

# Modification of Minister's Approval

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

As delegate for the Minister for Planning, under the Instrument of Delegation executed on 16 February 2015, I approve the modification of the project approval referred to in Schedule 1, subject to the conditions outlined in Schedule 2.



Chris Ritchie  
Director  
Industry Assessments

Sydney 24 MARCH 2017

### SCHEDULE 1

Project Approval (MP 06\_0225), granted by the former Minister for Planning on 3 June 2010 for the development of an Asphalt and Concrete Production and Recycling Facility, subdivision and associated infrastructure works at Lot 5 in DP 1145808 in the Blacktown local government area.

### SCHEDULE 2

This approval is modified as follows:

1. Delete Schedule 1 and replace with the following:

<b>Application Number:</b>	06_0225 Project
<b>Proponent:</b>	Hanson Construction Materials Pty Ltd
<b>Approval Authority:</b>	Minister for Planning
<b>Land:</b>	Lot 5 in DP 1145808
<b>Project:</b>	<ul style="list-style-type: none"><li>- continued use of the existing asphalt &amp; concrete production and recycling facilities, ancillary infrastructure;</li><li>- construction of a Precinct Plan Road through the site; and</li><li>- residual lot subdivision.</li></ul>

2. Insert the following definitions in alphabetical order:

Certifying Authority	Means a person who is authorised by or under section 109D of the Act to issue certificates
DPI Water	Department of Primary Industries – Water
MOD 3	The modification request 06_0225 MOD 3 and accompanying EA titled “ <i>Proposed Section 75W Modification Application</i> ” prepared by Willowtree Planning on behalf of Frasers Property Australia and dated 22 July 2016

MOD 3 RTS     The “Response to Submissions” letter with the title “*Section 75W Modification Application (MP 06\_0225) – Lot 5 in DP 1145808, Honeycomb Drive, Eastern Creek*”, prepared by Willowtree Planning and dated 11 October 2016, and the addendum letter titled “*Response regarding overshadowing of vegetation at Hanson site: Honeycomb Drive, Eastern Creek*” prepared by Cumberland Ecology and dated 28 October 2016.

3. Delete the definition for Project and insert the following definition in alphabetical order:

Project             The development as described in the EA, as modified by MOD 1, the RTS, MOD 2, MOD 3 and the MOD 3 RTS.

#### **In Schedule 2: Administrative Conditions**

4. Delete Condition 2 and replace with the following:

2. The Proponent has Project approval for:
- (a) continued use of the existing Fulton Hogan Asphalt / Emulsion Plant with a production capacity of up to 270,000 tonnes per annum until 3 June 2017;
  - (b) subdivision across the site (23.3595 hectares) to create 10 Lots (refer to Appendix 2);
  - (c) earth works, civil works, and servicing; and
  - (d) construction of the Precinct Plan Road and Internal Estate Road.

*Note: A separate approval is required to operate the new asphalt plant in the Concept Plan.*

5. Delete Condition 13 and replace with the following:

13. The Proponent must provide all monetary contributions in accordance with the Voluntary Planning Agreement entered into between the Minister for Planning and Hanson Construction Materials Pty Ltd and executed on 18 October 2013 (or as amended).

6. Delete Condition 14.

7. Insert new Condition 16 after Condition 15:

#### **Evidence of Consultation**

16. Where consultation with any public authority is required by the conditions of this approval, the Proponent shall:
- (a) consult with the relevant public authority prior to submitting the required documentation to the Secretary or the Certifying Authority for approval, where required;
  - (b) submit evidence of this consultation as part of the relevant documentation required by the conditions of this approval; and
  - (c) include the details of any outstanding issues raised by the relevant public authority and an explanation of disagreement between any public authority and the Proponent or any person acting on this approval.

#### **In Schedule 3: Subdivision, Earthworks and Civil Works**

8. Delete Condition 1 and replace with the following:

1. The Proponent must carry out the subdivision in accordance with the Plan of Subdivision prepared by Boxall Surveyors (refer to Appendix 2), titled “*Plan of Subdivision of Lot 5 in DP 1145808 and Easements within Lot 8 in DP 1200048*”, Revision (i), dated 1 June 2016.

9. Insert new Condition 1A after Condition 1:

- 1A. Subdivision is to be undertaken in two stages:
- (a) Stage 1: creation of residual lots, and registration of easements and positive covenants; and
  - (b) Stage 2: dedication of public roadways to Council.

