

ASSESSMENT REPORT

Section 75W Modification Hanson Concrete and Asphalt Facility MP 06_0225 MOD 2 (Concept Plan) and MOD 3 (Project Approval)

1. INTRODUCTION

This report assesses a modification request by Frasers Property Industrial Constructions Pty Limited (the Proponent) to the Hanson Concrete and Asphalt Facility (MP 06_0225), in the Blacktown local government area (LGA). The request has been lodged pursuant to section 75W of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

2. BACKGROUND

The Hanson Concrete and Asphalt Facility is located off Honeycomb Drive, Eastern Creek in the Blacktown LGA (see **Figure 1**). The subject site is within the Western Sydney Employment Area (WSEA), and located 36 kilometres (km) west of Sydney's Central Business District (CBD). The site is 25.95 hectares (ha) in area and is legally described as Lot 5 in Deposited Plan 1145808.

The site is bound by the Genesis Xero Waste Facility and the M4 Western Motorway to the north, whilst there are several warehousing facilities and the M7 Motorway to the east. An energy from waste facility is currently proposed on land to the west (SSD 6236), and land to the south of the site is characterised by exotic grassland. The nearest residential dwellings are located approximately 800 metres (m) to the west of the site in Erskine Park, and 1 km to the north in Minchinbury (see **Figure 2**).

Between 1950 and 2005, Hanson Construction Materials Pty Ltd (Hanson) operated a concrete and asphalt production facility and a hard rock quarry at the site. The quarry area ceased operations in 2005 and was sold to ThaQuarry Pty Ltd (now Dial A Dump Industries), which is now occupied by the Genesis Xero Waste Facility.

The subject site is shown in **Figure 1** and **Figure 2**, and the approved Concept Plan area is shown in **Figure 3**.



Figure 1: Site Context (Google, 2017).

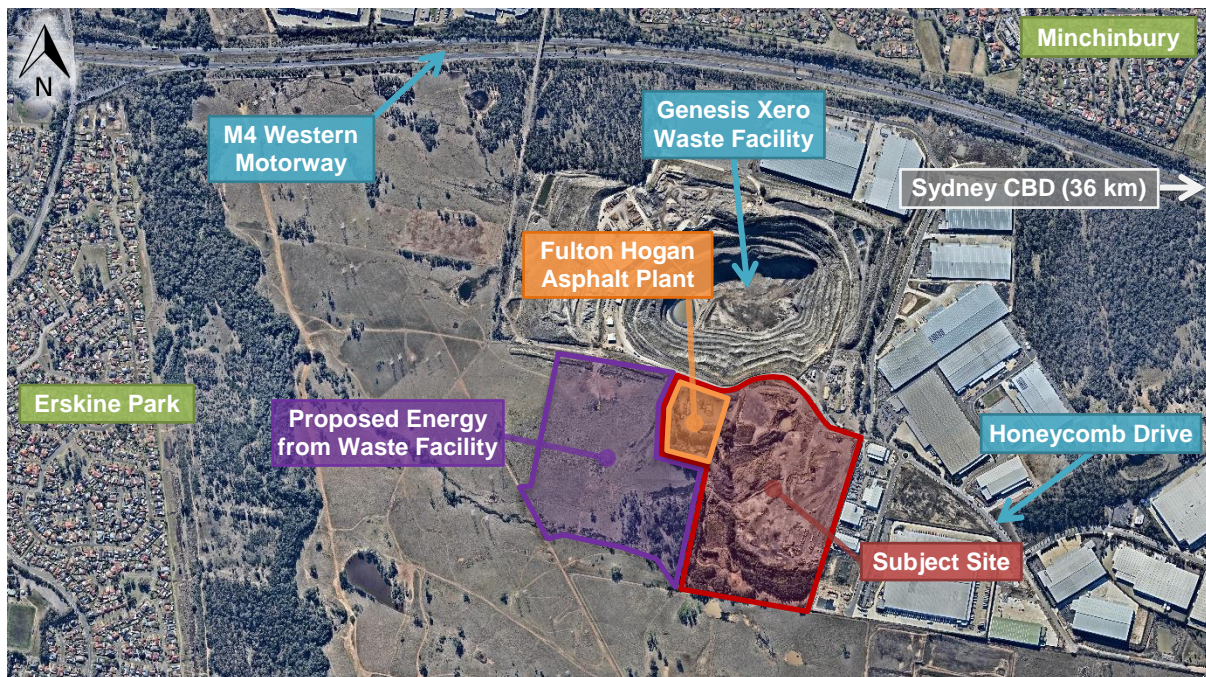


Figure 2: Site Location (Nearmap, 2016)

