

Notice of Modification

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

As delegate of the Minister for Planning, I modify the project approval referred to in Schedule 1, as set out in Schedule 2.



Howard Reed
Director Resource Assessments

Sydney 21 June

2018

SCHEDULE 1

Project approval 07_0123 for the Nowra Brickworks Quarry, granted by the Director-General as delegate of the Minister for Planning on 1 December 2009.

SCHEDULE 2

1. In Schedule 1, delete the words "Lot 464, DP1058778" and replace with "Lot 30, DP 1169494".

2. Delete the list of Definitions and replace with the following:

Aboriginal object or place	Have the same meaning as the definitions of the terms in section 5 of the NP&W Act
Annual Review	The review required by condition 12 of Schedule 5
BCA	Building Code of Australia
CCC	Community Consultative Committee
Conditions of this approval	Conditions contained in Schedules 2 to 5 (inclusive) of this document
Council	Shoalhaven City Council
Day	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
Department	NSW Department of Planning and Environment
Demolition	The deconstruction and removal of buildings, sheds and other structures on the site
DRG	Division of Resources and Geoscience within the Department
Dol Water	Department of Industry – Crown Lands and Water Division
EA	Environmental Assessment titled <i>Environmental Assessment for the Continuation and Expansion of Extractive Operations at the Nowra Brickworks Quarry, South Nowra</i> , prepared by R.W. Corkery & Co Pty Ltd and City Plan Services, dated February 2009, and associated Response to Submissions prepared by City Plan Services and dated August 2009
EA (Mod 1)	Environmental Assessment titled <i>Section 75W Modification Application to Major Project (MP07_0123) for the Continuation of Extractive Operations</i> , prepared by City Plan Services and dated 3 May 2013
EA (Mod 2)	Environmental Assessment titled <i>MP 07_0123 / Nowra Brick Quarry / Proposed S75W Modification</i> prepared by City Plan Services and dated 1 March 2018
EPA	NSW Environment Protection Authority
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 under the POEO Act
Evening	The period from 6 pm to 10 pm
ENM	Excavated Natural Material, as defined in Section 1 of the EPA's <i>Excavated Natural Material Order 2014</i> , or latest version
Feasible	What is possible and practicable in the circumstances
Imported materials	Recycling materials, blending materials, VENM and ENM as described in the EA and EA (Mod 2)
Incident	An occurrence or set of circumstances that: <ul style="list-style-type: none">causes or threatens to cause material harm to the environment; and/or

	<ul style="list-style-type: none"> breaches or exceeds the limits or performance measures/criteria in this approval
Land	Has the same meaning as the definition of the term in section 4 of the EP&A Act, except where the term is used in the noise and air quality conditions in Schedules 3 and 4 of this approval, where it is defined as 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
m	Metres
Material harm	Is unauthorised harm that: <ul style="list-style-type: none"> involves actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial, or results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)
Minimise	Implement all reasonable and feasible mitigation measures to reduce the impacts of the project
Minister	Minister for Planning, or delegate
Mitigation	Activities associated with reducing the impacts of the project prior to or during those impacts occurring
Modification 2	The modifications to the project, as described in EA (Mod 2)
Night	The period from 10 pm to 7 am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
NP&W Act	<i>National Parks and Wildlife Act 1974</i>
OEH	Office of Environment and Heritage
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Privately-owned land	Land that is not owned by a public agency or a mining, petroleum or extractive industry company (or its subsidiary)
Project	The development described in the documents listed in condition 2 of Schedule 2
Project layout	The plan in Appendix 1 of this approval
Proponent	South Coast Concrete Crushing and Recycling Pty Ltd (or its successors) or any person carrying out any development to which this approval applies
Public infrastructure	Linear and other infrastructure that provides services to the general public, such as roads, railways, water supply, drainage, sewerage, gas supply, electricity, telephone, telecommunications, etc.
Quarrying operations	The: <ul style="list-style-type: none"> extraction, processing, stockpiling and transportation of extractive materials carried out on the site and the associated removal and/or emplacement of vegetation, topsoil and overburden; and processing, stockpiling, blending and transportation of imported materials carried out on the site
Quarry products	Includes all saleable quarry products, including products which have been blended with imported materials, but excludes tailings, other wastes and rehabilitation material for use on the site
Registered Aboriginal Parties	As described in the <i>National Parks and Wildlife Regulation 2009</i>
Rehabilitation	The restoration of land disturbed by the project to a good condition, to ensure it is safe, stable and non-polluting
Reasonable	Means applying 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	Planning Secretary under the EP&A Act, or nominee
Site	The land defined in Schedule 1 and the project layout
Statement of Commitments	The Proponent's commitments in Appendix 2
VENM	Virgin Excavated Natural Material, as defined in Schedule 1 of the POEO Act
Waste	Has the same meaning as defined in the Dictionary to the POEO Act

