

Eden Cruise Ship Facility Operation Compliance Report

2021/2022 Cruise Season and Extended Use

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Appendix A: Eden Cruise Facility (SSI7734) Usage (Extended Use)

Acronyms and Definitions

Acronym/Term	Definition
BVSC	Bega Valley Shire Council (BVSC)
CCC	Community Consultative Committee.
Complaints	A written or verbal expression of dissatisfaction about an activity, or proposed activity, or failure to act by the Operator, Duty Manager Cruise Operations (DMCO) or anyone else directly or indirectly related to the Facility.
Council	Bega Valley Shire Council.
DPE	NSW Department of Planning and Environment.
DPIE	NSW Department of Planning, Industry and Environment (now NSW Department of Planning and Environment).
Duty Manager Cruise Operations (DMCO)	Manages the operation of the Facility on behalf of the Port Authority of New South Wales (Operator).
EIS	The <i>Eden Breakwater Wharf Extension State Significant Infrastructure – Environmental Impact Statement</i> , dated 3 November 2016, submitted to the Secretary seeking approval to carry out the SSI and as revised if required by the Secretary under the EP&A Act.
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i> (NSW).
EPA	NSW Environment and Protection Authority.
EPBC 2016/7828	Commonwealth <i>Environment Protection and Biodiversity Conservation Act 1999</i> (EPBC Act) Referral Decision, 13 April 2017.
Extended Use	Use of the Facility when not occupied by a cruise ship by fishing vessels, tugs, barges, lines boats, yachts and other vessels with sizes up to 100 metres in length.
Facility	Eden Cruise Ship Facility, including all infrastructure required to allow cruise ships to berth at the extended Eden Breakwater Wharf and land side areas, facilities and services for management of passenger visitation including disembarkation, embarkation and transport.
Infrastructure Approval	Infrastructure Approval (SSI) 7734 issued by the Executive Director, Priority Projects Assessment (as delegate of the Minister for Planning) Department of Planning and Environment under Section 115ZB of the <i>Environmental Planning and Assessment Act 1979</i> , (dated 5 July 2017) as modified on 7 November 2018 (Mod 1) and on 21 October 2020 (Mod 2).
MARPOL	International Convention for the Prevention of Pollution from Ships 1973: <ul style="list-style-type: none"> ▪ As corrected by the Procès-Verbal of Rectification dated 13 June 1978, and ▪ As affected by any amendment made under Article 16 of MARPOL, other than an amendment not accepted by Australia or that has not entered into force in Australia, and

Acronym/Term	Definition
	As modified and added to by the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, as affected by any amendment to that Protocol made under Article VI of the Protocol other than an amendment not accepted by Australia or that has not entered into force in Australia.
MARPOL Annex VI	Regulations for the Prevention of Air Pollution from Ships.
m	Metre.
Minister	NSW Minister for Planning and Public Spaces.
OEMP	Operational Environmental Management Plan.
OCR	Operation Compliance Report, prepared under Condition A21 and A23
Operation	The operation of the Facility in accordance with the SSI Infrastructure Approval (whether in full or in part) for its intended purpose
Operator	The Port Authority of New South Wales is the Operator for the Facility and responsible for overall compliance with the OEMP, and the operational aspects of the Infrastructure Approval and EPBC Act Referral Decision.
Proponent	The person identified as such in Schedule 1 of the SSI approval and any other person carrying out any part of the SSI from time to time.
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Relevant Maritime Authority	Harbour Master of authorised officer as defined in the <i>Marine Safety Act 1998</i> , or authorised officer or inspector under the <i>Marine Pollution Act 2012</i> , the Port Authority of New South Wales.
SSI	The State Significant Infrastructure, as generally described in Schedule 1 of the Infrastructure Approval and carrying out of which is approved under the terms of the approval.
Secretary	Secretary of the NSW Department of Planning and Environment (or nominee, whether nominated before or after the date in which the SSI approval was granted).
SSI	The State Significant Infrastructure, as generally described in Schedule 1 of the Infrastructure Approval Mod 1 and carrying out of which is approved under the terms of the approval.

1 Introduction

1.1 Background

This Operation Compliance Report (OCR) has been prepared for the Eden Cruise Ship Facility (the Facility) by the Operator of the Facility, Port Authority of NSW (Port Authority).

The construction and operation of the Facility, which is a State Significant Infrastructure Project (SSI no. 7734) under Division 5.2 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), was approved by the Minister for Planning's delegate under Section 115ZB of the EP&A Act on the 5 July 2017. The Eden Cruise Ship Facility's SSI approval was subsequently modified on the 7 November 2018 (Mod 1) and on the 21 October 2020 (Mod 2). The SSI 7734 approval, as modified, is referred to in this report as the Infrastructure Approval. The Project was also subject to a Referral decision under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), issued by the Commonwealth's Department of the Environment and Energy (DoEE), dated 13 April 2017 (EPBC 2016/7828).

The Infrastructure Approval was obtained by the former Department of Industry – Lands & Forestry. In September 2019, Port Authority became the operator of the Eden Cruise Facility and holds responsibility for the conditions of approval associated with the operation of the cruise wharf.

This OCR has been prepared in accordance with the requirements of Conditions A21 and A23 of the Infrastructure Approval and provides a record of the operational compliance of the Facility against approval conditions during the 2021/22 reporting season between 1 July 2021 to 30 June 2022.

No cruise ships visited the Facility during the 2021/22 reporting season. Prior to that, the last cruise ship to visit the Facility occurred on the 10 March 2020 during the 2019/20 cruise season. The Federal government cruise ship ban to foreign-flagged cruise ships that commenced in March 2020 was in place until the 17 April 2022. As a result, no cruise ships visited the Facility during the 2020/21 and 2021/22 cruise seasons. This OCR reports on the Extended Use of the wharf which allows vessels less than 100m to berth and operate at the Facility (approval obtained as part of Mod 2 in October 2020). This OCR has also been prepared in consideration of the Department of Planning, Industry and Environment (DPIE)'s document *Compliance Reporting Post Approval Requirements* (DPIE, May 2020). Regarding Operational Compliance Reports, Conditions A21 and A23 specify the following (Table 1):

Table 1: Operational Compliance Reporting Requirements

Condition	Condition requirement	Section of Report that addresses the condition
A21	...Operation Compliance Reports must be prepared and submitted to the Secretary for information after the first calendar year of operation, the end of the 2019/20 cruise season and following that, after the end of each cruise season, or within another timeframe agreed with the Secretary	This report
A23	...Operation Compliance Reports must include: (a) a results summary and analysis of environmental monitoring (b) a summary of the Complaints Register required under Condition A28 including the number of any complaints received, a summary of main areas of complaint, action taken, response given and proposed strategies for reducing the recurrence of such complaints	2.3 3

(c) details of any review of, and minor amendments made to the ...OEMP	
(d) a register of any consistency assessments made to the ...OEMP	6, 2.1 6
(e) results of any independent environmental audits and details of any actions taken in response to the recommendations of the audit	5
(f) a summary of all incidents notified in accordance with Condition A33 and Condition A34 of this approval including actions taken to address the cause or impact of an incident	4
(g) a Five Year Operational Compliance Summary Report every five years from commencement of Operation....	N/A
(h) Any other matter relating to compliance with the terms of this approval or as requested by the Secretary	N/A

Construction of the Facility commenced in August 2017 and was completed in August 2019. The Facility was constructed by the former Department of Industry – Crown Lands. Operation of the Facility and Operational Environmental Management Plan (OEMP) implementation is undertaken by the Port Authority.

1.2 The Project

The Project involves the construction and operation of the Facility in accordance with the Infrastructure Approval.

The Facility is located on land within Snug Cove and the bed of Twofold Bay, within the Port of Eden on the Sapphire Coast of NSW approximately 40km north of the New South Wales and Victorian border. The Facility is located within the Bega Valley Shire Local Government Area (LGA).

The Facility comprises the Eden Breakwater Wharf and the Wharf Extension (the Wharf), and all associated infrastructure required to allow cruise ships to berth and land side areas, facilities and services for management of passenger visitation including day visit disembarkation, embarkation and transport. Key elements of the Facility include:

- A 220m long Wharf
- Three mooring dolphins and two berthing dolphins
- Landside bollards to restrain the ship's bow
- Minor services (lighting, potable water, and emergency water)
- Navigation aids
- Land-based facilities and services for management of passenger visitation including disembarkation, embarkation and transport locations.

The Infrastructure Approval allows for the 'operation of the extended wharf for use by up to 60 cruise ships per annum and associated land-based facilities and services for management of passenger visitation including disembarkation, embarkation and transport'. The Infrastructure Approval enables cruise ships with lengths over 300m and about 3,000 persons on board, to berth between 7:00am and 10:00pm (unless extenuating circumstances prevail such as mechanical failure, an on-board emergency or severe weather conditions) alongside the extended Breakwater Wharf so that passengers can embark/disembark directly and safely via the ship's gangway. Mod 2 of the Infrastructure Approval allowed other vessels up to 100m in length to remain at berth 24 hours per day when a cruise ship is not at berth and to load/unload, refuel, carry

out maintenance and servicing, and embark/disembark passengers between 7:00am and 10:00pm. The use of the berth by other vessels in accordance with Mod 2 is referred to in this OCR as the “Extended Use”.

