

16 PUBLIC SUBMISSIONS

RMB 2344 George Street
FULLERTON COVE 2318

23 July 2008

The Director
Major Development Assessment
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Re Fullerton Cove Sand Extraction Project MP07-0145

Dear Sir/Madam,

Our property is on George Street Fullerton Cove, next but one to the proposed Buildev Properties sand extraction site. It is also proposed to extract sand from the land that borders our back fence.

Section 2.5.1 of the *Environmental Assessments Report* refers to the following points:

Highly modified landscape (due to previous sand mining);

- Majority of site clear of remnant vegetation communities;
- Minimal vegetation clearing proposed;
- Adjacent to arterial road, therefore minimal local traffic impacts;
- Minimal number of residences located proximal to the project site; and
- Reuse of important sand resource.

Highly modified landscape (due to previous sand mining;

Rutile and zircon were mined on all the properties in George Street, including the Buildev site during 1975-1977. This was prior to any residential development in George Street and therefore did not impact on residents. Since then, the land has been divided into rural acreages and each lot is a residential property. The residents have turned barren blocks into tree-studded grassed properties, showing that the so-called "waste material" on the proposed sand extraction site is capable of sustaining vegetation. The majority of residents in George Street are long term residents.

Majority of site clear of remnant vegetation communities; Minimal vegetation clearing proposed;

Buildev has been clearing the site of vegetation for quite some time to ensure there is now minimal vegetation.

Adjacent to arterial road, therefore minimal local traffic impacts;

The site is adjacent to Nelson Bay Road but many of the people involved with the project use George Street, a narrow residential street, to get to and from the site. The proposal also states that George Street will be used as an emergency exit. George

Street leads to Fullerton Cove Road, a winding, badly-maintained and equally narrow thoroughfare. There is no mention of using the more practical Nelson Bay Road as an emergency exit.

Minimal number of residences located proximal to the project site

The inference here is that because the local area is not densely populated, it is acceptable to destroy the lifestyle of the residents. People live at Fullerton Cove because it offers a quiet rural lifestyle close to a major city. They do not choose to live adjacent to a quarry.

Reuse of important sand resource

The proposal is to extract 300,000 cubic metres of sand per annum for 3-5 years. This would dramatically change the current landscape. It would remove an existing hill which provides an acoustic barrier between busy Nelson Bay Road and properties in George Street Fullerton Cove. The erection of a 4-9 metre high barrier will do little to alleviate traffic noise from Nelson Bay Road. The land behind our property and our neighbours' properties would drop away, exposing us to a greater risk of erosion as all are sand. In fact, the proposers of this project seem more concerned about providing a visual screen for passing motorists on Nelson Bay Road than they are about protecting the interests and properties of neighbouring residents.

During the past six weeks or so, sand has been extracted from the Buldev site with some 60 truck movements a day carting the sand to a new coal loader site on Kooragang Island. The work and noise start at 7.00am every morning Monday to Saturday and continue unabated until dark, some 10 hours a day.

At frequent intervals during this time, our house vibrates. The windows rattle regularly and the glassware and crockery tinkle and clatter in the cupboards. The computer on which I am typing this letter sits on a desk in a carpeted room that is at the western end of our house. The computer is set up at the most distant point from the Buldev operation. As I type, my computer's monitor vibrates before my eyes.

None of these things happened before the sand extraction began but it is a frightening indicator of what we can expect if the proposed sand extraction development is allowed to proceed.

Our close proximity to Williamstown RAAF Base means we are subjected to the noise of RAAF jets from time to time. The noise made by these planes lasts less than a minute and is not continuous. The RAAF planes do not cause vibrations to our house.

The development proposal states that the removal, mulching and stockpiling of all vegetation on the site will occur before construction of visual & acoustic mounds. Such activity and the subsequent sand extraction will generate much more dust than we currently experience. This is of great concern to us because our water supply is

tank water collected off the roof of our house and garage so our drinking water will be contaminated by dust from the Buldev site. We cannot protect our rooftop from dust.

We will be forced to spend much more time indoors and to keep our doors and windows closed to try to minimise the continuous noise and dust in the house. Dust severely affects my sinuses so I will no longer be able to enjoy an outdoor lifestyle cultivating our own fruit and vegetables and maintaining a garden.

All properties in this area are classified as 1(a) Rural. Section 2 (2) of the *Port Stephens Local Environmental Plan (LEP) 2000* states that development on 1(a) Rural land is "compatible with rural land uses and does not adversely affect the environment or the amenity of the locality". The proposed sand extraction project will most certainly adversely affect both the environment and amenity of our property.

We have resided at this address for 20 years. We live here because we want a quiet rural existence, away from the noise and bustle of city life. The proposed Buldev project so close to our property will destroy the quality of our lifestyle and definitely lower our property value.

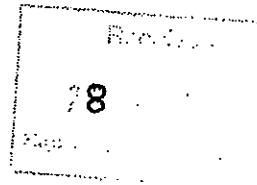
The prospect of this non-stop noise, dust and pollution for 3-5 years is not one we want. We do not agree with this sand extraction project in this residential area.

Yours faithfully,



Patricia Beddoe

A Dillon-Smith
RMB 2281 Cox's Lane
FULLERTON COVE 2318



23/7/08

The Director
Major Development Assessment
Dept of Planning
GPO Box 39
SYDNEY 2001

FULLERTON COVE SAND EXTRACTION PROJECT MP07 - 0145

Dear Sir

I am extremely concerned of the effects on the local community regarding the above mentioned development application.

Although a study by Oregon has been commissioned by Buildev Pty Ltd, I feel it overlooks the effects of this major industry occurring so close to residential homes, and it does not consider the local residents perspective.

Our community's only source of **drinking water is from rainwater catchment off the roofs of houses**. As the dust in the sand extraction area will be watered by bore water containing varying amounts of lead, zinc and copper, this is a grave concern for residents. Being a coastal location we experience strong North Easterly and South Easterly winds and these will blow across the proposed quarry area carrying dust and sand towards residents' homes. Although some sand mounds have been proposed in the development application, most of these will not be stable or high enough to stop the air and noise pollution from the quarry. I suggest planting dense rows of plants such as bottle brush, proteas, gum trees and banksias along the boundaries of the quarry, bordering residential properties. If planted correctly **this vegetation may minimise the effects of air and noise pollution to residents**.

The application to use George Street as an emergency access, also raises concern as to whether this quite rural street could become a convenient alternative route for worker's vehicles, machinery and the semi-trailers. **Traffic safety concerns** also occur with the large number of semi-trailers using the eastern end of Cox's Lane, where many residents walk, ride push bikes and ride horses.

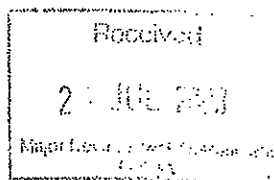
Excavating the site to the proposed levels will mean that the land is taken down to the 1 in 100 year flood level. No longer will there be any sand hills to lessen the noise of traffic from the busy Nelson Bay Road. A number of residents will also have steep excavations directly at the end of their properties. This **unstable sand** cannot be easily stabilised by sowing seeds as vegetation on these sand dunes is very fragile and difficult to establish plant growth. I suggest that the **perimeters and the depths of the excavation be revised and decreased**.

I realise the high monetary value of sand and do not expect to stop this major sand excavation project. However, I hope you would consider my concerns and establish various boundaries for Buildev Pty Ltd (**that will be monitored and enforced**), so as to **minimise the effects of this major sand extraction development on the Fullerton Cove community**.

Yours sincerely

Andrew Dillon-Smith

J Dillon-Smith
RMB 2281 Cox's Lane
FULLERTON COVE 2318



23rd July 2008

The Director
Major Development Assessment
Dept of Planning
GPO Box 39
SYDNEY 2001

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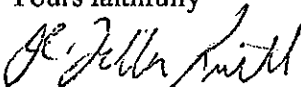
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Please respond in writing to this correspondence.

Yours faithfully

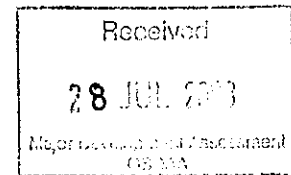

Janet Dillon-Smith

Ray and Gloria Dean
Phone 4965 0771
Mobile 0418 658 532

11 George Street
FULLERTON COVE 2318

22 July 2008

The Director
Major Development Assessment
Department of Planning
GPO Box 39
Sydney NSW 2000



Dear Sir

Re: Fullerton Cove Sand Extraction Project MP07-0145

Over the past six weeks the owners of this site have had in excess of 20 B Double Trucks removing sand from this site and delivering this sand to Kooragang Island for the new Coal Loader project.

I do not believe that this operation is within the scope of the DA as advised to the Port Stephens Council nor the proposed and as yet unapproved Sand Mining project. As you would be aware the site is owned by Mr Williams who is also the owner of Buildev Properties Pty Ltd, a local developer who is well known to push the limits on many of the projects that they have undertaken.

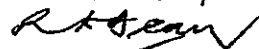
Buildev have even gone to the extent of forming a road and re-surfacing Zircon Lane and locking any access to the back end of Zircon Lane. This is the route taken by the daily B Double trucks going to and from the coal loader. They are also using a D8 Dozer to stack the sand for the Traxcavator to load these trucks. The vibration from this machine is interfering with the homes in the vicinity by causing vibration.

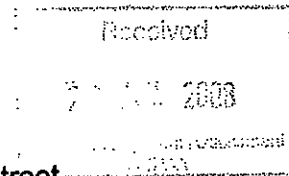
There will be a number of poor outcomes from this proposed Sand Mine, and these can be summarised as follows:

1. All existing houses closely associated with this site are on tank water and will suffer from wind blown sand and dust contamination to their drinking water.
2. Visual and sound degradation to houses in the close proximity from both machinery operation and also from the removal of the existing sound barrier to Nelson Bay Road.
3. Excavation of the site to the proposed 3m level is the same level as land in the 1 in 100 year flood zone.

Your attention and advice on this matter would be appreciated.

Yours faithfully


Ray Dean



10 George Street,
Fullerton Cove.
N.S.W. 2318

23. 7. 08.

The Director,
Major Development Assessment,
Department of Planning,
G.P.O. Box 39,
Sydney.

Subject – Fullerton Cove Sand Extraction Project MP07-0145

Our property at No. 10 George St., adjoins the proposed project and was purchased by us at the completion of sandmining in 1978. A portion of our property was mined however the area of the mining was returned to a similar topography of the site before mineral extraction and was revegetated.

The Sand Extraction Project proposed by Buldev has been based on greed and has provided your Dept. with misinformation in some areas and without consideration to locality or the residents.

Two years ago Buldev stripped all vegetation from the site so today they can call it barren mine tailings.

