



APPENDIX 1:

“Quarry Development Consent”



Land and Environment Court
of New South Wales

CITATION : Figtree Hill v Cleary Bros and others (No 2) [2006]
NSWLEC 63

PARTIES : APPLICANT
Figtree Hill Pty Limited

FIRST RESPONDENT
Cleary Bros (Bombo) Pty Limited

SECOND RESPONDENT
Minister for Infrastructure and Planning

FILE NUMBER(S) : 10639 of 2005

CORAM: Hussey C; Brown C

KEY ISSUES: Development Application :- the extension to an existing hard
rock quarry - written submissions on conditions

DATES OF HEARING: Written submissions 27/01/06

DATE OF JUDGMENT : 21/02/2006

LEGAL REPRESENTATIVES: APPLICANT
Ms J Reid, solicitor
SOLICITORS
Pike, Pike and Fenwick

FIRST RESPONDENT
Ms A Penklis, solicitor
SOLICITORS
Sparke Helmore

SECOND RESPONDENT
No submissions

**THE LAND AND
ENVIRONMENT COURT
OF NEW SOUTH WALES**

Hussey C with Brown C

21 February 2006

**10639 of 2005 Figtree Hill Pty Limited (Applicant) v
Cleary Bros (Bombo) Pty Limited (First
Respondent) and
Minister for Infrastructure and Planning
(No.2) (Second Respondent)**

JUDGMENT

- 1 **COMMISSIONERS:** The appeal is made pursuant to s 98 of the *Environmental Planning and Assessment Act 1979* (the EPA Act) where an objector who is dissatisfied with the determination of a consent authority to a development application for designated development may appeal to the Court.
- 2 The appeal relates to the granting of development consent by the then, Minister for Infrastructure and Planning (the Minister) of DA No. 466-11-2003 on 27 May 2005 for the extension to an existing hard rock quarry at Croom, approximately 2.5 kilometres east of Albion Park and 4 kilometres west of Shellharbour (the site).
- 3 The appeal was heard on 8, 9, and 12 December 2005. On 13 January 2006 the findings on the merits were provided to the parties (*Figtree Hill v Cleary Bros and others* [2006] NSWLEC 9) and required the parties to

amend the conditions based on the findings in the judgement. The Directions (at pars 94 and 95) stated:

The conditions of consent require amendment to those provided to the Court based on the findings in the preceding paragraphs and the need for further discussions between the parties. We propose to make directions for the parties to confer and produce amended conditions of consent within 14 days based on the findings in the judgment i.e., by 27 January 2006. If the amended conditions are not received by this date the Court will make final Orders without further reference to the parties.

Leave is also granted for the parties to restore the matter on 48 hours notice if no agreement can be reached on the conditions. Any leave to restore the matter must be within a time to allow final Orders to be made immediately after 27 January 2006.

- 4 Notwithstanding the Direction to confer, it appears that little if any discussion has taken place between the parties so we have addressed the areas still in dispute based on the submissions and evidence provided by the parties.

Schedule 2 Definitions

- 5 We accept the amendment to the definition of "Fig Tree Hill Land" proposed by the Applicant as it is less ambiguous and reflects the findings in the judgement.

Schedule 4 - Condition 2:

- 6 We accept the amendment proposed by the Applicant as the total requirements for the buffer on the northern boundary are more appropriately contained within the condition rather than as a separate note to the condition.

Schedule 4 - Condition 14(d)(iv)

- 7 This condition relates to the Blast Management Plan and the Respondents seek to limit the operation of this plan to the "rural use" of land whereas the Applicant submits that the condition should relate to the land in general. We accept the Applicants submission on this condition as it

provides appropriate protection for the future use of the Applicants land. We however, accept the Respondents submission that there should be "general" compliance with the Blast Management Plan as this provides a limited amount of flexibility in its operation.

Schedule 4 - Condition 20

- 8 This condition relates to management and monitoring of air quality and the Respondents seek to retain the word "generally" when considering the Dust Management Plan. For the reasons mentioned in the preceding paragraph we accept this submission.

Schedule 4 - Conditions 46 and 47

- 9 These conditions relate to site access and the previous findings specifically required discussion between parties to addresses the conflict. Despite this direction no discussion appears to have taken place. Based on the site view, the evidence and submissions we accept the Applicants submission. In our view Dunsters Lane is inappropriate for traffic associated with the quarry (except in an emergency) because of its construction, alignment and proximity to dwellings on the Fig Tree Hill Land.

Schedule 4 – Condition 52

- 10 This condition relates to the requirement for dilapidation surveys. While not raised by either party, the condition requires the owners of the Fig Tree Hill Land to supply to the Second Respondent, three nominees to undertake this work within a "reasonable" period of time. Due to the uncertainty associated with this requirement the nominees should be provided to the Second Respondent within three months.

Schedule 4 – Condition 56

- 11 This condition requires that the trees required by the landscaping plans to be replaced if they die. The condition required these trees to be replaced within a " reasonable" time whereas the Applicant requires this to be more

specific and nominates a period of 28 days. We accept the Applicants submission.

6

Schedule 5 - Environmental Management, Monitoring, auditing and Reporting Condition 8(e)

12 The inclusion of this condition is consistent with the findings in par 88 of the Courts previous judgement.

13 The Orders of the Court are:

1. The appeal is dismissed.

2. The extension to an existing hard rock quarry at Lot 1 in DP 858245 and Lot 23 in DP 1039967, Dunsters Lane, Croom, is approved subject to the conditions in Annexure A.

3. The exhibits are returned with the exception of Exhibits C, L, 3 and 101.



R R Hussey

Commissioner of the Court



G T Brown

Commissioner of the Court

**In the Land and
Environment Court
of New South Wales**

No.10639 of 2005

Figtree Hill Pty Limited

Applicant

**Cleary Bros (Bombo)
Pty Limited**

First Respondent

**Minister for
Infrastructure and
Planning**

Second Respondent

Order

The orders of the Court are:

1. The appeal is dismissed.
2. The extension to an existing hard rock quarry at Lot 1 in DP 858245 and Lot 23 in DP 1039967, Dunsters Lane, Croom, is approved subject to the conditions in Annexure A.
3. The exhibits are returned with the exception of Exhibits C, L, 3 and 101.

Ordered: 21 February 2006

By the Court

Susan Dixon
Registrar

ANNEXURE A

Figtree Hill Pty Limited v Cleary Bros (Bombo) Pty Limited & Minister for Planning

Land and Environment Court Proceedings No. 10639 of 2005

CONDITIONS OF CONSENT

SCHEDULE 1

Application made by:	Cleary Bros (Bombo) Pty Ltd.
To:	Minister for Infrastructure and Planning
Land:	Lot 1 DP 858245 and Lot 23 DP 1039967, Dunsters Lane, Croom.
Proposed Development:	Extension of hard rock quarry
Development Application:	DA 466-11-2003, lodged with the Department of Infrastructure, Planning and Natural Resources on 10 November 2003
State Significant Development:	The proposal is classified as State significant development under section 76A(7) of the <i>Environmental Planning and Assessment Act 1979</i> , as it meets the criteria specified in a declaration made by the Minister for Planning on 3 September 1999
Integrated Development:	The proposal is classified as integrated development under section 91 of the <i>Environmental Planning and Assessment Act 1979</i> , because it requires additional approvals under the: <ul style="list-style-type: none">• <i>Protection of the Environment Operations Act, 1997</i>; and• <i>Rivers and Foreshores Improvement Act, 1948</i>.
Designated Development:	The proposal is classified as designated development under section 77A of the <i>Environmental Planning and Assessment Act 1979</i> because it meets the extractive industry criteria in schedule 3 of the <i>Environmental Planning and Assessment Regulation 2000</i> .
Commencement of Consent:	Pursuant to section 83(2) of the <i>Environmental Planning and Assessment Act 1979</i> , this consent operates from the date of determination.
Lapse of Consent:	Pursuant to section 95 of the <i>Environmental Planning and Assessment Act 1979</i> , this development consent is liable to lapse five years after the date from which it operates unless the use of any land, building or work the subject of the consent is actually commenced before the date on which the consent would otherwise lapse.



