

## SECTION 4.55 (2) MODIFICATION

Environmental Planning and Assessment Act 1979 (as amended)

<b>Development Application No.</b>	MODDA002/24 of DA090/95 (PAN-415882)
<b>Subject Site</b>	Lot 98 DP 751651, 122 Oakey Forest Road Marrangaroo NSW 2790, Prop_ID 105347
<b>Proposal</b>	Proposed Modification to increase depth of the north-south extraction area to extend life of the approved Metromix Quarry (Extractive Industry).
<b>Zoning</b>	RU1 Primary Production, RE2 Private Recreation and C4 Environmental Living - LEP2014
<b>Applicant</b>	Metromix Pty. Limited
<b>Owner</b>	Metromix Pty. Limited, Crown Land Department, Lithgow City Council, Combined District Kart Club Inc.
<b>Notification</b>	25 March 2024 to 26 April 2024 as per the Lithgow Community Participation Plan
<b>Submissions</b>	One (1) General Public Submission
<b>Variations</b>	Nil.
<b>Responsible Officer</b>	Lauren Stevens-Development Planner
<b>Recommendation</b>	Approval subject to attached conditions

### **Executive Summary**

Objective of Report: To assess and recommend determination of Section 4.55 (2) Modification of Consent MODDA002/24 of DA090/95 with recommendation for approval subject to conditions.

The subject Modification of Development Consent Application was lodged to Council on 7 March 2024. The applicant is seeking consent for a modification to increase the depth of the extraction area and extend the life of the Metromix Quarry. The modification also relates to minor wording changes to some consent conditions.

Pursuant to the Lithgow Community Participation Plan, the proposed development was placed on public exhibition with nearby landowners being notified of the proposal. The proposed documents were placed on public exhibition for 21 days in accordance with the Participation Plan, commencing 25 March 2024 to 26 April 2024.

During the notification period for the modification of consent, one (1) submission was received. This submission is detailed later in this report.

### **Description of Site and Surrounds**

The subject site is formally known as 122 Oakey Forest Road Marrangaroo and contains the following land titles:

<b>Lot</b>	<b>Deposited Plan</b>	<b>Tenure</b>	<b>Owner</b>
98	DP751651	Freehold	Metromix Pty Ltd
126	DP751651	Crown Land	State of NSW
2	DP909029	Crown Land	State of NSW
21	DP715095	Freehold	Metromix Pty Ltd
1	DP577347	Freehold	Metromix Pty Ltd
68	DP813538	Freehold	Lithgow City Council
2	DP519275	Freehold	Combined Districts Kart Club

The proposed modification activities relate to Lot 98 DP751651. No other changes to the other allotments are proposed under this application.

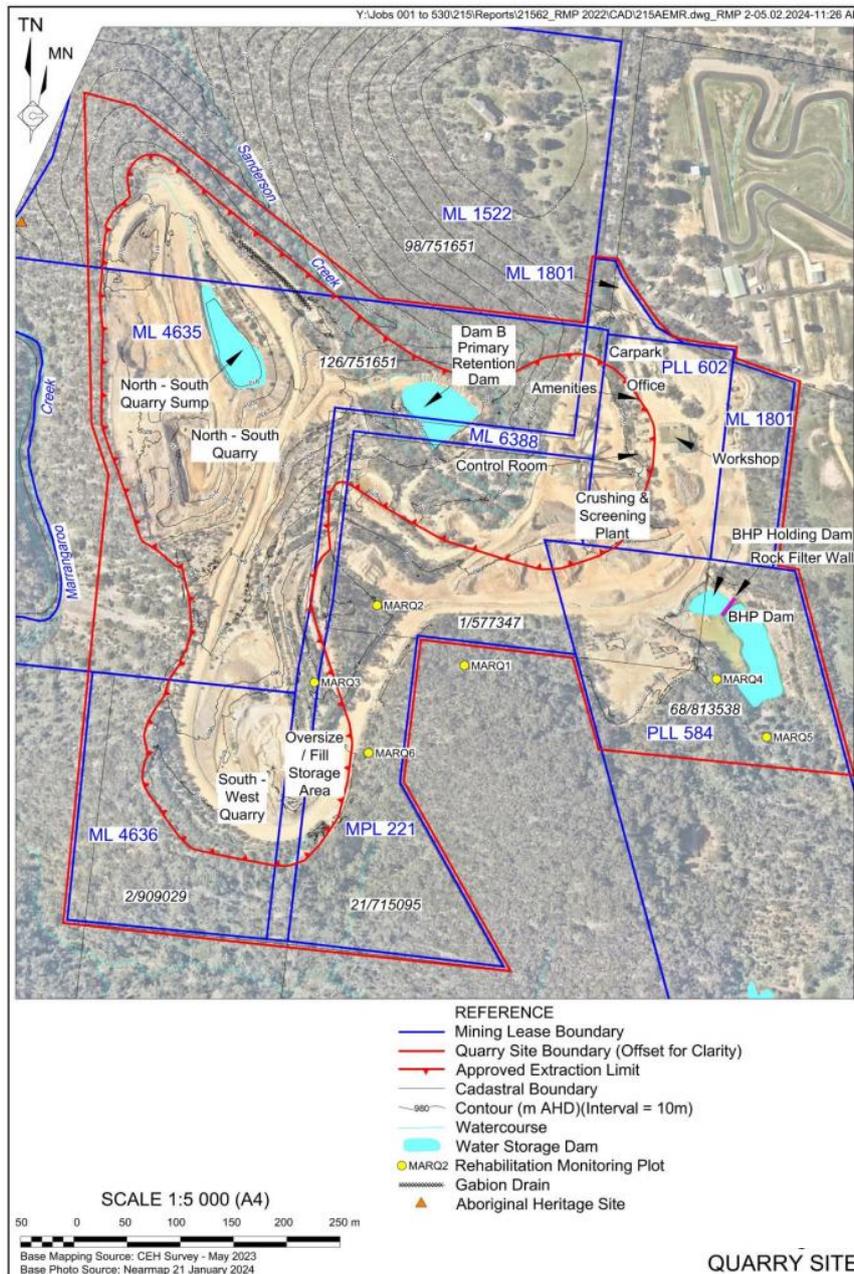


Figure 1: The Quarry Site, March 2024

**Site History**

The original approval (DA090/95) was completed on 18 December 1995, under delegation by Council as Designated Development and Integrated Approval through Sydney Water, Freight Rail, Total Catchment Management, Roads and Traffic Authority, Department of Land & Water Conservation, NSW National Parks & Wildlife and Soil Conservation Services for the continued use of the Quartzite Quarry in 1995 (ongoing operations for development that was originated in 1912).

Development Consent DA486/01 was subsequently granted by Council on 21 May 2002 for the expansion of the North-South Quarry to the north. In 2003, DA 486/01 was modified (granted 28 July 2003) to reflect an extension of product transportation hours from 5.00pm to 6.30pm weekdays and an increase in annual production from 174,000t to 220,000t. Following the issuing of the modified consent, the Applicant

requested a review of the modified consent conditions, (9 September 2003). As a result, Conditions 30 to 35 of DA486/01 were modified in January 2004.

Conditions included upgrade works to Oakey Forest Road. Specifically, condition 30 stated:

*30. That payment of Section 94 Contributions of \$2,760 shall be paid at the completion of each financial year.*

It was also conditioned that line marking along the full length of Oakey Forest Road be undertaken.

Section S96 043/14 (to DA090/95) was approved 24 March 2015 to rationalise the boundary of the approved extraction area and to remove the requirement for annual vegetation monitoring.

Condition 30 was also then amended to:

*30. The applicant shall make a contribution of \$8,000 (Plus GST) per annum, to be adjusted manually in accordance with CPI (All Groups Index for Sydney published by the Australian Bureau of Statistics) towards the ongoing maintenance of Oakey Forest Road. This contribution shall be paid prior to 30 June at the end of each financial year. The payment for the 2014/2015 financial year shall be \$8,000 (plus GST) and the first CPI adjusted payment shall be for the 2015/2026 financial year.*

Condition 30A. was included and states:

*30A. The applicant shall make an additional contribution of \$2,000 (plus GST) per annum, to be adjusted annually in accordance with CPI (All Groups Index for published by the Australian Bureau of Statistics), towards the ongoing maintenance of Oakey Forest Road for the period of overburden sale as 'general fill'.*

Condition 30A. then ceased on 31st December 2017.

Section S96 020/15 (to DA090/95) approved the temporary transport of up to 100,000 tonnes per annum of overburden as 'general fill' to the Forty Bend Upgrade project of the Great Western Highway by Roads and Maritime Services.

No amendments to the S94 contributions were undertaken as part of the above modification.

Section S96 053/16 (to DA090/95) approved temporary transport of up to 100,000 tonnes per annum of overburden and extracted product for the Great Western Highway Upgrade works and the Bells Line of Road Upgrade project by Roads and Maritime Services.

No amendments to the S94 contributions were also undertaken as part of the above modification.

### **Proposed Development**

Council is in receipt of Modification of Development Consent Application DA090/95, modification MODDA002/24 seeking consent to amend the following:

1. An increase in the extraction depth within the existing approved North – South Quarry Extraction Area to approximately 885m AHD from 905m AHD.
2. An extension of the Quarry life for 2 years, commensurate with the total quality of additional resource identified beneath the existing North – South Extraction Area and to permit the recovery of 451,000t of additional resource.
3. Various administrative amendments including:

- **Condition 1 of Schedule A**

Development to be carried out generally in accordance with the Statement of Environmental Effects dated June 1995, Statement of Environmental Effects dated April 2003, Statement of Environmental Effects dated September 2014, Statement of Environmental Effects dated May 2015, and S99053/16

and Statement of Environmental Effects dated February 2024 except as may be amended or specified by the following conditions. Where these Statements of Environmental Effects contradict one other the latest version will prevail.

• Condition 17 of Schedule A

Ongoing and final landform rehabilitation to be effected as outlined in the Statement of Environmental Effects.

• Condition 27 of Schedule A

The applicant to submit to Council and associated authorities an Annual Environmental Management Report covering all matters in compliance with this consent; works rehabilitation, production and management undertakings set out in the Statement of Environmental Effects dated June 1995, Statement of Environmental Effects dated April 2003, and Statement of Environmental Effect dated September 2014 and Statement of Environmental Effects dated February 2024. The Report shall detail the performance of the development and the effectiveness of environmental controls, particularly those identified in the Soil and Water Management Plan. Annual rehabilitation monitoring is also to occur including photographic monitoring within the report.

