Form 43 (version 1)
UCPR 36.11

ORDER

COURT DETAILS

Court	**LAND AND ENVIRONMENT COURT OF NEW SOUTH WALES**
Division	Class 1
Registry	Level 4, 225 Macquarie Street, Sydney
Case number	10021 of 2014

TITLE OF PROCEEDINGS

Applicant	**Cleve Smith Excavations Pty Ltd**
Respondent	**Gosford City Council**

DATE OF ORDER

Date made or given	18 June 2014
Date entered	2 JUL 2014

TERMS OF ORDER

The Court notes that the parties have reached agreement after a conciliation conference held pursuant to s 34 of the *Land and Environment Court Act* 1979, presided over by Senior Commissioner Moore on 9 May and 6 and 18 June 2014, as to the terms of a decision in the proceedings that would be acceptable to the parties (being a decision that the Court could have made in the proper exercise of its functions) as set out in the agreement between parties dated 18 June 2014 and executed by the parties' legal representatives.

By consent and noting that the parties have agreed that there be no order as to costs, the Court makes the following orders:

1. The appeal is upheld; and
2. Development Consent is granted to the Development Application referred to in Schedule 1 subject to the conditions in Schedule 2.

SEAL AND SIGNATURE

Court seal

Signature

Capacity Maria Anastasi
Assistant Registrar

Date 2 JUL 2014

THE SEAL OF THE LAND AND ENVIRONMENT COURT
NEW SOUTH WALES

[Include the following section if the document is to be provided to the Registrar for sealing under UCPR 36.12.]

PERSON PROVIDING DOCUMENT FOR SEALING UNDER UCPR 36.12

Name	**Cleve Smith Excavations Pty Limited**, Applicant
Legal representative	Alan McKelvey, Sparke Helmore Lawyers
Legal representative reference	APM:CLE012/1
Contact name and telephone	Alan McKelvey, +61 2 4924 7277
Contact email	alan.mckelvey@sparke.com.au

Schedule 1

Development Application	DA 42409/2012
Applicant:	Cleve Smith Excavations Pty Ltd
Consent Authority:	Land and Environment Court
Land:	Lot 2 DP362339, 620 Wisemans Ferry Road, Somersby
Development:	An extractive industry involving the extraction of up to 150,000 tonnes of washed and dry screened unwashed sand in 5 stages over a period of 20 years.

Schedule 2

1. Approved Plans and Supporting Documents

1.1. The development shall be carried out generally in accordance with:

(a) the plans and supporting documents listed below (1.2) as submitted by the applicant; and

(b) the conditions of this consent.

1.2 If there is any inconsistency between the documents referred to in this condition and the other conditions of this consent then the other conditions of this consent prevail to the extent of the inconsistency.

Supporting Documentation

Document	Title	Date
	Environmental Impact Statement Volumes 1, 2 and 3, for the Rindean Quarry Somersby, prepared by Coastplan Consulting	May 2012
8151	Rindean Sand Quarry – Air Quality Assessment	17/7/2013
RGA Ref: 10509-601/1	Update of 2004 Hydrogeological Investigation	April 2014

Plans by Stephen Thorne & Associates

Drawing	Description	Sheets	Issue	Date
6175	Quarry Plan Stage 1	1	E	16/10/2012
6175	Quarry Plan Stage 2	1	F	18/10/2012
6175	Quarry Plan Stage 3	1	E	23/10/2012
6175	Quarry Plan Stage 4	1	D	23/10/2012
6175	Indicative Final Landform	1	D	10/4/2012

2. Principal Conditions

2.1 The operation of the quarry shall be carried out in accordance with the quarry management plan as approved by the Gosford City Council (the Council) from time to time.

2.2 A copy of the quarry management plan shall be kept on site for the duration of quarry's operation and be made available for inspection upon request by an authorised officer of the Council.

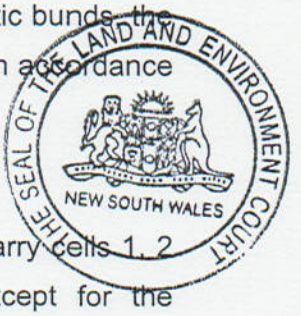
2.3 The perimeter buffer areas and the limits of extraction shall be in accordance with the drawings numbered 6175 for stages 1 to 4 of the quarry's operation and recorded in the quarry management plan. Resource extraction is not to occur within:

1) a line 100 metres radius from any residence not associated with the quarry;

2) a line 20 metres from the northern and southern property boundaries; and

3) a line approximately 50 to 80 metres from the western boundary, as shown in Drawings 6175 for stages 1 to 4.

2.4 The buffer areas will be maintained as areas of native vegetation. The acoustic bunds, the wheel wash and the access road may be constructed within the buffer areas in accordance with the quarry management plan.



2.5 Within the area of extraction the following excavation depths shall apply:

(1) for the eastern section of the quarry across the areas identified as quarry cells 1, 2 and 3 no sand extraction is to occur below RL 215m AHD, except for the construction of a storm water retention basin, the depth of which shall not extend below RL 213m AHD, and freshwater ponds 1 and 2, the depth of which shall not extend below RL211m AHD;

(2) for the central section of the quarry across the area identified as quarry cell 6 no sand extraction is to occur below RL 216m AHD; and

(3) for the western section of the quarry across the area identified as quarry cell 7 no sand extraction is to occur below RL 217m AHD.

2.6. The hours of operation during the construction period shall be 7.00am to 5.00pm Monday to Friday and 7.00am to 1.00 pm on Saturdays. No activities are to be undertaken on Sundays and public holidays except as allowed under conditions 2.8 and 2.9.

2.7 The hours of operation after the commencement of sand extraction shall be 7.00am to 6.00pm Monday to Friday and 7.00am to 1.00 pm on Saturdays. Resource extraction by ripping shall be limited to the hours of 8.00am and 3.00 Monday to Friday. Saturday operations shall be limited to the loading and transport of product and the transport of material within the quarry and as allowed under Conditions 2.8 and 2.9

No activities are to be undertaken on Sundays and public holidays except as allowed under conditions 2.8 and 2.9.

