

Your reference : S02/02248/2 17 May 2005 & 6 April 2006  
Our reference :  
Contact : Warwick Brown, 02 6024 8833

Scott Jeffries  
Director  
Major Infrastructure Assessments  
Department of Planning  
GPO Box 39  
SYDNEY NSW 2001

Attention: Ms Mary Mikulandra

Dear Mr Jeffries

**MODIFICATION TO ACTIVITY APPROVAL (S02/02248/2) ISSUED UNDER SECTION 115 B OF THE EP&A ACT 1979**

On 17<sup>th</sup> May 2005, the Minister for Planning approved the Darling Anabranh Management Plan. The Plan is a government funded water recovery measure under The Living Murray initiative. The project is part of the Darling Anabranh Management Plan, with activity approval given to former DNR on behalf of Water Administration Ministerial Corporation (WAMC) as proponent. DECC has been administering the project on behalf of WAMC since April 2007. This Plan included, among other activities, the removal or modification of in-stream water regulation structures along the Anabranh channel.

Prior to proceeding with the in-stream infrastructure works, the Department of Environment and Climate Change undertook a detailed review of the works to ensure that the best environmental, social and economic outcome would be achieved. The review recommended a number of changes to the proposed removals/modifications and examined an additional 15 structures.

Subsequently, a Review of Environmental Factors was undertaken to assess any potential environmental impact of the new works and assess the consistency of the proposed works with the approved Plan and Minister's approval. The REF concluded that the works as modified met the aims and objectives of the project, did not significantly alter the project or have an additional adverse significant impact on the environment and that the modifications were consistent with the approved project. The REF concluded that no approval from the Minister for Planning was required to undertake the modified actions as identified in the 2007 review of the in-stream infrastructure.

In addition, external legal advice was sought on whether the proposed modifications to the Darling Anabranh in-stream structures were consistent with the activity approval from the Minister for Infrastructure and Planning under the Environmental Planning and Assessment (EP&A) Act. A copy of the legal advice prepared by Henry Davis York (HDY), dated 14<sup>th</sup> March 2008, was provided to the Department of Planning.

The Department of Environment and Conservation NSW is now known as  
the Department of Environment and Climate Change NSW

PO Box 829, Albury NSW 2640  
Level 2, Government Office Block,  
512 Dean Street, Albury NSW  
Tel: (02) 6024 8844 Fax: (02) 6021 3857  
ABN 30 841 387 271  
[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

Department of **Environment & Climate Change** NSW



The HDY advice concluded that the modifications proposed in the *Review of Environmental Factors for Detailed Design Modifications of In-stream Infrastructure and Consistency Assessment of Modifications with the Approved Project*, Report No. DC08035, June 2008 were consistent with the existing approval and therefore did not require separate approval from the Minister for Planning. The advice also confirmed there was no requirement to seek approval from the Minister to implement the recommendations to the in-stream structures examined in the REF.

Further to the works described in the EIS, the Review and the REF there have been further minor changes to the schedule of works arising from consultation with various stakeholders and the tender/contract process. A final listing of originally and currently proposed works is shown in Attachment A. Attachment B provides further information on the currently proposed works, including justification for the works and any potential impacts. Attachment C provides further background information. The DECC is of the view that these works do not have an additional adverse environmental impact on the environment and that the modifications are entirely consistent with the approved project.

Notwithstanding, and following recent advice from the Department of Planning, the DECC is requesting a modification to the activity approval to reflect the minor variations to the original proposed scope of works. A Request to Modify a Major Project Form has been completed and is attached. The requested modification is as follows:

Insert in Schedule 1:

5. Letter of 27 February 2009 from the Department of Environment and Climate Change to the Department of Planning outlining minor variations to the removal/modification of instream infrastructure.

Please contact me on 02 6024 8844 or 0419 291 027 should you require further information or wish to discuss this matter.