• Condition 43 of Schedule A

Prior to transporting overburden from the Quarry, the proponent will ensure that the impact of the removal of this overburden on final land use and landform is addressed in the approved Rehabilitation Management Plan (RMP) for the Quarry

All existing operations including extraction methods, earthmoving equipment used, rate of extraction, processing methods, sales and product transportation, water management structures, office/amenities, workshop and hours of operation would remain unchanged under the proposed modification.

The quarry is approved for 220,000t per year of product and utilises drilling & blasting, load & haul, and crushing & screening operations. The site contains stockpiles that do not exceed 70,000t with maximum heights of 6m. The product is transported off site by trucks with 85- 90% turning right onto the Great Western Highway to Lithgow and 10-15% turn left towards Wallerawang & Bathurst. Traffic movements include 12 to 20 light vehicles per day with a maximum of 250 truck movements per day. The quarry employees 11 persons at the site with the approved hours of operation as follows:

**Hours of Operation**

Activity	Hours	Days*
Extraction	7:00am to 5:00pm	Monday to Saturday
Processing	7:00am to 5:00pm	Monday to Saturday
Sales	7:00am to 5:00pm	Monday to Friday
	7:00am to 2:00pm	Saturday**
Maintenance	7:00am to 5:30pm	Monday to Friday
	7:00am to 12 noon	Saturday
	24 hours	Monday to Sundays#
* Public holidays excluded.		
** Occasional Saturdays only.		
# Maintenance is rarely undertaken beyond normal hours but is sometimes required at short notice for short periods and then, it is required to be inaudible at nearby residences.		

**Referrals**

**Internal Referrals**

Branch	Comment
Building	NA.
Infrastructure Department	NA.

**External Referrals**

Agency	Comment
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<p>NSW Department of Climate Change, Energy, the Environment and Water-Licensing and Approvals (Previously known as DPE-Water/Sydney Water)</p>	<p>Yes - A water management work approval under Section 90 under the Water management Act 2000- Water Management Work (Integrated development) is required for the North – South Quarry Extraction Area.</p> <p>To date, no final response was received from the Department. Council attempted to follow up the response on a number of occasions, as per the following summary timeline:</p> <ul style="list-style-type: none"> <li>• 26 March 2024 – Initial referral submitted through the NSW Planning Portal to the Department.</li> <li>• 10 April 2024 – Second referral submitted through the NSW Planning Portal to the Department.</li> <li>• 10 May 2024 – Third referral submitted through the NSW Planning Portal to the Department.</li> <li>• 11 June 2024 – Council emailed the Department relating to the status of the application.</li> <li>• 17 June 2024 – Email received from the Department advising that the application was referred to the groundwater licensing team.</li> <li>• 2 July 2024 – RFI requested from the Department through the NSW Planning Portal.</li> <li>• 19 September 2024 - RFI requested from the Department via email to Council.</li> <li>• 25 September 2024 – Fourth Referral submitted through the NSW Planning Portal to the Department.</li> <li>• 11 November 2024 – Council emailed the Department relating to the status of the application.</li> </ul> <p>As such, and given that the Department has not complied with the statutory timeframe for referrals, a condition would be included on the consent requiring the applicant to obtain a Water Licensing Approval from NSW Department of Climate Change, Energy, the Environment and Water-Licensing and Approvals/WaterNSW prior to commencement of work.</p>
<p>Rural Fire Service</p>	<p>NA – The development is not required to be referred to Rural Fire Service.</p>
<p>Subsidence Advisory</p>	<p>NA – The development is not located within the Subsidence Advisory area.</p>
<p>WaterNSW (Previously known as Total Catchment Management)</p>	<p>Yes – WaterNSW has no objection to the application subject to conditions on the consent.</p>
<p>Endeavour Energy</p>	<p>NA – The development is not expected to have any impact to electrical infrastructure.</p>
<p>Australian Rail and Track Corporation (ARTC) (Previously known as Freight Rail)</p>	<p>NA – The development does not propose to increase the number of transport then that was previously approved.</p>
<p>Transport for NSW (Previously known as Roads &amp; Traffic Authority)</p>	<p>NA – The development does not propose to increase the number of transport then that was previously approved.</p>
<p>NSW National Parks &amp; Wildlife</p>	<p>Yes – The previous modifications and original application was referred and as per the EP&amp;A Regulation 2021 S38 with NSW National Parks and Wildlife submitting advice to the application (letter received 7 August 2024).</p>
<p>NSW Environmental Protection Authority (EPA)</p>	<p>Yes – The previous modifications were referred to the NSW Environmental Protection Authority. Given that the development is defined as an extractive industry and requires a licence from the EPA, the development was re-referred for comment.</p>

	EPA have no objection to the application subject to conditions being included on the consent. (response received 17 December 2024).
Mining, Exploration and Geoscience (Previously known as NSW Trade & Investment)	Yes – The previous modifications and original application was referred and as per the EP&A Regulation 2021 S38. The authority has no objection to the application subject to General Terms of Approval being included on the consent.
Crown Land	Yes- Crown Lands have granted owners consent for the submission of the development application as well as conditional approval. These conditions have been included within attachment A.
Aboriginal Parties	Aboriginal parties were notified (on two occasions) of the application with no response received.

### **Statutory Assessment**

Section 4.15(1)(a)(i) of the EP&A Act requires the consent authority to consider the provisions of environmental planning instruments (EPIs), which includes State Environmental Planning Policies (SEPPs). SEPPs applicable to this assessment are addressed in the following sections:

- Environmental Planning and Assessment Act 1979,
- Protection of the Environment Operations Act 1997,
- Biodiversity Conservation Act 2016,
- National Parks and Wildlife Act 1974,
- Water Management Act 2000,
- Environmental Planning and Assessment Regulation 2021
- State Environmental Planning Policy (Resources and Energy) 2021,
- State Environmental Planning Policy (Resilience and Hazards) 2021,
- State Environmental Planning Policy (Biodiversity and Conservation) 2021,
- Lithgow Local Environmental Plan (LEP) 2014,
- Lithgow Development Control Plan (DCP) 2021.

### **Section 4.55(2) Modifications**

Section 4.55(2) of the Environmental Planning and Assessment Act 1979 (EPA Act 1979) reads as follows:

<b>Relevant Provision</b>	<b>Comments</b>
<b>(2) Other modifications</b> A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—	
(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	<p>Complies - The development is considered to have an impact on the environment and therefore, is to be assessed under Section 4.55(2). The modification relates to extractive industries and therefore requires assessment by many government bodies in relation to effects on the environment and amenity in general. It is expected that the potential impacts on the environment and amenity can be minimised through existing and additional condition of consent, due to the following reasons:</p> <ul style="list-style-type: none"> <li>• The footprint of the North – South Quarry Extraction Area would remain unchanged (except the depth of the area).</li> <li>• All disturbance would be located entirely within the boundary of ML 4635.</li> <li>• The proposed final depth of the North – South Quarry Extraction Area would be 885m AHD, or 20m lower than what has been previously approved.</li> </ul>

	<ul style="list-style-type: none"> <li>• The proposed additional resource to be extracted would be approximately 451,000t, or approximately 5.8% of the resource originally approved for extraction.</li> <li>• The Proposed Modification would not result in a material or radical change in the activities undertaken and would have the same essence as the approved Quarry, namely extraction, processing and dispatch of quarry products at a rate and location consistent with the approved Project.</li> </ul>
(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and	<p>Complies – The original consent was approved by delegation from Council and integrated approval from other government agencies, and therefore the modification will be assessed in the same manner.</p> <p>The application was therefore referred to the following authorities for comment:</p> <ul style="list-style-type: none"> <li>•DPE-Water,</li> <li>•WaterNSW,</li> <li>•NSW National Parks &amp; Wildlife,</li> <li>•NSW Environmental Protection Authority (EPA),</li> <li>•Mining, Exploration and Geoscience (Previously known as NSW Trade &amp; Investment),</li> <li>•Crown Land</li> </ul>
(c) it has notified the application in accordance with— (i) the regulations, if the regulations so require, or (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and	Complies - Notification of the modification was undertaken in accordance with the regulations.
(d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.	Complies – Council has considered all submissions made relating to the application and included relevant conditions on the consent.

### ***Protection of the Environment Operations Act 1997***

The Protection of the Environment Operations Act 1997 (POEO Act) provides the legislative and administrative framework to protect, restore and enhance the quality of the environment in NSW by reducing risks to human health and preventing the degradation of the environment from development and other relevant activities. The Applicant currently holds Environment Protection Licence (EPL) 1464 which allows for the following scheduled activities.

- Crushing, Grinding or Separating >100,000t to 500,000t processed
- Extractive Activities >100,000t to 500,000t extracted, processed or stored
- Mining for Minerals >100,000t to 500,000t produced

It is expected that no changes would be required to EPL 1464 as a result of the Proposed Modification.

### ***Biodiversity Conservation Act 2016***

The proposal has been assessed in relation to clearing of native vegetation and the Biodiversity Offset Scheme threshold under the provisions of this Act. The works proposed do not require any further biodiversity assessment under this scheme as the application does not trigger the area or map thresholds of the Biodiversity Offset Scheme (BOS).

The SEE submitted with the application states:

*No flora species of national significance or rare/threatened species have been recorded from previous surveys over the Quarry Site. The ridge top/upper slopes are covered by mixed eucalypt woodland with tree canopies approximately 10m to 18m in height. Lower slopes also support this vegetation community with canopies up to 22m high. The species mix is similar to that on upper slopes.*

*The creek flats adjoining Marrangaroo Creek (beyond ML1522) consist of wetter/denser creek flat forest. The unnamed ephemeral tributary bisecting the Quarry Site has poorly developed riparian flora relative to Marrangaroo Creek. Currently there are no infestations of significant weed species.*

*A total of 68 fauna species have been recorded during previous surveys including: 3 amphibians; 4 reptiles; 42 birds (3 vulnerable); and 21 mammals (2 vulnerable bat species). The Purple Copper Butterfly listed as endangered under the BC Act and vulnerable under the Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act) was also recorded. A referral to the Commonwealth confirmed that the Quarry does not constitute a controlled action under the EPBC Act*

As such Council concurs with the above statement. Given that the North South Quarry Extraction area has already been disturbed for quarrying activities and the proposal is to extend the depth of the quarry, no additional vegetation is proposed to be removed or disturbed.

Therefore, no further assessment or offsetting obligations is required.

#### **National Parks and Wildlife Act 1974**

No additional land or native vegetation would be disturbed because of the Proposed Modification. As a result, no further consideration of Aboriginal or cultural heritage matters is required for the Proposed Modification.

