

103/94DA PGC:SMD
S96029/14
Environment & Development Dept.

22 December 2014

DARRYL THIEDEKE C/- HY-TEC INDUSTRIES PTY LTD
PO BOX 6770
SILVERWATER NSW 1811

Dear Sir/Madam

**DEVELOPMENT APPROVAL – 103/94DA
MODIFICATION OF CONSENT – S96029/14
PROPOSED – HARD ROCK QUARRY AND ASSOCIATED PROCESSING PLANT
LOT 1 & 2 DP 1005511, LOT 31 DP 1009967 & LOT 4 DP 876394 – JENOLAN
CAVES ROAD HARTLEY NSW 2790**

Please find enclosed your abovementioned Section 96 Modification of Consent Approval. You are advised that the following conditions of your consent have been amended:

**Condition 1.
Condition 27.
Condition 28.
Condition 29.**

Added:

**Condition 9A.
Condition 9B.**

As shown in **Bold**.

We seek your assistance in minimising delays to your application by quoting the full reference application no. in all your correspondence and enquiries to Council.

Your Development Planner is Paul Cashel who can be contacted on 63549999 between 12.00pm – 1.00pm Monday to Friday in Council's Environment & Development Department. Interviews at other times may be arranged by appointment.

Please do not hesitate to contact your Development Planner should you have any concern or enquiry in respect to your development.

Yours sincerely




P G Cashel
TEAM LEADER DEVELOPMENT PLANNING

enc

**NOTICE OF DETERMINATION
OF SECTION 96 MODIFICATION OF CONSENT**

(Pursuant to Pt 4, Div 2, Section 96 of the Environmental Planning & Assessment Act 1979)

Development Application No	103/94DA
Modification of Consent No.	S96029/14
Applicant's Name & Address	DARRYL THIEDEKE C/- HY-TEC INDUSTRIES PTY LTD PO BOX 6770 SILVERWATER NSW 1811
Owner's Name(s)	HARTLEY PASTORAL COMPANY PTY LTD
Land to Be Developed	LOTS 1 & 2 DP 1005511, LOT 31 DP 1009967 & LOT 4 DP 876394 JENOLAN CAVES ROAD HARTLEY NSW 2790
Proposed Modification	HARD ROCK QUARRY AND ASSOCIATED PROCESSING PLANT – THE EXTRACTION OF TWO ADDITIONAL BENCHES, AT ELEVATIONS OF 715M AHD AND 700M AHD TO QUARRY 2 MILLION TONNES
Classification of Building(s)	N/A
Determination	Consent granted subject to conditions in attached Schedule A
Integrated Approval Bodies / General Terms of Approval	The NSW Office of Water – Confirms the existing General Terms of Approval (for 'works' requiring a Controlled Activity Approval under the Water Management Act 2000), remain unchanged for the amended proposal and no amendments to the General Terms of Approval are necessary. However, the applicant will need to apply to amend the Controlled Activity Approval 10 ERM2012/0616 to reflect these changes.
Approved Documentation	Hy-Tec Industries Pty Limited Statement of Environmental Effects dated July 2014 and "Response to Submissions" dated October 2014
Other Approvals Under Section 68 of Local Government Act 1993	Nil

Consent to Lapse On	22 March 2000 (unless 'physically commenced' in accordance with provisions of the Environmental Planning & Assessment Act 1979)
Consent to Operate from	22 March 1995
Determination Made On	15 December 2014
Schedules / Attachments	A. Conditions of Consent (Consent Authority) B. Reasons for Imposition of Consent Conditions
Rights of Appeal	<p>In accordance with Section 82A of the Environmental Planning Assessment Act 1979 you may request the Council to review the determination of the application within 6 months from the date of this determination. However, Section 82A does not apply to Designated Development, Integrated Development or State Significant development.</p> <p>If you are dissatisfied with the decision, Section 97 of the Environmental Planning and Assessment Act 1979 gives you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.</p>
	<p>Section 98 of the Environmental Planning Assessment Act 1979 allows an objector who is dissatisfied with the determination of a consent authority to grant consent to a development application for Designated Development within 28 days after the date on which notice of the determination was given, appeal to the Land and Environment Court.</p>
Name of Authorised Officer	P G Cashel
Signature of Authorised Officer (on behalf of the Consent Authority)	
Position of Authorised Officer	TEAM LEADER DEVELOPMENT PLANNING

Schedule A

Conditions of Consent (Consent Authority)

Please Note: It should be understood that this consent in no way relieves the owner or applicant from any obligation under any covenant affecting the land.

