and vibration caused by blasting operations must be conducted in accordance with the ANZECC document titled Technical Basis for Guidelines to Minimise Annoyance Due to Blasting Overpressure and Ground Vibration.	<ul style="list-style-type: none"> <li>Site interview</li> </ul>	No blasting activities occurred during the audit period.	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
<b>Noise Monitoring – MPT Construction and Operation</b>					
8.13	The Applicant must develop a program to effectively monitor noise emissions at the locations identified in Conditions 5.7 and 5.11, and to determine compliance with the noise limits specified in those conditions. Details of the noise monitoring program must be submitted to DUAP and the appropriate regulatory authority for approval before demolition or site remediation work commences on the site.	<ul style="list-style-type: none"> <li>OEMP (PON, 2021)</li> </ul>	<p>The noise monitoring program is described in Section 4.1.1 of the OEMP.</p> <p>Details on compliance with the noise monitoring program are included in the response to Condition 5.11.</p> <p>Approval of the noise monitoring program occurred prior to the audit period.</p>	Compliant	
<b>Groundwater Monitoring</b>					
8.14	<p>A number of Groundwater bores from the existing network must be retained and maintained on the site. The Applicant must ensure that the following requirements are met in determining the number and location of bores to be retained:</p> <p>(a) groundwater flow paths and changing groundwater gradients can be measured over the life of the project or until such time as agreed with the EPA;</p> <p>(b) groundwater contamination levels across the site can be measured; and</p> <p>(c) the level of contaminants in groundwater migrating off the site can be measured.</p>	<ul style="list-style-type: none"> <li>OEMP (PON, 2021)</li> <li>EPL 13181</li> <li>Annual Groundwater Level Monitoring 2020 Mayfield, NSW (RCA Australia, 2021)</li> <li>2022 Groundwater Level Monitoring Annual Report Mayfield, NSW (RCA Australia, 2023)</li> <li>Groundwater Level graphs for Loggers M13-12S, M13-12F, M05Sa, MW05Fa, M14-21S and M1402-1F for the period December</li> </ul>	<p>Section 7.3 of the OEMP states: “The Mayfield No.4 Berth and hardstand has been remediated in accordance with the VRA. There is no longer a requirement to monitor groundwater for the Mayfield No. 4 Berth and hardstand area.”. Groundwater monitoring is not a requirement of the EPL.</p> <p>The Auditor understands six groundwater wells are maintained by PON comprising three fill wells (MW13-12F, MW05Fa and M14-21F) and three shallow estuarine wells (MW13-12S, MW05Sa and M14-21S). All wells are located within the barrier wall.</p> <p>RCA Australia undertake quarterly monitoring of groundwater levels and report their findings in an annual groundwater level monitoring report submitted to PON. Each annual report uses historical data dated back to July 2013 for completeness and to facilitate long-term trend analysis.</p> <p>The Auditor reviewed the most current annual groundwater level report for 2022 (RCA Australia,</p>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.																
		2016 to November 2023	2023). Results of the monitoring dating back to 2013 demonstrate that long term trends of water levels are generally stable with no immediate substantial change in groundwater level in response to rainfall events observed; however, a slight increase/decrease in water level has been observed during periods of sustained decreased rainfall or sustained increased rainfall.																		
8.15	<p>The Applicant must submit a list of proposed parameters to monitor groundwater contaminants to the EPA for approval prior to any cut and fill operations commencing on the site.</p> <p><i>Note: In order to meet the above requirements the Applicant may need to establish new bores or re-establish existing bores across the site.</i></p>	<ul style="list-style-type: none"> <li>Contaminated Land Management Plan: Berth M4 Upgrades Mayfield NSW (Qualtest, 2021)</li> </ul>	Cut and fill operations were not undertaken within the Mayfield 4 Berth during the audit period.	Not triggered																	
<b>Surface Water Monitoring</b>																					
8.16	<p>Stormwater from the discharge point of the stormwater detention basin(s) or from stormwater collected in the basin(s) where no discharge is occurring, must be monitored in accordance with the following table unless otherwise directed or approved by the EPA:</p> <table border="1"> <thead> <tr> <th>Pollutant</th> <th>Unit of Measure</th> <th>Frequency</th> <th>Sampling Method</th> </tr> </thead> <tbody> <tr> <td>Total Suspended Solids</td> <td>mg/L</td> <td>Monthly</td> <td>Grab Sample</td> </tr> <tr> <td>pH</td> <td>pH units</td> <td>Monthly</td> <td>Grab Sample</td> </tr> <tr> <td>Iron</td> <td>ug/L</td> <td>Monthly</td> <td>Grab Sample</td> </tr> </tbody> </table>	Pollutant	Unit of Measure	Frequency	Sampling Method	Total Suspended Solids	mg/L	Monthly	Grab Sample	pH	pH units	Monthly	Grab Sample	Iron	ug/L	Monthly	Grab Sample	<ul style="list-style-type: none"> <li>OEMP (PON, 2021)</li> <li>EPL 13181</li> <li>EPL 13181 Annual Return 2020-2021</li> <li>EPL 13181 Annual Return 2021-2022</li> <li>EPL 13181 Annual Return 2022-2023</li> <li>2020 AMER (PON, 2021)</li> <li>2021 AEMR (PON, 2022)</li> <li>2022 AEMR (PON, 2023)</li> </ul>	<p>Monitoring of stormwater discharges is undertaken in accordance with EPL 13181 requirements at three stormwater pits (Pit 1, Pit 2 and Pit 3) within the facility. Stormwater monitoring is conducted in accordance with the criteria stipulated in condition L2 and M2.202.3 of the EPL and includes:</p> <ul style="list-style-type: none"> <li>Nitrogen (total)</li> <li>Oil and grease</li> <li>pH</li> <li>Phosphate</li> <li>Total Suspended Solids</li> </ul> <p>The frequency of monitoring is determined by the EPL requirements and includes the first discharge event following a loose bulk cargo operation. Only one</p>	Compliant	
Pollutant	Unit of Measure	Frequency	Sampling Method																		
Total Suspended Solids	mg/L	Monthly	Grab Sample																		
pH	pH units	Monthly	Grab Sample																		
Iron	ug/L	Monthly	Grab Sample																		

