

SWCPP Ref. No.:	2018WCI007
DA No.:	DA18/1135
PROPOSED DEVELOPMENT:	Partial Rehabilitation of a Quarry & Associated Infrastructure Works and Earthworks including Drainage, Weighbridge, Office & Amenities Building - Lot 1 DP 500175, Lot 2 DP 500175, Lot 192 DP 752021, 497 a Castlereagh Road, AGNES BANKS NSW 2753 521 a Castlereagh Road, AGNES BANKS NSW 2753 237 - 265 Wilshire Road, AGNES BANKS NSW 2753
APPLICANT:	Dixon Sand Pty Ltd
REPORT BY:	Pukar Pradhan, Senior Environmental Planner, Penrith City Council

Assessment Report

Executive Summary

Council is in receipt of a development application from Dixon Sand Pty Ltd to import clean fill material to rehabilitate the southern portion of the existing Agnes Banks Quarry at 497a Castlereagh Road, Agnes Banks.

The site has an existing consent to operate as an "extractive industry" to extract sand and clay. The rehabilitation of the site was not captured by the current consent conditions or approved documentation and therefore consent to import fill to rehabilitate the site was required.

The subject site is zoned RU4 - Primary Production Small Lots under the provisions of Penrith Local Environmental Plan 2010. The proposal can be best defined as a waste or resource management facilities and is permitted with Council consent pursuant to State Environment Planning Policy (Infrastructure) 2007. Waste and resource management facilities and extractive industries are not permitted land uses under the Local Environmental Plan.

As the proposal involves importation of over 100,000 tonnes of fill material, the proposal is classified as a "Designated Development" as outlined under Section 32 of Schedule 3 of the Environmental Planning and Assessment Regulation, 2000.

Key issues identified for the proposed development and site include:

Visual impact.

The site is located within an area identified as "land with scenic and landscape values", and any works carried out should result in maintaining the scenic and landscape values of the site. The proposed rehabilitation works to fill existing void area and retaining all existing trees (except for only two trees to make way for the driveway) will result in levelling the site to match with adjoining properties and will visually improve the site and streetscape of the area. The proposal is considered to be suitable for the site and contributes to, rather than adversely detracts from, the "land with scenic and landscape values" of the site and surrounding area.

Traffic implication

The development will generate on average 18 vehicular trips per day with at time maximum of 120 trucks (240 truck movements) per day calculated based on a 20 year project life. The application was referred to Roads and Maritime Services (RMS) and Council's Traffic Engineers who are both satisfied that existing road network can

cater for truck movements and is unlikely to have detrimental traffic impact to the existing road network. Both have raised no objection to the proposal subject to conditions.

Appropriate traffic control measures like, the hours of traffic movements, educating the truck drivers and staff as well as limiting truck movements surrounding the site to 20km per hour will be from recommended conditions of consent to minimise any potential traffic noise impact to the area.

Vegetation

Except for the two trees located at the south-eastern corner to allow for vehicular access to the site, all other existing trees located on site (which forms part of Agnes Banks Woodland) will be retained as part of this development proposal. Council's Senior Environmental Management office has examined their Flora and Fauna Report and has raised no objection to the proposal subject to submission of a Vegetation Management Plan (VMP) prior to commencement of any construction work on site in order to ensure that all trees are protected and managed during construction and filling works.

Contamination

Site investigation including water samples of the dam was carried out by an NSW Accredited Site Auditor who advised that their findings indicate that it is unlikely that the site has been contaminated from past activities at a level of significance to impede the proposed use of the site. The Auditor was of the view that the site can be made suitable for the proposed use subject to the recommendations being implemented. Council's Senior Environmental Officer agrees with report and has raised no objection subject to conditions.

The application was notified to adjoining properties, advertised and exhibited from 30 November 2018 to 1 February 2019. Eight (8) submissions were received and all were in support of the application.

The application was also referred to Roads and Maritime Services (RMS) in accordance with Schedule 3 of the State Environmental Planning Policy (Infrastructure) 2007 for their comments being development of a type that would generate over 200 vehicles accessing a site. The RMS have provided a response dated 4 February 2019 advising that the road network is able to cater for the truck movements generated from the proposal without having significant adverse impact to the traffic. They have raised no objection to the proposal and have not recommended any conditions.

The submitted EIS and the application was also referred to the NSW Department of Planning and Environment (DP & E) and to Environment Protection Authority (EPA) for comments. The DP & E in their response dated 31 May 2019 had no objection or conditions to the proposal. The EPA in their response letter dated 31 May 2019 raised no objection to the proposal, however provided Council with several recommended conditions for consideration.

This application is to be determined by Sydney Western City Planning Panel (SCWPP) as the development is a designated development under Part 4 of the Environmental Planning and Assessment Act, 1979.

An assessment under Section 4.15 of the Environmental Planning and Assessment Act 1979 has been undertaken and it is considered that the proposal will result in an improved outcome for the site without having adverse impact to the amenity of the area. The application is therefore recommended for approval, subject to recommended conditions.

There are 7 appendixes to this report, as detailed below.

Appendix 1 - Site and Staging Plan

Appendix 2 - Existing and Proposed Final landform plans

Appendix 3 - Architectural Plans of Proposed Shed

Appendix 4- RMS Comments

Background

A pre-lodgement meeting was held on 19 October 2017 to discuss this application and was required to consider the followings in any future development application.

- The Development is a Designated Development.
- The application will be referred to RMS for comments.
- SEPP 55 Remediation of Land and Contamination will need to be addressed.
- Details of procedures and source of fill material will need to be provided and that all materials are suitable (VENM/ENM).
- Noise impacts.
- Water Management
- Construction Management
- Stormwater Management.
- Traffic Assessment Report.

The applicant has considered the above mentioned matters in the submitted documents.

The application was presented to SWCPP on 29 January 2019 for briefing and the following matters were requested to be considered by the applicant:

- The applicant to be explicit as to the likely future use of the site.
- The rehabilitation/remediation works are to be managed to the extent needed to support its desirable future use.
- Consideration be given to the surrounding existing subdivision patterns of the area in providing the final finished ground level to cater for future dwellings and other rural type of buildings.
- Submission of cross section of the site showing the existing ground floor levels and post filling levels.
- The site is to be compacted to an engineering standard capable for residential purpose.
- Careful consideration be given to the impacts of trucks associated with filling operation and limited truck movements to different times of the day.

The applicant has addressed the above matters and the assessment is based on the latest submitted documents.

Site & Surrounds

The subject site is bounded by Wilshire Road to the south of the site and Brooks Lane to the west of the site. Wilshire Road connects with Londonderry Road approximately 2.4 kilometres (km) to the east of the site. Castlereagh Road being classified road is nearest from the site located approximately 460m to the west of the site.

The adjoining sites to the east, north east and south are bushland area and forms part of the Agnes Banks Woodland.

The site has an dimension of 600m along Wilshire Road and 410m along the eastern and western boundaries with an area of approximately 25Ha. The subject site is located west of the existing Agnes Banks Quarry currently operating and forms almost half portion of the whole quarry site. The western area of the site had been used to extract sand and soil but has now exhausted its usage and is a large void area with a varying depth of approximately 2m to 4m. A large dam is located at the central part of the subject site.

A single storey house and two sheds are currently located close to the western boundary which is the only portion of the site not used as a quarry. The site is largely void of vegetation except for a small group of trees are located at the north-eastern corner of the site.

There are still active quarrying activities located to the north of the proosed rehabillittion area. The southern half part of the quarry site has been fully utilised and has ceased its operation as a quarry, and is the subject of this application.

The Agnes Banks Quarry has been in operation, with quarrying activities for the purpose of sand extraction and clay extraction, operating under Consent number DA 1/62 since 1962 providing sand and clay products to the Sydney market. Access to the active portion of the quarry is via a driveway off Castlereagh Road. There is a site office and car parking area within the central part of the northern portion of the quarry.