1.3 Project Status

The Infrastructure Approval and the OEMP defines a Cruise Ship Season as the period from the arrival of the first cruise ship in the last half of a calendar year until departure of the last cruise ship in the first half of the following calendar year.

As indicated, there were no cruise ships that visited the Facility during the 2021/22 reporting season, therefore this OCR reports on the Extended Use of the Facility only in 2021/22.

Details of berth usage with respect to the Extended Use of the Facility are provided in **Appendix A**.

1.4 Compliance Reporting Period

This OCR covers the period 1 July 2021 to 30 June 2022.

2 Compliance Status

Table 2 provides a list of the Conditions of the Infrastructure Approval relevant to this OCR and Table 3 provides the EPBC 2016/7828 condition for the operation of the Facility. Tables 2 and 3 also provide the compliance status of the conditions, and any relevant details pertaining to the status of that Condition.

In accordance with DPIE (May 2020), the compliance status key is as follows:

- Compliant – The Operator has collected sufficient verifiable evidence to demonstrate that all elements of the requirement have been complied with
- Non-compliant – The Operator has identified a non-compliance with one or more elements of the requirement
- Not Triggered – A requirement has an activation or timing trigger that has not been met at the phase of the development when the compliance assessment is undertaken, therefore an assessment of compliance is not relevant
- Not applicable.

In summary, operation of the Facility during the 2021/22 reporting season has complied with the conditions of approval. There have not been complaints or incidents causing or threatening to cause material harm to the environment under the *Protection of the Environment Operations Act 1997* (POEO Act) and requiring notification during the 2021/22 reporting period.

2.1 Infrastructure Approval (SSI 7734)

Table 2: Compliance assessment against SSI 7734 operational conditions

Condition No.	Condition	Status	Details/reference
General			
A1	<p>The SSI must be carried out:</p> <ul style="list-style-type: none"> a. in compliance with the conditions of this consent; b. in accordance with all written directions of the Planning Secretary; c. generally in accordance with the EIS and Response to Submissions: <ul style="list-style-type: none"> i. the Eden Breakwater Wharf Extension State Significant Infrastructure – Environmental Impact Statement, dated 3 November 2016, ii. Response to Submissions Report Eden Breakwater Wharf Extension, dated 24 February 2017; and d. generally in accordance with Modification Assessments: <ul style="list-style-type: none"> i. Eden Breakwater Wharf Extension Modification Request to Infrastructure Approval SSI 7734, dated 2 July 2018; ii. Letter titled “Re: Eden Breakwater Wharf MOD 1 – Response to Submissions – Air Quality and Noise”, dated 17 August 2018. iii. Response to Submission Eden Breakwater Wharf Extension MOD 1 (SSI 7734), dated 3 September 2018; and 	Compliant	There has been overall compliance with the conditions of approval during the reporting period (refer to this table for compliance with operational conditions).

Condition No.	Condition	Status	Details/reference
	<ul style="list-style-type: none"> iv. SSI 7734 Mod 1 – Addendum Modification Report, dated 14 October 2018. v. Eden Cruise Facility Modification 2 to SSI 7734 Extending Use of Cruise Facility to other Vessels, dated July 2020; and vi. Eden Cruise Facility Response to Submissions - Modification 2 to SSI 7734 Extending Use of Cruise Facility to other Vessels, dated August 2020. 		
A2	The SSI must be carried out generally in accordance with all procedures, commitments, preventative actions, performance criteria and mitigation measures set out in the documents referred to in conditions A1(c) and A1(d) unless otherwise specified in, or required under, this approval.	Compliant	The operations generally undertaken in accordance with the terms of Condition A2.
A3	The SSI must be carried out in accordance with the terms and conditions of all other approvals, permits and licences.	Compliant	Refer to 3 for the assessment against EPBC Act Referral.
A4	The conditions of this consent and directions of the Planning Secretary prevail to the extent of the inconsistency, ambiguity or conflict between them and a document listed in condition A1(c) or A1(d). In the event of any inconsistency, ambiguity or conflict between any of the documents listed in condition A1(c) and A1(d), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.	Noted	-

Condition No.	Condition	Status	Details/reference
A5	<p>The Proponent must comply with all requirements of the Planning Secretary in relation to:</p> <ol style="list-style-type: none"> a. the environmental performance of the SSI; b. any document or correspondence; c. any notification given to the Planning Secretary under the terms of this approval; d. any audit of the Construction or Operation of the SSI; e. compliance with the terms of this approval (including anything required to be done under this approval); and f. the carrying out of any additional monitoring or mitigation measures. 	Not applicable	No Secretary requirements have been imposed on the Facility outside of the Infrastructure Approval.
A6	Without limitation, all strategies, plans, programs, reviews, audits, report recommendations, protocols and other documents must be implemented in accordance with all requirements issued by the Planning Secretary from time to time in respect of them.	Not applicable	No Secretary requirements.
A7	Where the terms of this approval require consultation with identified parties, details of the consultation undertaken, matters raised by the parties, and how the matters were considered must accompany the strategies, plans, programs, reviews, audits, protocols and the like submitted to the Secretary.	Compliant	Consultation with the Community Consultative Committee (CCC) has been carried out during the 2021/22 reporting season. Refer to Condition B1 for details.

Condition No.	Condition	Status	Details/reference
A8	This approval lapses five years after the date on which it is granted, unless Construction of the SSI has commenced on or before that date	Not triggered	
Compliance tracking program			
A17	Construction and Operation Compliance Tracking Programs to monitor compliance with the terms of this approval must be prepared. [...] The Operation Compliance Tracking Program must be submitted to the Planning Secretary for approval no later than one month prior to commencement of Operation or within another timeframe agreed with the Planning Secretary.	Compliant	The Operation Compliance Tracking Program was approved by the Secretary delegate in correspondence dated 9 August 2019.
A18	The [...] Operation Compliance Tracking Programs must be implemented for the duration of Construction and Operation, or within another timeframe agreed with the Planning Secretary based on the outcomes of independent audits, Environmental Representative Reports and regular compliance reviews submitted through Compliance Reports.	Compliant	The Operation Compliance Tracking Program has been implemented during the 2021/22 reporting period. This report provides details of compliance.
A19	A [...] Pre-Operation Compliance Report must be prepared and submitted to the Planning Secretary for information no later than one month prior to the commencement of ...Operation ... or within another timeframe agreed with the Planning Secretary	Compliant	A Pre-Operation Compliance Report was prepared and was first submitted to the Secretary for information on 5 February 2019. Following the update of the OEMP and OEMP Sub-plans, the Pre-Operation Compliance Report was re-submitted for information on the 10 July 2019.

Condition No.	Condition	Status	Details/reference
A20	[...] Operation must not commence until the [...] Pre-Operation Compliance Report [...] [has] been submitted to the Planning Secretary.	Compliant	Refer to A19. The Pre-Operation Compliance Report was submitted to the Secretary prior to commencement of Operation.
A21	[...] Operation Compliance Reports must be prepared and submitted to the Planning Secretary for information after the first calendar year of operation, the end of the 2019/2020 cruise season and following that, after the end of each cruise season, or within another timeframe agreed with the Planning Secretary.	Compliant	The first Operation Compliance Report (OCR) for the Facility was prepared at the end of the 2019/20 cruise season. DPE acknowledged receipt of the OCR 2019/20 Cruise Season in correspondence dated 20/7/20 and indicated that "The Department ...reviewed the Report and considers it generally satisfied the conditions approval". An OCR was prepared at the end of the 2020/21 cruise season. DPE acknowledged receipt of the OCR in correspondence dated 22/8/21 and indicated that "the Department....it to generally satisfy conditions A21 and A23". The current report (this report) is the OCR prepared for the 2021/22 season.

