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NOTICE TO APPLICANT OF DETERMINATION OF SECTION 4.55 MODIFICATION APPLICATION BY WAY OF CONSOLIDATED DEVELOPMENT CONSENT

Environmental Planning and Assessment Act, 1979 DA95/3205 (Incorporating the unnumbered modification dated 30 June 1997, DS01/1222, DS13/1445 & DS18/1432)

TO:

Soilco Pty Ltd PO Box 199 UNANDERRA NSW 2526

being the applicant for DS18/1432 relating to:

135 Wogamia Rd, LONGREACH - Lot 2 DP 865094 (modified by DS13/1445)

APPROVED USE AND / OR DEVELOPMENT:

Sand and soil quarry and processing, stockpiling, distribution of sand, soil and associated materials and composting of materials (*modified by DS13/1445*)

DETERMINATION DATE:

26 July 1996

26 July 2030

S4.55(1A) DETERMINATION DATE (DS18/1432): 6 November 2019

Pursuant to Clause 122 of the Environmental Planning and Assessment Regulation 2000, notice is hereby given that the above application has been determined by granting consent, subject to the conditions listed below.

CONSENT TO OPERATE FROM: 26 July 1996

CONSENT TO LAPSE ON:

DETAILS OF CONDITIONS:

The conditions of consent and reasons for such conditions are set out as follows:

General Conditions (modified by DS18/1432)

- This consent relates to the continued operation of the existing sand and soil quarry on Lot 2 DP 865094, 135 Wogamia Road, Longreach, pursuant to State Environmental Planning Policy No. 37 and to the processing, stockpiling, distribution of sand, soil and associated materials and composting of materials as illustrated on the submitted plans and documentation contained in the application referred to as DA95/3205. Specifically:
 - a) The development shall be carried out in accordance with the submitted plans contained within the Statement of Environmental Effects and with the following plans and documents submitted with section 96 application DS13/1445 and application DS18/1432, as set out in the table below, except where modified by other conditions of this consent:

Document	Ref No	Author	Date
Application letter	Project #1312	TCW Consulting	2 December 2013
		Pty Ltd	
Odour Assessment Report	Project No.	Soilco Pty Ltd	26 September 2019
(modified by DS18/1432)	0499017		(Revision No. 03)
Flood Study Report	CRPT –	Jones Nicholson	2 February 2015
	20131629-	Consulting	
	01B	Engineers	
Summary Report – Water	NA	Organic Resource	July 2015
Management Situation		Consultancy	
Plans of Site Works	Reference No.	Allen Price &	12 & 13 June 2018
(inserted by DS18/1432)	25541-11,	Scarratts Pty Ltd	
	Sheet No. 1-2		
Civil Design Composting	131629:	Jones Nicholson	December 2014
Yard and Leachate	C15:1	Consulting	
Treatment Plan		Engineers	
(modified by DS18/1432)		-	
Civil Design Composting	131629:	Jones Nicholson	December 2014
Yard Access Road	C16:1	Consulting	
Longitudinal Section		Engineers	
Civil Design Swale 1	131629:	Jones Nicholson	December 2014
Longitudinal Section	C17:1	Consulting	
		Engineers	
Civil Design Swale 2	131629:	Jones Nicholson	December 2014
Longitudinal Section	C18:1	Consulting	
		Engineers	
Environmental Noise	5557-2.1R	Day Design Pty	5 August 2015
Compliance Assessment		Ltd	
Traffic Impact Analysis	CRPT-	Jones Nicholson	25 June 2015
	20131629.03A	Consulting	
		Engineers	
Report on Groundwater	78696.0	Douglas Partners	2 June 2015
Investigation		Pty Ltd	
Letter from Applicant re	Project #1312	TCW Consulting	26 April 2016
types and tonnages of		Pty Ltd	
imported material			

Leachate and Surface Water Management Plan – Executive Summary	Final V2	MRA Consulting Group	17 June 2016
Leachate and Surface	CES160205-	Consulting Earth	17 June 2016
Water Management Plan	MRA-AB	Scientists Pty Ltd	

b) Any alteration to the abovementioned plans and/or documentation shall be submitted for the approval of the Development Services Manager prior to submission of the Building Application. NO works, other than those approved under this consent, shall be carried out without first having obtained Council's written consent. (modified by DS18/1432)

Duration of Consent (modified by DS18/1432)