2.8. Maintenance and pollution control activities may be undertaken outside the hours specified in Conditions 2.6 and 2.7 hours provided they are not audible at the residences at:

R1	630 Wisemans Ferry Road;
R2	628 Wisemans Ferry Road;
R3	2 Lackersteens Road;
R4	590 Wisemans Ferry Road;
R5	596 Wisemans Ferry Road; and
R6	600 Wisemans Ferry Road.

2.9 The following activities may be carried out at the premises outside the hours specified in Conditions 2.6 and 2.7.

(1) the delivery of materials as requested by police or other government authorities for safety reasons; and

(2) emergency work to avoid the loss of lives, property and/or to prevent environmental harm.

In such circumstances the Applicant shall notify EPA and affected adjoining residents prior to undertaking the works, or within a reasonable period thereafter in the case of an emergency.

2.10 The maximum extraction is 150,000 tonnes of product sand per year (to commence from the date of consent) from the site.

2.11 Sand extraction under this consent is authorised for 20 years from the date that extraction is physically commenced.

2.12 The applicant shall provide a bond in the form of a bank guarantee of $200,000 indexed by CPI increases from the date of commencement of the construction period to the closure of the quarry as an insurance against the failure of the applicant to comply with the conditions of consent. The bond is to be delivered to Council prior to the physical commencement of this consent.

If, at the end of the quarry's operation, the site is restored in the manner set down in the quarry management plan, the bond will be released to the applicant by the Council.

In the event of a failure by the applicant to comply with the rehabilitation requirements of the quarry management plan, the Council may require the bond to be forfeited and any costs incurred by the Council for the reasonable restitution of the site will deducted from the bond. Any residual money from the bond after reasonable costs have been deducted will be payable to the applicant. If the costs of restitution are greater than the value of the bond, the Council may recover the additional costs and the costs of recovery from the applicant.

2.13 All other existing development consents for quarry operations that apply to the site are to be surrendered to the relevant consent authority within 3 months of the development authorised by this consent being physically commenced.

3. First Works

3.1 A prominent sign shall be erected at the quarry gate. The sign shall indicate:

a) the name of the business being conducted;

(b) the name of the principal contact and a telephone number at which that person may be contacted both during and outside of working hours; and

b) that unauthorised entry to the site is prohibited.

The sign shall be removed when the quarry operation had finished and the site had been rehabilitated.

3.2 The applicant shall establish and subsequently maintain and monitor a meteorological station in the vicinity of the development, to the satisfaction of the EPA.

The meteorological station shall as a minimum, be suitable to monitor the parameters specified in the air quality management plan. Monitoring of all parameters must commence prior to earthmoving activities being undertaken on the site. A copy of the monitoring report to be submitted to Council annually.

3.3 A 2 metre high security fence and security gate shall be erected around the property boundary. The fenced shall be continuous except for a main entry gate and emergency access gates. At 50 metre intervals along the security fence signs shall be erected cautioning the presence of the open quarry with potential near vertical drops.

3.4 A registered surveyor shall record on the survey plan of the quarry the footprint of the approved sand extraction area, the locations of the hollow bearing trees identified as trees to be retained in the quarry management plan and the location of the meteorological station. A copy of this survey plan is to be submitted to the Council prior to the commencement of any earth works.

3.5 Prior to the commencement of any earthworks on site a coloured security web fence is to be placed around hollow bearing trees that are to be retained. Such fences shall be retained for the life of the quarry.

3.6 Upon completion of the safety fencing, a registered surveyor shall advise the Council by letter that the fences have been erected in accordance with these conditions.

3.7 Sediment control measures shall be installed sufficient to prevent contamination of run-off water from the site during construction.

4. Construction Period

4.1 The Council shall be advised of the starting date for and the expected duration of construction works (the construction period). Construction works are works associated with the construction and stabilising of the acoustic bunds, construction of the revised access from Wisemans Ferry Road, construction of the wheel wash and sealing of the access road. These works shall be completed during the construction period.

4.2 Construction work likely to generate noise exposure at the residences listed in clause 2.8 of this consent that exceeds the operational noise exposure targets set in the quarry management plan by more than 10dBA shall be identified prior to the start of the construction period. This work shall be conducted over a 4 week period subject to weather. The dates of this period shall be agreed between the Council and the operator of the quarry and if no agreement, as specified by Council.

The occupants of these residences shall be advised of the likely noise exposure during this period prior to it beginning. All reasonable efforts shall be made to minimise the extent and intensity of the noise exposure.

4.3 Acoustic barriers shall be constructed at locations and with heights of 4 metres or 6 metres as identified plans numbered 6175 for stages 1 to 4 of the quarry's operation, with the exception that the southwestern bund is to be constructed in accordance with plan 6175 issue D (figure 5).

(1) An acoustic barrier may be of a trapezoidal earthen construction, a barrier fence or a combination of an earthen mound topped by a barrier fence. Any trapezoidal form shall have a minimum crest width of one metre. The mounds and barrier fences shall be constructed according to sound engineering and acoustic practice.

(2) The acoustic mounds shall be stabilised in accordance with the Rehabilitation and Landscape Management Plan. For every existing tree greater than 3m in height removed within the acoustic bund wall area, three advanced native trees as determined by the landscape architect are to be replaced.

(3) The landscaping and tree planting of the acoustic mounds shall be maintained for the life of the quarry.

(4) Across the southern boundary of the quarry, the height of the bund can be reduced and the height of the barrier fence commensurately increased if necessary to maintain native vegetation.

(5) If the height of the barrier fence exceeds two metres it is to be vegetated, or vegetation planted on the external side of the fence to mitigate its visual impact to the landscape architect's requirements.

4.4 A coloured mesh safety fence shall be erected along the perimeter of areas where quarrying has created near vertical drops of more than 3 metres.

4.5 The applicant must upgrade Wisemans Ferry Road in accordance with the plans/specifications approved by the road authority in the vicinity of the quarry entry road. The required works are to be designed are as follows:

(1) Rural Basic Right-turn treatment (BAR) intersection in Wisemans Ferry Rd at the access to the development, in accordance with Austroads "Guide to Road Design - Part 4A: Unsignalised and Signalised Intersections."

(2) Provision of double barrier line at the quarry access and extended to Lackersteens Road to prohibit overtaking of turning vehicles.

(3) Provision of truck turning signs on Wiseman's Ferry Road.

(4) Installation of stop signs at the quarry entrance and Wisemans Ferry Road for traffic leaving the quarry.

(5) The signage and line marking plan shall be approved by the Council Traffic Committee.

The pavement depths must be determined in accordance with Council's specifications and the following traffic loadings:

Name of Street	Traffic Loading (ESAs)
Wisemans Ferry Road	1×10^7
Quarry Access Vehicle Crossing	1×10^7

4.6 All work required to be carried out within a public road reserve must be approved separately by Council, under Section 138 of the Roads Act 1993.

4.7 A Construction Traffic Management Plan (CTMP) shall be prepared to ensure that minimal impact to the operation of the road network is caused during construction activities. The CTMP shall be submitted to the Council for approval prior to any construction activities occurring on the site.

4.8 A drive through wheel wash shall be constructed adjacent to the access road in the location identified in drawing number 6175 for Stage 1 of the quarry's operation.

4.9 The access road shall be sealed from Wisemans Ferry Road to a point to the east of the wheelwash identified in the quarry management plan.

4.10 An impervious bund wall and floor is to be erected around any fuel tank on site. The bunded area shall have a capacity in excess of 110% of the total fuel storage to contain the fuel in the event of accidental spillage.

4.11 An application shall be submitted under the provisions of Section 68 of the *Local Government Act 1993* for a permit to install an on-site sewage management system.

4.12 If permitted by the landowners to do so, a dilapidation report shall be prepared by a suitably qualified person to establish a baseline condition for the houses located on the properties identified in drawing number 6175 for Stage 1 of the quarry's operation as;

R1	630 Wisemans Ferry Road
R2	628 Wisemans Ferry Road
R3	2 Lackersteens Road
R4	590 Wisemans Ferry Road
R5	596 Wisemans Ferry Road
R6	600 Wisemans Ferry Road

A copy of the report must be provided to the landholder and the Council within 14 days of it being received by the quarry operator.

5. Quarry Management Plan

5.1 The applicant shall prepare a Quarry Management Plan. The quarry management plan shall be the document which shall guide the operations of the quarry and against which the operations of the quarry will be assessed.

5.2 The Quarry Management Plan shall be submitted to and approved by the Council prior to the commencement of sand extraction.

5.3 The quarry management plan may be amended from time to time as a result of periodic reviews, or to facilitate compliance with these conditions, or to take into consideration actual site conditions, or as a result of monitoring of impacts.

5.4 A review of the performance of the quarry and the quarry management plan shall be conducted no later than 3 months before the end of each of Stages 1,2, 3 and 4 of the quarry's operation in accordance with the requirements set down in the quarry management plan.

5.5 The quarry management plan, amended as required as a result of the review, shall be submitted to the Council for approval 3 months prior to the start of the subsequent stage. The Council will not unreasonably delay giving its approval.

5.6 The quarry management plan shall incorporate steps to implement the conditions of this consent relating to operational matters as well as all regulatory and licensing requirements including those of the Council and the other government agencies with authority over the quarry's operations.

5.7 The Quarry Management Plan shall include:

(1) a statement of the environmental principles and strategies that will be adopted in the quarry's operation;

(2) a plan of the approved quarry site design and layout;

(3) a copy of the registered survey plan for the quarry;.

(4) documentation defining and illustrating the various stages of operation from Stage 1 through to decommissioning and the completion of rehabilitation;

(5) a statement of the the roles, responsibilities, authorities and accountabilities of all key personnel involved directly in the management of the quarry;

(6) a schedule of monitoring, auditing and reporting requirements;

(7) an erosion and sediment control plan;

(8) a ground water monitoring and management plan which takes into account the recommended conditions of consent issued by the NSW Office of Water (Schedule 4);

(9) a surface water monitoring and management plan, including a plan for the management of stormwater, which takes into account the General Terms of Approval issued by the Environment Protection Authority (Schedule 3);

(10) an air quality management plan which takes into account the General Terms of Approval issued by the Environment Protection Authority;

(11) a noise management plan which takes into account the General Terms of Approval issued by the Environment Protection Authority;

(12) a rehabilitation and landscape management plan including details of the rehabilitation to be achieved for proceeding from one stage to the next;

(13) a traffic management plan;

(14) a community relations plan.

5.8 The management plans required under this consent shall, where applicable:

(1) provide detailed baseline data;

(2) identify the predicted environmental risks and impacts of quarry operations and measures to monitor and counteract these risks and impacts;

(3) identify statutory requirements, limits, performance measures and criteria and the measures that will be taken to ensure compliance;

(4) identify performance indicators and the measures and criteria against which environmental management may be judged;

(5) describe contingency measures 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;

(6) include a program to investigate and implement ways to improve the environmental performance of the project over time;

(7) a protocol for managing and reporting any:

- incidents;
- complaints;
- non-compliances with the conditions of this approval and statutory requirements; and
- exceedances of the impact assessment criteria and/or performance criteria; and

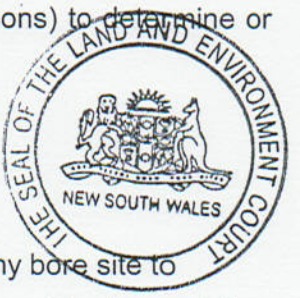
(8) a protocol for periodic review of the plan.

5.9 Groundwater monitoring shall be conducted in accordance with the schedule set down in the quarry management plan. Base line data for bores at houses R1 to R6, inclusive shall be established by measuring:

(a) water levels over a sufficient period of time (minimum 2 seasons) to determine or predict natural climatic variations;

(b) sustainable yields of each bore;

(c) water quality for each bore;



If no continuing consent is provided by the land owner or occupier of any bore site to undertake these measures, or if there is interference with the measurement instrumentation to such an extent as to frustrate paragraphs (a), (b) and (c) above the obligation for that bore site to do so ceases.

In the event the yield or the quality of the water from the bores is adversely impacted by the operation of the quarry, then the operator shall make good the equivalent yield and quality in an appropriate way.

5.10 The groundwater management plan will include "make good" provisions for bores affected by the quarry's operation in accordance with Schedule 4 and the quarry management plan.

5.11 The noise management plan shall set down the noise exposure limits at premises listed in the plan and the conditions for noise management and monitoring. Noise monitoring shall be conducted at the sites listed in and in accordance quarry management plan.

5.12 The air quality management plan for the quarry shall be submitted to the Environment Protection Authority in conjunction with the application for an Environment Protection Licence under the *Protection of the Environment Operations Act 1997.*

5.13 The air quality management plan shall be implemented prior to the commencement of any dust generating activities at the site.

5.14 The former quarry tailing pond in the South-Eastern corner of the site shall be rehabilitated prior to or at the end of Stage 1.

6. Quarry Operations

6.1 Quarry operations will be conducted in the stages and in the manner described in the quarry management plan.

6.2 No work is to commence on Stage 3 of the proposed quarry until an Aboriginal Assessment Permit under Section 90 of the *National Parks and Wildlife Act 1974* is obtained from the Office of Environment and Heritage to relocate the Aboriginal object identified on the site. Until such Aboriginal Heritage Impact Permit is obtained, the part of the site that contains the Aboriginal object is to be fenced to prevent access.

6.3 There shall be no blasting conducted, no use of a crusher (other than crushing, including crushing by bulldozer tracks or screening in the course of processing the material), no percussive impact breaking nor percussive impact ripping equipment used at the premises.

6.4 The form and dimensions of the benches and batters within the quarry shall be in accordance with requirements of the Department of Trade and Investment for mine safety. A geotechnical engineer shall be consulted as required to advise on the long term stability of the quarry faces and benches.

6.5 The quarry operation shall comply with all relevant requirements of work health and safety legislation.

6.6 The quarry operator shall take all necessary measures to prevent damage to trees and root systems during site works and construction activities, including work associated with the provision of water, sewerage and stormwater drainage services. In particular, structures, excavations or works that will alter soil levels are not permitted within three (3) metres of the trunks of trees identified in the survey plan unless they are part of the approved development.

6.7 Sediment shall be removed from the erosion and sediment control basin when the basin's capacity is reduced by 50%.

6.8 The quarry operator shall apply a recycling target of not less than 50% of the process water used on the site.

6.9 The quarry operator shall ensure that all surface water discharges from the site comply with the discharge limits (both volume and quality) set by the Environment Protection Authority.

6.10 The quarry operator shall implement best practice noise management, including all reasonable and feasible noise mitigation measures to minimise the operational and traffic noise generated by the project. Noise mitigation measures shall include, as necessary; relocating, modifying or stopping operations to achieve compliance with the relevant conditions of this consent.

6.11 Any activity carried out in or on the premises must be carried out by such practical means as to prevent dust or minimise the emission of dust to the air.

6.12 Any plant operated in or on the premises must be operated by such practical means to prevent or minimise dust or other air pollutants.

6.13 All trafficable areas and vehicle manoeuvring areas within the premises must be maintained, at all times, in a condition that will minimise the emission of dust to the air, or emission from the premises of wind-blown or traffic generated dust. A water truck shall be available on site at all times for the purpose of dust suppression. Chemical dust suppressants shall not be used without the approval of the EPA.

6.14 The quarry operator must not cause or permit the emission of offensive odour beyond the boundary of the quarry.

6.15 Activities must be carried out in a competent manner. This includes:

(1) the processing, handling, movement and storage of materials and substances used to carry out the activity;

(2) the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

6.16 The quarry operator must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises except as expressly permitted by a licence.

6.17 All plant and equipment installed at the premises or used in connection with the activity:

(a) must be maintained in proper and efficient condition; and

(b) operated in a proper and efficient manner.

Any equipment not meeting these requirements shall be removed from the operation or barred from the quarry until the defects are repaired.

6.18 All practicable measures shall be taken to prevent or minimise any off-site lighting impacts from the development. All external lighting associated with the development shall comply

with Australian Standard AS4282 (INT) 1995 - Control of Obtrusive Effects of Outdoor Lighting.

6.19 Loading and unloading operations associated with the quarry shall be confined to within the property.

6.20 Sufficient parking will be provided on-site for all quarry-related traffic.

6.21 All loaded vehicles entering or leaving the site shall have their loads covered at all times unless carrying plant or machinery.

6.22 All loaded vehicles leaving the site are to use the wheel washing facility so that they are cleaned of material that may be deposited on public roads.

6.23 The quarry operator shall:

(1) maintain a record of the weight and type of each load of product transported from the site and the registration number and time of departure of each loaded vehicle;

(2) record in aggregate the weight and type of products despatched and vehicle movements in the Annual Audit Report (AEMR); and

(3) provide annual production data to the Mineral Resources Division of the Department of Primary Industries.

6.24 The proponent shall maintain, and implement as necessary, a current Pollution Incident Response Management Plan (PIRMP) for the premises in accordance with the requirements in Part 5.7A of the *Protection of the Environment Operations Act 1997* (POEO Act) and POEO Regulations. The plan shall be part of the quarry management plan. The incident response plan shall document systems and procedures to deal with all types of incidents (e.g. spills, explosions or fire) that may occur at the premises or that may be associated with the activities that occur at the premises and which are likely to cause harm to the environment.

6.25 Any relocation, or alteration, of any utilities or any existing services made necessary as a result of this development is to be carried out at no cost to Council. Arrangements shall be made with the authority concerned. These services may include stormwater, telephones, electrical cables and power poles, gas, water mains (hydrants, stop valves, stop cocks), sewer mains and manholes, parking signs, street signs and traffic signals.

6.26 Except as may be expressly provided by a licence under the *Protection of the Environment Operations Act 1997* in relation to the development, section 120 of the *Protection of the Environment Operations Act 1997* must be complied with in connection with the carrying out of the development.