10. Delete Condition 2 and replace with the following:
2. The Proponent must register easements, positive covenants and restriction to user preventing building works on the Site pursuant to Section 88B of the *Conveyancing Act 1919* and to the satisfaction of Council, within three months of the completion of earthworks over the following:
    - (a) all pipelines and structures collecting discharge from public roadways;
    - (b) all stormwater quality improvement devices including the OSD;

The Proponent must register easements, positive covenants and restriction to user preventing building works on the Site pursuant to Section 88B of the *Conveyancing Act 1919* and to the satisfaction of Council, within three months of the completion of items (a) or (b) above or within three months of the completion of a Council precinct detention basin servicing the adjoining land to the south of the site (whichever is sooner) over the following:

    - (c) the riparian area shown in the figures in Appendices 1 and 3, which includes the 1 in 100 year flow extents of the Ropes Creek Tributary.
11. Delete Condition 3 and replace with the following:
3. The Proponent must register a drainage easement pursuant to Section 88B of the *Conveyancing Act 1919* and to the satisfaction of Council, over the proposed channel to be constructed on Lots 4 and 5 of the modified Concept Plan (refer to Appendices 1 and 3) as part of any subdivision of the site, within three months of the completion of a Council precinct detention basin servicing the adjoining land to the east of the site, or within three months of the completion of earthworks over the following:
    - (a) all pipelines and structures collecting discharge from public roadways;
    - (b) all stormwater quality improvement devices including the OSD;

whichever is sooner.

The easement must be created and granted in favour of all properties to the east of the site that would be serviced by Council's precinct basin.
12. Delete Condition 9 and replace with the following:
9. The Proponent must undertake bulk earthworks in accordance with MOD 1, MOD 3 and specifically the CEMP dated 23 March 2012 (as updated), including the following sub-plans and specific requirements detailed below, to the satisfaction of the Secretary:
    - (a) *Noise, Dust and Vibration Management Plan* (dated 7 June 2012);
    - (b) *Erosion and Sediment Management Plan* (dated 7 June 2012);
    - (c) *Vegetation, Clearing and Grubbing Protocols* (dated 15 May 2012).
    - (d) instant notification to the Department, if, during the construction or earthworks period there are any dust complaints, or exceedances of fine particulate matter (PM<sub>10</sub>) short and long term investigation and action levels, as identified by Plan (a) above. This notification to the Department must include any actions proposed to mitigate dust impacts;
    - (e) cease or modify works should the recorded 15-minute average PM<sub>10</sub> concentrations exceed the action level of 200 µg/m<sup>3</sup> and meteorological conditions suggest that site activities are the dominant contributor;
    - (f) develop a community engagement plan for provision to all businesses within 1km of the site which describes the works proposed, expected timeframes and contact numbers for complaints and/or enquiries; and
    - (g) install signage at the site access throughout the earthworks and construction period which identifies the site and general activities. The signage must include a contact phone number for a site manager able to discuss complaints and enquiries.

13. Insert new Condition 9A after Condition 9:

9A. The following minor amendments to the MOD 3 *Civil Engineering Report* prepared by Costin Roe Consulting and dated 3 June 2016 (if required due to site constraints) shall be permitted:

- (a) raising the northern two thirds of the Lot 6 bulk earthworks level by up to one metre (from 80 m to 81 m);
- (b) lowering the southern one third of the Lot 6 bulk earthworks level by up to two metres (from 80 m to 78 m); and
- (c) construction of a batter and retaining wall between the two levels.

Revised plans to this effect must be prepared in consultation with Council and submitted to the Certifying Authority for approval as part of the relevant construction certificate.

A copy of the approved plans must be provided to the Department and Council for information.

14. Delete Condition 10 and replace with the following:

10. Prior to the issue of any construction certificate, the Proponent must update the plans (in consultation with Council) for the stormwater, wetland and bioretention systems in accordance with MOD 3, specifically Appendix 2 of the EA titled "*Civil Design Report & Plans*", and the MOD 3 RTS, to the satisfaction of the Certifying Authority.

A copy of the approved plans must be provided to the Department and Council for information.

#### In Schedule 4: Specific Environmental Conditions

15. Delete Condition 1 and replace with the following:

1. With the exception of proposed Lot 6, noise generated by the project must not exceed the noise limits identified in the table below. The noise limits represent the noise contribution from the project site.

