



22 April 2020

Mr Chris Ritchie
Director, Industry Assessments
Department of Planning, Industry and Environment

By email: chris.ritchie@planning.nsw.gov.au

Dear Mr Ritchie

**Genesis Waste Management Facility Modification 6 (MP 06_0139 MOD 6)
[Modification Request]**

Thank you for your ongoing assistance and correspondence to assist with the Commission's determination of the above Modification Request.

The Commission has made some suggested amendments to the Department's recommended Instrument (**Attachment A**). The Commission would be grateful if the Department could review these suggestions and advise whether there is likely to be any workability issues or unintended consequences that may arise.

The Commission also requests the Department consider whether further consultation with the Proponent is necessary with respect to the suggested amendments, and undertake such notifications.

The Commission would greatly appreciate a response to this by close of business **Friday 24 April 2020**.

If you have any questions, please contact Casey Joshua, Senior Planning Officer, on 8289 6913 or at casey.joshua@ipcn.nsw.gov.au.

Yours sincerely

Stephen Barry
Director Planning
Independent Planning Commission



New South Wales Government
Independent Planning Commission

Attachment A – Suggested amendments to Draft Modification Instrument

Modification of Project Approval

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

As delegate for the Minister for Planning and Public Spaces under delegation executed on 14 September 2011, the Independent Planning Commission (the Commission) of New South Wales, approves the modification of the project approval referred to in Schedule 1, subject to the conditions in Schedule 2.

~~Name~~Ms Ilona Millar (Chair) ~~Dr Peter Williams~~Name ~~Name~~Mr Tony Pearson
Member of the Commission Member of the Commission Member of the Commission

Sydney 2020 File: OBJ16/12495

SCHEDULE 1

Application No: 06_0139
Proponent: ThaQuarry Pty Ltd & ACN114 843 453 Pty Ltd
Approval Authority: Minister for Planning and Public Spaces
Project: Eastern Creek Waste Project
The Land: 1 Kangaroo Avenue, Eastern Creek (Lot 1 DP 1145808 and Lot 8 DP 1200048).
Date of Original Approval: 22 November 2009
Modification: 06_0139 MOD 6 – Increase to landfill limit, ~~and~~ extension of operating hours and increased noise limits

Commented [CJ1]: Included title reference – Is this the correct Lot/DP description?

SCHEDULE 2

This approval is modified as follows:

- Replace all instances of the word 'shall' with 'must', except for in Condition 3 of Schedule 2.
- Delete all references to 'Secretary' and replace with 'Planning Secretary'.
- Replace the definitions for Department, Minister, Night and Secretary with the following:

Department	Department of Planning, Industry and Environment
Minister	Minister for Planning and Public Spaces
Night	The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
Planning Secretary	Secretary of the Department of Planning, Industry and Environment, or nominee
- Insert the following definitions in alphabetical order:

Modification Assessments	The document assessing the environmental impact of a proposed modification of this approval and any other information submitted with the following modification requests made under the EP&A Act:
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- 06_0139 MOD 1 prepared by Light Horse Business Centre and dated August 2010, as amended by additional information dated 6 September 2010 and 13 September 2010;
- 06_0139 MOD 2 dated 9 November 2010;
- 06_0139 MOD 3 prepared by Light Horse Business Centre and dated 10 May 2011, as amended by the revised Environmental Assessment Report prepared by Light Horse Business Centre and dated September 2011;
- 06_0139 MOD 4 prepared by Urbis Pty Ltd and dated October 2013;
- 06_0139 MOD 5 prepared by Urbis Pty Ltd and dated 18 March 2015, as amended by the Response to Submissions prepared by Urbis Pty Ltd and dated 19 May 2015 and the Spoil Management Plan prepared by Genesis Xero Waste and dated September 2015; and
- 06_0139 MOD 6 prepared by EMM Consulting and dated 30 August 2018, as amended by the Response to Submissions report prepared by EMM Consulting and dated 20 November 2019

PSE Pre-Sort Enclosure
SMA Segregated Materials Area

In Schedule 2: Administrative Conditions

5. Delete Condition 2 and replace with the following:
2. The Proponent must carry out the project in accordance with the:
- a) EA;
 - b) Statement of Commitments;
 - c) site plan and building elevation drawings at Appendix 1 and Appendix 6;
 - d) NSW Land and Environment Court order dated 11 November 2010 (case number 10994 of 2009); and
 - e) Modification Assessments.

