

Project Approval

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

Under the Minister for Planning's delegation of 4 March 2009, I approve the project referred to in Schedule 1, subject to the conditions in Schedules 2.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the project.



Sam Haddad
Director-General
as delegate of the Minister for Planning

Sydney, 17th August 2009

SCHEDULE 1

Application Number:	07_0014
Proponent:	Incitec Fertilizers Limited
Approval Authority:	Minister for Planning
Land:	Lot 1 DP 225720, 13 Main Road, Boolaroo
Project:	IFL Cockle Creek Remediation Project - Stage 1

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DEFINITIONS

BCA	Building Code of Australia
Council	Lake Macquarie City Council
Day	The period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays
DECCW	Department of Environment, Climate Change and Water
Department	Department of Planning
Director-General	Director-General of Department of Planning, or delegate
EA	Environmental Assessment titled " <i>Cockle Creek Stage 1 Environmental Assessment</i> ", dated November 2008
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
EPL	Environment Protection Licence
Evening	The period from 6pm to 10pm
Land	Land means the whole of a lot, or contiguous lots owned by the same landowner, in a current plan registered at the Land Titles Office at the date of this approval
Minister	Minister for Planning, or delegate
Night	The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
Privately owned land	Land that is not owned by a public agency, or a mining company (or its subsidiary)
Project	The development as described in the EA
Proponent	Incitec Fertilizers Limited
RAP	Remedial Action Plan titled " <i>Conceptual Remediation Action Plan, Incitec Fertilizers Limited, Cockle Creek Site Redevelopment, Boolaroo, New South Wales</i> ", dated July 2008
Reasonable and Feasible	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. Feasible relates to engineering considerations and what is practical to build
Response to Submissions	The Proponent's response to issues raised in submissions
RTA	Roads and Traffic Authority
Stage 1	Groundwater recovery and treatment system for the site as described in the EA
Site	The land referred to in Schedule 1
Site audit report	As defined in the <i>Contaminated Land Management Act 1997</i>
Site audit statement	As defined in the <i>Contaminated Land Management Act 1997</i>
Site Auditor	As defined in the <i>Contaminated Land Management Act 1997</i>
Statement of Commitments	The Proponent's commitments in Appendix 1
VRA	Voluntary remediation agreement

**SCHEDULE 2
ADMINISTRATIVE AND ENVIRONMENTAL CONDITIONS**

OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

1. The Proponent shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the construction, operation, or decommissioning of the project.

TERMS OF APPROVAL

2. The Proponent shall carry out the project generally in accordance with the:
 - (a) EA;
 - (b) RAP;
 - (c) response to submissions;
 - (d) statement of commitments;
 - (e) VRA; and
 - (f) conditions of this approval.
3. If there is any inconsistency between the above documents, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this approval shall prevail to the extent of any inconsistency.
4. The Proponent shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
 - (a) any reports, plans, programs, strategies or correspondence that are submitted in accordance with this approval; and
 - (b) the implementation of any actions or measures contained in these reports, plans, programs, strategies or correspondence submitted by the Proponent.

LIMITS OF APPROVAL

5. Prior to the extraction of groundwater, the Proponent shall provide a report to the Department, DECCW, Council and the Site Auditor that:
 - (a) summarises the results of the groundwater treatment trial;
 - (b) details the methodology for the extraction of groundwater and any changes to the remediation strategy that are required; and
 - (c) revised validation criteria.

Note: this condition does not apply to any works required to treat stormwater under the EPL.

6. The Proponent shall not commence groundwater treatment without the approval of DECCW and an accredited Site Auditor.
7. All groundwater extraction must also be undertaken in accordance with DECCW's licence requirements.
8. Groundwater treatment shall not cease without the approval of DECCW and the Site Auditor. The Proponent must provide a copy of the approvals to the Department within 7 days of receipt of the approvals.

Note: This condition does not apply to temporary stoppages that may be required for maintenance and repairs.

STRUCTURAL ADEQUACY

9. The Proponent shall ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the BCA.

Notes:

- Under Part 4A of the EP&A Act, the Proponent is required to obtain construction and occupation certificates for the proposed building works.
- Part 8 of the EP&A Regulation sets out the requirements for the certification of the project.

DEMOLITION

10. The Proponent shall ensure that all demolition work is carried out in accordance with *Australian Standard AS 2601-2001: The Demolition of Structures*, or its latest version.