**Noise Limits (dB(A))**

Location	Day	Evening	Night	
	L <sub>Aeq</sub> (15 Minute)	L <sub>Aeq</sub> (15 Minute)	L <sub>Aeq</sub> (15 Minute)	L <sub>A1</sub> (1 minute)
Minchinbury (south) MB3 Agrafe Place	45	45	45	57
Erskine Park (north) EN1 Warbler Street	35	35	35	57
Erskine Park (south) ES2 Fantail Crescent	35	35	35	57

**Notes:**

- (a) Noise from the development is to be measured at the most affected point or within the residential boundary, or at the most affected point within 30 metres of a dwelling (rural situations) where the dwelling is more than 30 metres from the boundary, to determine compliance with the L<sub>Aeq</sub>(15 minute) noise limits in the above table. Where it can be demonstrated that direct measurement of noise from the project is impractical, the EPA may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy). The modification factors in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise levels where applicable.
- (b) The noise emission limits identified in the above table apply under meteorological conditions of:
  - wind speeds of up to 3 m/s at 10 metres above ground level; or
  - temperature inversion conditions of up to 3°C/100m, and wind speeds of up to 2 m/s at 10 metres above ground level.

16. Delete Condition 24 and replace with the following:

24. The Proponent must contribute toward the acquisition, design and construction of the Precinct Plan Road known as the 'Quarry Link Road' between Old Wallgrove Road and Wonderland Drive, and the Bridge forming part of the Quarry Link Road. The contribution must be made by the Proponent to Council prior to the issue of any Construction Certificate or a Subdivision Certificate (whichever occurs first).

Evidence must be submitted to the Secretary in writing within seven days of payment of the contributions to Council.

The following monetary contributions pursuant to Section 94 of the *Environmental Planning & Assessment Act 1979*, are payable. The amounts below are base contributions which will be indexed from the nominated base date to the date of payment.

Contribution Item	Base Amount	Relevant C.P.	Base CPI
(i) Quarry Link Road	\$466,270	18	June 2015
(ii) Traffic Management	\$26,158	18	June 2015

The contributions will be indexed according to the Australian Bureau of Statistics' Consumer Price Index (All Groups Sydney).

The Section 94 Contributions have been based on the total developable area of 25.95 ha. Should the final plan of survey indicate any change in the total developable area the Section 94 contributions will be adjusted accordingly.

17. Delete Condition 27 and replace with the following:

27. The Proponent must prepare a Landscape and Revegetation Management Plan for the Project to the satisfaction of the Secretary prior to commencement of earthworks. This plan must:
- (a) be prepared in consultation with DPI Water and Council;
  - (b) be prepared in accordance with *NOW Guidelines for Controlled Activities – Vegetation Management Plans* and the MOD 3 RTS; and
  - (c) include:
    - plans for screen plantings to minimise visual impacts, particularly on any amenity berms;
    - detailed plans and procedures for:
      - revegetation of 1.85 hectares of the site with Cumberland Plain Woodland (CPW) species as shown on the figure in Appendix 3;
      - stabilising bulk earthworks to prevent run-off and erosion prior to the completion of landscaping works across the site;
      - species to be used in the bioretention and wetland system in accordance with the Blacktown City Council Handbook Part 5 – Vegetation Selection Guide;
      - the restoration and maintenance of the riparian area;
      - managing weeds across all vegetated areas shown in Appendix 3;
      - managing impacts on fauna;
      - monitoring the performance of the proposed restoration works;
      - fencing; and
    - an undertaking that the Landscape and Revegetation Management Plan will operate in perpetuity to ensure the management of the CPW.

18. Delete Condition 28 and replace with the following:

28. The Proponent must not enter or disturb the riparian area shown in the figure in Appendix 1 and Appendix 3, except for the purpose of regeneration or restoration.

## **In Schedule 5: Environmental Management, Reporting and Auditing**

19. Delete Condition 1 and replace with the following:
1. With the exception of proposed Lot 6, the Proponent must prepare an Environmental Management Strategy for the project to the satisfaction of the Secretary within 6 months of the date of this approval. The Strategy must:
    - (a) provide the strategic framework for environmental management of the project;
    - (b) identify the statutory approvals that apply to the project;
    - (c) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the project;
    - (d) describe the procedures that would be implemented to:
      - keep the local community and relevant agencies informed about the operation and environmental performance of the project;
      - receive, handle, respond to, and record complaints;
      - resolve any disputes that may arise during the course of the project;
      - respond to any non-compliance; and
      - respond to emergencies;
    - (e) include:
      - copies of the various strategies, plans and programs that are required under the conditions of this approval once they have been approved; and
      - a clear plan depicting all the monitoring currently being carried out within the project area.
20. Delete Condition 2 and replace with the following:
2. The Applicant must submit a report to the Department reviewing the environmental performance of the development to the satisfaction of the Secretary. This review must:
    - (a) be submitted prior to 1 October of each year;
    - (b) describe the works that were carried out in the past financial year, and the works that are proposed to be carried out over the next financial year;
    - (c) include a comprehensive review of the monitoring results and complaints records of the project over the past financial year, which includes a comparison of these results against:
      - the relevant statutory requirements, limits or performance measures/criteria;
      - the monitoring results of previous years; and
      - the relevant predictions in the EA;
    - (d) identify any non-compliance over the last financial 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 measure will be implemented over the next financial year to improve the environmental performance of the project.