- Delete all references to "Director-General" and replace with "Secretary".
- Delete all references to "DRE" and replace with "DRG".
- Delete all references to "NOW" and replace with "DoI Water".
- Delete all references to "shall" and replace with "must".
- Delete condition 1 of Schedule 2 and insert the following:

1. In addition to meeting the specific performance measures and criteria established under this approval, the Proponent must implement all reasonable and feasible measures to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the project, and any rehabilitation required under this approval.
8. In condition 2 of Schedule 2, delete sub-paragraphs (b) to (d), and the notes, and insert the following:
 - (b) EA (Mod 1);
 - (c) EA (Mod 2);
 - (d) project layout; and
 - (e) Statement of Commitments.
9. Delete conditions 3 and 4 of Schedule 2 and insert the following:
 - 2A. The Proponent must carry out the project in accordance with the conditions of this approval.
 3. The conditions of this approval and directions of the Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document referenced in condition 2 of this Schedule. In the event of an inconsistency, ambiguity or conflict between any of the documents referenced in condition 2 of this Schedule, the most recent document prevails.

Note: For the purposes of this condition, there will be an inconsistency between documents if it is not possible to comply with both documents, or in the case of a condition of approval or direction of the Secretary, and a document, if it is not possible to comply with both the condition or direction, and the document.
 4. Consistent with the requirements of this approval, the Secretary may make written directions to the Proponent in relation to:
 - (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this approval, including those that are required to be, and have been, approved by the Secretary; and
 - (b) the implementation of any actions or measures contained in any such document referred to in (a) above.

Note: For the purposes of this condition, there will be an inconsistency between documents if it is not possible to comply with both documents, or in the case of a condition of consent or direction of the Secretary, and a document, if it is not possible to comply with both the condition or direction, and the document.
10. In condition 7 of Schedule 2, delete the note and insert the following:

Note: Under this approval, the Proponent is required to decommission and rehabilitate the site and carry out additional requirements. Consequently, this approval will continue to apply in all respects other than to permit the carrying out of quarrying operations, until the rehabilitation of the site and those requirements and undertakings have been carried out to the required standard.
11. In condition 8 of Schedule 2, after the word “VENM”, insert “/ENM (in total)”.
12. After condition 8 of Schedule 2, insert the following:
 - 8A. The Proponent may receive up to three unladen trucks at the site between:
 - (a) 6.00 am and 7.00 am Monday to Saturday; and
 - (b) 6.00 pm and 8.00 pm Monday to Friday; and
 - (c) 4.00 pm and 6.00 pm Saturday.

Note: Operating hours for arrival and despatch of trucks are also controlled under condition 1 of Schedule 3.
13. Delete condition 9 of Schedule 2, including the heading.
14. In the first note below condition 10 of Schedule 2, delete “4A” and insert “6”.
15. After condition 12 of Schedule 2, insert the following:

Protection of Public Infrastructure

13. Unless the Proponent and the applicable authority agree otherwise the Proponent must:
 - (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the project; and
 - (b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the project.

Note: This condition does not apply to damage to roads caused as a result of general road usage or otherwise addressed by contributions required by condition 33 of Schedule 3.

Compliance

14. The Proponent must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this approval relevant to activities they carry out in respect of the project.

Applicability of Guidelines

15. References in the conditions of this approval to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, standards or policies in the form they are in as at the date of this approval.

