

CHAMPIONS QUARRY Minor Operational Changes Modification (PA 09_0080 MOD 2)

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

1 BACKGROUND

Champions Quarry 2 Pty Ltd (Champions) owns and operates Champions Quarry, located off Wyrallah Road about 16 kilometres south of Lismore, within the Lismore Local Government Area (see **Figure 1**). The quarry operates under project approval 09_0080 (PA 09_0080) granted by the Planning Assessment Commission (Commission) on 30 August 2012.

Champions Quarry is approved to extract sandstone at a rate of up to 250,000 tonnes per annum (tpa) for up to 25 years. A modification to PA 09_0080, (MOD 1) was approved on 29 October 2013 for minor amendments to conditions relating to the use of a weighbridge to provide accurate records of materials transported off-site and the timeframe within which the Biodiversity Offset Areas are to be secured.

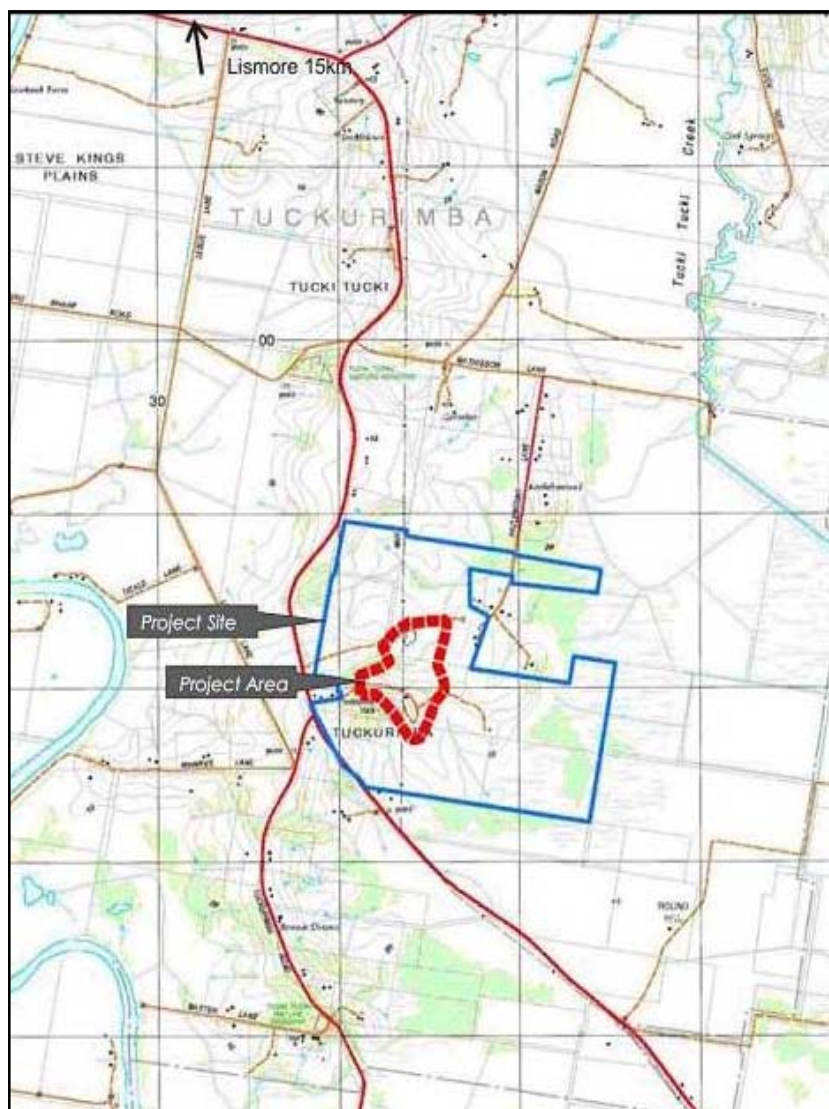


Figure 1: Location of Champions Quarry

2 PROPOSED MODIFICATION

Champions has applied for a modification to PA 09_0080 under section 75W of the *Environmental Planning & Assessment Act 1979* (EP&A Act), (MOD 2) to:

