

# Development Consent

## Section 4.36 of the Environmental Planning and Assessment Act 1979

The Independent Planning Commission of NSW (the Commission), as the declared consent authority under clause 8A of the *State Environmental Planning Policy (State and Regional Development) 2011* and section 4.5(a) of the *Environmental Planning and Assessment Act 1979*, approves the development application referred to in Schedule 1, subject to the conditions in Schedule 2.

These conditions are required to:

- prevent, minimise, or offset adverse environmental impacts;
- set standards and performance measures for acceptable environmental performance;
- require regular monitoring and reporting; and
- provide for the ongoing environmental management of the development

[Name of Commissioner]  
Member of the Commission

[Name of Commissioner]  
Member of the Commission

Sydney

2020

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### SCHEDULE 1

**Application Number:** SSD 5899  
**Applicant:** Hanson Construction Materials Pty Ltd  
**Consent Authority:** The Independent Planning Commission of NSW  
**Site:** The land defined in Appendix 1  
**Development:** Brandy Hill Quarry Expansion Project

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## DEFINITIONS

<b>Aboriginal object / Aboriginal place</b>	Has the same meaning as the definition of the term in section 5 of the NP&W Act
<b>AHD</b>	Australian Height Datum
<b>Annual Review</b>	The review required by condition D9
<b>Applicant</b>	Hanson Construction Materials Pty Ltd, or any person carrying out any development under this consent
<b>Approved disturbance area</b>	The area identified as such on the development layout
<b>BCA</b>	Building Code of Australia
<b>BC Act</b>	<i>Biodiversity Conservation Act 2016</i>
<b>BCD</b>	Biodiversity Conservation Division within the Department
<b>BCT</b>	Biodiversity Conservation Trust
<b>Blast misfire</b>	The failure of one or more holes in a blast pattern to initiate
<b>Calendar year</b>	A period of 12 months from 1 January to 31 December
<b>CCC</b>	Community Consultative Committee required by condition A21
<b>Concrete waste material</b>	Concrete waste as defined in Section 49 Definitions of waste classifications, in Schedule 1 of the POEO Act
<b>Conditions of this consent</b>	Conditions contained in Schedule 2
<b>Construction</b>	All physical works to enable quarrying operations to be carried out, including demolition and removal of buildings or works, and erection of buildings and other infrastructure permitted by this consent
<b>Council</b>	Port Stephens Council
<b>Date of commencement</b>	The date notified to the Department by the Applicant under condition A15 for the commencement of Stage 1 of the development (see Figure 1 in Appendix 2 and described in the EIS).
<b>Day</b>	The period from 7 am to 6 pm on Monday to Saturday, and 8 am to 6 pm on Sundays and Public Holidays
<b>Decommissioning</b>	The deconstruction or demolition and removal of works installed as part of the development
<b>Demolition</b>	The deconstruction and removal of buildings, sheds and other structures on the site
<b>Department</b>	NSW Department of Planning, Industry and Environment
<b>Development</b>	The development described in the document/s listed in condition A2(c), as modified by the conditions of this consent.
<b>Development Layout</b>	The plans in Appendix 2
<b>DPIE Water</b>	Water Group within the Department
<b>EIS</b>	The Environmental Impact Statement titled "Brandy Hill Quarry Expansion Project", prepared by Hanson Construction Materials Pty Ltd dated February 2017, submitted with the application for consent for the development, including the Applicant's submissions report titled "Amended Response to Submissions for the Brandy Hill Quarry Expansion Project" dated September 2019 and any additional information provided by the Applicant in support of the application
<b>Environment</b>	Includes all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings
<b>EPA</b>	NSW Environment Protection Authority
<b>EP&amp;A Act</b>	<i>Environmental Planning and Assessment Act 1979</i>
<b>EP&amp;A Regulation</b>	<i>Environmental Planning and Assessment Regulation 2000</i>
<b>EPBC Act</b>	<i>Commonwealth Environment Protection and Biodiversity Conservation Act 1999</i>

<b>EPL</b>	Environment Protection Licence under the POEO Act
<b>Evening</b>	The period from 6 pm to 10 pm
<b>Feasible</b>	Means what is possible and practical in the circumstances
<b>GPS</b>	Global Positioning System
<b>Incident</b>	An occurrence or set of circumstances that causes or threatens to cause material harm and which may or may not be or cause a non-compliance
<b>Laden trucks</b>	Trucks transporting quarry products or pre-mixed concrete from the site and/or trucks transporting, rehabilitation materials, raw concrete materials or concrete waste material to the site
<b>Land</b>	Has the same meaning as the definition of the term in section 1.4 the EP&A Act, except for where the term is used in the noise and air quality conditions in PART B of this consent where it is defined to mean the whole of a lot, or contiguous lots owned by the same landowner, in a current plan registered at the Land Titles Office at the date of this consent
<b>Material harm</b>	<p>Is harm that:</p> <ul style="list-style-type: none"> <li>• involves actual or potential harm to the health or safety of human beings or to the environment that is not trivial; or</li> <li>• results in actual or potential loss or property damage of an amount, or amounts in aggregate, exceeding \$10,000, (such loss includes the reasonable costs and expenses that would be incurred in taking all reasonable and practicable measures to prevent, mitigate or make good harm to the environment)</li> </ul> <p>This definition excludes "harm" that is authorised under either this consent or any other statutory approval'</p>
<b>MEG</b>	Department of Regional NSW – Mining, Exploration and Geoscience
<b>Minimise</b>	Implement all reasonable and feasible mitigation measures to reduce the impacts of the development
<b>Minister</b>	NSW Minister for Planning and Public Spaces, or delegate
<b>Negligible</b>	Small and unimportant, such as to be not worth considering
<b>Night</b>	The period from 10pm to 7am on Monday to Saturday, and 10pm to 8am on Sundays and Public Holidays
<b>Non-compliance</b>	An occurrence, set of circumstances or development that is a breach of this consent
<b>Planning Secretary</b>	Planning Secretary under the EP&A Act, or nominee
<b>PA</b>	Planning agreement within the meaning of the term in section 7.4 of the EP&A Act
<b>POEO Act</b>	<i>Protection of the Environment Operations Act 1997</i>
<b>Public infrastructure</b>	Linear and related infrastructure that provides services to the general public, such as roads, railways, water supply, drainage, sewerage, gas supply, electricity, telephone, telecommunications, etc
<b>Quarrying operations</b>	The extraction, processing, stockpiling and transportation of extractive materials on the site (including concrete batching recycling activities and operation of the pre-coat plant) and the associated removal of vegetation, topsoil and overburden
<b>Quarrying products</b>	Includes all saleable quarry products, but excludes pre-mixed concrete, other wastes and rehabilitation material
<b>Reasonable</b>	Means applying judgement in arriving at a decision, taking into account: mitigation benefits, costs of mitigation versus benefits provided, community views, and the nature and extent of potential improvements
<b>Registered Aboriginal Parties</b>	As described in the <i>National Parks and Wildlife Regulation 2009</i>
<b>Rehabilitation</b>	The restoration of land disturbed by the development to a good condition, to ensure it is safe, stable and non-polluting
<b>Residence</b>	Existing or approved dwelling at the date of grant of this consent
<b>RFS</b>	NSW Rural Fire Service

<b>Site</b>	The land defined in Appendix 2
<b>TfNSW</b>	Transport for NSW
<b>Waste</b>	Has the same meaning as the definition of the term in the Dictionary to the POEO Act

RECOMMENDED

## SCHEDULE 2

### PART A ADMINISTRATIVE CONDITIONS

#### OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT

- A1. In addition to meeting the specific performance measures and criteria in this consent, all reasonable and feasible measures must be implemented to prevent, and if prevention is not reasonable and feasible, minimise, any material harm to the environment that may result from the construction and operation of the development, and any rehabilitation required under this consent.

#### TERMS OF CONSENT

- A2. The development may only be carried out:
- (a) in compliance with the conditions of this consent;
  - (b) in accordance with all written directions of the Planning Secretary; and
  - (c) generally in accordance with the EIS and Development Layout.
- A3. Consistent with the requirements in this consent, the Planning Secretary may make written directions to the Applicant in relation to:
- (a) the content of any strategy, study, system, plan, program, review, audit, notification, report or correspondence submitted under or otherwise made in relation to this consent, including those that are required to be, and have been, approved by the Planning Secretary; and
  - (b) the implementation of any actions or measures contained in any such document referred to in condition A3(a).
- A4. The conditions of this consent and directions of the Planning Secretary prevail to the extent of any inconsistency, ambiguity or conflict between them and a document/s listed in condition A2(c). In the event of an inconsistency, ambiguity or conflict between any of the document/s listed in condition A2(c), the most recent document prevails to the extent of the inconsistency, ambiguity or conflict.

#### LIMITS OF CONSENT

##### Identification of Approved Extraction Area

- A5. One month before the date of commencement, or other timeframe agreed by the Planning Secretary:
- (a) a registered surveyor must be engaged to mark out the boundaries of the approved areas of extraction within the site (as set out in Appendix 2); and
  - (b) the Planning Secretary must be provided with a survey plan of such boundaries and their GPS coordinates.
- A6. The boundaries of the approved areas of extraction within the site must be clearly marked in a manner that allows them to be easily identified at all times during the carrying out of quarrying operations.

##### Quarrying Operations

- A7. Quarrying operations may be carried out on the site for a period of 30 years from the date of the commencement of the development.

**Note:** Under this consent, the Applicant is required to decommission and rehabilitate the site and carry out other requirements in relation to quarrying operations. Consequently, this consent will continue to apply in all respects other than to permit the carrying out of quarrying operations until the rehabilitation of the site and other requirements have been carried out to the required standard.

- A8. Extraction must not be undertaken below a level of -78 metres AHD.
- A9. The Applicant must ensure that no surface disturbance occurs within 30 metres of the top of the high bank of Deadman's Creek.
- A10. The Applicant may receive and process up to 20,000 tonnes of concrete waste material at the site in each calendar year.
- A11. The Applicant must not transport more than 700,000 tonnes of quarry products from the site in any calendar year until the bus bays agreed to under condition A20 are constructed, unless agreed by the Planning Secretary. This annual limit can be increased on a pro rata basis depending upon the date that the bus bays have been constructed with the approval of the Planning Secretary.

Following the construction of the bus bays, the Applicant must not transport more than 1.5 million tonnes of quarry products and 15,000 m<sup>3</sup> of pre-mixed concrete from the site in any calendar year.

- A12. Truck movements at the site (ie either arrival or dispatch) must not exceed:
- (i) 18 movements between 5:00 am and 6:00 am;
  - (ii) 24 movements between 6:00 am and 7:00 am;
  - (iii) 60 movements per hour between 7:00 am and 6:00 pm;

- (iv) 10 movements per hour between 6:00 pm and 10:00 pm, on up to 20 evenings per calendar year; and
- (v) 600 movements per calendar day;

**Note:** Truck movements to and from the site are also controlled by the operating hours specified in condition A13 and provisions in condition B40.

