

ATTACHMENT 3 – RECOMMENDED CONDITIONS

1.0 - General Conditions of Consent

The following conditions of consent are general conditions applying to the development.

- (1) **General terms of approval** – The General Terms of Approval from state authorities must be complied with prior to, during, and at the completion of the development.

The General Terms of Approval are:

1. Environmental Protection Authority, reference 9/881985-22 dated 27 February 2020.
2. Transport for NSW, reference 2019/004584 dated 4 February 2020.

A copy of the General Terms of Approval is attached to this determination notice.

- (2) **External agency approvals** – The requirements from the following agencies must be complied with prior to, during, and at the completion of the development.

The Requirements are:

1. Ausgrid, reference 1900095913 dated 1 November 2019.
2. Hunter Water, reference HW2019-36 dated 5 November 2019.

A copy of the Requirements is attached to this determination notice.

- (3) **Approved plans and documentation** – Development must be carried out in accordance with the following plans and documentation, and all recommendations made therein, except where amended by the conditions of this development consent:

Plan reference/ drawing no.	Name of plan	Prepared by	Date
21800002 / Revision C.	Overall Layout Plan	Tattersall Lander	21/01/20
21800003 / Revision C.	Staging Plan	Tattersall Lander	21/01/20
21800004 / Revision C.	Site Section	Tattersall Lander	21/01/20
21800075	Machinery Shed and Managers Residence Plan	Tattersall Lander	21/01/20
21800006 / Revision C.	Rehabilitation Plan	Tattersall Lander	21/01/20
21810001 / Revision C.	Stormwater Management Plan	Tattersall Lander	21/01/20

217111 Sheet 1 / Revision B.	Entrance and Turning Plans	Tattersall Lander	22/01/20
217111 Sheet 2 / Revision B.	Haul Road Swept Path	Tattersall Lander	22/01/20
217111 Sheet 3 / Revision B.	BAL Treatment – Nelson Bay Road	Tattersall Lander	22/01/20
217111 Sheet 4 / Revision B.	Turning Paths	Tattersall Lander	22/01/20

Document title	Prepared by	Date
Rehabilitation Report	Wildthing Environmental Consultants	January 2020
Geotechnical and Groundwater Report	RCA Australia	August 2018
Environmental Impact Statement (EIS)	Tattersall Lander	October 2019
Site Waste Management Plan	Advitech	May 2018
Coastal Processes & Dune Management Report	Tattersall Lander	No Date
Noise Impact Assessment	Advitech	August 2018
Aboriginal Cultural Heritage Assessment	Niche Environmental	September 2019

In the event of any inconsistency between the approved plans and the conditions, the conditions will prevail.

- (4) Protect existing vegetation and natural landscape features** - Approval to remove existing vegetation for removal is not to occur until the issue of the Construction Certificate.

No vegetation or natural landscape features other than that authorised for removal, pruning by this Consent must be disturbed, damaged or removed. No additional works or access/parking routes transecting the protected vegetation must be undertaken without Council Approval.

- (5) Building Code of Australia** – All building work must be carried out in accordance with the BCA. In this clause, a reference to the BCA is a reference to that Code as in force on the date the application for the relevant Construction Certificate is made.

- (6) Sign on Building** – Except in the case of work only carried out to the interior of a building or Crown building work, a sign must be erected in a prominent position on the site showing the name, address and telephone number of the Principal Certifying Authority for the work, the name of any principal contractor and their after-hours contact number, and must contain a statement that unauthorised entry to the site is prohibited.

The sign must be maintained while the work is being carried out and is to be removed when the work is completed.

- (7) **Outdoor lighting** - All lighting must comply with AS 1158 'Lighting for Roads and Public Spaces' and AS 4282 'Control of Obtrusive Effects of Outdoor Lighting'.

2.0 – Prior to Issue of a Construction Certificate

The following conditions of consent shall be complied with prior to the issue of a Construction Certificate.

- (1) **Civil engineering plans** – Civil engineering plans prepared by a qualified Engineer, indicating drainage, roads, access ways, earthworks, pavement design, street lighting, details of line-marking, traffic management, must be prepared in accordance with the approved plans and Council's Infrastructure Specifications.

