

<b>JRPP No:</b>	2011NTH004
<b>Application Number:</b>	DA 2011-34
<b>Proposed Development:</b>	Establishment and Operation of an Extractive Industry in stages with maximum extraction of 47,000m <sup>3</sup> per annum
<b>Applicants Name:</b>	RJ and K Graham
<b>Report Author:</b>	John Hession, Director Planning and Environmental Services, Kyogle Council

## **Assessment Report and Recommendation**

### **1 Summary/Purpose**

The aim of this report is to provide a sound and unbiased planning assessment of a development application for an Integrated Development, Designated Development and Major Project which has been lodged with Kyogle Council for submission to and determination by the Northern Region Joint Regional Planning Panel.

### **2 Background Information**

On 5 October, 2010 a development application for a Designated Development /Integrated Development for the Establishment and Operation of an Extractive Industry was lodged with Kyogle Council. Details of the development application are outlined as follows:-

<b>Application Number:</b>	DA 2011-34
<b>Proposed Development:</b>	Establishment and Operation of an Extractive Industry in stages with maximum extraction of 47,000m <sup>3</sup> per annum
<b>Owners Name:</b>	PA and RD Carlill
<b>Applicants Name:</b>	RJ and K Graham
<b>Lodgment Date:</b>	October 5, 2010
<b>Statutory Days:</b>	60 days
<b>Subject Land:</b>	Lot 12 DP582916 and Lot 1 DP366036
<b>Property Address:</b>	904 Edenville Road, Cedar Point
<b>Zone:</b>	Non Urban 1A
<b>Locality:</b>	Cedar Point
<b>Zoning Requirements:</b>	Permissible with Consent
<b>Report Author:</b>	John Hession, Director Planning and Environmental Services, Kyogle Council

Upon lodgement of the development application, all Councillors were notified and an invitation was forwarded by the applicant and land owners to the elected representatives to inspect the site and discuss the proposal. This inspection was undertaken on 22 November, 2010.

### 3 Previous Council Consideration

In 1996 Kyogle Council commissioned the preparation of a draft Environmental Impact Statement to support a development application for an extractive industry on the subject site. The development application was subsequently withdrawn by Council due to the cost associated with the upgrading of the Edenville Road (Cedar Point) Bridge over the Richmond River.

At the Ordinary Meeting of Council held on 28 February, 2011 Council, in considering the minutes of the Planning and Environment Committee Meeting held on 7 February, 2011 resolved as follows in relation to DA 2011-34:-

*That Council request the Joint Regional Planning Panel give opportunity for the owners to be in attendance at any site inspection if that is in keeping with the Joint Regional Planning Panel Code of Conduct and standard procedures.*

### 4 Assessment Report

#### 4.1 Overview of the subject site

The subject site contains an area of approximately 90 hectares, of which 11 hectares is proposed for the designated purpose of Extractive Industry – Basalt Quarry in four (4) separate cells established in three (3) stages of production. The extractive industry is proposed to be undertaken on a landform elevated 65 metres above the surrounding area.

#### 4.2 Overview of the proposed development

The proposed extractive industry seeks to procure up to 4 million tonnes of basalt material at an extraction rate of 47,000 cubic metres per annum when at peak production. Blasting will be required to win the material. It has been proposed that the quarry will be developed in three (3) stages comprising four (4) cells and the following staged works;

Stage 1:

- *Construction of the access from the entrance gate at Edenville Road to the quarry work area (initially the access is to be stabilised).*
- *Construction of the entrance and other works required to connect the quarry access track the local road network.*
- *The installation of:*
  - *barrier fencing to Cell 1 to make secure the quarry work area, with respect to health and safety, and control of cattle;*
  - *diversion drains above the work area to redirect clean stormwater around the works cell and a rock rip rap at end of drain to prevent erosion;*
  - *a sediment pond at the lowest point of the quarry (the sediment pond location is dependent upon cell height, work area etc);*
  - *sump ponds for reuse of water and to hold stormwater when sediment pond requires to be dewatered;*
  - *a sediment pond adjacent to the entrance for the collection of stormwater from the haul road;*
  - *a shake down grid on the haul road entrance.*

- *Overburden to be stripped and stockpiled to form visual and noise amelioration barriers and for rehabilitation at the end of the Stage 1 life cycle. Sediment fencing will be installed around overburden stock piles which will be seeded and fertilised to promote grass growth and reduce erosion.*
- *Installation and reinstatement of sediment ponds as the quarry pit deepens.*
- *The pit shall be drilled and blasted in the location nominated, after earth barriers are in place.*
- *Cell 1 shall be developed to RL 90 m AHD (about 20 m depth) as a pit style quarry, maintaining edges for visual and noise amelioration purposes.*
- *Installation of mobile site amenities sheds and first aid room for site workers.*
- *Preparation of an area for the installation of a mobile crusher and screen.*

Stages 2 and 3 works are proposed to occur progressively as per the above.

