

# 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?

**Commented [CR2R1]:** As the 'Land' Description already exists on the main consent I am not sure it's needed here. This mod will integrate itself into the main consent. Anyway - Lot/DP description matches the Proponent's EA, however the Landowners consent letter dated 14 Feb 2020 refers to Lot 1 DP 1145808 only.

**Commented [CR3]:** Not sure this should be included. It may confuse people that noise from the site will increase which its not. This could be interpreted as the Proponent increasing their noise emissions; however the noise limits were revised to reflect the contemporary noise environment in line with the Industrial Noise Policy.

### 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 [CJ4]:** Time trigger added to this condition

**Commented [CR5R4]:** There are already several time triggers in place for updates to occur. Under existing Condition 4 of Schedule 5, the Proponent must review and revise the strategies, plans and programs within 3 months of a modification, an IEA, an annual review or an incident. Changing the timeframe here will create an inconsistency. The Audit also has its own functions for recommendations to be implemented and would not need to rely on the EMP to enforce. An option could be to add the need to update this Plan to Condition 4 of Schedule 5, similar to triggers for mods and Audits.

- 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:

- 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.

Commented [CJ6]: This condition has been amended to reflect advice from the EPA dated 8 April 2020.

Commented [CR7R6]:

Commented [CR8]: The intention of the audit was to look at the whole site, rather than be too prescriptive. Using the term 'significant' would be open to interpretation. I would leave as applying across the whole site. Small or minor exceedances could also add up. The idea is to look at the site holistically.

Commented [CR9R8]:

Commented [CR10]: This should be amended to refer to the EPL. The EPL can be updated from time to time and is the more

Commented [CR11]: Similar to the previous comment, restricting this to subclause (e) limits the scope of the audit. The intention was to link the additional mitigation measures to the overall findings of the audit. Plus removing reference to the August 2018 letter could restrict other mitigation opportunities

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	Evening	Night			Morning Shoulder	
	L <sub>Aeq</sub> (15 minute)	L <sub>Aeq</sub> (15 minute)	L <sub>Aeq</sub> (15 minute)	L <sub>Aeq</sub> (period)	L <sub>A1</sub> (1 minute)	L <sub>Aeq</sub> (15 minute)	L <sub>A1</sub> (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.**

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,

**Commented [CJ12]:** This condition has been amended to require the Proponent to report on and verify the ongoing resource recovery rates at the facility.

**Commented [CR13R12]:** Reporting requirements are already covered in the Project Approval (e.g. Waste Monitoring Program under Condition 5 of Schedule 2) and the EPLs (e.g. annual return reporting).

However, reporting on recovery rates falls within the scope of the WARR Strategy, which is administered by the EPA. Also as the mod is not seeking to increase the amount of material to be subject to recycling, and primarily is about disposing of material which can't be recycled into the void, there may be a legal question on whether this is sufficiently related to the mod application and whether its ok to include the condition

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.*

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