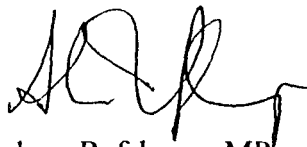


Environmental Planning and Assessment Act, 1979

**DETERMINATION OF DEVELOPMENT APPLICATION UNDER SECTION
89, AND 101(8) OF THE ACT**

I, the Minister for Urban Affairs and Planning, under section 89, and 101(8) of the Environmental Planning and Assessment Act ('the Act') determine the development application referred to in Schedule 1 by granting consent to that application subject to conditions set out in Schedule 2.

The reason for the imposition of conditions generally is to minimise any adverse effects from the development, consistent with the objectives of the Act. These conditions are listed in Schedule 2.



Andrew Refshauge MP
Minister for Urban Affairs and Planning

Sydney, 7 MAY 1999

File No. G92/00196

SCHEDULE 1

Application made by:	Batson Sand & Gravel Pty Ltd
To:	Byron Shire Council
In respect of:	the following parcels of land within the Parish of Byron, County of Rous: Lot 1, DP 123302; Lot 2, DP 700806; Lots 1, 2, 3, 4, 5, and 6, DP 245836; Lot 4, DP 802745; Lot 1, DP 184443; and Part Broken Head Road and Road Reserve.
For the following:	Expansion of the existing sand and gravel quarry
Development Application:	DA No. 97/0465 lodged with Byron Shire Council on 31 October, 1997 accompanied by an Environmental Impact Statement prepared by RW Corkery & Co Pty Ltd dated October, 1997. The Minister directed on 7 April, 1998 a Commission of Inquiry under section

SCHEDULE 2

CONDITIONS OF DEVELOPMENT CONSENT

LIST OF ABBREVIATIONS

AHD	Australian Height Datum (metres above sea level)
The Applicant	Batson Sand & Gravel Pty Ltd
Council	Byron Shire Council
The Department	Department of Urban Affairs and Planning
The Director-General	Director-General of Urban Affairs and Planning
DLWC	Department of Land and Water Conservation
DMR	Department of Mineral Resources
EMR	Environmental Management Report
EP&A Act	Environmental Planning and Assessment Act
EPA	Environment Protection Authority
NPWS	National Parks and Wildlife Service
RTA	Roads and Traffic Authority

GENERAL

1. The development is to be carried out in accordance with the Environmental Impact Statement dated October, 1997 prepared by RW Corkery & Co. Pty Ltd, and Species Impact Statement dated October, 1997 prepared by Greenloaning Biostudies Pty Ltd, except as varied by the conditions imposed in this consent.
2. The Applicant shall engage, at their cost, a registered surveyor to prepare a plan of survey to delineate and peg the "Proposed Limit of Disturbance" line on attached Map A:
 - 2.1. *prior to any further clearing and within three (3) months from the date of this consent;*
 - 2.2. *in consultation with and to the satisfaction of the Director-General and in consultation with the Director-General of NPWS; and*
 - 2.3. *in a manner that ensures the pegs are monitored and protected for the duration of this consent.*
3. Extraction within the Eastern Quarry shall:
 - 3.1. *not exceed 17 years from the date of this consent;*
 - 3.2. *generally follow the extraction sequencing strategy outlined in the EIS;*

- 3.3. *not exceed a depth of 13.5 m AHD other than for the eastern settling dam and silt trap; and*
- 3.4. *not be closer than 50 metres to the eastern boundary of the project site, to the satisfaction of the Director-General, and in consultation with the Director-General of the DLWC, and Director-General of the NPWS.*

4. Extraction for the Western Quarry shall:

- 4.1. *generally follow the extraction sequencing strategy outlined in the EIS; and*
- 4.2. *not exceed a depth of 32 metres AHD.*

COMPLIANCE

5. The Applicant shall comply with all reasonable requirements of the Director-General in respect of the implementation of any measures arising from the conditions of this approval and must:

- 5.1. *bring to the attention of the Director-General any matter that may require further investigation and the issuing of instructions from the Director-General; and*
- 5.2. *implement these instructions to the satisfaction of the Director-General within such time that the Director-General may specify.*

6. The Applicant shall submit for the approval of the Director-General a Conditions Compliance Report for the Batson Quarry.

- 6.1. *The report shall detail compliance with all the relevant conditions of this approval that apply prior to the commencement of any further clearing. The report shall include but not be limited to the following:*
 - 6.1.1. *the dates of submission of the various studies and/or requirements of various relevant conditions, and of their approvals and terms of approval; and*
 - 6.1.2. *action taken or proposed to implement the recommendations made in the terms of approvals and/or studies.*
- 6.2. *It shall be the ultimate responsibility of the Applicant to ensure compliance with the conditions of this approval.*

STATUTORY REQUIREMENTS

7. The Applicant shall ensure that all statutory requirements including, but not restricted to those set down by the Local Government Act, Pollution Control Act, Clean Air Act, Clean Water Act, Noise Control Act, Protection of the Environment Administration Act, and all other relevant legislation, regulations, Australian Standards, codes, guidelines, and notices, conditions, directions notices and requirements issued pursuant to statutory powers by the Council, the EPA, DMR, NPWS, DLWC, and the RTA are fully met.

TRAFFIC

- 8. The proposed two accesses to Broken Head Road shall:**
 - 8.1. *be designed in accordance with AUSTROADS standards using 80km/h design speed for the northern and 100km/h for the southern access; and***
 - 8.2. *have W5-22A "Truck Entering" warning signs erected on each approach.***
- 9. The proposed underpass shall:**
 - 9.1. *provide a minimum side clearance of 4.6m; and***
 - 9.2. *be subject to a section 138 of the Roads Act agreement between Council and the Applicant to control the encroachment and maintenance in the road reserve.***
- 10. All plans, specifications, and traffic control plans for the proposed two accesses to Broken Head Road and the proposed underpass shall be referred to the RTA and Council for concurrence.**

LOAD LIMITS ON TRUCKS

- 11. All trucks leaving the project site shall comply with the legal weight limitations for classes of vehicles established by the RTA and local councils for the particular roads used to deliver products to customers. In addition the Applicant shall:**
 - 11.1. *establish and maintain a weigh bridge;***
 - 11.2. *record in a daily log, for all loaded trucks leaving the quarry, the:***
 - 11.2.1. *tare and load weights;***
 - 11.2.2. *times of departure of the first/last truck; and***
 - 11.2.3. *direction of truck travel ie southwards, or northwards to Byron Bay area, or beyond Byron Bay via the Pacific Highway.***
 - 11.3. *submit a quarterly report to Council detailing the results of the daily log of all loads.***

WORKING HOURS

12. The hours of operation shall be restricted the to those indicated below:

Activity	Monday to Friday	Saturday
Quarrying	7:00 am - 6:00 pm	7:00 am - 1:00 pm
Dry Processing Plant	7:00 am - 6:00 pm	7:00 am - 1:00 pm
Wet Processing Plant	7:00 am - 6:00 pm	7:00 am - 1:00 pm
Product Dispatch	6:30 am - 6:00 pm	6:30 am - 1:00 pm
Routine Maintenance (satisfying EPA noise design goals)	6:00 am - 8:00 pm	6:00 am - 6:00 pm
Routine Maintenance (inaudible at neighbouring residences)	anytime	anytime

12.1. *No work is to be undertaken on Sundays or statutory public holidays; and*

12.2. *The Director-General may, in consultation with Council and the Applicant, review these hours and direct that they be modified in the event that noise disturbances are identified as an issue of concern in the Annual or Biennial Environmental Management Report or through the Batson Quarry Community Consultative Committee.*

WATER QUALITY

13. Any water discharged from the project site shall:

13.1. *have less than 50 milligrams per litre of non-filterable residue;*

13.2. *be free from visible oil and grease and contain less than 10 milligrams per litre of oil and grease; and*

13.3. *have a pH which varies by no more than 0.5 from the receiving waters or lies within a range approved by the EPA.*

EROSION AND SEDIMENTATION CONTROL

14. An Erosion and Sedimentation Control Plan shall be prepared in consultation with the Director-General of the DLWC within six months from the date of this consent. The Plan shall:

14.1. *be formulated generally in accordance with the guidelines published by the DLWC and the EPA;*

14.2. *be certified by a practicing Civil Engineer as adequate to prevent the release of sediments or contaminated water from the project site; and*

14.3. *include, but not be limited to, the following works, structures, and measures:*

- 14.3.1. silt traps designed to be of sufficient volume to trap the run-off and to settle the coarse fines from a 1 in 10 year storm event prior to its release to the settling pond;
- 14.3.2. a floating inlet fitted to any pump used to discharge from ponds in order to minimise the entrainment of any settled sediments;
- 14.3.3. regular desilting of settling ponds to maintain the design wastewater capacity; and
- 14.3.4. sowing of hybrid grass and/or leguminous species to stabilise topsoil stockpiles.

MONITORING PROGRAM

15. Monitoring as described in the EIS and specified in these conditions shall be undertaken by the Applicant. In addition, the Applicant shall:

15.1. undertake environmental monitoring in respect of:

15.1.1. rehabilitation, as determined in consultation with the Director-General of the DLWC, Council, and the Director-General of the NPWS;

15.1.2. noise, including establishing a:

15.1.2.1. *noise compliance monitoring at a frequency required by the EPA; and*

15.1.2.2. *noise complaints hotline to allow the community to directly contact senior management in the event of excessive noise problems.*

✓ 15.1.3. deposited dust;

✓ 15.1.4. surface water quality as determined in conjunction with the EPA; and

15.1.5. groundwater, including:

15.1.5.1. *surpluses, levels, and quality, as may be required by the Director-General of the DLWC; and*

15.1.5.2. *the installation and maintenance of piezometers in consultation with the Director-General of the DLWC.*

15.1.6. other water quality as may be required by the EPA.

15.2. *the type, location and frequency of monitoring undertaken in accordance with 15.1 above shall be reviewed in each EMR and adjusted in consultation with the relevant authority(ies); and*

15.3. *make any results of monitoring in respect to this condition available to the public and Council by appointment at the Applicant's head office.*

CATCHMENT MANAGEMENT PLANS

16. The Applicant shall restore the water requirements of the Taylors (Ti-Tree) Lake catchment originating from the area of the Eastern Quarry to as close to natural flows as possible by:
- 16.1. *undertaking a ground and surface water monitoring program to collect sufficient data to reliably model the water requirements of the lower Taylors Lake catchment:*
 - 16.1.1. by a qualified hydrologist in consultation with and to the satisfaction of the Director-General of the DLWC, Director-General of the EPA, and the Director-General;
 - 16.1.2. within three months from the date of this consent; and
 - 16.1.3. at their own expense.
 - 16.2. *reporting the results of a completed modelling study to the Director-General of the DLWC, Director-General of the EPA, and the Director-General prior to the completion of the Catchment Management Plan and undertaking such further work as these agencies deem necessary for the purposes of modelling the hydrology of the Taylors (Ti-Tree) Lake catchment; and*
 - 16.3. *implementing any recommendations arising out of the modelling study as agreed to by the Director-General of the DLWC, Director-General of the EPA, and the Director-General and within a time-frame specified by the Director-General.*

ENVIRONMENTAL MANAGEMENT REPORT (EMR)

17. Within twelve months from the date of this consent, and thereafter annually or biennially on the anniversary of that date as determined by the Director-General, the Applicant shall prepare and submit to the Director-General an Environmental Management Report which:
- 17.1. *reviews and updates the adequacy and relevance of the Flora and Fauna Management Plan;*
 - 17.2. *includes a review of the performance of:*
 - 17.2.1. the water management measures adopted for treating surface runoff and process waste waters;
 - 17.2.2. the progressive rehabilitation of the eastern and western quarry sites;
 - 17.2.3. the operation of the quarry in terms of meeting the EPA licences conditions, and conditions of this consent;
 - 17.2.4. all sediment and erosion control structures including all drainage diversion channels, collection pits, and sedimentation dams as described in the Erosion and Sediment Control Plan;

- 17.2.5. the effectiveness of environmental management of the quarry in terms of EPA, and DLWC requirements, and conditions of this consent which enables ready comparison with the EIS's predictions, figures, and tables;
 - 17.2.6. measures taken to restore natural water flows into the lower Taylors Lake catchment; and
 - 17.2.7. the "make-up" water for the processing plant and the appropriate sourcing from the western quarry water storage, groundwater and/or the eastern quarry water storage in terms of the requirements of the Director-General of the EPA, Director-General of the DLWC, and the Director-General.
- 17.3. *summarises the following information:*
- 17.3.1. frequency, volume, and quality of all water releases;
 - 17.3.2. the log of complaints;
 - 17.3.3. the environmental monitoring data (air quality, noise, surface water and groundwater); and
 - 17.3.4. noise reduction measures for plant and equipment.
- 17.4. *discusses the environmental management targets for the next year or two year period;*
- 17.5. *demonstrates that the 'best available technology economically available' and 'best management practice' are being used to prevent or minimise air, water, and noise pollution by the use of appropriate controls to all quarry operations and infrastructure including product stockpiles and haulage routes;*
- 17.6. *incorporates any reasonable additional requirements after consulting the Director-General;*
- 17.7. *is submitted to Director-General of the EPA, Director-General of the DLWC, Director-General of the NPWS, Council, and the Batson Quarry Community Consultative Committee; and*
- 17.8. *is made available for public inspection at the Applicant's head office.*

FLORA AND FAUNA MANAGEMENT

18. Within six months from the date of this consent and prior to any further clearing, the Applicant shall have prepared at their own expense and by a suitably qualified specialist, a detailed Flora and Fauna Management Plan. The Plan shall:

18.1. *be prepared:*

- 18.1.1. in consultation with the Director-General of the NPWS, Director-General of the DLWC, and Council; and
- 18.1.2. to the satisfaction of the Director-General.

18.2. address, where relevant, but not be limited to, measures/strategies to:

- 18.2.1. protect and manage the Wildlife Corridor as shown on Map A;
 - ✓ 18.2.2. avoid and protect Koala feed trees;
 - ✓ 18.2.3. avoid and protect old growth trees and/or hollow bearing trees;
 - ✓ 18.2.4. protect threatened flora and fauna species including:
 - ✓ 18.2.4.1. *details and justification of any proposed re-location/transplant and capture programs;*
 - 18.2.4.2. *the threatened plant Durobby (Syzgium moorei);*
 - 18.2.4.3. *the bat roosting tree identified in the SIS; and*
 - ✓ 18.2.4.4. *the Small-leaved Figs and other rainforest species considered important food resources for threatened frugivore birds.*
 - ✓ 18.2.5. identify an acceptable process for the handling/rescue of any fauna displaced or injured during clearing operations, including the process for licensed carers to attend the project site;
 - ✓ 18.2.6. minimise vegetation clearance and protect vegetated areas outside the direct impact zone;
 - ✓ 18.2.7. re-vegetate/rehabilitate cleared areas;
 - ✓ 18.2.8. collect seed;
 - ✓ 18.2.9. control weeds;
 - ✓ 18.2.10. control feral animals;
 - 18.2.11. control the spread of debris and refuse;
 - ✓ 18.2.12. determine the best timing for fire hazard reduction works eg. season, climate; and
 - ✓ 18.2.13. train staff regarding environmental awareness and environmental management conditions relevant to the project site.
- 18.3. Identify what, if any, additional:**
- 18.3.1. ✓ monitoring is required to assess actual impacts;
 - 18.3.2. mitigation measures are required; and
 - 18.3.3. ✓ follow-up surveys are required on completion of the rehabilitation works.
- ✓ 18.4. provide details of the design of artificial wetlands.

BATSON QUARRY COMMUNITY CONSULTATIVE COMMITTEE

19. The Applicant, in consultation with Council, shall establish a Batson Quarry Community Consultative Committee.

19.1. Membership of the Committee shall comprise:

- 19.1.1. two representatives of Council;
- 19.1.2. two representatives of the quarry operating company; and
- 19.1.3. two representatives from the community selected by the Council.

19.2. The Committee shall:

- 19.2.1. be chaired by Council;
- 19.2.2. be convened for the first time within twelve months from the date of this consent and thereafter as needed;
- 19.2.3. monitor compliance with conditions of this consent;
- 19.2.4. establish a complaints conflict resolution process; and
- 19.2.5. may seek technical advice from time to time from public authorities or relevant individuals.

19.3. The Applicant shall provide to the Committee information the Chairperson of the Committee may reasonably request including:

- 19.3.1. details of the environmental performance of the development;
- 19.3.2. copies of the latest EMR;
- 19.3.3. copies of the Flora and Fauna Management Plan;
- 19.3.4. copies of the Erosion and Sedimentation Control Plan;
- 19.3.5. any monitoring results in respect of this consent;
- 19.3.6. access for site inspections by the Committee; and
- 19.3.7. meeting facilities for the Committee.

SECTION 94 CONTRIBUTIONS

20. The Applicant shall pay to the Council a financial contribution Pursuant to Section 94 of the Environmental Planning and Assessment Act, the amount of \$0.34 cents per tonne in accordance with Council's Section 94 Contribution Plan.

- 20.1. *The said contribution will be calculated and paid monthly with the first payment calculated from the date of this consent to be paid one month from the date of this consent, and thereafter on the corresponding day of each month;*
- 20.2. *The said contribution shall be indexed and adjusted annually as and from the date of this consent, in accordance with the Consumer Price Index applicable to each year;*
- 20.3. *On or before the 14th day of each month for the duration of the consent, the Applicant will deliver or procure delivery to the Council of a true certified copy of weighbridge docketts or other returns or records showing the true quantities of extracted materials transported from the property during the immediately proceeding month together with the contributions as calculated in 20.2 above;*
- 20.4. *Council has the right to inspect and have the original records relating to any of the extracted material, including numbers and types of trucks, trailers and load quantities transported from the property, audited by any person nominated by its internal accountant at any time when he/she may by written request so require; and*
- 20.5. *Council will pay all of the said contribution payments into a specially identified trust account for payment towards the rehabilitation, restoration, repair and/or maintenance of Broken Head Road, Bangalow Road from Byron to Bangalow, Tennyson Street, Marvel Street, Fletcher Street, Lawson Street, Shirley Street to the Pacific Highway, and Midgen Flat Road from Broken Head Road to the Shire boundary.*

