

## **Appendix 5**

### **Responses from Authorities**

**THE HILLS SHIRE COUNCIL**

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21 March 2012



Mr Neil Kennan  
Nexus Environmental Planning Pty Ltd  
PO Box 212  
CONCORD NSW 237

Your Ref: B1929

Dear Mr Kennan

**Proposed Section 75W Modification of Minister's Approval for Development  
Application 250-09-01  
Lots 1 and 2 DP 547255, Old Northern Road, Maroota**

I refer to your letter dated 8 March 2012 in respect to the current extractive operations being undertaken by Dixon Sand at the above property and to your advice that you will be seeking approval from the Minister to undertake further extraction of sand from the site.

In your letter you request comments from Council staff in respect to the submission of an Environmental Assessment in relation to the proposed modification. It is noted that the information provided to Council staff included only a cover letter and a copy of the Land and Environment Consent Court Orders 10206 of 2003 as amended.

The following comments are provided for your inclusion in the Environmental Assessment (EA).

1. The submission of full details describing the proposal.
2. The submission of full details in the EA confirming the proposal's relationship with the existing extractive industry operations upon the site
3. The preparation of a comprehensive review of the proposal in terms of impact upon the local groundwater resources having regard to the findings of the Maroota Groundwater Study. This will require consultation with the NSW Office of Water. The submission must confirm that the extractive industry operation will be restricted in depth to ensure a 2 metre freeboard above the high (wet weather) groundwater level, at any part of the site.
4. The submission of plans and supporting written evidence showing the proposed final landform configuration and end use of land having regard to the existing approvals in place and ensuring that the additional area of extraction is rehabilitated in a consistent manner with the existing approvals. Specific details

are to be provided regarding rehabilitation and landscape works upon cessation of extractive operations on the site.

5. The submission of a comprehensive staging plan and an associated rehabilitation staging program for the additional area of extraction.
6. The submission of full details regarding the proposal's compliance with the requirements of Council's Development Control Plan Part D Section 6 - Extractive Industries and the provisions of Sydney Regional Environmental Plan No. 9 - Extractive Industry (Amendment No. 2), Sydney Regional Environmental Plan No. 20 - Hawkesbury - Nepean River & Baulkham Hills Local Environmental Plan 2005, and other relevant legislation, including the Section 91 "Integrated Development" provisions of the NSW EP & A Act, 1979 if relevant.
7. The EA is required to identify the maximum yearly extraction rate and the life of the extraction (based on resource within the quarry) and also the subsequent timeframe for the completion of rehabilitation works upon the site.
8. The submission of a detailed traffic impact assessment report addressing the maximum number of truck movements associated with the operation, if an increased in truck movements is proposed.
9. Given that the original proposal identified the site as containing Shale Sandstone Transition Forest and the current investigations identify an alternate species, it is considered appropriate for an independent person to carry out a further review and 8 part test. This matter should be reviewed by you in consultation with the Department of Planning and Infrastructure.

I trust the above satisfies your enquiry. Should you have any further questions please contact me on 9843 0319.

Yours faithfully



**Kristine McKenzie**  
**PRINCIPAL EXECUTIVE PLANNER**

CC: Mr George Mobayed, Mining and industry Projects, Department of Planning and Infrastructure, GPO Box 39, Sydney NSW 2001

Mr David Dixon, Dixon Sand, PO Box 148, Penrith NSW 2751



OUT12/3079

15<sup>th</sup> February 2012

Neil Kennan  
Nexus Environmental Planning Pty Ltd  
PO Box 212  
Concord NSW 2137

Dear Mr Kennan

Re: **Modification of Old Northern Road Quarry (DA 250-09-01 Mod 4)  
Lots 1 & 2 DP547255**

Thank you for the opportunity to provide advice on the proposed modification to the above proposal.

This is a response from NSW Trade & Investment – Mineral Resources Branch. Please contact the Department of Primary Industries (incorporating Agriculture, Fisheries and Forests NSW) separately for advice from that agency.

**Mineral Resources Issues**

*Sand (other than marine aggregate), loam, river gravel, and coarse aggregate materials such as basalt, sandstone, and granite* and most other extractive materials are **not** prescribed minerals under the Mining Act, 1992. Therefore, DTIRIS – Mineral Resources Branch has no statutory role in authorising or regulating the extraction of these commodities, apart from its role under the Work Health & Safety Act 2011 and the Mine Health and Safety Act 2004 and associated regulations, for ensuring the safe operations of mines and quarries.