PROTECTION OF PUBLIC INFRASTRUCTURE

11. The Proponent shall:
- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
 - (b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

OPERATION OF PLANT AND EQUIPMENT

12. The Proponent shall ensure that all plant and equipment used on site is:
- (a) maintained in a proper and efficient condition; and
 - (b) operated in a proper and efficient manner.

MANAGEMENT PLANS/MONITORING PROGRAMS

13. With the approval of the Director-General, the Proponent may submit any management plan or monitoring program required by this approval on a progressive basis.

SOIL AND WATER

Discharge Limits

14. The Proponent shall comply with Section 120 of the *Protection of the Environment Operations Act 1997*.

Fill

15. Any fill material brought to site must be Virgin Excavated Natural Material.

Bunding

16. All chemicals, fuels and oils shall be stored in appropriately banded areas, with impervious flooring and sufficient capacity to contain 110% of the largest container stored within the bund. The bund(s) shall be designed and installed in accordance with the:
- (a) requirements of all relevant Australian Standards; and
 - (b) DECC's *Storing and Handling Liquids: Environmental Protection* manual.

Management

17. Prior to the commencement of construction, the Proponent shall demonstrate to the satisfaction of the Director-General that erosion and sediment controls have been implemented. The controls must:
- (a) be consistent with the requirements of Landcom's (2004) *Managing Urban Stormwater: Soils and Construction*;
 - (b) manage activities that could cause soil erosion and generate sediment;
 - (c) minimise soil erosion and the transport of sediment to downstream waters; and
 - (d) be maintained during construction.
18. The Proponent shall prepare and implement a Groundwater Monitoring and Treatment Program for the project, to be approved by the Director-General and Site Auditor prior to the commencement of operation of the treatment plant. This plan must:
- (a) be prepared in consultation with DECCW;
 - (b) include the final design of the groundwater treatment facility;
 - (c) detail baseline data on groundwater levels and quality;
 - (d) include:
 - groundwater treatment criteria;
 - a program to monitor groundwater levels, flows and quality;
 - maintenance program for the facility to ensure the on-going effectiveness of the groundwater treatment process;
 - a protocol for the investigation, notification and mitigation of identified exceedences of the groundwater treatment criteria;
 - contingency measures to address exceedences and issues with groundwater treatment, including an investigation of alternative remediation treatment options; and
 - mechanisms to report results to relevant agencies.

AIR QUALITY

19. The Proponent shall carry out all reasonable and feasible measures to minimise dust and noise generated by the project.
20. During construction, the Proponent shall ensure that:
- (a) all trucks entering or leaving the site with loads have their loads covered;
 - (b) trucks associated with the project do not track dirt onto the public road network; and
 - (c) public roads used by these trucks are kept clean.
21. Except as may be expressly provided in an EPL for the project, the Proponent shall ensure that the project complies with Section 129 of the *Protection of the Environment Operations Act, 1997*.

Notes: Section 129 of the Protection of the Environment Operations Act 1997, provides that the Proponent must not cause or permit the emission of any offensive odour from the site, but provides a defence if the emission is identified in the relevant environment protection licence as a potentially offensive odour.

NOISE

22. The Proponent shall comply with the restrictions in Table 1, unless otherwise agreed by the Director-General.

Table 1: Construction and Operation Hours for the Project

Activity	Day	Time
Construction	Monday – Friday	7:00am to 6:00pm
	Saturday	8:00am to 1:00pm
	Sunday and Public Holidays	Nil
Operation	All days	All times

Note: Construction activities may be conducted outside the hours in Table 1 provided that the activities are not audible at any residence beyond the boundary of the site.

23. The Proponent shall comply with the noise limits specified in the EPL for the site.

CULTURAL HERITAGE

24. Prior to the demolition of the railway line and gantry the Proponent shall prepare a full photographic and archival record of these structures. The archival recording must be prepared:
- (a) in consultation with Council and to the satisfaction of the Director-General;
 - (b) by a suitably qualified heritage expert; and
 - (c) in accordance with current the Department's (Heritage Branch) *How to Prepare Archival Records of Heritage Items* and *Photographic Recording of Heritage Items Using Film or Digital Capture*.

A copy of the approved photographic and archival record shall be provided to Council.

25. In the event that Aboriginal or historical objects are uncovered during the course of the project, then work in the immediate areas shall cease, the Director-General and appropriate authorities shall be notified and expert archaeological advice must be sought from an appropriately qualified professional. Works may only commence in this area with the written approval of the Director-General.