### **4.3 Agency Referrals**

In accordance with the provisions of Section 79A of the *Environmental Planning and Assessment Act 1979* (EP&A Act), details of the development application were publicly exhibited on Saturday 9 October, 2010 and adjoining and surrounding property owners were notified of receipt of the development application from 8 October, 2010.

Due to the category of the proposed development being Integrated and Designated Development and the oversight of the following additional provisions being omitted from the initial advertisement, the development application was re-advertised in accordance with the provisions of Section 79A of the *EP&A Act* to include the approvals required under the provisions of the *Roads Act 1993* from the Roads and Traffic Authority, *Water Management Act 2000* from the Office of Water, and the *Protection of the Environment Operations Act 1997* from the Department of Environment, Climate Change and Water. Details of the development application were again publicly exhibited on 27 October, 2010 and adjoining and surrounding property owners were notified on 26 October, 2010 of the extended period of advertising and date for the lodgement of submissions.

Council referred the content of the development application to the Department of Planning, Department of Environment, Climate Change and Water, Industry and Investment and the Roads and Traffic Authority. Responses were received from each of the above Departments and these are summarised below.

The Department of Planning referral was returned stating that it is not an Integrated Approval Authority.

The Department of Environment, Climate Change and Water responded on 25 October, 2010 stating that it had determined that it is able to issue a licence for the proposal, subject to a number of conditions. It also raised particular environmental issues for Council's consideration in its overall assessment of the application. The issues nominated were:

- that the more stringent intrusiveness criterion for noise and blasting operations determined in the Noise Impact Assessment is to apply to the project;
- that measures for stormwater and sediment management will need to specifically identify each point that discharges to the environment from the various sumps and ponds on the quarry premise; and
- that the proponent has identified 2 licensed groundwater bores on neighbouring private properties within approximately 1 kilometre of the proposed quarry operation. Ongoing monitoring of these bores should be considered in order to assess any impacts on the bores from the quarry operations.

Industry and Investment response of November 9, 2010 stated that it does not have a statutory role in the authorising or regulating basalt, due to the product not being prescribed under the *Mining Act 1992*. The Department has no objections to the proposal, but recommends an appropriate sub-surface assessment of geology and material properties be undertaken prior to commencement of any quarrying operations. The Fisheries component recommended that ongoing protection of the wetland at the south-western end of the property be undertaken in accordance with Industry and Investment Policy for protection of key fish habitats.

The Roads and Traffic Authority advised in its reply of November 1, 2010 that the development was not integrated as Council was both the Road authority under the *Roads Act 1993* and the determining authority under the *EP&A Act*; however they still provided a number of comments for the consideration of Council. These included improvements to the intersection of the Summerland Way and Edenville Road, upgrading of Edenville Road and Omagh Road to Council's standards, and that contributions should be made towards the maintenance of the local road network based on heavy haulage rates.

#### 4.4 Submissions Received

The closing date for the receipt of submissions was 29 November, 2010. During the advertising period Council received a total of 85 submissions, itemised as follows:-

- Objections - Total 35, including one petition containing 177 signatures;
- Supporting - Total 50 separate submissions.

##### 4.4.1 Objections Raised to Proposal

The content and grounds for **objection** raised in these submissions are addressed as follows:-

1. ***All roads in all directions should be upgraded and sealed. Currently the roads are sub-standard and subject to the occurrence of accidents and there are safety concerns for school buses using the same roads as haulage traffic.***

#### COUNCIL COMMENT

A number of objections relating to roadworks have interpreted that all local roads, i.e. Omagh Road to the north and Edenville Road to the south will be affected by

haulage traffic. These roads are not proposed to be included as haulage roads. The haulage route is to provide access to the Summerland Way at the closest possible location, i.e. via Edenville Road to the north-east, and this would be regulated by the imposition of a suitable condition. There will be provision to allow local deliveries to Edenville Road and Omagh Road, but it is proposed to limit these to specified addresses by imposition of a suitable condition. However, where there are problems with safety in terms of sight distance and movement of all traffic along the haulage route, upgrading of these areas will be required by the imposition of suitable conditions to address these issues.