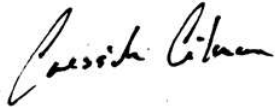
The key issues that need to be addressed in the EA are the size and quality of the resource to be extracted in the modified proposal. The proponent must be able to demonstrate that the size and quality of the resource have been adequately assessed and provide details of methods used to assess the resource.

DTIRIS – Mineral Resources Branch has reviewed the subject Environmental Assessment and is satisfied that sufficient information has been provided to demonstrate the presence of a substantial resource of sand and sandstone. The community is likely to benefit from the exploitation of that resource, provided that appropriate operational and environmental standards can be satisfied.

DTIRIS - Mineral Resources Branch collects data on the quantity and value of construction materials produced annually throughout the State. Forms are sent to all operating quarries at the end of each financial year for this purpose. The statistical data thus collected is of great value to Government and industry in planning and resource management, particularly as a basis for analysing trends in production and for estimating future demand for particular commodities or in particular regions. In order to assist in the collection of construction material production data, it is requested that the proponent makes a commitment to provide annual production data to DTIRIS - Mineral Resources Branch.

For further information regarding mineral issues please contact Cressida Gilmore Team Leader Land Use on 02 4931 6537 or email [cressida.gilmore@industry.nsw.gov.au](mailto:cressida.gilmore@industry.nsw.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Cressida Gilmore', written in a cursive style.

Cressida Gilmore  
Team Leader Land Use



## Office of Environment & Heritage

Your reference B1929  
Our reference: DOC12/5102 (LIC08/306)  
Our contact: Nazrul Chowdhury; (02) 9995 6862

Mr Neil Kennan  
Nexus Environmental Planning Pty Ltd  
PO Box 212  
CONCORD NSW 2137

Dear Mr Kennan

**Re: Modification of Development Consent No. 250-09-01 – Lots 1 & 2, DP 547255 – Old Northern Road, Maroota**

I refer to your letter on the above subject matter received by the Office of Environment and Heritage (OEH) on 9 February 2012. In your letter you have sought OEH's requirements for the preparation of an Environmental Assessment (EA) for the site.

Development consent DA No. 250-09-01, for Lots 1& 2 DP 547255, originally suggested setbacks and buffer zones:

- a) around threatened species conservation area; and
- b) at the edge of the area of shallow groundwater indicated on Fig 2.1 in the Environmental Impact Statement (EIS) submitted with the DA;

based on the exclusion zones proposed in the EIS considering significance of the portion of land and the shallow depth of groundwater table particularly after wet weathers in other areas of land, respectively.

OEH has reviewed your current modification application, pursuant to section 75W of the Environment Planning and Assessment Act (EP&A Act), for extraction of materials from these areas, and has agreed to provide its approval for extraction of materials from the areas with the following conditions. That the proponent -

- a) must carefully and rigorously consider impacts of the proposed extraction on threatened species, populations, ecological communities and their habitat; and
- b) have enough evidence from drilling in the area to suggest that the regional wet weather watertable will not be affected by going to extra depth for extraction and the extraction will be limited to two metres above the wet weather groundwater table as per DA 250-09-01.

Regarding Biodiversity impact assessment for the exclusion zone, the applicant is advised to follow OEH's requirements provided in Attachment - A.

### **Aboriginal Heritage**

An assessment of Aboriginal Cultural Heritage will be required as part of the Environmental Assessment (EA) preparation, if applicable. Should any Aboriginal object or Aboriginal place be found and is likely to be impacted upon by the proposal, the proponent must apply for a Section 90 approval under the National Parks and Wildlife Act 1974 (NP&W Act) from the Chief Executive of the OEH.

The OEH requests that the proponent provides at least five` copies of the DA/EA when requesting OEH's approval to the Manager Sydney Industry, Metro Parramatta, at Level 7, 79 George Street, Parramatta 2150.

Should you have any queries regarding the matter, please contact Nazrul Chowdhury on the above telephone number.

Yours sincerely



28 Feb. 2012

**KIERAN HORKAN**  
**Unit Head Sydney Industry**  
**Environment Protection Authority**

Att

## **ATTACHMENT - A**

### **Biodiversity**

Biodiversity impacts can be assessed using either the BioBanking Assessment Methodology or a detailed biodiversity assessment.

