

**APPENDIX D – NOTICE OF MODIFICATION**



# Notice of Modification

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

As delegate for the Minister for Planning and Infrastructure, the Planning Assessment Commission modifies the project approval referred to in Schedule 1, subject to the conditions in Schedule 2.

Member of the Commission

Member of the Commission

Sydney,

2013

### SCHEDULE 1

The project approval (08\_0142) for the Mackas Sand Project, granted by the Minister for Planning on 20 September 2009.

### SCHEDULE 2

1. In Schedule 1, add the following real property descriptions to the land listed under "Access Roads":  

Lots 1-3 DP 118072
2. Under "Definitions", delete the terms "Department", "Director-General", "DRE", "Minister", "NOW" and "Project" and their definitions, and insert in alphabetical order:

Department	Department of Planning and Environment
DPI Water	Department of Primary Industries - Water
DRE	Division of Resources and Energy, within the NSW Department of Industry
EA (MOD 2)	Environmental Assessment titled <i>Environmental Assessment Modifications to Mackas Sand Extraction Operations on Lot 218 Salt Ash NSW</i> , dated July 2015 and prepared by Umwelt Australia Pty Limited, including the Response to Submissions document dated 12 October 2015 and additional information letter dated 16 December 2015
Minister	Minister for Planning, or delegate
Project	The development described in the EA, EA (MOD 1) and EA (MOD 2)
Secretary	Secretary of the Department, or nominee
3. Delete all references to "NOW", and replace with "DPI Water".
4. Delete all references to "Director-General", and replace with "Secretary".
5. Delete condition 2 of Schedule 2, and replace with:
  2. The Proponent shall carry out the project:
    - (a) generally in accordance with the EA;
    - (b) generally in accordance with the EA (MOD 1);
    - (c) generally in accordance with the EA (MOD 2);
    - (d) in accordance with the statement of commitments; and
    - (e) in accordance with the conditions of this approval.

**Notes:**

- The general layout of the project is shown on the figures in Appendix 1.

- The statement of commitments is reproduced in Appendix 2.

6. In condition 3 of Schedule 2, delete "documents identified in condition 2" and replace with "documents in conditions 2(a) to 2(c)".
7. Delete condition 8 of Schedule 2, including the heading and replace with:

**Updating and Staging Strategies, Plans or Programs**

8. The Proponent must regularly review the strategies, plans and programs required under this consent and ensure that these documents are updated to incorporate measures to improve the environmental performance of the development and reflect current best practice in the quarrying industry. To facilitate these updates, the Proponent may at any time submit revised strategies, plans or programs for the approval of the Secretary. With the agreement of the Secretary, the Proponent may also submit any strategy, plan or program required by this consent on a staged basis.

With the agreement of the Secretary, the Proponent may prepare a revision or stage of any strategy, plan or program required under this consent without undertaking consultation with all parties nominated under the applicable condition in this consent.

*Notes:*

- While any strategy, plan or program may be submitted on a staged basis, the Proponent must ensure that the existing operations on site are covered by suitable strategies, plans or programs at all times.
- If the submission of any strategy, plan or program is to be staged, then the relevant strategy, plan or program must clearly describe the specific stage to which the strategy, plan or program applies, the relationship of this stage to any future stages, and the trigger for updating the strategy, plan or program.

8. Delete condition 4B of Schedule 3, and replace with:

- 4B. The Proponent shall ensure, for the use of the Alternate access road, that:
  - (a) a speed limit of 40 km/hour is applied and enforced for all vehicles;
  - (b) trucks slowing to use the intersection of the access road and Nelson Bay Road do not use engine or compression braking systems;
  - (c) laden truck movements exiting the site do not exceed 8 per hour during the period from 5 am to 9 am, Monday to Friday (except for Public Holidays);
  - (d) laden truck movements exiting the site do not exceed 24 per hour during the period from 9 am to 10 pm, Monday to Friday (except for Public Holidays);
  - (e) laden truck movements exiting the site do not exceed 5 per hour between 5 am and 6 am on Saturdays (except for Public Holidays);
  - (f) laden truck movements exiting the site do not exceed 9 per hour between 6 am and 7 am on Saturdays (except for Public Holidays);
  - (g) laden truck movements exiting the site do not exceed 24 per hour between 7 am and 4 pm on Saturdays (except for Public Holidays); and
  - (h) combined laden truck movements exiting from Lots 218 and 220 do not exceed 10 per hour in total on Sundays and Public Holidays.