**2. *The condition and load limit of the Cedar Point Bridge is inadequate for haulage traffic.***

**COUNCIL COMMENT**

The Cedar Point Bridge located on Edenville Road is currently subject to a 20 tonne weight limit. This weight limit is imposed on the basis of the original design and construction of the bridge not allowing compliance with current bridge design guidelines, not due to deterioration of any components of the bridge or the bridge being in "poor condition". A structural engineering assessment was undertaken on the bridge in 2001, and the design limitations were identified and detailed in this report. The report recommended a maximum load limit of 20 tonnes for a rigid truck. Any approval to conduct haulage of materials over the bridge will be subject to this limit.

**3. *Is the surrounding area zoned rural residential or industrial?***

**COUNCIL COMMENT**

The subject site and surrounding area are zoned Non Urban 1A, a zone in which the proposed use – Extractive Industry, is a land use which can be undertaken with consent approval.

**4. *The proposal will impact on the biodiversity of the area. Four Endangered species are located in the area, for which impacts of the land use have not been assessed. A seven part test is therefore required to be undertaken. There also may be koala habitat, for which a thorough assessment has not been submitted. The removal of 240 trees from the site will cause subsequent erosion and will impact on avian, arboreal and ground dwelling life forms.***

**COUNCIL COMMENT**

Appendix C to the Environmental Impact Statement includes a Flora and Fauna Assessment by LandPartners. That assessment found three (3) feed tree species contained in schedule 2 of *State Environmental Planning Policy No 44-Koala Habitat Protection* on the land, but noted that the density of these species never exceeded 15% of the tree canopy in any given vegetation community. Accordingly there is no core koala habitat on the land.

Appendix C of the Flora and Fauna Assessment includes an assessment of the impact of the quarry on threatened species, populations and Endangered Ecological Communities. The assessment concluded "that the proposed quarry will not result in any significant impacts to any threatened species, populations or EECs."

Conditions may be imposed regarding the provision of offset plantings and screening plantings which could establish a net biodiversity benefit over the lifecycle of the quarry. The development will also be subject to approval under the *Native Vegetation Act 2003* which may similarly seek to impose an offset scheme.

The potential for site erosion through the removal of vegetation can be managed by implementing and maintaining sedimentation controls until the site is stabilised.

- 5. *The proposed hours of operation are excessive and there should be no operation of the proposal on weekends.***

#### **COUNCIL COMMENT**

The proposed hours of operation are consistent with other extractive industries being conducted throughout the Kyogle Local Government Area.

- 6. *There are more suitable alternative extractive industries being operated in the Region.***

#### **COUNCIL COMMENT**

The subject site has been identified in the Far North Coast Regional Strategy as a Regionally Significant Extractive Resource. The basalt product available at the site is of extremely high quality and the quantity is also extensive. It is geographically close to markets and there is no other recognised resource of this quality or magnitude in the Local Government Area.

- 7. *A number of health issues will be affected by the land use, including impacts of dust and pollution of drinking water for humans and on water and pasture for cattle production.***

#### **COUNCIL COMMENT**

It is usual for any approval of this form of land use to impose conditions on the mitigation and suppression of dust by means of watering those areas in which haulage, crushing or other movement and machinery causes a dust emission. This element would also be required to be addressed in an ongoing Plan of Management for the site.

- 8. *The use of diesel for plant and haulage traffic will cause particulate emissions, which when combined with dust particulates could cause problems to those with allergies.***

#### **COUNCIL COMMENT**

The objection is speculative, particularly in comparison to a similar situation such as the conduct of a major extractive industry at Clovass in the adjoining Richmond Valley LGA (which is not known to generate such problems), or in any developed settlement where residents are exposed to more intensive levels of emissions. Vehicle emissions are controlled by legislation, and the number of movements generated by the development and the open area through which they traverse is not envisioned to generate smog and associated health issues.

- 9. *The noise impacts from crushing, construction, blasting and production in addition to haulage traffic movement will impact on surrounding properties.***

#### **COUNCIL COMMENT**

From an assessment of the Environmental Impact Statement, in particular the Noise Impact Assessment (Appendix E), there may be a need for a greater level of mitigation to be implemented in respect to one or more of the nearby receptors. This aspect will be addressed in the form of further consultation and investigation to be undertaken by the applicant.

- 10. *The environment and ecosystems such as the wetland in the northern part of the site is in danger due to the impacts of dust, runoff from cleared areas and removal of vegetation.***

#### **COUNCIL COMMENT**

As stated in Appendix C of the EIS, a Construction Environment Management Plan will be prepared in order to provide and implement erosion and sediment controls in order to minimise impacts from dust and other elements on wetlands and other surfaces.

