

Notice of Modification

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

As delegate for the Minister for Planning, I approve the modification to Project Approval 06_0303 subject to the conditions in schedule 2, 3 and 4.



Chris Wilson
Executive Director

Sydney

28 January

2010

File No: S06/00631

SCHEDULE 1

Project Application:	06_0303
Proponent:	Tooheys Pty Ltd
Approval Authority:	Minister for Planning
Land:	Part Lot 10 DP 1008367, 29 Nyrang Street Lidcombe
Project:	Upgrade and continued use of the Tooheys Brewery
For the following:	Cogeneration Facility

DEFINITIONS

1. Replace all references to the Department of Environment and Conservation (DEC) with the Department of Environment, Climate Change and Water (DECCW).
2. Insert and define the term POEO Act - *Protection of the Environment Operations Act 1997* directly after the definition of 'Night'.

SCHEDULE 2

1. Replace Condition 2 in Schedule 2 with the following:
2. The Proponent shall carry out the project generally in accordance with the:
 - a) EA;
 - b) Revised site plan contained in appendix A;
 - c) Statement of Commitments in Appendix B;
 - d) Modification application 06_0303 MOD 1 and supporting document titled *Tooheys Brewery, Lidcombe - Cogeneration Facility - Part 3A Modification - Environmental Assessment, prepared by ARUP, September 2009*; and
 - e) Conditions of this approval.

SCHEDULE 3

1. Replace Condition 15 in Schedule 3 with the following:
15. The Proponent shall ensure that noise from operation of the project does not exceed the noise limits presented in Table 1.

Table 1: Project Noise Limits dB(A)

Day	Evening	Night	Location
L _{Aeq} (period)			L _{A1} (1 minute) or L _A max
50	50	50	65
At any residence or other noise sensitive receiver			

Notes:

- a) To determine compliance with the L_{Aeq} (period) noise level limits in the above table, noise from the project is to be measured at the most affected point within the residential boundary, or at the most affected point within 30 metres of a dwelling where the dwelling (rural situations) is more than 30 metres from the boundary. To determine compliance with the L_{A1} (1 minute) noise level limits in the above table, noise from the project is to be measured at 1 metre from the dwelling façade. Where it can be demonstrated that direct measurement of noise from the project is impractical, the DECCW may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy). The modification factors in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise levels where applicable.
 - b) The noise emission limits identified in the above table apply under all meteorological conditions;
 - c) The noise limits do not apply if the Proponent has an agreement with the relevant owner of lands within these locations to generate higher noise levels and the Proponent has advised the Department in writing of the terms of this agreement.
2. Remove Condition 19.
 3. Insert Condition 21a directly after Condition 21 in Schedule 3
 - 21a. Within 90 days of the commencement of operations of the cogeneration facility on the site, the Proponent shall carry out a Noise Audit of the project to the satisfaction of the Director-General. This audit shall:
 - a) be undertaken by a suitably qualified and experienced person whose appointment has been endorsed by the Director-General;
 - b) be carried out during a period in which the project is operating at normal capacity;
 - c) assess whether the project is complying with the relevant noise impact assessment criteria in this approval;
 - d) provide details of any complaints received on the noise impacts of the project, and any action taken to respond to these complaints; and
 - e) identify additional measures that could be implemented to ensure compliance should any non-compliance be detected.
 4. Insert Condition 22a directly after Condition 22 in Schedule 3:
 - 22a. The Proponent must operate the cogeneration facility in a manner which complies with the air emission limit conditions specified in EPL No. 1167, issued under the POEO Act.
 5. Insert Condition 23d directly after Condition 23c in Schedule 3:
 - 23d) design and construction of the cogeneration facility includes an air emissions sampling position that complies with the Test Method TM-1, as specified in the *Approved Methods for Sampling and Analysis of Air Pollutants in New South Wales*, published by the DECCW.

6. Replace Condition 36 and 37 in Schedule 3 with the following:

Pre-construction

36. Prior to construction of the cogeneration facility, the Proponent shall prepare and implement a Construction Hazard Plan to the satisfaction of the Director-General.

The plan must;

- a) be prepared by a suitably qualified independent person approved by the Director-General;
- b) be submitted for approval prior to the commencement of construction; and
- c) Include:

- **Fire Safety Study:**

A Fire Safety Study for the proposed project. This study shall cover the relevant aspects of the Department of Planning's Hazardous Industry Planning Advisory Paper No. 2, 'Fire Safety Study Guidelines' and the New South Wales Government's 'Best Practice Guidelines for Contaminated Water Retention and Treatment Systems'. The study shall meet the requirements of the NSW Fire Brigades. An update of the existing Fire Safety Study for the site will be acceptable.

- **Final Hazards Analysis:**

A Final Hazard Analysis of the proposed project, consistent with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 6, 'Guidelines for Hazard Analysis'. The Preliminary Hazard Analysis may be accepted as a Final Hazard Analysis if no changes have occurred.

- **Construction Safety Study:**

A Construction Safety Study, consistent with the Department of Planning's Hazardous Industry Planning Advisory Paper No. 7, 'Construction Safety Study Guidelines'.

Pre-commissioning

37. Prior to commissioning of the cogeneration facility, the Proponent shall prepare and implement an Operational Hazard Plan for the site to the satisfaction of the Director-General. The plan must.

- a) be prepared by a suitably qualified independent person approved by the Director-General;
- b) be submitted for approval prior to the commencement of commissioning; and
- c) include a:

- **Emergency Plan**

An Emergency Plan is to be prepared in accordance with Department of Planning's Hazardous Industry Planning Advisory Paper No. 1 – Industry Emergency Planning Guidelines. An update of the existing Emergency Plan for the site including the cogeneration facility will be acceptable.

- **Safety Management System**

An update of the Safety Management System for the site including the cogeneration facility will be acceptable.

7. Insert Condition 37a directly after Condition 37 in Schedule 3:

Pre-startup

37a. **Pre-startup Compliance Report**

- a) The Proponent shall submit to the Director-General a Compliance Report detailing compliance with condition 36 and 37 one month prior to the commencement of operation of the cogeneration facility.

SCHEDULE 4

1. Replace Condition 42 in Schedule 4 with the following:
 42. The Proponent shall prepare and implement a revised Environmental Management Strategy for the project, to the satisfaction of the Director-General. This strategy shall be submitted to the Director-General prior to the commencement of construction of the cogeneration plant and must:
 - a) provide the strategic context for environmental management of the project;
 - b) identify the statutory and other obligations that apply to the project;
 - c) describe the role, responsibility, authority, and accountability of all the key personnel involved in environmental management of the project; and
 - d) describe the procedures that would be implemented to:
 - keep the local community and relevant agencies informed about the construction, operation and environmental performance of the project;
 - receive, handle, respond to, and record complaints;
 - resolve any disputes that may arise during the course of the project;
 - respond to any non-compliance;
 - report on monitoring results; and
 - respond to emergencies.

2. Replace Appendix A with the updated Site Plan.

