

# Development Consent

## Section 80(1) of the *Environmental Planning and Assessment Act 1979*

I, the Minister for Planning, pursuant to section 80(1) of the *Environmental Planning and Assessment Act 1979*, grant development consent to the development referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to prevent, minimise, and/or offset adverse environmental impacts.

Frank Sartor MP  
**Minister for Planning**

Sydney                      22 February                      2008                      File No: S07/01728

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Modification 1 – DA-42-10-2007-i MOD 1 – approved 22 March 2010

Modification 2 – DA-42-10-2007-i MOD 2 – approved 17 December 2021

### SCHEDULE 1

**Development Application:** DA-42-10-2007-i

**Application made by:** Tyne Container Services

**To:** Minister for Planning

**In respect of:** Lot 101 DP 1182871, 11 Simblist Road, Port Botany.

**For the following:** The construction and operation of an empty container storage park.

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## KEY TO CONDITIONS

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## SCHEDULE 2

<b>Act, the</b>	<i>Environmental Planning and Assessment Act, 1979</i>
<b>Applicant, the</b>	Tyne Container Services
<b>BCA, the</b>	Building Code of Australia
<b>Conditions of Consent</b>	The Minister's conditions of consent for the development
<b>Construction Certificate</b>	A Construction Certificate issued under Part 4A of the <i>Environmental Planning and Assessment Act 1979</i>
<b>Container Park Operator</b>	Operator of the land at Lot 101 DP 1182871, 11 Simblist Road, Port Botany.
<b>Council</b>	Randwick City Council
<b>Department, the</b>	Department of Planning, Industry and Environment
<b>Minister, the</b>	Minister for Planning and Public Spaces
<b>Occupation Certificate</b>	An Occupation Certificate issued under Part 4A of the <i>Environmental Planning and Assessment Act 1979</i>
<b>Planning Secretary, the</b>	Secretary of the Department of Planning, Industry and Environment
<b>Relevant Australian Standard</b>	AS3711.10-2000 <i>Freight containers, Handling and securing, section 8, Stacking on the Ground</i> or any subsequent/superseding Australian Standard
<b>Site</b>	Land to which development application DA-34-7-2007-i applies.

## 1. ADMINISTRATIVE CONDITIONS

### Terms of Approval

- 1.1 The Applicant shall carry out the development generally in accordance with:
- a) Development Application DA-42-10-2007-i;
  - b) *Statement of Environmental Effects: Proposed Container Depot, Part Lot 1 DP 735037, Simblist Road, Port Botany* dated September 2007 and prepared by Don Fox Planning;
  - c) *modification application DA-42-10-2007-i MOD 1, accompanied by Proposed S.96(1A) Modification to the Approved Stack Height of an Existing Container Depot Statement of Environmental Effects* dated February 2010 prepared for Tyne Container Services;
  - d) *modification application DA-42-10-2007-i MOD 2, accompanied by Statement of Modification and Environmental Effects* dated September 2021 prepared by Key Urban Planning for Tyne Container Services;
  - e) *Key Urban Planning's Response to Submissions letter* dated 4 November 2021; and
  - f) *the conditions of this consent.*
- 1.2 In the event of an inconsistency between:
- a) *the conditions of this approval and any document listed from condition 1.1a) to 1.1e) inclusive, the conditions of this approval shall prevail to the extent of the inconsistency; and*
  - b) *any document listed from condition 1.1a) to e) inclusive, the most recent document shall prevail to the extent of the inconsistency.*
- 1.3 The Applicant shall comply with any reasonable requirement(s) of the Director-General arising from the Department's assessment of:
- a) any reports, plans or correspondence that are submitted in accordance with this consent; and
  - b) the implementation of any actions or measures contained in these reports, plans or correspondence.

### Statutory Requirements

- 1.4 The Applicant shall ensure that all licences, permits and approvals are obtained and kept up-to-date as required throughout the life of the development. No condition of this consent removes the obligation for the Applicant to obtain, renew or comply with such licences, permits or approvals. The Applicant shall ensure that a copy of this approval and all relevant environmental approvals are available on the site at all times during the life of the development.
- 1.5 The Proponent shall ensure that all plant and equipment installed at the premises or used in conjunction with the project must be:
- a) maintained in a proper and efficient condition; and
  - b) operated in a proper and efficient manner.

### Infrastructure and Utilities

1.6 Prior to the issue of a construction certificate for the development, the Applicant shall identify (including, but not limited to the position and level of service) all public utility services on the site, roadway, footpath, public reserve or any public areas that are associated with, and/or adjacent to the site, and/or likely to be affected by the construction and operation of the development.

1.7 The Applicant shall consult with the relevant utility provider(s) for those services identified under condition 1.6 and make arrangements to adjust and/or relocate services as required. The Applicant shall bear the full cost associated with providing utilities and services to the site, and restoring any public infrastructure that may be damaged during the proposed works.

1.8 Prior to the issue of a construction certificate for works that may affect services/utilities; the Applicant shall provide documentary evidence to the Principal Certifying Authority that the requirements of the relevant utility provider(s) have been met.

