

Report

# Ministerial Statement 771: Herb Elliott Port Third Berth Upgrade

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## Environmental Compliance Report

March 2012  
P-AU-EN-0012\_Rev 0






**Fortescue**  
The New Force in Iron Ore

P-AU-EN-0012\_Rev 0

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		Ministerial Statement 771: Compliance Audit		P-AU-EN-0012_Rev 0	
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## Performance Compliance Report – Ministerial Statement 771

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Details of compliance of the Herb Elliott Port Third Berth Upgrade project with Ministerial Statement (MS) 771 during the 2011 calendar year reporting period are given in Table 1, based on the Ministerial Statement Audit Table for the project.

Project activities during the reporting period have been in compliance with requirements of MS 771.

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**Table 1: Performance Compliance Audit Table for Ministerial Statement 771 – Port Facility Upgrade Anderson Point**

Notes:

- Phases that apply in this table: Pre-Construction; Construction; Operation; Decommissioning; Overall (several phases)
- This audit table is a summary and timetable of conditions and commitments applying to this project. Refer to the Minister’s Statement for full detail/precise wording of individual elements.
- Code prefixes: M = Minister’s condition; P = Proponent’s commitment; A = Audit specification; N = Procedure.
- Any elements with status = “Audited by proponent only” are legally binding but are not required to be addressed specifically in compliance reports, if complied with.
- Acronyms list: Min for Env = Minister for the Environment; CEO = Chief Executive Officer of DEC; DEC = Department of Environment and Conservation; EIAD = Environmental Impact Assessment Division; DMP = Department of Mines and Petroleum; EPA = Environmental Protection Authority; DoH = Department of Health; DoW = Department of Water; EPA = Environmental Protection Authority; DIA = Department of Indigenous Affairs.
- Status definitions: C = Compliant; CLD = Completed; NC = Non – compliant; NA = Not Audited; NR = Not required at this stage; VR = Verification Required.

Number	Issue	Phase	Action	Plan Requirements	Verification	Status
771:M1	Implementation	Overall	Implement the proposal as documented and described in Schedule 1 of Statement 771 subject to the conditions and procedures of this statement.		Refer to Attachment 1 of MS 771 table.	<b>C</b>
771:M2.1	Proponent Nomination	Overall	The proponent for the time being nominated by the Minister for the Environment under section 38(6) or 38(7) of the <i>Environmental Protection Act 1986</i> is responsible for the implementation of the proposal.		Fortescue remains the proponent of the proposal.	<b>C</b>
771:M2.2	Proponent Nomination	Overall	Notify the Chief Executive Officer of the Department of Environment and Conservation (CEO) of any changes of the name and address within 30 days of such change.		No address change in during the reporting period.	<b>C</b>
771:M3.2	Commencement	Overall	Substantially commence the proposal within five years of the date of this statement or the approval granted in this statement shall lapse and be void.		Proposal substantially commenced by 5 August 2013. Refer to EPA <i>Notice of Desktop Audits of Statements 690, 707, 721,</i>	<b>CLD</b>

Number	Issue	Phase	Action	Plan Requirements	Verification	Status
					<i>771: Pilbara Iron Ore and Infrastructure Project</i> , dated 15 January 2010.	
771:M3.2	Commencement	Overall	Notify the CEO that the proposal has substantially been commenced on or before the expiration of five years from the date of the Statement.		Due 5 August 2013	<b>NR</b>
771:M4.1	Compliance Audit – Compliance Reports	Overall	Submit compliance reports to the CEO.		Compliance reports submitted up to 2010 refer to 2010 AER (100-RP-En-0017_Rev0). This submission of this compliance report completes the requirement for 2011.	<b>C</b>
771:M4.2	Compliance Audit – Audit Program	Design	Prepare an audit program.		An <i>Audit Program</i> , 29/08/08 (P-RP-EN-0022-MS) for Ministerial Statement 771 was developed.	<b>CLD</b>
771:M4.3	Compliance Audit – Compliance Reports	Overall	Submit compliance reports to the DEC.		Audit Program and Compliance Reports (this document) submitted to DEC.	<b>C</b>
771:M4.4	Compliance Audit – Compliance Reports	Overall	Make the environmental compliance reports publicly available.		The environmental compliance reports are publicly available at: <a href="http://www.fmg.com.au/our_commitment/Environment/Environment_Library">http://www.fmg.com.au/our_commitment/Environment/Environment_Library</a>	<b>C</b>
771:M5.1	Performance Review	Operation	Submit a Performance Review Report at the conclusion of the second and fifth years after the completion of construction and then at such intervals as the CEO may regard as reasonable.		The construction of the Third Berth was still underway at the completion of the reporting period. Performance Review Reports are not required until 2014.	<b>NR</b>

