Australian Government
Department of Infrastructure, Transport, Regional Development and Communications

AIRPORTS (ENVIRONMENT PROTECTION) REGULATIONS 1997 REGULATION 5.09

AUTHORISATION

An Authorisation is hereby issued under subregulation 5.09(1) of the *Airports (Environment Protection) Regulations 1997*.

TO: Sydney Water Corporation

OF: 1 Smith Street
PARRAMATTA NSW 2150

to periodically discharge untreated wastewater from the South Western Suburbs Ocean Outfall Sewer (SWSOOS) Emergency Relief Structure overflow point

located at Discharge Bay, Mill Stream, Sydney (Kingsford-Smith) Airport

in accordance with the Environmental Management Plan (EMP) dated 30 March 2021 submitted in support of the Application accepted on 1 February 2021 subject to the conditions detailed in Appendix A.

J. Coughlan.

Julie Coughlan
AIRPORT ENVIRONMENT OFFICER
Sydney Kingsford Smith Airport

Authorisation Number: 01/2021
Date of Issue: 30 April 2021

Note: A person affected by the decision of the Airport Environment Officer (AEO) to grant, refuse or grant conditionally an Authorisation under subregulation 5.09 is entitled to a two-tiered review process. Initially, application may be made to the Secretary of the Department of Infrastructure, Transport, Regional Development and Communications to have the decision reviewed. The Secretary either affirms the decision or substitutes his/her decision for the decision reviewed. A person so affected by the decision of the Secretary may then further pursue an application to the Administrative Appeals Tribunal for independent review.

Sydney Water Corporation to whom the Authorisation No: 01/2021 is issued.

APPENDIX A

General Conditions

1) This Authorisation will begin on 30 April 2021 and end *at 5.00pm on 31 March 2024* (Authorisation Period).

Operating Conditions

2) By 31 December 2021, an Environmental Management Plan Compliance Report, shall be submitted by Sydney Water to the AEO (for the period from which the authorisation begins). Then by 31 December for each subsequent year that the authorisation is in force an Environmental Management Plan Compliance Report, shall be submitted by Sydney Water to the AEO (for the period since the previous Environmental Management Plan Compliance Report was submitted). The annual Environmental Management Plan Compliance Report shall address the matters in regulation 5.17(a) to (c) of the *Airports (Environment Protection) Regulations 1997 (Cth)* (Regulations) as well as the following:

   a) Report on the frequency, duration and volume of all overflow events into Mill Stream during the reporting period;

   b) Provide evidence of the clean-up carried out after overflow discharge events have occurred during the reporting period with the gross pollution collected (cubic metres) being reported;

   c) Provide a summary of all environmental complaints received during the reporting period and provide evidence as to how each of the complaints has been addressed and resolved;

   d) Set out how compliance with the requirements of the Schedules to the Regulations has improved since the Authorisation was issued;

   e) Detail and report on the progress made in negotiations with Sydney Airport for permission to install a hard-stand area and vehicle access to the Sydney Airport grit pit site; and

   f) Detail and report on the progress of the Long-Term Strategy Business Case referred to at s 3.3.1 of the EMP.

3) A quarterly report (with the first quarter concluding on 30 June 2021) shall be submitted by Sydney Water to the AEO which demonstrates:

   a) the progress of the short term desilting programs outlined in the EMP for that quarter,

   b) the progressive improvement for that quarter in achieving the committed target of "10 overflows events per year and less than 740ML/year of wastewater" outlined in section 1.7 of the EMP, and

   c) the progress of the development and implementation of the Mill Stream Hydraulic Improvement Plan.

   This quarterly report is to be submitted to the AEO within 21 days of the end of each quarter.

4) Sydney Water must continue to immediately notify Sydney Airport of any overflow event, and not more than 24 hours after the overflow event occurs. If Sydney water learns of the overflow event after it occurs, it must notify Sydney Airport before the end of 24 hours after Sydney Water learns of the event.