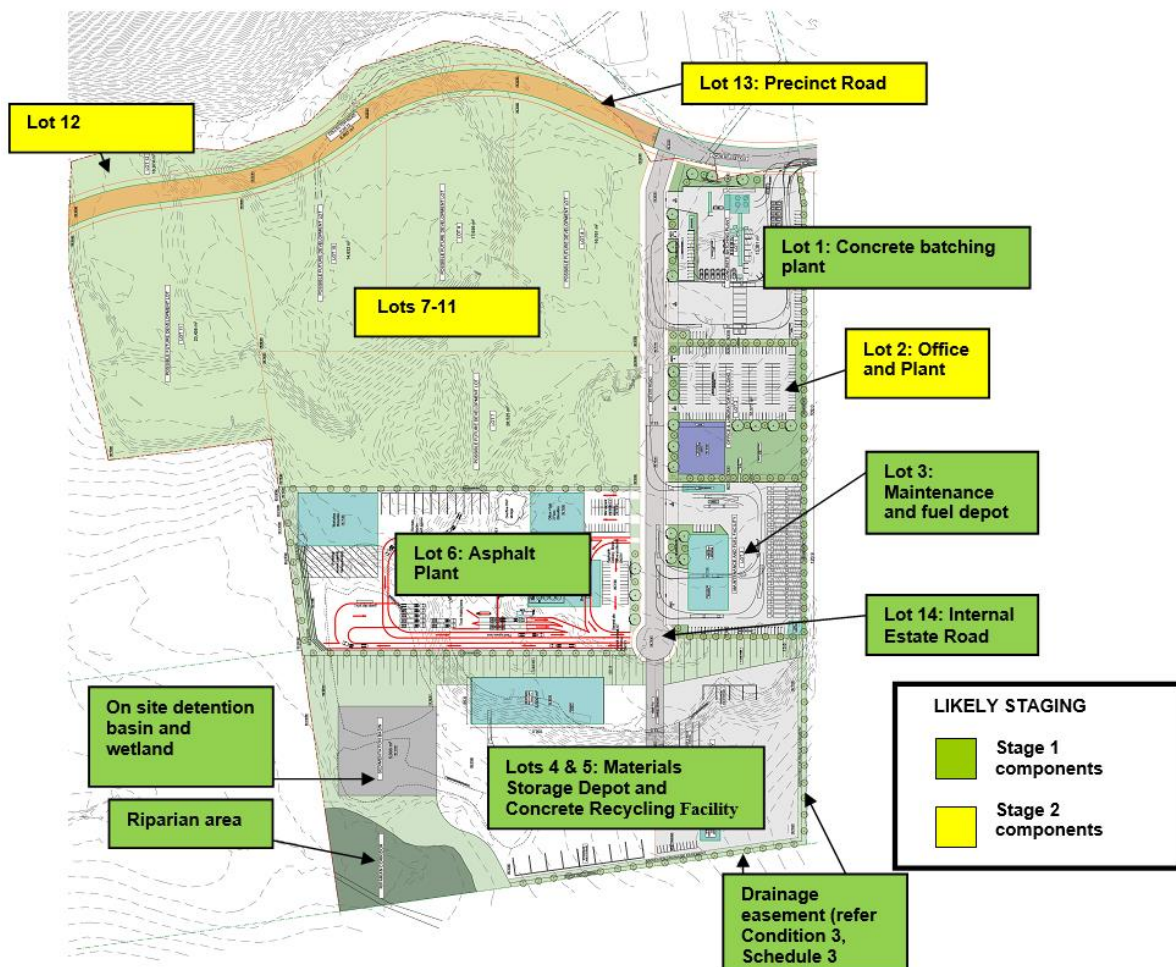


Figure 3: Approved Concept Plan (Hanson, 2011).

3. APPROVAL HISTORY

3.1 Project and Concept Approval

On 3 June 2010, a Concept and Project Approval was granted by the then Deputy Director-General (under the Minister for Planning's delegation) to Hanson, for the development of the Hanson Concrete and Asphalt Facility (MP 06_0225).

The Concept Approval permits the following:

- subdivision of the site;
- bulk earthworks across the site;
- development of an asphalt and concrete production and recycling facility;
- provision of a precinct collector road through the site; and
- provision of associated infrastructure (such as a fuel depot, workshop, materials storage, and office and plant) to facilitate the development.

The Project Approval permits the following:

- continued use of existing facilities and associated ancillary infrastructure;
- production from the existing industrial facilities at the following limits:
 - Concrete Batch Plant – production capacity of 108,000 m³ per annum;
 - Concrete Recycling Facility – importing/exporting 75,000 tonnes per annum (tpa);
 - Materials Storage Depot – importing 27,000 tpa;
 - Asphalt/Emulsion Plant – production capacity of 270,000 tpa; and
- subdivision and construction of the Precinct Plan Road through the site.

In late 2010, Hanson sold part of its approved asphalt manufacturing operations to Fulton Hogan, who currently operate the existing asphalt plant located on the western section of the site (see **Figure 2** and **Figure 4**). The Project Approval included a three year sunset clause for continuing operations on the site, which would provide Hanson with a fixed period to implement elements of the Concept Plan and modernise the site.

It is noted Schedule 3, Condition 1 of the Concept Plan requires the Proponent to prepare separate applications for each of the industrial facilities located on lots 1-6 (see **Figure 3**). At the time of writing this report, no approval had been granted for these facilities.

3.2 Previous Modifications

On 24 October 2013, a section 75W modification to the Project and Concept Approval (MP 06_0225 MOD 1) was granted by the then Director, Industry, Social Projects and Key Sites. The modification permitted:

- relocation of facilities within the approved Concept Plan to the southern section of the site;
- subdivision of the site into 14 lots;
- an increase in the developable area of the site from 10.7 ha to approximately 24 ha;
- bulk earthworks and construction of essential infrastructure, including potable water, sewer, electricity and telecommunications; and
- operation of the existing Fulton Hogan asphalt plant for an additional three years under the Project Approval.

On 3 June 2015, a section 75W modification to the Project Approval (MP 06_0225 MOD 2) was granted by the then Manager, Industry Assessments. The modification sought approval to extend operation of the existing Fulton Hogan asphalt plant until 3 June 2017, which would allow it to fulfil its commitments for the supply of asphalt to major infrastructure projects in Sydney.

4. PROPOSED MODIFICATION

The Proponent has lodged a modification request under section 75W of the EP&A Act to modify the subdivision layout of the Hanson Concrete and Asphalt Facility. The modification seeks to:

- amend the approved Plan of Subdivision;
- relocate the approved re-vegetation area;
- amend the alignment of the precinct collector road;
- amend the retaining wall locations and heights; and
- include a warehouse/light industrial use on proposed Lot 6.

The proposed modification would involve amendments to the following conditions of approval:

- MP 06_0225 Concept MOD 2
 - Schedule 2 – definitions and Condition 1;
 - Schedule 3 – Condition 4; and
 - Appendix 1.
- MP 06_0225 Project MOD 3
 - Schedule 1 – project description and definitions;
 - Schedule 2 – conditions 2, 13, 14 and 16;
 - Schedule 3 – conditions 1, 1A, 2, 3, 9, 9A and 10;
 - Schedule 4 – conditions 1, 21, 24, 27 and 28;
 - Schedule 5 – conditions 1 and 2; and
 - Appendices 1 to 4.

The amendments are set out in more detail in **Appendix A**.

The Proponent (also known as Australand) has advised the proposed amendments are necessary to allow for the purchase of a 10.4 ha portion of the site from Hanson, with the intention that this would be used for the development of a warehousing and light industrial facility. The Proponent considers the modification would facilitate the future development on this lot, whilst ensuring all necessary earthworks and essential infrastructure are still provided.

The proposed modification would also require the amendment of the Voluntary Planning Agreement (VPA) entered into between the Minister for Planning and Hanson, and executed on 18 October 2013. An application, including a letter of offer, to amend the VPA is currently being assessed by the Department's Developer Contributions team.

The Department is satisfied the modification can be determined separately to the VPA amendment, given Hanson has indicated its support for the draft Deed of Variation, and public notification of this document is imminent.

The modification is described in full in the Environmental Assessment (EA) included in **Appendix C** and is illustrated in **Figure 4**. A detailed overview of the proposed modification is also provided in **Table 1** overleaf.

Table 1: Proposed Modification Components

Description	Proposed Modification
<i>Subdivision Layout</i>	Consolidation of Lots 6-10 into one lot. This lot would be sold by Hanson to the Proponent, to facilitate its future development as a warehousing and light industrial facility. The approved location of the asphalt plant would also be relocated to proposed Lot 7.
<i>Relocation of revegetation area</i>	The modification seeks to relocate the approved 1.85 ha revegetation area from its current east-west location to the eastern edge of the site. This is due to the fact that proposed Lot 6 would intersect with the approved location of the revegetation area (see Figure 5).
<i>Civil and Infrastructure Works</i>	<p>The modification would require several amendments to the site's civil and infrastructure works, in order to facilitate the consolidation of Lots 6-10. This would include:</p> <ul style="list-style-type: none"> • amendments to bulk earthwork levels and retaining wall locations to provide a flat building pad for each of the site's lots; • changes to the site's stormwater and sewerage systems; and • the slight realignment of the precinct collector road.
<i>Lot 6 Land Use</i>	The modification seeks to approve the use of proposed Lot 6 for warehousing and distribution purposes, to facilitate the development of this lot. The Proponent notes that any future built form on this lot would still be subject to separate approval.

