

SYDNEY NORTH PLANNING PANEL

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| Panel Reference | 2014SYW168 |
| DA Number | DA/1380/2014 |
| LGA | Hornsby Shire Council |
| Proposed Development | Sandstone Extractive Industry |
| Street Address | Lots 1 and 2 DP 732708, Nos. 97 and 113 Old Telegraph Road Maroota |
| Applicant | PF Formation |
| Owner | Mr John Alexander Graham and Mrs Amanda Graham Mr TM Porteli and Mrs CC Porteli |
| Date of DA lodgement | 11 November 2014 |
| Number of Submissions | Four |
| Recommendation | Approval |
| Regional Development Criteria (Schedule 4A of the EP&A Act) | Particular designated development (extractive industry) |
| List of all relevant s79C(1)(a) matters | <ul style="list-style-type: none"> • State Environmental Planning Policy No. 33 - Hazardous and Offensive Development • State Environmental Planning Policy No. 44 - Koala Habitat Protection • State Environmental Planning Policy No. 55 - Remediation of Land • State Environmental Planning Policy (Mining, Petroleum, Production and Extractive Industries) 2007 • Sydney Regional Environmental Plan No. 9 - Extractive Industry (No. 2 - 1995) • Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean (No. 2 - 1997) • Hornsby Local Environmental Plan 2013 • Hornsby Development Control Plan 2013 • Hornsby Shire Council Section 94 Development Contributions Plan 2012 – 2021 |
| List all documents submitted with this | <ul style="list-style-type: none"> • Locality Plan |

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| report for the Panel's consideration | <ul style="list-style-type: none"> Extraction and Remediation Plans (9 sheets) Vehicle haulage route diagram |
| Report prepared by | Cassandra Williams |
| Report date | 13 July 2017 |

Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **N/A**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)? **No**

Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**

Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

ASSESSMENT REPORT AND RECOMMENDATION

EXECUTIVE SUMMARY

The following is an assessment of a development application for the use of the site for a sandstone extractive industry.

The proposal complies with the provisions of the *Hornsby Local Environmental Plan 2013* and the Hornsby Development Control Plan 2013.

SEPP 33 requires Council to specifically assess the hazards and risks associated with a proposed development before approval is given for the construction of the operation. The proposal is not potentially a hazardous industry and no hazardous materials or dangerous goods would be stored or used on-site. Accordingly, a preliminary hazard analysis is not required.

The proposed development is potentially an 'offensive industry' as an Environment Protection Licence from the Environmental Protection Authority (EPA) is required. Subject to compliance with the EPA licencing requirements and General Terms of Approval, the proposed development is assessed as satisfactory.

SEPP 44 requires a consent authority to satisfy itself whether or not the land is a potential koala habitat or core koala habitat. The land is a potential koala habitat as a preferred feed tree species (Scribbly Gum - *Eucalyptus haemastoma*) is present on site.

An Assessment of Flora and Fauna was undertaken by Aquila Ecological Surveys (September 2014). The survey did not identify any koalas or evidence of the species within the project site. In accordance with clause 9 of the *SEPP*, as the site is not identified as containing core koala habitat, a consent authority is not prevented from granting consent to the development application under the requirements of the *SEPP*.

Clause 7 of *SEPP 55* states that Council must not consent to carrying out of any development unless it has considered if the land is contaminated and if so whether it is suitable or can be suitable (after remediation) for the proposed use. The site has been used extensively for agricultural activities without any evidence of contamination. Notwithstanding, Council records indicate a portion of the rear of the site contains unauthorised landfill. The application has subsequently been amended to exclude this portion of the site from the extraction area.

Clause 12-17 of *SEPP (Mining, Petroleum, Production and Extractive Industries) 2007* sets out the matters to be considered when assessing an application for extractive industry, including:

- *Compatibility of proposed mine, petroleum production or extractive industry with other land uses within the vicinity*
- *Compatibility of proposed development with mining, petroleum production or extractive industry within the vicinity of the subject site.*
- *Natural resource management and environmental management*
- *Resource recovery*
- *Transport*

- *Rehabilitation*

Subject to compliance with the recommended conditions of consent, GTA's and supporting documentation, the proposed development satisfies the provisions of *SEPP (Mining, Petroleum, Production and Extractive Industries) 2007*.

Clause 7 of *SREP 9* requires the consent authority to:

- *considered the effect of the development on flood behaviour, the water quality, quantity and hydrodynamics of any watercourse or underground waters and also the effect of flood behaviour on the development and operations associated with the development in the vicinity, and*
- *considered a rehabilitation plan prepared in accordance with the Guidelines for Rehabilitation Plans in the Extractive Industry Report, and*
- *satisfied that, while the development is being carried out, noise and vibration levels will generally be in accordance with the guidelines in the State Pollution Control Commission Environmental Noise Manual (1985 edition), and*
- *satisfied that rehabilitation measures will be carried out in accordance with the guidelines in the Urban Erosion and Sediment Control Handbook (1992) prepared by the Department of Conservation and Land Management*

The supporting documentation submitted with the application, including advice received from the relevant Public Authorities and the recommended consent conditions will enable the development to be undertaken in accordance with the above requirements and with minimal environmental impact.

Clause 11 of *SREP 9* contains special requirements for extractive industry at Maroota. The application includes supporting documentation with respect to groundwater impacts and environmental impacts. Subject to the recommended conditions and GTA's issued by the relevant public authorities, the development is unlikely to have a significant adverse impact on the Maroota groundwater resource or on other groundwater users in the region, and will conserve the environmentally sensitive and significant areas and features of the Maroota locality, including the environment of threatened species, populations and ecological communities.

In accordance with *SREP 9*, the proposal has one access point to Old Telegraph Road and will result in a final landform capable of supporting sustainable agricultural production land use compatible with the established character and the landscape and natural quality of the Maroota locality.

The site is within the catchment of the Hawkesbury-Nepean River. As such the land is subject to the provisions of *SREP 20*. The proposed extractive industry is satisfactory having regard to the general planning considerations and the specific planning policies and recommended strategies listed in the instrument.

During the notification period Council received 4 submissions.

Assessment of the application against the relevant planning framework and consideration of various design matters by Council's technical departments in conjunction with advice received

from Public Authorities has not identified any fundamental issues of concern that cannot be addressed by way of conditions. Consequently this report recommends that consent be granted to this application in accordance with the attached plans and conditions.

RECOMMENDATION

THAT the Sydney North Planning Panel approve Development Application No. DA/1380/2014 for sandstone extractive industry at Lot 1 DP 732708, Nos. 97 and 113 Old Telegraph Road Maroota subject to the conditions of consent detailed in Schedule 1 of this report..

BACKGROUND

On 11 November 2014, DA/1380/2014 was lodged for a sandstone extractive industry.

On 19 November 2014, Council wrote to the applicant and advised that additional fees were owed in accordance with Clause 252 and 256H of the *Environmental Planning and Assessment Regulation 2000*. The applicant was also advised that the proposal constitutes integrated development under the *Water Management Act 2000* and referral fees were required.

On 21 November 2014, the applicant queried the referral to DPI Water as the development is not within 40 metres of waterfront land and would not result in aquifer interference.

On 6 February 2015, Council requested additional information with respect to a restoration plan and details to the proposed use of the site post rehabilitation; traffic and engineering matters, soil contamination, on-site sewerage management, submission of an environmental management plan, and furnishing of advice received from OEH.

Given that the applicant had not furnished referral information for DPI Water, Council sought confirmation from them and was advised that the DA is integrated under S91(3) of the *Water Management Act 2000*. The application was referred to DPI Water on 24 November 2015 and they advised on 5 January 2016 that additional information was required and the applicant was subsequently advised.

On 4 March 2016, DPI Water advised Council that they had met with the applicant and agreed to an extension of time to submit the required information.

On 8 May 2017, DPI Water advised Council that they had met with the applicants on several occasions and have assessed the supplementary report and were now in a position to issue General Terms of Approval.

SITE

The site comprises two properties known as Nos. 97 and 113 Old Telegraph Road Maroota.

No. 97 Old Telegraph Road has an area of 10 hectares and is relatively flat on the cleared western portion. The property contains two dwellings (one of which is vacant) at the frontage of the site and various concrete block and corrugated iron outbuildings used for storage and stables associated with horse training. Open pasture covers the majority of the land which also includes a disused trotting track and fenced paddocks for horse adjustment.

No. 113 Old Telegraph Road has an area of 10.04 hectares and gently slopes to the north-east and is generally cleared. The property contains a dwelling and various agricultural outbuildings at the Old Telegraph Road frontage. The remainder of the land is used as market gardens.

The site has a combined area of 20.04 hectares and is located within the dispersed headwaters and catchment divide of Ashdale Creek and Coopers Creek which both flow in an easterly direction into the nearby Marramarra National Park and eventually the Hawkesbury River about 5km to the east. There are no natural waterways located on the land although the eastern portion of No. 113 Old Telegraph Road is occupied by a large dam which supports irrigation for market gardening.

Both lots are affected by an easement for transmission lines approximate 61m wide located in a north-south direction in the eastern portion of the land. Both lots are classified as Class 3 agricultural land.

PROPOSAL

The application proposes to extract from the land and process approximately 1 million tonnes of sand in 2 stages over 10 years and after extraction, progressively rehabilitate the land for agricultural use.

Stage 1 involves an area of approximately 5.6ha (reduced from 6.4ha as originally proposed) within No. 97 Old Telegraph Road and Stage 2 involves extraction from 5.1ha within No. 113 Old Telegraph Road. The extracted material will be transported off site to an existing PF Formation processing plant over 10 years from the date of commencement of the consent.

The depth of extraction over the majority of the site would generally be 10m below existing natural ground level with the exception of an area of 7500m² encompassing an existing knoll above the 210m contour located in the eastern portion of Stage 1 which would be extracted 13m below natural ground level.

The maximum depth of extraction would not be below 197m AHD which is above the estimated groundwater level of 185m AHD. A new dam will be established near the eastern limit of the extraction area in Stage 1. A permanent sandstone rip-rap channel would connect the new dam to the existing dam at a lower level.

The extraction and rehabilitation process would be carried out progressively in 3 operational cells for both stages. The typical process would involve simultaneous operations involving removal of vegetation and topsoil in the initial or preceding cell; extraction of material in the working cell incorporating temporary sediment traps; and rehabilitation of the previously worked cell.

Upon completion of the extractive operations, the disturbed areas will be rehabilitated and levelled for use as agricultural land, bushland, and dams for water supply. Finished levels would be between 197m AHD and 205m AHD for Stage 1 and between 198m AHD and 207m AHD for Stage 2. Temporary earth bunds up to 4m high for screening and noise attenuation would be installed above each extraction cell along the southern site boundary in Stage 1 and the northern site boundary in Stage 2.

The proposed hours of operation of the extractive industry are 7.00am - 6.00pm Monday to Saturday. It is anticipated that the site would be operated for around 275 days a year.

There would be no on-site processing with extracted material classified as VENM (virgin excavated natural material) sent to PF Formation's existing processing plant accessed opposite the entrance to No. 1774 Wisemans Ferry Road Maroota. This processing plant located on Lot 1 DP 570966 has approval to accept 20 truckloads of VENM each day under the Hitchcock Road Sand Project (Minister for Planning approval 06_0104 dated 3 February 2009) on which the processing plan for the proposal is located has some limits on approval including the following:

- *Extraction and processing operations may take place until 30 November 2028.*
- *The quantity of processed material produce at the site, together with material produced on Lot 2 DP 555184 and Lot 1 DP 34599 in accordance with the development consent issued by the Land and Environment Court on 14 July 1998, shall not exceed 400,000 tonnes a year.*
- *The proponent shall restrict total laden truck movements associated with the project to:*
 - a) *200 per day, for the proponent's combined operations at Maroota;*
 - b) *20 per day for trucks importing VENM to the site; and*
 - c) *10 per day, for trucks entering/ exiting the site between 6.00am and 7.00am.*

Note: for the avoidance of doubt, 200 is the maximum laden truck movement volume allowed on any one day, including the VENM and early morning truck movements.