Compliance reports

A22	<p>The [...] Pre-Operation Compliance Reports must include:</p> <ol style="list-style-type: none"> details of how the terms of this approval that must be addressed prior to the commencement of [...] Operation have been complied with; in the event of a non-compliance with the terms of this approval that must be addressed prior to the commencement of [...] Operation [...], details of the non-compliance and action taken to rectify the non-compliance; and 	Compliant	Refer to A19. No non-compliances with the Infrastructure Approval were identified in the Pre-Operation Compliance Report
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Condition No.	Condition	Status	Details/reference
c.	the commencement date for [...] Operation [...].	Compliant	This report. Refer also to Table 1
A23	<p data-bbox="416 341 999 370">[...] Operation Compliance Reports must include:</p> <ul style="list-style-type: none"> <li data-bbox="472 405 1099 466">a. a results summary and analysis of environmental monitoring; <li data-bbox="472 485 1115 673">b. a summary of the Complaints Register required under Condition A28 including the number of any complaints received, a summary of main areas of complaint, action taken, response given and proposed strategies for reducing the recurrence of such complaints; <li data-bbox="472 692 1088 753">c. details of any review of, and minor amendments made to, the CEMP or OEMP; <li data-bbox="472 772 1021 833">d. a register of any consistency assessments undertaken and their status; <li data-bbox="472 852 1115 944">e. results of any independent environmental audits and details of any actions taken in response to the recommendations of an audit; <li data-bbox="472 963 1099 1088">f. a summary of all incidents notified in accordance with Condition A33 and Condition A34 of this approval including actions taken to address the cause or impact of an incident; <li data-bbox="472 1107 1115 1398">g. a Five Year Operational Compliance Summary Report every five years from commencement of Operation, unless otherwise agreed by the Planning Secretary, which includes: <ul style="list-style-type: none"> <li data-bbox="577 1251 1115 1311">i. the name and size of visiting cruise ships and date of visits, <li data-bbox="577 1331 1088 1391">ii. the number and nature of complaints in relation to specific cruise ships, 	Compliant	This report. Refer also to Table 1

Condition No.	Condition	Status	Details/reference
	<ul style="list-style-type: none"> iii. results of air quality monitoring and any noise monitoring undertaken to investigate repeated noise complaints, iv. identification of any issues that need to be addressed through revision of the OEMP and/or Sub-plans; and h. any other matter relating to compliance with the terms of this approval or as requested by the Planning Secretary. 		

Compliance Auditing

A24	Compliance audits of the SSI must be conducted annually, commencing within a year of the commencement of Construction, by an independent, suitably qualified and experienced expert or within another timeframe agreed with the Planning Secretary.	Not triggered	Based on the performance of the Facility during the 2019/20 cruise season with no non-compliances, incidents or complaints reported (refer 2019/20 Operational Compliance Report) plus the Commonwealth ban on cruise ships, Port Authority in correspondence dated 28 July 2020, requested DPE to reduce the frequency of compliance audits. DPE, in correspondence dated 26 Oct 2020 responded agreeing to no audits would be required under Condition A24 during the calendar year 2020 or 2021 (subject to cruise ship visits re-commencing in Eden). There were no cruise ship visits during the 2021 calendar year or in this reporting period. This Operation Compliance Report covers the period from the 1 July 2021 to 30 June 2022, and condition A24 has not been triggered this reporting period. An audit will be conducted during the 2022 calendar year, or another timeframe agreed with the Planning Secretary, and will be reported in future OCR.
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Condition No.	Condition	Status	Details/reference
Complaints register			
A28	A Complaints Register must be maintained for the duration of Construction and Operation.	Compliant	Port Authority maintains a Complaints Register for the operation of the Facility. No complaints were received during the 2021/22 reporting period. No complaints have been received since commencement of operation in September 2019.
A29	The Complaints Register must be provided to the Planning Secretary upon request, within the timeframe stated in the request.	Not Triggered	The Secretary has not requested the Complaints Register during the 2021/22 cruise season.
A30	<p>The following information must be available to facilitate community enquiries and complaints within one (1) month from the date of this approval:</p> <ol style="list-style-type: none"> a 24 hour telephone number for the registration of complaints and enquiries about the SSI; a postal address to which written complaints and enquires may be sent; an email address to which electronic complaints and enquiries may be transmitted; and a mediation system for complaints unable to be resolved. <p>This information must be accessible to all in the community regardless of age, ethnicity, disability or literacy level.</p>	Compliant	<p>Contact details, processes and procedures for the operational phase are in place as per the requirements of this condition are provided in the approved OEMP and OEMP Sub-plans, and the Extended Use OEMP.</p> <p>See also A31.</p>

Condition No.	Condition	Status	Details/reference
A31	The telephone number, postal address and email address required under Condition A30 of this approval must be published in a newspaper circulating in the local area prior to the commencement of [...] Operation. This information must also be provided on the website required under Condition B6 of this approval.	Compliant	<p>The contact information in Condition A31 was published in a local newspaper, the Eden Magnet, prior to the commencement of operation, and are also provided on the Port Authority website.</p> <p>Contact details can be found in the Port Authority website:</p> <p>https://www.portauthoritynsw.com.au/port-of-eden/port-services-facilities/eden-cruise-wharf/</p> <p>https://www.portauthoritynsw.com.au/corporate/about-us/contact-us/</p>
A32	<p>The Complaints Register must record the:</p> <ol style="list-style-type: none"> number of complaints received; number of people affected in relation to a complaint; means by which the complaint was addressed and whether resolution was reached, with or without mediation. 	Compliant	The Port Authority Complaints register incorporates these requirements. No complaints were received during the 2021/22 season
Incident notification			

Condition No.	Condition	Status	Details/reference
A33	The Planning Secretary must be notified as soon as possible and in any event within 24 hours of the Proponent being made aware of any incident.	Not triggered	There were no pollution or environmental incidents during the 2021/22 reporting season.
A34	Notification of an incident under Condition A33 of this approval must include the time and date of the incident, details of the incident and must identify any non-compliance with this approval.	Not triggered	There were no pollution or environmental incidents during the 2021/22 reporting cruise season.
A35	Any requirements of the Planning Secretary or relevant public authority (as determined by the Planning Secretary) to address the cause or impact of an incident reported in accordance with Condition A33 of this approval, must be met within the timeframe determined by the Planning Secretary or relevant public authority.	Not triggered	
A36	If statutory notification is given to the EPA as required under the POEO Act in relation to the SSI, such notification must also be provided to the Planning Secretary within 24 hours after the notification was given to the EPA.	Not triggered	There were no pollution incidents during the 2021/22 reporting season
Staging			
A37	The SSI may be [...] operated in stages. Where staged [...] operation is proposed, a Staging Report [...] must be prepared and submitted to the Planning Secretary for information. The Staging Report must be submitted to the Planning Secretary no later than one month before the	Not triggered	There is no staged approach for the Operation of the Facility.

Condition No.	Condition	Status	Details/reference
	commencement of [...] one month before the commencement of operation of the first of the proposed stages of operation), or within another timeframe agreed with the Planning Secretary.		
Community information, consultation and involvement			
B1	<p>Prior [...] the Proponent is required to establish a Community Consultative Committee.</p> <p>The Community Consultative Committee is to be established in accordance with the Department's Community Consultative Committee Guidelines for State Significant Projects, dated November 2016, or from an existing group that can be demonstrated to meet the purposes and objectives of the Guidelines as agreed by the Planning Secretary.</p> <p>The committee is to include representatives from port businesses, maritime user groups, residents surrounding the Port of Eden and the Relevant Maritime Authority and is to operate [...] during Operation of the SSI for a period as agreed with the Planning Secretary, but not for less than five years from commencement of operation of the committee.</p>	Compliant	<p>The Community Consultative Committee (CCC) was established in accordance with condition B1 prior to construction and has been active since then during construction and operation. Details are provided in Section 3.3 of the OEMP and OEMP Sub-plans. During the reporting period, the CCC met on the 29 September 2021, 2 March 2022 and 13 April 2022. Meeting minutes are available in the project website page https://www.portauthoritynsw.com.au/port-of-eden/port-services-facilities/eden-cruise-wharf/</p> <p>A new chair of the CCC (Jenny Symons) was approved by the Secretary's nominee on the 18 August 2019.</p>
B2	A Report endorsed by the Community Consultative Committee is to be submitted to the Secretary five years after commencement of Operation of the SSI, reporting on whether the purpose of the Committee has been achieved	Not triggered	The 2021/22 reporting season is within the third year of operation.

Condition No.	Condition	Status	Details/reference
	<p>and completed, and recommending a timeframe for continued operation.</p> <p>Where disbandment of the committee is recommended, it is to be replaced with a community-based forum, as provided for in the Community Communication Strategy, operating for the life of the SSI unless otherwise agreed by the Planning Secretary. The Community Consultative Report recommending disbandment must be submitted to the Secretary for consideration and include:</p> <ul style="list-style-type: none"> a. minutes of the Community Consultative Committee meeting documenting member agreement to disbandment; and b. proposed membership of the community-based forum. <p><i>Note: the community-based forum must include local residents and may be an existing community liaison group.</i></p>		
B3	<p>A Community Communication Strategy must be prepared to provide mechanisms to facilitate communication between the Proponent, the ER, the relevant Council, the Community Consultative Committee and/ or community-based forum, others directly impacted by the SSI during Construction of the SSI and for the life of the Operation of the SSI, unless otherwise agreed by the Secretary</p>	Compliant	<p>A Community Communication Strategy (CCS) was prepared prior to construction and approved by the Secretary in accordance with Condition B4 in correspondence dated 8/8/2017. The CCS was amended as required during construction by the former Department of Industry. The latest version of the CCS (September 2019) was updated by the Port Authority to address the operational phase of the project. The revised CCS (September 2019) was submitted to DPE for information on the 10/10/2019.</p>

Condition No.	Condition	Status	Details/reference
B4	<p>The Community Communication Strategy must be submitted to the Planning Secretary for approval no later than one month prior to commencement of any work (excluding works described in paragraphs (a) to (c) in the definition of Construction) for the purposes of the SSI, or within another timeframe agreed with the Planning Secretary. Work for the purposes of the SSI (excluding works described in paragraphs (a) to (c) in the definition of Construction) must not commence until the Community Communication Strategy has been approved by the Planning Secretary.</p>	Compliant	Refer to B3
B5	<p>The Community Communication Strategy must:</p> <ol style="list-style-type: none"> a. identify people to be consulted during Construction and Operation; b. set out procedures and mechanisms for the regular distribution of accessible information about or relevant to the SSI; c. provide for the formation of community-based forums that focus on key environmental management issues for the SSI arising from Compliance Reports; and d. set out procedures and mechanisms: <ol style="list-style-type: none"> i. through which the community can discuss or provide feedback to the Proponent; ii. through which the Proponent will respond to enquiries or feedback from the community; and iii. to resolve any issues and mediate any disputes that may arise in relation to 	Compliant	Refer to B3.

