

25 September 2017

CENTENNIAL MANDALONG PTY LTD  
PO Box 1000  
TORONTO NSW 2283

## Application To Modify Development Consent Notice Of Determination

Pursuant to Section 96 of the Environmental Planning and Assessment Act 1979 and Clause 122 of the Environmental Planning and Assessment Regulation 2000.

Development Application No: DA/110/1974/A  
Property Address: Lot 327 DP 755242, 1B Ruttleys Road, WYEE NSW 2259  
Original Proposal: Wyee Rail Unloader - Upgrade To Existing Coal Handling Infrastructure  
Modification sought: Addition of Screening Plant and Associated Site Buildings and Infrastructure  
Determination Status: Amended Approval  
Determination Date: 25 September 2017  
Consent to operate from: 25 September 2017  
Consent to lapse on: 25 September 2022

### Conditions of Consent

(Approved subject to the conditions specified in this notice and in accordance with the stamped approved plans.)

### Reason for the Imposition of Conditions

The reason for the imposition of the following conditions is to ensure, to Council's satisfaction, the objects of the *Environmental Planning and Assessment Act 1979* (as amended) are achieved:

- (a) To encourage:
  - (i) The proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forest, minerals, water, cities, towns, and villages for the purpose of promoting the social and economic welfare of the community and a better environment;
  - (ii) The promotion and co-ordination of the orderly and economic use of development of land;
  - (iii) The protection, provision, and co-ordination of communication and utility services;

- (iv) The provision of land for public purposes;
  - (v) The provision and co-ordination of community services and facilities;
  - (vi) The protection of the environment, including the protection and conservation of native animals and plants including threatened species, populations, and ecological communities and their habitats;
  - (vii) Ecologically Sustainable Development; and
  - (viii) The provision and maintenance of affordable housing.
- (b) To promote the sharing of the responsibility for environmental planning between the different levels of government in the State.
  - (c) To provide increased opportunity for public involvement and participation in environmental planning and assessment.

## 1. Prescribed Conditions

- (a) The work must be carried out in accordance with the requirements of the *Building Code of Australia*.
- (b) In the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (c) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
  - (i) showing the name, address and telephone number of the Principal Certifying Authority for the work, and
  - (ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
  - (iii) stating that unauthorised entry to the work site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (d) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the following information:
  - (i) in the case of work for which a principal contractor is required to be appointed:
    - a. the name and licence number of the principal contractor, and
    - b. the name of the insurer by which the work is insured under Part 6 of that Act,

- (ii) in the case of work to be done by an owner-builder:
  - a. the name of the owner-builder, and
  - b. if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.

If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under (d) becomes out of date, further work must not be carried out unless the Principal Certifying Authority for the development to which the work relates (not being the Council) has given the Council written notice of the updated information.

## 2. Approved Documentation – Modification A

The development consent DA/110/1974/A incorporates this schedule of conditions and the plans and documents referenced and stamped as follows:

- (a) Document Reference:

Document	Reference	Author	Date
Delta Screening Project Statement of Environmental Effects (including plans)	3941_R01_SEE_Final	Umwelt	July 2017

- (b) Plans Reference:

Document	Reference	Author	Date
Delta Pit Top - proposed additional site buildings	MG12805-A	Centennial Coal	31/01/2017

Details of the development shown in the approved plans and documents referenced are altered in the manner indicated by:

- (i) Any amendments made by Council on the approved plans or documents;
- (ii) Any notes, markings, or stamps on approved plans or documents, and
- (iii) Any conditions contained in this consent.

## 3. Construction Certificate

Prior to the commencement of building work or subdivision work, a Construction Certificate shall be obtained.

**Note:** If the Construction Certificate is issued by a Principal Certifying Authority that is not Council it will be necessary to lodge the Construction Certificate and other approved documents with Council within two days of such approval. (Clause 142(2) EPA Regulation 2000).

#### **4. Occupation Certificate**

The development shall not be occupied or used prior to the issuing of a Final Occupation Certificate or Interim Occupation Certificate by the Principal Certifying Authority. Where an Interim Occupation Certificate has been issued, only that part of the building to which the Certificate applies may be occupied or used.

#### **5. Noise – Ongoing Operation of Machinery, Plant and Equipment**

The Laeq (15 minute) operating noise level of machinery, plant and equipment when measured at the boundary of the nearest residential premises shall comply with the project noise goal as outlined in the Noise Emission Assessment prepared by Hatch dated April 2017.

#### **6. Noise - Construction Sites**

The operating noise level of construction site operations, including machinery, plant and equipment when measured at any affected premises, shall be evaluated and comply with the requirements of the NSW Office of Environment and Heritage publication "Interim Construction Noise Guideline" July 2009.

##### **Approved Construction Times**

The approved hours for construction of this development are –

Monday to Friday - 7.00am to 6.00pm.

Saturday – 8am to 1pm.

