

Activity Approval

Section 115B of the *Environmental Planning & Assessment Act 1979*

I, the Minister for Infrastructure and Planning approve under s.115B of the *Environmental Planning and Assessment Act 1979* the Activity referred to in Schedule 1, subject to the conditions in Schedule 2.

Craig Knowles MP
Minister for Infrastructure and Planning
Minister for Natural Resources

Dated this day of

2004

S03/0021Z

SCHEDULE 1: DESCRIPTION OF ACTIVITY

The Activity is the Towra Beach Nourishment Project as described in the:

1. Environmental impact statement (EIS) for the Towra Beach Nourishment prepared by SMEC Australia, dated August 2003 and the Representations report prepared by the Waterways Authority dated, 19 December 2003.

SCHEDULE 2: CONDITIONS OF APPROVAL – TOWRA BEACH NOURISHMENT PROJECT

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DEFINITIONS

Activity	The activity described in Schedule 1 of this Approval.
Ancillary Facility	Temporary facility for Construction such as office and amenities compound, concrete batch plant, materials storage compound.
Approved Activity Area	The footprint of the Activity covered by the Conditions of Approval.
Conditions of Approval	The Minister's Conditions of Approval for the Activity
Construction	Includes all work in respect of the Activity other than survey, acquisitions, fencing, investigative drilling or excavation, building/road dilapidation surveys, minor clearing (except where threatened species, populations or ecological communities would be affected), establishing site compounds (in locations meeting the criteria of the Conditions), or other activities certified by the EMR to have minimal environmental impact (e.g. minor access roads, minor adjustments to services/utilities, etc.).
Department, the	Department of Infrastructure, Planning and Natural Resources
Director General, the	Director General of the Department or delegate
Director General's Agreement	A written advice from the Director General (or delegate).
Director General's Approval	A written approval from the Director General (or delegate). Where the Director General's Approval is required under a Condition the Director General will endeavour to provide a response within one month of receiving an approval request. The Director General may ask for additional information if the approval request is considered incomplete. When further information is requested the time taken for the Proponent to respond in writing will be added to the one month period.
Director General's Report	The report provided to the Minister by the Director General of the Department under section 115C of the <i>Environmental Planning and Assessment Act 1979</i> .
EIS	Towra Beach Nourishment Environmental Impact Statement (August 2003)
Minister, the	Minister for Infrastructure and Planning.
Post-Construction	Means after the Activity is constructed, but does not include commissioning trials of equipment or temporary use of parts of the Activity during Construction.
Proponent	The Waterways Authority

Publicly Available	Available for inspection by a member of the general public (for example available on an internet site or at a display centre)
Reasonable and Feasible	Consideration of best practice taking into account the benefit of proposed measures and their technological and associated operational application in the NSW and Australian context. Feasible relates to engineering considerations and what is practical to build. Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and nature and extent of potential improvements.
Relevant Councils	City of Botany Bay and Sutherland Shire Council
Relevant Government Departments	Generally one or more of DEC, NSW Fisheries, the Heritage Office, and DIPNR.
Representations Report	Towra Beach Nourishment Project Representations Report (December, 2003)

DIRECTOR GENERAL'S AGREEMENT

The phrase "agreed to by the Director General" in these Conditions of Approval means provision of written advice from the Director General.

ABBREVIATIONS

CEMP	Construction Environmental Management Plan
DEC	Department of Environment and Conservation
DIPNR	Department of Infrastructure, Planning and Natural Resources
EIS	Environmental Impact Statement
EMP	Environmental Management Plan
EMR	Environmental Management Representative
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
NPWS	National Parks and Wildlife Service

ADMINISTRATIVE CONDITIONS

The Activity

1. The Activity must be carried out consistent with:
 - (a) the procedures, safeguards and mitigation measures identified in the EIS, as modified by the Representations Report; and
 - (b) these Conditions.

These Conditions prevail in the event of any inconsistency with the requirements for the Construction and Post-Construction of the Activity arising out of the documents described in (a) above.

2. These Conditions of Approval do not relieve the Proponent of the obligation to obtain all other approvals and licences required under any other Act. The Proponent must comply with the terms and conditions of such approvals and licences.