- 2. In accordance with the aims and objectives of State Environmental Planning Policy No. 37 and having regard to the projected life of the Quarry as indicated in Section 1 of the Statement of Environmental Effects:
 - a) The winning of material from the Quarry and the processing, stockpiling and distribution of sand, soil and associated materials shall cease after 34 years from the date of consent (i.e. 26 July, 2030) unless otherwise approved to be extended. *(modified by DS18/1432)*
 - b) Any outstanding rehabilitation work at 26 July 2030 shall be completed in accordance with an approved rehabilitation plan and as directed by Council notwithstanding that further extraction of material shall be prohibited. (modified by DS18/1432)

Requirements of State Environmental Planning Policy No. 37 (SEPP 37) – Continuing Mines and Extractive Industries (modified by DS18/1432)

- 3. In accordance with the provisions of Clause 20 of SEPP 37, Council has determined that the quarry is not Designated Development for the purposes of the Policy therefore, the following requirements shall be met:
 - a) The extraction area shall be no greater than the area as shown by the green lines on the plans of site works by Allen Price & Scarratts Pty Ltd (Reference No. 25541-11, Sheet No. 1-2, dated 12 & 13 June 2018), being an area of approximately 21,554sqm at the water level and 36,914sqm at the top of batter; *(modified by DS18/1432)*
 - b) The maximum volume of extracted material shall be limited to 15,000 tonnes per annum. The operator shall submit to Council at 2 yearly intervals a record of the quantity of material extracted from the subject site; (modified by DS13/1445)
 - c) The volume of material imported to the site for use in the stockpiling, composting, mixing and distribution operation shall be limited to 35,000 tonnes per annum and shall be limited to the types and tonnages of materials referred to in the applicant's letter dated 26 April 2016 identified in the Table in Condition 1. Any variation to these types and tonnages will require Council's written consent. The operator shall submit to Council at 12 monthly intervals a record of the types and tonnages of material imported to the site; (modified by DS13/1445)

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- d) Within 12 months of the date of this consent, the operator shall submit to Council for approval a detailed quarry extraction plan illustrating the 5 x 5 Yearly Staging of extractions, volumetric analysis, cross-sectional profiles and progressive rehabilitation proposals covering the 34 year period of quarry operations. Each extraction stage shall not commence until the previous stage extraction has been exhausted and rehabilitation of the previous stage is nearing completion. (modified by DS18/1432)
- e) The operation shall be managed and implemented in such a manner so as to minimise the extent of exposed areas at any one time. The applicant shall demonstrate the progressive adherence to this requirement by the submission of a Survey Plan with the Biennial Environmental Management Plan (i.e. See Condition No. 15 (b)).

Visual and Scenic Impact

- 4. In order to minimise the visual impact of the quarry and to protect and enhance the visual amenity of adjoining properties, it is essential that vegetated buffers be established and maintained generally in accordance with proposals outlines in the Statement of Environmental Effects (Landscape Plan Appendix B). In addition, the following shall be incorporated in the Landscape Plan:
 - a) To reduce the visual impact of the stockpile and quarry area upon the item of the environmental heritage, Wogamia House and Riversdale, landscape screening shall include plantings along the north-western, northern and eastern sides of the stockpile area and excavation pit, and along the western edge of the access road.
 - b) Details of tree and shrub plantings to be incorporated at each stage of the rehabilitation plan.
- 5. A detailed Landscape Plan shall be submitted to Council for approval within 6 months from the date of consent showing details as required by the previous condition. The plan shall be prepared by a recognised consultant and shall incorporate predominantly local native plant species and shall include a variety of short lived, fast growing native trees and shrubs so that adequate landscape screening is achieved in the short to medium term.
- 6. Landscaping shall be:
 - a) Carried out and completed in accordance with the approved Landscape Plan within 12 months from the date of consent, and shall be maintained to the satisfaction of Council at all times.
 - b) Adequately protected from grazing by stock and rabbits. Details of protection measures to be undertaken shall be indicated on the Landscape Plan for approval.

Environmental Impact (modified by DS18/1432)

- 7. To ensure that minimal environmental impact occurs from the activities associated with the quarry:
 - a) A comprehensive Soil & Water Management and Rehabilitation Plan shall be prepared for the quarry site. The plan shall be approved by the Department of Land and Water Conservation (Soil Conservation Division) and submitted to Council within 6 months from the date of consent.

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The plan shall include but not be limited to: erosion and sediment control of the site, topsoil stripping, stockpiling, respreading for final rehabilitation, progressive rehabilitation of the site in stages including batter grades, berms, drainage and stabilisation, runoff diversion and treatment, haul road erosion and sediment protection and stabilisation and sediment control ponds.

