

MODIFICATION OF CONSENT REPORT - 103/94 DA (S96 023/12)

MODIFICATION TO EXTEND LIFE OF THE HARTLEY QUARRY FOR A FURTHER 5 YEARS – JENOLAN CAVES ROAD HARTLEY NSW 2790

1. PROPOSAL

Council is in receipt of a modification of development consent application from Hy-Tec Industries on behalf of Hartley Pastoral Co P/L, for DA 103/94. The modification seeks to extend the life of the Hartley Quarry for a further five years.

The applicant is proposing to modify Condition 3 of the original development consent (103/94 DA), which states:

3. This consent shall lapse 20 years from the date of endorsement.

The endorsement date of this consent was issued on the 22 March 1995.

By March 2015, Hy-Tec estimates there will be approximately 4.5 million tonnes of recoverable rock remaining within the approved footprint. This modification, if approved, would enable the approved resource to be extracted, processed and dispatched from site.

It is proposed that the existing extraction area will continue to be expanded in surface area to the east and will be deepened from the current floor level of 745m AHD to the previously approved depth of 730m AHD. This would involve the development of one further 15m bench.

The operations of the quarry will continue to be the same that was originally approved in 1995. This is noted within the statement of environmental effects and involves the following:

- 1. Ongoing rhyolite extraction through blasting and haulage to the primary crushing station near the northern boundary of the extraction area.*
- 2. Ongoing placement of overburden within the defined overburden emplacement south of the extraction area.*
- 3. Ongoing processing of primary-crushed rock in the processing plant with products relocated to defined product stockpile areas.*
- 4. Ongoing product loading and despatch via Jenolan Caves Road and the Great Western Highway.*

The original application (DA103/94) was approved by the elected Council and under Integrated Development by the Environmental Protection Authority, NSW Department Primary Industries & Investment, Department of Environment and Heritage, NSW Department of Planning & Infrastructure, Roads and Maritime Services, NSW Office of Water, Sydney Catchment Authority, for the establishment of a hard rock quarry and associated processing plant

The application will be assessed under Section 96 2 of the *Environmental Planning and Assessment Act 1979*.

2. SUMMARY

To assess and recommend determination of Section 96 Modification of Consent S96 023/12. of DA 103/94 Recommendation will be for approval subject to conditions

3. LOCATION OF THE PROPOSAL

Legal Description : Lot 31 DP 1009967, Lots 1 and 2 DP 1005511
Property Address : Jenolan Caves Road, Hartley, NSW, 2790

The site is located 3.5km south-east of the Jenolan Caves Road and the Great Western Highway junction on the eastern side of Jenolan Caves Road. The quarry pit is in a saddle at the top of a ridge and the crushing/screening plant, loading operations, maintenance area and offices are at the northern base of the ridge which runs in an east/west direction. The pit is well shielded to the east and west by the topography and moderately shielded to the south.

The existing area of the quarry currently contains 1575.3 ha in area.

4. DETAILS OF CURRENT APPROVAL

DA No. 103/94 was originally approved on 22 March 1995 by the elected Council and permitted the establishment of a hard rock quarry and associated processing plant.

A Section 96 Modification of Development consent was approved on 9 August 2011 by the elected Council and permitted a variation of operating hours.

5. PERMISSIBILITY: The development was originally permissible in the zone under Clause 9 of Council's current LEP which indicates that a quarry is permissible in the zone. This permissibility is not proposed to change as part of this modification.

It is considered that the proposal is consistent with the aims and objectives of 1(a) General Rural

5.1 POLICY IMPLICATIONS (OTHER THAN DCP's)

The previous modification application was called in under Policy 7.7 – Calling in of Development Applications by Councillors. Accordingly, this modification application is submitted to the elected Council for determination.

5.2 FINANCIAL IMPLICATIONS (eg Section 94)

Section 94 Contributions

Nil .

5.3 LEGAL IMPLICATIONS

5.3.1 Environmental Planning and Assessment Act 1979- Section 96 (1)

- (1) ***Modifications involving minor error, misdescription or miscalculation***
A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and

subject to and in accordance with the regulations, modify a development consent granted by it to correct a minor error, misdescription or miscalculation. Subsections (1A), (2), (3), (5), (6) and (7) do not apply to such a modification.

Comment: Not applicable

5.3.2 Environmental Planning and Assessment Act 1979- Section 96 (1A)

(1A) Modifications involving minimal environmental impact

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and**
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1), (2) and (5) do not apply to such a modification.

Comment: Not applicable

5.3.3 Environmental Planning and Assessment Act 1979- Section 96 (2)

(2) Other modifications

A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- (c) it has notified the application in accordance with:
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and**

- (d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1) and (1A) do not apply to such a modification.

Comment:

The development is considered to have an impact on the environment, adjoining land uses and traffic, therefore, the application is to be assessed under Section 96 (2). Although the continuation of the quarry-related activities within the quarry's existing footprint is proposed to be in the same manner that was originally approved as part of DA 103/94, the modification still relates to all of the quarry activities and operations being undertaken at the site. Therefore the proposed modification has been sent to a number of government authorities who were notified for the original development application and previous modification. The authorities that were notified include: the Environmental Protection Authority, Blue Mountains City Council, NSW Department Primary Industries & Investment, Department of Environment and Heritage, NSW Department of Planning & Infrastructure, Roads and Maritime Services, NSW Office of Water, Sydney Catchment Authority. The application was also referred to adjoining neighbours and placed on public display and advertised for a period of 30 days.