The EIS states that independent audits of the Hitchcock Road Sand Project (April 2011 and April 2014) established that the quantity of processed material produced at the site was less than 400,000 tonnes a year, total laden truck movements were less than 200 per day and that no VENM has been imported into the project site, therefore the processing of extracted material from this development can be undertaken at the Hitchcock Road Sand Project site (Lot 1 DP570966).

ASSESSMENT

The development application has been assessed having regard to 'A Plan for Growing Sydney', the 'North Subregion (Draft) Subregional Strategy' and the matters for consideration prescribed under Section 79C of the *Environmental Planning and Assessment Act 1979* (the Act). The following issues have been identified for further consideration.

1. STRATEGIC CONTEXT

1.1 A Plan for Growing Sydney and (Draft) North Subregional Strategy

A Plan for Growing Sydney has been prepared by the NSW State Government to guide land use planning decisions for the next 20 years. The Plan sets a strategy for accommodating Sydney's future population growth and identifies the need to deliver 689,000 new jobs and 664,000 new homes by 2031. The Plan identifies that the most suitable areas for new housing are in locations close to jobs, public transport, community facilities and services.

The NSW Government will use the subregional planning process to define objectives and set goals for job creation, housing supply and choice in each subregion. Council has been grouped with Hunters Hill, Ku-ring-gai, Lane Cove, Manly, Mosman, North Sydney, Pittwater, Ryde, Warringah and Willoughby to form the North Subregion. The *Draft North Subregional Strategy* will be reviewed and the Government will set housing targets and monitor supply to ensure planning controls are in place to stimulate housing development.

The proposed development would be consistent with 'A Plan for Growing Sydney'.

2. STATUTORY CONTROLS

Section 79C(1)(a) requires Council to consider *"any relevant environmental planning instruments, draft environmental planning instruments, development control plans, planning agreements and regulations"*.

2.1 Environmental Planning and Assessment Regulation 2000 - Designated Development

Schedule 3 Clause 19 of the *Environmental Planning and Assessment Regulation 2000*, designates 'extractive industries' that obtain extractive materials by methods including excavating, dredging, tunnelling or quarrying or that store, stockpile or process extractive materials by methods including washing, crushing, sawing or separating.

The proposal is designated development for the following reasons:

- (a) *that obtain or process for sale, or reuse, more than 30,000 cubic metres of extractive material per year, or*
- (b) *that disturb or will disturb a total surface area of more than 2 hectares of land by:*
 - (i) *clearing or excavating, or*
 - (ii) *constructing dams, ponds, drains, roads or conveyors, or*
 - (iii) *storing or depositing overburden, extractive material or tailings, or*
- (c) *that are located:*
 - (i) *in or within 40 metres of a natural waterbody, wetland or an environmentally sensitive area, or*
 - (ii) *within 200 metres of a coastline, or*
 - (iii) *in an area of contaminated soil or acid sulphate soil, or*
 - (iv) *on land that slopes at more than 18 degrees to the horizontal, or*
 - (v) *if involving blasting, within 1,000 metres of a residential zone or within 500 metres of a dwelling not associated with the development, or*
 - (vi) *within 500 metres of the site of another extractive industry that has operated during the last 5 years.*

In accordance with the *Environmental Planning and Assessment Act 1979*, Council has given written notice of the development application to public authorities and adjoining property owners/occupiers. A notice was placed on the land which could be read from a public place.

A notice was published in accordance with the regulations in a newspaper circulating in the locality.

In accordance with Clause 78(8)(a) of the Act, an Environmental Impact Statement (EIS) has been prepared and submitted with the application.

2.2 Hornsby Local Environmental Plan 2013

The proposed development has been assessed having regard to the provisions of the *Hornsby Local Environmental Plan 2013 (HLEP)*.

2.2.1 Zoning of Land and Permissibility

The subject land is zoned RU1 Primary Production under the *HLEP*. The objectives of the RU1 zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To encourage land uses that support primary production, including low-scale and low-intensity tourist and visitor accommodation and the provision of farm produce direct to the public.*
- *To ensure that development does not unreasonably increase the demand for public infrastructure, services or facilities.*

The proposed development is defined as ‘*Extractive industries*’ and is permissible in the zone with Council’s consent.

The proposal is consistent with the objectives of the RU1 zone in that it would not cause population growth or fragment the land and is within the servicing capacity of the area. Although the proposal would restrict agriculture in the medium term, it is proposed to provide a major portion of the extraction area for agriculture and bushland once extraction has ceased. The environmental and rural qualities of the area would be maintained with rehabilitation of the extraction areas for agriculture, dams and bushland.

2.2.2 Heritage Conservation

Clause 5.10 of the *HLEP* sets out heritage conservation provisions for Hornsby Shire. The site does not include a heritage item, is not located in a heritage conservation area and there are no known Aboriginal places of heritage significance on the site or in the vicinity of the extraction area. Accordingly, no further assessment regarding heritage conservation is required.

2.2.3 Earthworks

Clause 6.2 of the *HLEP* states that consent is required for proposed earthworks on site. Before granting consent for earthworks, Council is required to assess the impacts of the works on adjoining properties, drainage patterns and soil stability of the locality.

Subject to the recommended conditions in Schedule 1, the earthworks proposed as part of the extractive industry would not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

2.3 State Environmental Planning Policy No. 33 - Hazardous and Offensive Development

State Environmental Planning Policy No. 33 - Hazardous and Offensive Development (SEPP 33) requires Council to specifically assess the hazards and risks associated with a proposed development before approval is given for the construction of the operation. Two of the relevant aims of the Policy are:

- (a) *to ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account, and*
- (b) *to ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact, and*

Applying *SEPP 33* merit based assessment guidelines, risk screening methods and thresholds (e.g. types and quantities of hazardous materials and dangerous goods, location, distance to boundaries and vehicle movements) to the extractive industry development; the proposal is not potentially a hazardous industry. No hazardous materials or dangerous goods would be stored or used on-site. Accordingly, a preliminary hazard analysis is not required.

The proposed development is potentially an 'offensive industry' as an Environment Protection Licence from the Environmental Protection Authority (EPA) is required. Subject to compliance with the EPA licencing requirements and General Terms of Approval in Schedule 1, the proposal has addressed the requirements of *SEPP 33*.

2.4 State Environmental Planning Policy No. 44 - Koala Habitat

The land is a potential koala habitat as a preferred feed trees species (Scribbly Gum - *Eucalyptus haemastoma*) is present on site.

No koalas or evidence of the species were detected on the site during the fauna survey. Council's Natural Resources Unit concurs with the EIS with regards to *State Environmental Planning Policy No. 44 - Koala Habitat (SEPP 44)* in that the site is a potential Koala habitat, however, due to the absence of Koala activity a Koala Plan of Management is not required.

2.5 State Environmental Planning Policy No. 55 - Remediation of Land

Clause 7 of *State Environmental Planning Policy No. 55 - Remediation of Land (SEPP 55)* requires Council to consider whether land is contaminated prior to granting consent to the carrying out of any development on that land.

Should the land be contaminated Council must be satisfied that the land is suitable in a contaminated state for the proposed use. If the land requires remediation to be undertaken to make the land suitable for the proposed use, Council must be satisfied that the land will be remediated before the land is used for that purpose.

Whilst the site history indicates that unauthorised landfill has occurred in a portion of the rear of the site, this has occurred outside of the proposed extraction area and would not be disturbed as part of the development. The application has been amended to exclude this portion of the site from the development proposal. Accordingly, with regards to the extraction area the subject of the DA, the site history indicates that it is not likely that this area of the site has experienced any significant contamination, and further assessment under *SEPP 55* is not required.

2.6 State Environmental Planning Policy (Mining, Petroleum, Production and Extractive Industries) 2007

The aims of this Policy are, in recognition of the importance to New South Wales of mining, petroleum production and extractive industries:

- (a) *to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and*
- (b) *to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and*
- (c) *to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources.*

Clause 12-17 of the Policy sets out the matters to be considered when assessing an application for extractive industry.

With respect to Clause 12, the proposal is compatible with the surrounding land uses of agriculture and extractive industry and would not have a significant impact on the existing and potential future land uses. Public benefits would flow from the proposal as discussed in Section 3.3 of this report.

With respect to Clause 13, the proposal is compatible with the existing on-site and likely future land uses of extractive industry and agriculture and would not have a significant impact on these existing and future land uses. Public benefits would flow from the proposal as discussed in Section 3.3 of this report.

With respect to Clause 14, Council must consider whether or not the consent should be issued subject to conditions aimed at ensuring that the development is undertaken in an

environmentally responsible manner, including impacts on significant water resources, (including surface and groundwater resources), impacts on threatened species and biodiversity, and greenhouse gas emissions are minimised. These matters are addressed in the EIS and supporting documentation and subject to recommended conditions, are considered acceptable.

With respect to Clause 15, Council is satisfied that the development would be carried out in such a way as to optimise the efficiency of recovery of extractive materials and to minimise the creation of waste in association with the extraction, recovery or processing of the extractive materials.

With respect to Clause 16, Council must consider whether or not transport of materials in connection with the development is not to be by public road, limiting or precluding truck movements, in connection with the development, that occur on roads in residential areas or on roads near to schools and implementation of a code of conduct relating to the transport of materials on public roads. At present there are no alternative roads for transporting the material, other than across Old Telegraph Road then along Roberts Road, Old Northern Road and Wisemans Ferry Road. Extractive industry operators in the Maroota area have agreed on a traffic management policy that states that all loads would be covered leaving the quarry sites and engine/ exhaust brakes would not be used in the vicinity of quarry site.

The proposal would not significantly increase transport movements along public roads in the Maroota area compared to existing operations. Transport alternatives may become available in the future with development of an internal access road between extraction areas on different properties for transport to processing plants in the Maroota area.

Clause 16(2) requires referral of the application to the Roads and Maritime Service (RMS). As detailed in Section 5.2.1 of this report, the RMS raised no objection to the proposed development.

With respect to Clause 17, a quarry rehabilitation plan has been submitted with the application and subject to compliance with the recommendations of the plan and supporting documents, Council's conditions and the General Terms of Approval granted by various agencies, the application satisfactorily addresses the requirements of the SEPP.

2.7 Sydney Regional Environmental Plan No. 9 - Extractive Industry (No. 2 - 1995)

The Sydney Regional Environmental Plan No. 9 - Extractive Industry (SREP 9) applies to the subject site as the site is listed within Schedule 2 of *SREP 9*. The aim of this plan is to facilitate development of extractive resources in proximity to the population of the Sydney Metropolitan Area by identifying land which contains extractive material of regional significance. *SREP 9* overrides the *Hornsby Shire Local Environmental Plan 2013* by permitting extractive industry to occur on land to which the REP applies.