Compliance

General

3. The Proponent must notify in writing the Director General, Relevant Government Departments and Relevant Councils of the start of the Activity's Construction. Such notification must be provided at least four weeks before the relevant start date unless otherwise agreed to by the Director General.
4. It is the responsibility of the Proponent to ensure compliance with all of these Conditions and to implement any measures arising from these Conditions of Approval.
5. The Proponent must comply with any requirements of the Director General arising from the Department's assessment of:
 - (a) any reports, plans or correspondence that are submitted to satisfy these Conditions of Approval; and
 - (b) the implementation of any actions or measures contained in such reports, plans or correspondence.

Staging Report

6. The Proponent may elect to construct the Activity in discrete work packages or defined stages provided that such stages or work packages are consistent with these Conditions of Approval. Where discrete work packages or defined stages are proposed, the Proponent must submit a Staging Report to the Director General at least four weeks before Construction commences (or within any other time agreed to by the Director General). The Staging Report must:
 - (a) describe the work packages or defined stages; and
 - (b) identify how the Conditions will be addressed in each work package or defined stage.

Pre-Construction Compliance Report

7. The Proponent must submit a Pre-Construction Compliance Report to the Director General at least four weeks before Construction commences (or within any other time agreed to by the Director General).

The Pre-Construction Compliance Report must include:

- (a) details of how the Conditions of Approval required to be addressed before Construction were complied with;
- (b) the time when each relevant Condition of Approval was complied with, including dates of submission of any required reports and/or approval dates; and
- (c) details of any approvals or licences required to be issued by Relevant Government Departments before Construction commences.

Environmental Impact Audits

Environmental Impact Audit Report – Post-Construction

8. An Environmental Impact Audit Report – Post-Construction must be submitted to the Director General two years, five years and 10 years after the Practical Completion of Construction of the Activity. The Environmental Impact Audit Report – Post-Construction must also be submitted to other government departments upon the request of the Director General.

The Environmental Impact Audit Report – Post-Construction must:

- (a) summarise the main environmental management plans and processes implemented during Construction and assess their effectiveness;
- (b) compare the Post-Construction impact predictions made in the EIS, Representations Report and any supplementary studies with the actual impacts;
- (c) assess the effectiveness of implemented mitigation measures identified Table 8.1 of the EIS and identify where action has been taken or proposed to be taken in response to the results of these measures;
- (d) assess any unforeseen environmental impacts and implement appropriate mitigation measures;
- (e) summarise the results of the monitoring programs outlined in Table 8.2 of the EIS, and
- (f) be made Publicly Available.

The Proponent must comply with all requirements of the Director General concerning any measures arising from, or recommendations in, the Environmental Impact Audit Report – Post-Construction.

ENVIRONMENTAL MANAGEMENT

Construction Environmental Management Plan

9. A Construction Environmental Management Plan (CEMP) must be prepared and implemented in accordance with these Conditions of Approval, all relevant Acts and Regulations and accepted best practice management procedures. The Proponent must obtain the Director General's Approval for the CEMP before Construction commences or within any other time agreed to by the Director General. The CEMP must be certified by the EMR to comply with the Conditions of Approval before the Proponent seeks the Director General's approval for the CEMP.

The Proponent must ensure that the mitigation measures identified in the EIS, Representations Report and in these Conditions are incorporated into the CEMP.

The CEMP must:

- (a) identify the Construction activities associated with the Activity including Construction sites and the staging and timing of proposed works;
- (b) identify where Ancillary Facilities will be located to avoid sensitive areas;
- (c) cover any relevant environmental elements identified by the Proponent, or its contractor, from their environmental due diligence investigations;
- (d) contain the Construction Sub Plans required by the Conditions of Approval;
- (e) be prepared following consultation with Relevant Government Departments and Relevant Councils;
- (f) be Publicly Available;
- (g) include environmental management details such as:

- i identification of statutory obligations which the Proponent is required to fulfil during Construction, including all approvals and licences;
- ii an environmental management structure indicating the responsibility, authority and accountability for personnel relevant to the CEMP;
- iii the role of the EMR;
- iv details of the Construction personnel induction and training program;
- v emergency response procedures;
- (h) include implementation details such as:
 - i identification of relevant environmental elements;
 - ii measures to avoid and/or control environmental impacts;
 - iii the tools to be used to implement the CEMP such as plans, schedules and work instructions;
- (i) include monitoring and review details such as:
 - i performance monitoring methods for all environmental elements;
 - ii auditing and corrective actions procedures;
 - iii CEMP review procedures.