Details demonstrating compliance must be provided to the Certifying Authority.

Note. Under the *Roads Act 1993*, only the Roads Authority can approve commencement of works within an existing road reserve.

- (2) **Soil, erosion, sediment and water management** – An Erosion and Sediment Control Plan (ESCP) must be prepared in accordance with Council's Infrastructure Specifications. Details demonstrating compliance must be provided to the Certifying Authority.
- (3) **Long service levy** – In accordance with Section 34 of the *Building and Construction Industry Long Service Payments Act 1986*, the applicant must pay a long service levy at the prescribed rate to either the Long Service Payments Corporation or Council for any works that cost \$25,000 or more.
- (4) **Roads Act Approval** – For construction/reconstruction of infrastructure, including vehicular crossings, footpath, kerb and gutter, stormwater drainage, an application must be made for a Roads Act Approval Certificate under Section 138B of the *Roads Act 1993*.
- (5) **Construction Environmental Management Plan** - A Construction Environmental Management Plan (CEMP) is to be submitted to and approved by the Certifying Authority and Council. The required CEMP must outline the sequence and construction methodology and specify mitigating measures to ensure all works are carried out with minimal environmental impact in relation to project staging, waste management, noise and dust management, traffic management and environmental management.
- (6) **Section 7.12 development contributions** - A monetary contribution is to be paid to Council, pursuant to section 7.12 of the Environmental Planning and Assessment Act 1979 and the Port Stephens Council Fixed Development Contributions Plan, related to the Capital Investment Value (CIV) of the development as determined in accordance with clause 25j of the Environmental Planning and Assessment Regulation 2000 and outlined in the table below.

Capital Investment Value	Levy Rate (% of CIV)
Up to and including \$100,000	Nil
More than \$100,000 and up to and including \$200,000	0.5%
More than \$200,000	1%

The payment of the fixed development consent levy is to be accompanied by a Cost Summary Report Form setting out an estimate of the CIV in accordance with Schedule 1 of the Port Stephens Council Fixed Development Contributions Plan. Where the estimated cost of carrying out the whole of the development is more than \$1,000,000, the Cost Summary Report Form must be completed by a Quantity Surveyor who is a registered Associate member or above, of the Australian Institute of Quantity Surveyors. This condition cannot be taken to be satisfied until a payment has been made in accordance with the CIV stated on a cost summary report submitted to Council in accordance with this condition.

Payment of the above amount must apply to Development Applications as follows:

- a) Building work only - **prior to issue of the Construction Certificate.**
- (7) **Construction Noise and Vibration Plan** - A Construction Noise and Vibration Plan (CMVP) must be prepared for the construction phase of the development. As a minimum the (CMVP) should include all noise mitigation and management measures specified in the Advitech environmental acoustic assessment (pg17-18) and include:
- Construction sequence;
 - Machinery and equipment to be used;
 - Hours and operation, including times and days when noisy construction would occur;
 - The design of noise mitigation measures such as temporary barriers or enclosures.
 - Methods for monitoring and responding to complaints about construction noise.

The Construction Noise and Vibration Plan (CMVP) must be submitted to Council for approval.

- (8) **Approval of OSMS under LG Act** - An approval under Section 68 of the *Local Government Act 1993* is to be obtained from Council for the installation of an on-site sewage management system (OSMS) prior to the issue of a Construction Certificate.
- (9) **Biodiversity Offset Scheme – Species credit retirement** - The class and number of species credits in the following table must be retired to offset the residual biodiversity impacts of the development prior to the issue of a Construction Certificate.

The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Impact species credit species	No. of species credits	IBRA sub-region
Burhinus grallarius / Bush Stone-curlew	20	Anywhere in NSW
Diuris praecox / Rough Doubletail	15	Anywhere in NSW

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund detailed in the above table must be provided to the consent authority prior to the issue of a Construction Certificate.

