

Independent Environmental Audit

Report for:

Caltex Refineries (NSW) Pty Ltd
Kurnell Ports and Berthing Upgrade - SSD 5353

LRQA reference:	MEL4000225/2
Assessment dates:	26-30th April 2016
Assessment location:	2 Solander Street, Kurnell, NSW 2231
Assessment criteria:	Development Consent 5353
Assessment team:	Paul Dzamko Makis Galanos
LRQA office:	Melbourne

Contents

1. Report explanation.....	3
2. Executive report.....	6
3. Audit Details.....	7
4. Project Background and Boundaries	8
5. Audit Findings Log	9
6. Caltex Refineries (NSW) Pty Ltd, Kurnell Terminal Response to the Audit Findings	13
Appendix - Compliance Table.....	17

This report was presented to and accepted by:	
Name:	Dr. Jos Kusters
Job title:	Senior Environmental Specialist

Lloyd's Register Quality Assurance Limited, its affiliates and subsidiaries and their respective officers, employees or agents are, individually and collectively, referred to in this clause as "LRQA". LRQA assumes no responsibility and shall not be liable to any person for any loss, damage or expense caused by reliance on the information or advice in this document or howsoever provided, unless that person has signed a contract with the relevant LRQA entity for the provision of this information or advice and in that case any responsibility or liability is exclusively on the terms and conditions set out in that contract.

1. Report explanation

Compliance Assessment Criteria and Risk Levels for Non-Compliances*

Assessment	Criteria
Compliant	Where the auditor has collected sufficient verifiable evidence to demonstrate that the intent and all elements of the requirement of the regulatory approval have been complied with within the scope of the audit.
Not verified	Where the auditor has not been able to collect sufficient verifiable evidence to demonstrate that the intent and all elements of the requirement of the regulatory approval have been complied with within the scope of the audit. In the absence of sufficient verification the auditor may in some instances be able to verify by other means (visual inspection, personal communication, etc.) that a requirement has been met. In such a situation, the requirement should still be assessed as not verified. However, the auditor could note in the report that they have no reasons to believe that the operation is non-compliant with that requirement.
Non-compliant	Where the auditor has collected sufficient verifiable evidence to demonstrate that the intent of one or more specific elements of the regulatory approval have not been complied with within the scope of the audit.
Administrative non-compliance	A technical non-compliance with a regulatory approval that would not impact on performance and that is considered minor in nature (e.g. report submitted but not on the due date, failed monitor or late monitoring session). This would not apply to performance-related aspects (e.g. exceedance of a noise limit) or where a requirement had not been met at all (e.g. noise management plan not prepared and submitted for approval).
Not triggered	A regulatory approval requirement has an activation or timing trigger that had not been met at the time of the audit inspection, therefore a determination of compliance could not be made.
Observation	Observations are recorded where the audit identified issues of concern which do not strictly relate to the scope of the audit or assessment of compliance. Further observations are considered to be indicators of potential non-compliances or areas where performance may be improved.
Note	A statement or fact, where no assessment of compliance is required. The terms "partial compliance" or "partial non-compliance" or similar should not to be used.

Risk Level	Colour Code	Description
High		Non-compliance with potential for significant environmental consequences, regardless of the likelihood of occurrence
Medium		Non-compliance with: <ul style="list-style-type: none"> • potential for serious environmental consequences, but is unlikely to occur; or • potential for moderate environmental consequences, but is likely to occur
Low		Non-compliance with: <ul style="list-style-type: none"> • potential for moderate environmental consequences, but is unlikely to occur; or • potential for low environmental consequences, but is likely to occur
Administrative non-compliance		Only to be applied where the non-compliance does not result in any risk of environmental harm (e.g. submitting a report to government later than required under approval conditions)

*Adapted from Post-approval requirements for State significant developments (October 2015), NSW Government.

Additional information

Confidentiality

We will treat the contents of this report, together with any notes made during the visit, in the strictest confidence and will not disclose them to any third party without written client consent, except as required by the Caltex Refineries (NSW) Pty Ltd and the NSW Department of Planning and Environment.

Sampling

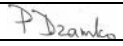
The assessment process relies on taking a sample of the Development activities for each condition. This is not statistically based but uses representative examples. The compliance table indicating the compliance status of each condition of the approval is dependent on the evidence sampled. The Auditors have relied upon information supplied by the Auditee; conclusions on compliance are contingent upon the accuracy and completeness of data supplied.

Terms and conditions

Please note that, as detailed in the Terms and Conditions of the contract, clients have an obligation to advise LRQA of any breach of legal, regulatory, or statutory requirements and any pending prosecution. Although proportionality and scale of the situation should be considered, you are required to advise LRQA of any serious potential risks to our audit conclusions but not, for example, isolated cases of a minor nature.

Acronyms / Terms Used in Report

Caltex	Caltex Refineries (NSW) Pty Ltd
CEMP	Construction Environmental Management Plan
DPE	NSW Department of Environment and Planning (incl. previous Department of Planning and Infrastructure)
Department	DPE
DG	Director General (DPE)
EPA	Environment Protection Agency
EPL	Environment Protection License
IEA	Independent Environmental Audit
NC	Non-compliance
OFI	Opportunity for Improvement
TBT	Tributyl Tin
SSD	State Significant Development
S&WQMP	Sediment & Water Quality Management Plan

Independent Audit Certification Form	
Development Name	Kurnell Wharf Infrastructure Upgrade
Development Consent No.	SSD 5353
Description of Development	Wharf Infrastructure Upgrade
Operator	Caltex Refineries (NSW) Pty Ltd
Operator Address	2 Solander Street, Kurnell, NSW 2231
Independent Audit	
Title of Audit	Independent Environment Audit – Kurnell Wharf Infrastructure Upgrade
<p><i>I certify that I have undertaken the independent audit and prepared the contents of the attached independent audit report and to the best of my knowledge:</i></p> <ul style="list-style-type: none"> <i>· The audit has been undertaken in accordance with relevant approval condition(s) and in accordance with the auditing standard AS/NZS ISO 19011:2014 and Consent Condition F1</i> <i>· The findings of the audit are reported truthfully, accurately and completely;</i> <i>· I have exercised due diligence and professional judgement in conducting the audit;</i> <i>· I have acted professionally, in an unbiased manner and did not allow undue influence to limit or override objectivity in conducting the audit;</i> <i>· I am not related to any owner or operator of the development as an employer, business partner, employee, sharing a common employer, having a contractual arrangement outside the audit, spouse, partner, sibling, parent, or child;</i> <i>· I do not have any pecuniary interest in the audited development, including where there is a reasonable likelihood or expectation of financial gain or loss to me or to a person to whom I am closely related (i.e. immediate family);</i> <i>· Neither I nor my employer have provided consultancy services for the audited development that were subject to this audit except as otherwise declared to the lead regulator prior to the audit; and</i> <i>· I have not accepted, nor intend to accept any inducement, commission, gift or any other benefit (apart from fair payment) from any owner or operator of the development, their employees or any interested party. I have not knowingly allowed, nor intend to allow my colleagues to do so.</i> <p><i>Note.</i></p> <p><i>a) The Independent Audit is an 'environmental audit' for the purposes of section 122B(2) of the Environmental Planning and Assessment Act 1979. Section 122E provides that a person must not include false or misleading information (or provide information for inclusion in) an audit report produced to the Minister in connection with an environmental audit if the person knows that the information is false or misleading in a material respect. The maximum penalty is, in the case of a corporation, \$1 million and for an individual, \$250,000.</i></p> <p><i>b) The Crimes Act 1900 contains other offences relating to false and misleading information: section 192G (Intention to defraud by false or misleading statement–maximum penalty 5 years imprisonment); sections 307A, 307B and 307C (False or misleading applications/information/documents–maximum penalty 2 years imprisonment or \$22,000, or both).</i></p>	
Signature	
Name of Lead Auditor	Paul Dzamko
Address	LRQA Level 16, 461 Bourke Street, Melbourne, Vic. 3001
Email Address	paul.dzamko@lrqa.com
Auditor Certification	IRCA Lead EMS Assessor A010818
Date	22.10.2016

2. Executive report

Assessment outcome:

Conclusion

Based on activities and records sampled for the project, the IEA audit team found a good level of compliance to the EIS, Development Consent, CEMPs (incl. sub-plans), EPL for dredging activities and the federal Sea Dumping Permit. Non-compliances reported were all in the Low – Administrative risk categories.

Findings

The overall findings outcome was:

- Non-compliances were identified with eight Development Consent Conditions (C3, C4, C12, C19, C28, C35f, D6, D7) and these are detailed in the Compliance Table (2x Low Risk, 6x Administrative Risk).
- In the Findings Log the administrative non-compliances are grouped by type / activity where appropriate to give clarity.
- No Opportunities for Improvement outside of those related to the NCs.

Based on records sampled, compliance with all other triggered conditions was considered to have been achieved.

The Consent contained a total of 62 Conditions (not including sub-clauses).

