

Project Approval

Section 75J of the *Environmental Planning and Assessment Act 1979*

I approve the project application referred to in Schedule 1, subject to the conditions in Schedules 2 and 3.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the project.



The Hon Kristina Keneally MP
Minister for Planning

Sydney

10 Dec.

2008

SCHEDULE 1

Application Number:	06_0154
Proponent:	ATB Morton Pty Ltd
Approval Authority:	Minister for Planning
Land:	606 and 608 Tomago Road, Tomago
Project:	Sandvik Manufacturing and Maintenance Facility

TABLE OF CONTENTS

DEFINITIONS	1
ADMINISTRATIVE CONDITIONS	2
Obligation to Minimise Harm to the Environment	2
Terms of Approval	2
Structural Adequacy	2
Protection of Public Infrastructure	2
Utilities	2
Operation of Plant and Equipment	2
Management Plans/Monitoring Programs	2
Section 94 Contributions	3
SPECIFIC ENVIRONMENTAL CONDITIONS	4
Flora and Fauna	4
Traffic and Transport	5
Noise	5
Soil and Water Management	7
Air Quality	8
Hazards and Risk	8
Energy	8
Aboriginal Heritage	8
Visual Impact	9
Waste Management	9
ENVIRONMENTAL MANAGEMENT AND MONITORING	10
Environmental Management Strategy	10
Environmental Reporting	10
Auditing	10

DEFINITIONS

BCA	Building Code of Australia
Council	Port Stephens Council
Day	The period from 7am to 6pm on Monday to Saturday, and 8am to 6pm on Sundays and Public Holidays
DCP	Development Control Plan
DECC	Department of Environment and Climate Change
Department	Department of Planning
Director-General	Director-General of Department of Planning, or delegate
DWE	Department of Water and Energy
EA	Environmental Assessment titled <i>New Industrial Facility for Sandvik Australia at 606 & 608 Tomago Road, Tomago; NSW Australia</i> prepared by ATB Morton and dated February 2008, including the Proponent's response to submissions / preferred project report, dated August 2008.
EEC	Endangered Ecological Community as defined under the <i>NSW Threatened Species Conservation Act 1995</i>
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Evening	The period from 6pm to 10pm
Minister	Minister for Planning, or delegate
Night	The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
Project	The development as described in the EA
Proponent	ATB Morton Pty Ltd, or its successors in title
Reasonable and Feasible	Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements. Feasible relates to engineering considerations and what is practical to build.
RTA	Roads and Traffic Authority
Site	The land referred to in Schedule 1
Site audit report	As defined in the <i>Contaminated Land Management Act 1997</i>
Site audit statement	As defined in the <i>Contaminated Land Management Act 1997</i>
Site auditor	As defined in the <i>Contaminated Land Management Act 1997</i>
Statement of Commitments	The Proponent's commitments in the EA
Swamp Sclerophyll Forest	Swamp Sclerophyll Forest on Coastal Floodplains EEC
EEC	

SCHEDULE 2 ADMINISTRATIVE CONDITIONS

Obligation to Minimise Harm to the Environment

1. The Proponent shall implement all reasonable and feasible measures to prevent and/or minimise any harm to the environment that may result from the construction, operation, or decommissioning of the project.

Terms of Approval

2. The Proponent shall carry out the project generally in accordance with the:
 - (a) EA;
 - (b) statement of commitments (see Appendix 1); and
 - (c) conditions of this approval.
3. If there is any inconsistency between the above, the conditions of this approval shall prevail to the extent of the inconsistency.
4. The Proponent shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
 - (a) any reports, plans, programs, strategies or correspondence that are submitted in accordance with this approval; and
 - (b) the implementation of any actions or measures contained in these reports, plans, programs, strategies or correspondence submitted by the Proponent.

Structural Adequacy

5. The Proponent shall ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the BCA.

Notes:

- *Under Part 4A of the EP&A Act, the Proponent is required to obtain construction and occupation certificates for the proposed building works.*
- *Part 8 of the EP&A Regulation sets out the requirements for the certification of the project.*

Protection of Public Infrastructure

6. The Proponent shall:
 - (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the project; and
 - (b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the project.

Prior to commencement of construction, the Proponent shall prepare a dilapidation report of the public infrastructure in the vicinity of the site (including roads, gutters, footpaths, etc) in consultation with Council, and submit a copy of this report to the Director-General.

Utilities

7. Prior to the construction of any utility works, the Proponent shall obtain the relevant approvals from service providers, including Hunter Water and Council.

Note: Prior to the release of any occupation certificates, the Principal Certifying Authority shall ensure that Council is satisfied with the installation of the on-site sewage management system.