Condition No.	Condition	Status	Details/reference
	environmental management and delivery of the SSI.		
Provision of electronic information			
B6	<p>A website providing information in relation to the SSI must be established prior to commencement of Construction and maintained for the duration of Construction and Operation. Up-to-date information (excluding confidential commercial information) must be published and maintained on the website or dedicated pages including:</p> <ol style="list-style-type: none"> a. information on the current implementation status of the SSI; b. a copy of the documents listed in Condition A1 and Condition A2 of this approval, and any documentation relating to any modifications made to the SSI or the terms of this approval; c. a copy of this approval in its original form, a current consolidated copy of this approval (that is, including any approved modifications to its terms), and copies of any approval granted by the Minister to a modification of the terms of this approval; d. a copy of each statutory approval, licence or permit required and obtained in relation to the SSI including Commonwealth permits or approvals; e. a current copy of each document required under the terms of this approval and any endorsements, approvals or requirements from the ER and Planning Secretary, all of which must be published prior to the commencement of any works to which 	Compliant	<p>Port Authority has established dedicated pages to the Facility in its website (https://www.portauthoritynsw.com.au/port-of-eden/port-services-facilities/eden-cruise-wharf/) including the information required under Condition B6.</p> <p>Construction-related documentation is not required any longer on the website in accordance with condition B6 as construction of the Facility occurred more than 12 months ago.</p>

Condition No.	Condition	Status	Details/reference
	<p>they relate or prior to their implementation as the case may be; and</p> <p>f. the outcomes of compliance tracking required under this approval.</p> <p>Information relating solely to construction may be removed from the website 12 months following completion of construction.</p>		
Operational environmental management			
D1	An Operational Management Plan (OEMP) must be prepared to detail how the performance outcomes, commitments and mitigation measures made and identified in the EIS and Submissions Report will be implemented and achieved during Operation.	Compliant	<p>The OEMP addressing D1 and D2 was prepared and approved by the Secretary's nominee in correspondence dated 15 September 2019.</p> <p>The approved OEMP is available in the Port Authority website:</p> <p>https://www.portauthoritynsw.com.au/port-of-eden/port-services-facilities/eden-cruise-wharf/</p>
D1A	An Extended Use Operational Environmental Management Plan (Extended Use OEMP) must be prepared to detail how the performance outcomes and commitments made and identified in the Eden Cruise Facility Modification 2 to SSI 7734 Extending Use of Cruise Facility to other Vessels and Eden Cruise Facility Response to Submissions - Modification 2 to SSI 7734 Extending Use of Cruise Facility to other Vessels will be implemented and achieved during the Extended Use operations.		<p>The Extended Use OEMP was prepared and approved by the Secretary's nominee in correspondence dated 6 November 2020.</p> <p>The approved Extended Use OEMP is available in the Port Authority website:</p> <p>https://www.portauthoritynsw.com.au/port-of-eden/port-services-facilities/eden-cruise-wharf/</p>

Condition No.	Condition	Status	Details/reference
D2	<p>The OEMP required under Condition D1 must provide:</p> <ol style="list-style-type: none"> a. a description of management and monitoring activities. Where the OEMP covers activities to be carried out under other approvals, licences and permits, the OEMP must clearly identify which activities are to be carried out under this approval; b. details of environmental policies, guidelines and principles to be followed in the operation of the SSI; c. a list of all the OEMP Sub-plans required in respect of Operation, as set out in Condition D3. d. details of how the Operation of the SSI will be carried out under the OEMP and OEMP Sub-plans to: <ol style="list-style-type: none"> i. achieve the environmental performance outcomes identified in the EIS/Submissions Report; ii. implement the mitigation measures identified in the EIS/Submissions Report and any additional measures recommended in Compliance Audits or to address any issues identified in the Five Year Operational Compliance Summary Reports; iii. comply with the relevant terms of this approval; and iv. address issues during Operation, as identified through the Community Consultative Committee, community-based forums provided for under 	Compliant	Refer to D1.

Condition No.	Condition	Status	Details/reference						
	<p>Condition B5, Complaints Register or Monitoring Programs, through a process of continual improvement;</p> <p>e. an inspection program detailing the activities to be inspected and frequency of inspections;</p> <p>f. a description of the roles and environmental responsibilities of the Proponent's employees and their relationship with the Relevant Maritime Authority and Council including roles and responsibilities for management of any matters which are to be reported in the Operation Compliance Reports required under Condition A21;</p> <p>g. for training and induction for employees, including contractors and sub-contractors, in relation to environmental and compliance obligations under the terms of this approval;</p> <p>h. a mechanism for communicating the environmental and compliance obligations under this approval to cruise ship operators; and</p> <p>i. for periodic review and update of the OEMP and all associated plans and programs.</p>								
D3	<p>The following OEMP Sub-plans must be prepared in consultation with the relevant government agencies identified for each OEMP Sub-plan, and in consideration of the relevant requirements in this approval and the Proposed Mitigation Measures:</p> <table border="1" data-bbox="421 1265 1133 1431"> <thead> <tr> <th></th> <th>Required OEMP Sub-plan</th> <th>Relevant government agencies to be consulted</th> </tr> </thead> <tbody> <tr> <td>(a)</td> <td>Traffic, Transport and Access</td> <td>Council, Relevant Maritime Authority</td> </tr> </tbody> </table>		Required OEMP Sub-plan	Relevant government agencies to be consulted	(a)	Traffic, Transport and Access	Council, Relevant Maritime Authority	Compliant	<p>The OEMP Sub-plans were prepared and approved by the Secretary's nominee in correspondence dated 15 September 2019. The OEMP and OEMP Sub-plans provide details of the consultation undertaken as part of the preparation of these plans.</p> <p>The approved OEMP Sub-plans are available in the Port Authority website:</p>
	Required OEMP Sub-plan	Relevant government agencies to be consulted							
(a)	Traffic, Transport and Access	Council, Relevant Maritime Authority							

Condition No.	Condition	Status	Details/reference
	(b) Noise Management		https://www.portauthoritynsw.com.au/port-of-eden/port-services-facilities/eden-cruise-wharf/
	(c) Air Quality Management		
D4	The OEMP Sub-plans must include, to the written satisfaction of the Secretary, information requested by an agency to be included in an OEMP Sub-plan, including copies of all correspondence from those agencies.	Compliant	Refer to D3.
D5	The OEMP and OEMP Sub-plans and Extended Use OEMP, must be submitted to the Planning Secretary for approval no later than one month prior to the commencement of relevant operations, unless another timeframe is agreed with the Planning Secretary...	Compliant	Refer to D1 and D3. The OEMP and OEMP Sub-plans were submitted to the Secretary more than one month prior to the commencement of Operations and were approved by the Secretary's nominee in correspondence dated 15 September 2019. The Extended Use OEMP was submitted to the Secretary more than one month prior to commencement of Extended Use Operations and was approved by the Secretary's nominee in correspondence dated 6 November 2020.
D6	The OEMP and Extended Use OEMP, as approved by the Planning Secretary and amended from time to time, must be implemented for the duration of relevant operations and must be made publicly available prior to the commencement of and for the duration of the relevant operations.	Compliant	The OEMP has been implemented throughout Operation of the 2019/20 cruise season and per details in the 2019/20 OCR. The Extended Use OEMP has been implemented throughout the 2020/21 and 2021/22 reporting periods.