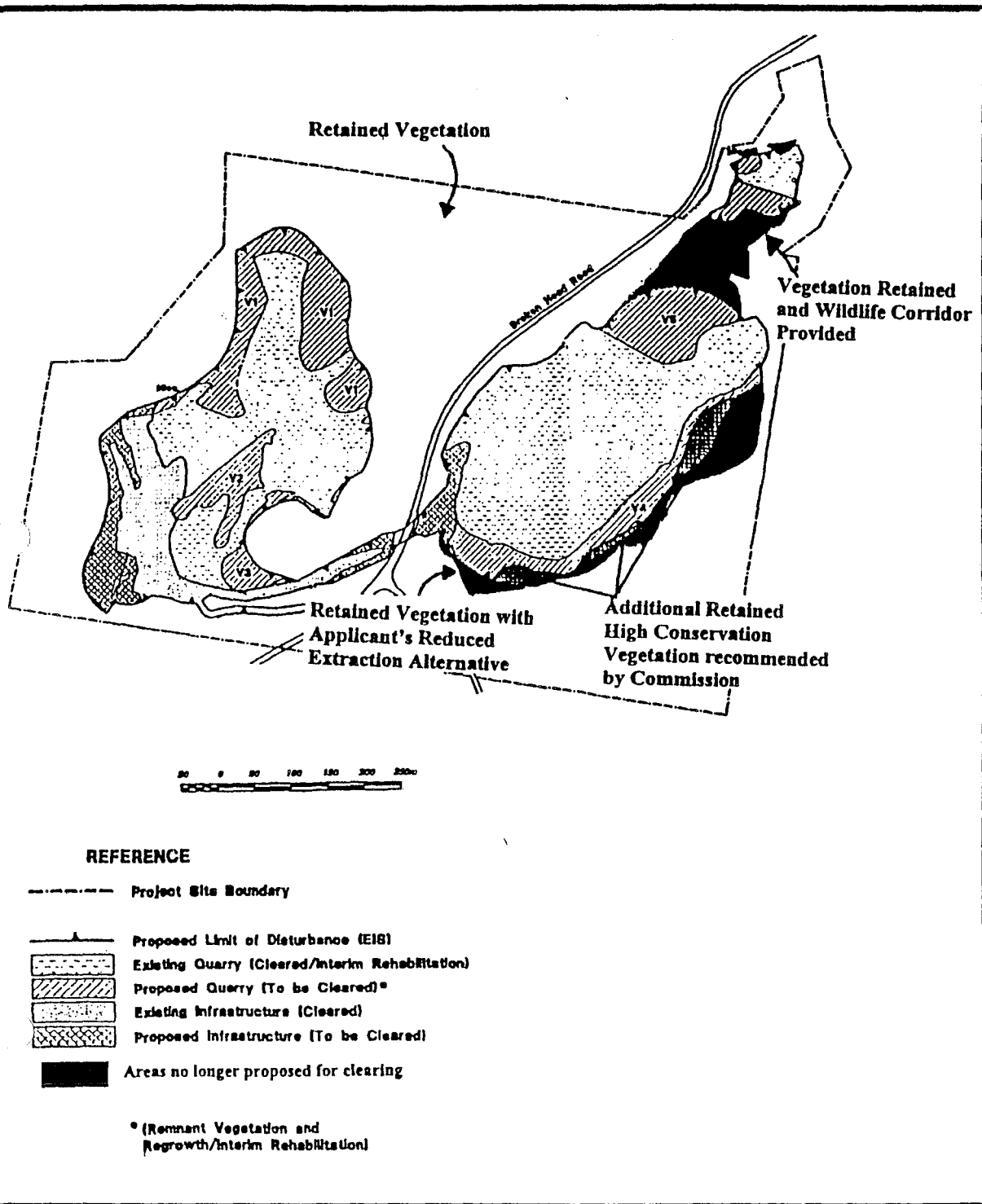
BANK GUARANTEE FOR REHABILITATION

- ✓ 21. The Applicant shall provide a bank guarantee, indexed to the consumer price index in the sum of \$50,000 in favour of Council being the sum necessary to ensure due completion of the rehabilitation and landscaping works as described in the EIS and/or to the satisfaction of Council.

DISPUTE RESOLUTION

- ✓ 22. Any dispute arising between any of the parties in respect of these conditions shall be referred to the Director-General whose determination of the dispute shall be final and binding.

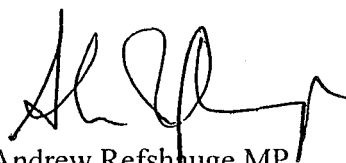
Limit of Extraction Recommended by the Commission to Conserve Significant Vegetation.



Map A

**NOTICE OF MODIFICATION OF A DEVELOPMENT CONSENT
GRANTED UNDER SECTION 89 AND 101(8) OF THE UNAMENDED
ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

I, the Minister for Urban Affairs and Planning, pursuant to section 96(2) of the *Environmental Planning and Assessment Act 1979* modify the development consent referred to in Schedule 1 in the manner set out in Schedule 2 (File:G92/00196).



Andrew Refshauge MP
Deputy Premier
Minister for Urban Affairs and Planning
Minister for Aboriginal Affairs
Minister for Housing

Sydney, 10 APRIL 2000

SCHEDULE 1

Development consent granted by the Minister for Urban Affairs and Planning on 7 May 1999 to a development application submitted by Batson Sand & Gravel Pty Ltd (Byron Shire Council DA 97/0465) for the expansion of their existing sand and gravel quarry on the following parcels of land within the Parish of Byron, County of Rous:

Lot 1, DP 123302;
Lot 2, DP 700806;
Lots 1,2,3,4,5 and 6, DP 245836;
Lot 4, DP 802745;
Lot 1, DP 184443; and
Part Broken Head Road and Road Reserve.

SCHEDULE 2

Insert in Condition 1 after the words "Biostudies Pty Ltd," the words "and the Statement of Environmental Effects dated 1 December 1999 prepared by Mr Bruce Hammond of Batson Sand & Gravel Pty Ltd."

Add a new condition.

23. Approval for construction and occupation of weighbridge and office

Detailed plans and specifications relating to the design and construction of all structural elements associated with the weighbridge and office are to be submitted to the Minister for Urban Affairs and Planning as the Principal Certifying Authority (PCA) prior to the commencement of construction works. A construction certificate