These findings are listed below, the context and any further mitigating evidence / discussion is included in the Compliance Table.

Caltex has reviewed the auditor's findings and has comments and commitments to address those findings (refer Section 6).

Environmental Performance

Taking into account the deficiencies in the Findings Log, measurement & monitoring data, no reportable environmental incidents, community complaints or legislative breaches attributable to the Project, the overall environmental performance is considered to be good.

As the focus of compliance audits is to look for deficiencies, the following positive comments are provided to place the findings in context:

- There were no reported significant environmental incidents or legislative breaches related to the Development.
- The construction was completed within an operating refinery (until October 2014) and then terminal. The refinery and terminal Environmental Management Systems were not deleteriously affected by this Development.
- Checklists were developed and used in a way to monitor several requirements in an effective manner.
- Caltex personnel were experienced and knowledgeable.

3. Audit Details

AUDIT OBJECTIVES

The objectives of this audit are to:

- Assess the environmental performance of the development and whether it is complying with the conditions in the Consent, Environment Protection License (EPL) 20349 and Sea Dumping Permit (31.10.2013).
- Review the adequacy of any approved strategy, plan or programme required under these approvals.
- Recommend measures or actions to improve the environmental performance of the development, and / or any assessment, plan or programme required under these approvals.

AUDIT SCOPE

Condition F1 of the Development Consent (SSD 5353) Caltex Upgrade of the Kurnell Ports and Berthing Facility. Includes EPL 20349 for dredging activities and the federal Sea Dumping Permit (31.10.2013). The construction period was October 2013 – October 2015.

AUDIT METHODOLOGY

The audit methodology:

- Was conducted in accordance with AS/NZS ISO 19011:2014 and Consent Condition F7.
- Includes a compliance table indicating the compliance status of each Consent Condition.
- Sampled EPL and Sea Dumping Permit conditions within the associated Consent Condition and referenced in that part of the condition in the compliance table.
- Avoided terms such as partial compliance.
- Includes recommendations in response to non-compliances.
- Identifies opportunities for improvement where applicable.
- As audit is post-construction, verification is via records requested and supplied plus interviews with relevant staff.
-

This is the first IEA conducted for this project.

SITE INSPECTION

This audit was conducted post-construction and covered activities for the full construction period (October 2013 – October 2015). The site inspection only covered completed works. As there were no construction activities to inspect, the audit team did not engage directly with external parties (regulators, community) prior to the site inspection. Evidence used included communications to and from relevant regulators (DPE, EPA and local council), site community meeting minutes, community hotline analysis and LRQA ISO 14001 audit reports that included site inspections (refinery, wharf and terminal) in the period under audit.

AUDIT TEAM

- Paul Dzamko Environmental Lead Assessor from Lloyds Register Quality Assurance (LRQA) – Team Leader.
- Makis Galanos Environmental Lead Assessor from Lloyds Register Quality Assurance (LRQA) – Team Member.
- This audit duration was for this audit and also the IEA for Development Consent 5544

Both auditors received approval from the Department of Planning & Environment to conduct this audit.

This audit report was peer reviewed by Richard Smith, Assessment Manager, LRQA.

AUDITEES

The following Caltex and related contractor staff were interviewed during this audit:

Greg King	GM Supply Chain Operations Engineering
Lauren Engel	GM Major Projects
Dan Pepyat	Project Superintendent Kurnell
Khaled Elomar	Civil Structural Engineer
Sam King	Engineer
Jos Kusters	Senior Environment Specialist Licensed Sites
Amanda Basten	ISO Systems Accreditation Co-ordinator
Simon Caples	Caltex Environmental Representative (at time of project)

4. Project Background and Boundaries

The Development is for an upgrade of the Kurnell ports and berthing facility off Prince Charles Parade / Silver Beach in Botany Bay, NSW (the Project). There are two main elements to the Project:

- Dredging.
- Upgrading existing elements of the berthing infrastructure.

This includes:

- Dredging berths, turning circle and approaches;
- Reuse of a proportion of the dredge material to cover an exposed section of the subsea fuel pipelines and a former anchor point;
- Disposal of the remaining dredged material offshore;
- Upgrade of the fixed berth infrastructure;
- Upgrade of the sub berth; and
- Use of this infrastructure.

5. Audit Findings Log

The compliance table gives further context to each finding and mitigating evidence as applicable. Administrative non-compliances are grouped by type / activity where appropriate to give clarity whilst retaining traceability to individual Consent Conditions i.e. the 5 grouped items below relate to non-compliances with 8 Consent Conditions.

Non-compliance	Risk	Recommendation (Options)
<p>1. Compliance Tracking Program</p> <p>Although the Compliance Tracking Program has been submitted and approved by the DG, there was no evidence available to demonstrate implementation of some elements of it.:</p> <ul style="list-style-type: none"> • Compliance status report within 6 weeks of the commencement. Pre-construction compliance, construction, pre-operation compliance reports were not available • Regular compliance audit frequency was not defined (“will be based on risk” but no further information) • No evidence of compliance audits sighted (daily inspections were seen during dredging, further inspections were sighted for piling). <p>Applicable Consent Condition D7</p>	<p>LOW</p>	<ul style="list-style-type: none"> • As construction has been completed and this IEA completed, this issue is a Lessons Learnt scenario for other / future developments. The role of audits is additional to routine inspections and monitoring activities.

<p>2. Vibration Measurement and Evaluation</p> <p>Vibration measurement and evaluation methods specified in DIN 4150-3 were not used to determine whether the construction vibration goals would be achieved in accordance with limits in this Standard.</p> <p><i>Note: At the time of the audit, Caltex stated that they had determined that this Standard was not applicable to the type of loads on the structures involved. The IEA team did not see this as absolute non-applicability i.e. partial / limited applicability makes it a condition to be met.</i></p> <p>Applicable Consent Condition C19</p>	<p>LOW</p>	<ul style="list-style-type: none"> • Clarify non-applicability of Consent Conditions more formally e.g. certified expert opinion, waiver / agreement from Lead Regulator.
<p>3. Inconsistency between Consent Condition and CEMP Plans</p> <p>The Sediment & Water Quality Management Plan (SWQMP) contained a variation to method of monitoring Tributyltin (TBT) – the variation was clearly identified and formally approved by the DPE. However, this variation (from real-time monitoring of TBT to grab sampling) was inconsistent with Consent Condition C3 and C35f states that a Consent Condition shall prevail over a CEMP (irrespective of whether it is approved).</p> <p>The change was relatively minor and communicated transparently and consistent with the Environment Protection License. Thus the IEA team assessed this as an administrative non-compliance – not using correct variation protocols.</p> <p>Applicable Consent Conditions C3, C35f</p>	<p>Administrative</p>	<ul style="list-style-type: none"> • For future projects, clarify variation / change protocols in the CEMP to avoid inconsistencies between Consent Conditions and CEMP plans (irrespective of whether are approved by the Lead Regulator) • In areas of interpretation, refer to legal counsel

4. Submission of documents to external parties

The Development Consent specifies that certain documents must be submitted to various authorities e.g. Director-General, EPA, DPI (Fisheries), SPC as applicable.

There was not direct evidence available that some of the required documents had been submitted.

Applicable Consent Conditions

C4 – Post Dredging Water Quality Report

C12 – Coastal and Hydrodynamic Processes

C28 – Post Construction Road Dilapidation Report

D7 – Compliance Tracking Reports

Administrative

- Develop a system of planning and registering such communications with the authorities / external parties

<p>5. Public Communications</p> <p>Although Caltex has shown evidence of various means of communication with interested parties and stakeholders, communication on the current implementation status of the project was not available on the public website.</p> <p>Applicable Consent Condition D6</p>	<p>Administrative</p>	<ul style="list-style-type: none"> • Update information on website • Review applicability of issue to other Development Consents e.g. demolition
--	-----------------------	--

6. Caltex Refineries (NSW) Pty Ltd, Kurnell Terminal Response to the Audit Findings

Caltex has reviewed the auditor's findings and provides the following comments and commitments to address those findings. The following has been provided by Caltex Refineries (NSW) Pty Ltd representatives.



