

Notice of Modification

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

As delegate of the Minister for Planning under delegation executed on 16 February 2015, the Director, Transport Assessments approves the modification of the Concept Approval referred to in Schedule 1, subject to the Terms of Approval in Schedule 2.



Director
Transport Assessments

Sydney

6 January

2016

SCHEDULE 1

Application No.:	MP09_0189
Proponent:	Sydney Water Corporation
Approval Authority:	Minister for Planning and Infrastructure
Land:	Drinking water and wastewater infrastructure to service the West Dapto Urban Release Area precincts of Kembla Grange, Sheaffes/ Wongawilli and West Horsley.
Project:	<p>Water and Wastewater Servicing of the West Dapto Urban Release Area precincts of Kembla Grange, Sheaffes/ Wongawilli and West Horsley, comprising:</p> <ul style="list-style-type: none">the construction and operation of drinking and wastewater pipelines, pumping stations, drinking water reservoirs and associated infrastructure.

SCHEDULE 2

The Concept Approval for MP09_0189 is modified as follows:

- A. The determination is modified by the deletion of the words marked in ~~strike-through~~ and the insertion of the **bold and underlined** words as follows:

As delegate of the Minister for Planning and Infrastructure, under delegation dated 27 February 2013, I determine:

- (a) pursuant to section 75O of the Act, to approve the concept plan referred to in Schedule 1, subject to the terms of approval in Schedule 2; and
- (b) under section 75P(1)(b) of the Act, development the subject of the concept plan, excluding those components required to service the early release Precincts of Kembla Grange, Sheaffes/Wongawilli and West Horsley, that is no longer a project which Part 3A applies by operation of Schedule 6A to the Act and that is:
- By operation of an environmental planning instrument (EPI), permissible with development consent, is subject to Part 4 of the Act; and/or
 - By operation of the EPI, permissible without development consent, is subject to Part 5 of the Act; and/or
 - That is specified in an EPI as exempt development is subject to Section 76 of the Act;
- (c) ~~under section 75P(2) of the Act:~~
- ~~• Where development is subject to Part 4 of the Act (other than complying development), that development is subject to the further environmental assessment requirements specified in Schedule 3 of this approval; and~~
 - ~~• Where development is subject to Part 5 of the Act, the development is subject to the further environmental assessment requirements specified in Schedule 3 of this approval.~~

- B. Schedule 1 is determination is modified by the deletion of the words marked in ~~strike-through~~ and the insertion of the **bold and underlined** words as follows:

Application No.: MP09_0189

Proponent: Sydney Water Corporation

Approval Authority: Minister for Planning and Infrastructure

Land: Drinking water and wastewater infrastructure to service the West Dapto Urban Release Area and Adjacent Growth Areas **precincts of Kembla Grange, Sheaffes/ Wongawilli and West Horsley.**

Project: Water and Wastewater Servicing of the West Dapto Urban Release Area and Adjacent Growth Areas **precincts of Kembla Grange, Sheaffes/ Wongawilli and West Horsley,** comprising:

- the construction and operation of drinking and wastewater pipelines, pumping stations, drinking water reservoirs and associated infrastructure; and
- ~~• upgrades to the Wollongong and Shellharbour sewage treatment plants.~~

- C. Schedule 2 is modified by the deletion of the words marked in ~~strike-through~~ and the insertion of the **bold and underlined** words as follows:

1. TERMS OF CONCEPT PLAN APPROVAL

- 1.1 The Proponent shall carry out the project generally in accordance with:
Major Project Application 09_0189;
- (a) the Water and wastewater servicing of the West Dapto Urban Release Area and Adjacent Growth Areas Environmental Assessment, SW92 11/11, dated September 2012, prepared by Sydney Water Corporation;
- (b) the Water and wastewater servicing of the West Dapto Urban Release Area and Adjacent Growth Areas Submissions Response Report, SW 260 02/13, dated February 2013, prepared by Sydney Water Corporation;
- (c) Updated Appendix 1 of Appendix G: Non Aboriginal Heritage Assessment, Volume 3 of EA, dated 11 March 2013, prepared by Sydney Water Corporation; and
- (d) the terms of this approval; and
- (e) **The Modification request from Sydney Water dated 18 December 2015.**

Heritage

1.10 There shall be no impact on the following items of historic heritage identified in the EA:

- (a) item 64, Marshall Mount Homestead, garden and outbuildings; and
- (b) item 140, Mark's Villa.

