



Office of the Director General

DGTO12/215
WS12/162

Mr Peter Jamieson
Director
Umwelt (Australia) Pty Limited
PO Box 838
TORONTO NSW 2283

Dear Mr Jamieson

Approval for Mackas Sand Pty Ltd to engage in extractive industry in the North Stockton Catchment Area

Thank you for your letter of 19 November 2010 seeking renewal of the interim Permit for Mackas Sand Pty Ltd under clause 13(1) of the former *Hunter Water (Special Areas) Regulations 2003* for engaging in extractive industry in the North Stockton Catchment Area.

I have granted a new approval to Mackas Sand Pty Ltd for engaging in extractive industry in the North Stockton Catchment Area under clause 10(1) of the remade *Hunter Water Regulations 2010*. A copy of this Approval is attached.

I draw your attention to clause 4 and 5 of the Schedule to the Approval which require the preparation and lodgement of specified documents within 3 months of the date of issue of the Approval.

Should you have any further enquiries about this matter, I have arranged for Mr Mark Mignanelli, Manager Major Projects, Mines and Assessments to assist you. Mr Mignanelli may be contacted at the NSW Office of Water's Newcastle Office on (02) 4904 2549.

Yours sincerely

Mark I Paterson AO
Director General

7/6/12

**Approval under clause 10(1) of the *Hunter Water Regulation*
2010 for engaging in extractive industry in the North
Stockton Catchment Area.**

A. Date of Issue.

The 7th day of June 2012.

B. Approval.

For the term of this Approval the Director General hereby permits the Approval Holder to undertake the Extractive Operations within that part of the North Stockton Catchment Area described in this Approval, subject to the terms and conditions set out below.

C. Term of Approval.

This Approval shall commence on the Date of Issue.

The Extractive Industry authorised by this Approval may continue until 31 December 2029, unless revoked earlier.

D. Approval Holder.

Mackas Sand Pty Ltd.

E. Extractive Industry.

Sand Extraction.

F. Extraction Area.

The Approval Holder is permitted to undertake the Extractive Industry in such parts of the Land shown as "Extraction Zone Lot 218" and "Extraction Zone Lot 220" in Figures 1 and 2 of Appendix 1.

G. Terms and Conditions of Approval.

The Definitions, Schedule and Appendices have effect and form part of this Approval.

H. Approval not Transferable.

This Approval may not be transferred or assigned by the Approval Holder (including, without limitation, assigned by way of security).



Director General
Department of Trade and Investment, Regional Infrastructure and Services

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DEFINITIONS

In this Approval:

Annual Environmental Management Report (AEMR) has the same meaning as in clause 4 of Schedule 5 of the Project Approval.

Approval Holder has the same meaning as in clause D.

Completion criteria means the completion criteria for the site rehabilitation and site landscaping provided in the Rehabilitation Management Plan.

Criteria for quarry closure means the criteria for quarry closure provided in the Long Term Management Strategy.

Director General means the Director General, Department of Trade and Investment, Regional Infrastructure and Services and his or her authorised delegates.

Environmental Management Plans means the Soil and Water Management Plan, the Landscape Management Plan, the Operations Management Procedure and the Hydrocarbon Spill Procedure.

Extraction Area has the same meaning as in clause F.

Extraction Buffer has the same meaning as in clause 1(2) of the Schedule.

Extraction Depth Limit means the limit on the depth of extraction from the highest predicted groundwater level provided in condition 7(b) of Schedule 2 of the Project Approval.

Extraction Zone Lot 218 means the part of the Land shown as “Extraction Zone Lot 218” in Figure 1 in the Appendix.

Extraction Zone Lot 220 means the part of the Land shown as “Extraction Zone Lot 220” in Figure 2 in the Appendix.

Extractive Industry has the same meaning as in clause E.

Extractive Operations means the operations done under this Approval or works done as part of or associated with those operations, including without limitation the clearing of land, the stripping of topsoil, road-building, undertaking the Extractive Industry, the stockpiling and storage of extracted sand, the loading of vehicles and transportation away of sand, and the rehabilitation of the landform and vegetation on the land.

Highest predicted groundwater level means the approved highest predicted groundwater level for the purposes of condition 2(a) of Schedule 3 of the Project Approval.