Non-Compliance	Risk	Auditor Recommendation (Options)	Caltex Response
<p>1. Compliance Tracking Program Although the Compliance Tracking Program has been submitted and approved by the DG, there was no evidence available to demonstrate implementation of some elements of it.:</p> <ul style="list-style-type: none"> • Compliance status report within 6 weeks of the commencement. Pre-construction compliance, construction, pre-operation compliance reports were not available • Regular compliance audit frequency was not defined ("will be based on risk" but no further information) • No evidence of compliance audits sighted (daily inspections were seen during dredging, further inspections were sighted for piling). <p>Applicable Consent Condition: D7</p>	<p>LOW</p>	<p>As construction has been completed and this IEA completed, this issue is a Lessons Learnt scenario for other / future developments. The role of audits is additional to routine inspections and monitoring activities.</p>	<p>Caltex accepted the audit team's findings and comments.</p> <p>Future Compliance Tracking Programs will contain clearly defined requirements for compliance audits including frequency. Risk will be defined, based on the type of project activities being undertaken.</p> <p>Contractors will receive clear instructions on what is required and in what type of format to report.</p>

Non-Compliance	Risk	Auditor Recommendation (Options)	Caltex Response
<p>2. Vibration Measurement and Evaluation Vibration measurement and evaluation methods specified in DIN 4150-3 were not used to determine whether the construction vibration goals would be achieved in accordance with limits in this Standard. <i>Note: At the time of the audit, Caltex stated that they had determined that this Standard was not applicable to the type of loads on the structures involved. The IEA team did not see this as absolute non-applicability i.e. partial / limited applicability makes it a condition to be met.</i></p> <p>Applicable Consent Condition: C19</p>	<p>LOW</p>	<p>Clarify non-applicability of Consent Conditions more formally e.g. certified expert opinion, waiver / agreement from Lead Regulator.</p>	<p>The Caltex project team managing the piling activities did review and consider the two specifications referenced in the consent condition C19 i.e. German Standard DIN 4150-3 and Environmental Noise Management Assessing Vibration: A Technical Guideline (Department of Environment and Conservation, 2006) prior to commencing works. They concluded that vibration monitoring was not needed during the piling activities.</p> <p>Caltex accepted the auditor comments and recommendation regarding the need to clarify the non-applicability of Consent Conditions more formally with the Lead Regulator early in the project, as needed.</p> <p>In such cases where agreement is reached that a Consent Condition does not apply, we will use the correct waiver or variation protocols described in the Development Consent.</p>

Non-Compliance	Risk	Auditor Recommendation (Options)	Caltex Response
<p>3. Inconsistency between Consent Condition and CEMP Plans</p> <p>The Sediment & Water Quality Management Plan (SWQMP) contained a variation to method of monitoring Tributyltin (TBT) – the variation was clearly identified and formally approved by the DPE. However, this variation (from real-time monitoring of TBT to grab sampling) was inconsistent with Consent Condition C3 and C35f states that a Consent Condition shall prevail over a CEMP (irrespective of whether it is approved).</p> <p>The change was relatively minor and communicated transparently and consistent with the Environment Protection License. Thus the IEA team assessed this as an administrative non-compliance – not using correct variation protocols.</p> <p>Applicable Consent Conditions: C3, C35f</p>	Administrative	<p>For future projects, clarify variation / change protocols in the CEMP to avoid inconsistencies between Consent Conditions and CEMP plans (irrespective of whether are approved by the Lead Regulator)</p> <p>In areas of interpretation, refer to legal counsel</p>	<p>As communicated during the audit, a method for real-time test of TBT was not possible during the dredging activities. TBT was tested by the discrete water (grab) sampling and laboratory test method. This sampling method was detailed in the Sediment and Water Quality Management Plan which was approved by the DPE. The Dredging Environment Protection Licence issued by the NSW EPA only required Discrete water (grab) sampling and laboratory test method for TBT. Caltex accepted the auditor comments and recommendations regarding the use of correct variation protocols in situations where there is a potential inconsistency between what can be done and a specific Consent Condition.</p> <p>In future projects, where there is a need to seek a waiver or variation to requirements within a Development Consent, we will use correct variation protocols described in the Development Consent.</p>

Non-Compliance	Risk	Auditor Recommendation (Options)	Caltex Response
<p>4. Submission of documents to external parties The Development Consent specifies that certain documents must be submitted to various authorities e.g. Director-General, EPA, DPI (Fisheries), SPC as applicable. There was no direct evidence available that some of the required document had been submitted. Applicable Consent Conditions: C4 – Post Dredging Water Quality Report C12 – Coastal and Hydrodynamic Processes C28 – Post Construction Road Dilapidation Report D7 – Compliance Tracking Reports</p>	Administrative	Develop a system of planning and registering such communications with the authorities / external parties	<p>Caltex accepted the auditor comments and recommendations.</p> <p>Future such projects will establish a central repository for registering all document submissions and any Regulatory approvals associated with the project, any communications with the authorities and other external interested parties.</p> <p>Project managers will be made aware of where the repository is located and the importance of using this tool.</p> <p>An assigned resource will track all formal third party submissions and follow up on expected approval documents, as well as monitor compliance to this requirement.</p>
<p>5. Public Communications Although Caltex has shown evidence of various means of communication with interested parties and stakeholders, communication on the current implementation status of the project was not available on the public website. Applicable Consent Condition: D6</p>	Administrative	<p>Update information on Caltex Public website</p> <p>Review applicability of issue to other Development Consents e.g. demolition</p>	<p>Caltex accepted the audit team's findings and comments.</p> <p>The Caltex Public website has been reviewed and updated to reflect the current status of the Kurnell Conversion, Demolition and Ports and Berthing Upgrade projects.</p> <p>An improved process has been put into place to monitor the status of the current Refinery Demolition project on a quarterly basis. The <u>Kurnell Site Conversion</u> page within the Caltex Public website will be updated when the status changes.</p>

Appendix - Compliance Table

DA Number	Description of DA	Condition of Consent	Verifiable Evidence Sighted	Compliance Criteria and Risk Rating	Comments
		TERMS OF CONSENT			
SSD 5353	Port and Berthing works	B1. The Applicant shall carry out the development generally in accordance with the: (a) State Significant Development Application No. 5353; (b) Environmental Impact Statement, Kurnell Ports and Berthing Facility (URS, February 2013); (c) Response to Submissions, Kurnell Ports and Berthing Facility (URS, June 2013); (d) Proposed Change to the Kurnell Port and Berthing Facility Upgrade (SSD:5353) (URS, 30 August 2013); and (e) conditions of this consent.	Environmental Impact Statement - June 2013. No material changes from Feb 2013 version. The project is now finished as described in the Application 5353.	Note - refer Audit Findings	
SSD 5353	Port and Berthing works	B2. In the event of an inconsistency between: (a) the conditions of this consent and any document listed from condition B1(a) to B1(d) inclusive, the conditions of this consent shall prevail to the extent of the inconsistency; and (b) any document listed from condition B1(a) to B1(d) inclusive, and any other document listed from condition B1(a) to B1(d) inclusive, the most recent document shall prevail to the extent of the inconsistency.	No inconsistencies were identified.	Compliant	
SSD 5353	Port and Berthing works	B3. 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 within these reports, plans or correspondence.	No issues were identified with respect to responding to DPE requirements - sampled communications and approvals.	Compliant	
SSD 5353	Port and Berthing works	B4. Subject to confidentiality, the Applicant shall make all documents required under this consent available for public inspection on request.	No special requests were made from the public. Information was available on the website with public access: www.caltex.com.au / about us / community environment / Caltex conversion / Kurnell port & Berthing Facility Upgrade Project	Compliant	
		LIMITS OF CONSENT			
SSD 5353	Port and Berthing works	B5. The Applicant may carry out dredging for a period of no more than six (6) months, unless otherwise agreed to in writing by the Director-General.	Start: 23/10/2013 (first dredging report by WP (third party), finished 20/12/2013 (last dredging report) Water monitoring reports done by WP from 23/10/2013 until 14/1/2014 after dredging was finished. Post Dredging Water Quality Report by WP (4/2/2014)	Compliant	
		LAPSING OF CONSENT			
SSD 5353	Port and Berthing works	B6. This consent shall lapse five (5) years from the date of this approval unless the works associated with the development have physically commenced.	Project finished before that date.	Not Triggered.	
		STATUTORY REQUIREMENTS			
SSD 5353	Port and Berthing works	B7. The Applicant shall 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.	The following documents were reviewed: 1. Environment Protection Licence (EPA 20340 - 3/10/2013) 2. Sea Dumping Permit (Act 1981), Federal Government, 31/10/2013, original permit granted 1/7/2013. Conditions mentioned: - Silt curtain (sighted photo), 153,000 m3 material of capital dredging - Overflow dredging not permitted outside the permitted area. Monitored on DSDMP daily checklist - (question 2), no overflow dredging recorded. - disposal site as recorded on the load/dump summary report, shows compliance to the area specified. - total estimated volume of dredged material was 131,000m3 according to WP dredging close out report 14/2/14.	Compliant	
		STAGING			
SSD 5353	Port and Berthing works	B8. The Applicant may elect to construct and/ or operate the Development in stages. Where staging is proposed, the Applicant shall submit a Staging Report to the Director General prior to the commencement of the first proposed stage. The Staging Report shall provide details of: (a) how the Development would be staged, including general details of work activities associated with each stage and the general timing of when each stage would commence; and (b) details of the relevant conditions of consent, which would apply to each stage and how these shall be complied with across and between the stages of the Development.	Staging was not proposed. No need for staging report, all done in one go.	Not Triggered.	
SSD 5353	Port and Berthing works	B9. Where staging of the Development is proposed, these conditions of consent are only required to be complied with at the relevant time and to the extent that they are relevant to the specific stage(s).	As above, staging was not proposed	Not Triggered.	
SSD 5353	Port and Berthing works	B10. The Applicant shall ensure that an updated Staging Report (or advice that no changes to staging are proposed) is submitted to the Director General prior to the commencement of each stage, identifying any changes to the proposed staging or applicable conditions.	As above, staging was not proposed	Not Triggered.	
SSD 5353	Port and Berthing works	B11. The Applicant shall ensure that all plans, sub-plans and other management documents required by the conditions of this consent and relevant to each stage (as identified in the Staging Report) are submitted to the Director General no later than one month prior to the commencement of the relevant stages, unless otherwise agreed by the Director General. <i>Note: Conditions B8 to B11 do not relate to staged development within the meaning of section 83B of the Act.</i>	As above, staging was not proposed	Not Triggered.	

