

# Development Consent

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

As delegate of the Minister for Planning under delegation executed on 11 October 2017, I approve the Development Application referred to in Schedule 1, subject to the conditions specified in Schedule 2.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the Development.



Chris Ritchie  
**Director**  
**Industry Assessments**

Sydney **7 NOVEMBER**

2017

File: 17/04941

## SCHEDULE 1

Application No:	DA 8354
Applicant:	BOC Limited
Consent Authority:	Minister for Planning
Site:	9 Egret Street, Kooragang Island in the Newcastle local government area Lot 5 DP 1015754
Development:	The construction and operation of an irrigation system utilising cooling tower blowdown effluent

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## DEFINITIONS

Applicant	BOC Limited, or any other person(s) authorised to carry out any development to which this consent applies
ANZECC ANZECC Guidelines	Australian and New Zealand Environment and Conservation Council <i>Australian and New Zealand Guidelines for Fresh and Marine Water Quality</i>
ASS Certifying Authority	Acid Sulfate Soils A person who is authorised by or under section 109D of the EP&A Act to issue Part 4A certificates
Cooling tower effluent Construction	Cooling tower blowdown wastewater as described in the SEE and RTS The carrying out of works, including minor earthworks, and installation of pipeline and other infrastructure permitted by this consent
Council	Newcastle City Council
Department Development	Department of Planning and Environment The development as described in the SEE and RTS
Effluent Guidelines	<i>Environmental Guidelines, Use of Effluent by Irrigation</i> (DEC, 2004)
EPA	NSW Environment Protection Authority
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence issued by the EPA under the POEO Act
Land	In general, the definition of land is consistent with the definition in the EP&A Act
Material harm to the environment	Harm to the environment is material if it involves actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial
Minister Mitigation	Minister for Planning (or delegate) Activities associated with reducing the impacts of the development prior to or during those impacts occurring
Monitoring	Any monitoring required under this consent must be undertaken in according with section 122C of the EP&A Act
Operation	The storage, treatment and irrigation of cooling tower effluent to a grassed area on the site
PASS POEO Act Reasonable	Potential Acid Sulfate Soils <i>Protection of the Environment Operations Act 1997</i> Relates to the application of judgment in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements
RTS	Response to Submissions titled <i>BOC Kooragang DA 8354 Response to Request for Response to Submissions</i> , prepared by MJM Environmental Pty Ltd, dated 22 June 2017
Secretary SEE	Secretary of the Department (or nominee) Statement of Environmental Effects titled <i>Cooling Tower Effluent for Irrigation - Statement of Environmental Effects</i> , prepared by MJM Environmental Pty Ltd, dated 15 March 2017
Site	The land listed in Schedule 1
Waste	As defined in the POEO Act

## SCHEDULE 2

### PART A: ADMINISTRATIVE CONDITIONS

#### OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A1. In addition to meeting the specific performance criteria established under this consent, the Applicant must implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the Development.

#### TERMS OF CONSENT

- A2. The Applicant, in acting on this consent, must carry out the Development in accordance with the:
- (a) Development Application DA 8354;
  - (b) SEE; and
  - (c) RTS.
- A3. If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any inconsistency.
- A4. The Applicant must comply with all written requirement(s) of the Secretary arising from the Department's assessment of:
- (a) any strategies, plans, programs, reviews, audits, reports or correspondence that are submitted in accordance with this consent (including any stages of these documents); and
  - (b) the implementation of any actions or measures contained within these documents.

#### LIMITS OF CONSENT

- A5. This consent lapses five years after the date from which it was granted, unless the Development has physically commenced on the land to which the consent applies before the date on which the consent would otherwise lapse under section 95 of the EP&A Act.
- A6. The Applicant must ensure the Development does not irrigate to site more than 18,200 litres per week or 946 tonnes per calendar year of cooling tower effluent.

#### EVIDENCE OF CONSULTATION

- A7. Where consultation with any public authority is required by the conditions of this consent, the Applicant must:
- (a) consult with the relevant public authority prior to submitting the required documentation to the Secretary or the certifying authority for approval;
  - (b) submit evidence of such consultation as part of the relevant documentation required by the conditions of this consent;
  - (c) describe how matters raised by the public authority have been addressed and identify matters that have not been resolved; and
  - (d) include the details of any outstanding issues raised by the relevant public authority and an explanation of disagreement between any public authority and the Applicant.

#### STATUTORY REQUIREMENTS

- A8. The Applicant must ensure that all licences, permits and approval/consents are obtained as required by law and maintained 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 approval/consents.

#### COMPLIANCE

- A9. The Applicant must ensure that employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent relevant to their respective activities.