Operation of Plant and Equipment

8. The Proponent shall ensure that all plant and equipment used on site is:
 - (a) maintained in a proper and efficient condition; and
 - (b) operated in a proper and efficient manner.

Management Plans/Monitoring Programs

9. With the approval of the Director-General, the Proponent may submit any management plan or monitoring program required by this approval on a progressive basis.

Section 94 Contributions

10. Prior to the commencement of operations, the Proponent shall pay Council \$330,000 in contributions for public facilities outlined in the *Port Stephens Council Section 94A Development Contributions Plan, 2006*. Payment of this contribution may be partially or completely made in the form of works in kind subject to the agreement of Council and/or the Director General. Subject to the further agreement from Council, this contribution may be paid in instalments in accordance with an agreed payment program.

Notes: This contribution is subject to indexation to reflect quarterly variations in the Consumer Price Index All Group Index Number for Sydney, as published by the Australian Bureau of Statistics.

**SCHEDULE 3
SPECIFIC ENVIRONMENTAL CONDITIONS**

FLORA AND FAUNA

Revised Layout Plans

1. The Proponent shall prepare a revised set of architectural plans for the project to the satisfaction of the Director-General. The plans shall:
 - (a) be prepared in consultation with Council, and be submitted to the Director-General for approval prior to the commencement of construction;
 - (b) avoid any development within the Swamp Sclerophyll Forest EEC, as defined in accordance with condition 2 below;
 - (c) provide for a minimum 20 metre vegetation corridor along the southern boundary of the site, to allow fauna movement; and
 - (d) be generally consistent with:
 - the plans in the EA in terms of floor areas, heights, minimum setbacks, parking provision, etc.; and
 - any applicable Council DCP.
2. The Proponent shall commission a suitably qualified ecologist and surveyor, whose appointments have been endorsed by the Director-General, to mark out the boundary of the Swamp Sclerophyll Forest EEC on the site.

Offset Strategy

3. The Proponent shall prepare and implement an Offset Strategy for the project to the satisfaction of the Director-General. The strategy shall:
 - (a) be prepared in consultation with Council, and be submitted to the Director-General for approval within 12 months of the date of this approval;
 - (b) provide for a minimum offset to clearing ratio of 2:1, based on the final cleared area determined following preparation of the revised layout plans in condition 1 above; and
 - (c) comprise:
 - no more than 3 separate offset sites;
 - vegetation equal or greater in conservation status to the vegetation which is to be cleared; and
 - at least a 1:1 ratio for Apple-Blackbutt Forest and with the remaining offset to consist of any open forest type characteristic of the Tomago area.

Long Term Conservation Security

4. Within 2 years of the date of this approval, the Proponent shall make suitable arrangements to provide appropriate long term conservation security for the:
 - Swamp Sclerophyll Forest EEC on site;
 - 20 metre vegetation corridor on the southern boundary of the site; and
 - offset areas,to the satisfaction of the Director-General.

Note: Long term conservation security may take the form of restrictive covenants, voluntary conservation agreements, rezoning, etc.

Vegetation Management Plan

5. The Proponent shall prepare and implement a Vegetation Management Plan for the project to the satisfaction of the Director-General. The plan shall:
 - (a) be prepared by a suitably qualified expert in consultation with Council, and be submitted to the Director-General for approval prior to construction;
 - (b) be prepared in accordance with DWE's *Guidelines for Controlled Activities – Vegetation Management Plans*;
 - (c) establish performance and completion criteria for the offset areas and on-site vegetated areas;
 - (d) include:
 - a Vegetation Clearing Protocol;
 - a final Landscape Plan, based on the revised layout plans required in condition 1 above;
 - detailed plans and procedures to:
 - implement the Offset Strategy;
 - protect, enhance and maintain the vegetation on site, including the Swamp Sclerophyll Forest EEC and 20 metre vegetation corridor on the southern boundary;

- protect, enhance and facilitate the movement of native fauna such as Koalas across the site, including fencing and control of any security dog/s; and
- monitor the performance of the plan over time.

Note: The Department accepts that the initial plan may be restricted to the Vegetation Clearing Protocol. However, if this occurs, the plan shall include a timetable for completion of the remainder of the plan.

6. The Vegetation Clearing Protocol shall:
- (a) clearly identify the location and type of vegetation to be retained and to be removed from the site;
 - (b) detail measures that would be implemented for vegetation clearing;
 - (c) detail procedures to manage impacts on fauna including translocation of fauna (if appropriate); and
 - (d) detail the staging of construction to avoid breeding times for key species on site.