- allow the use of scales fitted to front end loaders for weighing product as an alternative to the use of a weighbridge;
- allow the use of watering of the internal haul road that connects the Central and Southern Extraction Areas as an alternative to sealing the road;
- amend the boundaries of the Biodiversity Offset Areas, including clarifying that the tree screen on the northern side of the quarry access road does not form part of the Biodiversity Offset Strategy; and
- make allowance for reducing the number of Community Consultative Committee (CCC) meetings held each year.

The proposed amendments are discussed in **Sections 2.1 to 2.4** and set out in full in the Environmental Assessment (EA, see **Appendix A**) which supported the application.

2.1 Weighbridge

The project approval originally required Champions to calculate road maintenance contributions to Lismore Council (Council) based on weighbridge records. A modification (MOD 1) granted on 29 October 2013 provided for the use of scales fitted to front end loaders as an alternative to a weighbridge, up until December 2015. This modification also included a requirement that not more than 100,000 tonnes of product be transported from the site without first installing a weighbridge.

Champions is now requesting that conditions of approval be modified to allow the ongoing use of scales fitted to front end loaders for weighing product as an alternative to the use of a weighbridge and that the cap of 100,000 tonnes per annum be removed.

Champions reasons for requesting the amendment are the:

- significant expense of installing a weighbridge with little benefit compared with using scales;
- need to relocate the weighbridge, as the quarry progresses through different stages, and the expense associated with this; and
- existing system of using accredited scales is an effective and widely-accepted industry method of determining weights.

2.2 Internal Haul Road

The project approval requires Champions to seal the internal haul road (see **Figure 2**) that connects the Central and Southern Extraction Areas. Champions is requesting that this condition is amended to allow for watering of the haul road as required, as an alternative to sealing. Champions considers that sealing the haul road is impractical as heavy machinery would rip up the seal, rendering the condition inappropriate.

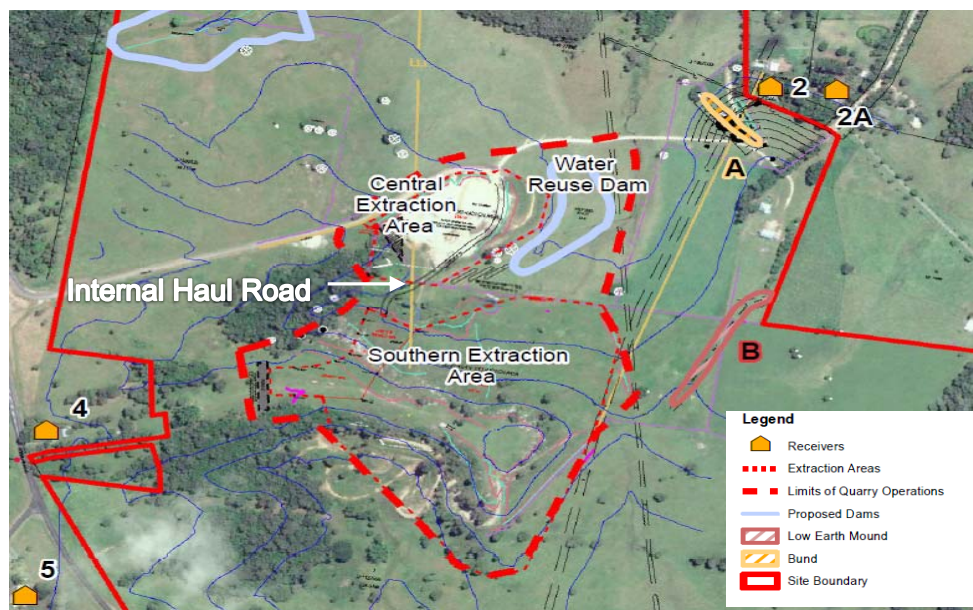


Figure 2: Location of Internal Haul Road

2.3 Biodiversity Offset Areas

The project approval requires Champions to “implement the Biodiversity Offset Strategy as described in the EA, summarised in Table 7 and shown conceptually in the figure in Appendix 6, to the satisfaction of the Director General”.