#### OPERATION OF PLANT AND EQUIPMENT

- A10. The Applicant must ensure that all plant and equipment used for the Development is:
- (a) maintained in a proper and efficient condition; and
  - (b) operated in a proper and efficient manner.

## PART B: ENVIRONMENTAL PERFORMANCE AND MANAGEMENT

### SOILS, WATER QUALITY AND HYDROLOGY

- B1. Prior to the commencement of operation, the Applicant must prepare an Effluent Irrigation Management Plan for the Development to the satisfaction of the Secretary. The Effluent Irrigation Management Plan must:
- (a) be submitted to the Secretary for approval prior to the commencement of operation;
  - (b) be prepared by a suitably qualified and experienced expert;
  - (c) include detailed baseline data;
  - (d) identify the statutory approvals that apply to the Development;
  - (e) include a program to monitor and report on:
    - (i) soil and groundwater; and
    - (ii) effluent flows and quality; and
    - (iii) effluent storage and disposal;
  - (f) set specific performance indicators/criteria in accordance with the Effluent Guidelines and including the ANZECC Guidelines long-term trigger values for irrigation; and
  - (g) include a contingency plan to detail:
    - (i) the procedures for corrective action where the results from the monitoring program required under (e) do not meet the performance indicators/criteria under (f);
    - (ii) triggers for ceasing irrigation activities; and
    - (iii) measures to manage any unpredicted impacts and their consequences.
- B2. The Applicant must:
- (a) not commence operation until the Effluent Irrigation Management Plan required by Condition B1 is approved by the Secretary; and
  - (b) implement the most recent version of the Effluent Irrigation Management Plan approved by the Secretary.
- B3. If Acid Sulfate Soils (ASS) or Potential Acid Sulfate Soils (PASS) are encountered, the Applicant must take steps to prevent further oxidation of exposed ASS or PASS, and must cease irrigation until an ASS Management Plan is prepared for the Development. The ASS Management Plan must:
- (a) be prepared in consultation with the EPA and Council by a suitably qualified and experienced expert;
  - (b) outline the investigations that have been undertaken to test for the presence of ASS in accordance with the NSW State Government's *Acid Sulfate Soils Manual* (ASSMAC 1998);
  - (c) detail the protocols to be put in place and followed;
  - (d) detail how the ASS will be tested, handled and stockpiled;
  - (e) detail measures to prevent erosion and sedimentation of ASS; and, if necessary
  - (f) outline how the ASS will be disposed of off-site (e.g. at a licensed facility).
- B4. The Applicant must:
- (a) not recommence irrigation until the ASS Management Plan required by Condition B1 is approved by the Secretary; and
  - (b) implement the most recent version of the ASS Management Plan approved by the Secretary.

### WASTE MANAGEMENT

- B5. The Applicant must assess and classify all liquid and non-liquid wastes to be taken off-site in accordance with the EPA's *Waste Classification Guidelines Part 1: Classifying Waste*, November 2014, or its latest version and dispose of all wastes to a facility that may lawfully accept the waste.

### MOSQUITO MANAGEMENT

- B6. The Applicant must implement the *BOC Kooragang Mosquito Management Plan*, Rev 0, prepared by MJM Environmental Pty Ltd and dated 19 June 2017 for the Development.

## PART C: ENVIRONMENTAL MANAGEMENT AND REPORTING

### EFFLUENT IRRIGATION MONITORING REPORT

- C1. Within 14 months of the commencement of operation, and at a frequency determined by the Secretary thereafter, the Applicant must submit an Effluent Irrigation Monitoring Report to the Secretary and the EPA. The Effluent Irrigation Monitoring Report must:
- (a) include soil, groundwater and effluent monitoring results from the monitoring program required under Condition B1(e);
  - (b) include a comprehensive review of the monitoring results, which includes a comparison of these results against the:
    - (i) the performance criteria/indicators and triggers set in the Effluent Irrigation Management Plan under Condition B1;
    - (ii) the monitoring results of previous years; and
    - (iii) the baseline data and predictions in the SEE and RTS;
  - (c) identify exceedances of any performance criteria/indicators, triggers and predictions (see (b) above), and analyse the potential cause of any exceedances; and
  - (d) identify any trends in the monitoring data over the life of the Development;
  - (e) describe what measures will be implemented improve the environmental performance of the Development.

### ACCESS TO INFORMATION

- C2. Prior to the commencement of construction and for the duration of the Development, the Applicant must:
- (a) make copies of the following publicly available on its website:
    - (i) the documents referred to in Condition A2;
    - (ii) all current statutory approvals for the Development;
    - (iii) all approved strategies, plans and programs required under the conditions of this consent;
    - (iv) a comprehensive summary of the monitoring results of the Development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
    - (v) any other matter required by the Secretary; and
  - (b) keep this information up to date, to the satisfaction of the Secretary.