### Hours of Operation

A13. The Applicant must comply with the operating hours set out in Table 1.

**Table 1: Operating hours**

<b>Activity</b>	<b>Permissible Hours</b>
Construction work	<ul style="list-style-type: none"> <li>• 7 am to 6 pm Monday to Friday</li> <li>• 7 am to 5pm Saturday</li> <li>• At no time on Sundays or public holidays</li> </ul>
Product loading and dispatch	<ul style="list-style-type: none"> <li>• 5 am to 6 pm Monday to Friday</li> <li>• 6 pm to 10 pm Monday to Friday on 20 days per calendar year</li> <li>• 6 am to 6 pm Saturday</li> <li>• At no time on Sundays or public holidays</li> </ul>
Quarrying operations (excluding secondary and tertiary processing)	<ul style="list-style-type: none"> <li>• 6 am to 6 pm Monday to Saturday</li> <li>• At no time on Sundays or public holidays</li> </ul>
Secondary and tertiary processing	<ul style="list-style-type: none"> <li>• 6 am to 8 pm Monday to Friday</li> <li>• 6 am to 6 pm Saturday</li> <li>• At no time on Sundays or public holidays</li> </ul>
Blasting	<ul style="list-style-type: none"> <li>• 9 am to 5 pm Monday to Friday (except public holidays)</li> </ul>
Maintenance, security, office work, cleaning, etc	<ul style="list-style-type: none"> <li>• May be conducted at any time, provided that these activities are not audible at any residence on privately-owned land</li> </ul>

A14. The following activities may be carried out outside the hours specified in Table 1.

- (a) delivery or dispatch of materials as requested by Police or other public authorities; and
- (b) emergency work to avoid the loss of lives, property or to prevent environmental harm.

In such circumstances, the Applicant must notify the Department and affected residents prior to undertaking the activities, or as soon as is practical thereafter.

### NOTIFICATION OF COMMENCEMENT

A15. The date of commencement of each of the following phases of the development must be notified to the Department in writing, at least one month before that date:

- (a) Stage 1;
- (b) Stage 4 (as identified in Figure 2 of Appendix 2 and described in the EIS);
- (c) cessation of quarrying operations; and
- (d) any period of suspension of quarrying operations.

A16. If the phases of the development are to be further staged, the Department must be notified in writing at least one month before the commencement of each stage, of the date of commencement and the development to be carried out in that stage.

### SURRENDER OF EXISTING CONSENTS OR APPROVALS

A17. Within 12 months of the date of commencement of development under this consent, or other timeframe agreed by the Planning Secretary, the Applicant must surrender the existing development consent for the Brandy Hill Quarry (DA1983/1920) in accordance with the EP&A Regulation.

A18. Upon the commencement of development under this consent, and before the surrender of the existing development consent required under condition A17, the conditions of this consent prevail to the extent of any inconsistency with the conditions of those consents or approvals.

**Note:** This requirement does not extend to the surrender of construction and occupation certificates for existing and proposed building works under the former Part 4A of the EP&A Act or Part 6 of the EP&A Act as applies from

1 September 2018. The surrender should not be understood as implying that works legally constructed under a valid consent or approval can no longer be legally maintained or used.

#### **DIVISION 7.1 CONTRIBUTIONS TO COUNCIL**

A19. Under section 7.11 of the EP&A Act, financial contributions must be paid to Council and Maitland City Council towards the maintenance of local roads used for haulage of quarry products. The contributions must be determined in accordance with the relevant council local infrastructure contribution plan (including any updated or revised version of these plans) for local roads within the relevant local government area, or as otherwise agreed by the relevant council.

#### **PLANNING AGREEMENT**

A20. Within six months of the date of commencement or other timeframe agreed by the Planning Secretary, the Applicant must enter into a Voluntary Planning Agreement with Council in accordance with:

- (a) Division 7.1 of Part 7 of the EP&A Act; and
- (b) the terms of the offer in Appendix 7.

#### **COMMUNITY CONSULTATIVE COMMITTEE**

A21. Within 6 months from the date of commencement, a Community Consultative Committee (CCC) must be established for the development in accordance with the Department's *Community Consultative Committee Guidelines: State Significant Projects* (2019).

**Notes:**

- The CCC is an advisory committee only.
- In accordance with the Guidelines, the Committee should comprise an independent chair and appropriate representation from the Applicant, Council and the local community.

#### **EVIDENCE OF CONSULTATION**

A22. Where conditions of this consent require consultation with an identified party, the Applicant must:

- (a) consult with the relevant party prior to submitting the subject document; and
- (b) provide details of the consultation undertaken including:
  - (i) the outcome of that consultation, matters resolved and unresolved; and
  - (ii) details of any disagreement remaining between the party consulted and the Applicant and how the Applicant has addressed the matters not resolved.

#### **STAGING, COMBINING AND UPDATING STRATEGIES, PLANS OR PROGRAMS**

A23. With the approval of the Planning Secretary, the Applicant may:

- (a) prepare and submit any strategy, plan or program required by this consent on a staged basis (if a clear description is provided as to the specific stage and scope of the development to which the strategy, plan or program applies, the relationship of the stage to any future stages and the trigger for updating the strategy, plan or program);
- (b) combine any strategy, plan or program required by this consent (if a clear relationship is demonstrated between the strategies, plans or programs that are proposed to be combined); and
- (c) update any strategy, plan or program required by this consent (to ensure the strategies, plans and programs required under this consent are updated on a regular basis and incorporate additional measures or amendments to improve the environmental performance of the development).

A24. If the Planning Secretary agrees, a strategy, plan or program may be staged or updated without consultation being undertaken with all parties required to be consulted in the relevant condition in this consent.

#### **PROTECTION OF PUBLIC INFRASTRUCTURE**

A25. Unless the Applicant and the applicable authority agree otherwise, the Applicant must:

- (a) repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by carrying out the development; and
- (b) relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the development.

**Note:** This condition does not apply to any damage to roads caused as a result of general road usage or otherwise addressed by contributions required by conditions A19 and A19 of this consent.

#### **DEMOLITION**

A26. All demolition must be carried out in accordance with *Australian Standard AS 2601-2001 The Demolition of Structures* (Standards Australia, 2001).



## **STRUCTURAL ADEQUACY**

A27. All new buildings and structures, and any alterations or additions to existing buildings and structures, that are part of the development, must be constructed in accordance with the relevant requirements of the BCA.

**Notes:**

- *Under Part 6 of the EP&A Act, the Applicant is required to obtain construction and occupation certificates for the proposed building works.*
- *Part 8 of the EP&A Regulation sets out the requirements for the certification of the development.*

## **OPERATION OF PLANT AND EQUIPMENT**

A28. All plant and equipment used on site, or to monitor the performance of the development must be:

- (a) maintained in a proper and efficient condition; and
- (b) operated in a proper and efficient manner.

## **COMPLIANCE**

A29. The Applicant must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this consent relevant to activities they carry out in respect of the development.

## **APPLICABILITY OF GUIDELINES**

A30. References in the conditions of this consent to any guideline, protocol, Australian Standard or policy are to such guidelines, protocols, Standards or policies in the form they are in as at the date of this consent.

A31. However, consistent with the conditions of this consent and without altering any limits or criteria in this consent, the Planning Secretary may, when issuing directions under this consent in respect of ongoing monitoring and management obligations, require compliance with an updated or revised version of such a guideline, protocol, Standard or policy, or a replacement of them.

## **PRODUCTION DATA**

A32. Each year, from the commencement of quarrying operations, the Applicant must provide calendar year quarry production data to MEG by no later than 30 January.

A33. The data must be provided using the relevant standard form and a copy of the data must be included in the Annual Review (required under condition D9).

## PART B SPECIFIC ENVIRONMENTAL CONDITIONS

### NOISE

#### Operational Noise Criteria

- B1. The Applicant must ensure that the noise generated by the development does not exceed the criteria in Table 2 at any residence on privately-owned land.

**Table 2:** Operational noise criteria dB(A)

Noise Assessment Location	Day	Evening	Night 5 am to 6 am		Shoulder 6 am to 7 am	
	<i>L<sub>Aeq</sub> (15 min)</i>	<i>L<sub>Aeq</sub> (15 min)</i>	<i>L<sub>Aeq</sub> (15 min)</i>	<i>LA1 (1 min)</i>	<i>L<sub>Aeq</sub> (15 min)</i>	<i>LA1 (1 min)</i>
R13.1	36	36	35	45	36	46
R13.2	36	36	35	45	35	45
R14	38	38	35	45	36	46
R16	37	37	35	45	36	46
R17	37	37	35	45	37	47
Other privately-owned residences	35	35	35	45	35	45

**Note:** To identify the locations referred to in Table 2, refer to Appendix 3

- B2. Noise generated by the development must be measured in accordance with the relevant requirements and exemptions (including certain meteorological conditions) of the *NSW Industrial Noise Policy* (EPA, 2000). Appendix 4 sets out the meteorological conditions under which these criteria apply and the requirements for evaluating compliance with these criteria.
- B3. The noise criteria in Table 2 do not apply if the Applicant has an agreement with the owner/s of the relevant residence or land to exceed the noise criteria, and the Applicant has advised the Department in writing of the terms of this agreement.

#### Noise Operating Conditions

- B4. The Applicant must:
- (a) take all reasonable steps to minimise all noise from construction and operational activities, including low frequency noise and other audible characteristics, as well as road noise associated with the development;
  - (b) take all reasonable steps to minimise the noise impacts of the development during noise-enhancing meteorological conditions; when the noise criteria in this consent do not apply (see Appendix 4);
  - (c) carry out regular attended noise monitoring (once a quarter unless otherwise agreed with the Planning Secretary) to determine whether the development is complying with the relevant conditions of this consent; and
  - (d) regularly assess the noise monitoring data, and modify or stop operations on the site to ensure compliance with the relevant conditions of this consent.

#### Noise Management Plan

- B5. The Applicant must prepare a Noise Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:
- (a) be prepared by a suitably qualified and experienced person/s;
  - (b) be prepared in consultation with the EPA;
  - (c) describe the measures to be implemented to ensure:
    - (i) compliance with the noise criteria and operating conditions in this consent; and
    - (ii) best practice management is being employed
  - (d) include a monitoring program that:
    - (i) is capable of evaluating the performance of the development against the noise criteria;
    - (ii) monitors noise at the nearest and/or most affected residences; and
    - (iii) includes a protocol for identifying any noise-related exceedance, incident or non-compliance and for notifying the Department and relevant stakeholders of these events.

- B6. The Applicant must not commence Stage 1 of the development until the Noise Management Plan is approved by the Planning Secretary.
- B7. The Applicant must implement the approved Noise Management Plan.