Appendix C of the Flora and Fauna Assessment includes an assessment of the impact of the quarry on threatened species, populations and Endangered Ecological Communities. The assessment concludes "that the proposed quarry will not result in any significant impacts to any threatened species, populations or EECs."

- 11. *The visual amenity of the surrounding area will be affected due to scarring of the landscape.***

#### **COUNCIL COMMENT**

The topographical relief and contouring of the subject site, in particular the level at which the extraction is proposed, the planned provision of landscape buffering around each of the extraction cells, including that which has already been implemented will ensure that any visual opportunity to ascertain the scarring and excavations on the site from adjoining properties or roads will be predominantly limited or eliminated.

- 12. *The water quality of the Richmond River and other watercourses, downstream drinking and stock water will be impacted on by the proposal due to dust and stormwater runoff from the site.***

#### **COUNCIL COMMENT**

The proposal includes the implementation of mounding and directional flows of runoff into sedimentation ponds in order to prevent the runoff of any contaminated water from the site and onto downstream watercourses or surrounding properties. The development site is significantly displaced from water courses to permit the detention and treatment of stormwater on-site. In addition, groundwater monitoring will be a mandatory requirement of operational activity.

- 13. *The proposed scale of the operation is over and above what is required, i.e. local use only.***

### **COUNCIL COMMENT**

The proposal is in accordance with the established evidence of the level of resources available on site, including the designation by the State Government of the subject site as a Regionally Significant Extractive Resource in the Far North Coast Regional Strategy. The site is capable of providing sufficient quality and quantity of resource materials for the whole of the Northern Rivers Region and should not be locally constrained in this context.

**14. *The Environmental Impact Statement is flawed as it is based on foreign studies of little relevance and contains outdated reports and information. There are anomalies with the projected number of traffic movements and the EIS is not sufficiently specific in order to be able to analyse much of the assessment in terms of issues such as:-***

- *effects and impact of noise;*
- *effect of noise generated by vehicles moving within the quarry;*
- *water management and stormwater runoff;*
- *effect of groundwater upon bores in the vicinity;*
- *lack of objectivity in the archaeological report and the geological report prepared for Kyogle Council.*

### **COUNCIL COMMENT**

The objection has merit and this aspect needed to be addressed in the form of further consultation and investigation / preparation and submission of additional details to be undertaken by the applicant.

**15. *The heritage values of the bridge must be considered. It is near the end of its economic if not structural life. A new bridge is the only feasible long term solution to provide for the proposed haulage of extracted materials.***

### **COUNCIL COMMENT**

As discussed earlier, the Cedar Point Bridge located on Edenville Road is currently subject to a 20 tonne weight limit. This weight limit is imposed on the basis of the original design and construction of the bridge not allowing compliance with current bridge design guidelines, not due to deterioration of any components of the bridge or the bridge being in “poor condition” or the “end of its structural life”. A structural engineering assessment was undertaken on the bridge in 2001, and the design limitations were identified and detailed in this report. The report recommended a maximum load limit of 20 tonnes for a rigid truck. Any approval to conduct haulage of materials over the bridge will be subject to this limit.

There is some merit in the discussion of the economic life of the bridge, and it is anticipated that the traffic generated by the quarry at full proposed production rate would cause the design limitations of the bridge to lead to possible delays and a reduction in the remaining life of the structure. It is proposed that the production rate be limited to 23,500 m<sup>3</sup> per annum until such time as a two lane bridge without load weight restrictions is constructed to replace the existing Edenville Road (Cedar Point) Bridge, or the existing bridge is upgraded such that Council determines that the load weight restrictions are no longer required.



Kyogle Council has undertaken two (2) heritage studies of the LGA since 1996. Each study recognised various bridges as having heritage value based on assessment criteria including creative or technical achievement and uncommon or rare aspects of cultural history. The subject bridge was not recognised by either study, nor nominated by the community at any point prior to the exhibition of this development. The bridge is not considered by Council to meet the respective criteria for listing as a local or State significant item.

***16. Land and property valuations for surrounding properties will be impacted and reduced due to the proposed change in land use for the subject site.***

**COUNCIL COMMENT**

This objection is speculative, unsubstantiated and highly temporal in nature. The subject site is currently used for pasture improvement and cattle production, both of which are proposed to be continued. It is considered that the land uses currently conducted on surrounding properties will also be able to be continued and that no major changes in land values should occur.