6.27 The quarry operator must, for the life of the quarry comply with any licence or approval from the NSW Office of Water to extract groundwater.

7. Rehabilitation

7.1 A program of progressive rehabilitation shall be maintained throughout the life of the quarry in accordance with the EIS.

7.2 All requirements for rehabilitation shall be set down in the quarry management plan and progress reported in annual audit reports.

8. Monitoring, Audit and Reporting

8.1 The monitoring, audit and reporting requirements and schedule shall be set down in the quarry management plan.

8.2 An independent audit of the quarry's operation shall be conducted annually in accordance with the requirements recorded in the quarry management plan. A copy of the report shall be provided to Council and EPA.

8.3 In the years in which it is conducted, the review of the quarry's operation referred to in clause 5.4 of this consent will replace the annual audit.

8.4 Any detected non-compliance with-performance criteria and measures shall be recorded and the Council advised as required by the quarry management plan.

9. Community Relations

9.1 The quarry operator shall maintain a complaints register which shall record the nature of the complaint, the response to the complaint, the date on which the complaint was received and the date on which the response was delivered.

9.2 The quarry operator shall, from the end of December 2014, maintain a public web site in which shall be recorded:

(1) a copy of this consent and a schedule of current statutory approvals and licences for the project;

(2) the quarry management plan;

(3) annual audit reports;

10. Protection of Public Assets

10.1 A pavement report for works within a public road reserve shall be prepared by a practising Geotechnical Engineer. This report must be submitted with the engineering plans and approved by Council under the Roads Act, 1993.

10.2 A dilapidation report must be submitted to Council prior to extraction of sand, and/or approval of engineering plans under the Roads Act. The report must document and provide photographs that clearly depict any existing damage to the road, kerb, gutter, footpath, driveways, street trees, street signs or any other Council assets across the Wisemans Ferry Road frontage of the site.

10.3 A security deposit of $5,500.00 indexed annually must be paid into Council's trust fund prior to the commencement of sand extraction. The payment of the security deposit is required to cover the cost of repairing damage to Council's assets that may be caused as a result of the development. The security deposit shall be increased in accordance with the CPI increase prior to the commencement of each stage of the quarry. Such deposit will be refunded upon the completion of the project if no damage is caused.

10.4 Works within the road reserve that required approval under the Roads Act are to be completed in accordance with the Council's 'Civil Construction Specification', 'GCC Design Specification for Survey, Road and Drainage Works' and Policy 'D6.46 Erosion Sedimentation Control', and documentary evidence for the acceptance of such works obtained from the Roads Authority prior to commencement of extraction.

Note: A maintenance bond shall be paid on completion of the works in accordance with Section 1.07 Maintenance of the 'Civil Construction Specification'.

10.5 Any damage not shown in the dilapidation report submitted to the Council before site works commence, will be presumed to have been caused as a result of the site works unless it can be established *to* the contrary. Any such damage found to be caused by site works shall be rectified at the quarry operator's or contractor's expense prior to commencing sand extraction.

10.6 Prior to commencement of extraction operations, the Applicant shall seek the approval of the Local Traffic Committee, and, if approved, relocate the bus stop at the quarry operator's cost.

11. General Terms of Approval

11.1 The general terms of approval issued by the Environment Protection Authority on 4 May 2014 and included in Schedule 3 form part of this consent and must be complied with unless otherwise prescribed in an Environment Protection Licence issued by the Environment Protection Authority.

11.2 If there is any inconsistency between this consent and the requirements of the General Terms of Approval, the General Terms of Approval shall prevail.

SEAL OF THE LAND AND ENVIRONMENT COURT NEW SOUTH WALES

12. Recommended Conditions of Consent Relating to Groundwater

12.1 The Recommended Conditions of Consent issued by the New South Wales Office of Water on 5 May 2014 and included in Schedule 4 form part of this consent and must be complied with unless otherwise amended by the Office of Water.

12.2 If there is any inconsistency between this consent and the requirements of the NSW Office of Water, the conditions of the NSW Office of Water shall prevail.

Schedule 3

General Terms of Approval
Issued by the Environment Protection Authority on 4 May 2014

General

Except as provided by these conditions of approval below, the works and activities must be undertaken in accordance with *"Rindean Quarry Somersby, New South Wales"* (EIS), dated May 2012.

Surface Water

1) The following points referred to in the table below are identified for the purposes of monitoring and/or setting of limits for the emission of pollutants to water from the point.

WATER

Identification no.	Type of Monitoring Point	Type of Discharge Point	Description of Location
1	Discharge quality monitoring	Discharge to waters	The discharge point from Fresh Water Pond, as shown on *<licensee to provide figure or reference map>*

2) Except as may be expressly provided by a licence under the *Protection of the Environment Operations Act 1997* in relation to the development, section 120 of the *Protection of the Environment Operations Act 1997* must be complied with in connection with the carrying out of the development.

3) For each monitoring/discharge point or utilisation area specified in the table above the concentration of a pollutant must not exceed the concentration limits specified for that pollutant in the table below.

POINT 1

Pollutant	Units of measure	100 PERCENTILE LIMIT
Suspended Solids	mg/L	40
Oil and Grease	mg/L	5 and/or none visible
pH	pH units	6.0 – 8.0

4) Prior to the project commencing and then every five years thereafter the proponent must engage a suitably qualified person to undertake an assessment of the unnamed creek receiving waters from the treatment dams and diversion flows to map any existing erosion and identify any additional erosion or induced erosion associated with the Project. Within 60 days of completing this assessment the proponent must supply a report to the EPA that identifies the results of the investigations and includes actions that will be taken to remedy any induced erosion as a result of the Project.

5) For each monitoring/discharge point or utilisation area specified below (by a point number) the concentration of each pollutant specified in Column 1 must be monitored by sampling and obtaining results by analysis. Specified opposite in the other columns are the sampling method and units of measure to be used and the frequency with which samples are to be taken.