In Schedule 3: Specific Environmental Conditions

6. Delete Condition 1 and replace with the following:
1. The Proponent must not:
- a) landfill more than 1,000,000 tonnes of non-putrescible waste per calendar year (excluding residual waste from the Materials Processing Centre and Pre-Sort Enclosure);
 - b) receive or landfill putrescible waste on site;
 - c) stockpile more than 50 tonnes of tyres on site at any one time;
 - d) stockpile more than 20,000 tonnes of green waste on site and any one time;
 - e) receive waste on site that is contaminated by chemicals and/ or pathogens that will not be rendered harmless by the process or that may constitute a health or environmental risk, including clinical and related waste and diseased carcasses; and
 - f) receive waste on site containing contaminants classified as hazardous waste, restricted waste (other than asbestos) or liquid waste under the POEO Act.
7. Delete Condition 37 and replace with the following:
37. Within 6 months of the satisfactory completion of the site-wide air quality audit required under condition 37a. The Proponent must prepare and implement an **Air Quality, Odour and Greenhouse Gas Management Plan** for the project to the satisfaction of the Planning Secretary. This plan must:
- a) be prepared in consultation with the EPA and by a suitably qualified, experienced and independent expert whose appointment has been endorsed by the Planning Secretary;
 - b) include an air quality and odour monitoring program, which details:
 - the location, frequency and duration of monitoring which adequately represents the sensitive receptors;
 - the provision for real-time boundary particulate matter monitoring; and
 - key performance indicators for monitoring;
 - c) include an air quality and odour mitigation strategy which:
 - details proactive measures to minimise odour and air quality impacts;
 - identifies real-time boundary monitoring trigger levels for remedial action;
 - details the remedial action that will be taken if trigger levels are exceeded;
 - d) include a program for monitoring subsurface gas, surface gas emission, and gas accumulation which:
 - is in general accordance with the guidance in sections 15-18 of Appendix A of the DEC's Environmental Guidelines for Solid Waste Landfills; and
 - includes a protocol for remediating uncontrolled landfill gas emissions;
 - e) describe protocols for record keeping and compliance reporting; and

Commented [CJ2]: Time trigger added to this condition

- f) describe protocols for the review and revision of the plan to ensure any controls remain effective over time.

8. Immediately after Condition 37, insert Condition 37a as follows:

Commented [CJ3]: This condition has been amended to reflect advice from the EPA dated 8 April 2020.

- 37a. Within six months of the approval of 06_0139 MOD 6, ~~and every two years thereafter~~, the Proponent must prepare a site-wide air quality audit to the satisfaction of the Planning Secretary. The audit must:
- be undertaken by suitably qualified, experienced and independent expert;
 - be prepared in consultation with the EPA;
 - audit ~~all aspects of the project in full operation with the potential to generate significant air emissions;~~
 - assess the ~~current~~ operation against the air quality impact predictions in the AQIA (Ramboll Australia Pty Ltd, dated August 2018);
 - review ~~and benchmark~~ on-site ~~mitigation measures~~, management practices and operations against ~~industry best practice for air quality management and opportunities for continuous improvement;~~
 - compare any emissions with ~~relevant limits contained in conditions to~~ this approval ~~and the EPLs;~~
 - ~~identify any additional mitigation measures should any limits be exceeded, such as:~~
 - ~~sealing parts of or all site haul roads;~~
 - ~~temporarily cease or alter operations or site practices; and~~
 - ~~the measures detailed within the Air Quality Impact Assessment (Ramboll Australia Pty Ltd, August 2018);~~
 - ~~where the review conducted in sub-clause (e) identifies current mitigation measures or management practices are not consistent with best practice, the air quality audit must identify additional mitigation measures to prevent and minimise emissions as far as practical. This includes consideration of:~~
 - ~~Sealing parts of or all site haul roads,~~
 - ~~installation and/or upgrade of conveyors and associated dust suppression systems,~~
 - ~~non-road diesel equipment and diesel combustion emission controls,~~
 - ~~additional reactive management measures including but not limited to temporarily ceasing or altering operations or site practices;~~
 - specify a timeframe for when any mitigation measures identified in sub-clause (g) will be implemented; and
 - inform the update to the Air Quality, Odour and Greenhouse Gas Management Plan required under Condition 37 of Schedule 3.