However, consistent with the conditions of this approval and without altering any limits or criteria in this approval, the Secretary may, when issuing directions under this approval in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, standard or policy, or a replacement of them.

16. Delete conditions 1 and 2 of Schedule 3, including sub-headings, and insert the following:

Hours of Operation

1. The Proponent must comply with the operating hours set out in Table 1.

Table 1: Operating hours

Activity	Permissible Hours
Quarrying operations	7.00 am to 6.00 pm Monday to Friday
	7.00 am to 4.00 pm Saturday
	At no time on Sundays or public holidays

Note: Limited truck movements are permitted outside of the permissible hours for quarrying operations, as specified in condition 8A of Schedule 2.

- 1A. The following activities may be carried out outside the hours specified in condition 1 of this Schedule:
- (a) activities that are inaudible at residences on privately-owned land;
 - (b) the delivery or dispatch of materials as requested by the NSW Police Force or other public authorities for safety reasons; or
 - (c) emergency work to avoid the loss of life, property or to prevent material harm to the environment.

In such circumstances, the Proponent must notify the Department and affected residents prior to undertaking the activities, or as soon as is practical thereafter.

Operational Noise Criteria

2. The Proponent must ensure that operational noise generated by the project does not exceed the criteria in Table 2 at any residence on privately-owned land.

Table 2: Operational noise criteria dB(A)

Receiver	Location	Day L _{Aeq} (15 min)	Evening L _{Aeq} (15 min)	Night L _{Aeq} (15 min)
1	80 Links Road	39	35	NA
2	371 Old Southern Road	45	35	35
4	243 Princes Highway	49	38	38
5	South Coast Correctional Centre	51	37	37

Noise generated by the project is to be measured in accordance with the relevant requirements and exemptions (including certain meteorological conditions) of the *NSW Industrial Noise Policy*. Appendix 6 sets out the meteorological conditions under which these criteria apply and the requirements for evaluating compliance with these criteria.

However, the noise criteria in Table 2 do not apply if the Proponent has an agreement with the relevant landowner to exceed the noise criteria, and the Proponent has advised the Department in writing of the terms of this agreement.

Note: Receiver locations are shown in Appendix 3.

17. Delete the sub-heading "Continuous Improvement" above condition 3 of Schedule 3, and replace with "Noise Operating Conditions".

18. In condition 3 of Schedule 3:
- (a) at the end of sub-paragraph (a), insert the words “to minimise the noise impacts of the project”;
 - (b) at the end of sub-paragraph (b), delete the word “and”;
 - (c) delete sub-paragraphs (c) and (d) and insert the following:
 - (c) take all reasonable steps to minimise the noise impacts of the project during meteorological conditions when the noise criteria in this approval do not apply (see Appendix 6);
 - (d) carry out regular noise monitoring in accordance with Appendix 6 to determine whether the project is complying with the relevant conditions of this approval; and
 - (e) modify or stop operations on the site to comply with the relevant conditions of this approval.
19. In condition 4 of Schedule 3:
- (a) delete the words “and implement”;
 - (b) delete sub-paragraphs (c) and (d) and insert the following:
 - (c) describe the proposed noise management system; and
 - (d) include a noise monitoring program that:
 - is capable of evaluating the performance of the project;
 - includes a protocol for determining any exceedances of the relevant conditions of this approval; and
 - effectively supports the noise management system.

The Proponent must implement the Noise Monitoring Program as approved by the Secretary.

20. At the beginning of the sub-heading above condition 9 of Schedule 3, insert the word “Blast”.
21. In the sub-heading above condition 13 of Schedule 3:
- (a) before the word “Management”, insert “Blast”; and
 - (b) following the word “Management”, insert “Plan”.
22. In condition 13 of Schedule 3:
- (a) delete the words “and implement”;
 - (b) following the words “The Plan must”, insert a colon; and
 - (c) at the end of the condition, insert the following:

The Proponent must implement the Blast Management Plan as approved by the Secretary.

23. Delete conditions 14, 15 and 16 of Schedule 3, including the sub-headings, and insert the following:

Air Quality Impact Assessment Criteria

14. The Proponent must ensure that particulate matter emissions generated by the project do not cause exceedances of the criteria in Table 5 at any residence on privately-owned land.

