

# Modification of Minister's Approval

## Section 75W of the *Environmental Planning and Assessment Act 1979*

As delegate for the Minister for Planning, under the Instrument of Delegation executed on 16 February 2015, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions outlined in Schedule 2.



Chris Ritchie  
Director  
Industry Assessments

Sydney 1 NOVEMBER 2016

### SCHEDULE 1

Development Consent (DA 14/96), granted by the former Minister for Planning on 10 September 1996 for the development of a concrete batching plant, an asphalt plant and associated materials handling facility at Burrows Road South, St Peters in the Inner West local government area.

### SCHEDULE 2

- 1) Delete the words "Asphalt Plant" in Schedule A.
- 2) Delete the definitions in Schedule A and replace with the following:

|                                |                                                                                                                                                                        |
|--------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Act                            | <i>Environmental Planning and Assessment Act 1979</i>                                                                                                                  |
| applicant                      | Boral Resources (NSW) Pty Ltd                                                                                                                                          |
| BCA                            | Building Code of Australia                                                                                                                                             |
| construction                   | the demolition of buildings or works, the carrying out of works, including bulk earthworks, and erection of buildings and other infrastructure covered by this consent |
| Council                        | Inner West Council                                                                                                                                                     |
| dB(A)                          | decibel (A-weighted scale)                                                                                                                                             |
| Department                     | NSW Department of Planning and Environment or its successors                                                                                                           |
| development                    | the development the subject of this development consent as described in the SEE and any subsequent modifications                                                       |
| DPI                            | Department of Primary Industries                                                                                                                                       |
| dust                           | any solid material that may become suspended in air or deposited                                                                                                       |
| EPA                            | NSW Environment Protection Authority                                                                                                                                   |
| feasible                       | feasible relates to engineering considerations and what is practical to build                                                                                          |
| incident                       | a set of circumstances causing or threatening material harm to the environment, and/or an exceedance of the limits or performance criteria in this consent             |
| L <sub>Aeq</sub> (15 minute)   | equivalent average sound pressure level that is measured over a 15 minute period                                                                                       |
| Minister                       | NSW Minister for Planning, or delegate                                                                                                                                 |
| mobile plant                   | includes on-site mobile plant such as forklifts, loaders, water carts and dump trucks, but does not include concrete agitators                                         |
| MOD 10                         | Modification 10 to this consent, as described in Condition 2n)                                                                                                         |
| POEO Act                       | <i>Protection of the Environment Operations Act 1997</i>                                                                                                               |
| Principal Certifying Authority | the Minister or an accredited certifier, appointed under section 109E of the Act, to issue a Part 4A Certificate as provided under section 109C of the Act             |

|                        |                                                                                                                                                                                                                                           |
|------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| reasonable             | reasonable relates to the application of judgment in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements |
| reasonably practicable | that which is, or was at a particular time, reasonably able to be done                                                                                                                                                                    |
| Regulation             | <i>Environmental Planning and Assessment Regulation 2000</i>                                                                                                                                                                              |
| Secretary              | Secretary of the Department of Planning and Environment                                                                                                                                                                                   |
| RMS                    | Roads and Maritime Service                                                                                                                                                                                                                |
| site                   | the land to which this consent applies                                                                                                                                                                                                    |

- 3) Delete all references to "Director-General" and replace with "Secretary".
- 4) In Condition 1:
  - a) delete the word "development" and replace with "operation"; and
  - b) delete the words ", an asphalt plant".
- 5) Delete clause n) and the words following this clause in Condition 2 and replace with the following:
  - n) modification request DA 14/96 Mod 10, and supporting documents, including the report titled '*Boral St Peters Concrete batching plant and quarry materials handling facility, Environmental Assessment*' dated 21 July 2016, prepared by EMM and a letter dated 12 September 2016 from EMM.
- 6) Delete Condition 3 and replace with the following:
  3. If there is any inconsistency between the plans and documentation listed under Condition 2 above, the most recent document shall prevail to the extent of the inconsistency. However, conditions of this consent prevail to the extent of any inconsistency.
- 7) Delete Condition 4 and replace with the following:
  4. 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.
- 8) Delete existing Condition 5 and insert new heading "Limits of Consent" and new Condition 5 as follows:
  5. The annual production of the concrete batching plant must not exceed 280,000 cubic metres and the annual throughput of the construction materials handling facility must not exceed 760,000 tonnes.
- 9) Delete Condition 6.
- 10) Delete Condition 7 and replace with the following:
  7. Lighting at the site shall not cause hazard to aircraft using Sydney Kingsford Smith airport. Any change in lighting at the site must be undertaken in consultation with and to the approval of Sydney Airport Corporation Limited.
- 11) Delete Condition 8.
- 12) Delete the words "to Council's satisfaction" in Condition 9.
- 13) Delete Condition 10.
- 14) Delete the words "L.A.W.C" and "RTA" and replace with the words "DPI" and "RMS", respectively, in Condition 11.
- 15) Delete the words "in accordance with Marrickville Council's standards prior to commencement of the use of the site" in Condition 12
- 16) Delete Conditions 18, 18a and 19.
- 17) Delete Condition 20 and replace with the following:
  20. The landscaping of the site shall be maintained at all times, to the satisfaction of Council. This

includes suitable perimeter landscaping adjacent to Burrows Road South and a 10 metre wide landscaped buffer strip adjacent to the Alexandra Canal.