TRAFFIC AND TRANSPORT

Intersection Upgrade

7. Prior to the commencement of operations, the Proponent shall upgrade the existing vehicular access on Tomago Road to traffic control signals, to the satisfaction of the RTA. The upgrade shall be in accordance with the *RTA Road Design Guide*, *Austroad* guidelines and relevant Australian Standards, at full cost to the Proponent and no cost to the RTA or Council.

Design of Internal Roads and Parking

8. The Proponent shall ensure that the internal road network and parking associated with the project are designed, constructed and maintained in accordance with the latest versions of the Australian Standards AS 2890.1:2004 and AS 2890.2:2002.

Vehicle Queuing and Parking

9. The Proponent shall ensure that:
- (a) all parking is provided prior to the commencement of operations;
 - (b) all parking generated by the project is accommodated on site, and that no vehicles associated with the project shall park on the public road system at any stage; and
 - (c) that the project does not result in any vehicles queuing on the public road network.

Traffic Management Plan

10. The Proponent shall prepare and implement a Construction Traffic Management Plan for the project to the satisfaction of the RTA. The plan shall:
- (a) be prepared and approved by the RTA prior to commencement of construction; and
 - (b) include:
 - a risk assessment to identify hazards to traffic control associated with the site, the level of risk posed and control measure to be implemented;
 - a Vehicle Movement Plan for the management of construction traffic; and
 - a Traffic Control Plan in accordance with the RTA's *Traffic Control at Work Sites* manual.

NOISE

Operating Hours

11. The Proponent shall comply with the restrictions in Table 1, unless otherwise agreed by the Director-General.

Table 1: Construction and Operation Hours for the Project

Activity	Day	Time
Construction	Monday – Friday	7:00am to 6:00pm
	Saturday	8:00am to 1:00pm
	Sunday and Public Holidays	Nil
Operation	All days	6am to Midnight

Notes:

- Construction activities may be conducted outside the hours in Table 1 provided that the activities are not audible at any residence beyond the boundary of the site.

- Construction may only occur between 8am and 1pm on Saturdays provided that activities are not audible from the Tomago Periodic Detention centre.

Noise Limits

12. The Proponent shall ensure that the noise from the operation of the project does not exceed the noise limits presented in Table 2.

Table 2: Project Noise Limits (dB(A))

Location	Day/Evening/Night			Night
	Intrusive dBA L _{Aeq} (15 minute)	Amenity dBA L _{Aeq}	Amenity dBA L _{Aeq} (Noisiest 1-hour period)	dBA L _{A1} (1 minute)
Tomago Weekend Detention Centre	N/A	N/A	50	45
Residences on Tomago Road	35	N/A	N/A	45
Tomago Bowling and Sporting Club (internal)	N/A	55	N/A	45

Notes:

- To determine compliance with the L_{Aeq} (15 minute) noise level limits in the above table, noise from the project is to be measured at the most affected point within the residential boundary, or at the most affected point within 30 metres of a dwelling where the dwelling (rural situations) is more than 30 metres from the boundary. To determine compliance with the L_{A1} (1 minute) noise level limits and the L_{Aeq} (Noisiest 1-hour period) in the above table, noise from the project is to be measured at 1 metre from the dwelling façade. Where it can be demonstrated that direct measurement of noise from the project is impractical, the DECC 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.
- The noise emission limits identified in the above table apply under meteorological conditions of:
 - o wind speeds of up to 3 m/s at 10 metres above ground level; and
 - o temperature inversion conditions of up to 3°C/100m, and wind speeds of up to 2 m/s at 10 metres above ground level.
- The project noise limits for the Tomago Weekend Detention Centre are applicable between the hours of 4pm Friday and 4pm Sunday.

Construction Noise Management Plan

13. The Proponent shall prepare and implement a Construction Noise Management Plan for the project to the satisfaction of the Director-General. The plan shall:
- be prepared by a suitably qualified expert and be submitted to the Director-General for approval prior to the commencement of construction;
 - identify sensitive receivers, applicable noise criteria and construction activities that would generate noise;
 - identify all reasonable and feasible noise mitigation measures to reduce construction noise;
 - include procedures for notifying sensitive receivers about the project, and responding to complaints; and
 - describe how the performance of these measures would be monitored over time.

Noise Audit

14. The Proponent shall conduct a Noise Audit for the premises within 3 months of operations or as otherwise agreed by the Director-General. This audit shall:
- be undertaken by a suitably qualified and experienced person during a period in which the project is operating at normal capacity;
 - assess whether the project is complying with the noise limits in this approval;
 - identify what additional measures would be implemented to ensure compliance should any non-compliance be detected and clearly indicate who would implement these measures, when these measures would be implemented, and how the effectiveness of these measures would be measured and reported to the Director-General; and
 - provide details of any complaints received relating to noise generated by the project, and action taken to respond to those complaints.