**SCHEDULE 2
DEFINITIONS**

AEMR	Annual Environmental Management Report
Applicant	Cleary Bros (Bombo) Pty Ltd
BCA	Building Code of Australia
Council	Shellharbour City Council
DA	Development Application
DEC	Department of Environment and Conservation
Department	Department of Planning
Design Event	90 percentile, 5 day rain event
Director-General	Director-General of the Department Planning, or delegate
DPI	Department of Primary Industries
Dust	Any solid material that may become suspended in air or deposited
EIS	Environmental Impact Statement
EMS	Environmental Management Strategy
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPL	Environment Protection Licence issued under the <i>Protection of the Environment Operations Act, 1997</i>
Fig Tree Hill Land	Lots 4 and 5 in deposited plan 3709 in their present or succeeding titles]
GTA	General Terms of Approval
Heavy vehicle	Any vehicle with a gross vehicle mass of 5 tonnes or more
Land	Land means the whole of a lot in a current plan registered at the Land Titles Office at the date of this development consent
Minister	Minister for Planning, or delegate
POEO Act	<i>Protection of the Environment Operations Act 1997</i>
Privately owned land	Land not owned by the Applicant or its related companies or where a private agreement does not exist between the Applicant and the land owner
Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
RTA	The Roads and Traffic Authority
Site	Land to which the DA applies
Stage	The quarry development stages as described in the EIS



**SCHEDULE 3
ADMINISTRATIVE CONDITIONS**

Obligation to Minimise Harm to the Environment

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

Scope of Development

2. The Applicant shall carry out the development in accordance with:
 - a) DA No. 466-11-2003;
 - b) The EIS titled *Proposed Quarry Extension Albion Park*, dated October 2003, and prepared by Perram & Partners; and
 - c) Conditions of this consent.
3. If there is any inconsistency between the above, the conditions of this consent shall prevail to the extent of the inconsistency.
4. The Applicant shall comply with any reasonable requirement/s of the Director-General arising from the Department's assessment of:
 - a) Any reports, plans or correspondence that are submitted in accordance with this consent; and
 - b) The implementation of any actions or measures contained in these reports, plans or correspondence.

Note: Amendment of any environmental management plan, strategy or monitoring program required under this consent shall be prepared and approved in accordance with the consultation and approval requirements of the original environmental management plan, strategy or monitoring program, unless otherwise authorised by the Director-General.

Staged Development

5. Under section 80(4) of the Act, this consent is issued for Stages 1 to 4 of the development only.
6. Under section 80(5) of the Act, Stages 5 and 6 must be the subject of another development consent.

A consent granted in accordance with condition 6 does not require a further development application under section 78A of the Act. However, in seeking consent for Stages 5 and 6, the Applicant shall submit a report to the Minister that has been prepared in consultation with the CCC, the landowner(s) of 'The Fig Tree Hill Land', and relevant government authorities. The report shall be consistent with the original development application (DA 466-11-2003) and shall include:

- a) details of the proposed quarrying operations for Stages 5 and 6;
- b) results of consultation conducted during preparation of the report;
- c) assessment of the environmental, social, agricultural and economic impacts of Stages 5 and 6, based on the environmental performance of Stages 1 to 4 and consultation referred to in subclause (b) above;
- d) assessment of the consistency of Stages 5 and 6 with relevant environmental planning instruments and strategies; and
- e) justification for the extraction of Stages 5 and 6.

Notes: Within 4 weeks of receiving this report, the Minister will endeavour to:

- *make the report public and notify the objectors to the original proposal by letter;*
- *seek independent expert advice on the report if deemed to be warranted;*
- *seek advice from relevant government authorities on the report;*
- *determine the proposal; and*
- *make this determination public.*

Period of Approval

7. This consent lapses 30 years after the date it commences.

Note: Conditions of this consent may require activities to be carried out by the Applicant beyond the period of approval for hard rock extraction, processing, and rehabilitation on the project site.

Limits on Production

8. The production of quarry products from the quarry shall not exceed 400,000 tonnes per annum.
9. The Applicant shall:
 - a) Provide annual production data to the DPI using the standard form for that purpose; and
 - b) Include a copy of this data in the AEMR.



Protection of Public Infrastructure

10. The Applicant shall:
- Repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the development; and
 - Relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

Operation of Plant and Equipment

11. The Applicant shall ensure that all plant and equipment at the site, or used in connection with the development, are:
- Maintained in a proper and efficient condition; and
 - Operated in a proper and efficient manner.

Demolition

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

Compliance

13. Prior to commencement of operations, the Applicant shall commission an independent person(s) or organisation(s), approved by the Director-General, to certify in writing to the satisfaction of the Director-General, that the Applicant has complied with all conditions of this consent applicable prior to that event.
14. At least two weeks prior to the commencement of any works, the Applicant shall notify the owners of the Fig Tree Hill Land, in writing, of the date of commencement of works authorised by this consent.



SCHEDULE 4 SPECIFIC ENVIRONMENTAL CONDITIONS

IDENTIFICATION OF BOUNDARIES

1. Prior to the commencement of works, the Applicant shall:
 - a) engage a registered surveyor to mark out the boundaries of the approved limits of extraction;
 - b) submit a survey plan of these boundaries to the Director-General; and
 - c) ensure that these boundaries are clearly marked at all times in a permanent manner that allows operating staff and inspecting officers to clearly identify those limits.

Note: The limit of extraction includes the area described in the EIS, as amended by the 'Quarry Area' shown on the plan in Appendix 1 (southern boundary), and as amended by the conditions below.

BUFFER

2. A minimum buffer of 10 metres must be maintained between the common northern boundary of Lot 1, DP 858245 and the southern boundary of Lot 4, DP 3709. No extraction is permitted within this 10 metre buffer area. The buffer may be used for landscaping, minor drainage works, noise/visual bunds alignment of the haul road (including batters), as depicted on the plan in Appendix 3.

NOISE

Construction of Noise/Visual Bunds

3. The Applicant shall complete construction of the noise/visual bunds prior to commencing extraction of production material, and shall make all reasonable efforts to complete construction of the bunds within 26 weeks of commencement.

Noise Limits

4. ¹The Applicant shall ensure that noise generated by the development does not exceed the criteria specified in Table 1.

Receiver Locations	Noise Limits dB(A) L _{Aeq} (15min)Le		
	Stages 1-2	Stages 3-4	Stages 5-6
The Hill residence (Dunster premises)	35	38	35
The Cottage residence (Dunster premises)	35	38	35
Approved rural workers dwelling (Dunster premises)	35	38	35
Greenmeadows Residential Estate	41	41	41

Table 1: Noise Criteria for the Development

Notes:

1. Staging as depicted in Figure 3.5 of the EIS prepared by Perram and Partners, dated October 2003.
2. Receiver locations nominated in Table 5.12 of the report prepared by Richard Heggie and Associates Report No. 30-1079R1 titled 'Noise and Blasting Impact Assessment - Cleary Bros Albion Park Quarry' (13 December 2002). At the time of the DA the above were the nearest affected residences.
3. The receiver locations and noise limits in the above table may be varied in the instance that negotiated agreements are entered into by the licensee and affected residents/occupiers or if existing agreements become void, or the nearest receiver location changes due to urban encroachment. These limits may be subject to change with an EPL variation.
4. 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 Table 1. Where it can be demonstrated that direct measurement of noise from the premises is impractical, the EPA 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 level where applicable.
5. The noise emission limits in Table 1 apply under meteorological conditions of:
 - Wind speeds up to 0.5m/s in any direction at 10 metres above ground level; or
 - Temperature gradient (environmental lapse rate) conditions of less than or equal to 0°C/100m (lapse).

¹ Incorporates DEC GTA

Operating Hours

5. ²The Applicant shall comply with the operating hours in Table 2.