Clause 7 of *SREP 9* specifies that Council must not grant consent unless:

- (a) *it has considered the effect of the development on flood behaviour, the water quality, quantity and hydrodynamics of any watercourse or underground waters and also the effect of flood behaviour on the development and operations associated with the development in the vicinity; and*

- (b) *it has considered a rehabilitation plan prepared in accordance with the Guidelines for Rehabilitation Plans in the Extractive Industry Report; and*
- (c) *it is satisfied that, while the development is being carried out, noise and vibration levels will generally be in accordance with the guidelines in the State Pollution Control Commission Environmental noise Manual (1985 edition) available at the offices of the Environmental Protection Authority and the Councils of the areas specified in Schedule 4; and*
- (d) *it is satisfied that rehabilitation measures will be carried out in accordance with the guidelines in the Urban Erosion and Sediment Control Handbook (1992) prepared by the Department of Conservation and Land management and available at the offices of the Department of Land and Water Conservation.*

With respect to (a), the application includes a Ground and Surface Water Assessment and the submitted EIS has addressed the aquatic/riparian environment matters, erosion sediment control, water quality aspects and hydrogeological concerns that relate to the proposed development. These issues have been adequately addressed in the EIS and are discussed in Section 2.10 of this report.

With respect to (b), a rehabilitation plan has been prepared in accordance with the Extractive Industry Report. The rehabilitation plan adequately addresses the issues of short term erosion protection, maintenance treatments, agricultural use and native bush regeneration.

With respect to (c), the Environmental Protection Authority (EPA) has advised that the development is generally satisfactory with regard to noise and vibration levels. Detailed assessment is provided in Section 5.2 of the report.

With respect to (d), Council's environmental assessment concluded that soil conservation issues have been addressed in the planning stage of this proposal and that the recommended conditions of consent will ensure their implementation.

Clause 11 specifies special requirements for extractive industry at Maroota and states:

- (2) *The Council must not grant consent to the carrying out of development for the purpose of extractive industry on land to which this clause applies unless Council is satisfied that the proposed development:*
 - (a) *is unlikely to have a significant adverse impact on the Maroota groundwater resource or on other groundwater users in the region; and*
 - (b) *will conserve the environmentally sensitive and significant areas and features of the Maroota locality, including the environment of threatened species, populations and ecological communities; and*
 - (c) *will involve controlled and limited access points to main roads; and*
 - (d) *will result in final landform capable of supporting sustainable agriculture production or other post-extraction land uses compatible with the established character and the landscape and natural quality of the Maroota locality.*

With respect to (a), the extractive industry is unlikely to have a significant adverse impact on the Maroota groundwater resource or on other groundwater users in the region subject to

groundwater monitoring bores being established, extraction restricted to not closer than 2 metres of the groundwater level (condition No. 4) and compliance with the General Terms of Approval issued by DPI Water.

With respect to (b), the flora and fauna report prepared by Aquila Ecological Surveys noted that the proposal would only remove a very small area of degraded habitat for a range of threatened fauna species that have large territorial requirements. The report considered that in relation to threatened species, populations and ecological communities, the site is not an environmentally significant area or feature of the Maroota locality.

Notwithstanding, the report recommended the following mitigation measures to protect vegetation and fauna habitat downslope of the proposed development:

- Native vegetation cleared from the site should be mulched and used in site landscaping.
- Noxious weeds should be treated in accordance with their classification under the *Noxious Weeds Act* and any relevant controls plans.
- Implementation of the Quarry Rehabilitation Plan.

With respect to (c), access to the site will be controlled via the existing single access point from Lot 1 across the intersection of Old Telegraph Road, then along Roberts Road to the main roads Old Northern Road and Wisemans Ferry Road. No site access for sand extraction activities will occur from Lot 2 on Old Telegraph Road except for use by residents and visitors to the dwelling and for light vehicles in emergencies. No new access points are proposed.

With respect to (d), the site will be remediated for agricultural use upon completion of the extractive industry with provision for agriculture, dams and retention of existing bushland. These uses are compatible with the established character and the landscape and natural quality of the Maroota locality.

2.8 Sydney Regional Environmental Plan No. 20 - Hawkesbury Nepean

The site is within the catchment of the Hawkesbury-Nepean River. As such the land is subject to the provisions of *Sydney Regional Environmental Plan No. 20 - Hawkesbury-Nepean River*. The aim of the environmental planning instrument is to protect the environment of the Hawkesbury-Nepean River system by ensuring that the impacts of development and future land uses are considered in the regional context. The plan requires consideration of general planning considerations and specific planning policies and recommended strategies listed in Clauses 5 and 6 of the instrument.

The proposed extractive industry is satisfactory having regard to the general planning considerations listed in the instrument.

The specific planning policies and recommended strategies set out in Clause 6 are addressed as follows:

2.8.1 Total catchment management

The policy requires that total catchment management is to be integrated with environmental planning for the catchment.

It is considered that these aspects are adequately addressed in the EIS. Water quality has been addressed through the implementation of sediment and erosion control measures, the rehabilitation works and recommended conditions of approval.

Subject to the detailed sediment and erosion and nutrient controls, the development is likely to have a minimal impact on the quality of water in the catchment and the cumulative impact of the development proposal is considered minimal.

2.8.2 Environmentally sensitive areas

The policy requires that the quality of environmentally sensitive areas must be protected and enhanced and that new development should be located in areas that are already cleared.

The Hawkesbury River is located approximately 4km to the east of the extraction areas. Environmentally sensitive areas applicable to the proposal include the adjacent Marramarra National Park to the east and significant flora and fauna habitats. The EIS for the proposal includes mitigation measures to reduce any adverse impacts on water quality, flora and fauna habitats and Marramarra National Park.

2.8.3 Water Quality

The policy requires that future development must not prejudice the achievement of the goals of use of the river for primary contact recreation and aquatic ecosystem protection in the river system.

The recommended conditions requiring the installation and maintenance of erosion and sediment control measures would minimise the impact of the proposed extractive industry on water quality.

2.8.4 Water Quantity

The policy requires that aquatic ecosystems must not be adversely affected by development which changes the flow characteristics or groundwater in the catchment.

Subject to a restriction on excavation not being within 2m of the groundwater level, the extractive industry is unlikely to significantly reduce water quantity in the catchment.

2.8.5 Cultural Heritage

The policy requires an Aboriginal site survey where predictive models or current knowledge indicate the potential for Aboriginal sites and the development concerned would involve significant site disturbance. The application includes an Aboriginal and non-Aboriginal Archaeological Assessment which concluded that the development would not directly impact upon any identified archaeological heritage sites or relics and that the potential for undetected archaeological items to occur within the development area is assessed to be low.

2.8.6 Flora and Fauna

The policy requires that flora and fauna communities are managed so that the diversity of species and genetics within the catchment is conserved and enhanced.

The EIS and Flora and Fauna Assessment considered the proposal is unlikely to have a significant effect on threatened flora and fauna species and their habitats provided mitigation measures are implemented to minimise any adverse impacts. Council's environmental assessment concurs with the recommendations of the Flora and Fauna Assessment and subject to the recommended conditions, the development would have minimal impact on flora and fauna.

2.8.7 Riverine scenic quality

Refer to 2.8.3 above.

2.8.8 Agriculture/aquaculture and fishing

The development would not adversely affect any recreation areas or tourism activities within the catchment. The development would not have an adverse impact on any existing agricultural activities being undertaken within the catchment. The land would be rehabilitated to enable use for agricultural purposes after the cessation of the extractive industry.

2.8.9 Rural residential development

The policy requires that rural residential development should not reduce agricultural sustainability, contribute to urban sprawl, or have adverse environmental impacts (particularly on the water cycle or on flora or fauna).

The proposed development is not for rural residential use.

2.8.10 Urban development

The policy requires that all potential adverse environmental impacts of urban development must be assessed and controlled.

The proposed development does not result in any urban development.

2.8.11 Recreation and tourism

This policy requires that the value of the riverine corridor as a significant recreational and tourist asset must be protected.

The proposed development would not have a direct or significantly adverse impact on any recreation or tourism activities being undertaken within the catchment.

2.8.12 Metropolitan strategy

The development is consistent with the vision, goal and key principles of the Metropolitan Strategy.

2.9 Clause 74BA Environmental Planning and Assessment Act, 1979 - Purpose and Status of Development Control Plans

Clause 74BA of the *Environmental Planning and Assessment Act, 1979* states that a DCP provision will have no effect if it prevents or unreasonably restricts development that is otherwise permitted and complies with the development standards in relevant Local Environmental Plans and State Environmental Planning Policies.

The principal purpose of a development control plan is to provide guidance on the aims of any environmental planning instrument that applies to the development; facilitate development that is permissible under any such instrument; and achieve the objectives of land zones. The provisions contained in a DCP are not statutory requirements and are for guidance purposes only. Consent authorities have flexibility to consider innovative solutions when assessing development proposals, to assist achieve good planning outcomes.

2.10 Hornsby Development Control Plan 2013

The proposed development has been assessed having regard to the relevant desired outcomes and prescriptive requirements within the *Hornsby Development Control Plan 2013 (HDCP)*. The following table sets out the proposal's compliance with the prescriptive requirements of the Plan:

| HDCP – Part 2.5 Extractive Industries | | | |
|--|----------|-------------|----------|
| Control | Proposal | Requirement | Complies |
| Extraction Area | 10.7ha | N/A | N/A |
| Setbacks | | | |
| - <i>Public Road</i> | 30m | 30m | Yes |
| - <i>Adjoining property boundaries</i> | 10m | 10m | Yes |
| - <i>Residences not assoc.</i> | 20-30m | 100m | No |

As detailed in the above table, the proposed development complies with the prescriptive requirements within the *HDCP* with the exception of setback from residences not associated with the extraction. The matters of non-compliance are detailed below, as well as a brief discussion on compliance with relevant desired outcomes and Part 1C Controls is provided below.

2.10.1 Setbacks

The development generally complies with the abovementioned setback provisions except for 3 residences not associated with the extraction area, located within 100m of the site. The purpose of the setback controls are to protect the natural environment and provided reasonable visual and acoustic amenity to the area. Whilst the provisions of *SREP 9* would override the prescriptive measures of the setback control, it is noted that the proposal

includes earth berms to mitigate noise impacts and screen the extractive works. Section 2.10.5 below discusses the acoustic impacts of the proposal in detail and provides justification for the support of the setback non-compliance with respect to acoustic impacts.

2.10.2 Transport

Access to the site would be via the main roads of Wisemans Ferry Road and Old Northern Road, then the local road Roberts Road and across the intersection of Old Telegraph Road via the single access point into Lot 1.

An internal haul road is to be constructed within the site which will service each stage of the extraction process. The extractive industry does not require the provision of any parking spaces or loading/unloading on site.

The primary concern of the public with the proposed sand quarry is with the potential road safety issues of haul trucks using Roberts Road and conflicts with local road users.

A Traffic Impact Assessment (TIA) was prepared by McLaren Traffic Engineering in regards to the proposed development which assessed the potential impacts of the proposal on road capacity efficiency and safety, as well as measures required to mitigate any adverse impacts. The TIA concluded that no significant impacts to the local traffic or road transport network would occur as a result of the proposed development..

RMS was consulted in regards to the proposed development and raised no objection to the proposed development. Council's engineering assessment of the traffic impacts of the development and comments received from the RMS raised no objection to the proposal.

Given neither the RMS or Council's traffic assessment identified any safety issues associated with Roberts Road nor is its use by haul trucks, Council is satisfied the road is suitable for use by haul trucks from this development.

The development is satisfactory with respect to access to the site and draft conditions have been provided limit the number of truck movements to 10 loads (20 trips) daily having regard for the amenity and safety of the surrounding locality.

2.10.3 Water Resources

All surface runoff from the site would be directed to a series of sediment traps and the dam. The amount and rate of stormwater runoff would not increase as a result of the development. The inward draining nature of the site and no off-site discharge of clean or dirty water would ensure that no contaminated surface water can leave the site.

Extraction would not occur 2 metres below the wet weather groundwater level (or 197m AHD). Groundwater levels and water quality would be regularly monitored and the results reported in accordance with the General Terms of Approval granted by DPI Water and the Environmental Management Plan conditions in Schedule 1.

