

# **DIXON SAND (PENRITH) PTY LTD**

**Land and Environment Court of NSW**  
**CONSENT ORDERS No 10273 of 2000**  
**Ordered: 7 July 2000**

**(These orders comprise the Conditions of  
Consent for Lot 196/29 Old Northern Rd  
Maroota DP 752025)**

## **Scope of Development:**

**The development is to be carried out  
substantially in accordance with the  
following:**

- 1. DA No 796/00/HE    enclosure**
- 2. EIS prepared by Southern  
Environmental Pty Ltd dated 1 June  
1999. – 3 volumes**
- 3. Supplementary information received by  
Council on:**
  - a) 2 November 1999 - enclosure**
  - b) 4 January 2000 – enclosure**
  - c) 21 January 2000 – enclosure****except where amended by the  
Conditions of Consent .**

**In the Land and  
Environment Court  
of New South Wales**

No. 10273 of 2000

**Simon James Leonard  
McCartney**

Applicant

**Baulkham Hills Shire  
Council**

First Respondent

**Dixon Sand (Penrith) Pty  
Limited**

Second Respondent

**Order**

**The Court orders by consent that:**

1. The appeal be upheld.
2. Development Consent is granted to Development Application No.796/00/HE, for sand extraction, processing and rehabilitation on lots 29 and 196 DP 752025 Old Northern Road, Maroota subject to the conditions in Annexure "A" hereto


**The Court orders:**

3. All exhibits are to remain on the Court file.
4. No order as to costs.

**The Court notes:**

5. The undertaking of the Second Respondent to file copies of Development Application No.796/00/HE, the Environmental Impact Statement prepared by Southern Environmental Pty Limited, dated 1 June 1999 and supplementary information received by the First Respondent on 22 November 1999, 4 January 2000 and 21 January 2000.
6. Draft conditions of consent are amended by substituting the first paragraph of 3.12 for the paragraph, Exhibit J, and the addition of the plan showing precinct 9 which is also part of Exhibit J.
7. The agreement to be entered into by the Applicant and the Second Respondent generally in accordance with the draft deed, Exhibit H.

**Ordered: 7 July 2000  
By the Court**

  
**L. Tarkovski  
Registrar**

## **"A"**

APPLICANT: Dixon Sand (Penrith) Pty Limited

OWNER: D Gouskos

PROPERTY: Lots 29 & 196 DP 752025 Old Northern Road,  
Maroota

DEVELOPMENT: Proposed Sand Extraction, Processing and  
rehabilitation

### **Conditions of Consent**

#### **GENERAL MATTERS AND ADVICE**

##### **PART 1 - GENERAL**

###### **1.1 Scope of Development**

The development being carried out substantially in accordance with Development Application No. 796/00/HE and accompanying Environmental Impact Statement (EIS) prepared by Southern Environmental Pty Limited, dated 1 June 1999, lodged with Council on 30 August 1999, and supplementary information received by Council on 22 November 1999, 4 January 2000 and 21 January 2000, except where amended by the following conditions of consent.

###### **1.2 Changes to Development Require Consent**

The proponent is to lodge a separate application for any alterations and/or expansion to the approved extraction activities including vehicle ingress/egress arrangements and the erection of any signs.

###### **1.3 General Terms of Approval**

The development is to be undertaken in accordance with the General Terms of Approval issued by the Department of Land and Water Conservation (DLWC), the Environment Protection Authority (EPA) and the Roads and Traffic Authority (RTA), as attached to this consent.

## **PART 2 - PRIOR TO COMMENCEMENT OF EXTRACTION**

### **Roadworks and Drainage Works External to the Site**

#### **2.1 Upgrade of Intersection of Old Northern Road and Crown Road**

The intersection of Old Northern Road and the Crown Road access to the subject site is to be upgraded to a type B intersection, to Roads and Traffic Authority and Council standards. This is to include a slip lane and the widening of Old Northern Road on the eastern side to allow vehicles to pass right turning traffic into the Crown Road safely.

- (a) Stage 1 works, which involve a paved deceleration lane to the requirements of the RTA, is to be constructed within two weeks of obtaining the relevant approval of the RTA and any relevant service authorities.

These works are required to ensure the safe movement of vehicles on Old Northern Road and are to be completed no later than six months from the commencement of extraction.

- (b) Stage 2 works, which involve completion of the full type B intersection are to be completed within 12 months of commencement of extraction.

#### **2.2 Upgrade of Crown Road Access**

- (a) The Crown Road access to the subject site is to be sealed for its entire length, to a point where it meets the subject site. Details of Stage 1 and Stage 2 works as outlined below, are required to be submitted to Council for approval prior to commencement of works. The Crown Road access to the subject site is to be maintained for the life of the extractive industry operations on the subject site.

- (i) Stage 1 works, which involve the sealing of a minimum of 50 metres of the Crown Road from the intersection of Old Northern Road, are required within 6 months of commencement of extraction. These works are required to minimise dust and sediment impact on Old Northern Road.

- (ii) Stage 2 works, which involve the sealing of the entire length of the Crown Road access are to be completed within 12 months of commencement of extraction.

- (b) The intersection of the private road and the Crown Road, which is frequently used by off-road vehicles, is to be sign-posted with Give Way signs together with an advance warning sign Intersection W2-1A and heavy Machinery Crossing T1-206.

#### **2.3 Road and Drainage Works Required**

Road and drainage construction works are to be provided by the applicant in accordance with:

- (a) Council's "Design Guidelines - Subdivisions/Developments" (June 1997).