Number	Issue	Phase	Action	Plan Requirements	Verification	Status
771:M6.1	Mangrove Protection	Overall	Ensure that the proponent does not cause the loss of, or deterioration in the condition of, any mangroves or their habitats outside of the proposal area.	*Plan not required to be approved but was found acceptable.	Mangrove monitoring during construction indicated no loss of or deterioration in the condition of any mangroves or their habitats outside of the proposal area.	C
771:M6.2:1	Level of mangrove destruction	Overall	The total area of closed-canopy mangroves directly and indirectly disturbed within the port area shall not exceed 14.8 hectares (including that caused by Stage A), as depicted/specified by meeting the requirements of condition 6-1 above.  Note: for the purposes of this condition: core closed canopy mangroves are defined as the following mangrove associations: Closed Canopy <i>Rhizophora stylosa</i> ; <i>Avicennia marina</i> ; Closed canopy <i>Avicennia marina</i> (seaward); Closed canopy <i>Avicennia marina</i> (landward); and Low open woodland <i>Avicennia marina</i> .		A Section 45c was granted (LR-100-E-2873) for the disturbance of an additional 3 ha of mangroves for MS 690 (Stage A). This additional disturbance was unrelated to the third birth project, but alters this condition (6.2.1) to 17.8 ha as the two statements relate to the same allowable mangrove disturbance figure.  The total area of mangrove disturbance at the end of the reporting period was 15.52 ha and has therefore not exceeded the revised level of allowable clearance of 17.8 ha for MS 690.	C
771:M6.2:2	Level of mangrove destruction	Overall	Obtain prior written authorisation of the Minister of the Environment on advice of the EPA if the total area of core-closed canopy mangroves directly and indirectly adversely affected within the port project area (including that caused by Stage A) is to exceed 14.8 hectares.		Clearing has not exceeded allowable level of mangrove destruction, refer to Condition 6.2:1.	NR
771:M7.1	Acid Sulphate Soil (ASS)	Construction	For that portion of the project area which lies within the Port Hedland Port Authority		The <i>Port Facility – Acid Sulphate Soils Management Plan (P-PL-EN-</i>	C

Number	Issue	Phase	Action	Plan Requirements	Verification	Status
			Boundary, do not disturb soils unless in accordance with the Acid Sulphate Soil Management Plan required under Ministerial Statement 690.		0015) outlines management strategies and procedures for dealing with acid sulphate soils. No ASS was disturbed during construction in the reporting period.	
771:M8.1	Port Area Rehabilitation	Operation	Rehabilitate all areas not required for on-going operations for the portion of the proposal that lies within the Port Hedland Port Authority Boundary.		As stated in Section 2.12 of the 2008 AER, rehabilitation works for the Port access road and the train unloader area were undertaken in November 2008.	C
771:M8.2	Port Area Rehabilitation Plan amendment	Construction	Incorporate the port area rehabilitation strategies for this proposal into the Port Area Rehabilitation Plan as required by condition 13-1 of Ministerial Statement 690.		The revised <i>Port Area Rehabilitation Management Plan</i> was submitted on 5 September 2008. Refer to EPA <i>Notice of Desktop Audits of Statements 690, 707, 721, 771: Pilbara Iron Ore and Infrastructure Project</i> , dated 15 January 2010 (refer to Appendix A1).	CLD
771:M8.3	Implementation of the Revised Port Area Rehabilitation Plan	Operation	Implement the Revised Port Area Rehabilitation Plan required by condition 8-2.		The Third Berth was in construction phase during the entire reporting period.	NR
771:M8.4	Public availability of the Revised Port Area Rehabilitation Plan	Construction	Make the Revised Port Area Rehabilitation Plan required by condition 8-2 publicly available.		<i>Port Area Rehabilitation Management Plan (P-PL-EN-0002)</i> publicly available at: <a href="http://www.fmg.com.au/our_commitment/Environment/Environment_Library">http://www.fmg.com.au/our_commitment/Environment/Environment_Library</a>	CLD
771:M9.1	Dredging and Reclamation Monitoring and	Construction	Monitor and control water quality (salinity, pH, dissolved oxygen, temperature and turbidity) associated with dredging	All conditions were met	Conditions met.	C