*Note: In this condition, "per hour" means within any period of 60 minutes following the change of hour.*

9. In condition 7 of schedule 3, delete Table 3 and the Note following the table and replace with:

*Table 3: Traffic noise impact assessment criteria dB(A)*

<b>Road</b>	<b>Day/Evening</b>	<b>Night - Shoulder</b>
<b>Lavis Lane, Oakvale Road</b>	60 <i>L<sub>Aeq</sub> (1 hour)</i>	55 <i>L<sub>Aeq</sub> (1 hour)</i>
<b>Nelson Bay Road</b>	60 <i>L<sub>Aeq</sub> (15 hour)</i>	55 <i>L<sub>Aeq</sub> (9 hour)</i>

*Note: Traffic noise generated by the project is to be measured in accordance with the relevant procedures in EPA's Road Noise Policy.*

10. After condition 33A of Schedule 3, insert the condition:

**Drivers' Code of Conduct**

- 33B. Prior to 30 June 2016, the Proponent shall prepare a Drivers' Code of Conduct applicable to all truck drivers that haul sand from Mackas Sand's operations on Lots 218 and 220. This Code of Conduct must:
- (a) be prepared in consultation with Council and RMS and be submitted to the Secretary for approval;
  - (b) describe the measures that would be implemented to ensure that drivers of project-related sand haulage trucks:
    - comply with this Drivers' Code of Practice;
    - are made aware of potential safety issues both on site and on the public road haulage routes;
    - are informed of when heavy traffic volumes are likely to be encountered on Nelson Bay Road, including the 6 am to 9 am peak and the summer holiday period;
    - are informed of usual school bus travel times on Nelson Bay Road and Cabbage Tree Road as well as the location of all bus stops on these roads;
    - are made aware of potential interactions with general traffic on Nelson Bay Road whilst merging from the acceleration lane of the access road intersection;
    - are provided with contact details in case of emergencies or accidents;
    - are provided with details of potential environmental hazards, such as potential for fauna to cross the access road at dawn and dusk;
    - provided with updates on local road conditions;
    - minimise truck noise impacts at residences; and
    - minimise travel to the site prior to 5 am on weekdays;
  - (c) include a program to monitor the effectiveness of these measures; and
  - (d) provide a report on condition (c) above as part of each Annual Review.

The Proponent shall implement the approved Drivers' Code of Conduct as approved from time to time by the Secretary.

11. Delete condition 4A of Schedule 5, including the heading, and replace with:

**REVISION OF STRATEGIES, PLANS AND PROGRAMS**

- 4A. Within 3 months of:
- (a) the submission of an incident report under conditions 2 or 3 above;
  - (b) the submission of an annual review under condition 4 above;
  - (c) the submission of an audit report under condition 6 below; or
  - (d) any modification to the conditions of this approval, (unless the conditions require otherwise),
- the Proponent shall review, and if necessary revise, the strategies, plans, and programs required under this consent, to the satisfaction of the Secretary. Where this review leads to revisions in any such document, then within 4 weeks of the review the revised document must be submitted for the approval of the Secretary.

*Note: This is to ensure the strategies, plans and programs are updated on a regular basis, and incorporate any recommended measures to improve the environmental performance of the development.*

12. In conditions 10, 18, 25, 29 and 30 of Schedule 3, in each condition:
- a) delete the words "and implement" after the words "shall prepare"; and
  - b) at the end of each condition, insert the following:

"The Proponent shall implement the approved management plan as approved from time to time by the Secretary".

13. In condition 28A of Schedule 3 and condition 1 of Schedule 5, delete the words "and implement" after the words "shall prepare", and at the end of each condition, insert the following:

"The Proponent shall implement the approved strategy as approved from time to time by the Secretary."

14. In condition 13 of Schedule 3, delete the words "and implement" after the words "shall prepare", and at the end of the condition, insert the following:

"The Proponent shall implement the approved monitoring program as approved from time to time by the Secretary."

15. Delete commitment 1.1.1 in Appendix 2 and replace with:

- 1.1.1 All activities will be undertaken in accordance with the EA, EA (MOD 1) and EA (MOD 2).

16. Immediately following commitment 1.5.4 in Appendix 2, add the following commitment:

- 1.5.5 Mackas Sand undertakes to install video cameras adjacent to the shed approximately 100 metres from the Mackas Sand access road and Nelson Bay Road intersection to monitor the time and direction of travel of trucks as they enter and leave the lot 218 quarry. These cameras will be located in a fixed position with a field of view that only incorporates lands owned by Mackas Sand. Recordings from these cameras will be stored for at 30 days and made available to the Department on request.

17. Update the TABLE OF CONTENTS to reflect the above changes.

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