

Modification of Development Consent

Section 4.55(1A) of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning and Public Spaces, I modify the development consent referred to in Schedule 1, as set out in Schedule 2.



Matthew Spratt
Director
Resource Assessments

Sydney

4 September 2020

SCHEDULE 1

Development consent: **MP09_0091** granted by Executive Director, Development Assessment Systems & Approvals as delegate for the Minister for Planning on 8 March 2013

For the following: Tanilba Northern Dune Extension Project

Applicant: Sibelco Australia Limited

Consent Authority: Minister for Planning and Public Spaces

The Land: Tanilba Northern Dune Extension
Lots 11,12,13 DP601306;
Lot 408 DP1041934; and
Lots 1, 2 DP408240

SCHEDULE 2

1. In the list of DEFINITIONS, delete the terms “Biodiversity Offset Strategy”, “Department”, “Director-General”, “DRE”, “Minister”, “NOW”, “OEH”, “Project”, “Proponent” and “RMS” and insert the following in alphabetical order:

Applicant	Sibelco Australia Limited, or any other person carrying out any development under this consent
BCD	Biodiversity & Conservation Division within the Department
Biodiversity Offset Strategy	The long-term conservation and management under BioBanking Agreement 225 of the Applicant’s offset site at Lemon Tree Passage, being Lots 21-24 DP579700 and depicted conceptually in Appendix 4
Department	Department of Planning, Industry and Environment
Development	The development described in the document/s listed in condition 2 of Schedule 2
DPIE Water	Water Group within the Department
EPA	Environment Protection Authority
MEG	Regional NSW – Mining, Exploration and Geoscience
Minister	Minister for Planning and Public Spaces, or delegate
Modification 1	The modification to the development as described in MR (MOD 1)
MR (MOD 1)	The Modification Report titled “MP09_0091 – Tanilba Northern Dune Extension Project – Modification” prepared by Kleinfelder Australia Pty Ltd, dated 6 December, 2019
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
TfNSW	Transport for NSW

2. In the definition of “Land” delete “NSW Land Titles Office” and replace with “NSW Land Registry Services Office”.
3. Delete all references to “Director-General” and replace with “Planning Secretary”.
4. Delete all references to “Proponent” and replace with “Applicant”.
5. Delete all references to “NOW” and replace with “DPIE Water”.
6. Delete all references to “DECCW” and replace with “the EPA”.
7. Delete all references to “DRE” and replace with “MEG”.
8. Delete all references to “RMS” and replace with “TfNSW”.
9. Delete all references to “project” and replace with “development”.
10. Delete all references to “shall” and replace with “must”, with the exception of:
 - condition 3 of Schedule 2; and
 - condition 20 of Schedule 3.
11. Delete all references to “approval” and replace with “consent”, with the exception of:
 - condition 8 of Schedule 2;
 - condition 5 (a) of Schedule 3;
 - condition 8 (a) of Schedule 3;
 - condition 12 (c) of Schedule 3;
 - condition 17 (b) of Schedule 3;

- condition 22 (b) of Schedule 3;
- condition 26 (a) of schedule 3;
- condition 31 of Schedule 3;
- condition 1 (a) of Schedule 5;
- condition 2 (b) of Schedule 5; and
- condition 7 (e) of Schedule 5.

12. Delete condition 2 of Schedule 2 and replace with:

2. The development may only be carried out:
 - (a) in compliance with the conditions of this consent;
 - (b) in accordance with the Statement of Commitments in Appendix 3;
 - (c) in accordance with all written directions of the Secretary;
 - (d) generally in accordance with the EA and MR (MOD 1); and
 - (e) generally in accordance with the Development Layout Plans in Appendix 1.

13. In the notes to condition 6 of Schedule 3:

- (a) delete the references to “projects” and replace with “development”; and
- (b) delete the reference to “their” in note b and replace with “its”.