The amended and additional conditions have been highlighted in bold for your reference.

ADMINISTRATIVE CONDITIONS

1. The development is to be carried out generally in accordance with the development application and accompanying Environmental Impact Statement prepared by Sinclair Knight Merz, dated 2nd August, 1994, as amended by the Revised Hartley Quarry Proposal prepared by Minenco Pty Ltd, dated February, 1995, except as may be modified by the conditions of this consent.

Note: The development is to be carried out generally in accordance with the modified development application and accompanying Environmental Impact Statement prepared by Darryl Moore, Principle Consultant, Evermoore Environmental Services, dated August 2009 and the Statement of Environmental Effects prepared by R.W. Corkery & Co. Pty Limited, dated June 2012.

The development is to also be carried out generally in accordance with the modified development application (Stage 1A) and accompanying Statement of Environmental Effects prepared by R.W. Corkery & Co. Pty. Limited, dated July 2014 (Ref No. 652/25).

(Amended 9 August 2011 – S96)

(Amended 27 November 2012 – S96023/12)

(Amended 15 December 2014 – S96029/14)

2. There is to be no quarrying, processing, loading or transportation on Sundays and Public Holidays.
3. This consent shall lapse 25 years from the date of endorsement.

Note: the date of endorsement relevant to this condition is 22 March 1995.

(Amended 27 November 2012 – S96023/12)

Environment Protection Authority

4. a) That the developer shall obtain from the Environment Protection Authority all statutory approvals required under the Clean Air Act, 1961, Clean Waters Act, 1970 and the Noise Control Act, 1975. Further, the approval of the E.P.A. is also required in relation to the siting, installation and management of the effluent disposal system to be installed on the site. Approval is also required for the operation, control and management of the truck wash bay.

b) In the event of emissions from the development exceeding the approved levels, or in the event that there are adverse effects on the environment beyond those anticipated at the date of this consent and which can be reasonably attributed to emissions from the proposal, the developer shall comply with the conditions, directions or notices issued under the foregoing Acts aimed at achieving the approved levels of emissions or at mitigating or eliminating the adverse effects.

Transportation and Access

- 5.
- a) Intersection of the internal haul road with the Jenolan Caves Road to be upgraded to the satisfaction of the Roads and Traffic Authority, incorporating an AUL layout, designed in accordance with the guidelines set down under Section 4 of the Road Design Guide. The Authority reserves the right to monitor the operation of this intersection and if it proves unsatisfactory, the intersection will have to be upgraded to a composite AUR/AUL intersection at full cost to the developer.
 - b) Imposition of a 40km/h speed restriction on trucks and buses on the section of Jenolan Caves Rd, from its intersection with the Great Western Highway to the haul road intersection.
 - c) All appropriate road side signs and furnishings including guide posts, linemarking and protection fencing, to be provided to the satisfaction of the R.T.A.
 - d) Engineering plans to be submitted to Council for the construction of the internal haul road. Such to be submitted, approved and the road installed prior to the operation commencing.
 - e) The developer is required to progressively seal the access road into the quarry. The initial stage will be the section between the Caves Rd and the Truck Wash Station, which will be required to be completed prior to the operation commencing. In consultation with Council Officers and the Soil Conservation Service, the remaining sections of the access road will be sealed commencing in the steeper sections. The developer is required to complete the sealing of the access road within 5 years of the commencement of the operation or when production reaches 300,000 tonnes per annum. The developer is required to take any dust suppression measures required by the Council until such time as the road is fully sealed.
 - f) The developer to provide details of means of access to the quarry area from the haul road.

Infrastructure

- 6.
- a) The developer to consult with Prospect Electricity regarding the provision of an electricity supply to the proposed development.
 - b) The developer to consult with Telecom Australia regarding the provision of a telephone supply to the proposed development.

