

**Nowra Brickworks Quarry
Excavated Natural Material Importation Modification
(MP 07_0123 MOD 2)**

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

1. BACKGROUND

South Coast Concrete Crushing and Recycling Pty Ltd (SCCCR) owns and operates the Nowra Brickworks Quarry, located approximately 5 kilometres south of Nowra in the Shoalhaven City local government area (see **Figure 1**).



Figure 1: Locality plan

Quarrying operations commenced on the site in 1948. On 1 December 2009, the Minister's delegate granted a project approval for the continuation and expansion of quarrying operations under Part 3A of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

The project approval allows SCCCR to extract up to 364,000 tonnes per annum (tpa) of clay and shale, and to dispatch up to 500,000 tpa of quarry products, until 31 December 2039. The project approval also allows SCCCR to import up to:

- 50,000 tpa of recycling materials (ie bricks, cement roof tiles, concrete and asphalt);
- 125,000 tpa of blending materials (ie crusher dust and road base); and
- 200,000 tpa of Virgin Excavated Natural Materials (VENM).

These imported materials are processed and blended with the extracted material to produce various quarry products for the local construction market. The imported VENM is also used for rehabilitation purposes on site.

Because 'clay/shale' is a prescribed mineral listed under the *Mining Regulation 2016*, the quarrying component of the project also requires a mining lease under the *Mining Act 1992* (ML 5087).

The project approval was modified in 2013 to allow minor changes to the site layout (Modification 1). The approved project layout is shown in **Figure 2**.

2. PROPOSED MODIFICATION

On 28 February 2018, SCCCR lodged an application to modify the project approval under section 75W of the EP&A Act.

Condition 8(d) of Schedule 2 of the project approval allows SCCCR to import up to 200,000 tpa of VENM. SCCCR is seeking to amend condition 8(d) to allow both the importation of VENM and Excavated Natural Material (ENM).

ENM is comprised of naturally occurring soil and rock (including sandstone, clay and shale), which has been previously disturbed and therefore does not meet the definition of VENM under the *Protection of the Environment Operations Act 1997*. SCCCR proposes to use the imported ENM for both blending and rehabilitation purposes.

A full description of the proposed modification is provided in the Environmental Assessment (EA, see **Appendix A**).

The modification would not increase the overall quantity of imported material and no changes to the annual production rates are proposed. The proposed modification would simply provide flexibility for SCCCR to accept a wider range of excavated materials for reuse on the site.

SCCCR submits that there is a high demand within the Shoalhaven area for facilities which are authorised to accept ENM. The Department understands that the current supply of ENM from the local construction industry exceeds the available supply of VENM.

3. STATUTORY CONTEXT

3.1 Section 75W and Modification of a Minister's Approval

The Nowra Brickworks Project is a transitional Part 3A project under Schedule 2 of the *Environmental Planning and Assessment (Savings, Transitional and Other Provisions) Regulation 2017*. The power to modify transitional Part 3A projects under section 75W of the Act as in force immediately before its repeal on 1 October 2011 has been discontinued. However, as this modification request was made before the 'cut-off date' of 1 March 2018, the provisions of Schedule 2 (clause 3) of this Regulation continue to apply. Consequently, this report has been prepared in accordance with the requirements of Part 3A and associated regulations, and the Minister (or his delegate) may approve or disapprove the carrying out of the project under section 75W of the EP&A Act.

The proposed modification is of a minor nature, and would not alter the nature or scale of approved operations. Consequently, the Department is satisfied that the proposed modification of the project approval is within the scope of section 75W, and may be determined accordingly.

