

ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979

MODIFICATION OF DEVELOPMENT CONSENT (DA 95/133 – MOD 5)

CONSTRUCTION OF A 350 BERTH BOATHARBOUR/MARINA, ENHANCEMENT AND ENLARGEMENT OF A WETLAND AT SHADFORTH AND PLACEMENT OF TREATED CONTAMINATED LANDFILL IN ENGINEERED CELLS ADJACENT TO THE REALIGNED QUARRY ROAD.

PURSUANT TO SECTION 80 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

(FILE NO. 10/09884)

I, Alan Bright, Acting Director Regional Projects, as delegate of the Minister for Planning, under Instrument of Delegation dated 25 January 2010, pursuant to Section 96 (1A) of the *Environmental Planning & Assessment Act 1979*, modify the development consent referred to in the attached Schedule 1 in the manner set out in the attached Schedule 2.



Alan Bright
Acting Director
Regional Projects

Sydney, 20 AUGUST 2010

SCHEDULE 1

PART A—TABLE

Application Number:	DA 95/133 (MOD 5)
Application made by:	Australand Corporation Pty Ltd PO Box A148 Shellharbour NSW 2529
On land comprising:	Boollwarroo Parade, South Shellharbour Beach, Shell Cove
Local Government Area	Shellharbour
For the carrying out of:	Construction of a 350 berth boatharbour/marina, enhancement and enlargement of a wetland at Shadforth and placement of treated contained landfill in engineered cells adjacent to the realigned quarry road.
Section 96 (1A) Application	Modify Condition No. 18 of DA 95/133 to incorporate neutralisation and re-use of acid sulfate soils on the site in accordance with an Acid Sulfate Soil Management Plan.
Development consent granted by:	Acting Director Regional Projects As Delegate of the Minister for Planning
On:	
Type of development:	
S.119 public inquiry held:	No
As modified	9 November 2001 - To allow the erection of acoustic barriers along the haul road instead of engineered landfill cells. 6 September 2004 - To permit the deposition of waste material, extracted from the Shellharbour wetland into a single landfill cell and permit the disposal of actual and potential acid sulfate soils at an EPA licensed landfill site. 31 October 2006 - To change the location and orientation of the boatharbour and change the layout and design of the marina; delete the flushing pipe system; and remove the stop work provisions for indigeneous heritage. 25 November 2008 - To extend the seaward boundary of the development to incorporate the inter-tidal area originally covered by the Part 5 approval into the Part 4 approval.

PART B—NOTES RELATING TO THE MODIFICATION OF DEVELOPMENT CONSENT NO. 95/133

RESPONSIBILITY FOR OTHER APPROVALS / AGREEMENTS

The applicant is solely responsible for ensuring that all additional consents and agreements are obtained from other authorities, as relevant.

Appeals

The Applicant has the right to appeal to the Land and Environment Court under section 97 of the *Environmental Planning and Assessment Act, 1979*. The right to appeal is only valid, for a development application, within 12 months after the date on which the applicant received this notice.

Appeals—Third Party

A third party right to appeal to this development consent is available under Section 123, subject to section 101 of the *Environmental Planning and Assessment Act, 1979*.

Legal notices

Any advice or notice to the consent authority shall be served on the Director-General.

SCHEDULE 2

MODIFICATION DEVELOPMENT CONSENT NO. 95/133

The development consent is modified as follows:

SCHEDULE 2 - CONDITIONS

(a) Modify Condition 18 as follows:

Re-burial of Acid Sulfate Soils

18. *"All excavated actual and potential acid sulfate soils are to be buried beneath RL – 1.0 metres AHD, or neutralised and reused in accordance with the Acid Sulfate Soil Management Plan, or disposed at a DECCW licensed landfill site."*

(b) Modify Condition 15 (d)(iv) as follows;

An Acid Sulfate Soil Management Plan to be prepared by the Applicant in consultation with the EPA and DLWC. It shall provide details about:

- *Procedures during construction;*
- *Mitigation measures;*
- *Remedial measures;*
- *Monitoring and testing program;*
- *Contingency plans including the amount of neutralising agent to be stored on the site at any given time;*
- *Reporting in the event of results not meeting standards;*
- *Earthworks strategy to co-ordinate the neutralisation with the excavation to minimise the stockpiling of untreated acid sulfate soil;*
- *The management of acid sulfate soil stockpiles including their location, volume, duration and treatment; and*
- *Measures to mitigate adverse impacts to neighbouring properties from stockpiling of acid sulfate soil including odour impacts.*