Buldev have for the last 6 weeks been removing sand from the site in a commercial deal with Daracon to the Kooragang Coal Loader under the guise of site preparation for a dwelling, some 40,000 cu meters is to be removed from the site with up to 10 trucks an hour exiting the site from 0700 to 1600 a day.

Noise from the site has been constant from 0600 to 1600 Mon – Sat for 6 weeks giving us an insight of what we are to expect and will increase as the level of the site gets lower.

Recent westerly winds have given us insight to the dust problems we can expect in Summer as the prevailing N.E. winds increase, bearing in mind we are all on rain water collection in Fullerton Cove, so that chemicals that have been found in the ground water analysis may end up in our drinking water if the groundwater is used in the area for dust control.

Vibration from the bulldozer on site now is causing problems to some residents and will probably increase as they get closer. No tests have been done for vibration.

Excavation of the site to the proposed 3m AHD level will bring it below the 100 year flood level.

Noise testing has been done using smaller machinery than that which will be used on site, probably giving false readings.

The proposed battering of land backing onto properties of up to 10 metres gives no guarantee of any land stability in the future, as once they finish they won't be interested in our problems. One property in particular will be sitting on a 10 metre plateau.

While they nominate George Street for emergency access only there is no guarantee or control that they won't use it for workers access, service equipment and light vehicle access. The address is Zircon Lane and that should be the sole access point.

While they say fencing is adequate, 3 strands of wire will not stop children accessing on area reknowned for youth casualties.

Truck access to Nelson Bay Road, has been assessed prior to changes made by the R.T.A., where they have removed the merging lane much to the ire of local residents. With as many as 67 trucks a day departing Coxs Lane along with Boral traffic, this access to a 100 kph zone, must be revised before there is a fatality.

In conclusion I am totally apposed to this project as the amenity of the location will be destroyed forever and I cannot see how any industry of this nature and impact can be considered, when in close proximity to the established residents.

Yours faithfully

A handwritten signature in black ink, appearing to read 'I. Turton', with a stylized flourish at the end.

I. Turton

Received

20 JUL 2009

Neighborhood Assessment

24/7/08

319 Fullerton Cove Rd,
Fullerton Cove,

N.S.W. 2318.

To Whom It May Concern,

As a resident of Fullerton Cove we are very concerned about the final outcome of sandmining Re: Fullerton Cove Sand Extraction Project MP07-0145.

We are concerned of the impact it will have in the Fullerton Cove town ship.

The main concerns are:-
House vibrations from large machinery with the possibility of structural damage. (for road lanes)

We rely on tank water so dust will definitely accumulate on roof areas causing dripping water to be

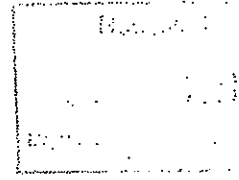
unfit for consumption.
Long term sandmining in F/Cove. will be detrimental to this area affecting plants and wild life.
The access from Lismore onto

Cove's lane, then onto Nelson Bay Rd, is a recipe for disaster as of Boral already have a large amount of trucks accessing Cove's lane.
Also not to mention access onto

Nelson Bay Rd where the RTA has removed the merging lane to Nelson Bay Road.

Under no circumstances should George Street be used as a site entrance as it is a narrow residential street not suitable for large trucks
Mr & Mrs K. Ban

35 Kingston Parade
Heatherbrae NSW 2324
25th July 25, 2008



The Director
Major Development Assessment
Dept. of Planning
GPO Box 39
SYDNEY 2000

Re:- Fullerton Cove Sand Extraction Project MP07-0145
Applicant- Buldev Properties Pty Ltd.

Dear Sir/Madam,

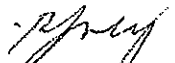
I am wanting to express some areas of concern to such a major project involving a large extraction of sand at the site in question.

- 1/ Excavating the proposed site to a 3mtr. level is the same level as land in the one in 100yrs flood zone.
- 2/ The effect on surrounding water table levels, as levels tend to follow the contour of the ground surface to a certain extent.
- 3/ The sand excavation will cause the land to be unstable right up to some resident's boundaries.
- 4/ Traffic noise from Nelson Bay Rd will increase once the sand hills are removed.
- 5/ Safety Concerns;- trucks having to give way to traffic on Nelson Bay Rd., as study was done when the merging lane was still in place.
Extra traffic at the eastern end of Cox's Lane, residents walking, riding push bikes, horse riders ect. What precautions are being taken to protect residents safety?
- 6/ Noise assessment has been calculated within the mound/wall which will not exist along the residential boundaries. 55db. will be 77db. [Chris land levels]
- 7/ Mounds will only exist along Nelson Bay Rd. to be built 4.9mtr. high, which is the same as the land level is now along much of the residential boundary.
- 8/ Air pollution—roof catchment of residential houses running into rain water tanks, the communities only source of drinking water.
- 9/ House vibrations----- sand extraction so close to residential dwellings, this application is a 'Major Project'.

It seems to be that a small developer has difficulty obtaining approval to move an "ant hill" yet a large developer can get approval to extract a "mountain"!

When taking into consideration the extent of the project and the points listed,
this development should not be approved.

Yours faithfully


David W Greig

Elizabeth McTackett
RMB 2275 Coks Lane
FULLERTON COVE
NSW 2318

The Director
Major Development Assessment
Department of Planning
GPO Box 39
SYDNEY
NSW 2000

Dear Sir/Madem

I am just writing to voice my concerns about proposed Fullerton Cove Sand Extraction Project (MP07 - 0145).

Some concerns are, our water tanks being contaminated from excess dust (our only source of water), house vibrations from machinery, the use of underground water which contains levels of lead, copper and zinc, excess noise from both machinery and future noise from traffic on Nelson Bay Road and safety issues with extra trucks on Coks Lane.

Kind Regards



Elizabeth McTackett

31/07/08

JC + PA Cook
RMB 2346
George St
Fullerton Cove
NSW 2318



The Director
Major Development Assessment
Dept. of Planning
GPO Box 39
SYDNEY 2001

RE: Major Project 07_0145 Proposed Sand Extraction, Fullerton Cove

As the owner and resident of adjoining Lot 8 DP 255734 to the proposed development, we submit the following comments regarding the proposed works. We have reviewed the Environmental Assessment (EA) prepared in support of the proposed works, and find our property will be the most impacted upon by noise, vibration, and windblown dust and sand according to the various environmental reports contained in the aforementioned assessment. Further to our review of the EA, we find the following issues and mitigation measures have not been sufficiently addressed:

- **Vibration-** although the Department of Environment and Climate Change (DECC) general guidance material refers to guidelines for assessing vibration, an assessment of vibration impacts was not included in the EA. The approved bulk earthworks and extraction currently being undertaken on the site is causing significant vibration impacts on our property and residence, particularly from tracked vehicles on site. The proposed extraction works for Cells 3 and 5 will bring these vehicles to within 20m from our residence, therefore the current the vibration impacts are likely to significantly increase. Potential vibration impacts need to be addressed and should be subject to an assessment providing appropriate mitigation measures.
- **Noise-** According to Vol 2 Appendix D- Noise Assessment Report prepared by Global Acoustics (June 2008), acceptable noise amenity levels for residences during day time hours range from 55-60dB. However the assessment states that our residence (labeled R4 within the report) will be affected by levels of 77dB during works in extraction cells 3 and 5, which will occur directly adjacent our property boundary and within 20m of our residence.

There are discrepancies within the EA as to how these noise impacts will be mitigated. The Noise Assessment Report recommends a 3m high (RL 6.0) berm be retained along the property boundary, however Section 2.6.3 of the EA indicates that the design height of the noise mound (4-9m AHD) will match the existing levels of our property boundary (4-9m AHD). Therefore it appears no noise mitigation berm is to be installed. This discrepancy needs clarification. A noise mitigation mound with a design height of 3.0m above the existing levels along the property boundary should be provided in accordance with the recommendations of the Noise Assessment Report.

Furthermore, figures 2.1 and 2.4 of the EA indicate that the land adjoining our property will batter down, resulting in our property overlooking the development site. It should be noted that figure 2.1 *Previously Mined Area, Existing Landform and Proposed Extraction* area shows only the finished contours of the site, and does not indicate the extent of extraction and re-contouring that will occur along our property boundary. Please see Attachment A showing the existing and proposed levels in relation to our property and residence.

- **Hours of Operation-** Section 2.8.7 of the EA states the proposed hours of operation for sand extraction will be 7.00AM-6.00PM Monday through Saturday. This does not comply with the Department of Environment and Climate Change (DECC) 'Environmental Noise Control Manual' (ENCM) which states operations should be limited to 8:00 AM- 1:00PM on Saturdays. Any approval of the proposed works should condition compliance with the Hours of Operation recommended in the ENCM.
- **Air quality/Erosion control for dust and windblown sand-** Vol 2 Appendix C Air Quality Impact Assessment (Feb 2008) states that 'sand particles on site are greater than 150 µg/m³ in size. Particles of this size will fall out close to their source and the impact at the residences is likely to be negligible.' However Figures 2.1 and 2.4 of the EA show sand extraction activities and contouring works will occur directly along our property line and within 20m of our residence. Sand particles that fall out close to their source will deposit on our property and residence when the source works are carried out along the property boundary.

The potential for accumulation of contaminants within deposited dust and sand is high, especially if groundwater bores are used to wet down extraction works as per the recommendations of the *Air Quality Impact Assessment*. Appendix A *Geotechnical and Groundwater Investigation* identifies site groundwater has elevated mineral levels, specifically magnesium which exceeded drinking water guidelines.

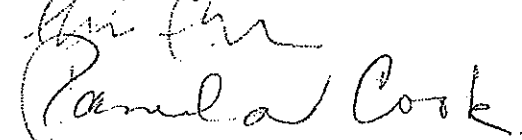
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We are concerned that windblown sand and any associated contaminants deposited on our roof may impact upon the quality of our drinking water which is wholly sourced from roof-water collection. All residents in the area source drinking water from roof water collection. The EA has failed to address potential impacts on the quality of drinking water arising from windblown soil loss and air quality issues.

- **Visual Impact from adjoining residence-** Section 7.2 of the EA states that visual impacts will be minimized due to the proposed acoustic berm that will also act as a visual buffer. As stated above in comments regarding noise impacts, there are discrepancies between the EA and the Noise Assessment and it is unclear as to whether such a berm will be installed along the site's north western boundary. Figures 2.1 and 2.4 of the EA indicate that the land adjoining our property will batter down, resulting in our property overlooking the development site, in which case there is no provision for mitigation of noise or visual impacts.
- **Protection of existing mature trees on boundary-** There are many mature trees located within one metre of the eastern and southern boundaries of our property adjoining the proposed sand extraction areas (see photo attached). The EA has failed to address potential impacts on these trees, specifically potential root damage and tree stability in relation to re-contouring and earthworks proposed along the site boundaries as shown on Figures 2.1 and 2.4 of the EA.

