

ASSESSMENT REPORT

Old Northern Road Quarry

Quarry Life Extension Modification (DA 250-09-01 - Mod 5)

1 BACKGROUND

Dixon Sand Pty Limited (Dixon Sand) owns and operates the Old Northern Road Quarry, a sandstone quarry located at Maroota, within the Hills Shire local government area (see **Figure 1**).



Figure 1: Regional Location of Old Northern Road Quarry

Sand extraction has occurred at the Old Northern Road Quarry for about 25 years, with Dixon Sand operating the site since 1992. The quarry comprises four adjacent lots (Lots 29 and 196 DP 752025 and Lots 1 and 2 DP 547255).

The current development was approved under a consent (DA 250-09-01) issued by the Land and Environment Court on 24 May 2004, which has been modified four times. Production from Dixon Sand's nearby Haerses Road Quarry is delivered to Old Northern Road Quarry for processing. The consent allows for the combined production of up to 495,000 tonnes of quarry products per annum from Old Northern Road and Haerses Road Quarries.

2 PROPOSED MODIFICATION

The application seeks to modify DA 250-09-01 to:

- extend the life of the operation by 20 years; and
- contemporise a number of conditions of consent.

Under the current consent, operation of the quarry is permitted until 24 May 2022. The modification would extend the life of the development to 24 May 2042. Since the original approval in 2004 the extraction rate has been lower than expected. If the consent were to expire in 2022, this would result in significant resources which have been approved for extraction, being left unextracted. Haerses Road Quarry is also anticipated to be reliant on Old Northern Road Quarry for processing of extracted material until 14 February 2046. The application does not seek to amend other existing aspects of the approved operations such as the production rates, transportation rates, disturbance area, quarry plans or infrastructure.

The second aspect of the modification application stems from a compliance audit initiated by the Department in 2015. The audit identified several conditions of consent which could be misinterpreted or are inconsistent with operational features which were in place prior to DA 250-09-01. Dixon Sand also requested that a number of other conditions be updated to reflect the Department's contemporary standards for drafting conditions of consent.

3 STATUTORY CONTEXT

3.1 Section 75W Modification

DA 250-09-01 was granted under Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). In accordance with clause 8J(8) of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation) and the transitional arrangements under Schedule 6A of the EP&A Act, the modification must be determined under the former section 75W of the EP&A Act.

The Department has considered the nature of the modification and is satisfied that it is within the scope of section 75W. The proposed modification would not increase the total resource to be extracted over the life of quarry, or result in an increase in the approved annual rate of extraction. Furthermore, the modification would not significantly change the overall nature of the development, or the associated environmental impacts assessed as part of the original development application.

3.2 Section 91

The project was originally deemed to be integrated development as defined under section 91 of the EP&A Act. The Environment Protection Authority's 'general terms of approval' were included in the original development consent. The Environment Protection Authority's (EPA) subsequently issued an Environment Protection Licence under the *Protection of the Environmental Operations Act 1997*.

3.3 Approval Authority

The Minister for Planning is the approval authority for the proposed modification. However, under the Minister's delegation of 16 February 2015, the Director Resource Assessments may determine the application because the Hills Shire Council did not object to the proposal, no public submissions were received on the proposal and Dixon Sand has not declared any reportable political donations.

4 CONSULTATION

After accepting the Environmental Assessment (EA) (see **Appendix A**) for the proposed modification, the Department:

- publicly exhibited the EA from 29 March until 11 April 2017 on the Department's website and at the:
 - Department's Information Centre;
 - Hills Shire Council's office; and
 - Nature Conservation Council's office;
- advertised the exhibition of the EA in the *Hills Shire District Times*; and
- notified relevant State government agencies.

The Department is satisfied that the notification process met the requirements of the EP&A Act. Dixon Sand also confirmed that it had consulted directly with neighbouring landowners and residents and the Maroota Public School.

Seven submissions were received, six from State government agencies and one from the Hills Shire Council.

The **Office of Environment and Heritage** (OEH) requested that the requirements for rehabilitation be extended to include a contingency measure in the event of mortality of translocated *Melaleuca deanei* individuals in the Native Vegetation Corridor, an area subject to extensive rehabilitation.

The **Department of Primary Industries** (DPI) questioned the potential compounding of water resource impacts over the proposed extended period of operation and requested an assessment that clearly outlines the likely impacts due to the extended timeframe.

The **Roads and Maritime Service** (RMS) questioned whether the existing road access to the site meets the *Austroads* requirements outlined in the *Guide to Road Design Part 4A: Unsignalised and signalised intersections*.

The Hills Shire Council, EPA, the Heritage Council and the Department's Division of Resources and Geoscience did not object to the proposed modification. No submissions were received from the public. The submissions are provided in **Appendix B** and the response to submissions in **Appendix C**.

5 ASSESSMENT

As noted above, the modification application does not propose any change in the way that the quarry is operated. The existing impacts, albeit prolonged, would not present impacts other than those already approved and being managed. No new impacts would arise from the proposal. Revision of the conditions of consent and issues raised in the submissions are addressed below.