SSD 5353	Port and Berthing works	B12. The Applicant shall ensure that employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent relevant to their respective activities.	Dedicated Marine induction, training records sighted. 3rd party observer always present during dredging for monitoring. Daily meetings were held. Records of daily meetings were sampled for October and November 2013.	Compliant	
SSD 5353	Port and Berthing works	B13. The Applicant shall be responsible for environmental impacts resulting from the actions of all persons that it invites onto the site, including contractors, sub-contractors and visitors.	statement	Note	
SSD 5353	Port and Berthing works	B14. In the event of a dispute between the Applicant and a public authority, in relation to an applicable requirement in this consent or relevant matter relating to the Development, either party may refer the matter to the Director General for resolution. The Director General's determination of any such dispute shall be final and binding on the parties.	No disputes on record (Loss Prevention System, DPE & EPA communications sampled)	Compliant	
SEDIMENT, WATER QUALITY AND HYDROLOGY					
SSD 5353	Port and Berthing works	C1. The Development shall comply with section 120 of the <i>Protection of the Environment Operations Act 1997</i> , which prohibits the pollution of waters, except as expressly provided in an EPL.	No exceedances reported from monitoring activities (water quality data reviewed) or as advised by EPA.	Compliant	
SSD 5353	Port and Berthing works	C2. The Applicant shall implement all feasible and reasonable mitigation and management measures for the duration of dredging to minimise the dispersion of dissolved and sediment-bound TBT and suspended sediment concentrations outside the Development site during construction, including: (a) no overflow dredging within the fixed berths and in the front of the submarine berths; and(b) installing and maintaining a silt boom around the dredger head to capture sediment that falls into the water across the slewing zone.	Daily logs (q 2-4) indicate that measures were in place. Observer on the dredge reported daily on the quality of the water (visual check). A model was developed by Caltex to correlate turbidity (NTU) of the water because of the sediment level and Suspended Solids TSS. The model has been approved by EPA (17/10/2013). TBT in the sea water was monitored and results were considerably below the licence limits.	Compliant	
Sediment and Water Quality Management Plan					
SSD 5353	Port and Berthing works	C3. Prior to commencement of construction, or as otherwise agreed by the Director-General, the Applicant shall prepare (and implement following approval) a Sediment and Water Quality Management Plan in consultation with the EPA and DPI (Fisheries). The Plan must: (a) be prepared by a suitably qualified expert and be approved in writing by the Director-General;(b) identify representative monitoring locations which can be used to determine the extent to which TBT in the water column (dissolved) and sediment-bound TBT, suspended sediment concentrations, pH and Dissolved Oxygen generated and dispersed by dredging has affected the distribution and condition of sensitive marine receivers; (c) identify specific measures to minimise the generation and dispersion of these sediments outside the Development site during dredging in addition to those identified in Condition C2; (d) include dry weather baseline water quality monitoring data at these locations, including dissolved and sediment-bound TBT and suspended sediment concentrations against which levels during construction can be compared; (e) include a sediment and water quality monitoring program to be followed during and post dredging including the frequency and procedures for water quality monitoring (including in real-time) of dissolved and sediment bound TBT and suspended sediment concentrations, and other water quality parameters at the identified water quality monitoring locations; and(f)establish upper threshold water quality performance criteria and interim threshold water quality performance criteria and identify contingency measures to be implemented where these water quality performance criteria are triggered at sensitive marine receivers, including temporarily ceasing and reducing the rate of dredging (including overflow dredging) operations.	SWQMP issued 1/10/2013 and developed by WP. Approved by the DG on the 8/10/2013. Six fixed and two mobile locations were identified. Monitoring was done in accordance to EPL condition L2 concentration limits. Example: TBT was monitored in points 5 or 6 and 7 or 8 depending on the direction of the dredge. TSS was measured across all 8 points. DO and pH was measured in all fixed points. Extra provisions are listed in section 5 of the SWQMP - daily logs were used to show the implementation of these provisions. Baseline water quality was established for the period 16/9 -23/10/2013. Included turbidity, pH, DO. TBT was measured on 19/9 and 3/10/2013. Post dredging water quality measurements were carried out between 17/1 and 25/1/2013, all parameters above were measured. Thresholds (trigger levels) were established in the SWQMP and the EPL. Contingency measures (compliance levels and corrective actions) were identified in the SWQMP table 9-1. Dissolved and sediment bound TBT was not measured real time. Real time measurement method is not available according to expert's (WP) report. However Consent Condition variation was not requested. Noted that EPL did not require real time monitoring for TBT.	Not Compliant Administrative see link to C35f	Dissolved and sediment bound TBT was not measured real time. Real time measurement method is not available according to expert's (WP) report. However a Consent Condition variation was not requested. Noted that the EPL did not require real time monitoring for TBT. Also noted that the S&WQMP (approved by DPE) stated that real time monitoring was not possible and an alternative grab sampling programme specified. The compliance issue here is that Condition C35f (and linked to C36) clearly states that if inconsistencies between the CEMP (incl. sub-plans according to C36) and a Consent Condition (i.e. C3) exists, then the Consent Condition prevails. Issue is one of requiring a variation to a specific Consent Condition.
SSD 5353	Port and Berthing works	C4. Within three (3) months of completing the post-dredging water quality monitoring required by Condition C3(e),the Applicant shall submit a report to the Director-General, the EPA, DPI (Fisheries) and SPC documenting the results of the baseline water quality monitoring undertaken before construction and the sediment and water quality monitoring program to be followed during and post dredging, to confirm that residual sediment and water quality is consistent with the predictions made in the EIS, with particular consideration to dissolved and sediment-bound TBT concentrations and impacts to the aquatic health of sensitive marine receivers (condition C8).	A report was prepared by WP (Post Dredging Water Quality Report - lasted 1 week) and issued on 4/2/2014. Report concludes that no meaningful change in the parameters measured at the locations measured during the post dredging period was observed when compared to the baseline period. Sensitive marine receivers are mentioned in the Aquatic Health Management Plan by Gardno No evidence that the Report it was submitted to the DG.	Not Compliant Administrative	No evidence that the Report it was submitted to the DG - otherwise compliant.
BIODEVERSITY					
Aquatic Weeds					
SSD 5353	Port and Berthing works	C5. The Applicant shall implement all mitigation and management measures during construction to avoid the introduction or spreading of pest flora and fauna species including <i>Caulerpa taxifolia</i> consistent with the <i>NSW Control Plan for the Noxious Marine Alga Caulerpa taxifolia</i> (DII, 2009).	Ship sanitation control certificate for the dredge (18/9/2013). Provided by Heron. Sea grass reports (base line survey, dredging survey and post dredging survey done by CARDNO on September 2013, mid December 2013 and late January 2014 respectively indicate that <i>Caulerpa taxifolia</i> was not observed.	Compliant	