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)				EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	Zinc	ug/L	Monthly	Grab Sample	<ul style="list-style-type: none"> <li>Monthly Surface Water &amp; Air Quality Monitoring Reports by RCA Australia for the period November 2020 to August 2023</li> <li>Annual Compliance Report – 2022-2023 (PON, 2023)</li> </ul>	<p>discharge event is required to be sampled each calendar month.</p> <p>The three stormwater monitoring pits are located on the hardstand area along the eastern edge of the berth and are fitted with a <i>Humeceptor</i> treatment system designed to remove oil and grease and total suspended solids from the site runoff water prior to discharges. Each pit is also fitted with an automated water sample to enable sample collection during a discharge event which can then be collected and sent to a National Association of Testing Authorities (NATA) accredited laboratory for analysis.</p> <p>Discharge stormwater monitoring is undertaken by RCA and reporting on results is provided on a monthly basis by RCA as well as annually by PON in the AEMRs. No non-compliances against Conditions L1 and M2 were reported in the EPL returns for the audit period.</p> <p><b>Observation:</b> The Auditor understands the stormwater management system was modified to account for the berth redevelopment and upgrade works (refer to condition 2.4 for construction activities). Review of the <i>Annual Compliance Report – 2022-2023</i> (PON, 2023) states an additional stormwater monitoring point has been developed to account for the hardstand extension. PON states the following in the 2023 compliance report:  <i>“Construction is expected to be completed this year and therefore an EPL variation for the extension of the M4 berth will be performed at the appropriate time to include the extended area and additional stormwater monitoring point.”</i></p>		
	Copper	ug/L	Monthly	Grab Sample				
	Lead	ug/L	Monthly	Grab Sample				
	Manganese	ug/L	Monthly	Grab Sample				
	Cyanide	ug/L	Monthly	Grab Sample				
	Mercury	ug/L	Monthly	Grab Sample				
	Phenols	ug/L	Monthly	Grab Sample				
	Total PAH	ug/L	Monthly	Grab Sample				
	Arsenic	ug/L	Monthly	Grab Sample				
	C6-C36	ug/L	Monthly	Grab Sample				
	BTEX	ug/L	Monthly	Grab Sample				
	<p>A note must be recorded in accordance with the above table where:</p> <p>(a) a sample is taken from the stormwater in the stormwater detention basin(s) but there is no discharge occurring;</p> <p>(b) the stormwater basin(s) are empty of stormwater.</p>							