Table 5: Air quality criteria

Pollutant	Averaging Period	Criterion
Particulate matter < 10 µm (PM ₁₀)	Annual	a,c 30 µg/m ³
Particulate matter < 10 µm (PM ₁₀)	24 hour	^b 50 µg/m ³
Total suspended particulates (TSP)	Annual	a,c 90 µg/m ³

Notes to Table 5:

a Cumulative impact (ie increase in concentrations due to the project plus background concentrations due to all other sources).

^b Incremental impact (ie increase in concentrations due to the project alone, with zero allowable exceedances of the criteria over the life of the project).

^c Excludes extraordinary events such as bushfires, prescribed burning, dust storms, sea fog, fire incidents or any other activity agreed by the Secretary.

Air Quality Operating Conditions

15. The Proponent shall:
- (a) implement all reasonable and feasible dust mitigation measures to minimise the dust impacts of the project;
 - (b) investigate ways to reduce the dust generated by the project;
 - (c) minimise the air quality impacts of the project during adverse meteorological conditions and extraordinary events (see note d under Table 5);

- (d) monitor and report on compliance with the relevant air quality conditions in this approval; and
- (e) minimise the area of surface disturbance and undertake progressive rehabilitation of the site, to the satisfaction of the Secretary.

Air Quality Management Plan

16. The Proponent must prepare an Air Quality Management Plan for the project to the satisfaction of the Secretary. This plan must:
- (a) be prepared in consultation with EPA;
 - (b) be submitted to the Secretary for approval within 3 months of the determination of Modification 2;
 - (c) describe the proposed air quality management system;
 - (d) describe the measures to be implemented to ensure:
 - compliance with the air quality criteria and operating conditions of this approval;
 - best practice management is being employed; and
 - the air quality impacts of the project are minimised during adverse meteorological conditions and extraordinary events; and
 - (e) include an air quality monitoring program that:
 - includes a protocol for determining any exceedances of the relevant conditions of this approval; and
 - effectively supports the air quality management system.

The Proponent must implement the Air Quality Management Plan as approved by the Secretary.

Meteorological Monitoring

- 16A. For the life of the project, the Proponent must ensure that there is a suitable meteorological station operating in the vicinity of the site that complies with the requirements in the *Approved Methods for Sampling and Analysis of Air Pollutants in New South Wales* guideline.
24. After the heading "WATER MANAGEMENT", insert the following:
- Note: Under the Water Act 1912 and/or the Water Management Act 2000, the Proponent is required to obtain all necessary approvals and/or water licences for the project.*
25. At the beginning of the sub-heading "Water Management Plan" above condition 19 of Schedule 3, insert the words "Soil and".
26. In condition 19 of Schedule 3:
- (a) following the words "shall prepare", delete "and implement"; and
 - (b) after sub-paragraph (b), insert the following:

The Proponent must implement the Soil and Water Management Plan as approved by the Secretary.

27. In condition 26 of Schedule 3:
- (a) following the words "shall prepare", delete "and implement"; and
 - (b) after sub-paragraph (c), insert the following:

The Proponent must implement the Landscape and Biodiversity Management Plan as approved by the Secretary.

28. In condition 29 of Schedule 3, delete the words "'Virgin Excavated Natural Materials' as defined in in the *Protection of the Environment Operations Act 1997*" and insert "VENM or ENM".
29. In condition 30 of Schedule 3:
- (a) following the words "shall prepare", delete "and implement";
 - (b) in sub-paragraph (a), delete the words "local Aboriginal communities" and insert "Registered Aboriginal Parties"; and
 - (c) delete sub-paragraph (c) and insert the following:
 - (c) include a description of the measures that would be implemented to:
 - (i) manage the discovery of previously unidentified Aboriginal objects or Aboriginal places on the site; and
 - (ii) facilitate ongoing consultation with and involvement of Registered Aboriginal Parties in the conservation and management of Aboriginal cultural heritage on the site.

The Proponent must implement the Aboriginal Cultural Heritage Management Plan as approved by the Secretary.