Yours sincerely



**BRIAN WILD** 27/2/09  
**Director Water Recovery and Environmental Flows**  
**Department of Environment and Climate Change**

# Request to modify a major project



NSW GOVERNMENT  
Department of Planning

Date duly made: \_\_\_\_/\_\_\_\_/\_\_\_\_

Modification No. \_\_\_\_\_

## 1. Before you lodge

This form is required under section 75W of the *Environmental Planning and Assessment Act 1979* (the Act) in order to request the Minister to modify the Minister's approval to carry out a project or concept plan to which Part 3A of the Act applies.

Before making this request, it is recommended that you first consult with the Department of Planning (the Department) concerning your modification. The Director-General may issue environmental assessment requirements that must be complied with before your request will be considered by the Minister. If the changes proposed by the modification will result in a project that is consistent with the existing approval, the Minister's approval for a modification is not required.

### Disclosure Statement

Persons making a request to modify a project or concept plan are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years.

Note: For more details about political donations disclosure requirements, including a disclosure form, go to [www.planning.nsw.gov.au/donations](http://www.planning.nsw.gov.au/donations).

### Lodgement

All modification requests must be lodged with the Director-General of the Department of Planning, by courier or mail. An electronic copy should also be e-mailed to the assessment contact officer assigned to the project.

NSW Department of Planning  
Ground floor, 23-33 Bridge Street, SYDNEY NSW 2000  
GPO Box 39 SYDNEY NSW 2001  
Phone 1300 305 695

## 2. Details of the proponent

Company/organisation/agency

The Water Admin. Ministerial Corporation

ABN

32471530421

☒ Mr ☐ Ms ☐ Mrs ☐ Dr ☐ Other

First name

Family name

Position

STREET ADDRESS

Unit/street no.

Street name

Suburb or town

State

Postcode

NSW

POSTAL ADDRESS (or mark 'as above')

c/- PO BOX 733

Suburb or town

State

Postcode

QUEANBEYAN

NSW

2620

Daytime telephone

Fax

Mobile

Email

### 3. Identify the land

STREET ADDRESS (where relevant)

Unit/street no.

Street or property name

Suburb, town or locality

Postcode

Local government area(s)

State Electorate(s)

REAL PROPERTY DESCRIPTION

See Attachment 1

Note: The real property description is found on a map of the land or on the title documents for the land. If you are unsure of the real property description, you should contact the Department of Lands.

Please ensure that you place a slash (/) to distinguish between the lot, section, DP and strata numbers. If the proposed modification applies to more than one piece of land, please use a comma to distinguish between each real property description.

OR: detailed description of land attached: ☒

**MAP: A map of the site and locality should also be submitted with this request.**

### 4. Details of the original major project or concept plan

Briefly describe what the original approval allows

The original approval comprised two major components:

1. Construction of a pipeline system to deliver water from the Darling and Murray Rivers to landowners along the Darling Anabranh; and
2. Reinstatement of environmental flows along the Darling Anabranh including the removal/modification of instream infrastructure works, the restoration of wetting and drying cycles in the anabranh and implementation of adaptive management principles.

What was the original project application no.?

S/02/022248/2

What was the date of the approval?

17 May 2005

What was the original application fee?

unknown

Note: Clause 245K of the *Environmental Planning and Assessment Regulation 2000* provides information on calculating the maximum fee for a request for modification.

### 5. Describe the modification you propose to make to the approval

Describe the proposed modification

Minor variations to the removal/modification of instream infrastructure works as described in the letter from the DECC to the Department of Planning dated 27 February 2009.

Your modification request may need to be accompanied by an Environmental Assessment, including plans. An electronic and hard copy of this document will be required.

#### ESTIMATED CAPITAL INVESTMENT VALUE

Please indicate the estimated capital investment value (CIV) of the modification to the project approval or concept plan (excluding GST).

\$ no change

#### FULL TIME EQUIVALENT JOBS

Please indicate the number of jobs created by the proposed modification. This should be expressed as a proportion of full time equivalent (FTE) jobs over a full year.

Construction jobs (FTE)

no change

Operational jobs (FTE)

no change

### 6. Landowner's consent (where required)

As the owner(s) of the above property, I/we consent to this request being made by the proponent:

Land

Not required as a public authority application.