Flora and Fauna

7. a) The developer to undertake a program of annual monitoring of fauna and fauna habitats in the vicinity of the quarry and stockpile areas, to monitor any indirect impacts from the operation. Such to be included in the annual report to be submitted to Council.
- b) The developer is to pursue the attainment and fund implementation of a Conservation Agreement or flora preservation conditions over suitable E Pulvurulenta habitat identified by the National Parks and Wildlife Service of N.S.W., within the Hartley area.
- c) The developer is to provide funding for the ex-situ growing of the species, E Pulverulenta, under the supervision of the National Parks and Wildlife Service and in conjunction with the Mt Tomah annex of the Royal Botanic Gardens, or other appropriately qualified organisation acceptable to the Service.
- d) The developer is required to establish a riparian corridor prior to construction commencing. The riparian corridor should be constructed to the satisfaction of the Department of Water Resources.
- e) The proponent to consult with the Department of Agriculture regarding the eradication of Serated Tussock with the site of the processing area.

Archaeology

8. a) The developer is to comply with the recommendations of the Archaeological Assessment as undertaken by Mills and Wilkinson Archaeology Consultants, as incorporated in the E.I.S.
- b) The developer, shall consult with the Gandangara Local Aboriginal Land Council, during construction and operation of the quarry.

Water Management

9. a) The developer shall produce a site specific Soil and Water Management Plan for each component of the development detailing all proposed drainage diversion channels, collection pits and sedimentation dams to be constructed on site. Such plan to be developed in consultation with the Soil Conservation Service and be to the satisfaction of Council and the Soil Conservation Service.
- b) The developer shall manage surface runoff within the site in accordance with the Soil and Water Management Plan.
- c) The developer shall consult with the Soil Conservation Service prior to the construction of runoff diversion, erosion and sedimentation control works and sediment dams, and these work areas to be constructed to capacities and standards satisfactory to Council and the Soil Conservation Service.
- d) All activities involving oil, fuel and other chemicals which have the potential to pollute groundwater should be contained within an impermeable bunded area, roofed to the satisfaction of the Environment Protection Authority.
- e) All drainage channels/trenches, sedimentation ponds/dams and pollution control structures should be lined and sealed with impermeable material to the satisfaction of the Department of Water Resources.
- f) The developer to apply for a permit from the Department of Water Resources for the construction works at Yorkeys Creek, under Section 3A of the Rivers and Foreshores Improvement Act.

9A. An appropriate and scientifically robust groundwater and surface water assessment shall be prepared within six months of the approval [15/12/14] and shall be provided to Council and the SCA for review and comments. The assessment shall address the following:

- **quantification of groundwater to be dewatered**
- **impacts on baseflows of Yorkeys Creek and Coxs River and associated ecosystems**
- **details on existing volumes, frequency and quality of controlled and uncontrolled discharges to Yorkeys Creek and Coxs River over the last 5 years**
- **estimation of volumes, frequency and quality of controlled and uncontrolled discharges from the proposed modification**
- **existing water quality in Yorkeys Creek and Coxs River and impacts of discharges from the proposed modification on the water quality of these waterways, and**
- **existing and proposed surface water and groundwater monitoring programs.**

(Inserted 15 December 2014 – S96029/14)

9B. "The applicant is to provide an Operations Environmental Management Plan (OEMP) (draft is acceptable) within one month of the approval of the 'Stage 1A' modification application [15/12/14] for comments to ensure the site has appropriate surface and ground water management measures and monitoring programs including locations, frequencies and analytes are in place at the site."

(Inserted 15 December 2014 – S96029/14)

Noise Management

10. a) The developer is to implement all noise attenuation measures as outlined in the E.I.S. This includes either fully enclosing the primary and secondary crushers or installing environmental grade mufflers and engine side covers on these facilities.
- b) Blasting shall only occur at the site between 10.00am and 3.00pm, Monday to Friday.
- c) The developer or any other person operating the mine, shall advise owners of adjoining land by telephone or mail, 1 week prior to each blast, of the intended date and time of the proposed blast.

Fire Protection

11. The developer to provide details of all proposed fire fighting facilities and measures to be installed on the site including water storage capacities, location of hydrants etc.

Internal Roads and Buildings

12. The developer shall, prior to the commencement of construction of the development, obtain the consent of Council for design plans and specifications for all roads, carparking facilities and buildings upon the site.

Building Applications

13. Submission and approval of a building application for all structural work to be carried out in association with the development, including all structural engineering details certified by a structural engineer.

