

Notice of Modification

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

As delegate of the Minister for Planning and Infrastructure, I modify the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.



David Kitto
Director, Mining & Industry Projects

Sydney 7 FEBRUARY

2014

File No. S03/01960

SCHEDULE 1

The development consent DA 470-11-2003, granted on 30 September 2004 by the Minister Assisting the Minister for Infrastructure and Planning (Planning Administration).

SCHEDULE 2

1. Under DEFINITIONS in Schedule 2, delete the terms "AEMR", "DECC", "Department", "Director-General", "DPI", "Minister", "RTA" and their definitions, and insert the following in alphabetical order:

Annual Review	Annual Review, as required under condition 5 of Schedule 5
Department	Department of Planning and Infrastructure
Director-General	Director-General of the Department of Planning and Infrastructure, or nominee
DRE	Division of Resources and Energy, within the Department of Trade and Investment, Regional Infrastructure and Services
EPA	Environment Protection Authority
Feasible	Feasible relates to engineering considerations and what is practical to build or carry out
Incident	A set of circumstances that: • causes or threatens to cause material harm to the environment; and/or • breaches or exceeds the limits or performance measures/criteria in this consent
Material harm to the environment	Actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial
Minister	Minister for Planning and Infrastructure, or delegate
NOW	NSW Office of Water
OEH	Office of Environment and Heritage
Quarrying operations	Includes the removal of overburden and extraction, processing, handling, storage and transportation of extractive material on the site
Quarry Products	Material which is produced and sold at the site including hard rock products, concrete and manufactured sand
Reasonable	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 the nature and extent of potential improvements
RMS	Roads and Maritime Services

2. Delete all references to "AEMR" and replace with "Annual Review".
3. With the exception of conditions 41, 46A, 64 and 65 of Schedule 4, delete all references to "DECC" and replace with "EPA".
4. In condition 41 of Schedule 4, delete "DECC", and replace with "NOW".
5. In conditions 46A, 64 and 65 of Schedule 4, delete "DECC", and replace with "OEH".
6. Delete all references to "DPI", and replace with "DRE".
7. In condition 2 of Schedule 3, delete all words after "Rev E);" and insert the following:
 - (h) Modification Application 470-11-2003 Mod 6 and accompanying document titled *Environmental Assessment Dunmore Hard Rock Quarry DA 470-11-2003 Modification 6*, prepared by EMGA Mitchell McLennan and dated 19 November 2012; and
 - (i) conditions of this development consent.
8. Delete conditions 3, 4 and 5 of Schedule 3, and replace with the following:
 3. If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any inconsistency.
 4. The Applicant shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
 - (a) any reports, strategies, plans, programs, reviews, audits or correspondence that are submitted in accordance with this consent; and
 - (b) the implementation of any actions or measures contained in these documents.

Quarrying Operations

5. The Applicant may carry out quarrying operations on the site until 30 September 2034.

Note: Under this consent, the Applicant is required to rehabilitate the site and carry out additional undertakings to the satisfaction of the Director-General. Consequently, this consent will continue to apply in all other respects other than the right to conduct quarrying operations until the rehabilitation of the site and those undertakings have been carried out to a satisfactory standard.

9. In condition 6 of Schedule 3,
 - (a) delete the words "material a year" and replace with "quarry products"; and
 - (b) following "development, insert "in a calendar year".
10. Delete condition 7 of Schedule 3, and insert the following:

Quarry Product Transport

7. The Applicant shall not transport, or permit to be transported, more than 1.5 million tonnes of quarry products from the site in a calendar year by road, except in an emergency with the written approval of the Director-General.
- 7A. The Applicant shall maximise transport of quarry products from the site by rail, so far as is reasonable and feasible, to the satisfaction of the Director-General.
11. In condition 3 of Schedule 4:
 - (a) delete the words "President of the Australian Institute of Valuers and Land Economists", and replace with "NSW President of the Australian Property Institute";
 - (b) in paragraph 4, after "Director-General", insert "for resolution"; and
 - (c) delete the following:

"Upon receiving such a referral, the Director-General shall appoint a panel to determine a fair and reasonable acquisition price for the land, and/or the terms upon which the land is to be acquired, comprising the:

- Appointed independent valuer,
- Director-General or nominee, and
- President of the Law Society of NSW or nominee.