No construction work shall take place on Sundays or Public Holidays.

##### **Construction Periods in Excess of 26 Weeks**

If the construction period is in excess of 26 weeks, a Noise Management Plan (NMP) shall be provided to Council prior to the issue of the first construction certificate. Such plan shall be prepared with the assistance of a suitably qualified acoustic engineer, indicating whether the use of machinery, plant and equipment during those operations can be completed without causing offensive noise (as defined in the *Protection of the Environment Operations Act 1997*) in the neighbouring area. The NMP shall be complied with at all times during the construction period and shall identify any mitigation measures to control noise, noise monitoring techniques and reporting methods, likely potential impacts from noise and a complaints handling system.

Operational times may be amended with the written advice of Council's General Manager or delegate.

#### **7. Acoustic Certification**

The recommendations contained in the acoustic report prepared by Hatch dated April 2017 shall be incorporated into the design and construction of the development.

A suitably qualified acoustic consultant shall be engaged to assist with the preparation of the final building plans and specifications to ensure compliance with any acoustic conditions and that no other noise nuisance is created to the neighbourhood.

Upon completion of the works and prior to the issue of an Interim or Final Occupation Certificate, whichever occurs first, a certificate shall be provided to the Principal Certifying Authority from a suitably qualified acoustic consultant certifying that the works have been completed in accordance with their requirements and the development or proposed use is capable of operating in accordance with the design criteria.

At 90 days of operation a suitably qualified acoustic consultant shall test, measure and certify that the development is operating, at that time, in accordance with the approved acoustic report.

## **8. On-site Sewage Management**

Prior to the issue of the first Construction Certificate, approval shall be obtained under Section 68 Part C5 of the *Local Government Act 1993*, for the installation of an on-site sewage management system.

No Occupation Certificate shall be issued until the installation of the system has been completed and an approval to operate the system has been issued by Council under Part C6 of Section 68 of the *Local Government Act 1993*.

## **9. Original Conditions**

All original conditions applying to the original DA/110/1974 continue to apply in respect of this modified consent 'A'. However, in the event of an inconsistency between the conditions of this modified consent 'A' and the original conditions, the modified consent 'A' conditions shall prevail.

**Note:** From Council's records, the original conditions of consent are as follows:

- (a) Ruttleys Road be widened along its entire length to reduce the present extensive wear on its shoulder and pavement edge at a cost to the Commission;
- (b) Ruttleys Road be widened at its intersection with the site access road to the satisfaction of the Municipal Engineer at the Commissions cost;
- (c) The required approvals be obtained under the Clean Air Act, Clean Waters Act and Noise Control Act;
- (d) There be a transfer or exchange of land between the Electricity Commission and Morisset Hospital so that there will be no reduction in the size of the Wildlife Refuge.

## **Right of Appeal**

If you are dissatisfied with this decision (including a determination on a review under Section 96AB), Section 97AA of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within six (6) months:

- (a) after the date on which you receive this notice, or
- (b) the date on which that application is taken to have been determined in accordance with the regulations made under Section 82C(3), 96(6) or 96AA(3).

Section 98 of the Environmental Planning and Assessment Act 1979, does not give a right of appeal to an objector who is dissatisfied with the determination of the Council to grant consent to a development application, unless the application is for designated development (including designated development that is integrated development).

The objector may, within twenty eight (28) days after the date on which the notice of the determination was given in accordance with the regulations, and in accordance with rules of the court, appeal to the Court.

### **Right of Review**

Section 96AB of the Environmental Planning and Assessment Act 1979 provides that the applicant may request the Council to review the modified determination. The request must be made in writing (or on the review application form) within 28 days after the date as specified in this notice of determination. **(See exclusions note below).**

**Exclusions:** A request to review the determination of a modified development application pursuant to Section 96AB of the Environmental Planning and Assessment Act 1979 can only be undertaken where the consent authority is Council, other than:

- (a) A determination to modify a complying development certificate, or
- (b) A determination in respect of designated development, or
- (c) A determination in respect of integrated development, or
- (d) A determination made by the Council under Section 89A in respect of an application by the Crown.
- (e) A determination that is taken to have been made because the Council has failed to determine an application.

### **Planning Assessment Commission**

The Planning Assessment Commission has not conducted a public hearing in respect of this application.

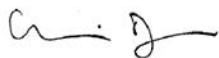
### **Advisory Notes:**

#### **Hunter Water Requirements**

The owner is required to comply with the requirements of the Hunter Water Act 1991, relevant to the development. If you require further information, please contact Hunter Water on 1300 657 657.

Should you require further information, please contact the undersigned on 4921 0311 or by e-mail on [cbdwyer@lakemac.nsw.gov.au](mailto:cbdwyer@lakemac.nsw.gov.au).

Yours faithfully



Chris Dwyer  
**Principal Development Planner**  
**Development Assessment and Compliance**