Condition No.	Condition	Status	Details/reference
			<p>The OEMP and Extended Use OEMP were made publicly available prior to commencement of relevant operations and can be viewed at the Port Authority website:</p> <p>https://www.portauthoritynsw.com.au/port-of-eden/port-services-facilities/eden-cruise-wharf/</p>
Operation monitoring program			
D7	<p>An Air Quality Operation Monitoring Program must be prepared in consultation with the EPA, Council and Relevant Maritime Authority.</p>	Compliant	<p>The Air Quality Operation Monitoring Program, which is incorporated in the Air Quality OEMP sub-plan, was prepared in consultation with the agencies and was approved by the Secretary's nominee in correspondence dated 15 September 2019.</p> <p>The Air Quality Operation Monitoring Program and the Air Quality OEMP Sub-plan are available in the Port Authority website:</p> <p>https://www.portauthoritynsw.com.au/port-of-eden/port-services-facilities/eden-cruise-wharf/</p>
D8	<p>The Air Quality Operation Monitoring Program must provide:</p> <ul style="list-style-type: none"> a. details of baseline data available; b. details of baseline data to be obtained and when; 	Compliant	<p>Refer to D7.</p> <p>The Air Quality Operational Monitoring Program provided in the Air Quality OEMP Sub-plan addresses the requirements of D8.</p>

Condition No.	Condition	Status	Details/reference
	<ul style="list-style-type: none"> c. details of all monitoring of the project to be undertaken; d. the parameters of the project to be monitored; e. the frequency of monitoring to be undertaken; f. the trigger for operational monitoring g. the location of monitoring; h. the reporting of monitoring results; i. procedures to identify and implement additional mitigation measures where results of monitoring are unsatisfactory; and j. any consultation to be undertaken in relation to the monitoring programs. 		
D9	The Air Quality Operation Monitoring Program must include, to the written satisfaction of the Secretary, information requested by an agency to be included in the Operation Monitoring Program including copies of all correspondence from those agencies.	Compliant	Refer to D7.
D10	The Air Quality Operation Monitoring Program must be submitted to the Planning Secretary for approval at least one month prior to the commencement of Operation or within another timeframe agreed with the Planning Secretary.	Compliant	Refer to D7. The Air Quality Operation Monitoring Program, which is incorporated in the Air Quality OEMP sub-plan, was submitted to the Secretary more than one month prior to the commencement of operation and was approved by the Secretary's nominee in correspondence dated 15 September 2019.

Condition No.	Condition	Status	Details/reference
D11	Operation must not commence until the Planning Secretary has approved the required Air Quality Operation Monitoring Program, and all relevant baseline data has been collected.	Compliant	<p>Refer to D7</p> <p>The Air Quality OEMP Sub-plan and Air Quality Operation Monitoring Program were approved by the Secretary's nominee on the 15 September 2019, the inauguration day for operations.</p> <p>Baseline air quality data is provided in the Air Quality OEMP Sub-plan.</p>
D12	The Air Quality Operation Monitoring Program, as approved by the Planning Secretary, and amended from time to time must be implemented during cruise seasons for five years from commencement of Operation of the SSI or another time period as agreed or directed by the Planning Secretary. From commencement of Operation to the end of the 2019/2020 cruise season, real-time air quality monitoring results during the cruise season must be available on the website required under Condition B6.	Compliant	<p>The Air Quality Operational Monitoring Program was implemented during the 2019/20 cruise season as per D12. The monitoring station was run continuously from the 4 September 2019 to the 31 March 2020, including the entire 2019/20 cruise season.</p> <p>Port Authority submitted a letter to the DPE dated 23 March 2020 with an analysis of the air quality monitoring results during the 2019/20 cruise season, a link to the monthly monitoring reports during that season and a recommendation to stop the air quality monitoring program on the basis of the results with no exceedance of the criteria due to cruise ships reported during any cruise ship visits. In letter dated 5 May 2020, DPE approved the suspension of the air quality monitoring program for the 2020/21 and 2021/22 cruise seasons. On the 14 June 2022, Port Authority sought agreement from DPE to continue with the suspension (as 2019/20 monitoring data shows that the local air quality is not impacted by cruise ships of the sizes currently allowed to visit the Facility) until larger ships are allowed to visit the</p>

Condition No.	Condition	Status	Details/reference
D13	The results of the Air Quality Operation Monitoring Program must be submitted to the Planning Secretary, and relevant regulatory agencies, for information in the form of an Operation Monitoring Report at the frequency identified in the relevant Operation Monitoring Program	Not triggered	<p>Facility. In that regard, Port Authority noted that it is currently preparing a modification of the SSI approval (MOD 3) to allow larger cruise ships to visit the Eden Cruise Facility. Port Authority proposed that upon approval of MOD3, Port Authority would resume the air quality monitoring program for larger cruise ships in order to validate the results of MOD3 air quality modelling investigations results. Information on MOD3 is available in the Scoping Report submitted to DPE in April 2022 (https://www.planningportal.nsw.gov.au/major-projects/projects/eden-breakwater-wharf-extension-modification-3). DPE advised on 2 August 2022 that they agree to the ongoing suspension of the Air Quality Monitoring Program for season 2022/2023 cruise season, with monitoring required to recommence to cover the entire 2023/2024 cruise season.</p> <p>The Port Authority submitted to DPE the Air Quality Monitoring results required under condition D13 with the Operational Compliance Report for the 2019/20 cruise season. DPE acknowledged the receipt of the Air Quality Monitoring report summary required under Condition D13 in correspondence dated 20 July 2020.</p> <p>In a letter dated 5 May 2020, DPE approved the suspension of the Air Quality Monitoring Program for the 2020/21 and 2021/22 cruise seasons.</p>

Condition No.	Condition	Status	Details/reference
D14	Where a relevant OEMP Sub-plan exists, the relevant Air Quality Operation Monitoring Program may be incorporated into that OEMP Sub-plan.	Noted	The Air Quality Operational Monitoring Program has been incorporated in the Air Quality OEMP Sub-plan.

Terms of approval

E1	<p>No cruise ship is permitted to berth before 7:00am or after 10:00pm unless extenuating circumstances prevail such as mechanical failure, an on-board emergency or severe weather conditions.</p> <p>Vessels other than cruise ships up to 100m in length are permitted to remain at berth 24 hours per day when a cruise ship is not at berth.</p>	Compliant	<p>As indicated in Section 1, no cruise ships visited the facility during the reporting period.</p> <p>Vessels up to 100m in length used the Facility during the reporting period.</p>
E2	In addition to the performance outcomes, commitments and mitigation measures specified in the EIS and Submissions Report, all reasonably practicable measures must be implemented to minimise noise impacts and the emission of air pollutants during Operation of the SSI.	Not triggered	

Traffic, transport and access

E7	The Traffic, Transport and Access OEMP Sub-plan must include detail on the provision of infrastructure, facilities and services to cater for cruise ship passengers and ensure safe access including:	Compliant	The Traffic, Transport and Access OEMP Sub-plan that addresses E7 was prepared and approved by the Secretary's nominee in correspondence dated 15 September 2019. Subsequent to the DPE's approval of the sub-plan, Port Authority identified minor
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Condition No.	Condition	Status	Details/reference
	<ul style="list-style-type: none"> a. pedestrian access to Eden Town Centre and Port of Eden retail areas; b. pedestrian access to tourist facilities and other local businesses; c. passenger transport services for visits to local and regional businesses and attractions; d. bus parking bays, waiting areas, shelters, signage and the like at the wharf and at pick up points in the local area; and e. provision of personnel to oversee pedestrian movements on the wharf and surrounding areas during cruise ship visits. 		<p>adjustments of the pick-up and drop-off facilities for buses and taxis which would improve passenger safety and access. These minor improvements, which were exempt development under State Environmental Planning Policy (Infrastructure) 2007, were incorporated in a revised version of the Traffic, Transport and Access OEMP Sub-plan. These improvements were discussed with Council during the ongoing consultation prior to operation. The revised Traffic, Transport and Access OEMP Sub-plan was submitted to DPE for information in correspondence dated 10 September 2019. The sub-plan was also submitted to Council.</p> <p>The Traffic, Transport and Access OEMP Sub-plans is available in the Port Authority website:</p> <p>https://www.portauthoritynsw.com.au/port-of-eden/port-services-facilities/eden-cruise-wharf/</p>

Noise and vibration

E8	The SSI is to be [...] operated to minimise noise impacts on surrounding residents.	Compliant	The Facility has been operated to minimise noise impacts on surrounding residents. As indicated in Section 3, no complaints were received during the 2021/22 reporting season. Refer also to E17.
E17	The Noise Management OEMP Sub-plan must identify measures to reduce noise impacts on Sensitive Receivers including:	Compliant	The Noise Management OEMP Sub-plan incorporates measures in accordance with Condition E17. The OEMP Sub-plans were approved by the Secretary's

Condition No.	Condition	Status	Details/reference
	<ul style="list-style-type: none"> a. no deck announcements and music from open decks while berthed at the Breakwater Wharf Extension, with the exception of safety announcements; b. ship engine, generator, exhaust and ventilation systems including air conditioning must be maintained and operated efficiently to reduce noise emissions while in the Port of Eden; c. ships must run on the minimum generator/engine power required while at the berth; d. in the event of an overnight berth due to extenuating circumstances, community information and notification; and e. a procedure for management of non-compliant cruise ships including details on proposed actions, timeframes and consequences in the event of non-compliance with (a) to (c) in this condition. 		nominee in correspondence dated 15 September 2019.
E18	<p>Where a complaint is received from a Sensitive Receptor in relation to a specific cruise ship at the Breakwater Wharf Extension, the source and nature of the noise must be investigated while the ship is at berth (unless this is not possible due to the timing of the complaint or imminent departure of the ship) and corrective actions implemented as required.</p> <p>If there are further complaints or the investigation indicates ongoing exceedance of the noise levels predicted in the EIS and Modification Assessments on the return of the cruise ship, future visits must be managed in accordance with the requirements of the Noise Management OEMP Sub-plan</p>	Compliant	As indicated in Section 3, no complaints were received during the 2021/22 reporting season.

