

Notice of Modification

Section 4.55(2) of the *Environmental Planning and Assessment Act 1979*

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



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Director Resource Assessments

Sydney

3 December 2021

SCHEDULE 1

The development consent (06_0104) for the Hitchcock Road Sand Project granted by the Minister for Planning on 14 February 2009

SCHEDULE 2

1. In Schedule 1 in the term “Approval Authority” delete the word “Approval” and replace with “Consent”.
2. Update the page numbers in the Table of Contents, as required.
3. In the list of definitions, delete the terms AEMR, DECC, Department, Director-General, DPI, DWE, Minister, Project, RTA and VENM and insert the following in alphabetical order:

Applicant	PF Formation, or any person carrying out any development under this consent
Annual Review	Required by condition 5 of Schedule 5 that is prepared with regard for the <i>Annual Review Guideline (2015)</i> or its latest version
BCD	Biodiversity and Conservation Sciences Directorate
DAWE	Commonwealth Department of Agriculture, Water and the Environment
Department	NSW Department of Planning, Industry and Environment
Development	The development as described in the documents listed in condition 2 of Schedule 2
DPI Agriculture	Department of Primary Industries - Agriculture
DPIE Water	Water Group within the Department
DPIE Crown Lands	Crown Lands Group within the Department
ENM	Excavated Natural Material, as defined in the Resource Recovery Order and Exemption, issued in accordance with Clauses 91 and 92 of the <i>Protection of the Environment Operations (Waste) Regulation 2014</i>
EPA	NSW Environment Protection Authority
Heritage NSW	Heritage NSW within the Department of Premier and Cabinet
Incident	An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance
Material harm	Is harm to the environment that: <ul style="list-style-type: none">• involves actual or potential harm to the health or safety of human beings or to the environment 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)

This definition excludes “harm” that is authorised under either this consent or any other statutory approval

MEG	Regional NSW - Mining, Exploration and Geoscience
Minister	NSW Minister for Planning and Public Spaces, or delegate
Modification Report MOD 1	Modification Report for the development titled <i>Statement of Environmental Effects for the modification of Hitchcock Road Sand Extraction and Rehabilitation Project Environmental Assessment and, Appendices</i> , dated June 2020, prepared by R.W. Corkery & Co. Pty. Limited, including the Submissions Report dated September 2020, and letters dated 3 and 22 November 2021
Non-compliance	An occurrence, set of circumstances or development that is a breach of this consent
NRAR	Natural Resources Access Regulator
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
Resources Regulator	NSW Resources Regulator
TfNSW	Transport for NSW
VENM	Virgin Excavated Natural Material, as defined in clause 50 of Schedule 1 of the <i>Protection of the Environment Operations Act 1997</i>

4. Delete all references to “DRG” and replace with “MEG”.
5. Delete all references to “DWE” and replace with “DPIE Water”.
6. Delete all references to “Department of Lands” and replace with “DPIE Crown Lands”.
7. In Delete all references to “this approval” and replace with “this consent”, except in condition 10 of Schedule 2.
8. Delete all references to “Proponent” and replace with “Applicant”.
9. Delete all references to “shall” and replace with “must”, except in condition 3 of Schedule 2.
10. Delete all references to “Director-General” and replace with “Planning Secretary”.
11. Delete all references to “project” and replace with “development”, excluding in:
 - a) the term “Hitchcock Road Sand Project” in Schedule 1;
 - b) the definitions of “EA” and “Modification Report MOD 1” in the definitions table;
 - c) the phrase “preferred project report”; and
 - d) conditions, 3, 4 and 9 on Schedule 5.
12. Delete all references to “AEMR” and replace with “Annual Review”.
13. In condition 2 of Schedule 2:
 - a) in the first sentence delete the words “generally in accordance with”;
 - b) in paragraph (a), prior to the term “EA”, insert the words “generally in accordance with the” and after the term “EA”, insert “and Modification Report MOD 1”;
 - c) in paragraph (b) prior to the term “preferred project report” insert the words “generally in accordance with the”;
 - d) in paragraph (c) prior to the words “statement of commitments” insert the words ‘generally in accordance with the’; and
 - e) in paragraph (d) prior to the words “conditions of this” insert the words “in accordance with the”.
14. In condition 6 of Schedule 2, delete “2028” and replace with “2038”.
15. After condition 7 of Schedule 2, insert the following:
 - 7A. The Applicant must not import more than 250,000 tonnes of VENM or ENM per calendar year.
16. In condition 8 of Schedule 2, delete the first sentence and paragraphs (a) and (b) and replace with the following:
 8. The Applicant must not:
 - (a) receive more than 200 heavy vehicles at the site per day;
 - (b) dispatch more than 200 laden heavy vehicles associated with the Applicant’s combined operations at Maroota and the Central Wash Plant site (Lot 198 DP 752025); and