Activity	Days of the Week	Time
Drilling, rock breaking, loading and haulage of material from quarry to processing plant, processing and stockpiling, overburden stripping and other stage preparatory works, all site construction activities, rehabilitation works, general plant and maintenance, Processing, crushing and screening and product transfer to stockpiles	Monday – Friday	7:00 am – 5:30 pm
	Saturday	7:00 am – 1:00 pm

Table 2: Operating Hours for the Development

6. ³The following activities may be carried out at the premises outside the hours specified in Table 2:
- the delivery of materials as requested by Police or other authorities for safety reasons;
 - emergency work to avoid the loss of lives, property and/or to prevent environmental harm;
 - workshop activities and other maintenance work inaudible at the nearest affected receiver.

Noise Monitoring Program

7. Within 3 months of the date of this consent, the Applicant shall prepare, and subsequently implement, a Noise Monitoring Program for the development, in consultation with the DEC, and to the satisfaction of the Director-General. The Program shall include:
- noise impact assessment criteria and approved hours of operation;
 - provision for a combination of attended and unattended noise monitoring;
 - a noise monitoring protocol for evaluating compliance with the noise impact assessment criteria in this consent; and
 - a protocol for the investigation, notification and mitigation of identified exceedances of the noise impact assessment criteria.

Note: The program shall be generally in accordance with the draft plan titled 'Albion Park Quarry Extension, Noise Monitoring Programme/Blast Management Plan' dated 10 February 2006 and prepared by Heggles Australia Pty Ltd.

Noise Compliance Assessment Report

8. ⁴Within 8 weeks of the date of commencement of extraction of production rock, and annually thereafter, the Applicant shall:
- commission a suitably qualified person to assess whether the development is complying with the noise criteria in Table 1 (or as modified), in general accordance with the NSW Industrial Noise Policy and AS 1055-1997: Description and Measurement of Environmental Noise; and
 - provide the results of this assessment to the DEC and Director-General within 3 months of commissioning the assessment.

Noise Limit Exceedance Report

9. Within 7 days of detecting any exceedance of the noise limits in Table 1, the Applicant shall report the exceedance to the DEC and Director-General and to the owner of the property at which there is an exceedance. This report must include details of the date and time of the exceedance, the operational cause of the exceedance, the response initiated, and the measures proposed to ensure ongoing compliance with the noise limits.

BLASTING AND VIBRATION

Airblast Overpressure Criteria

10. ⁵The Applicant shall ensure that the airblast overpressure level from blasting at the development does not exceed the criteria in Table 3 at any point that is located at least 3.5m from any residence or other sensitive receiver on privately owned land.

Airblast overpressure level [dB(Lin Peak)]	Allowable exceedance
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² Incorporates DEC GTA

³ Incorporates DEC GTA

⁴ Incorporates DEC GTA

⁵ Incorporates DEC GTA



115	5% of the total number of blasts over any 12 month reporting period
120	0%

Table 3: Airblast Overpressure Limits

Ground Vibration Criteria

11. ⁶The Applicant shall ensure that the peak particle velocity from blasting at the development does not exceed the criteria in Table 4 at any point that is located at least 3.5m from any residence or other sensitive receiver on privately-owned land.

Peak particle velocity (mm/s)	Allowable exceedance
5	5% of the total number of blasts over any 12 month reporting period
10	0%

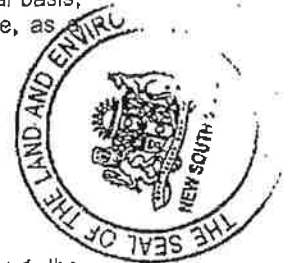
Table 4: Ground Vibration Limits

Blasting Restrictions

12. ⁷Blasting operations on the premises may only take place:
- between 9.00am and 5.00pm Monday to Friday inclusive;
 - are limited to 1 blast each day; and
 - at such other times as may be approved by the DEC (EPA).

Public Notice

13. During the life of the development, the Applicant shall:
- operate a blasting hotline, to enable the public to get up-to-date information on blasting operations at the development. The hotline shall be manned during operational hours with an answering service outside of operational hours, unless otherwise approved by the Director-General; and
 - notify landowners within 2 kilometres of the site about this hotline on an annual basis, using methods agreed to by the Director-General. Notification shall include, as a minimum:
 - signage at the entrance to the site;
 - written notification on an annual basis; and
 - publication on the Applicant's website.

**Blast Management Plan**

14. ⁸Prior to the commencement of operations in each stage of the development after Stage 1, the Applicant shall prepare, and subsequently implement, a Blast Management Plan for the development in consultation with the landowner(s) of The Fig Tree Hill Land and to the satisfaction of the Director-General and DEC. This plan must:
- include a summary of monitoring results for the previous quarry stage;
 - describe the objectives for noise and blasting for that stage;
 - describe the proposed blasting design for that stage, and demonstrate that the design will meet the blast criteria listed in Tables 3 and 4; and
 - describe the measures that would be implemented to:
 - meet the blast criteria referred to in this consent, and additional blast criteria at the boundary of the site;
 - avoid and/or minimise any blasting impacts, including flyrock, of the development on The Fig Tree Hill Land, or the continued rural use of that land;
 - monitor the blasting impacts of the development on The Fig Tree Hill Land; and
 - mitigate, remediate or compensate for any blasting impacts of the development on the residences on The Fig Tree Hill Land or the use of that land.

Note: The plan shall be generally in accordance with the draft Blast Management Plan titled 'Albion Park Quarry Extension, Noise Monitoring Program/Blast Management Plan' dated 10 February 2006 and prepared by Heggles Australia Pty Ltd.

⁶ Incorporates DEC GTA
⁷ Incorporates DEC GTA
⁸ Incorporates DEC GTA

Blast Monitoring

15. ⁹To determine compliance with the blast criteria listed in Tables 3 and 4, the Applicant shall prepare, and subsequently implement, a Blast Monitoring Program for the development to the satisfaction of DEC and the Director-General. This program must address:
- monitoring the airblast overpressure and ground vibration levels for all production blasts carried out on the site;
 - the undertaking of monitoring in accordance with AS 2187.2:1993, or as updated; and
 - maintenance of a written record which includes:
 - the time and date of each blast;
 - the station(s) at which the blast was measured;
 - the ground vibration for each blast;
 - the airblast overpressure for each blast;
 - evidence that during the past 12 month period, a calibration check had been carried out on each blast monitor to ensure accuracy of the reported data; and
 - the waveform for the ground vibration and overpressure for each blast that exceeds a ground vibration of 5mm/s (peak particle velocity) or an air blast overpressure of 115dB(L).

AIR QUALITY**Air Quality Criteria**

16. The Applicant shall ensure that the air pollution generated by the development does not cause exceedances of the ambient air quality standards and goals listed in Tables 5, 6, and 7 at any sensitive receiver or residence on privately-owned land.

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

Table 5: Long Term Impact Assessment Criteria for Particulate Matter

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

Table 6: Short Term Impact Assessment Criterion for Particulate Matter

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

Table 7: Long Term Impact Assessment Criteria for Deposited Dust

Note: Deposited dust is assessed as Insoluble solids as defined by Standards Australia, 2003, AS 3580.10.1-1991: Methods for Sampling and Analysis of Ambient Air - Determination of Particulates - Deposited Matter - Gravimetric Method.

Management and Monitoring

17. ¹⁰The site must be maintained in a condition that minimises or prevents the emission of dust from the site, including the prompt and effective rehabilitation of all disturbed areas.
18. Internal unsealed roadways, quarry floor and stockpiles are to be watered as required to minimise dust generation impacting on the natural or built environment.
19. ¹¹The Applicant shall monitor (by sampling and obtaining results by analysis) the concentration of each pollutant in Table 8 to the satisfaction of the DEC and the Director-General, using the specified unit of measure, averaging period, frequency, sampling method and minimum number of locations.

⁹ Incorporates DEC GTA

¹⁰ Incorporates DEC GTA

¹¹ Incorporates DEC GTA



Pollutant	Unit of Measure	Averaging Period	Frequency	Sampling Method	Locations
Dust deposition	g/m ² /month	Monthly annual	Continuous	AM-15	4
PM ₁₀	µg/m ³	24 hour annual	Every 6 days	AM-18	1

Table 8: Sampling of Air Pollutants

20. Within 3 months of the date of this consent, the Applicant shall prepare, and subsequently implement, a Dust Management Plan for the development, in consultation with the DEC, and to the satisfaction of the Director-General. The plan shall include:
- baseline data on existing air quality in the locality;
 - air quality impact assessment criteria;
 - details of the measures that would be undertaken to minimise dust emissions associated with the development;
 - an air quality monitoring program; and
 - a protocol for the investigation, notification and mitigation of identified exceedances of the air quality impact assessment criteria.

Note: The plan shall be generally in accordance with the draft Dust Management Plan titled 'Albion Park Quarry Extension Dust Management Plan', dated 22 November 2005 and prepared by Heggies Australia Pty Limited.

METEOROLOGICAL MONITORING

21. The Applicant shall establish a permanent meteorological station at a location approved by the DEC, and to the satisfaction of the Director-General, to monitor the parameters specified in Table 9, using the specified units of measure, averaging period, frequency and sampling method.

Parameter	Units of measure	Averaging period	Frequency	Sampling method
Rainfall	mm/hr	1 hr	Continuous	AM-4
Temperature @ 2 m	K	1 hr	Continuous	AM-4
Temperature @ 10 m	K	1 hr	Continuous	AM-4
Wind direction @ 10 m	Compass points	1 hr	Continuous	AM-2
Wind speed @ 10 m	m/s	1 hr	Continuous	AM-2
Sigma Theta @ 10m	°	1 hr	Continuous	AM-2
Total Solar Radiation @ 10m	W/m ²	1 hr	Continuous	AM-4
Siting				AM-1

Table 9: Meteorological Monitoring

¹ NSW EPA, 2001, Approved Methods for the Sampling and Analysis of Air Pollutants in NSW.

SURFACE & GROUND WATER

Note: The Applicant is required to obtain licences and permits for the development under the Protection of the Environment Operations Act 1997, Water Management Act 2000, and the Rivers & Foreshores Improvement Act 1948.

Pollution of Waters

22. ¹²Except as may be expressly provided by a Environment Protection Licence, the Applicant shall comply with section 120 of the Protection of the Environment Operations Act 1997 during the carrying out of the development.

Water Discharge Limit

23. Except as may be expressly provided by an Environmental Protection Licence, the Applicant shall ensure that the discharges from any licensed discharge point/s comply with the limit in Table 10:

¹² Incorporates DEC GTA



Pollutant	Units of Measure	Maximum Limit
TSS	mg/L	50
pH	pH	6.5 - 8.5

Table 10: Water Discharge Pollution Limits

Storm Water Management System

24. ¹³The Applicant shall ensure that the stormwater management system for the development is designed, constructed and operated to capture and treat polluted waters from storm event(s) of less than, and including a 1:10 year, 24 hour duration, average recurrence interval (that is 225 mm of total rainfall within the 24 hour period).
25. ¹⁴Within 5 days of a rainfall event, the Applicant shall ensure that the basins in the storm water management system are treated and emptied to maintain the required storage volume.

Flocculant Management

26. ¹⁵The Applicant shall not use a flocculant, other than gypsum, without the written approval of the DEC.

Monitoring and Management

27. Within 12 months of the date of this consent, the Applicant shall prepare, and subsequently implement, a Water Management Plan for the development, in consultation with the DEC and DIPNR (Natural Resources) and to the satisfaction of the Director-General. This plan must be prepared by a qualified hydrogeologist and include:
- a Water Balance;
 - an Erosion and Sediment Control Plan;
 - a Surface Water Monitoring Program;
 - a Ground Water Monitoring Program; and
 - an Integrated Water Management Strategy, if the water balance shows a potential demand for water above that which can be collected from rainfall.
28. ¹⁶The Water Balance shall include:
- consideration of the existing quarry and processing site, existing water storage dam and the proposed quarry and haul road;
 - the source of all water collected or stored on the site, including rainfall, stormwater and groundwater;
 - the estimated water use demand in wet, average and drought years.
29. ¹⁷The Erosion and Sediment Control Plan shall:
- be consistent with the requirements of the Department of Housing's Managing Urban Stormwater: Soils and Construction manual;
 - identify activities that could cause soil erosion and generate sediment;
 - describe measures to minimise soil erosion and the potential for the transport of sediment to downstream waters;
 - describe the location, function, and capacity of erosion and sediment control structures; and
 - describe what measures would be implemented to maintain the structures over time.
30. The Surface Water Monitoring Program shall include:
- detailed baseline data on surface water flows and quality;
 - surface water impact assessment criteria;
 - a program to monitor surface water flows and quality;
 - a program to manage water releases from the site;
 - a program to monitor bank and bed stability;
 - a protocol for the investigation, notification and mitigation of identified exceedances of the surface water impact assessment criteria; and
 - a program to monitor the effectiveness of the Erosion and Sediment Control Plan.

¹³ Incorporates DEC GTA¹⁴ Incorporates DEC GTA¹⁵ Incorporates DEC GTA¹⁶ Incorporates DEC GTA¹⁷ Incorporates DIPNR GTA

31. The Ground Water Monitoring Program shall include:
- a) detailed baseline data on ground water levels and quality, based on statistical analysis;
 - b) ground water impact assessment criteria;
 - c) a program to monitor regional ground water levels and quality;
 - d) a program to monitor ground water level effects on vegetation, and on ground water supply to adjoining properties; and
 - e) a protocol for the investigation, notification and mitigation of identified exceedances of the groundwater impact assessment criteria.
32. ¹⁸The Integrated Water Management Strategy shall include:
- a) exploration of a range of options for a sustainable resource alternative for water supply to the site;
 - b) identification of all possible and available sources of water;
 - c) consistency with Government Water Reform Initiatives and policies;
 - d) quality of water to meet usage requirements including any possible effects on product;
 - e) costs of supply;
 - f) health and environmental impacts;
 - g) legislative requirements;
 - h) assessment of the feasibility, benefits and costs of options;
 - i) a process to identify and evaluate preferred options for implementation; and
 - j) the identification of a timetable for implementation of the selected options.

Reporting

33. Each year, the Applicant shall:
- a) review the Water Management Plan;
 - b) update each sub-plan; and
 - c) report the results of this review in the AEMR, including:
 - d) the results of monitoring;
 - e) details of the review for each sub-plan;
 - f) amendments to the sub-plans; and
 - g) details of the measures undertaken/proposed to address any identified issues.

FLORA & FAUNA

Vegetation Clearing Protocol

34. Prior to the commencement of works, the Applicant shall prepare a Vegetation Clearing Protocol for the development in consultation with Shellharbour City Council and the DEC (NPWS), and to the satisfaction of the Director-General. This plan shall:
- a) delineate the areas of remnant vegetation to be cleared; and
 - b) describe the procedures that would be implemented for:
 - pre-clearance surveys;
 - progressive clearing;
 - fauna management;
 - conserving and reusing topsoil;
 - collecting seed from the site;
 - salvaging and reusing material from the site; and
 - controlling weeds.



Southern Remnant Vegetation and Revegetation Area

35. The Applicant shall conserve and maintain the southern areas of remnant vegetation marked on the map in Appendix 1.
36. The Applicant shall revegetate/rehabilitate and maintain the areas marked 'Area to be Planted' and 'Weed Control to Promote Natural Vegetation' on the map in Appendix 1. Revegetation shall be in accordance with the Vegetation Management Plan described in Condition 37.

Note: Other revegetation areas shall be covered in the Vegetation Management Plan referred to in Condition 37 below.