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			<p><b>Recommendation:</b> It was observed at time of site inspection that the berth redevelopment and upgrades works have been completed. PON should now pursue an application to vary the EPL requirements to include the new stormwater monitoring point.</p>		
<b>9</b>	<b>ENVIRONMENTAL MANAGEMENT AND REPORTING</b>				
	<b>Environmental Officer</b>				
9.1	<p>The Applicant shall employ a suitably qualified and experienced Environmental Officer(s) throughout the life of the project, whose appointment is acceptable to the Director-General. The Officer(s) will:</p> <p>(a) be responsible for the preparation of the environmental management plans (refer Conditions 4.1 – 4.4);</p> <p>(b) be responsible for considering and advising on matters specified in the conditions of this consent and advising on compliance with such matters;</p> <p>(c) be responsible for receiving and responding to complaints in accordance with Condition 9.9);</p> <p>(d) facilitate an induction and training program for all persons involved with site preparation and construction activities; and</p> <p>(e) advise the Site Manager to require reasonable steps to be taken to avoid or minimise unintended or adverse environmental impacts and failing the effectiveness of such steps, to stop work immediately if an adverse impact on the environment is likely to occur.</p>	<ul style="list-style-type: none"> <li>• Site interview</li> <li>• OEMP (PON, 2021)</li> <li>• Email correspondence from Major Projects Planning NSW subject: Site remediation BHP steelworks – Change to Appointment of Environment Officer dated 24 October 2022</li> <li>• <i>Annual Compliance Report – 2022-2023</i> (PON, 2023)</li> </ul>	<p>The current Environmental Officer is Brigid Kelley (Environment Manager) who was the primary contact during the audit and attended the site inspection. This was confirmed through review of:</p> <ul style="list-style-type: none"> <li>• Email correspondence from Major Projects Planning NSW, Subject: Site remediation BHP steelworks – Change to Appointment of Environment Officer dated 24 October 2022.</li> <li>• Appendix B of the <i>Annual Compliance Report – 2022-2023</i> (PON, 2023) showing PON’s organisation chart</li> </ul>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	The Applicant shall notify the Director-General of the name and contact details of the Environmental Officer(s) upon appointment and any changes to that appointment.				
	<b>Annual Environmental Management Report</b>				
9.2	<p>Twelve months after commencement of operations at the MPT, and annually thereafter for the duration of the development, the Applicant must submit an Annual Environmental Management Report to the Director-General and EPA. This report must:</p> <p>(a) Identify all the standards, performance measures, and statutory requirements the development is required to comply with;</p> <p>(b) Review the environmental performance of the development to determine whether it is complying with these standards, performance measures, and statutory requirements.</p> <p>(c) Identify all the occasions during the previous year when these standards, performance measures, and statutory requirements have not been complied with;</p> <p>(d) Include a summary of any complaints made about the development, and indicate what actions were taken (or are being taken) to address these complaints;</p> <p>(e) Include the detailed reporting from the Environmental Monitoring Program (see Condition 8.1), and identify any trends in the monitoring over the life of the project; and</p> <p>(f) Where non-compliance is occurring, describe what actions will be taken to ensure compliance, who will be responsible for carrying out these actions, and when these actions will be implemented.</p>	<ul style="list-style-type: none"> <li>• 2020 AMER (PON, 2021)</li> <li>• 2021 AEMR (PON, 2022)</li> <li>• 2022 AEMR (PON, 2023)</li> <li>• Email correspondence from Brigid Kelly subject: <i>Port of Newcastle AEMR DA 293-08-00 2021</i> dated 5 September 2023</li> <li>• Email correspondence from Brigid Kelly subject: <i>Port of Newcastle AEMR DA 293-08-00 2021</i> dated 16 May 2022</li> </ul>	<p>The AEMRs for the audit period were provided to the auditor. The requirements under this condition are met as follows:</p> <p>(a) Section 3.0 – Statutory Requirements</p> <p>(b) Section 5.0 – Review of Air Quality Monitoring and Management Section 6.0 – Review of Noise Monitoring and Management Section 7.0 – Review of Groundwater Monitoring and Management Section 8.0 – Review of Surface Water Quality Monitoring and Management Section 9.0 – Review of Environmental Protection Licence Monitoring</p> <p>(c) Section 13.0 – Compliance Statement and Conclusion</p> <p>(d) Section 10.0 – Review of Complaints</p> <p>(e) Section 5.0 – Review of Air Quality Monitoring and Management Section 6.0 – Review of Noise Monitoring and Management Section 7.0 – Review of Groundwater Monitoring and Management Section 8.0 – Review of Surface Water Quality Monitoring and Management</p>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			<p>Section 9.0 – Review of Environmental Protection Licence Monitoring</p> <p>(f) Section 1.5 - Update from previous AEMR (Section 1.6 in the 2022 AEMR)</p> <p>The AEMRs were submitted to the Department and the EPA on the following dates:</p> <ul style="list-style-type: none"> <li>• 2020 AEMR – submitted to the Department on 6 April 2021.</li> <li>• 2021 AEMR – submitted to the Department on 29 March 2022.</li> <li>• 2022 AEMR – submitted to the Department on 29 March 2023 and revised and resubmitted on 22 August 2023 following DPE assessment and approval.</li> </ul> <p><b>Recommendation:</b> Document the submission and review by the EPA within future AEMR quality control tables.</p>		
9.3	<p>After reviewing the Annual Environmental Management Report, the Director-General may require the Applicant to address certain matters identified in the report. The Applicant must comply with any reasonable requirements of the Director-General.</p>	<ul style="list-style-type: none"> <li>• 2020 AMER (PON, 2021)</li> <li>• 2021 AEMR (PON, 2022)</li> <li>• 2022 AEMR (PON, 2023)</li> </ul>	<p>The review process for PON’s AEMRs by the Department is documented in the quality control table in each AEMR.</p> <p>The 2022 AEMR includes details of a report version that was resubmitted following Department review as ‘<i>Final for uploading to PON website following DPE assessment and approval, 21 August 2023</i>’.</p> <p><b>Observation:</b> no quality control table was included for the 2020 AEMR but was included for all subsequent AEMRs for the audit period.</p>	Compliant	



CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
			<b>Recommendation:</b> Future AEMRs should all include quality control tables and should document the review and approval process by the Department.		
	<b>Independent Environmental Audit</b>				
9.4	<p>Within 12 months of commissioning the Multi-Purpose Terminal and every three years thereafter, unless the Director-General directs otherwise, the Applicant must commission and pay the full cost of an Independent Environmental Audit. The Independent Environmental Audit must:</p> <p>(a) Be conducted by a suitably qualified, experienced, and independent person whose appointment has been endorsed by the Director-General;</p> <p>(b) Be consistent with ISO 14010 – Guidelines and General Principles for Environmental Auditing, and ISO 14011 – Procedures for Environmental Auditing, or updated versions of these guidelines/manuals;</p> <p>(c) Assess the environmental performance of the development, and its effects on the surrounding environment;</p> <p>(d) Assess whether the development is complying with the relevant standards, performance measures, and statutory requirements;</p> <p>(e) Review the adequacy of the Applicant’s Environmental Management Plan, and Environmental Monitoring Program; and, if necessary,</p> <p>(f) Recommend measures or actions to improve the environmental performance of the plant, and/or the environmental management and monitoring systems.</p>	<ul style="list-style-type: none"> <li>This audit</li> <li>Previous Independent Environmental Audit (Ramboll, 2020)</li> <li>Letter from the Department to PON subject: <i>Mayfield 4 Berth (DA 293-08-00) Independent Environmental Audit and Hazard Audit 2020 – Auditor Endorsement Request</i> dated 22 October 2020</li> </ul>	<p>The previous Independent Environmental Audit was undertaken by Ramboll for the period 28 August 2017 to 4 November 2020 (date of site inspection). The requirements under this condition are met as follows in this audit:</p> <p>(a) Endorsement of the auditors was issued by the Department on 22 October 2020 (refer to Appendix 3 to the Audit Report).</p> <p>(b) The Audit has been conducted in accordance with <i>Australian Standard AS/NZS ISO 19011:2014 Australian/New Zealand Standards: Guidelines for quality and/or environmental management systems auditing</i> (which replaced ISO 14010), the Department’s revised <i>Independent Audit: Post Approval Requirements</i> (May 2020) (IAPAR 2020).</p> <p>(c) This table and Section 3 of the Audit Report.</p> <p>(d) This table and Section 3 of the Audit Report.</p> <p>(e) Section 3.6 and 3.7 of the Audit Report.</p> <p>(f) This table and Section 4 of the Audit Report.</p>	Compliant	
9.5	<p>Within 2 months of commissioning the audit, the Applicant must submit a copy of the audit report to the Director-</p>	<ul style="list-style-type: none"> <li>This audit</li> </ul>	<p>The previous Independent Environmental Audit (Ramboll, 2020) was commissioned on 4 November</p>	Compliant	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>General. After reviewing the report, the Director-General may require the Applicant to address certain matters identified in the report. The Applicant must comply with any reasonable requirements of the Director-General.</p>	<ul style="list-style-type: none"> <li>• Previous Independent Environmental Audit (Ramboll, 2020)</li> <li>• Letter from PON to the Department subject: <i>RE: DA 293-08-00 Independent Environmental Audit 2020</i> dated 12 January 2021</li> <li>• 231220 DA8137 Extension Request.pdf</li> </ul>	<p>2020. Under this condition, the previous 2020 IEA was to be submitted to the Department on 4 January 2021. PON submitted a request to the Department dated 12 January 2021 to extend the due date by two weeks to account for PON’s two week holiday period at the end of the year. The Auditor understands this extension was granted by the Department and the final IEA was submitted to the Department on 12 January 2021.</p> <p>This audit was commissioned on 10 November 2023 (the date of site inspection). Under this condition, the audit is required to be submitted to the Department on 10 January 2024. However, for the same reasons described above PON submitted a request to the Department on 11 December 2023 to extend the due date by two weeks to account for PON’s two week holiday period at the end of the year. This request was granted by the Department with an extension given to submit the report by 19 January 2024.</p> <p><b>Note:</b> Submission of this audit is required by 19 January 2024 as per the Department’s request.</p>		
	<b>Community Consultative Committee</b>				
9.6	<p>The Applicant shall establish a Community Consultative Committee (CCC) and ensure that the first meeting is held prior to the commencement of any construction work on site, or as otherwise agreed to by the Director-General. The members of the CCC shall include:</p> <ul style="list-style-type: none"> <li>• An independent chairperson nominated by the Councils and approved by the Director-General;</li> <li>• At least four community representatives residing within two (2) kilometres of the site boundary;</li> </ul>	<ul style="list-style-type: none"> <li>• Previous Independent Environmental Audit (Ramboll, 2018)</li> <li>• Previous Independent Environmental Audit (Ramboll, 2020)</li> </ul>	<p>A CCC was established by the Hunter Development Corporation (HDC) for the remediation works (prior to the audit period). As the site is not currently operating as a multi-purpose terminal, a CCC has not been established for operation of the Mayfield No.4 Berth.</p> <p>This condition was considered by the Department to be non-compliant in a response to the previous 2018 Independent Environmental Audit (version 1). PON responded to the Department as follows: "...<i>This</i></p>	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<ul style="list-style-type: none"> <li>Not more than two representatives appointed by the Applicant, one of which must be the Environmental Officer appointed under Condition 9.1;</li> <li>and at least one representative from the Council.</li> </ul>	<ul style="list-style-type: none"> <li><a href="https://www.portofnewcastle.com.au/sustainable-port/community/">https://www.portofnewcastle.com.au/sustainable-port/community/</a></li> </ul>	<p>condition was closed out and accepted by the Department in previous IEA reports dating back to 2012 with no direction to form or attend a CCC for the operation Mayfield 4. Should the MPT be constructed and become fully operational PON will establish a project specific CCC that meets the requirements of the consent.". It was suggested by PON that this condition be therefore assessed as 'not triggered'. The Department accepted this approach on 30 January 2018.</p> <p>The Auditors therefore consider this condition to be 'not triggered' in accordance with the previous audit and correspondence with the Department.</p> <p>It is also noted that PON has established and operate their own CCC, which meets bimonthly to discuss the entire Port of Newcastle operations. Meeting minutes are available on the PON website (link in adjacent column).</p>		
9.7	<p>The Applicant shall advertise for expressions of interest for membership with respect to the community representative positions. Advertising shall be in an appropriate local newspaper on at least one occasion. Based on the expressions of interest received, the Applicant shall nominate appropriate representatives and submit details of the nominated representatives for the approval of the Director-General.</p> <p>Meetings shall be held at regular intervals from the date of this consent as determined by the chairperson.</p> <p>Representatives from relevant government agencies or other individuals may be invited to attend meetings as</p>		<p>Refer to the response to Condition 9.6. This condition relates to the remediation works undertaken prior to the audit period and the construction and operation of the MPT which has not been undertaken to date.</p>	Not triggered	