30. After condition 30 of Schedule 3, insert the following:

- 30A. If human remains are discovered on the site, then all work in the area surrounding the discovery must cease, and the area must be secured. The Proponent must immediately notify NSW Police Force and OEH, and work must not recommence in the area until authorised by NSW Police Force and OEH.
- 30B. If any potential Aboriginal object or Aboriginal place is identified on the site, or suspected to be on the site:
- (a) all work in the immediate vicinity of the object or place must cease immediately;
 - (b) a 10 m buffer area around the object or place must be cordoned off; and
 - (c) OEH must be contacted immediately.
- 30C. Work in the immediate vicinity of a potential Aboriginal object or Aboriginal place may only recommence if:
- (a) the object or place is confirmed by OEH upon consultation with the Registered Aboriginal Parties not to be an Aboriginal object or Aboriginal Place;
 - (b) the Aboriginal Cultural Heritage Management Plan is revised to include the object or place and appropriate measures in respect of it; or
 - (c) the Secretary is satisfied with the measures to be implemented in respect of the object or place and makes a written direction in that regard.
31. After the heading "WASTE MANAGEMENT", delete the sub-heading "Waste Minimisation" and insert the following:
- 31A. Except as expressly permitted in an EPL and/or the conditions of this approval, the Proponent must not receive waste on the site for storage, treatment, processing, reprocessing or disposal.
- Note: Under the POEO Act, the Proponent is required to obtain an EPL variation to permit the importation of ENM for blending purposes.*
- 31B. The Proponent must:
- (a) maintain accurate records of all imported materials received at the site (including the type, source, date, time and quantity received and details of the transport contractor); and
 - (b) include a copy of this data in the Annual Review.
32. In condition 36 of Schedule 3, in sub-paragraph (c), delete the word "to" where second occurring.
33. In condition 39 of Schedule 3, delete the words ", if safe to do so, if there is a fire on-site" and insert "to the extent practicable if there is a fire in the vicinity of the site".
34. Delete condition 40 of Schedule 3 and insert the following:
40. The Proponent must:
- (a) provide calendar year annual quarry production data to DRG using the standard form for that purpose; and
 - (b) include a copy of this data in the Annual Review.
35. Delete Schedules 4 and 5 and insert the following:

SCHEDULE 4 ADDITIONAL PROCEDURES

NOTIFICATION OF LANDOWNERS

1. As soon as practicable, and no longer than 7 days, after obtaining monitoring results showing:
 - (a) an exceedance of any criteria in Schedule 3, the Proponent must notify the affected landowners in writing of the exceedance, and provide regular monitoring results, at least every 3 months, to each affected landowner until the project is again complying with the relevant criteria; and
 - (b) an exceedance of any air quality criteria in Schedule 3, the Proponent must send a copy of the NSW Health fact sheet entitled "Mine Dust and You" (as may be updated from time to time) to the affected landowners and current tenants of the land (including the tenants of land which is not privately-owned).

INDEPENDENT REVIEW

2. If a landowner considers the project to be exceeding the relevant criteria in Schedule 3, they may ask the Secretary in writing for an independent review of the impacts of the project on their land.

If the Secretary is not satisfied that an independent review is warranted, the Secretary will notify the landowner in writing of that decision, and the reasons for that decision, within 21 days of the request for a review.

If the Secretary is satisfied that an independent review is warranted, within 3 months, or as otherwise agreed by the Secretary and the landowner, of the Secretary's decision, the Proponent must:

- (a) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Secretary, to:
 - consult with the landowner to determine his/her concerns;
 - conduct monitoring to determine whether the project is complying with the relevant criteria in Schedule 3; and
 - if the project is not complying with these criteria, then identify measures that could be implemented to ensure compliance with the relevant criteria;
 - (b) give the Secretary and landowner a copy of the independent review; and
- comply with any written requests made by the Secretary to implement any findings of the review.