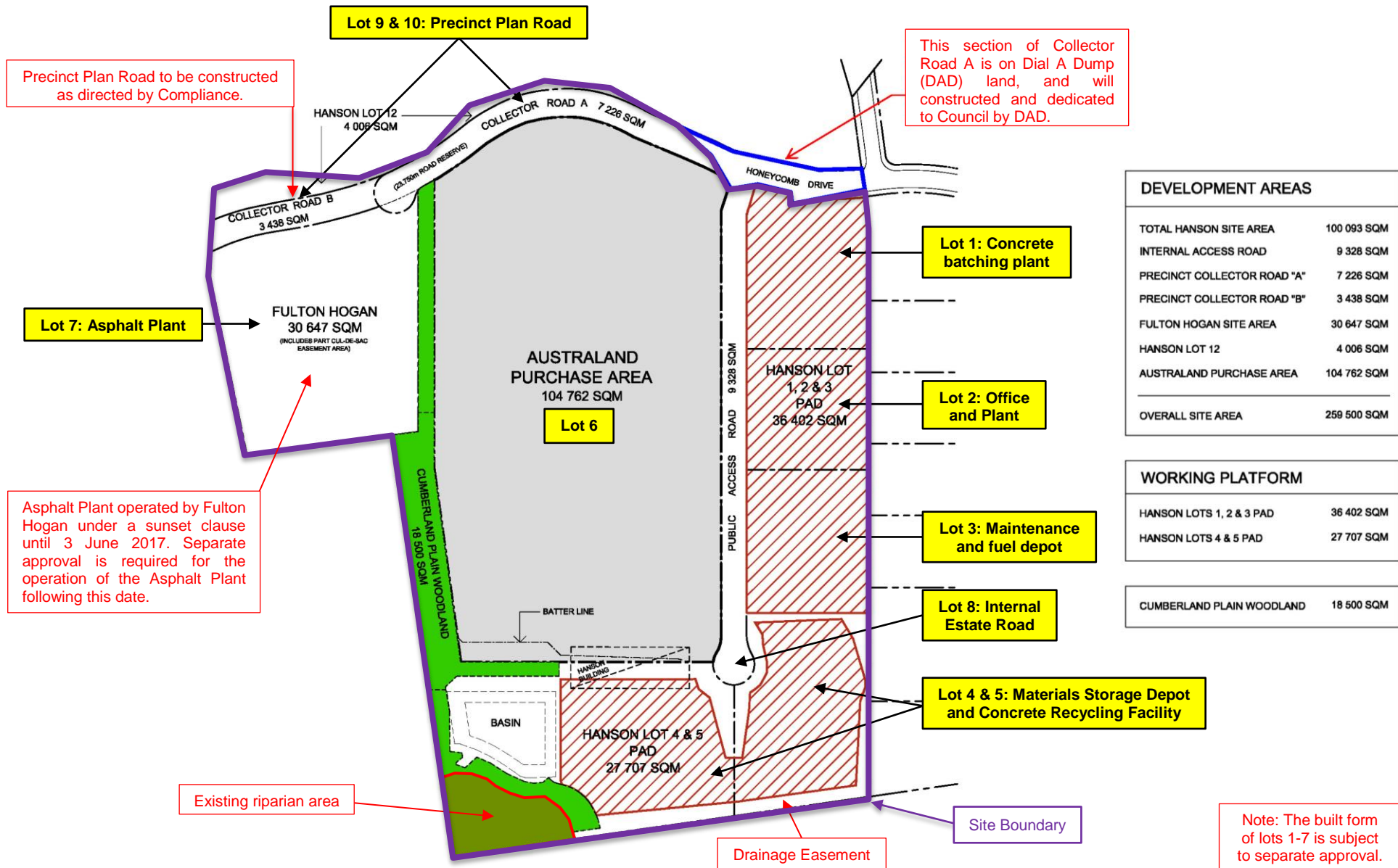


Figure 4: Proposed modification to the Concept Plan (Fraser's, 2016).

5. STATUTORY CONTEXT

5.1 Approval Authority

The Minister for Planning is the approval authority for the request. Under the Minister's delegation of 16 February 2015, the Director, Industry Assessments, may determine the request under delegation as:

- the relevant local council has not made an objection;
- a political disclosure statement has not been made; and
- there are no public submissions in the nature of objections.

5.2 Section 75W

In accordance with Clause 12 of Schedule 6A of the EP&A Act, section 75W of the Act as in force immediately before its repeal on 1 October 2011 and as modified by Schedule 6A, continues to apply to transitional Part 3A projects.

The Department notes that:

- the primary function and purpose of the approved project would not change as a result of the proposed modification;
- the modification is of a scale that warrants the use of section 75W of the EP&A Act; and
- any potential environmental impacts would be minimal and appropriately managed through the existing or modified conditions of approval.

Therefore, the Department is satisfied the proposed modification is within the scope of section 75W of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers the request should be assessed and determined under section 75W of the EP&A Act rather than requiring a new development application to be lodged.

6. CONSULTATION

Under section 75W of the EP&A Act, the Department is not required to notify or exhibit the modification request. Upon receipt, the request was placed on the Department's website and following a review of the documentation, the Department did not consider that further consultation was necessary. Notwithstanding, the Department sought comments from Blacktown City Council (Council), Office of Environment and Heritage (OEH) and Fire and Rescue NSW (FRNSW).

Council did not object to the modification, however it raised a number of concerns pertaining to the proposed building pads, land use, sewerage system, retaining structures, precinct road and Section 94 contributions. In particular, Council noted insufficient information or justification was provided as to why the land use should be approved as part of the Concept and Project Approval, and requested this be removed from the application. Concern was also raised regarding the viability of the proposed revegetation areas, given the substantial site level changes proposed could result in overshadowing in these locations. Suggested wording was also provided for Schedule 4, Condition 24 of the Project Approval, so as to align with the applicable contributions plan and Council's standard wording for such conditions.

OEH did not object to the modification, and noted the relocated revegetation area was a slight improvement over what was originally approved. However, OEH advised it had several concerns regarding the viability of the revegetation area, given the risk of weed invasion and waste dumping as a result of the high edge to area ratio.