- (10) Biodiversity Offset Scheme – Ecosystem credit retirement** - The class and number of ecosystem credits in the following table must be retired to offset the residual biodiversity impacts of the development prior to the issue of a Construction Certificate.

The requirement to retire credits may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the Biodiversity Offsets Payment Calculator.

Impacted plant community type	No. of ecosystem credits	IBRA sub-region	Plant community type(s) that can be used to offset the impacts from development
1648-Smooth-barked Apple - Blackbutt heathy open forest of the Tomaree Peninsula	17	Karuah Manning, Hunter, Macleay Hastings, Mummel Escarpment and Upper Hunter. or Any IBRA subregion that is within 100 kilometres of the outer edge of the impacted site.	Coastal Dune Dry Sclerophyll Forests This includes PCT's: 1618, 1648, 1775

Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund detailed in the above table must be provided to the consent authority prior to the issue of a Construction Certificate.

- (11) Biodiversity Management Plan** - A Biodiversity Management Plan must be prepared to the satisfaction of the Consent Authority. The Biodiversity

Management Plan may form part of a Construction Environmental Management Plan.

The Biodiversity Management Plan must identify the development site as per the Biodiversity Development Assessment Report (BDAR) and approved plans.

The Biodiversity Management Plan must identify areas of land that are to be retained as outlined in the BDAR.

The Biodiversity Management Plan must identify all measures proposed in the BDAR to mitigate and manage impacts on biodiversity as outlined in Tables 9.1, 9.2 and 9.3 of BDAR (BIODIVERSITY DEVELOPMENT ASSESSMENT REPORT for a Proposed Sand Extraction Facility and Site Office/Manager's Residence at Lot 591 DP 1191380 Nelson Bay Road ANNA BAY NSW, Prepared by WILDTHING Environmental Consultants, Job No. 12462, 9 March 2020).

3.0 - Prior to Commencement of Works

The following conditions of consent shall be complied with prior to any works commencing on the development site.

- (1) Notice of Principal Certifying Authority appointment** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 103 of the *Environmental Planning & Assessment Regulation 2000*. The notice must include:
 - a) a description of the work to be carried out;
 - b) the address of the land on which the work is to be carried out;
 - c) the Registered number and date of issue of the relevant development consent;
 - d) the name and address of the Principal Certifying Authority (PCA), and of the person by whom the PCA was appointed;
 - e) if the PCA is an accredited certifier, their accreditation number, and a statement signed by the accredited certifier consenting to being appointed as PCA; and
 - f) a telephone number on which the PCA may be contacted for business purposes.
- (2) Notice commencement of work** – Notice must be given to Council at least two days prior to subdivision and/or building works commencing in accordance with Clause 104 of the *Environmental Planning & Assessment Regulation 2000*. The notice must include:
 - a) the name and address of the person by whom the notice is being given;
 - b) a description of the work to be carried out;
 - c) the address of the land on which the work is to be carried out;
 - d) the Registered number and date of issue of the relevant development consent and construction certificate;

- e) a statement signed by or on behalf of the Principal Certifying Authority to the effect that all conditions of the consent that are required to be satisfied prior to the work commencing have been satisfied; and
- f) the date on which the work is intended to commence.

(3) Sign of PCA and contact details – A sign must be erected in a prominent position on the site stating the following:

- a) that unauthorised entry to the work site is prohibited;
- b) the name of the principal contractor (or person in charge of the site) and a telephone number on which that person can be contacted at any time for business purposes and outside working hours;
- c) the name, address and telephone number of the Principal Certifying Authority.

The sign must be maintained while the work is being carried out and must be removed upon the completion of works.

(4) Site is to be secured – The site must be secured and fenced to the satisfaction of the Principal Certifying Authority. All hoarding, fencing or awnings (associated with securing the site during construction) is to be removed upon the completion of works.

(5) Soil erosion and sediment control – Soil erosion and sediment controls must be implemented prior to works commencing on the site in accordance with 'Managing Urban Stormwater – Soils and Construction ('the blue book') and any Sediment and Erosion plans approved with this Development Consent.