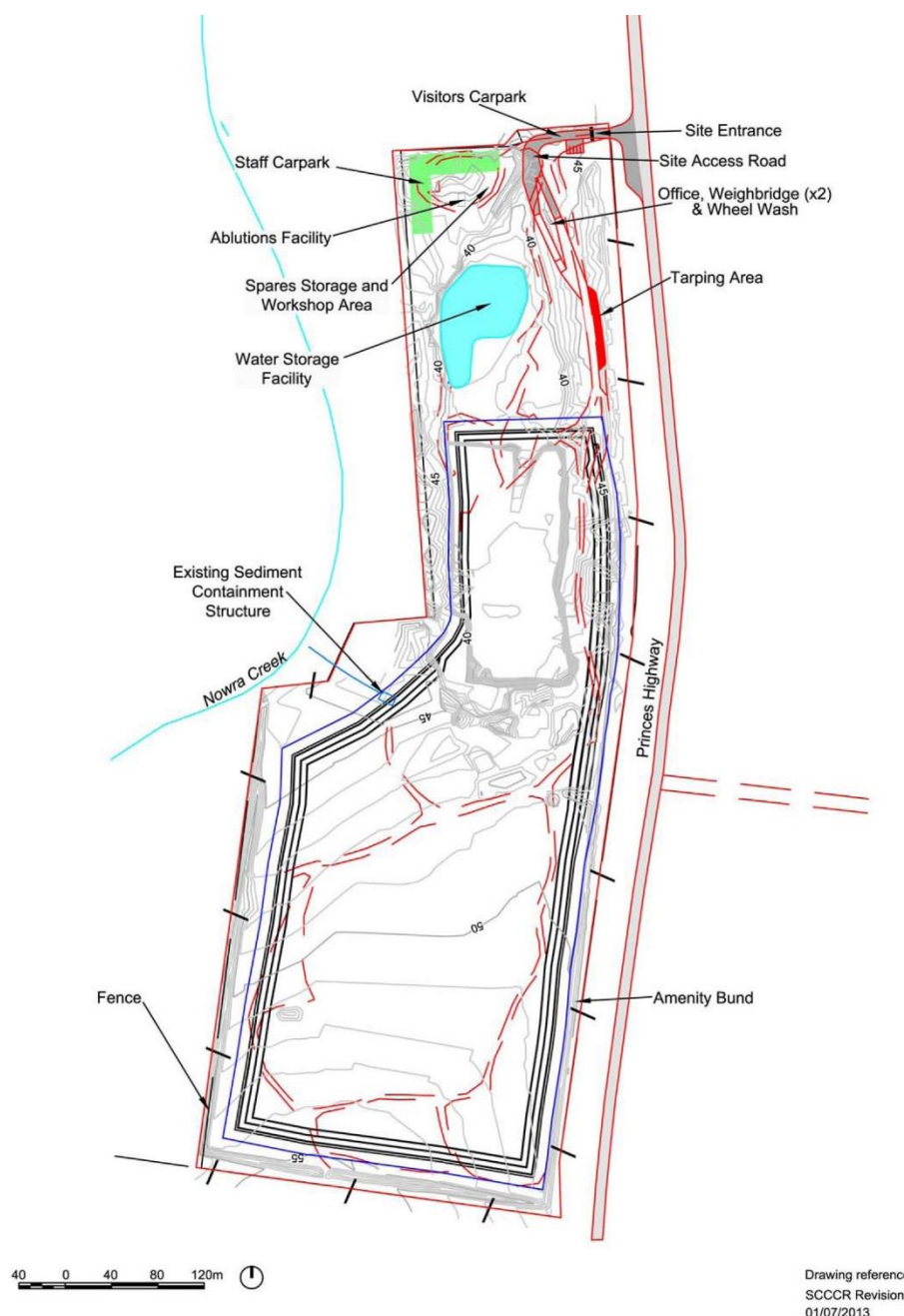


Figure 2: Approved site layout

3.2 Approval Authority

The Minister for Planning is the approval authority for the proposed modification. However, under the Minister's delegation of 11 October 2017, the Director, Resource Assessments, may determine the application as there were no public objections, Council did not object to the proposal, and no political donations have been reported by SCCC.

3.3 Environmental Planning Instruments

A number of environmental planning instruments apply to the modification, including:

- *State Environmental Planning Policy (SEPP) (Mining, Petroleum Production and Extractive Industries) 2007*;
- *SEPP (Infrastructure) 2007*;
- *SEPP (State and Regional Development) 2011*;
- *SEPP No 33 – Hazardous and Offensive Development*, and
- *Shoalhaven Local Environmental Plan 2014*.

The Department has assessed the proposed modification against the relevant provisions of these instruments. The Department is satisfied that the proposed modification can be carried out in a manner that is consistent with the aims, objectives and provisions of these instruments.