FRNSW did not object to the modification, and advised the proposed subdivision should be provided with adequate facilities to enable the agency to undertake effective firefighting operations.

The Department requested the Proponent address matters raised within these submissions as part of a Response to Submissions (RTS) document.

In October 2016, the Proponent lodged an RTS to address the matters raised in the submissions received. The Proponent agreed that it would obtain separate development approval for the building pads on each lot. The Proponent also acknowledged Council's reasoning regarding the proposed industrial land use, and advised it would seek individual land use approval as part of a separate development application for the future warehouse structures. This was subsequently removed from consideration as part of the proposed modification.

As part of the RTS, the Proponent also requested amendments to Schedule 4, Condition 21 of the Project Approval requiring construction of the Precinct Road to be completed within 24 months of the approval of this modification. In addition, the Proponent accepted the amended wording suggested by Council for Schedule 4, Condition 24 of the Project Approval relating to developer contributions.

To address concerns regarding the viability of the revegetation area, the RTS also included an addendum to the *Ecological Assessment* prepared by Cumberland Ecology. The Proponent indicated that whilst the revegetation area adjacent to proposed Lot 6 would be shaded in the morning, it would experience sunshine throughout the remainder of the day. Consequently, it was concluded overshadowing would not significantly affect the viability of the revegetation area, subject to the area being appropriately maintained and monitored until fully established.

The Department has considered the issues raised in submissions and the RTS in its assessment of the requested modification.

7. ASSESSMENT

The Department has assessed the merits of the proposed modification. During this assessment, the Department has considered the:

- EA and assessment report for the original application;
- existing conditions of approval (as modified);
- the EA supporting the proposed modification (**Appendix C**);
- submissions from State government authorities and Council (**Appendix D**);
- the Proponent's response to issues raised in submissions;
- relevant environmental planning instruments, policies and guidelines; and
- requirements of the EP&A Act, including the objects of the EP&A Act.

The Department considers the key assessment issues are:

- relocation of the revegetation area;
- infrastructure contributions; and
- construction of the Precinct Plan Road.

The Department's assessment of other issues is provided in **Table 2**.

7.1 Relocation of Revegetation Area

The proposed modification has the potential to adversely impact upon the viability of the revegetation area as a result of its relocation from the centre of the site to its eastern edge. The approved Concept Plan and Project Approval (as modified) currently require the revegetation of 1.85 ha of the site with Cumberland Plain Woodland (CPW), primarily within an east-west corridor traversing the site. The modification seeks to relocate the CPW to the eastern edge of the site, as the location of proposed Lot 6 would intersect with the approved revegetation area (see **Figure 5**). The revegetation area would be located primarily on a batter slope, adjacent to a 6 m high retaining wall.

To demonstrate the proposed modification would not impact upon the viability of the revegetation area, Cumberland Ecology prepared an *Ecological Assessment* on behalf of the Proponent. The report was prepared in accordance with the *Threatened Species Conservation Act 1995* and the *Commonwealth Environment Protection and Biodiversity Conservation Act 1999*, as well as a number of previous ecological surveys and reports relating to the site.

The *Ecological Assessment* concluded the relocation of the approved revegetation area would have a minor impact on the site's overall conservation outcome. The *Ecological Assessment* suggested the location would be more preferable to the approved location, given it would be positioned along the edge of the development, rather than through it. The relocated area would also provide a better connection to the existing riparian area located in the south-west corner of the site (see **Figure 5**). This would result in less edge effects, and increase the potential for the CPW to act as a wildlife corridor. To facilitate the establishment and protection of the revegetation area, the report recommended it be fenced off from the remainder of the site to limit human disturbance, and that a weed strategy be implemented across the riparian and revegetation areas.

OEH confirmed the relocated revegetation area would be preferable to the approved location, but was concerned the high edge to area ratio would increase the likelihood of weed invasion and rubbish dumping occurring in the area. OEH also requested the Project Approval be updated to ensure the

revegetation area is managed in perpetuity. In its RTS, the Proponent acknowledged these concerns, and indicated it would accept a condition requiring compliance with the recommendations made by Cumberland Ecology with regard to fencing and the implementation of a weed strategy. In its response to the RTS, OEH indicated its support for the inclusion of these measures within the approval, but noted it was difficult to assess the long term viability of the CPW as a result of potential overshadowing, given the future built form of the site has not been finalised. The Department notes that any future development application lodged for the built form of the site would be required to consider the impacts of overshadowing upon both the revegetation and riparian area. In addition, the Department has previously issued Secretary's Environmental Assessment Requirements (SEARs) for the development of proposed Lot 6 (SSD 8089). The SEARs require the Proponent undertake a detailed assessment of the potential direct and indirect impacts of any future development upon the adjacent revegetation area.

Council also raised concern the relocation would impact upon the viability of the revegetation area, given the 6 m high retaining wall and battering proposed along the western boundary of the site could result in overshadowing of the CPW. In response to Council's concerns, the RTS included an addendum letter to the *Ecological Assessment*. Cumberland Ecology's letter indicated that whilst the revegetation area adjacent to Retaining Wall 2 would be shaded in the morning, it would experience sunshine throughout the remainder of the day. Consequently, it was concluded that overshadowing would not significantly affect the viability of the revegetation area, subject to the area being appropriately maintained and monitored until fully established. In its response to the RTS, Council confirmed its concerns had been addressed by the Proponent.

The Department considers the relocation of the revegetation area is appropriate and would result in a slight improvement on the site's biodiversity values and overall conservation outcome. However, the Department acknowledges the concerns of OEH regarding the management of the area, and the potential for weed invasion and rubbish dumping to occur. The Department has therefore recommended Schedule 4, Condition 27 of the Project Approval be updated to require preparation of the site's *Landscape and Revegetation Management Plan* in accordance with the recommendations of the *Ecological Assessment* and RTS, and include an undertaking that the plan will operate in perpetuity to ensure the management of the CPW.

The Department's assessment concludes the proposed modification would not adversely impact upon the viability and management of the revegetation area, subject to the implementation of the recommended conditions of approval. The relocated area would result in an improved biodiversity outcome compared to the original layout, as well as improved connectivity to the existing riparian area.



Figure 5: Existing and Proposed Revegetation Area (Cumberland Ecology, 2016).

7.2 Infrastructure Contributions

Regional Contributions

The proposed modification has the potential to impact upon the existing VPA entered into between the Minister for Planning and Hanson, and executed on 18 October 2013. The existing VPA outlines the regional road infrastructure contribution to be paid by Hanson over 13 stages, consistent with the development of the lots indicated in the approved Concept Plan.