SCHEDULE 5 ENVIRONMENTAL MANAGEMENT, REPORTING AND AUDITING

ENVIRONMENTAL MANAGEMENT

Environmental Management Strategy

1. The Proponent must prepare an Environmental Management Strategy for the project to the satisfaction of the Secretary. This strategy must:
 - (a) be submitted to the Secretary for approval within 6 months of the determination of Modification 2, unless otherwise agreed by the Secretary;
 - (b) provide the strategic framework for environmental management of the project;
 - (c) identify the statutory approvals that apply to the project;
 - (d) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the project;
 - (e) describe the procedures to be implemented to:
 - keep the local community and relevant agencies informed about the operation and environmental performance of the project;
 - receive, record, handle and respond to complaints;
 - resolve any disputes that may arise during the course of the project;
 - respond to any non-compliance; and
 - respond to emergencies; and
 - (f) include:
 - references to any strategies, plans and programs approved under the conditions of this approval; and
 - a clear plan depicting all the monitoring to be carried out under the conditions of this approval.

The Proponent must implement any Environmental Management Strategy as approved by the Secretary.

Evidence of Consultation

2. Where the conditions of this approval require consultation with an identified party, the Proponent must:
 - (a) consult with the relevant party prior to submitting the subject document to the Secretary for approval; and
 - (b) provide details of the consultation undertaken, including:
 - a description of how matters raised by those consulted have been resolved; and
 - details of any disagreement remaining between the party consulted and the Proponent and how the Proponent has addressed any unresolved matters.

However, if the Secretary agrees, a strategy, plan or program may be prepared without consultation being undertaken with an identified party required under a condition of this approval.

Management Plan Requirements

3. The Proponent must ensure that the management plans required under this approval are prepared in accordance with any relevant guidelines, and include:
 - (a) a summary of relevant background or baseline data;
 - (b) a description of:
 - the relevant statutory requirements (including any relevant approval, licence or lease conditions);
 - any relevant limits or performance measures/criteria; and
 - the specific performance indicators that are proposed to be used to judge the performance of, or guide the implementation of, the development or any management measures;
 - (c) a description of the measures to be implemented to comply with the relevant statutory requirements, limits, or performance measures/criteria;
 - (d) a program to monitor and report on the:
 - impacts and environmental performance of the development; and
 - effectiveness of any management measures (see (c) above);
 - (e) a contingency plan to manage any unpredicted impacts and their consequences and to ensure that ongoing impacts reduce to levels below relevant impact assessment criteria as quickly as possible;
 - (f) a program to investigate and implement ways to improve the environmental performance of the project over time;
 - (g) a protocol for managing and reporting any:
 - incidents;
 - complaints; and
 - non-compliances with statutory requirements;
 - (h) a protocol for periodic review of the plan; and

- (i) a document control table that includes version numbers, dates when the management plan was prepared and reviewed, names and positions of the person/s who prepared and reviewed the management plan, a description of any revisions made and the date of the Secretary's approval.

Note: The Secretary may waive some of these requirements if they are unnecessary or unwarranted for particular management plans.

Application of Existing Strategies, Plans and Programs

4. The Proponent must continue to apply existing management plans, strategies or monitoring programs approved prior to the approval of Modification 2, until the approval of a similar plan, strategy or program following the approval of Modification 2.

Revision of Strategies, Plans & Programs

5. Within 3 months of:
 - (a) the submission of an incident report under condition 10 below;
 - (b) the submission of an Annual Review under condition 12 below;
 - (c) the submission of an Independent Environmental Audit report under condition 14 below; and
 - (d) the approval any modifications to this approval,the Proponent must review the suitability of all strategies, plans and programs required under this approval. Where this review leads to revisions in any such document, then within 6 weeks of the review the revised document must be submitted for the approval of the Secretary.

Notes:

- *The purpose of this condition is to ensure that strategies, plans and programs are regularly updated to incorporate any measures recommended to improve environmental performance of the project.*
- *In the event of an inconsistency between condition 5(d) above and any condition in Schedule 3 of this approval, the latter prevails.*

Updating and Staging of Strategies, Plans or Programs

6. With the approval of the Secretary, the Proponent may:
 - (a) prepare and submit any strategy, plan or program required by this approval on a staged basis (if a clear description is provided as to the specific stage and scope of the project to which the strategy, plan or program applies, the relationship of the stage to any future stages and the trigger for updating the strategy, plan or program);
 - (b) combine any strategy, plan or program required by this approval (if a clear relationship is demonstrated between the strategies, plans or programs that are proposed to be combined); and
 - (c) update any strategy, plan or program required by this approval (to ensure the strategies, plans and programs required under this approval are updated on a regular basis and incorporate additional measures or amendments to improve the environmental performance of the project).