- (b) Council's "Works Specifications - Subdivisions/Developments" (August 1997).

and are to include:-

- (i) The Old Northern Road intersection be upgraded and designed with deceleration lane, passing lane, widening, line marking, chevrons, signs all in accordance with the Roads and Traffic Authority "Road Design Guide" or current practice for the design traffic and life of the proposed development operations.

This will include all subsoil surface table drain construction for the full extent of the intersection upgrading and relocation of services. Where necessary easements for stormwater drainage from the public road will be required over the adjoining properties where a natural watercourse is not accessible for stormwater discharge from pipes, pits or surface drains. Traffic control during construction will be to the Roads and Traffic Authority requirements or the appropriate Australian Standard and AS1742.3 "Traffic Control Devices for Work on Roads".

- (ii) Construction of the road pavement, table drains, subsoil drains and piped drainage as necessary to meet the traffic design load and life within the Crown Road reserve. Where necessary easements for stormwater drainage from the reserve road will be required over the adjoining properties where a natural watercourse is not accessible for stormwater discharge from pipes, pits or surface drains.

#### **2.4 Erosion and Sedimentation Control Devices**

Erosion and sedimentation control devices are to be provided in accordance with Council's "Works Specification - Subdivisions Developments" (August 1997). All devices are to be established prior to the commencement of engineering works and maintained for a minimum period of six (6) months after the completion of all works. Periodic maintenance of the erosion and sedimentation control devices is to be undertaken to ensure their effectiveness.

#### **2.5 Road Drainage Requirements**

Road drainage is to be provided based upon a minimum recurrence interval of ten (10) years (1 in 10 year storm event). All sag discharge points will be provided based upon a minimum recurrence interval of twenty (20) years (1 in 20 year storm event) with overland flow channel section designed to carry all events above the 1 in 20 year event and up to the 1 in 100 year event.

#### **2.6 Engineering Works to be Undertaken under Supervision**

All engineering works associated with the development are to be carried out under the supervision of a practising Professional Engineer or Registered Surveyor.

## **2.7 Drainage into a Natural Watercourse**

- (a) The natural watercourse from the crown road to the adjoining lots is to be piped to suit a 1 in 20 year storm event. An overland flow path is also to be provided above the constructed pipeline to accommodate all storm events, up to and including the 1 in 100 year storm. (1% AEP).
- (b) Where necessary easements to drain water a minimum 3.0 metres wide, are to be acquired over the downstream properties.
- (c) Should the engineering plans provide for any works to be carried out, or necessitate easements, over adjoining land, the issue of a Construction Certificate will be withheld until such time as a copy of the plan has been suitably endorsed by the adjoining owner(s) and submitted to Council.
- (d) The creation of suitable easements to drain water, minimum 5 metres wide and 30 metres long, from the outlet of any culverts located within the property, prior to commencement of extraction.
- (e) Alternatively, the proponent is to demonstrate the collection of drainage water from the Crown Road and the intersection of Old Northern Road is able to be discharged into a natural drainage line/watercourse.

## **2.8 Submission of Engineering Plans Prior to Issue of Construction Certificate**

The submission to Council of detailed engineering plans prepared in accordance with Council's "Design Guidelines - Subdivisions/Developments" (June 1997), that include the proposed construction works referred to above, together with payment of a Construction Certificate fee of \$500 as prescribed in Council's Schedule of Fees and Charges. Alternatively, should the nominated Principal Certifying Authority be other than Council, the fee shall be by agreement.

## **2.9 Submission of Suitable Undertaking Prior to Issue of Construction Certificate**

The lodgement of a suitable undertaking, under the common seal of the company, to complete all required engineering works. Such works are to be completed prior to commencement of extraction operations.

## **2.10 Submission of Cash Bond or Bank Guarantee Prior to Issue of Construction Certificate**

The submission of a cash bond or acceptable bank guarantee in respect of construction works external to the site. The amount of such bond will be assessed on the submission of satisfactory engineering construction plans.

**Please note:** If submitting a Bank Guarantee:

- 1. The Bank Guarantee will only be accepted direct from the issuing bank.

2. The Bank Guarantee must have no expiry date.
3. The Bank must quote Council's reference (796/00).
4. Should it be necessary for Council to uplift the guarantee, a notice in writing will be forwarded to the applicant fourteen (14) days prior to such action being taken.

If the applicant disagrees with the amount of the bank guarantee, the amount shall be assessed by an independent Professional Engineer.

The bank guarantee shall be released upon completion of all works.

**No Bank Guarantees will be accepted direct from the applicant.**

#### **2.11 Plans Approved by the Roads and Traffic Authority and Council Prior to Issue of Construction Certificate**

Engineering plans approved by the Roads and Traffic Authority are to be submitted to Council for all works in Old Northern Road. All roadworks to be undertaken at no cost to the Roads and Traffic Authority or Council.

#### **2.12 Letters from Authorities Prior to Issue of Construction Certificate**

Letters from the Authorities including Sydney Water, Telstra, Integral Energy and the Australian Gas in respect of any proposed relocation of services required by the engineering plans. (A suitable clearance will be required at the completion of any works, from the respective authority).

#### **2.13 Construction Certificate Fees**

Payment of construction certificate fees in accordance with Council's Schedule of Fees and Charges. The fees will be assessed following the submission of satisfactory engineering plans and are to be paid prior to the issue of a Construction Certificate.

#### **2.14 Erosion and Sedimentation Control for Roadworks and Drainage Works**

The provision of erosion and sedimentation control. Details to be approved by the Environment Protection Authority and the Department of Land and Water Conservation, and shown on plans submitted to Council. The devices are to be established prior to the commencement of works.

#### **2.15 Care to be Exercised During Construction**

Care is to be exercised during the construction of the proposed works to ensure natural vegetation and topography on the subject site is not unnecessarily disturbed.

