

Notice of Modification

Section 75W of the *Environmental Planning and Assessment Act 1979*

As delegate of the Minister for Planning, I modify the project approval referred to in Schedule 1, as set out in Schedule 2.



Howard Reed
Director
Resource Assessments

Sydney

04 May

2018

SCHEDULE 1

Project approval 08_0099 for the Grants Road Sand Quarry, granted by the Executive Director Development Assessment Systems & Approvals, as delegate of the Minister for Planning, on 25 July 2014.

SCHEDULE 2

- In Schedule 1, replace "Lot 1 DP358717" with "Lot 1 and 2 DP358717".
- In the list of definitions, delete the terms "Biodiversity Offset Strategy", "Council", "DRE", "NOW", "Project" and "Secretary", and their definitions, and insert the following terms and definitions in alphabetical order:

Biodiversity Offset Strategy	The conservation and management of the Proponent's offset sites on Lot 1 and 2 DP358717, as shown in Appendix 3
Council	Central Coast Council
DoI Water	Department of Industry - Water
DRG	Division of Resources and Geoscience in the Department
EA (MOD 1)	Environmental Assessment of the project titled <i>Section 75W Modification Application for Changes to Biodiversity Offset Area for Approved Grants Road Sand Quarry Extension 270 Grants Road Somersby</i> , dated December 2017 and supplementary ecological survey report titled <i>Additional Ecological Information Report</i> , dated March 2018
Feasible	Means what is possible and practicable in the circumstances
Landscape buffer areas	The buffer areas as shown in Appendix 3
Modification 1	The modifications to the project as described in EA (MOD 1)
Project	The project as described in the documents in condition 2 of Schedule 2, as well as quarrying operations and disturbance existing on the site as at 25 July 2014
Secretary	Planning Secretary under the EP&A Act or nominee
- Delete all references to "shall" and replace with "must", except in conditions 3, 5 and 9 of Schedule 2, the note to condition 4 of Schedule 3 and the final sentence of condition 16 of Schedule 3.
- Delete all references to "DRE" and replace with "DRG".
- Delete all references to "NOW" and replace with "DoI Water".
- Delete all references to "biodiversity offset strategy" and replace with "Biodiversity Offset Strategy".
- In condition 1 of Schedule 2:
 - after the words "specific performance", insert the words "measures and"; and
 - delete the words "and/or minimise any" and replace with ", if prevention is not reasonable or feasible, minimise any material".

8. In condition 2 of Schedule 2, delete sub-paragraphs (b) and (c) and replace with:
 - (b) EA (MOD 1); and
 - (c) Statement of Commitments.
9. Following condition 2 of Schedule 2, insert the following:
 - 2A. The Proponent must carry out the project in accordance with the conditions of this approval.
10. In the Notes to condition 10 of Schedule 2, delete the term "4A" and replace with "6".
11. In condition 13 of Schedule 2, after the words "plant and equipment used at the site", insert the words ", or used to monitor the performance of the project,".
12. After condition 17 of Schedule 2, insert the following:

COMPLIANCE

18. The Proponent must ensure that all of its employees, contractors (and their sub-contractors) are made aware of, and are instructed to comply with, the conditions of this approval relevant to activities they carry out in respect of the project.
13. In condition 23 of Schedule 3:
 - (a) before the words "described in the EA", insert the word "as";
 - (b) after the term "EA, ", insert the words "EA (MOD 1) and Landscape and Rehabilitation Management Plan and";
 - (c) delete the words "and revised"; and
 - (d) delete Table 7, and its Note, and replace with the following:

Table 7: Summary of the Biodiversity Offset Strategy

Area	Offset Criteria	Size (hectares)
On-site Offset Area	Existing vegetation to be managed and maintained as: <ul style="list-style-type: none"> • Scribbly Gum Woodland and/or other native vegetation community commensurate with the local surroundings, including at least 4.44 ha in moderate to good condition; and • suitable habitat for threatened fauna species including the provision of at least 36 nest boxes in the biodiversity offset and landscape buffer areas. 	7.0

Note: See Statement of Commitment No 9 for additional biodiversity offset requirements.