Environmental Management Representative

10. The Proponent must request the Director General's Approval for the appointment of an Environmental Management Representative (EMR) at least one month before Construction commences (or within any other time agreed to by the Director General). In its request the Proponent must provide the following information, the:
 - (a) qualifications and experience of the EMR including demonstration of general compliance with *ISO19011:2002 - Guidelines for Quality and/or Environmental Management Systems Auditing* (or update) or equivalent experience;
 - (b) role and responsibility of the EMR;
 - (c) authority and independence (from the Proponent or its contractors) of the EMR including details of the Proponent's internal reporting structure; and
 - (d) resourcing of the EMR role. The EMR must be available:
 - i for sufficient time to undertake the EMR role. This timing shall be agreed between the Proponent and the EMR and advised to the Department in the request for approval;
 - ii at any other time requested by the Department; and
 - iii during any Construction activities identified in the CEMP to require the EMR's attendance.
11. The Director General may at any time immediately revoke the approval of an EMR appointment by providing written notice to the Proponent. Interim arrangements for EMR responsibility following the cancellation notice must be agreed in writing between the Department and the Proponent.
12. The Department may at any time conduct an audit of any actions undertaken by the EMR. The Proponent must:
 - (a) facilitate and assist the Department in any such audit; and
 - (b) include in the conditions of the EMR's appointment the need to facilitate and assist the Department in any such audit.
13. The EMR is authorised to:
 - (a) consider and advise the Department and the Proponent on matters specified in these Conditions of Approval and compliance with such;

- (b) certify that work does not fall within the definition of Construction where clarification is requested by the Proponent;
- (c) certify the CEMP;
- (d) certify the OEMP (if required);
- (e) review the Proponent's induction and training program for Construction personnel and monitor its implementation;
- (f) periodically monitor the Proponent's activities to evaluate the compliance of Construction activities with the CEMP. Periodic monitoring must involve site inspections of active work sites at least fortnightly;
- (g) provide a written report to the Proponent of non-compliance with the CEMP. Non compliance must be managed as identified in the CEMP;
- (h) direct the Proponent to stop work immediately if, in the view of the EMR, an unacceptable impact on the environment is occurring or is likely to occur. The EMR may also require that the Proponent initiate reasonable actions to avoid or minimise adverse impacts;
- (i) review corrective and preventative actions to ensure the implementation of recommendations made from audits and site inspections;
- (j) certify that minor revisions to the CEMP are consistent with the approved CEMP; and
- (k) provide regular (as agreed with the Department) reports to the Department on matters relevant to carrying out the EMR role including notifying the Director General of any stop work notices.

The EMR must immediately advise the Proponent and the Director General of any incidents relevant to these Conditions resulting from the Construction or Post-Construction of the Activity that were not dealt with expediently or adequately by the Proponent.

HERITAGE

Indigenous Heritage Management

14. An Indigenous Heritage Management Sub Plan must be prepared as part of the CEMP. The Sub Plan must be prepared in consultation with the relevant Local Aboriginal Land Council and DEC and include:
 - (a) mitigation measures including those identified in Table 8.1 of the EIS to be implemented;
 - (b) details of the archaeological investigations to be undertaken and any associated licences or approvals required;
 - (c) procedures to be implemented if previously unidentified Aboriginal objects are discovered during Construction; and
 - (d) an education program for all personnel on their obligations for Aboriginal cultural materials.

Aboriginal Objects

15. If during the course of Construction the Proponent becomes aware of any unexpected Aboriginal object(s), all work likely to affect the object(s) must cease immediately and the DEC informed in accordance with the *National Parks and Wildlife Act 1974*.

Historical Relics

16. An Historical Relic Management Sub Plan must be prepared as part of the CEMP. The Sub Plan must be prepared in consultation with the Heritage Office and Relevant Councils and include:
 - (a) mitigation measures including those identified in Table 8.1 of the EIS to be implemented;
 - (b) details of any investigations to be undertaken and any approvals required;

- (c) procedures to be implemented if previously unidentified historical relics are discovered during Construction; and
 - (d) an education program for all personnel on their obligations for historic relics.
17. If during the course of Construction the Proponent becomes aware of any unexpected historical relic(s), all work likely to affect the site(s) must cease immediately and the Heritage Council notified in accordance with the *Heritage Act 1977*.