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
	<p>required by the Chairperson. The CCC shall act as the interface between the Applicant and its operation, and the broader community. A charter for the CCC is to be approved by the Director-General in consultation with the Council and shall provide for the provision of information and procedures for bringing to the Applicant's attention, issues associated with the environmental performance of the site remediation, and construction and operation of the MPT, and implementation of conditions of consent.</p>				
9.8	<p>The Applicant shall, at its own expense:</p> <ul style="list-style-type: none"> <li>(a) nominate two (2) representatives to attend all meetings of the Committee;</li> <li>(b) provide to the Committee regular information on the progress of work and monitoring results;</li> <li>(c) promptly provide to the Committee such other relevant information as the Chair of the Committee may reasonably request concerning the environmental performance of the development;</li> <li>(d) provide access for site inspections by the Committee upon arrangement;</li> <li>(e) provide meeting facilities for the Committee, and take minutes of Committee meetings. These minutes shall be available for public inspection at the Councils within 14 days of the meeting; and</li> <li>(f) meet all reasonable administrative costs associated with operating the CCC up to a value of \$2000 per annum indexed according to the Consumer Price Index (CPI) at the time of payment.</li> </ul>		<p>Refer to the response to Condition 9.6. This condition relates to the remediation works undertaken prior to the audit period and the construction and operation of the multi-purpose terminal which has not been undertaken to date.</p>	Not triggered	
	<b>Complaints Procedure</b>				