Signature

Name

Date

Land

Signature

Name

Date

Note: Under Clause 8F of the *Environmental Planning and Assessment Regulation 2000* (the Regulation), certain applications for approval under Part 3A of the Act do not require consent of the landowner, however, the proponent is required to give notice of the application (e.g. linear infrastructure, mining & petroleum projects, and critical infrastructure).

### 7. Political donation disclosure statement

Persons making a request to modify a project or concept plan are required to declare reportable political donations (including donations of or more than \$1,000) made in the previous two years.

Have you attached a disclosure statement to this request?

☐ Yes

☒ No

Note: For more details about political donations disclosure requirements, including a disclosure form, go to [www.planning.nsw.gov.au/donations](http://www.planning.nsw.gov.au/donations).

### 8. Proponent's signature

As the proponent(s) of the project and in signing below, I/we hereby:

- provide a description of the modification to the project approval or concept plan and address all matters required by the Director-General pursuant to Section 75W of the Act, and
- declare that all information contained within this form is accurate at the time of signing.

Signature



Name

Brian Wild

Date

27 February 2009

In what capacity are you signing if you are not the proponent

DECC administering project on behalf of the WAMC since April 2007.

Name, if you are not the proponent

Department of Environment & Climate Change

# ATTACHMENT 1 – SECTION 3 IDENTITY OF THE LAND REAL PROPERTY DESCRIPTION

62 Bingo Main Dam CP 896-3015 Crown Land Allanvale I AWT Easting 568,351.0 Northing 6,248,388.0  
59 Bells Camp Blockbank - Middle Anabranch Bed Crown Land Crown Parcel - 895-3015 Lamplough B AWT 570,920.0 6,257,307.0  
58 Bells Camp Main Dam Lot 3285 DP 765541 WLL Crown Parcel - 894-3015 Lamplough I AWT  
57 Lamplough Bridge Lot 3284 DP 765540 / Anabranch WLL / CL Lamplough R Lamplough 573,228.0 6,259,719.0  
56 Bulpunga Bridge Lot 497 DP 761440 WLL Bulpunga R Bulpunga 569,201.0 6,261,036.0  
53 Watara Crossing Lot 496 DP 761439 WLL Watara I Watara 569,793.0 6,263,575.0  
39 183 Dam Lot 7 DP 756171 Free Hold Crown Parcel - 1761980 Wyndham I AWT / Counc 574,739.0 6,298,669.0  
17 Moola Crossing Lot 1918 DP 763896 WLL Crown Parcel - River Manilla I AWT 586,242.0 6,321,827.0  
14 Cuthero Dam Lot 4274 DP 766962 WLL Cuthero I AWT 593,824.0 6,338,922.0  
10 Newhouse Dam Lot 1 DP 757165 Free Hold Crown Parcel - River Cuthero I AWT 597,591.0 6,347,579.0  
7 Junction Dam DP 767027 (undefined title, Dep of Lands) Crown Parcel - River Wycott I State Water 607,158.0 6,358,546.0  
6 Warwicks Crossing Bywash Lot 5588 DP 768488 WLL Wycott B State Water 606,462.0 6,364,743.0  
5 Warwicks Crossing Lot 5588 DP 768488 WLL Wycott I State Water 607,217.0 6,364,251.0  
2 Chapel Hut Bywash Lot 5705 DP 768605 WLL Willotia B State Water 604,588.0 6,370,934.0  
1 Chapel Hut Crossing Lot 5705 DP 768605 WLL Willotia I State Water 604,734.0 6,370,973.0

## Notes

- Cross reference number with Appendix E, Review of Environmental Factors, Review of Environmental Factors for Detailed Design Modifications of In-stream Infrastructure and Consistency Assessment of Modifications with the Approved Project, Report No. DC08035, June 2008
- AWT = Anabranch Water Trust
- E = easting and N =northing

