

# Notice of Modification

## Section 75W of the *Environmental Planning and Assessment Act 1979*

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

### Member of the Commission

Sydney

### Member of the Commission

2017

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### SCHEDULE 1

The Development Consent (DA 94-4-2004) for the Calga Sand Quarry Extension (Stage 3) granted by the Minister for Planning on 28 October 2005.

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### SCHEDULE 2

1. In Schedule 1, delete the Applicant name "Rocla Materials Pty Limited (ABN: 30 083 169 091)" and replace with "Hanson Construction Materials Pty Ltd."
2. In the list of Definitions, delete the following terms and their definitions: "AEMR", "Applicant", "Council", "Department", "Director-General", "EIS", "Minister", "NOW" and "RTA", and insert the following definitions in alphabetical order:

Annual Review	The review required by condition 10 of Schedule 5
Applicant	Hanson Construction Materials Pty Ltd, or its successors
Council	Central Coast Council
Crushing system	The diesel-powered sandstone crushing system described in EA (MOD 3)
Department	Department of Planning and Environment
Development	The development as described in the documents listed in condition 2(a) of Schedule 2
DPI Water	Department of Primary Industries – Water
DRG	Division of Resources and Geoscience of the Department
EA (MOD 1)	Modification Application DA 94-4-2004 MOD 1, and the accompanying Environmental Assessment titled <i>Environmental Assessment for the Relocation of the Administration Centre at the Calga Sand Quarry</i> prepared by R.W. Corkery & Co. Pty Ltd and dated January 2012
EA (MOD 3)	Modification Application DA 94-4-2004 MOD 3, and the accompanying Environmental Assessment titled <i>Installation and Operation of a Crushing System at the Calga Sand Quarry</i> prepared by R.W. Corkery & Co. Pty Ltd and dated August 2016, including the associated Response to Submissions report titled <i>Response to Submissions for the Installation and Operation of a Crushing System at the Calga Quarry</i> , dated February 2017
EIS	Environmental Impact Statement for the Proposed Calga Sand Quarry Extension, dated May 2004
EPL	Environment Protection Licence under the POEO Act
Feasible	Feasible relates to engineering considerations and what is practical to build or carry out
Material harm to the environment	Actual or potential harm to the health or safety of human beings or to ecosystems that is not trivial
Minister	Minister for Planning, or delegate

Mitigation Reasonable	Activities associated with reducing the impacts of the development Reasonable relates to the application of judgement in arriving at a decision, taking into account: mitigation benefits, cost of mitigation versus benefits provided, community views and the nature and extent of potential improvements
Rehabilitation	The restoration of land disturbed by the development to a good condition and for the purpose of establishing a safe, stable and non-polluting environment
RMS Secretary	Roads and Maritime Services Secretary of the Department, or nominee
Quarrying operations	Includes the removal of overburden and extraction, processing, handling, storage and transportation of extractive material on the site

3. Delete all references to "Director-General" and replace with "Secretary".
4. Delete all references to "NOW" and replace with "DPI - Water".
5. Delete all references to "RTA" and replace with "RMS".
6. Delete all references to "AEMR" and replace with "Annual Review".
7. Delete all references to "shall" and replace with "must", with the exception of references contained in the third paragraph of condition 8 of Schedule 4.
8. In condition 1 of Schedule 2, insert the word "material" after the word "any".
9. Delete conditions 2 to 5 of Schedule 2, and replace with:
  2. The Applicant must carry out the development:
    - (a) generally in accordance with the EIS, EA (Mod 1) and EA (Mod 3); and
    - (b) in accordance with the conditions of this consent and the Project Layout Plans.

*Note: The Project Layout Plans are included in Appendix 1.*
  3. If there is any inconsistency between the documents in condition 2(a), the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail over the documents in condition 2(a) to the extent of any inconsistency.
  4. The Applicant must comply with any requirement/s of the Secretary arising from the Department's assessment of:
    - (a) any strategies, plans, programs, reviews, audits, reports or correspondence that are submitted in accordance with this consent (including any stages of these documents);
    - (b) any reviews, reports or audits undertaken or commissioned by the Department regarding compliance with this consent; and
    - (c) the implementation of any actions or measures contained in these documents.

