

Modification of Minister's Approval

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

I, the Director, Infrastructure Projects, Major Projects Assessment of the Department of Planning, in accordance with the Instrument of Delegation issued by the Minister for Planning on 25 January 2010, pursuant to section 75W of the *Environmental Planning and Assessment Act 1979*, determine the modification to the approval referred to in Schedule 1 in the manner set out in Schedule 2.

Director
Infrastructure Projects
Major Projects Assessment
As delegate for the Minister for Planning

Sydney,

31 May 2010

SCHEDULE 1

Project Approval: granted by the Minister for Planning on 13 April 2007

For the following: Kooragang Coal Terminal 120 Mtpa Project

Modification Application: Modification to allow the construction and operation of additional facilities referred to as the Stage 4 Project, comprising of a fourth dump station, a fourth shiploader, and associated coal handling and transport infrastructure at the Kooragang Coal Terminal to provide for 'sprint capacity' in the terminal's operations.

SCHEDULE 2

The approval is modified as follows:

1. replacing the description of Land in Schedule 1 with the following:

Lot 20 DP262325; Lot 5 DP 528326; Lots 2 and 3 DP 573972; Lots 1, 2 and 3 DP 608317; Lots 1, 2, 3, 6 & 7 DP 775772; Lots 11, 12, 13, 14, 17, 18, 22 DP 775773; Lots 1, 2, 3, 4, 5, 7 & 8 DP 775774; Lots 1, 2, 4, 5, 7, 9, 10 & 15 DP 775775; Lots 31, 32, 33, 34, 35, 37, 39, 41 DP 775776; Lots 44, 46, 47, 48, 49, 50, 51, 53 & 55 DP 775777; Lot 1 DP 775778; Lot 11 DP841542; Lot 1 DP 869622; Lot 1 DP 1015754; Lots 201, 202, 203, 204, 205, 206, 207, 208 & 209 DP 1017038; Lot 210 DP 1018949; Lot 520 DP 1018950; Lots 101, 102, 103, 104, 105, 106, 108, 110, 111, 112, DP 1018951; Lot 132 DP 1018952; Lot 2 DP 1097327; Lots 13 & 14 DP 1097330; Lot 362 DP 1104196 and Lot 6 DP 1104199.

2. replacing the definitions for "DEC", "EPA", "Site" with the following:

DECCW	NSW Department of Environment, Climate Change and Water
EPA	Environment Protection Authority as part of the Department of Environment, Climate Change and Water
Site	Land to which this approval applies.

3. deleting the definition of "EA"

4. inserting a definition for the NOW, RTA and Stage 4 Project, as follows:

NOW	NSW Office of Water
RTA	NSW Roads and Traffic Authority
Stage 4 Project	Development to provide for increased sprint capacity to the operations of the Kooragang Coal Terminal. This involves the construction and operation of a fourth dump station, a fourth shiploader, and associated coal handling and transport infrastructure.

5. replacing all references to "DEC" with "DECCW".

6. replacing existing condition 1.1 with the following:

- 1.1 The Proponent shall carry out the project generally in accordance with the:

- a) Major Project Application 06_0189;
 - b) *Environmental Assessment – Kooragang Coal Terminal – Proposed Increase to Throughput Capacity*, dated November 2006, and prepared by Umwelt Environmental Consultants;
 - c) *Kooragang Coal Terminal – Proposed Increase to Throughput Capacity - Response to Submissions Part A*, dated January 2007, and *Kooragang Coal Terminal – Proposed Increase to Throughput Capacity - Response to Submissions Part B*, dated January 2007, both prepared by Umwelt Environmental Consultants;
 - d) *Kooragang Coal Terminal Stage 4 Project Fourth Dump Station & Fourth Shiploader*, dated November 2009, and prepared by Umwelt Environmental Consultants;
 - e) *Kooragang Coal Terminal Stage 4 Project Fourth Dump Station & Fourth Shiploader – Response to Submissions*, dated February 2010, and prepared by Umwelt Environmental Consultants; and
 - f) the conditions of this approval.

7. replacing existing condition 1.2 with the following:

1.2 In the event of an inconsistency between:

- the conditions of this approval and any document listed from condition 1.1a) to 1.1e) inclusive, the conditions of this approval shall prevail to the extent of the inconsistency; and
- any of the documents listed from condition 1.1a) to 1.1e) inclusive, and any other document listed from condition 1.1a) to 1.1e) inclusive, the most recent document shall prevail to the extent of the inconsistency.

8. replacing condition 2.13 with the following:

The Proponent shall not permit the discharge of any water from the Site to the Hunter River unless expressly provided under the provisions of an Environment Protection Licence, or when a storm event exceeds a 1 in 100 year ARI event or after prolonged wet weather 'equivalent' to this event.

9. inserting new condition 2.13A, as follows:

2.13A The construction of the rail loop augmentation, forming part of the Stage 4 Project, shall be fully integrated with existing surface water management measures to ensure compliance with condition 2.12, or the requirements of any applicable Environmental Protection Licence.

10. inserting new condition 2.14A, as follows:

2.14A The Proponent shall ensure that groundwater interactions that may occur from construction of the fourth dump station and associated conveyor infrastructure are minimised. Water quality monitoring shall be conducted during these works and where the monitoring indicates potential impact on the groundwater system, treatment options for dewatering shall be investigated and implemented in consultation with the NOW and in accordance with any relevant approval from NOW.