As the proposed modification seeks to consolidate approved lots 6-10 into a single lot, the VPA will require amendment to align the staging of contribution payments with the revised Concept Plan layout. An application to amend the VPA, including a letter of offer, is currently being assessed by the Department's Developer Contributions team. The draft VPA is to be placed on exhibition commencing 29 March 2017 for a period of 28 days. In order to allow the VPA and the proposed modification to be determined independently of each other, the Department's Developer Contributions team has recommended the Project Approval be updated to appropriately separate it from the VPA.

Consequently, the Proponent has requested Appendix 3 of the Project Approval be deleted, as it details the specific terms that must be addressed within the existing agreement. Following consultation with the Developer Contributions team, the Department has identified two further conditions within the Project Approval that will require amendment in order to facilitate this separation.

Schedule 2, Condition 13 of the Project Approval requires the Proponent to enter into the VPA within 14 days of the public exhibition of the draft document. Given that a VPA has already been entered into, the Department has recommended this condition be updated to require the Proponent to provide all monetary contributions in accordance with the executed VPA as modified. The VPA outlines when each contribution must be paid to the Department.

Schedule 2, Condition 14 of the Project Approval details the total contribution payable to the Minister for Planning in accordance with the VPA, as well as the surrounding road upgrades and works the contribution would be made available for. The condition is merely a replication of the payable contributions identified in the VPA in Schedule 3. As the payment schedule in the draft VPA has been amended to reflect the proposed modification, existing Condition 14 is contradictory. To ensure that there is no conflict between the Project Approval and the draft VPA, Schedule 2, Condition 14 must be deleted. This will not affect the timing or payment of the contributions as the Proponent is obliged to provide these in accordance with the modified Condition 13 and the VPA (as amended).

The Department's assessment concludes the recommended conditions of approval would ensure the current amendment of the VPA can be completed independently of the proposed modification, and allow the agreement to be amended in the future without the need for unnecessary modification of the Project Approval.

Local Contributions

Schedule 4, Condition 24 of the Project Approval requires Hanson to pay Council funds towards the development of local road infrastructure ('The Quarry Link Road') by 30 November 2014, or within 30 days of a Section 94 Contributions Plan being made (whichever is sooner). In the event that a plan had not been made, the contribution to be paid was to be calculated to the satisfaction of the Secretary. At the time of writing this report, this contribution had not yet been paid. Consequently, the Department is currently undertaking a compliance investigation in regards to the payment of this contribution.

As part of the proposed modification, the Proponent requested this condition be amended to require payment of the required contribution prior to the issue of any subdivision certificate for the site. In its submission, Council noted the outstanding contributions had not yet been paid, and a Section 94 Contributions Plan covering the site had been made on 22 June 2016. Council subsequently recommended this condition be updated to outline the amount to be paid in accordance with this plan, and require payment prior to the issue of any subdivision certificate for the site.

In its RTS, the Proponent indicated it accepted the wording suggested by Council. However, Hanson objected to the amount of contributions payable under the Contributions Plan, and requested payment of the contributions prior to issue of a subdivision certificate. Following negotiations, an agreement was reached between the Proponent, Hanson and Council to utilise the updated wording originally suggested by Council, outlining the monetary contributions to be paid under the applicable Section 94 Contributions Plan. The Department's Compliance team is satisfied this wording would ensure prompt payment of the

contribution, subject to it being paid prior to the issue of any construction certificate or subdivision certificate.

The Department's assessment concludes the updated wording for Schedule 4, Condition 24 of the Project Approval would ensure that the appropriate funds would be paid to Council for the provision of local infrastructure within a timely manner. This payment would be required prior to the commencement of any subdivision or construction works at the site, and allow the relevant local road infrastructure to be constructed prior to the completion of the development. Accordingly, the Department has recommended this condition be updated in accordance with the wording proposed by Council.

7.3 Construction of Precinct Plan Road

The Applicant has requested an additional extension to the timing of the construction of the precinct road. Delaying the construction of the road further could impede the orderly development of the precinct.

Background

When the Project Approval for the site was originally approved in 2010, Condition 21 of Schedule 4 required Hanson to construct the Precinct Plan Road to the north of the site (see **Figure 4**), and dedicate this road to Council within five years of the date of the Project Approval (i.e. by June 2015). At the time of the approval of MOD 2 to the Project Approval in June 2015, Hanson had not yet constructed the road.

In its submission at the time, Council recommended the Precinct Plan Road be completed as a matter of urgency, and noted it would only support the two year extension for the operation of the Fulton Hogan asphalt plant if Hanson completed its section of the road within 12 months of the approval of the modification. Consequently, the Department amended Schedule 4, Condition 21 of the Project Approval to require the construction of the Precinct Plan Road within 12 months of the date of the approval of MOD 2 (i.e. by June 2016). At the time of writing, the road has not yet been constructed and the Department's Compliance team has commenced enforcement actions against Hanson.

Proposed Modification

As part of the proposed modification, the Proponent originally sought to amend Condition 21 to require it to have commenced the design and construction of the road within 12 months of the approval of the proposed modification. The Proponent noted this amendment was required to enable the delivery of the Precinct Plan Road to be aligned with the construction strategy for the overall site.

Council requested further information from the Proponent as to the timing of the completion of the road, given the potential for its delay to impact upon the orderly development of the precinct. In its RTS, the Proponent indicated negotiations had been ongoing with Council and Dial a Dump regarding the construction of the road, and suggested Condition 21 be amended to require the completion and dedication of the Precinct Plan Road within 24 months of the approval of the proposed modification. This would provide the Proponent with sufficient time to construct and dedicate the road to Council. In its response to the RTS, Council indicated it did not object to the proposed extension of the construction period.

Notwithstanding, the Department is currently undertaking compliance action in regards to the construction of the Precinct Plan Road, as it should have been constructed by June 2016. The Department considers any further amendment of this condition is unwarranted, given the amount of time the Proponent has had to construct the road and the fact that Condition 21 was previously modified as part of MOD 2 to the Project Approval. Further, the delays in constructing the road in an orderly manner is impeding the development of the precinct. At the time of writing this report, the Department had issued a draft Order to Hanson, seeking to address the timing of the road's construction and dedication to Council. The draft Order requires Hanson, as a matter of urgency, to provide a suitable timeframe for the completion of the precinct road as per the requirements of Schedule 4, Condition 21. Should this timeframe be considered reasonable by the Department, it is envisioned that Hanson will be ordered to construct the road within the timeframe.

The Department's assessment concludes Hanson's non-compliance with Schedule 4, Condition 21 of the Project Approval will be resolved as part of the Compliance team's ongoing investigation and enforcement of the existing condition. Consequently, the Department is satisfied the construction of the road will be completed as part of the compliance action, as a matter of urgency and within an expedited timeframe.

7.4 Other Issues

The Department's assessment of other issues is provided in **Table 2**.