Note: The appropriate authorities are DECCW (Aboriginal objects) and the Heritage Office of the Department (historical objects)

WASTE MANAGEMENT

26. The Proponent shall ensure that any waste generated on the site during the project is:
- (a) classified in accordance with the DECCW's *Waste Classification Guidelines*;
 - (b) is stored on-site in a manner that minimises contaminated material from migrating off-site; and
 - (c) disposed of to a facility that may lawfully accept the waste.

TRAFFIC AND TRANSPORT

Vehicle Queuing and Parking

27. The Proponent shall ensure that:
- (a) all parking generated by the project is accommodated on site, and that no vehicles associated with the project shall park on the public road system at any stage; and
 - (b) that the project does not result in any vehicles queuing on the public road network.

ENVIRONMENTAL MANAGEMENT STRATEGY

28. The Proponent shall prepare and implement an Environmental Management Strategy for the project to the satisfaction of the Director-General. This strategy must be submitted to the Director-General prior to carrying out any development on site, and:
- (a) provide the strategic context for environmental management of the project;
 - (b) identify the statutory requirements that apply to the project;
 - (c) describe in general how the environmental performance of the project would be monitored and managed;
 - (d) describe the procedures that would be implemented to:
 - keep the local community and relevant agencies informed about the 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;
 - manage cumulative impacts; and
 - respond to emergencies; and
 - (e) describe the role, responsibility, authority, and accountability of all the key personnel involved in environmental management of the project.

INCIDENT REPORTING

29. Within 7 days of detecting an exceedance of the limits/performance criteria in this approval or an incident causing (or threatening to cause) material harm to the environment, the Proponent shall report the exceedance/incident to the Department, and any other relevant agency. This report must:
- (a) describe the date, time, and nature of the exceedance/incident;
 - (b) identify the cause (or likely cause) of the exceedance/incident;
 - (c) describe what action has been taken to date; and
 - (d) describe the proposed measures to address the exceedance/incident.
30. The Director-General may require an update on compliance with all, or any part, of the conditions of this approval. Any such update shall meet the reasonable requirements of the Director-General and be submitted within such period as the Director-General may agree.
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**APPENDIX 1:
STATEMENT OF COMMITMENTS**

Table 2 Statement of Commitments (revised commitments shown in italics)

Objective	Ref #	Commitment	Timing	Reference
Soil and water				
Minimise exposure of environment to excavated contaminated material.	S1	Excess soil will be managed on Site within managed stockpiles or located within an existing site shed. Any contaminated material will be stockpiled within the existing site shed. Any stockpiles will be managed to prevent erosion and dust.	Construction	Landcom (2006) <i>Managing Urban Stormwater: Soils and Construction</i> .
Minimise detrimental impacts from contamination or sediment in surface waters.	S2	Surface water will be managed during the construction stage to limit or prevent contact with contaminated materials. Sediment entrained in stormwater will be managed using sediment control measures adjacent to potential source areas. Additional measures will be implemented as required to provide adequate management.	Construction	Landcom (2006) <i>Managing Urban Stormwater: Soils and Construction</i> .
Manage treatment plant operation to minimise risks of environmental impacts.	S3	Provide adequate controls and failsafe mechanisms in the treatment plant and associated extraction and infiltration infrastructure to ensure plant operates within control parameters or shuts down with no adverse environmental impact.	Operation	To be included in CEMP to be prepared prior to work commencing.
Undertake monitoring to assess performance of the remediation system.	S4	Undertake routine monitoring of treatment plant to assess effectiveness of treatment plant and acceptability of discharge concentrations. Complete routine groundwater monitoring to assess changes in aquifer concentrations.	Operation	Monitoring plan to be written and agreed to by a DECC accredited Site auditor.
Heritage				
<i>Retain record of heritage items and structures on the Site.</i>	H1	<i>An archival photographic recording will be undertaken in accordance with the Department of Planning (Heritage Office) Guidelines 2001 (revised 2005) Photographic recording of heritage items using film or digital capture. IFL will provide copies of the Heritage Photographic Archival Record to Council in both electronic and hard copy format.</i>	Pre-construction	NSW Department of Planning (Heritage Office) Guidelines 2001 (revised 2005) <i>Photographic Recording of Heritage Items Using Film or Digital Capture</i> .
	H2	Liaise with Council regarding site heritage.	Pre-construction and construction	Not applicable.