2.10.4 Soil and Water Management

Erosion, sediment and stormwater controls would be included in the maintenance of the buffer areas, the staged extraction areas and site rehabilitation. As stated previously, all surface runoff from the site would be directed to a sediment dam. The amount and rate of

stormwater runoff would not increase as a result of the development. The inward draining nature of the site and no off-site discharge of clean or dirty water would ensure that no contaminated surface water can leave the site or affect nearby watercourses. No soil would be removed off-site. Outside the extraction areas, overland flow to the tributaries of Ashdale Creek and Coopers Creek would not be altered and there would be no discharge of water to adjoining lands.

2.10.5 Acoustic Environment

Six residential properties adjacent to the quarry site were identified as being potentially affected by noise from the quarry. An Impact Noise and Vibration Assessment prepared by Koikas Acoustics Pty Ltd, dated 29 September 2014 and an Addendum Report dated 25 March 2015 have been prepared for the proposed development.

The plant operating at the site that is most likely to cause significant vibration are bulldozers and trucks. Although vibration levels can vary, indicative minimum 'buffer' distances used to avoid human discomfort are 10 metres for bulldozers and trucks. Based on these buffer distances, vibration impacts are not expected to be an issue for the proposal.

An assessment of traffic noise has determined that the development would have little impact on residential traffic noise levels and that compliance is expected to be achieved for both Stages 1 and 2 in regards to traffic noise impacts.

Noise modelling has shown that noise levels are predicted to exceed project assessment goals, mainly during the construction of boundary earth mounding. The modelling results indicated that predicted noise levels can be controlled to satisfy the recommended project assessment goals.

The application was referred to the Environment Protection Authority (EPA) for comment. The EPA notes that despite the inclusion of a 4m high noise barrier/ bund along the entire boundary of the excavation sites, some exceedance of the project specific noise levels remain.

The majority of these exceedances relate to the land shaping/ softening process for each of the lots, as well as the process of construction the barrier/ bund. The addendum report states that these processes are expected to have a duration of one month, after which excavation is to be carried out for up to 5 years.

The EPA considers that the noise limits provided in the recommended conditions of consent should not apply to the land shaping/ softening and bund/ barrier establishment activities on both lots, provided these are completed within 2 months of the commencement of any activities on the premises. This is to allow the proponent to carry out works to mitigate noise from long-term extraction activities.

The EPA further recommended that a condition of consent be imposed that the bund/ barrier establishment activities must result in a bund/ barrier of minimum height 4m above existing ground level as detailed in the addendum report and all feasible and reasonable noise mitigation and management measures must be implemented by the proponent to minimise noise emissions during these activities.

The EPA notes that even with the application all feasible and reasonable noise mitigation and management measures, an exceedance of the project-specific noise levels of up to 8dB at residential receiver R1 is predicted in the western portion under Scenario 5. The EPA does not normally license to these level and recommends that it be made a condition of consent that the proponent provide evidence they have entered into a negotiated agreement with the owners of residential receiver R1 (Lot 2 DP 573758), in accordance with Chapter 8 of the NSW Industrial Noise Policy.

Notwithstanding the exceedance of the project-specific noise levels, the EPA have advised that they can support the proposal based on predicted noise levels in the addendum report and issued GTAs which are included in the conditions in Schedule 1.

2.10.6 Air Quality

An Air Quality Assessment prepared by Pacific Environment Ltd, dated 4 September 2014 accompanied the application.

The predicted impacts due to the proposal have been assessed as minimal and unlikely to result in an exceedance of the dust deposition goals. The cumulative impact with existing air quality is also unlikely to result in exceedances of the air quality goals.

The EPA has raised no objection to the proposal and issued GTAs which are included in the conditions in Schedule 1 and include requirements for dust deposition measurements to be carried out at various locations on the site during operations.

The potential for loss of amenity from dust generated by vehicles along internal roads can be adequately suppressed through frequent watering of the road surface. The sand material being extracted from the area is relatively coarse material with a low content of dust particles and is processed off-site.

All trucks leaving the site would have their loads covered with tarpaulins to prevent dust escape.

2.10.7 Mitigation and Monitoring

Schedule 1 includes conditions of consent requiring the submission of an annual Environmental Management Plan in accordance with the requirements of the HDCP and the EPA.

2.10.8 Extraction Sequence

The EIS addresses the orderly sequence of the extraction and staging of the proposal including rehabilitation, to ensure that the extraction occurs in an orderly and controlled manner with regard to environmental sensitivity of the locality.

The extraction process has been designed to minimise the generation of impacts, minimise the volume of waste and limit the potential impact upon sensitive site features.

2.10.9 Rehabilitation

The final landform would be capable of supporting agricultural production with a provision for dams. These post extraction land uses would be compatible with the rural/ bushland character of the Maroota area.

2.11 Hornsby Shire Council Section 94 Development Contributions Plan 2014-2024

The applicant would be required to make a payment of a contribution towards the cost of the rehabilitation, restoration, repair and/or maintenance of Old Northern Road and Section 94 administration in accordance with Section 94 of the *Environmental Planning and Assessment Act 1979* and *Hornsby Shire Council's Development Contributions Plan 2014-2024*. A condition has been imposed to ensure that s94 contributions are paid for the development.

3. ENVIRONMENTAL IMPACTS

Section 79C(1)(b) of the Act requires Council to consider *"the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality"*.

3.1 Natural Environment

The environmental impacts of the proposed development on the natural environment have been addressed in Section 2 of the report.

3.2 Built Environment

3.2.1 Built Form

The environmental impacts of the proposed development on the built environment have been addressed in Section 2 of the report.

3.2.2 Traffic

The traffic and transport impacts of the proposed development on the built environment have been addressed in Section 2 of the report.

3.3 Social and Economic Impacts

The social impacts of extractive industry include a change to the visual amenity of the area as a result of removal of vegetation. The development would result in increased noise emissions from truck movements, an increase in heavy vehicular movements along Old Telegraph Road, Roberts Road and Old Northern Road at Maroota and potential for loss of groundwater supply to adjoining agriculture areas. These matters have been considered in detail within this report and the application proposes appropriate measures to mitigate against social impact viz pollution control, rehabilitation of bushland and monitoring of groundwater.

The extractive industry would have a positive economic impact by supplying valuable building sand to the Sydney market. Employment opportunities would be created in the locality including income to local suppliers servicing employees of the industry. The economic benefits may also include the creation of additional areas of productive farmland upon completion of the extractive industry.

4. SITE SUITABILITY

Section 79C(1)(c) of the Act requires Council to consider *“the suitability of the site for the development”*.

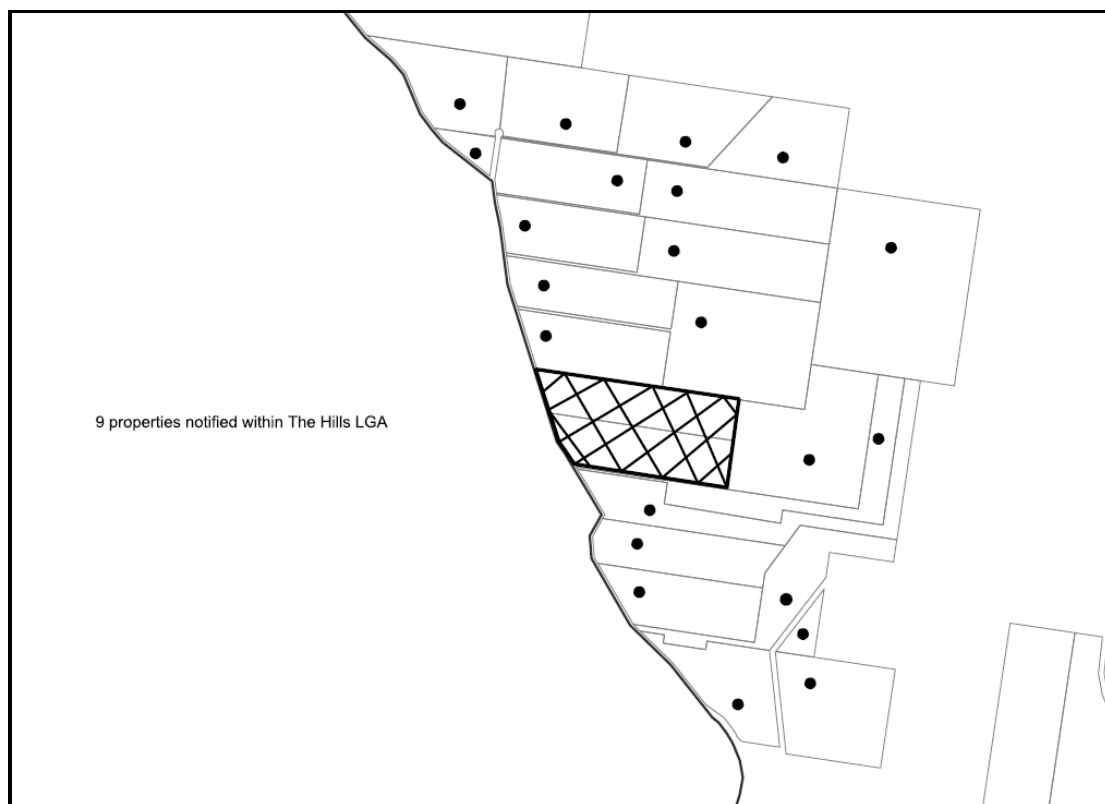
There is no known hazard/risk associated with the site with respect to landslip, subsidence and flooding that would preclude approval of the proposed development. Whilst the site is identified as bushfire prone land, the proposal did not require referral to the NSW Rural Fire Service as no building works are proposed.

5. PUBLIC PARTICIPATION



Section 79C(1)(d) of the Act requires Council to consider *“any submissions made in accordance with this Act”*.

5.1 Community Consultation

The proposed development was placed on public exhibition and was notified to adjoining and nearby landowners between 2 January 2015 and 2 March 2015 in accordance with the Notification and Exhibition requirements of the HDCP. During this period, Council received 4 submissions. The map below illustrates the location of those nearby landowners who made a submission that are in close proximity to the development site.



NOTIFICATION PLAN

| | | | |
|---|------------------------|---|---|
| • PROPERTIES NOTIFIED | X SUBMISSIONS RECEIVED |  PROPERTY SUBJECT OF DEVELOPMENT |  |
| 4 SUBMISSIONS RECEIVED OUT OF MAP RANGE | | | |

Four submissions objected to the development, on the grounds that the development would result in:

- Unacceptable traffic on local streets;
- Unacceptable noise from activities at the site;
- Impacts on groundwater;
- Site contamination
- Facilities for workers
- Processing off site
- Visual impact

The merits of the matters raised in community submissions are discussed below:

5.1.1 Increased noise from quarry machinery

The Impact Noise and Vibration Assessment and the addendum report prepared by Koikas Acoustics Pty Ltd requires 4m high earth berms to be constructed along the edge of the excavation boundary, prior to the commencement of works, to minimise the impact of noise from internal truck movements and the initial stages of the extraction. Machinery will be completely screened by the face of the extraction at a depth of 5 metres. The report concludes that the use of earth berms and extraction taking place from behind the working faces would provide sufficient noise control.

5.1.2 Impacts on groundwater as a result of extraction below the groundwater table and contamination of the local water supply of Maroota Spring

DPI Water has reviewed the submitted groundwater studies and granted General Terms of Approval. Accordingly, the extractive industry is unlikely to have a significant adverse impact on the Maroota groundwater resource or on other groundwater users in the region subject to groundwater monitoring bores being established and extraction restricted to not closer than 2 metres of the high groundwater level and compliance with the conditions of consent in Schedule 1.