#### Limits on Approval

5. The Applicant may carry out quarrying operations on the site until 1 July 2030.
 

*Note: Under this consent, the Applicant is required to rehabilitate the site and carry out additional requirements and undertakings to the satisfaction of the Secretary. Consequently, this consent will continue to apply in all respects other than the right to conduct quarrying operations until the rehabilitation of the site and those requirements and undertakings have been carried out to the standard required by the applicable conditions.*
10. Delete condition 2 of Schedule 3, and replace with:
 

"The Applicant must ensure that the operational noise generated by the development does not exceed the criteria in Table 1 at any residence on privately-owned land.

Table 1: Noise impact assessment criteria dB(A)  $L_{Aeq}$  (15 min)

Residential Location	Day	Evening	Night	Night ( $L_{A1(1min)}$ )
Residence 3 (CN-1) – Power	41	35	35	45
Residence 4 (CN-2) – King	40	35	35	45
Residence 5 (CN-3) - Kashouli	39	35	35	45

Residence 8 (CN-6) - Cauchi	36	35	35	45
Other residences	35	35	35	45

*Note: Receiver locations referred in Table 1 are shown in Figure 2 of Appendix 1.*

Noise generated by the development is to be measured in accordance with the relevant requirements and exemptions (including certain meteorological conditions) of the *NSW Industrial Noise Policy*. Appendix 4 sets out the meteorological conditions under which these criteria apply and the requirements for evaluating compliance with these criteria.

However, the noise criteria in Table 1 do not apply if the Applicant has an agreement with the relevant landowner to exceed the noise criteria, and the Applicant has advised the Department in writing of the terms of this agreement."

11. Delete condition 7 of Schedule 3, including the subheading "Noise Monitoring Program", and replace with:

#### **Operating Conditions**

7. The Applicant must:
- implement best practice management to minimise the construction, operational and road transportation noise of the development;
  - minimise the noise impacts of the development during meteorological conditions when the noise criteria in this consent do not apply (see Appendix 4);
  - carry out noise monitoring (at least every 3 months or as otherwise agreed with the Secretary) to determine whether the development is complying with the relevant conditions of this consent; and
  - regularly assess noise monitoring data and modify and/or stop operations on site to ensure compliance with the relevant conditions of this consent, to the satisfaction of the Secretary.

*Note: Required frequency of noise monitoring may be reduced if approved by the Secretary.*

#### **Noise Management Plan**

- 7A. The Applicant must prepare a Noise Management Plan for the development to the satisfaction of the Secretary. This plan must:
- be prepared in consultation with the EPA;
  - be submitted to the Secretary prior to operating the crushing system, unless otherwise agreed by the Secretary;
  - describe the measures that would be implemented to ensure:
    - compliance with the noise criteria in this consent;
    - best practice noise management is being employed; and
    - noise impacts of the development are minimised during meteorological conditions under which the noise criteria in this consent do not apply (see Appendix 4);
  - describe the proposed noise management system; and
  - include a monitoring program to be implemented to measure noise from the development against the noise criteria in Table 1, and which evaluates and reports on the effectiveness of the noise management system on site.

The Applicant must implement the approved Noise Management Plan as approved from time to time by the Secretary.

12. Delete condition 9 of Schedule 3, and insert the following:

#### **Operating Conditions**

9. The Applicant must:
- implement best practice management to minimise the dust emissions of the development;
  - regularly assess meteorological and air quality monitoring data and relocate, modify and/or stop operations on site to ensure compliance with the air quality criteria in this consent;
  - minimise the air quality impacts of the development during adverse meteorological conditions and extraordinary events (see note d under Table 3);
  - monitor and report on compliance with the relevant air quality conditions in this consent; and
  - minimise the area of surface disturbance and undertake progressive rehabilitation of the site, to the satisfaction of the Secretary.

