



Hitchcock Road Sand Quarry Modification 1

Importation of VENM and ENM
State Significant Development Modification Assessment
(MP 06_0104 MOD 1)

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Cover image: *Hitchcock Road Quarry (Department of Planning, Industry, and Environment, 2012)*

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Executive Summary

The Hitchcock Road Sand Quarry (the Quarry) is an established sand extraction operation at Maroota within the Hills Shire local government area. The Quarry is owned and operated by PF Formation Pty Ltd (PF Formation) and supplies sand products to the Sydney construction market. Material extracted from the Quarry is transported to the PF Formation's Central Wash Plant site which is to the north-west of the Quarry and finished product is then trucked to market.

On 30 June 2020, R.W. Corkery & Co Pty Limited, on behalf of PF Formation, submitted a modification request (MP 06_0104 MOD 1) under section 4.55(2) of the EP&A Act. The modification sought to remove the limit on the amount of Virgin Excavated Natural Material (VENM) imported to the site, and to permit the importation of Excavated Natural Material (ENM). It also sought a small expansion of the extraction area and to amend the biodiversity offset strategy.

The Department publicly exhibited the modification application and supporting information from 31 July 2020 until 13 August 2020. The documents were also made available online on the Department's website. The Department did not receive any submissions from the public or special interest groups, however it did seek advice from 11 Government agencies, including the Hills Shire Council.

However following exhibition, letters provided by PF Formation dated 3 and 22 November 2021 amended the modification application by removing the request to:

- remove the 10-metre buffer from the adjoining property; and
- amend the final vegetation rehabilitation requirements and supply supplementary replacement biodiversity offsets.

The Department accepted the amendments to the modification application, as there is a level of uncertainty about what vegetation has been approved for removal, what areas now require rehabilitation and how the biodiversity offset relates to this uncertainty.

The amendments meant that the importation of VENM and ENM were the only remaining components of the modification application. The Department's assessment found that the proposed modification would not increase the environmental impacts of the project beyond an unacceptable standard and that any residual or unforeseen impacts would be appropriately managed under the existing conditions of consent and the detailed management plans which control site activities. The Department also found that the modification would extend the existing Quarrying impacts for an additional 10 years (until 2038). However, no increases to the existing impacts are predicted.

The Department has undertaken a comprehensive whole-of-government assessment of the merits of the proposed modification. None of the State Government agencies objected to the proposal. While some agencies initially expressed concerns with information provided, all agencies considered that the impacts could be appropriately managed through recommended conditions of consent.

In its assessment, the Department concluded that the residual components of the modification would:

- increase the beneficial reuse of VENM for reprocessing and ongoing supply of construction sand;
- enable the beneficial reuse of ENM for the purpose of progressive rehabilitation of the Quarry; and
- provide continued employment for 22 full-time employees.

In its consideration, the Department concludes that the positive social and economic impacts created by the proposal would outweigh the negative environmental and social impacts, which are predicted to be maintained below the relevant criteria and are manageable under conditions of consent. The Department is satisfied that the modification is in the public interest and should be approved.