- b) The quarry and stockpile area must drain into the quarry sediment pond. Perimeter diversion banks may be required to achieve this result for the whole specified area. Details including site levels shall be provided with the Soil and Water Management and Rehabilitation Plan for approval.
- c) All works associated with the Soil and Water Management and Rehabilitation Plan shall be completed within 12 months from the date of consent or as otherwise indicated in the plan to be approved.
- d) All operational and rehabilitation works shall be undertaken in accordance with the Statement of Environmental Effects and the Soil and Water Management and Rehabilitation Plan as approved by the Department of Land and Water Conservation.
- e) Adequate topsoil shall be stockpiled, vegetated and protected from erosion, for re-use in the progressive rehabilitation of the site, and shall not be re-sold. Details of the volume and location of the topsoil stockpile shall be indicated in the Soil and Water Management and Rehabilitation Plan, while landscape stabilisation of the topsoil stockpile shall be indicated in the Landscape Plan to be submitted for Council approval.
- f) The applicant shall undertake monitoring of the water quality, at 2 year intervals, of the Quarry Sedimentation Pond and the groundwater of the immediately adjacent rural land at approximately the limits of the proposed Year 34 extraction area to ensure that groundwater quality is not adversely affected by infiltration from the Quarry Sedimentation Pond. Water quality shall be monitored for pH, EC, TN and TP. (modified by DS18/1432)
- g) All leachate generated at the premises must be directed to the leachate pond. *(inserted by DS18/1432)*

Flooding

8. To minimise the impact upon equipment and property during a major flood, the applicant shall prepare and submit to Council for approval within 6 months from the date of consent a Flood Management Plan, detailing measures to be implemented and practices to occur to protect or remove equipment and property from the area during a major flood. This may include practices such as ensuring that stockpile and processing areas are on high ground and protected by bund walls, or that processing machinery is mobile and able to be moved quickly to higher ground and the like.

Fuel Storage and Management

9. The applicant shall submit to Council for approval within 6 months from date of consent a Fuel Storage Management Plan indicating where fuels are stored on site, and what emergency plans shall be followed in the event of a fuel spill to control the spill, prevent it from entering the river system, and to rehabilitate the area.

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Amenity

10. Hours of operation of the quarry and stockpile processing operations shall be limited to 6:30am to 6:00pm Monday to Friday and 6:30am to 4:00pm on Saturdays. The only operations which will be permitted on Sundays and Public Holidays will be limited to the removal of soil from extraction areas to the process area and loading operations. These operations will be limited to a maximum of ten (10) Sundays or Public Holidays per calendar year. Loading will be permitted on a further 25 Sundays or Public Holidays between the hours of 1:00pm and 4:00pm. In this regard, a record is to be kept of all such operations on Sundays and Public Holidays and such records will be available for inspection by Council staff on request. A copy of these records will also be required to be submitted as part of the Environmental Management Plan as required by Condition No. 15(b) of this consent.

Note: Having regard to the provisions of the modified Condition No. 1 of the consent, the hours for Sunday and Public Holiday operations involving the removal of soil from extraction areas will be limited to 9:00am to 4:00pm as outlined in your letter dated 10 March 1997 which supported your application. (modified by the unnumbered Modification approved on 30 June 1997)

11. Hours of operation of truck haulage to and from the site associated with the quarry, processing and distribution activities shall be limited to 6:00am to 6:00pm Monday to Friday, and 6:00am to 4:00pm on Saturdays.

Furthermore, substantially reduced truck movements, that is a maximum of **twenty (20)** heavy vehicle movements per week, will be permitted between 6:00pm and 10:00pm Monday to Saturday and 8:00am to 6:00pm Sunday and Public Holidays. **A maximum of a further five (5)** may be between 10:00pm and 6:00am but none between 10:00pm and 8:00am on a Saturday evening or the night preceding a Public Holiday. In this regard, a record is to be kept of all such vehicle movements within these hours and such a record will be made available for council staff on request. A copy of these records will also be required to be submitted as part of the Environmental Management Plan as required by Condition No. 15(b) of this consent. *(modified by the unnumbered Modification approved on 30 June 1997)*

- 12. Noise from the quarry and mixing operations shall not exceed 5dBA above the background noise level measured at the nearest affected residence when the noise is most likely to be offensive. The operator shall comply with the provisions of the Noise Control Act and comply with any requirements of Council officers relating thereto as may arise from time to time.
- 13. To control dust, stockpiles of fine materials likely to be blown away shall be kept moist and/or covered, and the applicant shall take all necessary actions (as directed by Council) to prevent dust nuisance occurring as a result of quarrying, stockpiling and mixing, or road haulage operations.
- 14. In order to mitigate dust impacts from trucks, the operator shall instruct his truck drivers not to exceed 40km per hour whilst travelling on unsealed sections of Wogamia Road.