Proposal

The proposal involves the importation of 860,00 cum of virgin excavated natural material (VENM) and or excavated natural material (ENM) to rehabilitate the southern part of the existing Quarry and will involve the following works:

- Progressive filling rehabilitation of the quarry void across six cells.
- The subject site area is to be rehabilitated such that it is suitable for agricultural use and residential buildings.
- Noise bunds along the western edge of the rehabilitation area for the duration of the Project to mitigate noise impacts.
- Appropriate drainage and stormwater controls within the site.
- Dewatering of the existing quarry dam and establishment of a smaller stormwater control dam near the southern boundary of the site .
- A new access point off Wilshire Road at the south-eastern corner of the site.
- Construction of a temporary weigh bridge, a maintenance shed to include an office and amenities and provision of staff car parking area for five vehicles..
- Construction of a maintenance shed to be constructed of colourbond material dimensioned 18m x 24m with a ridge height of 8.5m and external wall height of 6.5 and 5.50m.

The filling works will be carried out in the following sequences:

- The imported fill material will be used initially to construct noise mitigation bunds.
- The filling and rehabilitation of the quarry void will then be undertaken in stages over six cells (1 to 6) having similar dimensions and area.
- Each cell filling sequence will occur from west to east to allow the void to be progressively filled from west to east gradually.
- Cell 4 is divided into two equal sized 4A, Cell 4B to allow for the final dewatering of the existing quarry dam as part of the final stage of works.

Estimated average truck movement numbers will be 9 trucks (18 movements 35 tonne trucks) per day. The proposed maximum truck movements are expected to be 120 loaded trucks per day (240 truck movements) in peak days. A new vehicular access will be constructed off Wilshire Road at the south eastern corner of the site for all site access.

The hours of operation will be 7am to 6pm Monday to Friday and 7am to 1pm on Saturdays.

The project is expected to finish in 20 year life to allow for sourcing of the required volume of VENM/ENM.

The proposal does not involve any change to the existing operations of the active northern portion of the Agnes Banks Quarry.

Plans that apply

- Local Environmental Plan 2010 (Amendment 4)
- Development Control Plan 2014
- State Environmental Planning Policy (Infrastructure) 2007
- State Environmental Planning Policy No 55—Remediation of Land
- Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

Planning Assessment

- **Section 2.12 – Sydney Western City Planning Panel (SWCPP)**
- **Section 4.15 - Evaluation**

The development has been assessed in accordance with the matters for consideration under Section 4.15 of the Environmental Planning and Assessment Act 1979, and having regard to those matters, the following issues have been identified for further consideration:

- **Section 4.46 - Integrated development**

The development will generate over 200 vehicles accessing a site and as such is an Integrated development in accordance with Schedule 3 of the State Environmental Planning Policy (Infrastructure) 2007 requiring concurrence from the Roads and Maritime Services (RMS). The application was referred to RMS and in their response dated 4 February 2019, they have advised that the road network is able to cater for the truck movements generated from the proposal without having significant adverse impact to the local traffic and have raised no objection to the proposal. RMS have not recommended any conditions to the development proposal.

Designated Development

The proposal involves the importation of 860,000 tonnes of fill material [Virgin Excavated Natural Material and Excavated Natural Material (VENM and ENM)] in order to rehabilitate the existing southern half part of the excavated quarry site to bring back to natural ground level in line with the surrounding and nearby properties. The proposal is classified as *"Waste Management facility or works"* as outlined below.

The development definition of "Waste Management facility or works" is as follows:

'32 Waste management facilities or works

(1) Waste management facilities or works that store, treat, purify or dispose of waste or sort, process, recycle, recover, use or reuse material from waste and:

(a) that dispose (by landfilling, incinerating, storing, placing or other means) of solid or liquid waste:

(ii) that comprises more than 100,000 tonnes of "clean fill" (such as soil, sand, gravel, bricks or other excavated or hard material) in a manner that, in the opinion of the consent authority, is likely to cause significant impacts on drainage or flooding, or...'

(d) that are located:

(i) in or within 100 metres of a natural waterbody, wetland, coastal dune field or environmentally sensitive area, or

(vi) within 500 metres of a residential zone or 250 metres of a dwelling not associated with the development and, in the opinion of the consent authority, having regard to topography and local meteorological conditions, are likely to significantly affect the amenity of the neighbourhood by reason of noise, visual impacts, air pollution (including odour, smoke, fumes or dust), vermin or traffic.

As the proposal involves importation of over 100,000 tonnes of VENM and ENM, pursuant to Section 32 of Schedule 3 of the EP & A Regulation, the proposal is classified as a *"designated development"* and requires applicants to prepare an Environmental Impact Statement (EIS). Clause 3 of Schedule 2 of the Environmental Planning & Assessment Regulations 2000 requires applicant to submit a formal request to the NSW Department of Planning and Environment (D P & E) for a Secretary's Environmental Assessment Requirements (SEARs) in the preparation of an Environmental Impact Statement (EIS) for this application being a designated development. The EIS must take into account legislative requirements and any additional environmental assessment requirements issued by the Secretary.

The applicant has submitted a request for the issuing of SEARs to the department and the Department has (in consultation with the EPA) issued a SEARs (No.1009) dated 11 January 2018 which outlines the Environmental Assessment Requirements for the applicant to consider in preparing the EIS documents. These matters relates to noise, traffic, vegetation, contamination, dust and drainage.

An EIS has been prepared which takes into consideration of those matters raised in the Environmental Assessment requirements under SEARs and the assessment is based on the submitted EIS and other supporting documents.

The submitted EIS and the application was also referred to the NSW Department of Planning and Environment (now known as DOPIE) and to Environment Protection Authority (EPA) for comments. The department of DP & E has raised no objection or recommended any conditions to the proposal.

The EPA has raised no objection to the proposal. They have recommended several conditions relating to mostly noise and soil and sediment control during filling works for Council's consideration. Matters relating to the noise impact and control measures has been considered in details by Council's Senior Environmental Management Officer who has included several conditions in line with those conditions recommended by the EPA.

Section 79C(1)(a)(i) The provisions of any environmental planning instrument

State Environmental Planning Policy (Infrastructure) 2007

The development will generate over 200 vehicles accessing the site and as such the application has been referred to the Roads and Maritime Services (RMS) for their comments in accordance with Schedule 3 of the State Environmental Planning Policy (Infrastructure) 2007.

The RMS has examined the application and the submitted traffic report and have provided a response dated 4 February 2019 raising no objection to the proposal. The RMS have stated that the development is unlikely to have significant impact on the existing road network over the 20 project years .

State Environmental Planning Policy No 55—Remediation of Land

As assessment has been undertaken of the application against relevant criteria with State Environmental Planning Policy No 55—Remediation of Land. The applicant submitted a Contamination Assessment (carried out by Douglas Partners) of the site and surface water which concluded that an existing stock pile on site is suitable for reuse and that surface water does not require remediation.

The report and application was also examined by Council's Senior Environmental Management Officer who recommended the applicant to engage an NSW EPA Accredited Site Auditor to carry out and prepare a Site Audit of the site. The Interim Advice prepared by an Accredited Site Auditor. He has concluded that "whilst the Detailed Site Investigation was found to be limited in the number and extent of samples collected", *"the findings of the report indicate that it is unlikely that the site has been contaminated from past activities at a level of significance to impede the proposed use of the site"*. The Auditor was of the view that the site can be made suitable for the proposed use and made a number of recommendations.

Council's Senior Environmental Management Officer agrees with Accredited Site Auditor's finding that the site can be made suitable for the proposed use and has raised no objection to the proposal subject to recommended conditions of consent. The application hence satisfies the requirements of the SEPP.

Sydney Regional Environmental Plan No.20 - Hawkesbury Nepean River

An assessment has been undertaken of the application against relevant criteria with Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River (No 2—1997). The application proposes to provide erosion and sediment control measures through out all phases of earth works, appropriate earth bund in order to minimise any adverse impact to surrounding properties and water ways. The water from existing dam will be used for the dust mitigation and other works within the site and this is considered to be satisfactory. Appropriate conditions will be recommended to ensure that these measures are carried out prior to and during all works on the site.

Local Environmental Plan 2010 (Amendment 4)

Provision	Compliance
Clause 2.3 Permissibility	Complies - See discussion
Clause 2.3 Zone objectives	Complies - See discussion
Clause 4.2 Rural Subdivision	Complies - See discussion
Clause 5.9 Preservation of trees or vegetation	Complies - See discussion
Clause 7.1 Earthworks	Complies - See discussion
Clause 7.2 Flood planning	Complies - See discussion
Clause 7.5 Protection of scenic character and landscape values	Complies - See discussion

Clause 2.3 Permissibility

The subject site is zoned RU4 - Primary Production Small Lots under the provisions of Penrith Local Environmental Plan 2010.