		Marine Fauna			
SSD 5353	Port and Berthing works	C6. The Applicant shall implement measures and management to minimise the risk of ship collision and minimise underwater noise generation with marine fauna with particular consideration of cetaceans, pinnipeds, marine turtles and dugongs. This shall include (but not necessarily be limited to): (a) carrying out observations for cetaceans, pinnipeds, marine turtles and dugongs within 420 metres of dredging, piling or rock revetment works;(b) temporary cessation of dredging and dredger tugboat reduced to a speed of 4 knots if the marine fauna comes within the 420 metres of dredging; (c) the temporary cessation of underwater noise generating activities associated with piling and rock revetment where marine fauna comes within the 250 metres of these activities. Noise generating activities shall not recommence until 30 minutes after the fauna has left the zone; and (d) the temporary cessation of dredging where marine fauna comes within the 150 metres of dredging. Dredging shall only recommence when marine fauna has moved out of this zone. Noise generating activities would not commence until 30 minutes following the fauna leaving the zone.	Monitoring personnel were trained to spot marine fauna (training done the 9/10/2013). Evidence (dredging schedule and daily meeting records) indicates that dredging was stopped when dolphins were observed in the area - examples 30/10/2013, between 14:15 - 14:40; 26/10/13, between 9:15-9:50.	Compliant	
		Ausgrid Seagrass Rehabilitation Plan			
SSD 5353	Port and Berthing works	C7. Prior to commencement of construction, the Applicant shall notify DPI (Fisheries) and Ausgrid of the commencement date and schedule of dredging operations and keep them informed during dredging operations.	Done on 14/10/13.	Compliant	
SSD 5353	Port and Berthing works	C8. Prior to commencement of construction, or as otherwise agreed by the Director-General, the Applicant shall prepare (and implement following approval) an Aquatic Health Management Plan in consultation with OEH and DPI (Fisheries). The Plan must: (a) be prepared by a person who has been approved in writing by the Director-General; (b) include baseline aquatic surveys and data to confirm the distribution and condition of sensitive marine receivers, with appropriate consideration of seasonal variations, and identification of potential no-go areas; (c) identify representative monitoring locations which can be used to determine the distribution and condition of sensitive marine receivers, taking into account the Ausgrid seagrass rehabilitation project; (d) identify performance measures to assess the distribution and condition of the sensitive marine receivers during dredging; and (e) include an aquatic health monitoring program to be to be followed for the duration of dredging including the frequency and procedures for surveys, monitoring and visual observations.	An AHMP was prepared. Issued September 2013. Prepared by CARDNIO and URS. The plan was approved by the DG on 15/10/13. Includes the listed requirements for the plan	Compliant	
SSD 5353	Port and Berthing works	C9. Within twelve (12) months of completing the post dredging water quality monitoring required by Condition C3(e), unless otherwise agreed to in writing by the Director-General, the Applicant shall submit a report to the Director-General, EPA, OEH, DPI (Fisheries) and SPC setting out whether dissolved and sediment-bound TBT and suspended sediment concentrations generated and dispersed by dredging are likely to have affected the distribution and condition of the sensitive marine receivers compared to baseline conditions drawing on all sediment and water quality and aquatic health monitoring data required to be collected by conditions C3 and C8.	No observable impact on shorebirds according to Caltex shorebird survey - final report April 2014 by CARDNO. Seagrass report by CARDNO dated 1 April 2014 concludes that seasonal seagrass processes were not disturbed by dredging activities.	Compliant	
SSD 5353	Port and Berthing works	C10. If considered necessary by the Director-General, the Applicant shall identify rehabilitation (and monitoring) or offset measures to be implemented to compensate for any adverse impacts to sensitive marine receivers identified in the report required by condition C9 attributable to the Development to the written satisfaction of the Director-General.	No adverse impacts observed, rehabilitation and monitoring not required.	Compliant	
		COASTAL AND HYDRODYNAMICS			
SSD 5353	Port and Berthing works	C11. Pre, during and post dredging, the Applicant shall (unless otherwise agreed to in writing by the Director General) undertake monitoring of coastal and hydrodynamic processes on Silver Beach.	Wave monitoring program (17 Nov 2014) covering three periods: 24/9/2013- 3/12/2013, 14/1/2014 - 3/4/2014 and 1/4/2014 - 31/4/2014. No adverse effects mentioned on the report.	Compliant	
SSD 5353	Port and Berthing works	C12. Within three (3) months of completing the post dredging monitoring, the Applicant shall submit a report to the Director General and SPC documenting the results of this monitoring to confirm that impacts to coastal and hydrodynamic processes on Silver Beach are no greater than those predicted in the EIS and will not result in significant ongoing residual impacts to the beach (including impacts to associated aquatic habitat such as intertidal habitat at Silver Beach).	Caltex stated that it was submitted via an in-house solicitor. Evidence of submission not seen. Results seen on Jetty wave Monitoring Program 17/11/14 by WP.	Not Compliant Administrative	Only issue was lack of evidence of submission.
SSD 5353	Port and Berthing works	C13. Where Development related impacts are identified to be significantly higher than those predicted, the Applicant shall identify measures to counteract any beach depletion impacts at Silver Beach and identify whether monitoring of other locations in Botany Bay are warranted and/or require rehabilitation.	No significantly higher impacts were identified	Compliant	
SSD 5353	Port and Berthing works	C14. If considered necessary by the Director-General, the Applicant shall identify rehabilitation (and monitoring) or offset measures to be implemented to compensate for any adverse impacts to coastal and hydrodynamic processes identified in the report required by condition C13 attributable to the Development to the written satisfaction of the Director-General.	No significantly higher impacts were identified	Compliant	

NOISE AND VIBRATION					
Construction Hours					
SSD 5353	Port and Berthing works	C15. With the exception of dredging and sub berth upgrade works, all construction works including all high noise generating works (such as piling and rock revetment) shall be confined to standard working hours: (a) 7:00am to 6:00pm Mondays to Fridays, inclusive; and (b) 8:00am to 1:00pm Saturdays; and (c) at no time on Sundays or public holidays. The upgrade of the sub berth may be undertaken during the additional hours of 1.00 pm and 6.00 pm on Saturdays and 8.00 am and 6.00 pm on Sundays. Dredging associated with the Development may be undertaken on a 24 hour basis, 7 days a week.	Planned working hours within the allowed period. Entry logs for workers to verify working hours and type of work done on Saturdays not available. Periodic Inspection checklists for the period Feb. 2015 to Aug 2015 (sheet piling activities) do not indicate any out of hours work done.	Compliant	
SSD 5353	Port and Berthing works	C16. Construction works outside of the work hours identified in condition C15 may be undertaken in the following circumstances: (a) works that are inaudible at nearest sensitive land receivers; (b) for the delivery of materials required outside these hours by the NSW Police Force or other authorities for safety reasons; (c) where it is required in an emergency to avoid the loss of lives, property and/or to prevent environmental harm; (d) works approved through an approved EPL; or (e) works as approved through the out-of-hours work protocol outlined in the Construction Noise and Vibration Management Plan required under condition C36(b).	Construction Noise and Vibration out-of-hours work protocol (August 2013). Audit checklists seen between 27-2-2015 and 29-7-2015. Include a checkpoint for noise and work hours. No evidence of exceedance. No work was required to take place outside standard working hours.	Compliant	
Construction Noise and Vibration					
SSD 5353	Port and Berthing works	C17. The Development shall be constructed with the aim of achieving the construction noise management levels detailed in the <i>Interim Construction Noise Guideline</i> (DECC, 2009). All feasible and reasonable noise mitigation measures shall be implemented and any activities that could exceed the construction noise management levels shall be identified and managed in accordance with the Construction Noise and Vibration Management Plan required under condition C36(b). This shall include the implementation of respite periods in response to noise complaints, particularly in relation to high noise generating activities (including piling and rock revetment).	No noise complaints on record. Noise monitoring logs seen - 7 rounds of independent noise monitoring were done by an independent consultant (GHD). First report October 2013. 2nd 7 Nov 2013 concludes that sheet piling complied with the noise criteria specified in the Noise and Vibration Management Plan (September 2013).	Compliant	
SSD 5353	Port and Berthing works	C18. The Applicant shall undertake attended monitoring on a monthly basis during construction works outside of standard construction hours and at the commencement of and during high noise generating works (including piling and rock revetment) to confirm noise levels at residences along Prince Charles Parade and at the Ranger's residence at Kamay Botany Bay National Park.	As above		
		C19. The Development shall be constructed with the aim of achieving the following construction vibration goals: (a) for structural damage, the vibration limits set out in the German Standard DIN 4150-3: Structural Vibration - effects of vibration on structures; and (b) for human exposure, the acceptable vibration values set out in the Environmental Noise Management Assessing Vibration: A Technical Guideline (Department of Environment and Conservation, 2006).	No vibration measurements and evaluation (as specified in DIN 4150) was undertaken. Noted that the EIS did not contain concerns regarding vibration.	Not Compliant LOW	Caltex advised that they considered DIN 4150 not applicable as it is primarily for structures with static loads and not dynamic as with the wharf. The IEA team decided as this was not absolute non-applicability and even limited / restricted applicability makes the condition a requirement to be met. It is noted that the EIS did not identify vibration as an issue requiring monitoring during works.
HERITAGE MANAGEMENT					
Maritime Management					
SSD 5353	Port and Berthing works	C20. Prior to the commencement of construction, the Applicant shall commission an appropriately qualified maritime archaeologist to: (a) undertake magnetic or side sonar scans of the Development site to determine the presence of any previously unidentified items of maritime heritage (including ship wrecks) to the satisfaction of the Heritage Council of NSW; and (b) should any items be identified, develop a management strategy for the items during the construction and operation of the Development in consultation with the Heritage Council of NSW.	Marine Heritage report 18/10/2013, by the Australian Maritime national museum, team included an archaeologist. A State Maritime Archaeologist of the Office of Environment and Heritage was consulted and concluded that a management strategy was not required, no items were identified by the study.	Compliant	
SSD 5353	Port and Berthing works	C21. The management strategy shall be submitted for the Director General's approval providing written evidence of consultation and agreement with the recommendations from the Heritage Council of NSW. Construction must not commence in the area where items have been uncovered until written approval has been received from the Director General for the management strategy.	Not required as no unidentified items of maritime heritage found	Compliant	
Archival Record					
SSD 5353	Port and Berthing works	C22. Prior to the commencement of construction, the Applicant shall commission an appropriately qualified heritage expert to undertake archival recording of the existing fabric and operation of the Kurnell Wharf, in particular the existing infrastructure at Fixed Berth 1, which would be replaced as part of the Development. The archival recording shall be submitted to the Heritage Council of NSW Library prior to the removal or demolition of any existing elements.	Refinery Heritage Management Strategy Report by Australian museum consultant February 2014. Evidence that it was submitted. 30/11/2015 acceptance letter	Compliant	
Potential for Discovery of Aboriginal and Non-Aboriginal Heritage Objects					
SSD 5353	Port and Berthing works	C23. If during the course of construction the Applicant becomes aware of any previously unidentified heritage object(s), all work likely to affect the object(s) shall cease immediately and the Heritage Council of New South Wales shall be notified immediately in accordance with section 146 of the <i>Heritage Act 1977</i> . Relevant works shall not recommence until written authorisation from the Heritage Council of NSW is received by the Applicant.	None were found. The dredging supervisor's Daily checklist included a question about heritage and related objects. None were reported.	Compliant	
SSD 5353	Port and Berthing works	C24. If during the course of construction the Applicant becomes aware of any previously unidentified Aboriginal object(s), all work likely to affect the object(s) shall cease immediately and the OEH informed in accordance with section 89A of the <i>National Parks and Wildlife Act 1974</i> . Relevant works shall not recommence until written authorisation from OEH is received by the Applicant.	Comments as above	Compliant	
AIR QUALITY MANAGEMENT					
Odour Impacts					
SSD 5353	Port and Berthing works	C25. The Applicant shall implement an odour screening protocol for sediments excavated during dredging and implement all feasible and reasonable mitigation measures to ensure that odour generation during dredging do not exceed an odour limit of 2 odour units at the nearest residential receivers during the construction works.	The dredging supervisor's Daily checklist included a question about odour (rotten egg gas /H2S). No adverse findings were reported.	Compliant	

