

Development Consent

Section 80 of the *Environmental Planning and Assessment Act 1979*

I, the Minister for Planning, approve the Development Application referred to in Schedule 1, subject to the conditions in Schedules 2 to 5.

These conditions are required to:

- prevent, minimise, and/or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the on-going environmental management of the development.

SIGNED

Frank Sartor, MP
Minister for Planning

Sydney 2006 S04/01016

SCHEDULE 1

Development Application:	DA 329-7-2003.
Applicant:	Newnes Kaolin Pty Ltd (ABN: 71 065 564 794).
Consent Authority:	Minister for Planning.
Land:	Land described as Lot 1 DP 108485; County of Cook, off Sandham Road, Newnes Junction, via Lithgow.
Proposed Development:	Development of a kaolin mining and sand quarrying operation.

Note:

- To find out when this development consent becomes effective, see section 83 of the *Environmental Planning and Assessment Act 1979 (EP&A Act)*;
- To find out when this development consent is liable to lapse, see section 95 of the *EP&A Act*; and
- To find out about appeal rights, see section 97 of the *EP&A Act*.

Red Type represents November 2010 modification
Green Type represents June 2024 Modification 2

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DEFINITIONS

AEMR	Annual Environmental Management Report
Applicant	Newnes Kaolin Pty Ltd, or its successors
BCA	Building Code of Australia
BCS	Biodiversity Conservation and Science Group of NSW Department of Climate Change, Energy, the Environment and Water
BLALC	Bathurst Local Aboriginal Land Council
CCC	Community Consultative Committee
Construction	All physical works to enable quarrying operations to be carried out, including demolition and removal of buildings or works, and erection of buildings and other infrastructure permitted by this consent
Council	Lithgow City Council
DA	Development Application
DCCEEW	The Australian Government Department of Climate Change, Energy, the Environment and Water which administers the EPBC Act
Department	Department of Planning, Housing and Infrastructure
DPHI Crown Lands	Crown Lands within the Department
EIS	<i>Environmental Impact Statement titled Environmental Impact Statement – Multi-Commodity Sand Extraction and Kaolin Project for Supply of Construction Materials to the Sydney Region from Newnes Plateau, dated May 2003 and Supplementary Report titled Supplementary Information, dated April 2005</i>
EPA	NSW Environment Protection Authority
EP&A Act	Environmental Planning and Assessment Act 1979
EP&A Regulation	Environmental Planning and Assessment Regulation 2000
GTA	General Term of Approval
Heritage NSW	Heritage NSW within the NSW Department of Climate Change, Energy, the Environment and Water
HNCMA	Hawkesbury-Nepean Catchment Management Authority
Land	Land means the whole of a lot in a current plan registered at the Land Titles Office at the date of this development consent
Minister	Minister for Planning and Public Spaces, or delegate
MEG	Department of Regional NSW – Mining, Exploration and Geoscience
MOD 1	Modification Report 1 - The letter from Newnes Kaolin Pty Ltd, c/- Allens Arthur Robinson, dated 29 October 2010.
MOD 2	Modification Report 2 – Newnes Kaolin DA 329-7-2003 Mod 2 (dated December 2023), and additional information dated 18 June 2024.
NSW DCCEEW – Water Group	NSW Department of Climate Change, Energy, the Environment and Water – Water Group
Planning Secretary	Planning Secretary under the EP&A Act, or nominee
Privately-owned land	Land that is not owned by a public agency, a mining or quarrying company or its subsidiary
Resources Regulator	NSW Resources Regulator
Site	Land to which the DA applies
TfNSW	Transport for NSW

SCHEDULE 2 GENERAL ADMINISTRATIVE CONDITIONS

Obligation to Minimise Harm to the Environment

1. The Applicant **must** implement all practicable measures to prevent and/or minimise any harm to the environment that may result from the construction, operation, or rehabilitation of the development.

Terms of Approval

2. The Applicant **must** carry out the development generally in accordance with the:
 - a) EIS;
 - b) MOD 1 and MOD 2; and
 - c) conditions of this approval.

Note: The general layout of the project is shown in Appendix 1.

3. If there is any inconsistency between the above documents, the most recent document **must** prevail to the extent of the inconsistency. However, the conditions of this approval **must** prevail to the extent of any inconsistency.
4. The Applicant **must** comply with any reasonable requirement/s of the **Planning Secretary** arising from the Department's assessment of:
 - a) any reports, plans or correspondence that are submitted in accordance with this development consent; and
 - b) the implementation of any actions or measures contained in these reports, plans or correspondence.

Limits on Approval

5. The Applicant **must** not carry out any development within 100 metres of the boundary to the Greater Blue Mountains WHA without the written approval of the Minister¹. In seeking this approval, the Applicant **must** submit a report to the Minister that has been prepared in consultation with the CCC and relevant government authorities. The report **must** include:
 - a) a description of the proposed operations in the area between 50 and 100 metres of the boundary to the WHA, including any proposed mitigation measures;
 - b) the results of the consultation that was conducted during the preparation of the report;
 - c) an assessment of the environmental impacts of the operations to date on the buffer area within 100 metres of the WHA;
 - d) an assessment of the likely environmental impacts of the proposal on the WHA and remaining buffer area; and
 - e) a detailed justification for the proposed operations.
6. Prior to carrying out any development, the Applicant **must** obtain both a mining lease for the development from the **MEG**, and a sand extraction licence for the development from the **Crown Lands**, and forward a copy of the lease/licence to the **Planning Secretary**.
7. Apart from the conditions relating to the Rehabilitation and Landscape Management Plan, this consent **must** lapse 21 years after the grant of the mining lease or sand extraction licence for the development (whichever occurs first).

*Note: Under this approval, the Applicant is required to implement the Rehabilitation and Landscape Management Plan for the life of the impact (as determined by the **Planning Secretary** in consultation with the **Resources Regulator**). This approval will continue to operate during this period.*

8. The Applicant **must** not undertake any processing of extracted material on the site.
9. The Applicant **must** transport all extracted material by rail. No product may be transported by road.