CON.	COMPLIANCE REQUIREMENT (DA 293-08-00)	EVIDENCE COLLECTED	AUDIT FINDINGS AND RECOMMENDATIONS	COMPLIANCE STATUS	ID No.
9.9	<p>Prior to the commencement of site remediation activities the Applicant shall arrange:</p> <p>(a) a toll free number for the purpose of receiving any complaints from members of the public in relation to activities conducted at the site, unless otherwise specified in an environment protection licence issued by the EPA; and</p> <p>(b) a postal address where written complaints can be lodged.</p> <p>The Applicant must notify the public of the telephone number and postal address via an advertisement in the appropriate local newspaper prior to commencement of site preparation works. The telephone number and postal address shall be displayed near the entrance to the site, in a position visible from the nearest public road.</p>	<ul style="list-style-type: none"> <li><a href="https://www.portofnewcastle.com.au/contact-us/">https://www.portofnewcastle.com.au/contact-us/</a></li> </ul>	<p>Remediation of the Closure Area was completed in 2012 prior to the audit period.</p> <p><b>Observation:</b> PON maintain a public website with access to information on how to lodge a complaint which is available on the website. Complaints can be made in person, via phone, email or website.</p> <p>Phone: +61 2 4908 8200</p> <p>Via post or in-person: Port of Newcastle Level 4, 251 Wharf Road Newcastle NSW 2300 Attention: Senior Manager Corporate Communications</p> <p>Email: <a href="mailto:info@portofnewcastle.com.au">info@portofnewcastle.com.au</a> or via the online form above.</p>	Not triggered	
<b>10</b>	<b>DISPUTE RESOLUTION</b>				
10.1	<p>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 or, if necessary, the Minister, whose determination on the dispute shall be binding on all parties.</p>	<ul style="list-style-type: none"> <li>Site interview</li> </ul>	<p>The Auditor understands that there have been no disputes between the Applicant and any other parties in relation to the facility.</p>	Not triggered	

## Appendix 2 Auditor Endorsement

Our ref: DA293-08-00-PA-7

Brigid Kelly  
Environment Manager  
The Trustee for the Port of Newcastle Unit Trust

23/10/2023

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Sent via the Major Projects Portal only

Subject: Site remediation BHP steelworks site - Proposed audit team 2023 IEA

Dear Ms Kelly

Reference is made to your post approval matter, DA293-08-00-PA-7, request for the Planning Secretary's approval of suitably qualified, experienced, and independent person/s to conduct an Independent Environmental Audit (IEA) of the former BHP steelworks site comprising the Mayfield 4 Berth (site), submitted as required by Schedule 2, Condition 9.4 of DA293-08-00, as modified (the consent) to NSW Department of Planning and Environment (NSW Planning) on 4 October 2023.

In accordance with Schedule 2, Condition 9.4 of the consent and the NSW Planning, *Independent Audit Post Approval Requirements (2020)*, as nominee of the Planning Secretary, I endorse the following independent audit team from Ramboll Australia Pty Ltd:

- Ms Victoria Sedwick – Lead Auditor
- Mr Shaun Taylor - Auditor
- Ms Charissa Lawrence – Auditor Assistant

NSW Planning requests that the IEA scope review all conditions of consent, and the land as described in the consent, and not just a focus on the Mayfield 4 berth portion of the Closure Area.

The IEA period shall be from 5 November 2020 to the IEA audit inspection date, which shall coincide with the end of the audit period, and be completed on or around 4 November 2023, unless otherwise agreed by the Secretary.

The IEA report, together with responses to any recommendations (RAR) contained in the IEA report, and proposed completion dates (DD/MM/YYYY) for actions to be implemented, should be submitted to the NSW Government's Major Project Website within 2 months of commencing the audit.

The Independent Audit must be prepared, undertaken, and finalised in accordance with the conditions of consent and the *Independent Audit Post Approval Requirements* (2020). Failure to meet these requirements will require revision and resubmission.

Please ensure this correspondence is appended to the Independent Audit Report.

Should you wish to discuss the matter further, please contact Ann Hagerthy, (Senior Compliance Officer) on 02 6575 3407 or email [compliance@planning.nsw.gov.au](mailto:compliance@planning.nsw.gov.au)

Yours sincerely

A handwritten signature in black ink that reads "H Watters".