		Dust Generation			
SSD 5353	Port and Berthing works	C26. The Applicant shall implement all feasible and reasonable mitigation measures to ensure that the Development is constructed in a manner that minimises dust emissions from the site, including wind-blown and traffic-generated dust and tracking of material onto public roads. All works shall be undertaken with the objective of preventing visible emissions of dust from the site. Should such visible dust emissions occur at any time, the Applicant shall identify and implement all feasible and reasonable dust mitigation measures, including cessation of relevant works, as appropriate, such that emissions of visible dust cease.	The dredging supervisor's Daily checklist included a question to check for a veneer of water over the dredged sediments in the hoppers that would consequently prevent dust. No adverse findings were reported.	Complaint	
		TRANSPORT AND ACCESS			
		Construction Access			
SSD 5353	Port and Berthing works	C27. The designated construction access route for the delivery of materials for construction purposes shall be via Captain Cook Drive, Prince Charles Parade and Solander Street. Unless otherwise agreed to by the Director General (supported by appropriate traffic and transport justification), at no time shall construction vehicles use residential streets in Kurnell for construction access. Should any additional roads be agreed to by the Director General for construction access, these roads would be subject to the requirement for a road dilapidation survey and report to be prepared prior to their use as identified in condition C28.	Traffic management plan (October 2013) was issued in line with the designated access route. The plan was handed to contractors.	Compliant	
		Road Dilapidation			
SSD 5353	Port and Berthing works	C28. Prior to the commencement of construction, The Applicant shall commission an independent and qualified person or team to undertake a road dilapidation survey of all roads proposed to be used for construction material haulage as specified in condition C27 and prepare a Road Dilapidation Report. The report shall assess the current condition of the road and describe mechanisms to restore any damage that may result due to traffic and transport related to the construction of the Development. The Report shall be submitted to the relevant road authority for review prior to the commencement of construction vehicle haulage. Following completion of construction, a subsequent report shall be prepared to assess any damage that may have resulted from the construction of the Development. Measures undertaken to restore or reinstate roads affected by the Development shall be undertaken in a timely manner, in accordance with the reasonable requirements of the relevant road authority, and at the full expense of the Applicant.	Reports seen: Road Dilapidation Report 2/8/2013 by Caltex. No evidence of Submission. 12/9/2013 Construction Delivery Road condition done by WP, also 18/4/2016 post construction report by WP. Concluded that construction haulage did not exacerbate existing surface distress. No measures to restore roads were needed.	Not Compliant Administrative	NC relates to evidence of submission of report - otherwise compliant
SSD 5353	Port and Berthing works	C29. The Applicant shall provide sufficient parking facilities at its temporary laydown facility for construction personnel and heavy vehicles to ensure that construction traffic associated with the Development does not utilise public and residential streets or public parking facilities for parking.	"Right of way" parking space was provided of about 10,000 m2.	Compliant	
		PROPERTY IMPACTS			
SSD 5353	Port and Berthing works	C30. Any damage caused to property or public infrastructure as a result of the Development shall be rectified or the property or asset owner appropriately compensated, within a reasonable timeframe, with the costs borne by the Applicant.	No damage reported.	Compliant	
		WASTE MANAGEMENT			
		Waste Management On-site			
SSD 5353	Port and Berthing works	C31. The Applicant shall not cause, permit or allow any waste generated outside the site to be received at the site for storage, treatment, processing, reprocessing, or disposal on the site, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997, if such a licence is required in relation to that waste.	Statement	Note	
SSD 5353	Port and Berthing works	C32. The Applicant shall maximise the reuse and/or recycling of waste materials generated on site, to minimise the need for treatment or disposal of those materials outside the site.	Construction environmental management plan - CEMP, one for wharf infrastructure upgraded and one for Sheet Pile Wall and Rock Revetment. 3/10/2013, by WP. Both have section 8.8 - waste and resource management.	Compliant	
SSD 5353	Port and Berthing works	C33. The Applicant shall ensure that all liquid and/or non-liquid waste generated on the site is assessed and classified in accordance with <i>Waste Classification Guidelines</i> (DECC, 2008), or any future guideline that may supersede that document and where removed from the site is only directed to a waste management facility lawfully permitted to accept the materials.	As above. No deviations from waste records sampled.	Compliant.	

		ENVIRONMENTAL REPRESENTATIVE			
SSD 5353	Port and Berthing works	<p>C34. Prior to the commencement of construction, or as otherwise agreed by the Director General, the Applicant shall nominate for the approval of the Director General a suitably qualified and experienced Environmental Representative(s) that is independent of the design, construction and operational personnel. The Applicant shall employ the Environmental Representative(s) for the duration of construction, or as otherwise agreed by the Director General. The Environmental Representative(s) shall:</p> <p>(a) be the principal point of advice in relation to the environmental performance of the Development;</p> <p>(b) monitor the implementation of environmental management plans and monitoring programs required under this consent and advise the Applicant upon the achievement of these plans/ programs;</p> <p>(c) have responsibility for considering and advising the Applicant on matters specified in the conditions of this consent, and other licences and consents related to the environmental performance and impacts of the Development;</p> <p>(d) be given the authority to review and confirm whether works associated with the Development are classified as Construction (or not) under this development consent, and if classified as Construction, advise on the relevant pre-Construction and Construction requirements that the works would be subject to under this consent;</p> <p>(e) be given the authority to approve/ reject minor amendments to the Construction Environment Management Plan. What constitutes a "minor" amendment shall be clearly explained in the Construction Environment Management Plan required under condition C35;</p> <p>(f) be given the authority and independence to require reasonable steps be taken to avoid or minimise unintended or adverse environmental impacts, and failing the effectiveness of such steps, to direct that relevant actions be ceased immediately should an adverse impact on the environment be likely to occur; and</p> <p>(g) be consulted in responding to the community concerning the environmental performance of the Development where the resolution of points of conflict between the Applicant and the community is required.</p>	Simon Caples was nominated and approved by DG on 30/9/2013. Responsibility and authority defined in both CEMPs, section 7. Covered specified requirements in C34.		
				Compliant	
		CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN			
SSD 5353	Port and Berthing works	<p>C35. Prior to the commencement of construction, or as otherwise agreed by the Director General, the Applicant shall prepare and implement (following approval) a Construction Environmental Management Plan for the Development. The Plan shall outline the environmental management practices and procedures that are to be followed during construction, and shall be prepared in consultation with the relevant government agencies and in accordance with the <i>Guideline for the Preparation of Environmental Management Plans</i> (Department of Infrastructure, Planning and Natural Resources, 2004). The Plan shall include, but not necessarily be limited to:</p> <p>(a) a description of activities to be undertaken during construction of the Development (including staging and scheduling);</p> <p>(b) statutory and other obligations that the Applicant is required to fulfil during construction, including approval/consents, consultations and agreements required from authorities and other stakeholders under key legislation and policies;</p> <p>(c) a description of the roles and responsibilities for relevant employees involved in the construction of the Development, including relevant training and induction provisions for ensuring that employees, including contractors and sub-contractors are aware of their environmental and compliance obligations under these conditions of consent;</p> <p>(d) an environmental risk analysis to identify the key environmental performance issues associated with the construction phase; and (e) details of how environmental performance would be managed and monitored to meet acceptable outcomes, including what actions will be taken to address identified potential adverse environmental impacts (including any impacts arising from the staging of the construction of the Development). In particular, the following environmental performance issues shall be addressed in the Plan:</p>	2 CEMPs were prepared to split the work between work on the water and work on the wharf. Both CEMPs cover the requirements specified in C35. The Plans were submitted and approved - date 15/10/2013. Sub-clause (f) states that where there is any inconsistency between a Consent Condition and the approved CEMP (incl. sub-plans) that the Consent Condition shall prevail. The variation in the S&WQMP for the TBT monitoring method was inconsistent with the Consent Condition C3 - noted that this variation was clearly stated in the S&WQMP and approved by the DPE; it was described that the real time monitoring was not technical possible and an alternative sampling programme specified.	Not Compliant Administrative - see link to C3	Graded administrative as it was assessed as being a case of the wrong variation approval mechanism used. The variation was relatively minor and it was clearly stated.