## **Air Quality Management Plan**

- 9A. The Applicant must prepare an Air Quality Management Plan for the development to the satisfaction of the Secretary. This plan must:
- (a) be prepared in consultation with the EPA;
  - (b) be submitted to the Secretary prior to operating the crushing system, unless otherwise agreed by the Secretary;
  - (c) describe the measures that would be implemented to ensure:
    - compliance with the relevant conditions of this consent;
    - best practice management is being employed; and
    - the air quality impacts of the development are minimised during adverse meteorological conditions and extraordinary events;
  - (d) describe the proposed air quality management system;
  - (e) include an air quality monitoring program that:
    - is capable of evaluating the performance of the development;
    - includes a protocol for determining any exceedances of the relevant conditions of consent;
    - effectively supports the air quality management system; and
    - evaluates and reports on the adequacy of the air quality management system.

The Applicant must implement the approved Air Quality Management Plan as approved from time to time by the Secretary.

13. In condition 11 of Schedule 3:
  - (a) delete the words “, and subsequently implement,”;
  - (b) after the last sentence insert “The Applicant must implement the approved Water Management Plan as approved from time to time by the Secretary.”
14. Delete condition 18 of Schedule 3.
15. In condition 22 of Schedule 3, in subparagraph (b), after the word “site”, insert the words “, including consideration of avoiding impacts on Aboriginal cultural heritage and integrating the rehabilitated site with the Aboriginal cultural landscape”.
16. In condition 39 of Schedule 3, replace the word “DPI” with “DRG”.
17. After condition 40 of Schedule 3, insert the following:

## **ABORIGINAL CULTURAL HERITAGE**

41. The Applicant must prepare an Aboriginal Heritage Management Plan for the development to the satisfaction of the Secretary. The plan must:
  - (a) be prepared by suitably qualified and experienced persons whose appointment has been endorsed by the Secretary;
  - (b) be prepared in consultation with OEH and relevant Aboriginal parties;
  - (c) be submitted to the Secretary for approval within six months of the date of approval of Mod 3, unless the Secretary agrees otherwise;
  - (d) identify any Aboriginal sites or potential archaeological deposits that may be affected through the continued operation of the development;
  - (e) identify reasonable and feasible measures to be implemented to reduce intrusive noise at the Women’s Site (AHIMS # 45-3-00119 and 45-3-2195) while it is in use;
  - (f) include a description of the measures that would be implemented to:
    - (i) protect and monitor known sites of archaeological and cultural significance within the vicinity of the site;
    - (ii) manage any new Aboriginal objects or relics that are discovered;
    - (iii) store Aboriginal heritage items salvaged on site; and
    - (iv) ensure ongoing consultation and involvement of the relevant Aboriginal parties in the conservation and management of Aboriginal cultural heritage on or surrounding the site.
18. Delete condition 2 of Schedule 4, and replace with:

“If an owner of privately-owned land considers the development to be exceeding the relevant criteria in Schedule 3, then he/she may ask the Secretary in writing for an independent review of the impacts of the development on his/her land.

If the Secretary is satisfied that an independent review is warranted, then within 2 months of the Secretary’s decision, the Applicant must:

