

Richard P



Our Ref: fA84404  
HCR01164-1

RECEIVED

- 9 MAY 2011

Director-General

Mr Sam Haddad  
Director General  
NSW Department of Planning and Infrastructure  
GPO Box 39  
Sydney NSW 2001

**RE: Modification to approval conditions for Hexham Swamp  
Rehabilitation Project - MP 05\_0193 (DoP File N98/00140)**

Dear Mr Haddad

The Hunter – Central Rivers Catchment Management Authority was given approval to undertake the Hexham Swamp Rehabilitation Project – File No. N98/00140, Major Project number 05\_0193.

The original project approval discussed conditions that related to Wallsair airstrip. The reason that this was of concern was that it was anticipated that there might be impact on the surface of the airstrip due to raised groundwater levels at some stage during the project. The reason groundwater levels would rise is that the CMA is inundating Hexham Swamp with estuarine water to rehabilitate the wetlands. Where inundation was to occur the CMA had to acquire easements to inundate that land. Part of the Wallsair land was to be inundated so an easement was acquired through compulsory acquisition prior to commencement of the project.

The wording of Condition 17 of the Conditions is:

'The Proponent must design, construct, operate and maintain the Project to protect the Wallsair airstrip (Lot 102 DP 606506) from impacts from elevated groundwater levels, including degradation of the airstrip surface.'



Following the compulsory acquisition of the inundation easement, Wallsair Pty Ltd commenced legal proceedings claiming compensation under the Land Acquisition (Just Terms Compensation) Act 1991. The proceedings were settled. The settlement involved, amongst other things, a release of the Proponent from all responsibility under the Conditions, *vis-à-vis* the Wallsair land, and Wallsair consenting to consequential amendments to the Conditions. Attached is a copy of the Wallsair consent letter addressed to the Minister of Planning.

The CMA now requests that Condition 1 be varied to read as set out below (variation underlined), and a new Condition 1A (also set out below) be inserted. And further, that Condition 17 be revoked.

1. The Proponent must carry out the project generally in accordance with:
  - (a) the Environmental Assessment (EA) for the project comprising:
    - (i) Environmental Assessment Supplement Hexham Swamp Rehabilitation Project, prepared by WBM Oceanics Australia and dated April 2006;
    - (ii) Environmental Assessment Supplement Hexham Swamp Rehabilitation Project; Volumes 1 and 2, prepared by WBM Oceanics Australia and dated August 2005-  
but only to the extent that the EA in relation to Requirements refer or relate to matters other than the Wallsair Land or Wallsair Pty Ltd;
  - (b) the Submissions Report prepared by the Hunter-Central Rivers Catchment Management Authority and dated 24 August 2006 but only to the extent that the Submissions Report in relation to Requirements refer or relate to matters other than the Wallsair Land or Wallsair Pty Ltd;
  - (c) the e-mail to the Department dated 18 October 2006 and letter to the Department dated 1 November 2006 from Hunter-Central Rivers Catchment Management Authority in relation to altering the timing of mitigative works, but only to the extent that the e-mail and letter (including the attachments thereto) in relation to Requirements refer or relate to matters other than the Wallsair Land or Wallsair Pty Ltd; and
  - (d) the conditions of this approval but only to the extent that the conditions in relation to Requirements refer or relate



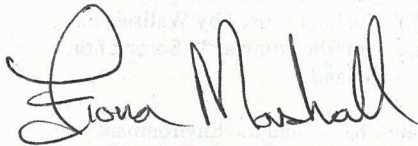
to matters other than the Wallsair Land or Wallsair Pty Ltd.

1A In condition 1:

- (a) "Requirements" means any matter to be performed or undertaken by the Proponent or for which the Proponent is responsible;
- (b) "Wallsair Land" means the land at 59 Creek Road, Maryland being Lot 102 DP 606506 including the Wallsair airstrip and any other part or parts of that land.

A completed "Request to modify a major project" in relation to this matter is attached for your attention.

Thank you for your consideration of this matter. If you would like any further clarification regarding this matter the CMA's contact is Dean Chapman on 4938 4928.



Fiona Marshall

**General Manager**

Date: 30/4/11



Copy of Wallsair's letter

**Wallsair Holdings Pty. Ltd.**

ACN 100 908 763

17 Roe St

Mayfield NSW 2304

4 November 2010

The Minister of Planning

**Part 3A, Environment and Planning Assessment Act 1979**

**Project Approval N98/00140: Hexham Swamp Rehabilitation Project ("the Approval")**

Wallsair Holdings Pty Ltd is the registered proprietor of land comprising Lot 102 in Deposited Plan 606506, in the Parish of Hexham, County of Northumberland, described as 59 Creek Road, Maryland (the "land"). The land is used by Wallsair for the purposes of a private authorised aircraft landing strip (the "runway"). Some of the Conditions of the Approval ("Conditions") relate to the land.

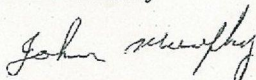
As you are no doubt aware, the Minister for Climate Change and the Environment (formerly, Minister for Natural Resources) is the Proponent under the Approval, and the Hunter-Central Rivers Catchment Management Authority ("HCRCMA"), on behalf of the Proponent, has the responsibility of carrying out the project.

In settlement of proceedings brought by Wallsair in the Land and Environment Court, Wallsair and HCRCMA have agreed on a matter to which various of the Conditions refer or relate.

The matter between the parties having been settled to the satisfaction of Wallsair, Wallsair irrevocably:

- (i) Confirms it unconditionally consents to any application by HCRCMA to vary the Conditions by revoking any Condition (including in particular, Condition 1 and Condition 17) to the extent to which it relates to the land and works in respect to the runway or to raising the runway (the "Revocation").
- (ii) Requests the Planning Minister to not at any time prior to the Revocation direct or otherwise require either or both HCRCMA and the Proponent to perform or carry out in accordance with Condition 1, Condition 17 or any other Condition, any works in respect to the runway or to the raising of the runway.

Yours faithfully



John Murphy  
President