Champions is seeking to replace Figure 9 in Appendix 6 with an updated figure that shows modified boundaries for the Biodiversity Offset Areas. This includes the exclusion from the Biodiversity Offset Strategy of a Protected Revegetation Area that is a tree screen on the northern side of the quarry access road. Champions claims that the inclusion of the tree screen was an error in the original EA and project approval. The proposed modification also includes other changes to the boundaries of the Biodiversity Offset Areas that Champions states are the result of surveying and ground truthing the areas and simplifying the boundaries to allow for more efficient fencing. Figure 9 in Appendix 6 of the project approval showing the approved conceptual Biodiversity Offset Areas is reproduced below as **Figure 3**. The Biodiversity Offsets Areas initially proposed as part of MOD 2 are shown in **Figure 4**.

Table 7 in condition 40 of the approval contains the minimum size for each of the offset areas is reproduced below. Champions states that the tree screen on the northern side of the quarry access road, which is identified in Figure 4 as a Protected Revegetation Area, was not included in the 1.5 ha area identified in Table 7. Champions considers that the proposed revised boundaries contained in Figure 4 satisfy the minimum size requirements in Table 7.

Table 7: Biodiversity Offset Strategy

| Area | Offset Type | Minimum Size (ha) |
|-----------------------------|---|-------------------|
| Area 1 | Existing vegetation to be enhanced | 1.71 ha |
| Area 2 | Existing vegetation to be enhanced | 2.56 ha |
| Area 3 | Existing vegetation to be enhanced | 2.14 ha |
| Protected Revegetation Area | Vegetation to be established with the planting of native endemic flora species, | 1.5 ha |
| TOTAL | | 7.91 |