HWC means Hunter Water Corporation (ABN 46 228 513 446) and where the context permits its servants, employees and agents.

Hydrocarbon Spill Procedure has the same meaning as in clause 5 of the Schedule.

Land means the land to which this Approval applies, described as Lot 218 DP 1044608 and Lot 220 DP1049608, Salt Ash.

Landscape Management Plan means the approved Landscape Management Plan for the purposes of condition 25 of Schedule 3 of the Project Approval.

Long Term Management Strategy means the Long Term Management Strategy prepared as part of the Landscape Management Plan for the purposes of condition 25 of Schedule 3 of the Project Approval

North Stockton Catchment Area has the same meaning as in the Regulation.

Office of Water means the NSW Office of Water (ABN: 47 661 556 763) and where the context permits its servants, employees and agents.

Operations Management Procedure has the same meaning as in clause 4 of the Schedule.

Operations Report has the same meaning as in clause 9(3)(b) of the Schedule.

Project Approval means the Project Approval for the Mackas Sand Project (08_0142) granted by the Minister for Planning on 20 September 2009.

Regulation means the *Hunter Water Regulation 2010* (NSW).

Rehabilitation Management Plan means the Rehabilitation Management Plan prepared as part of the Landscape Management Plan for the purposes of condition 25 of Schedule 3 of the Project Approval.

Soil and Water Management Plan means the approved Soil and Water Management Plan for the purposes of condition 18 of Schedule 3 of the Project Approval.

SCHEDULE

PART 1 EXTRACTIVE OPERATIONS

CLAUSE 1 LIMIT ON EXTRACTIVE OPERATIONS

Extraction Area

- (1) The Approval Holder may not undertake Extractive Operations outside of the boundary of the Extraction Area, excepting that the Approval Holder may utilise any road for the purposes of access to the Extraction Area and for associated purposes, including without limitation for the purpose of transportation away of sand from the Extraction Area, and the performance of any obligation under the Environmental Management Plans.

Extraction Buffer

- (2) Extractive Operations including the removal of vegetation and displacement of topsoil must not remove any material from within the Extraction Depth Limit for that point (*Extraction Buffer*).

PART 2 ENVIRONMENTAL CONTROLS

CLAUSE 2 MANNER OF PERFORMING EXTRACTIVE OPERATIONS

To ensure that there is no adverse impact on the supply or quality of groundwater located within the North Stockton Catchment Area, the Approval Holder must operate and manage the Extractive Operations:

- (a) in accordance with the terms and conditions of this Approval and the Environmental Management Plans; and
- (b) having regard to the importance of the groundwater and its surrounding environment for potable water supply purposes.

CLAUSE 3 METHOD OF EXTRACTIVE OPERATIONS

Laser level monitoring

- (1) During Extractive Operations, the Approval Holder must engage a suitably qualified and trained professional to monitor the height of the land from which sand is being extracted, including by taking regular measurements using a laser level in accordance with industry standard procedure.

Machinery and Equipment

- (2) The Approval Holder must remove all machinery used in the Extractive Operations from the Land at the end of each day's operation and park all machinery in the area specified in the Operations Management Procedure.
- (3) The Approval Holder must operate, manage and maintain all plant and equipment used in connection with the Extractive Operations in a proper and efficient condition, including any equipment used for the purposes of monitoring and rehabilitation.

No storage of contaminants

- (4) The Approval Holder must not store fuel, oil, grease or other groundwater contaminant within the North Stockton Catchment Area.

Refuelling

- (5) The Approval Holder must ensure that any refuelling of equipment will be undertaken by a registered contractor.
- (6) Refuelling of vehicles must not occur within the North Stockton Catchment Area, unless on a bunded hard stand area with spill control and containment equipment available in the immediate vicinity of the refuelling area.

CLAUSE 4 OPERATIONS MANAGEMENT PROCEDURE

(1) The Approval Holder must develop a procedure, to the satisfaction of HWC and the Office of Water, to address the management of operations at the site (***Operations Management Procedure***).