5.1.3 Site Contamination

Submissions raised concerns with illegal dumping on the site that occurred in the past and the transportation of this material from the site. The proposal has been amended to exclude that portion of the site as part of the extraction area to ensure it remains undisturbed.

Concerns were also raised in regard to comment that *'No waste will be buried or burnt on the site except possibly burial of some existing building demolition material.'*

Conditions of consent recommended in Schedule 1 require any waste found on the site to be disposed of to an authorised recycling and/or waste disposal site.

5.1.4 Quarry workers using amenities at main quarry site

The submission raised concerns that there would be no amenities provided for workers on the site and they would utilise those at the main quarry site. Given the distance between the two sites, it is inappropriate for the workers to travel between the two sites to use amenities. The applicant has subsequently clarified that workers on the site at Nos.97 & 113 Old Telegraph Road would have access to the existing dwelling on No. 97 for the use of amenities.

5.1.5 Processing off site

Concerns were raised with respect to whether the processing off site was permissible and whether a valid consent applied to that site.

The extracted material classified as VENM (virgin excavated natural material) would be sent to PF Formation's existing processing plant accessed opposite the entrance to No. 1774 Wisemans Ferry Road Maroota. This processing plant located on Lot 1 DP 570966 has approval to accept 20 truckloads of VENM each day under the Hitchcock Road Sand Project (Minister for Planning approval 06_0104 dated 3 February 2009). A copy of this consent is attached to the report.

5.1.6 Visual impact

Submission sought suitable bunding and landscape works should be required to screen the development. The EIS includes provisions for earthen bunds up to 4m high to be located along the southern boundary and part of the south western boundary in Stage 1 for the initial extraction period in each cell and along the northern boundary of Stage 2 for each cell to provide visual screening for residents of nearby dwellings.

5.1.7 Review the adequacy of Roberts Road to cater for the increased truck traffic. Sealed pavement width is a concern with two way truck traffic and adequacy of the Old Northern Road and Roberts Road intersection.

There is an existing quarry (Hodgson Quarries and Plant Pty Ltd) operating on Roberts Road and concerns were raised with respect to the increased truck traffic as a result of the current proposal.

Council's engineering assessment noted that Section 3.8.1 of a report prepared by Nexus Environmental Planning Pty Ltd on 23 September 2015 in support of the continued extraction work at Hodgson Quarries and Plant Pty Ltd indicates the intersection of Old Northern Road

and Roberts Road was upgraded in 1997 to a Type B intersection (sheltered right turns). Traffic Surveys indicate laden truck counts in Roberts Road are around 34.8 movements per day, and indications from traffic counts are the intersection is operating at a high level of service (Service Level A). Hodgson Quarries subsequently proposed no change to an original condition to ensure laden trucks from their site are limited to 50 movements per day.

The Austroads guide '*Rural Road Design 1997*' normally requires the sealed part of Roberts Road to be 6m wide. In the case of Hodgson, their Traffic Engineer Lyle Marshall & Associates (Job No. 9169 of May 2015) acknowledge the sealed width of the road is 5.7m with no road shoulder seal. However given the proposed truck generation, Lyle Marshall & Associates request no upgrade work in Roberts Road. It appears that existing and proposed heavy vehicle traffic counts do not raise enough concern to require that Roberts Road sealed road shoulders to be constructed.

The material extracted from the subject site is proposed to be transported for processing in a maximum 10 laden trucks per day which is a small increase on the existing heavy truck counts in Roberts Road. Thus it was considered the proposed extraction the subject of this DA would likely not warrant additional upgrading in Roberts Road and the Roberts Road intersection with Old Northern Road.

5.1.8 Children live and play in Roberts Road.

Council's engineering assessment which included liaising with The Hills Council and advice from RMS has raised no objection to the proposal and noted that Roberts Road can cater with the additional traffic.

5.1.9 It is not The Hills Shire's place to repair and maintain Roberts Road as the destructive traffic is generated in Hornsby Shire.

Council's engineering assessment of the proposed development and haulage routes included liaising with The Hills Council and no objection was raised with respect to the haulage route along Roberts Road.

5.1.10 Seal the northern end of Old Telegraph Road and exit the site from No. 113 onto Old Telegraph Road and then access Old Northern Road from the northern end of Old Telegraph Road.

This is not an appropriate transport route as it will require significant upgrading works to Old Telegraph Road and result in trucks travelling past Maroota Public School.

5.2 Public Agencies

The development application was referred to the following Agencies for comment:

5.2.1 Roads and Maritime Services

The proposed development was referred to Roads and Maritime Services (RMS) for comment pursuant to Clause 16 of *SEPP (Mining, Petroleum Production and Extractive Industries) 2007*. The RMS raised no objection to the proposed development and access from Old Telegraph Road.

5.2.2 Department of Primary Industries - Water

The proposal includes the installation of groundwater monitoring piezometers and DPI Water has reviewed the application and granted 'General Terms of Approval' for the proposed development.

5.2.3 Environmental Protection Authority

The *Protection of the Environment Operations Act 1997* includes provisions for the issue of an environment protection licence to authorise the carrying out of scheduled activities. The proposed development is a scheduled activity under the Act and requires the approval of the EPA. In this regard the application is 'integrated development' and was referred to the Department for assessment.

The EPA reviewed the application and granted 'General Terms of Approval' for the proposed development.

5.2.4 Office of Environment and Heritage

The application was referred to the Office of Environment and Heritage (OEH) for comment as an adjoining owner (Section 79(1)(a) of the *Environmental Planning and Assessment Act 1979*), and as a public authority who may have an interest in the determination of the application (Clause 77 of the *Environmental Planning and Assessment Regulation 2000*).

The OEH has provided comments in respect of flora and fauna and biodiversity on the site and recommended that Council ensure adequate measures are included in the Rehabilitation Plan to maintain the viability of retained native vegetation on and adjoining the site. Council's environmental assessment has included appropriate conditions in Schedule 1 to address these concerns.

6. THE PUBLIC INTEREST

Section 79C(1)(e) of the Act requires Council to consider "*the public interest*".

The public interest is an overarching requirement, which includes the consideration of the matters discussed in this report. Implicit to the public interest is the achievement of future built outcomes adequately responding to and respecting the future desired outcomes expressed in environmental planning instruments and development control plans.

The application is considered to have satisfactorily addressed Council's and relevant agencies' criteria and would provide a development outcome that, on balance, would result in a positive impact for the community. Accordingly, it is considered that the approval of the proposed development would be in the public interest.

CONCLUSION

The application proposes a sand extractive industry to be developed in 2 stages over 20 years. The extraction areas would be progressively rehabilitated in stages and include a dam for water storage and rehabilitated bushland.

The proposed development constitutes a viable extractive operation designed to supply sandstone material to the Sydney and overseas building market. The development would progressively rehabilitate the site over the anticipated life of the consent.

The rehabilitation of bushland would minimise any adverse impacts on flora and fauna within the locality.

It is considered that the environmental impacts of the extractive industry can be minimised through the imposition of conditions including sediment and erosion control measures, landscaping and rehabilitation. Accordingly, the application is recommended for approval.

Note: At the time of the completion of this planning report, no persons have made a *Political Donations Disclosure Statement* pursuant to Section 147 of the *Environmental Planning and Assessment Act 1979* in respect of the subject planning application.

SCHEDULE 1

GENERAL CONDITIONS

The conditions of consent within this notice of determination have been applied to ensure that the use of the land and/or building is carried out in such a manner that is consistent with the aims and objectives of the relevant legislation, planning instruments and Council policies affecting the land and does not disrupt the amenity of the neighbourhood or impact upon the environment.

Note: For the purpose of this consent, the term 'applicant' means any person who has the authority to act on or the benefit of the development consent.

Note: For the purpose of this consent, any reference to an Act, Regulation, Australian Standard or publication by a public authority shall be taken to mean the gazetted Act or Regulation, or adopted Australian Standard or publication as in force on the date that the application for a construction certificate is made.

1. Approved Plans and Supporting Documentation

The development must be carried out in accordance with the plans and documentation listed below and endorsed with Council's stamp, except where amended by Council and/or other conditions of this consent:

| Plan No. | Plan Title | Drawn by | Dated |
|-------------------------------|---|----------------------------|--------------|
| rpglm2.01 sheet 1 Rev. 0.6 | Cover Sheet | Footprint Green Pty Ltd | 30.07.2015 |
| rpglm2.01 sheet 2 Rev. 0.6 | Existing site characteristics & context | Footprint Green Pty Ltd | 30.07.2015 |
| rpglm2.01 sheet 3 Rev. 0.6 | Existing site land uses | Footprint Green Pty Ltd | 30.07.2015 |
| rpglm2.01 sheet 4 Rev. 0.6 | Proposed final landform and land uses | Footprint Green Pty Ltd | 30.07.2015 |
| rpglm2.01 sheet 5 Rev. 0.6 | Quarry cross sections final landform | Footprint Green Pty Ltd | 30.07.2015 |
| rpglm2.01 sheet 6 Rev. 0.6 | Operational stages & typical extraction & rehabilitation process | Footprint Green Pty Ltd | 30.07.2015 |
| rpglm2.01 sheet 7 Rev. 0.6 | Extraction and rehabilitation procedures in stage 1 & stage 2 areas | Footprint Green Pty Ltd | 30.07.2015 |
| rpglm2.01 sheet 8 Rev. 0.6 | Rehabilitation specifications & details | Footprint Green Pty Ltd | 30.07.2015 |

| | | | |
|-------------------------------|--|----------------------------|------------|
| rpplm2.01 sheet 9 Rev. 0.6 | Rehabilitation monitoring and reporting | Footprint Green Pty Ltd | 30.07.2015 |
|-------------------------------|--|----------------------------|------------|

| <i>Document Title</i> | <i>Prepared by</i> | <i>Dated</i> |
|--|---|---------------------|
| Environmental Impact Statement | Environmental Planning Pty Ltd | November 2014 |
| Traffic Impact Assessment Final Issue A Ref: 2014/168 | McLaren Traffic Engineering | 4 September 2014 |
| Impact Noise and Vibration Assessment Ref: 2563R20140929mfcOld Telegraph RdMaroota4 | Koikas Acoustics Pty Ltd | 29 September 2014 |
| Addendum Report Ref: 2563A20150325 | Koikas Acoustics Pty Ltd | 25 March 2015 |
| Air Quality Assessment Job ID. 08915 | Pacific Environment Ltd | 4 September 2014 |
| Groundwater & Surface Water Assessment Report E2W-0224 R001r | earth2water Pty Ltd | 19 September 2014 |
| Aboriginal and non-Aboriginal Archaeological Assessment | Dominic Steele Consulting Archaeology | 30 September 2014 |
| Assessment of Flora and Fauna | Aquila Ecological Surveys | September 2014 |
| NSW EPA General Terms of Approval Notice No. 1528023 File No. EF13/2943 | Environmental Protection Authority | 23 April 2015 |
| NSW EPA Letter – modified GTAs Ref: DOC15/173271-02 | Environmental Protection Authority | 2 June 2015 |
| PF Formation Aquifer Interference Report, Land & Water Impact Statement for Sand Extraction Proposal (Lot 1&2 in DP 732708) Old Telegraph Rd, Maroota, NSW | Earth2Water | 11 January 2017 |
| DPI Water General Terms of Approval Ref: 10ERM2015/1127 | DPI Water | 8 May 2017 |

2. **Consent Limited to a Period of 20 Years**

Pursuant to Section 80A(1)(d), this consent is limited to a period of 20 years from the endorsed date of this consent. Any disturbed areas on the site, must be rehabilitated in this period.

All work including rehabilitation is to be completed within this period. Rehabilitation must be carried out progressively during the course of excavation and be completed to within this period. All equipment to be used in the work must be removed from the site within that time.