Table 2: Assessment of Other Issues

Issue	Assessment	Recommendation
Lot 6 Land Use	<ul style="list-style-type: none"> The approval of a warehouse/light industrial land use for proposed Lot 6 could essentially pre-empt a future determination of a development application for the construction of a facility. Council objected to this element of the modification, noting insufficient information had been provided to support approval of the land use. Given proposed Lot 6 would also require the lodgement of a separate application for its development, Council recommended land use approval be removed from the proposed modification. The Proponent's RTS acknowledged Council's concerns, and noted it would apply for the land use of the development as part of a subsequent development application lodged for the future development of proposed Lot 6. The Department is supportive of Council's position that insufficient information has been provided to support approval of the use of proposed Lot 6, and acknowledges the commitment made by the Proponent to apply for the use of this lot as part of a subsequent development application lodged for the future development. Accordingly, this aspect of the modification has been withdrawn. 	<ul style="list-style-type: none"> This issue was withdrawn from the modification, and will be considered and assessed as part of a subsequent development application to be lodged for the future development of proposed Lot 6.
Residual Lot Subdivision	<ul style="list-style-type: none"> The proposed modification would involve the use of the term 'residual' to describe the subdivision of the site, and the subsequent lots that would be created. The Proponent advised this term is required so that the relevant infrastructure authorities (such as Sydney Water) can issue documentation confirming each lot can be serviced in the future. Council objected to the use of this term, as it was concerned it would allow the payment of local infrastructure contributions required under Schedule 4, Condition 24 of the Project Approval to be postponed. Following mediation, an agreement was reached between the Proponent and Council to utilise the term 'residual', provided Council's recommended wording for Schedule 4, Condition 24 of the Project approval is implemented (refer to Section 7.2). The Department's assessment concludes the use of the term 'residual' to describe the subdivision of the site is appropriate and would not impact upon the payment of local infrastructure contributions, subject to the implementation of the recommended conditions of approval. 	<ul style="list-style-type: none"> Update the Concept Plan and Project Approval to indicate that the project involves the residual subdivision of the site.
Bulk Earthworks Level	<ul style="list-style-type: none"> The proposed modification would involve minor adjustments to the site's earthwork design and levels, to reflect the revised Concept Plan layout. The revised bulk earthwork levels has the potential to impact upon the erosion and sediment impacts of the development. The Proponent prepared a <i>Civil Engineering Report</i> for the site, which provided details of the erosion and sediment controls to be implemented during construction. The <i>Civil Engineering Report</i> indicates the bulk earthwork level of proposed Lot 6 would be flat, in order to accommodate a large warehousing facility. The Proponent is also exploring the possibility of locating two smaller warehousing facilities on the lot. To provide the flexibility to pursue either of these two options, the Proponent requested the inclusion of an additional condition within the Project Approval, which would allow the bulk earthwork level of proposed Lot 6 to be divided into two tiers separated by a retaining wall. 	<p>Require the Proponent to:</p> <ul style="list-style-type: none"> undertake bulk earthworks in accordance with MOD 1, MOD 3 and the CEMP dated 23 March 2012; submit revised civil engineering plans (prepared in consultation with Council) for the approval of the Certifying Authority, if a two-tiered level is required for proposed Lot 6; and prepare detailed plans and procedures outlining how it will stabilise the earthworks as part of the

Issue	Assessment	Recommendation
	<ul style="list-style-type: none"> • Council raised no objection to the proposed earthworks design or the tiered level option for proposed Lot 6, noting this option would provide better access to the lot. • The Department is satisfied the Proponent's <i>Civil Engineering Report</i> and the site's existing <i>Construction Environmental Management Plan</i> (CEMP) would appropriately manage the erosion and sediment impacts of the development. Accordingly, it is recommended Schedule 3, Condition 9 of the Project Approval be updated to require the Proponent undertake bulk earthworks in accordance with these documents. • The Department notes the Proponent has not indicated the timeframe between the completion of the proposed earthworks and the construction of the industrial facilities referred to in the approval, or how these earthworks will be stabilised during this period. Accordingly, it is recommended Schedule 4, Condition 27 of the Project Approval be updated to require the Proponent to prepare detailed plans and procedures regarding how it will stabilise the earthworks to prevent run-off and erosion. • The Department's assessment concludes the bulk earthworks proposed as part of the modification would not result in any adverse water quality impacts, subject to the Proponent ensuring the work is carried out in accordance with the <i>Civil Engineering Report</i> dated 3 June 2016, the <i>Landscape and Revegetation Management Plan</i> and the approved CEMP. 	<p>site's <i>Landscape and Revegetation Management Plan</i>.</p>
Traffic and Transport	<ul style="list-style-type: none"> • The Proponent undertook a <i>Traffic Impact Assessment</i> in accordance with RMS guidelines to quantify the possible traffic impacts of proposed Lot 6. • Increased traffic has the potential to impact upon the safety and capacity of the surrounding road network. • The Proponent's assessment concluded the traffic generated by the modification would not impact significantly upon road network performance in the vicinity of the site. • Council raised no objection to the modification in relation to traffic impacts as a result of the future development of proposed Lot 6. • The Department is satisfied the Proponent's traffic assessment provides a reasonable estimation of the predicted traffic impacts of proposed Lot 6, and the assessment demonstrates the predicted impacts would be minor and acceptable. • Whilst the traffic assessment did not consider the construction traffic impacts of the development, the Department notes these impacts were considered as part of MP 06_0225 MOD 1 to the Project Approval. • The Department's assessment concludes the impacts of construction traffic as a result of the proposed modification are acceptable, and would be appropriately accommodated within the planned road network. • The Department also notes the potential traffic impacts of proposed Lot 6 would be assessed in further detail as part of a subsequent development application lodged for its future development. 	<ul style="list-style-type: none"> • Manage through the Project Approval's existing conditions of approval. • This issue would also be assessed in further detail as part of a subsequent development application lodged for the future development of proposed Lot 6.
Water and Sewerage Infrastructure	<ul style="list-style-type: none"> • Schedule 3, Condition 4 of the Concept Plan provides a detailed list of the information the Proponent must provide when seeking approval for the implementation of the site's sewerage system. • As part of the proposed modification, it was requested this condition be simplified to require the Proponent to obtain a compliance certificate for the site's water and sewerage infrastructure under either section 73 of the <i>Sydney Water Act 1994</i> or section 68 of the <i>Local Government Act 1993</i>. • Council raised no objection to the amendment of this condition, but requested the Proponent also obtain a Trade 	<p>Require the Proponent to:</p> <ul style="list-style-type: none"> • obtain a compliance certificate for the development's water and sewerage infrastructure under the <i>Sydney Water Act 1994</i> or the <i>Local Government Act 1993</i>; • if necessary, obtain a Trade Waste Approval