18) Delete Condition 21.

19) Delete Condition 22 and replace with the following:

22. The applicant shall ensure all roof and surface stormwater from the site and any catchment external to the site that presently drains into the site, shall be collected in a system of pits and pipelines/channels and major storm event surface flow paths and discharged to a Sydney Water controlled stormwater drainage system.

20) Delete Conditions 23, 24 and 25.

21) Delete the word "the" immediately before the words "Director, Technical Services" and replace with "Council's" in Condition 26.

22) Delete Conditions 27, 28, 28a and 28b.

23) Delete the words "and any trade waste" and "In this regard, satisfactory arrangements for the disposal of trade wastes should be made with Sydney Water Corporation prior to commencement of operations." in Condition 29.

24) Delete Condition 30 and replace with the following:

30. All vehicles exiting the site must pass through an operational and efficient wheel wash and/or vibration grid.

25) Delete all the words after the words "stormwater drainage system" in Condition 31.

26) Delete Condition 32 and replace with the following:

32. Prior to any increase in production at the concrete batching plant (as approved under MOD 10 to this consent) the applicant shall submit to the Secretary for approval evidence of appropriate best practice refuelling procedures for the refuelling of site-based mobile plant to ensure appropriate containment and management of spills.

27) Delete the words "to Council's satisfaction. Details of the storage containers/facilities shall be submitted with the building application." in Condition 33.

28) Delete Condition 33a and replace with the following:

33a. Prior to any increase in production at the concrete batching plant (as approved under MOD 10 to this consent) the applicant shall review and improve existing dust control measures on the site to ensure:

- a) the premises is maintained in a condition that minimises the emission of dust and silt loading on paved surfaces; and
- b) all reasonable and feasible best practice measures are implemented to minimise dust generated during operations.

Evidence of this review and details of any improvements must be submitted to the Secretary for approval prior to any increase in production at the concrete batching plant (as approved under MOD 10 to this consent).

29) Delete Conditions 34 and 35.

30) Delete Condition 36 and replace with the following:

36. The applicant shall update the existing Environmental Management and Monitoring Plan for the site. The updated Plan shall show how dust, noise and water impacts will be measured, monitored, managed and mitigated. The Plan is to include, but not be limited to, the following:

- a) the management of dust impacts, including the impacts of operation of the development;
- b) baseline background dust data;
- c) a contingency plan to manage any unpredicted impacts and their consequences;
- d) the management of any vibration transmitted to a place of another land user and any sound level at any point on the boundary of the site greater than the levels specified in the NSW EPA's Industrial Noise Policy;

- e) the management of polluted waters including the details of the pollution control systems, silt arrestors and separator pits intended to collect and dispose of any polluted water;
- f) the management of stormwater collection and discharge from the plant including details of first flush tanks from the designated 'dirty' area; and
- g) a maintenance program for cleaning oil skimmer pits, stormwater pits and traps.

31) Immediately after Condition 36 insert new Condition 36a as follows:

36a. Prior to any increase in production at the concrete batching plant (as approved under MOD 10 to this consent), an off-site dust deposition monitor shall be established on Burrows Road South in the vicinity of sensitive receptors R3 and R4 (as identified in Figure 6.1 of the Environmental Assessment for MOD 10). The location of the monitor shall be approved by the EPA.

32) Immediately after new Condition 36a insert new Condition 36b as follows:

#### **ANNUAL REVIEW**

36b. Within 12 months of the approval of MOD 10, and each subsequent year, the applicant shall review the environmental performance of the development to the satisfaction of the Secretary. This review must:

- a) describe the development that was carried out in the previous calendar year, and the development that is proposed to be carried out over the next year;
- b) include a comprehensive review of the monitoring results and complaints records of the development over the previous calendar year, which includes a comparison of these results against the:
  - (i) the relevant statutory requirements, limits or performance measures/criteria;
  - (ii) requirements of any plan or program required under this consent;
  - (iii) the monitoring results of previous years; and
  - (iv) the relevant predictions in the EIS;
- c) identify any non-compliance over the last year, and describe what actions were (or are being) taken to ensure compliance;
- d) identify any trends in the monitoring data over the life of the development;
- e) identify any discrepancies between the predicted and actual impacts of the development, and analyse the potential cause of any significant discrepancies; and
- f) describe what measures will be implemented over the next year to improve the environmental performance of the development.

33) Delete Conditions 37 and 38.

34) Delete Condition 39 and replace with the following:

39. The applicant shall maximise the use of rail freight for quarry product delivery wherever reasonably practicable.

35) Delete the word "Council" and replace with "The Department" in Condition 40.

36) Delete the words "that the report has not justified" and insert the word "not" after the words "that rail use has" in Condition 40.

37) Delete Conditions 41, 42, 43 and 44.

38) Delete Condition 45 and replace with the following:

45. Within three months of the approval of a modification, an annual review (under Condition 36b.), an independent audit of rail use (under Condition 40) or the submission of an incident report (under Condition 48), the applicant shall review, and if necessary revise, the strategies, plans, and programs required under this consent to the satisfaction of the Secretary.

39) Delete the note under Condition 46.

40) Delete Condition 47.

41) Delete the words "as soon as practicable" in the first paragraph of Condition 48 and delete the second paragraph in its entirety in Condition 48.

END OF DA 14/96 MOD 10

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