# **ATTACHMENT A – PROPOSED WORKS**

Blockbank Name	EIS Recommendations	Current Scope of Works
Chapel Hut Crossing	Low Crossing	High Crossing
Willotta Crossing	Remove	Remove
Wanwicks Crossing	High Crossing	Remove
Junction Dam	High Crossing	Remove
Wycot Private Bridge	No Action	No Action
Newhouse Dam	Low Crossing	Remove
Bonds Windmill Dam	No Action	No Action
Ridges Dam	No Action	No Action
Cuthero Bridge	No Action	No Action
Cuthero Dam	Low Crossing	Remove
Comra Dam	High Crossing	High Crossing
Moola Crossing	Low Crossing	No Action
Moola Dam	Remove	Remove
Patagorah Main Dam	No Action	No Action
Patagorah Bywash	Remove	Remove
Woodlands Private Bridge	No Action	No Action
Woodland Main Dam	Remove	Remove
Woodlands Bywash	No Action	No Action
Willow Point Private Bridges (East & West)	No Action	No Action
Windamingle Dam & Regulator	Remove	Remove
183 Dam	No Action	Remove Gates Only
Nindethana Private Bridge	No Action	No Action
Bunnerungie Bridge	No Action	No Action
Duck Pool Main Dam	Remove	Remove
Duck Pool Middle Bywash	No Action	No Action
Duck Pool East Bywash	No Action	No Action
Toora Main Dam	High Crossing	High Crossing
Toora Bywash	Upgrade for Stability	Upgrade for Stability



Quambi Dam	Remove	Remove
Watara Crossing	Low Crossing	Remove
Bulpunga Private Bridge	Upgrade	No Action
Lamplough Private Bridge	Upgrade	No Action
Bells Camp Main Dam	No Action	Remove
Bells Camp Middle Blockbank	Remove	No Action
Bells Camp Bywash (West)	No Action	No Action
Glen Esk Bridge	No Action	No Action
Bingo Main Dam	Low Crossing	Remove
Bingo Bywash	No Action	No Action
Tara Downs Shire Road Crossing	High Crossing	High Crossing
Tara Downs Main Dam	No Action	No Action
Tara Downs Middle Bywash	Remove	Remove
Tara Downs West Bywash	No Action	No Action
Warras Dam	Remove	To be Addressed Following End of System Flow Review
Tona Private Bridge	No Action	No Action
Oakbank	Upgrade for Fish Passage	To be Addressed Following End of System Flow Review
Warwicks Crossing Bywash	Not Addressed	Remove
Chapel Hut Bywash	Not Addressed	Seal Pipes
<b>Legend</b>		
	Modified Scope of Works	
	New Works	
Low Crossing	Low Level Ford Crossing	
High Crossing	High Level Bridge or Culvert Crossing	

# ATTACHMENT B

Blockbank Name	REF Impact Assessment Reference	Comments
Newhouse Dam	Appendix B - Item 14	The impact of the removal of this structure was assessed in the EIS as part of the works required to carry out a Low Crossing. It was determined in the REF that no additional impact from those stated in the EIS would be encountered. The landholder has signed a declaration that this access crossing is no longer required. The new scope of work is consistent with the overall objective of the EIS to restore a more natural flow regime in the Anabranch. This is achieved by the removal of structures that impede the flow while providing for Fish Passage and Property Access requirements.
Cuthero Dam	Appendix B - Item 16	The impact of the removal of this structure was assessed in the EIS as part of the works required to carry out a Low Crossing. It was determined in the REF that no additional impact from those stated in the EIS would be encountered. The landholder has signed a declaration that this access crossing is no longer required. The new scope of work is consistent with the overall objective of the EIS to restore a more natural flow regime in the Anabranch. This is achieved by the removal of structures that impede the flow while providing for Fish Passage and Property Access requirements.
Bells Camp Main Dam	Appendix B - Item 48	This structure is being removed in the place of Bells Camp Middle Blockbank. The Anabranch splits in two for a short distance and these blockbanks seal off one route each. The overall impact of removing Bells Camp Main Dam is low. While some additional vegetation is required to be removed no threatened Flora was recorded at this site. The removal of this structure also improves flows and fish passage. The greatest benefit is that the Bells Camp Middle Blockbank has been recorded as one of the Culturally sensitive sites being worked on in the project, the Main Dam has no archaeology recorded. The landholder has signed a declaration that this access crossing is no longer required. The research completed in the REF ensures the new scope of work to be consistent with the overall objectives of the EIS.
Bingo Main Dam	Appendix B - Item 52	The impact of the removal of this structure was assessed in the EIS as part of the works required to carry out a Low Crossing. It was determined in the REF that no additional impact from those stated in the EIS would be encountered. The landholder has signed a declaration that this access crossing is no longer required. The new scope of work is consistent with the overall objective of the EIS to restore a more natural flow regime in the Anabranch. This is achieved by the removal of structures that impede the flow while providing for Fish Passage and Property Access requirements.
183 Dam	Appendix B - Item 32	The EIS recommended that the gates be permanently left open therefore no additional environmental impacts will be encountered through removal of the gates.
Chapel Hut Crossing	Appendix B - Item 2	As the existing structure requires removal prior to the construction of either a High or Low Crossing the impacts associated with tree removal and the removal of the weir pool are the same as assessed in the EIS. The new structure will enable flows to pass and fish passage. Access arrangements for property operation will be improved for the landholder in high flows.