D. Schedule 3 is modified by the deletion of the words marked in strike through and the insertion of the **bold and underlined** words as follows:

2. FUTURE ASSESSMENT REQUIREMENTS

2.1. Under section 75P(2)(c) of the Act, the following environmental assessment requirements apply with respect to any future development that is subject to Part 4 (other than complying development) or Part 5 of the Act for subsequent project stages:

General requirements

- (a) demonstrate that the project is generally consistent with the requirements of this Concept Plan Approval and generally consistent with the scope and intent of the Concept Plan and environmental impacts outlined in the documents under condition 0 of this approval;
- (b) include a detailed project description, including construction, operation, maintenance, and staging; and the design and location of ancillary infrastructure (including access roads and temporary construction compounds) and its relationship to the approved concept and approved project stages;
- (c) include details of the consultation process and outcomes with relevant stakeholders, including (but not limited to):
 - (i) government authorities, the Department, OEH, EPA, DPI, RMS and relevant Councils;
 - (ii) service and infrastructure providers;
 - (iii) adjoining and affected landowners and the public; and
- (d) address relevant statutory matters and Issue-Specific Requirements for construction and operation and the identification of relevant avoidance, mitigation and management issues to minimise impacts.

Specific requirements

- (e) A review of the **flora and fauna** impacts which includes:
 - (i) measures to offset impacts to flora and fauna. Measures to be considered shall include, but not be limited to, land offsets, management and/or rehabilitation measures and research program (including funding of such relative to projects' impacts). The provision of measures to offset impacts shall consider the *NSW OEH Interim Policy on assessing and offsetting biodiversity impacts of Part 3A, State Significant Development (SSD) and State Significant Infrastructure (SSI) projects* (OEH, 2011), any superseding government policy and priority actions identified by the OEH. Any inconsistency with the relevant documents shall be identified and the proposed approach justified, demonstrating how the proposed offset measures maintain or improve biodiversity for the relevant species, populations or communities in the region;
 - (ii) quantified impacts to flora and fauna species, communities and populations, including location of infrastructure within riparian areas with reference to the *Riparian Corridor Management Study* (DIPNR 2004);
 - (iii) revise and update any proposed mitigation and management measures to reflect accepted best practice at that time, including consideration of any relevant recovery plans.
- (f) a review of local **flooding** for the purposes of final infrastructure placement, taking into account subsequent development and any relevant flood studies subsequent to the concept approval.
- (g) a review of the **Aboriginal heritage** assessment to reflect any changes to the proposal or proposed mitigation. The revised assessment shall:
 - (i) detail the proposed mitigation and management measures, including an evaluation of the effectiveness of the measures, for identified items of Aboriginal heritage; and
 - (ii) demonstrate effective consultation with Aboriginal communities in developing and selecting final mitigation measures and protocols.
- (h) A review of the **non-Aboriginal heritage** assessment where impacts are identified on non-Aboriginal heritage to include:
 - (i) a statement of heritage impact for each item that will be impacted;
 - (ii) an archaeological assessment for any potential archaeological sites; and
 - (iii) detail the proposed mitigation and management measures for identified items.
- (i) a review of **creek crossings**, including justification of proposed construction methods, associated impacts and mitigation.

- (j) a review of the ~~construction noise and vibration~~ assessment taking into account development which occurs subsequent to this approval resulting in changes to identified noise mitigation and management measures to be adopted. The assessment shall be undertaken in accordance with the *Interim Construction Noise Guideline* (DECC, 2009) or relevant government policy at the time. Where work hours outside of standard construction hours are proposed, clear justification and detailed assessment of these work hours must be provided, including alternatives considered, mitigation measures proposed and details of construction practices, work methods, compound design, etc.

Sewage Treatment Plant Upgrades

- (k) Details of proposed upgrade(s) including the proposed technology, construction requirements, interruptions to existing operation/services and measures to manage impacts, including:
 - (i) a description of alternatives to the selected technology including consideration of outfall configuration;
 - (ii) justification for any decision to not use Best Available Technology Economically Achievable (BATEA) taking into account environmental, economic and social considerations;
 - (iii) confirmation that the effluent discharge (during wet and dry weather) resulting from any upgrade(s) to Wollongong Water Recycling Plant and/or Shellharbour Wastewater Treatment Plant will be no greater than predictions made in the document listed under condition 1.1(b);
 - (iv) consideration of dry and wet weather effluent storage requirements;
 - (v) measures to prevent or minimise sewage discharge or overflows and subsequent impacts to nearby watercourse, groundwater and water bodies shall be addressed; and
 - (vi) a review of the human health impacts arising from the operation of the wastewater infrastructure including overflows and effluent disposal where changes resulting from the project are expected. The assessment shall be undertaken in accordance with the *Guidelines for Managing Risk in Recreational Waters* (NHMRC, 2008) or relevant government policy at the time.
- (l) Demonstration that air quality and odour levels for any upgraded treatment plant(s) will meet relevant goals. Where an air quality and/or odour impact assessment is required, it shall be prepared in accordance with *Approved Methods for the Modelling and Assessment of Air Pollutants in NSW* (DECC 2005b), *Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2001a) and *Technical Notes: Draft policy: Assessment and Management of Odour from Stationary Sources in NSW* (DEC 2001b).