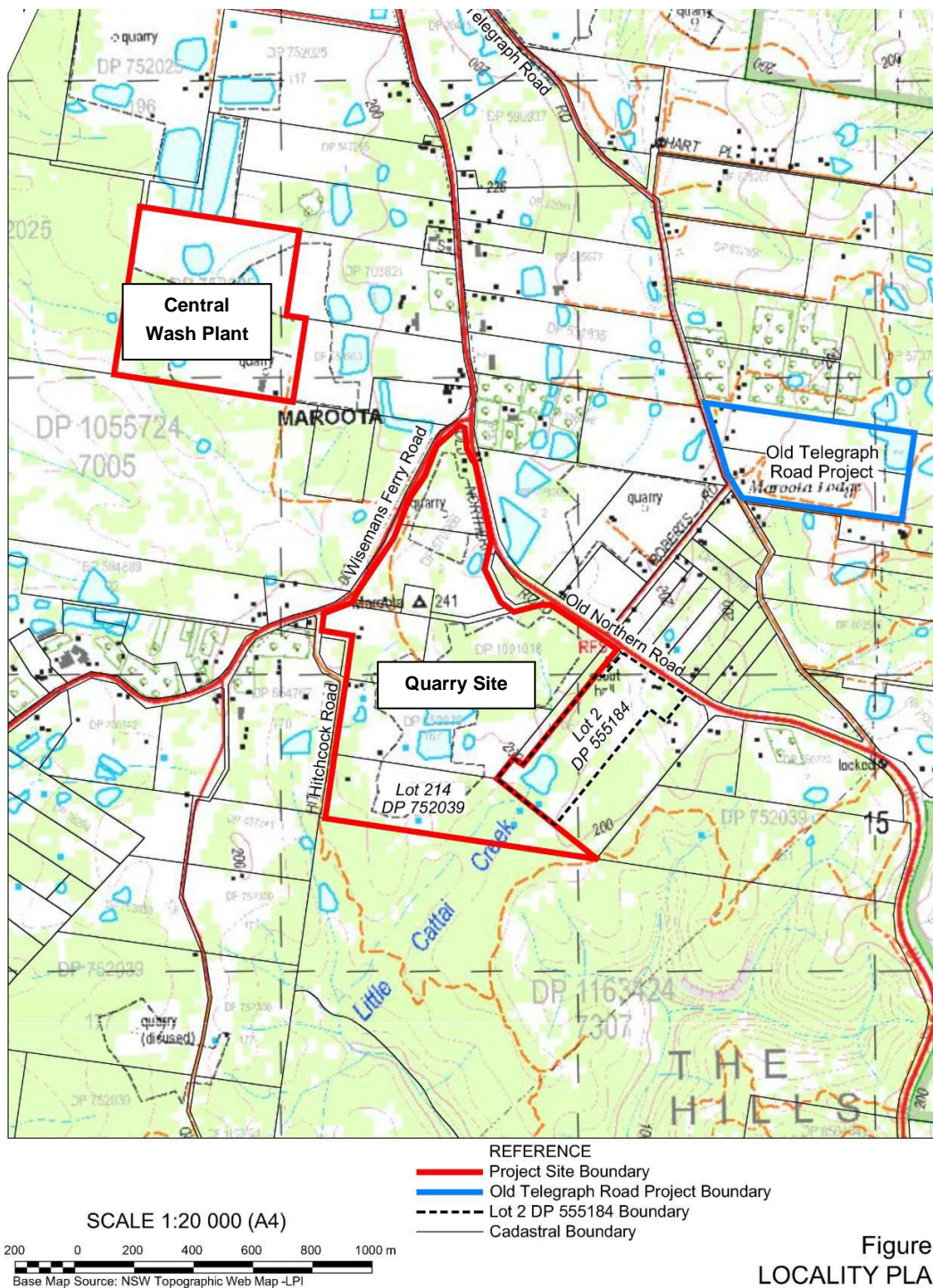
Contents

1	Introduction	1
1.2	Approval History	2
1.3	Regional Context	2
2	Proposed Modification	4
3	Statutory Context	5
3.1	Scope of Modifications	5
3.2	Permissibility	5
3.3	Consent Authority	5
3.4	Environmental Planning Instruments	5
3.5	Other Approvals	5
4	Engagement	6
4.1	Department's Engagement	6
4.2	Summary of Submissions	6
4.3	Agency Advice	6
4.4	Submissions Report	7
5	Assessment	8
5.1	Other Issues	8
6	Evaluation	11
7	Recommendation	12
8	Determination	12

1 Introduction

1.1 Background

The Hitchcock Road Sand Quarry (the Quarry) is an established sand extraction operation at Maroota within the Hills Shire local government area. The Quarry is owned and operated by PF Formation Pty Ltd (PF Formation) and supplies tertiary sand and friable sandstone products to the Sydney construction market, primarily for concrete production and bricklaying. Material extracted from the Quarry is transported to the PF Formation's Central Wash Plant site which is to the north-west of the Quarry (see **Figure 1**).