Structural Adequacy

10. The Applicant **must** ensure that any new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the BCA.

Notes:

- Under Part 4A of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for any building works.
- Part 8 of the EP&A Regulation sets out the detailed requirements for the certification of development.

¹ This restriction does not apply to minor development, such as the water treatment plant and associated infrastructure including drainage lines.

Demolition

11. The Applicant **must** ensure that all demolition work is carried out in accordance with AS 2601-2001: *The Demolition of Structures*, or its latest version.

Protection of Public Infrastructure

12. The Applicant **must**:
 - a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
 - b) relocate, or pay the full costs associated with relocating any public infrastructure that needs to be relocated as a result of the development.

Operation of Plant and Equipment

13. The Applicant **must** ensure that all plant and equipment at the site, or used in connection with the development, are:
 - a) maintained in a proper and efficient condition; and
 - b) operated in a proper and efficient manner.

Section 94 Contributions

14. Prior to carrying out any development, or as otherwise agreed by Council, the Applicant **must** pay Council \$31,100 in accordance with Council's Coal Related Development and Rural Fires Section 94 Contributions Plans.

SCHEDULE 3 SPECIFIC ENVIRONMENTAL CONDITIONS

ACQUISITION UPON REQUEST

1. Upon receiving a written request for acquisition from the landowner of the land listed in Table 1, the Applicant **must** acquire the land in accordance with the procedures in conditions 7-9 of schedule 4.

Table 1: Land subject to acquisition upon request

All privately-owned land on the northern side of the Main Western Rail Line, within the settlement of Newnes Junction

GENERAL EXTRACTION PROVISIONS

Identification of Boundaries

2. Prior to carrying out any development, the Applicant **must**:
 - a) engage a registered surveyor to mark out the boundaries of the approved limits of extraction;
 - b) submit a survey plan of these boundaries to the **Planning Secretary**; and
 - c) ensure that these boundaries are clearly marked at all times in a permanent manner that allows operating staff and inspecting officers to clearly identify those limits, to the satisfaction of the **Planning Secretary**.

Note: The limit of extraction includes the area described in the documents listed in condition 2 of schedule 2, and shown conceptually on the plan in Appendix 1, as amended by conditions of this consent.

World Heritage Area and Significant Wetland Buffer

3. The Applicant **must** not undertake any development within 50 metres of the boundary to the Greater Blue Mountains WHA.
4. The Applicant **must** not undertake any extraction within 50 metres of the swamp vegetation in the south-eastern part of the site.
5. The Applicant **must** commission a suitably qualified ecologist, whose appointment has been endorsed by the **Planning Secretary**, to mark out the extraction limit to the swamp vegetation.

Note: The swamp vegetation is identified in Document C – Flora and Fauna Issues, within the Supplementary Report.

Limitation on Clearing

6. The Applicant **must** minimise the amount of vegetation clearing on the site, to the satisfaction of the **Planning Secretary**.
7. The Applicant **must** locate all topsoil stockpiles within the boundary of the approved limit of extraction.

NOISE

Impact Assessment Criteria

8. ²The Applicant **must** ensure that the noise generated by the development does not exceed the criteria specified in Table 2.

Table 2: Noise impact assessment criteria dB(A)

Receiver Location	Stage 2 Construction Limits	Operation Limits (inc. train loading)
	<i>L_{A10} (15 min)</i>	<i>L_{Aeq} (15 min)</i>
R1 Sandham Road – southeast of village	42	37
R2 Sandham Road – central northern house in village	44	38
R3 Sandham Road – northwestern house in village	43	38
R4 Sandham Road – central southern house in village	43	38

² Incorporates DEC GTA

Receiver Location	Stage 2 Construction Limits <i>L_{A10} (15 min)</i>	Operation Limits (inc. train loading) <i>L_{Aeq} (15 min)</i>
R5 Sandham Road – western southern house in village	43	38
Blue Mountains National Park / WHA	-	50

Notes:

- Receiver locations as identified in Document B – Noise Impact Assessment, within the Supplementary Report.
- Stage 2 construction activities as identified in Document B – Noise Impact Assessment (pg.26), within the Supplementary Report.
- The noise criteria do not apply where the Applicant and the affected landowner have a valid agreement in regard to noise from the development, and a copy of the agreement has been forwarded to the [Planning Secretary](#) and EPA. In this case the Applicant may exceed the noise limits in Table 2 in accordance with the noise agreement.
- Noise from the development is to be measured at the most affected point or within the residential boundary, or at the most affected point within 30 metres of a dwelling (rural situations) where the dwelling is more than 30 metres from the boundary, to determine compliance with the noise limits in the above table. Where it can be demonstrated that direct measurement of noise from the development is impractical, the EPA may accept alternative means of determining compliance (see Chapter 11 of the NSW Industrial Noise Policy). The modification factors in Section 4 of the NSW Industrial Noise Policy [must](#) also be applied to the measured noise levels where applicable.
- The noise level for the Blue Mountains National Park limit is to be measured at the most affected point within 50 metres of the National Park boundary.
- The criteria above apply to noise emissions under the following weather conditions of wind speed up to 3 m/s at 10m above ground level.

Noise Mitigation

- Prior to carrying out any extraction, the Applicant [must](#) construct an acoustic barrier in accordance with the design in the Supplementary Report (as reproduced in Appendix 1) to the satisfaction of the [Planning Secretary](#).

Note: The alignment of the acoustic barrier is shown conceptually on the figure in Appendix 1, and is modified by condition 45 below.

- The Applicant [must](#) only extract and haul material using a Surface Miner and self-loading scrapers, unless otherwise authorised by the [Planning Secretary](#).

Note: The [Planning Secretary](#) will only consider alternative methods if they would result in a net environmental improvement.

Operating Hours

- ³The Applicant [must](#) comply with the operating hours in Table 3:

Table 3: Operating hours

Activity	Day	Time
Mining/quarrying operations and train loading	Monday – Friday	7:00am to 6:00pm
	Saturday	7:00am to 6:00pm
	Sunday and Public Holidays	Nil
Maintenance (if inaudible at neighbouring residences)	Any day	Anytime

Note: Construction activities, such as the construction of the acoustic barrier and infrastructure, [must](#) only be carried out between 7:00am to 6:00pm Monday to Friday, and 8:00am to 1:00pm on Saturdays. No construction activities are to be undertaken on Sundays or Public Holidays.

Continuous Improvement

- The Applicant [must](#):
 - implement all reasonable and feasible best practice noise mitigation measures;
 - investigate ways to reduce the noise generated by the development, including rail noise; and
 - report on these investigations and the implementation and effectiveness of these measures in the AEMR,
 to the satisfaction of the [Planning Secretary](#).

³ Incorporates DEC GTA

Noise Monitoring Program

13. ⁴Prior to carrying out any development, the Applicant **must** prepare, and subsequently implement, a Noise Monitoring Program for the development, in consultation with EPA, and to the satisfaction of the Planning Secretary. This program must include a combination of attended and unattended noise monitoring, and a noise monitoring protocol for evaluating compliance with the noise impact assessment criteria in this consent.

AIR QUALITY

Impact Assessment Criteria

14. The Applicant **must** ensure that dust generated by the development does not cause additional exceedances of the criteria listed in Tables 4 to 6 at any residence on, or on more than 25 percent of, any privately-owned land, or at the boundary of the Greater Blue Mountains WHA.

Table 4: Long term impact assessment criteria for particulate matter

Pollutant	Averaging period	Criterion
Total suspended particulate (TSP) matter	Annual	90 µg/m ³
Particulate matter < 10 µm (PM ₁₀)	Annual	30 µg/m ³

Table 5: Short term impact assessment criteria for particulate matter

Pollutant	Averaging period	Criterion
Particulate matter < 10 µm (PM ₁₀)	24 hour	50 µg/m ³

Table 6: Long term impact assessment criteria for deposited dust

Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level
Deposited dust	Annual	2 g/m ² /month	4 g/m ² /month

Note: Deposited dust is assessed as insoluble solids as defined by Standards Australia, 1991, AS 3580.10.1-1991: Methods for Sampling and Analysis of Ambient Air - Determination of Particulates - Deposited Matter - Gravimetric Method.

Air Quality Monitoring Program

15. Prior to carrying out any development, the Applicant **must** prepare, and subsequently implement, an Air Quality Monitoring Program for the development, in consultation with EPA, and to the satisfaction of the Planning Secretary. This program must include an air monitoring protocol for evaluating compliance with the air quality impact assessment criteria in this consent.

SURFACE AND GROUNDWATER

Note: The Applicant is required to obtain licences and permits for the development under the Protection of the Environment Operations Act 1997 and the Water Act 1912.

Water Discharges and Limits

16. The Applicant **must** design and maintain its water management system to retain on site at least the 1 in 100 year 72 hour storm event for all disturbed areas of the site, at all stages of the development.
17. The Applicant **must** ensure that all water discharges from the site do not exceed the criteria in Table 7:

⁴ Incorporates DEC GTA

Table 7: Water discharge impact assessment criteria

Pollutant	100 Percentile Concentration Limit
Total suspended solids	15 mg/L
Biological oxygen demand	20 mg/L
Oil and grease	10 mg/L

Note: In addition to these criteria, the Applicant is required to ensure that any discharge complies with the requirements of the Clean Waters Regulation 1972, including the requirements of the Prescribed Classes of Waters and the restricted substance concentration limits in schedule 2 of that Regulation.

Monitoring and Management

18. ⁵The Applicant must prepare and implement a Water Management Plan for the Development in consultation with NSW DCCEEW Water Group and to the satisfaction of the Planning Secretary. This plan must be submitted to the Planning Secretary for approval prior to carrying out any development. This plan must be prepared by a suitably qualified hydrogeologist and hydrologist whose appointment/s have been approved by the Planning Secretary, and must include:
 - a) a Water Balance;
 - b) a Soil and Water Management Plan;
 - c) a Surface Water Monitoring Program; and
 - d) a Groundwater Monitoring Program.
19. The Water Balance must:
 - a) include details of all water extracted (including water make), dewatered, transferred, used and/or discharged by the development; and
 - b) describe measures to minimise water use by the development.
20. The Soil and Water Management Plan must:
 - a) be consistent with the requirements of the Department of Housing's *Managing Urban Stormwater: Soils and Construction* manual;
 - b) describe the location, function, and capacity of soil and water management and control structures during construction, stabilisation and operational stages;
 - c) identify construction and operational activities that could cause soil erosion and generate sediment;
 - d) describe measures to minimise soil erosion and the potential for the transport of sediment to downstream waters;
 - e) define procedures for managing water releases from the site; and
 - f) define procedures for the maintenance of soil and water management structures over time.
21. The Surface Water Monitoring Program must include:
 - a) detailed baseline data on surface water flows and quality in waterbodies that could potentially be impacted by the development, including the Wollangambe River and its tributaries;
 - b) surface water and stream health impact assessment criteria;
 - c) a program to monitor surface water flows and quality;
 - d) a program to monitor water releases from the site;
 - e) a program to monitor bank and bed stability; and
 - f) a protocol for the investigation, notification and mitigation of identified exceedances of the surface water and stream health assessment criteria.
22. The Groundwater Monitoring Program must include:
 - a) detailed baseline data on ground water levels and quality, based on statistical analysis, to benchmark the pre-mining natural variation in groundwater levels, yield and quality;
 - b) groundwater impact assessment criteria;
 - c) a program to monitor:
 - regional groundwater levels and quality;
 - impacts on the groundwater supply of potentially affected landowners;
 - impacts on baseflow in downstream waterbodies;
 - impacts on groundwater dependent ecosystems and riparian vegetation; and
 - d) a protocol for the investigation, notification and mitigation of identified exceedances of the groundwater impact assessment criteria.

⁵ Incorporates DEC and NSW DCCEEW Water Group GTA

Reporting

23. Within 3 months of restarting construction, and annually thereafter, the Applicant must:
- review, and if necessary update, the Water Management Plan; and
 - report the results of this review in the AEMR, including:
 - the results of monitoring;
 - details of the review for each sub-plan;
 - amendments to the sub-plans; and
 - details of the measures undertaken/proposed to address any identified issues.

METEOROLOGICAL MONITORING

24. At least 12 months prior to restarting construction, the Applicant must re-establish and subsequently maintain a meteorological station in the vicinity of the development, in accordance with the requirements in *Approved Methods for the Sampling and Analysis of Air Pollutants in NSW*, and to the satisfaction of the EPA and the Planning Secretary.

FLORA AND FAUNA

Compensatory Habitat

25. The Applicant must:
- implement the offset measures identified in the Supplementary Report (Document F – Newnes Plateau Conservation, Restoration and Enhancement Project), including:
 - assistance in rehabilitation and conservation of *Newnes Plateau Shrub Swampland*, located north of Lithgow;
 - assistance in rehabilitation and conservation of the Dargans Creek Crown Lands, located to the south of the site;
 - establishment and maintenance of a community nursery; and
 - establish, conserve and maintain an additional area of at least 25 hectares of eucalypt vegetation habitat within proximity to the Greater Blue Mountains World Heritage Area, to the satisfaction of the Planning Secretary.

Flora and Fauna Management Plan

26. Prior to carrying out any development, the Applicant must prepare and subsequently implement a Flora and Fauna Management Plan for the development, to the satisfaction of the Planning Secretary, and prepared in consultation with the BCS and the DCCEEW. This plan must be prepared by a suitably qualified ecologist whose appointment has been endorsed by the Planning Secretary and include:
- a Vegetation Clearing Protocol;
 - a Compensatory Habitat Management Plan;
 - a Pest and Weed Management Plan; and
 - a Flora and Fauna Monitoring Program.

Note: The Department accepts that the initial Flora and Fauna Management Plan may not include a detailed Compensatory Habitat Management Plan. However, if this occurs, a concept Compensatory Habitat Management Plan must be provided along with a timetable for timely finalisation of the plan.

27. The Vegetation Clearing Protocol must:
- delineate the areas of vegetation to be cleared; and
 - describe the procedures that would be implemented for:
 - pre-clearance surveys;
 - progressive clearing;
 - fauna management;
 - conserving and reusing topsoil;
 - collecting seed from the site;
 - salvaging and reusing material from the site;
 - managing waste vegetation; and
 - controlling weeds.
28. The Compensatory Habitat Management Plan must be prepared in consultation with the HNCMA, Council and applicable landowners, and must:
- describe the compensatory vegetation proposal, including the requirements of condition 25 above;
 - justify why the proposed areas are suitable for the compensatory vegetation proposal, including how the areas will integrate with existing habitat areas on and near the site, including the Greater Blue Mountains WHA;
 - establish baseline data for the existing habitat in the proposed areas;

- d) describe how the compensatory vegetation proposal would be implemented;
 - e) set assessment and completion criteria for the compensatory vegetation proposal;
 - f) describe how the performance of the compensatory vegetation proposal would be monitored over time; and
 - g) describe how conservation of the compensatory vegetation proposal would be secured over the long term.
29. The Pest and Weed Management Plan **must**:
- a) identify potential terrestrial and aquatic pests and weeds that may be expected on and adjacent the site;
 - b) describe the measures that would be implemented to prevent the occurrence of pests and weeds on and adjacent the site;
 - c) include a program for monitoring the occurrence of pests and weeds on and adjacent the site, including the Greater Blue Mountains WHA and the Wollangambe River and its tributaries;
 - d) include detailed procedures for the management and eradication of pests and weeds identified on and adjacent the site.
30. The Flora and Fauna Monitoring Program **must** include:
- a) detailed baseline data on the flora and fauna on the site and adjacent the site, including habitat present in the Greater Blue Mountains WHA and along the Wollangambe River and its tributaries;
 - b) detailed flora and fauna impact assessment criteria;
 - c) a program to monitor flora and fauna and habitat health on and adjacent the site, including within the Greater Blue Mountains WHA and along the Wollangambe River and its tributaries; and
 - d) a protocol for the investigation, notification and mitigation of identified non-compliances with the flora and fauna impact assessment criteria.

REHABILITATION AND LANDSCAPING

Rehabilitation

31. The Applicant **must** progressively rehabilitate the site to the satisfaction of the **Planning Secretary** and the **Resource Regulator**, in a manner that is generally consistent with the concept final landform described in the Supplementary Report (shown conceptually in Appendix 2).

Rehabilitation and Landscape Management Plan

32. Prior to carrying out any development, the Applicant **must** prepare and subsequently implement a Rehabilitation and Landscape Management Plan for the development in consultation with **NSW DCCEEW Water Group, BSC, Resource Regulator, DCCEEW** and Council, and to the satisfaction of the **Planning Secretary**: This plan must include a:
- a) Rehabilitation Management Plan;
 - b) Final Void Management Plan; and
 - c) Mine Closure Plan.

Note: The Department accepts that the initial Rehabilitation and Landscape Management Plan may not include a detailed Final Void Management Plan and Mine Closure Plan. However, if this occurs, a concept management plan/s must be provided along with a timetable for expansion of the plan/s as the development progresses.

33. The Rehabilitation Management Plan must include:
- a) rehabilitation objectives for the site;
 - b) description of the short, medium, and long-term measures that would be implemented to rehabilitate the site;
 - c) detailed assessment and completion criteria for the rehabilitation of the site;
 - d) detailed description of how the performance of the rehabilitation of the mine would be monitored over time to achieve the stated objectives;
 - e) describe in detail the measures that would be implemented over the next 3 years to rehabilitate and manage the landscape of the site.
34. The Final Void Management Plan must:
- a) justify the planned final location and nature of the final void;
 - b) incorporate design criteria and specifications for the final void based on verified groundwater modeling predictions and re-assessment of post-extraction groundwater equilibration;
 - c) assess the potential interactions between surrounding waterbodies and the final void; and
 - d) describe what actions and measures would be implemented to:
 - minimise any potential adverse impacts associated with the final void; and

- manage and monitor the potential impacts of the final void until the mining lease for the development is relinquished.

35. The Mine Closure Plan must:

- define the objectives and criteria for mine closure and post-extraction management;
- investigate options for future use and conservation of the site;
- describe the measures that would be implemented to minimise or manage the ongoing environmental effects of the development; and
- describe how the performance of these measures would be monitored over time.

Conservation Bond

36. Prior to carrying out any development, the Applicant **must** lodge a conservation bond for the development with the **Planning Secretary**. The sum of the bond will be set by the **Planning Secretary**, in consultation with the Applicant, and will be based on:

- the cost to fully implement the compensatory revegetation, in accordance with the completion criteria set out in the Compensatory Habitat Management Plan (see condition 28); plus
- an agreed sum for the protection of the Greater Blue Mountains WHA and other protected areas.

Notes:

- *If the Greater Blue Mountains WHA and other protected areas are conserved to the satisfaction of the **Planning Secretary**, and the Compensatory Habitat Management Plan is implemented to the satisfaction of the **Planning Secretary**, the **Planning Secretary** will release the conservation bond.*
- *If the Greater Blue Mountains WHA and other protected areas are not conserved to the satisfaction of the **Planning Secretary**, and the Compensatory Habitat Management Plan is not implemented to the satisfaction of the **Planning Secretary**, the **Planning Secretary** will call in all or part of the conservation bond, and arrange for the satisfactory completion of the relevant works.*
- *The conservation bond does not absolve the Applicant's responsibility of rehabilitating any impacts identified in relation to these areas, and is not intended to be used by the Applicant to fund these works.*

37. Within 5 years of lodging the conservation bond with the **Planning Secretary**, and every 5 years thereafter, unless the **Planning Secretary** directs otherwise, the Applicant **must** review, and if necessary revise, the sum of the bond to the satisfaction of the **Planning Secretary**. This review must consider:

- the effects of inflation;
- any changes to the Compensatory Habitat Management Plan; and
- the performance of:
 - the conservation of the Greater Blue Mountains WHA against the impact assessment criteria in the Flora and Fauna Management Plan and Water Management Plan; and
 - the compensatory revegetation against the assessment and completion criteria of the Compensatory Habitat Management Plan.

ABORIGINAL CULTURAL HERITAGE

Aboriginal Cultural Heritage Monitoring Program

38. Prior to carrying out any development, the Applicant **must** prepare, and subsequently implement, an Aboriginal Cultural Heritage Monitoring Program for the development, in consultation with **Heritage NSW** and BLALC, and to the satisfaction of the **Planning Secretary**. The program must be prepared by a suitably qualified archaeologist and include:

- a program to monitor for the presence of Aboriginal relics during pre-clearing, clearing and initial excavation stages of the development, with the involvement of the BLALC;
- detailed methodology for conducting the monitoring program; and
- procedures for managing any Aboriginal relics discovered during the development.

TRAFFIC AND TRANSPORT

Site Access

39. Prior to the commencement of extraction, the Applicant **must** seal the internal access road from the site entrance to the site office, including the carpark, to the satisfaction of the **Planning Secretary**.

40. The Applicant **must** ensure that all vehicles leaving the site are cleaned of materials that may fall on the road before they are allowed to leave the site.

41. Prior to carrying out any development, the Applicant **must** erect truck warning signs on both sides of Main Road 516 on each approach to the access road, in consultation with and to the satisfaction of the TfNSW.

*Note: Warning signs **must** include sign types W5-22C 'Trucks Crossing or Entering' and W8-5C 'Distance' (200 metres), unless otherwise directed by the TfNSW.*

Parking

42. The Applicant **must** provide sufficient parking on-site for all quarry-related traffic and visitors, in accordance with Council's parking codes, and to the satisfaction of the Planning Secretary.

VISUAL IMPACT

43. The Applicant **must** minimise the visual impacts of the development to the satisfaction of the Planning Secretary.

Tree Screens

44. The Applicant **must** not undertake any development within 10 metres of the northern boundary of the site. The remnant tree cover in this area **must** be maintained and conserved to the satisfaction of the Planning Secretary.
45. The Applicant **must** retain a 10 metre wide remnant tree screen on either side of the acoustic barrier. The remnant tree screen in this area **must** be maintained and conserved to the satisfaction of the Planning Secretary.

Lighting Emissions

46. The Applicant **must** not cause any light spill from fixed equipment to the Greater Blue Mountains WHA and Wollemi Wilderness Area, to the satisfaction of the Planning Secretary.
47. Any external lighting associated with the development **must** comply with *Australian Standard AS4282 (INT) 1995 – Control of Obtrusive Effects of Outdoor Lighting*.

WASTE MANAGEMENT

48. The Applicant **must**:
- a) monitor the amount of waste generated by the development;
 - b) investigate ways to minimise waste generated by the development;
 - c) implement reasonable and feasible measures to minimise waste generated by the development; and
 - d) report on waste management and minimisation in the AEMR.
- to the satisfaction of the Planning Secretary.
49. The Applicant **must** install and manage the on-site sewage treatment facility to the satisfaction of Council and EPA. The facility must comply with the requirements of the *Environment and Health Protection Guidelines – On-site Sewage Management for Single Households* (1998).

HAZARD MANAGEMENT

Dangerous Goods

50. The Applicant **must** ensure that the storage, handling, and transport of dangerous goods is conducted in accordance with the relevant Australian Standards, particularly AS1940 and AS1596, and the *Dangerous Goods Code*.

Safety

51. The Applicant **must** secure the development to ensure public safety to the satisfaction of the Planning Secretary.

BUSHFIRE MANAGEMENT

52. The Applicant **must**:
- a) ensure that the development is suitably equipped to respond to any fires on site; and
 - b) assist the Rural Fire Service and emergency services as much as possible if there is a fire on site.

PRODUCTION DATA

53. From the commencement of quarrying operations, quarry production data for every calendar year must be provided in the Annual Review.

SCHEDULE 4 ADDITIONAL PROCEDURES

NOTIFICATION OF LANDOWNERS

A1. By 15 November 2010, the Applicant **must** notify the owners of the land listed in Table 1 of schedule 3 in writing that they have the right to require the Applicant to acquire their land at any stage during the project, in accordance with the provisions of Conditions 7-9 below.

1. If the results of monitoring required in schedule 3 identify that impacts generated by the development are greater than the relevant impact assessment criteria in schedule 3, then the Applicant **must** notify the **Planning Secretary** and the affected landowners and/or existing or future tenants accordingly, and provide quarterly monitoring results to each of these parties until the results show that the development is complying with the criteria in schedule 3.

INDEPENDENT REVIEW

2. If a landowner considers that the operations of the development are exceeding the impact assessment criteria in schedule 3, then he/she may ask the Applicant in writing for an independent review of the impacts of the development on his/her land.

If the **Planning Secretary** is satisfied that an independent review is warranted, the Applicant **must** within 3 months of the **Planning Secretary** advising that an independent review is warranted:

- a) consult with the landowner to determine his/her concerns;
- b) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the **Planning Secretary**, to conduct monitoring on the land, to determine whether the development is complying with the relevant criteria in schedule 3, and identify the source/s and scale of any impact on the land, and the development's contribution to this impact; and
- c) give the **Planning Secretary** and landowner a copy of the independent review.

3. If the independent review determines that the operations are complying with the relevant criteria in schedule 3, then the Applicant may discontinue the independent review with the approval of the **Planning Secretary**.
4. If the independent review determines that the operations are not complying with the relevant criteria in schedule 3, and that the development is primarily responsible for this non-compliance, then the Applicant **must**:
 - a) take all practicable measures, in consultation with the landowner, to ensure that the development complies with the relevant criteria; and
 - b) conduct further monitoring to determine whether these measures ensure compliance; or
 - c) secure a written agreement with the landowner to allow exceedances of the relevant criteria in schedule 3,to the satisfaction of the **Planning Secretary**.

If the additional monitoring referred to above subsequently determines that the operations are complying with the relevant criteria in schedule 3, then the Applicant may discontinue the independent review with the approval of the **Planning Secretary**.

If the Applicant is unable to finalise an agreement with the landowner, then the Applicant or landowner may refer the matter to the **Planning Secretary** for resolution.

If the matter cannot be resolved within 21 days, the **Planning Secretary must** refer the matter to an Independent Dispute Resolution Process (see Appendix 3).

5. If the independent review determines that the operations are not complying with the relevant criteria in schedule 3, but that several quarries/mines are responsible for this non-compliance, then the Applicant **must**, with the agreement of the landowner and other quarry/mines(s), prepare and implement a Cumulative Noise and/or Air Quality Impact Management Plan to the satisfaction of the **Planning Secretary**. This plan must provide details of the joint approach to be adopted by the Applicant and other quarry/mine(s) to manage cumulative air quality and/or noise impacts at the landowner's dwelling.

If the Applicant is unable to finalise an agreement with the landowner and/or other quarry/mine(s), and/or prepare a Cumulative Noise and/or Air Quality Impact Management Plan, then the Applicant or landowner may refer the matter to the **Planning Secretary** for resolution.

If the matter cannot be resolved within 21 days, the **Planning Secretary must** refer the matter to an Independent Dispute Resolution Process (see Appendix 3).

6. If the landowner disputes the results of the independent review, either the Applicant or the landowner may refer the matter to the **Planning Secretary** for resolution.

If the matter cannot be resolved within 21 days, the **Planning Secretary must** refer the matter to an Independent Dispute Resolution Process (see Appendix 3).

LAND ACQUISITION

7. Within 3 months of receiving a written request from a landowner with acquisition rights, the Applicant **must** make a binding written offer to the landowner based on:
- a) the current market value of the landowner's interest in the property at the date of this written request, as if the property was unaffected by the development, having regard to the:
 - existing and permissible use of the land, in accordance with the applicable planning instruments at the date of the written request; and
 - presence of improvements on the property and/or any approved building or structure which has been physically commenced at the date of the landowner's written request, and is due to be completed subsequent to that date;
 - b) the reasonable costs associated with:
 - relocating within the Lithgow local government area, or to any other local government area agreed to by the **Planning Secretary**; and
 - obtaining legal advice and expert advice for determining the acquisition price of the land, and the terms upon which it is required; and
 - c) reasonable compensation for any disturbance caused by the land acquisition process.

However, if at the end of this period, the Applicant and landowner cannot agree on the acquisition price of the land, and/or the terms upon which the land is to be acquired, then either party may refer the matter to the **Planning Secretary** for resolution.

Upon receiving such a request, the **Planning Secretary must** request the President of the NSW Division of the Australian Property Institute to appoint a qualified independent valuer or Fellow of the Institute, to consider submissions from both parties, and determine a fair and reasonable acquisition price for the land, and/or terms upon which the land is to be acquired.

Within 14 days of receiving the independent valuer's determination, the Applicant **must** make a written offer to purchase the land at a price not less than the independent valuer's determination.