Adaptive Management

7. The Proponent must assess and manage project-related risks to ensure that there are no exceedances of the criteria and/or performance measures in Schedule 3. Any exceedance of these criteria and/or performance measures constitutes a breach of this approval and may be subject to penalty or offence provisions under the EP&A Act or EP&A Regulation.

Where any exceedance of these criteria and/or performance measures has occurred, the Proponent must as soon as becoming aware of any exceedance:

- (a) take all reasonable and feasible steps to ensure that the exceedance ceases and does not reoccur;
 - (b) consider all reasonable and feasible options for remediation (where relevant);
 - (c) within 14 days of the exceedance occurring, submit a report to the Secretary describing these remediation options and any preferred remediation measures or other course of action; and
 - (d) implement remediation measures as directed by the Secretary;
- to the satisfaction of the Secretary.

COMMUNITY CONSULTATIVE COMMITTEE

8. If directed by the Secretary, the Proponent must establish and operate a Community Consultative Committee (CCC) for the project to the satisfaction of the Secretary. Any such CCC must be operated in general accordance with the Department's *Community Consultative Committee Guidelines, November 2016* (or later version).

Notes:

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

- *The Proponent may, with the approval of the Secretary, combine the function of this CCC with the functions of other CCCs in the area.*

REPORTING

Incident Reporting

9. The Proponent must immediately notify the Secretary (using the contact name, email address and phone number provided by the Department from time to time) and any other relevant agencies of any incident.
10. Within 7 days of the date of the incident, the Proponent must provide the Secretary and any relevant agencies with a detailed report on the incident, and such further reports as may be requested. This report must include the time and date of the incident, details of the incident, measures implemented to prevent re-occurrence and must identify any non-compliance with this approval.

Regular Reporting

11. The Proponent must provide regular reporting on the environmental performance of the project on its website, in accordance with the reporting arrangements in any plans or programs approved under the conditions of this approval.

Annual Review

12. By the end of March each year, or other timing as may be agreed by the Secretary, the Proponent must submit a review to the Department reviewing the environmental performance of the project to the satisfaction of the Secretary. This review must:
 - (a) describe the project (including any progressive rehabilitation) that was carried out in the previous calendar year, and the project 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 project over the previous calendar year, which includes a comparison of these results against the:
 - relevant statutory requirements, limits or performance measures/criteria;
 - requirements of any plan or program required under this approval;
 - monitoring results of previous years; and
 - relevant predictions in the documents listed in condition 2 of Schedule 2;
 - (c) evaluate and report on:
 - the effectiveness of the air quality and noise management systems; and
 - compliance with the performance measures, criteria and operating conditions in this approval.
 - (d) identify any non-compliance over the past calendar year, and describe what actions were (or are being) taken to ensure compliance;
 - (e) identify any trends in the monitoring data over the life of the project;
 - (f) identify any discrepancies between the predicted and actual impacts of the project, and analyse the potential cause of any significant discrepancies; and
 - (g) describe what measures will be implemented over the current calendar year to improve the environmental performance of the project.

The Proponent must ensure that copies of the Annual Review are submitted to Council and are available to the Community Consultative Committee (see condition 8 of Schedule 5) and any interested person upon request.