## BLASTING

### Blasting Criteria

- B8. The Applicant must ensure that blasting on the site does not cause exceedances of the criteria in Table 3.

**Table 3:** *Blasting criteria*

<b>Location</b>	<b>Airblast overpressure (dB(Lin Peak))</b>	<b>Ground vibration (mm/s)</b>	<b>Allowable exceedance</b>
Residence on privately-owned land <sup>a</sup>	120	10	0%
	115	5	5% of the total number of blasts over a calendar year

- B9. The blasting criteria in Table 3 do not apply if the Applicant has an agreement with the owner/s of the relevant residence or infrastructure to exceed the blasting criteria, and the Applicant has advised the Department in writing of the terms of this agreement.

### Blasting Frequency

- B10. The Applicant may carry out a maximum of 1 blast per week.
- B11. Condition B10 does not apply to blasts that generate ground vibration of 0.5 mm/s or less at any residence on privately-owned land, or to blast misfires or blasts required to ensure the safety of the mine, its workers or the general public.

**Notes:**

- *The purposes of this condition, a blast refers to a single blast event, which may involve a number of individual blasts fired in quick succession in a discrete area of the quarry.*
- *For the avoidance of doubt, should an additional blast be required after a blast misfire, this additional blast and the blast misfire are counted as a single blast.*

### Property Inspections

- B12. If the Applicant receives a written request from the owner of any privately-owned land within 1 kilometre of any approved extraction area on the site for a property inspection to establish the baseline condition of any buildings and structures on their land, or to have a previous property inspection updated, then within 2 months of receiving this request the Applicant must:
- commission a suitably qualified, experienced and independent person, whose appointment is acceptable to both parties to:
    - establish the baseline condition of any buildings and other structures on the land, or update the previous property inspection report; and
    - identify measures that should be implemented to minimise the potential blasting impacts of the development on these buildings and structures; and
  - give the landowner a copy of the new or updated property inspection report.
- B13. If there is a dispute over the selection of the suitably qualified, experienced and independent person, or the Applicant or the landowner disagrees with the findings of the property inspection report, either party may refer the matter to the Planning Secretary for resolution.

### Property Investigations

- B14. If the owner of any privately-owned land within 2 kilometres of any approved extraction area on the site or any other landowner where the Planning Secretary is satisfied an investigation is warranted, claims in writing that buildings or structures on their land have been damaged as a result of blasting on the site, then within 2 months of receiving this written claim the Applicant must:
- commission a suitably qualified, experienced and independent person, whose appointment is acceptable to both parties to investigate the claim; and
  - give the landowner a copy of the property investigation report.
- B15. If this independent property investigation confirms the landowner's claim, and both parties agree with these findings, then the Applicant must repair the damage to the satisfaction of the Planning Secretary.

B16. If there is a dispute over the selection of the suitably qualified, experienced and independent person, or the Applicant or the landowner disagrees with the findings of the independent property investigation, then either party may refer the matter to the Planning Secretary for resolution.

### Blast Operating Conditions

B17. During blasting operations, the Applicant must:

- (a) take all reasonable steps to:
  - (i) ensure the safety of people and livestock from blasting impacts of the development;
  - (ii) protect public or private infrastructure and property in the vicinity of the site from blasting damage associated with the development; and
  - (iii) minimise blast-related dust and fume emissions;
- (b) operate a suitable system to enable members of the public to get up-to-date information on the proposed blasting schedule on the site; and
- (c) carry out regular blast monitoring to determine whether the development is complying with the relevant conditions of this consent.

### Blast Management Plan

B18. The Applicant must prepare a Blast Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:

- (a) be prepared by a suitably qualified and experienced person/s;
- (b) be prepared in consultation with the EPA;
- (c) describe the measures that will be implemented to:
  - (i) ensure compliance with the blasting criteria and operating conditions of this consent;
  - (ii) avoid blasting during unfavourable climatic conditions;
- (d) include a monitoring program for evaluating and reporting on compliance with the relevant conditions of this consent;
- (e) include a protocol for identifying any blast-related exceedance, incident or non-compliance and for notifying the Department and relevant stakeholders of these events;
- (f) include public notification procedures to enable members of the public, particularly surrounding residents, to get up-to-date information on the proposed blasting schedule; and
- (g) include a protocol for investigating and responding to blast-related complaints.

B19. The Applicant must not undertake any blasting until the Blast Management Plan is approved by the Planning Secretary.

B20. The Applicant must implement the approved Blast Management Plan.

### AIR QUALITY

#### Odour

B21. The Applicant must ensure that no offensive odours are emitted from the site, as defined under the POEO Act.

#### Air Quality Criteria

B22. The Applicant must ensure that particulate matter emissions generated by the development do not cause exceedances of the criteria in Table 4 at any residence on privately-owned land.

**Table 4:** Air quality criteria

Pollutant	Averaging period	Criterion
Particulate matter < 10 µm (PM <sub>10</sub> )	Annual	<sup>a, c</sup> 25 µg/m <sup>3</sup>
	24 hour	<sup>b</sup> 50 µg/m <sup>3</sup>
Particulate matter < 2.5 µm (PM <sub>2.5</sub> )	Annual	<sup>a, c</sup> 8 µg/m <sup>3</sup>
	24 hour	<sup>b</sup> 25 µg/m <sup>3</sup>
Total suspended particulate (TSP) matter	Annual	<sup>a, c</sup> 90 µg/m <sup>3</sup>

**Notes:**

<sup>a</sup> Total impact (i.e. incremental increase in concentrations due to the development plus background concentrations due to all other sources).

<sup>b</sup> Incremental impact (i.e. incremental increase in concentrations due to the development on its own).

<sup>c</sup> Excludes extraordinary events such as bushfires, prescribed burning, dust storms, fire incidents or any other activity agreed by the Planning Secretary.

B23. The air quality criteria in Table 4 do not apply if the Applicant has an agreement with the owner/s of the relevant residence or infrastructure to exceed the air quality criteria, and the Applicant has advised the Department in writing of the terms of this agreement.

### **Air Quality Operating Conditions**

B24. The Applicant must:

- (a) take all reasonable steps to:
  - (i) minimise odour, fume, greenhouse gas and dust (including PM<sub>10</sub> and PM<sub>2.5</sub>) emissions of the development;
  - (ii) minimise any visible off-site air pollution generated by the development; and
  - (iii) minimise the extent of potential dust generating surfaces exposed on the site at any given point in time;
- (b) minimise the air quality impacts of the development during adverse meteorological conditions and extraordinary events (see Note c to Table 4 above);
- (c) carry out real time and routine air quality monitoring to determine whether the development is complying with the relevant conditions in this consent; and
- (d) regularly assess meteorological and air quality monitoring data and relocate, modify or stop operations on the site to ensure compliance with the relevant conditions of this consent.

### **Air Quality Management Plan**

B25. The Applicant must prepare an Air Quality Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:

- (a) be prepared by a suitably qualified and experienced person/s;
- (b) be prepared in consultation with the EPA;
- (c) describe the measures to be implemented to ensure:
  - (i) compliance with the air quality criteria and operating conditions in this consent;
  - (ii) best practice management is being employed; and
  - (iii) air quality impacts of the development are minimised during adverse meteorological conditions and extraordinary events;
- (d) include an air quality monitoring program that:
  - (i) is capable of evaluating the performance of the development against the air quality criteria;
  - (ii) adequately supports the air quality management system; and
  - (iii) includes a protocol for identifying any air quality-related exceedance, incident or non-compliance and for notifying the Department and relevant stakeholders of these events.

B26. The Applicant must not commence construction until the Air Quality Management Plan is approved by the Planning Secretary.

B27. The Applicant must implement the Air Quality Management Plan as approved by the Planning Secretary.

### **METEOROLOGICAL MONITORING**

B28. Prior to the commencement of construction and for the life of the development, the Applicant must ensure that there is a suitable meteorological station operating in close proximity to the site that:

- (a) complies with the requirements in the *Approved Methods for Sampling and Analysis of Air Pollutants in New South Wales* (DEC, 2007); and
- (b) is capable of measuring meteorological conditions in accordance with the *NSW Industrial Noise Policy* (EPA, 2000),

unless a suitable alternative is approved by the Planning Secretary following consultation with the EPA.

### **SOIL AND WATER**

#### **Water Supply**

B29. The Applicant must ensure that it has sufficient water for all stages of the development, and if necessary, adjust the scale of the development to match its available water supply.

B30. The Applicant must report on water extracted from the site each year (direct and indirect) in the Annual Review, including water taken under each water licence.

**Note:** Under the Water Act 1912 and/or the Water Management Act 2000, the Applicant is required to obtain all necessary water licences for the development.

### Compensatory Water Supply

- B31. Prior to the commencement of quarrying operations under this consent, the Applicant must notify owners of licensed privately-owned groundwater bores that are predicted to have a drawdown of greater than 2 metres as a result of the development.
- B32. The Applicant must provide a compensatory water supply to any landowner of privately-owned land whose rightful water supply is adversely and directly impacted (other than an impact that is minor or negligible) as a result of the development, in consultation with DPIE Water, and to the satisfaction of the Planning Secretary.
- B33. The compensatory water supply measures must provide an alternative long term supply of water that is equivalent, in quality and volume, to the loss attributable to the development. Equivalent water supply should be provided (at least on an interim basis) as soon as practicable after the loss is identified, unless otherwise agreed with the landowner.
- B34. If the Applicant and the landowner cannot agree on whether the loss of water is to be attributed to the development or the measures to be implemented, or there is a dispute about the implementation of these measures, then either party may refer the matter to the Planning Secretary for resolution.
- B35. If the Applicant is unable to provide an alternative long term supply of water, then the Applicant must provide compensation, to the satisfaction of the Planning Secretary.

**Notes:**

- The Water Management Plan (see condition B36) is required to include trigger levels for investigating potentially adverse impacts on water supplies.

### Water Management Plan

- B36. The Applicant must prepare a Water Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:
- (a) be prepared by suitably qualified and experienced person/s whose appointment has been endorsed by the Planning Secretary;
  - (b) be prepared in consultation with EPA and DPIE Water; and
  - (c) include a:
    - (i) **Site Water Balance** that:
      - includes details of:
        - sources and security of water supply;
        - water use and management on the site;
        - any off-site discharges or water transfers;
        - reporting procedures, including the annual preparation of a site water balance; and
      - minimises clean and potable water use on the site;
    - (ii) **Surface Water Management Plan**, that includes:
      - detailed baseline data on surface water flows, water quality, and geomorphic stability in watercourses and/or water bodies that could potentially be affected by the development;
      - surface water impact assessment criteria, including trigger levels for investigating any potentially adverse impacts, and surface water management performance measures;
      - a detailed description of the surface water management system on the site, including the:
        - clean water diversion system;
        - erosion and sediment controls;
        - dirty water management system; and
        - water storages;
      - a program to monitor and report on:
        - any surface water discharges;
        - stream stability and geomorphic processes in receiving watercourses;
        - the effectiveness of the water management system; and
        - surface water flows and quality in watercourses and/or waterbodies that could potentially be impacted by the development; and
      - a protocol for identifying and investigating any exceedances of the surface water impact assessment criteria and for notifying the Department and relevant stakeholders of these events.

- (iii) **Groundwater Management Plan** that includes:
- detailed baseline data of groundwater levels, yield and quality for groundwater resources potentially impacted by the development, including groundwater supply for other water users and groundwater dependent ecosystems;
  - a detailed description of the groundwater management system;
  - groundwater performance criteria, including trigger levels for investigating any potentially adverse groundwater impacts;
  - a program to monitor and report on:
    - groundwater levels, yield and quality of groundwater resources potentially impacted by the development;
    - groundwater inflows into the extraction areas;
    - seepage/leachate into the surrounding groundwater system;
    - impacts of the development on groundwater dependent ecosystems; and
    - impacts of the development on groundwater supply for other water users;
  - a protocol for identifying and investigating any exceedances of the groundwater performance criteria and for notifying the Department and relevant stakeholders of these events; and
  - a protocol to obtain appropriate water licence(s) to cover the volume of any unforeseen groundwater inflows into the extraction areas.

B37. The Applicant must not commence Stage 1 of the development until the Water Management Plan is approved by the Planning Secretary.

B38. The Applicant must implement the approved Water Management Plan.

## **TRANSPORT**

### **Monitoring of Product Transport**

B39. The Applicant must keep accurate records of all laden truck movements to and from the site (including hourly truck movements) and publish a summary of records on its website every 6 months.

### **Transport Operating Conditions**

B40. The Applicant must:

- (a) ensure that all laden trucks entering or exiting the site have their loads covered;
- (b) ensure that no heavy vehicles arrive at the site prior to 5:00 am;
- (c) take all reasonable steps to minimise traffic safety issues and disruption to local road users; and
- (d) take all reasonable steps to ensure that appropriate signage is displayed on all trucks used to transport quarry products from the development so they can be easily identified by other road users.

### **Traffic Management Plan**

B41. The Applicant must prepare a Traffic Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:

- (a) be prepared by suitably qualified and experienced person/s;
- (b) be prepared in consultation with TfNSW, Council and Maitland City Council;
- (c) include details of:
  - (i) all transport routes and traffic types to be used for development-related traffic, including identification of bridge load restrictions;
  - (ii) the processes in place for the control of truck movements entering and exiting the site;
  - (iii) the measures to be implemented to:
    - ensure compliance with the traffic operating conditions and traffic related conditions of this consent;
    - minimise traffic safety issues and disruption to local road users, including minimising potential for conflict with school buses;
    - minimise the transmission of dust and tracking of material onto the surface of public roads from vehicles exiting the site;
    - trial and evaluate a self-imposed speed limit of 60 km/hour for trucks travelling on Brandy Hill Drive;
    - notify the community of product haulage scheduled for the evening period;
    - avoid trucks travelling on the haulage routes prior to 5:00 am; and
    - participate in transport management investigations initiated by Council or Maitland City Council;
- (d) include a Drivers' Code of Conduct that includes procedures to ensure that drivers:

- (i) adhere to posted speed limits or other required travelling speeds;
  - (ii) adhere to designated transport routes and travel times; and
  - (iii) implement safe and quiet driving practices;
- (e) describe the measures to be put in place to ensure compliance with the Drivers' Code of Conduct.

B42. The Applicant must not commence Stage 1 of the development until the Traffic Management Plan is approved by the Planning Secretary.

B43. The Applicant must implement the approved Traffic Management Plan.

## HERITAGE

### Heritage Operating Conditions

B44. If suspected human remains are discovered on site, then all work surrounding the area must cease, and the area must be secured. The Applicant must immediately notify NSW Police and BCD, and work must not recommence in the area until authorised by NSW Police and BCD.

B45. If any Aboriginal object is discovered on the site:

- (a) all work in the immediate vicinity of the object or place must cease immediately;
- (b) a 10 metre buffer area around the object or place must be cordoned off; and
- (c) BCD must be contacted immediately.

B46. Work in the immediate vicinity may only recommence if:

- (a) the potential Aboriginal object is confirmed by BCD upon consultation with the Registered Aboriginal Parties not to be an Aboriginal object; or
- (b) the Planning Secretary is satisfied as to the measures to be implemented in respect of the Aboriginal object and makes a written direction in that regard.

## BIODIVERSITY AND REHABILITATION

### Biodiversity Offset Strategy

B47. The Applicant must retire the biodiversity credits for:

- (a) Offset Stage 1, as specified in Table 5 below, prior to commencing vegetation clearing in that Stage, unless otherwise agreed by the Secretary; and
- (b) Offset Stages 2 and 3, as specified in Table 5 below, prior to commencing vegetation clearing in those Stages.

The retirement of credits must be carried out in consultation with BCD and in accordance with the Biodiversity Offset Scheme of the BC Act<sup>1</sup>.

**Table 5:** Biodiversity credit requirements

<b>Credit Type</b>	<b>Offset Stage 1</b>	<b>Offset Stage 2</b>	<b>Offset Stage 3</b>	<b>Total Credits Required</b>
<i>Ecosystem Credits</i>				
<i>HU814 - Spotted Gum - Red Ironbark – Narrow-leaved Ironbark - Grey Box shrub-grass open forest of the lower Hunter</i>	<i>434</i>	<i>840</i>	<i>7</i>	<i>1,281</i>
<i>HU816 - Spotted Gum - Narrow-leaved Ironbark shrub - grass open forest of the central and lower Hunter</i>	<i>647</i>	<i>440</i>	<i>405</i>	<i>1,492</i>
<i>HU932 - Swamp Mahogany – Flax leaved Paperbark swamp forest on coastal lowlands of the Central Coast*</i>	<i>0</i>	<i>0</i>	<i>46</i>	<i>46</i>
<i>HU 806 - Spotted Gum - Red Ironbark – Grey Gum shrub - grass open forest of the Lower Hunter</i>	<i>0</i>	<i>15</i>	<i>48</i>	<i>63</i>
<i>HU812 - Forest Red Gum grassy open forest on floodplains of the Lower Hunter*</i>	<i>0</i>	<i>111</i>	<i>0</i>	<i>111</i>



<b>Credit Type</b>	<b>Offset Stage 1</b>	<b>Offset Stage 2</b>	<b>Offset Stage 3</b>	<b>Total Credits Required</b>
<i>HU798 - White Mahogany - Spotted Gum - Grey Myrtle semi-mesic shrubby open forest of the central and lower Hunter Valley</i>	96	7	0	103
<b>Total</b>	<b>1,177</b>	<b>1,413</b>	<b>506</b>	<b>3,096</b>
<b>Species Credits</b>				
<b>Koala</b>	<b>488</b>	<b>628</b>	<b>226</b>	<b>1,342</b>

<sup>1</sup> The available credit retirement options for the development include purchase and retirement of open market available biodiversity credits, payment into the Biodiversity Conservation Fund or establishment of a Biodiversity Stewardship Site. Credits retired for impacts on EPBC Act listed species and associated habitat must be like-for-like.

**Notes:**

- To identify the surface disturbance areas associated with Offset Stages 1, 2 and 3 in Table 5, refer to Figure 5 in Appendix 5. Offset Stage 1 corresponds with Development Stages 1 and 2, Offset Stage 2 corresponds with Development Stage 3 and Offset Stage 3 corresponds with Development Stage 4 and 5. Development stages are depicted in Figures 1-3 in Appendix 2 and are described in detail in the EIS.
- The credits in Table 5 were calculated in accordance with BioBanking Assessment Methodology of the NSW OEH interim policy on assessing and offsetting biodiversity impacts, State significant development (SSD) and State significant infrastructure (SSI) projects 2011, and may need to be converted to reasonably equivalent 'biodiversity credits', within the meaning of the BC Act, to facilitate retirement.

**Rehabilitation Objectives**

B48. The Applicant must rehabilitate the site to the satisfaction of the Planning Secretary. This rehabilitation must be consistent with the rehabilitation strategy in the EIS and the conceptual rehabilitation plan in Appendix 6 and must comply with the objectives in Table 6.

**Table 6:** Rehabilitation objectives

<b>Feature</b>	<b>Objective</b>
<i>All areas of the site affected by the development</i>	<ul style="list-style-type: none"> <li>• Safe</li> <li>• Hydraulically and geotechnically stable</li> <li>• Non-polluting</li> <li>• Fit for the intended post-quarrying operations land use(s)</li> <li>• Final landform integrated with surrounding natural landforms as far as is reasonable and feasible, and minimising visual impacts when viewed from surrounding land</li> </ul>
<i>Surface infrastructure areas</i>	<ul style="list-style-type: none"> <li>• All infrastructure decommissioned and removed, unless otherwise agreed by the Planning Secretary</li> <li>• Landscaped and vegetated using native woodland and understory species</li> <li>• Tree species to include Koala feed species</li> </ul>
<i>Quarry benches and pit floor</i>	<ul style="list-style-type: none"> <li>• Landscaped and vegetated using native woodland and understorey species</li> <li>•</li> </ul>
<i>Final void</i>	<ul style="list-style-type: none"> <li>• Minimise the size, depth and slope of the batters of the final void</li> <li>• Minimise the drainage catchment of the final void</li> </ul>

**Progressive Rehabilitation**

B49. The Applicant must rehabilitate the site progressively, that is, as soon as reasonably practicable following disturbance. All reasonable steps must be taken to minimise the total area exposed at any time. Interim stabilisation and temporary vegetation strategies must be employed when areas prone to dust generation, soil erosion and weed incursion cannot be permanently rehabilitated.

**Note:** It is accepted that some parts of the site that are progressively rehabilitated may be subject to further disturbance at some later stage of the development.

## **Biodiversity and Rehabilitation Management Plan**

B50. The Applicant must prepare a Biodiversity and Rehabilitation Management Plan for the development to the satisfaction of the Planning Secretary. This plan must:

- (a) be prepared by suitably qualified and experienced person/s;
- (b) be prepared in consultation with BCD and Council;
- (c) describe the short, medium, and long-term measures to be undertaken to:
  - (i) implement the Biodiversity Offset Strategy, including how significantly impacted species under the EPBC Act would be suitably offset on a like for like basis;
  - (ii) manage the remnant vegetation and fauna habitat on the site; and
  - (iii) ensure compliance with the rehabilitation objectives in this consent;
- (d) include detailed performance and completion criteria for evaluating the performance of the rehabilitation of the site, including triggers for remedial action, where these performance or completion criteria are not met;
- (e) include a detailed description of the measures to be implemented on the site to:
  - (i) enhance the quality of existing vegetation, vegetation connectivity and fauna habitat, including through the assisted regeneration and/or targeted revegetation of appropriate canopy, sub-canopy, understorey and ground strata;
  - (ii) mitigate impacts on the Koala in accordance the Port Stephens Comprehensive Koala Plan of Management, including measures relating to compensatory feed tree planting, fauna movement structures, onsite speed limits and signage;
  - (iii) maximise the salvage of resources within the approved disturbance area including tree hollows, vegetative and soil resources for beneficial reuse on site, including fauna habitat enhancement;
  - (iv) minimise impacts on tree hollows and termite mounds where reasonable and feasible;
  - (v) minimise impacts on fauna, including undertaking pre-clearance surveys;
  - (vi) manage potential indirect impacts on threatened plant and animal species;
  - (vii) introduce naturally scarce fauna habitat features such as den structures, nest boxes and salvaged tree hollows, and promote the use of these introduced habitat features by threatened fauna species;
  - (viii) minimise the amount of clearing within the approved disturbance area where reasonable and feasible;
  - (ix) protect vegetation and fauna habitat outside the approved disturbance area;
  - (x) establish and/or retain vegetation screening to minimise the visual impacts of the development on surrounding receivers;
  - (xi) control weeds and feral pests, with consideration of actions identified in relevant threat abatement plans;
  - (xii) control erosion;
  - (xiii) manage the collection and propagation of seed;
  - (xiv) control unrestricted access;
  - (xv) manage bushfire hazards; and
  - (xvi) progressively rehabilitate the site and minimise disturbance areas;
- (f) include a seasonally-based program to monitor and report on the effectiveness of the above measures, progress against the detailed performance and completion criteria, and any progressive improvements that could be implemented to improve biodiversity outcomes;
- (g) monitor and report on the impacts of the development on groundwater dependent ecosystems and riparian vegetation, and identify trigger levels for the remediation of any material impacts to these ecosystems;
- (h) identify the potential risks to the successful implementation of the final rehabilitation, and include a description of the contingency measures to be implemented to mitigate against these risks; and
- (i) include details of who would be responsible for monitoring, reviewing, and implementing the plan.

B51. The Applicant must not commence Stage 1 of the development until the Biodiversity and Rehabilitation Management Plan is approved by the Planning Secretary.

B52. The Applicant must implement the approved Biodiversity and Rehabilitation Management Plan.

## **Rehabilitation Bond**

B53. Within 6 months of the approval of the Biodiversity and Rehabilitation Management Plan, the Applicant must lodge a Rehabilitation Bond with the Department to ensure that the rehabilitation of the site is undertaken in accordance with the performance and completion criteria set out in the plan and the relevant conditions of this consent. The sum of the bond must be an amount agreed by the Planning Secretary and determined by:

- (a) calculating the cost of rehabilitating all disturbed areas of the site, taking into account the likely surface disturbance over the next 3 years of quarrying operations; and
  - (b) employing a suitably qualified, independent and experienced person to verify the calculated costs.
- B54. The calculation of the Rehabilitation Bond must be submitted to the Department for approval at least 1 month prior to the lodgement of the bond.
- B55. The Rehabilitation Bond must be reviewed and if required, an updated bond must be lodged with the Department within 3 months following:
- (a) any update or revision to the Biodiversity and Rehabilitation Management Plan;
  - (b) the completion of an Independent Environmental Audit in which recommendations relating to rehabilitation have been made; or
  - (c) in response to a request by the Planning Secretary,
- B56. If rehabilitation of this site is completed generally in accordance with the relevant performance and completion criteria, to the satisfaction of the Planning Secretary, the Planning Secretary will release the bond.
- B57. If rehabilitation of the site is not completed generally in accordance with the relevant performance and completion criteria, the Planning Secretary will call in all, or part of, the bond, and arrange for the completion of the relevant works.

#### **VISUAL**

- B58. The Applicant must:
- (a) take all reasonable steps to minimise the visual and off-site lighting impacts of the development;
  - (b) ensure that all external lighting associated with the development complies with relevant Australian Standards including *Australian Standard AS4282 (INT) 1997 – Control of Obtrusive Effects of Outdoor Lighting*;
  - (c) ensure that the visual appearance of all buildings, structures, facilities or works (including paint colours and specifications) is aimed at blending as far as possible with the surrounding landscape; and
  - (d) take all reasonable steps to shield views of quarrying operations and associated equipment from users of public roads and privately-owned residences.

#### **WASTE**

- B59. The Applicant must:
- (a) manage on-site sewage treatment and disposal in accordance with the requirements of an applicable EPL, and to the satisfaction of EPA;
  - (b) minimise the waste generated by the development;
  - (c) ensure that the waste generated by the development is appropriately stored, handled, and disposed of; and
  - (d) report on waste minimisation and management in the Annual Review referred to in condition D9.
- B60. Except as expressly permitted in an applicable EPL, the Applicant must not receive waste at the site for storage, treatment, processing, reprocessing or disposal.

#### **LIQUID STORAGE**

- B61. The Applicant must ensure that all tanks and similar storage facilities (other than for water) are protected by appropriate bunding or other containment, in accordance with the relevant Australian Standards.

#### **DANGEROUS GOODS**

- B62. The Applicant must ensure that the storage, handling, and transport of dangerous goods is done in accordance with the latest version of the Australian Standards, particularly *AS 1940-2004 The storage and handling of flammable and combustible liquids* (Standards Australia, 2004) and *AS/NZS 1596:2014 The storage and handling of LP Gas* (Standards Australia, 2014), and the *Australian Dangerous Goods Code*.

#### **BUSHFIRE MANAGEMENT**

- B63. The Applicant must:
- (a) ensure that the development:
    - (i) provides for asset protection in accordance with the relevant requirements in *the Planning for Bushfire Protection* (RFS, 2006) guideline; and
    - (ii) ensure that there is suitable equipment to respond to any fires on the site; and
  - (b) assist the RFS and emergency services to the extent practicable if there is a fire in the vicinity of the site.

## PART C ADDITIONAL PROCEDURES

### NOTIFICATION OF EXCEEDANCES

- C1. As soon as practicable and no longer than 7 days after obtaining monitoring results showing an exceedance of any noise, blasting or air quality criterion in PART B of this consent, the Applicant must:
- (a) provide to any affected landowners and tenants; and
  - (b) publish on its website
- the full details of the exceedance.
- C2. For any exceedance of any air quality criterion in PART B of this consent, the Applicant must also provide to any affected land owners and tenants a copy of the fact sheet entitled "*Mine Dust and You*" (NSW Minerals Council, 2011).

### INDEPENDENT REVIEW

- C3. If a landowner considers the development to be exceeding any noise, blasting or air quality criterion in PART B of this consent, they may ask the Planning Secretary in writing for an independent review of the impacts of the development on their land.
- C4. If the Planning Secretary is not satisfied that an independent review is warranted, the Planning Secretary will notify the landowner in writing of that decision, and the reasons for that decision, within 21 days of the request for a review.
- C5. If the Planning Secretary is satisfied that an independent review is warranted, within 3 months, or as otherwise agreed by the Planning Secretary and the landowner, of the Planning Secretary's decision, the Applicant must:
- (a) commission a suitably qualified, experienced and independent person, whose appointment has been approved by the Planning Secretary, to:
    - (i) consult with the landowner to determine their concerns;
    - (ii) conduct monitoring to determine whether the development is complying with the relevant criteria in PART B of this consent; and
    - (iii) if the development is not complying with that criteria, identify measures that could be implemented to ensure compliance with the relevant criteria;
  - (b) give the Planning Secretary and landowner a copy of the independent review; and
  - (c) comply with any written requests made by the Planning Secretary to implement any findings of the review.

## PART D ENVIRONMENTAL MANAGEMENT, REPORTING AND AUDITING

### ENVIRONMENTAL MANAGEMENT

#### Environmental Management Strategy

- D1. An Environmental Management Strategy must be prepared for the development to the satisfaction of the Planning Secretary. This strategy must:
- (a) provide the strategic framework for environmental management of the development;
  - (b) identify the statutory approvals that apply to the development;
  - (c) set out the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the development;
  - (d) set out the procedures to be implemented to:
    - (i) keep the local community and relevant agencies informed about the operation and environmental performance of the development;
    - (ii) receive record, handle and respond to complaints;
    - (iii) resolve any disputes that may arise during the course of the development;
    - (iv) respond to any non-compliance and any incident;
    - (v) respond to emergencies; and
  - (e) include:
    - (i) references to any strategies, plans and programs approved under the conditions of this consent; and
    - (ii) a clear plan depicting all the monitoring to be carried out under the conditions of this consent.
- D2. The Applicant must not commence quarrying operations until the Environmental Management Strategy is approved by the Planning Secretary.
- D3. The Applicant must implement the Environmental Management Strategy as approved by the Planning Secretary.

#### Management Plan Requirements

- D4. Management plans required under this consent must be prepared in accordance with relevant guidelines, and include:
- (a) a summary of relevant background or baseline data;
  - (b) details of:
    - (i) the relevant statutory requirements (including any relevant approval, licence or lease conditions);
    - (ii) any relevant limits or performance measures and criteria; and
    - (iii) the specific performance indicators that are proposed to be used to judge the performance of, or guide the implementation of, the development or any management measures;
  - (c) a description of the measures to be implemented to comply with the relevant statutory requirements, limits, or performance measures and criteria;
  - (d) a program to monitor and report on the:
    - (i) impacts and environmental performance of the development; and
    - (ii) effectiveness of the management measures set out pursuant to condition D4(c);
  - (e) a contingency plan to manage any unpredicted impacts and their consequences and to ensure that ongoing impacts reduce to levels below relevant impact assessment criteria as quickly as possible;
  - (f) a program to investigate and implement ways to improve the environmental performance of the development over time;
  - (g) a protocol for managing and reporting any:
    - (i) incident, non-compliance or exceedance of the impact assessment criteria or performance criteria;
    - (ii) complaint; or
    - (iii) failure to comply with statutory requirements; and
  - (h) a protocol for periodic review of the plan.

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

#### REVISION OF STRATEGIES, PLANS AND PROGRAMS

- D5. Within three months of:
- (a) the submission of an incident report under condition D7;
  - (b) the submission of an Annual Review under condition D9;

- (c) the submission of an Independent Environmental Audit under condition D11;
- (d) the approval of any modification of the conditions of this consent;
- (e) notification of a change in development stage under condition A15; or
- (f) the issue of a direction of the Planning Secretary under condition A2(b) which requires a review,

the suitability of existing strategies, plans and programs required under this consent must be reviewed by the Applicant.