The site has an existing consent issued in 1962 to operate as an 'extractive industry' to extract sand and clay and has been in operation since early 1960s as an extractive industry (Quarry). The rehabilitation of the site was not captured by the current consent conditions or approved documentation and therefore consent to import fill to rehabilitate the site was required.

The proposed development is best defined as a 'waste or resource management facility' under State Environmental Planning Policy (Infrastructure) 2007 and is permitted pursuant to Clause 121 (3) of Division 23 which states:

(3) Development for the purpose of the recycling of construction and demolition material, or the disposal of virgin excavated natural material (within the meaning of Schedule 1 to the Protection of the Environment Operations Act 1997) or clean fill, may be carried out by any person with consent on land on which development for the purpose of industries, extractive industries or mining may be carried out with consent under any environmental planning instrument.

This clause specifies a need to determine whether extractive industries are permitted on the land with consent. Given the LEP does not list extractive industries as a permitted land use, permissibility for the purpose of an extractive industry is sought through State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.

Clause 7 (3) of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 states that extractive industries may be carried out on land on which development for the purposes of agriculture or industry may be carried out (with or without development consent).

Given agriculture is a permitted land use in the RU4 - Primary Production Small Lots zone under PLEP 2010 and extractive industry is permitted for the purpose of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 and by extension State Environmental Planning Policy (Infrastructure) 2007.

Clause 2.3 Zone objectives

Objectives of Zone RU4 - Primary Production Small Lots are as follows:

- *To enable sustainable primary industry and other compatible land uses.*
- *To encourage and promote diversity and employment opportunities in relation to primary industry enterprises,
particularly those that require smaller lots or that are more intensive in nature.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To ensure land uses are of a scale and nature that is compatible with the environmental capabilities of the land.*
- *To preserve and improve natural resources through appropriate land management practices.*
- *To maintain the rural landscape character of the land.*
- *To ensure that development does not unreasonably increase the demand for public services or facilities.*

The proposal will be consistent with the objectives of the LEP as follows:

- The proposal will enable sustainable primary industry and other compatible land uses once it is rehabilitated.
- The proposal has the potential for employment opportunities during its rehabilitation works and jobs in the primary industry enterprises/agricultural related works, once the land is rehabilitated into rural and agricultural lands.
- The proposal will result in maintaining the rural land and landscape character of the land.
- The proposal will not unreasonably increase the demand for public services or facilities.

Clause 4.2 Rural Subdivision

The proposal is for the rehabilitation of the 25Ha of the site and does not involve subdivision of the land. The site is large enough for further subdivision to create smaller lots to comply with the minimum 2ha lot size requirements. These will be subject to future separate application

Clause 5.9 Preservation of trees or vegetation

The subject site contains a group of native vegetation located at the north-east corner of the site, and a row of single trees along the western and southern boundaries of the site. Those trees located at the north-east corner of the site were initially nominated to be removed but after discussion with the applicant, these trees will now be retained as part of the development works. The existing vegetation within the void area of rehabilitation works were found to be mainly weeds.

The application along with Flora and Fauna Report has been examined by Council's Bio-diversity Officer who has raised no objection to the proposal subject to the submission of a detailed Vegetation Management Plan (VMP) and a Dam Decommissioning Plan to Council for approval prior to the commencement of any work on site in order to ensure that all existing trees are protected during rehabilitation works in long term and preserve the existing amenity of the area.

Clause 7.1 Earthworks

The subject site area being used as a quarry has resulted in a large void which is lower than the existing natural ground levels (varying from 2m up to 4m). The amount of earthwork involved in this proposal will be to level the existing piles of earth and then carry out levelling of all new imported fill materials of 860,000 cubic metres in total volume to be carried out within 20 years time frame to achieve a desirable compacted ground level that is compatible with the surrounding land form.

The site will have erosion and sediment control measures in place to minimise any run off from the site and the final ground level will be compacted to meet the Australian Standard of ground that will be suitable for agricultural.

The site will be compacted to relevant Australian Standard to enable construction of residential and other agricultural related buildings.

The proposed earthworks has been examined by Council's Development Engineer who is satisfied with their proposed earthworks and drainage system and advised that the proposed work can be reasonably managed with minimum adverse impact to adjoining or nearby properties. Development Engineer has raised no objection to the proposal subject to their recommended conditions.

Clause 7.2 Flood planning

The north-west corner of the site is affected by a small overland path (approximate 300mm). The proposed filling on the flood affected area has been examined by Council's Development Engineer and has advised that due to the small area being flood affected, this is likely to have negligible impact to adjoining properties and hence is satisfactory.

Clause 7.5 Protection of scenic character and landscape values

The site is identified as 'land with scenic and landscape values' under the Scenic and Landscape Values Map of PLEP 2010. Clause 7.5 of Penrith Local Environmental Plan (LEP) 2010 specifies that development consent must not be granted for any development on land to which this clause applies unless the consent authority is satisfied that measures will be taken, including in relation to the location and design of the development, to minimise the visual impact of the development from major roads and other public places.

The proposed rehabilitation works will bring the southern parts of the quarry back to a more natural ground level similar to that of the adjoining and nearby rural properties in the area. The final landform will visually result in an improved outcome and therefore the proposal is hence unlikely to have adverse impact on the scenic and landscape value of the area and will enhance a disused quarry site.

Section 79C(1)(a)(ii) The provisions of any draft environmental planning instrument

There are no draft Environmental Planning Instruments that apply to the proposal.

Section 79C(1)(a)(iii) The provisions of any development control plan

Development Control Plan 2014

Provision	Compliance
C1 Site Planning and Design Principles	Complies - see Appendix - Development Control Plan Compliance
C2 Vegetation Management	Complies - see Appendix - Development Control Plan Compliance
C3 Water Management	Complies - see Appendix - Development Control Plan Compliance
C4 Land Management	Complies - see Appendix - Development Control Plan Compliance
C5 Waste Management	Complies
C6 Landscape Design	Complies - see Appendix - Development Control Plan Compliance
C7 Culture and Heritage	N/A
C8 Public Domain	N/A
C9 Advertising and Signage	N/A
C10 Transport, Access and Parking	Complies - see Appendix - Development Control Plan Compliance
C11 Subdivision	Complies
C12 Noise and Vibration	Complies - see Appendix - Development Control Plan Compliance
C13 Infrastructure and Services	Complies - see Appendix - Development Control Plan Compliance
D1.1. Rural Character	Complies - see Appendix - Development Control Plan Compliance
D1.2. Rural Dwellings and Outbuildings	Complies - see Appendix - Development Control Plan Compliance
D1.3. Farm buildings	N/A
D1.4 Agricultural Development	Complies - see Appendix - Development Control Plan Compliance
D1.5. Non-Agricultural Development	N/A

Section 79C(1)(a)(iiia) The provisions of any planning agreement

There are no planning agreements applying to this application.

Section 79C(1)(b)The likely impacts of the development

Design

The subject site has been used as a quarry to extract sand materials for many years and has now exhausted its use. The site is currently a void with varying depth of 2m up to 4m deep and unsightly. The rehabilitation and filling works on the site will bring the land back to a more natural landform. The existing vegetation along the boundaries and those located at the north-east corner will be retained and the site will

be required to be all grassed once filling is completed.

The proposal once completed will result in an improved streetscape and enhance the Scenic and landscape values of this area and will provide additional rural/agricultural land..

The SWCPP at the briefing meeting in January had requested that the applicant confirm that the site will be compacted to a suitable compaction level for rural residential and agricultural related land use. The applicant has confirmed that the final finished ground level will be compacted to meet the Australian Standard of AS3798. 2007 which is suitable for rural residential and agricultural related land use. However, the applicant has not indicated if or when these uses may be pursued.

The proposed design of the storage and office shed structure is considered to be compatible with other rural sheds in the area.

Vegetation Management

The site contains a group of trees located at the north-eastern corner of the site and a single row of trees located along the eastern, southern and western boundaries of the site which is part of the Agnes Banks Woodland. The applicant had initially proposed to remove the group of trees located along the north-eastern corner of the site but has now agreed to retain these vegetation as part of the proposal.