2.4 Community Consultative Committee

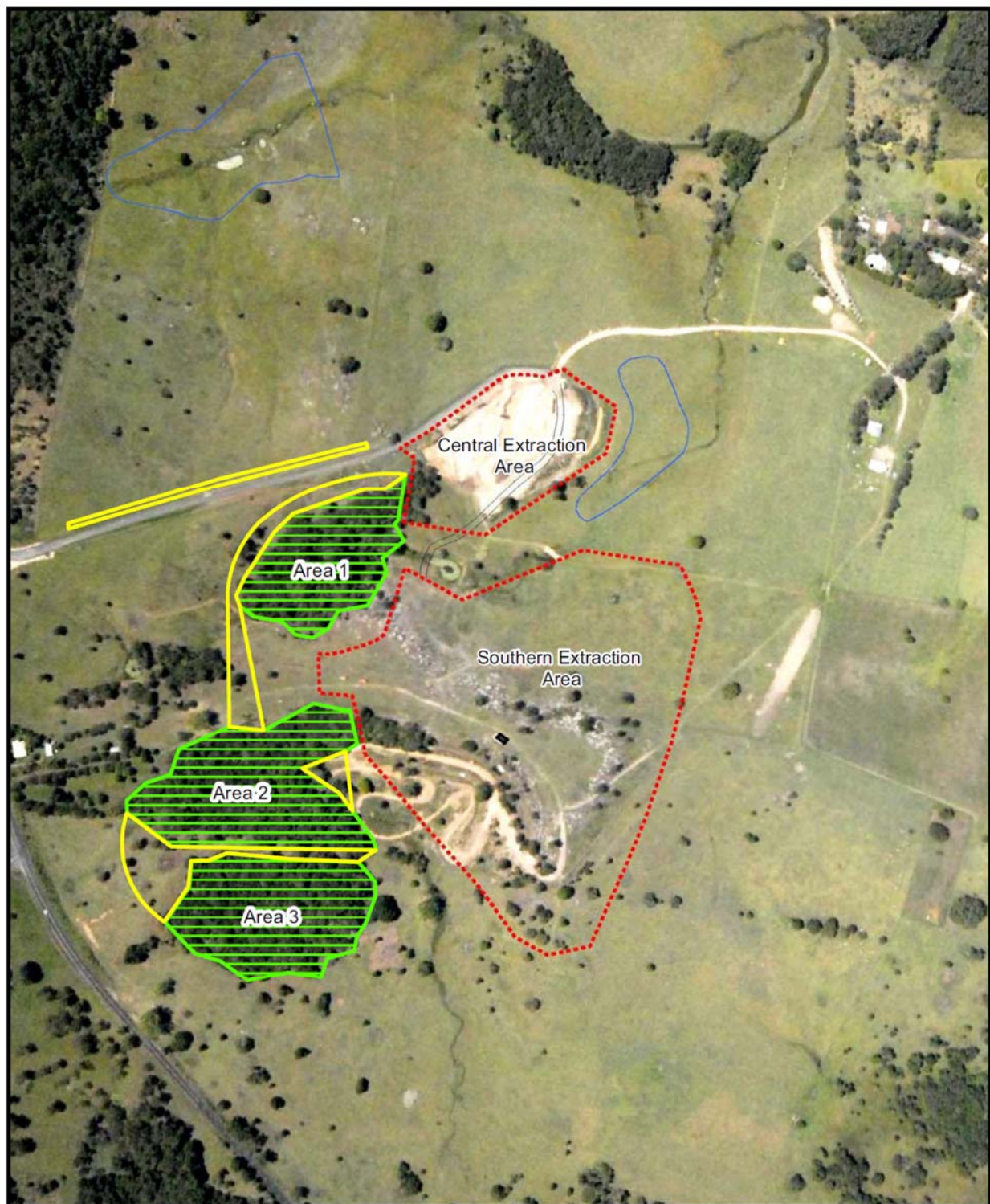
The project approval requires Champions to establish and operate a CCC to the satisfaction of the Director-General (now the Secretary) and in general accordance with the *Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects* (Department of Planning, 2007) or its latest version. Champions has stated that interest in the CCC from the local community has waned, resulting in difficulties in getting local community representatives to attend the meeting. The members of the CCC, as minuted in the last CCC meeting, have requested that the number of meetings be reduced to one per year and that this be reflected in a revision to condition 6.

3 STATUTORY CONTEXT

The project approval was granted under Part 3A of the EP&A Act. In accordance with clause 3 of Schedule 6A of the EP&A Act, section 75W of the Act as in force immediately before its repeal on 1 October 2011, continues to apply to transitional Part 3A projects, such as the Champions Quarry. Consequently, this report has been prepared in accordance with the requirements of section 75W of the EP&A Act. The Department is satisfied that the proposed modification falls within the scope of section 75W and may be determined.

Under section 75W, the Minister was the original approval authority for the Part 3A project application, which was subsequently delegated to the Commission as Council objected to the proposal and over 25 public submissions were received. Consequently the approval authority for this modification application is also the Minister. However, under the Minister's delegation gazetted on 16 February 2015 the Executive Director, Resource Assessments and Compliance may determine the application.

Under section 75W, the Department is not required to notify or exhibit the modification application. The modifications proposed to the approved quarry operations will not change outputs, operating hours or activities that could result in significant increases to impacts on the community or environment. However, given the proposed modification could potentially result in an increase of dust from the internal haul road and includes proposed changes to the operation of the CCC, the Department placed the application on public exhibition for 14 days to provide an opportunity for the community to lodge submissions.