- (a) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Secretary, to:
- consult with the landowner to determine his/her concerns;
  - conduct monitoring to determine whether the development is complying with the relevant criteria in Schedule 3; and
  - if the development is not complying with these criteria, then identify measures that could be implemented to ensure compliance with the relevant criteria; and
- (b) give the Secretary and landowner a copy of the independent review.”
19. Delete conditions 3A to 7 of Schedule 4, including the associated subheadings.
20. Delete conditions 9 and 10 of Schedule 4.
21. In condition 8 of Schedule 4, delete all words after the third paragraph and replace with:
- “Within 14 days of receiving the independent valuer’s report, the Applicant must make a binding written offer to the landowner to purchase the land at a price not less than the independent valuer’s determination.
- However, if either party disputes the independent valuer’s determination, then within 14 days of receiving the independent valuer’s report, they may refer the matter to the Secretary for review. Any request for a review must be accompanied by a detailed report setting out the reasons why the party disputes the independent valuer’s determination. Following consultation with the independent valuer and both parties, the Secretary will determine a fair and reasonable acquisition price for the land, having regard to the matters referred to in paragraphs (a)-(c) above, the independent valuer’s report, the detailed report of the party that disputes the independent valuer’s determination and any other relevant submissions.
- Within 14 days of this determination, the Applicant must make a binding written offer to the landowner to purchase the land at a price not less than the Secretary’s determination.
- If the landowner refuses to accept the Applicant’s binding written offer under this condition within 6 months of the offer being made, then the Applicant’s obligations to acquire the land shall cease, unless the Secretary determines otherwise.
- The Applicant must pay all reasonable costs associated with the land acquisition process described in this condition, including the costs associated with obtaining Council approval for any plan of subdivision (where permissible), and registration of this plan at the Office of the Registrar-General.”
22. Delete Schedule 5 and replace with:

## **SCHEDULE 5**

### **ENVIRONMENTAL MANAGEMENT, REPORTING AND AUDITING**

#### **ENVIRONMENTAL MANAGEMENT**

##### **Environmental Management Strategy**

1. If the Secretary requires, the Applicant must prepare an Environmental Management Strategy for the development to the satisfaction of the Secretary. This strategy must:
- (a) be submitted to the Secretary for approval within 6 months of the Secretary requiring preparation of the strategy by notice to the Applicant;
  - (b) provide the strategic framework for environmental management of the development;
  - (c) identify the statutory approvals that apply to the development;
  - (d) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
  - (e) 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, record, handle and respond to complaints;
    - resolve any disputes that may arise during the course of the development;
    - respond to any non-compliance;
    - respond to emergencies; and
  - (f) include:
    - copies of any strategies, plans and programs approved under the conditions of this consent; and
    - a clear plan depicting all the monitoring to be carried out under the conditions of this consent.

The Applicant must implement any Environmental Management Strategy as approved from time to time by the Secretary.

### **Evidence of Consultation**

2. Where consultation with any public authority is required by the conditions of this consent, the Applicant must:
  - (a) consult with the relevant public authority prior to submitting the required document to the Secretary for approval;
  - (b) submit evidence of this consultation as part of the relevant document;
  - (c) describe how matters raised by the authority have been addressed and any matters not resolved; and
  - (d) include details of any outstanding issues raised by the authority and an explanation of disagreement between any public authority and the Applicant.

### **Management Plan Requirements**

3. The Applicant must ensure that the management plans required under this consent are prepared in accordance with any relevant guidelines, and include:
  - (a) detailed baseline data;
  - (b) a description of:
    - the relevant statutory requirements (including any relevant approval, licence or lease conditions);
    - any relevant limits or performance measures/criteria; and
    - the specific performance indicators that are proposed to be used to judge the performance of, or guide the implementation of, the development or any management measures;
  - (c) a description of the measures that would be implemented to comply with the relevant statutory requirements, limits, or performance measures/criteria;
  - (d) a program to monitor and report on the:
    - impacts and environmental performance of the development; and
    - effectiveness of any management measures (see (c) above);
  - (e) a contingency plan to manage any unpredicted impacts and their consequences and to ensure that ongoing impacts reduce to levels below relevant impact assessment criteria as quickly as possible;
  - (f) a program to investigate and implement ways to improve the environmental performance of the development over time;
  - (g) a protocol for managing and reporting any:
    - incidents;
    - complaints;
    - non-compliances with statutory requirements; and
    - exceedances of the impact assessment criteria and/or performance criteria; and
  - (h) a protocol for periodic review of the plan.