Environmental Management Plan (modified by DS18/1432)

- 15. To ensure that the terms of this consent and State Environmental Planning Policy No. 37 are complied with:
 - a) The perimeter of the total area to be worked for the 34 year life of the quarry shall be surveyed and marked with substantial size fence posts for easy recognition in the field. A copy of the Survey Plan shall be submitted to Council for information within six (6) months from the date of consent. *(modified by DS18/1432)*

- b) An Environmental Management Plan, including a plan prepared by a Registered Surveyor, shall be submitted to Council at 2 yearly intervals for the life of this consent with the first report being submitted within 2 years from the date of consent, indicating the extent of the quarry excavation at the time of the report, rehabilitated areas, the quantity of excavated material during the preceding 2 years, the quantity of material hauled to and the quantity of materials hauled from the site during the preceding 2 years, details regarding the continued compliance with the approved Soil and Water Management and Site Rehabilitation Plan and the resuls of water quality testing of the Quarry Sedimentation Pond and hearby groundwater regarding the continued compliance with the requirements of Condition No. 7(f).
- c) To ensure that progressive rehabilitation and landscaping works are being undertaken as recommended in the Statement of Environmental Effects and as required by the Soil and Water Management and Rehabilitation Plan, the operator of the quarry shall contact Council for an inspection when such works are progressively completed.

Artefacts/Relics

- 16. The applicant shall ensure that the National Parks and Wildlife Service is contacted and given an opportunity to have an officer present at all times that the quarry area is extended laterally, in order to monitor the removal of topsoil in the area presently used for the cultivation of stock feed in relation to the potential for aboriginal relics, and particularly burials, to be present.
- 17. In accordance with the requirements of the National Parks and Wildlife Act 1974, should any material suspected of being an Aboriginal archaeological relic be unearthed during extractive operations, work at that location shall cease immediately and the Southern Zone Archaeologist of the National Parks and Wildlife Service shall be notified to arrange for an inspection and assessment of the material.

Road Works and Haulage

- 18(a) As the junction of Longreach and Yalwal Roads is considered by the Roads & Traffic Authority to be a substantial "Type A" junction as there is no shoulder widening directly opposite Longreach Road, the applicant shall, in conjunction with Council's Works Programme, relocate the existing sighting screen and provide road shoulder widening in Yalwal Road at the intersection in accordance with AUSTROADS Guidelines.
 - (b) Alternatively the applicants pay to Council the sum of \$15,000.00 which Council will receive, as full and property discharge of the performance of the applicant's obligations under this condition. *(modified by DS01/1222)*
- 19. As haulage to and from this site involves a gravel road of limited width and capacity:
 - a) The maximum daily haulage volume must not exceed 1000 tonnes per day, including imported material;
 - b) The combined total of incoming and outgoing heavy vehicle movements must not exceed 8000 movements per annum;
 - c) Heavy vehicle movements along Wogamia Road must not exceed one heavy vehicle at a time in any direction;
 - a record must be kept of all vehicle movements and haulage volumes. The record must be made available to council staff on request. A copy of this record must be submitted as part of the Environmental Management Plan as required by Condition No. 15(b) of this consent. (modified by DS13/1445)

Roadworks at Longreach Road/ Wogamia Road Intersection

- 20. The applicant shall, in accordance with the recommendation of the Traffic Impact Assessment, reinstate the left turn pavement edge from Longreach Road into Wogamia Road and undertake stormwater drainage improvements to reduce the rate of pavement degradation and ongoing maintenance issues at this intersection. The applicant shall submit design plans for Council's approval that are in accordance with Council's Engineering Design and Specification Development Control Plan 100. This work shall be completed in accordance with the approved plans and specifications within 12 months of the date of the approval of DS 13/1445. *(inserted by DS13/1445)*
- 21. Prior to undertaking works within the road reserve, the developer must obtain the consent of Council under Section 138 of the Roads Act, 1993. The developer shall submit the following to Council for approval **before commencing any works**:
 - Detailed plans
 - Specifications
 - Pavement design; and
 - Traffic control plan (which must comply with the RTA's manual "Traffic Control at Work Sites")
 - Insurance details