Condition No.	Condition	Status	Details/reference
	and specific actions, timeframes and consequences agreed by the Secretary in the event of repeat non-compliance.		
E19	<p>The SSI is to be operated to:</p> <p>(a) minimise the risk to Sensitive Receivers from adverse health impacts from exposure to cruise ship emissions;</p> <p>(b) support management strategies to reduce exposure; and</p> <p>(c) national environmental protection standards (as revised from time to time) set out in the National Environment Protection (Ambient Air Quality) Measure.</p>	Compliant	<p>The Cruise Ship Facility has been operated to comply with the requirements of Condition E19.</p> <p>Refer to the previous and this OCR.</p>
Air quality			
E20	<p>The OEMP Air Quality Management OEMP Sub-plan must include the following measures to reduce emissions from cruise ships:</p> <p>a. prior to 1 January 2020:</p> <p>i. no more than 20 cruise ship visits to the Breakwater Wharf Extension (which represents the “typical operations” modelled in the Refined SO2 Emission Modelling); and</p>	Compliant	<p>Air Quality Management OEMP Sub-plan addresses the requirements of Condition E20.</p> <p>The OEMP Sub-plans were approved by the Secretary’s nominee in correspondence dated 15 September 2019.</p> <p>Refer also to D12 and D13</p>

Condition No.	Condition	Status	Details/reference
	<ul style="list-style-type: none"> ii. emissions from cruise ships berthed at the Breakwater Wharf Extension must not result in an exceedance of the maximum cumulative SO₂ concentration at the most affected sensitive receiver as predicted in the Refined SO₂ Emission Modelling for “typical operations”; b. from 1 January 2020, cruise ships must meet emission restrictions specified under MARPOL Annex VI, as implemented through the relevant Maritime Acts, or more stringent emission restrictions under these Acts; c. ship engine, generator, exhaust and ventilation systems must be maintained and operated efficiently to reduce air emissions while at berth at the Breakwater Wharf Extension; and d. a procedure for management of non-compliant cruise ships including details on proposed actions, timeframes and consequences in the event of non-compliance with (a)ii, (b) and (c) in this condition. 		
E21	<p>Unless otherwise agreed with the Planning Secretary, the Operation Monitoring Program required under Condition D7 must, as a minimum, include monitoring of NO₂, SO₂ and PM_{2.5} at the closest potentially impacted sensitive receiver (taking into account prevailing winds) at least two days prior to the arrival of the first three cruise ship of the season, while they are at berth and for at least two days following departure. Where there is less than two days between departure of a cruise ship and arrival of the next cruise ship, monitoring must continue until there is at least two days between ship departures and arrivals.</p>	Compliant	<p>The Air Quality Operational Monitoring Program outlined in the Air Quality OEMP Sub-plan addresses and is compliant with the requirements of Condition E21.</p> <p>Refer to 2019/20 OCR for Air Quality monitoring results.</p>

Condition No.	Condition	Status	Details/reference
E22	<p>Where a complaint is received from a Sensitive Receiver in relation to a specific cruise ship at the Breakwater Wharf Extension about dark smoke emissions or offensive odours, the source and nature of the dark smoke emission or offensive odour must be investigated while the ship is at berth (unless this is not possible due to the timing of the complaint or imminent departure of the ship) and corrective actions implemented as required.</p> <p>If there are further complaints and the investigation indicates exceedance of emission restrictions (being those restrictions described in Condition E20) on return of the cruise ship, future visits must be managed in accordance with the requirements of the OEMP Air Quality Management Sub-plan and specific actions, timeframes and consequences agreed by the Planning Secretary in the event of repeat non-compliances.</p>	Compliant	<p>The procedure for non-compliant cruise ships is detailed in Section 3.7 of the OEMP.</p> <p>As indicated in Section 1, no cruise ships visited the Facility during the reporting period. As indicated in Section 3, no complaints were received during the 2021/22 reporting season.</p>
Lighting			
E23	<p>All maritime lighting to be implemented as part of the SSI shall have regard to the location of nearby residential dwellings. Lighting impacts shall be minimised to the extent possible and comply with AS 4282:1997 – Control of the Obtrusive Effects of Outdoor Lighting and relevant Australian Standards in the series AS/NZ 1158 – Lighting for Roads and Public Spaces.</p>	Compliant	<p>Lighting requirements are outlined in Section 6 of the OEMP.</p> <p>No complaints were received during the 2021/22 reporting season.</p>

2.2 EPBC Act Referral Decision (EPBC 2016/7828)

The Commonwealth's Department of the Environment and Energy made the decision under Sections 75 and 77A of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) that the project was not a controlled action if undertaken in a particular manner (Referral Decision dated 13 April 2017, EPBC 2016/7828). Condition 4(b) of the Referral Decision relate to operations.

Table 3 provides details of the EPBC Act Referral Decision relevant to the operational phase of the project.

Table 3: Compliance assessment against EPBC 2016/7828

Condition No.	Condition	Status	Details/reference
4(b) and DoI Crown Lands letter 16/01/2019 to Paul Robinson A/General Manager Property, Port Authority of New South Wales	All cruise ships arriving at and departing from the Eden Breakwater wharf must be aware of the potential presence of whales and maintain a suitable speed within the Port of Eden limits to avoid collisions with whales.	Compliant	<p>The OEMP provides the following management action:</p> <p><i>Vessels within the Port will adhere to speeds of 10 knots or less, except in circumstances where the Harbour Master or a Pilot considers that a higher speed is necessary to maintain safe navigation in the Port</i></p> <p>The Extended Use OEMP has also adopted the speed limit of 10 knots or less, except in circumstances where the Harbour Master or a Pilot considers that a higher speed is necessary to maintain safe navigation in the Port</p> <p>Note: The speed of 10 knots or less within the port limits was a condition of the Referral Decision (4(a)) for the dredging and construction phase, but it has been applied during the 2021/22 reporting season.</p>

2.3 Visual Surveillance and Monitoring

Monitoring

The Air Quality Operational Monitoring Program was implemented from the commencement of operations and during the 2019/20 cruise season as per D12. The monitoring station was run continuously from the 4 September 2019 to the 31 March 2020, including the entire 2019/20 cruise season.

Port Authority submitted a letter to the DPE dated 23 March 2020 with an analysis of the air quality monitoring results during the 2019/20 cruise season, a link to the monthly monitoring reports during that season and a recommendation to stop the air quality monitoring program on the basis of the results with no exceedances of the criteria due to cruise ships reported during any cruise ship visits. In letter dated 5 May 2020, DPE approved the suspension of the air quality monitoring program for the 2020/21 and 2021/22 cruise seasons (refer also to D12 in Table 2).

Visual Surveillance

Visual surveillance inspections of Extended Use operations have been undertaken by the Harbour Master or Port Authority's on-site personnel at least weekly during Extended Use wharf usage days (refer to **Appendix A** for register of vessel visits). The visual inspections involved surveillance for:

- Visible signs of water or sediment contamination and disturbance
- Any signs of ecological impact
- Unusual noise or emissions to air from Extended Use operations
- Traffic congestion caused by Extended Use operations
- Presence of litter or waste at the wharf
- Presence of chemical containers in unbunded areas at the wharf

No environmental issues were recorded during the inspections.

3 Complaints

No complaints were received during the 2021/22 reporting period.

4 Incidents

There were no pollution incidents requiring notification during the 2021/22 reporting period.

5 Audits

The results of previous audits are summarised in the OCR 2019/20. Based on the performance of the Facility during the 2019/20 cruise season with no non-compliances, incidents or complaints reported (refer 2019/20 Operational Compliance Report) and the Commonwealth ban on cruise ships, Port Authority in correspondence dated 28 July 2020, requested DPE to reduce the frequency of compliance audits. DPE, in response correspondence dated 26 Oct 2020 indicated that no audits would be required under Condition A24 during the calendar years 2020 and 2021 (subject to cruise ship visits re-commencing in Eden).

There were no cruise ship visits in the 2021 calendar year or in this reporting period. This Operation Compliance Report covers the period from the 1 July 2021 to 30 June 2022, and condition A24 has not been

triggered this reporting period. An audit will be conducted during the 2022 calendar year or as otherwise agreed with DPE in accordance with Condition A24 and will be reported in future OCRs.