9. Delete Condition 38 and replace with the following:

38. The Proponent must ensure that noise from the project does not exceed the noise limits in Table 4.

Table 4: Noise Limits

Location	Noise Limits dB(A)						
	Day L _{Aeq} (15 minute)	Evening L _{Aeq} (15 minute)	Night L _{Aeq} (15 minute) L _{Aeq} (period) L _{A1} (1 minute)			Morning Shoulder L _{Aeq} (15 minute) L _{A1} (1 minute)	
1-6 Eber Place, Minchinbury	48	47	44	41	53	47	53
2-44 Warbler Street, Erskine Park	42	42	39	N/A	44	39	44

10. Delete Condition 38a and replace with the following:

38a. Noise generated by the project is to be measured in accordance with the relevant requirements and exemptions (including certain meteorological conditions) of the *NSW Industrial Noise Policy*.

11. Immediately after Condition 38a, insert conditions 38b and 38c as follows:

- 38b. Within six months of the approval of 06_0139 MOD 6, the Proponent must prepare a post commissioning noise report to validate the predictions of the acoustic reports submitted to support the modification request, to the satisfaction of the Planning Secretary. The report must:
- be undertaken by a suitably qualified and experienced person(s), consistent with the technical eligibility criteria for membership to the Association of Australian Acoustical Consultants or the Australian Acoustical Society;
 - be prepared in consultation with Blacktown City Council;
 - review on-site noise management measures;
 - compare the noise emissions of the project with the noise limits specified in Condition 38 of Schedule 3 and the EPLs; and

- e) include an action plan to mitigate impacts should the report find actual noise impacts exceed the predicted noise impacts and the noise limits set under Condition 38 of Schedule 3 and the EPLs.
- 38c. Within two months after the completion of the post commissioning noise report required under Condition 38b of Schedule 3, the Proponent must submit to the satisfaction of the Planning Secretary verification that any actions identified in the post commissioning report have been implemented.
12. Delete conditions 39, 39a, 39b and 39c and replace with the following:
39. The Proponent must comply with the hours in Table 5.

Table 5: Hours of Work

Activity	Day	Time
Construction	Monday – Friday	7:00am to 6:00pm
	Saturday	8:00am to 4:00pm
	Sunday and Public Holidays	Nil
MPC and PSE – Operation, waste receipt, chute use and maintenance	Monday – Friday	24 hours
	Saturday	24 hours
	Sunday and Public Holidays	24 hours
SMA – Crushing and screening	Monday – Friday	6:00am to 6:00pm
	Saturday	8:00am to 4:00pm
	Sunday and Public Holidays	8:00am to 4:00pm
SMA – Receipt of segregated materials	Monday – Friday	24 hours
	Saturday	8:00am to 4:00pm
	Sunday and Public Holidays	8:00am to 4:00pm
Landfill – Truck deliveries	Monday – Friday	5:00am to 9:00pm
	Saturday	5:00am to 9:00pm
	Sunday and Public Holidays	5:00am to 9:00pm

In Schedule 5: Environmental Management, Reporting & Auditing

13. Amend Condition 13 by the insertion of the **bold and underlined** words as follows:

Annual Review

13. By the end of December 2010, and annually thereafter, the Proponent must review the environmental performance of the project to the satisfaction of the Planning Secretary. This review must:
- describe the works that were carried out in the past year, and the works that are proposed to be carried out over the next year;
 - include a comprehensive review of the monitoring results and complaints records of the project over the past year, which includes a comparison of these results against the
 - the relevant statutory requirements, limits or performance measures/criteria;
 - the monitoring results of previous years; and
 - the relevant predictions in the EA;
 - identify any non-compliance over the last year, and describe what actions were (or are being) taken to ensure compliance;
 - identify any trends in the monitoring data over the life of the project;
 - identify any discrepancies between the predicted and actual impacts of the project, and analyse the potential cause of any significant discrepancies; ~~and~~
 - describe what measure will be implemented over the next year to improve the environmental performance of the project; ~~and~~
 - report on the resource recovery rates.

Commented [CJ4]: This condition has been amended to require the Proponent to report on and verify the ongoing resource recovery rates at the facility.

14. Delete Condition 4 and Condition 4b and replace with the following:

4. Within three months of:
- the submission of an annual audit under Condition 3 of Schedule 5;
 - the submission of an incident report under Condition 5 of Schedule 5;
 - the submission of an Independent Environmental Audit under Condition 7 of Schedule 5;
 - the approval of any modification of the conditions of this approval; or
 - the issue of a direction of the Planning Secretary under Condition 4 of Schedule 2,

the strategies, plans and programs required under this approval must be reviewed, and the Department must be notified in writing that a review is being carried out.

- 4a. If necessary to either improve the environmental performance of the project, cater for a modification or comply with a direction, the strategies, plans and programs required under this approval must be revised, to the satisfaction of the Planning Secretary. Where revisions are required, the revised document must be submitted to the Planning Secretary for approval within six weeks of the review.

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