Comments and conditions are found later in this report.

5.3.4 Environmental Planning and Assessment Act 1979- Section 96 (3)

- (3) *In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.*

Any Environmental Planning Instruments

Lithgow City Local Environmental Plan 1994

LEP 1994 – Compliance Check		
	Clause	Compliance
4	Covenants, agreements. etc	Yes
9	1(a) zoning table	Yes
11	General Considerations for development in rural zones	Yes
26	Development along arterial roads	Yes
30	Land subject to bushfire hazards	Yes

Comment: The original application was assessed in accordance with the provisions of Lithgow's Local Environmental Plan 1994, and was found to be compliant. The modification does not require any further assessment under the LEP.

State Environmental Planning Policies

State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011

SEPP(Sydney Drinking Water Catchment) 2011 – Compliance Check		
	Clause	Compliance
10	Development consent cannot be granted unless neutral or beneficial effect on water quality	Yes
11	Development that needs concurrence of the Chief Executive	Yes

Comment: The application was referred to the Sydney Catchment Authority (SCA) for the concurrence of the Chief Executive. Based on the SCA's site inspection and the information provided, the proposed modification has been assessed by the SCA as being able to achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented. The Chief Executive therefore does not object to the modification subject to conditions being imposed.

STATE ENVIRONMENTAL PLANNING POLICY (Mining, Petroleum Production and Extractive Industries) 2007

SEPP (Mining, Petroleum Production and Extractive Industries) 2007 – Compliance Check		
	Clause	Compliance
7	Development permissible with consent (3) Extractive industry	Yes
12	Compatibility of proposed mine, petroleum production or extractive industry with other land uses	Yes
13	Compatibility of proposed development with mining, petroleum production or extractive industry	Yes
14	Natural resource management and environmental management	Yes
15	Resource recovery	Yes
16	Transport	Yes
17	Rehabilitation	Yes

Comment: The development is permissible with development consent as it is classed as being an extractive industry. The quarry is located on a property with an area approximately 2650 hectares. There is a large distance between the quarry and other land uses, being rural residential. The location and design of the quarry and its method of operation minimises any incompatibility with surrounding land uses.

No current or future extractive industry or mining is envisaged within close proximity to the development.

All surface water management structures required for the additional 5 years of operation e.g. diversion banks and sediment dams, are already in place and fully operational.

The use of conveyors to minimise haul truck usage has been and will continue to be an effective way to reduce greenhouse gas emissions along with the use fuel saving devices and efficient engines on road trucks.

The Hartley Quarry uses a sealed 3.1km private road to Jenolan Caves Road. No feasible alternative for road transportation of the quarry's products is available to the Great Western Highway. The trucks travelling between the quarry and the Great Western Highway only pass one residential dwelling.

The quarry will continue to rehabilitate the land in accordance with the previously approved rehabilitation plan.

Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

No.

Any Development Control Plan

No.

Any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F?

No.

Any matters prescribed by the regulations that apply to the land

The original application was assessed in accordance with the provisions of the Regulations, and was found to be compliant. The modification does not require any further assessment under the Regulations.

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Social and Economic Impacts: The extended operation of the Hartley Quarry will continue to provide the economic and social benefit experienced within the local community. These benefits relate principally to the direct employment of 16 people and indirect employment of a further 40 people.

Access and traffic: The Quarry access road intersects with Jenolan Caves Road 3.1km from the quarry weighbridge and 2.1km from the bridge over the Coxs River (the Glenroy Bridge). The approaches to the Glenroy Bridge were upgraded in February 2012, as part of the previous modification, to remove depressions that had contributed to truck body noise.

It is 4.2km in length from the quarry entrance to the Great Western Highway. The bulk of the road does not permit passing slower vehicles due to the curved alignment.

Current traffic levels on Jenolan Caves Road excluding quarry-related traffic are approximately 750 to 850 vehicles per day with 30% heavy vehicles. This rate is not expected to change due to the modification.

The quarry currently has 99 truck movements per day and this is to remain as part of this modification. As such the modification will not have an impact on access and traffic movements.

Visual Impacts: The Quarry site is visible from sections of Jenolan Caves Road (near the quarry entrance), a short section of the Great Western Highway and distant locations such as Hassans Walls Lookout (7km north of the quarry).

Each of these locations identify the presence of the quarry and its activities, however the current and future mitigation measures have substantially reduced these effects.

The quarry will continue to bench, landscape and progressively rehabilitate the site. The use of benches of the extraction area allows the opportunity to progressively landscape the completed edges through the placement of overburden and establishment of trees and shrubs. This will further reduce visual impacts from local vantage points.

Another mitigation measure relates to the vegetation screening of the Yorkeys Creek Stockpile Area. Rows of trees and shrubs will help to reduce the visual impacts.

It is expected that due to the existing and proposed visual controls that there will be no further impacts in regard to this modification.

Noise: A noise assessment was undertaken in 1994 and 2009. The 2009 assessment concluded that the noise levels at seven nearby residences were at least 9dB(A) below the 35dB(A) noise criteria and consequently would not cause any noise annoyance.

The ongoing operation of the quarry beyond 2015 is expected to generate noise levels within those predicted by the 1994 and 2009 assessments. The future operations of the quarry will involve some operations on the surface, but most of the extraction activities will be occurring at the existing or lower elevations. Therefore the modification will not result in any increase in noise levels above what currently exists at the site.

Air Quality: Given the dominance of stronger winds from the west and southwest, three deposited dust monitoring sites were established on the eastern side of the property. It has been found that the results comply with the EPA's criteria.

Given that the proposed activities are not going to change as part of the modification, it is assessed that air quality impacts attributable to the quarry would be comparable to the current operations at the site. Air quality impacts may also be improved as the extraction activities being undertaken will be deeper in the extraction area where a greater dust retention factor would apply.

Water Management: All of the required surface water management controls that were identified in the soil and water management plan submitted in 2006 are in place within the quarry site to control sediment-laden runoff for the remaining life of the quarry. No further controls will be required as part of this modification.

Ecologically Sustainable Development: Throughout the development and operations of the quarry prevention measures have been undertaken to reduce environmental impacts. This has been achieved through appropriate levels of research, collection of baseline data and environmental evaluations.

It is considered that during all stages of the development and operations of the quarry, there would be no unforeseen impacts during the additional 5 years.

The Suitability of the site for the development

The original application was assessed in terms of site suitability and was found to be suitable. The modification does not require any further assessment of suitability as the quarry site is existing and has been operating for the last 17 years.

Any submissions made in accordance with this Act or the Regulations

Given that the proposed amendment is for a longer life span of the quarry operations it is considered that the modification will have an impact on the environment and adjoining land uses and as such required re-notification, re-referral and determined by the elected Council.

The application was referred to the Environmental Protection Authority, Blue Mountains City Council, NSW Department Primary Industries & Investment, Office of Environment and Heritage, NSW Department of Planning & Infrastructure, Roads

and Maritime Services, NSW Office of Water, Sydney Catchment Authority. The application was also referred to adjoining neighbours and placed on public display and advertised for a period of 30 days.

ENVIRONMENTAL PROTECTION AUTHORITY (EPA)

The EPA has considered the application and is satisfied that the proposal will have no implications on the day to day operations of the site and therefore no modifications to Environmental Protection Licence 12323 will be required.

BLUE MOUNTAINS CITY COUNCIL

No Submission was received throughout the notification period.

NSW DEPARTMENT OF TRADE AND INVESTMENT, REGIONAL INFRASTRUCTURE AND SERVICES, RESOURCES & ENERGY DIVISION

This coordinated response reflects the views of the Mineral Resources, Agriculture and Fisheries branches of NSW Trade and Investment. There are no issues relevant to the interests of Forests NSW.

Mineral Resources

A review of the Hartley Quarry – Statement of Environmental Effects has been completed. The proponent has provided a resource estimate (4.5 million tonnes of rhyolite). However the method used to determine this figure is not provided. The proposal is an expansion of an existing operation. Therefore the Mineral Resource division assumes the proponent has provided an accurate resource assessment.

The subject area is part of a Petroleum Special Prospecting Application (PSPAPP 60) by the New South Wales Aboriginal Land Council.

Agriculture

The relevant agricultural issues to consider when preparing and also when assessing extractive industry proposals are set out in the Departments' Guideline: *Agricultural issues for Extractive Industries* available on the Departments website. The guideline also documents recommended project design and mitigatory responses.

The guideline is part of a series designed to help consent authorities identify potential agricultural impacts and assess whether such proposals can avoid conflict with existing agricultural developments; and protect valuable food and fibre production resources. The guidelines can similarly help consultants and proponents and are available from the Department of Primary Industries land use web portal.

Fisheries

There are no fisheries issues.

OFFICE OF ENVIRONMENT AND HERITAGE (OEH)

OEH has responsibilities under the:

- *National Parks and Wildlife Act 1974* – namely the protection and care of Aboriginal objects and places, the protection and care of native flora and fauna and the protection and management of reserves; and the

- *Threatened Species Conservation Act 1995* which aims to conserve threatened species of flora and fauna, populations and ecological communities to promote their recovery and management processes that threaten them;
- *Native Vegetation Conservation Act 2003* – ensuring compliance with the requirements of this legislation.

Based on the information provided, OEH has no specific comments to make on the proposal at this stage. It is assumed that the environmental impact assessment has adequately considered the requirements under the Environmental Planning and Assessment Act 1979 of the OEH areas of responsibility (ie. Natural and cultural heritage issues). Please note that if subsequent information indicates that that these areas within the OEH's responsibility which requires further investigation, then OEH may provide further input.

NSW DEPARTMENT OF PLANNING & INFRASTRUCTURE

No Submission was received throughout the notification period.

ROADS AND MARITIME SERVICES (RMS)

The RMS does not object to the proposed modification and provides the following comments and consideration by Council:

- Trucks and transport are permitted to be loaded and unloaded at the site between 5 am and 10 pm Monday to Friday and 5 am to 3 pm on Saturdays.
- The Quarry must operate in accordance with the Austen Quarry – Road and Traffic Management Plan, dated 24 June 2011.
- “Reduce Noise Limit Compression Braking” (G9-291) signage should be erected about 550 m east of and 1.4 km west of Glenroy Bridge.

RMS engaged a contractor to carry out noise monitoring under the Noise Abatement Program near “Glenroy” at 200 Jenolan Caves Road during May 2012. The monitoring showed that daytime and night-time noise levels did not exceed State criteria and the site was not considered “noise affected”. The site does not require remedial treatment at this point in time.

NSW OFFICE OF WATER

Reference is made to Councils letter dated 27 August 2012 regarding the S96 modification for DA 103/94 requesting the extension of the project life for a further 5 years. I also refer to the correspondence received in response to the NSW Office of Water letter dated 30 July 2012.

The Office of Water has no objection to the extension of the life of the project for the requested 5 years to 22 March 2020. However, and under section 91 of the EPA Act, the office requested Council to condition the extension by the following GTA:

1. The applicant has to obtain a current Controlled Activity Approval from Office of Water for any "works' (as defined by the EPA Act) carried out in, on or under the Waterfront Land (bed, bank and 40m from top of bank) within the subject site.

SYDNEY CATCHMENT AUTHORITY

It is noted that the original consent for the quarry was granted by Council in 1995 and that neither the SCA nor Sydney Water had any involvement in the assessment of the original application. The SCA has provided concurrence advice to Council relating to a previous development application seeking to vary the operating hours for road transportation on the site (letter dated 15 December 2009). The SCA has also provided advice to Council (letter dated 14 February 2008) in relation to a development application for recycling of truck sediment washings from batching plants on the site to produce a roadbase product.

The subject property, which has been re-inspected by the SCA, is located within the Warragamba catchment which forms part of Sydney's water supply. The Statement of Environmental Effects (SEE) prepared by R.W. Corkery & Co. Pty Ltd (dated June 2012) has been considered in the assessment of the application. The SCA provides the following comments in relation to the SEE and the site inspection:

- Hy-Tec Quarry site is regulated by an Environment Pollution Licence (EPL 12323) and is subject to a Pollution Reduction Program. Stormwater runoff and associated sediments at the quarry are managed via a Soil and Water Management Plan which includes approximately 10 dams, pits and piped water pumping and circulation system for water reuse within the site. The quarry is operated as a "nil-discharge" site. Water quality in Cox's River and Yorkeys Creek is monitored in accordance with the EPL and annual monitoring reports are provided to the NSW Environment Protection Agency (EPA).
- The SCA understands that the wall of a stormwater retention dam (Dam 2 near the crushing plant and in close proximity to Cox's River) collapsed in November 2011 after significant rainfall, resulting in significant sediment laden water entering Cox's River. Hy-Tec Quarry was fined by the EPA in relation to this incident. A temporary dam wall, spillway and discharge point have been constructed as a short term measure to address this problem. It is noted that the dam wall and batter are currently bare, however, the SCA understands these are to be reshaped and grassed. Hy-Tec plans to reconstruct the dam wall incorporating a proper concrete spillway and stable discharge point early next year. The SCA considers that these works should be completed as early as possible to prevent repetition of dam wall collapse and pollution of waters.
- The SCA also notes that the recent water monitoring data (July to September 2011) show slightly elevated levels of electrical conductivity (367 to 465 μ S/cm) for monitoring points 4, 5 and 6 within Yorkeys Creek beyond the set criteria/goal value of 350 μ S/cm.
- The EPL limits for the monitored pH are 6.5 to 8.5 whilst the Appendix 4 of the SEE specifies 6 to 9. This discrepancy needs to be corrected.

Based on the SCA's site inspection and the information provided, the proposed modification has been assessed by the SCA as being able to achieve a neutral or beneficial effect on water quality provided appropriate conditions are included in any development consent and are subsequently implemented. The Chief Executive therefore does not object to the modification subject to the following conditions being imposed.

1. A properly engineered wall of the main Sedimentation Dam (Dam 1) and associated spillway and discharge point shall be constructed within twelve months of this modification approval.
2. A review shall be undertaken of the structural stability of all stormwater dams on the site, including any discharge points, and any identified upgrade works implemented as soon as practicable.
3. The Operational Environmental Management Plan for the site shall be reviewed, and updated in consultation with the Sydney Catchment Authority within six months of this modification approval.

Reason for Conditions 1 to 3 – To ensure stormwater management on a site generating high turbidity is undertaken in a manner and with management structures that ensure a neutral or beneficial effect on water quality and are sustainable over the longer term.

4. A detailed Erosion and Sediment Control Plan shall be prepared for any demolition, excavation and construction works for the reconstruction or upgrade of the Sedimentation Dam (Dam 1) by a person with the experience in the preparation of such plans. The Plan shall be consistent with the requirements outlined in Chapter 2 of NSW Landcom's *Soils and Construction: Managing Urban Stormwater Volume 1* (2004), and the requirements outlined in DECC's *Soils and Construction: Managing Urban Stormwater Volume 2E Mines and Quarries* (2008).
5. Effective erosion and sediment controls shall be installed prior to any demolition or construction activity, and shall prevent sediment-laden runoff leaving the site or entering any natural drainage system. The control shall be regularly maintained and retained until works have been completed and groundcover established.

Reason for Conditions 4 & 5 – To manage adverse environmental and water quality impacts during the construction phase of the development so as to minimise the risk of erosion, sedimentation and pollution within or from the site during this phase.

6. The annual water quality monitoring report shall be provided to the Sydney Catchment Authority for comment.

Reason for Condition 6 – To ensure that the SCA is aware of the outcomes of water quality monitoring activity and is satisfied that the site's operations have a neutral or beneficial effect on water quality.

ADJOINING NEIGHBOURS AND PUBLIC DISPLAY

During the notification period one submission was received with concerns regarding:

1. Noise, speed and permanent repairs to the Glenroy Bridge.

Comment: repairs to the Glenroy Bridge have since been undertaken prior to the finalisation of this assessment. Noise signs were also located either side of the bridge. This was approved and conditioned as part of the previous modification for this development.

The public interest

The original application was assessed in terms of the public interest. The ongoing supply of hard rock products from the quarry remains in the public interest given the need for concrete and other products.

5.3.5 Environmental Planning and Assessment Act 1979- Section 96 (4)

- (4) *The modification of development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to development consent includes a reference to development consent as so modified.*

Comment:

Noted.

5.3.6 Environmental Planning and Assessment Act 1979- Section 96 (5)

(5) Threatened species

Development consent of the kind referred to in section 79B (3), or in respect of which a biobanking statement has been issued under Part 7A of the Threatened Species Conservation Act 1995, is not to be modified unless:

- (a) *in the case of development referred to in section 79B (3)—the requirements of section 79B (3)–(7) have been complied with in relation to the proposed modification as if the application for the proposed modification were an application for development consent, or*
- (b) *in the case of development in respect of which a biobanking statement has been issued under Part 7A of the Threatened Species Conservation Act 1995—the applicant has made an application for modification of the biobanking statement in relation to the proposal and a new biobanking statement has been issued or the consent authority is satisfied that the modification will have no impact on biodiversity values (within the meaning of that Act).*

Comment: There is no known threatened species affected by this proposal.

6. DISCUSSION AND CONCLUSIONS

The application has been thoroughly assessed under Section 96(2) of the *Environmental Planning and Assessment Act 1979*. and is appropriate for recommendation of approval subject to conditions.

7. ATTACHMENTS

Schedule A- Conditions of consent
The previous Modification 79C Report

8. RECOMMENDATION

THAT the Section 96 Modification of Consent application S96 023/12 associated with DA 103/94 be approved subject to the following amendments and additional conditions:

It is proposed to amend condition 1 and 3 of the original development consent (103/94 DA), to read:

- 1. The development is to be carried out generally in accordance with the development application and accompanying Environmental Impact Statement prepared by Sinclair Knight Merz, dated 2nd August, 1994, as amended by the*

Revised Hartley Quarry Proposal prepared by Minenco Pty Ltd, dated February, 1995, except as may be modified by the conditions of this consent.

Note: The development is to be carried out generally in accordance with the modified development application and accompanying Environmental Impact Statement prepared by Darryl Moore, Principle Consultant, Evermoore Environmental Services, dated August 2009 and the Statement of Environmental Effects prepared by R.W. Corkery & Co. Pty Limited, dated June 2012.

3. This consent shall lapse 25 years from the date of endorsement.

Additional conditions that are to be added to the Consent include:

1. A properly engineered wall of the main Sedimentation Dam (Dam 1) and associated spillway and discharge point shall be constructed within twelve months of this modification approval.
2. A review shall be undertaken of the structural stability of all stormwater dams on the site, including any discharge points, and any identified upgrade works implemented as soon as practicable.
3. The Operational Environmental Management Plan for the site shall be reviewed, and updated in consultation with the Sydney Catchment Authority within six months of this modification approval.
4. A detailed Erosion and Sediment Control Plan shall be prepared for any demolition, excavation and construction works for the reconstruction or upgrade of the Sedimentation Dam (Dam 1) by a person with the experience in the preparation of such plans. The Plan shall be consistent with the requirements outlined in Chapter 2 of NSW Landcom's *Soils and Construction: Managing Urban Stormwater Volume 1* (2004), and the requirements outlined in DECC's *Soils and Construction: Managing Urban Stormwater Volume 2E Mines and Quarries* (2008).
5. Effective erosion and sediment controls shall be installed prior to any demolition or construction activity for the reconstruction or upgrade of Sedimentation Dam (Dam 1), and shall prevent sediment-laden runoff leaving the site or entering any natural drainage system for storm events up to and including the design storm event as required by Landcom's *Soils and Construction: Managing Urban Stormwater Volume 1* (2004), and the requirements outlined in DECC's *Soils and Construction: Managing Urban Stormwater Volume 2E Mines and Quarries* (2008). The control shall be regularly maintained and retained until works have been completed and groundcover established.
6. The annual water quality monitoring report shall be provided to the Sydney Catchment Authority for comment.
7. The applicant has to obtain a current Controlled Activity Approval from Office of Water for any "works" (as defined by the EPA Act) carried out in, on or under the Waterfront Land (bed, bank and 40m from top of bank) within the subject site.

