

ASSESSMENT REPORT

**Section 75W Modification
Berrima Cement Works
Aligning the Minister's Consent with the Environmental Protection Licence
(DA No. 401-11-2002-i MOD 8)**

1. BACKGROUND

Boral Cement Limited (Boral), formerly Blue Circle Southern Cement, has been operating a cement manufacturing facility at New Berrima in the Wingecarribee Local Government Area (see Figure 1 and Figure 2) since 1929.

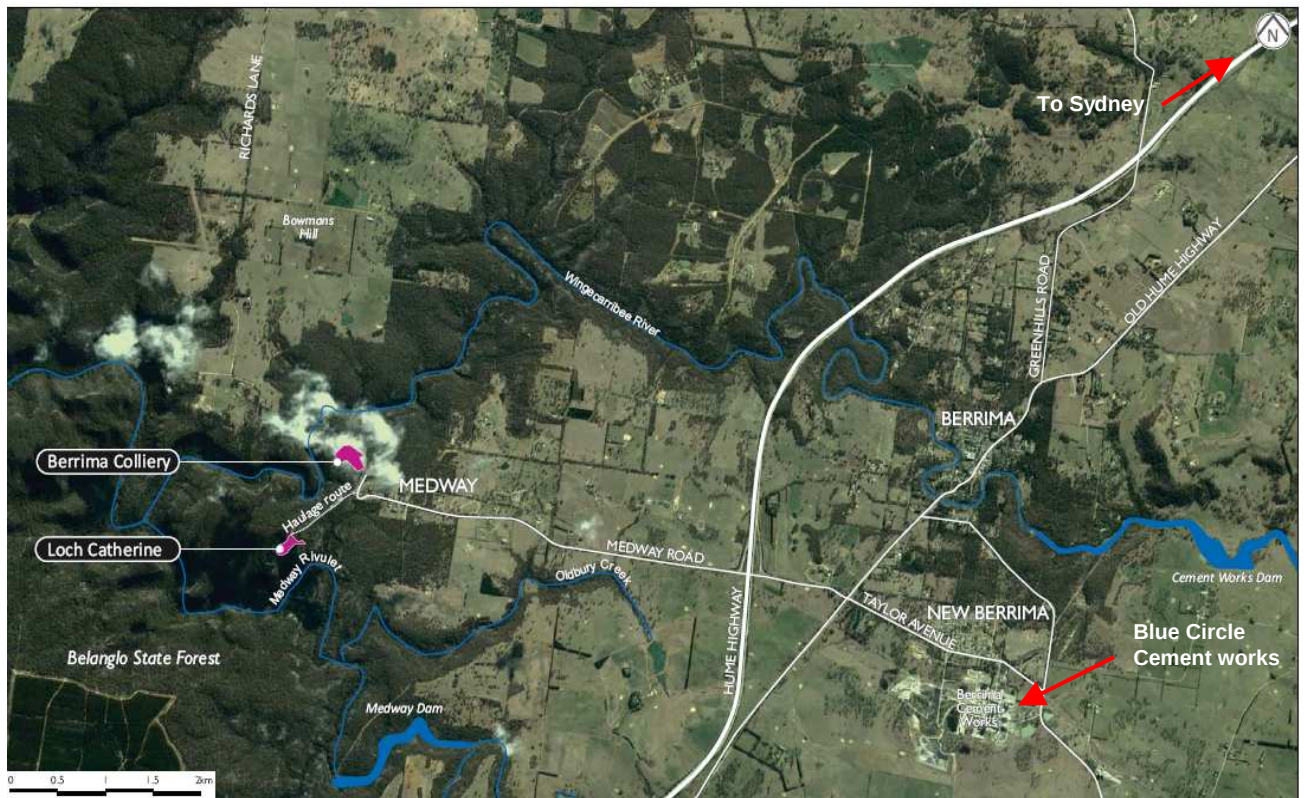


Figure 1: Regional Context

The facility currently operates under a combination of continuing use rights and two development consents that were granted by the then Minister for Planning, being:

- in 2003 to upgrade and increase the capacity of Kiln 6 at the existing cement works; and
- in 2005 for the establishment and operation of a new cement mill (Cement Mill 7).

The cement works primarily operate under the 2003 consent and produce up to 1.56 million tonnes of cement a year. All of the facilities cement is produced in Kiln 6. The secondary kiln (Kiln 5), which was utilised as a back-up kiln, was demolished in September 2011 in accordance with a consent issued by Wingecarribee Shire Council (Council) in March 2011. The cement produced by the facility is dispatched to customers by both train and truck.



Figure 2: Site layout and proximity to the nearest residences

On 16 April 2012, the Deputy Director-General as delegate of the Minister for Planning and Infrastructure approved a modification which allowed Boral to undertake:

- trial processing of up to 3,000 tonnes (t) of Granulated Blast Furnace Slag (GBFS) as an alternate raw material additive in cement manufacture; and, following environmental validation,
- full scale use of GBFS as an additive raw material in the production of clinker which is the key ingredient for the manufacture of cement.

2. PROPOSED MODIFICATION

On 17 May 2012, Boral lodged a modification application with the Department under section 75W of the *Environmental Planning and Assessment Act 1979*.

The modification seeks to align Boral's consent with the requirements of its Environment Protection Licence (EPL) for the site. The modification would also take into account the recent approval from Council to demolish Kiln 5.

Boral's 2003 development consent, incorporated specific environmental monitoring requirements under the Environment Protection Authority's (EPA's) general terms of approval.

Over time, and with the approval of the EPA, a number of the discharge limits and monitoring requirements detailed in the EPL have changed. This has resulted in inconsistencies between the development consent and the EPL.