## **2. SPECIFIC ENVIRONMENTAL CONDITIONS**

### **Building Design and Performance Requirements**

2.1 Prior to the issue of a construction certificate for the development, the Applicant shall demonstrate to the satisfaction of the Principal Certifying Authority that all outdoor lighting associated with the development will comply with *AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting*.

2.2 Prior to the issue of an occupation certificate for the development, the Applicant shall demonstrate to the satisfaction of the Principal Certifying Authority that all water fixtures installed as part of the development have a AAA water rating or better.

2.3 The Applicant shall ensure that a safe water supply is provided for the development in accordance with *AS 3500: Plumbing Code of Australia*.

2.4 Prior to the issue of an occupation certificate for the development, and following completion, installation and testing of all the mechanical ventilation systems, the Applicant shall demonstrate to the satisfaction of the Principal Certifying Authority that the installation and performance of the mechanical systems comply with:

- a) the Building Code of Australia;
- b) Australian Standard AS1668 and other relevant codes;
- c) this development consent and any relevant modifications; and
- d) any dispensation granted by the New South Wales Fire Brigade.

2.5 Prior to the issue of an occupation certificate for the development, the Applicant shall provide a fire safety certificate to the Principal Certifying Authority for all the essential fire or other safety measures forming part of the development.

2.6 Prior to the issue of an occupation certificate for the development, the Applicant shall provide a structural inspection certificate or a compliance certificate to the satisfaction of the Principal Certifying Authority. A copy of the certificate with an electronic set of final drawings shall be submitted to the Department and the Council after:

- a) the site has been periodically inspected and the Principal Certifying Authority is satisfied that the structural works comply with the final design drawings; and
- b) the drawings listed on the inspection certificate have been checked with those listed on the final design certificate(s).

### **Demolition Works**

2.7 All demolition work shall comply with the provisions of *AS2601: 2001 The Demolition of Structures*. Prior to the commencement of demolition, the Applicant shall submit to the satisfaction of the Principal Certifying Authority, the work plans required under the Standard, accompanied by a written statement from a suitably qualified person that the proposals contained in the work plan comply with the safety requirements of the Standard.

### **Soil and Water Quality**

2.8 The Applicant shall apply all reasonable and feasible measures to minimise soil erosion and the discharge of sediments and pollutants from the site during construction and operation of the development, including but not necessarily limited to:

- a) application of best practice methods for the control of on-site run-off, sedimentation and erosion and other pollutants during and post construction, consistent with *Managing Urban Stormwater: Soils and Construction* (Landcom, 2004);
- b) installation and stabilisation of erosion, sediment and pollution controls prior to the commencement of works measures to prevent the release of sediments and dirty water to Botany Bay;
- c) effective management of erosion, sediment and pollution controls at or above design capacity for the duration of the works and until such time as all ground disturbed by the works has been stabilised and rehabilitated so that it no longer acts as a source of sediment;

- d) stabilisation and installation of covers on stockpiled materials to prevent erosion or dispersal of the material;
- e) measures to prevent the erosion and deposition of materials on the bed or shore or into the waters of Yarra Bay, whether by reason of natural or anthropogenic forces; and
- f) in the event that materials do enter Yarra Bay, procedures to ensure immediate removal of those materials.

2.9 The bunded area for the storage of machinery and for refuelling must be designed to capture 110% of the volume of the largest likely spill and a spill kit must be provided adjacent to the bunded area to clean up any minor leaks or spills.

2.10 A minimum of fourteen days prior to the commencement of construction, the Applicant shall submit, for the approval of the Director-General, a Stormwater Management Plan which must outline how stormwater would be managed on site, particularly, how oil and grease would be captured and managed during the construction and operational phases of the development.

2.11 The Applicant shall submit to the Principal Certifying Authority, a report on the potential for acid sulfate soils to be present on the site with any application for a construction certificate for the development involving excavation or soil disturbing works. Should the report identify the potential for acid sulfate soils, the Applicant shall also submit an Acid Sulfate Soils Management Plan, prepared by a suitably qualified person(s) in accordance with the *Acid Sulfate Soil Assessment Guidelines* (Acid Sulfate Soil Management Advisory Committee, 1998). The Plan shall be submitted to the Principal Certifying Authority for approval.

### **Traffic Impacts**

2.12 The Applicant shall prepare a Traffic Management Plan (TMP) for both construction and operational phases. The TMP shall be prepared to the satisfaction of the Sydney Ports Corporation and in accordance with the Sydney Ports Corporation's *Traffic Management Plan Guidelines – December 2007*. The TMP shall be submitted to the Sydney Ports Corporation at least 14 days prior to the commencement of construction.

2.13 The Applicant shall ensure that the layout of all on-site carparking, internal circulation and access provisions complies with Australian Standard *AS2890.2: 2002 Parking Facilities Commercial Vehicle Facilities*.

### **Air Quality Impacts**

2.14 The Applicant shall construct and operate the development in a manner that minimises or prevents the emission of dust from the site including wind blown and traffic generated dust.

### **Noise Impacts**

2.15 The Applicant shall only undertake site preparation and construction activities associated with the development that would generate an audible noise at any residential premises during the following hours:

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

This condition does not apply in the event of a direction from police or other relevant authority for safety reasons.

