

Notice of Modification

Section 96AA 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.



Chris Wilson
Executive Director
Major Project Assessment

Sydney, 20 August 2008

File No: 9039217

SCHEDULE 1

The development consent (DA 250-09-01) granted by the NSW Land and Environment Court for the operation of an extractive industry on Lots 1 and 2 DP 547255 and the continued use of existing facilities on Lots 196 and 29 DP 752025, on 24 May 2004.

SCHEDULE 2

1. Delete the definitions for "DEC", "Department", "Director-General", "EPA", "Minister" and "NPWS" in the Definitions in Schedule 2, and insert in alphabetical order the following:

"DECC	NSW Department of Environment and Climate Change
Department	NSW Department of Planning
Director-General	Director-General of the NSW Department of Planning, or delegate
DPI	NSW Department of Primary Industries
Minister	Minister for Planning or delegate
SEE	Statement of Environmental Effects"

2. Delete all references to "Environment Protection Authority", "EPA" and "NPWS" from Schedule 2 and replace with "DECC".
3. In Condition 1.2 of Schedule 2, delete paragraph (e) and insert the following:
 - "e) Modification Application 250-09-01 Mod 2 and the accompanying Statement of Environmental Effects titled "*Section 96 Modification for Dixon Sand Pty Ltd*" and dated August 2007;
 - f) letters regarding the modification application 250-09-01 Mod 2 from Environmental Resources Management Australia to the Department dated 1 April 2008 and 29 May 2008; and
 - g) conditions of this consent."
4. Delete Condition 1.3 of Schedule 2 and replace with the following:

- "1.3 If there is any inconsistency between the above documents, the latter document shall prevail over the former to the extent of the inconsistency. However, the conditions of this consent shall prevail over all other documents to the extent of any inconsistency."
5. In Condition 1.8 of Schedule 2 delete the words "Mineral Resources" and replace with "Primary Industries".
 6. In Condition 3.14 of Schedule 2 delete the letters "DMR" and replace with "DPI".
 7. In Condition 3.22 of Schedule 2 delete the words "NSW Fisheries" and replace with "DPI".
 8. Delete Condition 3.30 of Schedule 2 and insert the following:

"3.30 Truck movements at the site, including those provided for in consents 796/00/HE, 250-09-01 and 165-7-2005, shall not exceed:

 - (a) a total of 180 per day (ie inbound combined with outbound);
 - (b) 40 between the hours of 6.00am and 7.00am (inbound combined with outbound); and
 - (c) 118 laden per day, of which no more than 28 may be inbound.

3.30A The Applicant shall:

 - (a) keep daily records of the amount of sand transported from the site;
 - (b) keep daily records of all truck movements in and out of the site (including records of movements approved under condition 3.30); and
 - (c) include detailed reports on these records in the AEMR."
 9. Following Condition 4.6 of Schedule 2, insert the following:

"4.6A The Applicant shall engage an independent person(s) to conduct road traffic noise monitoring at Maroota Public School for 1 day per week (being the peak product dispatch day) for a period of 3 months within the 6 months following the commencement of truck movements in accordance with the approval of DA 250-09-01 Mod 2, or as directed by the Director-General. The monitoring shall be undertaken to determine compliance with the predicted noise levels in the SEE for DA 250-09-01 Mod 2 and comply with levels prescribed in condition 3.39. A copy of the monitoring results shall be provided to the Department and Maroota Public School.

In the event that monitoring indicates noise level exceedances, the Applicant shall implement reasonable and feasible noise mitigation measures at the Maroota Public School in consultation with the Maroota Public School, Council, RTA and DECC, and to the satisfaction of the Director-General."
 10. In Condition 6.3(e) of Schedule 2, delete the words ", NSW Agriculture, and NSW Fisheries" and replace with "and DPI".
 11. In Condition 7.2 of Schedule 2, insert after "EIS" the following "and the SEE for DA 250-09-01 Mod 2".