#### **Water Management Act 2000**

It is anticipated that a minimum of 17 share components would be required to account for groundwater inflows and the associated reduction in groundwater contribution to surface water. A review of the NSW Water Register confirms that regular trading of shares is undertaken within both water sources with share availability not expected to be a constraint. A water management work approval under Section 90 would also be required for the North – South Quarry Extraction Area.

#### **Environmental Planning and Assessment Regulation 2021**

The Modification is considered to be Designated Development as per Schedule 3 for extractive industries under the *Environmental Planning and Assessment Regulations 2021*. *Schedule 3 states:*

#### **Schedule 3 Designated development**

##### **26 Extractive industries**

- (1) Development for the purposes of an extractive industry facility is designated development if the facility obtains or processes for sale, or reuse, more than 30,000 cubic metres of extractive material per year.*
- (2) Development for the purposes of an extractive industry facility is designated development if the facility disturbs or will disturb a total surface area of more than 2 hectares of land by—*
  - (a) clearing or excavating, or*
  - (b) constructing dams, ponds, drains, roads or conveyors, or*
  - (c) storing or depositing overburden, extractive material or tailings.*

The development is defined as being designated development with the consent authority being Lithgow City Council.

#### **State Environmental Planning Policy (Resources and Energy) 2021**

<b>Chapter 2 Mining, petroleum production and extractive industries</b>	
<b>Relevant Provisions</b>	<b>Comment</b>
<b>2.9 Development permissible with consent</b>	

<b>Chapter 2 Mining, petroleum production and extractive industries</b>	
<b>Relevant Provisions</b>	<b>Comment</b>
<p>(1) <b>Extractive industry</b> Development for any of the following purposes may be carried out with development consent—</p> <p>(a) extractive industry on land on which development for the purposes of agriculture or industry may be carried out (with or without development consent),</p> <p>(b) extractive industry in any part of a waterway, an estuary in the coastal zone or coastal waters of the State that is not in an environmental conservation zone.</p>	<p>The development for the extractive industry is considered permissible with consent as per Clause 2.9 as it is carried out on land for the purpose of agriculture and is not within an environmental conservation zone.</p>
<p>(a) Cumulative noise level</p> <p>(b) Cumulative air quality level</p> <p>(c) Airblast overpressure</p> <p>(d) Ground vibration</p> <p>(e) Aquifer interference</p> <p>(f) Compatibility</p> <p>(g) Voluntary land acquisition and mitigation policy</p> <p>(h) Natural resource and environmental management</p> <p>(i) Resource recovery</p> <p>(j) Transportation</p> <p>(k) Rehabilitation</p>	<p>(a) The Proposed Modification would not result in significant additional noise from the site.</p> <p>(b) The Proposed Modification would not result in a discernible change to air quality at the nearest privately-owned residences.</p> <p>(c) The Proposed Modification would not alter blasting operations.</p> <p>(d) The Proposed Modification would not alter blasting operations.</p> <p>(e) An assessment of potential groundwater impacts in accordance with the AIP is provided in Appendix 1 and Section 4.3. In summary, it is predicted that the Proposed Modification would meet the relevant Level 1 minimal impact considerations under the AIP.</p> <p>(f) The existing and approved use of the Quarry is mining and passive biodiversity conservation. The Proposed Modification is consistent with that use.</p> <p>(g) The Proposed Modification would not result in a discernible change to air quality at the nearest privately-owned residences. The Proposed Modification would not result in significant additional noise from the Quarry Site. Noting the above, further considerations under the VLAMP are not required.</p> <p>(h) The Proposed Modification would not materially alter the Quarry's greenhouse gas emissions.</p> <p>(i) The Proposed Modification would ensure that the maximum benefit is obtained from a State-owned resource within the approved life of the Quarry.</p> <p>(j) Given that the transportation for the proposal is not seeking to change, it is considered that the current arrangements are satisfactory.</p> <p>(k) The development currently works under a rehabilitation plan and the addition disturbed land is to be included within these requirements. However, conditions of consent will be amended to include the rehabilitation plans final land form and use proposals.</p>

<b>Chapter 4 – Koala Habitat Protection 2021</b>	
<b>Relevant Provisions</b>	<b>Comment</b>
<b>Part 4.1 Preliminary</b>	
<b>4.4 Land to which Chapter applies</b>	
(1) This Chapter applies to each local government area listed in Schedule 2.	The City of Lithgow is specified in Schedule 2 and is within the Central and Southern Tablelands Koala Management Area.
<b>Part 4.2 Development control of koala habitats</b>	
<b>4.8 Development assessment process – approved koala plan of management</b>	
(2) This section applies to land to which this Chapter applies and to which an approved koala plan of management applies.	Not applicable.
<b>4.9 Development assessment process—no approved koala plan of management for land</b>	
(1) This section applies to land to which this Chapter applies if the land— (a) has an area of at least 1 hectare (including adjoining land within the same ownership), and (b) does not have an approved koala plan of management applying to the land.	Given that the proposed development does not require the removal of trees, it is considered koala habits will not be impacted or impede movement between koala habitats. Because of this, the proposal is categorised as Tier 1 development having (low impact) under the Koala Habitat Protection Guidelines and development consent can be granted in accordance with the clause above.
(2) Before a council may grant consent to a development application for consent to carry out development on the land, the council must assess whether the development is likely to have any impact on koalas or koala habitat.	Refer to above comments.

<b>Chapter 6 – Water Catchments</b>	
<b>Relevant Provisions</b>	<b>Comment</b>
<b>6.1 Land to which this Chapter applies</b>	
This Chapter applies to land in the following catchments- (a) the Sydney Drinking Water Catchment, (b) the Sydney Harbour Catchment, (c) the Georges River Catchment, (d) the Hawkesbury-Nepean Catchment.	The subject site is located within the Sydney Drinking Water Catchment and as such the provisions of Chapter 6 apply.
<b>Division 2 Controls on development generally</b>	
6.6 Water quality and quantity	The proposed development provides appropriate onsite stormwater management via the existing water management infrastructure. Based on the information submitted, the proposed development is considered unlikely to result in adverse impacts on water quality and quantity.
6.7 Aquatic ecology	Not applicable.
6.8 Flooding	Not applicable – the subject site is not mapped as being flood prone land.
6.9 Recreation and public access	Not applicable.
6.10 Total catchment management	The proposed development has been referred to WaterNSW for comment. WaterNSW has no objection to the application subject to conditions on the consent.
<b>6.5 Sydney Drinking Water Catchment</b>	
The objectives of this Part are— (a) to provide for healthy water catchments that will deliver high quality water to the	The proposed development is considered to be in keeping with the objectives of this Part.

<b>Chapter 6 – Water Catchments</b>	
<b>Relevant Provisions</b>	<b>Comment</b>
Sydney area while also permitting compatible development, and (b) to provide for development in the Sydney Drinking Water Catchment to have a neutral or beneficial effect on water quality.	
<b>6.63 Requirement of consistency with NorBE Guideline</b>	
Development consent must not be granted to development on land in the Sydney Drinking Water Catchment unless the consent authority is satisfied the development is consistent with the NorBE Guideline.	Based on aerial imagery and the information provided including that previously provided, Water NSW is satisfied that the proposed modification can achieve a neutral or beneficial effect (NorBE) on water quality provided appropriate conditions are included in any development consent and are subsequently implemented.
<b>6.64 Concurrence of Regulatory Authority</b>	
(1) Development consent must not be granted to development on land in the Sydney Drinking Water Catchment unless the consent authority has obtained the concurrence of the Regulatory Author	The application was referred to WaterNSW who has no objection to the application subject to conditions on the consent.
(2) For the Act, section 3.18(3), the Regulatory Authority must consider the following matters in deciding whether to grant concurrence— (a) the NorBE Guideline, (b) whether the development will have a neutral or beneficial effect on water quality.	
(4) This section does not apply if the consent authority is satisfied the development has no potential impact on water quality.	

***State Environmental Planning Policy (Resilience and Hazards) 2021***

<b>Chapter 4 Remediation of Land</b>	
<b>Relevant Provisions</b>	<b>Comment</b>
<b>4.6 Contamination and remediation to be considered in determining development application</b>	
(1) A consent authority must not consent to the carrying out of any development on land unless— (a) it has considered whether the land is contaminated, and,  (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and  (c) if the land requires remediation to be made suitable for the purpose for which the	The Proposed Modification would not result in any additional use or storage of hazardous materials within the Quarry Site. It is therefore concluded that the Proposed Modification would not pose a significant risk from hazardous or offensive development and therefore a risk screening is not necessary. Furthermore, as the area of the proposed depth increase within the North – South has previously been disturbed and has approval to be used for mining, it is highly unlikely that any contamination is present that would require remediation work prior to undertaking the Proposed Modification.

Chapter 4 Remediation of Land	
Relevant Provisions	Comment
development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.	

**Assessment**

Characterisation

**Lithgow City Local Environmental Plan 1994**

The existing quarry operates under development consent with extractive industries being a use permitted with consent in the 1(a) zone. This permissibility is not proposed to change as part of this modification. It is considered that the proposal is consistent with the aims and objectives of the previous zone 1(a) Rural (General).

**Lithgow Local Environmental Plan 2014**

Open cut mining is permissible with consent within land zoned RU1 but not land zoned C4 and RE2 under the Lithgow LEP. However, Clause 2.9(1)(b) of the Resources and Energy SEPP identifies that mining is permissible with consent on any land where agriculture is permissible. As agriculture is permissible under Zones RE2 and C4 under the Lithgow LEP, open cut mining is also permissible, with consent.

As such the proposed modification does not change the permissibility of the proposed development.

Zone of Land majority of the Quarry Operations is located on land zoned RU1 Primary Production, with the south-western and south-eastern areas of the Quarry Site located within land zoned C4 Environmental Living. A small section of the existing road access is located within the RE2 zone.