Within 28 days of conducting the Noise Audit, the Proponent shall provide the Director-General with a copy of the Noise Audit report.

SOIL AND WATER MANAGEMENT

Discharges

15. The Proponent shall comply with Section 120 of the *Protection of the Environment Operations Act 1997*.

Bunding

16. All chemicals, fuels and oils shall be stored in appropriately banded areas, with impervious flooring and sufficient capacity to contain 110% of the largest container stored within the bund. The bund(s) shall be designed and installed in accordance with the:
- (a) requirements of all relevant Australian Standards; and
 - (b) DECC's *Environmental Protection Manual Technical Bulletin Bunding and Spill Management*.

Site Contamination

17. Prior to the commencement of construction, unless otherwise agreed by the Director-General, the Proponent shall demonstrate to the satisfaction of the Director-General that an accredited site auditor has prepared a site audit statement and summary site audit report and that the site is suitable for its intended use(s).

Erosion and Sediment Control Plan

18. The Proponent shall prepare and implement an Erosion and Sediment Control Plan for the project to the satisfaction of the Director-General. The plan must:
- (a) be prepared in consultation with Council, and be approved by the Director-General prior to the commencement of construction;
 - (b) be consistent with the requirements of Landcom's (2004) *Managing Urban Stormwater: Soils and Construction* manual;
 - (c) identify activities that could cause soil erosion and generate sediment;
 - (d) describe measures to minimise soil erosion and the potential for the transport of sediment to downstream waters;
 - (e) describe the location, function, and capacity of erosion and sediment control structures; and
 - (f) describe what measures would be implemented to maintain the structures over time.

Soil and Water Management Plan

19. The Proponent shall prepare and implement a Soil and Water Management Plan for the project to the satisfaction of the Director-General. This plan must:
- (a) be submitted to the Director-General for approval prior to construction;
 - (b) be prepared by a suitably qualified and experienced expert in consultation with DECC, DWE and Council; and
 - (c) include:
 - a Stormwater Management Plan; and
 - a Wastewater, Recycled Water Re-use and Irrigation Management Plan.
20. The Stormwater Management Plan must:
- (a) include detailed plans of the stormwater management system for the site, including any rainwater harvesting infrastructure;
 - (b) be consistent with the guidelines *Managing Urban Stormwater: Harvesting and Reuse* (DECC);
 - (c) demonstrate that post development flows will not exceed predevelopment flows for a range of ARI from 1 year up to and including the 100 year ARI;
 - (d) describe the procedures for the installation, inspection and maintenance of the stormwater system; and
 - (e) include a stormwater quality monitoring program for including procedures to be undertaken if any non-compliance is detected.
21. The Wastewater, Recycled Water Re-use and Irrigation Management Plan must:
- (a) include the final design of the sewerage system;
 - (b) be consistent with the *Environmental Guidelines Use of Effluent by Irrigation* (DECC);
 - (c) be consistent with the *Australian guidelines for water recycling: managing health and environmental risks (phase1) - 2006*;

- (d) outline the design and management of the irrigation system, including measures to minimise groundwater and soil degradation, nutrient and salt accumulation and impacts on retained vegetation and site ecology;
- (e) include details of the management of any solid waste including methods to monitor and dispose of the waste;
- (f) include:
 - the wastewater, soil and groundwater quality impact assessment criteria and the effluent treatment and irrigation system performance measures;
 - details of the wastewater, groundwater, soil and vegetation monitoring program;
 - procedures for reporting the monitoring results against the criteria,
 - contingency measures to address exceedances, pollutant triggers and problems with wastewater or irrigation management systems; and
 - a description of how the effectiveness of actions and measures would be monitored over time.

22. The Proponent shall provide the results of the wastewater, groundwater, soil and vegetation monitoring annually to the Director-General and shall include a description of any actions required to ensure compliance with the relevant criteria.

AIR QUALITY

Dust

23. The Proponent shall carry out all reasonable and feasible measures to minimise dust generated by the project.
24. During construction, the Proponent shall ensure that:
- (a) all trucks entering or leaving the site with loads have their loads covered;
 - (b) trucks associated with the project do not track dirt onto the public road network; and
 - (c) the public roads used by these trucks are kept a clean.