POINT 1

Pollutant	Units of measure	Frequency	Sampling Method
Suspended Solids	mg/L	Special Frequency 1	Grab sample
Turbidity	ntu	Special Frequency 1	Probe
pH	pH units	Special Frequency 1	Probe
Oil and grease	visible	Special Frequency 1	Visual observation

Note: For the purposes of the table above 'Special Frequency 1' means:
(a) within 12 hours prior to any controlled discharge; and
(b) weekly during any discharge.

Bunding

6) All above ground tanks containing material that is likely to cause environmental harm must be bunded or have an alternative spill containment system in place.

7) Bunds must:
   a) have walls and floors constructed of impervious materials;
   b) be of sufficient capacity to contain 110% of the volume of the tank (or 110% volume of the largest tank where a group of tanks are installed);
   c) have floors graded to a collection sump; and
   d) not have a drain valve incorporated in the bund structure,

   or be constructed and operated in a manner that achieves the same environmental outcome.

Waste

8) The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence.

Hours of operation

9) Unless otherwise specified by any other condition of this licence, all activities are:
   a) restricted to between the hours of 7:00am and 6:00pm Monday to Friday;
   b) restricted to between the hours of 7:00am and 1:00pm Saturday; and
   c) not to be undertaken on Sundays or Public Holidays.

   Maintenance activities may be undertaken outside these hours provided it is not audible at nearby residential receptors.

Noise

10 Noise generated at the premises must not exceed the noise limits in the table below.

Table 2-2

Location	Daytime $L_{Aeq\ (15\ minutes)}$ Noise Limits dB(A)
R1 - 630 Wisemans Ferry Road	50
R2 - 628 Wisemans Ferry Road	49
R3 - 2 Lackersteens Road	51
R4 - 590 Wisemans Ferry Road	50
R5 - 596 Wisemans Ferry Road	47
R6 - 600 Wisemans Ferry Road	49

11 For the purpose of condition 10;

- Daytime is defined as the period from 7am to 5pm Monday to Friday, and 7am to 1pm Saturday.

12 The noise limits set out in condition 10 apply under all meteorological conditions except for the following:

a) Wind speeds greater than 3 metres/second at 10 metres above ground level.
b) Stability category F temperature inversion conditions and wind speeds greater than 2 metres/second at 10 metres above ground level; or
c) Stability category G temperature inversion conditions.

13 For the purposes of condition 12:

a) Data recorded by a weather station installed on site must be used to determine meteorological conditions; and
b) Temperature inversion conditions (stability category) are to be determined by the sigma-theta method referred to in Part E4 of Appendix E to the NSW Industrial Noise Policy.

14 To determine compliance with the $L_{eq(15\ minute)}$ noise limits in condition 10, the noise measurement equipment must be located:

- approximately on the property boundary, where any dwelling is situated 30 metres or less from the property boundary closest to the premises; or
- within 30 metres of a dwelling façade, but not closer than 3m, where any dwelling on the property is situated more than 30 metres from the property boundary closest to the premises; or, where applicable
- within approximately 50 metres of the boundary of a National Park or a Nature Reserve.

15 A non-compliance of condition 10 will still occur where noise generated from the premises in excess of the appropriate limit is measured:

- at a location other than an area prescribed by conditions 14; and/or
- at a point other than the most affected point at a location.

16 For the purposes of determining the noise generated at the premises the modification factors in Section 4 of the NSW Industrial Noise Policy must be applied, as appropriate, to the noise levels measured by the noise monitoring equipment.

Requirement to Monitor Noise

17 To assess compliance with Condition 10, attended noise monitoring must be undertaken in accordance with Condition 14 and:

a) at each one of the locations listed in Condition 10;
b) occur annually in any reporting period;
c) occur during each day period as defined in Condition 11 above for a minimum of 1.5 hours during the day; and
d) occur for three consecutive operating days.

Note: The EPA will consider this frequency of monitoring, upon request, after the first three years of monitoring.

Reporting Conditions

Noise Monitoring Report

18 A noise compliance assessment report must be submitted to the EPA within 30 days of the completion of the yearly monitoring. The assessment must be prepared by a suitably qualified and experienced acoustical consultant and include:

a) an assessment of compliance with noise limits presented in Condition 10; and
b) an outline of any management actions taken within the monitoring period to address any exceedences of the limits contained in Condition 10.

Air
Air Quality Management Plan

19 For all emission sources at the site the proponent must prepare an air quality management plan that includes, but is not limited to:

a) Key performance indicator(s) that are quantifiable, measurable and auditable;
b) Monitoring method(s);
c) Location, frequency and duration of monitoring;
d) Record keeping;
e) Response mechanisms; and
f) Compliance reporting.

20 The air quality management plan must include measures that:
a) represent both proactive and reactive management;
b) are linked to particulate readings obtained at the ambient air quality monitors;
c) are benchmarked against international best management practice for the control of fugitive particle emissions; and
d) achieve emission controls equal to or greater than the control efficiencies included in the project air quality assessment, *Rindean Sand Quarry – Air Quality Assessment* (7 August 2013) Pacific Environment Limited.

21 The air quality management plan must be submitted to the Environment Protection Authority (EPA) in conjunction with the application for an Environment Protection Licence under the *Protection of the Environment Operations Act 1997* for the project.

22 The air quality management plan must be implemented prior to the commencement of any dust generating activities at the site.

23. Requirement to monitor ambient particulate matter

a) The licensee must monitor (by sampling and obtaining results by analysis) the parameters specified in Column 1. The licensee must use the sampling method, units of measure, averaging period and sample at the frequency, specified opposite in the other columns.

Point 2 and Point 3

Parameter	Units of measure	Frequency	Averaging Period	Method
PM_{10}	Micrograms per cubic metre	continuous	1-hour	AS 3580.9.8 - 2008

Note: The number and location of PM_{10} monitors must be approved by the EPA prior to the installation of the monitoring equipment. The EPA is of the view monitoring should occur at two locations; one location generally consistent with Residential Receptors 1-3 and another site at Receptor 4, as shown in the report titled "Rindean Sand Quarry – Air Quality Assessment" prepared by Pacific Environment Limited and dated August 2013.

Note: The method must be approved by the EPA prior to the installation of the monitoring equipment.

Note: The calibration, quality assurance, quality control and audit program must be approved by the EPA prior to the installation of the monitoring equipment.

Note: the extent of monitoring conducted will be reviewed by the EPA, upon request, after three full years of monitoring data has been obtained.

b) Monitoring of all parameters listed in Condition 2(a) Column 1 must commence prior to earth moving activities being undertaken at the site.

24. Reporting of ambient PM_{10} levels greater than criteria

The licensee must, within 7 days of recording a PM_{10} value greater than the 24 hour EPA impact assessment criteria, provide a written report to the EPA that details:

- the instantaneous values reported during that day;
- the 24 hour average for that day;
- activities that were being conducted at the premises on that day, including the location of extraction activities and an estimation of the tonnage of material transported off-site;
- The weather data, and in particular hourly average wind direction and strength, obtained from the on-site weather station; and
- any other factors (eg bushfires) that might have contributed to the elevated reading, including justification as to why these factor(s) might have contributed to the result.

Operating Conditions

25. Activities must be carried out in a competent manner. This includes:
    a) The processing, handling, movement and storage of materials and substances used to carry out the activity; and
    b) The treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

26. All plant and equipment installed at the premises or used in connection with the activity:
    a) Must be maintained in a proper and efficient condition; and
    b) Must be operated in a proper and efficient manner.

General Dust Conditions

27. All areas in or on the premises must be maintained in a condition that prevents or minimises the emission of dust to the air.

28. Any activity carried out in or on the premises must be carried out by such practical means as to prevent dust or minimise the emission of dust to the air.

29. Any plant operated in or on the premises must be operated by such practical means to prevent or minimise dust or other air pollutants.

30. All trafficable areas and vehicle manoeuvring areas in or on the premises must be maintained, at all times, in a condition that will minimise the emission of dust to the air, or emission from the premises of wind-blown or traffic generated dust.

Blasting

31. There must be no blasting conducted at the premises.

Potentially Offensive Odour

32. The proponent must not cause or permit the emission of offensive odour beyond the boundary of the premises.

Stormwater Management

33. Stormwater management measures must be prepared and implemented to mitigate the impacts of stormwater run-off from and within the premises in a manner that is consistent with the guidance contained in *Managing Urban Stormwater: Soils and Construction: Volume 2C Unsealed Roads and Volume 2E Mines and Quarries* (DECCW 2008).

Emergency Management

34. The proponent must maintain, and implement as necessary, a current Pollution Incident Response Management Plan (PIRMP) for the premises in accordance with the requirements in Part 5.7A of the *Protection of the Environment Operations (POEO) Act 1997* and POEO regulations. The proponent must keep the incident response plan on the premises at all times. The incident response plan must document systems and procedures to deal with all types of incidents (e.g. spills, explosions or fire) that may occur at the premises or that may be associated with activities that occur at the premises and which are likely to cause harm to the environment.

Meteorological monitoring

35. a) The proponent must monitor (by sampling and obtaining results by analysis) the parameters specified in Column 1 of the table below. The licensee must use the sampling method, units of measure, averaging period and sample at the frequency, specified opposite in the other columns.

Parameter	Units of measure	Frequency	Averaging Period	Sampling Method
Rainfall	mm/hour	continuous	1 hour	AM-4

Sigma theta	degrees	continuous	10 minute	AM-2 and AM-4
Siting				AM-1
Temperature at 2 metres	kelvin	continuous	10 minute	AM-4
Temperature at 10 metres	kelvin	continuous	10 minute	AM-4
Total solar radiation	watts per square metre	continuous	10 minute	AM-4
Wind Direction at 10 metres	degrees	continuous	10 minute	AM-2 and AM-4
Wind Speed at 10 metres	metres per second	continuous	10 minute	AM-2 and AM-4

Note 1: Sampling methods as defined in the *Approved Methods for the Sampling and Analysis of Air Pollutants in NSW.*
Note 2: The location of meteorological monitoring must be confirmed and approved by the EPA prior to earth moving activities being undertaken at the site

b) Monitoring of all parameters listed must commence prior to earth moving activities being undertaken at the site.

EPA May 2014

Schedule 4
Conditions of Consent Recommended by the NSW Office of Water

ATTACHMENT A

Rindean Quarry
Extractive Industry 5 Stages Designated/Integrated Development Lot 2 DP 36233, 620 Wisemans Ferry Rd Somersby

NSW Office of Water Recommended Conditions of Consent

Groundwater management plan

1) Within 6 months of the date of consent, the applicant must update the groundwater management plan for the quarry to reflect the requirements of these conditions to the satisfaction of the NSW Office of Water.

Model refinement and assessment

2) Prior to commencement of Stage 2, the applicant must:
   a) Update the existing groundwater model with all available monitoring data collected in accordance with the schedule in Table 1.
   b) Assess and categorise the groundwater model against the Australian Groundwater Modelling Guidelines (2012) and have the model peer reviewed by an appropriately qualified consultant and determined as fit for purpose.
   c) Determine the predicted extent of drawdown area of influence during and post- quarry operations.
   d) Identify all bores in the area predicted as being affected by drawdown of 2m or greater as a result of quarry operations.
   e) Undertake an audit of all bores identified in 2(d) to determine bore depth and water level.
   f) Determine maximum predicted groundwater seepage rates (ML/y) into the quarry footprint as follows:
      i) seepage into quarry footprint during stage 2 and post-operations should operations cease at the end of stage 2.
      ii) seepage into quarry footprint during stages 2 and 3 and post-operations should operations cease at the end of stage 3.
      iii) seepage into quarry footprint during stages 2, 3 and 4 and post-operations should operations cease at the end of stage 4.
      iv) seepage into quarry footprint during stages 2, 3, 4 and 5 and post-operations (i.e. as per quarry plan outlined in EIS).
   g) Obtain sufficient licensed entitlement to account for predicted seepage calculated in accordance with 2(f)(i).
3) Prior to commencement of each subsequent stage (3,4,5):
   a) Update the groundwater model with all available monitoring data collected in accordance with the schedule in Table 1.
   b) Update the predicted extent of drawdown during and post- quarry operations.
   c) Identify all bores predicted as being affected by drawdown of 2m or greater as a result of quarry operations.
   d) Undertake an audit of any bores identified in 3(c) not previously audited in accordance with 2(e) to determine bore depth and water level.
   e) Determine maximum predicted groundwater seepage rates into the quarry footprint at the end of each remaining stage in accordance with the process outlined in 2(f).
   f) Obtain sufficient licensed entitlement to account for predicted seepage calculated in accordance with 3(e) for the stage to be commenced.
4) Prior to the surrender of consent for operations, the applicant must:
   a) Update the groundwater model with all available monitoring data collected in accordance with the schedule in Table 1.