14. Delete condition 24 of Schedule 3 and replace with:
 24. Within 6 months of the determination of Modification 1, or as otherwise agreed by the Secretary, the Proponent must:
 - (a) engage an independent registered surveyor to survey and permanently mark the boundaries of the offset areas;
 - (b) submit a survey plan of these boundaries to the Secretary;
 - (c) ensure that these boundaries are clearly marked at all times in a permanent manner that allows operating staff, the landowner and inspecting officers to clearly identify those boundaries; and
 - (d) cause restrictive and positive covenants under the *Conveyancing Act 1919* to be placed on the titles of the land referring to the surveyed offset areas, to ensure that the Proponent and the landowner:
 - manage the offset areas for conservation in perpetuity;
 - implement the Landscape and Rehabilitation Management Plan; and
 - permit ongoing access to the offset areas by the Department and other relevant public authorities for the purposes of monitoring compliance with the covenants and Landscape and Rehabilitation Management Plan,
 to the satisfaction of the Secretary.
15. In condition 25 of Schedule 3:
 - (a) after the words "rehabilitation strategy", insert the words "as described"; and

(b) after the term "EA,", insert the words "EA (MOD 1) and Landscape and Rehabilitation Management Plan".

16. In condition 27 of Schedule 3:
 - (a) before the words "would be integrated" in sub-paragraph (c), insert the words "and Statement of Commitment Number 9";
 - (b) delete the word "and" at the end of the second bullet point in sub-paragraph (d); and
 - (c) delete the third bullet point in sub-paragraph (d) and insert the following:
 - manage the buffer areas surrounding the extraction area; and
 - ensure compliance with the rehabilitation objectives and the progressive rehabilitation obligations in this approval;
17. In the Notes to condition 28 of Schedule 3, delete the term "Biobanking" and replace with "Stewardship".
18. In condition 29 of Schedule 3, after the words "Independent Environmental Audit (see condition 9 of Schedule 5)", insert the words "or approval of each revised version of the Landscape and Rehabilitation Management Plan".
19. In condition 5 of Schedule 5:
 - (a) before the words "strategies, plans and programs", insert the words "suitability of all";
 - (b) delete the number "4" and replace with "6".
20. After condition 5 of Schedule 5, insert the following:

CONSULTATION

- 5A. Where the conditions of this approval require consultation with an identified party, the Proponent must:
 - (a) consult with the relevant party prior to submitting the subject document to the Secretary for approval; and
 - (b) provide details of the consultation undertaken, including:
 - the outcome of that consultation, matters resolved and unresolved; and
 - details of any disagreement remaining between the party consulted and the Proponent and how the Proponent has addressed any unresolved matters.

However, if the Secretary agrees, a strategy, plan or program may be prepared without consultation being undertaken with an identified party required under a condition of this consent.