Issue	Assessment	Recommendation
	<p>Waste Approval prior to the operation of the development, if required by Sydney Water.</p> <ul style="list-style-type: none"> The Department notes the concerns of Council in relation to the water and sewerage infrastructure to be installed at the site, and has recommended Schedule 3, Condition 4 of the Concept Plan also require the Proponent obtain a Trade Waste Approval for the development, if required. Council also requested an additional condition requiring amended stormwater plans be submitted to and approved by Council prior to the issue of any construction certificate for the site. The Proponent did not object to this condition, but requested that the plans be submitted for the approval of the Principal Certifying Authority instead of Council. The Department notes that Schedule 3, Condition 10 of the Project Approval relates to the plans prepared for the site's stormwater, wetland and bioretention systems. To address Council's request, the Department has recommended this condition be updated to require updated plans to be approved by the Certifying Authority prior to issue of any construction certificate, and prepared in consultation with Council. The Department's assessment concludes the proposed modification would not adversely impact upon the water and sewerage infrastructure to be installed at the site, subject to the implementation of the recommended conditions of approval for the water and sewerage infrastructure systems. 	<p>from the Sydney Water Corporation; and</p> <ul style="list-style-type: none"> update the plans for the development's stormwater, wetland and bioretention systems in accordance with MOD 3 and in consultation with Council, prior to the issue of any construction certificate.
Administrative Changes	<ul style="list-style-type: none"> The proposed modification seeks to remove the requirement for proposed Lot 6 to comply with the site's <i>Environmental Management Strategy</i> and approved noise limits. The Proponent has advised this change is appropriate as the lot is to be sold and operated under separate ownership to the remainder of the site, and any future development of the lot would be subject to specific environmental management requirements developed as part of a separate approval process through Council or the Department. Council raised no objection to the removal of proposed Lot 6 from compliance with these conditions. The Department is satisfied the specific environmental management requirements for the lot would be appropriately considered and assessed as part of any subsequent application lodged for the future development of proposed Lot 6. Accordingly, the Department has recommended Schedule 4, Condition 1 and Schedule 5, Condition 1 of the Project Approval be updated to exclude proposed Lot 6 from each requirement. The Department has also recommended that Schedule 5, Condition 2 of the Project Approval be updated to require submission of the site's <i>Environmental Performance Report</i> prior to 1 October each year, to align with the Compliance team's standards. 	<p>Update the Project Approval to:</p> <ul style="list-style-type: none"> remove the requirement for proposed Lot 6 to comply with the site's <i>Environmental Management Strategy</i> and approved noise limits; and require submission of the site's <i>Environmental Performance Report</i> prior to 1 October each year.

8. CONCLUSION

The Department has assessed the proposed modification in accordance with the relevant requirements of the EP&A Act. The Department considers the proposed modification is appropriate on the basis that:

- the relocated revegetation area would remain 1.85 ha in size and result in an improved biodiversity outcome compared to the original layout;
- it would ensure appropriate funds are paid to the Department and Council for the provision of state and local infrastructure within a timely manner; and
- it would not result in any additional environmental impacts beyond those assessed under the original major project application.

The Department also notes the construction of the Precinct Plan Road shall be addressed through the enforcement of the existing condition by the Department's Compliance team. Consequently, a further extension of 24 months shall not be provided as part of the proposed modification.

The Department is satisfied that the modification should be approved, subject to conditions.


9. RECOMMENDATION

It is recommended that the Director, Industry Assessments:

- **consider** the findings and recommendations of this report;
- **approve** the proposed modification under section 75W of the EP&A Act; and
- **sign** the attached Instrument of Modification (in **Appendix B**).

Patrick Copas
Student Planner
Industry Assessments

ENDORSED:


24/03/17.
Kelly McNicol
Team Leader
Industry Assessments


24/3/17.
Chris Ritchie
Director
Industry Assessments

APPENDIX A – RECOMMENDED AMENDMENTS TO TERMS AND CONDITIONS OF APPROVAL

Table 3: Condition amendments to the Concept Plan

Condition	Description	Supported / Not Supported	Recommendations
<i>Definitions</i> (Schedule 2)	Minor amendments are required throughout the Concept Plan to remove references to the “Director-General” and replace them with “Secretary”.	Supported.	Recommend the definition for “Director-General” be replaced with that for “Secretary”, and that all references to “Director-General” be replaced with “Secretary”.
<i>General terms of approval</i> (Schedule 2, Condition 1)	The Proponent is seeking to amend Schedule 2, Condition 1 to indicate that concept plan approval is granted for residue subdivision of the site.	Supported in part.	The Department has no issue with the use of the term “residue” requested by the Proponent, but has recommended additional wording to reflect the amended subdivision plan layout for the site.
<i>Sewerage System</i> (Schedule 3, Condition 4)	The Proponent is seeking to amend Schedule 3, Condition 4 to require it to obtain a compliance certificate for water and sewerage infrastructure under either section 73 of the <i>Sydney Water Act 1994</i> or section 68 of the <i>Local Government Act 1993</i> , prior to the operation of the development.	Supported in part.	Recommend that the certificate or approval required only refer to sewerage infrastructure. Recommend that the section 73 certificate be obtained prior to the issue of a Subdivision Certificate, and the section 68 approval prior to the issue of a Construction Certificate. Recommend the Proponent obtain a trade waste approval prior to the operation of the development, if required.
<i>Modified Concept Plan</i> (Appendix 1)	The Proponent submitted a plan of the modified Concept Plan as part of the proposed modification, indicating the revised site layout and location of proposed Lot 6.	Supported.	Recommend the deletion of Appendix 1 and replacement with new Appendix 1, which includes the modified Concept Plan prepared by the Proponent. Recommend additional labelling of the modified Concept Plan to clarify the location of each lot and industrial facility.