In principle we do not oppose the application to undertake sand extraction activities provided that the above matters are addressed to ensure satisfactory mitigation measures are incorporated to protect the adjoining properties from impacts of the development.

Yours faithfully,

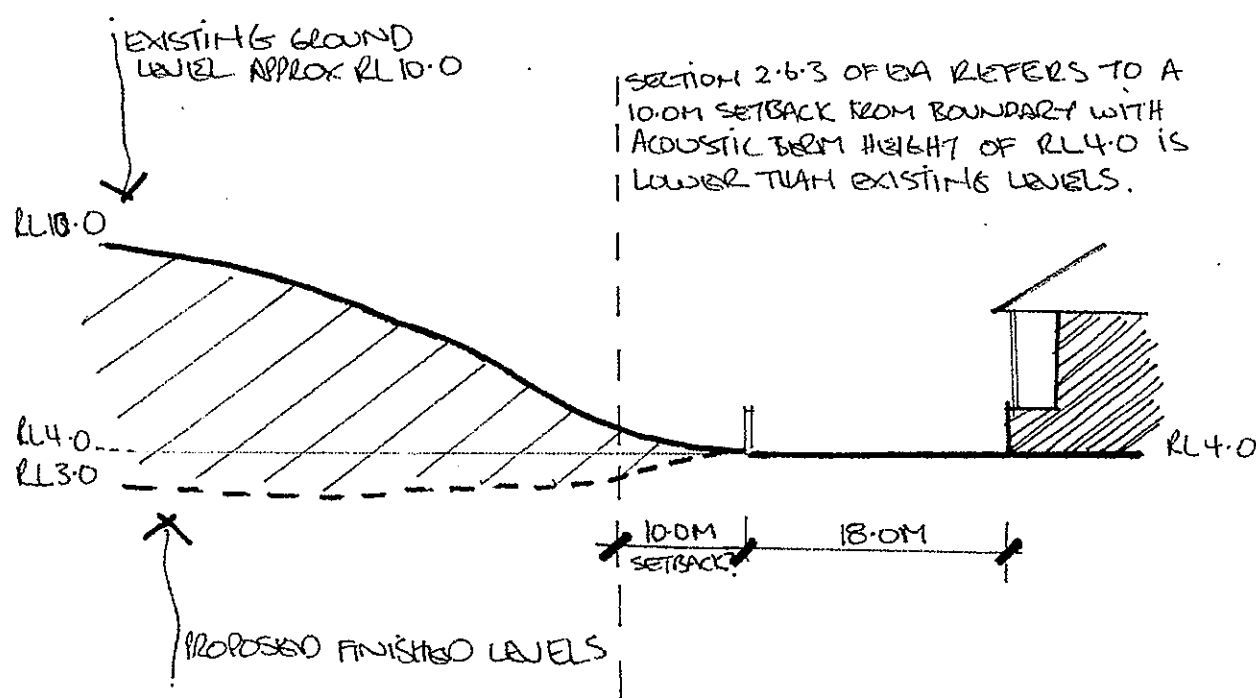


John and Pamela Cook

Encl. Attachment A- Proposed and existing levels in relation to adjoining residence.

Attachment B- site photos

Attachment A: Proposed and existing levels in relation to adjoining residence



Attachment B: Site photographs on boundary with adjoining residence



1. View from residence to proposed extraction Cell 3. Approximate distance from residence to boundary = 20M. EA does not provide clear details of mitigation measures to minimise impacts on residential amenity.



2. View from living room in residence to site boundary. Approximate distance from residence to boundary = 20M.



3. View south along site boundary adjoining residence. Proposed works along this boundary need to ensure no damage to trees occurs.



4. View from Proposed extraction Cell 3 (existing RL 10.0) Proposed finished level for this area is RL3.0. Proposed removal of sand to a depth of 7.0M in close proximity to residence however EA does not provide clear details of mitigation measures to minimise impacts on residential amenity.



5. Recent approved sand extraction on Lot 991 DP 627179 in the vicinity of proposed Extraction Cell 1, showing extent of wind blown sand and dust. Works in proposed extraction Cell 3 will be within 20M of adjoining residence, the EA does not provide clear details of mitigation measures to minimise impacts on residential amenity.

Nicole McTackett
RMB 2275 Coxs Lane
FULLERTON COVE
NSW 2318

The Director
Major Development Assessment
Department of Planning
GPO Box 39
SYDNEY 2000

Re: Fullerton Cove Sand Extraction Project MP07 - 0145

I am writing in regards to the above proposed sand extraction and the types of the pollution, safety issues and hazards it could cause.

I am not against development to the Fullerton Cove area but basically, what is proposed, is a sand quarry. Huge amounts of sand extraction should not be allowed in a residential area. My biggest concerns are that of air pollution, house vibrations, underground water, noise pollution and some safety concerns.

From what I understand, the underground water is to be used to settle the dust from trucks and machinery. This is a good step in managing the dust but my concern is that the underground water has not been tested for levels of lead, copper or zinc and when this water dries on the sand, this dust will then settle on our roofs and then when it rains our only source of water in our area, will be contaminated.

Another concern is that of house vibration for our neighbours who are close to where the sand extraction will be taking place and the devastating affect this will have to there properties. Here in Fullerton Cove we are used to relaxed and quiet environment. So I am apprehensive with the extent of the noise pollution from the sand extraction machinery but also we are going to loose our natural noise barrier from the traffic on Nelson Bay Road.

I am also worried for some of my neighbours whose properties boundaries will have a drop of up to 9 metres after the extraction. How can this be allowed? Why cant the extraction be to the same level as the current properties? The extraction of this much sand will surely promote the land to flooding in the future.

My last issue is that of safety due to the excess use of trucks on Coxs Lane. What precautions are being made to insure protection of Fullerton Cove residents who use Coxs Lane for walking, cycling and horse riding? There also needs to be a new study done on merging trucks onto Nelson Bay Road as this is now a give way instead of a merging lane when the last study was done.

I would greatly appreciate it if you take all these issues and concerns into consideration as my husband and I have planned to bring up family up in this wonderful place and don't wish to be forced out by some big inconsiderate money making company.

Many Thanks



Nicole McTackett

The Director
Major Development Assessment
Dept of Planning
GPO Box 39
Sydney 2001

30/07/2008

John and Lori Butler
RMB 2273 Coxs Lane
Fullerton Cove NSW 2318

Dear Director,

We are writing expressing our concern re the development noted as the
Sand Extraction project MP07-0145.

We are new residents of the above address and have been confronted with the situation described in the Plans noted in the project.

Our concerns to you are listed below.

1. Erosion of our land: - The proposed extraction will border our property on the northern and eastern boundaries of our land. This will effectively leave a large quarried area steeply abutting these boundaries. We fear the result will be considerable erosion of our land. We ask our land integrity be assured.
2. Air and Water pollution: - Our drinking and household water is supplied by two large water tanks. During the mining, dust fallout will effect our air quality and dust fallout on the rooves, used for water catchment, will be contaminated with this dust and be washed into our water supply. We ask our water and air quality be safeguarded.
3. Ground water: - Further to our concerns, to the control of dust, if the solution is to use the ground water, that is available in the area, it should be noted that this water may contain levels of lead, copper and zinc. These elements are toxic to humans and again pose a problem to the safety and well being of residents. We ask that this danger be monitored and prevented by your authority.
4. Vibration and Noise: - Mining has already begun on the site with large shipments of sand being extracted and sent to land fill at nearby Kooragang. Though this is currently being done without authority, it has illustrated to the local community the problem of excessive vibration and noise this full-scale mining operation presents to those close to the heavy industry site. Residents

on George Street have intolerable levels of vibration and noise from this mining operation. We ask that the government monitor and prevent this from continuing.

5. Mounds: - Plans to minimise noise from the mining have included the construction of a mound or earth wall. It appears however that this wall/mound only runs along the Nelson Bay Road, the other side of the residential area. Therefore there is no barrier for the Fullerton Cove residents. This will substantially increase traffic noise levels for residents from Nelson Bay Road. We ask that proper safeguards be put into place for the wellbeing of the Fullerton Cove residents.

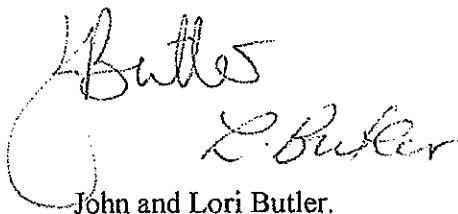
Conclusion.

We take exception to the notion that because sand mining occurred on this site 30yrs ago it is automatically ok to do it again. In fact the ecosystem on this reclaimed land was recovering and native plants and fauna were established. This new mining will totally destroy this ecosystem again. The owner of this land tore down vast areas of native vegetation prior to this adventure so that the area would look degraded and desolate and give weight to the claim that the entire site was good for was mining. This was a recovering ecosystem, now all the residents will be left with, in a short amount of time, is a massive, desolate quarry. I believe there is no benefit at all to the residents of the Fullerton Cove community. They will be subject to dust, noise, vibration and a degradation of their environment for the profit of one landholder as opposed to wellbeing of the majority of residents in this community.

We would appreciate any action taken to address these concerns.

Thank you for your attention to these matters.

Yours sincerely



John and Lori Butler.

43 Kirrang Dr
Meadowie 2318
3rd August 2008.

Mr Rohan Taylor
Department of Planning

Dear Rohan,

I writing to express my strong objection to the approval the proposed Fullerton Cove Sand Extraction Project reference number 07-0145.

This property is located adjacent to a large number of rural residential properties and the proposal to mine sand up to the boundaries of a number properties will lead to both erosion and environmental issues and a large impact on the life style and amenity of these residents.

The property in question I understand has already been cleared of native vegetation and to my knowledge this has occurred with little or no approval from the appropriate local government or Department of Environment and Conservation. Sand based native vegetation is both fragile and difficult to establish and maintain. The photographs attached show the property has been wholesaled cleared of the original native vegetation some 18th ago using large scale mulching machines. You can see what the original vegetation on the neighbouring property looked like before it was wholesale removed. The entire property in question is now almost devoid of native vegetation with some native vegetation growing from the remaining seed in the mulch. This county supports very poor pasture cover and the proposal to cut up to property lines using battering will make it almost impossible to maintain vegetation and result in both erosion and windblown sand into the adjoining rural residential properties.



