

Modification of Development Consent

Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, I approve the modification of the development consent referred to in Schedule 1, subject to the conditions in Schedule 2.

Matthew Sprott
Director
Resource Assessments

Sydney

2021

SCHEDULE 1

The Project Approval (MP 07_0020) for the Blakebrook Quarry Project granted by the delegate for the Minister for Planning on 24 November 2009

1. In the Schedule of Lands in Schedule 1, delete the schedule of lands and replace with:

Extraction Areas	Lot 53 DP1254990
Asphalt Plant	Lot 54 DP1254990
Access Road	Lot 53 DP1254990

2. In the list of definitions, delete the terms "Department", "DPI Water", "DRG", "RMS" and "OEH" and insert the following in alphabetical order:

Asphalt plant operations	The transportation, on site processing and storage of material to produce asphalt paving material
BCD	The Biodiversity and Conservation Division within the Department
Department	Department of Planning, Industry and Environment
DPIE Water	Water Group within the Department
Heritage NSW	Heritage Branch of the Department of Premier and Cabinet
Incident	An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance
MEG	Mining Exploration and Geoscience within the Department of Regional NSW
MR (Mod 3)	Modification Report titled Statement of Environmental Effects dated 24 July 2019, prepared by Mitchel Hanlon Consulting Pty Ltd including the Response to Submissions dated November 2019, and additional information accompanying the Response to Submissions
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
Secretary	Planning Secretary under the EP&A Act, or nominee
TfNSW	Transport for NSW

3. Delete all references to "DRG" and replace with "MEG".
4. Delete all references to "OEH", except where they occur in conditions 24 and 25 of Schedule 3, and replace with "BCD".

5. Delete all references to "OEH" in conditions 24 and 25 of Schedule 3, and replace with "Heritage NSW".
6. Delete all references to "RMS" and replace with "TfNSW".
7. Delete all references to "Dol" and replace with "DPIE Water".
8. In condition 2(a) of Schedule 2:
 - (a) after the word "EA" delete the word "and" and replace it with a comma; and
 - (b) after the words "EA (Mod 1)", insert ", and MR (Mod 3)".
9. After condition 5 of Schedule 2, insert the following:

5A. Within 12 months of the date of commencement of development under this consent, or other timeframe agreed by the Secretary, the Proponent must surrender development consent DA90/341 to the satisfaction of the Secretary, in accordance with the EP&A Regulation.
10. In condition 6 of Schedule 2, after "carry out quarrying operations" insert "and Asphalt plant operations"
11. In condition 8 of Schedule 2:
 - (a) delete the word "materials" in subclause (a) and replace with "products";
 - (b) delete the word "or" in subclause (a);
 - (c) delete subclause (b) and insert the following:
 - (b) transport more than 50,000 tonnes of asphalt from the site per calendar year;
 - (c) dispatch more than 120 laden trucks from the site on any calendar day prior to the completion of intersection upgrade required by Condition 21(f) of Schedule 3 to the satisfaction of TfNSW; and
 - (d) dispatch more than 150 laden trucks from the site on any calendar day following completion of the intersection upgrade required by Condition 21(f) of Schedule 3 to the satisfaction of TfNSW.
12. In condition 1 of Schedule 3, in Table 1, delete the word "including" in the "Activity" column and replace with ", Asphalt plant operations and"
13. After condition 2 of Schedule 3, insert the following:

2A. With the prior written agreement of the Secretary, the Proponent may undertake limited campaign asphalt plant operations (within the limits imposed under condition 8 of Schedule 2) outside of the operating hours prescribed in condition 1 of this Schedule, as requested by public authorities.

In such circumstances, the applicant must prepare an Out of Work Hours Work Protocol. This protocol must:

 - (a) be prepared in consultation with the EPA and any residents who may be affected by the noise generated by these works; and
 - (b) be approved by the Secretary prior to the commencement of any out of hours Asphalt plant operations.
14. In condition 3 of Schedule 3, delete Table 2 and replace with the following:

Table 2: Noise criteria dB(A)

Receiver^a	Day <i>L_{Aeq} (15 minute)</i>
Location 2 and Location 7	36
All other locations	35

^a Receiver locations are shown in Appendix 3
15. In condition 21 of Schedule 3:
 - (a) in subparagraph (d), after the words "December 2010;", delete "and";
 - (b) in subparagraph (e), "December 2011" delete the full stop and insert "; and"
 - (c) after subparagraph (e), insert the following:
 - (f) upgrade the intersection at Nimbin Road and the Quarry Access from the current Type AUR intersection to a Type CHR-S (Shortened Channelised Right Hand Turn) to the satisfaction of RMS.
16. In condition 22(a) of Schedule 3, delete the word "20" and replace with "21 (a) – (e)"