Vegetation Management Plan

37. Within 6 months of the date of this consent, the Applicant shall prepare, and subsequently implement, a Vegetation Management Plan for the development in consultation with Shellharbour City Council and the DEC (NPWS), and to the satisfaction of the Director-

¹⁸ Incorporates DEC GTA

General. The plan shall be prepared by a suitably qualified ecologist / bush regenerator, and shall address:

- a) establishment of baseline data for existing vegetation and habitat in the area;
- b) vegetation management on all areas of the site outside the working area of the quarry;
- c) conservation, maintenance and enhancement of threatened communities, including 'Illawarra Subtropical Rainforest' and 'Illawarra Lowlands Grassy Woodlands';
- d) conservation, maintenance and enhancement of threatened plant species, including *Cynanchum elegans* (White Cynachum), *Daphnandra sp.aff micrantha* (Illawarra Socketwood), and *Zieria granulata* (Illawarra Zieria);
- e) establishment and maintenance of vegetation/habitat for threatened fauna species, including the Grey-headed flying fox;
- f) ongoing weed control and maintenance;
- g) a program for how the performance of the measures described in (b) to (f) above would be monitored over time;
- h) a program for monitoring the effect of quarrying, including water management, on vegetation communities.

Reporting

38. The Applicant shall include a progress report on the Implementation of the Vegetation Management Plan in the AEMR.

REHABILITATION

Rehabilitation

39. The Applicant shall progressively rehabilitate the site to the satisfaction of the Director-General.

Rehabilitation Management Plan

40. Within 6 months of the date of this consent, the Applicant shall prepare, and subsequently implement, a Rehabilitation Management Plan for the site in consultation with Shellharbour City Council and the DEC (NPWS), and to the satisfaction of the Director-General. This plan must:
- a) identify the disturbed area at the site;
 - b) describe in general the short, medium, and long-term measures that would be implemented to rehabilitate the site;
 - c) describe in detail the measures that would be implemented over the next 5 years to rehabilitate the site; and
 - d) describe how the performance of these measures would be monitored over time.
41. Within 5 years of providing the Rehabilitation Management Plan to the Director-General, and every 5 years thereafter, the Applicant shall review and update the plan to the satisfaction of the Director-General.

Rehabilitation Bond

42. Within 6 months of the date of this consent, the Applicant shall lodge a suitable rehabilitation and conservation bond for the development with the Director-General. The sum of the bond shall be calculated at:
- a) \$2.50/m² for the total area of disturbance at the development; and
 - b) \$3.00/m² for the total area of the revegetation area, to the satisfaction of the Director-General.

Notes:

- If the rehabilitation and revegetation area is completed to the satisfaction of the Director-General, the Director-General will release the rehabilitation and conservation bond.
- If the rehabilitation and revegetation area is not completed to the satisfaction of the Director-General, the Director-General will call in all or part of the rehabilitation and conservation bond, and arrange for the satisfactory completion of these works.

43. Within 3 years of lodging the rehabilitation and conservation bond with the Director-General, and every 3 years thereafter, unless the Director-General directs otherwise, the Applicant shall review, and if necessary revise, the sum of the rehabilitation bond to the satisfaction of the Director-General. The review must consider:
- a) the effects of inflation;
 - b) any changes to the total area of disturbance; and
 - c) the performance of the revegetation area.

Reporting

44. The Applicant shall include a progress report on the Rehabilitation Management Plan in the AEMR.



TRAFFIC AND TRANSPORT

Right of Way

45. Prior to the commencement of works, the Applicant shall formalise the Right of Way for the haulage road, to the satisfaction of the Director-General.

Site Access

46. All access to the site is to be via the roundabout at East-West Link Road, except in an emergency, as agreed by the Director General in consultation with the Council.
47. Deleted

Parking

48. The Applicant shall provide sufficient parking on-site for all quarry-related traffic to the satisfaction of the Director-General.

Road Haulage

49. The Applicant shall ensure that all loaded vehicles entering or leaving the site are covered.
50. The Applicant shall ensure all loaded vehicles leaving the site are cleaned of materials that may fall on the road before they are allowed to leave the site.

HERITAGE

51. Within 3 months of the date of this consent, and prior to the disturbance of any relic, the Applicant shall prepare and subsequently implement a Heritage Management Plan for the development, in consultation with NSW Heritage Office and Shellharbour City Council, and to the satisfaction of the Director-General. The plan shall be prepared by a suitably qualified heritage consultant and must include:
- a) a program for baseline dilapidation surveys of residences on The Fig Tree Hill Land and the 'Belmont' property (with the consent of the landowners). Surveys shall be undertaken at least prior to the commencement of each quarrying stage;
 - b) archival recording of 'Kyawana' and 'Belmont' properties, the dry stone walls and other heritage elements affected by the development;
 - c) a plan for the salvage and on-site reconstruction of the dry stone walls affected by the proposal, in accordance with a conservation and interpretation strategy;
 - d) a plan for the conservation and maintenance of the dry stone wall on the eastern boundary of the allotment;
 - e) a plan for providing Council the opportunity to salvage any relic proposed to be destroyed by the development, including 'Kyawana';
 - f) a procedure for obtaining permits under the Heritage Act prior to disturbance of any relic, and permits under the National Parks and Wildlife Act prior to disturbance of any Aboriginal objects or archaeological remains.
52. The dilapidation surveys required under Condition 51 shall be conducted by a suitably qualified, experienced and independent engineer, whose appointment has been approved by the Director-General. The owners of the Fig Tree Hill land are to supply the applicant with three suggested nominees within 3 months from the grant of this consent. The applicant will submit one engineer from that list to be put forward by the applicant for approval by the Director General.

Reporting

53. The Applicant shall include a progress report on the Heritage Management Plan in the AEM.

VISUAL IMPACT

Visual Amenities

54. The Applicant shall minimise the visual impacts of the development to the satisfaction of the Director-General.



55. The visual/noise bunds and screen plantings shall be designed and established in accordance with a Landscape Plan prepared in consultation with Shellharbour City Council, and to the satisfaction of the Director-General. The Landscape Plan shall be prepared by a suitably qualified landscape architect with heritage experience, and shall have regard to the cultural landscape of Wentworth Hills. The plantings shall be commenced prior to the commencement of extraction and completed within six months of the date of this consent.
56. The Applicant shall ensure that the trees in the bund are maintained, and that in the event that trees die that they are replaced within 28 days to the satisfaction of the Director-General.
57. Following construction of the visual/noise bunds, the Applicant shall undertake an independent review of their effectiveness, and undertake any improvements to the satisfaction of the Director-General.

WASTE MANAGEMENT

Waste Minimisation

58. The Applicant shall minimise the amount of waste generated by the development to the satisfaction of the Director-General.

Waste Classification

59. ¹⁹All liquid and non liquid wastes resulting from activities and processes at the site must be assessed, classified and managed in accordance with the EPA's Environmental Guidelines: *Assessment, Classification and Management of Liquid and Non-liquid Wastes (1999)*, or any other EPA document superseding this guideline.

Reporting

60. The Applicant shall describe what measures have been implemented to minimise the amount of waste generated by the development in the AEMR.

EMERGENCY AND HAZARDS MANAGEMENT

Dangerous Goods

61. The Applicant shall ensure that the storage, handling, and transport of dangerous goods is done in accordance with the relevant Australian Standards, particularly AS1940 and AS1596, and the Dangerous Goods Code.

Safety

62. The Applicant shall secure the development to ensure public safety to the satisfaction of the Director-General.

Emergency Management

63. Within 6 months of the date of this consent, the Applicant shall document, and subsequently implement, measures to minimise the environmental impacts of any emergency situations that could arise as a result of the operation of the quarry to the satisfaction of the DEC and the Director-General. This documentation must:
- identify any significant threats to the environment and/or public health that could arise from activities associated with the operation of the quarry or construction works associated with the production increase. These threats may include excessive rainfall, pump failures, excess flocculation, power or other utility failure, natural disaster, landslip, accidental spills and discharges, spillage from trucks, fire etc;
 - identify any subsequent direct or indirect environmental effects as a result of the threats;
 - identify the pollution that would result due to these threats and impacts on operations and what impact the pollution would have on the health of the community and the environment;
 - develop actions to effectively respond to the disruption of operations so the risk of pollution is minimised;
 - develop a communications strategy for alerting relevant agencies and the potentially affected community in the event of the disruption to operations leading to significant pollution;
 - ensure that all relevant employees are familiar with the documentation; and

¹⁹ Incorporates DEC GTA



- g) when developing this documentation, identify any opportunities to integrate with Cleary Bros Emergency plans.