1.2 Approval History

The Quarry was originally approved in 1998 by the Land and Environment Court which allowed 400,000 tonnes per annum (tpa) of washed sand to leave the site with a daily limit of 200 laden vehicle movements.

The Quarry currently operates under MP 06_0104, which was granted in February 2009 by the then Minister for Planning under Part 3A of the *Environmental Planning & Assessment Act 1979* (EP&A Act). The current development consent allows PF Formation to:

- extract and process up to 400,000 tpa of sand from a total resource of approximately 5.3 million tonnes until 30 November 2028;
- transport up to 200 laden truck movements per day;
- import up to 20 trucks per day of Virgin Excavated Natural Material (VENM) from the Old Telegraph Road Quarry to the site for the purpose of reprocessing and generating saleable products; and
- progressively rehabilitate the site.

PF Formation also owns and operates the Old Telegraph Road Quarry which operates under Council approval DA 1380/2014. The Old Telegraph Road Quarry is situated approximately 1.9 km to the northwest of the Hitchcock Road Quarry (see **Figure 1**) and is permitted to extract tertiary sand and friable sandstone at a maximum rate of 100,000 tpa from an overall resource of 1 million tonnes. The sand is transported to the Central Wash Plant site associated with the Hitchcock Road Quarry consent. The Old Telegraph Road Quarry's consent allows it to transport up to 20 loads per day of VENM to the Hitchcock Road Quarry until 2037.

1.3 Regional Context

Maroota is a semi-rural area that has a long history of quarrying and sand production. While quarries are the dominant land use to the south and north, horticulture and rural-residential development are dominant towards the centre and to the east of town.

The Quarry is immediately bordered by the Haerses Road Sand Quarry (owned and operated by Dixon Sand) to the immediate west, Roberts Road Quarry across Old Northern Road to the east (owned and operated by Hodgson Quarries and Plant Pty Ltd) and bushland associated with the Deerubbin Local Aboriginal Land Council to the south.

The Quarry is one of nine other quarry operations within the Maroota area that target the Maroota Sands geological layer. The Maroota Sands is a productive resource that allows easy access to sand and other materials for use in the construction and landscaping industries. The area is identified as a regionally significant resource by the *Sydney Regional Environmental Planning Policy No. 9 – Extractive Industries (SREP 9)* (refer to **Figure 2** for SREP 9 Boundary)

The Quarry is strategically located to provide sand products to the Greater Sydney construction industry, particularly to Western Sydney, which is expected to experience considerable growth over the next decade to support projected population increases.

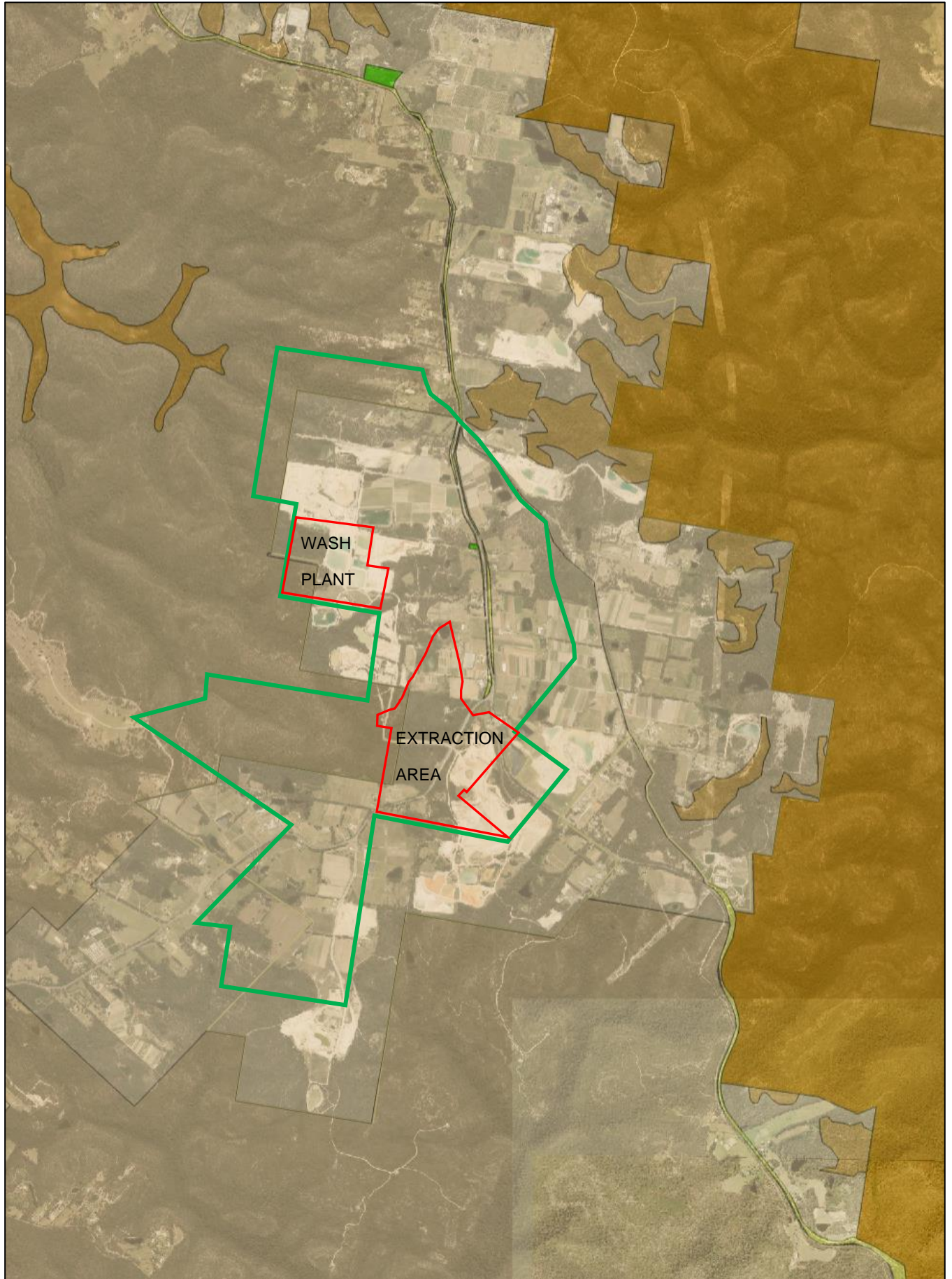


Figure 2 | Local Context and SREP 9 Boundary

2 Proposed Modification

On 30 June 2020, R.W. Corkery & Co Pty Limited, on behalf of PF Formation, submitted a modification request (MP 06_0104 MOD 1) under section 4.55(2) of the EP&A Act. Letters provided by PF Formation dated 3 and 22 November 2021 amended the modification application by removing the request to amend:

- condition 2(b) of Schedule 3 to remove the 10-metre buffer from the property boundary of Lot 2 DP 555184; and
- the final vegetation rehabilitation requirements and biodiversity offset.

The Department accepted the amendments to the modification application, as there is a level of uncertainty about what vegetation has been approved for removal, what areas now require rehabilitation and how the proposed biodiversity offset relates to this uncertainty.

The final amended proposal is summarised in **Table 1**.

Table 1 | Approved vs proposed components

Component	Existing	Proposed
Quarry Life	30 November 2028	30 November 2038
Production Limit	400,000 tpa	No change
Truck Movements/	<ul style="list-style-type: none"> • 400 overall movements per day with 200 laden leaving and 200 returning 	<ul style="list-style-type: none"> • No change to overall heavy vehicles movement numbers
Imported Material	<ul style="list-style-type: none"> • Of the 200 heavy vehicles returning 20 are laden with VENM 	<ul style="list-style-type: none"> • Of the 200 returning heavy vehicles all can be laden with VENM and Excavated Natural Material (ENM) • Maximum VENM / ENM importation of 250,000 tpa
Total Biodiversity Offset Area requirement	<ul style="list-style-type: none"> • 12 hectares (ha) of on-site rehabilitated disturbed area comprising: <ul style="list-style-type: none"> ○ 7.9 ha of Sydney Hinterland Transition Woodland; and ○ 4.1 ha of other woodland communities 	<ul style="list-style-type: none"> • No change

The proposal also seeks to amend the approved Statement of Commitments to simplify commitments duplicated by conditions of consent or approved management plans. Other amendments include simplification or reliance on existing legislation.

3 Statutory Context

3.1 Scope of Modifications

The modification application was lodged under section 4.55(2) of the EP&A Act. The Department has reviewed the scope of the modification and considers that it:

- would not significantly increase the environmental impacts of the project as approved;
- is substantially the same development as originally approved (see **Table 1**); and
- would improve the successful rehabilitation of the final landform.

The Department is therefore satisfied that the proposed modification is within the scope of section 4.55(2) of the EP&A Act and does not constitute a new development application. Accordingly, the Department considers that the application should be assessed and determined under section 4.55(2) of the EP&A Act.

The Department has also:

- considered advice provided concerning the proposed modification (see **Section 4**); and
- considered the relevant matters in section 4.15(1) of the EP&A Act, including the;
 - provisions of any relevant environmental planning instrument;
 - likely impacts of the proposed modification, including environmental impacts on both the natural and built environment, social and economic impacts in the locality;
 - public interest, including any relevant objects of the EP&A Act; and
 - reasons given by the approval authority for the grant of the original approval.

3.2 Permissibility

The Quarry site is entirely zoned RU1 Primary Production under *The Hills Local Environmental Plan 2019* (The Hills LEP) and extractive industries are permissible in this zone.

3.3 Consent Authority

The Minister for Planning and Public Spaces (Minister) is the consent authority for the application. However, the Director, Resource Assessments may determine the application under the Minister's delegation of 26 April 2021, as the Hills Shire Council did not object to the proposal, PF Formation did not report any political donations and less than 15 public submissions in the way objections were received.

3.4 Environmental Planning Instruments

In undertaking its assessment, the Department has considered the objects of the EP&A Act and the provisions of relevant environmental planning instruments, including:

- *State Environmental Planning Policy (Mining, Petroleum and Extractive Industries) 2007*;
- *State Environmental Planning Policy (State and Regional Development) 2011*;
- *State Environmental Planning Policy No. 33 - Hazardous and Offensive Development*;
- *State Environmental Planning Policy No. 55 Remediation of Land*;
- *State Environmental Planning Policy (Infrastructure) 2007*;
- *Sydney Regional Environmental Plan No.9 – Extractive Industry (SREP 9)*; and
- *The Hills Local Environmental Plan 2019 (The Hills LEP)*.

3.5 Other Approvals

Quarrying operations at the site are currently regulated under Environment Protection Licence (EPL) 3407, granted under the *Protection of the Environment Operations Act 1997* (POEO Act). The Environment

Protection Authority (EPA) has advised that the EPL would require a variation to reflect the proposed modification.

4 Engagement

4.1 Department's Engagement

The Department publicly exhibited the modification application and supporting information (see **Appendix A**) from 31 July 2020 until 13 August 2020. The documents were made available online on the Department's website.

The Department advertised exhibition of the Modification Report in the Hawkesbury Courier and the Hawkesbury Gazette on 29 July 2020. The Department also notified previous submitters and special interest groups, who made submissions on the original project application. The Department also notified landowners within a 2 km radius of the project site.

The Department considers that the notification process met the requirements of the EP&A Act and Regulation.

4.2 Summary of Submissions

The Department did not receive any submissions from the public or special interest groups, however it did seek advice from 11 Government agencies, including the Hills Shire Council, regarding the modification application.

Copies of the advice provided by the 11 agencies are included in **Appendix B**.

4.3 Agency Advice

The NSW **Environment Protection Authority (EPA)** provided advice on 12 August 2020 requesting further information regarding the importation of VENM, ENM and other materials and the relationship to the Resource Recovery Orders and Exemptions. The EPA provided additional advice on 16 September 2020 following its review of the Submissions Report, noting that PF Formation had acknowledged that ENM can only be used for earthworks and engineering fill and cannot be reprocessed. The EPA supported the use of ENM for the purpose of engineering fill or use in earthworks and also supported the removal of the sub-limit of 20 laden truck movements per day for importing the VENM providing there is no change to the maximum number of daily truck movements.

The EPA did not support the importation of the "other approved materials" as it would require the assessment of the intended purpose of the individual materials in addition to listing each approved material on the EPL. The EPA instead recommended that the development consent state the title of the exemptions for the materials the Quarry has been approved for import and application of these materials. The EPA also noted that following the granting of development consent, the applicant can apply to vary the EPL and add the Resource Recovery Orders and Exemptions as specified in the POEO Act.

The Department accepts the EPA advice and this is discussed further in **Section 5.2** below.

The **Environment, Energy and Science Group (EES)** within the **Department** provided comment that the proposed revised biodiversity offset offered in replacement for revegetating areas with impacts to Sydney Hinterland Transition Woodland (SHTW) would not meet the current offsetting rules as the vegetation communities are generally not in the same vegetation class as SHTW. Despite the offsets not being 'like for like', EES supported the revised strategy given the ecological benefits of protecting existing vegetation over relying on rehabilitated land.

This element of the modification was removed in PF Formation's letter dated 22 November 2021.

The Hills Shire Council (Council) raised concerns regarding the proposal being considered as a modification application given the proposed increase in the importation of fill material and 10-year extension to the project timeframe. As detailed in **Section 3.1**, the Department considers the modification is substantially the same development for which consent was originally granted and can therefore be assessed under section 4.55(2) of the EP&A Act.

The Department also notes that the definition of an extractive industry in the local standard instrument includes 'processing of extractive materials by methods such as recycling'. The Department is satisfied that the site use remains consistent with the definition of extractive industry under the local standard instrument. The Department supports re-using VENM and ENM for the purposes of re-processing/sale and to achieve an improved final landform.

Transport for NSW (TfNSW) requested further information with regards to the access points of the site, intersection analysis and an assessment of sight distances at site access points, in accordance with AUSTROADS Guide to Road Design. In October 2020, PF Formation submitted a Traffic Assessment which:

- clarified the access points to the site;
- outlined that the sight distances exceed the design requirement for heavy vehicles; and
- concluded that both intersections (Wisemans Ferry Road - Patricia Fay Drive and Wisemans Ferry Road – Old Northern Road) currently operate and will, in 2038, continue to operate at a Level of Service A.

On 3 November 2020 TfNSW advised it had reviewed the Traffic Assessment and had no objection to the proposal.

The **Geological Survey of New South Wales (GSNSW)** within **Mining, Exploration and Geoscience (MEG)** and within the **NSW Department of Regional NSW – Mining** noted that the biodiversity offset strategy proposed for the south eastern portion of Lot 214 DP 752039 is within an area previously identified by GSNSW as potential resource land, however GSNSW noted that it understood there were considerable constraints for extraction in this proposed offset area and that the proposal represents a rational approach for the overall project. GSNSW also requested that annual production data be provided to MEG.

The Department notes that PF Formation removed this element from the modification application in its letter dated 22 November 2021.

The **Water Group within the Department** (comprising **DPIE Water** and the **Natural Resource Access Regulator**), the **Resources Regulator**, and the **Department of Industry – Crown Lands** did not raise any issues.

4.4 Submissions Report

On 4 September 2020, PF Formation provided a Submissions Report (see **Appendix C**). The Submissions Report was made publicly available on the Department's website and provided to the relevant Government agencies for comment.

5 Assessment

The Department has assessed the merits of the proposed modification in accordance with the relevant objects and requirements of the EP&A Act. In assessing these merits, the Department has considered the:

- Environmental Impact Statement for the original development application;
- existing conditions of approval;
- modification application and accompanying Modification Report and additional information provided by PF Formation;
- advice from government agencies; and
- relevant EPIs, policies and guidelines.