Soil erosion and sediment control measures must be maintained during construction works and must only be removed upon completion of the project when all landscaping and disturbed surfaces have been stabilised (for example, with site turfing, paving or re-vegetation).

(6) All weather access – A 3m wide all-weather vehicle access is to be provided from the kerb and gutter to the building under construction for the delivery of materials and use by trades people. No materials, waste or the like are to be stored on the all-weather access at any time.

(7) Protection of trees /existing street trees – Protection of trees to be retained must be in accordance with AS490 'Protection of Trees on Development Sites'.

(8) Weed management – Weed removal and suppression must be undertaken using approved bush regeneration techniques under the supervision of a suitably qualified and approved bush regenerator and in accordance with the requirements for the *NSW Biosecurity Act 2015*, associated Regulations and NSW Weed Control Handbook.

The site is to be inspected by a representative of Council's Invasive Species team one week prior to works commencing.

- (9) **Public liability insurance** – The owner or contractor must take out a Public Liability Insurance Policy with a minimum cover of \$20 million in relation to the occupation of, and works within, public property (i.e. kerbs, gutters, footpaths, walkways, reserves, etc.) for the full duration of the proposed works.

Evidence of this Policy must be provided to Council and the Certifying Authority.

- (10) **Construction Certificate Required** – In accordance with the provisions of Section 6.7 of the *Environmental Planning & Assessment Act 1979 (EP&A Act 1979)*, construction or subdivision works approved by this consent must not commence until the following has been satisfied:
- a) a Construction Certificate has been issued by a Consent Authority;
 - b) a Principal Certifying Authority (PCA) has been appointed by the person having benefit of the development consent in accordance with Section 6.5 of the *EP&A Act 1979*; and
 - c) the PCA is notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

- (11) **Rubbish generated from the development** – Where not already available, a waste containment facility is to be established on site. The facility is to be regularly emptied and maintained for the duration of works.

No rubbish must be stockpiled in a manner which facilitates the rubbish to be blown or washed off site. The site must be cleared of all building refuse and spoil immediately upon completion of the development.

4.0 - During Works

The following conditions of consent shall be complied with during the construction phase of the development.

- (1) **Construction hours** – All work (including delivery of materials) must be restricted to the hours of 7.00am to 5.00pm Monday to Saturday inclusive. Work is not to be carried out on Sundays or Public Holidays.

Any work performed outside the abovementioned hours or on a public holiday that may cause offensive noise, as defined under the *Protection of the Environment Operations Act 1997*, is prohibited.

- (2) **Toilet facilities** – Temporary toilet(s) must be provided and maintained on site from the time of commencement of building work to completion. The number of toilets provided must be one toilet per 20 persons or part thereof employed on the site at any one time.

The temporary toilet is to be either connected to the sewerage system or an approved septic tank or otherwise may be a chemical toilet supplied by a licensed contractor.

- (3) **Excavations and backfilling** – All excavations and backfilling associated with this development consent must be executed safely, and be properly guarded and

protected to prevent them from being dangerous to life or property, and in accordance with the design of a suitably qualified Structural Engineer.

If an excavation extends below the level of the base of the footings of a building on an adjoining allotment, the person causing the excavation must:

- a) preserve and protect the building from damage; and
- b) if necessary, underpin and support the building in an approved manner; and
- c) give at least seven days notice to the adjoining owner before excavating, of the intention to excavate.

The principal contractor, owner builder or any person who needs to excavate and undertake building work, must contact "Dial Before You Dig" prior to works commencing, and allow a reasonable period of time for the utilities to provide locations of their underground assets.

This condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

- (4) Placement of fill** - Filling must not be placed in such a manner that natural drainage from adjoining land will be obstructed or in such a manner that surface water will be diverted.

Any alterations to the natural surface contours must not impede or divert natural surface water runoff so as to cause a nuisance to adjoining property owners.

- (5) Construction Noise and Vibration Plan (CMVP)** – All works must be undertaken in accordance with the approved Construction Noise and Vibration Plan (CMVP).