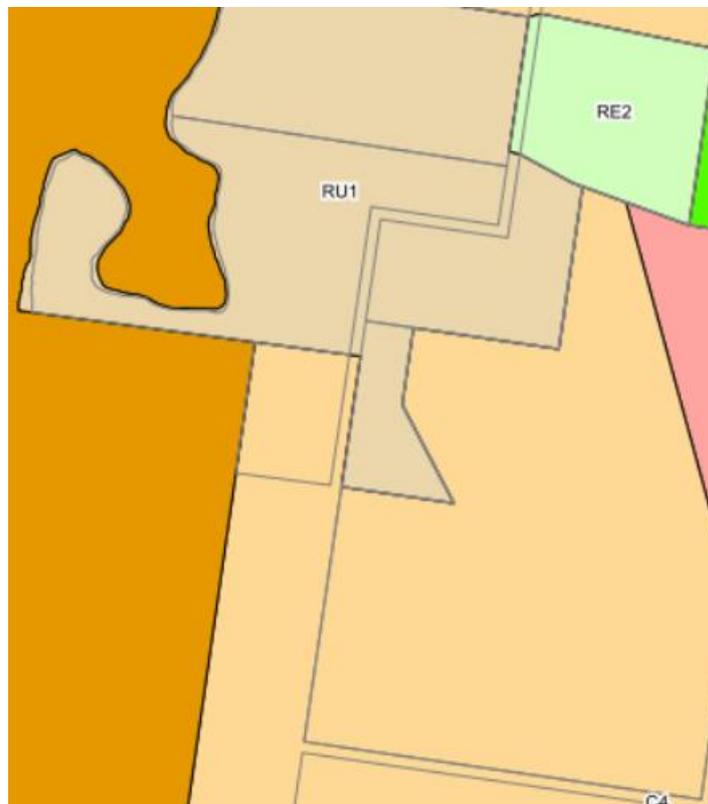
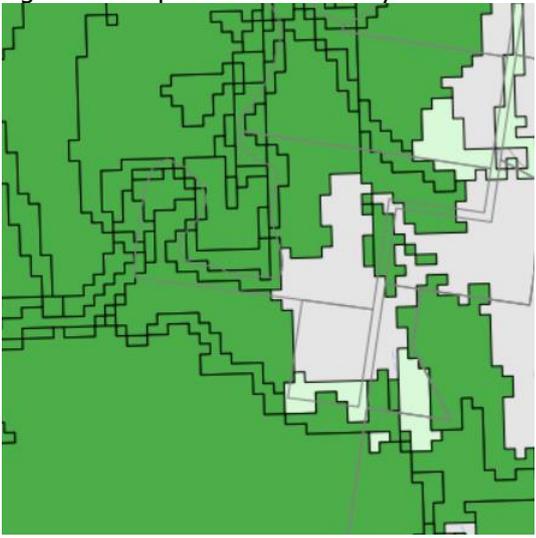
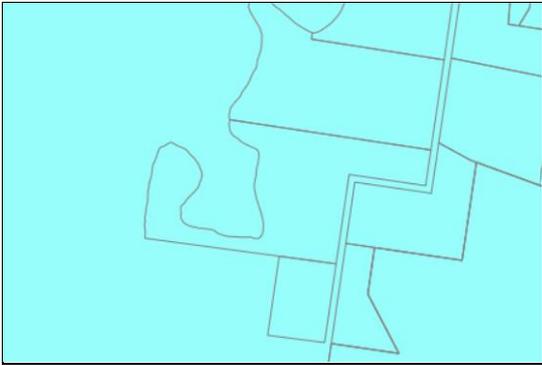
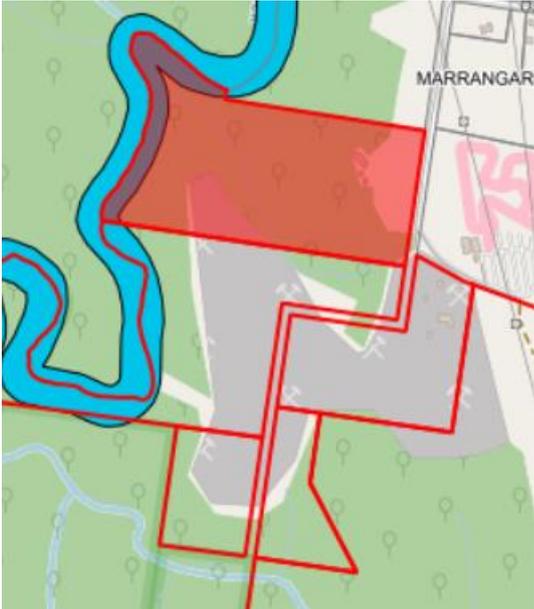
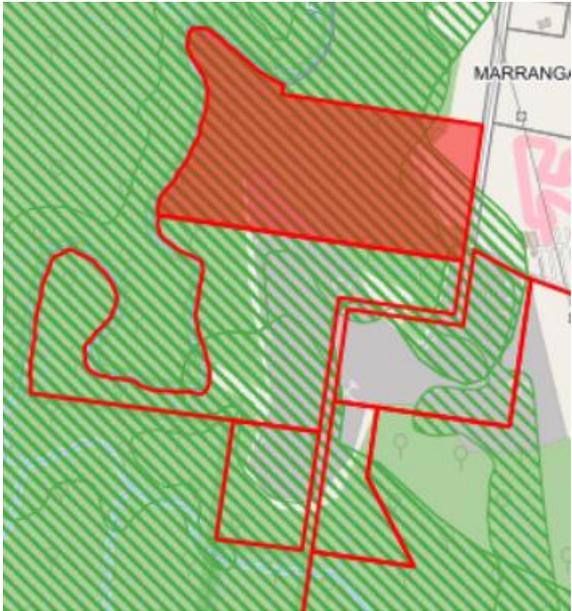


Figure 2: Zoning Map, LEP 2014

<b>LEP Clauses</b>		
<b>Relevant Provisions</b>		<b>Comment</b>
<b>Part 2 Permitted or prohibited development</b>		
2.3	Zone objectives and Land Use Table	Complies – Open cut mining is permissible with consent within the prescribed land zones and is in keeping with the objectives.
2.4	Unzoned land	Not applicable.
2.5	Additional permitted uses for particular land	Not applicable.
2.6	Subdivision – consent required	Not applicable – subdivision not proposed.
2.7	Demolition – consent required	Not applicable – demolition is not proposed.
2.8	Temporary use of land	Not applicable – temporary use of land not proposed.
<b>Part 4 Principal development standards</b>		
4.1	Minimum subdivision lot size	Not applicable – subdivision not proposed.
4.2	Rural subdivision	Not applicable – subdivision not proposed.
4.2A	Erection of dwelling houses, dual occupancies and secondary dwellings on land in certain rural and conservation zones	Not applicable.
4.3	Height of buildings	Not adopted.
4.4	Floor space ratio	Not adopted.
4.6	Exceptions to development standards	No exceptions to the development standards have been applied for as part of this Development Application.
<b>Part 5 Miscellaneous provisions</b>		
5.3	Development near zone boundaries	Not applicable.
5.4	Controls relating to miscellaneous permissible uses	Not applicable.
5.5	Controls relating to secondary dwelling on land in a rural zone	Not applicable.
5.9	Dwelling house or secondary dwelling affected by natural disaster	Not applicable.
5.10	Heritage conservation	Not applicable.
5.16	Subdivision of, or dwellings on, land in certain rural, residential or conservation zones	Not applicable.
5.21	Flood planning	Not applicable.
<b>Part 7 Additional local provisions</b>		
7.1	Earthworks	Complies – The development proposes to extract material from an existing quarry to be re-utilised for road works and any other such building /infrastructure developments. The Quarry contains an EPA licence for this extracted material. The applicant has further implemented a range of erosion and sediment controls for the development. This is satisfactory for the development.
7.3	Stormwater management	The proposed development provides appropriate onsite stormwater management via the existing water management infrastructure. Based on the information submitted, the proposed development is considered unlikely to result in adverse impacts on water quality and quantity.
7.4	Terrestrial biodiversity	Given that the area of the proposed depth extension within the North – South Quarry Extraction Area has previously been disturbed and that no additional

LEP Clauses	
Relevant Provisions	Comment
	<p>vegetation clearing would be required, it is not expected that the modified activities would result in significant impacts to biodiversity.</p> 
7.5	<p>Groundwater vulnerability</p> <p>Complies - The property is identified as containing ground water vulnerability.</p> <p>A Groundwater Assessment was undertaken to support the modification. The following conclusion was therefore determined:</p> <ul style="list-style-type: none"> <li>• <i>The Applicant would require WALs for:</i> <ul style="list-style-type: none"> <li>- <i>16 share components for the Lachlan Fold Belt Greater Metropolitan Water Source; and</i></li> <li>- <i>1 share component for the Sydney Basin West Water Source both managed under the Water Sharing Plan for the Greater Metropolitan Region 2023.</i></li> </ul> </li> <li>• <i>The predicted increase in groundwater inflows from 0.2ML/d (equivalent to 2.3L/s) to 0.35ML/d (equivalent to 4.1L/s) under the Proposed Modification would be adequately accommodated by the existing Quarry Site water management infrastructure.</i></li> <li>• <i>The proposed depth extension within the North-South Quarry would not lead to a significant change in existing cumulative drawdown associated with approved Quarry operations.</i></li> <li>• <i>Groundwater elevation within the closest water supply work (GW060113) is predicted to decrease by approximately 0.3m under the Proposed Modification.</i></li> <li>• <i>There are unlikely to be impacts to known or potential GDEs in the vicinity of the Quarry Site.</i></li> <li>• <i>Potential impacts to groundwater quality would be limited to the immediate vicinity of the Quarry Site and therefore would not reduce the beneficial use category of the groundwater source.</i></li> </ul>

LEP Clauses		
	Relevant Provisions	Comment
		<p>As such the application was referred to WaterNSW for assessment. WaterNSW has no objection to the modification subject to conditions on the consent.</p> <p>Water vulnerability is mapped below:</p> 
7.6	Riparian land and watercourses	<p>Complies – The property connects to the Coxs River, with Marrangaroo Creek and Farmers Creek being the named sources of discharge points from groundwater systems.</p> <p>As such, a water management work approval under Section 90 under the Water management Act 2000- Water Management Work (Integrated development) is required for the North – South Quarry Extraction Area. The development was referred to the Department – Water Division, for comment. However, no response was received by the Department to date. Therefore a suitable condition would be included on the consent.</p> <p>The riparian land and watercourse is shown on the map below:</p> 
7.7	Sensitive lands	<p>Complies - The property is identified as being sensitive land (land subject to steep slopes). The modification</p>

LEP Clauses		
	Relevant Provisions	Comment
		<p>relates to increasing the depth within a previous disturbed quarry. Therefore, no additional impacts on the sensitive land areas are expected to occur.</p> <p>The sensitive land map is shown below:</p> 
7.8	Development within a designated buffer area	Not applicable – the site is not mapped as being located within a designated buffer area.
7.10	Essential services	Complies - The property contains existing services with no impacts or changes is expected to occur to the services.

### **Lithgow Development Control Plan (DCP) 2021**

Given the nature of the proposed modification, the majority of controls stipulated within the Lithgow DCP 2021 are not applicable. Notwithstanding, the proposed modification is considered to be in keeping with the aims and objectives of the DCP.

### **Environmental Planning and Assessment Regulation 2021**

Section 4.15(1)(a)(iv) of the EP&A Act requires the consent authority to consider any prescribed matters under the Environmental Planning and Assessment Regulation 2021 (the Regulation). Council has assessed the development in accordance with all relevant matters prescribed by the Regulation.

### **Likely Impacts of That Development**

Section 4.15(1)(b) of the EP&A Act requires the consent authority to consider the likely impacts of that development including environmental impacts on both the natural and built environments, and the social and economic impacts in the locality.

Head of Consideration	Comment
Topography and Drainage	The SEE states that the Quarry Site is located on the upper slopes of a steep valley draining to the west and northwest into Marrangaroo Creek. Local topography comprises steep slopes cut by numerous creeks and gullies with numerous rocky outcrops of quartzite. Elevations within the

	<p>Quarry Site vary from 880m AHD near Marrangaroo Creek to 1,000m AHD in the south-eastern corner of the Quarry Site.</p> <p>The perimeter of the Quarry is drained by small ephemeral streams which flow into Marrangaroo Creek immediately west of the Quarry Site, which in turn flows into the Coxs River approximately 1.5km southwest of the Quarry Site.</p> <p>The proposed modification will flow into the existing drainage system with topography of the existing quarry proposed to be increased. A rehabilitation plan was previously undertaken and is considered adequate for the development.</p>
<p>Land Ownership, Residences and Land Use</p>	<p>The Quarry and associated infrastructure are located within land owned by the Applicant, Lithgow City Council, Lithgow District Kart Club and the Crown. The modification however relates wholly within land owned by the Quarry.</p> <p>The Marrangaroo National Park is located to the west of the Quarry, residential and farm infrastructure, including residential housing development (Marrangaroo Fields) is located to the east and southeast of the site and the Lithgow Go-Kart Track is located immediately to the northeast.</p> <p>Given that the Quarry has been located on the site for many years and the modification relates to an existing quarry area, it is expected that there would be no additional impacts to the surrounding landuses.</p>
<p>Groundwater</p>	<p>A Groundwater Assessment was undertaken to support the modification. The following conclusion was therefore determined:</p> <ul style="list-style-type: none"> <li>• <i>The Applicant would require WALs for:</i> <ul style="list-style-type: none"> <li>– <i>16 share components for the Lachlan Fold Belt Greater Metropolitan Water Source; and</i></li> <li>– <i>1 share component for the Sydney Basin West Water Source both managed under the Water Sharing Plan for the Greater Metropolitan Region 2023.</i></li> </ul> </li> <li>• <i>The predicted increase in groundwater inflows from 0.2ML/d (equivalent to 2.3L/s) to 0.35ML/d (equivalent to 4.1L/s) under the Proposed Modification would be adequately accommodated by the existing Quarry Site water management infrastructure.</i></li> <li>• <i>The proposed depth extension within the North-South Quarry would not lead to a significant change in existing cumulative drawdown associated with approved Quarry operations.</i></li> <li>• <i>Groundwater elevation within the closest water supply work (GW060113) is predicted to decrease by approximately 0.3m under the Proposed Modification.</i></li> <li>• <i>There are unlikely to be impacts to known or potential GDEs in the vicinity of the Quarry Site.</i></li> <li>• <i>Potential impacts to groundwater quality would be limited to the immediate vicinity of the Quarry Site and therefore would not reduce the beneficial use category of the groundwater source.</i></li> </ul> <p>As such the application was referred to WaterNSW for assessment. WaterNSW has no objection to the modification subject to conditions on the consent.</p>
<p>Aboriginal and Cultural Heritage</p>	<p>The SEE states:</p> <p><i>"One artefact scatter has been identified near Marrangaroo Creek beyond the western boundary of the Quarry Site and is registered with the Aboriginal Heritage Information Management System. A review of surveys conducted in the vicinity of the Quarry Site concluded that given the steepness of terrain and lack of alluvial flats or rock shelters, long-term Aboriginal occupation of the area is considered unlikely."</i></p>

	<p><i>"As previous assessments have not identified any Aboriginal sites within the areas of approved disturbance and as the Proposed Modification would not disturb additional land, no additional control measures are required. Existing protocols relating to the unexpected discovery of sites or artefacts with Aboriginal cultural heritage value would continue to be implemented."</i></p> <p>As such, Council concurs with the above comments.</p>
Air Quality	<p>The proposed modification involves the continuation of the current approved activities at the Site. The modification would not represent an intensification or change in air quality. No additional mitigation measures are therefore considered necessary.</p> <p>The original condition relating to air quality will remain on the consent. This condition is in conjunction with the EPA requirements.</p>
Biodiversity	<p>The SEE submitted with the application states:</p> <p><i>No flora species of national significance or rare/threatened species have been recorded from previous surveys over the Quarry Site. The ridge top/upper slopes are covered by mixed eucalypt woodland with tree canopies approximately 10m to 18m in height. Lower slopes also support this vegetation community with canopies up to 22m high. The species mix is similar to that on upper slopes.</i></p> <p><i>The creek flats adjoining Marrangaroo Creek (beyond ML1522) consist of wetter/denser creek flat forest. The unnamed ephemeral tributary bisecting the Quarry Site has poorly developed riparian flora relative to Marrangaroo Creek. Currently there are no infestations of significant weed species.</i></p> <p><i>A total of 68 fauna species have been recorded during previous surveys including: 3 amphibians; 4 reptiles; 42 birds (3 vulnerable); and 21 mammals (2 vulnerable bat species). The Purple Copper Butterfly listed as endangered under the BC Act and vulnerable under the Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act) was also recorded. A referral to the Commonwealth confirmed that the Quarry does not constitute a controlled action under the EPBC Act</i></p> <p>As such, Council concurs with the above statement. Given that the North South Quarry Extraction area has already been disturbed for quarrying activities and the proposal is to extend the depth of the quarry, no additional vegetation is proposed to be removed or disturbed.</p> <p>Therefore, no further assessment or offsetting obligations is required.</p>
Noise	<p>Noise sources within the Quarry include blasting, earthmoving equipment, crushing and screening plant. Other noise sources surrounding the Quarry include vehicle traffic on the Great Western Highway and the nearby go-kart track.</p> <p>The proposed modification involves the continuation of the current approved activities at the Site. The modification would not represent an intensification or change in noise. No additional mitigation measures are therefore considered necessary.</p> <p>The original condition relating to noise will remain on the consent. This condition is in conjunction with the EPA requirements.</p>
Surface Water	<p>As the approved areas of disturbance are at, or near the most elevated points of the local setting, there are minimal catchment areas outside of the approved disturbance and no practical opportunities to divert clean water.</p> <p>Currently all dirty water runoff from disturbed areas is effectively contained on site. The modification as such, is not proposed to change the existing water runoff locations.</p>

Transportation and Traffic	The approved and existing consent/operations is for the transportation of 220,000tpa of Quarry products from 7:00am to 6:30pm Monday to Friday and 7:00am to 2:00pm Saturdays. There are approximately 20 average truck movements per day from the Quarry Site, each weighing approximately 30t. As such, the modification will be in compliant with the existing approved transportation limits. This is conditioned on the consent and will remain as a condition.
Visual Amenity	The quarry site is currently screened by existing native vegetation and natural topography. Therefore, the site is not visible from any surrounding residences. The proposed increase to the depth of extraction within the North – South Quarry Extraction Area would be undertaken exclusively within previously cleared and disturbed land within the Quarry Site, resulting in no significant changes to the overall visual amenity of the area.
Socio-Economic	The Proposed Modification would facilitate the ongoing operation of the Quarry and would have the following significant benefits to the local community within the Lithgow Local Government Area and NSW. <ul style="list-style-type: none"> <li>• Continued operations in a location that is separated from private residences and other sensitive and uses.</li> <li>• The continued employment of up to 9 personnel, the majority of whom reside in the Lithgow Local Government Area and contribute to the diversity and sustainability of the region.</li> <li>• The continued distribution of the economic benefits of the Quarry locally and regionally through the use of local services and businesses.</li> </ul>

### **Site Suitability**

The surrounding land uses are for a mixture of uses with the size and nature of the development consistent with the existing quarry use on the site. As the development will not create additional impacts to the surrounding area, the development is considered suitable for the site.

### **Policy Implications (Other Than DCP's)/Public Participation**

#### **Lithgow Community Participation Plan**

Pursuant to the Lithgow Community Participation Plan, the Application was notified commencing 25 March 2024 and concluded 26 April 2024.

As the modification proposes to impact nearby neighbours, the proposed development was placed on public exhibition in accordance with the Lithgow Community Participation Plan and nearby landowners have been notified of the proposal. The proposal documents were placed on public exhibition for 21 days in accordance with the Participation Plan.

During the notification period for the modification of consent, one (1) submission was received from the general public with the following concerns:

#### **Community Concerns**

1. Health risks of exposure to respirable crystalline silica dust and air monitoring techniques: The air quality measures outlined in Table 9 page 45 of the submitted Statement of Environmental Effects, at locations MD-2, MD-3 and MD-4 appear to be deposited dust levels collected by funnel into a canister. As such, this dust monitoring measure does not reflect respirable dust in the air. Measurement of respirable dust requires the utilisation of specialised equipment (pump systems) which mimic human lung function.

Therefore, it is requested that additional monitoring and data be provided in regard to the above concern.

2. Compliance with the original and previous modification of consent conditions, specifically in relation to dust control measures.

It is requested that additional information detailing evidence of compliance is provided.