3. COMMUNITY INFORMATION, CONSULTATION AND INVOLVEMENT

3.1. Prior to the commencement of construction of any project related to this Concept Plan Approval, a Community Communication Strategy shall be prepared and implemented to provide mechanisms to facilitate communication between the Proponent (and its contractor(s)), the Environmental Representative required by condition 3.9, the Relevant Council(s) and community stakeholders (particularly adjoining landowners) on the construction environmental management of the project. The Strategy shall be prepared to the satisfaction of the Director-General, and include, but not be limited to:

- (a) identification of stakeholders to be consulted as part of the Strategy, including affected and adjoining landowners;
- (b) procedures and mechanisms for the regular distribution of information to community stakeholders on construction progress and matters associated with environmental management;
- (c) procedures and mechanisms through which the community stakeholders can discuss or provide feedback to the Proponent and/or Environmental Representative in relation to the environmental management and delivery of the project;
- (d) procedures and mechanisms through which the Proponent can respond to enquiries or feedback from the community stakeholders in relation to the environmental management and delivery of the project;
- (e) procedures and mechanisms that would be implemented to resolve issues/disputes that may arise between parties on the matters relating to environmental management and the delivery of the project. This may include the use of an appropriately qualified and experienced independent mediator; and
- (f) ongoing consultation throughout the life of the project.

Issues that shall be addressed through the Community Communication Strategy include (but are not necessarily limited to) finalisation of pipeline alignment and associated infrastructure and the finalisation of measures to mitigate and/or minimise human amenity and environmental impacts, consistent with the management measures proposed in the documents referred to in condition 1 and the requirements of this approval.

The Proponent shall maintain and implement the strategy throughout construction of the Project. The Strategy shall be approved by the Director-General prior to the commencement of construction, or as otherwise agreed by the Director-General.

Complaints and Enquiries Procedure

3.2. Prior to the commencement of construction of any project related to this Concept Plan Approval, or as otherwise agreed by the Director-General, the Proponent shall ensure that the following are available for community enquiries and complaints for the duration of construction:

- (a) a 24-hour telephone number(s) on which complaints and enquires about construction may be registered;
- (b) a postal address to which written complaints and enquires may be sent;
- (c) an email address to which electronic complaints and enquires may be transmitted; and
- (d) a mediation system for complaints unable to be resolved.

The telephone number, postal address and email address shall be published in newspaper(s) circulating in the area of the project on at least one occasion prior to the commencement of construction; at six-monthly intervals during construction; and prior to the commencement of operation. This information shall also be provided on the website (or dedicated pages) required by this approval. At a minimum, the telephone number shall also be displayed on a sign near the entrance to each construction site, in a position that is clearly visible to the public.

3.3. The Proponent shall record details of all complaints. Information recorded shall include, but not necessarily be limited to:

- (a) the date and time of the complaint;
- (b) the means by which the complaint was made (telephone, mail or email);
- (c) any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
- (d) the nature of the complaint;
- (e) any action(s) taken by the Proponent in relation to the complaint, including any follow-up contact with the complainant; and
- (f) if no action was taken by the Proponent in relation to the complaint, the reason(s) why no action was taken.

The record of complaints shall be made available to the Director-General for inspection upon request.

Note: If the Proponent has a corporate system for managing complaints which would be adopted for the development and which substantially addresses the matters raised in condition 3.3, this may be submitted in fulfilment of this condition.

3.4. The Proponent shall provide an initial response to any complaint made relation to the project during construction or operation, within 48 hours of the complaint being made. The response and any subsequent action taken shall be recorded in accordance with condition 3.3. Any subsequent detailed response or action is to be provided within two weeks of the original complaint, or as otherwise agreed by the complainant.

Provision of Electronic Information

3.5. Prior to the commencement of construction of any project related to this concept approval, or as otherwise agreed by the Director-General, the Proponent shall establish and maintain a new website, or dedicated pages within an existing website, for the provision of electronic information associated with the project, for the duration of construction and for 12 months following completion of the project. The Proponent shall, subject to confidentiality, publish and maintain up-to-date information on the website or dedicated pages including, but not necessarily limited to:

- (a) information on the current implementation status of the project;
- (b) a copy of, or a link to the Department website for, the documents referred to under condition 0 of this Concept Plan Approval, and any documentation supporting modifications to this approval that may be granted from time to time;
- (c) a copy of, or a link to the Department website for, this approval and any future modification to this approval;
- (d) a description of the current environmental approval, licence or permit required and obtained in relation to the project;
- (e) a list of each current strategy, plan, program or other document required under this approval;
- (f) a description of the outcomes of compliance tracking in accordance with condition 3.6 of this approval, including a list of the documents prepared under that condition; and
- (g) details of contact point(s) to which community complaints and enquiries may be directed, including a telephone number, a postal address and an email address.

ENVIRONMENTAL REPRESENTATIVE

3.9 Prior to the commencement of construction of any project related to this approval, or as otherwise agreed by the Director-General, the Proponent shall nominate for the approval of the Director-General a suitably-qualified and experienced Environmental Representative(s) that is independent of the design and construction personnel. The Proponent shall employ the Environmental Representative(s) for the duration of construction, or as otherwise agreed by the Director-General. The Environmental Representative(s) shall: