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**DRAFT CONDITIONS OF CONSENT**

**PART A – 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.

2. 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.

3. Meet the increased demand for public amenities and services attributable to the development in accordance with Section 7.11 of the Environmental Planning and Assessment Act, 1979.

4. Ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development.

5. Minimise any potential adverse environmental, social or economic impacts of the proposed development.

6. 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.

**PART B – DEFERRED COMMENCEMENT CONDITIONS**

**Planning Agreement for**

1. 7.4

**PART C - ADMINISTRATIVE CONDITIONS**

**General**

1. The development must be carried out in accordance with the Environmental Impact Statement prepared by Umwelt Environmental and Social Consultants and dated March 2020, except where amended by other conditions of this development consent.

Notes:

* *Any alteration to the plans and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under s96 of the Act, or a fresh development application. No works,* ***other than those approved under this consent,*** *shall be carried out without the prior approval of Council.*
* *Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions shall prevail to the extent of that inconsistency.*

**Surrender of Development Consent 10/95**

1. The proponent shall surrender development consent 10/95 prior to the disturbance of the extension extraction area in accordance with section 4.63 of the *Environmental Planning and Assessment Act 1979*.

**Quarry Closure Plan**

1. Prior to the disturbance of the extension extraction area or greater than 100,000 tonnes the operator of the quarry must prepare a Quarry Closure Plan. The Quarry Closure Plan must be submitted to and approved by Council.
	1. The final land use and landform options considered, and justification of the preferred option selected;
	2. Rehabilitation methods to be implemented for both planned and unplanned closure of the site; and
	3. Risk assessment to demonstrate that post-closure risks associated with the proposed final landform and land use are acceptable.

The Quarry Closure Plan is to be prepared in accordance with any applicable legislation and the principles of the Strategic Framework for Mine Closure produced by the Australian and New Zealand Minerals and Energy Council and Minerals Council of Australia (ANZMEC, 2000).

**PART D – ENVIRONMENTAL PROTECTION AUTHORITY CONDITIONS**

**General Terms of Approval**

1. The proponent is to fully comply with the General Terms of Approval, as issued by the Environment Protection Authority NSW are to be taken as conditions of consent under this approval. The proponent is to fully comply with the General Terms of Approval, as issued. A copy of the General Terms of Approval is attached at Appendix A of this Notice of Determination.

**PART E – DEPARTMENT OF PLANNING, INDUSTRY & ENVIRONMENT–BIODIVERSITY AND CONSERVATION DIVISION CONDITIONS**

**Ecosystem Credit Retirement**

1. Prior to the disturbance of the extension extraction area the class and number of ecosystem credits in Table C.1 must be retired to offset the residual biodiversity impacts of the development.
2. The requirement to retire credits in condition 6 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 BAM Credit Calculator.
3. Evidence of the retirement of credits or payments to the Biodiversity Conservation Fund in satisfaction of condition 6 must be provided to Council prior to the disturbance of the extension extraction area.

**Table C.1 Ecosystem credits required to be retired – like for like**

|  |  |  |  |
| --- | --- | --- | --- |
| **Impacted plant community type** | **No. of Ecosystem Credits** | **IBRA Subregion** | **Plant community type(s) that can be used to offset the impacts from development** |
| White Cypress Pine open woodland of sand plains, prior streams and dunes mainly of the semi-arid (warm) climate zone. | 16 | Lower Slopes | PCT 28 |

**Species Credit Retirement**

1. Prior to the disturbance of the extension extraction area the class and number of species credits in Table C.2 must be retired to offset the residual biodiversity impacts of the development.
2. The requirement to retire credits outlines in condition 9 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the BAM Credit Calculator.
3. Evidence of the retirement of credits or payments to the Biodiversity Conservation Fund in satisfaction of Table C.2 requirements must be provided to the consent authority Prior to the disturbance of the extension extraction area .

**Table C.2 Species credits required to be retired – like for like**

|  |  |  |
| --- | --- | --- |
| **Impacted species credit species** | **Number of species credits** | **IBRA Subregion** |
| *Swainsona sericea*(Silky Swainson-pea) | 16 | Anywhere in NSW |

**Biodiversity Management Plan**

1. Prior to the disturbance of the extension extraction area, a Biodiversity Management Plan must be prepared to the satisfaction of the consent authority consistent with s5.1 of the Biodiversity Development Assessment Report. The Biodiversity Management Plan may form part of a Construction Environmental Management Plan.
2. The Biodiversity Management Plan must identify the development site as per the Biodiversity Development Assessment Report (BDAR) and approved plans. The applicant shall provide shape files and vegetation data consistent with Table 25 and Table 26 of the Biodiversity Assessment Method before disturbance of the extension extraction area.
3. The Biodiversity Management Plan must identify areas of native vegetation that are to be retained as outlined in the BDAR.
4. Construction impacts must be restricted to the development site and must not encroach into areas of retained native vegetation and habitat. All materials stockpiles, vehicle parking, machinery storage and other temporary facilities must be located within the areas for which biodiversity impacts were assessed in the BDAR.
5. The Biodiversity Management Plan must identify all measures proposed in s5.1 of the BDAR to mitigate and manage impacts on biodiversity outlined in Table C.3, including performance measures for each commitment.