3. **Annual Volume of Materials Extracted**

The annual volume of material to be extracted shall be in accordance with the details provided in the Environmental Impact Statement and accompanying documentation (i.e. maximum 100,000 tonnes per annum).

4. **Depth of Excavation**

The maximum depth of allowable excavation is 197 metres AHD or the retention of a 2 metre buffer above the Wet Weather High Water Table.

5. **Determination of Weighted Material**

A standard method of determining weighted material must be negotiated, being a method that is auditable by Council at six monthly intervals.

6. **Removal of Existing Trees**

This development consent permits the removal of trees within extraction areas identified in Stage 1 and 2 on the site. The removal of any other trees requires separate approval in accordance with the Tree and Vegetation Chapter 1B.6 Hornsby Development Control Plan (HDCP).

7. **Obligation to Minimise Harm to the Environment**

in addition to meeting the specific performance criteria established under the other conditions of consent, the Applicant shall implement all reasonable and feasible measures to prevent and/ or minimise any material harm to the environment that may result from the construction, operation, or rehabilitation of the development.

8. **Environmental Management Plan**

An Environmental Management Plan must be prepared for the proposed development and submitted to Council for approval prior to the start of extraction works for each stage of the development. Council requires this information to assess environmental pollution risk (air, water and land emissions) for the proposed activities in accordance with the *Protection of Environmental Operations Act 1997*. The Environmental Management Plan detail should be appropriate as to the operational scale of the proposed development.

9. **Section 94 Development Contributions – Road Haulage**

The monthly payment to Council of a contribution of \$0.93 per tonne for all extracted material transported from the site in accordance with *Hornsby Shire Council Section 94 Development Contributions Plan 2014 – 2024* and the following:

- a) On or before the 14th day of each month that extracted materials are transported from the site, the applicant must submit to Council a certified copy of returns or records showing the true quantities of extracted material transported from the site during the immediately preceding month. Thereafter, Council will issue to the Applicant an invoice for the contribution payable for such material transported from the site. Payment of the amount of the invoice must be made by the applicant within 14 days of the invoice date. If the party carrying out the extraction work fails to deliver such returns to the Council in accordance with this clause by the 14th day of a particular month, the Council is at its absolute discretion, to be entitled but not obliged to estimate the quantity of material transported from the site during the immediately preceding month and is entitled to issue such an invoice on the basis of such estimate.
- b) Council is entitled to inspect and audit the original records relating to any of the extracted material, including locality of destinations, numbers and types of laden trucks and trailers and load quantities, transported from the site.
- c) If the applicant ceases to carry out the approved extraction work or if a party other than the applicant commences to carry out such work without the applicant having started to do so, then the applicant shall forthwith furnish to Council notice of that fact together with the name and address of the party (if any) who has commenced or will thereafter commence to carry on the said work.
- d) Such notice shall be accompanied by an acknowledgment in writing by that party that it is aware of the obligations imposed on it pursuant to this condition.
- e) Until such time as the notice and acknowledgment are furnished to the Council by the applicant, the applicant will remain jointly and severally liable with the party for the time being carrying out the extraction work for payment of the aforesaid contribution and for compliance with the terms of this condition. The terms of this paragraph apply mutatis mutandis to any future operator of the extraction work in the event of his ceasing to carry out the work.

Note: The value of contribution is current as at 28 June 2017. The contribution will be adjusted from this date in accordance with the underlying consumer price index for subsequent financial quarters.

It is recommended that you contact Council each quarter to ascertain the indexed value of the contribution prior to payment.

10. Noise Limits – Land Shaping/ Bund Establishment

- a) The noise limits provided in the recommended conditions of consent should not apply to the land shaping/ softening and bund/ barrier establishment activities on both lots, provided these are completed within 2 months of the commencement of any activities on the premises. .
- b) The bund/ barrier establishment activities must result in a bund/ barrier of minimum height 4m above existing ground level as detailed in the Addendum Report Ref: 2563A20150325, prepared by Koikas Acoustics Pty Ltd dated 25 March 2015 and all feasible and reasonable noise mitigation and management measures must be implemented by the proponent to minimise noise emissions during these activities.

| |
|--|
| REQUIREMENTS PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE |
|--|

11. Licences

The proponent is to obtain all necessary operating licenses, approvals and/or permits from all relevant public authorities including, but not limited to the Environmental Protection Authority and Department of Primary Industry - Water, details of which are to be submitted to Council prior to the issue of a Construction Certificate.

12. Dam

Design and construction of the dam shall be in accordance with the requirements of the Hornsby Development Control Plan 2013. The design and construction supervision shall be undertaken by a Chartered Professional Engineer of the Institution of Engineers, Australia (IEA).

13. Internal Driveway/Vehicular Areas

The internal service roads, weighbridge approaches and parking areas on site must be designed, constructed and a Construction Certificate issued in accordance with *Australian Standards 2890.1, 2890.2*, and the following requirements:

- a) The roadways be designed by a suitably engineer with an all weather surface to prevent creation of airborne dust;
- b) Retaining walls required to support roads and the compaction of all fill batters to be in accordance with the requirements of a chartered engineer;
- c) Construction plans shall be considered with the Construction Certificate application.

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| REQUIREMENTS PRIOR TO THE COMMENCEMENT OF ANY WORKS |
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14. Erection of Construction Sign

A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- a) Showing the name, address and telephone number of the principal certifying authority for the work,
- b) Showing the name of the principal contractor (if any) for any demolition or building work and a telephone number on which that person may be contacted outside working hours, and
- c) Stating that unauthorised entry to the work site is prohibited.

Note: Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

15. Toilet Facilities

Toilet facilities must be available or provided at the works site before works begin and must be maintained until the works are completed at a ratio of one toilet for every 20 persons employed at the site. Each toilet must:

- a) be a temporary chemical closet approved under the *Local Government Act, 1993*; or
- b) have an on-site effluent disposal system approved under the *Local Government Act, 1993*.

16. Erosion and Sediment Control

Erosion and sediment control measures must be provided and maintained throughout the construction period in accordance with the manual '*Soils and Construction 2004 (Bluebook)*', the approved plans and supporting documentation, Council specifications and to the satisfaction of the principal certifying authority. The erosion and sediment control devices must remain in place until the site has been stabilised and revegetated.

Note: On the spot penalties may be issued for any non-compliance with this requirement without any further notification or warning.

17. Vehicular Crossing

A separate application under the *Local Government Act, 1993* and the *Roads Act 1993* must be submitted to Council for the installation of a new vehicular crossing and the removal of the redundant crossing. The vehicular crossing must be constructed in accordance with Council's *Civil Works Design 2005* and the following requirements:

- a) Design levels at the front boundary must be obtained from Council;
- b) The road shoulder adjacent to the crossing must be constructed 3 metres wide, splayed at 45 degrees with a minimum pavement thickness appropriate for the anticipated ESA loadings per pavement design provided by the engineer;

Note: An application for a vehicular crossing can only be made to one of Council's Authorised Vehicular Crossing Contractors. You are advised to contact Council on 02 9847 6940 to obtain a list of contractors.

18. Rehabilitation Bond

Prior to the commencement of extraction, the proponent must lodge with Council a contract for a Rehabilitation Bond based on an amount per tonne of extracted material. The total of this amount must be sufficient to cover the cost of rehabilitating the approved extraction area and other likely disturbed areas.

19. Tree Protection Barriers

Tree protection fencing must be erected around trees located at the Eastern boundary of the site in accordance with Natural Resources Condition No. 34 of the consent.

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| REQUIREMENTS DURING CONSTRUCTION OF DAM, BUILDING MODIFICATION WORKS AND ROAD WORKS |
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20. Construction Work Hours

All work on site (including demolition and earth works) must only occur between 7am and 5pm Monday to Saturday.

No work is to be undertaken on Sundays or public holidays.

21. Demolition

All demolition work must be carried out in accordance with "*Australian Standard 2601-2001 – The Demolition of Structures*" and the following requirements:

- a) Demolition material must be disposed of to an authorised recycling and/or waste disposal site and/or in accordance with an approved waste management plan;
- b) Demolition works, where asbestos material is being removed, must be undertaken by a contractor that holds an appropriate licence issued by *WorkCover NSW* in accordance with Chapter 10 of the *Occupational Health and Safety Regulation 2001* and Clause 29 of the *Protection of the Environment Operations (Waste) Regulation 2005*; and
- c) On construction sites where buildings contain asbestos material, a standard commercially manufactured sign containing the words 'DANGER ASBESTOS REMOVAL IN PROGRESS' measuring not less than 400mm x 300mm must be erected in a prominent position visible from the street.

22. Asbestos and Soil Contamination

Should the presence of asbestos or soil contamination, not recognised during the application process be identified during works, the applicant must immediately notify the principal certifying authority and Council.

23. Environmental Management

All of the site must be managed in accordance with the publication *'Managing Urban Stormwater – Landcom (March 2004)* and the *Protection of the Environment Operations Act 1997* by way of implementing appropriate measures to prevent sediment run-off, excessive dust, noise or odour emanating from the site during the construction of the development.

24. Disturbance of Existing Site

During construction works, the existing ground levels of open space areas and natural landscape features, (including natural rock-outcrops, vegetation, soil and watercourses) outside of the extraction area must not be altered unless otherwise nominated on the approved plans.

25. Importation of Fill

Landfill must be constructed in accordance with Council's *'Construction Specification, 2005'* and the following requirements:

- a) All fill material imported to the site is to wholly consist of Virgin Excavated Natural Material (VENM) as defined in Schedule 1 of the *Protection of the Environment Operations Act 1997* or a material approved under the *Department of Environment and Climate Change's* general resource recovery exemption.
- b) All excavation and filling works associated with extraction shall be carried out in accordance with the recommendations of a Chartered Geotechnical Engineer of the Institution of Engineers, Australia (also known as Engineers Australia) ensuring stability of the surrounding areas and certified.

26. Excavated Material

All excavated material removed from the site must be classified in accordance with the Department of Environment, Climate Change and Water NSW *Waste Classification Guidelines* prior to disposal to an approved waste management facility.

27. Works Near Trees

- a) To protect trees to be retained, all required tree protection measures are to be maintained in good condition for the duration of the construction period.
- b) All works, including driveways and retaining walls within 4 metres of any trees to be retained (whether or not on the subject property, and pursuant to this

consent or the *Tree Preservation Order*), must be carried out under the supervision of an 'AQF Level 5 Arborist'.

- c) A certificate must be submitted to the principal certifying authority detailing the method(s) used to preserve these tree(s) during the course of construction..

Note: Except as provided above, the applicant is to ensure that no excavation, filling or stockpiling of building materials, parking of vehicles or plant, disposal of cement slurry, waste water or other contaminants occurs within 4 metres of any tree to be retained.

28. Council Property

To ensure that the public reserve is kept in a clean, tidy and safe condition during construction works and the life of the extraction, no building materials, waste, machinery or related matter is to be stored in the road reserve verge.

29. Bushland Protection During Construction

To ensure the protection of bushland on the Eastern boundary of the site during construction, the applicant must:

- a) Install a 1.2 metre high chain wire fencing (or similar) 4 metres from the significant bushland identified by Smith and Smith and on the approved plan provided by Aquila Ecological Surveys.

Actions such as tree removal, understorey slashing or mowing, removal of dead trees within this vegetation would likely impact upon this endangered ecological community. Such action would qualify as illegally picking or disturbing the habitat and could render any person who carried out such action as LIABLE FOR PROSECUTION.