## **2.16 State Survey Marks and Permanent Marks**

The Developer shall preserve and maintain in their true position all State Survey Marks (SSM) and Permanent Marks (PM) whether or not the marks are to be used for the purpose of setting out, checking or measuring the work.

Should any SSM or PM be disturbed or obliterated, the Developer shall arrange for a Registered Surveyor to rectify such disturbance or obliteration. The cost of rectification shall be borne by the Developer.

## **2.17 Protection of Trees During Construction**

- (a) Permission is granted for the removal of vegetation/trees to enable the construction of the intersection of Old Northern Road and the Crown Road.
- (b) All trees are to be retained (except all trees referred to in 2.17(a)), and protected by paraweb fencing, firmly staked four (4) metres from the trunk of the tree and maintained in position for the duration of the construction works. The area within the dripline of the tree should not be used for the stockpiling of any material, nor for vehicular or pedestrian convenience or uses that would compact the soil in this area.

## **2.18 Inspections**

The following inspections shall be arranged by the applicant with Council to obtain satisfactory certificates for the following:-

- a) Sub-grade - Inspection
- b) Drainage - Pipeline - Inspection
- c) Drainage - Backfill - Inspection
- d) Sub-base - Inspection
- e) Base Course - Inspection
- f) Final Inspection.

## **2.19 Completion of All Engineering Works**

The completion of all engineering works in accordance with the conditions of this consent.

## **2.20 Work As Executed Plans**

The submission to Council of works as executed plans in accordance with the requirements of Council's "Design Guidelines-Subdivisions/Developments" (June 1997) in accordance with the conditions of this consent.

## **2.21 Maintenance Bond Prior to Commencement of Extraction**

The submission to Council of a maintenance bond by way of a bank guarantee equivalent to 5% of the total cost of the roadworks external to the site (minimum \$5,000) to be held for a minimum period of twelve (12) months.



## **Internal Haul Road – Lot 29 DP 752025**

### **2.22 Temporary Access Route**

- (i) The proponent is to provide and construct a temporary access route as indicated on Drawing No.: DIXON-2.DWG.
- (ii) The temporary access route must be constructed in accordance with engineering plans to be submitted to and approved by Council.
- (iii) Evidence of a registered right of carriageway ("ROC"), by way of creation of a Section 88B instrument, must be presented to Council prior to any extraction taking place on Lot 29 DP 752025.
- (iv) The ROC must at a minimum address the following:-
  - (a) Provision of a ROC 20 metres wide;
  - (b) Which entity will construct the ROC;
  - (c) Which entity will have the benefit of the use of the ROC and any restrictions upon that use;
  - (d) Which entity will have the burden of maintenance of the ROC;
  - (e) Any modification, amendment or release of the ROC is to be approved by Council;
  - (f) The ROC continues to operate upon successors in title;
  - (g) Issues of insurance, liability and indemnity as a result of use of the ROC; and
  - (h) The right of carriageway shall be extinguished upon construction of the final access route.
- (v) The temporary access route must be constructed and operational within 12 months of the date of this consent.
- (vi) A noise attenuation wall is to be erected inside the eastern boundary of Lot 29, adjacent to the temporary internal haul road, in order to mitigate the impacts of noise on the adjoining properties and the Maroota Public School to the east. Details of the wall are to be submitted to Council for approval, and the wall erected prior to implementation of the temporary internal haul road. The wall should remain in place until extraction on Lot 29 and the use of the temporary internal haul road are ceased.

### **2.23 Sedimentation & Erosion Control for Internal Haul Road**

- (i) The proponent is to undertake the following measures:-
  - (a) Construct all internal all-weather surfaced access tracks (including the temporary access route as indicated on Drawing No.: DIXON-2.DWG and final access route as indicated on Drawing No.: DIXON-3.DWG) with crossfall and associated table drains and lead outs, designed to carry the extraction vehicle loading

- (b) Provision of headwalls, scour protection and sedimentation traps for all drainage systems and leadouts mentioned in (a) above.
- (c) The provision of erosion and sedimentation control. Details to be shown on engineering plans and the devices to be established prior to the commencement of engineering works.
- (d) Include all recommendations from the Authorities in preparation of the engineering plans in respect of access and transport of materials, extraction activities and rehabilitation works. The particular authorities must include:-
  - (i) Department of Urban Affairs & Planning;
  - (ii) Hawkesbury - Nepean Catchment Management Trust;
  - (iii) NSW Department of Agriculture & Fisheries;
  - (iv) Environment Protection Authority; and
  - (v) Department of Land & Water Conservation.

Provision of safety protection fencing where appropriate (where safety is an issue) where faces and batters are proposed in the quarry area and adjacent to tailings dams and the access track.

- (ii) The proponent is to submit for approval by Council detailed engineering plans in respect of (i) above. In this regard, satisfactory engineering plans are required drawn to scale, showing a north point, contours, benchmark, catchment area, batter slopes for cut and fill and drainage calculation. The plans are to include details of the internal haul road design, drainage and erosion and sedimentation control measures.

Receipt of such plans does not imply automatic approval of the plans.

Further, Council requires payment of the engineering plan assessment fee of \$150 as prescribed in Council's Schedule of Fees and Charges. These plans are to be accompanied by advice from the relevant Authorities, that their requirements are met.

