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The General Manager
Port Stephens Council
Returned via the Concurrence and Referral Portal

Attention: Mr Ryan Falkenmire

27 February 2020

Dear Mr Falkenmire

**General Terms of Approval
Hay Enterprises (NSW) Pty Ltd (DA No. 16-2019-636-1)**

I refer to the email to the Environment Protection Authority (EPA) dated 6 February 2020 providing Hay Enterprises (NSW) Pty Ltd's (Proponent) response to the EPA's Stop the Clock letter dated 4 November 2019 regarding the proposed Anna Bay Sand Quarry at 4226 Nelson Bay Road, Anna Bay (Premises). The response was written by the Proponent's consultants, Tattersall Lander Pty Ltd and Advitech Pty Limited.

The Proponent is proposing to extract sand from the rear of Lot 591 DP 1191380 in and directly south of the 33kV electrical line easement using a front-end loader(s) to load heavy vehicles to supply domestic markets. Construction of a manager's residence and associated infrastructure will also be required. Based on the proposed extraction rates, the proposal will require an environment protection licence under Chapter 3 of the *Protection of the Environment Operations Act 1997* (POEO Act) for the scheduled activity of "extractive activities" (Clause 19 of Schedule 1 of the POEO Act).

The EPA has reviewed the responses provided and following advice from Port Stephens Council (Council) regarding public submissions provided to the EPA on 25 November 2019, the EPA is now able to issue its General Terms of Approval (GTAs). The EPA's GTAs are provided at **Attachment A** to this letter. Council must include these GTAs as conditions of approval, if approval is granted. The Proponent will need to make a separate application to the EPA for an environment protection licence, should approval be granted. Further information regarding environment protection licences can be found [here](#).

If you have any questions about this matter, please contact Matthew Corradin on 02 4908 6830 or by email to hunter.region@epa.nsw.gov.au

Yours sincerely

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ATTACHMENT A – EPA GENERAL TERMS OF APPROVAL

Note: Any issued environment protection licence may contain additional site-specific conditions not reflected in the General Terms of Approval below.

Administrative Conditions

A1) Except as expressly provided in the conditions below, works and activities at the premises, being Lot 591; DP 1191380, must be carried out in accordance with the information contained in:

- a) the Development Application DA 16-2019-636-1 submitted to Port Stephens Council in October 2019;
- b) the Environmental Assessment titled “Environmental Impact Statement – Anna Bay Sand Extraction & Site Office and Associated Manager’s Residence” dated October 2019 relating to the Development Application; and
- c) all additional documents supplied in relation to the Development Application, including the response to the EPA’s Stop the Clock letter dated 4 November 2019.

A2) This Development Approval and an environment protection licence authorises the carrying out of the following activities at the premises, being Lot 591; DP 1191380. The activities are listed according to their scheduled activity classification, fee-based activity classification and the scale of the operation (as per the *Protection of the Environment Operations Act 1997*). Unless otherwise further restricted by a condition of this Development Approval or an environment protection licence, the scale at which the activity is carried out must not exceed the maximum scale specified in this condition.

Scheduled Activity	Fee Based Activity	Scale
Extractive Activities	Extractive Activities	50,000 to 100,000 tonnes annual capacity to extract or process

A3) Notwithstanding the condition above, extractive activity production rates at the premises must not exceed:

- a) 80,000 tonnes per year.

Note: 80,000 tonnes is taken to be the unit conversion of 50,000 cubic metres where 1 cubic metre is taken to equal 1.6 tonnes.

Limit Conditions

Noise limits:

Construction:

L1) Unless otherwise further restricted or otherwise stipulated by a condition of this Development Approval or an environment protection licence, construction activities at the premises must only occur during the following time periods:

- a) 7am to 6pm Monday to Friday;
- b) 8am to 1pm Saturdays; and
- c) at no time on Sundays or Public Holidays.

L2) The above condition does not apply to the delivery of material outside the permitted timeframes 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 must be provided to the EPA and affected residents as soon as possible, or within 24 hours in the case of emergency.

L3) The Proponent must implement all reasonable and feasible noise and vibration mitigation measures to minimise construction noise and vibration impacts in accordance with the “Interim

Construction Noise Guidelines” (DECC, 2009) and “Assessing Vibration: a technical guideline” (DEC, 2006).

Operation:

L4) All operations and activities occurring at the premises must be conducted in a manner that will not cause offensive noise.

Note: Offensive noise is defined in the dictionary of the *Protection of the Environment Operations Act 1997*.