Should there be justified noise complaints (as assessed by Council Officers) the applicant must employ an acoustic consultant (at applicant's cost) to advise on suitable noise mitigation measures.

- (6) Disposal of stormwater** – Water seeping into any site excavations is not to be pumped into the stormwater system unless it complies with relevant Environmental Protection Agency and Australian and New Zealand Environment and Conservation Council standards for water quality discharge.

- (7) Location of stockpiles** – Stockpiles of soil must not be located on / near any drainage lines or easements, natural watercourses or water bodies, footpath or roadway without first providing suitable protective measures adequate to protect these water bodies. All stockpiles of contaminated materials must be suitably covered to prevent dust and odour nuisance.

- (8) Truck wash down** – Provision must be made for all trucks to be effectively washed down after loading and unloading, prior to leaving the site. This must be within a suitably contained and designated area.

- (9) **Tree protection measures** – All trees to be retained must be protected in accordance with AS4970 'Protection of Trees on Development Sites' for the duration of construction.
- (10) **Soil, erosion, sediment and water management** – All requirements of the Erosion and Sediment Control Plan or Soil and Water Management Plan must be maintained at all times during the works and any measures required by the plan must not be removed until the site has been stabilised.
- (11) **Offensive noise, dust, odour and vibration** – All work must not give rise to offensive noise, dust, odour or vibration as defined in the *Protection of the Environment Operations Act 1997* when measured at the nearest property boundary.
- (12) **Delivery register** - The applicant must maintain a register of deliveries which includes date, time, truck registration number, quantity of fill, origin of fill and type of fill delivered.

This register must be made available to Council officers on request and be provided to the Council at the completion of the development.

- (13) **Fill material** – The only fill material that may be received at the development site is:

Virgin excavated natural material (VENM) within the meaning of the *Protection of the Environment Operations Act (POEO Act 1997)*; or

Excavated natural material (ENM) within the meaning of the *POEO Act 1997*; or

Any other waste-derived material the subject of a resource recovery exemption under s.91 of the *Protection of the Environment Operations (Waste) Regulation 2014* that is permitted to be used as fill material.

Any waste-derived fill material the subject of a resource recovery exemption received at the development site must be accompanied by documentation as to the material's compliance with the exemption conditions and must be provided to the Principal Certifying Authority.

Any fill, soil, mulch and plant brought onto the site must be certified as free of weeds and weed seeds.

- (14) **Compliance with BCA** – All building work must be carried out in accordance with the requirements of the Building Code of Australia.
- (15) **Potential acid sulfate soils** - Should ASS be encountered within the zone of works, an ASS Management Plan is to be prepared by a suitably qualified Geotechnical Engineer and submitted to the Certifying Authority.

The recommendations and/or mitigation measures contained within the ASS Management Plan must be complied with during works.

- (16) **Survey report** – The building must be set out by a Registered land surveyor. A peg out survey detailing the siting of the building in accordance with the approved plans must be provided to the Principal Certifying Authority prior to the pouring of concrete.
- (17) **Construction Environmental Management Plan Implementation** - All operations must be carried out in accordance with the measures contained in the approved Construction Environmental Management Plan, in relation to project staging, waste management, noise and dust management, traffic management and environmental management.
- (18) **Stormwater disposal** – Following the installation of any roof, collected stormwater runoff from the structure must be:
- a) Re-used internally or dispersed at ground level, so as not to be concentrated or create nuisance flows onto any buildings, or neighbouring properties. The discharge location must be at least 3m down slope of the building and 6m minimum clearance from receiving down slope property boundaries.
- (19) **Weed management** – All machinery that has operated in affected areas shall be cleaned thoroughly prior to leaving the site. A wash down area shall be established, and subsequently monitored for the presence of Biosecurity Matter. Cleaning must include the removal of all mud and plant matter, followed by washing with high pressure water.

An area for storage of contaminated soil that is separate from clean material shall be provided during construction.

- (20) **Unexpected finds contingency (general)** – Should any suspect materials (identified by unusual staining, odour, discolouration or inclusions such as building rubble, asbestos, ash material, etc.) be encountered during any stage of works (including earthworks, site preparation or construction works, etc.), such works must cease immediately until a qualified environmental specialist has been contacted and conducted a thorough assessment.