30. Environmental Protection Works

In accordance with the approved Quarry Rehabilitation Plan prepared by Footprint Green Pty Ltd (dated 30 July 2015) the following environmental protection works are to be undertaken:

- a) On-going weed removal works are to be undertaken particularly including weeds listed under the *Noxious Weeds Act 1993*;
- b) Bund walls are to be stabilised with a temporary cover crop;
- c) All areas within 20m upslope of the dam shall be hydromulched;
- d) Temporary erosion and sediment control measures are to be implemented such as sediment traps, fences and check weirs;
- e) Regular monitoring of the rehabilitation cells are to be undertaken.

31. Certification from Ecologist

At the completion of rehabilitation and translocation works within each cell, a concise works summary report shall be prepared by a qualified and experienced ecologist to ensure the rehabilitation and translocation works are satisfactorily completed in accordance with the approved rehabilitation plan. The works summary reports shall be provided to Council's Natural Resources Unit.

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| OPERATIONAL CONDITIONS |
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32. Access to the site

There will be no access to/from Lot 2 DP 732708, No. 113 Old Telegraph Road for extractive industry purposes.

33. Keeping of weighbridge dockets and Log Book

Certified weighbridge dockets and a log book to verify the frequency and timing of vehicle movements are to be maintained and presented to Council when requested.

34. Damage to Council Assets

To protect public property and infrastructure, any damage caused to Council's assets as a result of the construction or demolition of the development must be rectified by the applicant in accordance with Council's Civil Works Specifications. Rectification works must be undertaken prior to the issue of an Occupation Certificate, or sooner, as directed by Council.

35. Internal Access Roads

Internal access roads are to comply with Hornsby Development Control Plan 2013 (HDCP), in particular the internal access roads are to comply with Table 2.5.1(a) of the HDCP.

36. Parking

On-site parking spaces are to be provided for all employees and visitors to the site.

37. Noise

All noise generated by the proposed development must be managed in accordance with the recommendations of the Impact Noise and Vibration Assessment (and Addendum Report dated 25 March 2015) prepared by Koikas Acoustics Pty Ltd dated 29 September 2014.

38. Storage of Flammable and Combustible Goods

Flammable and combustible liquids must be stored in accordance with *Australian Standard 1940 – The Storage and Handling of Flammable and Combustible Liquids*. A bund wall must be constructed around all work and liquid storage areas to prevent any spillage entering into the stormwater system. The bunded area must provide a

volume equal to 110% of the largest container stored and graded to a blind sump so as to facilitate emptying and cleansing.

39. Maintenance of Wastewater Device

All wastewater and stormwater treatment devices (including drainage systems, sumps and traps) must be regularly maintained in order to remain effective. All solid and liquid wastes collected from the device must be disposed of in accordance with the *Protection of the Environment Operations Act 1997*.

40. Ongoing Protection of Bushland

The natural bushland area of the site identified on the approved plans must remain undisturbed and be protected in perpetuity in accordance with the following requirements:

- a) The bushland area is to be fenced off with post and wire (or similar) fencing to prevent vehicular access;
- b) The bushland area is to be kept free of noxious weeds using recognised bush regeneration methods in accordance with '*Recovering bushland on the Cumberland Plain: Best practice guidelines for the management and restoration of bushland – Department of Conservation 2005*'; and
- c) Machinery and fertilizer must not be used in the bushland area for maintenance purposes.

41. Maintain Canopy Cover

To maintain canopy cover, any trees removed during the extraction process must be replaced with medium to large trees selected from Council's booklet '*Indigenous Plants for the Bushland Shire*' such as *Eucalyptus punctata*, *Eucalyptus haemastoma*, *Eucalyptus piperita*, *Angophora costata*, *Syncarpia glomulifera* are to be planted on the subject site during the rehabilitation works. The pot size is to be a minimum 25 litres and the tree(s) must be maintained until they reach the height of 3 metres. Trees must be native to Hornsby Shire and reach a mature height greater than 3 metres.

GENERAL TERMS OF APPROVAL - NSW ENVIRONMENTAL PROTECTION AUTHORITY

The following conditions of consent are General Terms of Approval from the nominated State Agency pursuant to Section 91A of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

42. Information Supplied to the EPA (A1)

Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained within:

- a) The development application DA/1380/2014

- b) the environmental impact statement for *Sand Extraction at Lots 1 and 2 DP 732708*, dated November 2014 prepared for PF Formation by Environmental Planning Pty Ltd relating to the development; and
- c) Additional documents supplied to the EPA in relation to the development, including:
 - i) *Air Quality Assessment, Lots 1 & 2 DP 732708 Old Telegraph Road, Maroota, September 2014, Pacific Environment Ltd.*
 - ii) *Groundwater & Surface Water Assessment for Sand Extraction Proposal Lots 1 & 2 in DP 732708), Old Telegraph Road Maroota, September 2014, earth2water.*
 - iii) *Sand Extraction at Lots 1 & 2 DP 732708 Traffic Impact Assessment Old Telegraph Road, Maroota, September 2014, McLaren Traffic Engineering Pty Ltd.*
 - iv) *Impact Noise and Vibration Assessment, Proposed Sand Quarry Lots 1 & 2 DP 732708 Old Telegraph Road, Maroota, September 2014, Koikas Acoustics Pty Ltd (Ref: 2563R20140929mfcOld Telegraph RdMaroota4)*
 - v) *Quarry Rehabilitation Plan Lots 1 & 2 DP 732708 Old Telegraph Road, Maroota, September 2014, Footprint Green Pty Ltd*
 - vi) *Addendum to Noise and Vibration Assessment Report, provided by Koikas Acoustics Pty Ltd dated 25 March 2015 (Ref: 2563A20150325mfcLots1-2OldTelegraphRdMarootav3).*

43. Fit and Proper Person (A2)

The applicant must, in the opinion of the EPA, be a fit and proper person to hold a licence under the *Protection of the Environment Operations Act 1997*, having regard to the matters in s.83 of that Act.

44. Pollution of waters (L1)

Except as may be expressly provided by a licence under the *Protection of the Environment Operations Act 1997*, in relation of the development, section 120 of the *Protection of the Environment Operations Act 1997*, must be complied with in and in connection with the carrying out of the development.

45. Waste - L2.1

The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing, or disposal of waste at the premises, except as expressly permitted by a licence under the *Protection of the Environment Operations Act 1997*.

46. Waste - L2.2

This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if requires an environmental protection licence under the *Protection of the Environment Operations Act 1997*.

Note: Condition L2.2 is included to ensure that a premised based activity is not used as a waste facility (unless that scheduled activity is permitted by another condition).

47. Noise limits - L3.1

Noise generated at the premises must not exceed the noise limits in the Table below. The location numbers in this table are taken from Appendix A and Table 5 of the report Impact Noise and Vibration Assessment - Proposed Sand Quarry, Lots 1 & 2 DP 732708 Old Telegraph Road, Maroota (INVA) prepared by Koikas Acoustics dated 29 September 2014 (Ref 2563R20140929mfcOldTelegraphRdMarootav4).

| Location | NOISE LIMITS dB(A) ¹ |
|----------|-------------------------------------|
| | Day LA _{eq} (15 minute) |
| R2 | 39 |
| R3 R4 | 38 |
| R5 | 37 |
| R6 R7 | 35 |

Note 1: The noise limits provided in L3.1 do not apply to any land shaping/softening and bund/ barrier establishment activities on both lots, provided these are completed within two months of the commencement of any activities on the premises.

48. Noise limits - L3.2

For the purpose of condition L3.1,;

- a) Day is defined as the period from 7am to 6pm Monday to Saturday.

49. Noise limits - L3.3

The noise limits set out in condition L3.1 apply under all meteorological conditions except for the following:

- a) Wind speeds greater than 3 metres/second at 10 metres above ground level.
- b) Deleted;
- c) Deleted

50. Noise limits - L3.4

For the purposes of condition L3.3:

- a) Data recorded by a meteorological station installed on site must be used to determine meteorological conditions; and Notice No: 1528023
- b) Deleted

51. Noise limits - L3.5

To determine compliance:

- a) With the Leq(15 minute) noise limits in condition L3.1. the noise measurement equipment must be located:
 - i) Approximately on the property boundary, where any dwelling is situated 30 metres or less from the property boundary closest to the premises; or
 - ii) Within 30 metres of a dwelling facade, but not closer than 3m, where any dwelling on the property is situated more than 30 metres from the property boundary closest to the premises; or, where applicable
 - iii) Within approximately 50 metres of the boundary of a National Park or a Nature Reserve.
- b) Deleted
- c) With the noise limits in condition L3.1, the noise measurement equipment must be located:
 - i) At the most affected point at a location where there is no dwelling at the location; or
 - ii) At the most affected point within an area at a location prescribed by conditions L3.5(a) or L3.5(b).

52. Noise limits - L3.6

A non-compliance of condition L3.1 will still occur where noise generated from the premises in excess of the appropriate limit is measured:

- a) At a location other than an area prescribed by conditions L3.5(a) and L3.5(b); and/ or
- b) At a point other than the most affected point at a location.

53. Noise limits - L3.7

For the purposes of determining the noise generated at the premises the modification factors in Section 4 of the NSW Industrial Noise Policy must be applied, as appropriate, to the noise levels measured by the noise monitoring equipment.

54. Hours of operation - L4.1

Activities at the premises may only be carried on between 7am and 6pm Monday to Saturday excluding Sundays and public holidays.

55. **Hours of operation - L4.2**

A maximum of 10 truck movements each day, entering and exiting the site, between 6am and 7am will be allowed.

56. **Hours of operation - L4.3**

This condition does not apply to the delivery of material outside the hours of operation permitted by condition L4.1 or L4.2, if that delivery is required by police or other authorities for safety reasons; and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification is provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of emergency.

57. **Hours of operation - L4.4**

The hours of operation specified in conditions L4.1 and L4.2 may be varied with written consent if the EPA is satisfied that the amenity of the residents in the locality will not be adversely affected.

Operating conditions

58. **Odour - O1**

Note: The POEO Act states that no offensive odour may be emitted from particular premises unless potentially offensive odours are identified in the licence and the odours are emitted in accordance with conditions specifically directed at minimising the odours are permitted. Where it is appropriate for a licence to identify and control offensive odours, conditions for the licence should be developed in Consultation with Air Policy.

59. **Dust - O2.1**

The premises must be maintained in a condition which minimises or prevents the emission of dust from the premises.

60. **Dust - O2.2**

Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

61. **Dust - O2.3**

Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.

62. **Air quality management plan - O3.1**

The proponent shall prepare an air quality management plan addressing all air emission sources at the site. The air quality management plan shall be implemented

prior to the commencement of earth moving activities at the site. The air quality management plan must contain, as a minimum:

- a) Key performance indicator(s)
- b) Monitoring method(s)
- c) Location, frequency and duration of monitoring
- d) Record keeping
- e) Response mechanisms and
- f) Compliance reporting.

63. Stormwater/sediment control- Construction Phase - O4.1

A Soil and Water Management Plan (SWMP) must be prepared and implemented. The plan must describe the measures that will be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during construction activities. The SWMP should be prepared in accordance with the requirements for such plans outlined in *Managing Urban Stormwater: Soils and Construction* (available from the Department of Housing).

64. Stormwater/sediment control - Operation Phase – O5.1

A Stormwater Management Scheme must be prepared for the development and must be implemented. Implementation of the Scheme must mitigate the impacts of stormwater run-off from and within the premises following the completion of construction activities. The Scheme should be consistent with the Stormwater Management Plan for the catchment. Where a Stormwater Management Plan has not yet been prepared the Scheme should be consistent with the guidance contained in *Managing Urban Stormwater: Council Handbook* (available from the EPA).

Monitoring and recording conditions

65. Monitoring records - M1.1

The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the *Protection of the Environment Operations Act 1997*, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained as set out in conditions M1.2 and M1.3.

