

## DETERMINATION OF DEVELOPMENT APPLICATION

### Silverton Sand Quarry, Silverton

- Pursuant to Section 80 of the *Environmental Planning And Assessment Act 1979* -

#### **SCHEDULE 1**

**Application made by:** Chris Alderton, Green Edge Environmental on behalf of Steve Radford, Director, Consolidated Mining and Civil Pty Ltd.

**To:** The Western Lands Commissioner

**In respect of:** Land described as Mindioomballa Creek, adjacent to Lot 226 Deposited Plan 45042, Lot 7327 Deposited Plan 1180852, Lot 7341 Deposited Plan 1180852, and • Lot 7360 Deposited Plan 1182573 and Lot 117 Deposited Plan 757270.

**For the following:** Development of a sand quarry in Mindioomballa Creek, known as Silverton Sand Quarry, Silverton.

Modification 1 = Pink text    Modification 2 = light blue text

#### **SCHEDULE 2**

##### **Definitions**

Aboriginal object / Aboriginal place Applicant	Has the same meaning as the definition of the term in section 5 of the <i>National Parks and Wildlife Act 1974</i> Consolidated Mining and Civil Pty Ltd, or any person carrying out any development under this consent
BCD	Biodiversity & Conservation Division within the Department
Construction	Construction of road works and surface facilities, and clearing of vegetation relating to the construction of road works and surface facilities.
DA	Development Application.
DA Area	Development Application area which includes all works described in the DA, as modified by Mod 1
Department	NSW Department of Planning and Environment
Development	The development described in the documents listed in condition 3(a) of Schedule 2, as modified by the conditions of this consent
DPE - Crown Lands	Crown Lands Group within the Department
DPE - Water	Water Group within the Department
EIS	The Environmental Impact Statement and the Environmental Management and Rehabilitation Plan (C1301- dated 03/12/2014) prepared by Green Edge Environmental Pty Ltd
EPA	Environment Protection Authority
Environmental Management and Rehabilitation Plan	The Environmental Management and Rehabilitation Plan (C1301- dated 03/12/2014) prepared by Green Edge Environmental Pty Ltd, or updated version approved by the Planning Secretary under condition 53 of Schedule 2
Landholder	Includes owners and occupants of a property, and lessees of Western Lands Leases.
MEG	Mining, Exploration and Geoscience within Regional NSW
Mod 1	The modification described in SEE (Mod 1)
RR	Resources Regulator within Regional NSW
SEE (Mod 1)	The Statement of Environmental Effects (Version 4 dated 23 April 2020), including the supporting letter dated 7 April 2020, both prepared by Green Edge Environmental Pty Ltd
SEE (Mod 2)	The Statement of Environmental Effects (Revision 5, dated 29 June 2022), titled 'Statement of Environmental Effects Silverton Sand Quarry modification two' and email dated from Consolidated Mining & Civil dated 4 August 2022
Site	The land identified in Schedule 1
Planning Secretary	Planning Secretary under the <i>Environmental Planning and Assessment Act 1979</i> , or nominee
Quarrying operations	The extraction, stockpiling and transportation of sand carried out on the site

**Development Consent Conditions for the Mindioomballa Creek, Silverton Sand Quarry**

**General**

- (1) There is an obligation on the Applicant to prevent and minimise harm to the environment throughout the life of the development. As such, the Applicant is required to undertake all practicable measures to prevent and minimise harm that may result from the construction, operation and, where relevant, decommissioning of the development.
- (2) The Applicant must ensure that quarrying and related activities are contained within the boundaries of the Extractive Industries Licence area, as defined in the licence.
- (3) The Applicant must carry out the development:
  - (i) generally in accordance with the EIS, SEE (Mod 1) and SEE (Mod 2); and
  - (ii) in accordance with the conditions of this consent.
- (3A) In the event of an inconsistency, ambiguity or conflict between any of the document/s listed in condition 3(a) of this Schedule, the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.
- (4) If, at any time, the Planning Secretary is aware of environmental impacts from the proposal that pose serious environmental concerns due to the failure of environmental management measures in place to ameliorate the impacts, the Planning Secretary may order the Applicant to cease the activities causing those impacts until those concerns have been addressed to the satisfaction of the Planning Secretary.
- (5) If any consent conditions are breached, the Applicant must comply with any modification to the work as specified by the relevant agency who administers the activity.
- (6) The Applicant must ensure that every contractor, supervisor or other responsible person engaged in activities approved by this consent is familiar with and have ready access to this consent or a copy of this consent, and must be able to produce the consent within 24 hours when requested to do so by an authorised officer.
- (7) The Applicant must ensure that persons employed or otherwise engaged by him/her for the purpose of this consent do not contravene the provisions of the consent.
- (8) The Applicant must ensure that security deposits and bonds are paid as required.
- (9) Where agreement cannot be reached between the Applicant and a landholder, alternative arrangements are to be agreed with the Planning Secretary and/or relevant regulatory authority.