Within 14 days of receiving the panel's determination, the applicant shall make a written offer to purchase the land at a price not less than the panel's determination."

12. In condition 4 of Schedule 4, delete ", panel".
13. In condition 10 of Schedule 4, delete "material", and replace with "quarry products".
14. Delete condition 15 of Schedule 4.
15. Delete condition 22 of Schedule 4, and replace with the following:
22. The Applicant shall ensure that all reasonable and feasible avoidance and mitigation measures are employed so that particulate matter emissions generated by the development do not exceed the criteria in Tables 7, 8 and 9 at any residence on privately-owned land.

Pollutant	Averaging period	^d Criterion
Total suspended particulates (TSP)	Annual	^a 90 µg/m ³
Particulate matter < 10 µm (PM ₁₀)	Annual	^a 30 µg/m ³

Table 7: Long-Term Impact Assessment Criteria for Particulate Matter

Pollutant	Averaging period	^d Criterion
Particulate matter < 10 µm (PM ₁₀)	24 hour	^a 50 µg/m ³

Table 8: Short Term Impact Assessment Criteria for Particulate Matter

Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level
^c Deposited dust	Annual	^b 2 g/m ² /month	^a 4 g/m ² /month

Table 9: Long-Term Impact Assessment Criteria for Deposited Dust

Notes to Tables 7-9:

- ^a Total impact (ie incremental increase in concentrations due to the project plus background concentrations due to all other sources);
- ^b Incremental impact (ie incremental increase in concentrations due to the project on its own);
- ^c Deposited dust is to be assessed as insoluble solids as defined by Standards Australia, AS/NZS 3580.10.1:2003:Methods for Sampling and Analysis of Ambient Air - Determination of Particulate Matter - Deposited Matter - Gravimetric Method.
- ^d Excludes extraordinary events such as bushfires, prescribed burning, dust storms, sea fog, fire incidents, illegal activities or any other activity agreed by the Director-General in consultation with EPA.

16. Delete condition 60 of Schedule 4, and replace with the following:

Transport Management Plan

60. The Applicant shall prepare and implement a Transport Management Plan for the development to the satisfaction of the Director-General. This plan must:
 - (a) be prepared by a suitably qualified traffic consultant, in consultation with RMS and Council, and submitted to the Director-General for approval by 31 May 2014;
 - (b) include a drivers' code of conduct for the development;

- (c) describe the measures that would be implemented to ensure:
 - all drivers of development-related vehicles comply with the drivers' code of conduct; and
 - compliance with the relevant conditions of this consent; and
- (d) include a program to monitor the effectiveness of the implementation of these measures.

17. Following condition 60 of Schedule 4, insert the following:

Cumulative Traffic Impact Study

- 60A. The Applicant shall, in conjunction with the operators of the Bass Point Quarry and the Albion Park Quarry, cause to be prepared an independent Cumulative Traffic Impact Study. The study must:
- (a) be undertaken by a suitably qualified traffic consultant, whose appointment has been approved by the Director-General;
 - (b) be commissioned by 30 June 2014, and completed by 31 October 2014, or as otherwise agreed in writing by the Director-General;
 - (c) be co-funded by the operators of the Dunmore, Bass Point and Albion Park quarries, proportionate to the quarries' respective quarry product road transport limits, as approved at 30 June 2014;
 - (d) include a comprehensive assessment of current and future projected cumulative traffic impacts of the three quarries on the classified road network, undertaken in consultation with the RMS; and
 - (e) identify any reasonable and feasible measures that can be implemented to minimise the traffic and road safety impacts of quarry trucks on Mount Ousley Road, and the likely cost of implementing these measures.
- 60B. The Applicant shall, in conjunction with the operators of the Bass Point Quarry and the Albion Park Quarry, prepare and implement a program to implement any reasonable and feasible measures identified in the Cumulative Traffic Impact Study not already being undertaken by the Applicant, in an equitable manner with the other two quarry operators, to the satisfaction of the Director-General. The program must be submitted to the Director-General for approval by 28 February 2015, or as otherwise agreed in writing by the Director-General.