Original vegetation can be seen in the background the entire property was covered in this native vegetation until 18 months ago. The mulching of this material has resulted in some new growth of wattles and some other natives.

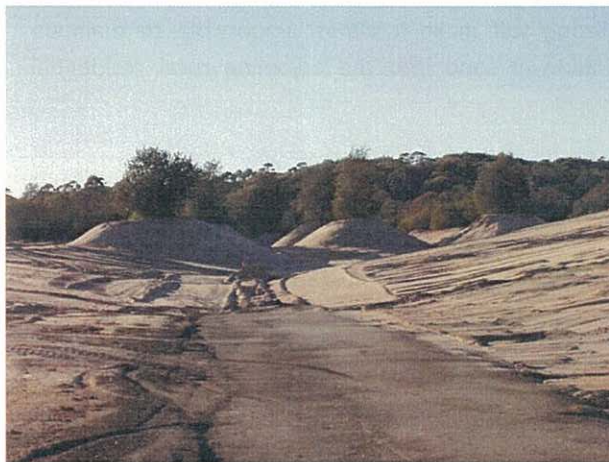
Of great concern is the removal of up to 40,000 cubic metres of sand from this property in the month of July 2008 in advance of submissions for this proposal. Such is the arrogance of this proponent that residents find it very difficult to believe that any remediation will be carried out let alone to any sort of agreed standard.

The attached photographs show the loading of trucks from the Daracon Civil Engineering organisation on the the 24th July from the George street entrance and the Zircon Rd entrance. It is noted that the Cox's Lane access Rd has a restriction of 5 tonnes and yet up 80 trucks per day entered and left this property transporting sand to a project on the Newcastle Kooragang Island.



24th July 08.

Daracon Trucks being loads with sand up to 75 trucks per day accessed Cox's Lane and Zircon Rd to take sand away from this property in advance of any approval being given.



Current status of the property photograph taken on the 31st July with sand islands containing remaining trees. This Photograph taken some 300 to 400 metres away estimated height of the island 3 to 4 metres. To the original land level.

The mining of sand in the centre of a residential community is both unwise because of the environmental impacts but this proponent has a very bad track record of making good any restoration and the blatant removal of material in advance of any potential approval or rejection of this proposal is yet again a measure of a non compliant applicant.

Approval should not be given for sand mining in this location, the proponent has an application for the construction of a very large house on the property which has Council DA approval. The movement of



Proposal is to mine up the property lines – the shed in this case -create a steep batter down to the lower mined level and potentially revegetate the slope. This means the property owner is isolated from the adjoining property will have loose sand blowing onto the property and reduces the value of the adjoining property.

sand off the property has been excused based on excavation for this dwelling as a smoke screen, with no evidence of any house construction or material arriving for construction of the dwelling other than a short length of road base from Georges rd.

The application should be rejected because:

The impact on the local ecology

The impact on the adjoining residents.

The whole sale removal of native vegetation, now claiming the land has no ecological value.

It will be extremely difficult to restore native vegetation once the top fragile soil layer is disturbed.

The difficulty of restoring the land when it adjoins properties with steep battering up to the boundaries without any vegetation zone buffering.

The movement of and vibration of vehicles on local roads

The loss of amenity to local residents.

A change on the topography taking away the surrounding ridges to create a swamp area with limited opportunity for drainage.

A local natural drainage course will be filled and create lower drainage issues.

A quiet rural community will have its character and amenity destroyed for short term unsustainable mining activity.

Very large quantities of sand are available from dunes within short distance of this property not requiring any vegetation removal.

Thanks you for the opportunity to lodge this submission .

Geoff Dingle

Yours Faithfully,

Geoff Dingle.

Councillor Central Ward Port Stephens Council.

Phone 02 49828468

Lot 1 Zircon Lane
FULLERTON COVE NSW 2318
Phone 02 4920 1972

6 August 2008

The Director
Major Development Assessment
Dept of Planning
GPO Box 39
SYDNEY NSW 2001

Dear Sir/Madam

RE FULLERTON COVE SAND EXTRACTION PROJECT MP07 – 01450

As immediate neighbours to the proposed Sand Extraction site, we most strongly oppose this project on four major issues.

- 1 Safety for my family – We have three children under three years of age and the route proposed to enter and exit the site is 3 metres from our front gate. If one of the children walks out our gate, as has happened before, if this route is used then I hate to think what could happen with trucks regularly traversing this road.

Truck movements using the proposed route also travel along a section of Cox's Lane that has a 5 tonne load limit.

- 2 Air and dust pollution from the 70 plus truck movements a day that are literally at my front gate. Our only source of drinking water is tank water sourced from roofs of our buildings.
- 3 Vibrations from the trucks shaking and unsettling the existing buildings. We are on sandbeds and you can feel the vibrations from trucks on Zircon Lane.
- 4 Excavating to 3 metre levels. Who is going to police these levels and that the restoration work is done to a satisfactory standard and in a timely manner...as excavations just left like Buildev have done at the present time on this site are disgraceful. (They excavated an area big enough for a major shopping centre and have just left the bare sand to sandblast residents...no barrier fencing has been installed).

The company applying for this approval leave a lot to the imagination, as to their integrity in their dealings within the site so far. Darren Williams is treating the people of Fullerton Cove and your department as un-educated and we are certainly not being treated with the respect that is deserved, given this is our homes and livelihood being compromised.

How would someone prepare a site for a house that had on the original stamped plans **(all site earthworks to be balanced cut to fill within site)?**

Fact: He transported and sold to Daracon thousands of tonnes of sand from the "proposed site" (60 to 80 truck and dog movements five and a half days a week) over a five week period and only stopped when his lies could not be covered up any more. He also operated outside the permitted hours. This is not someone who can be trusted to look after anything but himself.

The proposed site is within the 'Acid Sulphate Soil Zone' classified 4- "works more than 2 metres below the natural ground surface. Works likely to lower the watertable to a depth of more than 2 metres below the natural ground surface"
Excavations to a depth greater than 2m below natural ground surface are obviously needed for this project. Who is going to test if the site contains actual or potential acid sulphate soils. Is this a suitable site for a **MAJOR EXCAVATION?**

Below is a re-print of an article that appeared in the Port Stephens Examiner approximately two weeks ago.

FULLERTON Cove residents have reformed an action group to deal with concerns about work on a sand extraction site.

About 30 people attended a meeting on Tuesday, July 22 to voice their concerns about work by the company Buildev.

Some residents claimed sand had been removed from the 25.3 hectare site, bounded by Nelson Bay Road and Coss Lane, without Development Approval.

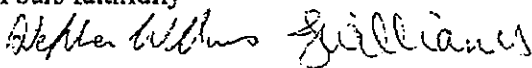
Buildev's development manager Darren Williams confirmed there had been work near the site but said it was not part of the sand mining excavation. Mr Williams said the work that residents had seen was part of an already approved development application for a dwelling and guest house.

"I can understand community confusion but we wouldn't be silly enough to start excavating sand when the plans were not approved and still on exhibition," Mr Williams said.

Secretary of the action group Janet Dillion-Smith said alarm bells started ringing after residents counted about 70 truck movements a day from the site. **But Mr Williams said most of the truck movements were to bring stock in, not take sand out.**

Should you require any further information please contact me on 4920 1972.

Yours faithfully



Stephen & Jane Williams

P.1

6-8-08

T. R. BEETON
LICENSED BUILDER No. 23621
R.M.B. 2280 Cox's Lane Fullerton Cove NSW 2318
Ph (02) 4928 2802 Fax (02) 4928 2592
Mobile 0414 780 156
email: terry.beeton@bigpond.com

To Department of Planning

Dear Sir - Madam,

We would like to express our deep concerns over the proposed sand quarry project MP07-0145 at Fullerton Cove, and the proposed removal for sale of 750,000 tonnes of sand. Since reading the Port Stephens Examiner we have even greater concerns, Buldev's Darren Williams saying the sand already removed was for a proposed building site. Approximately 4 weeks ago Daracon along with Roy Lamb the Sandman started running trucks in and out of the area and clearing a area the size of a small housing subdivision.

On phoning Port Stephens Council with this information they seemed reluctant to take any action saying they were assessing the situation. There have been hundreds of sand truck movements taking sand to Kooragang Island, some residents claiming 60,000 tonnes to date. Our reasons for not allowing this quarry to proceed are as follows.

- 1 The area in question was mined for silt over thirty ago and is just recovering now.
- 2 Destruction of Fauna & Flora.
- 3 The Quarry would change the landscape forever leaving adjacent residents with a estimated 10m. drop from their rear boundaries in some cases
- 4 Wind blown sand and dust into our water tanks creating a health hazard.

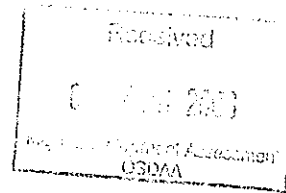
P3

- 5 Noise from up to 67 truck movements per day for the next 3 to 5 years.
- 6 Noise from bulldozers and other machinery. for the next 3 to 5 years.
- 7 Dangerous truck movements swinging into Cosc's lane on entering and leaving.
- 8 Pollution entering the under ground water table.
- 9 Builder cannot be trusted breaking many conditions already in this developement and the said clearing of Koala habitat at Taylor's Beach. Pt. Stephens.

On closing please consider the damage to our lives if this is approved.

Yours Sincerely,

Terry Beeton. J. Beeton. A. Beeton



Re proposed sand extraction project .MPO7-O145

30/7/08

This land is near my property. (Lot 21 Fullerton Cove Rd.)

My concerns and objections to the proposal are tabled below.

Page 3 of the information presented from the developer (Buildev), the picture shown clearly is seen as the edge of a fragile remnant littoral rainforest.

Further development/degradation of the site will have a negative impact on the environment, flora and fauna.

The 3 meters above the 1:100 year flood zone (AHD) proposed as the level Buildev wants is below the level of surrounding lands, certainly the access road from Cox lane.

Drainage problems already exist in surrounding areas with poor maintenance of these by local council, this proposal could compound the problem.

The proposal mentions earlier mining of the area by RZM. (Rutile and Zircon Mines)

Mention of "Mine tailings and waste" infers a polluted site. Far from this as RZM only washed the sand and centrifuged the Rutile mineral and the Zircon mineral from the sand.

It would be stretching the truth to state this area an old mine in need of repair.

The only thing RZM did wrong was to re-vegetate and not re-generate.

In objection John Naylor

328 Fullerton Cove Rd.

Fullerton Cove 2318

The Director,
Major Development Assessment
Dept of Planning
GPO Box 39
SYDNEY

IN CONFIDENCE

Fullerton Cove Sand Extraction Project MP07 – 0145
Applicant – Buildev Properties Pty Ltd

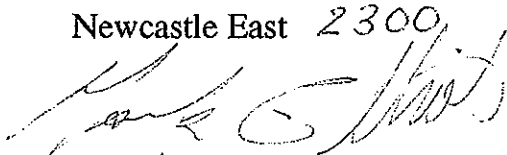
Dear Director,

I am writing to object to the proposed sand extraction at Cox's Lane, Fullerton Cove on the basis of its deleterious effect on the environment and request a 90 day extension for further community submissions and for detailed data to be provided by the proponent on the hydrology of the area. As I understand the area adjacent Cox's Lane, Fullerton Cove was previously zoned as flood prone by Pt Stephens Council so I can't see how lowering the height of the land through quarrying would address flooding or acid sulfate issues.

My father-in-law, the previous owner of the land, was assured Buildev was buying this land for 2 acre housing blocks subdivision which was far more in keeping with the surrounding Fullerton Cove village and enquiries at council's planning dept confirmed this at the time. I believe there has been deception involved even at the local government level and there has been a history of maladministration and poor complaints handling according to the Ombudsman's Office and the Dept of Local Govt over the last decade or so when it comes to sand extraction and Cox's Lane. In fact my wife felt intimidated and forced into leaving our Cox's Lane home after receiving death threats including a snake left in the mail box in the weeks leading up to the land sale to Buildev. For this reason I am only giving my PO Box for response from your dept as I have a family to protect. Perhaps another public inquiry should be held or the matter referred by your department to ICAC or the police.

Yours Faithfully,

Mark Elliot Ranken
PO Box 271
Newcastle East 2300



7/8/08



NSW GOVERNMENT
Department of Planning

RECEIVED

08 SEP 2008

BUILDEV

Contact: Colin Phillips
Phone: 02 9228 6483
Fax: 02 9228 6466
Email: colin.phillips@planning.nsw.gov.au
Our ref: S07/00526

Mr Mark Daniels
Development Planner
Buildev Properties Pty Ltd
PO Box 826
NEWCASTLE NSW 2300

Dear Mr Daniels

Fullerton Cove Sand Extraction Project (07_0145)

The Department is pleased to provide a copy of the submissions it received during the period when the Environmental Assessment for the Fullerton Cove Sand Extraction Project was made publicly available.

I would appreciate it if you would provide a detailed written response to the issues raised in these submissions. In relation to the submissions from the Department of Environment and Climate Change and Department of Water and Energy, please respond to each of the issues raised. Specifically, the Department strongly advises that survey work for *Diuris arenaria* and *Diuris praecox* be conducted immediately.

I would also appreciate a detailed written response to the following issues:

1. Clearly identify if the company plans to alter the scope of its project application. If so, the company must formally write to the Department setting out the change(s) to its project application.
2. Provide details on how the company would protect drinking water collected from house roofs from dust emanating from the site.
3. Undertake a review of the effect of the project on Nelson Bay Road traffic noise levels received at George Street residences. Many submissions maintain that the removal of sand from the intervening lands between the road and residences would substantially increase traffic noise levels at these residences.
4. Provide clear plans and comprehensive details of the post-extraction final landform, giving particular regard to residences sharing part of the site boundary.

As you would be aware, both the Department and Port Stephens City Council are investigating whether sand extraction activities have recently occurred on the project site, and whether all activities have been undertaken in accordance with existing consents. The Department has also been contacted on 7 August 2008 by Mr Tony Fish of Orogen Pty Ltd, indicating that the project is to be revised by removal of Stage 1 of sand extraction activities and a potential, but unspecified, alteration of vehicle access arrangements for the project.

As I'm sure you would accept, the Department would not be in a position to finalise its assessment of the project application until each of these matters is resolved satisfactorily.

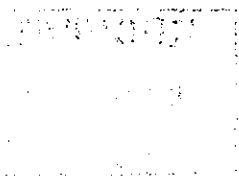
I also indicate that if the proposed changes to the project are of sufficient magnitude and potential impact, then the Department may require the preparation and submission of a Preferred Project Report under section 75H(6)(b) of the *Environmental Planning & Assessment Act 1979*.

If you would like to discuss the issues raised by the Department in more detail please contact Colin Phillips at the details listed above.

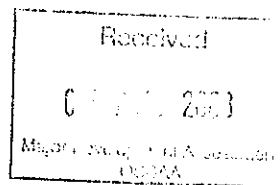
Yours sincerely

Howard Reed
A/Manager
Mining and Extractive Industries

2-9-08



362DA104;1
08/1434, 08/1442
VB



Manager, Mining & Extractive Industries
Major Development Assessment
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Attention: Mr Rohan Tayler

PROPOSED FULLERTON COVE SAND EXTRACTION PROJECT ENVIRONMENTAL ASSESSMENT, COXS LANE, FULLERTON COVE (07_0145)

Dear Mr Tayler

I refer to your letter dated 3 July 2008 (Your reference: 07_0145) regarding the Environmental Assessment (EA) for the subject development, forwarded to the RTA for comment.

The RTA's primary interests are in the road network, traffic and broader transport issues, particularly in relation to the efficiency and safety of the classified road system, the security of property assets and the integration of land use and transport.

In accordance with the *Roads Act 1993*, the RTA has powers in relation to road works, traffic control facilities, connections to roads and other works on the classified road network. Nelson Bay Road (MR108) is a classified road and RTA concurrence is required for connections to classified roads with Council consent, under section 138 of the Act. Council is the roads authority for all public roads in the area.

The RTA has reviewed the information provided and has no further requirements to those outlined in the RTA's letter dated 18 April 2008. As such, the RTA has no objections to the proposal provided the requirements outlined in the RTA's above-mentioned letter are addressed and included in the conditions of development consent.

On determination of this matter it would be appreciated if a copy of the determination were forwarded to the RTA for record purposes.

If you have any further queries please contact me on (02) 4924 0240.

Yours sincerely

A handwritten signature in black ink, appearing to read "John Farrell".

John Farrell
A/Manager, Land Use Development
Hunter Operations & Engineering Services

1 August 2008

Cc Mr Scott Page
Port Stephens Council

Roads and Traffic Authority

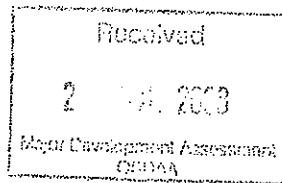


59 Darby Street
Newcastle NSW 2300

Locked Bag 30 Newcastle NSW 2300
DX 7813 Newcastle

T 02 4924 0240

www.rta.nsw.gov.au



NSW Government

DEPARTMENT OF WATER AND ENERGY

Contact: Fergus Hancock
Phone: (02) 4904 2532
Fax: (02) 4904 2503
Email: Fergus.Hancock@dnr.nsw.gov.au

**Director, Major Projects Assessments
NSW Department of Planning
GPO Box 39
SYDNEY NSW 2001**

File: MP20188

Your ref. MP 07_0145

Attn. Rohan Taylor

18 July 2008

Dear Rohan

Subject: Buldev Properties Fullerton Cover sand extraction proposal MP 07_0145

The Department of Water and Energy (DWE) has completed its assessment of the Environmental Assessment for the proposed construction sand extraction at Fullerton Cove. The EA provides basic level of information, but which has some deficiencies, which have limited DWE in its assessment of the proposal. The following comments are submitted to assist the Department of Planning in its determination of the proposal.

Groundwater impact assessment

The site is located in the Stockton Groundwater Source, administered under the Tomago-Tomaree Groundwater Source Water Sharing Plan. The Stockton water source has defined limits to recharge and extractions based on sustainable yield. The extraction of construction sand material will reduce the sustainable yield of the total Stockton Groundwater Source, but is ranked by the Environmental Assessment (EA) to be very small due to asserted increased recharge rates to the aquifer. The reduction has not been specified, and DWE is uncertain as to the volume of groundwater storage which is likely to be lost from the water source as a result of sand extraction. However, the minor volume reduced may be quantified and should be accounted for in terms of adjustment of LTAEL to the total water source, and a condition to account for groundwater loss against impacts on either local users or environmental health water should be included.

The EA confidently states that extraction of construction sand will not encroach within 1-1.5 metres of the highest predicted groundwater table. An appendix dealing with groundwater conditions on site adds that historic groundwater conditions have not exceeded 1.5 m AHD. Removal of construction sand will reduce ground levels in such a way as to most probably reduce groundwater mounding on the site. Section 5.8 of Appendix A of the EA states:

"The removal of sand may result in a minor lowering of the water table, due to increased evapo-transpiration, following the re-establishment of vegetation cover on the site, though this would depend on the type and extent of vegetation. It is likely the groundwater mound will either disappear or become only minor, a potential

reduction of 0.5-1 metre in groundwater elevation in this area....In summary, changes in groundwater are expected to be relatively minor and within the bounds of existing natural variability on the site in response to climatic conditions."

The EA also fails to identify if washing of sand tailings is required. If required, this can only be permitted under access licence purchased from the Stockton Groundwater Source under the rules of the Tomago Tomaree Groundwater Source Water Sharing Plan.

Groundwater Dependent Ecosystems

Several groundwater-dependent ecosystems are located on the site and surrounding land. These are defined as vegetation communities 3, 4 and 5 in Appendix B of the Environmental Assessment. Rules under the Tomago-Tomaree Groundwater Source Water Sharing Plan (TTGSWSP) restrict any interception of, or interference with, groundwaters within 40 metres of identified groundwater-dependent ecosystems within the Tomago, Tomaree or Stockton groundwater sources. Although the Environmental Assessment (EA) asserts no groundwater will be intercepted during operation, the proximity of surficial groundwaters surrounding the central axis of the extraction area, and lack of groundwater levels and gradient in the EA creates doubt that this will be achieved.

Therefore the applicant must comply with general rules of the TTGSWSP.

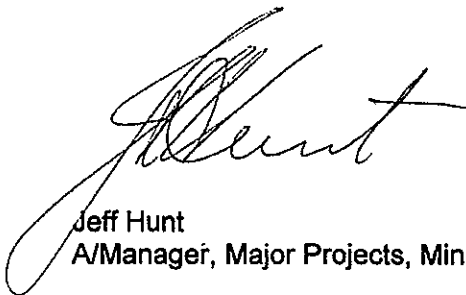
Recommended conditions of project approval include:

- **no excavation in any area which is within 1 metre of the maximum predicted water table level**
- **no excavation within 40 metres of any identified groundwater-dependent ecosystem**
- **any reduction of groundwater storage and sustainable yield to the Stockton Groundwater Source must be accounted for and replaced by purchase of entitlement within the Stockton Groundwater Source as defined in the TTGSWSP**

Specific recommended conditions must also be formed which require monitoring on site to determine appropriate trigger levels and response mechanisms in the event that impacts to the groundwater eventuate. These conditions should be framed around regulatory conditions on existing extraction activities in the TTGSWSP area.

If you require any clarification of the above, please contact Fergus Hancock on (02) 4904 2532.

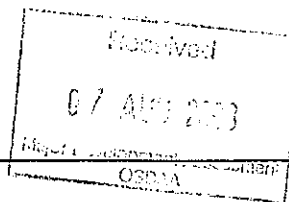
Yours faithfully



Jeff Hunt
A/Manager, Major Projects, Mines Assessments and Planning



NSW DEPARTMENT OF
PRIMARY INDUSTRIES



4 August 2008

The Director
Major Development Assessment
Department of Planning
GPO Box 39
SYDNEY NSW 2001

Attention: Rohan Taylor

Our ref: 07/9183

Dear Sir,

Major Project 07_0145, Extractive Industry, Coxs Lane, Fullerton Cove

I refer to the Environmental Assessment for the above major project which is currently on exhibition. This is a coordinated response incorporating the views of the Mineral Resources, Fisheries and Agricultural divisions of the NSW Department of Primary Industries (DPI). The proposal is not relevant to the interests of Forests NSW.

The Environmental Assessment is considered to have satisfactorily addressed issues of relevance to DPI and the Department has no concerns in relation to the project and potential impacts on mineral, fisheries and agricultural resources.

The Department of Primary Industries collects production statistics for mines and quarries throughout the State. In order to assist in the collection of this data it is requested that if development consent is granted, it includes the following condition:

The operator is required to provide annual production data to the Mineral Resources Division of the Department of Primary Industries, as requested.

If you have any further queries concerning this project, please contact Iain Paterson on 4931 6704 or iain.paterson@dpi.nsw.gov.au. Any queries relating specifically to agricultural or fisheries issues may be directed to Glenda Briggs (4939 8942) or James Sakker (49163955) respectively.

Yours sincerely

Iain Paterson
A/Chief Geoscientist, Land Use

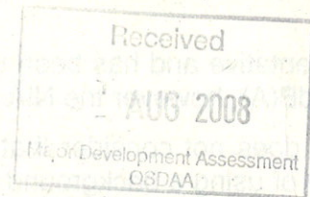
DPI MINERALS

PO Box 344 Hunter Region Mail Centre NSW 2310
516 High Street Maitland NSW 2310

ABN 51 734 124 190
www.dpi.nsw.gov.au

Tel: 02 4931 6666
Fax: 02 4931 6790

Your reference : S07/00526
Our reference : DOC08/30963 FIL07/18107 Part 3A
Contact : Peter Hughes, 49 086819



Department of Planning
Major Development Assessment
GPO Box 39
SYDNEY NSW 2001

11 AUG 2008

Attention: Rohan Tayler

Dear Sir

PROPOSED FULLERTON COVE SAND EXTRACTION PROJECT (07_0145)

I refer to the Department of Planning's (DoP) letter dated 3 July 2008 requesting the Department of Environment and Climate Change's (DECC) submission and any recommended conditions for the above development proposal. I also refer to the reports titled "*Major Project 07_0145 Environmental Assessment Extractive Industry, Coxs Lane Fullerton Cove*" – Prepared for Buildev Properties Pty Ltd June 2008".

DECC understands that the project application is for the extraction of approximately 750,000m³ of sand over a 3 to 5 year period, construct visual and acoustic barriers and progressively rehabilitate the site.

DECC has conducted a review of documentation, in accordance with departmental procedures for the *Environmental Planning and Assessment Act* Part 3A processes. If the Department of Planning determines the project application by granting consent, DECC recommends the conditions of approval provided at attachment A be incorporated into the consent.

The following comments are also provided with relation to information provided with the EA:

NOISE ASSESSMENT

DECC's review was based on the "*Noise Assessment*" (NIA) prepared by Global Acoustics Pty Ltd (dated June 2008) as contained within the "*Environmental Assessment, Extractive Industry, Coxs Lane, Fullerton Cove*", prepared by Orogen Pty Ltd, June 2008.

Ambient Noise Monitoring

Unattended ambient noise monitoring was conducted between 19 and 26 November 2007. The logger was located in a central part of the subject site at Fullerton Cove, which the NIA reports as representative of levels that would be experienced by nearest dwellings to the subject site. The NIA reports that traffic noise from Nelson Bay Road dominates the daytime noise environment. The results of the ambient noise monitoring are presented in Table 4.1 of the NIA. It is stated in the NIA that weather conditions results in a significant proportion of data being unsuitable (in accordance with the INP), however the NIA states that wind speeds are generally higher in coastal environments and therefore the lowest repeatable daytime L_{A90} is considered

The Department of Environment and Conservation NSW is now known as
the Department of Environment and Climate Change NSW



representative and has been used. Table 4.1 states that the RBL for the daytime was calculated as 40 dB(A), however the NIA goes on to state that the 'lowest repeated daytime L_{A90} ' is 41 dB(A). DECC does not consider that this approach follows that specified in the INP and questions the validity of using a background noise level of 41 dB(A) for the site based on the assumptions given in the NIA.

DECC Hunter regional office conducted limited noise monitoring at the site to compare the measured levels with the background noise level of 41 dB(A) reported in the NIA. DECC measured background noise levels in the vicinity of the site were similar to the 41 dB(A) level reported in the NIA.

Project assessment criteria

Construction Criteria

Section 2.1 in the NIA presents the construction criteria for the proposed facility for all construction periods, then states that the construction period is anticipated to be under 4 weeks, therefore a construction criterion of background + 20 dB(A) is adopted for use in the NIA (i.e. 61 dB(A)).

DECC notes that the EA states that construction is likely to take between 4 and 6 weeks to complete, therefore DECC does not agree with the criterion presented in the NIA. DECC considers that the relevant construction criterion is background + 10 dB(A) (i.e. 51 dB(A)).

Operational Project Specific Noise Levels

Section 2.2 in the NIA presents the operational noise criteria, giving the intrusive criteria of on 46 dB(A) and amenity criteria for suburban areas. The intrusive criterion forms the PSNL.

Road Traffic Noise Criteria

The NIA has adopted the criteria of "*Land use developments with potential to create additional traffic on local roads*" for the traffic entering and leaving the site. DECC accepts the road traffic noise criteria presented in the NIA.

Meteorological Assessment

The NIA states that due to the proximity of neighbouring residential premises any enhancement or losses due to meteorological conditions are unlikely to be significant. The facility is not proposed to operate during the night time period therefore inversions have not been assessed.

Predicted noise levels

The NIA does not states what predictive model has been used to predict noise levels from construction and operation of the facility. Sound power levels are provided in Table 3.2 and Table 3.3 in the NIA, for both construction equipment and operational equipment respectively.

Construction Noise Levels

Table 4.2 in the NIA presents the predicted construction noise levels for various distances from the plant/equipment. The NIA does not indicate what the distances to sensitive receiver locations are; therefore it is not clear whether predicted noise levels for construction of the bunds do or do not exceed the criteria at any receiver location.

DECC notes that it is not clear whether it has been assumed that all construction activities would take place simultaneously, given that there are separate noise level predictions presented in the NIA. It is not clear, therefore, what the predicted noise levels would be if all construction activities were undertaken simultaneously.

The NIA also includes predicted levels in Table 4.3 from construction of the bunds with only a dozer operating near the boundary. The levels are predicted to receivers R1 to R16, and the criterion of 51 dB(A) is exceeded at all receiver locations. The worst-affected receiver noted from Table 4.3 is receiver R7, with a predicted level of 77 dB(A). DECC recommends that a Construction Noise Management Plan be implemented.

Operational Noise Levels

The NIA states that 4 scenarios were modelled, however the NIA does not provide details of the different scenarios and what they involve.

It does not appear that modifying factor corrections, if applicable, have been applied to the predicted noise levels. In any case it is standard DECC practice to include recommended noise limits that would apply under any applicable modifying factor corrections. In accordance with the INP Application Notes, DECC's recommended license limits in this review are based on the predicted noise levels, not the Project Specific Noise Levels.

The predicted noise levels are presented in Tables 4.4 to 4.7 for receiver locations R1 to R16. The NIA does not indicate whether predicted noise levels are $L_{Aeq, (15 \text{ minute})}$ levels. From the Tables, it is indicated that the predicted operational noise levels do not exceed the criteria at all receiver locations.

There is some discussion after the tables to indicate that some noise impacts are predicted during the final stage whereby material that comprises the bund wall will be removed from the George Street area of the site to re-establish access from George Street. The potential noise level from this activity has not been presented in the NIA. The potential noise mitigation measures discussed in the NIA, to mitigate this final stage of operation are described in Section 5.2 in the NIA.

Road Traffic Noise Assessment

The NIA has considered two scenarios for the assessment of traffic movements associated with the site:

- Extraction over a 12 month period with 50 truck movements per hour
- Extraction over a 7.5 year period with 8 truck movements per hour

The predicted traffic noise impacts for Coxs Lane and Zircon Lane are presented in Table 4.8 in the NIA. The levels have been predicted for receivers R15 and R16 which are located adjacent to the site access road, and the levels predicted do not exceed the criteria.

DECC considers that whilst the predicted noise levels in Table 16 do not exceed the criteria in the ECRTN, these are contribution levels and therefore the criteria may potentially be exceeded if existing traffic noise levels are included. Traffic noise levels for Nelson Bay Road have not been measured or predicted.

DECC recommends that a Traffic Noise Management Strategy be implemented and that truck movements be restricted to the hours proposed operational daytime hours only.

Statement of Commitments (SoC)

DECC notes the Statement of Commitments at Section 8.3 of the main EA and makes the following comments:

- The SoC indicates that the summary of mitigation measures in Table 8.1 comprises the statement of commitments. DECC notes that the mitigation measures for noise in Table 8.1 are limited, therefore DECC recommends that various Noise Management Plans be implemented.

AIR QUALITY

The air quality assessment appears to have been conducted in accordance with the Approved Methods for the Modelling and Assessment of Air Pollutants in NSW. Given the general absence of fine particles in the material to be extracted, the proposed PM10 impacts for scenario 1 (all sand extracted in one year) are well below the criteria at all receptors.

Given the absence of fine particles in the sand to be extracted and the stockpiles of overburden and product, potential dust impacts would be more generally associated with road haulage routes within the site. DECC would be recommending that conditions be included in the consent which would minimise dust impacts. These conditions would also be reflected in any Environment Protection Licence (EPL) issued to the proponent.

THREATENED SPECIES

The Environmental Assessment produced by Orogen Pty Ltd for the proponents indicates that the footprint of proposed sand extraction contains poor quality native vegetation and derived exotic grassland/forbland. However, two Endangered Ecological Communities (Swamp Sclerophyll Forest on Coastal Floodplain and Freshwater wetlands on coastal floodplains EEC) were reported on site adjacent to the sand mining area. In addition seven threatened fauna species (Powerful Owl, Masked Owl, Grey-headed Flying-fox, Eastern Freetail-bat, Little Bentwing-bat, Large-footed Myotis and Greater Broad-nosed Bat) were recorded on site.

Survey Effort

Orogen Pty Ltd did not meet the minimum threatened species survey guideline requirements, as outlined in 'Threatened Biodiversity Survey and Assessment, Guidelines for Developments and Activity (working draft)' (DEC, 2004), for a number of guilds of threatened species. The Buldev Site has an area of 25.3 ha of which sand extraction is planned over 14.9 ha. Six vegetation types were mapped on the site, of which the most extensive (14.98 ha) was a derived grassland/forbland dominated by exotic species. According to DEC survey guidelines the on-site vegetation would have required nine quadrats and nine transects, instead only five random transects were done. Furthermore the botanic fieldwork was done on 14 November 2007, well after the flowering period of local threatened plants, such as *Diuris arenaria* and *D. praecox*. Threatened plant species are not always restricted to relatively intact habitats and in the absence of adequate surveying DECC is obliged to use the 'precautionary principle' and assume such species are present.

Orogen Pty Ltd recommended that surveys for both threatened *Diuris* orchids were carried out in the flowering season prior to clearing for sand extraction (Flora and Fauna Assessment, pg. 68). However, knowledge of whether either species occurs on site is required now in the determination of the proposed sandmining on local threatened species.

The fauna survey effort did not meet the DEC suggested effort in frogs, reptiles, owls, non-flying mammals and bats. Reference is made to additional, often opportunistic observations on the local biota, but no details are provided on when this may happen. Any such observations would be made after the development application has been assessed.

Impact on Threatened Species

The main effect that the proposed sand extraction will have on threatened species is said to be on the loss of two hollow-bearing trees, and removal of four 'preferred Koala food trees'. Food and shelter resources for a range of local threatened fauna species will also be removed by the clearing of native trees in the sand mining area.

Post-mining site management

No details have been provided on who would prepare a detailed 'Revegetation Plan' (Flora and Fauna assessment, pg. 69) for the site and when it would start. DECC is encouraged by the proposed revegetation and enhancement of existing vegetation cover east and west of the planned sand extraction area and the reestablishment of locals corridors. DECC would like to see the sand extraction area also revegetated, with appropriate indigenous species, including preferred koala feed trees, and the land placed under secure conservation tenure.

ABORIGINAL CULTURAL HERITAGE

The DECC acknowledges and supports the amendments made in response to our previous comments, particularly in regard to the increased commitment to ongoing consultation with the local Aboriginal community.

If approved the EA's statement of commitments should be reflected in any conditional approval. It is also recommended that Table 8.1 Indigenous Cultural Heritage (2nd dot point) is amended to include a commitment that not only will staff be advised of their legal obligations in relation to ACH, but that there will be a site induction which highlights the likelihood of encountering objects, provides the employees with an awareness of what to look for and confirms the process to be followed in the event of identifying an object.

DECC has also recently become aware and has concerns with significant quantities of sand being removed from the proposed site during July this year and the potential impacts on Aboriginal cultural heritage values. DECC is currently investigating this matter.

Please find attached as Attachment A, a list of recommended conditions of approval. Mandatory conditions issued on environment protection licences have been included as Attachment B.

If approval is granted, the applicant will need to make separate application to DECC for an Environment Protection Licence for Extractive activities under the Protection of the Environment Operations Act.

If you have any questions or wish to discuss the DECC's comments please contact Mr Peter Hughes on telephone (02) 4908 6819.

Yours sincerely



BILL GEORGE
A/Head Regional Operations Unit
North East Branch
Environment Protection and Regulation

Encl: Attachments A and B

ATTACHMENT A – RECOMMENDED CONDITIONS OF APPROVAL

ADMINISTRATIVE CONDITIONS

A1 Works to be undertaken in accordance with information supplied to the DECC

A1.1 Except as provided by these conditions of approval terms of approval, the works and activities must be undertaken in accordance with the proposal contained in:

- a) *Major Project 07_0145 Environmental Assessment Extractive Industry, Coxs Lane Fullerton Cove* – Prepared for Buldev Properties Pty Ltd June 2008”.

unless otherwise specified in these conditions of approval.

A2.1 The applicant must, in the opinion of the DECC, be a fit and proper person to hold a licence under the Protection of the Environment Operations Act 1997, having regard to the matters in s.83 of that Act.

LIMIT CONDITIONS

L1 Pollution of waters

L1.1 Except as may be expressly provided by a licence under the Protection of the Environment Operations Act 1997 in relation of the development, section 120 of the Protection of the Environment Operations Act 1997 must be complied with in connection with the carrying out of the development.

L2 Noise

L2.1 Noise from the premises must not exceed the sound pressure level (noise) limits presented in the Table below. Note the limits represent the sound pressure level (noise) contribution from the premises, at the nominated receiver locations in the table.

Noise Limits (dB(A))

Noise Assessment Location	Scenario 1	Scenario 2	Scenario 3	Scenario 4
	Day	Day	Day	Day
	L _{Aeq} (15 minute)	L _{Aeq} (15 minute)	L _{Aeq} (15 minute)	L _{Aeq} (15 minute)
R1	40	44	35	35
R2	37	39	37	35
R3	35	35	37	35
R4	38	46	35	35
R5	38	39	39	35
R6	36	36	40	35
R7	35	35	38	35
R8	35	35	35	35
R9	35	35	35	35
R10	35	35	35	35
R11	35	35	35	35

R12	35	35	35	35
R13	35	35	35	35
R14	35	35	35	39
R15	35	35	35	44
R16	35	35	36	45

Note: Assessment locations are as shown in Figure 1 of “*Noise Assessment Report*” in Appendix D of “*Environmental Assessment Extractive Industry Cocks Lane, Fullerton Cove*”, dated June 2008 and prepared by Orogen Pty. Ltd for Buildev Properties Pty Ltd.

For guidance in the selection of an assessment location, reference should be made to the NSW Industrial Noise Policy

L2.2 For the purpose of Condition L2.1:

- Day is defined as the period from 7am to 6pm Monday to Saturday and 8am to 6pm Sundays and Public Holidays,

L2.3 Noise from the premises is to be measured at the most affected point within the residential boundary, or at the most affected point within 30 metres of the dwelling where the dwelling is more than 30 metres from the boundary, to determine compliance with the noise level limits in Condition **L2.1** unless otherwise stated.

Where it can be demonstrated that direct measurement of noise from the premises is impractical, the DECC may accept alternative means of determining compliance. See Chapter 11 of the NSW Industrial Noise Policy.

The modification factors presented in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise levels where applicable.

L2.4 The noise emission limits identifies in condition L2.1 apply under meteorological conditions of:

- Wind speed up to 3m/s at 10 metres above ground level; or
- Temperature inversion conditions of up to 3°C/100m and wind speed up to 2m/s at 10 metres above the ground.

L2.5 Noise Management Plan

The proponent must prepare and implement a Noise Management Plan that covers all premises based activities and transport operations. The plan must include but need not be limited to:

- All measures necessary to satisfy the limits in Table **L2.1** at all times,
- A system that allows for periodic assessment of Best Management Practice (BMP) and Best Available Technology Economically Achievable (BATEA) that has the potential to reduce noise levels from the premises,
- Measures to monitor noise performance and respond to complaints,
- Measures for community consultation including site contact details,
- Noise monitoring and reporting procedures.

Noise Compliance Monitoring

L2.6 A noise compliance assessment shall be undertaken within three months of commencement of operations at the premises. The assessment shall be prepared by a suitably qualified and experienced acoustical practitioner and shall assess compliance with noise limits presented in L2.1.

Note: DECC may require additional noise compliance monitoring to be undertaken by the proponent should the DECC consider the amenity of local residents is being impacted by noise from the premises.

Construction and Operational Times

L2.7 Construction period

All construction work at the premises must be conducted between 7am and 6pm Monday to Friday and between 8am and 1pm Saturdays and at no time on Sundays and public holidays. Non-construction works may be undertaken at other times if inaudible at any residential premises.

Operational period

All operations at the premises must be conducted between 7am and 6pm Monday to Saturday and at no time on Sundays and public holidays, unless inaudible at any residential premises.

L2.8 The proponent must prepare and implement a detailed Construction Noise Management Plan (CNMP), prior to commencement of construction activities, that includes but is not necessarily limited to;

- (a) identification of each work area, site compound and access route (both private and public)
- (b) identification of the specific activities that will be carried out and associated noise sources at the premises and access routes,
- (c) identification of all potentially affected sensitive receivers,
- (d) the construction noise and vibration objectives identified in the Environmental Assessment,
- (e) assessment of potential noise and vibration from the proposed construction methods (including noise from construction traffic) against the objectives identified in the Environmental Assessment,
- (f) where the objectives are predicted to be exceeded an analysis of feasible and reasonable noise mitigation measures that can be implemented to reduce construction noise impacts,
- (g) description of management methods and procedures and specific noise mitigation treatments that will be implemented to control noise and vibration during construction, including the early erection of operational noise control barriers and alternatives to reversing alarms,
- (h) procedures for notifying residents of construction activities that are likely to affect their noise and vibration amenity,
- (i) measures to receive, record and respond to complaints,
- (j) measures to monitor and report against noise performance.

L2.9 Truck movements to and from the site be restricted to the proposed construction and operational hours.

Recommendation to Department of Planning

That a Traffic Noise Management Strategy (TNMS) be developed by the proponent, prior to commencement of construction and operation activities, to ensure that feasible and reasonable noise management strategies for vehicle movements associated with the premises are identified and applied, that include but are not necessarily limited to the following;

- driver training to ensure that noisy practices such as the use of compression engine brakes are not unnecessarily used near sensitive receivers,
- best noise practice in the selection and maintenance of vehicle fleets,
- movement scheduling where practicable to reduce impacts during sensitive times of the day,
- communication and management strategies for non licensee/proponent owned and operated vehicles to ensure the provision of the TNMS are implemented,
- a system of audited management practices that identifies non conformances, initiates and monitors corrective and preventative action (including disciplinary action for breaches of

noise minimization procedures) and assesses the implementation and improvement of the TNMS,

- specific procedures for drivers to minimize impacts at identified sensitive receivers,
- clauses in conditions of employment, or in contracts, of drivers that require adherence to the noise minimization procedures and facilitate effective implementation of the disciplinary actions for breaches of the procedures.