**Limits of Consent**

- (9A) Quarrying operations in the 'Quarry Area' described in SEE (Mod 1) Appendix A, may be carried out on the site until 31 October 2021 and quarrying operations in the 'Existing Licence Quarry Area' described in SEE (Mod 1) Appendix A, may be carried out on the site until 29 April 2025.

*Note: Under this consent, the Applicant is required to decommission and rehabilitate the site and carry out other requirements in relation to quarrying operations. Consequently, this consent will continue to apply in all respects other than to permit the carrying out of quarrying operations until the rehabilitation of the site and other requirements have been carried out to the required standard.*
- (9B) Quarrying operations are not permitted within Lot 6480 DP 769309.
- (9C) A maximum of 26,000 tonnes of sand may be extracted in any calendar year.
- (9D) The Applicant must ensure that quarrying operations do not:
  - (i) extract sand in layers more than 400 mm deep; and/or
  - (ii) exceed a total depth of 2 metres below natural ground level or intrude into the clay bed layer of Mindioomballa Creek.
- (9E) Truck movements at the site (ie inbound combined with outbound) must not exceed:
  - (i) 16 per day; and
  - (ii) 6 per hour.

**Quarry Management**

- (10) The Applicant must ensure all quarrying activities (including rehabilitation) comply with current best practice and industry standards.
- (11) The Applicant must only operate at the site between 7:00am to 6:00pm (Monday to Friday), and between 8:00am and 12:00pm (Saturday), with no operations to occur on Sunday. The Applicant

must obtain agreement with all adjoining landholders (including both the Silverton Village Committee and Silverton Common Trust) if a variation to the hours of operation is required.

### Heritage Management

- (12) The Applicant must ensure that the development does not cause any direct or indirect impact on any identified Aboriginal object or Aboriginal place located within the site.
- (12A) If suspected human remains are discovered on site, then all work surrounding the area must cease, and the area must be secured. The Applicant must immediately notify NSW Police and BCD, and work must not recommence in the area until authorised by NSW Police and BCD.
- (12B) If any previously unknown Aboriginal object or Aboriginal place is discovered on the site:
  - (i) all work in the immediate vicinity of the object or place must cease immediately;
  - (ii) a 10 metre buffer area around the object or place must be cordoned off; and
  - (iii) BCD must be contacted immediately.
- (12C) Work in the immediate vicinity may only recommence if:
  - (i) the potential Aboriginal object or Aboriginal place is confirmed by BCD upon consultation with the Registered Aboriginal Parties not to be an Aboriginal object or Aboriginal Place; or
  - (ii) an Aboriginal Heritage Impact Permit is obtained under section 90 of the *National Parks and Wildlife Act 1974*, and the Environmental Management and Rehabilitation Plan is revised to include appropriate management measures in respect the Aboriginal object or Aboriginal place, to the satisfaction of the Planning Secretary.
- (12D) The Applicant must ensure that all known Aboriginal objects or Aboriginal places on the site are properly recorded, and those records are kept up to date, in the Aboriginal Heritage Information Management System (AHIMS) Register.
- (13) If during the course of preparation or operations, the Applicant becomes aware of any European heritage items or archaeological relics not previously identified, the applicant must ensure all work likely to affect the material ceases immediately and the relevant organisations consulted about an appropriate course of action prior to recommencement of work. The relevant authorities may include the NSW Heritage Council, local historical societies and the Planning Secretary.