**Legend**

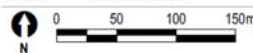
- Protected Revegetation Area
- Protection Areas
- Quarry Extraction Area Boundaries
- Proposed Dams

Source:

Aerial imagery and Quarry Masterplan
 Areas - Land Partners (LM070268-SV26)

Client: Champions Quarry
 Project: Champions Quarry Expansion

Drawing: 0114049pm_GIS04_Ecol.mxd
 Date: 3/11/2010 Drawing Size: A4
 Drawn By: AM Reviewed By: NB
 Projection: GDA 1994 MGA Zone 56
 Scale: Refer to scale bar



Maps and figures contained within this document may be based on third party data, may not be to scale and is intended for use as a guide only. ERM does not warrant the accuracy of any such maps or figures.

Figure 6.1**Biodiversity Offsets**

Environmental Resources Management Australia Pty Ltd
 Brisbane, Canberra, Hunter Valley, Melbourne, Perth,
 Port Macquarie, Sydney

**Figure 3: Approved Conceptual Biodiversity Offset Areas and Protected Revegetation Areas**



Figure 4: Original Proposed Biodiversity Offset Areas and Protected Revegetation Areas

4 CONSULTATION

The Department publicly exhibited the modification application from 2 March to 15 March 2016:

- on the Department's website;
- at the Department's Information Centre;
- at Lismore Council's office; and
- at the Nature Conservation Council's office.

The Department also advertised the exhibition in *The Northern Star*, and notified Council of the exhibition.

4.1 Government Agency Submissions

The Department notified Council of the application but did not notify any other agencies because the proposed changes are minor in nature and the Department considered that the specific notification of other agencies was not necessary. No government agencies made submissions on the proposed modification.

Council did not lodge a submission on the proposed modification. Council stated that it is satisfied with the proposed modifications and would not be lodging a submission.

4.2 Community Submissions

Five submissions were received from the community, all objecting to the proposed modifications (see **Appendix B**). Four of the community asked to remain anonymous and the fifth submission was from a community member who currently sits on the CCC. The issues raised in these submissions relate to the:

- impacts of dust from the haul road if it is not sealed and the company's commitment to watering to control dust;
- dust control at times when the quarry is not operating;
- accuracy of records if scales are used instead of a weighbridge;
- need to protect the vegetation on the northern side of the access road;
- ongoing need for the CCC as a means of communicating with the quarry;
- issues with the operation of the CCC and the view that it is biased, unapproachable and intimidating; and
- presence of a dam that looks to have been constructed without consent, in an area currently identified as a Protected Revegetation Area.

On 18 March 2016, the Department requested that Champions respond to the issues raised by the community and provide further information regarding the collection and management of records from the use of scales for weighing product. It also asked for further demonstration that the proposed changes to the Biodiversity Offset Areas would meet the requirements as included in Table 7 in condition 40 of the approval. A response to submissions (RTS) was received on 12 April 2016 (see **Appendix C**). The Department sought additional information on 6 May 2016, particularly revisions to the proposed boundaries of the Biodiversity Offset Areas and a surveyed plan of the final boundaries. This information was provided to the Department's satisfaction on 9 August 2016.

The Department has given thorough consideration to the issues raised and Champions responses in assessing the proposed modification.

5 ASSESSMENT OF PROPOSED MODIFICATIONS

5.1 Weighbridge

Material at Champions Quarry is currently weighed and recorded via accredited scales attached to a front-end loader before being loaded into trucks. Champions advised that this method is commonly used throughout the quarry industry as an accurate and accountable means of measurement. The other reasons for requesting the modification include the expense of installing the weighbridge and the ongoing need for relocating the weighbridge as the quarry progresses.

The Department has given consideration to the reasons provided by Champions and the concerns raised in the community submissions. The Department agrees with the point raised in the community submissions that it should be possible to find a permanent location for the weighbridge along the quarry access road, removing the need for relocating the weighbridge. Champions has stated that the weighbridge cannot be located on the quarry access road because it needs to be within sight of the operators in the extraction area. The Department does not consider this to be an adequate justification, given that the installation of an automated weighbridge would presumably resolve this issue. Automated weighbridges are installed at other quarries in the State. The need for the ongoing relocation of the weighbridge as the quarry progresses, and the associated cost, is therefore not considered to be a sufficient reason for not installing a weighbridge.

