

Notice of Modification

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

As delegate for the Minister for Planning and Infrastructure, the Planning Assessment Commission modifies the project approval referred to in Schedule 1, subject to the conditions in Schedule 2.



Member of the Commission

Sydney,



Member of the Commission

15 March 2016



Member of the Commission

SCHEDULE 1

The project approval (08_0142) for the Mackas Sand Project, granted by the Minister for Planning on 20 September 2009.

SCHEDULE 2

1. In Schedule 1, add the following real property descriptions to the land listed under "Access Roads":

Lots 1-3 DP 118072
2. Under "Definitions", delete the terms "Department", "Director-General", "DRE", "Minister", "NOW" and "Project" and their definitions, and insert in alphabetical order:

Department	Department of Planning and Environment
DPI Water	Department of Primary Industries - Water
DRE	Division of Resources and Energy, within the NSW Department of Industry
EA (MOD 2)	Environmental Assessment titled <i>Environmental Assessment Modifications to Mackas Sand Extraction Operations on Lot 218 Salt Ash NSW</i> , dated July 2015 and prepared by Umwelt Australia Pty Limited, including the Response to Submissions document dated 12 October 2015 and additional information letter dated 16 December 2015
Minister	Minister for Planning, or delegate
Project	The development described in the EA, EA (MOD 1) and EA (MOD 2)
Secretary	Secretary of the Department, or nominee
3. Delete all references to "NOW", and replace with "DPI Water".
4. Delete all references to "Director-General", and replace with "Secretary".
5. Delete condition 2 of Schedule 2, and replace with:
 2. The Proponent shall carry out the project:
 - (a) generally in accordance with the EA;
 - (b) generally in accordance with the EA (MOD 1);
 - (c) generally in accordance with the EA (MOD 2);
 - (d) in accordance with the statement of commitments; and
 - (e) in accordance with the conditions of this approval.

Notes:

- The general layout of the project is shown on the figures in Appendix 1.
- The statement of commitments is reproduced in Appendix 2.

6. In condition 3 of Schedule 2, delete “documents identified in condition 2” and replace with “documents in conditions 2(a) to 2(c)”.
7. Delete condition 8 of Schedule 2, including the heading and replace with:

Updating and Staging Strategies, Plans or Programs

8. The Proponent must regularly review the strategies, plans and programs required under this consent and ensure that these documents are updated to incorporate measures to improve the environmental performance of the development and reflect current best practice in the quarrying industry. To facilitate these updates, the Proponent may at any time submit revised strategies, plans or programs for the approval of the Secretary. With the agreement of the Secretary, the Proponent may also submit any strategy, plan or program required by this consent on a staged basis.

With the agreement of the Secretary, the Proponent may prepare a revision or stage of any strategy, plan or program required under this consent without undertaking consultation with all parties nominated under the applicable condition in this consent.

Notes:

- While any strategy, plan or program may be submitted on a staged basis, the Proponent must ensure that the existing operations on site are covered by suitable strategies, plans or programs at all times.
- If the submission of any strategy, plan or program is to be staged, then the relevant strategy, plan or program must clearly describe the specific stage to which the strategy, plan or program applies, the relationship of this stage to any future stages, and the trigger for updating the strategy, plan or program.

8. Delete condition 4B of Schedule 3, and replace with:

- 4B. The Proponent shall ensure, for the use of the Alternate access road, that:
 - (a) a speed limit of 40 km/hour is applied and enforced for all vehicles;
 - (b) trucks slowing to use the intersection of the access road and Nelson Bay Road do not use engine or compression braking systems;
 - (c) laden truck movements exiting the site do not exceed 14 per hour during the period from 5 am to 6 am, Monday to Friday (except for Public Holidays);
 - (d) laden truck movements exiting the site do not exceed 8 per hour during the period from 6 am to 9 am, Monday to Friday (except for Public Holidays);
 - (e) laden truck movements exiting the site do not exceed 24 per hour during the period from 9 am to 10 pm, Monday to Friday (except for Public Holidays);
 - (f) laden truck movements exiting the site do not exceed 5 per hour between 5 am and 6 am on Saturdays (except for Public Holidays);
 - (g) laden truck movements exiting the site do not exceed 9 per hour between 6 am and 7 am on Saturdays (except for Public Holidays);
 - (h) laden truck movements exiting the site do not exceed 24 per hour between 7 am and 4 pm on Saturdays (except for Public Holidays); and
 - (i) combined laden truck movements exiting from Lots 218 and 220 do not exceed 10 per hour in total on Sundays and Public Holidays.

Note: In this condition, “per hour” means within any period of 60 minutes following the change of hour.

9. In condition 7 of schedule 3, delete Table 3 and the Note following the table and replace with:

Table 3: Traffic noise impact assessment criteria dB(A)

Road	Day/Evening	Night - Shoulder
Lavis Lane, Oakvale Road	60 L_{Aeq} (1 hour)	55 L_{Aeq} (1 hour)
Nelson Bay Road	60 L_{Aeq} (15 hour)	55 L_{Aeq} (9 hour)

Note: Traffic noise generated by the project is to be measured in accordance with the relevant procedures in EPA’s Road Noise Policy.