18. In condition 5 of Schedule 5, delete "REPORTING" and replace with "REVIEW".

19. Delete condition 6 of Schedule 5, and replace with the following:

INDEPENDENT ENVIRONMENTAL AUDIT

6. Prior to 1 April 2014, and every 3 years thereafter, unless the Director-General directs otherwise, the Applicant shall commission and pay the full cost of an Independent Environmental Audit of the development. This audit must:
- (a) be conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Director-General;
 - (b) include consultation with the relevant agencies;
 - (c) assess the environmental performance of the development and whether it is complying with the relevant requirements in this consent and any relevant EPL (including any assessment, plan or program required under these approvals);
 - (d) review the adequacy of any approved strategy, plan or program required under these approvals; and
 - (e) recommend measures or actions to improve the environmental performance of the development, and/or any assessment, plan or program required under these approvals.

Note: This audit team must be led by a suitably qualified auditor and include experts in any field specified by the Director-General.

20. Delete conditions 8, 9 and 10 of Schedule 5, and replace with the following:

8. The Applicant shall operate a Community Consultative Committee (CCC) for the development to the satisfaction of the Director-General. This CCC must be operated in general accordance with the *Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects* (Department of Planning, 2007, or its latest version).

Note: The CCC is an advisory committee. The Department and other relevant agencies are responsible for ensuring that the Applicant complies with this consent.

REPORTING

Incident Reporting

9. The Applicant shall immediately notify the Director-General and any other relevant agencies of any incident that has caused, or threatens to cause, material harm to the environment. For any other incident associated with the development, the Applicant shall notify the Director-General and any other relevant agencies as soon as practicable after the Applicant becomes aware of the incident. Within 7 days of the date of the incident, the Applicant shall provide the Director-General any relevant agencies with a detailed report on the incident, and such further reports as may be requested.

Regular Reporting

10. The Applicant shall provide regular reporting in the environmental performance of the development on its website, in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent.

ACCESS TO INFORMATION

11. By 1 May 2014, the Applicant shall:
- (a) make the following information publicly available on its website:
 - current statutory approvals for the development;
 - approved strategies, plans or programs;
 - a summary of the monitoring results of the development, which have been reported in accordance with the various plans and programs approved under the conditions of this consent;
 - a complaints register, updated on a quarterly basis;
 - minutes of CCC meetings;
 - copies of any Annual Reviews or Annual Environmental Management Reports (over the last 5 years);
 - any independent environmental audit, and the Applicant's response to the recommendations in any audit; and
 - any other matter required by the Director-General; and
 - (b) keep this information up to date, to the satisfaction of the Director-General.

REVISION OF STRATEGIES, PLANS AND PROGRAMS

12. Within 3 months of:
- (a) the submission of an Annual Review under condition 5 of Schedule 5;
 - (b) the submission of an incident report under condition 10 of Schedule 5; or
 - (c) a modification to the conditions of this consent (unless the conditions require otherwise),
- the Applicant shall review the strategies, plans, and programs required under this consent, to the satisfaction of the Director-General. Where this review leads to revisions in any such document, then within 4 weeks of the review the revised document must be submitted for the approval of the Director-General.

Note: The purpose of this condition is to ensure that strategies, plans and programs are regularly updated to incorporate any measures recommended to improve environmental performance of the development.

21. Update the TABLE OF CONTENTS as necessary, to reflect the changes made above.