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Managing Director
Sutton Forest Quarries Pty Ltd
2 Grosvenor Street,
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8th August 2018

Re: SSD 6334 Application by Sutton Forest Quarries Pty Ltd

Dear Sir:

Advice provided by Mr Howard Reed at the Department of Planning & Environment Meeting at Moss Vale on 31 July 2018 and subsequent email correspondence indicates that land owner's consent is required for any State Significant Development (SSD) application if the application is made by a person who is not the owner of the land to which the application relates (see appended notes).

Your proposed SSD 6334 shows that the development area of the quarry access road extends beyond the road reserve owned by Crown Lands and onto the Birdram Pty Ltd land (LOT 15 DP255946), particularly as concerns the embankment for the access road, the closure of the existing road access and the proposed new access road to Lot 15 through a developed orchard licensed for irrigation (see figure).

We assert that the development application is not for consent to the leased part Henderson property (Lot 4 DP253435) only but it is also for:

- i. development on the Birdram Pty Ltd property (Lot 15) for which landowner consent is required,
- ii. development to be carried out on the Crown Road reserve for which Wingecarribee Council consent is required,
- iii. development on the unleased part of the Henderson property where Wingecarribee Council would have to take title to the land required for the U turn bay.

The development application therefore requires the consent of Birdram Pty Ltd.

Note that:

- i. The proponent, Sutton Forest Quarries Pty Ltd, has never consulted with Birdram Pty Ltd.
- ii. Consent by Birdram Pty Ltd to the proposal has not been sought and the Application is therefore in breach of the Director General's Requirements.
- iii. Birdram Pty Ltd does not consent to the proposed use of Lot 12 for the overpass embankment (or any part of the wall or new access road) or any other purpose described in the application.

The proposal therefore cannot proceed and the application should be withdrawn.

Birdram Pty Ltd reserves its rights.

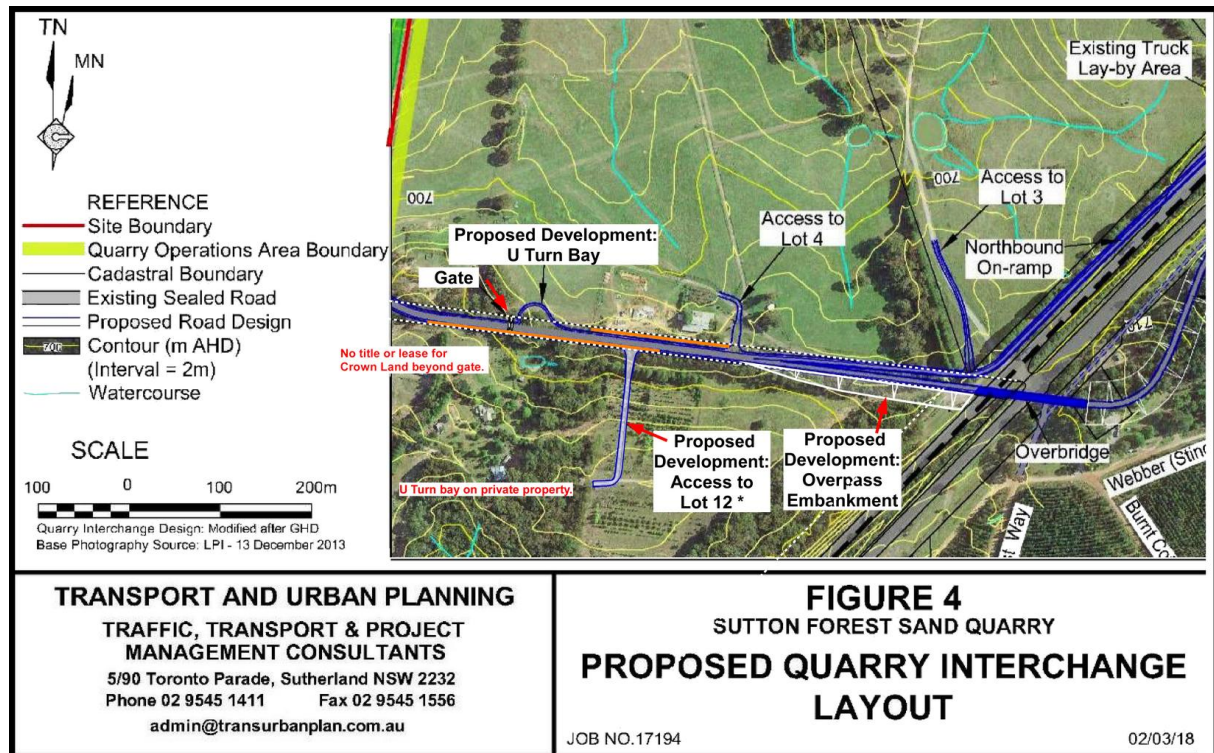
Sincerely,



Daniel Fitzpatrick

CC. Mr Howard Reed, NSW Department of Planning & Environment
Ms Ann Prendergast, General Manager, Wingecarribee Shire Council

Figure: Quarry access road



Appendix: Notes on consent requirements

Land owner's consent is not required for a SSD application that is:

- made by a public authority; or
- for public notification development

if certain notification requirements are met.

These requirements are that the applicant instead gives notice of the application as set out by cl. 49(2) of the *Environmental Planning and Assessment Regulation 2000* (EPA Reg), which requires that the applicant gives notice:

- by written notice to the owner of the land before the application is made, or
- by advertisement published in a newspaper circulating in the area in which the development is to be carried out no later than 14 days after the application is made.

Under cl. 49(5) of the EPA Reg 2000, 'public notification development' means:

- State significant development set out in clause 5 (Mining) or 6 (Petroleum (oil and gas)) of Schedule 1 to State Environmental Planning Policy (State and Regional Development) 2011 but it does not include development to the extent that it is carried out on land that is a state conservation area reserved under the National Parks and Wildlife Act 1974, or
- State significant development on land with multiple owners designed by the Secretary for the purposes of this clause by notice in writing to the applicant for the State significant development.

The proposed Sutton Forest is a sand quarry and does not require a mining lease and so this quarry application fall outside of the scope of cl. 49(5).

It therefore requires land owner's consent for **all areas** of the development application area.