Pollution of waters:

L5) The Proponent must comply with section 120 of the *Protection of the Environment Operations Act 1997*, except as expressly permitted by an environment protection licence.

Waste limits:

L6) The Proponent 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 or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by an environment protection licence.

Potentially offensive odour:

L7) Unless otherwise further restricted or otherwise stipulated by a condition of this Development Approval or an environment protection licence, no condition of this Development Approval identifies a potentially offensive odour for the purposes of section 129 of the *Protection of the Environment Operations Act 1997*.

Note: Section 129 of the *Protection of the Environment Operations Act 1997*, provides that the Proponent must not cause or permit the emission of any offensive odour from the premises but provides a defence if the emission is identified in the relevant environment protection licence as a potentially offensive odour and the odour was emitted in accordance with the conditions of an environment protection licence directed at minimising odour.

Operating Conditions

Activities must be carried out in a competent manner:

- O1)** 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.

Maintenance of plant and equipment:

- O2)** All plant and equipment installed at the premises or used in connection with the activity:
- a) must be maintained in a proper and efficient condition; and
 - b) must be operated in a proper and efficient manner.

Dust:

O3) The premises must be maintained in a condition which prevents or minimises the emission of air impurities, including dust, from the premises.

O4) All operations and activities occurring at the premises must be carried out in a manner that prevents or minimises the emission of air impurities, including dust, from the premises.

O5) Trucks entering and leaving the premises that are carrying loads of materials which have the potential to cause emissions of air impurities, including dust, must have their loads covered at all times, except during loading and unloading.

Note: Air impurity is defined in the dictionary of the *Protection of the Environment Operations Act 1997*.

Emergency response:

Note: The Proponent must maintain, and implement as necessary, a current Pollution Incident Response Management Plan (PIRMP) for the premises in accordance with Part 5.7A of the *Protection of the Environment Operations Act 1997* and Part 3A of the *Protection of the Environment Operations (General) Regulation 2009*.

Processes and management:

O6) The Proponent must construct, implement and operate/utilise a wastewater management system to manage the collection, storage, treatment, use and disposal of all sewage and other wastewater generated on the premises in accordance with conditions L5, O1 and O2.

Waste management:

O7) The Proponent must, as far as possible, follow the waste hierarchy principals contained within the *Waste Avoidance and Resource Recovery Act 2001* when dealing with any waste generated at the premises.

O8) The Proponent must assess and classify any waste generated at the premises in accordance with the "Waste Classification Guidelines – Part 1: Classifying waste", as in force from time to time, and manage this waste in a lawful manner.

Other operating conditions:

O9) The Proponent must store and handle all liquid chemicals and hazardous materials used at the premises within bunded areas that are constructed and maintained in accordance with the following:

- a) any relevant Australian Standards for the liquids being stored;
- b) within a bunded area with a minimum bund capacity of 110% of the volume of the largest single stored vessel within the bund;
- c) the Storing and Handling Liquids: Environmental Protection Participant's Manual (DECC, 2007); and

where any conflict exists between these requirements, the most stringent requirements apply.

O10) For the purpose of this condition, any tanks or other storage vessels that are interconnected and may distribute their contents either by gravity or automated pumps must be considered a single vessel.

O11) Prior to the commencement of any surface disturbance and/or construction activities, the Proponent must install and maintain appropriate erosion and sediment control measures at the premises in accordance with the publication "Managing Urban Stormwater: Soils and construction – Volume 1" (Landcom, 2004) and "Managing Urban Stormwater: Soils and construction – Volume 2A, Installation of Services" (DECC, 2008).

Monitoring and Recording Conditions

Monitoring records:

M1) The results of any monitoring required to be conducted by this Development Approval or an environment protection or a load calculation protocol must be recorded and retained as set out in these conditions.

M2) All records required to be kept by this Development Approval or an environment protection 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.

M3) The following records must be kept in respect of any samples required to be collected for the purposes of this Development Approval or an environment protection licence:

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

Noise monitoring:

M4) The Proponent, following the receipt of a noise related complaint and if required by the EPA, must undertake noise monitoring as required in writing by the EPA.

Recording of pollution complaints:

M5) The Proponent must keep a legible record of all complaints made to the Proponent or any employee or agent of the Proponent in relation to pollution arising from any activity to which this Development Approval or an environment protection licence applies.

M6) The record must include details of the following:

- a) the date and time of the complaint;
- b) the method by which the complaint was made;
- c) any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
- d) the nature of the complaint;
- e) the action taken by the Proponent in relation to the complaint, including any follow-up contact with the complainant; and
- f) if no action was taken by the Proponent, the reasons why no action was taken.