- D6. If necessary, to either improve the environmental performance of the development, cater for a modification or comply with a direction, the strategies, plans and programs required under this consent must be revised, to the satisfaction of the Planning Secretary and submitted to the Planning Secretary for approval within six weeks of the review.

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

## REPORTING AND AUDITING

### Incident Notification

- D7. The Applicant must immediately notify the Department and any other relevant agencies immediately after it becomes aware of an incident. The notification must be in writing through the Department's Major Projects website and identify the development (including the development application number and name) and set out the location and nature of the incident.

### Non-Compliance Notification

- D8. Within seven days of becoming aware of a non-compliance, the Applicant must notify the Department of the non-compliance. The notification must be in writing to through the Department's Major Projects website and identify the development (including the development application number and name), set out the condition of this consent that the development is non-compliant with, why it does not comply and the reasons for the non-compliance (if known) and what actions have been, or will be, undertaken to address the non-compliance.

**Note:** *A non-compliance which has been notified as an incident does not need to also be notified as a non-compliance.*

### Annual Review

- D9. By the end of March in each year after the commencement of development, or other timeframe agreed by the Planning Secretary, a report must be submitted to the Department reviewing the environmental performance of the development, to the satisfaction of the Planning Secretary. This review must:
- (a) describe the development (including any rehabilitation) that was carried out in the previous calendar, and the development that is proposed to be carried out over the current calendar year;
  - (b) include a comprehensive review of the monitoring results and complaints records of the development over the previous calendar year, including a comparison of these results against the:
    - (i) relevant statutory requirements, limits or performance measures/criteria;
    - (ii) requirements of any plan or program required under this consent;
    - (iii) monitoring results of previous years; and
    - (iv) relevant predictions in the documents listed condition A2(c).
  - (c) identify any non-compliance or incident which occurred in the previous calendar year, and describe what actions were (or are being) taken to rectify the non-compliance and avoid reoccurrence;
  - (d) evaluate and report on:
    - (i) the effectiveness of the noise and air quality management systems; and
    - (ii) compliance with the performance measures, criteria and operating conditions in this consent;
  - (e) identify any trends in the monitoring data over the life of the development;
  - (f) identify any discrepancies between the predicted and actual impacts of the development, and analyse the potential cause of any significant discrepancies; and
  - (g) describe what measures will be implemented over the next calendar year to improve the environmental performance of the development.
- D10. Copies of the Annual Review must be submitted to Council and made available to the CCC and any interested person upon request.

### Independent Environmental Audit

- D11. Within one year of the commencement any development under this consent, and every three years after, unless the Planning Secretary directs otherwise, the Applicant must commission and pay the full cost of an Independent Environmental Audit of the development. The audit must:

- (a) be led and conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Planning Secretary;
- (b) be carried out in consultation with the relevant agencies and the CCC;
- (c) assess the environmental performance of the development and whether it is complying with the relevant requirements in this consent, water licences and mining leases for the development (including any assessment, strategy, plan or program required under these approvals);
- (d) review the adequacy of any approved strategy, plan or program required under the abovementioned approvals and this consent;
- (e) recommend appropriate measures or actions to improve the environmental performance of the development and any assessment, strategy, plan or program required under the abovementioned approvals and this consent; and
- (f) be conducted and reported to the satisfaction of the Planning Secretary.

D12. Within three months of commencing an Independent Environmental Audit, or within another timeframe agreed by the Planning Secretary, the Applicant must submit a copy of the audit report to the Planning Secretary, and any other NSW agency that requests it, together with its response to any recommendations contained in the audit report, and a timetable for the implementation of the recommendations. The recommendations must be implemented to the satisfaction of the Planning Secretary.

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

### **Monitoring and Environmental Audits**

D13. Any condition of this consent that requires the carrying out of monitoring or an environmental audit, whether directly or by way of a plan, strategy or program, is taken to be a condition requiring monitoring or an environmental audit under Division 9.4 of Part 9 of the EP&A Act. This includes conditions in respect of incident notification, reporting and response, non-compliance notification, compliance report and independent audit.

For the purposes of this condition, as set out in the EP&A Act, “monitoring” is monitoring of the development to provide data on compliance with the consent or on the environmental impact of the development, and an “environmental audit” is a periodic or particular documented evaluation of the development to provide information on compliance with the consent or the environmental management or impact of the development.

D14. Noise, blast and/or air quality monitoring under this consent may be undertaken at suitable representative monitoring locations instead of at privately-owned residences or other locations listed in Part B, providing that these representative monitoring locations are set out in the respective management plan/s.

### **ACCESS TO INFORMATION**

D15. Before the commencement of construction until the completion of all rehabilitation required under this consent, the Applicant must:

- (a) make the following information and documents (as they are obtained, approved or as otherwise stipulated within the conditions of this consent) publicly available on its website:
  - (i) the document/s listed in condition A2(c);
  - (ii) all current statutory approvals for the development;
  - (iii) all approved strategies, plans and programs required under the conditions of this consent;
  - (iv) minutes of CCC meetings;
  - (v) regular reporting on the environmental performance of the development in accordance with the reporting requirements in any plans or programs approved under the conditions of this consent;
  - (vi) a comprehensive summary of the monitoring results of the development, reported in accordance with the specifications in any conditions of this consent, or any approved plans and programs;
  - (vii) a summary of the current stage and progress of the development;
  - (viii) contact details to enquire about the development or to make a complaint;
  - (ix) a complaints register, updated monthly;
  - (x) the Annual Reviews of the development;
  - (xi) audit reports prepared as part of any Independent Environmental Audit of the development and the Applicant’s response to the recommendations in any audit report;
  - (xii) any other matter required by the Planning Secretary; and
- (b) keep such information up to date, to the satisfaction of the Planning Secretary.

**APPENDIX 1: SCHEDULE OF LAND**

<b>Lot</b>	<b>DP</b>
3	1006516
1	823760
19	752487
20	752487
21	752487
1	737844
2	823760
56	752487
36	752487
236	752487
1	47313
101	712886
12	264033