14. Delete condition 15 of Schedule 3 and replace with:

Biodiversity Management Plan

15. The Applicant must prepare and implement a Biodiversity Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:

- (a) be prepared:
 - by suitably qualified person(s), whose appointment has been approved by the Planning Secretary; and
 - in consultation with Council and BCD;
- (b) be submitted to the Planning Secretary for approval;
- (c) address both the development site and the Biodiversity Management Area (formerly the Northern Offset Area);
- (d) provide for the retention of hollow-bearing trees, wherever practicable;
- (e) ensure the establishment and on-going monitoring (of no less than 6 years) of a least 2 nest boxes for each tree hollow removed during clearing;
- (f) include a program to undertake targeted surveys for *Uperoleia mahonyi* (Mahony’s Toadlet);
- (g) identify any areas within the Biodiversity Management Area requiring rehabilitation and/or re-vegetation and a program to implement these works;
- (h) include a detailed description of the measures and procedures to be implemented for:
 - enhancing the quality of existing vegetation, fauna habitat and wildlife corridors;
 - landscaping the site to minimise any visual impacts of the development;
 - maximising the salvage of resources within the approved disturbance area including vegetative, soil and cultural heritage resources for beneficial reuse in the Biodiversity Management Area and/or rehabilitation areas;
 - minimising the impacts of the development on fauna, including undertaking pre-clearance surveys and minimising the use of insecticides, herbicides, pesticides and biocides;
 - controlling weeds and feral pests;
 - maintenance of a buffer zone at the northern edge of the extraction area;
 - controlling access;
 - minimising edge effects; and

- bushfire management; and
- (i) include:
 - management measures;
 - monitoring procedures;
 - performance indicators; and
 - reporting frameworks,
 with particular reference to the Mahony's Toadlet, Koala and Wallum Froglet.

15. Delete condition 16 of schedule 3 and replace with:

Long-term Security for Offset

16. By 31 December 2020, or otherwise agreed by the Planning Secretary, the Applicant must:

- (a) implement the Biodiversity Offset Strategy via the approved BioBanking Agreement 225 (BA225) as approved by the Minister for the Environment on 23 January 2019, in respect of the established biobank site at Lemon Tree Passage, being Lots 21 -24 DP579700 (see Appendix 4);
- (b) retire at least 397 ecosystem credits within BA225; and
- (c) manage the Biodiversity Management Area (formerly the Northern Offset Area) in accordance with the approved Biodiversity Management Plan, until all requirements of this development consent have been met.

16. In condition 18 of Schedule 3 delete "the novel Uperoleia sp." and replace with "Mahony's Toadlet".

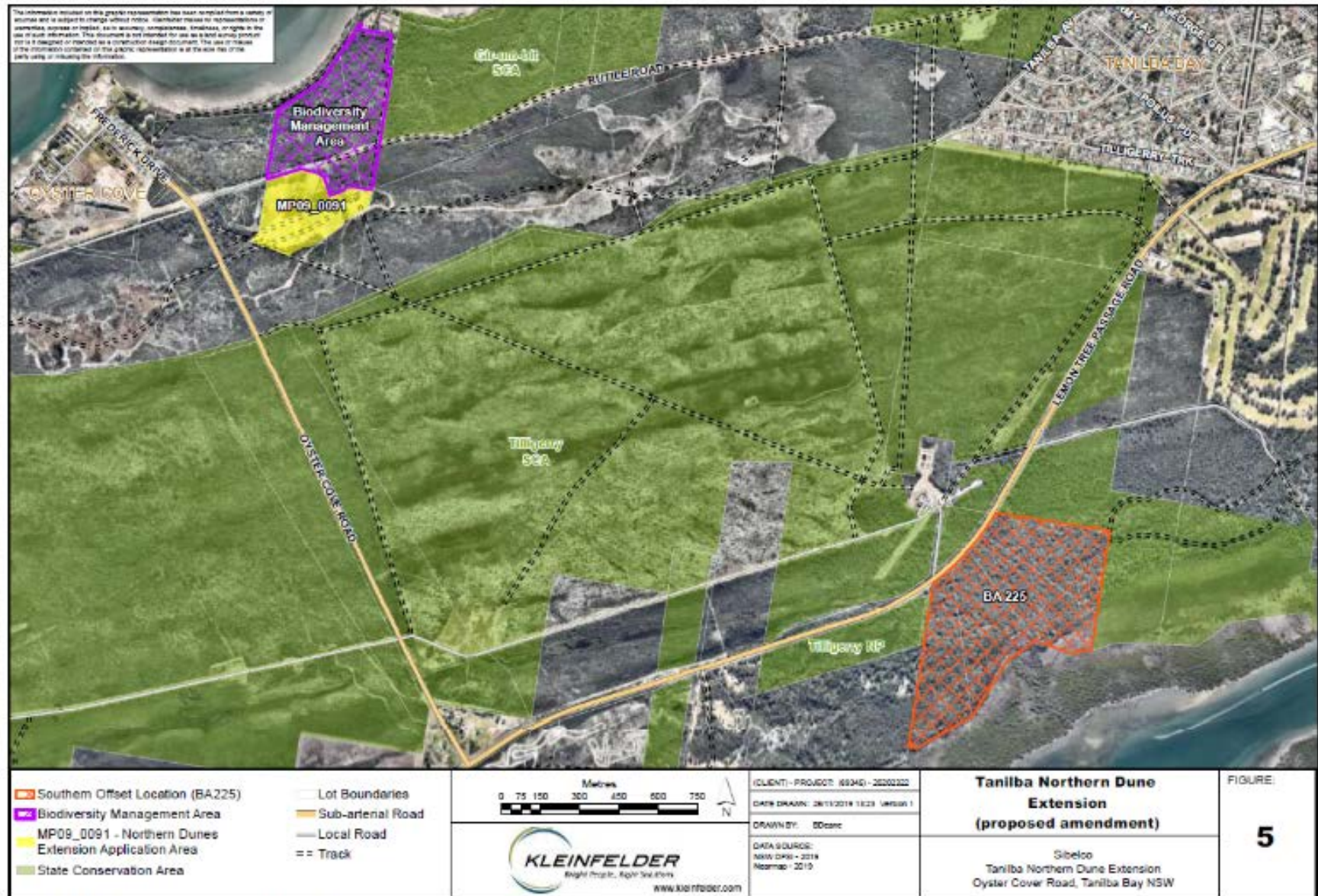
17. In Appendix 1 delete the heading "Project Site" and replace with "Development Layout".