*Note: The Secretary may waive some of these requirements if they are unnecessary or unwarranted for particular management plans.*

### **Revision of Strategies, Plans & Programs**

4. Within 3 months of the submission of an:
  - (a) incident report under condition 8 below;
  - (b) Annual Review under condition 10 below;
  - (c) audit report under condition 11 below; and
  - (d) any modifications to this consent,the Applicant must review the strategies, plans and programs required under this consent, to the satisfaction of the Secretary.

Within 4 weeks of conducting any such review, the Applicant must advise the Secretary of the outcomes of the review, and provide any revised documents to the Secretary for review and approval.

*Note: This is to ensure that strategies, plans and programs are updated on a regular basis, and to incorporate any recommended measures to improve environmental performance of the development.*

### **Updating and Staging of Strategies, Plans or Programs**

5. To ensure that strategies, plans or programs required under this consent are updated on a regular basis, and that they incorporate any appropriate additional measures to improve the environmental performance of the development, the Applicant may at any time submit revised strategies, plans or programs for the approval of the Secretary. With the agreement of the Secretary, the Applicant may also submit any strategy, plan or program required by this consent on a staged basis.

With the agreement of the Secretary, the Applicant may prepare a revision of or a stage of a strategy, plan or program without undertaking consultation with all parties nominated under the applicable condition in this consent.

*Notes:*

- While any strategy, plan or program may be submitted on a staged basis, the Applicant will need to ensure that the operations associated with the development are covered by suitable strategies, plans or programs at all times.
- If the submission of any strategy, plan or program is to be staged; then the relevant strategy, plan or program must clearly describe the specific stage/s of the development to which the strategy, plan or program applies; the relationship of this stage/s to any future stages; and the trigger for updating the strategy, plan or program.

### **Adaptive Management**

6. The Applicant must assess and manage development-related risks to ensure that there are no exceedances of the criteria and/or performance measures in Schedule 3. Any exceedance of these criteria and/or performance measures constitutes a breach of this consent and may be subject to penalty or offence provisions under the EP&A Act or EP&A Regulation.

Where any exceedance of these criteria and/or performance measures has occurred, the Applicant must, at the earliest opportunity:

- (a) take all reasonable and feasible steps to ensure that the exceedance ceases and does not reoccur;
- (b) consider all reasonable and feasible options for remediation (where relevant) and submit a report to the Department describing those options and any preferred remediation measures or other course of action; and
- (c) implement remediation measures as directed by the Secretary; to the satisfaction of the Secretary.

### **COMMUNITY CONSULTATIVE COMMITTEE**

7. The Applicant must establish and operate a Community Consultative Committee (CCC) for the development to the satisfaction of the Secretary. The CCC must be operated in general accordance with the Department's Community Consultative Committee Guidelines State Significant Projects (November 2016), or later version.

*Note: The CCC is an advisory committee. The Department and other relevant agencies are responsible for ensuring that the Applicant complies with this consent.*

### **REPORTING**

#### **Incident Reporting**

8. The Applicant must immediately notify the Secretary and any other relevant agencies of any incident. Within 7 days of the date of the incident, the Applicant must provide the Secretary and any relevant agencies with a detailed report on the incident, and such further reports as may be requested.

#### **Regular Reporting**

9. The Applicant must provide regular reporting on the environmental performance of the development on its website, in accordance with the reporting arrangements in any plans or programs approved under the conditions of this consent.

#### **Annual Review**

10. By the end of March each year, or other timing as may be agreed by the Secretary, the Applicant must submit a report to the Department reviewing the environmental performance of the development to the satisfaction of the Secretary. This review must:
  - (a) describe the development (including any rehabilitation) that was carried out in the previous calendar year, and the development that is proposed to be carried out over the current calendar year;
  - (b) include a comprehensive review of the monitoring results and complaints records of the development over the previous calendar year, which includes a comparison of these results against the:
    - relevant statutory requirements, limits or performance measures/criteria;
    - requirements of any plan or program required under this consent;
    - monitoring results of previous years; and
    - relevant predictions in the documents listed in condition 2(a) of Schedule 2;
  - (c) identify any non-compliance over the past calendar year, and describe what actions were (or are being) taken to ensure compliance;
  - (d) identify any trends in the monitoring data over the life of the development;
  - (e) identify any discrepancies between the predicted and actual impacts of the development, and analyse the potential cause of any significant discrepancies; and

- (f) describe what measures will be implemented over the current calendar year to improve the environmental performance of the development.