## **Rehabilitation**

### **2.24 Submission to Council of a Detailed Rehabilitation Plan**

Submission to and approval by Council of a detailed Rehabilitation Plan, including the following details:-

- (a) Plans and cross-sections to scale, showing the proposed final landform demonstrating that it integrates with the surrounding terrain;
- (b) Site analysis used to determine compatible contours, shape, form, landscape features and quality of the final landform, including the identification of conservation areas;

- (c) The retention, protection and replenishment scheme, including the means of maintaining and replenishing buffer zones/setback areas and completed rehabilitated areas;
- (d) The restoration and rehabilitation of the 50 metre buffer zone to the *Kunzea rupestris* plant species;
- (e) The progressive rehabilitation of both extraction areas and setback/buffer zones;
- (f) Details regarding the rehabilitation of that part of Lot 29, which has encroached the depth limitation and extracted into Crown Land. Details are to be to the satisfaction of the Department of Land and Water Conservation, with written evidence submitted to Council demonstrating DLWC's approval to the works.
- (g) A Works Program defining a schedule of works and associated time period for the rehabilitation of each disturbed and/or exposed extraction area or stage with the aim to restore vegetative covers at the earliest possible opportunity;
- (h) Details of all backfilling works, including source of materials and the grades and stability of all batters. Batter design should be in accordance with the provisions of DCP No. 500 – Extractive Industries, and certification is to be provided by appropriately qualified engineers regarding the stability of all designed batters;
- (i) Schedule of works that are to be carried out under the supervision of a nominated qualified person;
- (j) Details including a soil drainage plan sufficient for growing crops that require free drainage. In this regard, the rehabilitation plan should have regard to comments provided by the Department of Agriculture, that the aim of rehabilitation for the site should be to achieve a standard that can support the types of agriculture that could have been supported prior to extraction taking place;
- (k) Compliance with the notified requirements (including established rehabilitation methods) of relevant public authorities, Hawkesbury Nepean Catchment Management Trust and Council's DCP No. 500 – Extractive Industries.

## 2.25 Rehabilitation Bond

The proponent shall submit a Rehabilitation Bond in the form of an unconditional bank guarantee to be held by Council as a legal document over the life of the development, sufficient in amount to cover the cost of rehabilitating the extraction area and other likely disturbed areas in the event of non-compliance with this consent.

In this regard, the Rehabilitation Bond shall be based upon \$2.00 per square metre of all exposed extraction areas at any one time in accordance with the approved extraction and rehabilitation as outlined in the EIS and accompanying appendices prepared by Southern Environmental Pty Limited dated 1 June 1999.

The Rehabilitation Bond will be released upon submission by the proponent of a certificate by a qualified landscape consultant that final rehabilitation has been completed in accordance with the conditions of this consent concerning rehabilitation and the Council's satisfaction of that fact.

The bond currently held by Council in favour of Dixon Sands shall be construed as a credit.

### **General**

#### **2.26 Need to Obtain Construction Certificate**

Submission to and approval by Council of a construction certificate for all proposed temporary and permanent structures.

Plans submitted with the construction certificate are to be in accordance with plans and details submitted with Development Application No. 796/00/IE, and are to demonstrate compliance with the Building Code of Australia and conditions of this consent.

#### **2.27 Need to Obtain Building Certificate**

Submission to and issue by Council of a Building Certificate for all existing structures on-site which have been built without the prior approval of Council. Details submitted are to demonstrate compliance with the Building Code of Australia and conditions of this consent.

#### **2.28 Installation of Groundwater Monitoring Bores**

A minimum of two Groundwater Monitoring Bores are to be installed, monitored and maintained to the requirements of the Department of Land and Water Conservation. Bores are to be installed prior to the commencement of extraction.

Specifically, one monitoring bore is to be installed within or near the extraction area whilst the other monitoring bore is to be installed at some other location, within the subject site, beyond the radius of any mining influence.

The actual location and depth of each bore is to meet the notified requirements of both Council and the Department of Land & Water Conservation.

#### **2.29 Obtaining Other Relevant Approvals**

The proponent is to obtain all necessary operating licenses and permits from all relevant public authorities including the Environment Protection Authority and the Department of Land & Water Conservation and details of which are to be submitted to Council prior to the commencement of on-site works.

### **PART 3: OPERATIONAL**

#### **3.1 Life of Consent**

Consent for the purpose of extraction of material and rehabilitation is limited to a period of ten (10) years effective from the endorsed date of this consent (operational consent is twenty-eight (28) days after consent is issued, i.e. consent lapses on 22 March 2010).

The continuation of extraction on the site is subject to review on an annual basis, in accordance with Part 6 of this consent.

#### **3.2 Notices in the Event of Non-Compliance with Consent**

- (a) Council reserves the right to issue a notice on the proponent in accordance with the prevailing legislation if there is any breach of conditions of consent.
- (b) The Council may serve notice under paragraph (a) if:-
  - (i) no Environmental Management Plan is submitted to the Council pursuant to Part 6 of this consent; or
  - (ii) an Environmental Management Plan submitted to the Council pursuant to Part 6 of this consent reveals that the development is not being carried out in accordance with the conditions of this consent; or
  - (iii) the Council is otherwise reasonably of the opinion that development is not being carried out in accordance with the conditions of this consent.
- (c) The Council may amend or revoke any notice served under paragraph (a) or serve further notices under paragraph (a) from time to time.

#### **3.3 Buffer Zones**

- (a) The area of land disturbed for the purpose of extraction shall not exceed the area as detailed in the Environmental Impact Statement and supplementary information.
- (b) The 50m setback/buffer zone to the *Kunzea rupestris* plant species is to be rehabilitated and maintained within 3 months of commencement of extraction on Lot 29 DP 752025.
- (c) A 10m setback/buffer zone is to be provided to the northern boundary of Lot 29 DP 752025.
- (d) A 10m setback/buffer zone is to be rehabilitated and maintained to the eastern boundary of Lot 29 DP 752025 within 3 months of the implementation of the permanent internal haul road.