17. In condition 8(c) of Schedule 2:
 - a) prior to the number "10" insert "allow more than";
 - b) after the number "10" insert "heavy vehicles";
 - c) delete the words "for trucks"; and
 - d) prior to the words "entering/exiting" insert the word "from".
18. Delete the note in condition 8 of Schedule 2.
19. In the notes to condition 7 of Schedule 3, delete "DECC" and replace with "the EPA and the Department".
20. In conditions 8(b), 12(b) and 16(b) of Schedule 3 delete "DECC" and replace with "the EPA".
21. In condition 24(a) of Schedule 3, delete "DECC" and replace with "BCD".
22. In condition 28 of Schedule 3, delete both references to "DECC" and replace with "Heritage NSW".
23. After condition 31, insert the following:

Traffic Management Plan

- 31A. The Applicant must prepare a Traffic Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:
 - (a) be prepared by suitably qualified and experienced person/s whose appointment has been endorsed by the Planning Secretary;
 - (b) be prepared in consultation with TfNSW and Council;
 - (c) include details of all haulage transport routes within the Council local government area and vehicle types to be used for development-related traffic;
 - (d) include details of the measures to be implemented to minimise traffic safety issues and disruption to local road users, including minimising potential for conflict with school buses;
 - (e) include a Drivers' Code of Conduct that includes procedures requiring that drivers:
 - (i) adhere to posted speed limits or other required travelling speeds;
 - (ii) adhere to designated transport routes; and
 - (iii) implement safe and quiet driving practices;
 - (f) describe the measures to be put in place to ensure compliance with the Drivers' Code of Conduct; and
 - (g) propose measures to minimise the transmission of dust and tracking of material onto the surface of public roads from vehicles exiting the site.

The Applicant must implement the Traffic Management Plan as approved by the Planning Secretary.

24. Delete condition 35 of Schedule 3 and replace with:
 35. The Applicant can import:
 - (a) VENM to the site;
 - (b) ENM to the site only for the purpose of engineering fill or use in earthworks; and
 - (c) materials permitted by an EPL, where an applicable Resource Recovery Order and Exemption, issued in accordance with Clauses 91 and 92 of the *Protection of the Environment Operations (Waste) Regulation 2014* (or its latest amendment), is in place and which allows the material to be received for processing with extractive materials or application to land.

Note: No other materials classified as waste under the Protection of the Environment Operations (Waste) Regulation 2014 (or its latest amendment) are to be received or processed on the site.
 - 35A. The Applicant must:
 - (a) verify any VENM and ENM received has appropriate documentation demonstrating that it is VENM and ENM;
 - (b) maintain accurate records of all VENM and ENM received at the site (including the date, time, quantity received and verification documentation (refer 35A(a)));
 - (c) include a summary of these records in the Annual Review;
 - (d) minimise the amount of waste generated by the development;
 - (e) ensure that the waste generated by the development is appropriately stored, handled, and disposed of; and
 - (f) report on waste minimisation and management in the Annual Review.
25. In condition 39 of Schedule 3, replace "DPI" with "MEG".
26. Delete conditions 3 and 4 of Schedule 5 and replace with:

REPORTING AND AUDITING

Incident Notification

3. The Applicant must notify the Department and any other relevant agencies immediately after it becomes aware of an incident. The notification must be in writing via the Department's Major Projects Website and identify the development (including the development application number and name) and set out the location and nature of the incident.

