

Rocla Pty Ltd (Rocla) was granted project approval (MP 08_0230) on 21 June 2013 by the Executive Director, Development Assessment Systems and Approvals, as delegate for the then Minister for Planning and Infrastructure under the now-repealed Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act). This approval allows:

- extraction of up to 41 million tonnes (Mt) of friable sandstone over 30 years at a rate of up to 1.3 Mt per annum;
- operation of a sand processing facility including washing, screening, dewatering and stockpiling;
- despatch of sand products via public roads; and
- progressive rehabilitation of the site.

The land was formerly leased to Rocla, which no longer has any legal interest in the project.

2. PROPOSED MODIFICATION

On 4 February 2016, Hunt & Hunt Lawyers, on behalf of VSSV Pty Ltd, lodged a modification application under section 75W of the EP&A Act (see **Appendix A**). The modification application sought to amend the Statement of Commitments included within the existing project approval, to enable submission of management plans subsequent to the Department's approval of the Environmental Management Strategy required under condition 1, Schedule 5.

The existing conditions of approval require all management plans to be submitted prior to carrying out any quarrying operations. Therefore the Department advised Hunt & Hunt its proposal would have no practical effect as there would be an inconsistency between timing stated in the Statement of Commitments and the conditions of approval. Pursuant to conditions 2 and 3 of Schedule 2 of the approval, the conditions of approval prevail to the extent of any inconsistency.

In order to align the timing provisions between the conditions of approval and the Statement of Commitments, the Department recommended the timing for completion of the relevant Statement of Commitments actions be modified to "prior to the carrying out of any quarrying operations". Hunt & Hunt agreed to this proposal.

The proposed changes are set out in **Table 1**.

Table 1: Proposed timing amendments to Statement of Commitments

Category	Action	Current Timing	Proposed Timing
5. Rehabilitation and Biodiversity Offset Management	5.12 Prepare a Rehabilitation and Landscape Management Plan to provide the framework for the management and protection of existing and re-established native vegetation.	Within 12 months of the commencement of the Project.	Be submitted to the Secretary for approval prior to the carrying out of quarrying operations under this approval.
9. Aquatic Ecology	9.4 Develop and implement an ecological monitoring plan to confirm the biota in the hanging swamps are not adversely affected by the quarry.	Within 12 months of the project approval.	Be submitted to the Secretary for approval prior to the carrying out of quarrying operations under this approval.
11. Noise and Vibration	11.5 Prepare a Noise Monitoring Program, in consultation with the EPA, to allow noise modelling predictions to be validated and noise levels compared to the project noise criteria.	Within 6 months of the project approval.	Be submitted to the Secretary for approval prior to the carrying out of quarrying operations under this approval.
12. Air Quality	12.11 Prepare an Air Quality Monitoring Program to demonstrate compliance with the nominated goals.	Within 6 months of the project approval.	Be submitted to the Secretary for approval prior to the carrying out of quarrying operations under this approval.
17. Socio-Economic	17.1 Establish a Community Consultative Committee (CCC) and ensure that the community is appropriately represented on the CCC.	Following receipt of project approval.	Prior to the carrying out of quarrying operations under this approval.
	17.2 Implement a complaint management procedure or protocol to ensure that any complaint received is dealt with decisively and appropriately.	Pre site establishment.	Prior to the carrying out of quarrying operations under this approval.

3. STATUTORY CONTEXT

3.1 Section 75W

Project approval MP 08_0230 was granted on 21 June 2013 by a delegate for the Minister for Planning and Infrastructure under Part 3A of the EP&A Act. In accordance with clause 8J(8) of the *Environmental Planning and Assessment Regulation 2000* and the transitional arrangements under Schedule 6A of the EP&A Act, the proposed modification is to be determined under the former section 75W of the EP&A Act.

The modification would not result in any change to the fundamental nature or core elements of the quarry. The Department is satisfied that the proposal can be characterised as a modification to the existing project approval. The Department is satisfied that the proposed modification is within the scope of section 75W and may be determined accordingly.

3.2 Approval Authority

The Minister for Planning is the approval authority for the proposed modification. However, as VSSV Pty Ltd has not reported any reportable political donations, Wingecarribee Council has not objected to the proposal, and there no public objections, the Director Resource Assessments may determine the application under the Minister's delegation of 16 February 2015.

4. CONSULTATION

The Department is not obliged to undertake any consultation relating to the proposed modification. Due to the purely administrative nature of this modification application, the Department has not consulted with any government agencies, nor exhibited the application. The Department believes that the proposed modification does not deal with any material issues other than those assessed prior to the determination of the Green Valley Sand Project.

However, documents relating to the modification were made available on the Department's website immediately following their receipt and the Department advised Wingecarribee Council regarding the modification application. No public or agency submissions have been received.

5. ASSESSMENT

The Department has assessed the merits of the proposed modification in accordance with the relevant objects and requirements of the EP&A Act.

VSSV Pty Ltd is seeking to revise a series of existing timing commitments set out in the Statement of Commitments, to ensure consistency with the approval conditions. These commitments were made by Rocla, the previous owner of the project.

The proposed amendments include the revision of timing commitments to:

- prepare the Rehabilitation and Landscape Management Plan, Aquatic Ecology Monitoring Plan, Noise Management Plan and Air Quality Management Plan; and
- implement a Community Consultative Committee and a complaint management procedure.

The Department supports the proposal to revise the timing commitments in the Statement of Commitments as the proposed changes would be fully consistent with the existing conditions of approval.

The proposed changes would not decrease:

- environmental standards;
- environmental management requirements; or
- environmental regulatory oversight.

for any of the areas of operations to which the project approval relates.

However, they would:

- remove existing inconsistencies between the conditions of approval and the Statement of Commitments; and
- enable VSSV Pty Ltd to be compliant with its Statement of Commitments.

The proposed conditions reflect VSSV Pty Ltd's request. The Department has also included the following amendments:

- updated titles for Government agencies; and

- minor administrative adjustments to the text of management plan and related conditions.

6. NOTICE OF MODIFICATION

A Notice of Modification (see **Appendix B**) and a version of the project approval as proposed to be amended (a 'consolidated approval'; (see **Appendix C**)) have been prepared. VSSV Pty Ltd has agreed to the proposed modified conditions of approval.

7. CONCLUSION

VSSV Pty Ltd is seeking to modify MP 08_0230 to ensure consistency between its Statement of Commitments and the conditions of the approval.

The Department has considered the potential administrative impacts of the proposed modification and is satisfied that the amended commitments would assist the administrative oversight of the Green Valley Sand Project.

The Department is satisfied that the proposed modification is in the public interest, and should be approved.

8. RECOMMENDATION

It is RECOMMENDED that the Director Resource Assessments, as delegate of the Minister for Planning:

- **considers** the findings and recommendations of this report;
- **determines** that the modification request falls within the scope of section 75W of the EP&A Act;
- **approves** the modification application PA 08_0230 MOD 1, under section 75W of the EP&A Act; and
- **signs** the attached Notice of Modification (**Appendix B**).

 24.2.16
Gen Seed
Planning Officer, Resource Assessments

 24.2.16
Howard Reed
Director, Resource Assessments

APPENDIX A: MODIFICATION APPLICATION

APPENDIX B: NOTICE OF MODIFICATION

APPENDIX C: PROJECT APPROVAL MP 08_0230 (AS PROPOSED TO BE MODIFIED)