Where any works are carried out on or adjacent to a public road, adequate protection shall be provided for the travelling and pedestrian public. Warning and protective devices shall be provided which comply with the provisions of AS 1742.3 – 1966 Traffic Control Devices for Works on Roads. *(inserted by DS13/1445)*

Offensive Odour

22. The applicant must conduct operations at the site, and the transport of materials to and from the site, such that offensive odours are not caused. *(inserted by DS13/1445)*

REASONS FOR CONDITIONS

Conditions of consent have been imposed to:

- 1. Ensure the proposed development:
 - a) achieves the objects of the Environmental Planning and Assessment Act, 1979;
 - b) complies with the provisions of all relevant environmental planning instruments;
 - c) is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies.
- 1. Ensure that the relevant public authorities and the water supply authority have been consulted and their requirements met or arrangements made for the provision of services to the satisfaction of those authorities.
- 2. Meet the increased demand for public amenities and services attributable to the development in accordance with Section 94 of the Environmental Planning and Assessment Act, 1979.
- 3. Ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development.

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- 4. Minimise any potential adverse environmental, social or economic impacts of the proposed development.
- 5. Ensure that all traffic, carparking and access requirements arising from the development are addressed.
- 7. Ensure the development does not conflict with the public interest.

ADVICE ABOUT RIGHTS OF REVIEW AND APPEAL

Determination under Environmental Planning and Assessment Act, 1979

Division 8.2 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination a right to request the council to review its determination. The request must be made **within three (3) months** of the date of the receipt of the determination to allow Council time to undertake the review within the prescribed period of six (6) months and be accompanied by the prescribed fee.

Division 8.3 of the EP&A Act, 1979 confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court which can be exercised within 6 months after the applicant has been notified of the decision.

GENERAL ADVICE TO APPLICANT

Nature of Determination

This is a s4.55 modification determination. It does not constitute a new development consent. Its form incorporates the modified conditions into the original development consent for ease of interpretation.

Privacy Notification

Personal information contained on this Development Consent and any associated documents will be published on Council's website as required by the *Government Information (Public Access) (GIPA) Act 2009.*

Trees Located on Public Land

Please note that any works carried out on the subject property or within the road reserve, such as construction of a driveway, that damages or otherwise detrimentally impacts on the health or safety of any tree located on public land may result in the applicant incurring the costs of any remedial action or removal of the tree(s). If you are proposing to carry out any works that may impact on any tree on public land, it is recommended that you contact Council for advice before carrying out those works.

Disability Discrimination Act 1992

This application has been assessed in accordance with the Environmental Planning & Assessment Act, 1979. No guarantee is given that the proposal complies with the Disability Discrimination Act 1992.

The applicant/owner is responsible to ensure compliance with this and other anti-discrimination legislation.

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The Disability Discrimination Act covers disabilities not catered for in the minimum standards called up in the Building Code of Australia which references AS1428.1 - "Design for Access and Mobility". AS1428 Parts 2, 3 & 4 provides the most comprehensive technical guidance under the Disability Discrimination Act currently available in Australia.

Disclaimer – s88B Restrictions on the Use of Land

The applicant should note that there could be covenants in favour of persons other than Council restricting what may be built or done upon the subject land. The applicant is advised to check the position before commencing any work.

Under Clause 1.9A of Shoalhaven Local Environmental Plan 2014 agreements, covenants or instruments that restrict the carrying out of the proposed development do not apply to the extent necessary to enable the carrying out of that development, other than where the interests of a public authority is involved.

Occupation Certificate

An **Occupation Certificate** must be obtained from the Principal Certifying Authority (PCA – i.e. Council or an accredited private certifier) before any of the approved (e.g. tourist cabin) development can be used or occupied.

If Council is the appointed PCA for this project, a minimum of twenty four (24) hours' notice must be given to Council to make an inspection of the work.

Prior to a final inspection being carried out, the applicant must complete and submit an Application for an Occupation Certificate to Council electronically, in person or by post. Please note that according to the Environmental Planning and Assessment Regulations 2000, Council cannot except forms sent by fax.

DBYD Enquiry - 'Dial Before You Dig'

In order to avoid risk to life and property it is advisable that an enquiry be made with "Dial Before You Dig" on 1100 or <u>www.dialbeforeyoudig.com.au</u> prior to any excavation works taking place to ascertain the location of underground services. You must also contact your Local Authority for locations of Water and Sewer Mains.

SIGNED on behalf of Shoalhaven City Council:

Andre Vernez Senior Development Planner Planning, Environment & Development Group