M7) The record of a complaint must be kept for at least 4 years after the complaint was made.

M8) The record must be produced to any authorised officer of the EPA who asks to see them.

Telephone complaints line:

M9) The Proponent 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 Development Approval or an environment protection licence.

M10) The Proponent 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.

Reporting Conditions

EPA Annual return documents

R1) The Proponent must complete and supply to the EPA an Annual Return in the approved form comprising:

1. a Statement of Compliance,
2. a Monitoring and Complaints Summary,
3. a Statement of Compliance - Licence Conditions,
4. a Statement of Compliance - Load based Fee,
5. a Statement of Compliance - Requirement to Prepare Pollution Incident Response Management Plan,
6. a Statement of Compliance - Requirement to Publish Pollution Monitoring Data; and
7. a Statement of Compliance - Environmental Management Systems and Practices.

At the end of each reporting period, the EPA will provide to the Proponent a copy of the form that must be completed and returned to the EPA.

R2) An Annual Return must be prepared in respect of each reporting period, except as provided below.

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

R3) Where this environment protection licence is transferred from the Proponent to a new Proponent:

- a) the transferring Proponent 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 Proponent is granted; and
- b) the new Proponent 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.

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

R4) Where this environment protection licence is surrendered by the Proponent or revoked by the EPA or Minister, the Proponent must prepare an Annual Return in respect of the period commencing on the first day of the reporting period and ending on:

- a) in relation to the surrender of the licence - the date when notice in writing of approval of the surrender is given; or
- b) in relation to the revocation of the licence - the date from which notice revoking the licence operates.

R5) The Annual Return for the reporting period must be supplied to the EPA via eConnect EPA or by registered post not later than 60 days after the end of each reporting period or in the case of a transferring environment protection licence not later than 60 days after the date the transfer was granted (the 'due date').

R6) The Proponent 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.

R7) Within the Annual Return, the Statements of Compliance must be certified and the Monitoring and Complaints Summary must be signed by:

- a) the Proponent; or
- b) by a person approved in writing by the EPA to sign on behalf of the Proponent.

R8) Where the Proponent is unable to complete a part of the Annual Return by the due date because the Proponent was unable to calculate the actual load of a pollutant due to circumstances beyond the

Proponent's control, the Proponent must notify the EPA in writing as soon as practicable, and in any event not later than the due date. The notification must specify:

- a) the assessable pollutants for which the actual load could not be calculated; and
- b) the relevant circumstances that were beyond the control of the Proponent.

Notification of environmental harm:

Note: The Proponent or its employees must notify all relevant authorities of incidents causing or threatening material harm to the environment immediately after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the *Protection of the Environment Operations Act 1997*.

R9) Notifications must be made by telephoning the Environment Line service on 131 555.

R10) The Proponent must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.

Written report:

R11) Where an authorised officer of the EPA suspects on reasonable grounds that:

- a) where this environment protection licence applies to premises, an event has occurred at the premises; or
- b) 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.

R12) The Proponent 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.

R13) The request may require a report which includes any or all of the following information:

- a) the cause, time and duration of the event;
- b) the type, volume and concentration of every pollutant discharged as a result of the event;
- c) the name, address and business hours telephone number of employees or agents of the Proponent, or a specified class of them, who witnessed the event;
- d) the name, address and business hours telephone number of every other person (of whom the Proponent is aware) who witnessed the event, unless the Proponent has been unable to obtain that information after making reasonable effort;
- e) action taken by the Proponent in relation to the event, including any follow-up contact with any complainants;
- f) details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event; and
- g) any other relevant matters.

R14) 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 Proponent. The Proponent must provide such further details to the EPA within the time specified in the request.

General Conditions

Copy of environment protection licence kept at the premises or plant

G1) A copy of the environment protection licence must be kept at the premises to which the licence applies.

G2) The environment protection licence must be produced to any authorised officer of the EPA who asks to see it.

G3) The environment protection licence must be available for inspection by any employee or agent of the Proponent working at the premises.

Contact number for incidents and responsible employees

G4) The Proponent must operate 24-hour telephone contact lines for the purpose of enabling the EPA to directly contact one or more representatives of the Proponent who can:

- a) respond at all times to incidents relating to the premises; and
- b) contact the Proponent's senior employees or agents authorised at all times to:
 - i) speak on behalf of the Proponent; and
 - ii) provide any information or document required under this Proponent.

G5) The Proponent is to inform the EPA in writing of the appointment of any subsequent contact persons, or changes to the person's contact details as soon as practicable and in any event within fourteen days of the appointment or change.