However, if an effective and accurate alternative to the use of a weighbridge is able to be provided, the Department is prepared to support such a proposal. The key consideration is whether the use of scales as is an accurate and reliable method of weighing material and whether the necessary management processes are in place to ensure the ongoing accuracy of the scales and the maintenance of records.

The Department requested further information from Champions regarding the processes for ensuring the accuracy of the scales and the management of records, including requesting Champions to provide a copy of some recent records. A copy of dockets from the scales, customer run sheet and tax invoice for one customer delivery was provided in the RTS as an example of the records held by the quarry. Champions also provided further information about the methods used for ensuring the accuracy of the scales.

The Department is satisfied that an adequate system can be put in place to ensure the accuracy of the scales, and record and maintain production records and recommends that this aspect of the modification application be approved.

5.2 Internal Haul Road

The sealing of the internal haul road between the Central and Southern Extraction Areas was proposed as part of the dust control measures contained in the 2009 project application and EA. Champions has stated that sealing the haul road is impractical as heavy machinery would rip up the seal, resulting in potential contamination of product, and has requested that watering the haul road be allowed as an alternative.

As noted in correspondence dated 13 January 2015 from the Department to Champions Quarry, the Department has previously accepted that sealing the internal haul road would be of little benefit and would likely be damaged by heavy vehicles. The key issue is whether the sealing of the internal haul road is necessary for the quarry to meet air quality criteria and whether watering of the haul road is a satisfactory alternative. As identified in the 2009 EA (see Table C1: Emissions Estimation in the Air Quality Assessment (ERM, November 2009)), the air quality modelling assumed that internal haulage would be on unsealed roads. There were also a number of other factors which led to the model and its predictions being conservative. Nonetheless, the Air Quality Assessment predicted that the quarry could meet all air quality criteria at all private residences. Champions is currently complying with air quality criteria, as detailed in its 2015 and 2016 Annual Reviews.

The Department considers that watering of internal haul roads at a rate of 2 litres per m² per minute is an acceptable method of controlling dust from haul roads. The Department is satisfied that watering the internal haul road between the Central and Southern Extraction Areas as an alternative to sealing the road is a satisfactory and practical method of controlling dust.

5.3 Biodiversity Offset Areas

Tree Screen

Champions has requested an amendment to the Biodiversity Offset Strategy (BOS) identified in Table 7 in condition 40 and shown in Appendix 6 to exclude the tree screen on the northern side of the quarry access road. In its application, Champions has drawn on various parts of the conditions of consent, Statement of Commitments and assessment documentation to support its claim that this tree screen was identified in error (in the 2009 EA, the Department's assessment and the Commission's approval) as a Protected Revegetation Area and therefore a component of the BOS.

The Department does not support many of the conclusions drawn by Champions in its claim of error. Nonetheless, the Department considers that the key question is not whether the tree screen was included in error but whether the minimum size requirements for the BOS contained in Table 7 in condition 40 and other biodiversity offset objectives can be satisfied with exclusion of the tree screen. Champions stated in its application that the tree screen was not included in the calculation of the 1.5 hectares (ha) of Protected Revegetation Area required by condition 40. The Department requested that Champions provide further demonstration of this calculation. This was provided in Champions' RTS by way of a letter and survey drawings confirming that the proposed modified Protected Revegetation Areas, excluding the tree screen, totalled 1.653 ha.

As discussed in further detail below, the Department was also not satisfied that the proposed Biodiversity Offset Areas as shown in **Figure 4** adequately addressed the intent of the BOS and requested that Champions revise the offset areas to address these concerns. Champions provided a figure showing revised Biodiversity Offset Areas (see **Figure 5**) that addressed the Department's concerns and confirmed that the proposed revised Protected Revegetation Area, excluding the tree screen, meets the minimum size requirements of condition 40. In fact, it exceeds it by 0.207 ha.