### **Applicants Response**

1. *Metromix engages Safety & Environmental Services Australia Pty Ltd (SESA) on an annual basis to undertake an Occupational Hygiene Exposure Assessment for operators at the Quarry. The purpose of the exposure assessment is to measure the exposure of inhalable dust, respirable dust and respirable crystalline silica (RCS) to Quarry personnel to and evaluate the health risk of exposure to these contaminants. The exposure results are also used to evaluate control measures adopted at the Quarry.*

*The most recent Occupational Hygiene Exposure Assessment was undertaken on 30 November 2023, with the resulting Inhalable Dust, Respirable Dust & Crystalline Silica Air Monitoring Report (SESA, 2023) attached as Attachment A. SESA (2023) concluded that no overexposure to operators was recorded in the individual measurements for inhalable dust, respirable dust and RCS.*

*In summary, airborne inhalable dust samples were collected using size selective sampling heads fitted with pre-weighed membrane filters and connected to a calibrated constant flow air sampling pump in accordance with Australian Standard (AS) AS3640-2009 Workplace Atmospheres Method for Sampling and Gravimetric Determination of Inhalable Dust. The air sampling pumps were set to a flow rate of 2L/min prior to sampling. Respirable dust samples (also for quartz analysis) were collected using sampling pumps fitted with a plastic respirable cyclone sampling head in accordance with AS2985-2009 Workplace Atmosphere – Method for Sampling and Gravimetric Determination of Respirable Dust. The measured airborne contaminants concentrations were evaluated against the relevant workplace health and safety criteria as required by the NSW Work Health and Safety Act 2011, NSW Work Health and Safety Regulation 2017 and NSW Work Health and Safety (Mines and Petroleum Sites) Regulation 2022.*

*Further detail regarding the assessment methodology and outcomes is presented in Section 5 of SESA (2023), while monitoring results and data are presented in Section 6 of SESA (2023).*

### **2. Dust Management**

*Dust control measures at the Quarry principally involve the use of water for the suppression of dust generated from quarrying operations. In May 2016, a Coolfog dust suppression system was installed, which uses a fogging style spray to suppress dust in place of the traditional water spray system previously used. A hoop style spray system was also successfully trialled in 2020 and has been retained to reduce potential for dust generation off the end of the stacking conveyors. The system effectively provides a 'sock mist' for product exiting the conveyor. Suppression of dust generated from haul roads and stockpile areas is also undertaken using an 11,000L water truck. In October 2023, Metromix also introduced a polymer additive to the water used in the water truck to prolong the dust suppression effects on the roadways, thereby reducing water usage.*

*Water for dust suppression is drawn from Dam B, the BHP Dam or the North-South Quarry Sump. The volume of water for dust suppression purposes varies according to weather conditions, the size of the material being processed and its prevailing moisture content.*

### **Dust Monitoring and Reporting**

*Deposited dust (i.e. total insoluble matter) levels are monitored monthly to ensure the effectiveness of the dust controls and evaluate compliance with the relevant conditions of DA090/95 and EPL 1464. Monitoring is undertaken at three locations (EPL Points 2, 3, and 4) in accordance with Conditions P1.1 and M2.2 of EPL1464. These locations are identified as MD-2, MD-3, and MD-4 respectively and are displayed on Figure B within the response report.*

*All deposited dust monitoring results are collated in a summary report that is updated monthly and made publicly available via the Metromix website (<https://www.metromix.com.au/resources/>). This summary report includes data from January 2011 to present. The following figures have been extracted from the most recent summary report (April 2024) to display results from the past 12 months.*

*The annual average deposited dust levels at MD-2, MD-3 and MD-4 have all been well below the 4g/m<sup>2</sup> /month guideline level recommended by the EPA, indicating that the dust control measures implemented at the Quarry are effective.*

*A summary of dust management and monitoring over each annual reporting period is also presented in an Annual Environmental Management Report (AEMR), which is submitted to the EPA, Lithgow City Council, the Resources Regulator, and WaterNSW.*

### **Council's Planner's Response**

The response received from the applicant adequately addresses the community concerns.

### **Section 7.4 Planning Agreements (EP&A Act 1979) and Council's Policy 7.8 Voluntary Planning Agreements**

As stated earlier in this report, no Planning Agreements have been previously undertaken for the quarry.

As part of the previous modification S96043/14 approved in 2015 it was agreed that the applicant/operator would provide a yearly contribution as per the below condition of consent:

30. *The applicant shall make a contribution of \$8,000 (plus GST) per annum, to be adjusted annually in accordance with CPI (All Groups Index for Sydney published by the Australian Bureau of Statistics) toward the ongoing maintenance of Oakey Forest Road. This contribution shall be paid prior to 30 June at the end of each financial year. The payment for the 2014/2015 financial year shall be \$8,000 (plus GST) and the first CPI adjusted payment shall be for the 2015/2016 financial year.*

The annual contribution previously conditioned on the consent will remain, pending an offer to Council and entry into a Planning Agreement as foreshadowed in correspondence with Metromix, including letter from Metromix dated 2 September 2024. This is due to the quarrying activities causing significant impact on Council roads and the current contribution being inadequate to cover maintenance of the roads.

As such the condition would be amended to include a planning agreement to be entered into for the maintenance of Oakey Forest Road.

### **Council's Policy 7.6 – Development Applications By Councillors And Staff Or On Council Owned Land**

1. *That, subject to the exemptions in Part 2 of this Policy, any development application lodged where the applicant is a Councillor or a member of staff, or where a Councillor or member of staff is the owner of the land to which the application relates, or where the development application on Council owned land, that such an application be referred to Council for consideration and determination.*

The Modification of Consent Application could be considered to technically relate to Council owned land, Lot 68 DP 813538 from the original consent. However, it is noted that the land owned by Council is not being varied by this application. As previous modifications have come before Council, it is considered reasonable that this proposal also be determined by Council.

### **Council's Policy 7.7 Calling in of Development Applications or Development Application/Construction Certificates by Councillors**

This Policy states:

4. *This policy does not apply to applications to modify development consents unless the modification represents a significant departure from the original application; would involve issues the subject of an objection with the original application; or where the modification application itself has been called in under the processes outlined in this policy.*

The original and previous modification applications were both called in and reported/determined at previous Council meetings.

The minute numbers being:

Min No 15-171 Ordinary Meeting of Council 27 July 2015,

Min No 16-254 Ordinary Meeting of Council 12 December 2016 -S96053/16

Although, the current modification has not been 'called in' by the elected Council, the development involves Council owned land as previous stated in the Policy above.

### **The Public Interest**

The public interest is best served by the orderly and economic use of land for permissible uses and that does not impact unreasonably on the use and development of surrounding land. Based on the information submitted and an assessment of the proposal, the development is considered to be in the public interest.

### **Discussions and Conclusions**

The proposal is considered to generally comply with the relevant provisions of the applicable Environmental Planning Instruments. The proposal is not considered likely to have any significant negative impacts upon the environment or upon the amenity of the locality. As such it is recommended that development consent is issued subject to the conditions outlined below.

### **Attachments**

Schedule A- Conditions of consent,

Schedule B- General Terms of Approval: Mining, Exploration & Geoscience

### **Recommendation**

**THAT** the Section 4.55 Modification of Consent application MODDA002/24 associated with DA090/95 be approved subject to Condition 1, 11, 17, 27, 30 and 43 being amended and conditions 44a. to 44f. be additional conditions on the consent. This is also outlined in Schedule A.

Assessment Prepared By:



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Lauren Stevens  
Development Planner

## **REASONS FOR CONDITIONS**

The conditions in Schedule A 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 ensure that adequate road and drainage works are provided.
- To ensure the structural integrity of the development.
- 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 compliance with the requirements of the Rural Fire Services.
- To ensure adequate soil conservation and protect against movement of soil and sediments.

## **Schedule A- Conditions of Consent (Consent Authority Integrated Approval Bodies)**

**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.**

1. **Development to be carried out generally in accordance with the Statement of Environmental Effects dated June 1995, Statement of Environmental Effects dated April 2003, Statement of Environmental Effects dated September 2014, ~~and~~ Statement of Environmental Effects dated May 2015, ~~and~~ Statement of Environmental Effects dated August 2016 and Statement of Environmental Effects dated February 2024 except as may be amended or specified by the following conditions. Where these Statements of Environmental Effects contradict one other the latest version will prevail.**  
*(Amended as per S96043/14 dated 24/3/2015)*  
*(Amended as per S96020/15 dated 28/7/2015)*  
*(Amended as per S96053/16 dated 12/12/2016)*  
*(Amended as per MODDA002/24 dated 2024)*
2. The rate of production from the total operation for Quartzite material shall not exceed 220,000 tonnes per annum.  
*(Amended as per S96020/15 dated 28/7/2015)*
- 2A. The production of overburden and additional quartzite material that is taken off site is to be used as ~~general fill for the Forty Bends Upgrade to Great Western Highway~~ for road construction projects associated with Great Western Highway and Bells Line of Road by the Roads and Maritime Services ~~and~~ shall not exceed 100,000 tonnes per annum. The production of overburden and additional quartzite material of 100,000 tonnes ~~supply for general fill~~ taken off site shall cease at 31 December 2017.  
*(Added as per S96020/15 dated 28/7/2015)*  
*(Amended as per S96053/16 dated 12/12/2016)*
3. Hours of operation will be confined to 7.00am -5.00pm Monday to Saturday for quarrying and processing activities. Sales and Transportation will be confined to 7.00am-6.30pm Monday to Friday and 7.00am to 2.00pm Saturdays. Maintenance to be confined to the normal operating hours except as provided for in the Statement of Environmental Effects-  
(a) Trucks are not to proceed past the Oakey Forest Road Rail Siding before 7.00am.
4. The applicant/operator shall obtain all necessary approvals from the Environment Protection Authority and ensure all appropriate measures are taken to minimise any impacts from air, water and noise pollution resulting from the development. All licensing and other requirements of the EPA shall be complied with.
5. Stockpiled quartzite to be removed from the old railway siding adjacent to Oakey Forest Road. The site is to be left in a neat and tidy state. Stockpiling of quartzite in this location to cease.
6. The applicant/operator shall ensure that all loads leaving the quarry are adequately covered.
7. The applicant/operator shall ensure that loads requiring adjustment are attended to within the development site. The Oakey Forest Road rail siding is not to be used for this purpose.
8. The applicant/operator shall consult with Freight Rail regarding the possibility of rail haulage of products to the metropolitan Sydney area.
9. The applicant/operator shall comply with the requirements of the Council concerning means to prevent and fight bushfires. Council's Fire Control Officer is to be contacted with regard to such.
10. All cleared native vegetation to be used either as brush matting, mulch or biomass. This is to be used as ground cover on areas to be revegetated.