In the event that contamination is identified as a result of this assessment and if remediation is required, all works must cease in the vicinity of the contamination and Council must be notified immediately.

Where remediation work is required, the applicant will be required to obtain consent for the remediation works.

- (21) **Site Identification** - Prior to undertaking any site establishment or construction works:

- a) A registered land surveyor is to be engaged to mark out the boundaries of the approved limits of extraction;
- b) These boundaries are to be clearly marked and maintained at all times in a permanent manner.

(22) Aboriginal Cultural Heritage – All works are to be undertaken in accordance with the recommendations (Part 8) of the Aboriginal Cultural Heritage Assessment prepared by Niche Environmental (reference 4017, dated September 2019).

5.0 - Prior to Issue of an Occupation Certificate

The following conditions of consent shall be complied with prior to the issue of an Occupation Certificate.

(1) Occupation Certificate required - An Occupation Certificate must be obtained prior to any commencement of activity or occupation of the development.

The Principal Certifying Authority must be satisfied that the development has been constructed in accordance with approved plans, specifications and conditions of this consent.

(2) Services – Evidence is to be provided to Council demonstrating that the following reticulated services are available to each lot:

- a) Electricity;
- b) Water;
- c) Sewer.

Should any of the above reticulated services not be available to the development site, a detailed statement is to be provided explaining why connection of the relevant service is not possible or practical.

(3) Stormwater/drainage works – All stormwater and drainage works required to be undertaken in accordance with this consent must be completed.

The certification/verification must be provided to the satisfaction of the Principal Certifying Authority.

(4) Rectification damage to public infrastructure – The applicant must rectify any new damage to public infrastructure to the satisfaction of the Council as the Roads Authority.

(5) Completion of Roads Act Approval works - All approved road, footpath and/or drainage works, including vehicle crossings, have been completed in the road reserve in accordance with the Roads Act Approval to the satisfaction of the Roads Authority.

(6) Works as Executed Plans and Report - Works As Executed Plans must be prepared and provided to the Principal Certifying Authority in accordance with

Council's Infrastructure Specifications confirming all stormwater drainage systems are constructed in accordance with the approved plans/documentation.

- (7) **Geotechnical Compliance Certificate** – A Certificate of Compliance prepared by a qualified Geotechnical Engineer must be provided to the Principal Certifying Authority stating that the works detailed in the Geotechnical Report (RCA Australia, August 2019) have been undertaken under the Engineer's supervision and to the Engineer's satisfaction, and that the assumptions relating to site conditions made in preparation of the report were validated during construction.

This certificate must accompany the Works as Executed plans.

- (8) **Waste disposal** – The building owner must ensure that there is a contract with a licensed contractor for the removal of all waste. No garbage is to be placed on public land (e.g. footpaths, roadways, plazas, reserves) at any time.
- (9) **On-Site Sewerage Management Inspection** - An on-site sewerage management system is to be installed and a satisfactory final inspection completed by Council.
- (10) **Operational Plan of Management** – Prior to the commencement of the use or activity, the proponent is to prepare an Operational Management Plan (OMP), to the satisfaction of Council, which includes:

- a) baseline data,
- b) details on the extraction and loading process,
- c) a description of the relevant statutory requirements and relevant performance measures/limits placed on the project by this consent,
- d) daily register of individual truck movements and sand volumes extracted per load,
- e) preparation of an Air Quality Management Plan,
- f) preparation of a Spill Management Procedure and Groundwater Monitoring Plan,
- g) a description of the measures that will be implemented to comply with the relevant statutory requirements, performance measures/limits,
- h) a program to monitor and report impacts and environmental performance of the project and the effectiveness of any management measures, and
- i) a complaints handling and reporting system.

The OMP shall be updated annually and each year the Operator shall submit a copy of the annual results to Council and relevant public agencies.