A Flora and Fauna report including a "Five Part Test" has been submitted with the application. The site survey in the report concludes that there are no threatened flora or fauna species except for a threatened ecological community Agnes Banks Woodland located at the north-eastern corner of the site and individual trees located in the roadside verge along Wilshire Road. The rest of the vegetation on site were found to be exotic vegetation. The report recommends that those existing trees as part of the Agnes Banks Woodland will need to be retained and preserved and tree protection measure will need to be place during work phase.

The submitted documents have been examined by Council's Senior Biodiversity Officer who generally agrees with the findings but has required submission of a vegetation management plan (VMP) to ensure that during filling of the site, the existing trees to be retained will be protected and not be damaged.

He has concern that some of the fallen trees may have some form of fauna that may not have been found during survey and he has recommended an amended fauna report to be submitted to capture a broader range of potential fauna species and their safe relocation to adjoining bushland and to Council satisfaction. He has otherwise found the proposal to be satisfactory and has raised no objection to the proposal subject to these documents being provided to Council for consideration and approval.

Appropriate conditions have been recommended for the applicant to provide these documents and to maintain and protect all trees located on site prior to commencement of works.

Drainage and Stormwater Management and Water Management

The site currently contains a large dam with a capacity of 111 mega litres and several smaller dams. The existing stormwater system is managed through the existing large dam as well as several smaller dams which are interconnected and water is used for dust suppression and as well as capturing run off and is discharged to Wilshire Road and beyond to the south bushland via interconnected by drainage channels. The dewatering of the large dam will involve creating drainage channels and the water from the dam will be used for dust suppression, soil compaction and other construction purposes as well as for irrigation of the final landform.

The proposal will involve the construction of one sediment control basin and one new permanent farm dam of 1.2m deep with the capacity of 2,136 kilo litres in the first stage of the rehabilitation work and the water

from dam will be used for dust suppression, soil compaction and for irrigation during filling works and the final landform.

Council's Development Engineer has examined the stormwater plan and have advised that the proposed drainage is unlikely to have detrimental impact to adjoining properties and is satisfactory. They have raised no objection to the proposal subject to recommended conditions of consent.

The stormwater Management Report was also referred to and examined by Council's Environmental Waterways Officer who has advised that the proposed use of vegetated swales and system will meet the requirements of Council's WSUD policy and hence has raised no objection to the proposal subject to recommended conditions.

The Maximum Harvestable Right (MHR) capacity for the site area of 24ha is calculated to be 2.2338 ML and the proposed dam will have a capacity of 2.136 ML which is less than the MHR capacity for the site and does not require licensing under the Water Management Act (WMA) 2000.

Noise Impacts

The potential for noise impacts from rehabilitation works are traffic movements along the roads, heavy equipment operating on site and truck idling on site. The adjoining two properties to the east and south are bushland and contains no residences. There are several residences located to the west of the site and the closest residence is located 50m from the western boundary. An Acoustic Report 'Dixon Sand Quarry Rehabilitation: EIS - Noise & Vibration Impact Assessment' prepared by Wilkinson Murray dated 12 July 2019 (Report No. 17315, Version B) was submitted with the application. The following recommendations were made to minimise noise impact to nearby residences.

- *providing physical noise bunds along the western boundary and a small portion of the south-western corner to mitigate noise impact to residences located to the west of the site for the duration of rehabilitation activities;*
- *rehabilitation works within Cell 1 & 2 it to be limited to between 9am and 3pm as it is closer to a residence located 50m from the western boundary;*
- *limiting truck movements to daylight; and*
- *no idling of trucks and other operating engines.*

The Acoustic Report has been examined by Council's Senior Environmental Officer who agrees with the conclusion and proposed recommendations made in the report to mitigate noise impact. No objection has been raised to the proposal subject to implementation of the recommendations made in the report.

Traffic, Access and Parking

The potential traffic generation for delivery of fill material will be dependent on the availability of VENM/ENM material from the right source and will not be consistent on daily basis. The proposed work is expected to generate on average of 9 heavy vehicle (or 18 truck movements) per day and some days up to 120 trucks (240 truck movements) per day using 35 tonne trucks. The proposed transport routes to and from the site are via Castlereagh Road, Londonderry Road, Blacktown Road, Carrington Road, Brook Lane and Wilshire Road or via Northern Road.

The applicant has used a SIDRA analysis of the Castlereagh Road, Brooks Lane and Londonderry Road and Wilshire Road using potential maximum peak hour volume of 30 truck movements taking into consideration the past 10 year traffic situation of these roads. The assessment concluded that the proposed haul routes and the intersection will not be adversely impacted from the traffic generated from the proposed development. The application was referred to RMS who has raised no objection to the use of the proposed routes and have raised no objection to the proposal. No recommended conditions were proposed.

Council's Development Engineer have examined the application and advised that the proposed route roads are capable of handling traffic movements of this nature without having detrimental traffic impact or reduce the performance of these roads. However, they have concerns of potential damages to the road by continuous movement of heavy vehicular traffic movements along Council's local roads. They have therefore recommended that applicant carry out dilapidation report of Brooks Lane, Wilshire Road, Londonderry Road, Driftway, Carrington Road and other local loads to be used as haulage roads to the site. Council's Development Engineer has raised no objection to the proposal subject to their recommended conditions which includes a maintenance bond to be lodged with Penrith City Council for the rectification of any damage to Council's local road network that is attributable to the use of the local roads as a haulage route.

Five temporary gravel parking spaces will be provided for the staff at the south-eastern corner adjacent to the shed building and close to the vehicular access provided for the development and this is considered to be satisfactory for the staff working on the development project.

Waste Management

The wastes generated from the construction of weigh bridge, storage shed and an office is unlikely to be high and those that cannot be recycled will be placed in skip bins and disposed to appropriate licensed waste and recycling facility.

Bushfire

The site is located within the Council's Bushfire Prone map. The proposal is only for the rehabilitation of the site and as such is not relevant for this application. Bushfire requirements can be addressed in the future development applications like for residential use or subdivision and where it is applicable.

Section 79C(1)(c) The suitability of the site for the development

- The proposed rehabilitation of the site will visually improve the area and streetscape.
- The final form of land will be compatible with surrounding/adjoining properties.
- The final form and grades of the site will allow the site to be used for agriculture and related rural landuse.
- The site can in the future be further subdivided to create smaller allotments consistent with existing subdivision patterns of the area.
- The final grade of the site is suitable for the design proposed.

Section 79C(1)(d) Any Submissions

Community Consultation

The application was on exhibition and notified to adjoining and nearby properties from 30 November 2018 to 1 February 2019. Eight (8) submissions were received and all supporting the proposed development.

Referrals

The application was referred to the following stakeholders and their comments have formed part of the assessment:

Referral Body	Comments Received
Development Engineer	No objections - subject to conditions
Environmental - Environmental management	No objections - subject to conditions
Environmental - Waterways	No objections - subject to conditions
Environmental - Biodiversity	No objections
Traffic Engineer	No objection

Section 79C(1)(e)The public interest

- The proposal will use VENM and ENM clean fill materials rather than waste materials to fill the site.
- The proposal will result in an improved outcome for the site.
- The proposal will provide additional land for agriculture in the area.
- The proposed development will not generate any significant issues of public interest.

Conclusion

In assessing this application against the relevant environmental planning policies, being SEPP (Infrastructure) 2007, SEPP (Mining, Petroleum Production and Extractive Industries) 2007, SEPP 55, SREP 20, Penrith Local Environmental Plan 2010 and Penrith Development Control Plan 2014, the proposal satisfies the aims, objectives and provisions of these policies.

- The proposed work is suitable for the site and surrounding properties.
- The proposal will have a positive impact on the surrounding character of the area.
- There is unlikely to be negative impacts arising from the proposed development and any impacts can be managed through appropriate conditions.
- The proposal is in the public interest.

Therefore, the application is worthy of support, subject to recommended conditions.

Recommendation

1. That DA18/1135 for Rehabilitation of Two Southern Portion Agnes Banks Quarry and Associated Infrastructure Work including Weigh Bridge Office and Amenities Maintenance Shed and Parking Areas at 237-265 Wilshire Road Agnes Banks, be approved subject to the attached recommended conditions (Development Assessment Report Part B).
2. That those who made a submission are notified of the determination.