RECOMMENDED



## APPENDIX 2: DEVELOPMENT LAYOUT PLANS

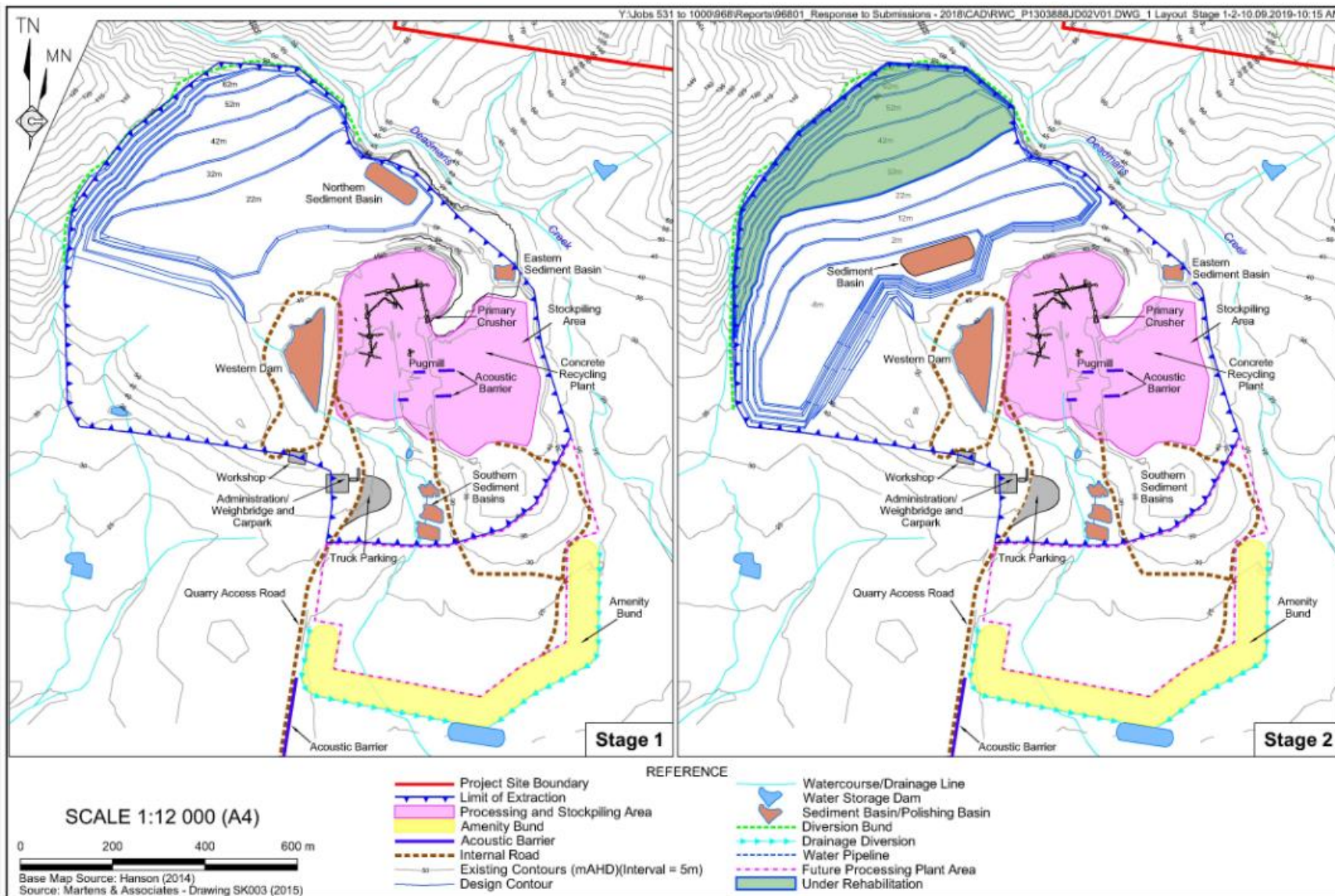


Figure 1: Development Stages 1 and 2

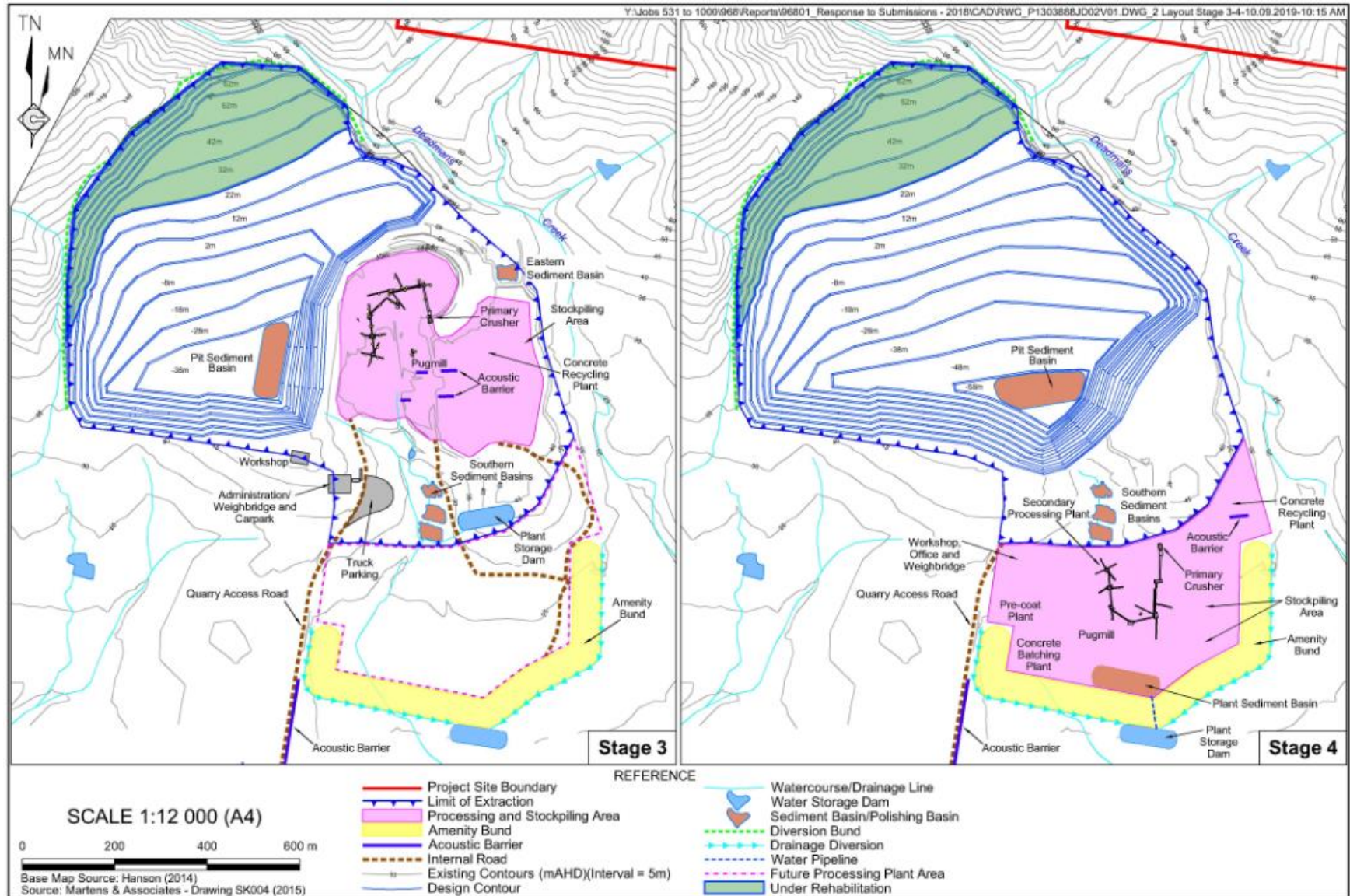


Figure 2: Development Stages 3 and 4

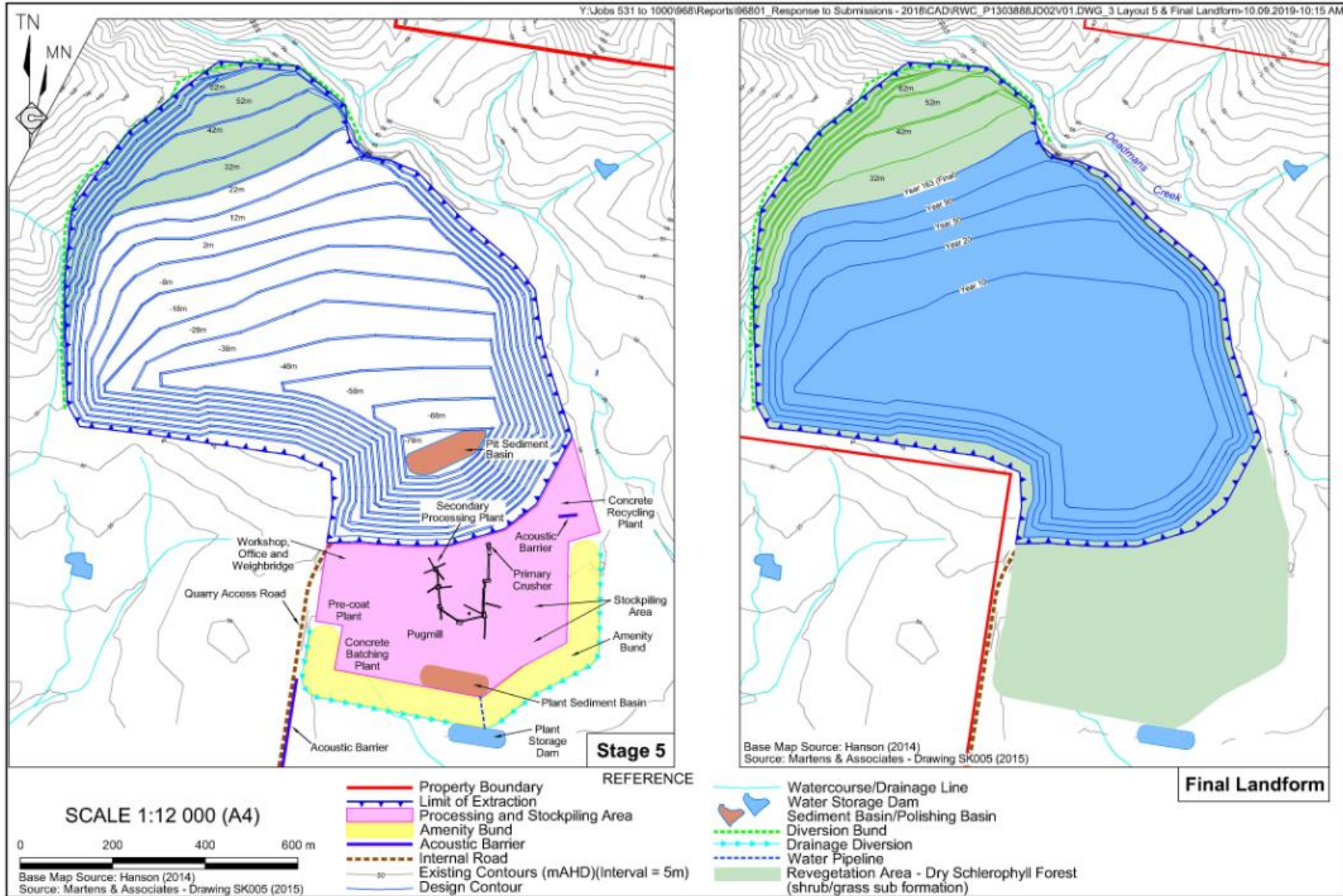


Figure 3: Development Stage 5 and Final Landform

APPENDIX 3: RECEIVER LOCATIONS

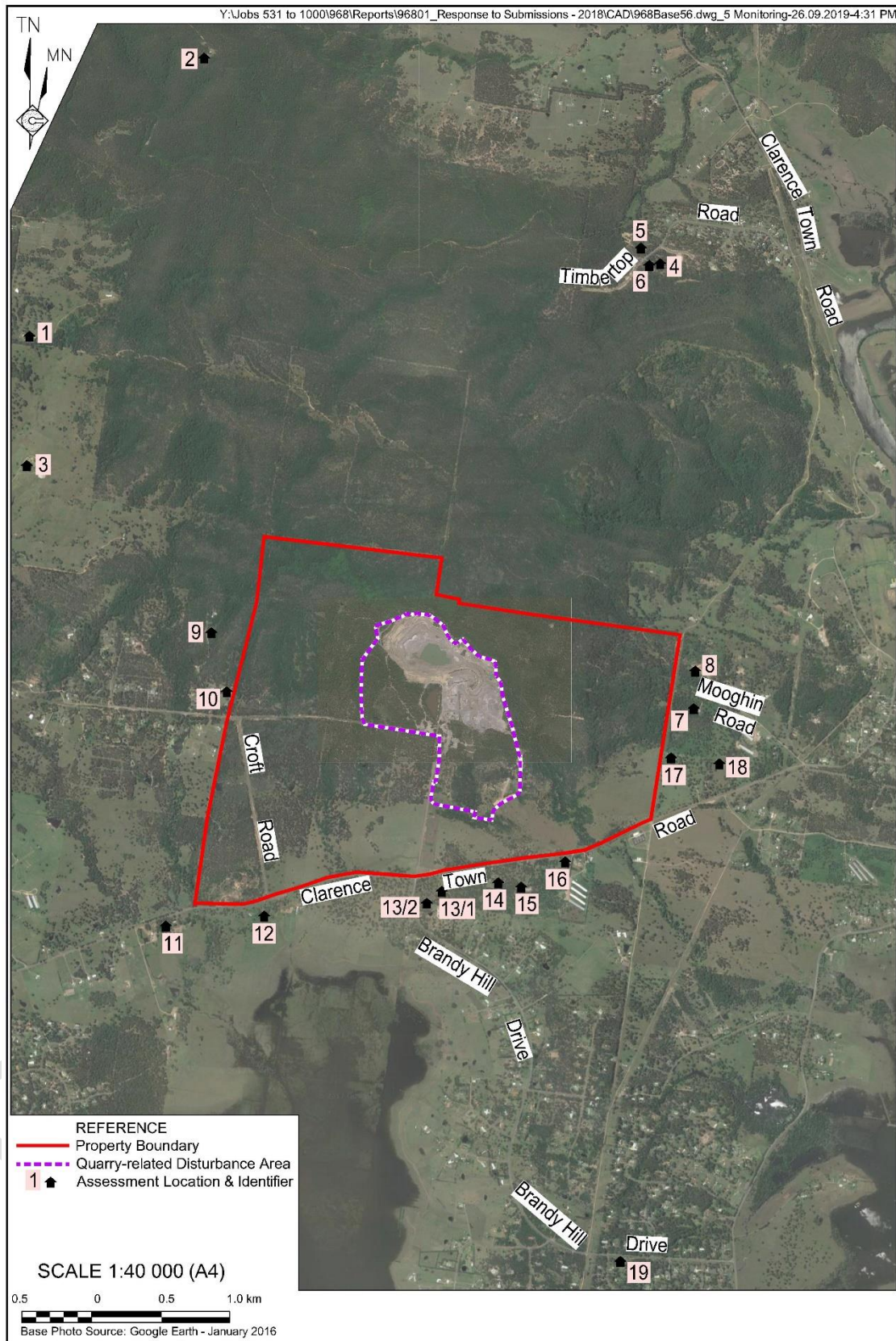


Figure 4: Receiver Locations

## APPENDIX 4: NOISE COMPLIANCE ASSESSMENT

### Applicable Meteorological Conditions

1. The noise criteria in Table 2 of the conditions are to apply under all meteorological conditions except the following:
  - (a) where 3°C/100 metres (m) lapse rates have been assessed, then:
    - (i) wind speeds greater than 3 metres/second (m/s) measured at 10m above ground level;
    - (ii) temperature inversion conditions between 1.5°C and 3°C/100m and wind speeds greater than 2m/s measured at 10m above ground level; or
    - (iii) temperature inversion conditions greater than 3°C/100m.
  - (b) where Pasquill Stability Classes have been assessed, then:
    - (i) wind speeds greater than 3m/s at 10m above ground level;
    - (ii) stability category F temperature inversion conditions and wind speeds greater than 2m/s at 10m above ground level; or
    - (iii) stability category G temperature inversion conditions.