5) By 30 June 2021, Sydney Water shall establish a Mill Stream Hydraulic Improvement Project Leadership Team (Mill Stream Hydraulic Improvement Team) including representatives from Bayside Council, Sydney Airport, Department of Infrastructure, Transport, Regional Development and Communications, and the NSW Environment Protection Authority.

6) As the lead agency of the Mill Stream Improvement Team, Sydney Water shall convene regular meetings, establish the Terms of Reference and facilitate a work plan with reference to the Mill Stream Options Summary Report dated 31 January 2021 and the EMP (Mill Stream Hydraulic Improvement Plan). The Mill Stream Hydraulic Improvement Plan must be developed by 31 December 2021.

   Sydney Water shall report quarterly commencing 30 June 2021 to the AEO and the Stakeholder Reference Group on the progress of development and implementation of the Mill Stream Hydraulic Improvement Plan.

7) In addition to existing commitments to engage with the community and Sydney Airport, and to improve broader stakeholder engagement, Sydney Water shall attend all Sydney Airport Community Forum meetings and Planning and Coordination Forum meetings to which it is invited, and provide an update to those forums on:

   a) The progress of the implementation of the EMP, and

   b) The progress on the Mill Stream Hydraulic Improvement Project Plan.

8) By 31 December 2021, Sydney Water must develop and submit to the AEO a peer reviewed plan to improve the flow balance between SWSOOS 1 and SWSOOS 2. The SWSOOS Balancing Plan is to:

   a) Be independently peer reviewed;

   b) Describe the works involved in improving the flow balance between SWSOOS 1 and SWSOOS 2, so that the volume discharged to Mill Stream is reduced by 60%;

   c) Assess the environmental impacts associated with balancing SWSOOS 1 and SWSOOS 2;

   d) Identify any mitigation measures warranted to address any adverse impacts associated with the balancing of SWSOOS 1 and SWSOOS 2;

   e) List the name and role of any third party stakeholders who would need to be consulted in relation to the works involved in improving the flow balance between SWSOOS 1 and SWSOOS 2;

   f) Contain a schedule for completing the works required to improve the flow balance between SWSOOS 1 and SWSOOS 2 within 12 months of receiving the AEO's approval of the SWSOOS Balancing Plan (Schedule of Works);

   g) Be consistent with the EMP.

   Upon receipt of the SWSOOS Balancing Plan, the AEO will provide comments on that Plan. Sydney Water shall address any comments received from the AEO within 28 days of receipt.

Upon acceptance of the SWSOOS Balancing Plan by the AEO, Sydney Water must implement the Schedule of Works in the SWSOOS Balancing Plan. The Schedule of Works must be completed within 12 months of the date of the approval of the SWSOOS Balancing Plan by the AEO.

9) Sydney Water shall take all reasonable steps to continue negotiations with Sydney Airport for permission to install a hard-stand area and vehicle access to the Sydney Airport grit pit site.

10) The proposed Long-Term Strategy Business Case shall be submitted to the NSW Government by Sydney Water no later than 31 December 2021 and evidence of the submission provided to the AEO within 21 days of that submission being made.

11) Sydney Water must in addition to complying with the EMP submitted on 31 March 2021 (REG 5.11), also comply with the Options Summary Report, and all steps set out in the Authorisation Application 2021-2024 dated 1 February 2021 (except where inconsistent with the conditions of this Authorisation).

Reasons for the Conditions

As set out in Appendix B.

APPENDIX B

Statement of Reasons

Background and relevant statutory provisions

1. Sydney Water (Applicant) owns and operates eight emergency relief structures (ERS) on the South Western Suburbs Ocean Outfall Sewer (SWSOOS) that discharge wastewater to the Mill Stream during wet weather (known collectively as the Mill Stream ERS). The Mill Stream ERS is one of the largest in Sydney Water's network and is located on the eastern side of Sydney Airport at Mascot. It is the last major ERS on the SWSOOS before the Malabar Wastewater Treatment Plant (Malabar WWTP).