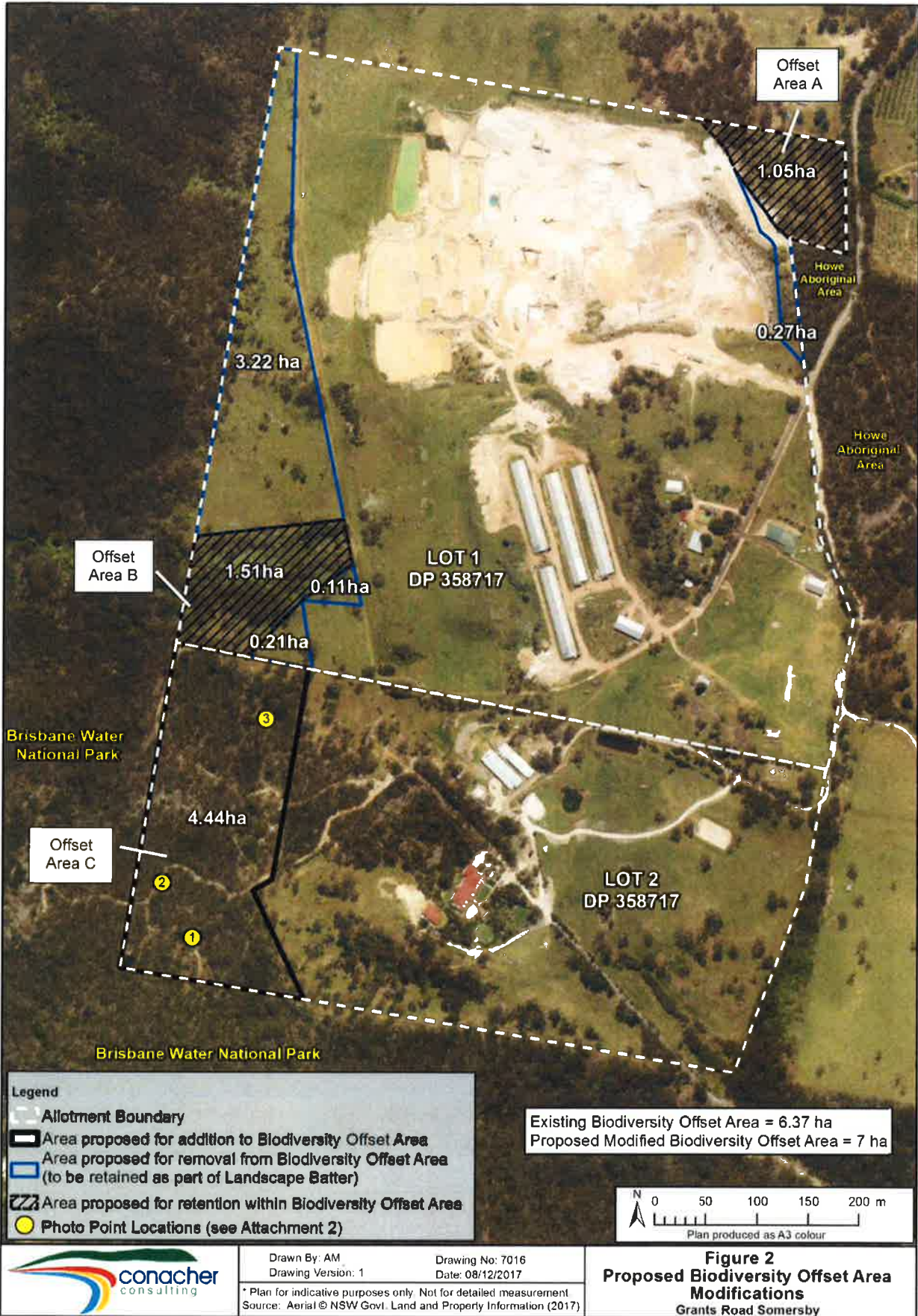
21. In condition 6 of Schedule 5:
 - (a) delete the words "*Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects* (Department of Planning, 2007, or its latest version)" and replace with "*Community Consultative Committee Guidelines: State Significant Projects (2016)*"; and
 - (b) in the second bullet point of the Notes, delete the word "on", and replace with "of".
22. In condition 9 of Schedule 5:
 - (a) after the word "be" in sub-paragraph (a), insert the words "led and ";
 - (b) after the words "relevant agencies" in sub-paragraph (b), insert the words "and the CCC";
 - (c) delete the word "and" at the end of sub-paragraph (d);
 - (d) delete the full stop at the end of sub-paragraph (e) and replace with "; and"; and
 - (e) insert the following sub-paragraph:
 - (f) be conducted and reported to the satisfaction of the Secretary.
23. Delete condition 10 of Schedule 5 and replace with the following:
 10. Within 3 months of commencing each audit, or within another timeframe agreed by the Secretary, the Proponent must submit a copy of the audit report to the Secretary and any other agency that requests it, together with its response to any recommendations contained in the audit report, and a timetable for the implementation of the recommendations. The Proponent must implement these recommendations, to the satisfaction of the Secretary.
24. In Appendix 1, in Statement of Commitment Number 9:
 - (a) delete the number "7.1" after the words "A total of", and replace with "7";
 - (b) delete the bullet points and replace with:
 - Offset Area A. 1.05 hectares of Scribbly Gum Woodland in the east of Lot 1 DP358717;
 - Offset Area B. 1.51 hectares of Scribbly Gum Woodland in the west of Lot 1 DP358717; and

- Offset Area C. 4.44 hectares of Red Bloodwood - Scribbly Gum heathy woodland on sandstone plateaux of the Sydney Basin Bioregion in the west of Lot 2 DP358717.
- (c) after the words "exclude livestock", insert "(all areas)";
 - (d) after the word "feral", delete the words "Rusa Deer, intensive", and insert "deer (Areas A and B)";
 - (e) after the words "environmental weeds", insert "(Areas A and B)"; and
 - (f) after the words "36 nest boxes will be erected to compensate for the loss of 18 hollow bearing trees.", insert the words "Any shortfall in hollow-bearing trees will be supplemented by installing either salvaged hollow sections of trees at a ratio of one salvaged hollow section per hollow-bearing tree, or nest boxes at a ratio of two salvaged nest boxes per hollow-bearing tree."

25. Delete Appendix 3 and replace with the following:

APPENDIX 3

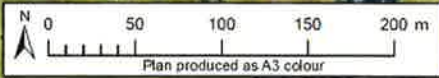
BIODIVERSITY OFFSET AND LANDSCAPE BUFFER AREAS





Legend

- Subject Site Boundary
- Landscape Buffer Area



Drawn By: AM
Drawing Version: 1

Drawing No: 8013
Date: 08/12/2017

* Plan for indicative purposes only. Not for detailed measurement.
Source: Aerial © Nearmap (2018) Air Photo Date: 08/08/2017

Landscape Buffer Areas

Grants Road, Somersby