## Legend

Low Crossing  
High Crossing

Low Level Ford Crossing  
High Level Bridge or Culvert Crossing

Blockbank Name	Justification for Undertaking Proposed Scope of Works	Comments
Warwicks Crossing	Landowner no longer requires this access crossing.	There is little change in the impact assessed in the EIS. The existing structure was recommended to be removed and therefore impacts associated with tree and pool removal are the same as that assessed in the EIS. Removal of the structure will enable improved flow and fish passage. The landholder has signed a declaration that this access crossing is no longer required. The new scope of work is consistent with the overall objective of the EIS to restore a more natural flow regime in the Anabranch. This is achieved by the removal of structures that impede the flow while providing for Fish Passage and Property Access requirements.
Warwicks Crossing Bywash	State Water no longer wishes to own any structures along the Anabranch. The landholder does not wish to take over responsibility / maintenance for the structure. The structure is therefore recommended for removal.	While approximately 15 Black Box trees will need to be removed during construction works no threatened flora was recorded. There is an archaeological site approximately 100m to the west of the bywash. This will be protected by the erection of a temporary barrier and by cultural heritage monitors being on site. The proposed works will improve fish passage and remove the bywash pool in time of flow. Flows would not be impeded. The landholder has signed a declaration that this access crossing is no longer required. The scope of works is therefore in line with the overall objective of the EIS.
Junction Dam	Landowner no longer requires this access crossing.	The impact of the removal of this structure was assessed in the EIS as part of the works required to carry out a Low Crossing. It was determined in the REF (which addressed replacing the crossing) that no additional impacts from those stated in the EIS would be encountered. The landholder has signed a declaration that this access crossing is no longer required. The new scope of work is consistent with the overall objective of the EIS to restore a more natural flow regime in the Anabranch. This is achieved by the removal of structures that impede the flow while providing for Fish Passage and Property Access requirements.
Watara Crossing	This structure is to be removed to comply with Fish Passage and because it currently impedes flow down the Anabranch.	The impact of the removal of this structure was assessed in the EIS as part of the works required to carry out a Low Crossing. The new scope of work is consistent with the overall objective of the EIS to restore a more natural flow regime in the Anabranch. This is achieved by the removal of structures that impede the flow while providing for Fish Passage and Property Access requirements.
Bells Camp Middle Blockbank	This site is culturally sensitive.	By removing the Bells Camp Main Dam in the place of this structure it avoid having to perform construction work in the vicinity of culturally sensitive artefacts.
Chapel Hut Bywash	Adherence to the fish passage strategy and high crossing at Chapel Hut capable of handling environmental flows.	The pipes through this blockbank do not have any control gates. The DPI (Fisheries) has stipulated that the pipes be sealed to remove the attraction of fish to the downstream end of the culvert structures. The proposal is consistent with the recommendations of the fish passage strategy.
Moola Crossing	Landowner no longer requires this access crossing.	The landholder has signed a written declaration that this access crossing is no longer required. The existing non trafficable bridge structure will not be removed as it does not impede flow or prevent fish passage. The scope of works is therefore in line with the overall objective of the EIS.
Bulpunga Private Bridge	Landowner no longer requires upgrade to bridge structure.	Existing bridge meets fish passage requirements and does not impede flow down the Anabranch. The bridge is still used as an adequate access crossing over the Anabranch. No additional impacts will be encountered due to no construction work being undertaken.
Lamplough Private Bridge	Landowner no longer requires upgrade to bridge structure.	Existing bridge meets fish passage requirements and does not impede flow down the Anabranch. The landowner no longer requires this bridge as an access crossing. No additional impacts will be encountered due to no construction work being undertaken.