6 OEMP Reviews and Consistency Assessments

The OEMP and OEMP Sub-plans, and the Extended Use OEMP were prepared and approved by the Secretary's nominee in accordance with the Infrastructure Approval in correspondence dated 15 September 2019 and 6 November 2020 respectively.

The approved OEMP and OEMP Sub-plans are available in the Port Authority website:

<https://www.portauthoritiesw.com.au/port-of-eden/port-services-facilities/eden-cruise-wharf/>

No reviews of the OEMPs or consistency assessment have been undertaken during the 2021/22 reporting period.

APPENDIX A

EDEN CRUISE FACILITY USAGE UNDER SSI7734 DURING REPORTING PERIOD

Vessel	Vessel Type	Arrival	Departure	Time at berth
Name	Type	Date	Date	Days
Saints Antonio & Giuseppe	Fishing vessel	11/07/2021	12/07/2021	0.92
Saxon Onward	Fishing vessel	11/07/2021	11/07/2021	0.40
Saints Antonio & Giuseppe	Fishing vessel	17/07/2021	19/07/2021	2.00
Saxon Onward	Fishing vessel	17/07/2021	18/07/2021	1.08
Saxon Onward	Fishing vessel	25/07/2021	26/07/2021	1.46
Saxon Onward	Fishing vessel	3/08/2021	7/08/2021	3.97
Saints Antonio & Giuseppe	Fishing vessel	4/08/2021	5/08/2021	1.21
Saxon Onward	Fishing vessel	14/08/2021	20/08/2021	6.38
Saxon Onward	Fishing vessel	23/08/2021	28/08/2021	4.58
Saxon Onward	Fishing vessel	1/09/2021	4/09/2021	2.38
Saxon Onward	Fishing vessel	5/09/2021	8/09/2021	2.33
Saxon Onward	Fishing vessel	12/09/2021	14/09/2021	2.63
Saxon Onward	Fishing vessel	19/09/2021	22/09/2021	2.50
Saxon Onward	Fishing vessel	27/09/2021	29/09/2021	0.00
Saints Antonio & Giuseppe	Fishing vessel	5/10/2021	7/10/2021	2.52
Saxon Onward	Fishing vessel	7/10/2021	17/10/2021	10.27
Saints Antonio & Giuseppe	Fishing vessel	9/10/2021	11/10/2021	2.06
Saints Antonio & Giuseppe	Fishing vessel	13/10/2021	14/10/2021	0.96
Saints Antonio & Giuseppe	Fishing vessel	16/10/2021	18/10/2021	2.65
Saints Antonio & Giuseppe	Fishing vessel	20/10/2021	22/10/2021	1.94
Saxon Onward	Fishing vessel	21/10/2021	26/10/2021	4.71
Saints Antonio & Giuseppe	Fishing vessel	24/10/2021	25/10/2021	1.58
Saints Antonio & Giuseppe	Fishing vessel	28/10/2021	28/10/2021	0.29
Saints Antonio & Giuseppe	Fishing vessel	1/11/2021	2/11/2021	0.19
Saints Antonio & Giuseppe	Fishing vessel	3/11/2021	3/11/2021	0.23
Saxon Onward	Fishing vessel	4/11/2021	6/11/2021	2.44
Saints Antonio & Giuseppe	Fishing vessel	4/11/2021	5/11/2021	0.38
Saints Antonio & Giuseppe	Fishing vessel	5/11/2021	6/11/2021	1.33
Saints Antonio & Giuseppe	Fishing vessel	7/11/2021	8/11/2021	0.33
Saints Antonio & Giuseppe	Fishing vessel	8/11/2021	9/11/2021	0.23
Saints Antonio & Giuseppe	Fishing vessel	9/11/2021	9/11/2021	0.19
Saints Antonio & Giuseppe	Fishing vessel	10/11/2021	11/11/2021	0.38
Saints Antonio & Giuseppe	Fishing vessel	11/11/2021	11/11/2021	0.08
Saxon Onward	Fishing vessel	12/11/2021	16/11/2021	4.50
Saints Antonio & Giuseppe	Fishing vessel	12/11/2021	12/11/2021	0.17
Saints Antonio & Giuseppe	Fishing vessel	13/11/2021	13/11/2021	0.46
Saints Antonio & Giuseppe	Fishing vessel	14/11/2021	14/11/2021	0.25
Saints Antonio & Giuseppe	Fishing vessel	16/11/2021	17/11/2021	0.25
Saints Antonio & Giuseppe	Fishing vessel	17/11/2021	18/11/2021	0.46
Saints Antonio & Giuseppe	Fishing vessel	18/11/2021	19/11/2021	0.29
Saints Antonio & Giuseppe	Fishing vessel	19/11/2021	19/11/2021	0.21
Saxon Onward	Fishing vessel	21/11/2021	22/11/2021	1.83
Saints Antonio & Giuseppe	Fishing vessel	20/11/2021	20/11/2021	0.13

Vessel	Vessel Type	Arrival	Departure	Time at berth
Name	Type	Date	Date	Days
Saints Antonio & Giuseppe	Fishing vessel	22/11/2021	22/11/2021	0.13
Saints Antonio & Giuseppe	Fishing vessel	23/11/2021	23/11/2021	0.17
Saints Antonio & Giuseppe	Fishing vessel	24/11/2021	24/11/2021	0.21
Saints Antonio & Giuseppe	Fishing vessel	25/11/2021	25/11/2021	0.17
Saints Antonio & Giuseppe	Fishing vessel	26/11/2021	26/11/2021	0.17
Saints Antonio & Giuseppe	Fishing vessel	27/11/2021	27/11/2021	0.17
Saints Antonio & Giuseppe	Fishing vessel	28/11/2021	28/11/2021	0.17
Saints Antonio & Giuseppe	Fishing vessel	29/11/2021	29/11/2021	0.17
Saints Antonio & Giuseppe	Fishing vessel	1/12/2021	2/12/2021	0.19
Saxon Onward	Fishing vessel	1/12/2021	5/12/2021	4.04
Saints Antonio & Giuseppe	Fishing vessel	2/12/2021	3/12/2021	0.19
Saints Antonio & Giuseppe	Fishing vessel	3/12/2021	5/12/2021	0.21
Saints Antonio & Giuseppe	Fishing vessel	5/12/2021	6/12/2021	0.23
Saints Antonio & Giuseppe	Fishing vessel	6/12/2021	7/12/2021	0.19
Saints Antonio & Giuseppe	Fishing vessel	7/12/2021	8/12/2021	0.27
Saints Antonio & Giuseppe	Fishing vessel	8/12/2021	12/12/2021	3.44
Saxon Onward	Fishing vessel	12/12/2021	16/12/2021	4.58
Saints Antonio & Giuseppe	Fishing vessel	12/12/2021	13/12/2021	0.46
Saints Antonio & Giuseppe	Fishing vessel	13/12/2021	14/12/2021	4.50
Saints Antonio & Giuseppe	Fishing vessel	14/12/2021	15/12/2021	0.38
Saints Antonio & Giuseppe	Fishing vessel	15/12/2021	16/12/2021	0.27
Saints Antonio & Giuseppe	Fishing vessel	16/12/2021	17/12/2021	0.29
Saints Antonio & Giuseppe	Fishing vessel	17/12/2021	19/12/2021	1.54
Saints Antonio & Giuseppe	Fishing vessel	19/12/2021	20/12/2021	0.40
Saints Antonio & Giuseppe	Fishing vessel	20/12/2021	21/12/2021	0.63
Saints Antonio & Giuseppe	Fishing vessel	21/12/2021	22/12/2021	0.46
Saxon Onward	Fishing vessel	22/12/2021	28/12/2021	6.04
Saints Antonio & Giuseppe	Fishing vessel	22/12/2021	23/12/2021	0.46
Saints Antonio & Giuseppe	Fishing vessel	23/12/2021	27/12/2021	3.46
Saints Antonio & Giuseppe	Fishing vessel	27/12/2021	28/12/2021	0.48
Saints Antonio & Giuseppe	Fishing vessel	28/12/2021	29/12/2021	0.25
Saints Antonio & Giuseppe	Fishing vessel	29/12/2021	30/12/2021	0.42
Saints Antonio & Giuseppe	Fishing vessel	30/12/2021	1/01/2021	1.17
Saints Antonio & Giuseppe	Fishing vessel	1/01/2022	2/01/2022	0.60
Saints Antonio & Giuseppe	Fishing vessel	2/01/2022	3/01/2022	0.17
Saints Antonio & Giuseppe	Fishing vessel	3/01/2022	4/01/2022	0.54
Saints Antonio & Giuseppe	Fishing vessel	4/01/2022	5/01/2022	0.17
Saints Antonio & Giuseppe	Fishing vessel	5/01/2022	6/01/2022	0.50
Saxon Onward	Fishing vessel	5/01/2022	11/01/2022	5.69
Saints Antonio & Giuseppe	Fishing vessel	6/01/2022	7/01/2022	0.58
Saints Antonio & Giuseppe	Fishing vessel	7/01/2022	8/01/2022	0.58
Saints Antonio & Giuseppe	Fishing vessel	8/01/2022	9/01/2022	0.56
Saints Antonio & Giuseppe	Fishing vessel	9/01/2022	10/01/2022	0.58
Saints Antonio & Giuseppe	Fishing vessel	10/01/2022	11/01/2022	0.58