Landscaping

14. That the developer shall prepare and submit to Council for its consideration and approval, within six months of development approval:
- a) fully detailed landscaping plans covering all components of the development, including proposed bunding and landscape screening, as identified in the E.I.S. as amended. The developer shall employ a qualified landscape architect to assist in this component of the development.
- b) proposals for the visual appearance of the structural components of the development incorporating paint colour and specifications. Buildings and structures are to be constructed of non-reflective material, and designed so as to present a neat orderly appearance and to blend with the surrounding landscape.
- c) A comprehensive Plan of Management, which shall consist of detailed plans, specifications and staged work programs to be undertaken whilst the quarry is in operation, including rehabilitation and landscape works, soil and water management

programs, infrastructure installation and maintenance and the environmental monitoring program.

Rehabilitation

15. a) As part of the overall Plan of Management, the developer shall submit a "Stage Specific Management Plan" for approval. The "Stage Specific Management Plan" shall provide detailed information relative to each stage or sequence of extraction and rehabilitation of that area. The rehabilitation plans shall clearly identify finished contours, top soil depths, drainage/siltation controls, plant and grass materials to be used and proposed means of camouflaging the exposed quarry face. It should also detail means of maintaining all rehabilitation works.
- b) Prior to preparation of the rehabilitation program to be submitted to Council in accordance with (a), above, the applicant shall consult with the Soil Conservation Service and National Parks and Wildlife Service in relation to the content of each rehabilitation program.
- c) The developer shall, before commencing quarrying of each stage shall lodge with the Council a guarantee deposit or bank guarantee for a sum equal to the cost of carrying out restoration work associated with that specific stage rehabilitation plan, to fully compensate the Council in the event of any expense being incurred by Council in relation to the restoration work specified in this consent.
- d) Upon satisfactory completion of restoration works for each stage, Council will release the particular monetary guarantee.
- e) The developer shall conserve all topsoil from disturbed areas for use in rehabilitation and consult with the Soil Conservation Service during topsoil stripping and stockpiling in respect to erosion protection and long term viability of the stockpiles where immediate reuse is not possible.
- f) The developer shall consult with the Soil Conservation Service in respect to progressive and final implementation of rehabilitation works and these are to be carried out to the satisfaction of the Soil Conservation Service and Council.
- g) The developer shall consult with the Soil Conservation Service to obtain the necessary authority to destroy trees on "Protection Land" under the Soil Conservation Act, 1938.
- h) The developer shall consult with the N.S.W Department of Agriculture and the Soil Conservation Service of N.S.W. concerning appropriate vegetative species selection, seedling establishment techniques, soil testing and fertilizer selection and application for all rehabilitation works.

Approvals to Council

16. The developer shall furnish to Council copies of all required approvals from Government Departments and other statutory authorities

Mineral Resource Approval

17. a) The proponent shall comply with the provisions of the Mines Inspection Act 1901, as amended.
- b) The proponent shall not commence any physical work upon the site, including construction work, until they have fully complied with the Mines Inspection Act 1901, as amended, and particularly in regard to the appointment and registration of a mine manager.
- c) The proponent is to supply a copy of the Company's safety policy to the Department.
- d) The proponent is to provide details to the Department of Mineral Resources on how it proposes to suppress dust at each phase of the quarrying operation.
- e) All fixed plant must comply with Australian Standard 1657-1992, Fixed Platforms, Walkways, Stairways and Ladders- Design, Construction and Installation.
- f) All explosives and detonator magazines will require Depot Licences.
- g) The proponent to investigate whether or not the proposed quarry development involves a prescribed mineral, as defined under the Group 4 list of Minerals in the Mining Act 1992.

Monitoring

18. a) The developer shall carry out all those operating and monitoring measures as describe and specified in the environmental impact statement to prevent, minimise or ameliorate adverse environmental impact except where there is inconsistency between the said measures and the conditions of this consent or the reasonable requirements of the authorities referred to herein, the conditions of this consent, or the requirements of the authorities shall prevail.
- b) The developer shall institute and implement a comprehensive monitoring program for air, water and noise emissions and their effects on flora, fauna, agriculture and domestic landuses, surface and underground waters, to meet the requirements of the Environment Protection Authority, the other relevant Government Departments and Council.
- c) The developer is to undertake microinvertebrate monitoring upstream and downstream of the development site prior to and during the life of the quarry, to monitor and minimise impacts to the aquatic environment.
- d) The developer shall prepare an annual report containing all monitoring data with an analysis of the data and providing an assessment of the effectiveness or otherwise of its environmental control measures and methodologies.
- e) The first of such reports shall be completed and submitted within 12 months of the date of commencement of construction at the site, and thereafter within each succeeding 12 months, to Council, the Environment Protection Authority, Soil Conservation Service, Water Resources and the National Parks and Wildlife Service.
- f) The annual water quality monitoring report shall be provided to the Sydney Catchment Authority for comment.
- (f) Inserted 27 November 2012 – S96023/12)