FLORA AND FAUNA

18. A Flora and Fauna Management Sub Plan must be prepared as part of the CEMP. The Sub Plan must be prepared in consultation with Relevant Government Departments, Relevant Councils and other relevant stakeholders and include:
- (a) methods to reduce and manage impacts on flora and fauna species (terrestrial and aquatic) and their habitat which may be directly or indirectly affected by the Activity including those mitigation measures and monitoring identified in Tables 8.1 and 8.2 of the EIS;
 - (b) performance goals against which to measure the success of the methods;
 - (c) ecological details including:
 - i plans showing: vegetation communities highlighting important fauna habitat areas and threatened species locations; areas to be cleared; and a clearing program. The plan must cover the Approved Activity Area and extend to vegetation in adjoining areas where this is both contiguous with the Construction footprint and contains important fauna habitat areas and/or threatened species;
 - ii procedures for vegetation clearing and soil management during Construction;
 - iii strategies for minimising vegetation clearance within the Approved Activity Area and protection of vegetated areas outside that area;
 - iv where possible, strategies for re-using individuals or populations of any threatened plant species or endangered ecological communities in rehabilitation works;
 - (d) methods to reduce and manage impacts on seagrasses which may be directly or indirectly affected by the Activity. These shall include, but not limited to:
 - i safeguards to minimise turbidity and sedimentation, including channelling supernatant waters from beach nourishment works to areas where seagrasses are not established;
 - ii techniques for locating the dredge in areas which limits disturbance to seagrasses, and specifically avoids *Posidonia australis*, as identified in the EIS;
 - (e) strategies to prevent the spread of the noxious weed *Caulerpa taxifolia* including the requirement for all marine vessels used for the Activity to:
 - i undergo periodic inspection of anchors and chains;
 - ii avoid all known infestations of *C. taxifolia*, as identified in the EIS, on route to the Approval Activity Area;
 - (f) detailed plans showing: distribution of seagrass species; areas to be affected; and location of all known *C. taxifolia* infestations. The plan must cover the Approved Activity Area and extend to seagrasses in adjoining areas where this is contiguous with the Construction footprint.
 - (g) rehabilitation details including:
 - i identification of the locally native species to be used in rehabilitation and landscaping works, including flora species suitable as a food resource for threatened fauna species;
 - ii the source of seed or tubestock to be used in rehabilitation and landscaping works including the identification of seed sources within the Approved Activity Area. Where possible, seed of locally native species within the Approved Activity Area should be collected before Construction commences to provide seed stock for revegetation;
 - iii methods to re-use cleared vegetation;

- iv a program for the active management and maintenance of all preserved, planted and rehabilitated vegetation (including aquatic vegetation) including watering regimes, fencing, replacement of vegetation that may have died and weed management;
 - (h) a Weed Management Strategy including:
 - i weed identification;
 - ii weed eradication methods and protocols for the use of herbicides;
 - iii methods to treat and re-use weed infested topsoil;
 - (i) a program for reporting on the effectiveness of terrestrial and aquatic flora and fauna management measures against performance goals, including monitoring identified in Table 8.2 of the EIS. Management methods must be reviewed where found to be ineffective.
19. If during the course of Construction, the Proponent becomes aware of the presence of threatened species not identified and assessed in the EIS or Representations Report and which are likely to be affected, the Proponent must:
- (a) immediately cease all work likely to affect the threatened species;
 - (b) inform the Director General of the DEC and/or Director of NSW Fisheries as relevant; and
 - (c) not recommence work likely to affect the threatened species until receiving advice from the DEC and/or NSW Fisheries to do so.
20. Construction, other than revegetation works of the Approved Activity, shall not occur for the six months between September and February.

ACID SULFATE SOILS

21. An Acid Sulfate Soil Management Sub Plan must be prepared as part of the CEMP. The Sub Plan must be prepared in consultation with Relevant Government Departments. The Sub Plan must:
- (a) be consistent with the *Acid Sulfate Soils Manual* (ASSMC, 1998); and
 - (b) include a contingency plan to deal with the unexpected discovery of actual or potential acid sulfate soils.

MISCELLANEOUS REQUIREMENTS

Hazards and Risk Management

22. As part of the Construction EMP, the Proponent must prepare and implement Hazards and Risk Management Sub Plan(s). These Sub Plans must include:
- (a) details of the hazards and risks associated with the Activity; and
 - (b) pro-active and reactive mitigation measures including contingency plans to be implemented in the event an identified hazard occurs.