3.4 Objects of the EP&A Act

The Minister or delegate must consider the objects of the EP&A Act when making decisions under the Act. The objects of the EP&A Act changed on 1 March 2018. The Department has assessed the proposed modification against the current objects of the EP&A Act. The objects of most relevance to the proposed modification are found in section 1.3. They are:

- Object 1.3(a): *to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources;*
- Object 1.3(b): *to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment;*
- Object 1.3(c): *to promote the orderly and economic use and development of land;*
- Object 1.3(e): *to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats;*
- Object 1.3(f): *to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage);*
- Object 1.3(i): *to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State; and*
- Object 1.3(j): *to provide increased opportunity for community participation in environmental planning and assessment.*

The Department is satisfied that the proposal would encourage the proper management and development of a regionally significant clay/shale resource (Objects 1.3(a) and (i)). The Department is also satisfied that the proposal represents an orderly and economic use of land (Object 1.3(c)).

The Department has considered the principles of ecologically sustainable development (ESD, Object 1.3(b)) in its assessment of the proposed modification. The Department considers that the proposed modification may be carried out in a manner that is consistent with the principles of ESD. The Department's assessment has sought to integrate all significant environmental, social and economic considerations.

The Department has carefully considered the environmental impacts of the proposal, including potential impacts on the natural, cultural and built environments (Objects 1.3(e) and (f)). The key findings of the Department's assessment are summarised in **Section 5** of this report.

The Department made the modification application and EA publicly available (Object 1.3(j)) The outcomes of the consultation process are outlined in **Section 4** below.

4. CONSULTATION

Under section 75W of the EP&A Act, the Department is not required to exhibit the modification application. However, after accepting the modification application, the Department notified relevant Government agencies, and placed a copy of the application and EA on the Department's website.

4.1 Submissions

The Department received three submissions from Government agencies. No public submissions were received.

The **Division of Resources & Geoscience** (DRG) of the Department did not object to the proposal. DRG advised that sustainable rehabilitation outcomes can be achieved as a result of the proposal and concluded that any associated risks can be effectively regulated under SCCCR's mining lease.

The **Environment Protection Authority** (EPA) did not object to the proposed modification. The EPA advised that, while the importation of ENM for rehabilitation purposes is permitted under the *Excavated Natural Material Order 2014*, SCCCR would need to seek a variation to its Environmental Protection Licence (EPL) to import ENM for blending and resale purposes. The EPA recommended that this be reflected in the modified conditions. This issue is discussed further in **Section 5**.

Shoalhaven City Council did not object to the proposal. However, Council noted that SCCCR would need to comply with the EPA's *Excavated Natural Material Order 2014*. Council also provided comment regarding ongoing operational issues at the quarry. Council noted that it has received dust complaints from nearby businesses and expressed concern regarding the tracking of sediment on to the Princes Highway. These matters are discussed in **Section 5**.

Copies of all agency submissions are included in **Appendix B**.

As the quarry is located on Crown land, the Department also consulted with the **Department of Industry** – Crown Lands and Water Division (DoI) during the preparation of the recommended conditions. DoI subsequently advised that it has no further comments or requirements with respect to the proposed modification.

5. ASSESSMENT

In assessing the merits of the proposed modification, the Department has considered the:

- EA for the original project application;
- conditions of approval for the project, as subsequently modified;
- modification application, EA and submissions; and
- relevant environmental planning instruments, policies and guidelines.

The Department considers that the key assessment issues relate to waste management, rehabilitation, air quality and traffic and transport. The findings of the Department's assessment are summarised in **Table 1** below, along with recommended changes to existing conditions.