Number	Issue	Phase	Action	Plan Requirements	Verification	Status
	Management		operations to protect the environmental values of the Port Hedland Inner Harbour (including marine communities and habitats, mangrove ecosystem, near-shore tidal reef systems and recreational fishing).			
771:M9.2	Dredging and Reclamation Management Plan Amendment	Design	Incorporate the Dredging and Reclamation monitoring and management strategies for this project into the Dredging and Reclamation Monitoring and Management Plan as required by condition 14-1 of Ministerial Statement 690.		Dredging and reclamation monitoring and management strategies have been incorporated into Revision 4 of the <i>Dredging and Reclamation and Monitoring Management Plan (P-PL-EN-0004)</i> .  Refer to EPA <i>Notice of Desktop Audits of Statements 690, 707, 721, 771: Pilbara Iron Ore and Infrastructure Project</i> , dated 15 January 2010.	<b>CLD</b>
771:M9.3:1	Implementation of the Revised Dredging and Reclamation Monitoring and Management	Construction	Implement the Revised Dredging and Reclamation Monitoring and Management Plan required by condition 9-2.		<i>Dredging and Reclamation and Monitoring Management Plan (P-PL-EN-0004)</i> implemented.	<b>C</b>
771:M9.3:2	Implementation of the Revised Dredging and Reclamation Monitoring and Management	Operation	Implement the Revised Dredging and Reclamation Monitoring and Management Plan required by condition 9-2.		The Third Berth project was in construction phase during the entire reporting period.	<b>NR</b>
771:M9.4	Public availability of the Revised Dredging and Reclamation	Design	Make the Revised Dredging and Reclamation Monitoring and Management Plan required by condition		<i>Dredging and Reclamation and Monitoring Management Plan (P-PL-EN-0004)</i> publicly available at:	<b>CLD</b>



Number	Issue	Phase	Action	Plan Requirements	Verification	Status
	Monitoring and Management Plan		9-2 publicly available.		<a href="http://www.fmg.com.au/our_commitment/Environment/Environment_Library">http://www.fmg.com.au/our_commitment/Environment/Environment_Library</a> Refer to EPA <i>Notice of Desktop Audits of Statements 690, 707, 721, 771: Pilbara Iron Ore and Infrastructure Project</i> , dated 15 January 2010 (Appendix A1).	
771:M9.5	Revised Dredging and Reclamation Monitoring Management Plan	Operation	Report as part of the Performance Review Report required by condition 5-1 the condition of the environmental values of the Port Inner Harbour.  Note: Within this condition, the Port Hedland Inner Harbour is defined as the area landward of a line between Hunt Point and Airey Point and within the Port Hedland Port Authority Boundary.		The Third Berth project was in construction phase during the entire reporting period.  The Performance Review Reports are due at the conclusion of the second and fifth years after the completion of construction (2014).	NR
771:M10.1	Introduced Marine Species and Dredging Equipment	Construction	Immediately prior to departure for the Port Hedland Port Authority Boundary, arrange for all dredging equipment and associated vessels to be inspected by an appropriately qualified marine scientist or appropriately qualified expert, accompanied by a Department of Fisheries Officer.		Dredging equipment inspected. Refer to EPA <i>Notice of Desktop Audits of Statements 690, 707, 721, 771: Pilbara Iron Ore and Infrastructure Project</i> , dated 15 January 2010 (refer to Appendix A1).	CLD
771:M10.2	Introduced Marine Species	Design	Where a proponent is of a view that the dredge and associated equipment represents a low risk of introducing marine organisms an exemption from condition 10-1 can be requested.		All vessels were inspected (DOC63753, DOC60493) and an exemption was not requested.	CLD