CONDITIONS

General

- 1 The development must be implemented substantially in accordance with the following plans and stamped approved by Council,

Drawing Title	Drawing Reference	Issue	Prepared by	Dated
Site Regrade Contours plan	15004C1.02	B	Baker Ryan Stewart	28.08.2018
Development Stage plan	R01/4193_011	-	Circle Z Design Pty Ltd	04.10.2018
Elevation of the shed	R01/4193_024	-	Circle Z Design Pty Ltd	04.10.2018
Section of the shed	R01/4193_025,	-	Circle Z Design Pty Ltd	04.10.2018
Site Plan for the shed	R01/4193_015	-	Pyramid Design & Drafting	13.06.2019
Soil Erosion and Sediment Control Plan	15004C1.04; 15004C1.05 & 15004C1.06	B	Baker Ryan Stewart	28.08.2018

the application form, and any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

- 2 Works on the shed shall not be commenced until a relevant Construction Certificate has been issued. The shed shall not be used or occupied **until an Occupation Certificate has been issued.**
- 3 All boundary fences are to be rural in character in accordance with the Penrith Rural Development Control Plan 2014. No colourbond or soild fences are permitted.

- 4 **Prior to commencement of works**, an Acoustic Bund Plan of Management, and the acoustic consultant's certification of the document, is to be submitted to Council for approval. If Council is not the certifying authority, a copy of Council's approval is to be provided to the Principal Certifying Authority.

The Acoustic Bund Plan of Management is to detail the construction steps and maintenance requirements of the acoustic bund, as well as the procedures for the phased removal of the fences and bunds. The Plan is to incorporate the requirements for the acoustic bund as laid out in 'Dixon Sand Quarry Rehabilitation: EIS - Noise & Vibration Impact Assessment' prepared by Wilkinson Murray dated 12 July 2019 (Report No. 17315, Version B).

The Plan of Management is to be supported with correspondence from an acoustic consultant certifying that the acoustic mound can achieve the noise objectives if constructed in accordance with the Plan.

Prior to the commencement of rehabilitation operations, the construction of the acoustic bund is to be completed in accordance with the Council approved Plan of Management. The Plan of Management is to be adhered to throughout the development.

- 5 All works that are carried out at a distance of 50 metres or greater from the western property boundary shall be restricted to the following hours:

- Mondays to Fridays, 7am to 6pm
- Saturdays, 7am to 1pm
- No work is permitted on Sundays and Public Holidays.

All works that are carried out within 50 metres of the western property boundary shall be restricted to the following hours:

- Mondays to Fridays, 9am to 3pm
- Saturdays, 9am to 1pm
- No work is permitted on Sundays and Public Holidays.

- 6 A NSW EPA Accredited Site Auditor (as accredited under the Contaminated Land Management Act 1997) shall supervise the filling works.

Within 60 days of the completion of the filling works and prior to the occupation of the land, a Site Audit Statement and the associated Site Audit Report must be submitted to Penrith City Council.

The contact details of the NSW EPA Accredited Site Auditor engaged for the works shall be provided with the Notice of Commencement.

- 7 All land that has been disturbed by earthworks is to be spray grassed or similarly treated to establish a grass cover to all Cells of the site once the rehabilitation works are completed.
- 8 The applicant shall maintain a log of all truck movements and certification for all fill material imported and land applied at the premises. The log book shall be available for inspection at the site office at all times.

- 9 All existing top soil removed from the site shall be retained and reused on site at the end of the rehabilitation works.
- 10 The external finishes of the shed shall be of natural tones preferably of green, grey or sandy colour to blend with the existing natural setting.

Demolition

- 11 All demolition works are to be conducted in accordance with the provisions of AS 2601-1991 "The Demolition of Structures". **Prior to demolition**, all services shall be suitably disconnected and capped off or sealed to the satisfaction of the relevant service authority requirements.

All demolition and excavated material shall be disposed of at a Council approved site or waste facility. Details of the proposed disposal location(s) of all excavated material from the development site shall be provided to the Principal Certifying Authority **prior to commencement of demolition**.

- 12 You should read Council's Fact Sheet titled "Handling and Disposal of Fibrous Cement Products" **before any demolition works commence on the site**.

Prior to commencement of demolition works on site, a portaloo with appropriate washing facilities shall be located on the site and the Principal Certifying Authority is to be satisfied that:

- Measures are in place so as to comply with the WorkCover Authority's "Short Guide to Working with Asbestos Cement" and
- The person employed to undertake the works is a licensed asbestos removal contractor and is holder of a current WorkCover Asbestos Licence.

Any demolition works involving the removal of all asbestos shall only be carried out by a licensed asbestos removal contractor who has a current WorkCover Asbestos Licence.

All asbestos laden waste, including asbestos cement flat and corrugated sheeting must be disposed of at a tipping facility licensed by the Environmental Protection Authority to receive asbestos wastes.

Heritage/Archaeological relics

- 13 If any archaeological relics are uncovered during the course of the work no further work shall be undertaken until further directed by Penrith City Council or the NSW Heritage Office.

The applicant is advised that depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the Heritage Act, 1977 may be required before any further work can be recommenced in that area of the site.

Environmental Matters

- 14 Erosion and sediment control measures shall be installed **prior to the commencement of works on site** including approved clearing of site vegetation. The erosion and sediment control measures are to be maintained in accordance with the approved erosion and sediment control plan(s) for the development and the Department of Housing's "Managing Urban Stormwater: Soils and Construction" 2004.

(Note: To obtain a copy of the publication, you should contact Landcom on (02) 98418600).

- 15 The sediment retention basins must be designed and constructed consistent with 'Managing Urban Stormwater: Soils and Construction, Volume 2e Mines and Quarries' (DECC, 2008) to achieve the required water quality for storms up to the 90th percentile 5-day storm event (39.7mm).
- 16 **Prior to commencement of works**, a detailed geotechnical report prepared by a suitably qualified person shall be prepared to determine the compaction requirements for the placement of fill in accordance with the requirements of AS3798-2007. **Certification is to be submitted** to Council verifying that the compaction work has been undertaken in accordance with the geotechnical report and requirements of AS3798-2007.
- 17 All waste materials stored on-site are to be contained within a designated area such as a waste bay or bin to ensure that no waste materials are allowed to enter the stormwater system or neighbouring properties. The designated waste storage areas shall provide at least two waste bays / bins so as to allow for the separation of wastes, and are to be fully enclosed when the site is unattended.
- 18 Noise levels from the site/premises shall not exceed the relevant noise criteria detailed in 'Dixon Sand Quarry Rehabilitation: EIS - Noise & Vibration Impact Assessment' prepared by Wilkinson Murray dated 12 July 2019 (Report No. 17315, Version B). The recommendations provided in the above-mentioned acoustic report (section 8.1) shall be implemented and incorporated into the design, construction and operations of the development.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 19 Only clean and unpolluted water is to be discharged into Penrith City Council's stormwater drainage system. Liquid wastes suitable for discharge to the mains sewer are to be discharged in accordance with Sydney Water requirements.

If mains sewer is not available or if Sydney Water will not allow disposal to the sewer then a licensed waste contractor is to remove the liquid waste from the premises to an appropriate waste facility.

The waste contractor and waste facility are to hold the relevant licenses issued by the NSW Environment Protection Authority.

- 20 A Fill Importation Protocol is to be developed by an appropriately qualified person and endorsed by a NSW EPA Accredited Site Auditor.

Prior to commencement of works, the Protocol, and a copy of the Site Auditor's endorsement of the document, is to be submitted to Council for approval.