Objective	Ref #	Commitment	Timing	Reference
	H3	<i>Should any Aboriginal object (as defined by the NSW National Parks and Wildlife Act 1974) be unexpectedly discovered then all excavations or disturbance to the area are to stop immediately and the Department of Environment and Climate Change shall be informed in accordance with Section 91 of the National Parks and Wildlife Act, 1974.</i>	Construction	<i>To be included in CEMP to be prepared prior to work commencing.</i>
	H4	<i>Should any historical relics be unexpectedly discovered then all excavations or disturbance to the area are to stop immediately and the Heritage Council of NSW shall be informed in accordance with Section 146 of the Heritage Act, 1977.</i>	Construction	<i>To be included in CEMP to be prepared prior to work commencing.</i>
Air quality				
Minimise dust generation during construction and operation of proposed project.	A1	Appropriate dust control measures including covering or wetting of fill, will be undertaken to ensure dust generation is minimised.	Construction and operation	To be included in CEMP to be prepared prior to work commencing.
Minimise emissions from vehicles and plant equipment during construction and operation.	A2	Vehicles and equipment will be maintained and kept in good working order and switched off when not in use.	Construction and operation	To be included in CEMP to be prepared prior to work commencing.
Noise and vibration				
Minimise noise from excavation and drilling during construction of proposed project.	N1	Noise levels produced during construction of proposed project will not exceed existing noise levels within the site or those of the Pasminco lands.	Construction	To be included in CEMP to be prepared prior to work commencing.
	N2	Works will be undertaken during standard working hours only in order to minimise disruptions to local residences. Working hours will be 7am to 6pm Monday to Friday and 8am to 1pm Saturdays. There will be no works on Sundays and public holidays.	Construction	<i>Draft Construction Noise Guidelines 2008 (DECC 2008).</i> To be included in CEMP to be prepared prior to work commencing.

Objective	Ref #	Commitment	Timing	Reference
Mitigate noise produced by operation of the groundwater treatment plant.	N3	The treatment plant will be housed in an existing IFL shed, providing an acoustic barrier that will prevent noise reaching local residential receivers. The noise levels of the treatment plant will not exceed those already existing within the Site.	Operation	Included as part of the treatment system design.
Visual amenity				
Reduce visual impact of construction elements of the proposed project.	V1	Measures including neutral coloured fencing, appropriate storage of plant and materials, and strategic lighting placement will be undertaken to minimise visual impacts of construction of the proposed project.	Construction	To be included in CEMP to be prepared prior to work commencing.
Mine subsidence				
<i>Avoid a mine subsidence event during construction of the proposed project.</i>	<i>M1</i>	<i>Given the risk assessment and discussions with the Mine Subsidence Board, mine subsidence issues will not be assessed by way of an engineer's certification during the Stage 1 works. However, the issue will be taken up and works will commence in due course to ensure that the subsidence parameters are included as part of the Stage 2 works for the containment cell and appropriate engineering certifications will be obtained at that time. IFL will continue to have dialogue with the Mine Subsidence Board on this issue.</i>	<i>Pre-construction and construction</i>	<i>To be included in CEMP to be prepared prior to work commencing.</i>
Traffic and access				
Minimise impact of increased construction traffic on local community.	T1	Appropriate signage will be installed along Main Road to warn local drivers of trucks turning and any other changed conditions.	Pre-construction	To be included in CEMP to be prepared prior to work commencing.
Waste management				
To minimise waste produced during construction of the propose project, and maximise re-use of materials.	W1	To minimise waste, the 'waste hierarchy' (avoid/resource recovery/disposal) will be maximised during construction. The way in which the waste hierarchy will be maximised will be documented and, where relevant to work activities, will be incorporated into work programs and Site inductions.	Construction	<i>Waste Avoidance and Resource Recovery Strategy 2007</i> (DECC 2007).

Objective	Ref #	Commitment	Timing	Reference
Safely dispose of waste produced by operation of the treatment plant	W2	Waste produced during operation of the treatment plant will be disposed of inside the containment cell.	Construction and post-construction	In accordance with DECC requirements.
Consultation				
<i>To ensure that stakeholders have access to clear and up to date information regarding the project.</i>	C1	<i>Ongoing meetings between DECC, DWE and IFL will be facilitated by IFL to share information regarding each stage of the project and groundwater treatment results. The frequency, timing and location of meetings will be determined by IFL in consultation with DECC and DWE.</i>	<i>Pre-construction, construction and operation</i>	
	C2	<i>IFL's communications and consultation program will be maintained and information regarding the progress of the project and remediation outcomes will be made available to the public throughout each stage of the project.</i>	<i>Pre-construction, construction and operation</i>	