- (11) **Bushfire Safety** - The site is located within a bushfire prone area. Certification from a NSW Level 3 accredited Bushfire Consultant must be provided to certify that the development complies with:

- a) the Bushfire Report prepared by Tattersall Lander (reference 217111, dated March 2018); and
- b) the relevant version of NSW Rural Fire Service publication "Planning for Bush Fire Protection."

- (12) **Design Quality of Development** - The manager's residence must comprise neutral materials, finishes and colours consistent with the rural amenity of the location.

6.0 – Ongoing Use

The following conditions of consent are operational conditions applying to the development.

- (1) **Manoeuvring of vehicles** – All vehicles must enter and exit the site in a forward direction.
- (2) **Hours of operation** – The property is only to be open for business and used for the purpose approved within the following hours:

Day	Hours of Operation
Monday	7:00 am to 6:00 pm
Tuesday	7:00 am to 6:00 pm
Wednesday	7:00 am to 6:00 pm
Thursday	7:00 am to 6:00 pm
Friday	7:00 am to 6:00 pm
Saturday	8:00 am to 1:00 pm
Sunday and Public Holidays	No works or activities to occur

Other internal operations such as cleaning, preparation, and office administration may be undertaken outside of the above hours provided no disturbance to the amenity of the neighbourhood occurs.

- (3) **Loading to occur on site** – All loading and unloading operations are to be carried out wholly within the site and in accordance with the approved plans.
- (4) **Amenity** – The operation must be conducted, and movements controlled at all times so that no interference occurs to the amenity of the area and adjoining occupations and residential or business premises.
- (5) **Waste water treatment devices** – All wastewater treatment devices (including drainage systems, sumps, traps and pumps) must be regularly maintained in good working order to ensure that they remain effective.

A maintenance schedule must be developed and incorporated into the Operational; Management Plan (OPM) and kept on-site at all times for staff to comply with. All liquid and solid wastes collected from the treatment device must be disposed of in accordance with relevant environmental protection and waste control Legislation.

- (6) **Maximum Vehicle Movements** - During quarrying operations, vehicle movements are restricted to a maximum of five (5) heavy vehicles per hour and maximum of 40 heavy vehicle movements per day.

- (7) **Noise Management** - All noise management and mitigation measures specified in the Advitech Noise Impact Assessment (reference J0170316, dated August 2018) are to be implemented.

At least one month into quarrying activities commencing, noise monitoring by a suitably qualified acoustic consultant is to be carried out to establish the noise emission level of the facility at sensitive receivers and demonstrate compliance with relevant Noise Management Levels (NML). Noise monitoring is to be undertaken on a quarterly basis for first year of operation, with the frequency of noise monitoring reviewed each year afterwards.

Noise monitoring reports prepared by a suitably qualified acoustic professional are to be submitted to Council within 14 days of the monitoring event, and is to include recommendations for mitigation measures wherever any non-compliance is identified. If operation of the activity results in non-compliance with the acoustic assessment criteria, all quarrying activities are to cease for a period of 30 days, until such time as mitigation work is undertaken to achieve compliance with the acoustic maximum design level.

Should there be any justified noise complaints (as assessed by Council officers) suitable noise mitigation measures must be implemented as advised by a suitably qualified acoustic consultant.

- (8) **Extraction Limits** - No more than 50,000 cubic metres a year shall be extracted and transported from the site. The proponent shall provide details to Council on an annual basis of actual quantities of materials that have been extracted and transported.
- (9) **Monitoring of extractive boundaries** - The operator is required to submit a survey of the extraction areas to Council from the date of commencement and every 2 years for the duration of extraction and until the rehabilitation of the site is achieved. The extraction area is to be marked with highly visible fixed posts.

The 5m buffer between the extraction area and adjoining properties is to be maintained at all times during the operation.