11. replacing the first sentence of condition 2.20 with the following:

The Proponent shall ensure that all new external lighting associated with the project is mounted, screened, and directed in such a manner so as not to create a nuisance to surrounding land and water uses.

12. inserting new condition 2.21, as follows:

Conveyor Bridge

2.21 The Stage 4 Project conveyor bridge and its approaches over Teal Street shall be designed and constructed to achieve a minimum of 6.5m vertical height clearance from the top of the Teal Street pavement to the underside of the bridge structure. Maintenance activities required for the bridge structure shall be carried out from within/on the structure and impacts of such activities minimised within the road reserve. The Proponent shall provide details of the maintenance policy for the proposed conveyor to the RTA and obtain its agreement regarding the on-going maintenance of the bridge structure.

13. inserting new condition 2.22, as follows:

Construction Parking

2.22 Parking for all construction related vehicles associated with Stage 4 must be provided within the Kooragang Coal Terminal site or on land subject to an agreement between Port Waratah Coal Services and the landholder for the purpose.

14. inserting new condition 2.23, as follows:

Property

2.23 The Proponent shall design and construct the project in a manner that mitigates to the extent that is reasonably practicable, direct physical impacts to adjoining property, property infrastructure and its operation, including conveyors, adjoining buildings and the like. The Proponent shall consult with directly affected property owner(s) and ensure that any damage or operational impacts caused by the project is rectified at the Proponent's expense to a standard comparable to that in existence prior to the damage.

15. replacing the first paragraph and item a) of condition 3.1 with the following:

3.1 Prior to the Commencement of Operations, the Proponent shall develop and submit for the approval of the Director-General and the DECCW, an Ambient Dust Monitoring Program, to outline how the ambient dust impacts of the project will be monitored. The Program shall include, but not necessarily be limited to:

- a) identification of an integrated air quality monitoring network, developed in consultation with the owner/ operator of the NCIG Coal Export Terminal;

16. replacing the first sentence of condition 3.4 with the following:

3.4 Within 90 days of the Commencement of Operations, and following the commissioning of the Stage 4 Project, or as otherwise agreed by the Director-General, and during a period in which the project is operating under normal operating conditions, the Proponent shall undertake a program to confirm the noise performance of the project.

17. replacing the first sentence of existing condition 4.1 with the following:

4.1 Prior to the commencement construction, or as otherwise agreed by the Director-General, the Proponent shall develop, in consultation with owner/ operator of the NCIG Coal Export Terminal, a Coordinated Environmental Monitoring and Management Protocol to provide a framework for the coordinated and cooperative monitoring and management of environmental impacts from the developments.

18. replacing the second sentence in condition 7.1 with the following:

The Proponent shall employ the Environmental Representative(s) on a full-time basis, or as otherwise agreed by the Director-General, during the construction and operation of the project.

19. inserting a new paragraph after condition 7.2f) as follows:

Prior to the commencement of construction of the Stage 4 project, the Proponent shall revise the Construction Environment Management Plan and associated plans and protocol referred to in conditions 7.2 and 7.3 to incorporate this stage of the project.

20. replacing the last paragraph of condition 7.2 with the following:

The Plan (and revisions to the Plan) shall be submitted for the approval of the Director-General no later than one month prior to the commencement of any construction works associated with the project (including the Stage 4 Project), or within such period otherwise agreed by the Director-General. Construction works shall not commence until written approval has been received from the Director-General.

21. replacing condition 7.3b) with the following:

7.3b) a **Construction Noise and Vibration Management Plan** to detail how construction noise and vibration impacts would be minimised and managed, including, but not necessarily limited to:

- i) details of construction activities and a schedule for construction works;
- ii) identification of construction activities that have the potential to generate noise and/ or vibration impacts on surrounding land uses, particularly residential areas and adjacent industrial development (specifically the Kooragang Bulk Facilities);
- iii) a detailed description of what actions and measures would be implemented to ensure that these works would comply with the relevant noise and vibration criteria/ guidelines;
- iv) procedures for notifying residents of construction activities that are likely to effect their noise and vibration amenity, as well as procedures for dealing with and responding to noise complaints and enquiries; and
- v) a description of how the effectiveness of these actions and measures would be monitored during the proposed works, clearly indicating how often this monitoring would be conducted, how the results of this monitoring would be recorded; and, if any non-compliance is detected.

22. replacing condition 7.3c) with the following:

7.3c) a **Construction Traffic Management Protocol** to detail how heavy vehicle movements associated with the project will be managed during construction, including Site preparation and fill/ preloading activities. The Protocol shall specifically address the movement of oversize loads to and from the Site, the management of construction traffic, restrictions to the hours of heavy vehicle movements to avoid road use conflicts, and the transport of construction waste materials. The Construction Traffic Management Protocol (and revisions to the Protocol) shall be submitted for the approval of the RTA and Council, prior to its submission to the Director-General for approval.

For Stage 4 works, a revised protocol shall take into account the completion of the Tourle Street Bridge and the improved regional connectivity provided by the new bridge to Industrial Drive and Pacific Highway.

23. replacing the first sentence of condition 7.4 with the following:

Prior to the Commencement of Operations, the Proponent shall prepare and submit for the approval of the Director-General an **Operation Environmental Management Plan** (OEMP) to detail an environmental management framework, practices and procedures to be followed during the operation of the project.