### Determination of Meteorological Conditions

2. Except for wind speed at microphone height, the data to be used for determining meteorological conditions shall be that recorded by the meteorological station required under B28.

### Compliance Monitoring

3. A noise compliance assessment must be undertaken within two months of commencement of quarrying operations. The assessment must be conducted by a suitably qualified and experienced acoustical practitioner and must assess compliance with noise criteria presented above. A report must be provided to the Department and EPA within 1 month of the assessment.
4. Unless otherwise agreed by the Planning Secretary, attended compliance monitoring must be carried out in accordance with the relevant requirements for reviewing performance set out in the *NSW Industrial Noise Policy* (EPA, 2000), in particular the requirements relating to:
  - (a) monitoring locations for the collection of representative noise data;
  - (b) meteorological conditions during which collection of noise data is not appropriate;
  - (c) equipment used to collect noise data, and conformity with Australian Standards relevant to such equipment; and
  - (d) modifications to noise data collected, including for the exclusion of extraneous noise and/or penalties for modifying factors apart from adjustments for duration,
  - (e) modifying factors apart from adjustments for duration,

with the exception of applying appropriate modifying factors for low frequency noise during compliance testing. This should be undertaken in accordance with *Fact Sheet C* of the *NSW Noise Policy for Industry* (EPA, 2017).

APPENDIX 5: BIODIVERSITY OFFSET STAGES

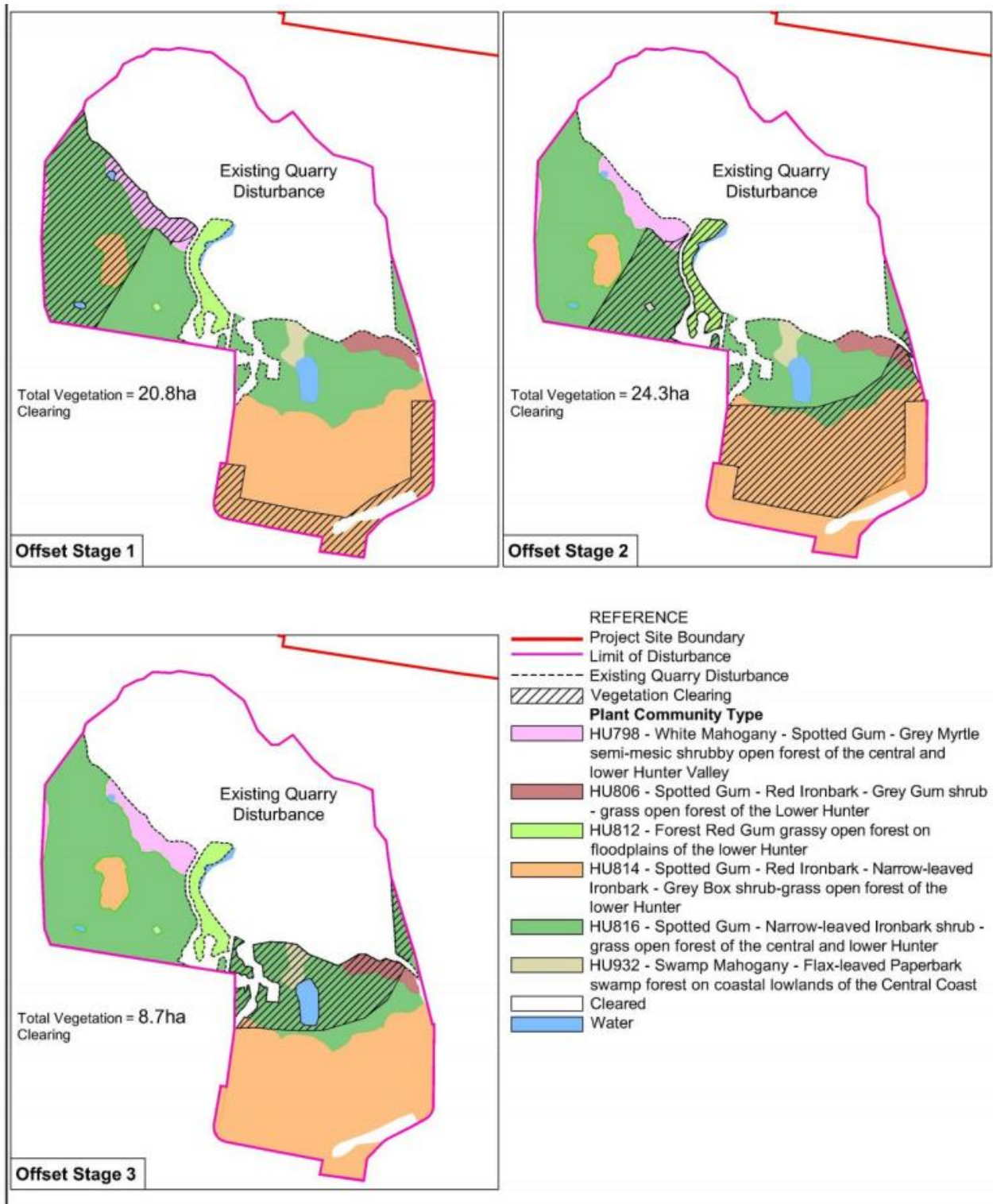


Figure 5 – Biodiversity Offset Stages

APPENDIX 6: CONCEPTUAL REHABILITATION PLAN

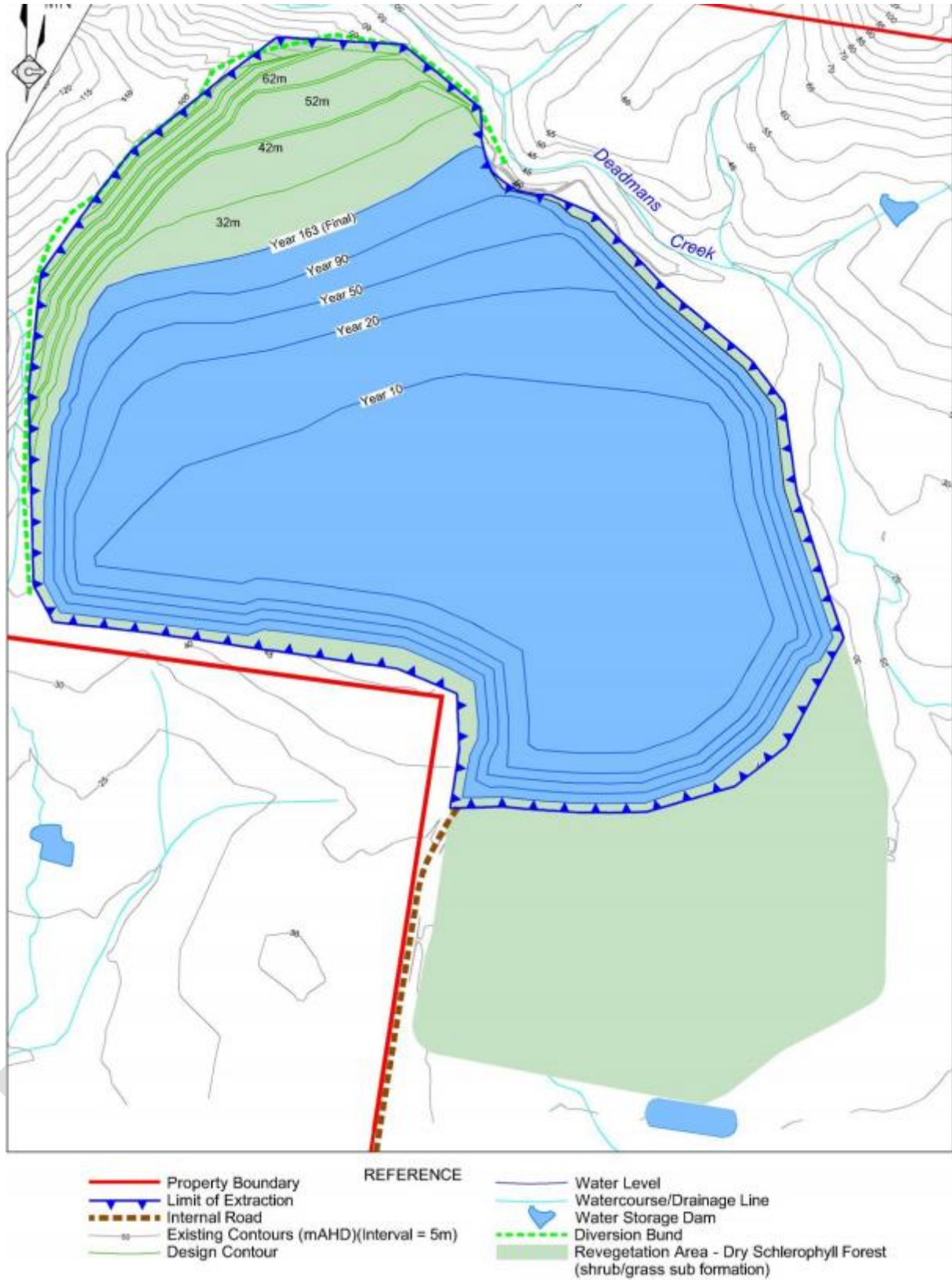


Figure 6: Conceptual Rehabilitation Plan

**APPENDIX 7: GENERAL TERMS OF PLANNING AGREEMENT**

<b>Applicant's Contribution</b>	<b>Intended Use</b>	<b>Payment Details</b>
\$120,000	<p><i>Funding toward the construction of six bus bays on Brandy Hill Drive and Seaham Road. This item will be a forward payment of haulage levels required under Council's contributions plan.</i></p> <p><i>Bus bays to be designed and constructed by Council.</i></p>	<p><i>Within twelve months of the date of the commencement of the development, or as otherwise agreed under the executed document.</i></p>
\$1,500,000	<p><i>Funding toward the construction of a shared pathway on Brandy Hill Drive.</i></p> <p><i>Shared pathway to be designed and constructed by Council.</i></p>	<p><i>All payments made within two years of the date of the commencement of the development, or as otherwise agreed under the executed document.</i></p>

RECOMMENDED