DECC recommends to Department of Planning to include in the conditions of consent, if issued, that:

- the proponent build the noise bunds within 6 weeks of commencement of construction on site, and
- that the bunds be built and maintained throughout the life of the mine to the height and location as described in the EA.

L3 Waste

- L3.1** The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.
- L3.2** The above condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the Protection of the Environment Operations Act 1997.

OPERATING CONDITIONS

O1 Dust

- O1.1** The premises must be maintained in a condition which minimises or prevents the emission of dust from the premises.
- O1.2** All operations and activities occurring at the premises must be carried out in a manner that will minimise the emission of dust from the premises.
- O1.3** Trucks entering and leaving the premises that are carrying loads of dust generating materials must have their loads covered at all times, except during loading and unloading.

O2 Stormwater/sediment control - Construction Phase

- O2.1** Soil and water management controls must be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during construction activities in accordance with the requirements outlined in *Managing Urban Stormwater: Soils and Construction* (available from the Department of Housing).

O3 Stormwater/sediment control - Operation Phase

- O3.1** Following the construction phase, stormwater management measures must be implemented to mitigate the impacts of stormwater run-off from and within the premises in a manner that is consistent with the Stormwater Management Plan for the catchment. Where a Stormwater Management Plan has not yet been prepared the measures should

be consistent with the guidance contained in *Managing Urban Stormwater: Council Handbook* (available from the DECC).

ABORIGINAL CULTURAL HERITAGE

The following conditions should also be included in any Part 3A approval granted for the proposal.

- a) If human remains are located during the project, all works must halt in the immediate area to prevent any further impacts to the find or finds. The local police, Aboriginal community and the DECC are to be notified. If the remains are found to be of Aboriginal origin and the police consider the site not an investigation site for criminal activities, the DECC should be contacted and notified of the situation and works are not to resume in the designated area until approval in writing is provided by the DECC. In the event that a criminal investigation ensues works are not to resume in the designated area until approval in writing from the Police and the DECC.
- b) If Aboriginal cultural objects are uncovered due to the development activities, the site is to be registered in the AHIMS (Managed by the DECC) and the management outcome for the site included in the information provided to the AHIMS. It is recommended that the Aboriginal community representatives for the development and the DECC are consulted in developing and implementing management strategies for all sites, with all information required for informed consent being given to the representatives for this purpose.
- c) All effort must be taken to avoid impacts to Aboriginal Cultural Heritage values at all stages of the development works. If impacts are unavoidable, mitigation measures are to be negotiated with the Aboriginal community and the DECC.
- d) The applicant must continue to consult with and involve Aboriginal representatives for the project, in the ongoing management of the Aboriginal Cultural Heritage values.
- e) An Aboriginal Cultural Education program must be developed for the induction of personnel and contractors involved in the construction activities on site. The program should be developed in collaboration with the Aboriginal community.

THREATENED SPECIES

DECC recommends that Department of Planning consider the following conditions:

- a) That revegetation and enhancement of existing vegetation cover east and west of the planned sand extraction area be undertaken and that local corridors are re-established prior to the completion of sand extraction activities on the site;
- b) The proponent conserves in perpetuity all revegetated areas and re-established corridors;
- c) That pre-clearing surveys be undertaken for *Diuris praecox* and *Diuris arenaria* during these species flowering period; and
- d) A detailed Revegetation Plan is prepared prior to commencement of sand extraction activities.

ATTACHMENT B – MANDATORY CONDITIONS FOR ENVIRONMENT PROTECTION LICENCES

If an environment protection licence is granted the following mandatory conditions will apply:

ADMINISTRATIVE CONDITIONS

Other activities

This licence applies to all activities carried on at the premises.

OPERATING CONDITIONS

Activities must be carried out in a competent manner

Licensed activities must be carried out in a competent manner.

This includes:

- a) the processing, handling, movement and storage of materials and substances used to carry out the activity; and
- b) the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

Maintenance of plant and equipment

All plant and equipment installed at the premises or used in connection with the licensed activity:

- a) must be maintained in a proper and efficient condition; and
- b) must be operated in a proper and efficient manner.

MONITORING AND RECORDING CONDITIONS

Results Recorded and Maintained

The results of any monitoring required to be conducted by this licence or a load calculation protocol must be recorded and retained as set out in this condition.

Results kept by this licence

All records required to be kept by this licence must be:

- (a) in a legible form, or in a form that can readily be reduced to a legible form;
- (b) kept for at least 4 years after the monitoring or event to which they relate took place; and
- (c) produced in a legible form to any authorised officer of the EPA who asks to see them.

Records on samples

The following records must be kept in respect of any samples required to be collected for the purposes of this licence:

- (a) the date(s) on which the sample was taken;
- (b) the time(s) at which the sample was collected;

- (c) the point at which the sample was taken; and
- (d) the name of the person who collected the sample.

Recording of pollution complaints

The licensee must keep a legible record of all complaints made to the licensee or any employee or agent of the licensee in relation to pollution arising from any activity to which this licence applies.

The record must include details of the following:

- a) the date and time of the complaint;
- b) the method by which the complaint was made;
- c) any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
- d) the nature of the complaint;
- e) the action taken by the licensee in relation to the complaint, including any follow-up contact with the complainant; and
- f) if no action was taken by the licensee, the reasons why no action was taken.

The record of a complaint must be kept for at least 4 years after the complaint was made.

The record must be produced to any authorised officer of the DECC who asks to see them.

Telephone complaints line

The licensee must operate during its operating hours a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises or by the vehicle or mobile plant, unless otherwise specified in the licence.

The licensee must notify the public of the complaints line telephone number and the fact that it is a complaints line so that the impacted community knows how to make a complaint.

This condition does not apply until 3 months after the licence takes effect.

REPORTING CONDITIONS

Annual Return documents

What documents must an Annual Return contain?

The licensee must complete and supply to the DECC an Annual Return in the approved form comprising:

- a) a Statement of Compliance; and
- b) a Monitoring and Complaints Summary.

Before the end of each reporting period, the DECC will provide to the licensee a copy of the form that must be completed and returned to the DECC.

Period covered by Annual Return

An Annual Return must be prepared in respect of each reporting, except as provided below

Note: The term “reporting period” is defined in the dictionary at the end of this licence. Do not complete the Annual Return until after the end of the reporting period.

Where this licence is transferred from the licensee to a new licensee:

- a) the transferring licensee must prepare an annual return for the period commencing on the first day of the reporting period and ending on the date the application for the transfer of the licence to the new licensee is granted; and
- b) the new licensee must prepare an annual return for the period commencing on the date the application for the transfer of the licence is granted and ending on the last day of the reporting period.

Note: An application to transfer a licence must be made in the approved form for this purpose.

Where a licence is surrendered by the licensee or revoked by the DECC or Minister, the licensee must prepare an annual return in respect of the period commencing on the first day of the reporting period and ending on:

- a) in relation to the surrender of a licence - the date when notice in writing of approval of the surrender is given; or
- b) in relation to the revocation of the licence – the date from which notice revoking the licence operates.

Deadline for Annual Return

The Annual Return for the reporting period must be supplied to the DECC by registered post not later than 60 days after the end of each reporting period or in the case of a transferring licence not later than 60 days after the date the transfer was granted (the ‘due date’).

Notification where actual load can not be calculated

Where the licensee is unable to complete a part of the Annual Return by the due date because the licensee was unable to calculate the actual load of a pollutant due to circumstances beyond the licensee’s control, the licensee must notify the DECC in writing as soon as practicable, and in any event not later than the due date.

The notification must specify:

- a) the assessable pollutants for which the actual load could not be calculated; and
- b) the relevant circumstances that were beyond the control of the licensee.

Licensee must retain copy of Annual Return

The licensee must retain a copy of the annual return supplied to the DECC for a period of at least 4 years after the annual return was due to be supplied to the DECC.

Certifying of Statement of Compliance and signing of Monitoring and Complaints Summary

Within the Annual Return, the Statement of Compliance must be certified and the Monitoring and Complaints Summary must be signed by:

- a) the licence holder; or

- b) by a person approved in writing by the DECC to sign on behalf of the licence holder.

A person who has been given written approval to certify a Statement of Compliance under a licence issued under the Pollution Control Act 1970 is taken to be approved for the purpose of this condition until the date of first review this licence.

Notification of environmental harm

The licensee or its employees must notify the DECC of incidents causing or threatening material harm to the environment as soon as practicable after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the Act.

Notifications must be made by telephoning the DECC's Pollution Line service on 131 555.

The licensee must provide written details of the notification to the DECC within 7 days of the date on which the incident occurred.

Written report

Where an authorised officer of the DECC suspects on reasonable grounds that:

- (a) where this licence applies to premises, an event has occurred at the premises; or
- (b) where this licence applies to vehicles or mobile plant, an event has occurred in connection with the carrying out of the activities authorised by this licence, and the event has caused, is causing or is likely to cause material harm to the environment (whether the harm occurs on or off premises to which the licence applies), the authorised officer may request a written report of the event.

The licensee must make all reasonable inquiries in relation to the event and supply the report to the DECC within such time as may be specified in the request.

The request may require a report which includes any or all of the following information:

- a) the cause, time and duration of the event;
- b) the type, volume and concentration of every pollutant discharged as a result of the event;
- c) the name, address and business hours telephone number of employees or agents of the licensee, or a specified class of them, who witnessed the event; and
- d) the name, address and business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event, unless the licensee has been unable to obtain that information after making reasonable effort;
- e) action taken by the licensee in relation to the event, including any follow-up contact with any complainants;
- f) details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event;
- g) any other relevant matters.

The DECC may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the DECC within the time specified in the request.

GENERAL CONDITIONS

Copy of licence kept at the premises or on the vehicle or mobile plant

A copy of this licence must be kept at the premises or on the vehicle or mobile plant to which the licence applies.

The licence must be produced to any authorised officer of the DECC who asks to see it.

The licence must be available for inspection by any employee or agent of the licensee working at the premises or operating the vehicle or mobile plant.

The licensee must make all reasonable inquiries in relation to the event and supply the report to the DECC within such time as may be specified in the request.

The request may require a report which includes any or all of the following information:

- h) the cause, time and duration of the event;
- i) the type, volume and concentration of every pollutant discharged as a result of the event;
- j) the name, address and business hours telephone number of employees or agents of the licensee, or a specified class of them, who witnessed the event; and
- k) the name, address and business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event, unless the licensee has been unable to obtain that information after making reasonable effort;
- l) action taken by the licensee in relation to the event, including any follow-up contact with any complainants;
- m) details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event;
- n) any other relevant matters.

The DECC may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee.

The licensee must provide such further details to the DECC within the time specified in the request.

August 2008