Table 4: Condition amendments to the Project Approval

Condition	Description	Supported / Not Supported	Recommendations
<i>Project Description</i> (Schedule 1)	The Proponent is seeking to amend Schedule 1 to indicate that the project involves a 'residual lot' subdivision.	Supported.	Recommend the subdivision of the site be described as a "residual lot subdivision".
<i>Definitions</i> (Schedule 1)	Minor administrative amendments are required to the definitions list to facilitate the modification.	Supported.	Recommend the definitions for "Certifying Authority", "DPI Water", "MOD 3" and "MOD 3 RTS" be added to the list of definitions. Recommend the definition for "Project" be updated to reference the MOD 3 documentation.
<i>Terms of Approval</i> (Schedule 2, Condition 2)	A minor administrative amendment is required to reflect the revised subdivision layout of the site.	Supported	Recommend the reference to "14 lots" be updated to "10 lots".
<i>Contributions</i> (Schedule 2, Conditions 13 and 14)	Several minor amendments are required to simplify the VPA conditions. This would allow the VPA to be modified independently of the Project Approval.	Supported.	Recommend the Proponent provide all monetary contributions in accordance with the VPA executed on 18 October 2013 (or as amended). Recommend the deletion of Schedule 2, Condition 14.
<i>Evidence of Consultation</i> (Schedule 2, Condition 16)	A new condition is required to outline the process the Proponent must follow during consultation with public authorities.	Supported.	Recommend the Proponent provide evidence of consultation with public authorities where required by the conditions of approval.
<i>Subdivision Certificate</i> (Schedule 3, Conditions 1 and 1A)	The Proponent is seeking to amend Schedule 3, Condition 1 and insert new Condition 1A to outline that the subdivision would be undertaken in accordance with the updated Plan of Subdivision, and involve the creation of "residual lots".	Supported.	Recommend the Proponent carry out the subdivision in accordance with the Plan of Subdivision dated 1 June 2016. Recommend the subdivision occur in two stages.
<i>Easements</i> (Schedule 3, Conditions 2 and 3)	Minor administrative amendments are required to reflect the deletion of Appendix 3 from the Project Approval.	Supported.	Recommend that reference to "Appendix 4" is updated to "Appendix 3".
<i>Bulk Earthworks</i> (Schedule 3, Conditions 9 and 9A)	A minor amendment is required to Schedule 3, Condition 9 to ensure the Proponent undertakes bulk earthworks in accordance with the plans submitted as part of the current modification. The Proponent is also seeking an additional condition within the Project Approval, allowing the bulk earthwork level of proposed Lot 6 to be amended slightly if required.	Supported in part.	Recommend Schedule 3, Condition 9 be updated to require the Proponent to undertake bulk earthworks in accordance with the current modification. Recommend new Condition 9A be included within Schedule 3 of the Project Approval. If the Proponent seeks to adjust the bulk earthwork level of proposed Lot 6 slightly, 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.

Condition	Description	Supported / Not Supported	Recommendations
			Recommend a copy of these revised plans be provided to the Department for information.
<i>Stormwater Quality Improvement Devices</i> (Schedule 3, Condition 10)	As part of its submission, Council requested that updated stormwater plans be submitted to Council for approval prior to issue of any construction certificate for the site. The Proponent requested the plans be submitted to the Principal Certifying Authority for approval instead of Council.	Supported in part.	Recommend the Proponent prepare updated plans for the site's stormwater, wetland and bioretention systems in consultation with Council. Recommend these plans be approved by the Certifying Authority. Recommend a copy of these revised plans be provided to the Department and Council for information.
<i>Noise Limits</i> (Schedule 4, Condition 1)	The Proponent is seeking to exclude proposed Lot 6 from the site's noise limit requirements, as the noise impacts of this lot would be assessed and mitigated as part of any subsequent application lodged for its development.	Supported.	Recommend that proposed Lot 6 be excluded from the site's noise limit requirements.
<i>Precinct Plan Road</i> (Schedule 4, Condition 21)	The Proponent is seeking to amend the timing of the construction of the Precinct Plan Road to require construction and dedication of the road to Council within 24 months of the approval of this modification.	Not supported.	The timing of the construction of the Precinct Plan Road will be resolved as part of the Compliance team's ongoing investigation (see Section 7.3).
<i>Local and Regional Road Network Contributions</i> (Schedule 4, Condition 24)	The Proponent sought to amend this condition to require payment of local contributions prior to the issue of any subdivision certificate for the site. Council recommended the condition be updated to outline the amount to be paid in accordance with the relevant Section 94 Contributions Plan (see Section 7.2). The Proponent accepted the wording provided by Council.	Supported.	Recommend the Proponent provide contributions to Council prior to the issue of any Construction Certificate or a Subdivision Certificate (whichever occurs first). Recommend the contributions are made in accordance with the base amounts recommended by Council.
<i>Landscape Plan</i> (Schedule 4, Condition 27)	Minor amendments are required to Schedule 4, Condition 27 to accommodate the concerns raised by OEH regarding the viability of the revegetation area (see Section 7.1), and to ensure the site's bulk earthworks are appropriately stabilised.	Supported.	Recommend the Proponent provide details of fencing to be provided, and how the bulk earthworks would be stabilised prior to the completion of landscaping works across the site. Recommend the Proponent operate the Landscape and Revegetation Plan in perpetuity to ensure the management of the revegetation area.
<i>Riparian Area</i> (Schedule 4, Condition 28)	Minor administrative amendments are required to reflect the replacement of Appendix 3 within the Project Approval.	Supported.	Recommend that reference to "Appendix 4" is updated to "Appendix 3".

Condition	Description	Supported / Not Supported	Recommendations
<i>Environmental Management Strategy</i> (Schedule 5, Condition 1)	The Proponent is seeking to exclude proposed Lot 6 from the site's Environmental Management Strategy, as the environmental impacts of this lot would be assessed and mitigated as part of any subsequent application lodged for its development.	Supported.	Recommend that proposed Lot 6 be excluded from consideration within the site's Environmental Management Strategy.
<i>Annual Review</i> (Schedule 5, Condition 2)	The Department's Compliance team requested that the development's Annual Review be submitted prior to 1 October each year, and that it examine the environmental performance of the development over the previous financial year.	Supported.	Recommend that each Annual Review be submitted for approval prior to 1 October each year. Recommend that each Annual Review submitted must examine the environmental performance of the development over the previous financial year.
<i>Modified Concept Plan</i> (Appendix 1)	The Proponent submitted a plan of the modified Concept Plan as part of the proposed modification, indicating the revised site layout and location of proposed Lot 6.	Supported.	Recommend the deletion of Appendix 1 and replacement with new Appendix 1, which includes the modified Concept Plan prepared by the Proponent. Recommend additional labelling of the modified Concept Plan to clarify the location of each lot and industrial facility.
<i>Subdivision Plan MOD 3</i> (Appendix 2)	The Proponent submitted an updated Plan of Subdivision as part of the proposed modification.	Supported.	Recommend the deletion of Appendix 2 and replacement with new Appendix 2, which includes the updated Plan of Subdivision prepared by the Proponent.
<i>Copy of the Executed VPA</i> (Appendix 3)	The Proponent is seeking to delete Appendix 3, as an application to amend the VPA is currently being considered by the Department's Contributions team (see Section 7.2).	Supported.	Recommend the deletion of Appendix 3 as the VPA will be amended separately to the proposed modification.
<i>Revegetation Areas</i> (Appendix 4)	The Proponent submitted an updated plan of the site's revegetation area, indicating its revised location along the eastern edge of the site (see Section 7.1).	Supported.	Recommend the deletion of Appendix 4 and replacement with new Appendix 3, which includes the updated plan prepared by the Proponent.

APPENDIX B – INSTRUMENTS OF MODIFICATION

APPENDIX C – ENVIRONMENTAL ASSESSMENT

APPENDIX D – SUBMISSIONS

APPENDIX E – CONSOLIDATED APPROVAL