- (1) The Operations Management Procedure must:
 - (a) be submitted to HWC and the Office of Water for approval within 3 months of the Date of Issue of this Approval,

- (b) be consistent with the requirements for the method of Extractive Operations in clause 3, and
- (c) include, but is not limited to, procedures for the following:
 - (i) management of the plant, equipment and vehicles,
 - (ii) site operations,
 - (iii) environmental inductions, and
 - (iv) environmental training,in order to prevent and minimise any adverse impact on the supply or quality of groundwater within the North Stockton Catchment Area.

CLAUSE 5 HYDROCARBON SPILL PROCEDURE

- (1) The Approval Holder must develop a procedure, to the satisfaction of HWC and the Office of Water, to manage a hydrocarbon spill on the Land (*Hydrocarbon Spill Procedure*).
- (2) The Hydrocarbon Spill Procedure must:
 - (a) be submitted to HWC and the Office of Water for approval within 3 months of the Date of Issue of this Approval,
 - (b) include, but is not limited to, a plan for the remediation of the Land in order to prevent or minimise any adverse impact on the supply or quality of groundwater within the North Stockton Catchment Area.
- (3) The Director General may require that the Approval Holder vary any part of the Hydrocarbon Spill Procedure as a result of any incident or event which adversely impacted upon or had the potential to adversely impact upon the groundwater in the North Stockton Catchment Area.

CLAUSE 6 REHABILITATION

Requirement to rehabilitate the Land

- (1) The Approval Holder must rehabilitate disturbed areas of the Land in accordance with the Landscape Management Plan and the Extraction Buffer.

Progressive replacement of topsoil

- (2) For the purposes of rehabilitation of Extraction Zone Lot 220, the topsoil must be replaced after the extraction of sand has occurred to a minimum depth of 0.3 metres.

CLAUSE 7 INCIDENT REPORTING

- (1) For the purpose of clauses 2 and 3 (Incident Reporting) of Schedule 5 of the Project Approval, HWC and the Office of Water are “relevant agencies” which are to be notified if there is an incident that requires reporting under those sections.
- (2) For clarification, “material harm to the environment” in clause 2 (Incident Reporting) of Schedule 5 of the Project Approval, includes harm to groundwater sources.

CLAUSE 8 REVOCATION OF APPROVAL

If, in the opinion of the Director General, the groundwater located within the North Stockton Catchment Area is becoming polluted or contaminated, or is at risk of becoming polluted or

contaminated, as a result of the Extractive Operations, the Director General may revoke this Approval by notice in writing to the Approval Holder (***Revocation Notice***).

PART 3 ENVIRONMENTAL REPORTING

CLAUSE 9 ANNUAL ENVIRONMENTAL REPORTING

Annual Environmental Management Report (AEMR)

- (1) For the purposes of clause 4 (Annual Reporting) of Schedule 5 of the Project Approval, HWC and the Office of Water are “relevant agencies” to which a copy of the AEMR must be submitted.
- (2) If HWC or the Office of Water considers that the AEMR does not adequately address the matters specified in condition 4(a)-(h) of Schedule 5 to the Project Approval, HWC or the Office of Water may require the Approval Holder to submit a supplementary report addressing the matters notified to the Approval Holder.

Additional Reporting

- (3) On the date on which the AEMR is submitted in accordance with subclause (1), the Approval Holder must also submit the following to HWC and the Office of Water:
 - (a) an electronic copy of the monitoring results for groundwater levels and quality during the past year collected in accordance with the Soil and Water Management Plan, and
 - (b) a written report (*Operations Report*) addressing whether the Approval Holder has achieved compliance with:
 - (i) the requirements for the method of Extractive Operations in clause 3 of the Schedule;
 - (ii) the Operations Management Procedure;
 - (iii) the Hydrocarbon Spill Procedure; and
 - (iv) the requirement for the progressive replacement of topsoil provided in clause 6(3) of the Schedule.
- (4) The Operations Report must:
 - (a) identify any non-compliance during the previous year; and
 - (b) identify what actions were, or are being, taken to ensure compliance.
- (5) If HWC or the Office of Water considers that the Operations Report does not adequately address the matters specified in subclause (3)(b)(i)-(iv) or subclause (4), HWC or the Office of Water may require the Approval Holder to submit a supplementary report addressing the matters notified to the Approval Holder.