### Flora and Fauna Management

- (14) If threatened species (listed under the *Biodiversity Conservation Act 2016*) are identified on the site during operation of the quarry, the Applicant must immediately notify BCD. The Applicant must cease any work which could adversely impact on the identified species, should an appropriately qualified and experienced ecologist (approved by the Planning Secretary) in consultation with BCD deem it necessary. In the event that work ceases, work must not recommence until advice has been received from BCD.
- (15) During the life of the quarry and until the licence is cancelled by DPE - Crown Lands, the Applicant must maintain the rehabilitated areas. Maintenance may include but not be limited to:
  - replanting failed or unsatisfactory areas;
  - repairing erosion problems;
  - fire management;
  - pest and weed control;
  - control of feral animal populations;
  - maintain and repair fencing; and
  - establishment of enhancement techniques (eg watering) for revegetation areas especially during periods of low or limited rainfall.
- (15A) The Environmental Management and Rehabilitation Plan must include a program to monitor the health of in-stream River Red Gum trees. This program must:
  - (i) provide regular monitoring of tree health, at a suitable frequency, during quarrying operations; and
  - (ii) identify appropriate triggers for remedial action, in consultation with BCD, to the satisfaction of the Planning Secretary.

### Soil Management

- (16) The Applicant must ensure all works involving soil or vegetation disturbance are undertaken with adequate measures to control and minimise soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.

### Land Management

- (17) The **Applicant** must eradicate all identified noxious weed species on and within a distance of 20 metres from the centre-line of the access track (starting from the Main Road), and within the DA Area, with control to commence from the granting of the consent.
- (18) The **Applicant** must implement measures before, during and after construction to prevent the establishment and/or spread of noxious weeds, especially Mesquite and African Boxthorn, within and beyond the DA Area. In the event that the distribution of noxious weeds has increased as a result of the direct activities of **quarrying**, the **Applicant** must implement measures to control and eradicate the weeds.

#### Water Management

- (18A) The **Applicant** must ensure that all surface discharges from the site comply with the relevant provisions of the *Protection of the Environment Operations Act 1997*.
- (19) The **Applicant** must ensure extraction operations are conducted in such a way that there is no diversion of the watercourse from the existing alignment, and so as not to cause damage or increase erosion of the adjacent banks.
- (20) The **Applicant** must ensure that no materials are used that may pollute the river or that may create a risk to public safety.
- (20A) The **Applicant** must:
  - (i) not carry out quarrying operations within the drip line of existing trees;
  - (ii) not carry out quarrying operations within 1 metre of the bank of Mindioomballa Creek; and
  - (iii) maintain a maximum batter slope of 1:3 between quarrying operations and the Mindioomballa Creek bank.
- (21) If, in the opinion of any responsible officer of **DPE - Water**, any work is carried out in such a manner as it may damage or detrimentally affect a watercourse, or damage or interfere in any way with any work, the **Applicant** must ensure that the operation on that section of the watercourse ceases immediately upon written or oral direction of such officer. Any necessary permits or consents, and/or actions, must be obtained and complied with prior to recommencement of work in the relevant area.
- (22) The **Applicant** must ensure all activities are undertaken in a manner which ensures efficient use of water and which maximises reuse of water.

#### Site Rehabilitation and Final Land Use

- (23) The **Applicant** must carry out rehabilitation of all quarry areas in accordance with the requirements of any Extractive Industry Licence granted ensure that progressive rehabilitation of the area is also undertaken in consultation with the EPA and **to the satisfaction of the Planning Secretary**.
- (23A) The **Applicant** must ensure that all tracks established during the carrying out of the development are restored to the state that pre-existed prior to the commencement of quarrying operations.
- (24) The **Applicant** must remove all structures (other than silt fences and other erosion/sedimentation control devices), infrastructure and construction equipment on completion of the work, as well as any material and refuse related to the work.
- (25) The **Applicant** must ensure that any required revegetation of the DA area is undertaken using locally endemic species.