SSD 5353	Port and Berthing works	<p>C35 cont. i) sediment and water quality management within the Bay;</p> <ul style="list-style-type: none"> (ii) marine ecology management; (iii) noise and vibration; (iv) odour and air quality management; (v) traffic and access (vi) management of Aboriginal and non-Aboriginal heritage; (vii) waste management; (viii) emergency, including spill management; (ix) compounds and ancillary facilities management; (x) operational and navigation safety during construction within the Bay; and (xi) means for assessing (and where identified) for managing interactions and cumulative impacts from the concurrent construction of other development works in the area should these coincide with the Development (e.g. the Caltex Refinery upgrade works). <p>(f) The Plan shall be submitted for the approval of the Director General prior to the commencement of construction. The Plan may be prepared in stages, however, construction works shall not commence until written approval has been received from the Director General. The approval of a Construction Environmental Management Plan does not relieve the Applicant of any requirement associated with this development consent. If there is an inconsistency with an approved Construction Environmental Management Plan and the conditions of this development consent, the requirements of this development consent prevail.</p>		As above cont.	
SSD 5353	Port and Berthing works	<p>C36. As part of the Construction Environmental Management Plan for the Development required under condition C35 the Applicant shall prepare and implement (but not necessarily be limited to) the following:</p> <ul style="list-style-type: none"> (a) a Dredging and Spoil Management Plan to address the management of sediment and water quality during dredging within the Bay, prepared in consultation with the EPA and including, but not necessarily be limited to: <ul style="list-style-type: none"> (i) a Sediment and Water Quality Monitoring Program in accordance with the requirements of condition C3; (ii) measures to address the management and monitoring of any potential acid sulphate soils excavated during dredging in the Bay to prevent their oxidation into actual acid sulphate soils prior to final re-use or disposal, including contingency measures to be implemented in case of acid generation; and (iii) a Spill Control Plan; (b) a Construction Noise and Vibration Management Plan to detail how construction noise and vibration impacts will be minimised and managed. The Plan shall be consistent with the guidelines contained in the Interim Construction Noise Guidelines (DECC, 2009) be prepared in consultation with the EPA. The Plan shall include, but not necessarily be limited to: <ul style="list-style-type: none"> (i) identification of sensitive land receivers and relevant construction noise and vibration goals applicable to the Development stipulated in this consent; (ii) details of construction activities and an indicative schedule for construction works; including the identification of key noise and/or vibration generating construction activities (based on representative construction scenarios, including at ancillary facilities) that have the potential to generate noise and/or vibration impacts on surrounding sensitive land receivers, particularly residential areas; (iii) identification of feasible and reasonable measures proposed to be implemented to minimise and manage construction noise and vibration impacts, with particular consideration to works outside of standard construction hours; (iv) a description of how the effectiveness of these actions and measures would be monitored during the proposed works, clearly indicating how often this monitoring would be conducted, the locations where monitoring would take place, how the results of this monitoring would be recorded and reported, and, if any exceedance is detected, how any non-compliance would be rectified; and (v) an out-of-hours work (OOHW) protocol for the assessment, management and approval of works outside of standard construction hours (not already allowed under this consent) as defined in condition C16, including a risk assessment process under which an Environmental Representative may approve out-of-hour construction activities deemed to be of low environmental risk and refer high risk works for the Director General's approval. The OOHW protocol shall detail standard assessment, mitigation and notification requirements for high and low risk out-of-hour works, and detail a standard protocol for referring applications to the Director General; 	<p>DSMP - prepared by WP, submitted on 1/10/2013.</p> <p>Monitoring Program (SWQMP) - Sept 2013.</p> <ul style="list-style-type: none"> to (ii) corresponding measures on section 8.2 DSMP (iii) spill control plan - section 7.6 incident management. (ii) referenced in section 8.5 also Noise and Vibration Management plan (Oct. 2013) (iv) covered in the above plan section 5.3 (v) covered in construction Noise and vibration out of hours work protocol, Aug. 2013. 	Compliant	

		<p>C 36 continued</p> <p>(b) a Construction Noise and Vibration Management Plan to detail how construction noise and vibration impacts will be minimised and managed. The Plan shall be consistent with the guidelines contained in the Interim Construction Noise Guidelines (DECC, 2009) be prepared in consultation with the EPA. The Plan shall include, but not necessarily be limited to:</p> <p>(i) identification of sensitive land receivers and relevant construction noise and vibration goals applicable to the Development stipulated in this consent;</p> <p>(ii) details of construction activities and an indicative schedule for construction works; including the identification of key noise and/or vibration generating construction activities (based on representative construction scenarios, including at ancillary facilities) that have the potential to generate noise and/or vibration impacts on surrounding sensitive land receivers, particularly residential areas;</p> <p>(iii) identification of feasible and reasonable measures proposed to be implemented to minimise and manage construction noise and vibration impacts, with particular consideration to works outside of standard construction hours;</p> <p>(iv) a description of how the effectiveness of these actions and measures would be monitored during the proposed works, clearly indicating how often this monitoring would be conducted, the locations where monitoring would take place, how the results of this monitoring would be recorded and reported, and, if any exceedance is detected, how any non-compliance would be rectified; and</p> <p>(v) an out-of-hours work (OOHW) protocol for the assessment, management and approval of works outside of standard construction hours (not already allowed under this consent) as defined in condition C16, including a risk assessment process under which an Environmental Representative may approve out-of-hour construction activities deemed to be of low environmental risk and refer high risk works for the Director General's approval. The OOHW protocol shall detail standard assessment, mitigation and notification requirements for high and low risk out-of-hour works, and detail a standard protocol for referring applications to the Director General;</p>			
SSD 5353	Port and Berthing works	<p>C36 continued</p> <p>(c) an Air Quality Management Plan outlining procedures to be implemented to monitor and manage odour and dust generation from the Development site in accordance with conditions C25 and C26; and</p> <p>d) a Construction Traffic and Access Management Plan to manage and minimise access and traffic impacts associated with the Development particular to residential streets at Kurnell, focusing on those periods (such as the concrete pour period) when peaks in traffic generation are expected to occur. The sub-plan shall include, but not necessarily be limited to: (i) identification of designated construction traffic access routes and periods of high traffic generation; (ii) details of designated vehicle parking, turning areas and ingress and egress points into temporary construction work compounds/ laydown areas; and (iii) how shift changes and delivery times shall be restricted to standard day time hours where practicable; (iv) details of management measures to minimise traffic impacts, including avoiding vehicle queuing and parking on public roads, safe pedestrian access and disruptions to traffic.</p>	<p>Air Quality Management Plan by Caltex, Oct 2013.</p> <p>Construction Traffic and Access Management Plan, Caltex, Oct 2013.</p>	Compliant	
COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT					
Community Consultation					
SSD 5353	Port and Berthing works	D1. The Applicant shall continue the existing community consultative committee for the life of the Development with the Kurnell community.	Invitation to community meeting 27/4/2016	Compliant	
SSD 5353	Port and Berthing works	<p>D2. Prior to the commencement of construction the Applicant shall prepare (and following approval) implement a Community Consultation Plan, for the approval of the Director General to identify the consultation and notification procedures that would be undertaken during the construction of the Development to keep the general community and stakeholder groups informed of the construction works and measures to minimise impacts to these groups. The Plan shall include but not be limited to:</p> <p>(a) identification of key stakeholder groups that require notification and engagement on the construction works including (but not necessarily limited to):</p> <p>(i) recreational users of the Bay such as recreational fishing and boating groups and divers;</p> <p>(ii) users of Silver Beach;</p> <p>(iii) residents along Prince Charles Parade;</p> <p>(iv) the local community at Kurnell;</p> <p>(v) DPI (Fisheries) personnel working on the Ausgrid cable laying project seagrass rehabilitation site; and</p> <p>(vi) Local Council;</p> <p>(b) key matters on which these stakeholders groups would be kept informed of including: the commencement of construction works, access restrictions and exclusion zones within the Bay and near Silver Beach, the commencement and location of dredging, high noise generating works, traffic disruptions and means for providing comment or complaints on the Development;</p> <p>(c) procedures for engagement with and notification of these stakeholder groups by means that best targets each stakeholder group (e.g. on site signage, newspaper notifications, letter box drops, website updates, community meetings, notifications in stakeholder specific websites such as recreational fishing posts etc.), including frequency of notification; and</p> <p>(d) the means for ongoing engagement (as required) with relevant public authorities (e.g. EPA, OEH, DPI (Fisheries), Sydney Ports Corporation, Council and the Department) and notification in the case of an environmental incident.</p>	<p>Community Consultation Plan (CCP) - Caltex, October 2013 , approved by the DG on 15/10/2013.</p> <p>The letters described in 3.2 of CCP:</p> <p>first letter Feb. 2013, then May 2013, 14/10/13, 1/11/2013, 25/11/2014, 1/11/2015 completion of wharf conversion.</p> <p>14/10/13 - project commencement sent to EPA, OEH, DPI, Sydney ports corporation.</p> <p>10/2/2015 - communication about the final phase</p>	Compliant	