17. After condition 25 of Schedule 3, renumber the reference to condition “5” where it occurs under the subheading “Biodiversity Offset Strategy” as condition “25A”.
18. After the first occurrence of condition 4 of Schedule 5, renumber the second occurrence of condition “4” where it occurs under the subheading “Revision of Strategies, Plants & Programs” as condition “4A”.
19. Delete condition 6 of Schedule 5, including its subheading, and replace with:

Adaptive Management

6. The Applicant must assess and manage development-related risks to ensure that there are no exceedances of the criteria and performance measures in this consent. Any exceedance of these criteria or performance measures constitutes a breach of this consent and may be subject to penalty or offence provisions under the EP&A Act or EP&A Regulation.

Where any exceedance of these criteria or performance measures has occurred, the Applicant must, at the earliest opportunity:
 - (a) take all reasonable and feasible steps to ensure that the exceedance ceases and does not recur;
 - (b) consider all reasonable and feasible options for remediation (where relevant) and submit a report to the Department describing those options and any preferred remediation measures or other course of action; and
 - (c) implement reasonable remediation measures as directed by the Planning Secretary.
20. After condition 7 of Schedule 5, delete the subheading “REPORTING” and replace with “REPORTING AND AUDITING”
21. Delete conditions 8 and 9 of Schedule 5, including their subheadings, and replace with:

Incident Notification

8. The Proponent must immediately notify the Department and any other relevant agencies immediately after it becomes aware of an incident. The notification must be in writing via the Major Projects Website and identify the development (including the development application number and name) and set out the location and nature of the incident.

Non-Compliance Notification

9. Within seven days of becoming aware of a non-compliance, the Applicant must notify the Department of the non-compliance. The notification must be in writing via the Major Projects Website and identify the development (including the development application number and name), set out the condition of this consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.
22. In condition 11(g) of Schedule 5, delete the word “escribe” and replace with “describe”
23. In item 2.12 of Appendix 2 Statement of Commitments, after “The proponent shall provide”, delete “the relevant authority”, and replace with “MEG”
24. In item 2.13 of Appendix 2 Statement of Commitments:
 - a. after “Such levies shall be calculated utilising”, delete “extraction returns as required by the above condition”, and replace with “dispatched tonnages with consideration to the below.”;
 - b. after “dispatched tonnages with consideration to the below”, on a new line insert “Quarry Operations”;
 - c. after “Quarry Operations”, insert a new line before the words “The rates”; and
 - d. after “= \$560,628”, on a new line insert:

“Asphalt Operations

The levy shall be calculated in accordance with Councils adopted section 94 plan

e.g. 10 cents for each tonne of bituminous mix produced, and road transported from the site. This levy will be increased annually in accordance with Consumer Price Index as calculated by the Australian Bureau of Statistics. The levy shall apply from the date of this consent and shall be paid in monthly instalments based on tonnage measured on the applicant’s weighbridge. This condition does not in any way prevent the Council from increasing the abovementioned levy at any time if this were so agreed with the operator.”

25. In item 3.1 of Appendix 2 Statement of Commitments:

- a. after “The vegetation” delete “o” and replace with “on”; and
 - b. delete all words after “in accordance with the”, and replace with “approved Management Plans”
26. In item 3.3 of Appendix 2 Statement of Commitments:
- a. replace the references to “DoP” with “Secretary”;
 - b. replace the references to “DECC” with “BCD”; and
 - c. after “use of Biodiversity Offsets in NSW”, insert “(*Office of Environment and Heritage, 2014*)”
27. In item 5.1 of Appendix 2 Statement of Commitments, delete all words after “in accordance with the” and replace with “Conditions of Approval (Condition 1 of Schedule 3).”
28. In item 5.2 of Appendix 2 Statement of Commitments, delete “prohibited” and replace with “limited”
29. In item 5.7 of Appendix 2 Statement of Commitments, delete “DECC” and replace with “EPA”
30. In item 5.8 of Appendix 2 Statement of Commitments, delete all words after “exceed the” and replace with “limits presented in condition 3 of Schedule 3.”
31. In item 8.3 of Appendix 2 Statement of Commitments, delete “DECC” and replace with “EPA”
32. In item 9.1 of Appendix 2 Statement of Commitments, delete “No quarry water is proposed to be discharged from the site as part of the proposed expansion activities” and replace with “Discharge of quarry water from the site will occur via approved surface water discharge locations only.”
33. In condition 4(d) of Appendix 5, delete all words after “compliance testing” and replace with “. This should be undertaken in accordance with Fact Sheet C of the *NSW Noise Policy for Industry* (EPA, 2017).”
34. Update the Table of Contents to reflect changes made by this instrument.

End of Modification