## **In the Appendices**

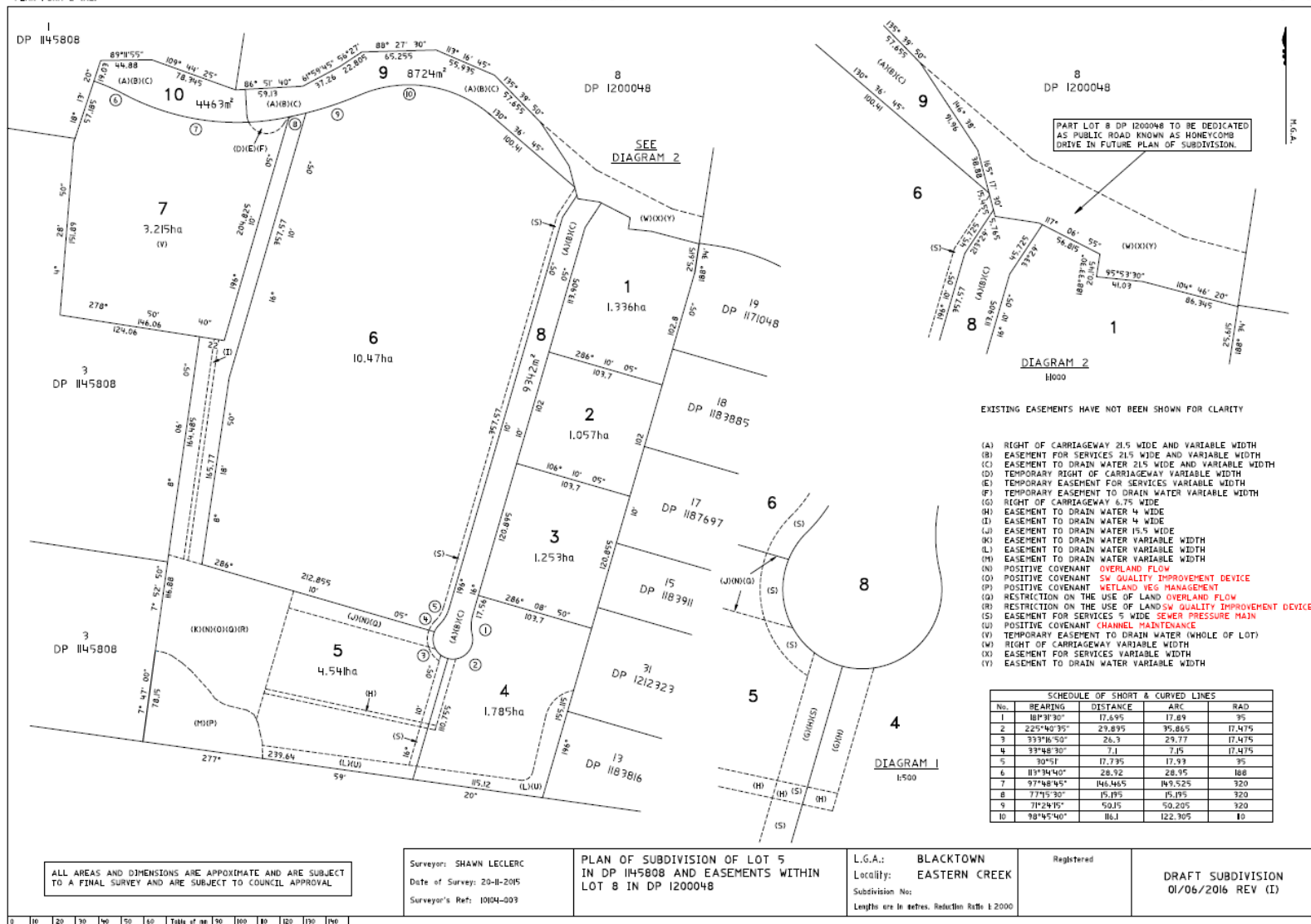
21. Delete Appendices 1-4 and replace with the following:

**APPENDIX 1: Modified Concept Plan**





**APPENDIX 2: Subdivision Plan MOD 3**



### **APPENDIX 3: Revegetation Areas and Existing Riparian Area to be Revegetated, Restored or Maintained**