## **ATTACHMENT C**

### **Introduction**

The Darling Anabranh Pipeline and Environmental Flows Project (the Project) is a government funded water recovery measure under The Living Murray initiative. The project is part of the Darling Anabranh Management Plan, with activity approval given to DNR on behalf of Water Administration Ministerial Corporation (WAMC) as proponent. DECC has been administering the project on behalf of WAMC since April 2007. The Project involves the construction of a stock and domestic pipelined water supply system to create water savings and provide a reliable water supply to landholders along the Great Anabranh of the Darling River (Darling Anabranh).

Government constructed new works required for the pipelined water supply system. These works, which include the main pipeline, associated spur lines (totalling 317 km in length) and pumping stations, are currently under the control and management of WAMC. The Great Anabranh of the Darling River Private Water Supply and Irrigation District (AWPID) was constituted under the Water Management Act 2000 to enable, through its board of management, operation and management of the pipelined water supply system in the future.

### **Background**

1. Prior to proceeding with the Stage 2 in-stream infrastructure works, a detailed (Stage 2) review of the works as described in the EIS was undertaken to ensure that all structures were assessed and that the best environmental, social and economic outcome would be achieved by the proposed works;
2. The review established that there were some 61 structures (15 more than originally examined in the EIS). The review recommended the removal of 27 in-stream structures, construction of 13 low-level ford crossings, construction of 6 high-level structures and the removal of gates from an in-stream structure at Dam 183;
3. The outcomes of the review have been incorporated in a revised scope of the works;
4. An REF (*Review of Environmental Factors for Detailed Design Modifications of In-stream Infrastructure and Consistency Assessment of Modifications with the Approved Project*, prepared for the Department of Environment and Climate Change, Report No. DC08035, June 2008) was commissioned to assess the potential environmental impact of any new works and modifications to works as described in the EIS. An electronic copy of the REF has been provided to the Department of Planning;
5. The REF concluded that the proposed works would not significantly impact on the environment or significantly alter the impacts as described in the EIS;
6. The REF included a consistency review to ensure that proposed works were consistent with the:
  - The procedures, safeguards and mitigation measures of the EIS;
  - Representations report;
  - The Minister's activity approval under the *NSW Environmental Planning and Assessment Act 1979*; and
  - Approval under the *Environment Protection and Biodiversity Conservation Act 1999*.

The REF concluded that the modifications were consistent with the above. The EIS and representations report acknowledged that there would be a detailed design process where actions for the in-stream infrastructure would be reviewed.

7. The conclusions of the Consistency Assessment undertaken as part of the *Review of Environmental Factors for Detailed Design Modifications of In-stream Infrastructure and Consistency Assessment of Modifications with the Approved Project* were that the works as modified would not have an additional adverse significant impact on the environment and that the modifications are consistent with the approved project. The modified works as a whole would have beneficial impacts. The proposed modifications meet the aims and objectives of the project to improve the environment of the Anabranh Channel by providing a more natural flow regime. The modifications would not significantly alter the project. The REF concluded that no approval from the Minister for Planning was required to undertake the modified actions as identified in the 2007 review of the in-stream; and
8. The conclusion of the REF was verified by legal advice provided by Henry Davis York, dated 14 March 2008, a copy of which has been made available to the Department.
9. Further to the works described in the EIS, the Review and the REF there has been other minor changes to the schedule of works as consultation with stakeholders about implementation of specific works and the tender/contract process have evolved. A final listing of the originally and currently proposed works is shown in Attachment A. The DECC considers that these modifications do not have an additional adverse significant impact on the environment and are entirely consistent with the approved project. An amended Construction Environmental Management Plan has been provided to the Department under separate cover.