- (10) **Operational Management Plan** – All activities are to be undertaken in accordance with the approved OMP.
- (11) **Load Cover** - All loaded vehicles entering or leaving the site are to be covered to prevent the escape of dust and debris. Measures shall be taken to the satisfaction of Council to prevent mud from being tracked onto Nelson Bay Road.
- (12) **Rehabilitation Works** – The development must comply with the recommendations of 'Coastal Process Assessment & Dune Management Report' 4226 Nelson Bay Road, Anna Bay prepared by Tattersall Lander Pty Ltd. 2020, detailed in the following sections of the report:

- 4.2 Impacts of Sand Dune Movement on Ongoing Operations;

- 4.3 Management Measures to Ensure Long-term Stability;
- 5 POST OPERATIONAL REHABILITATION;
- APPENDIX C: DESIGN PLANS.

Removal of the manager's residence and any associated infrastructure with the sand extraction activity is also to occur as part of site rehabilitation works.

- (13) Air Quality** - 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.

All activities are to be undertaken in accordance with the approved Air Quality Management Plan contained in the OMP.

- (14) Site Access** - Vehicle access to the extraction area is only to be taken from the new entrance to the site from Nelson Bay Road.

Prior to the extraction of any material from the site, the Nelson Bay Road entrance is to be constructed in accordance with the Transport NSW General Terms of Approval (reference 2019/004584 dated 4 February 2020).

- (15) Waste Management** – Waste Management is to be undertaken in accordance with the Waste Management Plan prepared by Advitech (reference J0170316, dated May 2018).

- (16) Statement of Commitments** – All works and activities are to be undertaken in accordance with the Project Statement of Commitments contained in the EIS prepared by Tattersall Lander (reference 21711, dated October 2019).

- (17) Chemical Bunding** - All paints, chemicals and other liquids must be stored in approved receptacles, which must be housed in a suitably constructed, covered, impervious bunded area.

The bunded area must be constructed of impervious material and being able to effectively store a minimum of 110% of the volume of the largest container stored or 25% of total volume of the stored product for facilities storing small containers.

- (18) Ecology Monitoring Reports** - Monitoring reports in accordance with the approved Biodiversity Management Plan must be prepared and submitted to Council.

Advice Note(s):

- (1) 'Dial Before you Dig'** – Before any excavation work starts, contractors and others should phone the "Dial Before You Dig" service to access plans/information for underground pipes and cables.
- (2) Dividing fences** – The erection of dividing fences under this consent does not affect the provisions of the *Dividing Fences Act 1991*. Under this Act, all relevant

parties must be in agreement prior to the erection of any approved dividing fence/s under this consent.

Council has no regulatory authority in this area and does not adjudicate civil disputes relating to the provision of, or payment for, the erection of dividing fences. If there is a neighbour dispute about the boundary fence and you are seeking mediation, you may contact the Community Justice Centre, or if legal advice or action is required, you may contact the Chamber Magistrate.

- (3) **Premise standard** – It is the Applicants responsibility to ensure compliance with the requirements of the *Disability Discrimination Act 1992* (DDA).

Note: Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA.

- (4) **Disability Discrimination Act** – The Commonwealth Disability Discrimination Act makes it an offence to discriminate against people on the grounds of disability, in the provision of access to premises, accommodation, or services. It is the owner/applicants responsibility to ensure compliance with the requirements of this Act.
- (5) **Aboriginal archaeological deposit** – In the event of any Aboriginal artefact, object or structure being unearthed, all work must cease immediately in the affected area, and the Biodiversity Conservation Division (BCD) shall be informed of the discovery. Work must not recommence until the material has been inspected and permission has been given by BCD to proceed.
- (6) **Works near/adjoining electricity network assets** – There are underground electricity network assets adjacent to the proposed development in Nelson Bay Road. Any works undertaken adjacent to Ausgrid underground assets must be undertaken with care in accordance with Ausgrid Network Standard Document NS 156 – Work Near or Around Underground Cables.
- (7) **Responsibility for damage or tree removal/pruning** – The applicant is responsible for any damage caused to existing public utilities, footpaths or public roads during the cutting down, grinding, removal and disposal of the timber and roots. Care must also be taken by the applicant and the applicant's agents to prevent any damage to adjoining properties. The applicant or the applicants' agent may be liable to pay compensation to any adjoining owner if, due to tree works, damage is caused to such adjoining property.