- (e) The 10m setback to the western boundary of Lot 196 is to be rehabilitated and stabilised with native vegetation, in order to minimise any impact on adjoining bushland. Appropriate erosion and sedimentation control measures are to be installed along this boundary, and maintained at all times, to prevent any impact on the adjoining bushland.

### **3.4 Sequence of Extraction**

- (a) Extraction shall be carried out in the sequence specified in the Environmental Impact Statement and support documentation or such other amended extraction program as may be approved in writing by Council upon justification by the proponent.
- (b) Rehabilitation of the previously extracted precinct is to be completed within 3 months of completion of extraction in that cell. Rehabilitation of the tailings precincts shall be in accordance with the Environmental Impact Statement.

### **3.5 Extraction Depth**

- (a) The extraction depth is to be in accordance with details provided in the Environmental Impact Statement and supporting details, except as amended by these conditions of consent.
- (b) Extraction is not to occur within 2m of the wet weather high groundwater level, or otherwise to the requirements of the Department of Land & Water Conservation.
- (c) Extraction should not exceed 15.24m from original ground level, as this would encroach onto Crown land title.

### **3.6 Protection of Groundwater**

The proponent is to ensure that groundwaters are not breached or contaminated. In the event of groundwaters being breached or contaminated, operations are to cease within the vicinity of the affected area and Council together with the Department of Land & Water Conservation are to be immediately consulted to determine the basis upon which extraction may recommence.

### **3.7 Final Access Route**

- (i) The proponent is to provide and construct a final access route as indicated on Drawing No.: DIXON-3.DWG.
- (ii) The final access route must be constructed in accordance with engineering plans to be submitted to and approved by Council.
- (iii) Evidence of a further registered right of carriageway ("ROC#2"), by way of creation of a section 88B instrument, must be presented to Council prior to use of the final access road.

- (iv) The ROC#2 must at a minimum address the following:-
  - (a) Provision of a ROC#2 20 metres wide;
  - (b) Which entity will construct the ROC#2;
  - (c) Which entity will have the benefit of the use of the ROC#2 and any restrictions upon that use;
  - (d) Which entity will have the burden of maintenance of the ROC#2;
  - (e) Any modification, amendment or release of the ROC#2 is to be approved by Council;
  - (f) The ROC#2 continues to operate upon successors in title; and
  - (g) Issues of insurance, liability and indemnity as a result of use of the ROC#2.
- (v) The proponent must ensure that a registered right of carriageway is provided at all times for extractive industry traffic either in the form of the temporary access route as indicated on Drawing No.: DIXON-2.DWG or final access route as indicated on Drawing No.: DIXON-3.DWG.
- (vi) Prior to the closure of the temporary access route, the final access route must be constructed for use by extractive industry traffic.
- (vii) Prior to the use of the final access route, approval is to be obtained from the Department of Land and Water Conservation for the closure of part of the Crown Road Reserve as set out in Drawing No.: DIXON-2.DWG which runs adjacent to the southern boundary of Lot 196 DP752025 and runs adjacent to the eastern boundary with Lot 213 DP 752025.
- (viii) Sedimentation and erosion control devices are to be implemented for the final haul road route in accordance with the requirements outlined in Condition 2.23 of this consent.

### **3.8 Vehicle Movements**

- (a) The number of laden vehicle movements are not to exceed a combined total of 60 laden movements per day, including the importation of concrete sand product material.
- (b) The number of vehicles permitted to enter and leave the subject site between the hours of 6.00am and 7.00am is 15 laden vehicles, subject to compliance with EPA noise limitations.
- (c) The proponent shall implement a traffic management program to mitigate impacts of truck movements on Maroota Public School during opening and closing hours (i.e. 8.30am - 9.00am and 3.00pm - 3.30pm). Such measures shall be provided to Council prior to commencement of extraction from the subject sites.

The compliance with and effectiveness of such measures shall be reviewed in the Environmental Management Plan submitted to Council on an annual basis.

- (d) All vehicles are to enter and leave the site in a forward direction and prominent and permanent signposting to this effect is to be provided and maintained at all times.
- (e) The proponent is to ensure that the Old Northern Road pavement in the vicinity of the intersection with the Crown Access Road is regularly maintained and kept free of sand, clay and soil at all times. All costs of these works are to be borne by the proponent.
- (f) Details confirming the above matters are to be submitted to Council prior to the commencement of production and processing.

### **3.9 Restriction on Importation of Concrete Sand Product**

- (i) The importation of concrete sand product to blend with local sand on-site, is restricted to a maximum of 7% in accordance with details submitted in the Environmental Impact Statement;
- (ii) The truck movements associated with importation of concrete sand product are to be included in the permitted 60 laden truck movements per day; and
- (iii) Records of the date, time and number of truck movements and amount of concrete sand product imported are to be submitted to Council on a monthly basis, at the same time as records of vehicle arrival and departures times are submitted.

### **3.10 Maximum Total Annual Volume of Extractive Material**

The maximum total annual volume of material to be extracted from the development site shall be in accordance with details provided in the Environmental Impact Statement and accompanying Appendices, prepared by Southern Environmental Pty Limited, dated 1 June 1999.

### **3.11 Discovery of Archaeological Material**

In the event that any archaeological material is found during extraction, operations within the immediate vicinity are to cease immediately and the National Parks & Wildlife Service and Council are to be consulted.

### **3.12 Hours of Operation**

Operations involving extraction, transportation and processing or running of machinery for maintenance purposes shall not take place on the development site except between 7.00am and 6.00pm Monday to Saturday and at no time on Sundays and public holidays and there shall be no extraction in that part of the site described as the north western corner of the site shown as Precinct 9 on the Plan marked "A" on Saturdays.