Number	Issue	Phase	Action	Plan Requirements	Verification	Status
771:M10.3	Marine pest introduction	Construction	Manage any sediment or fouling organism found as a consequence of the inspection required by condition 10-1.		No sediment or fouling organisms found. Refer to EPA <i>Notice of Desktop Audits of Statements 690, 707, 721, 771: Pilbara Iron Ore and Infrastructure Project</i> , dated 15 January 2010 (refer to Appendix A1).	CLD
771:M10.4	Introduction of marine organisms	Construction	If the dredging equipment is to be transferred to another location within Western Australian territorial waters following the completion of dredging and disposal activities, the proponent shall undertake an inspection of all dredging equipment.		The Leonardo da Vinci was transferred to Port Botany NSW. A risk assessment (was undertaken that indicated limited risk of transfer of hull fouling introduced species. InterMarine Consulting Pty Ltd (IMCO) provided certification that the Leonardo da Vinci posed no significant threat of transferring introduced marine species.	CLD
771:M10.5	Introduction of marine organisms	Construction	In the event of a marine organism being introduced the proponent shall report the findings to the Department of Fisheries, and shall immediately put in place an agreed Introduced Marine Organisms Management Strategy.		Surveys undertaken show no evidence of the introduction of marine pests in the Port area.	C
771:M11.1:1	Dust	Construction	Monitor and control dust associated with the construction of the port in accordance with the Dust Management Plan prepared under Ministerial Statement 690.		Dust monitored and controlled in accordance with <i>Port Facility Dust Environmental Management Plan (P-PL-EN-0010)</i> .	C
771:M11.1:2	Dust	Operation	Monitor and control dust associated with the operation of the port in accordance with the Dust Management Plan prepared		Although this condition is not required at this stage for MS 771 due to the construction status of the project, dust	NR

Number	Issue	Phase	Action	Plan Requirements	Verification	Status
			under Ministerial Statement 690.		continues to be monitored for the whole of port operation.	
771:M12.1	Construction Noise	Construction	Undertake construction activities in compliance with regulation 13 of the Environmental Protection (Noise) Regulations 1997.		Construction works associated with Ministerial Statement 771 were undertaken in compliance with regulation 13 of the Environmental Protection (Noise) Regulations 1997.	<b>C</b>

**Table 2: Performance Compliance Audit Table for Schedule 1 – Key Characteristics Table (Attachment 1) of Ministerial Statement 771– Port Facility Upgrade Anderson Point**

Notes:

- Acronyms list: Min for Env = Minister for the Environment; CEO = Chief Executive Officer of DEC; DEC = Department of Environment and Conservation; EIAD = Environmental Impact Assessment Division; DMP = Department of Mines and Petroleum; EPA = Environmental Protection Authority; DoH = Department of Health; DoW = Department of Water; EPA = Environmental Protection Authority; DIA = Department of Indigenous Affairs.
- Status definitions: C = Compliant, CLD = Completed, NC = Non – compliant, NA = Not Audited, NR = Not required at this stage, VR = Verification Required.

Element	Description of Approved Change to Proposal (as of 14 November 2008)	Verification	Status
Volume of material to be dredged for the third ship berth	Not more than 4,050,000m <sup>3</sup>	The total volume dredged for berths 1,2 and 3 was 2,357,625 m <sup>3</sup>	C
Duration of dredging	27 months approximately from October 2008	Dredging completed in January 2011	CLD
Area of marine disturbance (does not include mangrove disturbance)	Not more than 45.9 ha	Area of marine disturbance as of end of reporting period: 27.71 ha	C
Settlement area on land	Not more than 285 ha (of which 162 ha was previously approved)	Northern Settlement Area – 52.7 ha Southern Settlement Area- 53.2 ha Eastern Settlement Area – 76.6 ha South-Eastern Settlement Area – 60 ha	C
Height of bunds around spoil dumps	Eastern Settlement Area: Not more than 14 m. South Eastern Settlement Area: Not more than 12 m.	Eastern Settlement Area – currently <11m South Eastern Settlement Area – currently <10 m	C