Vessel	Vessel Type	Arrival	Departure	Time at berth
Name	Type	Date	Date	Days
Saints Antonio & Giuseppe	Fishing vessel	11/01/2022	12/01/2022	0.46
Saints Antonio & Giuseppe	Fishing vessel	12/01/2022	13/01/2022	0.65
Saints Antonio & Giuseppe	Fishing vessel	13/01/2022	14/01/2022	0.63
Saints Antonio & Giuseppe	Fishing vessel	14/01/2022	15/01/2022	0.58
Saints Antonio & Giuseppe	Fishing vessel	15/01/2022	16/01/2022	0.63
Saints Antonio & Giuseppe	Fishing vessel	16/01/2022	17/01/2022	0.52
Saints Antonio & Giuseppe	Fishing vessel	17/01/2022	18/01/2022	0.65
Saints Antonio & Giuseppe	Fishing vessel	18/01/2022	19/01/2022	0.25
Saints Antonio & Giuseppe	Fishing vessel	19/01/2022	20/01/2022	0.21
Saints Antonio & Giuseppe	Fishing vessel	20/01/2022	21/01/2022	0.21
Saints Antonio & Giuseppe	Fishing vessel	1/02/2022	2/02/2022	0.25
Saxon Onward	Fishing vessel	7/02/2022	9/02/2022	1.58
Saints Antonio & Giuseppe	Fishing vessel	16/02/2022	17/02/2022	0.25
Saints Antonio & Giuseppe	Fishing vessel	17/02/2022	18/02/2022	0.21
Saints Antonio & Giuseppe	Fishing vessel	18/02/2022	20/02/2022	1.42
Saxon Onward	Fishing vessel	20/02/2022	26/02/2021	5.85
Saints Antonio & Giuseppe	Fishing vessel	20/02/2022	21/02/2022	0.52
Saints Antonio & Giuseppe	Fishing vessel	21/02/2022	22/02/2022	0.67
Saints Antonio & Giuseppe	Fishing vessel	22/02/2022	23/02/2022	0.63
Saints Antonio & Giuseppe	Fishing vessel	23/02/2022	24/02/2022	0.58
Saints Antonio & Giuseppe	Fishing vessel	24/02/2022	25/02/2022	0.58
Saints Antonio & Giuseppe	Fishing vessel	25/02/2022	27/02/2022	0.52
Saxon Onward	Fishing vessel	27/02/2022	28/02/2022	0.60
Saints Antonio & Giuseppe	Fishing vessel	27/02/2022	28/02/2022	0.27
Saxon Onward	Fishing vessel	28/02/2022	1/03/2022	0.35
Saints Antonio & Giuseppe	Fishing vessel	28/02/2022	1/03/2022	0.25
Saints Antonio & Giuseppe	Fishing vessel	1/02/2022	4/03/2022	3.15
Saxon Onward	Fishing vessel	1/03/2022	7/03/2022	6.21
Saints Antonio & Giuseppe	Fishing vessel	4/03/2022	5/03/2022	0.13
Saints Antonio & Giuseppe	Fishing vessel	11/03/2022	12/03/2022	0.15
Saints Antonio & Giuseppe	Fishing vessel	12/03/2022	13/03/2022	0.58
Saints Antonio & Giuseppe	Fishing vessel	13/03/2022	14/03/2022	0.67
Saxon Onward	Fishing vessel	14/03/2022	15/03/2022	1.15
Saints Antonio & Giuseppe	Fishing vessel	14/03/2022	15/03/2022	0.94
Saints Antonio & Giuseppe	Fishing vessel	15/03/2022	16/03/2022	0.63
Saints Antonio & Giuseppe	Fishing vessel	16/03/2022	17/03/2022	0.60
Saints Antonio & Giuseppe	Fishing vessel	17/03/2022	18/03/2022	0.50
Saints Antonio & Giuseppe	Fishing vessel	18/03/2022	20/03/2022	1.48
Saints Antonio & Giuseppe	Fishing vessel	20/03/2022	21/03/2022	0.48
Saints Antonio & Giuseppe	Fishing vessel	21/03/2022	22/03/2022	0.27
Saints Antonio & Giuseppe	Fishing vessel	22/03/2022	23/03/2022	0.79
Saints Antonio & Giuseppe	Fishing vessel	23/03/2022	24/03/2022	0.27
Saints Antonio & Giuseppe	Fishing vessel	30/03/2022	31/03/2022	1.08
Saints Antonio & Giuseppe	Fishing vessel	4/04/2022	4/04/2022	0.15

Vessel	Vessel Type	Arrival	Departure	Time at berth
Name	Type	Date	Date	Days
Saints Antonio & Giuseppe	Fishing vessel	4/04/2022	5/04/2022	0.29
Saints Antonio & Giuseppe	Fishing vessel	5/04/2022	6/04/2022	0.19
Saints Antonio & Giuseppe	Fishing vessel	6/04/2022	7/04/2022	0.29
Saints Antonio & Giuseppe	Fishing vessel	7/04/2020	8/04/2022	0.29
Saints Antonio & Giuseppe	Fishing vessel	8/04/2022	9/04/2022	0.67
Saints Antonio & Giuseppe	Fishing vessel	9/04/2022	10/04/2022	0.25
Saints Antonio & Giuseppe	Fishing vessel	10/04/2022	11/04/2022	0.33
Saxon Onward	Fishing vessel	11/04/2022	13/04/2022	2.60
Saints Antonio & Giuseppe	Fishing vessel	12/04/2022	15/04/2022	3.00
Saints Antonio & Giuseppe	Fishing vessel	16/04/2022	17/04/2022	0.25
Saints Antonio & Giuseppe	Fishing vessel	17/04/2022	18/04/2022	0.25
Saints Antonio & Giuseppe	Fishing vessel	18/04/2022	19/04/2022	0.25
Saints Antonio & Giuseppe	Fishing vessel	19/04/2022	20/04/2022	0.25
Saints Antonio & Giuseppe	Fishing vessel	20/04/2022	21/04/2022	0.25
Saxon Onward	Fishing vessel	20/04/2022	26/04/2022	6.21
Saints Antonio & Giuseppe	Fishing vessel	21/04/2022	22/04/2022	0.23
Saints Antonio & Giuseppe	Fishing vessel	22/04/2022	23/04/2022	0.69
Saints Antonio & Giuseppe	Fishing vessel	23/04/2022	24/04/2022	0.25
Saints Antonio & Giuseppe	Fishing vessel	24/04/2022	25/04/2022	0.96
Saints Antonio & Giuseppe	Fishing vessel	25/04/2022	26/04/2022	0.21
Saints Antonio & Giuseppe	Fishing vessel	26/04/2022	26/04/2022	0.25
Saxon Onward	Fishing vessel	28/04/2022	30/04/2022	2.50
Saints Antonio & Giuseppe	Fishing vessel	29/04/2022	30/04/2022	0.79
Saxon Onward	Fishing vessel	1/05/2022	6/05/2022	5.42
Saints Antonio & Giuseppe	Fishing vessel	5/05/2022	6/05/2022	0.25
Saints Antonio & Giuseppe	Fishing vessel	6/05/2022	8/05/2022	0.50
Saxon Onward	Fishing vessel	8/05/2022	10/05/2022	2.88
Saints Antonio & Giuseppe	Fishing vessel	8/05/2022	10/05/2022	0.29
Saints Antonio & Giuseppe	Fishing vessel	10/05/2022	11/05/2022	0.50
Saxon Onward	Fishing vessel	12/05/2022	2/06/2022	19.00
Saints Antonio & Giuseppe	Fishing vessel	12/05/2022	13/05/2022	0.54
Saints Antonio & Giuseppe	Fishing vessel	13/05/2022	15/05/2022	0.54
Saints Antonio & Giuseppe	Fishing vessel	15/05/2022	16/05/2022	0.50
Saints Antonio & Giuseppe	Fishing vessel	16/05/2022	16/05/2022	0.13
Saints Antonio & Giuseppe	Fishing vessel	7/06/2022	7/06/2022	0.08
Saints Antonio & Giuseppe	Fishing vessel	7/06/2022	9/06/2022	0.65
Saints Antonio & Giuseppe	Fishing vessel	9/06/2022	13/06/2022	4.17
Twofold Bay	Tug less than 100m LOA			365
Pacific Conquest	Tug less than 100m LOA	22/03/2022	23/03/2022	
PT Monto	Tug less than 100m LOA	23/03/2022	25/03/2022	

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