The Department is satisfied that the proposed Protected Revegetation Areas satisfies the requirements of condition 40 and that the tree screen does not add significant further biodiversity value such as to require or support its ongoing inclusion in the BOS. The Department notes that Champions is still required to

maintain the tree screen under condition 19(b) and commitments made in the 2009 EA. The Department therefore supports the application to exclude the tree screen from the BOS.

Updated Boundaries

Champions also requested that the figure in Appendix 6 of the project approval be replaced with an updated figure that includes revised boundaries for the Biodiversity Offset Areas that have been ground-truthed and surveyed. Table 7 in condition 40 identifies the area shown in the current figure in Appendix 6 as being conceptual. Champions provided an updated figure with boundaries for the Biodiversity Offset Areas that it claims reflect the vegetation on the ground at the date of survey, which has varied since the areas were originally identified in 2010. Champions has stated that the revised areas satisfy the minimum size requirements contained in Table 7. Champions provided further demonstration of this calculation in its RTS by way of survey drawings. These confirm that the proposed boundaries satisfy the area requirements of Table 7.

However, in reviewing the revised boundaries overlaid on the aerial photo (see **Figure 3**), it can be seen that Champion's revised boundaries would result in less high density/quality vegetation and a greater area of lower density vegetation in the proposed Biodiversity Areas 1, 2 and 3. Conversely, the proposed Protected Revegetation Area would contain high density/quality vegetation and less low density vegetation. This is contrary to the intent of the offset areas and is inconsistent with Champions' claim that the revised boundaries are in part the result of ground-truthing current vegetation.

During discussions with Champions it was confirmed that the revised boundaries for the offset areas were also based on its proposal to provide offset areas that could be efficiently fenced (as stated in the modification application). In so doing, Champions proposed to make maximum use of existing fencing and to maintain a 50 metre (m) buffer between the offset areas and the quarry extraction area. Champions interpreted that providing the 50 m buffer to the offset area boundary would satisfy Schedule 3 condition 37 which requires "*that the edge of the Southern Extraction Area is setback at least 50 metres from the mapped Dry Rainforest/Lowland Rainforest EEC on site.*" The Department's position is that a 50 m buffer does not in itself satisfy condition 37 because the buffer needs to be provided to the physical edge of the mapped Dry Rainforest/Lowland Rainforest EEC.

On 6 May 2016, the Department informed Champions that it was not satisfied with the Biodiversity Offset Area boundaries as proposed in MOD 2 and requested that they be revised. On 8 August 2016, Champions provided a figure showing the revised Biodiversity Offset Areas that addressed the Department's concerns (see **Figure 5**). The Department considers that the revised Biodiversity Offset Areas and Protected Revegetation Areas now more closely reflect the conceptual areas identified in Figure 9 in Appendix 6. More of the high density/quality vegetation is now contained in the Biodiversity Offset Areas, the lower density/quality vegetation is now contained in the Protected Revegetation Areas and the minimum size requirements for each area have been either met or exceeded. In fact the proposed revised BOS results in an increase in area protected by 0.653 ha, when compared with that currently required by condition 40.

The proposed revised Biodiversity Offset Areas will result in a buffer distance between the extraction areas and the offset areas of at least 25 m. As noted above, condition 37 requires a setback of the Southern Extraction from the mapped Dry Rainforest/Lowland Rainforest EEC of 50 m, not a setback from the offset areas. The Department considers that the intent of condition 37 has been met and that the Biodiversity Offset Strategy as shown in **Figure 5** provides appropriate ongoing protection for the native vegetation on site. Further, other quarrying activities (for example haul roads or dams) are permitted within this 'buffer' zone and such activities have taken place (see **Figure 5**). For these reasons, the Department considers that condition 37 is ineffective and recommends that it is deleted from the approval.