Table 1: Assessment of key issues

Issue	Impact and Consideration	Recommendation
Waste Management	<ul style="list-style-type: none"> • No changes to the overall quantity of imported material are proposed. The importation, storage and reuse of ENM would be consistent with SCCCR's established procedures for VENM use on site. • The EA for the original project outlined a procedure for recording all incoming deliveries, including the type and source of all waste material, the quantity received, the date and time of delivery and details of the transport contractor. The Department considers that this procedure should be formalised in the conditions of approval. 	<ul style="list-style-type: none"> • The Department has recommended conditions requiring SCCCR to keep detailed records of all materials received at the site. The recommended conditions also inform SCCCR of its obligation to seek an EPL variation following determination of the Modification. • The Department has also recommended strengthened conditions to ensure that SCCCR only receives waste material expressly permitted under the project approval and the site's EPL.
Rehabilitation	<ul style="list-style-type: none"> • SCCCR proposes to use a proportion of the imported ENM for backfilling purposes on site. This is consistent with the conceptual final landform in the EA and the approved Landscape and Biodiversity Management Plan for the site. • DRG did not raise any objections regarding this proposal. 	<ul style="list-style-type: none"> • No changes considered necessary.
Air Quality	<ul style="list-style-type: none"> • The proposal would not change the overall quantity of imported material received or stored on site. Consequently, the air quality impacts of the proposed modification are considered negligible. • Council raised concerns regarding air quality management at the site, citing previous dust complaints from nearby businesses. 	<ul style="list-style-type: none"> • The Department has recommended changes to existing air quality management conditions to reflect current standards. These conditions require SCCCR to implement best practice air quality management on site and to prepare a detailed Air Quality Management Plan (AQMP) within 3 months of determination of Modification 2. • The Department has also recommended the deletion of existing performance criteria for deposited dust. Dust deposition gauges are unlikely to provide useful data to manage the off-site air quality

Issue	Impact and Consideration	Recommendation
		impacts of the project. The Department considers that these impacts can be monitored more effectively through the use of High Volume Air Samplers.
		<ul style="list-style-type: none"> The Department is satisfied that the air quality impacts of the modified project would be suitably managed under modified conditions, and an updated AQMP.
Traffic and Transport	<ul style="list-style-type: none"> No changes to truck numbers or haulage times are proposed. Council raised concerns regarding quarry vehicles tracking sediment onto the Princes Highway. Existing conditions require SCCCR to ensure that all laden vehicles entering or exiting the site have their loads covered, and that trucks use the wheel wash facility prior to leaving the site. 	<ul style="list-style-type: none"> The Department is satisfied that the proposal would have a negligible impact on the road network. The Department considers that existing conditions are appropriate to manage sedimentation issues at the site. The Department's Compliance Branch has also been informed of the Council's submission.

6. RECOMMENDED CONDITIONS

The Department has drafted a recommended notice of modification (see **Appendix C**) and a consolidated version of the project approval as it is proposed to be modified (see **Appendix D**). The Department has taken the opportunity to undertake a comprehensive update of existing conditions, in consultation with SCCCR, to align with the Department's current drafting standards. The Department considers that the environmental impacts of the project can be appropriately managed under the modified conditions of approval.

SCCCR has reviewed and accepted the recommended conditions.

7. CONCLUSION

The Department has assessed the modification application and EA in accordance with the relevant requirements of the EP&A Act. The Department has carefully considered the proposal's potential impacts on the natural and cultural environment and on nearby residents. The Department has concluded that these impacts can be suitably managed under modified conditions.

The Department is satisfied that the proposal would provide greater operational flexibility, by allowing SCCCR to accept and reuse a wider range of natural materials on site. The Department is satisfied that the proposal may be carried out without increasing the environmental impacts of the project. The Department is therefore satisfied that the modification is in the public interest and should be approved, subject to revised and strengthened conditions.

8. RECOMMENDATION

It is recommended that the Director, Resource Assessments, as delegate of the Minister:

- **considers** the findings and recommendations of this report;
- **determines** that the modification is within the scope of section 75W of the EP&A Act;
- **approves** the modification application under section 75W, subject to conditions; and
- **signs** the attached notice of modification (**Appendix C**).

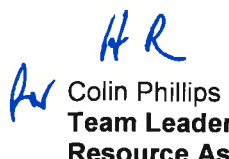
Recommended by:



Lauren Evans
Senior Planning Officer
Resource Assessments

21/6/18

Recommended by:



Colin Phillips
Team Leader
Resource Assessments

21.6.18

9. DECISION

The recommendation is: Approved / ~~Not approved~~ by:



Howard Reed

21.6.18

Director

Resource Assessments

as delegate of the Minister for Planning

APPENDIX A: ENVIRONMENTAL ASSESSMENT

See: http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9165

APPENDIX B: SUBMISSIONS

See: http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=9165

APPENDIX C: NOTICE OF MODIFICATION

APPENDIX D: CONSOLIDATED APPROVAL