The proponent will however be permitted to a maximum of fifteen (15) laden vehicles to enter and leave the subject site between the hours of 6.00am and 7.00am Mondays to Saturday, excluding Sundays and Public Holidays. The number of vehicles permitted



between the hours of 6.00am and 7.00am is subject to compliance with the Environment Protection Authority's noise limitations.

In relation to the transportation of material between 6.00am and 7.00am, the proponent will advise its drivers and its clients not to arrive at the site prior to 5.45am on any day. Certified (under company seal) weighbridge dockets and a log book or equivalent computer records are to be kept to verify the arrival and departure times of vehicles and copies of which are to be submitted to Council on the twenty-eight (28) day of each month.

### **3.13 Conservation of Adjoining Bushland**

- (a) Care is to be taken at all times to ensure that all natural bushland directly adjoining the development site and bushland to be conserved within the development site, is not damaged or disturbed.
- (b) Existing batters located within the 10m setback to property boundaries are to be stabilised, revegetated to ensure protection of the adjoining bushland. Details are to be submitted to Council within 3 months of commencement of operations.
- (c) Erosion and sedimentation control measures are to be installed and maintained in appropriate locations in order to protect adjoining bushland.

## **PART 4: WATER, AIR & NOISE QUALITY**

### **4.1 Compliance with Water Legislation**

The proponent shall ensure that the provisions of the *Clean Waters Act 1970* and *Rivers & Foreshore Improvements Act 1948* are complied with at all times.

### **4.2 Compliance with Protection of the Environment Operations Act, 1997**

The proponent shall comply with the provisions of the *Protection of the Environmental Operations Act, 1997*.

### **4.3 Compliance with Occupational Health & Safety Legislation**

The proponent shall ensure employees are not subjected to noise or dust levels greater than those specified and prescribed by the Workcover Authority and the Department of Mineral Resources and Factories (*Health & Safety Hearing Conservation*) Regulation 1979.

### **4.4 Noise Performance Standard**

The proponent shall ensure that construction and operational noise on the development site complies with the General Terms of Approval issued by the Environment Protection Authority, as attached to this consent.

#### **4.5 Dust Suppression Equipment**

Dust suppression equipment is to be fitted to all processing equipment and is to be maintained at all times. Details of these devices are to be submitted to Council in accordance with Condition 6.2 of this consent and to the satisfaction of the Environmental Protection Authority.

#### **4.6 Sprinkler System for Dust Suppression**

The proponent shall install wind activated sprinkler system capable of suppressing dust from all exposed/disturbed areas, internal access tracks and other sources in order to minimise the impacts of dust.

#### **4.7 Monitoring of Dust Generation**

The proponent is to monitor dust generation from the extractive operations and associated activities and the results of which are to be detailed in the Air and Noise Quality report referred to in Condition 6.2 of this consent.

In the event of dust nuisance being identified, the proponent shall immediately inform Council and implement any mitigation practice as required.

#### **4.8 Prevention of Dust Nuisance from Stockpiles**

Stockpiles of materials and other sediment laden areas are to be maintained so as to prevent any dust nuisance.

In this regard, arrangements satisfactory to Council are to be made for dust suppression from topsoil stockpiles until such time as vegetative consolidation takes effect and details of which are to be confirmed prior to the commencement of on-site works.

#### **4.9 Covering of Payloads**

Prior to leaving the development site, all loaded trucks must have their payloads fully covered by a suitable material to prevent spillage from the trucks onto the roads.

#### **4.10 Soil Erosion Mitigation Measures**

Mitigation measures to control soil erosion, sediment and surface water runoff are to be in accordance with the requirements of the Environmental Protection Authority and Department of Land and Water Conservation. This is to include regular monitoring in conjunction with relevant Officer(s) from the Environment Protection Authority, Department of Land and Water Conservation and Council.

#### **4.11 Discharge of Stormwater**

Discharge of stormwater from the subject site is to be clear of sediment and pollution in accordance with the provisions of the Protection of the Environment Operations Act, 1997 and to the satisfaction of the Environment Protection Authority and Council.

#### **4.12 Noise Attenuation Wall**

A noise attenuation wall is to be erected inside the eastern boundary of Lot 29, adjacent to the temporary internal haul road, in order to mitigate the impacts of noise on the adjoining properties and the Maroota Public School to the east. Details of the wall are to be submitted to Council for approval, and the wall erected prior to implementation of the temporary haul road. The wall should remain in place until extraction on Lot 29 and the use of the temporary haul road are ceased.

### **PART 5: REHABILITATION**

#### **5.1 Native Bush Regeneration**

Native bush regeneration techniques shall be used to stabilise the semi-permanent topsoil and overburden mounds surrounding the extraction area. The specialised techniques shall be carried out under the direction of a qualified Plant Ecologist.

The techniques used shall include the re-use of stored topsoil that has not been contaminated with exotic grasses or weed species and the collection and propagation of species from the site.

#### **5.2 Materials to be used for Backfill**

The extraction area is to be backfilled only with earth and rock materials sourced as a result of extraction operations on the subject site. No building waste or putrescible materials are to be disposed on the development site.

#### **5.3 Progressive Rehabilitation of the Development Site**

The development site is to be progressively rehabilitated in accordance with the EIS dated 1 June 1999 and the Rehabilitation Management Plan required by Condition No. 2.24 and regularly endorsed as required by Condition No. 6.4 of this consent or such amended plan as might be approved by Council.

