

Notice of Modification

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

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



Colin Phillips
Acting Director
Resource Assessments

Sydney

13th May,

2015

SCHEDULE 1

The development consent (DA 315-7-2003) for the Luddenham clay/shale quarry, granted by the Minister for Infrastructure, Planning and Natural Resources on 23 May 2004.

SCHEDULE 2

1. In the List of Definitions:

- Delete the definitions for "AEMR", "Department", "Director-General", "DECCW" and "RTA", and insert the following in alphabetical order:

Annual Review	Annual Review, as required under condition 5 of Schedule 5
Department	Department of Planning and Environment
DRE	Division of Resources and Energy within the Department of Trade and Investment, Regional Infrastructure and Services
EPA	Environment Protection Authority
Incident	A set of circumstances that: <ul style="list-style-type: none">causes, or threatens to cause, material harm to the environment; and/orbreaches or exceeds the limits or performance measures/criteria in this consent
Material harm to the environment	Actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial
NOW	NSW Office of Water
Reasonable	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements
RMS	NSW Roads and Maritime Services
Secretary	Secretary of the Department, or nominee

- In the definition of Applicant, after the words "Pty Limited", insert the following: ", or any other person who seeks to carry out the development approved under this consent"

- Delete all references to "DECCW" and replace with "EPA".
- Delete all references to "Director-General" and replace with "Secretary".
- Delete all references to "RTA" and replace with "RMS".
- Delete all references to "AEMR" and replace with "Annual Review".
- Delete all references to "Oakey" and replace with "Oak".

7. In condition 2 of Schedule 3, delete all words after “and dated 15 December 2009;” and insert the following:
 - (f) Modification Application DA 315-7-2003 MOD 3 and the accompanying Environmental Assessment titled *Environmental Assessment Report for Epic Mining Pty Ltd: 275 Adams Road, Luddenham, NSW*, prepared by Benbow Environmental Pty Ltd and dated November 2014; and
 - (g) conditions of this consent.

Note: The general layout of the development, including quarrying extraction area and development sequence, is shown in Appendix 1.
8. In condition 3 of Schedule 3, change the word “approval” to “consent”.
9. Delete condition 4 of Schedule 3 and insert the following:
 4. The Applicant shall comply with any reasonable requirements of the Secretary arising from the Department’s assessment of:
 - (a) any reports, plans, strategies, programs, reviews, audits or correspondence that are submitted in accordance with this consent;
 - (b) any reports, reviews or audits commissioned by the Department regarding compliance with this consent; and
 - (c) the implementation of any actions or measures contained in these documents.
10. In condition 8 of Schedule 3, delete “the Department of Mineral Resources” and “Annual Environmental Management Report (AEMR)” and insert “DRE” and “Annual Review” respectively.
11. In condition 7 of Schedule 4:
 - delete “5” and insert “4”; and
 - delete “the Hubertus Country Club,”.
12. In condition 12A of Schedule 4, delete “Bench 1” and insert “Bench 3”.
13. In condition 19 of Schedule 4,
 - in the first line insert the word “updated” before the words “ Noise Management Plan”;
 - in the last dot point:
 - delete “5” and insert “4”; and
 - delete “the Hubertus Country Club,”;
 - insert a new dot point :
 - “ • continuation of the program of quarterly monitoring for a period of 12 months, in order to reassess changes in noise emissions; monitoring may be reduced, if the Secretary is satisfied with the outcome of the 12 months of quarterly monitoring.”
14. Delete condition 24 of Schedule 4, and insert the following:
 24. The Applicant shall prepare and implement an updated Water Management Plan for the site, to the satisfaction of the Secretary. This plan shall:
 - (a) be submitted to the Secretary for approval by 30 September 2015;
 - (b) be prepared in consultation with NOW and EPA; and
 - (c) include a:
 - Surface Water Monitoring Program;
 - Groundwater Monitoring Program;
 - Erosion and Sediment Control Plan; and
 - Irrigation Management Plan.
15. In condition 27 of Schedule 4, delete paragraph (a) and insert the following:
 - (a) be consistent with the requirements of *Managing Urban Stormwater: Soils and Construction, Volume 1, 4th Edition, 2004* (Landcom);
 - (a1) describe measures to ensure that:
 - all run-off from the composting area reports to the quarry sump;
 - there is no overflow to Oaky Creek from sedimentation pond 3.
16. In condition 29 of Schedule 4, after the words “Department of Natural Resources” insert the words “or their latest statutory and agency equivalents”.