Transportation

19. Trucks and transport are permitted to be loaded and unloaded at the Premises between 5.00am and 10.00pm Monday to Friday and 5.00am to 3.00pm on Saturdays.
(Inserted 9 August 2011 – S96)
20. The applicant must pay the RTA its costs of \$42,340 to undertake the works on the Glenroy Bridge outlined in the correspondence from the RTA to the Applicant dated 22 June 2011.
(Inserted 9 August 2011 – S96)
21. The applicant must install, at its cost, two reduce noise signs on the north and the south of the Glenroy Bridge, Jenolan Caves Road, Jenolan Caves, subject to the requirements of the RTA.
(Inserted 9 August 2011 – S96)
22. The applicant must implement the Austen Quarry – Road and Traffic Management Plan, dated 22 June 2011.
(Inserted 9 August 2011 – S96)
23. The Applicant must obtain a variation of Condition L8 (Hours of Operation) of its Environmental Protection Licence numbered 12323 to the following effect:

"The loading and unloading of trucks and transport is permitted at the Premises between the hours of 5.00am and 10.00pm Monday to Friday and 5.00am to 3.00pm on Saturdays only."

(Inserted 9 August 2011 – S96)

Dams

24. A properly engineered wall of the main Sedimentation Dam (Dam 1) and associated spillway and discharge point shall be constructed within twelve months of this modification approval.
(Inserted 27 November 2012 – S96023/12)
25. A review shall be undertaken of the structural stability of all stormwater dams on the site, including any discharge points, and any identified upgrade works implemented as soon as practicable.
(Inserted 27 November 2012 – S96023/12)
26. The Operational Environmental Management Plan for the site shall be reviewed, and updated in consultation with the Sydney Catchment Authority within six months of this modification approval.
(Inserted 27 November 2012 – S96023/12)

Erosion and Sediment Control

27. **A detailed Erosion and Sediment Control Plan shall be prepared for any earthworks, by a person with experience in the preparation of such plans. The Plan shall be consistent with the requirements outlined in Chapter 2 of NSW Landcom's *Soils and Construction: Managing Urban Stormwater Volume 1 (2004)*, and the requirements outlined in DECC's *Soils and Construction: Managing Urban Stormwater Volume 2E Mines and Quarries (2008)*.**
(Inserted 27 November 2012 – S96023/12)
(Amended 15 December 2014 – S96029/14)

28. **Effective erosion and sediment controls shall be installed prior to any construction activity, and shall prevent sediment-laden runoff leaving the site or entering any natural drainage system for storm events up to and including the design storm event as required by Landcom's *Soils and Construction: Managing Urban Stormwater Volume 1* (2004), and the requirements outlined in DECC's *Soils and Construction: Managing Urban Stormwater Volume 2E Mines and Quarries* (2008). The control shall be regularly maintained and retained until works have been completed and groundcover established.**

(Inserted 27 November 2012 – S96023/12)

(Amended 15 December 2014 – S96029/14)

Water

29. The applicant has to obtain a current Controlled Activity Approval from Office of Water for any 'works' (as defined by the EPA Act) carried out in, on or under the Waterfront Land (bed, bank and 40m from top of bank) within the subject site.

The Water Management Plan proposed for the extended operations should be developed in consultation with the Office of Water prior to implementation, including suitable consultation on the proposed surface water and groundwater monitoring activities [following approval of the Stage 1A Modification – 15/12/14].

(Inserted 27 November 2012 – S96023/12)

(Amended 15 December 2014 – S96029/14)

Schedule B

REASONS FOR CONDITIONS

The conditions in Attachment 1 have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instruments
- To ensure no injury is caused to the existing and likely future amenity of the neighbourhood
- Due to the circumstances of the case and the public interest.
- To protect the environment.
- To prevent, minimise, and/or offset adverse environmental impacts.
- To ensure there is no unacceptable impact on the water quality.
- To ensure adequate soil conservation and protect against movement of soil and sediments.