Non-Compliance Notification

4. Within seven days of becoming aware of a non-compliance, the Applicant must notify the Department of the non-compliance. The notification must be in writing via the Department's Major Projects Website and identify the development (including the development application number and name), set out the condition of this consent that the development is non-compliant with, the way in which it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

27. After condition 11 of Schedule 5, insert the following:

MANAGEMENT PLAN REQUIREMENTS

12. Management plans required under this consent must be prepared in accordance with relevant guidelines, and include:
 - (a) a summary of relevant background or baseline data;
 - (b) details of:
 - (i) the relevant statutory requirements (including any relevant approval, licence or lease conditions);
 - (ii) any relevant limits or performance measures and criteria; and
 - (iii) 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) any relevant commitments or recommendations identified in the document/s listed in condition 2 of Schedule 2;
 - (d) a description of the measures to be implemented to comply with the relevant statutory requirements, limits, or performance measures and criteria;
 - (e) a program to monitor and report on the:
 - (i) impacts and environmental performance of the development; and
 - (ii) effectiveness of the management measures set out pursuant to condition 12(c) of Schedule 5;
 - (f) 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;
 - (g) a program to investigate and implement ways to improve the environmental performance of the development over time;
 - (h) a protocol for managing and reporting any:
 - (i) incident, non-compliance or exceedance of the impact assessment criteria or performance criteria;
 - (ii) complaint; or
 - (iii) failure to comply with statutory requirements;
 - (i) public sources of information and data to assist stakeholders in understanding environmental impacts of the development; and
 - (j) a protocol for periodic review of the plan.

Note: *The Planning Secretary may waive some of these requirements if they are unnecessary or unwarranted for particular management plans.*
13. The Applicant must ensure that management plans prepared for the development are consistent with the conditions of this consent and any EPL issued for the site.

REVISION OF STRATEGIES, PLANS AND PROGRAMS

14. Within three months of:
 - (a) the submission of an incident report under condition 3 of Schedule 5;
 - (b) the submission of an Annual Review under condition 5 of Schedule 5;
 - (c) the submission of an Independent Environmental Audit under condition 6 of Schedule 5; or
 - (d) the approval of any modification of the conditions of this consent,the suitability of existing strategies, plans and programs required under this consent must be reviewed by the Applicant.

15. If necessary, to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, to the satisfaction of the Planning Secretary and submitted to the Planning Secretary for approval within six weeks of the review.