5.4 Community Consultative Committee

The Department considers that Champions' request to modify Schedule 5, condition 6 to explicitly allow the CCC to change the frequency of CCC meetings is unnecessary. Both the *Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects* (Department of Planning, 2007) and the *Community Consultative Committee Guidelines State Significant Projects* (Final Draft, February 2016) allow the Committee to determine the frequency of its meetings, unless the frequency is stipulated via a condition of approval. The current conditions do not specify meeting frequency therefore the Committee can determine the meeting frequency.

The Department recommends that Schedule 5, condition 6 remain unchanged.



Figure 5: Proposed Biodiversity Offset Areas and Protected Revegetation Areas

6 CONCLUSION

Champion's proposed MOD 2 to PA 09_0080 includes:

- use of scales fitted to front end loaders for weighing product as an alternative to use of a weighbridge;
- use of watering of the internal haul road that connects the Central and Southern Extraction Areas as an alternative to sealing the road;
- amending boundaries of the Biodiversity Offset Areas, including clarifying that the tree screen on the northern side of the quarry access road does not form part of the BOS; and
- making allowance for reducing the number of CCC meetings held each year.

The Department has assessed the modification application, submissions, RTS and other information provided by Champions in accordance with the relevant requirements of the EP&A Act. The Department is satisfied that the use of scales fitted to front end loaders for weighing product can be undertaken in a manner that provides accurate measurement of product from the quarry and that appropriate records are able to be maintained to allow for verification of this. The Department is also satisfied that watering of the internal haul road between the two extraction areas is an appropriate method of controlling dust.

The Department is satisfied that the removal of the tree screen on the northern side of the quarry access road from the BOS will not compromise the strategy's value, noting that the tree screen is still required to be established by condition 19 of Schedule 3. The other proposed changes to the boundaries of the BOS would satisfy the minimum area requirements of Schedule 3 condition 40 and other aims of the strategy. In fact they would result in a net gain in area protected by the BOS compared with that currently identified in condition 40. The Department recommends that condition 40 be amended to reflect the revised areas and an updated figure be included in Appendix 6. The Department is also of the view that condition 37 of Schedule 3 serves little relevant purpose and will be redundant following the current review, confirmation and expansion of the Biodiversity Offset Areas and Protected Vegetation Areas and their fencing. Therefore condition 37 can safely be deleted from the consent.

The proposal to amend condition 6 of Schedule 5 in relation to the frequency of CCC meetings is considered to be unnecessary and the Department recommends that this condition remain unchanged.

On balance, the Department is satisfied that the benefits of the proposed modifications that it supports outweigh any residual costs, are in the public interest, and should be approved subject to the recommended conditions. The proposed Notice of Modification is attached as **Appendix D**. A consolidated version of the project approval, as proposed to be modified, is attached as **Appendix E**.

Champions has reviewed and has accepted the proposed modified conditions.

7 RECOMMENDATION

It is **RECOMMENDED** that the Executive Director, Resource Assessments and Compliance:

- **considers** the findings and recommendations of this report;
- **determines** that the proposed modification falls within the scope of section 75W of the EP&A Act;
- **approves** the proposed modification under section 75W; and
- **signs** the attached Notice of Modification (see **Appendix D**).


Howard Reed
Director Resource Assessments
19.8.16

 26/8/16
Oliver Holm
Executive Director
Resource Assessments & Compliance

APPENDIX A: ENVIRONMENTAL ASSESSMENT

Refer to Department's website:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7521

APPENDIX B: SUBMISSIONS

Refer to Department's website:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7521

APPENDIX C: RESPONSE TO SUBMISSIONS

Refer to Department's website:

http://majorprojects.planning.nsw.gov.au/index.pl?action=view_job&job_id=7521

APPENDIX D: NOTICE OF MODIFICATION

APPENDIX E: CONSOLIDATED DEVELOPMENT CONSENT