BUSHFIRE MANAGEMENT

64. The Applicant shall;
- a) ensure that the development is suitably equipped to respond to any fires on-site;
 - b) assist the Rural Fire Service and emergency services as much as possible if there is a fire on-site.
65. Within 6 months of the date of this consent, the Applicant shall prepare a Bushfire Management Plan for the development, to the satisfaction of Council and the Rural Fire Service. The plan must have regard to the management of fire regimes and hazard reduction activities so as to avoid negative impacts to threatened species and habitat, endangered communities and populations as well as any cultural assets that may be present.



SCHEDULE 5
ADDITIONAL PROCEDURES

NOTIFICATION OF LANDOWNERS

1. If the results of monitoring required in schedule 4 identify that emissions generated by the development are greater than the criteria in schedule 4, then the Applicant shall notify the Director-General and the affected landowners and/or existing or future tenants (including tenants of quarry owned properties) accordingly, and provide quarterly monitoring results to each of these parties until the results show that the development is complying with the criteria in schedule 4.

INDEPENDENT REVIEW

2. If a landowner (excluding quarry owned properties) considers that the operations of the quarry are exceeding the criteria in schedule 4, then he/she may ask the Director-General in writing for an independent review of the impacts of the development on his/her land.

If the Director-General is satisfied that an independent review is warranted, the Applicant shall within 3 months of the Director-General advising that an independent review is warranted:

- a) consult with the landowner to determine his/her concerns;
- b) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Director-General, to conduct monitoring on the land, to determine whether the development is complying with the relevant criteria in schedule 4, and identify the source(s) and scale of any impact on the land, and the development's contribution to this impact; and
- c) give the Director-General and landowner a copy of the independent review.

3. If the independent review determines that the quarrying operations are complying with the relevant criteria in schedule 4, then the Applicant may discontinue the independent review with the approval of the Director-General.

4. If the independent review determines that the quarrying operations are not complying with the relevant criteria in schedule 4, then the Applicant shall:
 - a) take all practicable measures, in consultation with the landowner, to ensure that the development complies with the relevant criteria; and
 - b) conduct further monitoring to determine whether these measures ensure compliance; or
 - c) secure a written agreement with the landowner to allow exceedances of the relevant criteria in schedule 4,to the satisfaction of the Director-General.

If the additional monitoring referred to above subsequently determines that the quarrying operations are complying with the relevant criteria in schedule 4, then the Applicant may discontinue the independent review with the approval of the Director-General.

If the Applicant is unable to finalise an agreement with the landowner, then the Applicant or landowner may refer the matter to the Director-General for resolution.

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process (see Appendix 2).

5. If the independent review determines that the quarrying operations are not complying with the relevant criteria in schedule 4, but that several quarries are responsible for this non-compliance, then the Applicant shall, with the agreement of the landowner and other quarry(s), prepare and implement a Cumulative Noise, Blasting and/or Air Quality Impact Management Plan to the satisfaction of the Director-General. This plan must provide details of the joint approach to be adopted by the Applicant and other quarry(s) to manage cumulative air quality and/or noise impacts at the landowner's dwelling.

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

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process (see Appendix 2).

6. If the landowner disputes the results of the independent review, either the Applicant or the landowner may refer the matter to the Director-General for resolution.

If the matter cannot be resolved within 21 days, the Director-General shall refer the matter to an Independent Dispute Resolution Process (see Appendix 2).



SCHEDULE 6
ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING AND REPORTING

ENVIRONMENTAL MANAGEMENT STRATEGY

1. Within 6 months of the date of this consent, the Applicant shall prepare, and subsequently implement, an Environmental Management Strategy for the development to the satisfaction of the Director-General. This strategy must:
 - (a) provide the strategic context for environmental management of the development;
 - (b) identify the statutory requirements that apply to the development;
 - (c) describe in general how the environmental performance of the development would be monitored and managed during the development;
 - (d) describe the procedures that would be implemented to:
 - keep the local community and relevant agencies informed about the operation and environmental performance of the development;
 - receive, handle, respond to, and record complaints;
 - resolve any disputes that may arise during the course of the development;
 - respond to any non-compliance;
 - manage cumulative impacts; and
 - respond to emergencies; and
 - (e) describe the role, responsibility, authority, and accountability of all the key personnel involved in environmental management of the development.
2. Within 14 days of receiving the Director-General's approval for the strategy, the Applicant shall:
 - (a) send copies of the approved strategy to the relevant agencies and Council; and
 - (b) ensure the approved strategy is made publicly available during the development.

ENVIRONMENTAL MONITORING PROGRAM

3. Within 6 months of the date of this consent, the Applicant shall prepare an Environmental Monitoring Program for the development, in consultation with the relevant agencies, and to the satisfaction of the Director-General. This program must consolidate the various monitoring requirements in schedule 4 of this consent into a single document.
4. Within 3 months of the completion of each Independent Environmental Audit, the Applicant shall review, and if necessary update, the Environmental Monitoring Program to the satisfaction of the Director-General.

ANNUAL REPORTING

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



INDEPENDENT ENVIRONMENTAL AUDIT

6. Within 2 years of the date of this consent, and every 3 years thereafter, unless the Director-General directs otherwise, the Applicant shall commission and pay the full cost of an Independent Environmental Audit of the development. This audit must:
 - (a) be conducted by a suitably qualified, experienced, and independent person whose appointment has been endorsed by the Director-General;
 - (b) be consistent with *ISO 19011:2002 - Guidelines for Quality and/or Environmental Systems Auditing*, or updated versions of this guideline;
 - (c) assess the environmental performance of the development, and its effects on the surrounding environment;

- (d) assess whether the development is complying with the relevant standards, performance measures, and statutory requirements;
 - (e) review the adequacy of the Applicant's Environmental Management Strategy and Environmental Monitoring Program; and, if necessary,
 - (f) recommend measures or actions to improve the environmental performance of the development, and/or the environmental management and monitoring systems.
7. Within 3 months of commissioning this audit, or as otherwise agreed by the Director-General, the Applicant shall submit a copy of the audit report to the Director-General, with a response to the recommendations contained in the audit report.

COMMUNITY CONSULTATIVE COMMITTEE

8. Within six (6) months of the date this consent, the Applicant shall establish a Community Consultative Committee to oversee the environmental performance of the development. This committee shall:
- (a) be comprised of:
 - 2 representatives from the Applicant, including the person responsible for environmental management at the mine;
 - 1 representative from Council (if available); and
 - at least 2 representatives from the local community, including one representative for the Fig Tree Hill Land (if available), whose appointment has been approved by the Director-General in consultation with the Council;
 - (b) be chaired by an independent chairperson, whose appointment has been endorsed by the Director-General;
 - (c) meet at least twice a year, with the first meeting to be held within six months of the date of this consent; and
 - (d) review and provide advice on the environmental performance of the development, including any construction or environmental management plans, monitoring results, audit reports, or complaints.
 - (e) review any document submitted to the DEC in satisfaction of condition 5 of schedule 6 and provide submissions to the DEC.
9. The Applicant shall, at its own expense:
- (a) ensure that 2 of its representatives attend the Committee's meetings;
 - (b) provide the Committee with regular information on the environmental performance and management of the development;
 - (c) provide meeting facilities for the Committee;
 - (d) arrange site inspections for the Committee, if necessary;
 - (e) take minutes of the Committee's meetings;
 - (f) make these minutes available to the public for inspection within 14 days of the Committee meeting, or as agreed to by the Committee;
 - (g) respond to any advice or recommendations the Committee may have in relation to the environmental management or performance of the development;
 - (h) forward a copy of the minutes of each Committee meeting, and any responses to the Committee's recommendations to the Director-General within a month of acceptance of the minutes by the Committee.