Report prepared by:.....Supervisor:.....

Dated:.....Dated:.....

REASONS FOR CONDITIONS

The conditions in Attachment 1 have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instruments
- To ensure no injury is caused to the existing and likely future amenity of the neighbourhood
- Due to the circumstances of the case and the public interest.
- To ensure the structural integrity of the development.
- To ensure the protection of the health and safety of the occupants of the development.
- To protect the environment.
- To prevent, minimise, and/or offset adverse environmental impacts.
- To ensure there is no unacceptable impact on the water quality.
- To ensure adequate soil conservation and protect against movement of soil and sediments.

Schedule A

Conditions of Consent (Consent Authority) and General Terms of Approval (Integrated Approval Body)

Please Note: It should be understood that this consent in no way relieves the owner or applicant from any obligation under any covenant affecting the land.

The amended and additional conditions are in highlighted in bold below:

ADMINISTRATIVE CONDITIONS

- 1. The development is to be carried out generally in accordance with the development application and accompanying Environmental Impact Statement prepared by Sinclair Knight Merz, dated 2nd August, 1994, as amended by the Revised Hartley Quarry Proposal prepared by Minenco Pty Ltd, dated February, 1995, except as may be modified by the conditions of this consent.**

Note: The development is to be carried out generally in accordance with the modified development application and accompanying Environmental Impact Statement prepared by Darryl Moore, Principle Consultant, Evermoore Environmental Services, dated August 2009 and the Statement of Environmental Effects prepared by R.W. Corkery & Co. Pty Limited, dated June 2012.

2. There is to be no quarrying, processing, loading or transportation on Sundays and Public Holidays.
- 3. This consent shall lapse 25 years from the date of endorsement.**

Note: the date of endorsement relevant to this condition is 22 March 1995.

Environment Protection Authority

4.
 - a) That the developer shall obtain from the Environment Protection Authority all statutory approvals required under the Clean Air Act, 1961, Clean Waters Act, 1970 and the Noise Control Act, 1975. Further, the approval of the E.P.A. is also required in relation to the siting, installation and management of the effluent disposal system to be installed on the site. Approval is also required for the operation, control and management of the truck wash bay.
 - b) In the event of emissions from the development exceeding the approved levels, or in the event that there are adverse effects on the environment beyond those anticipated at the date of this consent and which can be reasonably attributed to emissions from the proposal, the developer shall comply with the conditions, directions or notices issued under the foregoing Acts aimed at achieving the approved levels of emissions or at mitigating or eliminating the adverse effects.

Transportation and Access

5.
 - a) Intersection of the internal haul road with the Jenolan Caves Road to be upgraded to the satisfaction of the Roads and Traffic Authority, incorporating an AUL layout, designed in accordance with the guidelines set down under Section 4 of the Road Design Guide. The Authority reserves the right to monitor the operation of this intersection and if it proves unsatisfactory, the intersection will have to be upgraded to a composite AUR/AUL intersection at full cost to the developer.

b) Imposition of a 40km/h speed restriction on trucks and buses on the section of Jenolan Caves Rd, from its intersection with the Great Western Highway to the haul road intersection.

c) All appropriate road side signs and furnishings including guide posts, linemarking and protection fencing, to be provided to the satisfaction of the R.T.A.

d) Engineering plans to be submitted to Council for the construction of the internal haul road. Such to be submitted, approved and the road installed prior to the operation commencing.

e) The developer is required to progressively seal the access road into the quarry. The initial stage will be the section between the Caves Rd and the Truck Wash Station, which will be required to be completed prior to the operation commencing. In consultation with Council Officers and the Soil Conservation Service, the remaining sections of the access road will be sealed commencing in the steeper sections. The developer is required to complete the sealing of the access road within 5 years of the commencement of the operation or when production reaches 300,000 tonnes per annum. The developer is required to take any dust suppression measures required by the Council until such time as the road is fully sealed.

f) The developer to provide details of means of access to the quarry area from the haul road.

Infrastructure

6. a) The developer to consult with Prospect Electricity regarding the provision of an electricity supply to the proposed development.

b) The developer to consult with Telecom Australia regarding the provision of a telephone supply to the proposed development.

Flora and Fauna

7. a) The developer to undertake a program of annual monitoring of fauna and fauna habitats in the vicinity of the quarry and stockpile areas, to monitor any indirect impacts from the operation. Such to be included in the annual report to be submitted to Council.

b) The developer is to pursue the attainment and fund implementation of a Conservation Agreement or flora preservation conditions over suitable E Pulvurulenta habitat identified by the National Parks and Wildlife Service of N.S.W., within the Hartley area.

c) The developer is to provide funding for the ex-situ growing of the species, E Pulverulenta, under the supervision of the National Parks and Wildlife Service and in conjunction with the Mt Tomah annex of the Royal Botanic Gardens, or other appropriately qualified organisation acceptable to the Service.

d) The developer is required to establish a riparian corridor prior to construction commencing. The riparian corridor should be constructed to the satisfaction of the Department of Water Resources.

e) The proponent to consult with the Department of Agriculture regarding the eradication of Serated Tussock with the site of the processing area.