- **Use of BioBanking Assessment Methodology**

1. Where a BioBanking Statement is being sought under Part 7A of the *Threatened Species Conservation Act 1995* (TSC Act), the assessment must be undertaken by an accredited BioBanking assessor (as specified under Section 142B (1)(c) of the TSC Act 1995) and done in accordance with the *BioBanking Assessment Methodology and Credit Calculator Operational Manual* (DECCW, 2008).
2. Where the BioBanking Assessment Methodology is being used to assess impacts of a proposal and to determine required offsets, and a BioBanking Statement is not being obtained, the EA should contain a detailed biodiversity assessment and all components of the assessment must be undertaken in accordance with the *BioBanking Assessment Methodology and Credit Calculator Operational Manual* (DECCW, 2008).

- **Use of detailed biodiversity assessment:**

1. The EA should include a detailed biodiversity assessment, including assessment of impacts on threatened biodiversity, native vegetation and habitat. This assessment should address the matters included in the following sections.
2. A field survey of the site should be conducted and documented in accordance with relevant guidelines, including:
  - the *Threatened Species Survey and Assessment Guidelines: Field Survey Methods for Fauna - Amphibians* (DECCW, 2009)
  - *Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities - Working Draft* (DEC, 2004), and
  - Threatened species survey and assessment guideline information on [www.environment.nsw.gov.au/threatenedspecies/surveyassessmentgdlns.htm](http://www.environment.nsw.gov.au/threatenedspecies/surveyassessmentgdlns.htm).

If a proposed survey methodology is likely to vary significantly from the above methods, the proponent should discuss the proposed methodology with OEH prior to undertaking the EA, to determine whether OEH considers that it is appropriate.

Determining the list of potential threatened species for the site must be done in accordance with the *Threatened Biodiversity Survey and Assessment: Guidelines for Developments and Activities - Working Draft* (DEC, 2004) and the *Guidelines for Threatened Species Assessment* (Department of Planning, July 2005). The OEH Threatened Species website <http://www.environment.nsw.gov.au/threatenedspecies/> and the *Atlas of NSW Wildlife* database must be the primary information sources for the list of threatened species present. The BioBanking Threatened Species Database, the Vegetation Types databases (available on OEH's website at <http://www.environment.nsw.gov.au/biobanking/biobankingtsdpd.htm> and <http://www.environment.nsw.gov.au/biobanking/vegtypedatabase.htm>, respectively) and other data sources (e.g. Plant NET, Online Zoological Collections of Australian Museums (<http://www.ozcam.org/>), previous or nearby surveys etc.) may also be used to compile the list.

### 3. Specific survey requirements:

- ***Tetratheca glandulosa***

*Tetratheca glandulosa* is cryptic and difficult to detect, particularly when not in flower, so surveys must be undertaken whilst the species is flowering. It may be necessary to survey other known sites nearby which support *T. glandulosa* to confirm that surveys are being conducted during flowering. Parallel line traverses at an appropriate width should be undertaken in areas of potential habitat to determine presence of the species.

- **Shale-Sandstone Transition Forest (SSTF)**

To determine whether SSTF or another vegetation community occurs on site, the following method should be undertaken by an appropriately qualified and experienced consultant (amended from Tozer et al. (2010)<sup>11</sup>):