5.1 Revision of conditions of consent

Dixon Sand requested and the Department agrees that the consent would benefit from substantial revision to reflect contemporary standards of drafting for conditions for extractive industries. In doing so, careful consideration has been given to the context, meaning and phrasing of the original consent in order to preserve the intended meaning at the time of determination by the Land and Environment Court.

The revised consent is more concise, removes ambiguities and brings the document into line with current standard conditions for extractive industries. All stakeholders, including Dixon Sand, would benefit from a regulatory instrument which provides greater clarity on requirements for compliance. At the same time, key project-specific requirements contained in the original conditions have been retained in the revised conditions.

The Department believes that the request to extend the life of the quarrying operations at Old Northern Road Quarry to 2042 should be granted subject to the revision of the existing conditions of consent.

Dixon Sand relies on processing of sand and concrete product extracted from the Haerses Road Quarry at Old Northern Road Quarry's processing facilities. It is recommended that this practice be allowed until 2046 in line with the expected life of the Haerses Road Quarry.

5.2 Response to submissions

OEH's request for a contingency measure in the event of mortality of translocated *Melaleuca deanei* individuals is addressed in the revised conditions of consent. The Biodiversity and Rehabilitation Management Plan condition includes requirements to "identify the potential risks to the successful implementation of the plan" and to "include a description of the contingency measures to be implemented to mitigate against or address these risks".

In response to DPI's submission regarding compounded water impacts, Dixon Sand commissioned a specialist to undertake a groundwater impact study including consideration of the *NSW Aquifer Interference Policy*. The assessment concluded that the extension of the life of the project would not alter the risks to groundwater as long as existing management strategies remain in place. As this application does not propose to amend the existing water management strategies, the risk would continue to be appropriately managed.

In response to RMS's submission, Dixon Sand commissioned an additional road traffic study to consider future traffic growth along Old Northern Road at the intersection with the quarry entrance road. This study demonstrated that the existing intersection meets the *Austroads* design requirements and is considered adequate for future use.

6 RECOMMENDED CONDITIONS

The Department has taken the opportunity to review the overall consent for the quarry, and include a fully revised and updated suite of conditions that are consistent with current practice and contemporary standards (see **Appendix D**).

The Department consulted with the EPA regarding revision of its 'general terms of approval'. The EPA was generally satisfied with the proposed modifications. A specific consent requirement to undertake air quality monitoring near the Maroota Public School and which arose over the course of the court proceedings, was clarified by updating the standard operating conditions with the intended proactive management measures to be undertaken to the satisfaction of the EPA.

Some key changes to the consent include revision, update and consolidation of:

- specific environmental conditions which align with the Department's current drafting standards for conditions related to managing noise, air quality, soil and water, transport, Aboriginal heritage, biodiversity and rehabilitation, visual, waste, liquid storage, dangerous goods, bushfire and public safety;
- administrative and reporting conditions which align with the Department's current drafting standards; and
- new plans and figures appended to the consent.

The Department considers that the environmental impacts of the project would continue to be appropriately managed through the revised conditions of consent. The revised conditions would improve regulatory oversight and public transparency for the quarry.

Dixon Sand has reviewed and accepts to the recommended conditions.

7 CONCLUSION

The Department has assessed the modification application, EA, submissions and response to submissions in accordance with the relevant requirements of the EP&A Act. The modification would extend the life of the quarry by 20 years and extend processing and dispatch of Haerses Road Quarry product by nearly 4 years beyond that. The modification would also contemporise the conditions of consent.

The Department has carefully considered the likely impacts of the proposal on the natural and cultural environment, and on nearby residents. The Department is satisfied that the proposed modification would not result in additional environmental impacts to those previously approved. Moreover, the Department is satisfied that the project's environmental impacts would be better managed under the revised conditions of consent, which have been fully replaced and updated to be consistent with current practice and contemporary drafting standards.

The proposed modification would facilitate continued extraction of an approved resource and continued processing of extracted material from the Old Northern Road and Haerses Road Quarries. This would help ensure an adequate supply of sand for construction purposes over an extended period and support local employment. The Department is therefore satisfied that the proposed modification is in the public interest and should be approved, subject to conditions.

8 RECOMMENDATION

It is recommended that the Director, Resource Assessments, as delegate of the Minister:

- **consider** the findings and recommendations of this report;
- **determines** that the modification falls within the scope of section 75W of the EP&A Act;
- **approves** the modification application DA 250-09-01 (MOD 5), subject to conditions; and
- **signs** the attached notice of modification (**Appendix D**).

Recommended by:

 17/11/17

Tertius Greyling
Senior Environmental Assessment Officer
Resource Assessments

Recommended by:

 17/11/17

Lauren Evans
A/Senior Environmental Assessment Officer
Resource Assessments

9 APPROVAL

 17/11/17

Megan Dawson
A/Director
Resource Assessments

APPENDIX A: ENVIRONMENTAL ASSESSMENT

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8309

APPENDIX B: SUBMISSIONS

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8309

APPENDIX C: RESPONSE TO SUBMISSIONS

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8309

APPENDIX D: NOTICE OF MODIFICATION

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=8309

