

Modification of Minister's Approval

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

As delegate of the Minister for Planning under delegation executed on 17 August 2011, the Planning Assessment Commission of New South Wales (the Commission) approves the modification of the project approval referred to in Schedule 1, subject to the conditions in Schedule 2.

Member of the Commission

Member of the Commission

Member of the Commission

Sydney

2011

SCHEDULE 1

Project Approval:

08_0249 granted by the Minister for Planning on 3 March 2011

For the following:

Stage 1 of the Port Kembla Outer Harbour Development Project, including associated infrastructure.

Modification:

(08_0249 MOD 1): adjustment of the operational traffic movement cap for Stage 1(1A, 1B and 1C) of the Outer Harbour development.

SCHEDULE 2 CONDITIONS

1. In the Project section of Schedule 1, immediately after "Stage 1" insert "(1A, 1B and 1C)".
2. Delete the definitions for "DECCW", "NOW", "Department", "Director-General" and "Minister" and insert in alphabetical order the following:

Department	Department of Planning and Infrastructure
Director-General	Director-General of the Department of Planning and Infrastructure
DPI	Department of Primary Industries
Minister	Minister for Planning and Infrastructure
OEH	Office of Environment and Heritage
3. Delete all references to "DECCW" and replace with "OEH".
4. Delete all references to "NOW", and replace with "DPI".
5. In Condition B3. of Schedule 2 Part B delete the words " 29 vehicles per hour/day" and replace with "shall not exceed 27 vehicle movements per hour/day".
6. In Condition B3. of Schedule 2 Part B delete the words "concept plan approval 08_0249" and insert "condition B42".
7. After Condition B38. of Schedule 2 Part B insert:

COMMUNITY INFORMATION

- B1. Prior to the commencement of construction, the Proponent shall establish a dedicated website or maintain dedicated pages within an existing website for the provision of electronic information associated with the project approval, subject to confidentiality requirements. The Proponent shall publish and maintain up-to-date information on this website or dedicated pages including, but not necessarily limited to:
- a) information on the statutory context of the project approval and the current implementation status of the project;
 - b) a copy of this approval and any future modification to this approval;
 - c) a copy of each relevant approval, licence or permit required and obtained in relation to the project; and
 - d) details of the outcomes of compliance reviews and audits of the project.

Nothing in this approval prevents the Proponent using or modifying the website required under concept plan approval 08_0249 for the purposes of this condition.

- B2. Subject to confidentiality, the Proponent shall make all documents required under this approval available for public inspection on request.
- B3. Prior to the commencement of construction, the Proponent shall ensure that a Complaints and Enquiries Procedure is established consistent with the Procedure required under concept plan approval 08_0249. The Complaints and Enquiries Procedure shall facilitate contact between the Environmental Representative and the community, where relevant. Nothing in this approval prevents the Proponent from using or modifying the Procedure required under concept plan approval 08_0249 for the purposes of this condition.

COMPLIANCE TRACKING

- B4. The Proponent shall develop and implement a Compliance Tracking Program to track compliance with the requirements of this project approval. The Program shall be submitted to the Director General for approval prior to the commencement of construction, unless otherwise agreed by the Director General. The Program shall relate to both construction and operational stages of the project, and shall include, but not necessarily limited to:
- a) provisions for periodic review of the compliance status of the project against the requirements of this approval and concept plan approval 08_0249 (as relevant);
 - b) provisions for the notification of the Director General prior to the commencement of construction and prior to the commencement of operation;
 - c) provisions for periodic reporting of environmental monitoring and compliance status to the Director General;
 - d) a program for independent environmental auditing in accordance with *ISO 19011:2003 - Guidelines for Quality and/ or Environmental Management Systems Auditing*;
 - e) mechanisms for recording incidents and actions taken in response to those incidents; and

- f) provisions for reporting environmental incidents to the Director General during construction and operation; and
- g) procedures for rectifying any non-compliance identified during environmental auditing or review of compliance.

Nothing in this approval restricts the Proponent from using or modifying the Program required under concept plan approval 08_0249 for the purposes of this condition.

INCIDENT REPORTING

- B5. The Proponent shall notify the Director General of any incident with actual or potential significant off-site impacts on people or the biophysical environment within 12 hours of becoming aware of the incident. The Proponent shall provide full written details of the incident, including demonstration that it has notified the appropriate owner of any assets which have been impacted from the incident, to the Director General within seven days of the date on which the incident occurred.
 - B6. Where an incident involves an actual or potential fish kill, the Proponent shall also notify the OEH and DPI of the incident, consistent with the requirements of condition B5.
 - B7. The Proponent shall maintain a register of accidents, incidents and potential incidents with actual or potential significant off-Site impacts on people or the biophysical environment. The register shall be made available for inspection at any time by the independent qualified person or team conducting the Environmental Audit and/or the Director General.
 - B8. The Proponent shall meet the requirements of the Director General to address the cause or impact of any incident, as it relates to this approval, reported in accordance with condition B5 of this approval, within such period as the Director General may require.
- 8. In Condition C31. of Schedule 2 Part B delete the words “concept plan approval” and replace with “condition B42”.
 - 9. After condition C.37 d) insert:

Environmental Representative

- C.38 Prior to the commencement of construction of the project, or as otherwise agreed by the Director General, the Proponent shall nominate for the approval of the Director General a suitably qualified and experienced Environmental Representative(s) independent of the design and construction personnel. The Proponent shall engage the Environmental Representative(s) during any construction activities, or as otherwise agreed by the Director General. The Environmental Representative(s) shall:
 - a) oversee the implementation of all construction-related environmental management plans and monitoring programs required under this approval, and advise the Proponent upon the achievement of these plans/programs;
 - b) consider and advise the Proponent on its compliance obligations against all matters specified in the requirements of this approval, the documents referred to under term A.1 of this approval, and all other applicable permits, approvals and licences required and obtained in relation to the project;
 - c) have the authority and independence to recommend to the Proponent reasonable steps to be taken to avoid or minimise unintended or adverse environmental impacts associated with the construction of the project; and
 - d) have the authority to recommend to the Proponent cessation of activities if there is a significant risk that adverse environmental impacts are likely to occur.