#### Air Quality and Noise

- (25A) The **Applicant** must take all reasonable steps to minimise any visible off-site air pollution generated by the development, including wheel-generated dust emissions along the quarry haul road.
- (26) The **Applicant** must ensure agricultural activities on properties adjacent to the DA Area and the access tracks / routes are not adversely affected by dust generated by the **development**. Should agricultural activities be affected, the **Applicant** must identify measures to remediate this impact in consultation with the lease holders of the affected property.
- (27) The **Applicant** must ensure that the noise emissions from the operation of the quarry and associated activities must not exceed 35 LAeq dB(A) at any time at any non-quarry related residences (*Note*: The noise limit criteria apply in accordance with the specifications and requirements of **the EPA's Industrial Noise Policy**).
- (28) In the event that a landowner or occupier of a privately owned property considers that noise from the **development** at their dwelling is in excess of the noise levels outlined above, and the EPA and/or **the Planning Secretary** is satisfied that an investigation is required, the **Applicant** must, upon the receipt of a written request from the landowner:
  - (i) consult with the landowner or occupants affected to determine their concerns;

- (ii) make arrangements for, and bear the costs of, appropriate independent noise investigations to the satisfaction of the EPA and/or the **Planning Secretary**, to quantify the impact and determine the source of the effect and the contribution of the **development** to the effect;
  - (iii) if **exceedances** are demonstrated by the investigation to result in part from the quarry related activity. This must include:
    - introduction of additional controls, either on noise emission from individual sources on the site or on site operations or modify operations, to ensure that the criteria are achieved;
    - seek agreement of the landowner to undertake noise mitigation measures at the dwelling to achieve the acceptable internal noise levels;
    - seek agreement of the landowner to provide such other forms of benefit or amelioration of the impacts of noise as may be agreed between the parties as providing acceptable compensation for the noise levels experienced.
  - (iv) conduct follow up investigations to the satisfaction of the EPA and/or the **Planning Secretary**, where necessary.
- (29) The **Applicant** must ensure trucks entering and leaving the premises that are carrying loads are covered at all times, **except** during loading and unloading.

#### Visual Amenity and Landscaping

- (30) The **Applicant** must ensure that the DA area is kept in a state that is considered to be clean and orderly.

#### Waste Management and Hazardous Materials

- (31) The Applicant must not, except as expressly permitted by a licence under the *Protection of the Environment Operations Act 1997*:
  - (a) receive any waste at the premises for storage, treatment processing or disposal; or
  - (b) dispose of any waste on the premises.
- (32) The Applicant must make arrangements for the disposal of all solid wastes (other than **quarrying** wastes), domestic waste and putrescible matter in accordance with the *Protection of the Environment Operations Act 1997* and the 'Environmental Guidelines: Assessment, Classification and Management of Liquid and Non-liquid Wastes' from the Department of Environment and Conservation (1999) or its latest version.
- (33) The **Applicant** must ensure that the storage and handling of dangerous goods (including diesel) is in accordance with the requirements of WorkCover NSW and the relevant Australian standards. In particular, the storage tanks should be bunded in accordance with the NSW Workcover 'Storage and Handling of Dangerous Goods' Code of Practice 2005 and Australian Standard 1940-2004 or their latest versions.
- (34) The **Applicant** must ensure that no machinery and other construction equipment is stored within the bed of any watercourses when not in use. All machinery, equipment, fuels, oils, chemicals, lubricants and hazardous substances are to be stored a minimum of 40 metres of the high bank of any watercourses.
- (35) The **Applicant** must ensure no refuelling is undertaken within 40 metres of the high bank of any watercourses.
- (36) The **Applicant** must ensure that facilities are available onsite to contain and clean chemical and hydrocarbon spills, and that personnel are trained in the correct use of these facilities;

#### Roads and Access

- (37) The **Applicant** must restrict vehicle and plant movements to dedicated access tracks/roads, **quarrying** and other infrastructure areas previously cleared of native vegetation within the DA Area.
- (38) The **Applicant** must ensure that, in the event of rain or other inclement weather and/or times of water flow within any watercourses, all vehicle traffic and extraction activities (operations) must stop and any damage that occurs to tracks and roads must be repaired at the **Applicant's** expense.
- (39) The Applicant must consult with relevant leaseholders and negotiate appropriate reimbursement at current market values for stock losses attributable to **development** traffic or other **development** activities.
- (40) The **Applicant** must prepare and implement a code of conduct relating to the transport of materials on public roads, in accordance with Clause 16 of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.