Archaeology

8. a) The developer is to comply with the recommendations of the Archaeological Assessment as undertaken by Mills and Wilkinson Archaeology Consultants, as incorporated in the E.I.S.

b) The developer, shall consult with the Gandangara Local Aboriginal Land Council, during construction and operation of the quarry.

Water Management

9. a) The developer shall produce a site specific Soil and Water Management Plan for each component of the development detailing all proposed drainage diversion channels, collection pits and sedimentation dams to be constructed on site. Such plan to be developed in consultation with the Soil Conservation Service and be to the satisfaction of Council and the Soil Conservation Service.

b) The developer shall manage surface runoff within the site in accordance with the Soil and Water Management Plan.

c) The developer shall consult with the Soil Conservation Service prior to the construction of runoff diversion, erosion and sedimentation control works and sediment dams, and these work areas to be constructed to capacities and standards satisfactory to Council and the Soil Conservation Service.

d) All activities involving oil, fuel and other chemicals which have the potential to pollute groundwater should be contained within an impermeable bunded area, roofed to the satisfaction of the Environment Protection Authority.

e) All drainage channels/trenches, sedimentation ponds/dams and pollution control structures should be lined and sealed with impermeable material to the satisfaction of the Department of Water Resources.

f) The developer to apply for a permit from the Department of Water Resources for the construction works at Yorkeys Creek, under Section 3A of the Rivers and Foreshores Improvement Act.

Noise Management

10. a) The developer is to implement all noise attenuation measures as outlined in the E.I.S. This includes either fully enclosing the primary and secondary crushers or installing environmental grade mufflers and engine side covers on these facilities.

b) Blasting shall only occur at the site between 10.00am and 3.00pm, Monday to Friday.

c) The developer or any other person operating the mine, shall advise owners of adjoining land by telephone or mail, 1 week prior to each blast, of the intended date and time of the proposed blast.

Fire Protection

11. The developer to provide details of all proposed fire fighting facilities and measures to be installed on the site including water storage capacities, location of hydrants etc.

Internal Roads and Buildings

12. The developer shall, prior to the commencement of construction of the development, obtain the consent of Council for design plans and specifications for all roads, carparking facilities and

buildings upon the site.

Building Applications

13. Submission and approval of a building application for all structural work to be carried out in association with the development, including all structural engineering details certified by a structural engineer.

Landscaping

14. That the developer shall prepare and submit to Council for its consideration and approval, within six months of development approval:
 - a) fully detailed landscaping plans covering all components of the development, including proposed bunding and landscape screening, as identified in the E.I.S. as amended. The developer shall employ a qualified landscape architect to assist in this component of the development.
 - b) proposals for the visual appearance of the structural components of the development incorporating paint colour and specifications. Buildings and structures are to be constructed of non-reflective material, and designed so as to present a neat orderly appearance and to blend with the surrounding landscape.
 - c) A comprehensive Plan of Management, which shall consist of detailed plans, specifications and staged work programs to be undertaken whilst the quarry is in operation, including rehabilitation and landscape works, soil and water management programs, infrastructure installation and maintenance and the environmental monitoring program.

Rehabilitation

15.
 - a) As part of the overall Plan of Management, the developer shall submit a "Stage Specific Management Plan" for approval. The "Stage Specific Management Plan" shall provide detailed information relative to each stage or sequence of extraction and rehabilitation of that area. The rehabilitation plans shall clearly identify finished contours, top soil depths, drainage/siltation controls, plant and grass materials to be used and proposed means of camouflaging the exposed quarry face. It should also detail means of maintaining all rehabilitation works.
 - b) Prior to preparation of the rehabilitation program to be submitted to Council in accordance with (a), above, the applicant shall consult with the Soil Conservation Service and National Parks and Wildlife Service in relation to the content of each rehabilitation program.
 - c) The developer shall, before commencing quarrying of each stage shall lodge with the Council a guarantee deposit or bank guarantee for a sum equal to the cost of carrying out restoration work associated with that specific stage rehabilitation plan, to fully compensate the Council in the event of any expense being incurred by Council in relation to the restoration work specified in this consent.
 - d) Upon satisfactory completion of restoration works for each stage, Council will release the particular monetary guarantee.
 - e) The developer shall conserve all topsoil from disturbed areas for use in rehabilitation and consult with the Soil Conservation Service during topsoil stripping and stockpiling in respect

to erosion protection and long term viability of the stockpiles where immediate reuse is not possible.

f) The developer shall consult with the Soil Conservation Service in respect to progressive and final implementation of rehabilitation works and these are to be carried out to the satisfaction of the Soil Conservation Service and Council.

g) The developer shall consult with the Soil Conservation Service to obtain the necessary authority to destroy trees on "Protection Land" under the Soil Conservation Act, 1938.

h) The developer shall consult with the N.S.W Department of Agriculture and the Soil Conservation Service of N.S.W. concerning appropriate vegetative species selection, seedling establishment techniques, soil testing and fertilizer selection and application for all rehabilitation works.