The Protocol is to detail the procedures that will be followed throughout all filling works, to ensure that only suitable fill material is imported onto the development site. At minimum, an appropriately qualified person/s shall:

- Supervise all filling works.
- (On completion of filling works) carry out an independent review of all documentation relating to the filling of the site, and submit a review findings report to Council and any Principal Certifying Authority. All fill material documentation is to (at minimum):
 - o be prepared by an appropriately qualified person with consideration of all relevant guidelines, standards, planning instruments and legislation (e.g. EPA, NEPM, ANZECC, NH&MRC),
 - o clearly state the legal property description of the fill material source site and the total amount of fill tested,
 - o provide details of the volume of fill material to be used in the filling operations,
 - o provide a classification of the fill material to be imported to the site in accordance with the NSW Environment Protection Authority's "Waste Classification Guidelines" 2014, and
 - o (based on the fill classification) determine whether the fill material is suitable for its intended purpose and land use and whether the fill material will or will not pose an unacceptable risk to human health or the environment.
- Certify by way of a Compliance Certificate or other written documentation that fill materials have been placed on the site in accordance with all conditions of this consent and that the site will not pose an unacceptable risk to human health or the environment. A copy of the Compliance Certificate or other documentation shall be submitted to Council and any Principal Certifying Authority.

The approved Fill Importation Protocol is to be adhered to throughout all stages of the development. If Penrith City Council is not satisfied that suitable fill materials have been used on the site, further site investigations or remediation works may be requested.

Note: An appropriately qualified person(s) is defined as "a person who, in the opinion of the Council, has a demonstrated experience or access to experience in hydrology, environmental chemistry, soil science, ecotoxicology, sampling and analytical procedures, risk evaluation and remediation technologies". In addition the person(s) or company will be required to have appropriate professional indemnity and public liability insurance.

- 21 **Prior to commencement of works**, an Environmental Management Plan (EMP) is to be prepared by a suitably qualified person and submitted to Council for approval.

The EMP is to address the environmental aspects of the development and is to include details on the environmental management practices and controls to be implemented on the site. The EMP is to address, but is not limited to the following:

- Noise control and hours of operation - with particular consideration given to the recommendations included in Section 8 of the 'Dixon Sand Quarry Rehabilitation: EIS - Noise & Vibration Impact Assessment' prepared by Wilkinson Murray dated 12 July 2019 (Report No. 17315, Version B), and provisions for compliance monitoring in accordance with the conditions of this consent.
- Air quality management (including dust suppression) - with particular consideration given to the recommendations included in Section 7 and Section 9 of the 'Dixon Sand Quarry Rehabilitation, Agnes Banks: Air Quality Assessment' prepared by ERM Worldwide Group Ltd dated 24 October 2018 (Report No. 0434956).
- Water quality management.
- Waste management Community consultation and liaison.

The Council approved EMP is to be implemented and adhered to during all development stages.

- 22 Dust suppression techniques are to be employed during all works to reduce any potential nuisances to surrounding properties.

- 23 Mud and soil from vehicular movements to and from the site must not be deposited on the road.

- 24 Noise levels from the site/premises shall not exceed the relevant noise criteria detailed in 'Dixon Sand Quarry Rehabilitation: EIS - Noise & Vibration Impact Assessment' prepared by Wilkinson Murray dated 12 July 2019 (Report No. 17315, Version B). The recommendations provided in the above-mentioned acoustic report (section 8.1) shall be implemented and incorporated into the design, construction and operations of the development.

The provisions of the Protection of the Environment Operations Act 1997 apply to the development, in terms of regulating offensive noise.

- 25 Compliance noise monitoring is to be carried out by a suitably qualified acoustic consultant, with consideration of the recommendations of the 'Dixon Sand Quarry Rehabilitation: EIS - Noise & Vibration Impact Assessment' prepared by Wilkinson Murray dated 12 July 2019 (Report No. 17315, Version B). Noise monitoring is to be undertaken at location R38 during bund construction and within 3 months after the completion of the bund to determine its effectiveness.

An Acoustic Compliance Report that documents the findings of this monitoring is to be prepared by the acoustic consultant within 14 days of the monitoring event and is to be submitted to and approved by Council. Should the noise criteria be unable to be achieved, an acoustic consultant is to provide suitable recommendations for the mitigation of the noise impact. Any mitigation works are to be undertaken within thirty (30) days from the date of notice from Council, unless otherwise specified.

- 26 The noise bunds must be constructed to block out the line of site between the working areas within the cell and the closest noise-sensitive receivers. If the construction of the bunds are developed progressively, the extent of the bunds will need to accommodate this principle.

- 27 **The noise bund shall be completed prior to** rehabilitation works commencing on site or within six (6) months of the date of this consent notice.

- 28 **Prior to the issue of the Construction Certificate**, an Acoustic Bund Plan of Management, and the acoustic consultant's certification of the document, is to be submitted to Council for approval. If Council is not the certifying authority, a copy of Council's approval is to be provided to the Principal Certifying Authority.

The Acoustic Bund Plan of Management is to detail the construction steps and maintenance requirements of the acoustic bund, as well as the procedures for the phased removal of the fences and bunds. The Plan is to incorporate the requirements for the acoustic bund as laid out in 'Dixon Sand Quarry Rehabilitation: EIS - Noise & Vibration Impact Assessment' prepared by Wilkinson Murray dated 12 July 2019 (Report No. 17315, Version B).

The Plan of Management is to be supported with correspondence from an acoustic consultant certifying that the acoustic mound can achieve the noise objectives if constructed in accordance with the Plan.

Prior to the commencement of rehabilitation operations, the construction of the acoustic bund is to be completed in accordance with the Council approved Plan of Management. The Plan of Management is to be adhered to throughout the development.

- 29 An Unexpected Finds Protocol (the Protocol) is to be developed by an appropriately qualified environmental consultant and endorsed by a NSW EPA Accredited Site Auditor.

Prior to commencement of work, the Protocol, and a copy of the Site Auditor's endorsement of the document, is to be submitted to Council.

The Protocol is to address the management of any contamination found on the site, including contaminated soils, groundwater, buried building materials, asbestos, odour and staining. It is to set out the response, assessment, and the general approach for the management of contamination.

The Protocol is to be adhered to throughout the development.

All remediation works within the Penrith Local Government Area are considered to be Category 1 works under State Environmental Planning Policy 55-Remediation of Land. Should any contamination be found during development works and should remediation works be required, development consent is to be sought from Penrith City Council before the remediation works commence.

BCA Issues

- 30 All aspects of the shed building shall comply with the applicable performance requirements of the Building Code of Australia so as to achieve and maintain acceptable standards of structural sufficiency, safety (including fire safety), health and amenity for the on-going benefit of the community. Compliance with the performance requirements can only be achieved by:

(a) complying with the deemed to satisfy provisions, or

(b) formulating an alternative solution which:

- complies with the performance requirements, or
 - is shown to be at least equivalent to the deemed to satisfy provision, or
- (c) a combination of (a) and (b).

Construction

- 31 Stamped plans, specifications, a copy of the development consent and any other Certificates to be relied upon shall be available on site at all times.

The following details are to be displayed in a maximum of 2 signs to be erected on the site:

- the name of the Principal Certifying Authority, their address and telephone number,
- the name of the person in charge of the work site and telephone number at which that person may be contacted during work hours,
- that unauthorised entry to the work site is prohibited,
- the designated waste storage area must be covered when the site is unattended, and
- all sediment and erosion control measures shall be fully maintained until completion of the construction phase.

Signage but no more than 2 signs stating the above details is to be erected:

- at the commencement of, and for the full length of the, construction works onsite, and
- in a prominent position on the work site and in a manner that can be easily read by pedestrian traffic.

All construction signage is to be removed on completion of the works.

32 Prior to the commencement of works:

(a) Toilet facilities at or in the vicinity of the work site shall be provided at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be:

- a standard flushing toilet connected to a public sewer, or
- if that is not practicable, an accredited sewage management facility approved by the council, or
- alternatively, any other sewage management facility approved by council.

(b) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with the appropriate professional standards. All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

(c) If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:

- must preserve and protect the building from damage, and
- if necessary, must underpin and support the building in an approved manner, and
- must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished. The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this condition, whether carried out on the allotment of land being excavated or on the adjoining allotment of land, (includes a public road and any other public place).

(d) If the work involved in the erection or demolition of a building is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place:

- if necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place,
- the work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place, and
- any such hoarding, fence or awning is to be removed when the work has been completed.

Engineering

33 All roadworks, stormwater drainage works, associated civil works and dedications, required to effect the consented development shall be undertaken at no cost to Penrith City Council.

34 An Infrastructure Restoration Bond is to be lodged with Penrith City Council for development involving works around Penrith City Council's Public Infrastructure Assets. The bond is to be lodged with Penrith City Council **prior to commencement of any works on site or prior to the issue of any Construction Certificate**, whichever occurs first. The bond and applicable fees are in accordance with Council's adopted Fees and Charges.