- (41) The access from Silverton Road is to be sealed for a minimum of 20 metres from the edge of the travel lane, match existing road levels and not interfere with existing road drainage;
- (42) Safe Intersection Sight Distance (SISD) requirements outlined in the Austroads Guide to Road Design Part 4A and relevant Road and Maritime Supplements shall be provided in both directions at the vehicular access points servicing the quarry from Silverton Road;
- (43) The **Applicant** shall ensure that any gate, grid or similar structure installed to provide suitable storage capacity for the largest class of vehicle accessing the site should be setback appropriately from the edge of the road on Silverton Road;
- (44) Advance truck warning (W5-22) and distance plate (W8-5) signage is to be provided at appropriate locations to give approaching motorists suitable **warning** of the slowing, stopping and turning manoeuvres associated with vehicles entering and leaving the development;
- (45) The **Applicant** shall ensure that dust generated by activities on the site does not cause a nuisance or hazard to traffic on Silverton Road;
- (46) The **Applicant** shall ensure that all required road works are completed to the satisfaction of **TfNSW** prior to operation of the quarry;
- (47) **Deleted**

#### Reporting

- (48) The Applicant must ensure that within 24 hours of any incident or potential incident with actual or potential significant off-site impacts on people or the biophysical environment, a report is supplied to the EPA and **the Planning Secretary** outlining the basic facts. A further detailed report must be prepared and submitted following investigations of the causes and identification of necessary additional preventative measures. That report must be submitted to the EPA and **the Planning Secretary** no later than 14 days after the incident or potential incident.
- (49) The Applicant must maintain a register of accidents, incidents and potential incidents. The register must be made available for inspection by the EPA and **the Planning Secretary** at any time.
- (50) The **Applicant** must nominate at least one person (and that person's telephone number) who will be available to the EPA on a 24 hour basis, and who have authority to provide information and to implement such measures as may be necessary from time to time to address a pollution incident or to prevent pollution from continuing as directed by an authorised officer of the EPA.
- (50A) **Each year, from the date of determination of Mod 1, the Applicant must provide calendar year quarry production data to MEG, using the relevant standard form, by no later than 30 January.**

#### Further Approvals and Agreements

- (51) The Applicant must ensure that all statutory requirements including, but not restricted to, those set down by the *Dangerous Goods (Road and Rail Transport) Act 2008*, *Local Government Act 1993*, ***Local Land Services Act 2013***, *Mining Act 1992*, *Mine Health and Safety Act 2004*, *National Parks and Wildlife Act 1974*, *Native Vegetation Act 2003*, *Protection of the Environment Administration Act 1991*, *Protection of the Environment Operations Act 1997*, *Rural Fires Act 1997*, ***Biodiversity Conservation Act 2016***, *Water Act 1912* and *Water Management Act 2000*, and *Work Health and Safety (Mines) Act 2013*, and all other relevant legislation, Regulations, Australian Standards, Codes, Guidelines and Notices, Conditions, Directions, Notices and Requirements issued pursuant to statutory powers by the **MEG, RR, EPA, DPE -Water, NRAR, BCD, TfNSW and the Planning Secretary** are fully met.

#### Revision of Strategies, Plans and Programs

- (52) Within three months of the determination of Mod 1, the Applicant must review the suitability of the:
  - (i) **Driver's Code of Conduct required under condition 40 of this Schedule; and**
  - (ii) **Environmental Management and Rehabilitation Plan,**
 to the satisfaction of the Planning Secretary.
- (53) **Where necessary to improve the environmental performance of the development or cater for changes made under Mod 1, the documents listed in condition 52 of this Schedule must be revised to the satisfaction of the Planning Secretary. These revisions must be made in consultation with TfNSW and DPE -Crown Lands (as relevant) and the revised documents must be submitted to the Department within six weeks of the review, for subsequent approval by the Planning Secretary.**
- (54) **The Applicant must implement the Driver's Code of Conduct and Environmental Management and Rehabilitation Plan to the satisfaction of the Planning Secretary.**

#### Works and Activities Not approved by Development Consent

Nothing in development consent authorises:

- (a) any alteration or extension to or rebuilding of a building or work, or
- (b) any increase in the area of the use made of a building, work or land from the area actually physically and lawfully used, or
- (c) any enlargement or expansion or intensification of an existing use, or
- (d) the continuance of the use which is in breach of any consent in force under any Act in relation to that use or any condition imposed or applicable to that consent.

Such activities will require consultation with and separate approvals (as required) from MEG, RR, EPA, DPE -Water, NRAR, BCD, TfNSW and the Planning Secretary, and any other Government agency, before proceeding.

**Approval**

Approved by:

Sharon Hawke  
Acting Western Lands Commissioner

April 2015