HAZARDS AND RISK

Construction

25. At least one month prior to construction, the Proponent shall submit for the approval of the Director General a Construction Safety Study prepared in accordance with the Department of Planning's *Hazardous Industry Planning Advisory Paper No. 7, 'Construction Safety Study Guidelines'*. The commissioning portion of the study may be submitted two months prior to the commencement of commissioning. Decommissioning and demolishing of the existing plant should be addressed in the study in accordance with cl. 1.2.1 of *Hazardous Industry Planning Advisory Paper No. 4*.

Emergency and Evacuation Plan

26. Prior to the commencement of operations, the Proponent shall prepare an Emergency and Evacuation Plan in accordance with the appropriate NSW Rural Fire Service Guidelines, to the satisfaction of the NSW Rural Fire Service.

ENERGY

Energy Savings Action Plan

27. The Proponent shall prepare and implement an Energy Savings Action Plan for the project to the satisfaction of the Director-General. This plan must be prepared in accordance with the requirements and guidelines of DWE, and be submitted to the Director-General for approval prior to the commencement of operations on site.

ABORIGINAL HERITAGE

28. At least one month prior to the commencement of construction, the Proponent shall submit for the approval of the Director-General a Construction Aboriginal Heritage Management Plan. The Plan shall be developed in consultation with relevant Aboriginal stakeholders and the DECC and shall include details of:
- (a) monitoring of initial earthworks in the moderate-low and moderate-high potential areas as identified within the EA;

- (b) a strategy for the salvage and curation of salvaged objects, giving consideration to the measures for managing and housing objects; and
- (c) the specific measures that would be applied should any objects be discovered during construction, including any skeletal remains.

VISUAL IMPACT

Signage

29. Prior to the commencement of operations, the Proponent shall submit detailed plans of signage to the Director-General for approval. These plans must be prepared in consultation with Council.

Lighting

30. The Proponent shall ensure that the lighting associated with the project:
- (a) complies with the latest version of Australian Standard *AS 4282(INT)-Control of Obtrusive Effects of Outdoor Lighting*; and
 - (b) is mounted, screened and directed in such a manner that it does not create a nuisance to surrounding properties or the public road network.

WASTE MANAGEMENT

31. The Proponent shall prepare and implement a Waste Management Plan in consultation with DECC and Council. The plan shall be submitted and approved by the Director-General prior to the commencement of construction and must:
- (a) identify the types and quantities of waste that would be generated during construction and operation, and the standards and performance measures for dealing with this waste;
 - (b) detail procedures to monitor the amount of waste generated by the project;
 - (c) outline measures to minimise the production and impact of all wastes generated by the project, including details of how this waste would be reused, recycled, and if necessary, appropriately treated and disposed of in accordance with the DECC's guidelines on the *Assessment, Classification & Management of Liquid and Non-Liquid Waste*;
 - (d) describe how the effectiveness of these actions and measures would be monitored over time; and
 - (e) describe what procedures would be followed to ensure compliance if any non-compliance is detected.
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SCHEDULE 4
ENVIRONMENTAL MANAGEMENT REPORTING AND AUDITING

ENVIRONMENTAL MANAGEMENT STRATEGY

1. The Proponent shall prepare and implement an Environmental Management Strategy for the project to the satisfaction of the Director-General. This strategy must be submitted to the Director-General prior to carrying out any development on site, and:
 - (a) provide the strategic context for environmental management of the project;
 - (b) identify the statutory requirements that apply to the project;
 - (c) describe in general how the environmental performance of the project would be monitored and manage;
 - (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;
 - manage cumulative impacts; and
 - respond to emergencies; and
 - (e) describe the role, responsibility, authority, and accountability of all the key personnel involved in environmental management of the project.

ENVIRONMENTAL REPORTING

Incident Reporting

2. Within 24 hours of detecting an exceedance of the limits/performance criteria in this approval or the occurrence of an incident that causes (or may cause) harm to the environment, the Proponent shall notify the Department and other relevant agencies of the exceedance/incident.
3. Within 6 days of notifying the Department and other relevant agencies of an exceedance/incident, the Proponent shall provide the Department and these agencies with a written report that:
 - (a) describes the date, time, and nature of the exceedance/incident;
 - (b) identifies the cause (or likely cause) of the exceedance/incident;
 - (c) describes what action has been taken to date; and
 - (d) describes the proposed measures to address the exceedance/incident.

AUDITING

Pre-Operation Compliance Audit

4. Prior to the commencement of operations, the Proponent shall submit work as executed plans to the Department for all the development associated with the project. These plans must be prepared by a suitably qualified and experienced expert, and include plans showing the work as executed plans laid over the approved plans to demonstrate that the project has been carried out in accordance with the approved plans.
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