INDEPENDENT ENVIRONMENTAL AUDIT

13. Within 3 years of the date of this approval, and every 3 years thereafter, unless the Secretary directs otherwise, the Proponent must commission, commence and pay the full cost of an Independent Environmental Audit of the project. This audit must:
 - (a) be led and 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 and the CCC;
 - (c) assess the environmental performance of the project and whether it is complying with the relevant requirements in this approval and any relevant EPL or necessary water licences for the project (including any assessment, strategy, plan or program required under these approvals);
 - (d) review the adequacy of strategies, plans or programs required under the abovementioned approvals;
 - (e) recommend appropriate measures or actions to improve the environmental performance of the project, and/or any assessment, strategy, plan or program required under the abovementioned approvals; and
 - (f) be conducted and reported to the satisfaction of the Secretary.
14. Within 12 weeks of commencing this audit, or as otherwise agreed by the Secretary, the Proponent must submit a copy of the audit report to the Secretary and any other NSW agency that requests it, together with its response to any recommendations contained in the audit report, and a timetable for the

implementation of these recommendations as required. The Proponent must implement these recommendations, to the satisfaction of the Secretary.

ACCESS TO INFORMATION

15. Within 3 months of the determination of Modification 2, until the completion of all works, including rehabilitation and remediation, the Proponent must:
- (a) make the following information publicly available on its website:
 - the documents listed in condition 2 of Schedule 2;
 - current statutory approvals for the project;
 - all approved strategies, plans and programs required under the conditions of this approval;
 - regular reporting on the environmental performance of the development in accordance with the reporting arrangements in any plans or programs approved under the conditions of this approval;
 - a comprehensive summary of the monitoring results of the project, reported in accordance with the specifications in any conditions of this approval, or any approved plans and programs;
 - summary of the current stage and progress of the project;
 - contact details to enquire about the project or to make a complaint;
 - a complaints register, updated at least monthly;
 - the Annual Reviews of the project;
 - any Independent Environmental Audit as described in condition 13 above, and the Proponent's response to the recommendations in any audit; and
 - any other matter required by the Secretary; and
 - (b) keep this information up-to-date, to the satisfaction of the Secretary.

36. In Appendix 1, delete the sub-heading "PROJECT MAP" and insert "PROJECT LAYOUT PLAN".
37. In Appendix 2:
- (a) in sub sub-paragraph 1.4, delete the word "DPI", insert "DRG";
 - (b) in sub-paragraphs 3.1 and 11.6, after the word "VENM", insert "/ENM";
 - (c) in sub-paragraph 3.2, delete the third dot point;
 - (d) in sub-paragraph 11.5, delete the words "Virgin Excavated Natural Material (VENM)" and replace with "VENM/ENM"; and
 - (e) in the third column of Section 11, adjacent to sub-paragraph 11.5, after the word "VENM", insert "/ENM".
38. Delete Appendix 6 and insert the following:

APPENDIX 6 NOISE COMPLIANCE ASSESSMENT

Applicable Meteorological Conditions

1. The noise criteria in Table 2 are to apply under all meteorological conditions except the following:
 - (a) wind speeds greater than 3 m/s at 10 m above ground level; or
 - (b) temperature inversion conditions between 1.5°C and 3°C/100 m and wind speed greater than 2 m/s at 10 m above ground level; or
 - (c) temperature inversion conditions greater than 3°C/100 m.

Determination of Meteorological Conditions

2. Except for wind speed at microphone height, the data to be used for determining meteorological conditions must be that recorded by the meteorological station required under condition 16A of Schedule 3.

Compliance Monitoring

3. A noise compliance assessment must be undertaken within six months of the approval of Modification 2. The assessment must be conducted by a suitably qualified and experienced acoustical practitioner and must assess compliance with the noise criteria in Table 2. A report must be provided to the Secretary and EPA within 1 month of the assessment.
4. Unless the Secretary agrees otherwise, this monitoring is to be carried out in accordance with the relevant requirements for reviewing performance set out in the *NSW Industrial Noise Policy* (as amended from time to time), in particular the requirements relating to:
 - (a) monitoring locations for the collection of representative noise data;
 - (b) equipment used to collect noise data, and conformity with Australian Standards relevant to such equipment;
 - (c) modifications to noise data collected, including for the exclusion of extraneous noise and/or penalties for modifying factors apart from adjustments for duration; and
 - (d) the use of an appropriate modifying factor for low frequency noise to be applied during compliance testing at any individual residence if low frequency noise is present (in accordance with the *NSW Industrial Noise Policy*) and before comparison with the specified noise levels in the consent.

39. Update the Table of Contents to reflect the changes made by this instrument.