5.1 Other Issues

Issue	Findings	Recommendations
Biodiversity Offset	<ul style="list-style-type: none"> • The modification application sought approval to amend the existing biodiversity offset strategy which requires the rehabilitation of 12 ha of disturbed land with native vegetation communities. • To date 4.2 ha of disturbed land has been rehabilitated. • PF Formation sought approval to amend the biodiversity offset to include, <ul style="list-style-type: none"> ○ the existing 4.2 ha of rehabilitated land, ○ 3.1 ha of land to be rehabilitated, and ○ 8 ha of existing vegetated land containing four vegetation communities and threatened species. • During the assessment process the Department noted inconsistencies in the mapping and information provided regarding the vegetation approved for removal, what was being sought for removal and aerial mapping of what had been cleared on the project site. • The Department sort clarity through mapping and surveying to address the inconsistencies. • While conceptually the Department supports land-based offsets of existing vegetation over rehabilitation based offsets, given the difficulty to successfully recreate vegetation communities, however PF Formation was unable able to supply appropriate figures, mapping and information to clearly detail and support the amendment being sort. • Consequently, on 22 November 2021 PF Formation withdrew this element of the modification and this was accepted by the Department. • The Department notes that PF Formation may lodge a future modification seeking approval to revise the biodiversity offset and rehabilitation requirements. 	No additional conditions required.

Buffer Removal	<ul style="list-style-type: none"> • The modification application sought the removal of condition 2(b) of Schedule 3 which requires a 10 m buffer from the adjoining Lot 2 DP 555184. • The Department notes the existing condition permits the removal of the buffer subject to the approval of the Planning Secretary. • The modification application did not include any assessment associated with the removal of the buffer regarding vegetation removal or Aboriginal heritage impacts. • Consequently, on 3 November 2021 this element of the modification application was removed by PF Formation. • The Department accepted this amendment and notes PF Formation can seek to remove the buffer under the existing conditions of consent. 	No additional conditions required.
Traffic	<ul style="list-style-type: none"> • The modification would remove the sub-limit of 20 heavy vehicles permitted to deliver material (VENM and ENM) to the site, whilst maintaining the overall limit of 200 heavy vehicles movements (i.e. 200 dispatched and 200 received) per day. • The Department notes there would be no change to the approved daily heavy vehicles movements and TfNSW concerns regarding traffic impacts were addressed by PF Formation. • The Department considers that while the maximum number total number of truck movement would remain the same, average heavy vehicle numbers could potentially be higher. • Consequently, the conditions of consent relating to traffic management would be updated to include a Traffic Management Plan, which includes requirements to minimise traffic impacts of heavy vehicles on local roads. It also includes measures to manage the potential higher average truck movements. 	<p>The Department has recommended conditions that:</p> <ul style="list-style-type: none"> • remove the limit on the number of trucks bringing VENM / ENM to the site; • require a Traffic Management Plan and Driver's Code of Conduct, to be prepared in consultation with TfNSW and Council; and • require the implementation of the plan.
Importation of materials	<ul style="list-style-type: none"> • The EPA submission advised that the importation of material be limited to VENM and ENM, with additional exempt materials being permitted in accordance with the EPL. 	<ul style="list-style-type: none"> • The Department has recommended conditions accordingly. • Further, the Department has recommended conditions which require accurate records of all waste received at the site (including the date, time and quantity received) and the reporting of this data in the Annual Review.
Air Quality and Noise	<ul style="list-style-type: none"> • The modification would result in the duration of the existing noise and air quality impacts to be prolonged for a further 10 years until 30 November 2038. 	No additional conditions required to manage air quality and noise impacts.

- The Department notes that the project is bound by strict air quality and noise emissions criteria which protect local amenity.
- The Department considers that, as there would be no change to the intensity of operations (i.e. in equipment, alteration of processing methods, or hours of operations) accordingly the modification would not result in any increase to air quality and noise impacts.
- The Department considers the existing air quality and noise impacts can continue to be managed under the current development consent.