11. **Revegetation monitoring to be undertaken by qualified botanist or bush regenerator on at least a three yearly basis and the methods and results presented in the Annual Environmental Management Report. Additional to this, photographic monitoring (at least one control point for each rehabilitation area) should be included each year within the annual report.**

**WaterNSW is to be consulted relating to the preparation and finalisation of The Rehabilitation Management Plan (RMP) for the quarry.**

***(Amended as per S96043/14 dated 24/3/2015)***

***(Amended as per MODDA002/24 dated 2024)***

12. The applicant to consult with the Soil Conservation Service during topsoil stripping and stockpiling in respect to erosion protection and long term viability of the stockpiled where immediate reuse is not possible.
13. The applicant to consult with the Soil Conservation Service prior to construction of runoff diversion, erosion and sediment control works and sediment dams. Such works are to be constructed to capacities and standards satisfactory to the Service.
14. The applicant shall consult with the Soil Conservation Service, Division of Resource & Energy and Council with regard to progressive and final implementation of rehabilitation works. Such works to be carried out to the satisfaction of the Division of resource and Energy and include final land form and use.  
*(Amended as per S96043/14 dated 24/3/2015)*
15. Soil erosion control structures will be required to be maintained in the rehabilitation areas until evidence of soil stability is provided.
16. Soil & Water management at the development site is to be effected as outlined in the Statement of Environmental Effects.
17. **Ongoing and final landform rehabilitation to be effected as outlined in the most recently approved Statement of Environmental Effects.**  
***(Amended as per MODDA002/24 dated 2024)***
18. Applicant to identify in the rehabilitation plan areas requiring rehabilitation for nature conservation purposes with the management objective for these areas to be clearly defined.
19. Fencing of rehabilitation areas to be undertaken where appropriate.
20. Bunded fuel storage area to be appropriately roofed.
21. Drainage of the south west quarry haul road is required to be diverted into the site water management system.
22. The applicant/operator shall undertake a dust monitoring programme in the locality to determine the effectiveness of dust controls used on the development site. The applicant/operator shall consult with the Environment Protection Authority and Council with respect to the monitoring locations and duration of monitoring. Results of dust monitoring shall be submitted together with related data on wind direction, velocity and precipitation in the Annual Environmental Management Report. Any changes to the operation of the quarry deemed necessary as a result of dust monitoring to be notified to Council and implemented accordingly.  
*(Amended as per S96043/14 dated 24/3/2015)*
23. Controlled blasting shall be undertaken at the site, with blasting to be avoided where practical in high wind conditions or on overcast days. All blasting to comply with standards and guidelines of the

- Environmental Protection Authority. Residents who wish to be notified of imminent blasts shall be notified by the applicant/operator.
24. If any additional loading are to be placed on the septic tanks installed at the site, then a water balance report shall be undertaken and the results applied to Australian Standard 1547 to ensure that the effluent is adequately disposed of.
  25. Installation of a truck wheel wash bat at the exit from the quarry. Such to be incorporated into the water management system for the site.
  26. Oakey Forest Road to be upgraded to a formation width of 8m with a two coat sealed pavement width of 6m except as provided by condition 16(b). Pavement design shall be in accordance with NAASRA 1987 Pavement Design with recommendations from an approved NATA registered Soil Testing Laboratory or Practising Engineer. The section of Oakey Forest Road currently within the Crown Road Reserve shall be constructed within such Reserve prior to dedication to Council. All works to be undertaken at full cost of the applicant/operator and shall be constructed in accordance with the above requirements within two years of the date of this consent.
    - a. The last 400m of Oakey Forest Road (currently unsealed) running in a north south direction and the quarry access to the new wash bay to be sealed within 12 months of the date of this consent. The remainder of Oakey Forest Road running in the east west direction to be upgraded in accordance with the above requirements within 2 years of the date of this consent.
    - b. Council will consider a lesser formation width on specific sections of road where it facilitates the retaining of trees. No trees shall be removed as a result of roadwork without the approval of Council.
  27. **The applicant to submit to Council and associated authorities (such as WaterNSW) an Annual Environmental Management Report covering all matters in compliance with this consent; works rehabilitation, production and management undertakings set out in the Statement of Environmental Effects dated June 1995, Statement of Environmental Effects dated April 2003, and Statement of Environmental Effect dated September 2014 and Statement of Environmental Effects dated February 2024. The Report shall detail the performance of the development and the effectiveness of environmental controls, particularly those identified in the Soil and Water Management Plan. Annual rehabilitation monitoring is also to occur including photographic monitoring within the report.**  
*(Amended as per S96043/14 dated 24/3/2015)*  
*(Amended as per MODDA002/24 dated 2024)*
  28. The Annual Environmental Management Report shall be prepared for each calendar year (or otherwise agreed) and shall be submitted by the following year during the life of the development, with the first report to be submitted by 31 December 1997.  
*(Amended as per S96043/14 dated 24/3/2015)*
  29. The applicant to undertake further detailed environmental assessment of quarrying activities in the north east quarry prior to work commencing in this area. Such to be submitted to Council, the Environmental Protection Authority and Division of Resource and Energy for approval, prior to extraction commencing in this area.  
*(Amended as per S96043/14 dated 24/3/2015)*
  30. **The applicant shall make a contribution of \$8,000 (plus GST) per annum, to be adjusted annually in accordance with CPI (All Groups Index for Sydney published by the Australian Bureau of Statistics) toward the ongoing maintenance of Oakey Forest Road. This contribution shall be paid prior to 30 June at the end of each financial year. The payment for the 2014/2015 financial year shall be \$8,000 (plus GST) and the first CPI adjusted payment shall be for the 2015/2016 financial year.**

**Prior to 30 March 2025, the applicant is to enter into a Heads of Agreement in relation to a Planning Agreement with Lithgow Council for the maintenance of Oakey Forest Road. The applicant and Council are to use best endeavours to have the Agreement endorsed as soon as practicable after that date.**

***(Amended as per S96043/14 dated 24/3/2015)***

***(Amended as per MODDA002/24 dated 2024)***

- 30A. The applicant shall make an additional contribution of \$2000 (plus GST) per annum, to be adjusted annually in accordance with CPI (All Groups Index for Sydney published by the Australian Bureau of Statistics), toward the ongoing maintenance of Oakey Forest Road for the period of overburden sale as 'general fill'.  
*(Added as per S96020/15 dated 28/7/2015)*
31. That all residents along Oakey Forest Road be provided a copy of the Metromix- Marrangaroo Quarry Code of Conduct for Truck Driver. (NB. An additional item shall be included in the Code of Conduct to the effect that headlights must be turned on during periods of poor visibility).
32. That appropriate heavy vehicle advisory signage shall be displayed along Oakey Forest Road, indicating that this is a heavy haulage route. This shall be at full cost to the Applicant.
33. That the Applicant shall install line marking along the full length of Oakey Forest Road, this shall include both edge lines and centre line delineation. Reflective pavement markers and guide posts shall be installed along the entire length of Oakey Forest Road, at full cost to the applicant. This work shall be completed on conjunction with Council's next line marking campaign or 1 May 2004 whichever occurs sooner.
34. Signs shall be erected within the quarry displaying to drivers that compressions braking is prohibited along the full length of Oakey Forest Road and that truck speeds be limited to 40km/h.
35. The clearing, site preparation and extraction activities shall be undertaken in a manner to ensure that sediment laden water and/or highly acidic water is prevented from entering Sanderson Creek and does not cause any adverse effect on the water quality of the creek.  
*(Added as per S96043/14 dated 24/3/2015)*  
*(Amended as per S96020/15 dated 28/7/2015)*
36. All existing water runoff control works, consisting of sediment dams, diversion banks and in-line sediment traps shall be retained and maintained.  
*(Added as per S96043/14 dated 24/3/2015)*
37. No water shall be discharged into the catchment of Marrangaroo Creek at any stage during the quarry operations other than via the licensed discharge point.  
*(Added as per S96043/14 dated 24/3/2015)*  
*(Amended as per S96020/15 dated 28/7/2015)*
38. Effective erosion and sediment controls as identified in the revised Soil and Water Management Plan shall be installed prior to any construction or excavation activity, and shall prevent sediment of contaminated water leaving the site or entering any natural or off-site constructed drainage system. The control shall be regularly maintained and retained as identified in the revised Soil and Management Plan until works have been completed and groundcover established.  
*(Added as per S96043/14 dated 24/3/2015)*
39. The annual monitoring report shall be provided to the Water NSW for comment.  
*(Added as per S96043/14 dated 24/3/2015)*
40. The existing Soil and Water Management Plan shall either be upgraded or a new plan prepared for all works as part of the extraction and rehabilitation by a person with knowledge and experience in the preparation of such plans in consultation with Water NSW. The Plan shall meet the requirements

outlined in Chapter 2 of NSW Landcom's Soils and Construction: Managing Urban Stormwater (2004) manual - the "Blue Book" – Volume 1, and the requirements outlined in DECC's Soils and Construction: Managing Urban Stormwater Volume 2E Mines and Quarries (2008), and shall be to the satisfaction of Council and Water NSW. The Soil and Water Management Plan shall include but not be limited to:

- a detailed site plan
- detailed design of the stormwater management structures and discharges of these structures
- implementation of a surface water monitoring program for Marrangaroo and Sanderson Creeks as specified below:
  - the program shall commence 6 months prior to any extraction activities, and shall continue for 12 months once extraction activities have commenced
  - monitoring shall include water quality and a quantitative assessment of flows as specified in Section 4.5 of the revised Statement of Environmental Effects (dated 18 February 2015).
- details on the location, procedures and recurrence of the surface water monitoring programs
- details on the location, description, nature and management of stormwater management structures such as pits, pipes, sediment dams, diversion banks, and in-line sediment traps
- an identification of the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
- the identification of the individuals or positions responsible for inspection and maintenance activities including a reporting protocol and hierarchy, and procedures for managing and notification of water quality emergencies, and
- checklists for recording inspections and maintenance activities.

*(Added as per S96043/14 dated 24/3/2015)*

*(Amended as per S96020/15 dated 28/7/2015)*

41. Quarry related road haulage operations are not to exceed a maximum of 250 movements/ 125 trips per day.

*(Added as per S96043/14 dated 24/3/2015)*

42. The supply of a maximum of 100,000 tonnes of overburden annually for use on the Forty Bends Road – Great Western Highway upgrade project shall be undertaken in accordance with the Statement of Environmental Effects prepared by R.W. Corkery & Co. Pty Ltd (dated May 2015).