**Table C.3 Statement of Commitments to mitigate and manage biodiversity impacts**

|  |  |  |  |
| --- | --- | --- | --- |
| **Biodiversity Issue** | **Measure** | **Timing** | **Responsibility** |
| Exclusion fencing | Fencing installed in accordance with s5.1 of the BDAR | During expansion phase | Operator |
| Install signage | Signage installed in accordance with s5.1 of the BDAR | During expansion phase | Operator |
| Stockpile management | Stockpiles are to be located in accordance with s5.1 of the BDAR | Operation | Operator |
| Parking and machinery storage management | Parking and machinery management is to take place in accordance with s5.1 of the BDAR. | Operation | Operator |
| Biosecurity measures to reduce weed encroachment | Vehicles entering the site are to be free weed seeds in accordance with s5.1 of the BDAR | Operation | Operator |
| Access to vegetation clearance area | Vehicles are to enter the vegetation clearance area in accordance with s5.1 of the BDAR | Operation | Operator |
| Mulching | Native vegetation that is cleared from the site is to be mulched in accordance with s5.1 of the BDAR | Operation | Operator |
| Dust generation | Dust generation is to be managed in accordance with s5.1 of the BDAR | Operation | Operator |
| Sediment and erosion control measures | Sedimentation and erosion control is to be undertaken in accordance with s5.1 of the BDAR. | During expansion phase | Operator |
| Vegetation preclearance surveys | Surveys are to be undertaken in accordance with s5.1 of the BDAR | During expansion phase | Operator |
| Bush rock relocation | Bush rock and boulders are to be managed in accordance with s5.1 of the BDAR | During expansion phase | Operator |

**Aboriginal Culture Heritage**

1. If any Aboriginal object is discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the proponent must:
	1. not further harm the object
	2. immediately cease all work at the particular location
	3. secure the area so as to avoid further harm to the Aboriginal object
	4. Notify the Department of Planning, Industry and Environment as soon as practical on 131 555, providing any details of the Aboriginal object and its location
	5. Not recommence any work at the particular location unless authorised in writing by the Department of Planning, Industry and Environment.

In the event that skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorized access and NSW Police and the Department of Planning, Industry and Environment contacted.

**PART F – TRANSPORT FOR NSW CONDTIONS**

1. The proponent shall prepare and implement a Transport Management Plan, in consultation with Council and Transport for NSW to outline measures to manage traffic related issues associated with the operation of the quarry and the transport of quarried material. This plan shall detail the potential impacts, the measures to be implemented, and the procedures to monitor and ensure compliance. It shall address, but not be limited to:
	1. measures to address restrictions on haulage during periods of low visibility eg heavy rain periods or fog etc, along the haulage route,
	2. measures to ensure that dust and loose surface road material generated by traffic activities on and access the subject site do not cause nuisance or hazard to traffic on the public road network,
	3. measure to ensure that all loaded vehicles entering or leaving the site are covered, and are cleaned of materials that may fall onto public roads,
	4. details of procedures for receiving and addressing complaints from the community concerning traffic issues associated with truck movements to and from the quarry.
	5. measures to ensure that the provisions of the Traffic Management Plan are implemented and complied with.

The Traffic Management Plan is required to be approved by Transport for NSW and Council’s Director Technical Services prior to the disturbance of the extension extraction area.

1. The quarry operator shall maintain accurate records of the extraction quantities and traffic movement to and from the subject site. These records shall be kept on site and be available for inspection at the request of either of the Consent Authority or Transport for NSW.
2. Works associated with the proposed development shall be at no cost to Transport for NSW.

**PART G – OPERATIONAL CONDITIONS**

**Hours of Operation**

1. The approved hours of operation are:

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| **On-site Activities (extraction, processing and loading)1** |
| Monday to Friday | 7.00 am to 6.00 pm |
| Saturday | 7.00 am to 3.00 pm |
| Sunday | No operation |
| Note 1 | Toolbox meetings, pre-start inspections or other activities not involving mobile equipment operations may be undertaken prior to 7.00 am |

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| **Blasting** |
| Monday to Friday | 9.00 am to 5.00 pm |
| Saturday | No operation |
| Sunday | No operation |

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| **Transportation** |
| Monday to Friday | 6.00 am to 6.00 pm2 |
| Saturday | 6.00 am to 3.00 pm2 |
| Sunday | No operation |
| Note 2 | Pre-loaded trucks exiting the Quarry or unladen trucks arriving. |

**Amenity**

1. The development is to be conducted in a manner that will not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, dust, wastewater, waste products and/or oil.

**PART H – GENERAL ADVICE**

***LAPSING OF DEVELOPMENT CONSENT***

Development consent does not lapse if the approved use has actually commenced or the proposed work is physically commenced before the consent lapse date, except where a condition specifies a limit to the duration of the consent.

***RIGHT OF APPEAL***

If you are the applicant:

You can appeal against this decision in the Land and Environment Court within twelve (12) months of the date of this notice (section 97 of the *Environmental Planning and Assessment Act, 1979).* You cannot appeal, however, if a Commission of Inquiry was held and the development is designated development or state significant development.

***REVIEW OF DETERMINATION***

An applicant may request the Council to review this determination within one (1) year after the date the applicant received this notice. The prescribed fee must be paid with the request for a review. Once the review is completed the Council may confirm or change the determination.

If there is an appeal, the period of time within which Council may undertake a review is extended up to the time the Court hands down its decision.

A Review cannot be requested for:

* a determination to issue or refuse to issue a complying development certificate, or
* a determination in respect of designated development, or
* a determination in respect of integrated development, or
* a determination in respect of integrated development, or a determination made by Council under Section 116E in respect of an application by the Crown.