If the landowner refuses to accept this offer within 6 months of the date of the Applicant's offer, the Applicant's obligations to acquire the land **must** cease, unless otherwise agreed by the **Planning Secretary**.

8. The Applicant **must** bear the costs of any valuation or survey assessment requested by the independent valuer or the **Planning Secretary** and the costs of determination referred above.
9. If the Applicant and landowner agree that only part of the land **must** be acquired, then the Applicant **must** pay all reasonable costs associated with obtaining Council approval for any plan of subdivision, and registration of the plan at the Office of the Registrar-General.

SCHEDULE 5

ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING AND REPORTING

ENVIRONMENTAL MANAGEMENT STRATEGY

1. Prior to carrying out any development, the Applicant **must** prepare, and subsequently implement, an Environmental Management Strategy for the development to the satisfaction of the **Planning Secretary**. This strategy must:
 - a) provide the strategic context for environmental management of the development;
 - b) identify the statutory requirements that apply to the development;
 - c) describe in general how the environmental performance of the development would be monitored and managed during the development;
 - d) describe the procedures that would be implemented to:
 - keep the local community and relevant agencies informed about the operation and environmental performance of the development;
 - receive, handle, respond to, and record complaints;
 - resolve any disputes that may arise during the course of the development;
 - respond to any non-compliance;
 - manage cumulative impacts; and
 - respond to emergencies; and
 - e) describe the role, responsibility, authority, and accountability of all the key personnel involved in environmental management of the development; and
 - f) be updated within 3 months of the completion of each Independent Environmental Audit.

ENVIRONMENTAL MONITORING PROGRAM

2. Prior to carrying out any development, the Applicant **must** prepare an Environmental Monitoring Program for the development, to the satisfaction of the **Planning Secretary**. This program must consolidate the various monitoring requirements in schedule 3 of this consent into a single document.
3. Within 3 months of the completion of each Independent Environmental Audit (see below), the Applicant **must** review, and if necessary update, the Environmental Monitoring Program to the satisfaction of the **Planning Secretary**.

INCIDENT REPORTING

4. Within 7 days of detecting an exceedance of the limits/performance criteria in this consent or an incident causing, or threatening to cause, material harm to the environment; the Applicant **must** report the exceedance/incident to the Department, and any relevant agency. The report must:
 - a) describe the date, time, and nature of the exceedance/incident;
 - b) identify the cause or likely cause of the exceedance/incident;
 - c) describe what action has been taken to date; and
 - d) describe the proposed measures to address the exceedance/incident.

ANNUAL REPORTING

5. **Within 3 months of restarting construction activities, and annually thereafter**, the Applicant **must** prepare and submit an AEMR to the **Planning Secretary** and the relevant agencies. This report must:
 - a) identify the standards and performance measures that apply to the development;
 - b) describe the works carried out in the last 12 months;
 - c) describe the works that will be carried out in the next 12 months;
 - d) include a summary of the complaints received during the past year, and compare this to the complaints received in previous years;
 - e) include a summary of the monitoring results for the development during the past year;
 - f) include an analysis of these monitoring results against the relevant:
 - impact assessment criteria;
 - monitoring results from previous years; and
 - predictions in the EIS and Supplementary Report;
 - g) identify any trends in the monitoring results over the life of the development;
 - h) identify any non-compliance during the previous year; and
 - i) describe what actions were, or are being taken to ensure compliance.

INDEPENDENT ENVIRONMENTAL AUDIT

6. Within 1 year of the date of commencement of extraction, and every 2 years thereafter, unless the **Planning Secretary** directs otherwise, the Applicant **must** commission and pay the full cost of an Independent Environmental Audit of the development. This audit must:
 - a) be conducted by a team comprising suitably qualified, experienced, and independent specialists, including but not limited to a specialist hydrogeologist, hydrologist and ecologist, and whose appointments have been endorsed by the **Planning Secretary**;
 - b) be consistent with *ISO 19011:2002 - Guidelines for Quality and/ or Environmental Systems Auditing*, or updated versions of this guideline;
 - c) assess the environmental performance of the development, and its effects on the surrounding environment including surrounding protected areas;
 - d) assess whether the development is complying with the relevant standards, performance measures, and statutory requirements;
 - e) review the adequacy of the Applicant's Environmental Management Strategy and environmental management plans/protocols; and, if necessary,
 - f) include visual inspections of the site and the adjacent environment including the Greater Blue Mountains WHA and the Wollangambe River and its tributaries, by relevant audit team members; and
 - g) recommend measures or actions to improve the environmental performance of the development, and/or the environmental management and monitoring systems.
7. Within 3 months of commissioning the Independent Environmental Audit, the Applicant **must** submit a copy of the audit report to the **Planning Secretary**, with a response to the recommendations contained in the audit report.
8. Within 6 months of each Independent Environmental Audit, the Applicant **must** review and if necessary revise each of the environmental management and monitoring plans/protocols/programs in schedule 3 and 5, to the satisfaction of the **Planning Secretary**.

ENVIRONMENTAL MANAGER

- 8A. Prior to carrying out any development, the Applicant **must** employ a suitably qualified and experienced Environmental Manager, whose appointment has been endorsed by the **Planning Secretary**, for the duration of the development to oversee the environmental performance of the development and compliance with the conditions of this consent.