Rehabilitation is to be undertaken progressively. Rehabilitation should be completed within 3 months of completion of extraction of a precinct. Tailings precincts shall be rehabilitated in accordance with the Environmental Impact Statement.

Final rehabilitation of the development site shall be completed in accordance with the conditions of this consent within the life of this consent (ie ten (10) years). The proponent is to submit thereafter a certificate of a qualified landscape consultant that final rehabilitation has been carried out in accordance with the conditions of this consent.

## **PART 6: MONITORING AND MANAGEMENT**

### **6.1 Environmental Management Plan**

The proponent shall submit to Council every twelve (12) months after the endorsed date of this consent an Environmental Management Plan in which Council is to be satisfied of the overall performance and management of the operation.

The Environmental Management Plan should refer to the objectives and principles of Ecologically Sustainable Development (ESD) and shall include as chapters the reports specified in conditions 6.2 to 6.6 of this consent.

The proponent shall provide to the Council an additional copy of the Environmental Management Plan to be made available for inspection by the public during Council's office hours.

### **6.2 Air and Noise Quality Report**

The proponent is to prepare an Air and Noise Quality Report in which Council is to be satisfied of the following:-

- a) Dust and noise sources are identified, classified and contained;
- b) Details on the containment of noise sources shall include the status of the construction of acoustic/visual mounds surrounding all plant equipment and machinery;
- c) All necessary licenses or permits are obtained;
- d) Dust and noise levels comply with the relevant standards and statutory requirements;
- e) Cumulative dust and noise levels do not adversely affect the amenity of surrounding residents and other rural land uses;
- f) The comments and recommendations of the Environment Protection Authority, Department of Land and Water Conservation and any other relevant authority;
- g) Measures are implemented to effectively control and reduce noise and dust emissions and thereby improve the performance of the operation.

The Noise Quality Report should also include the following matters, as recommended by the Environment Protection Authority:-

#### **Operational Noise:**

- (i) complaints monitoring;
- (ii) community liaison (eg. news letter presenting monitoring results);
- (iii) identifying and implementing engineering and operational methods of noise control;
- (iv) program to review any new technology/practises to reduce noise emissions over time;

- (v) longer-term strategies directed towards mitigating noise levels that exceed the target noise criteria; and
- (vi) monitoring the effectiveness of those measures with the affected community.

**Traffic Noise:**

- (i) scheduling truck movements to reduce noise impacts;
- (ii) more stringent limits for noise emissions from vehicles (ie. using specially designed "quiet" trucks and/or trucks to use air bag suspensions;
- (iii) type of road surface;
- (iv) phasing in the increased road use;
- (v) ongoing community liaison to monitor complaints;
- (vi) regular maintenance of road surfaces;
- (vii) a reduction of truck speed limits through residential areas;
- (viii) limiting the use of engine exhaust brakes around residential areas; and
- (ix) implementation of noise minimisation procedures through training programs for truck drivers.

### **6.3 Water Management Plan**

The proponent is to prepare a Water Management Plan in which Council is to be satisfied that adequate means of transferring and/or discharging the build up of ground and surface waters is continually maintained and monitored particularly in relation to the following:

- (a) Certified and suitable arrangements for dewatering water pits including contingency arrangements;
- (b) Means of treating polluted (including sediment laden) waters;
- (c) Means of maintaining/monitoring current surface and sub surface water quality;
- (d) Identification and adequacy of existing destination points for waters collected within the extraction area;
- (e) On-site reuse of collected water and other potential uses;
- (f) Maximum and average water levels experienced and the capacity of the existing water sump to sustain major storm events; and
- (g) State of significant site features, groundwater recharge areas and natural springs;
- (h) Achievement of qualitative and quantitative criteria of the approved Water Management Strategy including any improvements and/or adjustments now needed; and
- (i) The attainment of all necessary license and permits are obtained and complied with.

#### 6.4 Rehabilitation Plan Review

The proponent is to prepare a Rehabilitation Plan Review in which Council is to be satisfied of the following:-

- (a) the rate of rehabilitation should relate to the Works Program referred to in Condition 2.24 of this consent;
- (b) vegetated conservation zones and rehabilitated areas are maintained;
- (c) vegetation within buffer zones are successfully retained and protected;
- (d) progressive rehabilitation integrates with the surrounding terrain as illustrated in the Rehabilitation Plan, subject to the requirements of Condition 2.24;
- (e) vegetative covers are established at the earliest possible opportunity;
- (f) assessment/comment on the progress of rehabilitation carried out under the direction of the nominated supervisor;
- (g) on-going monitoring program for all flora and fauna species and communities within the development site, particularly those scheduled under the *Threatened Species Conservation Act, 1995*;
- (h) Conservation of threatened species, populations and ecological communities including buffer zones and conservation zones containing the *Kunzea rupestris*;
- (i) The construction of acoustic and visual bunding (buffers) is progressing in accordance with the details provided in the Environmental Impact Statement and Rehabilitation Plan, subject of Condition No. 2.24 of this consent;
- (j) Work As Executed plans are submitted for each completed extraction precinct, in accordance with the requirements of Council's "Design Guidelines - Subdivision/developments" (June 1997). These plans are to demonstrate that work and levels has been carried out in accordance with the Rehabilitation Plan;
- (k) Certification is submitted from an appropriately qualified Geotechnical Engineer, confirming the rehabilitated land has been compacted to a level suitable for its end use;
- (l) The creation of a restriction as to the use of the land, restricting future development after rehabilitation works, in accordance with details submitted by the Geotechnical Engineer appointed by the proponent and to the satisfaction of Council;
- (m) Method and progress of the rehabilitation of extracted areas and tailings dams are in accordance with current environmental laws standards and practices including guidelines published by the Australian Federal Environment Department and the Department of Land and Water Conservation.