An application form together with an information sheet and conditions are available on Council's website.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

- 35 **Prior to the commencement of works**, a Section 138 Roads Act applications, including payment of application and inspection fees, shall be lodged and approved by Penrith City Council (being the Roads Authority for any works required in a public road).

These works may include but are not limited to the following:

- a) Vehicular crossings (including kerb reinstatement of redundant vehicular crossings)
- b) Road opening for utilities and stormwater (including stormwater connection to Penrith City Council roads and other Penrith City Council owned drainage)
- c) Road occupancy or road closures
- d) The placement of hoardings, structures, containers, waste skips, signs etc. in the road reserve
- e) Temporary construction access

All works shall be carried out in accordance with the Roads Act approval, the development consent, including the stamped approved plans, and Penrith City Council's specifications, guidelines and best engineering practice.

Contact Penrith City Council's City Works Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

Note: Where Penrith City Council is the Certifying Authority for the development, the Roads Act approval for the above works may be issued concurrently with the Construction Certificate. All works associated with the Roads Act approval must be completed on completion of works.

- 36 The works shall be undertaken in accordance with the stamped approved concept plan/s prepared by (Barker Ryan Stewart), File Number (SY150004C1), revision (B), dated (28/08/2018), and the development consent, Penrith City Council's Design Guidelines for Engineering Works for Subdivisions and Developments, Engineering Construction Specification for Civil Works, Austroads Guidelines and best engineering practice.

The subdivision works may include but are not limited to the following:

- Public and private roads
- Storm water management (quantity and quality)
- Interallotment drainage
- Private access driveways
- Sediment and erosion control measures
- Flood control measures
- Overland flow paths
- Traffic facilities
- Earthworks
- Bridges, culverts, retaining walls and other structures
- Landscaping and embellishment works

Note: Contact Penrith City Council's Development Engineering Department on (02) 4732 7777 or visit Penrith City Council's website for more information.

- 37 The stormwater management system shall be provided generally in accordance with the concept plan/s lodged for development approval, prepared by (Barker Ryan Stewart), File Number (SY150004C1), revision (B), dated (28/08/2018),

Engineering plans and supporting calculations for the stormwater management systems are to be prepared by a suitably qualified person.

Prior to commencement of work, the Certifying Authority shall ensure that the stormwater management system has been designed in accordance with Penrith City Council's Stormwater Drainage for Building Developments and Water Sensitive Urban Design (WSUD) policies.

- 38 **Prior to the commencement of any works on-site** (including demolition works) or prior to the issue of any Construction Certificate, whichever occurs first, a Construction Traffic Management Plan (CTMP) shall be submitted to Council for approval. The CTMP shall be prepared in accordance with Council's Engineering Construction Specification for Civil Works. The CTMP shall be prepared by a suitably qualified consultant with appropriate training and certification from the Roads & Maritime Services (RMS), and in accordance with Council's Engineering Construction Specification for Civil Works. Approval of the CTMP may require approval of the Local Traffic Committee.

- 39 **Prior to commencement of works**, sediment and erosion control measures shall be installed in accordance with the approved Construction Certificate and to ensure compliance with the Protection of the Environment Operations Act 1997.

The erosion and sediment control measures shall remain in place and be maintained until all disturbed areas have been rehabilitated and stabilised.

- 40 **Council shall undertake a final inspection** on completion of all works associated with a S138 Roads Act approval or S68 Local Government Act approval have been inspected and signed off by Penrith City Council.

- 41 An original set of Works-as-executed drawings, final operation and maintenance management plans and any other compliance documentation shall be submitted to the Penrith City Council in accordance with Penrith City Council's Engineering Construction Specification for Civil Works, WSUD Technical Guidelines and Stormwater Drainage for Building Developments, on completion of rehabilitation works.

- 42 The stormwater management systems shall continue to be operated and maintained in perpetuity to the satisfaction of Council in accordance with the final operation and maintenance management plan. Regular inspection records are required to be maintained and made available to Council upon request. All necessary improvements are required to be made immediately upon awareness of any deficiencies in the treatment measure/s.

- 43 **Prior to the Commencement of Works**, a dilapidation report shall be undertaken of the existing road pavement along Council's local road network. The report shall include Brooks Lane, Wilshire Road, Londonderry Road, Driftway, Carrington Road and other local roads to be used as haulage roads to the site entry. The report shall be submitted to Penrith City Council seven (7) days prior to the commencement of works.
- 44 **Prior to commencement of works**, a maintenance bond is to be lodged with Penrith City Council for the rectification of any damage to Council's local road network that is attributable to the use of the local roads as a haulage route.

The value of the bond shall be \$3,000,000 and will be held by Council for the duration of the works.

Note: Contact Council's **Engineering Services Department** on 4732 7777 for further information relating to bond requirements.

- 45 **Prior to commencement of works**, a geotechnical assessment shall be undertaken by a suitably qualified person of the existing pavement condition of Council's local road network that is to be utilised as a haul road. The report shall address pavement design life and is to include the pavements of Brooks Lane, Wilshire Road, Londonderry Road, Driftway, Carrington Road and other local roads to be used as haulage roads to the site entry. The method of testing is to be approved by Penrith City Council and shall be undertaken on a sixth (6) monthly basis or as determined by Penrith City Council.
- 46 Any damages caused to Council's local road network infrastructure during the rehabilitation works on the site shall be repaired/rectified by the applicant/owner of the property to Council's satisfaction at no cost to Penrith City Council.

At the completion of the works, any damage to Council's local road network infrastructure not identified in the dilapidation report as a result of the development shall be rectified at no cost to Penrith City Council.

Landscaping

- 47 All trees that are required to be retained as part of the development are to be protected in accordance with the minimum tree protection standards prescribed in Section C 6 Landscape Design of Penrith Development Control Plan 2014.
- 48 No trees are to be removed, ringbarked, cut, topped or lopped or wilfully destroyed (other than the two trees located within the proposed vehicular access way) without the prior consent of Penrith City Council and in accordance with Council's Tree Preservation Order and Policy.

- 49 **Prior to commencement of works**, for the shed structure, a landscape plan shall be submitted to Council for consideration and approval showing a row of native trees common to the area at a spacing of approximately 8m to 10m apart. All trees shall be **planted prior to the issue of an Occupation Certificate**.

Certification

- 50 **Prior to the commencement of construction works relating to the shed**, the proponent is to:

- (a) employ a Principal Certifying Authority to oversee that the said works carried out on the site are in accordance with the development consent and related Construction Certificate issued for the approved development, and with the relevant provisions of the Environmental Planning and Assessment Act 1979, and accompanying Regulation, and
- (b) submit a Notice of Commencement to Penrith City Council.

The Principal Certifying Authority shall submit to Council an "Appointment of Principal Certifying Authority" in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Information to accompany the Notice of Commencement

Two (2) days before any earthworks or construction/demolition works are to commence on site (including the clearing of site vegetation), the proponent shall submit a "Notice of Commencement" to Council in accordance with Section 81A of the Environmental Planning and Assessment Act 1979.

Appendix - Development Control Plan Compliance

Development Control Plan 2014

Part C - City-wide Controls

C1 Site Planning and Design Principles

The proposed filling works (which has been used to extract sand from the site) are required to prepare the site for general agricultural/rural residential land. The proposed final finished form/levels of the site will result in additional agricultural land once rehabilitation/filling work is completed. The proposed final form of the site will be consistent with other existing large parcels of land in the area. It will provide further opportunity for subdivision of the site to meet the minimum lot size requirements of the LEP (which will be a separate development application). The proposed final form of the site will improve the appearance of the existing site situation and the proposed work is unlikely to have detrimental visual impact but improve the streetscape of the area and hence is acceptable for the area.

It is noted that all eight (8) submissions received were favourable of the proposal and seeking the outcome proposed from this development that will improve the streetscape of the area.

C2 Vegetation Management

A small part of the north-east corner contains a group of native trees, this area also is considered to have scenic and landscape values which is part of the larger vegetation area located to the east, north and south of the site being Agnes Banks Woodland located to the east of the site and along the western boundary.