COMMUNITY CONSULTATIVE COMMITTEE

9. At least 3 months prior to carrying out any development, the Applicant **must** establish and hold the first meeting of a Community Consultative Committee to oversee the environmental performance of the development. The CCC **must**:
 - a) be comprised of at least:
 - 2 representatives from the Applicant, including the person responsible for environmental management at the quarry;
 - 1 representative from Council (if available); and
 - at least 2 representatives from the local community, whose appointment has been approved by the **Planning Secretary** in consultation with the Council;
 - b) be chaired by an independent chairperson, whose appointment has been endorsed by the **Planning Secretary**;
 - c) meet at least twice a year;
 - d) undertake regular inspections of the mine operations;
 - e) review and provide comment on the environmental performance of the development, including any construction or environmental management plans, monitoring results, audit reports, or complaints; and
 - f) be operated in accordance with any guidelines the Department may publish in regard to the operation of Community Consultative Committees for mining projects.
10. The Applicant **must**, at its own expense:
 - a) ensure that 2 of its representatives attend the Committee's meetings;
 - b) provide the Committee with regular information on the environmental performance and management of the development;
 - c) provide meeting facilities for the Committee;
 - d) arrange site inspections for the Committee, if necessary;
 - e) take minutes of the Committee's meetings;
 - f) make these minutes available to the public;
 - g) respond to any advice or recommendations the Committee may have in relation to the environmental management or performance of the development; and

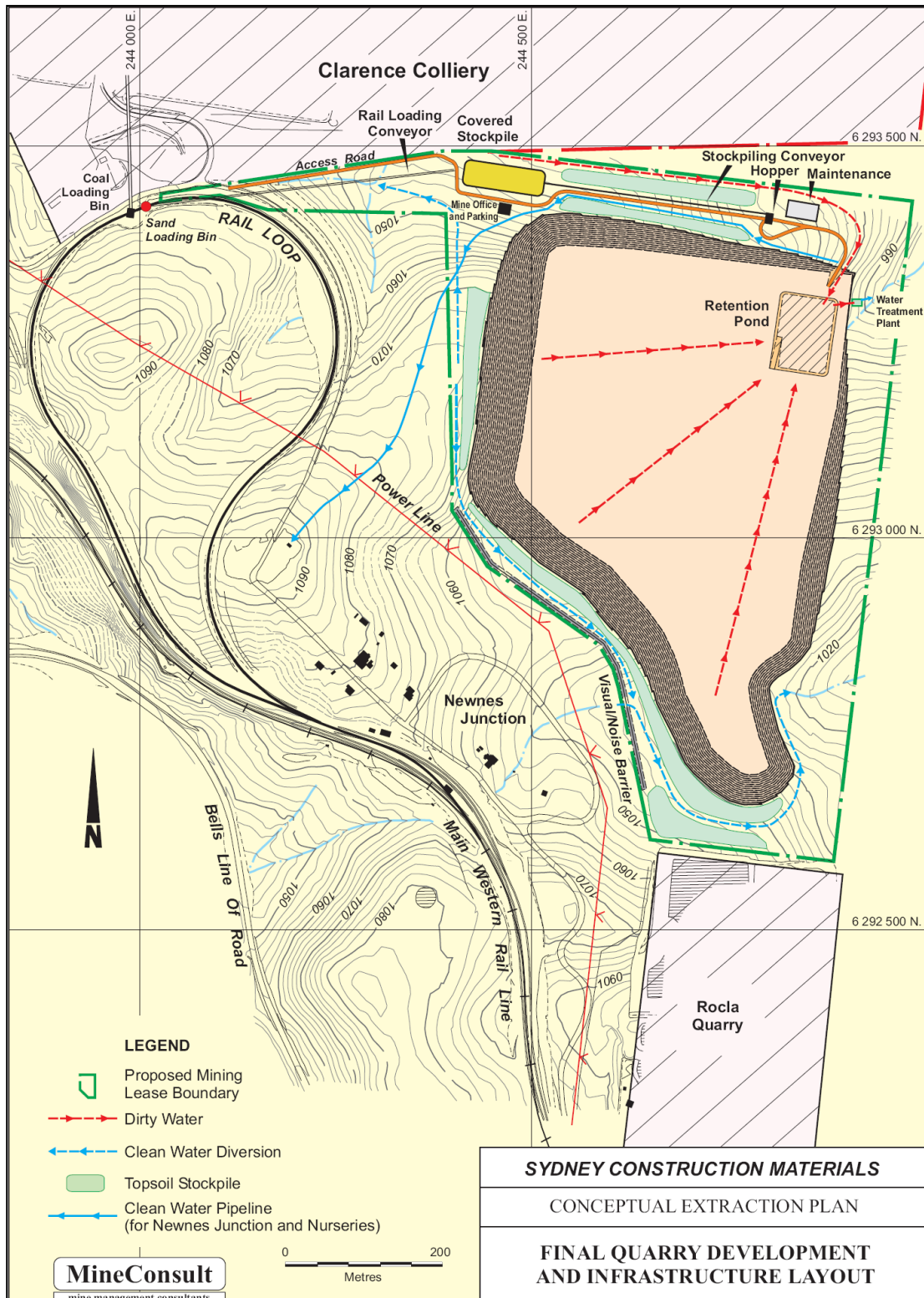
- h) forward a copy of the minutes of each Committee meeting, and any responses to the Committee's recommendations to the **Planning Secretary** within a month of the Committee meeting.

ACCESS TO INFORMATION

- 11. Within 1 month of the approval of any management plan/strategy or monitoring program required under this consent (or any subsequent revision of these management plans/strategies or monitoring programs), the completion of the independent audits required under this consent, or the completion of the AEMR, the Applicant **must**:
 - a) provide a copy of the relevant document/s to the Council, relevant agencies and the CCC;
 - b) ensure that a copy of the relevant documents is made publicly available at the site; and
 - c) put a copy of the relevant document/s on the Applicant's website; to the satisfaction of the **Planning Secretary**.
- 12. During the life of the development, the Applicant **must**:
 - a) make a summary of the results of all monitoring required under this consent publicly available both at the site and on the Applicant's website; and
 - b) update these results on a regular basis (at least every 3 months), to the satisfaction of the **Planning Secretary**.

Note: The Applicant's environmental management plans/protocols should specify the reporting provisions for each environmental aspect.

APPENDIX 1 CONCEPT DEVELOPMENT LAYOUT PLAN



APPENDIX 2 CONCEPT FINAL LANDFORM



**APPENDIX 3
INDEPENDENT DISPUTE RESOLUTION PROCESS**