		Complaints and Enquiries Procedure			
SSD 5353	Port and Berthing works	D3. Prior to the commencement of construction, or as otherwise agreed by the Director General, the Applicant shall ensure that the following are available for community enquiries and complaints for the duration of construction: (a) a 24 hour telephone number(s) on which complaints and enquiries about the Development may be registered; (b) a postal address to which written complaints and enquires may be sent; (c) an email address to which electronic complaints and enquiries may be transmitted; and (d) a mediation system for complaints unable to be resolved.	Seen on the newspaper - the Sutherland Leader (17/10/2013)	Compliant	
SSD 5353	Port and Berthing works	D4. The telephone number, the postal address and the email address shall be published in newspaper(s) circulating in the local area prior to the commencement of construction and prior to the commencement of operation. This information shall also be provided on the website (or dedicated pages) required by this consent.	Seen on the newspaper - the Sutherland Leader (17/10/2013)	Compliant	
SSD 5353	Port and Berthing works	D5. Prior to the commencement of construction, or as otherwise agreed by the Director General, the Applicant shall prepare and implement a Construction Complaints Management System consistent with AS 4269: <i>Complaints Handling</i> and maintain the System for the duration of construction and up to 12 months following completion of the Development. Information on all complaints received, including the means by which they were addressed and whether resolution was reached, with or without mediation, shall be maintained as part of the System and included in the construction compliance reports required by this consent. The information contained within the System shall be made available to the Director General on request.	Construction Complaints Management System is part of the EMS/QMS. Compared to AS 4269 - generally consistent, no deviations noted. No complaints were received.	Compliant	
		Provision of Electronic Information			
SSD 5353	Port and Berthing works	D6. Prior to the commencement of construction, or as otherwise agreed by the Director General, the Applicant shall establish and maintain a new website, or dedicated pages within an existing website, for the provision of electronic information associated with the Development, for the duration of construction and for 12 months following completion of the Development. The Applicant shall, subject to confidentiality, publish and maintain up-to-date information on the website or dedicated pages including, but not necessarily limited to: information on the current implementation status of the Development; (b) a copy of the documents referred to under condition B1 of this consent, and any documentation supporting modifications to this consent that may be granted from time to time; (c) a copy of this consent and any future modification to this consent; (d) a copy of each relevant environmental approval/consent, licence or permit required and obtained in relation to the Development; (e) a copy of each current strategy, plan, program or other document required under this consent; (f) the outcomes of compliance tracking in accordance with condition D7 of this consent; and (g) details of contact point(s) to which community complaints and enquiries may be directed, including a telephone number, a postal address and an email address.	www.caltex.com.au under community and environment Information on the current implementation status of the Development is missing.	Not Compliant Administrative	
		COMPLIANCE MONITORING AND TRACKING			
		Compliance Tracking program			
SSD 5353	Port and Berthing works	D7. The Applicant shall develop and implement a Compliance Tracking Program to track compliance with the requirements of this consent. The Program shall be submitted to the Director General for approval prior to the commencement of construction and operate for a minimum of one year following commencement of operation, subject to the Director General's review of the outcomes of the environmental auditing referred to in condition F1. The Program shall include, but not necessarily be limited to:(a) provisions for the notification of the Director General prior to the commencement of construction and prior to the commencement of operation of the Development (including prior to each stage, where works are being staged); (b) provisions for periodic review of the compliance status of the Development against the requirements of this consent; (c) provisions for periodic reporting of compliance status to the Director General, including a Pre- Construction Compliance Report, construction reporting, and a Pre-Operation Compliance Report; (d) a program for independent environmental auditing in accordance with ISO 19011:2003 - Guidelines for Quality and/ or Environmental Management Systems Auditing during construction; (e) mechanisms for recording environmental incidents during construction and actions taken in response to those incidents; (f) provisions for reporting environmental incidents to the Director General and relevant public authorities during construction; (g) procedures for rectifying any non-compliance identified during environmental auditing, review of compliance or incident management; and (h) provisions for ensuring all employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent relevant to their respective activities.	Compliance Monitoring and Tracking Program - sept 2013, by Caltex. Submitted and approved by the GD on 17/10/2013. Provisions for notifications in section 7. Following deficiencies observed: - Compliance status was planned to be audited within 6 weeks of the commencement - not done. Regular compliance audits are planned but frequency is not defined - the program says that audit frequency will be based to risk. No evidence of compliance audits seen - noted that daily inspections were seen during dredging, further inspections were seen during pilling but not full compliance audits. - No evidence that the compliance status was reported to the DG. - Pre-construction compliance report not available - pre-operation compliance report not seen - Clauses 6.2 and 6.4 of CMTP do not cover the requirements of d) - frequency and auditing during construction. It covers a period of 5 years after the start of operation of the upgraded wharf.	Not Compliant LOW Risk	Noted that there were inspections / monitoring controls, these do not equate to full compliance audits.
		Incident Reporting			
SSD 5353	Port and Berthing works	D8. The Applicant shall notify the Director General of any incident with actual or potential significant off-site impacts on people or the biophysical environment within 24 hours of becoming aware of the incident. The Applicant shall provide full written details of the incident to the Director General within seven days of the date on which the incident occurred.	No incidents were recorded	Compliant	

SSD 5353	Port and Berthing works	D9. The Applicant shall meet the requirements of the Director General to address the cause or impact of any incident, as it relates to this consent, reported in accordance with condition D8 of this consent, within such period as the Director General may require.	No incidents were recorded	Compliant	
		HAZARD AND RISK			
		Safety Management System			
SSD 5353	Port and Berthing works	E1. At least two months prior to the commencement of commissioning, the Applicant shall update its Safety Management System to include any changes due to the development. The document shall clearly specify all safety related procedures, responsibilities and policies, along with details of mechanisms for ensuring adherence to the procedures. Records shall be kept on-site and shall be available for inspection by the Director General upon request. The updated Safety Management System shall be developed in accordance with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 9, 'Safety Management'.	Commencement of commissioning date not one date. Several parts of the project were commissioned at different dates. Final part (fire systems) were commissioned on 15/10/15. EMS documents updated as necessary, example: 200.14 - wharf example 200.14.081 submarine berth facilities lines. Maintenance Records kept on SAP.	Compliant	
		OPERATIONAL ENVIRONMENTAL MANAGEMENT			
SSD 5353	Port and Berthing works	E2. Prior to the commencement of operation, the Applicant shall incorporate the Development into any existing environmental management systems administered by the Applicant and prepared in accordance with the AS/NZS ISO 14000 Environmental Management System series.	The operation was not considered as a new development, existing EMS is compliant to 14001:2004 and the wharf is within its existing scope.	Compliant	
		ENVIRONMENTAL MONITORING AND AUDITING			
		Environmental Auditing			
SSD 5353	Port and Berthing works	F1. Within one year of the commencement of operations and for a period of at least 5 years thereafter (unless otherwise agreed to by the Director General), the Applicant shall fund a full independent environmental audit. The audit shall be undertaken by a suitably qualified person/team approved by the Director General. The audits shall be made publicly available and would: (a) be carried out in accordance with ISO 14010 – Guidelines and General Principles for Environmental Auditing and ISO 14011 – Procedures for Environmental Auditing; (b) assess compliance with the requirements of this consent, and other licences and approvals that apply to the development; (c) assess the construction against the predictions made and conclusions drawn in the development application and EIS; (d) review the effectiveness of the environmental management of the development, including any environmental impact mitigation works and mitigation implemented to address matters identified in previous audits; and (e) where required identify any additional or ongoing monitoring or mitigation measures to be put in place to manage residual environmental impacts associated with the Development. A copy of the audit report and the measures proposed by the Applicant to respond to matters identified in the audit including timeframe for their implementation shall be submitted for the Director General's approval within three months of the completion of the audit, unless otherwise agreed to by the Director General.	This audit covers the requirements.	Compliant	