### **Landscaping**

2.16 The Applicant shall ensure that appropriate landscaping is incorporated within the site which is consistent with the requirements of the *Exempt & Complying Development Guidelines for Port Botany* (December, 2005).

## Waste Management and Soil Contamination

2.17 Prior to the issue of a construction certificate for the development, the Applicant shall demonstrate to the satisfaction of the Principal Certifying Authority that the design and management of facilities for the storage and handling of waste comply with the requirements of the City of Botany Bay Council's *DCP No. 29 – Waste Minimisation and Management Guidelines*.

## Shipping Container Storage and Stacking

- 2.18 The shipping containers stored on the site must:
- a) not contain any goods or items (i.e. empty);
  - b) not be stored or stacked at a height of more than 7 shipping containers; and
  - c) be located on the site so that surface water run-off drains to a stormwater drainage system or to a landscaped area.
- 2.19 A **Container Stacking Management Plan** for the stacking of shipping containers must be prepared in relation to the development and include the following information:
- a) a risk assessment of the site to identify potential issues and strategies or procedures to mitigate the issues identified in relation to the development,
  - b) a risk assessment of neighbouring sites to identify potential issues and strategies or procedures to mitigate the issues identified in relation to the development,
  - c) options for the ongoing management of the development on the site, including procedures for carrying out the development safely and allowing appropriate space for the movement and use of operational equipment and vehicles,
  - d) options for conducting audits and assessments to ensure that any new safety concerns are captured and addressed,
  - e) an assessment of the requirements for the monitoring of weather at the site in relation to the development,
  - f) emergency response protocols that include communications to neighbouring facilities during high wind events, and
  - g) figures/drawings/maps that detail container stacking locations and heights, stepdown to the site boundaries, the location of the pipeline corridor, and any exclusion zones (if necessary)
- 2.20 The **Container Stacking Management Plan** must be kept at the site and provided to the Planning Secretary, NSW Ports and adjoining leaseholders for their information within three months of the date of approval of Modification 2.
- 2.21 The land on which the development is carried out must be sufficiently firm and level to safely support the shipping containers.
- 2.22 The container park operator must submit a Geotechnical Report to the Planning Secretary every 12 months from the date of approval of Modification 2 to confirm the suitability of the existing platform to accommodate the weight of 7-high containers. In submitting the Geotechnical Report to the Planning Secretary, the Applicant must advise how the recommendations of the Geotechnical Report will be implemented. The Geotechnical Report must be submitted to the Planning Secretary until such time that the surface is replaced with a concrete hardstand platform.
- 2.23 The **Relevant Australian Standard** must be applied (where applicable) at all times as part of the site operations.
- 2.24 Depending upon wind direction and the height of stacked containers, and in addition to the **Relevant Australian Standard**, the safety requirements listed in **Appendix A** must be implemented by the container park operator.
- 2.25 The container park operator must ensure that the container park Operating Safety Procedures listed in **Appendix A** are reviewed annually, and if necessary, updated when neighbouring land uses change, or when a new **Container Stacking Management Plan** is prepared.

## **Appendix A – Container Stacking Safety Requirements**

### **1. Block Stacking**

- a) Block stack empty containers along the boundary fences in accordance with the **Container Stacking Management Plan** forming part of the consent. The boundary stacks must be lashed or pinned down during strong winds

### **2. Boundary Stacking**

- a) Each boundary stack must be levelled off to ensure there are no isolated containers on top of the stack.
- b) Boundary containers are to be stacked in rows parallel to prevailing winds.
- c) Boundary stacks are to be positioned so as to allow sufficient wind tunnelling.
- d) Any isolated stacks to be placed appropriately behind boundary block stack which can serve as a shield.
- e) Tiered stacking must be undertaken on boundaries which are affected by strong winds.
- f) End on stacking with suitable spacing on boundaries which are subject to strong winds.
- g) Install barriers above boundaries in areas which are affected by strong winds.

### **3. Buffers**

- a) Creation of buffer areas inside yards during seasonal weather periods must be provided, particularly in areas which are subject to strong winds.

### **4. Processes**

- a) The container park operator is to include in their park operation processes, protocols for monitoring and assessing stacking performances for different weather conditions.

### **5. Early Warning Devices**

- a) The installation of wind anemometers programmed for the wind loading conditions applicable to their location will provide an early warning when wind gusts reach unsafe working conditions.
- b) Concurrently, the operation of wind anemometer devices must include regular calibration if required and processes for reducing working activity and stacking capacity during warning periods.
- c) Remote warnings systems must be provided by the container park operator for periods outside the operational hours of the container park.

### **6. Container Storage Park Operating Safety Procedure**

The following procedures and guides must be implemented to ensure the safe operation of the container storage yard:

- a) Container Handling & Stacking Procedure;
- b) Weather Monitoring and Container Park Securement Procedure;
- c) High-wind Event Safety Quick Guide; and
- d) any other plan, guide, study, or assessment as required by the **Relevant Australian Standards** and any Act or Regulation (if relevant).