## **6.5 Social Impact Management Plan**

The proponent is to prepare a Social Impact Management Plan in which Council is to be satisfied that extraction operations effectively manage and monitor social impacts upon the local community including:-

- a) Impact Management Planning which clearly identifying adjusted operating objectives and procedures undertaken to minimise social impact;
- b) Monitoring and Mitigating procedures involving the collection of information about actual impacts which is then applied to specific operating procedures to mitigate and manage social effects; and
- c) Evaluating involving the retrospective review of the overall performance of extraction and assesses the effectiveness of the management process itself with the view to rectify any deficiencies.

## **6.6 ESD Report**

The proponent is to prepare an ESD report in which Council is to be satisfied that extraction operations implement the principles of Ecologically Sustainable Development by demonstrating:-

- (a) Acquisition of all necessary licences and permits under all prevailing environmental statutes;
- (b) On-site materials management;
- (c) Water management;
- (d) Acoustic management;
- (e) Air quality management;
- (f) Transport routes, access and movements;
- (g) Rehabilitation management including results of flora and fauna monitoring programs;
- (h) Soil Conservation including geo-technical appraisal of tailing system, stability of all batters and certification of all erosion and sediment controls for all phases of development;
- (i) On-going consultation with community groups and nearby residents, together with the consideration of the recommendations of the Community Consultative Committee referred to in Condition 6.7 of this consent;
- (j) Identification, assessment and evaluation of risks, safeguards and the confidence level of contingency/emergency plans;

- (k) Statement of Compliance with the approved EIS documentation, conditions of this consent and the objectives of Council's DCP No. 500 – Extractive Industries. To confirm and illustrate the status of extraction and rehabilitation, the Statement of Compliance shall include a survey plan prepared by a registered Surveyor;
- (l) Consideration of advice and recommendations of all relevant state government agencies;
- (m) Reference to International Standards (ISO) 14001-14004 relating to Environmental Management Systems, which should address issues such as:-
  - the capacity and support mechanisms necessary to implement and achieve the proponent company's environmental policy, objectives and targets; and
  - the means by which the proponent company measure, monitor and evaluate its environmental performance.
- (n) Consideration of recommendations to adjust operation procedures to improve the overall performance of the operation.

#### **6.7 Liaison and Review Committee**

The proponent shall convene two review meetings a year to facilitate consultation and communication between the proponent, the Council, relevant state government agencies and the community in relation to the development and any impacts the development might have on the environment.

The committee for the review meetings shall consist of such of the following invited representatives who wish to attend:-

- (a) two permanent residents of Maroota not associated with the proponent company approved by the Council;
- (b) two representatives of the Council;
- (c) one representative of each of the Environmental Protection Authority, Department of Land and Water Conservation and Hawkesbury Nepean Catchment Management Trust;
- (d) one representative of the proponent; and
- (e) any other relevant person/s as may be considered appropriate by the Committee.

These meetings are to be arranged by the proponent, and all expenses involved in the organisation, carrying out and recording of these meetings are to be met by the proponent.



## **PART 7: SECTION 94**

### **7.1 Section 94 Contributions**

The applicant shall pay or procure payment to the Council of a contribution under Section 94 of the Environmental Planning and Assessment Act (1979) at the rate of \$0.65 per tonne of all extracted/processed material transported from the subject site, and in respect of the said contribution, the following provisions shall apply:-

- (a) The said contribution will be calculated and paid monthly from the date on which development consent became effective.
- (b) The said contribution will be indexed and adjusted annually as from the date the consent became effective, in accordance with the Consumer Price Index applicable to each year ending 30 June, commencing 1 July 1999, for the duration of the development consent and the said adjustment to the contribution shall take effect from and including July each year, commencing 30 June 1999 for the duration of the consent.
- (c) On or before the fourteenth day of each month of the duration of the consent, the applicant shall deliver or procure delivery to the Council of true certified copy weighbridge or other returns or records showing the true quantities of extracted/processed material transported from the property during the immediately preceding month and the Council will then, as soon as it can conveniently do so, issue an invoice to the applicant or its consenting assignee, who will pay to the Council within fourteen (14) days of the date thereof.
- (d) The Council has the right to inspect and have the original records relating to any of the extracted/processed material, including numbers and types of laden trucks, trailers and load quantities transported from the property audited by any person nominated by its internal accountant any time when he may by written request so require.
- (e) The Council will pay all of the said contribution payments into a specially identified account for payments towards the rehabilitation, restoration, repair and/or maintenance of Old Northern and Wisemans Ferry Roads from the intersection of the Crown Road access and the Baulkham Hills Shire boundary at Cattai Creek and other projects identified in the Plan of Management for Extractive Industries adopted by Council.

This condition has been imposed in accordance with Contributions Plan No. 6 - Extractive Industries. A copy of this plan may be inspected at the Customer Service Centre, Council's Administration Complex, corner of Carrington and Showground Roads, Castle Hill, between the hours of 8.30am and 4.30pm weekdays.

Pursuant to Section 80A of the Environmental Planning and Assessment Act, the reasons for the conditions imposed on this application are as follows:-

1. To facilitate the orderly implementation of the objects of the Environmental Planning and Assessment Act, 1979 and the aims and objectives of Council's Planning instrument.
2. To ensure that the local amenity is maintained and is not adversely affected, and that adequate safeguards are incorporated into the development.
3. To ensure the development does not hinder the proper and orderly development of the subject land and its surrounds.
4. To ensure the relevant heads of consideration under Section 79C of the Environmental Planning and Assessment Act 1979 are maintained.