Water	<ul style="list-style-type: none"> • The Department acknowledges that the modification would not result in any changes to water usage, the site water balance, the current water management system or any groundwater related impacts. 	No additional conditions required to manage surface water impacts.
Heritage	<ul style="list-style-type: none"> • The Department is satisfied that the proposal is unlikely to result in any impacts to Aboriginal or historic heritage items and that any unforeseen impacts could be managed in accordance with the existing unexpected finds protocol. 	No additional conditions required to manage historic or Aboriginal cultural heritage impacts.
Social and Economic	<ul style="list-style-type: none"> • The proposal would provide continued employment for up to approximately 22 full time employees until 2038. • The proposal would also assist in maintaining the supply of construction materials to the Greater Sydney construction market. Furthermore, it would assist the Government's infrastructure building program which generates large volumes of VENM and ENM which needs acceptance and management from locations within the Sydney region that have appropriate planning approvals in place. 	No additional conditions required to manage social and economic impacts.

6 Evaluation

The Department has assessed the merits of the proposed modification in accordance with the requirements of the EP&A Act. The proposed modification involves removing the VENM importation trucking sub-limit therefore increasing VENM importation to the Quarry for reprocessing, permitting ENM importation for emplacement and extending the life of the Quarry by an additional 10 years until November 2038.

The assessment found there was insufficient information provided regarding the proposed amendment to the biodiversity offset and the proposed removal of the eastern extraction buffer to Lot 2 DP 555184. In response to requests for additional information on these matters, PF Formation wrote to the Department and withdrew these components of the modification application.

In its assessment, the Department has concluded the residual components of the modification would:

- enable the increased beneficial reuse of VENM for reprocessing and ongoing supply of sand to the Greater Sydney Region construction market;
- enable the beneficial reuse of ENM for the purpose of progressive rehabilitation of the Quarry; and
- provide continued employment for 22 full-time employees.

The Department also found that the modification would extend the existing Quarrying impacts for an additional 10 years (until 2038). No increases of the existing impacts are predicted.

The Department is satisfied that the proposed modification would not increase the environmental impacts of the project beyond an unacceptable standard and that any residual or unforeseen impacts would be appropriately managed under the existing conditions of consent and the detailed management plans which control site activities.

The Department has undertaken a comprehensive whole-of-government assessment of the merits of the proposed modification. None of the State Government agencies or Council objected to the proposal. While some agencies initially expressed concerns with the information provided, all agencies considered that the impacts could be appropriately managed through strict conditions of consent and, where appropriate, made recommendations for additional conditions to be included.

In its consideration, the Department concludes that the positive social and economic impacts created by the proposal would outweigh the negative environmental and social impacts, which are predicted to be maintained below the relevant criteria and are manageable under conditions of consent. The Department is satisfied that the modification is in the public interest and should be approved.

The Department has drafted a Notice of Modification (see **Appendix D**) and a consolidated version of the development consent (see **Appendix E**), as proposed to be modified. The Department has also revised the Statement of Commitments as part of the development consent, as per the modification request. PF Formation has reviewed the proposed conditions and accepts them.

7 Recommendation

It is recommended that the Director, Resource Assessments, as delegate of the Minister for Planning and Public Spaces:

- **considers** the findings and recommendations of this report;
- **determines** that the application 06_0104 MOD 1 falls within the scope of section 4.55(2) of the EP&A Act;
- **accepts and adopts** all the findings and recommendations in this report as the reasons for making the decision to approve the modification;
- **modify** the consent 06_0104; and
- **signs** the attached approval of the modification.

Recommended by:



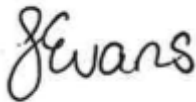
29/11/2021

Carl Dumbleton

Team Leader
Resource Assessments

8 Determination

The recommendation is **Adopted** by:



3/12/2021

Jessie Evans

Director
Resource Assessments

as delegate of the Minister for Planning and Public Spaces

Appendices

Appendix A – Modification Report

See the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/25841>

Appendix B – Submissions

See the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/25841>

Appendix C – Submissions Report and Additional Information

See the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/25841>

Appendix D – Notice of Modification

See the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/25841>

Appendix E – Consolidated Consent

See the Department's website at:

<https://www.planningportal.nsw.gov.au/major-projects/project/25841>