Heidi Watters  
Team Leader Northern  
Compliance

As nominee of the Planning Secretary



## Appendix 3 Site Inspection Photos



**Photo 1: Mayfield 4 Berth facing north west**



**Photo 2: Mayfield 4 Berth facing south east**



**Photo 3: Mayfield 4 Berth new facility lighting**



**Photo 4: Plant storage area**



**Photo 5: Pallet storage**

## Appendix 4 Independent Audit Declaration Form

## Independent Audit Declaration Form

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Project Name: Mayfield 4 Berth  
Consent Number: DA-293-08-00  
Description of Project: Operation of a multi-purpose common use berth for bulk shipping operations  
Project Address: Selwyn Street, Mayfield, New South Wales  
Proponent: Port of Newcastle  
Title of Audit: Mayfield 4 Berth Independent Environmental Audit  
Date: 19 January 2024

---

I declare that I have undertaken the Independent Audit and prepared the contents of the attached Independent Audit Report and to the best of my knowledge:

- the Audit has been undertaken in accordance with relevant condition(s) of consent and the *Independent Audit Post Approval Requirements (Department 2020)*;
- the findings of the Audit are reported truthfully, accurately and completely;
- I have exercised due diligence and professional judgement in conducting the Audit;
- I have acted professionally, objectively and in an unbiased manner;
- I am not related to any proponent, owner or operator of the project neither as an employer, business partner, employee, or by sharing a common employer, having a contractual arrangement outside the Audit, or by relationship as spouse, partner, sibling, parent, or child;
- I do not have any pecuniary interest in the audited project, including where there is a reasonable likelihood or expectation of financial gain or loss to me or spouse, partner, sibling, parent, or child;
- neither I nor my employer have provided consultancy services for the audited project that were subject to this Audit except as otherwise declared to the Department prior to the Audit; and
- I have not accepted, nor intend to accept any inducement, commission, gift or any other benefit (apart from payment for auditing services) from any proponent, owner or operator of the project, their employees or any interested party. I have not knowingly allowed, nor intend to allow my colleagues to do so.

Notes :

- a) Under section 10.6 of the Environmental Planning and Assessment Act 1979 a person must not include false or misleading information (or provide information for inclusion in) in a report of monitoring data or an audit report produced to the Minister in connection with an audit if the person knows that the information is false or misleading in a material respect. The proponent of an approved project must not fail to include information in (or provide information for inclusion in) a report of monitoring data or an audit report produced to the Minister in connection with an audit if the person knows that the information is materially relevant to the monitoring or audit. The maximum penalty is, in the case of a corporation, \$1 million and for an individual, \$250,000; and
- b) The Crimes Act 1900 contains other offences relating to false and misleading information: section 307B (giving false or misleading information – maximum penalty 2 years imprisonment or 200 penalty units, or both).

Name of Auditor: Victoria Sedwick

Signature: 

Qualification: Exemplar Global Lead Auditor Accreditation No. 13180

Company: Ramboll Australia Pty Ltd

Company Address: PO Box 560, North Sydney NSW 2060

## Independent Audit Declaration Form

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Project Name: Mayfield 4 Berth  
Consent Number: DA-293-08-00  
Description of Project: Operation of a multi-purpose common use berth for bulk shipping operations  
Project Address: Selwyn Street, Mayfield, New South Wales  
Proponent: Port of Newcastle  
Title of Audit: Mayfield 4 Berth Independent Environmental Audit  
Date: 19 January 2024


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I declare that I have undertaken the Independent Audit and prepared the contents of the attached Independent Audit Report and to the best of my knowledge:

- the Audit has been undertaken in accordance with relevant condition(s) of consent and the *Independent Audit Post Approval Requirements (Department 2020)*;
- the findings of the Audit are reported truthfully, accurately and completely;
- I have exercised due diligence and professional judgement in conducting the Audit;
- I have acted professionally, objectively and in an unbiased manner;
- I am not related to any proponent, owner or operator of the project neither as an employer, business partner, employee, or by sharing a common employer, having a contractual arrangement outside the Audit, or by relationship as spouse, partner, sibling, parent, or child;
- I do not have any pecuniary interest in the audited project, including where there is a reasonable likelihood or expectation of financial gain or loss to me or spouse, partner, sibling, parent, or child;
- neither I nor my employer have provided consultancy services for the audited project that were subject to this Audit except as otherwise declared to the Department prior to the Audit; and
- I have not accepted, nor intend to accept any inducement, commission, gift or any other benefit (apart from payment for auditing services) from any proponent, owner or operator of the project, their employees or any interested party. I have not knowingly allowed, nor intend to allow my colleagues to do so.