As such, Boral is seeking to amend the following conditions to ensure consistency between its development consent and its EPL:

- Condition 3.10 and 4.4 - Discharge Point 8 was removed from the EPL by the EPA in 2012. This discharge point does not actually discharge to the atmosphere. Monitoring at Discharge Point 8 was only required for a short period post commissioning;
- Condition 3.10, 3.10A and 4.1 – Opacity, traditionally used as a simple and ready means of obtaining an indicative measure of air pollution from discharge stacks, was removed from the regulated parameter list in the EPL amendment dated 30 March 2012. Opacity was replaced with a more accurate monitoring approach using a continuous particle monitor. The current EPA particulate emission limit for standard fuels is 95 mg/m³ as a 24-hr average. The rationale for this change is explained in the EPA correspondence dated 24 February 2012 at Appendix A; and

- Condition 1.3 b, c, and d, 1.3A and 4.1 – Any reference to Kiln 5 is to be removed as this kiln was demolished in 2011 and no longer exists.

The existing conditions are included in Appendix B.

3. STATUTORY CONTEXT

This application proposes to modify State significant development consent DA 401-11-2002-I granted by the then Minister under Part 4 of the *Environmental Planning and Assessment Act 1979* (the Act).

Under clause 8J (8) of the *Environmental Planning and Assessment Regulation 2000*, this consent is taken to be an approval under Part 3A of the Act and can be modified by the Minister under section 75W of the Act.

Section 75W of the Act as in force immediately before its repeal on 1 October 2011, and as modified by Schedule 6A, continues to apply to this development consent in accordance with Clause 12 of Schedule 6A of the Act.

Boral has not made a reportable political donation. However, the Department notes that the former owner of the site Blue Circle Southern Cement (which was acquired by Boral) has made political donations, but not in relation to the current application and not within the previous two years.

The Deputy Director-General, Development Assessment and Systems Performance, may determine this application on behalf of the Minister in accordance with the Minister's delegation of 14 September 2011, subject to the following:

- the local Council not objecting;
- where a political donation statement has been made, but only in respect of a previous related application; and
- there are less than 10 public submissions in the nature of objection.

The Department is satisfied that the application meets the terms of the delegation and that the Deputy Director-General may determine the application under delegated authority.

4. CONSULTATION

Under Section 75W of the EP&A Act, the Department is not required to notify or exhibit the application. Following a review of the application, the Department did not believe formal public notification of the application was necessary given its administrative nature. Notwithstanding, the Department sought comments from Wingecarribee Shire Council (Council) and the Environment Protection Authority (EPA).

The Department received a submission from the EPA. In its submission, the EPA advised that it reviewed the proposed modifications and was satisfied that they would be consistent with the Environment Protection Licence and recent variations.

At the time of submission of this assessment report, Council had not made a submission on the proposed modification. Given that the proposed modification was purely administrative and would not have any environmental impacts, the Department considered further consultation was unnecessary.

5. ASSESSMENT

Assessment

The modification is purely administrative to:

- align Boral's consent with the EPL for the facility; and
- to take into account the recent demolition of Kiln 5 which was undertaken in accordance with Council's 2011 development consent.

Boral's 2003 development consent was issued under the former Part 4 integrated development regime which incorporated specific environmental monitoring provisions required under the EPA's general terms of approval. These monitoring provisions were incorporated into both the development consent and the site's EPL.

Over time, a number of the discharge limits and monitoring requirements detailed in the EPL have been amended as a result of evolving best management practices and standards, thereby creating

inconsistencies with the development consent. Amendments have included removal of opacity limits and the requirement for a new pollution reduction program.

Opacity, for example, has traditionally been used as a simple and ready means of obtaining an indicative measure of air pollution from discharge stacks. Authorities have indicated since 2008 that opacity measurements are an indication of smoke rather than dust and are therefore not an accurate indicator of dust levels in discharge stacks. Developments in monitoring technology have meant that solid particles can not be monitored continuously and accurately. Boral operates a Continuous Emissions Monitoring System (CEMS) which directly measures emissions of solid particles. While opacity is a relevant parameter for monitoring the kilns performance from a production standpoint, the EPA considers that solid particles measured continuously are a more relevant parameter for regulating environmental performance of Kiln 6. As a result, opacity limits have been removed from the EPL, for when both standard and non-standard fuel are used.

In regard to Kiln 5, the use of this kiln was primarily reserved for intermittent use during periods of Kiln 6 maintenance, shutdown and during high production demands. In 2011, Boral sought approval from Wingecarribee Council for the demolition of this kiln and was subsequently granted approval. In September 2011 the kiln was demolished.

Conclusion

The Department has reviewed Boral's modification application in regard to Kiln 5. Given that the kiln was demolished in September 2011, it is considered appropriate to remove all references to Kiln 5 throughout the development consent.

In regards to the conditions identified in section 2 of this report that relate to the EPL, the Department and the EPA consider that the modification is purely an administrative change with no associated environmental impacts. Therefore, it should be approved to ensure consistency between the two regulatory instruments.

6. CONCLUSION

The Department has assessed the proposed modification in accordance with the requirements of clause 8B of the Regulations. This assessment has found that the proposed modification:

- would not cause any environmental impacts; and
- would align the development consent (DA 401-11-2002-i) with the EPL (No. 1698) for the site.

Boral and the EPA have both reviewed and accepted the draft conditions.

Consequently, the Department is satisfied that the modification should be approved.

7. RECOMMENDATION

It is **RECOMMENDED** that the Deputy Director-General, Development Assessment and Systems Performance:

- **determine** that the proposed modification is within the scope of section 75W of the EP&A Act;
- **approve** the application subject to conditions; and
- **sign** the attached notice of modification (see Tag 'A').

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