Note: The Applicant may implement the reporting and consultation requirements under Schedule 5 of this consent in an integrated manner with similar and corresponding requirements under the consent to DA-467-11-2003, to the satisfaction of the Director-General.

ACCESS TO INFORMATION

10. Within 1 month of the approval of any management plan/strategy or monitoring program required under this consent (or any subsequent revision of these management plans/strategies or monitoring programs), the completion of the independent audits required under this consent, or the completion of the AEMR, the Applicant shall:
- a) provide a copy of the relevant document/s to the relevant agencies and the CCC;
 - b) ensure that a copy of the relevant documents is made publicly available at the Applicant's regional office; and
 - c) put a copy of the relevant document/s on the Applicant's website (once established), to the satisfaction of the Director-General.

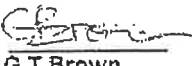


Appeal No 10839 of 2005

11. During the life of the development, the Applicant shall:
- a) make a summary of the results of all monitoring required under this consent publicly available at the Applicant's regional office and on the Applicant's website; and
 - b) update these results on a regular basis (at least every 6 months), to the satisfaction of the Director-General.

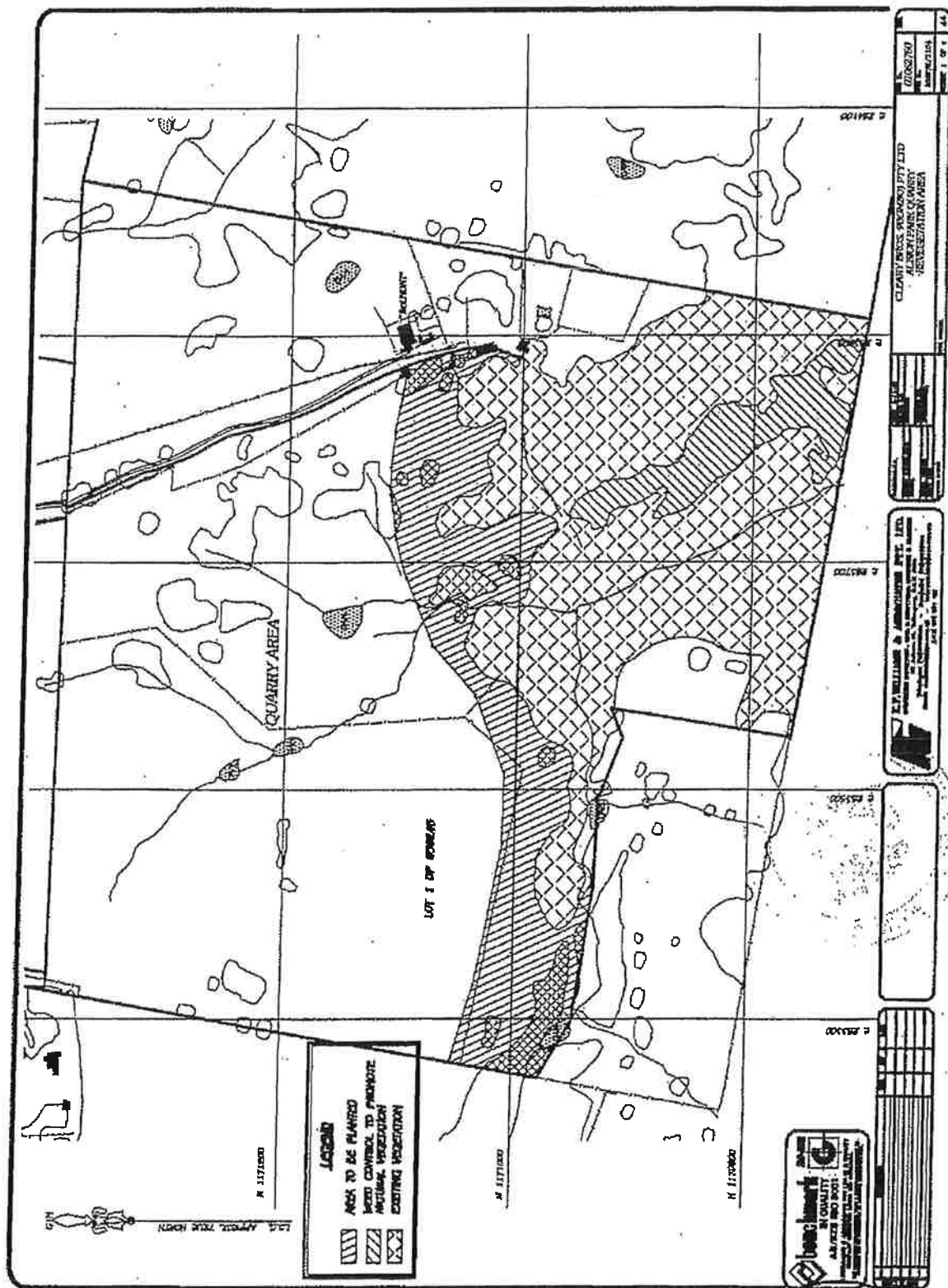
Note: The Applicant's environmental management plans/protocols should specify the reporting provisions for each environmental aspect.


R R Hussey
Commissioner of the Court

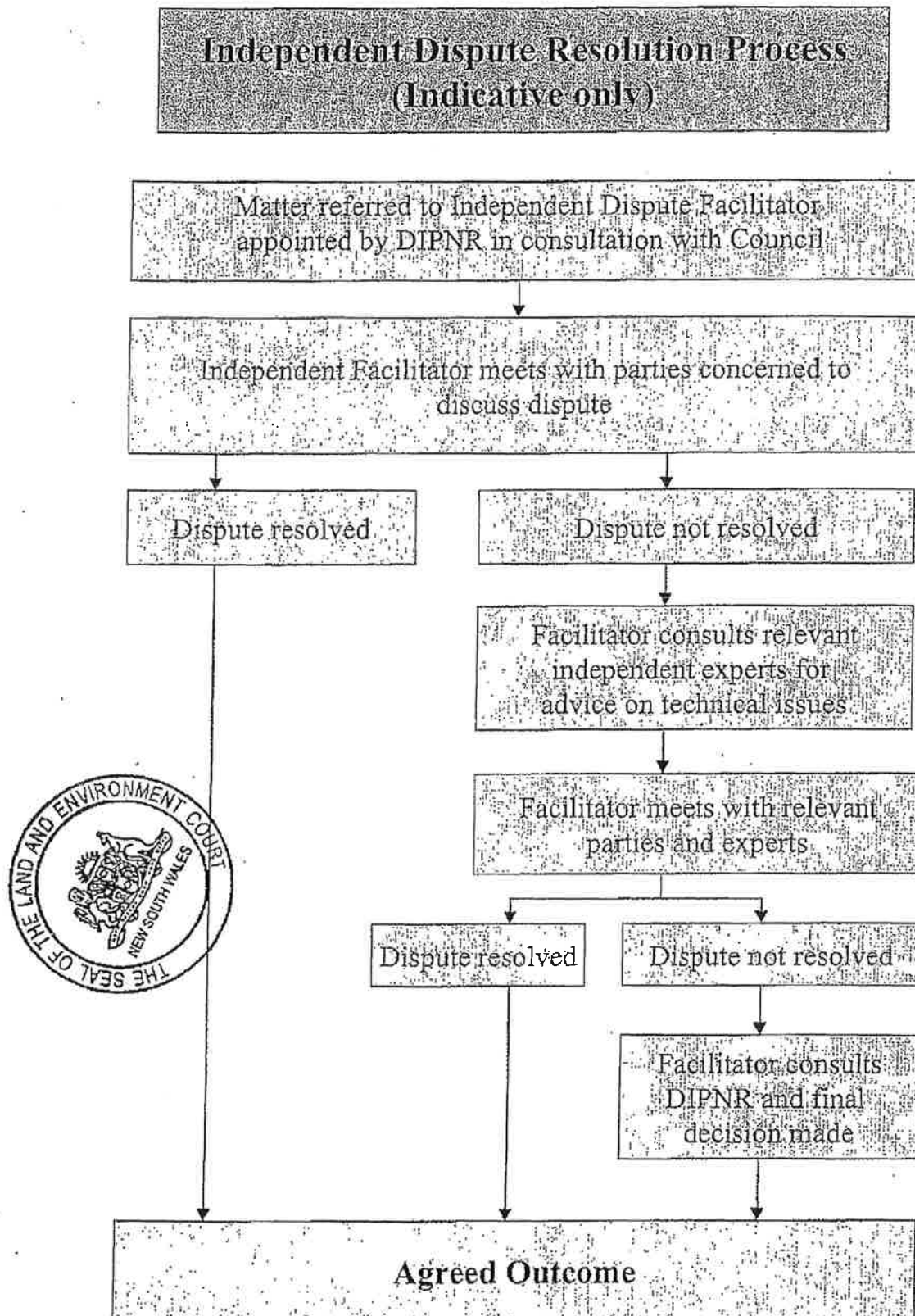

G T Brown
Commissioner of the Court



APPENDIX 1
REVEGETATION/REHABILITATION AREA

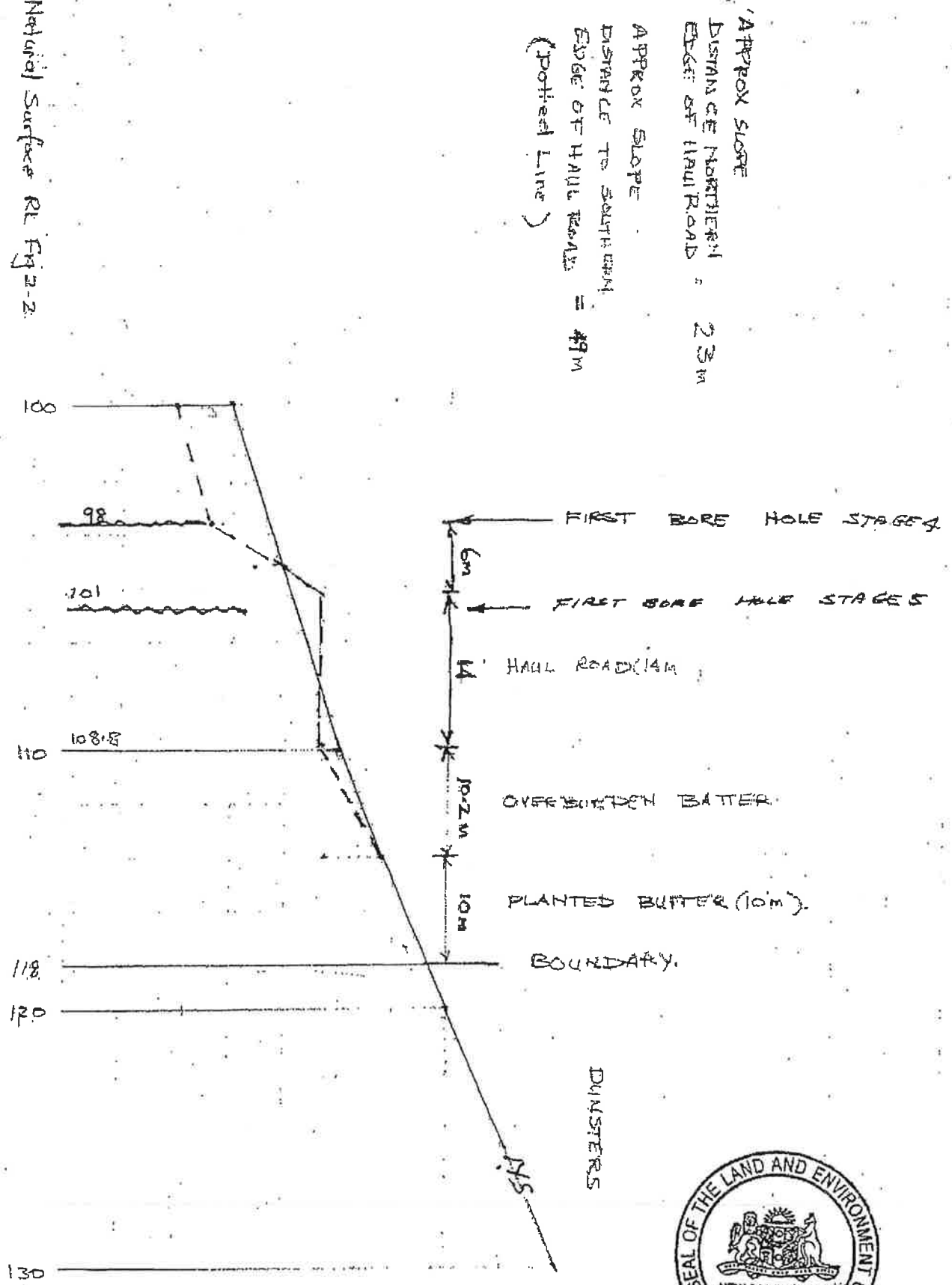


APPENDIX 2
INDEPENDENT DISPUTE RESOLUTION PROCESS



APPENDIX 3
LANDSCAPE BUND, HAUL ROAD AND BATTERS

Natural Surface RL Fig 2-2.





APPENDIX 2:

“Notice of Modification Approval”



NSW GOVERNMENT
Department of Planning

**Major Project Assessment
Industry & Mining**

Contact: Kane Winwood

Phone: (02) 9228 6298

Fax: (02) 9228 6466

Email: kane.winwood@planning.nsw.gov.au

Our ref: S00/00534

Graeme Granger
Technical Manager
Cleary Bros
PO Box 210
PORT KEMBLA NSW 2505

Dear Mr Granger

**Albion Park Quarry (10639 of 2005 MOD 1)
Notice of Modification Approval**

As advised by email on 2 July 2009, I wish to advise that on 30 June 2009, the Executive Director, Major Projects Assessment, as delegate for the Minister for Planning, approved the application to modify the LEC consent (10639 of 2005) of the Albion Park Quarry.

I have attached a signed copy of the Notice of Modification for your information. A copy of this document, together with the Department's Assessment Report, can be viewed on the Department's website under "Notices of Determination – Other Development Proposals" (www.planning.nsw.gov.au).

If you have any enquires on this matter, please contact me on the above details.

Yours sincerely

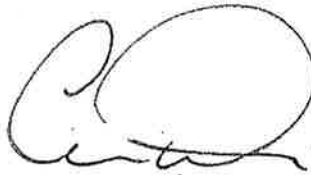
28/7/09

Kane Winwood
Senior Planner
Major Development Assessment

Notice of Modification

Section 96AA of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning, I modify the development consent referred to in Schedule 1, as set out in Schedule 2.



30.6.09

Chris Wilson
Executive Director

Sydney,

2009

SCHEDULE 1

The development consent (10639 of 2005) granted by the NSW Land and Environment Court for the operation of an extractive industry on Lots 1 in DP 858245 and Lot 23 in DP 1039967, Dunsters Lane, Croom.

SCHEDULE 2

1. Delete the definition for "DEC" in the Definitions in Schedule 2, and insert in alphabetical order the following:

DECC	Department of Environment and Climate Change
SEE	Statement of Environmental Effects
2. Delete all references to "DEC", "DEC (EPA)" and "DEC (NPWS)" and replace with "DECC".
3. In Condition 2 of Schedule 3, delete paragraph (c) and insert the following:
 - c) Modification Application 10639 of 2005 MOD 1 and the accompanying SEE titled "Albion Park Quarry: Application to Modify Development Consent Increased Production Limit", dated November 2008, as amended by the correspondence to the Department dated 24 June 2009; and
 - d) Conditions of this consent.
4. Delete Condition 8 of Schedule 3 and replace with the following:
 8. The production of quarry products from the quarry shall not exceed 600,000 tonnes per annum.