Annual inspection

- (6) Within 3 months of the date on which the AEMR is submitted to HWC and the Office of Water, the Approval Holder must arrange an annual inspection of the Extraction Area to be attended by HWC and the Office of Water.
- (7) The Director General may direct that the Approval Holder notify other relevant agencies, including but not limited to Port Stephens Council, of the date and time of the inspection and be given the opportunity to attend. Such notice is to be provided by the Approval Holder to those agencies at least 14 days prior to the scheduled inspection date.
- (8) The Approval Holder must not arrange an annual inspection within four weeks of the date on which the AEMR is submitted to HWC and the Office of Water.

CLAUSE 10 INDEPENDENT ENVIRONMENTAL AUDITS

For the purpose of clause 6 (Independent Environmental Audit) of Schedule 5 of the Project Approval, HWC and the Office of Water are “relevant agencies” to which a copy of the audit report and the response to any of the recommendations in the audit report must be submitted.

PART 4 OBLIGATIONS AND RIGHTS

CLAUSE 11 APPROVAL HOLDER'S RIGHTS AND OBLIGATIONS

Notification of breach

- (1) Within 3 days of becoming aware of any act by the Approval Holder that, in the opinion of the Approval Holder, may be in breach of the terms and conditions of this Approval, the Approval Holder must notify HWC and the Office of Water of the breach.

Investigation of performance under Approval

- (2) The Director General may require an investigation of the performance of any of the Approval Holder's obligations under this Approval during the conduct of the Extractive Operations and following the cessation of the Extractive Operations.

Obligations at the cessation of the Extractive Industry

- (3) Within 12 months prior to the expiry of this Approval, the Approval Holder must commission and pay the full cost of an Independent Environmental Audit of the Extractive Operations.
- (4) The Independent Environmental Audit referred to in subclause (3) must:
 - (a) be conducted by a suitably qualified, experienced, and independent team of experts whose appointment has been approved by the Director General;
 - (b) assess the environmental performance of the Extractive Operations, and its effects on the surrounding environment;
 - (c) assess whether the Approval Holder has achieved compliance with the terms and conditions of this Approval and the Environmental Management Plans; and,
 - (d) assess the Land in terms of the completion criteria and criteria for quarry closure.
- (5) The Independent Environmental Audit referred to in subclause (3) may include recommendations as to works that could be performed or additional obligations that could be imposed in order to rectify any of the matters assessed in subclause (4).
- (6) Within 1 month of the completion of the Independent Environmental Audit referred to in subclause (3), the Approval Holder must submit a copy of the audit report to the Director General and HWC, with a response to any of the recommendations in the audit report.
- (7) If the Approval Holder performs further work or satisfies additional obligations based on the recommendations made in the Independent Environmental Audit, the Approval Holder may cause a further Independent Environmental Audit to be carried out in relation to those further works or obligations (***Supplementary Independent Environmental Audit***).
- (8) Within 1 month of the completion of the Supplementary Independent Environmental Audit referred to in subclause (7), the Approval Holder must submit a copy of the audit report to the Director General and HWC.

Note. The results of the Independent Environmental Audit and, where relevant, the Supplementary Independent Environmental Audit, may be a relevant consideration when the Director General assesses applications for further approvals or amendments to an approval.

CLAUSE 12 OPERATION OF HWC

Interference with HWC functions

- (1) Nothing in this Approval allows the Approval Holder to interfere with or prevent HWC from performing its statutory functions in relation to the North Stockton Catchment Area.

HWC access and infrastructure

- (2) In carrying out Extractive Operations the Approval Holder must not, unless with written consent of HWC:
 - (a) damage or interfere with any improvements, monitoring bores, water supply infrastructure or portable operating assets of HWC situated in the Land;
 - (b) limit or impede HWC's access to any improvements, monitoring bores, water supply infrastructure or portable operating assets of HWC situated in the Land; or
 - (c) limit or impede the manner or timing of HWC in the performance of its statutory functions including installation and operation of any new improvements, monitoring bores, water supply infrastructure or portable operating assets of HWC within the North Stockton Catchment Area.

APPENDIX 1 EXTRACTION AREA

Note. The figures in this Appendix show the Extraction Area, depicted as “Extraction Zone Lot 218” and “Extraction Zone Lot 220”.