10. In the second Note following condition 9 of Schedule 3, delete the words “and unladen”.
11. After condition 33 of Schedule 3, insert the condition:

Drivers’ Code of Conduct

- 33A. Prior to 14 April 2016, the Proponent shall prepare a Drivers’ Code of Conduct applicable to drivers of all project-related truck vehicles, including trucks that haul sand from Mackas Sand’s operations on Lots 218 and 220. This Code of Conduct must:
- (a) be prepared in consultation with Council and RMS and be submitted to the Secretary for approval;
 - (b) describe the measures that would be implemented to ensure that drivers of all project-related vehicles, including sand haulage trucks:
 - comply with this Drivers’ Code of Conduct;
 - are made aware of potential safety issues both on site and on the public road haulage routes;
 - are informed of when heavy traffic volumes are likely to be encountered on Nelson Bay Road, including the 6 am to 9 am peak and the summer holiday period;
 - are informed of usual school bus travel times on Nelson Bay Road and Cabbage Tree Road as well as the location of all bus stops on these roads;
 - are made aware of potential interactions with general traffic on Nelson Bay Road whilst merging from the acceleration lane of the access road intersection;
 - are provided with contact details in case of emergencies or accidents;
 - are provided with details of potential environmental hazards, such as potential for fauna to cross the access road, particularly at dawn and dusk;
 - are provided with a detailed protocol that sets out what drivers are required to do to arrange for the care of any injured fauna and that drivers must immediately report all fauna strikes by vehicles on the site to Mackas Sand’s management;
 - provided with updates on local road conditions;
 - minimise truck noise impacts at residences; and
 - minimise travel to the site prior to 5 am on weekdays; and
 - (c) include a monitoring program of the measures in (b).

The Proponent shall implement the approved Drivers’ Code of Conduct as approved from time to time by the Secretary.

Vehicle Monitoring

- 33B. The Proponent shall assess the effectiveness of the measures contained within the Drivers’ Code of Conduct, to the satisfaction of the Secretary.
- 33C. The Proponent shall provide, in each Annual Review, a report on condition 33B above and which includes details of all fauna injured or killed by vehicle strikes, time and date of any such strike, species involved, action taken immediately following the strike and any consequent measures put in place to prevent or minimise a recurrence of fauna strikes.
- 33D. The Proponent shall install and operate video cameras adjacent to the Alternative access road approximately 100 metres from its intersection with Nelson Bay Road to monitor the time and direction of travel of vehicles as they enter and leave the Lot 218 sand quarry, to the satisfaction of the Secretary. These cameras must be located in a fixed position with a field of view that only incorporates lands owned by the Proponent. Recordings from these cameras must be securely stored for at least 30 days and made available to the Department on request.
- 33E. The Proponent shall, by the use of its weighbridge on the Alternate access road to Lot 218, make, and retain for 12 months, records of the time of arrival, time of dispatch, weight of load and vehicle identification for each laden truck dispatched via the Alternate access road. These records shall be made available to the Department on request.
12. Delete condition 4A of Schedule 5, including the heading, and replace with:

REVISION OF STRATEGIES, PLANS AND PROGRAMS

- 4A. Within 3 months of:
- (a) the submission of an incident report under conditions 2 or 3 above;

- (b) the submission of an annual review under condition 4 above;
- (c) the submission of an audit report under condition 6 below; or
- (d) any modification to the conditions of this approval, (unless the conditions require otherwise),

the Proponent shall review, and if necessary revise, the strategies, plans, and programs required under this consent, to the satisfaction of the Secretary. 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 Secretary.

Note: This is to ensure the strategies, plans and programs are updated on a regular basis, and incorporate any recommended measures to improve the environmental performance of the development.

13. In conditions 10, 18, 25, 29 and 30 of Schedule 3, in each condition:

- a) delete the words “and implement” after the words “shall prepare”; and
- b) at the end of each condition, insert the following:

“The Proponent shall implement the approved management plan as approved from time to time by the Secretary.”

14. In condition 28A of Schedule 3 and condition 1 of Schedule 5, delete the words “and implement” after the words “shall prepare”, and at the end of each condition, insert the following:

“The Proponent shall implement the approved strategy as approved from time to time by the Secretary.”

15. In condition 13 of Schedule 3, delete the words “and implement” after the words “shall prepare”, and at the end of the condition, insert the following:

“The Proponent shall implement the approved monitoring program as approved from time to time by the Secretary.”

16. Delete commitment 1.1.1 in Appendix 2 and replace with:

1.1.1 All activities will be undertaken in accordance with the EA, EA (MOD 1) and EA (MOD 2).

17. Update the TABLE OF CONTENTS to reflect the above changes.