- stratify the site in accordance with any known or observed variations in geology, soil, slope, aspect, landform, vegetation type, disturbance history, etc
- determine the location of test plots using a random selection procedure. For example: define a grid then consult a table of random numbers to obtain coordinates for the location of the plots. Quadrates should be located some distance from any signs of weed infestation, soil disturbances and obvious ecotones. A map showing the location of the quadrats should be provided. (It is noted that Figure 1, the area surveyed, is missing from the Hawkeswood report). A minimum of two quadrats should be completed for each stratification unit.
- mark out a search area of 0.04 ha (20 x 20 m is convenient) and record all vascular plant species with stems rooted within or overhanging the search area. Nomenclature should follow Flora of NSW (Harden 1990 – 2002) and Flora Online [[plantnet.rbgsyd.nsw.gov.au/floraonline.htm](http://plantnet.rbgsyd.nsw.gov.au/floraonline.htm)].
- compile a shortlist of possible map unit types by comparing the vegetation structure and physical characteristics of the site with the descriptions contained in Tozer et al. (2010). At a minimum, this should include Cumberland Shale Sandstone Transition Forest, Sydney Hinterland Transition Woodland, Coastal Sandstone Ridgetop Woodland. The report should include this quadrat data.
- count the number of **native** species occurring within the test plot. A minimum species count has been specified for each map unit type and is given in the diagnostic species table caption. The test can not be applied unless the test plot contains the minimum number of species specified for the map unit under consideration.
- considering each of the candidate map unit types in turn, consult the list of positive diagnostic species and count the number that were found in the test plot. The minimum expected number of positive diagnostic species has been specified for each map unit and is located in the diagnostic species table caption. If the test plot contains the minimum number of positive diagnostic species ('pass' result) then it is a plausible match for that map unit. A 'pass' result may be obtained for more than one of the candidate <sup>2</sup>communities. In such cases the number of species by which the minimum was exceeded may be used to assess the closeness of the match to each of the possible candidates. A 'fail' result (the test plot contains fewer diagnostic species than the expected minimum) does not exclude the possibility that the test plot is a match, however the fewer positive species recorded, the less likely it is that the map unit is a match.

### 4. The EA should contain the following information as a minimum:

- a. Description and geo-referenced mapping of study area, e.g. overlays on topographic maps, satellite images and /or aerial photos, including details of map datum, projection and zone, all survey locations, vegetation communities (including classification and methodology used to

<sup>11</sup> M.G. Tozer, K. Turner, D.A. Keith, D. Tindall, C. Pennay, C. Simpson, B. MacKenzie, P. Beukers and S. Cox (2010). "Native vegetation of southeast NSW: a revised classification and map for the coast and eastern tablelands". *Cunninghamia* 11(3): 359–406

classify), key habitat features and reported locations of threatened species, populations and ecological communities present in the subject site and study area.

- b. Description of survey methodologies used, including timing, location and weather conditions.
  - c. Details, including qualifications and experience of all staff undertaking the surveys, mapping and assessment of impacts as part of the EA.
  - d. Identification of national and state listed threatened biota known or likely to occur in the study area and their conservation status.
  - e. Description of the likely impacts of the proposal on biodiversity and wildlife corridors, including direct and indirect and construction and operation impacts. Wherever possible, quantify these impacts such as the amount of each vegetation community or species habitat to be cleared or impacted, or any fragmentation of a wildlife corridor.
  - f. Identification of the avoidance, mitigation and management measures that will be put in place as part of the proposal to avoid or minimise impacts, including details about alternative options considered and how long term management arrangements will be guaranteed.
  - g. Description of the residual impacts of the proposal. If the proposal cannot adequately avoid or mitigate impacts on biodiversity, then a biodiversity offset package is expected (see the requirements for this at point 6 below).
5. An assessment of the significance of direct and indirect impacts of the proposal must be undertaken for threatened biodiversity known or considered likely to occur in the study area based on the presence of suitable habitat. This assessment must take into account:
- a. the factors identified in s.5A of the EP&A Act, and
  - b. the guidance provided by *The Threatened Species Assessment Guideline – The Assessment of Significance* (DECCW, 2007) which is available at: <http://www.environment.nsw.gov.au/resources/threatenedspecies/tsaguide07393.pdf>
6. Where an offsets package is proposed by a proponent for impacts to biodiversity (and a BioBanking Statement has not been sought) this package should:
- a) Meet OEH's *Principles for the use of biodiversity offsets in NSW*, which are available at: [www.environment.nsw.gov.au/biocertification/offsets.htm](http://www.environment.nsw.gov.au/biocertification/offsets.htm).
  - b) Identify the conservation mechanisms to be used to ensure the long term protection and management of the offset sites.
  - c) Include an appropriate Management Plan that has been developed as a key amelioration measure to ensure any proposed compensatory offsets, retained habitat enhancement features within the development footprint and/or impact mitigation measures (including proposed rehabilitation and/or monitoring programs) are appropriately managed and funded.
7. With regard to the Commonwealth *Environment Protection and Biodiversity Conservation Act 1999*, the assessment should identify any relevant Matters of National Environmental Significance and whether the proposal has been referred to the Commonwealth or already determined to be a controlled action.