18. In the Statement of Commitments in Appendix 3, in the row entitled:

- (c) "Environmental Management Plan", delete "(2003)"
- (d) "Noise Emissions", delete "(2003)"
- (e) "Surface and Groundwater Quality":
 - i. delete "existing" and replace with "current approved"
 - ii. delete "(2011)"
 - iii. following "current operations will be", insert "followed for the proposed extraction extension"
 - iv. delete "Offset Strategy and associated Habitat Management Plan which will detail management actions to be undertaken on the remaining portions if Lots 11, 12 and 13 and on Lot 24. This plan will cover vegetation, weed, fire and stormwater management, minimisation of edge effects, control of public access and management of habitat enhancement measures" and replace with "Offset Strategy in the form of a Biobanking Agreement over Lot 21, 22, 23 and 24 DP 579700 and associated Biodiversity Management Plan (BMP) which will detail management actions to be undertaken on the remaining portions of Lots 11, 12 and 13 DP 601306. The BMP will cover vegetation, weed, fire and stormwater management, minimisation of edge effects, control of public access and management of habitat enhancement measures."
- (f) "Ecology":
 - i. delete "Vegetation Rehabilitation Management Plan" and replace with "Landscape Management Plan"
 - ii. delete "Sibelco's" and replace with "the Applicant's"

- iii. delete “Section 11.6.4 of the EA” and replace with ““MP09_0091 – Tanilba Northern Dune Extension Project – Modification” dated 6 December 2019”
- (g) “Vegetation Clearing”, delete both occurrences of “section 11.6.1 of the EA” and replace with “the approved Landscape Management Plan”
- (h) “Fauna Displacement Protocol”, delete “Section 11.6.2 of the EA” and replace with “the approved Landscape Management Plan”
- (i) “Nestbox Installation and Monitoring Program”:
 - i. delete “Proposed Offset Areas” and replace with “Biodiversity Management Area”
 - ii. add “DP 601306” after “Lots 11, 12 and 13”
 - iii. delete “A brief letter confirming” and replace with “Confirmation of”
 - iv. delete “should be provided to OEH” and replace with “will be communicated in the Annual Environmental Management Report”
- (j) “Vegetation Management and Monitoring Plan”, delete “proposed Offset Areas on Lots 11, 12, 13 and 24” and replace with “the Biodiversity Management Area on Lots 11, 12 and 13 DP 601306”
- (k) “Biodiversity Offset Strategy”, delete the words in column 2 and replace with “A biodiversity offset strategy will be adopted as outlined in “MP09_0091 – Tanilba Northern Dune Extension Project – Modification” dated 6 December 2019. In perpetuity biodiversity offsets are proposed on Lots 21, 22, 23 and 24 DP 579700 (the offset lands). A Biobanking Agreement (BA225) has been placed over these offset lands, which results in permanent protection and management of the land resulting in numerous ecological benefits”; and
- (l) “Aboriginal Heritage”, delete the words in column 2 and replace with “Ground disturbing activities will be conducted in accordance with the approved Aboriginal Cultural Heritage Management Plan, as outlined in the approved Environmental Management Plan, and any relevant consent conditions”.

19. Delete the figure in Appendix 4 and replace with the following figure:



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

**End of modification
(SSD MP09_0091 MOD 1)**