66. Monitoring records - M1.2

All records required to be kept by the licence must be:

- a) In a legible form, or in a form that can readily be reduced to a legible form;
- b) Kept for at least 4 years after the monitoring or event to which they relate took place; and
- c) Produced in a legible form to any authorised officer of the EPA who asks to see them.

67. **Monitoring records - M1.3**

The following records must be kept in respect of any samples required to be collected: the date(s) on which the sample was taken:

- a) The time(s) at which the sample was collected;
- b) The point at which the sample was taken; and
- c) The name of the person who collected the sample.

68. **Requirement to monitor noise - M2.1**

[This condition can be varied and must be negotiated with the proponent before being finalised in any project approval]

To assess compliance with Condition L3.1, attended noise monitoring must be undertaken in accordance with Conditions L3.5 and:

- a) At each one of the locations listed in Condition L3.1;
- b) Occur annually in a reporting period;
- c) Occur for a minimum of 1.5 hours during the day period as defined in the NSW Industrial Noise Policy.

Reporting conditions

69. **Annual return - R1.1**

The applicant must provide an annual return to the EPA in relation to the development as required by any licence under the *Protection of the Environment Operations Act 1997* in relation to the development. In the return the applicant must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of licence fees (administrative fees and, where relevant, load based fees) that are payable. If load based fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.

70. **Noise monitoring report – R2.1**

[This condition can be varied and must be negotiated with the proponent before being finalised in any project approval]

A noise compliance assessment report must be submitted to the EPA within 60 days of the completion of the yearly monitoring. The assessment must be prepared by a suitably qualified and experienced acoustical consultant and include:

- a) An assessment of compliance with noise limits presented in Condition L3.1; and
- b) An outline of any management actions taken within the monitoring period to address any exceedances of the limits contained in Condition L3.1.

71. Negotiated agreement - S1.1

The proponent must provide evidence to the satisfaction of Council and the EPA that they have entered into a negotiated agreement with the owners of residential receiver location R1 in accordance with Chapter 8 of the NSW Industrial Noise Policy.

Operating conditions

72. Activities must be carried out in a competent manner

Licensed activities must be carried out in a competent manner. This includes:

- a) The processing, handling, movement and storage of materials and substances used to carry out the activity; and
- b) The treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

73. Maintenance of plant and equipment

All plant and equipment installed at the premises or used in connection with the licensed activity:

- a) Must be maintained in a proper and efficient condition; and
- b) Must be operated in a proper and efficient manner.

74. Recording of pollution complaints

The licensee must keep a legible record of all complaints made to the licensee or any employee or agent of the licensee in relation to pollution arising from any activity to which this licence applies.

- a) The record must include details of the following:
 - i) The date and time of the complaint;
 - ii) The method by which the complaint was made;
 - iii) Any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
 - iv) The nature of the complaint;
 - v) The action taken by the licensee in relation to the complaint, including any follow-up contact with the complainant; and
 - vi) If no action was taken by the licensee, the reasons why no action was taken.
- b) The record of a complaint must be kept for at least 4 years after the complaint was made.
- c) The record must be produced to any authorised officer of the EPA who asks to see them.

75. Telephone complaints line

- a) The licensee must operate during its operating hours a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises or by the vehicle or mobile plant, unless otherwise specified in the licence.
- b) The licensee must notify the public of the complaints line telephone number and the fact that it is a complaints line so that the impacted community knows how to make a complaint.
- c) This condition does not apply until 3 months after this condition takes effect.

76. Annual Return documents

What documents must an Annual Return contain?

- a) The licensee must complete and supply to the EPA an Annual Return in the approved form comprising:
 - i) A Statement of Compliance; and
 - ii) A Monitoring and Complaints Summary.
- b) At the end of each reporting period, the EPA will provide to the licensee a copy of the form that must be completed and returned to the EPA.

77. Period covered by Annual Return

- a) An Annual Return must be prepared in respect of each reporting, except as provided below.
- b) Where this licence is transferred from the licensee to a new licensee:
 - i) The transferring licensee must prepare an annual return for the period commencing on the first day of the reporting period and ending on the date the application for the transfer of the licence to the new licensee is granted; and
 - ii) The new licensee must prepare an annual return for the period commencing on the date the application for the transfer of the licence is granted and ending on the last day of the reporting period.
- c) Where this licence is surrendered by the licensee or revoked by the EPA or Minister, the licensee must prepare an annual return in respect of the period commencing on the first day of the reporting period and ending on:
 - i) In relation to the surrender of a licence - the date when notice in writing of approval of the surrender is given; or
 - ii) In relation to the revocation of the licence - the date from which notice revoking the licence operates.

*Note: The term "reporting period" is defined in the dictionary at the end of this licence.
Do not complete the Annual Return until after the end of the reporting period.*

Note: An application to transfer a licence must be made in the approved form for this purpose.

78. Deadline for Annual Return

The Annual Return for the reporting period must be supplied to the EPA by registered post not later than 60 days after the end of each reporting period or in the case of a transferring licence not later than 60 days after the date the transfer was granted (the 'due date').

79. Licensee must retain copy of Annual Return

The licensee must retain a copy of the annual return supplied to the EPA for a period of at least 4 years after the annual return was due to be supplied to the EPA.

80. Certifying of Statement of Compliance and Signing of Monitoring and Complaints Summary

Within the Annual Return, the Statement of Compliance must be certified and the Monitoring and Complaints Summary must be signed by:

- a) The licence holder; or
- b) By a person approved in writing by the EPA to sign on behalf of the licence holder.

81. Notification of environmental harm

- a) Notifications must be made by telephoning the EPA's Pollution Line service on 131 555.
- b) The licensee must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.

Note: The licensee or its employees must notify the EPA of incidents causing or threatening material harm to the environment as soon as practicable after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the Act.

82. Written report

- a) Where an authorised officer of the EPA suspects on reasonable grounds that:
 - i) Where this licence applies to premises, an event has occurred at the premises; or
 - ii) Where this licence applies to vehicles or mobile plant, an event has occurred in connection with the carrying out of the activities authorised by this licence, and the event has caused, is causing or is likely to cause material harm to the environment (whether the harm occurs on or off premises to which the licence applies), the authorised officer may request a written report of the event.

- b) The licensee must make all reasonable inquiries in relation to the event and supply the report to the EPA within such time as may be specified in the request.
- c) The request may require a report which includes any or all of the following information:
 - i) The cause, time and duration of the event;
 - ii) The type, volume and concentration of every pollutant discharged as a result of the event;
 - iii) The name, address and business hours telephone number of employees or agents of the licensee, or a specified class of them, who witnessed the event; and
 - iv) The name, address and business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event, unless the licensee has been unable to obtain that information after making reasonable effort;
 - v) Action taken by the licensee in relation to the event, including any follow-up contact with any complainants;
 - vi) Details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event;
 - vii) Any other relevant matters.
- d) The EPA may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the EPA within the time specified in the request.

83. Copy of licence kept at the premises or on the vehicle or mobile plant

- a) A copy of this licence must be kept at the premises or on the vehicle or mobile plant to which the licence applies.
- b) The licence must be produced to any authorised officer of the EPA who asks to see it.
- c) The licence must be available for inspection by any employee or agent of the licensee working at the premises or operating the vehicle or mobile plant.

GENERAL TERMS OF APPROVAL - DEPARTMENT OF PRIMARY INDUSTRY WATER

The following conditions of consent are General Terms of Approval from the nominated State Agency pursuant to Section 91A of the *Environmental Planning and Assessment Act 1979* and must be complied with to the satisfaction of that Agency.

84. Water GTA 1

The combined estimated of average annual usage of 10 ML/year needs to be proportioned between the two groundwater sources:

- Sydney Basin Central Groundwater Source, and
- Maroota Tertiary Sands Groundwater Source,

in the Water Sharing Plan for Greater Metropolitan Region Groundwater Sources 2011.

85. Water GTA 2

The monitoring and mitigation strategy must be enhanced to ensure compliance with the proposed minimum 2m buffer above the wet weather "inferred" regional groundwater table, defined in the *PF Formation Aquifer Interference Report, Land & Water Impact Statement for Sand Extraction Proposal (Lot 1&2 in DP 732708) Old Telegraph Rd, Maroota, NSW*, prepared by Earth2Water dated 11 January 2017, Section 2.1 Project Amendments (Figures 4 and 5).

86. Water GTA 3

Should extraction of groundwater be undertaken for quarrying activities from the eastern dam, which is inferred to be into the regional water table, an additional groundwater licence will be required from the Sydney Basin Central Groundwater Source.

87. Water GTA 4

The proponent must acquire a suitable water access licence to account for the volume greater than the maximum harvestable right for the dam to be built on site. Council must not sign off final rehabilitation approval unless the proponent holds a water access licence with the appropriate share entitlement.

- END OF CONDITIONS -

ADVISORY NOTES

The following information is provided for your assistance to ensure compliance with the *Environmental Planning and Assessment Act 1979*, *Environmental Planning and Assessment Regulation 2000*, other relevant legislation and Council's policies and specifications. This information does not form part of the conditions of development consent pursuant to Section 80A of the Act.

Environmental Planning and Assessment Act 1979 Requirements

The Environmental Planning and Assessment Act 1979 requires:

- The issue of a construction certificate prior to the commencement of any works. Enquiries can be made to Council's Customer Services Branch on 9847 6760.
- A principal certifying authority to be nominated and Council notified of that appointment prior to the commencement of any works.
- Council to be given at least two days written notice prior to the commencement of any works.
- Mandatory inspections of nominated stages of the construction inspected.
- An occupation certificate to be issued before occupying any building or commencing the use of the land.

Long Service Levy

In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, a 'Long Service Levy' must be paid to the Long Service Payments Corporation or Hornsby Council.

Note: The rate of the Long Service Levy is 0.35% of the total cost of the work.

Note: Hornsby Council requires the payment of the Long Service Levy prior to the issue of a construction certificate.

Tree and Vegetation Preservation

In accordance with Clause 5.9 of the *Hornsby Local Environmental Plan 2013* a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation protected under the Hornsby Development Control Plan 2013 without the authority conferred by a development consent or a permit granted by Council.

Notes: A tree is defined as a long lived, woody perennial plant with one or relatively few main stems with the potential to grow to a height greater than three metres (3M). (HDCP 1B.6.1.c).

Tree protection measures and distances are determined using the Australian Standard AS 4970:2009, "Protection of Trees on Development Sites".

Fines may be imposed for non-compliance with both the Hornsby Local Environmental Plan 2013 and the Hornsby Development Control Plan 2013.

Dial Before You Dig

Prior to commencing any works, the applicant is encouraged to contact *Dial Before You Dig* on 1100 or www.dialbeforeyoudig.com.au for free information on potential underground pipes and cables within the vicinity of the development site.

Asbestos Warning

Should asbestos or asbestos products be encountered during demolition or construction works, you are advised to seek advice and information prior to disturbing this material. It is recommended that a contractor holding an asbestos-handling permit (issued by *WorkCover NSW*) be engaged to manage the proper handling of this material. Further information regarding the safe handling and removal of asbestos can be found at:

www.environment.nsw.gov.au

www.nsw.gov.au/fibro

www.adfa.org.au

www.workcover.nsw.gov.au

Alternatively, telephone the *WorkCover* Asbestos and Demolition Team on 8260 5885.

Rural Lands Incentive Program

The subject property may be eligible to participate in the *Hornsby Shire Council Rural Lands Incentive Program*, which provides assistance to landowners in the management conservation and restoration of remnant vegetation communities through the provision of technical advice and incentives. For further information, contact Council's Bushland and Biodiversity Team on 9847 6832.