The submitted flora and fauna assessment and visual impact assessment has been examined by Council's Bio-diversity Management Officer and a site inspection was undertaken and the following advice was provided:

- *Although the report indicates that there were no threatened fauna located at the time of the survey, it is noted that hollow bearing trees forms part of habitat feature for wildlife including threatened owls and micropteran bats.*
- *It is also known that Green and Gold Bell frog and Cumberland Plain Land Snails has been recorded using mine ponds on other sites around Sydney.*
- *Applicant will be required to provide details as to how it will carry out measures to prevent injury to fauna during pumping of water from the dam.*
- *Applicant will also be required to provide additional information as to how the existing vegetation located along the north-eastern corner and western boundary of the site will to be preserved and how there will be minimal impacts to existing vegetation on site and how they will be protected during filling works carried out on the site .*
- *Applicant will also be required to submit a detailed Vegetation Management Plan for the short term and long term management of the Native Vegetation on site for consideration and approval by Council..*

The applicant has been required to carry out the above requirements to provided to Council prior to commencement of any work on site as it will take long time for all these documents and studies to be prepared. Council's Bio-diversity Management Officer has included appropriate conditions to ensure that the above information/reports are provided to Council before commencement of any work on the project site for consideration and approval by Council. He has raised no objection to the proposal subject to the recommended conditions.

C3 Water Management

The site has a large dam which will be decommissioned and a smaller dam will be constructed

at the southern central part of the boundary. A small part of the western corner of the site is affected by overland path (approximately 300mm) and the proposed filling on this flood affected area is negligible and Council's development engineers have raised no issue with this.

The submitted Stormwater Management Plan has been examined by Council's Development Engineer and have found it to comply with Council's Policy and is satisfactory. They have raised no objection to the proposal subject to recommended conditions.

The proposed stormwater quality management concept will include vegetated diversion swales which will direct surface runoff into sediment basins that have been sized in accordance with Landcom's Managing Urban Stormwater Volume 1 (2004) and the sediment basins will be retained until the site is fully rehabilitated. The submitted MUSIC modelling undertaken to assess the water quality of the rehabilitated site discharge and to assess the effectiveness of the proposed stormwater management plan demonstrates that it will meet Penrith City Council's water quality targets requirements.

Council's Waterways Environmental Waterways officer has examined their plan and found to be satisfactory and have raised no objection to the proposal subject to recommended conditions.

C4 Land Management

This section of the DCP requires Council to ensure that the any fill brought to the site is not contaminated and appropriate for future use. The site currently contains stockpiles of natural soils and the proposal will involve the importation of 860,000 tonnes of fill materials on site. The filling process is carried out as follows:

- The existing stockpiles suitable to be used along with crushed sandstone will be levelled by using 8 to 10 tonne roller compacted to minimum dry density ratio of 95%.
 - Place suitable backfill materials on proof rolled alluvial deposits in horizontal layers of 200 to 300mm maximum loose thickness.
 - Compact each fill material layer to a minimum dry density ratio (MOOR) of 95% standard, at moisture content within 2% of Optimum Moisture Content for cohesive clayey materials and density index of 70% for cohesion less sandy materials.
 - Supervision of fill placement to be undertaken to ensure that material quality, layer thickness, testing frequency and compaction criteria conform to the required specifications in accordance with AUS3798 2007.
 - For long term stability any slopes will be battered to at least 1.0 vertical to 3.0 horizontal.
 - The Geotech report carried out 4m deep 16 hole drilling tests across the site which confirms that there is not anticipated to be any groundwater inflow during earthworks or have impacts to groundwater as a result of the proposed quarry rehabilitation.
- All imported fill material will be certified as VENM or ENM and will be managed in accordance with a Fill Importation Protocol.
 - Any excavated material requiring removal from the site will be assessed, classified and disposed of in accordance with the NSW EPA's Waste Classification Guidelines by a suitably licenced waste contractor.
 - Soil erosion and sediment control measures will be in place throughout all phases of work.

The application and submitted documents along with the *Site Audit Interim Advice* prepared by James Davis, an NSW EPA Accredited Site Auditor concluded that *"it is unlikely that the site has been contaminated from past activities at a level of significance to impede the proposed use of the site"*. The report has been examined by Council's Senior Environmental Officer and agrees with the findings by accredited site Auditor. No objection has been raised to the

development subject to recommended conditions and recommendation made by the Auditor.

C6 Landscape Design

The site will be required to keep all existing trees on site and the final finished ground level will be required to be grassed. The site once filling works are completed and with the existing vegetation being retained, additional row of native trees will be required to be planted along the northern boundary to provide screen buffer which will further enhance the site visually and this is considered to be satisfactory.

C10 Transport, Access and Parking

The development will have in an average 9 truck deliveries in a day and may have in some days up to 120 trucks delivering fill materials to the site. There is potential of 10 to 15 light vehicular movements per day by the staff and visitors. The application along with traffic report has been examined by both Council's Traffic Engineer and RMS and have advised that the existing roads are able to cater for the traffic generated from this development without having adverse impact and have raised no objection to the proposal.

Vehicular Access has been proposed from south-east corner of the site which will be used to bring fill materials to the weighing platform and site office access. The use of local road has the potential for road damages and Council has required the applicant to provide a dilapidation report prior to the commencement of the filling works and for applicant to repair any damage to Council's local road network that is attributable to the use of the local roads as a haulage route.

C12 Noise and Vibration

There are several residences are located along the western side of the site, two of which are owned by the owner of the site and the closest residence is located 500m from the site. The potential of noise impacts are from construction works and equipment and truck movements to and from the site to nearby residences has been considered in the submitted Acoustic Report. The applicant has proposed an earth mound noise barrier from 3.50m up to 7m high in some area located along the western part of the site in order alleviate noise impact to residences located to the west of the site. The noise barrier will be constructed with the fill materials brought to the site and will be used for levelling of the last part of the filling stage for cells 1 & 2.

The staff, truck drivers and contractors will be trained to maintain low speed, minimising horn signals, switching off equipment not being used and limiting the hours of operation to minimise any potential for noise impact to surrounding areas.

The proposal has been examined by Council's Senior Environmental Officer who has examined the Acoustic Report and have raised no objection to the proposal subject to their recommended conditions and compliance with the recommendation in the Acoustic Report being carried out.

C13 Infrastructure and Services

The site has access to the infrastructure and services available for the area.

D1 Rural Land Uses

D1.1. Rural Character

The proposed works will result in an improved site appearance and is unlikely to have adverse impact to the rural character of the area.

D1.2. Rural Dwellings and Outbuildings

The proposed temporary shed has been designed to be consistent with other rural shed that can be seen in the area. Although the ridge height is slightly higher (by 20 cm) and wall height higher by 1.5m than the maximum allowed height, the overall bulk, scale and design of the shed is considered to be compatible with other sheds and in the scheme of the site being so large, this minor variation to the DCP requirements is considered to be reasonable. The applicant has been required to use soft pastel colours like the green and grey tone to match the background of the area.

1.3.2 Floor Space, Height and Design

The following table outlines the Numerical Requirements

Criteria	Required	Proposed	Compliance
Minimum site area	20,000m ²	25Ha	Complies
Maximum accumulative dwellings footprint of ground floor footprint	600m ²	480m ²	Complies
Setback from public roads	15m	>50m	Complies
Setback from side boundaries	5.0m	>40.0m	Complies
Height	Ext. walls = max 5m Ridge = 8.0m	Ext. walls – 6.5m Ridge – 8.20m	None - Compliance
External Wall Length	Max 45m x 18m	24m x 18m	Compliance
Roof pitch	15 ° to 25°	12.5°	Minor non- Compliance

The external wall height and ridge height is slightly higher than allowed by the DCP. Whilst there is a minor exceedance in external wall and ridge height with 12.5 degree sloped roof, with extensive vegetation on site providing visual buffer of the shed, and in the scheme of the site being 25Ha in area, the shed structure is unlikely to be dominant or have adverse visual impact to the amenity of the area. The minor variation to the wall and ridge height are considered to be reasonable for this instance and is recommended to be supported.

D1.4 Agricultural Development

The site in its current form is unsightly and unusable. The proposal will result in the rehabilitation of the site to blend with the surrounding topography of the area and will provide additional land for rural agricultural/rural use in the future once the work is completed.