17. Delete conditions 5 to 10 of Schedule 5 and insert the following:

ANNUAL REVIEW

5. By the end of September 2016 and in each year following, or other timing as may be agreed by the Secretary, the Applicant shall review the environmental performance of the development to the satisfaction of the Secretary. This review must:
- (a) describe the development (including rehabilitation) that was carried out in the previous financial year, and the development that is proposed to be carried out over the current calendar year;
 - (b) include a comprehensive review of the monitoring results and complaints records of the development over the previous calendar year, which includes a comparison of these results against:
 - the relevant statutory requirements, limits or performance measures/criteria;
 - the monitoring results of previous years; and
 - the relevant predictions in the documents referred in condition 2 of Schedule 3;
 - (c) identify any non-compliance over the last year, and describe what actions were (or are being) taken to ensure compliance;
 - (d) identify any trends in the monitoring data over the life of the development;
 - (e) identify any discrepancies between the predicted and actual impacts of the development, and analyse the potential cause of any significant discrepancies; and
 - (f) describe what measures will be implemented over the current calendar year to improve the environmental performance of the development.

INDEPENDENT ENVIRONMENTAL AUDIT

6. Before 31 December 2016, and every 3 years thereafter, unless the Secretary directs otherwise, the Applicant shall commission and pay the full cost of an Independent Environmental Audit of the development. This audit must:
- (a) be conducted by a suitably qualified, experienced, and independent team of experts whose appointment has been endorsed by the Secretary;
 - (b) include consultation with the relevant agencies;
 - (c) assess the environmental performance of the development, and whether it is complying with the relevant requirements in this consent and any relevant EPL (including any assessment, plan or program required under these approvals);
 - (d) review the adequacy of any approved strategy, plan or program required under these approvals; and
 - (e) recommend measures or actions to improve the environmental performance of the development, and/or any assessment, plan or program required under these approvals.

Note: This audit team must be led by a suitably qualified auditor and may include additional experts in any field specified by the Secretary.

7. Within six weeks of the completion of this audit, or as otherwise agreed by the Secretary, the Applicant shall submit a copy of the audit report to the Secretary, together with its response to any recommendations contained in the audit report.

COMMUNITY CONSULTATIVE COMMITTEE

8. The Applicant shall establish and operate a Community Consultative Committee (CCC) for the development in general accordance with the *Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects* (Department of Planning, 2007, or its latest version), and to the satisfaction of the Secretary. This CCC must be operating by 30 September 2015.

Notes:

- *The CCC is an advisory committee. The Department and other relevant agencies are responsible for ensuring that the Applicant complies with this approval; and*
- *In accordance with the guideline, the Committee should be comprised of an independent chair and appropriate representation from the Applicant, Council and the local community.*

REVISION OF STRATEGIES, PLANS AND PROGRAMS

9. Within 3 months of a modification to this consent or following the submission of an:
- (a) annual review under condition 5 above;
 - (b) incident report under condition 10 below; or
 - (c) audit report under condition 6 above,
- the Applicant shall review, and if necessary revise, the strategies, plans, and programs required under this consent to the satisfaction of the Secretary.

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

REPORTING

Incident Reporting

10. The Applicant shall immediately notify the Secretary and any other relevant agencies of any incident. Within 7 days of the date of the incident, the Applicant shall provide the Secretary and any relevant agencies with a detailed report on the incident, and such further reports as may be requested.

Regular Reporting

11. The Applicant shall provide regular reporting on the environmental performance of the development on its website, in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent.

ACCESS TO INFORMATION

12. From 30 September 2016 and for the duration of the development, the Applicant shall:
 - (a) make copies of the following publicly available on its website:
 - the documents referred to in condition 2 of Schedule 3;
 - current statutory approvals for the development;
 - approved strategies, plans and programs required under the conditions of this consent;
 - a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
 - a complaints register, which is to be updated monthly;
 - minutes of CCC meetings;
 - the annual reviews of the development (for the last 5 years);
 - any independent environmental audit of the development, and the Applicant's response to the recommendations in any audit;
 - any other matter required by the Secretary; and
 - (b) keep this information up-to-date, to the satisfaction of the Secretary.
18. Delete Appendix 1 and insert the following:

APPENDIX 1 GENERAL SITE LAYOUT