2. The SWSOOS consists of three major interlinked trunk sewers. The original sewer (SWSOOS 1) was constructed in 1916 and was later amplified (SWSOOS 2) in 1941. SWSOOS 2 is split into two barrels – SWSOOS2N and SWSOOS2S. With the expansion of Sydney Airport, local waterways have changed, and overflows were diverted to the newly constructed mouth of the Mill Stream when the third runway was built in the early 1990s.

3. The Mill Stream ERS is located on federally owned land at Sydney Airport and has potential air and water impacts. This requires Sydney Water to gain an authorisation under the A*irports (Environment Protection) Regulations 1997 (Cth)* (Regulations), issued by the Department of Infrastructure, Transport, Regional Development and Communications (DITRDC) to operate this Mill Stream ERS.

4. The Applicant currently has an interim authorisation valid until 31 March 2021 and has requested an extension to the authorisation for the following three years (2021-2024). The Applicant has made an application in writing under Reg 5.07 of the Regulations to the Sydney Airport Environment Officer (Sydney AEO) to that effect (Application).

Evidence upon which the decision is based

5. The findings below are based upon the following evidence.

6. I have considered the following documents:

   (a) Authorisation Application 2021 to 2024 Mill Stream Emergency Relief Structure, dated 1 February 2021.

   (b) Environmental Management Plan 2021-2024 Mill Stream Emergency Relief Structure Revision B, dated 30 March 2021 (EMP).

   (c) Mill Stream Emergency Relief Structures Environmental and Ecological Assessment Report Revision 2, dated 1 February 2021.

   (d) Mill Stream Options Summary Report Revision A, dated 31 January 2021.

7. I have considered the Applicant's responses to requests for further information.

8. I have also considered the written submissions that were made in response to the advertisement of the Application under Reg 5.08.

Findings and reasons for the decision

9. When considering the conditional grant of authorisation to the Application, I have taken the following matters into account:

(a) I am satisfied that there are no reasonable alternative actions available to the Applicant to achieve the object of the proposed action, including the possibility that the undertaking concerned could be carried out in a different place.

(b) I am satisfied that the Applicant has taken all reasonably available measures to avoid, or minimise, the need for an authorisation in the facts and circumstances of the Application.

(c) I have taken into account all reasonably likely consequences of the proposed action including:

(i) the health and safety of any person; and

(ii) any aspect of the environment; and

(iii) compliance with the ambient objectives mentioned in Part 2 of Schedule 1.

(d) I am satisfied that the period of time for the authorisation is reasonable in the facts and circumstances of the Application.

(e) I am satisfied of the adequacy of the EMP which details the actions that the Applicant proposes to take during the period for which the authorisation has effect, that the Applicant believes will result in incremental improvements over a greater period of time to make satisfactory progress toward ensuring that pollution emissions overall are not more environmentally damaging than would be the case if exact compliance with the accepted limits mentioned in the Schedules to the Regulation were achieved.

(f) I am satisfied as to the likelihood of the EMP being realised with the conditional grant of authorisation.

(g) I am satisfied that the conditional grant of the authorisation would be consistent with the objectives and proposed measures set out in the Sydney Airport Environment Strategy 2019-2024, submitted as part of Sydney Airport's Master Plan.

(h) I have considered whether the grant of the authorisation would have a significant impact on the interests of another person, and I am satisfied that this can be managed by the EMP and conditions imposed on the authorisation.

(i) I have considered the submissions made under regulation 5.08, and the matters raised in those submissions. I am satisfied that these matters are addressed by the EMP and conditions imposed on the authorisation.

(j) I have had regard to the public importance of the SWSOOS to public health in Sydney and the need, in the public interest, for Mill Stream ERS to operate properly.

10. When considering to grant conditional authorisation, I have taken into account the commitments that the Applicant has given to prevent or minimise the pollution and impacts resulting from the actions subject of the Application. I have also had regard to the need to prefer, if practicable, a decision that will promote improved compliance by the applicant with these Regulations after the authorisation, if granted, ceases to have effect. I have imposed conditions I consider appropriate on the authorisation having regard to those matters that I am required to take into account and consideration.