*(Added as per S96020/15 dated 28/7/2015)*

**43. Prior to transporting overburden from the Quarry, the proponent will ensure that the impact of the removal of this overburden on final land use and landform is addressed in an approved Mining Operations Plan (MOP) the Rehabilitation Management Plan (RMP) for the Quarry.**

*(Added as per S96020/15 dated 28/7/2015)*

*(Amended as per MODDA002/24 dated 2024)*

**43a. Department of Planning, Industry & Environment - Crown Lands**

**1) All Crown Land and Crown Roads within a Mining Lease (with surface rights), subject to mining or mining related activity, must be subject to a Compensation Agreement issued under Section 265 of the Mining Act 1992, to be agreed and executed prior to any mining activity under MODDA002/24 taking place. The Compensation Agreement may include conditions requiring the Mining Lease Holder to purchase Crown land impacted on by mining activity.**

**2) All Crown Land and Crown Roads located within an Exploration Licence, subject to exploration activity, must be subject to an Access Arrangement issued under Section 141 of the Mining Act 1992, to be agreed and executed prior to any exploration activity taking place.**

**3) All Crown Land and Crown Roads within a Mining Lease (with sub-surface rights only) must be subject to a Section 81 Consent under the Mining Act 1992 where**

surface activities are proposed, to be agreed and executed prior to any surface activity taking place.

- 4) All Crown Roads within a Mining Lease or Exploration Licence must be subject to a works consent approval under Section 138 and or Section 71 of the Roads Act 1993 where exploration, mining or mining related activity impact on these roads.  
*(Additional as per MODDA002/24 dated 2024)*

**44b. Mining, Exploration & Geoscience (MEG)- Department of Regional Australia**

1) **Royalty**

The holder of a mining lease is liable to pay a royalty for both publicly and privately-owned minerals (refer to Section 282-285 of the Mining Act 1992).

2) **Biodiversity Offsets**

The proponent must consider potential resource sterilisation should any biodiversity offset areas be considered. The proponent must consult with MEG and any holders of existing mining or exploration authorities that could be potentially affected by the proposed creation of any such biodiversity offsets or supplementary biodiversity measures, prior to creation occurring. This will ensure there is no consequent reduction in access to prospective land for mineral exploration or potential for the sterilisation of mineral and extractive resources.

3) **Terms of Approval**

The proponent must carry out the development:

- i) In accordance with the development consent and Environmental Assessment documents submitted as part of the development application process, including any additional information or assessments that were required by the agencies consulted.
- ii) In accordance with the General Terms of Approval and the conditions of a mining lease.

*(Additional as per MODDA002/24 dated 2024)*

**44c. Resource Regulator**

**Limitations**

The Resources Regulator does not provide any endorsement of the proposed rehabilitation methodologies presented in the plans provided. Under the conditions of a mining authorisation granted under the Mining Act 1992, the Resources Regulator requires the holder to adopt a risk-based approach to achieving the required rehabilitation outcomes.

The applicability of the controls to achieve affective and sustainable rehabilitation is to be determined based on site-specific risk assessments conducted by the authorisation holder. An authorisation holder may be directed by the Resource Regulator to implement further risk control measures required to achieve effective rehabilitation outcomes during the life of the mine.

*(Additional as per MODDA002/24 dated 2024)*

**44d. WaterNSW**

**Dewatering**

Before 30 June 2025, the following approvals must be obtained from WaterNSW-

- water supply work approval under section 90 of the Water Management Act 2000 (WM Act).
- water use approval under section 89 of the Water Management Act.

The application is to include:

- a dewatering management plan which includes the volume of water to be extracted & the duration of the water take for dewatering & method of measuring the water take and recording.
- an Acid Sulphate Soil Management Plan (if relevant).

*(Additional as per MODDA002/24 dated 2024)*

**44e. Water Licensing Approval**

Water management work/licensing approval under Section 90 under the Water management Act 2000- Water Management Work (Integrated development) is required for the North – South Quarry Extraction Area from NSW Department of Climate Change, Energy, the Environment and Water-Licensing and Approvals/WaterNSW prior to commencement of work.

*(Additional as per MODDA002/24 dated 2024)*

**44f. NSW Environmental Protection Authority**

**a) Monitoring Network**

The proponent must install additional groundwater monitoring bores as described in the application.

**b) Groundwater Quality Monitoring**

The proponent must undertake regular groundwater monitoring including pH quarterly for a minimum of 12-months following approval of the modification.

**c) Groundwater Management Plan**

Prior to commencement of any further extraction, the proponent must update the Water Management Plan to include:

- 1) A detailed groundwater monitoring schedule,
- 2) Clearly defined thresholds and responses for groundwater quality and level deviations, and
- 3) Integration with surface water management strategies to ensure a holistic approach.

**d) Environmental Protection Licence**

Exceedance of a quality limit specified in this Licence for the discharge of pH or TSS from Point 1 is permitted if the discharge from point 1 occurs solely as a result of rainfall at the premises exceeding the <1 percent Average Exceedance Probability 24-hour rainfall event of 176 millimetres.

**e) Pollution of Waters**

- 1) The licensee must take all practical measures to avoid or minimise pH and TSS risk contained in wet weather discharges.
- 2) The licensee must initiate controlled discharges to prevent or minimise managed overflows occurring from the site.
- 3) The Licensee must maintain the following water management measures:
  - electric pump with a low-level sensor at Dam B with automatic operation of the pump 24 hours per day,
  - BHP Dam pump and primary silt retention channel to manage wash plant return-water to Dam B,
  - passive siphoning system of water from Dam B to the North – South Quarry Sump,
  - Pumping of excess water from Dam B to the North – South Quarry Sump for storage and reuse for processing and dust suppression.

**f) Stormwater Water Management**

The applicant must install and maintain stormwater basins with the capacity to contain all rainfall and runoff generated from the equivalent storm event to the <1 percent Average Exceedance Probability 24-hour rainfall event of 176 millimetres.

**g) Erosion Control**

**The applicant must minimise the area of soil surface exposed to erosion from rainfall and runoff on the premises.**

***(Additional as per MODDA002/24 dated 2024)***

**ADVISORY NOTE:**

AN1: Department of Trade & Investment – Resource & Energy advise that a review of the Rehabilitation Security Bond will also be undertaken prior to commencement of supplying overburden as 'general fill' to the Forty Bends Upgrade project.

*(Added as per S96020/15 dated 28/7/2015)*

## Schedule B: General Terms of Approval: Mining, Exploration & Geoscience

MINING, EXPLORATION & GEOSCIENCE  
Department of Regional NSW



### General Terms of Approval

for proposed development requiring approval under  
Part 5 of the *Mining Act 1992*

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Reference Number:	RDOC24/71672
Issue date of GTA:	5 June 2024
Type of Approval:	Mining Lease – mining operation
Proponent:	Metromix Pty Ltd
DA Number:	090/95
LGA:	Lithgow City Council
Mineral(s):	Quartzite

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These General Terms of Approval issued by the Department of Regional NSW – Mining, Exploration and Geoscience (MEG) does not constitute an approval under the *Mining Act 1992*. The proponent must apply to MEG for the relevant approval, such as a mining lease, during the development assessment process, or once consent has been granted and before the commencement of any mining or ancillary activity. This is required if there is currently no approval in place that allows the sought activities. A development application under the *Environmental Planning and Assessment Act 1979* must be approved before a mining lease can be granted. A mining lease will only be granted for activities specified in the development consent.

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### Definitions

Words used in these General Terms of Approval have the same meaning as defined in the *Mining Act 1992* except where otherwise defined below:

Term	Definition
Act	means the <i>Mining Act 1992</i> .
Landholder	for the purposes of these conditions: <ul style="list-style-type: none"><li>• does not include a secondary landholder</li><li>• includes, in the case of exempted areas, the controlling body for the exempted area.</li></ul>
Minister	means the Minister administering the <i>Mining Act 1992</i> .

**Note:**

1. The rights and duties of the Lease Holder(s) are those prescribed by the *Mining Act 1992* and the Mining Regulation 2016, subject to the terms and conditions of a Mining Lease.

2. A Mining Lease does not override any obligation on the Lease Holder(s) to comply with the requirements of other legislation and regulatory instruments which may apply (including all relevant development approvals) unless specifically provided in the *Mining Act 1992* or other legislation or regulatory instruments.

## Prescribed standard conditions

The prescribed standard conditions in the Mining Regulation 2016, Schedule 8A, Part 2 apply to all mining leases granted from 2 July 2021 in addition to the conditions below. The conditions imposed by the Mining Regulation 2016 prevail to the extent of any inconsistency with the conditions in the mining lease.

## Standard conditions

### 1. Notice to landholders

- a) Within 90 days from the date of grant/renewal of a mining lease, the lease holder must serve on each landholder a notice in writing to notify that the mining lease has been granted/renewed and whether the lease includes the surface. A plan identifying each landholder and individual land parcel subject to the lease area, and a description of the lease area must accompany the notice.
- b) If there are ten or more landholders, the lease holder may serve the notice by publication in a newspaper circulating in the region where the lease area is situated. The notice must indicate that the mining lease has been granted/renewed; state whether the lease includes the surface and must contain a plan and description of the lease area. If a notice is made under condition 1(b), compliance with condition 1(a) is not required.

### 2. Security

The lease holder is required to provide and maintain a security deposit to secure funding for the fulfilment of obligations under the mining lease, including obligations under the mining lease that may arise in the future.

The amount of the security deposit to be provided will be assessed by the Minister.

### 3. Cooperation agreement

The lease holder must make every reasonable attempt, and be able to demonstrate its attempts, to enter into a cooperation agreement with the holder(s) of any overlapping title(s). The cooperation agreement should address but not be limited to issues such as:

- (i) access arrangements
- (ii) operational interaction procedures
- (iii) dispute resolution & information exchange
- (iv) well location
- (v) timing of drilling
- (vi) potential resource extraction conflicts; and
- (vii) rehabilitation issues.

4. Assessable prospecting operations

- (a) The lease holder must not carry out any assessable prospecting operation on land over which the lease has been granted unless:
  - (i) it is carried out in accordance with any necessary development consent; or
  - (ii) if development consent is not required, the prior written approval of the Minister has been obtained.
- (b) The lease holder must comply with the approval granted to the holder.
- (c) The Minister may require the lease holder to provide such information as required to assist the Minister to consider an application for approval.
- (d) An approval granted under this condition may be granted subject to terms.

### Exploration Reporting

Note: *Exploration Reports (Geological and Geophysical)*

*The lease holder must lodge reports to the satisfaction of the Secretary in accordance with section 163C of the Mining Act 1992 and in accordance with clauses 59, 60 and 61 of the Mining Regulation 2016.*

*Reports must be prepared in accordance with Exploration Reporting: A guide for reporting on exploration and prospecting in New South Wales.*

Approved in CM10 on the 5<sup>th</sup> day of June 2024

Scott Anson

Manager Industry Advisory and Mining Concierge

Industry Development

Department of Regional NSW – Mining, Exploration and Geoscience

General Terms of Approval issued under Division 4.8 of the *Environmental Planning and Assessment Act 1979*