Approvals to Council

16. The developer shall furnish to Council copies of all required approvals from Government Departments and other statutory authorities

Mineral Resource Approval

17. a) The proponent shall comply with the provisions of the Mines Inspection Act 1901, as amended.

b) The proponent shall not commence any physical work upon the site, including construction work, until they have fully complied with the Mines Inspection Act 1901, as amended, and particularly in regard to the appointment and registration of a mine manager.

c) The proponent is to supply a copy of the Company's safety policy to the Department.

d) The proponent is to provide details to the Department of Mineral Resources on how it proposes to suppress dust at each phase of the quarrying operation.

e) All fixed plant must comply with Australian Standard 1657-1992, Fixed Platforms, Walkways, Stairways and Ladders- Design, Construction and Installation.

f) All explosives and detonator magazines will require Depot Licences.

g) The proponent to investigate whether or not the proposed quarry development involves a prescribed mineral, as defined under the Group 4 list of Minerals in the Mining Act 1992.

Monitoring

18. a) The developer shall carry out all those operating and monitoring measures as describe and specified in the environmental impact statement to prevent, minimise or ameliorate adverse environmental impact except where there is inconsistency between the said measures and the conditions of this consent or the reasonable requirements of the authorities referred to herein, the conditions of this consent, or the requirements of the authorities shall prevail.

b) The developer shall institute and implement a comprehensive monitoring program for air, water and noise emissions and their effects on flora, fauna, agriculture and domestic landuses, surface and underground waters, to meet the requirements of the Environment

Protection Authority, the other relevant Government Departments and Council.

c) The developer is to undertake microinvertebrate monitoring upstream and downstream of the development site prior to and during the life of the quarry, to monitor and minimise impacts to the aquatic environment.

d) The developer shall prepare an annual report containing all monitoring data with an analysis of the data and providing an assessment of the effectiveness or otherwise of its environmental control measures and methodologies.

e) The first of such reports shall be completed and submitted within 12 months of the date of commencement of construction at the site, and thereafter within each succeeding 12 months, to Council, the Environment Protection Authority, Soil Conservation Service, Water Resources and the National Parks and Wildlife Service.

f) The annual water quality monitoring report shall be provided to the Sydney Catchment Authority for comment.

Transportation

19. Trucks and transport are permitted to be loaded and unloaded at the Premises between 5.00am and 10.00pm Monday to Friday and 5.00am to 3.00pm on Saturdays
20. The applicant must pay the RTA its costs of \$42,340 to undertake the works on the Glenroy Bridge outlined in the correspondence from the RTA to the Applicant dated 22 June 2011.
21. The applicant must install, at its cost, two reduce noise signs on the north and the south of the Glenroy Bridge, Jenolan Caves Road, Jenolan Caves, subject to the requirements of the RTA.
22. The applicant must implement the Austen Quarry – Road and Traffic Management Plan, dated 22 June 2011.
23. The Applicant must obtain a variation of Condition L8 (Hours of Operation) of its Environmental Protection Licence numbered 12323 to the following effect:

“The loading and unloading of trucks and transport is permitted at the Premises between the hours of 5.00am and 10.00pm Monday to Friday and 5.00am to 3.00pm on Saturdays only.”

Dams

24. **A properly engineered wall of the main Sedimentation Dam (Dam 1) and associated spillway and discharge point shall be constructed within twelve months of this modification approval.**
25. **A review shall be undertaken of the structural stability of all stormwater dams on the site, including any discharge points, and any identified upgrade works implemented as soon as practicable.**
26. **The Operational Environmental Management Plan for the site shall be reviewed, and updated in consultation with the Sydney Catchment Authority within six months of this modification approval.**

Erosion and Sediment Control

27. **A detailed Erosion and Sediment Control Plan shall be prepared for any demolition, excavation and construction works for the reconstruction or upgrade of the Sedimentation Dam (Dam 1) by a person with the experience in the preparation of such plans. The Plan shall be consistent with the requirements outlined in Chapter 2 of NSW Landcom's *Soils and Construction: Managing Urban Stormwater Volume 1 (2004)*, and the requirements outlined in DECC's *Soils and Construction: Managing Urban Stormwater Volume 2E Mines and Quarries (2008)*.**
28. **Effective erosion and sediment controls shall be installed prior to any demolition or construction activity for the reconstruction or upgrade of Sedimentation Dam (Dam 1), and shall prevent sediment-laden runoff leaving the site or entering any natural drainage system for storm events up to and including the design storm event as required by Landcom's *Soils and Construction: Managing Urban Stormwater Volume 1 (2004)*, and the requirements outlined in DECC's *Soils and Construction: Managing Urban Stormwater Volume 2E Mines and Quarries (2008)*. The control shall be regularly maintained and retained until works have been completed and groundcover established.**

Water

29. **The applicant has to obtain a current Controlled Activity Approval from Office of Water for any 'works' (as defined by the EPA Act) carried out in, on or under the Waterfront Land (bed, bank and 40m from top of bank) within the subject site.**