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

28. In Appendix 3 make the following changes:

- a) Under the heading 'Noise and Vibration', in the first dot point after the words "any necessary" insert the words "activities with potential for".
- b) Under the heading 'Noise and Vibration', in the 3rd dot point after the words "will be" delete the words "certified in relation to noise performance" and insert "properly maintained to ensure the noise emissions generated either meet or are below the sound power level detailed in the manufacturer's specification."
- c) Under the heading 'Noise and Vibration', in the 5th dot point after the words "will be silenced" insert the following " , where reasonable and feasible,".
- d) Under the heading 'Noise and Vibration', in the 7th dot point delete the following where first occurring:
 - i) "L₁₀"
 - ii) "the boundary of"
 - iii) "where baseline data has been obtained"
 - iv) "normally"
 - v) "background level by more than 5 dB(A)",
- e) Under the heading 'Noise and Vibration', in the 7th dot point after the words "exceed the" insert "noise criteria specified within the development consent" and add a "s" to the word "level".
- f) Under the heading 'Noise and Vibration', in the 8th dot point after the words "measurements kept" insert the words "in accordance with the Noise Management Plan".
- g) Under the heading "Air Quality and Greenhouse Gas Emissions", in the first dot point delete the words "at identified site" and after the words "be conducted", insert the words "in accordance with the Air Quality Monitoring Program".
- h) Under the heading "Air Quality and Greenhouse Gas Emissions", in the second dot point after the words "will be fitted" insert the following " ,where required,"
- i) Under the heading "Erosion and Sediment Control ", delete the 9th dot point, and replace with the following:
 - Rehabilitation and revegetation will commence as soon as practicable to minimise risk of erosion and sedimentation.
- j) Under the heading "Erosion and Sediment Control ", in the 10th dot point:
 - after the words "regularly and" insert the words "as soon as practicable";
 - delete the word "immediately" where first occurring;
 - after the words "following a" insert the word "significant"; and
 - after the words "rainfall event" insert the following "(>25mm/day)".
- k) Under the heading "Erosion and Sediment Control ", delete the 11th dot point and replace with the following "Monitoring and maintenance of erosion and sediment control structures will be undertaken in accordance with the Water Management Plan."
- l) Under the heading "Erosion and Sediment Control ", in the 13th dot point, after the words "four weeks" insert "(if vegetation has not yet established from the natural seedbank)".
- m) Under the heading Water Management, in the first dot point delete "(nominally 181 m AHD)".
- n) Under the heading Water Management, in the second dot point, after the words "Department of" insert "Planning, Industry and" and after the word "Environment" insert "- Water", and delete the words "and Climate Change".
- o) Under the heading Water Management, in the 4th dot point, delete words "an annual report prepared on" and after the words "their effectiveness" insert "reported as part of the Annual Review Process".
- p) Under the heading Water Management, delete the 5th dot point and replace with the following:
 - Groundwater monitoring will be undertaken in accordance with the Water Management Plan.
- q) Under the heading Flora and Fauna, in the 4th dot point after the words "for revegetation" insert "of areas being revegetated to woodland".
- r) Under the heading Flora and Fauna, in the 5th dot point after the words "the defined" insert the word "woodland".
- s) Under the heading "Rehabilitation" in the 6th dot point after the words "four weeks" insert the following "(if vegetation has not yet established from the natural seedbank)."

- t) Under the heading "Rehabilitation" in the 7th dot point after the words "be undertaken" insert the words "in accordance with the Landscape Management Plan and".
- u) Under the heading "Social Impact Management" in the second dot point, delete the words "Regular bi annual meetings of community representatives" and replace with "A Community Consultative Committee".
- v) Under the heading "Visual Amenity" in the 4th dot point delete the word "Rehabilitation" and replace with "Landscape Management".
- w) Under the heading "Visual Amenity" delete the 9th dot point.
- x) Under the heading "Waste Management" delete the 8th dot point.
- y) Under the heading "Waste Management" in the now 10th dot point,
 - o delete the word "waste" where first occurring;
 - o after the word "licences" where first occurring insert the words "for waste contractors";
 - o delete the word "and" where first occurring'
 - o after the word "reviewed" insert the words "to ensure appropriate licences are held"
 - o delete the words "terms and conditions for compliance monitored"
- z) Under the heading "Emergency Response" in the 6th dot point after the words "clearly labelled" insert the words "in accordance with relevant work health safety requirements".
- aa) Under the heading "Emergency Response" in the 7th dot point after the words "reviewed and" insert the following ", if required,".
- bb) Under the heading "Hazard, Risk and Safety" delete the first and second dot points and replace it with the following:
 - All hazardous, dangerous and flammable materials will be used, stored and recorded in accordance with the relevant workplace health and safety requirements and regulations.
- cc) Under the heading "Hazard, Risk and Safety" in the second dot point delete the word "Material" where first occurring.
- dd) Under the heading "Hazard, Risk and Safety" delete the 4th, 5th and 9th dot points.

End of Modification