Figure 1 Extraction Zone Lot 218

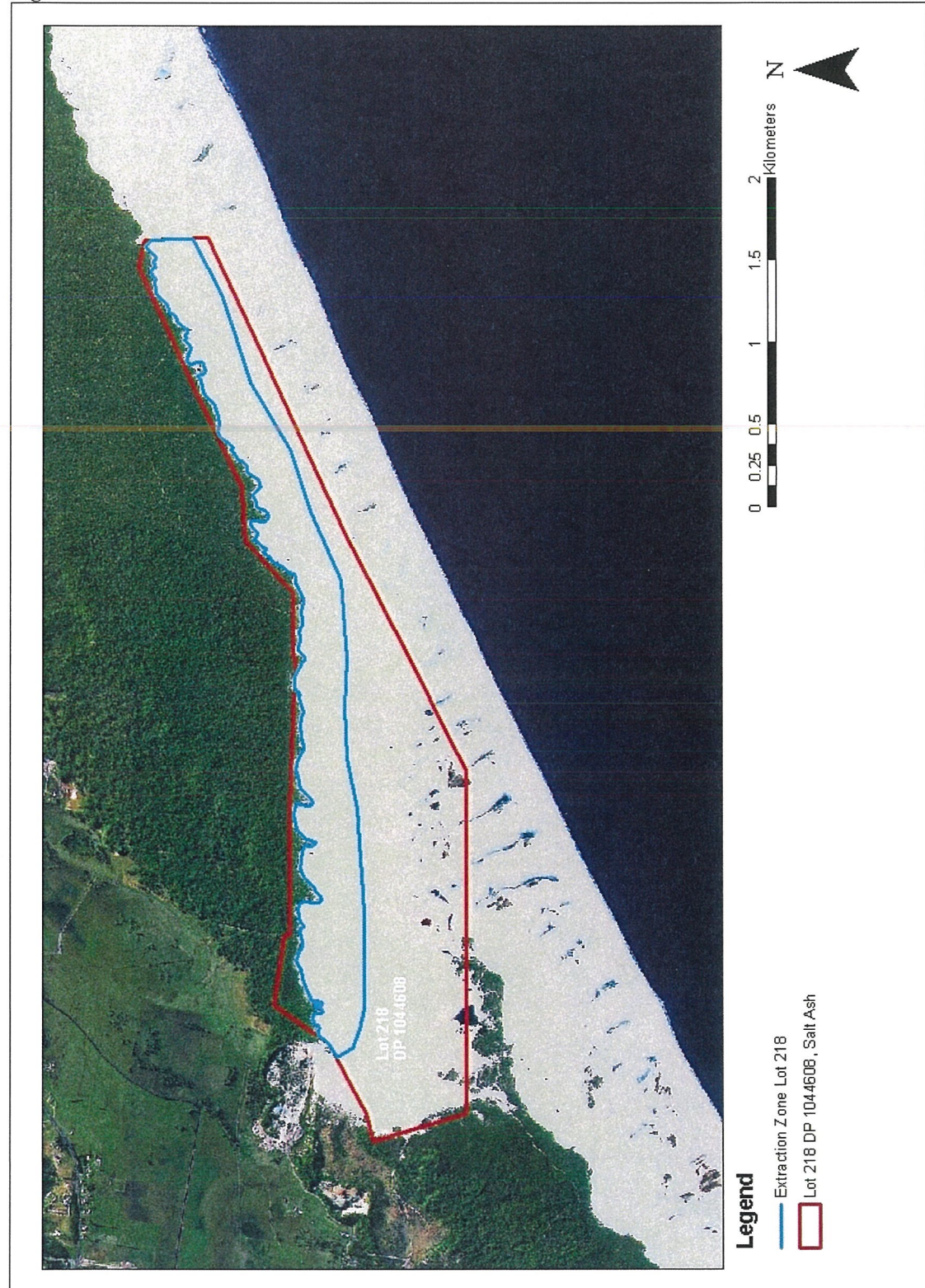
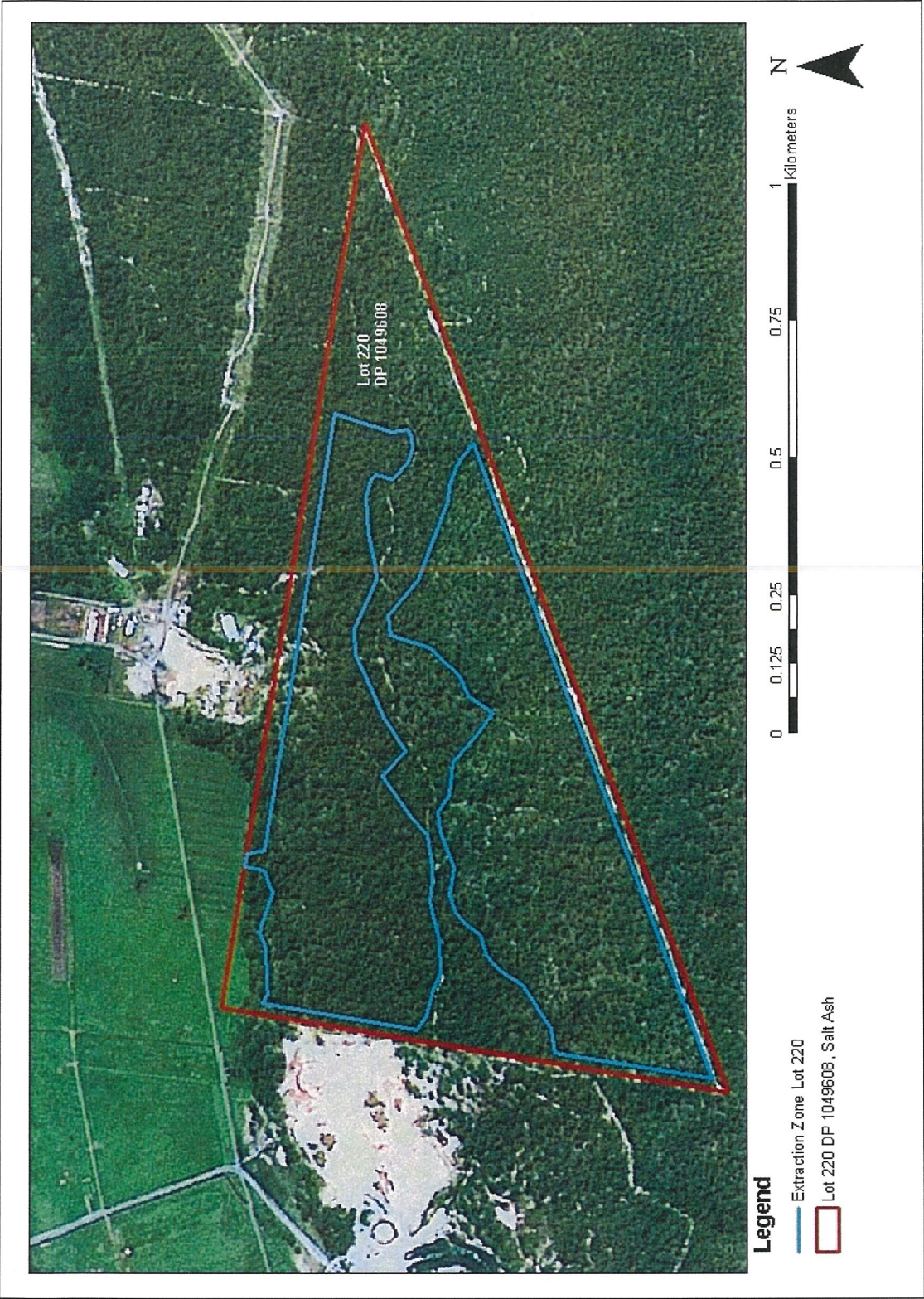


Figure 2 Extraction Zone Lot 220



APPENDIX 2 CONTACT DETAILS

- (1) For the purpose of notifying the Director General and the Office of Water under this Approval, the contact details are:
The NSW Office of Water
Attn: Manager Major Projects, Mines and Assessment
PO Box 2213
DANGAR NSW 2309
- (2) For the purpose of notifying the, HWC under this Approval, the contact details are:
Hunter Water Corporation
Attn: Manager Water Resources
PO Box 5171
HRMC NSW 2310
- (3) The contact details in (1) and (2) may be amended from time to time by notice in writing to the Approval Holder.