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- b) The Crimes Act 1900 contains other offences relating to false and misleading information: section 307B (giving false or misleading information – maximum penalty 2 years imprisonment or 200 penalty units, or both).

Name of Auditor: Shaun Taylor  
Signature:   
Qualification: B App Sc (Env Asst & Mgt) (Hons)  
Company: Ramboll Australia Pty Ltd  
Company Address: The Arc, 45a Watt St, Newcastle, NSW 2300

## Independent Audit Declaration Form

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Project Name: Mayfield 4 Berth  
Consent Number: DA-293-08-00  
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- I have acted professionally, objectively and in an unbiased manner;
- I am not related to any proponent, owner or operator of the project neither as an employer, business partner, employee, or by sharing a common employer, having a contractual arrangement outside the Audit, or by relationship as spouse, partner, sibling, parent, or child;
- I do not have any pecuniary interest in the audited project, including where there is a reasonable likelihood or expectation of financial gain or loss to me or spouse, partner, sibling, parent, or child;
- neither I nor my employer have provided consultancy services for the audited project that were subject to this Audit except as otherwise declared to the Department prior to the Audit; and
- I have not accepted, nor intend to accept any inducement, commission, gift or any other benefit (apart from payment for auditing services) from any proponent, owner or operator of the project, their employees or any interested party. I have not knowingly allowed, nor intend to allow my colleagues to do so.

Notes :

- c) Under section 10.6 of the Environmental Planning and Assessment Act 1979 a person must not include false or misleading information (or provide information for inclusion in) in a report of monitoring data or an audit report produced to the Minister in connection with an audit if the person knows that the information is false or misleading in a material respect. The proponent of an approved project must not fail to include information in (or provide information for inclusion in) a report of monitoring data or an audit report produced to the Minister in connection with an audit if the person knows that the information is materially relevant to the monitoring or audit. The maximum penalty is, in the case of a corporation, \$1 million and for an individual, \$250,000; and
- d) The Crimes Act 1900 contains other offences relating to false and misleading information: section 307B (giving false or misleading information – maximum penalty 2 years imprisonment or 200 penalty units, or both).

Name of Auditor: Charyssa Lawrence  
Signature:   
Qualification: Bachelor of Environmental Science and Management (Honours)  
Company: Ramboll Australia Pty Ltd  
Company Address: The Arc, 45a Watt St, Newcastle, NSW 2300



## Independent Audit Declaration Form

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Consent Number: DA-293-08-00  
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I declare that I have undertaken the Independent Audit and prepared the contents of the attached Independent Audit Report and to the best of my knowledge:

- the Audit has been undertaken in accordance with relevant condition(s) of consent and the *Independent Audit Post Approval Requirements (Department 2020)*;
- the findings of the Audit are reported truthfully, accurately and completely;
- I have exercised due diligence and professional judgement in conducting the Audit;
- I have acted professionally, objectively and in an unbiased manner;
- I am not related to any proponent, owner or operator of the project neither as an employer, business partner, employee, or by sharing a common employer, having a contractual arrangement outside the Audit, or by relationship as spouse, partner, sibling, parent, or child;
- I do not have any pecuniary interest in the audited project, including where there is a reasonable likelihood or expectation of financial gain or loss to me or spouse, partner, sibling, parent, or child;
- neither I nor my employer have provided consultancy services for the audited project that were subject to this Audit except as otherwise declared to the Department prior to the Audit; and
- I have not accepted, nor intend to accept any inducement, commission, gift or any other benefit (apart from payment for auditing services) from any proponent, owner or operator of the project, their employees or any interested party. I have not knowingly allowed, nor intend to allow my colleagues to do so.

Notes :

- a) Under section 10.6 of the Environmental Planning and Assessment Act 1979 a person must not include false or misleading information (or provide information for inclusion in) in a report of monitoring data or an audit report produced to the Minister in connection with an audit if the person knows that the information is false or misleading in a material respect. The proponent of an approved project must not fail to include information in (or provide information for inclusion in) a report of monitoring data or an audit report produced to the Minister in connection with an audit if the person knows that the information is materially relevant to the monitoring or audit. The maximum penalty is, in the case of a corporation, \$1 million and for an individual, \$250,000; and
- b) The Crimes Act 1900 contains other offences relating to false and misleading information: section 307B (giving false or misleading information – maximum penalty 2 years imprisonment or 200 penalty units, or both).

Name of Auditor: Taylor Hancock

Signature:



Qualification: Bachelor of Environmental Science and Management (Sustainability)

Company: Ramboll Australia Pty Ltd

Company Address: The Arc, 45a Watt St, Newcastle, NSW 2300