b) Update the predicted extent of drawdown post-quarry operations.
c) Identify all bores predicted as being affected by drawdown of 2m or greater.
d) Undertake an audit of any bores identified in 4(c) not previously audited in accordance with 2(e) or 3(d) to determine bore depth and water level.
e) Determine maximum predicted groundwater seepage rates into the quarry footprint post-operations.
f) Obtain sufficient permanent licensed entitlement to account for the maximum predicted seepage calculated in accordance with 4(e).

5) The bore audits required under 2(e), 3(d) and 4(d) are to include all bores approved and constructed prior to the date of consent.

Impact mitigation measures ("make good" provisions)

6) Impacts to the utility of nearby groundwater bores as a result of quarry operations are to be addressed as follows
   a) in respect to the groundwater bores located at R1 (identified as groundwater bore GW031948) and R2 (identified as groundwater bore GW057452) during the first six months of commencement of operation of the quarry during Stage 1 the applicant shall redrill at their expense the depth of the groundwater bores to a depth to reproduce the water saturation zone thickness to the historical thickness prior to the commencement of the quarry operation. Please note the thickness of the water saturation zone may have to be increased or other steps to be taken to lessen the impact such as the installation of additional rainwater tanks for R1 and R2, at the expense of the applicant if as a result of the ground water monitoring program the impacts upon the adjacent groundwater resource are greater than 10% variation of the predicted amounts.
   b) in respect to the groundwater bore located at R3 (identified as groundwater bore GW051268) during the first six months of commencement of operation of the quarry during Stage 2 the applicant shall redrill at their expense the depth of the groundwater bore to a depth to reproduce the water saturation zone thickness to the historical thickness prior to the commencement of the quarry operation. Note the thickness of the water saturation zone may have to be increased or other steps to be taken to lessen the impact such as the installation of addition rainwater tanks for R3, at the expense of the applicant if as a result of the ground water monitoring program the impacts upon the adjacent groundwater resource are greater than 10% variation of the predicted amounts.
   c) in respect to the groundwater bore located at R4 (identified as groundwater bore GW072503) during the first six months of commencement of operation of the quarry during Stage 4 the applicant shall redrill at their expense the depth of the groundwater bore to a depth to reproduce the water saturation zone thickness to the historical thickness prior to the commencement of the quarry operation. Please note the thickness of the water saturation zone may have to be increased or other steps to be taken to lessen the impact such as the installation of addition rainwater tanks for R4, at the expense of the applicant if as a result of the ground water monitoring program the impacts upon the adjacent groundwater resource are greater than 10% variation of the predicted amounts.
   d) for all other bores identified in accordance with 2(d) or 3(c):
      i) where groundwater monitoring results indicate quarry operations are likely to have resulted in an adverse impact on the utility of a bore the applicant shall, at their cost, undertake appropriate measures as agreed with the owner of the bore to restore the bore utility or provide a comparable water supply.
      ii) where the applicant and the owner of the bore are unable to agree upon appropriate measures as required under 6(d)(i), Council shall determine the measures to be implemented in consultation with the NSW Office of Water.
   e) for all other bores identified in accordance with 4(d):

i) assess the predicted impact to the bore as a result of groundwater drawdown post-quarry operations.
ii) where impact identified in 6(e)(i) is likely to have an adverse impact on the utility of the bore the applicant shall, at their cost, undertake appropriate measures as agreed with the owner of the bore to restore the bore utility or provide a comparable water supply.
iii) where the applicant and the owner of the bore are unable to agree upon appropriate measures as required under 6(e)(ii), Council shall determine the measures to be implemented in consultation with the NSW Office of Water.

Groundwater Dependent Ecosystems

7) The applicant must prepare and implement a monitoring program for the adjacent groundwater dependent ecosystems (Sandstone Hanging Swamps/Coastal Upland Swamp EEC), to:
   a) Identify their level of groundwater dependence;
   b) Monitor their long-term condition and viability; and
   c) Determine and implement any reasonable and feasible measures to mitigate adverse impacts during and post- quarry operations.

Annual review

8) The annual audit report identified in section 4.6 of the groundwater monitoring and management plan dated April 2012 is to include all previous groundwater monitoring results, an assessment of any trends evident in the monitoring results, an evaluation of the results against the impacts predicted by the groundwater model, description and evaluation of any refinements made to the groundwater model, an assessment of impacts to adjacent groundwater dependent ecosystems and an assessment as to whether the operation is likely to have had an adverse impact on third party bores, the nature of this impact and proposed "make good" measures to mitigate any impact in accordance with (6).

Table 1. Groundwater monitoring schedule

Bores	Schedule
5 bores on site (BH1-BH5)	• Water level o At commencement of operations o Quarterly for two years from commencement of operations o Six monthly thereafter • Quality o At commencement of operations o Six monthly for two years from commencement of operations o Annually thereafter
4 adjacent bores (R1-R4)	• Water level and quality o At commencement of operations o Six monthly for two years from commencement of operations o Annually thereafter • Yield at commencement of operations and at two yearly intervals thereafter (subject to owners consent)
3 bores at 600 m from quarry	• Water level and quality o At commencement of operations o Six monthly for two years from commencement of operations o Annually thereafter • Yield at commencement of operations and at two yearly intervals thereafter (subject to owners consent)
Additional bores where	As determined in consultation with Council and the

monitoring indicates potential adverse impact	NSW Office of Water

Tim Moore
Senior Commissioner