The Applicant must ensure that copies of the Annual Review are submitted to Council and are available to the Community Consultative Committee (see condition 7 of Schedule 5) and any interested person upon request.

#### **INDEPENDENT ENVIRONMENTAL AUDIT**

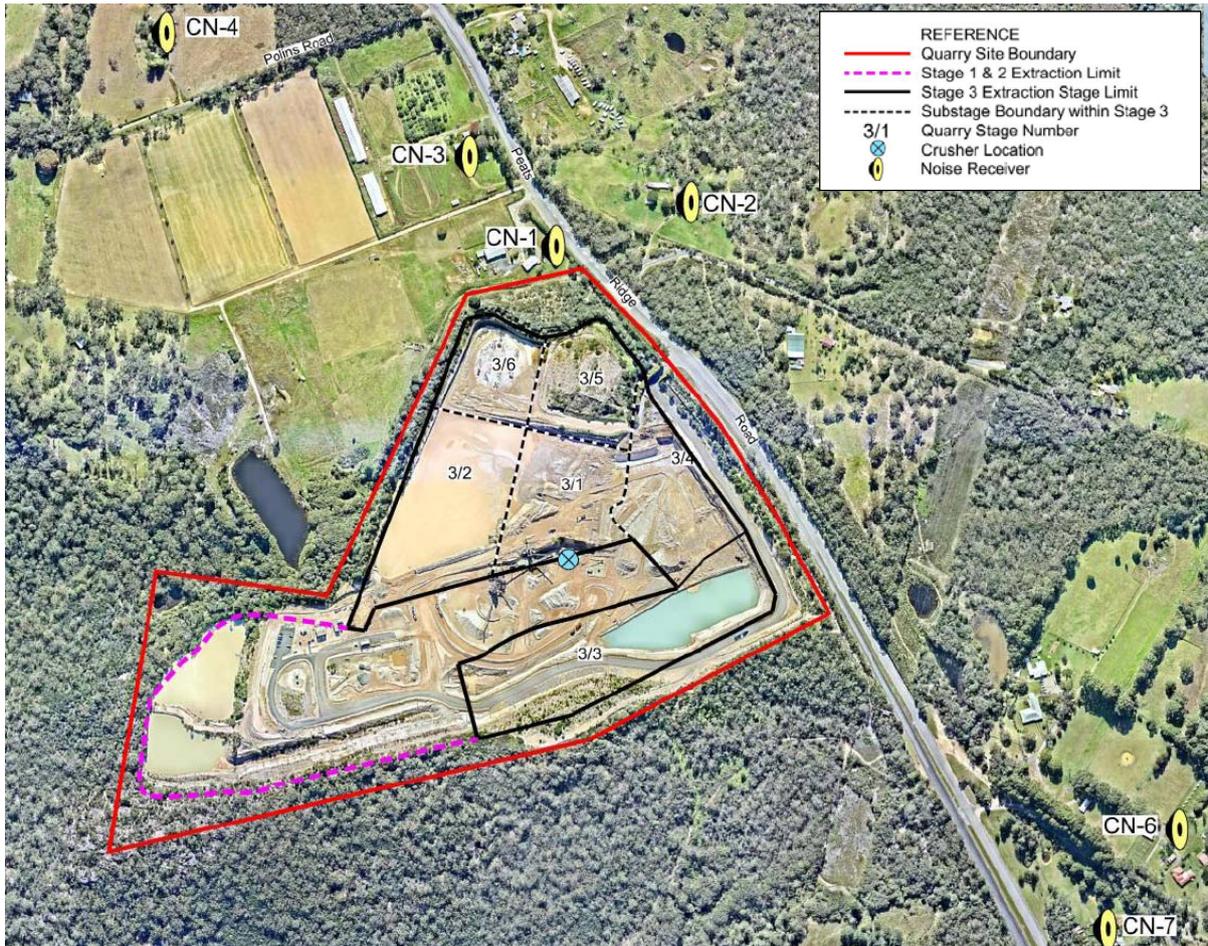
11. Within a year of the date of this consent, and every 3 years thereafter, unless the Secretary directs otherwise, the Applicant must commission, commence and pay the full cost of an Independent Environmental Audit of the development. This audit must:
- (a) be conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Secretary;
  - (b) include consultation with the relevant agencies;
  - (c) assess the environmental performance of the development and whether it is complying with the relevant requirements in this consent and any relevant EPL or necessary water licences for the development (including any assessment, strategy, plan or program required under these approvals);
  - (d) review the adequacy of strategies, plans or programs required under the abovementioned approvals;
  - (e) recommend appropriate measures or actions to improve the environmental performance of the development, and/or any assessment, strategy, plan or program required under the abovementioned approvals; and
  - (f) be conducted and reported to the satisfaction of the Secretary.

*Note: This audit team must be led by a suitably qualified auditor and include experts in any fields specified by the Secretary.*

12. Within 12 weeks of commissioning this audit, or as otherwise agreed by the Secretary, the Applicant must submit a copy of the audit report to the Secretary and any other NSW agency that requests it, together with its response to any recommendations contained in the audit report.

#### **ACCESS TO INFORMATION**

13. Within 6 months of the date of this consent, the Applicant must:
- (a) make the following information publicly available on its website:
    - the documents listed in condition 2(a) of Schedule 2;
    - current statutory approvals for the development;
    - all approved strategies, plans and programs required under the conditions of this consent;
    - a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
    - a complaints register, updated monthly;
    - the annual reviews of the development;
    - any independent environmental audit, and the Applicant's response to the recommendations in any audit; and
    - any other matter required by the Secretary; and
  - (b) keep this information up-to-date, to the satisfaction of the Secretary.
23. In Appendix 1, delete the words "QUARRY LAYOUT AND STAGING PLAN" and replace with "PROJECT LAYOUT PLANS".
24. After the figure in Appendix 1, insert the following:



**Figure 2: Location of crushing system**

25. After Appendix 3, insert the following:

**APPENDIX 4  
NOISE COMPLIANCE ASSESSMENT**

**Applicable Meteorological Conditions**

1. The noise criteria in Table 1 are to apply under all meteorological conditions except the following:
  - (a) wind speeds greater than 3 m/s at 10 m above ground level; or
  - (b) temperature inversion conditions between 1.5°C and 3°C/100 m and wind speed greater than 2 m/s at 10 m above ground level; or
  - (c) temperature inversion conditions greater than 3°C/100 m.

**Determination of Meteorological Conditions**

2. Except for wind speed at microphone height, the data to be used for determining meteorological conditions must be that recorded by the meteorological station required under condition 20 of Schedule 3.

**Compliance Monitoring**

3. Attended monitoring is to be used to evaluate compliance with the relevant conditions of this consent.
4. Unless the Secretary agrees otherwise, this monitoring is to be carried out in accordance with the relevant requirements for reviewing performance set out in the NSW Industrial Noise Policy (as amended from time to time), in particular the requirements relating to:
  - (a) monitoring locations for the collection of representative noise data;
  - (b) equipment used to collect noise data, and conformity with Australian Standards relevant to such equipment; and

- (c) modifications to noise data collected, including for the exclusion of extraneous noise and/or penalties for modifying factors apart from adjustments for duration.

26. Update the Table of Contents to reflect the above changes.