***17. The proposed use is at odds with Kyogle Council Development Control Plan No. 2, whereby the protection of visual amenity will not be possible and that land uses in the rural area are to be in harmony with the environment.***

**COUNCIL COMMENT**

As previously stated, it is not considered that the proposal will impact on visual amenity due to the topography and elevated location of the land use as proposed. As with the conduct of any extractive industry, conditions and a Plan of Management would be imposed in order to eliminate or minimise any detrimental impacts on the surrounding environment.

***18. The Draft Kyogle LEP states that land identified in this or any other environmental planning instrument as being high aboriginal cultural significance or high biodiversity significance must be considered by Council in its determination of this type of application.***

**COUNCIL COMMENT**

Matters of high biodiversity significance have been addressed under Appendix C to the Statement of Environmental Effects. This report has been reviewed and, where considered inadequate in ameliorative measures, has been amended by proposed conditions.

The 1:1 ratio for biodiversity offsets described in the Flora and Fauna Assessment is considered inadequate. Mature Swamp Box, Broad-leaved Apple and Pink Bloodwood vegetation loosely analogous with Forest Ecosystem 73 is proposed to be offset with tube or root stock predominately situated on a north-facing slope characterised by the alternative Forest Ecosystem 122. The same type of open woodland vegetation to be cleared is actually represented on the floodplain in the north east of the site. It is on this floodplain that the offsets should be made (The Office of Environment and Heritage states that "Wherever possible, offsets should be located in areas that have the same or similar ecological characteristics as the area affected by the development"). Further, where Swamp Box and Broad-leaved Apple

occur on the floodplain they are characteristic of the EEC "Subtropical coastal floodplain forest of the NSW North Coast bioregion." By targeting an EEC the offsets may meet a requirement for betterment.

Indigenous heritage matters were considered in the Environmental Impact Statement Clause 6.2 of Huw Barton's *Archaeological Survey of two proposed quarry sites near Kyogle in Northern NSW* states that "Aspects of cultural significance include assessment of, and the relationship of people with sites, items, and landscapes ... This aspect of significance will be addressed in a separate letter report written by a representative of the Gugin Gudduba Land Council." Such a report does not accompany the Development Application, however the Local Aboriginal Land Council was contacted by Council and members of Gugin Guddaba arranged to inspect the site.

Huw Barton's *Archaeological Survey of two proposed quarry sites near Kyogle in Northern NSW* states that the two scarred trees on the land are of "moderate archaeological significance." Under clause 7.1(ii) a range of options should be considered for such sites, of which buffers are recommended. Buffers are accordingly conditioned to be implemented around the existing scar trees to maintain not only the heritage significance of the items, but also their setting.

- 19. *The upgrading of roads fronting the subject property will cause landslip between Edenville Road and the hill on the site and also between Omagh Road and the Richmond River.***

#### **COUNCIL COMMENT**

The objection is not substantiated and such considerations can be assessed in the design and construction of any future road widening.

- 20. *The tests associated with the blasting which was undertaken on site in 1995/6 are obsolete.***

#### **COUNCIL COMMENT**

The testing and results undertaken at that time add substance to the modelling comprising the Environmental Impact Statement. Most development applications are not privy to such data which provides a more comprehensive and are far more valuable assessment of the current development application than not having any knowledge of the likely impacts of blasting the resource on site for procurement.

- 21. *There will be impacts on groundwater from the vibration of the operation and seepages flowing south into Ellems Road Valley and spring fed dams.***

#### **COUNCIL COMMENT**

Council has specifically requested the Office of Water to assess and advise on all issues relevant under the provisions of the *Water Management Act 2000*. Test wells and ongoing monitoring of groundwater will be mandatory.

- 22. *The procedures in the receipt of notification to surrounding landholders on 5 October, 2010 to 28 October, 2010 is failure to adhere to reasonable standards of performance and due diligence.***

### **COUNCIL COMMENT**

As stated earlier in this report, upon a review of the latest provisions in the Act which relate to Designated and Integrated Developments it was established that there is a requirement to include and stipulate the additional approvals required and the relevant bodies for those approvals in respect of the proposed development. As a consequence details of the development application were again advertised on 23 October, 2010 incorporating the additional approvals required under the *Roads Act 1993* from the Roads and Traffic Authority, *Water Management Act 2000* from the Office of Water, and the *Protection of the Environment Operations Act 1997*, Scheduled Activity approval from the Department of Environment, Climate Change and Water. This gave further opportunity to the public, including surrounding landholders, to review the details of the development application and to make submissions up to the closing date of receipt of submissions being 29 November, 2010.

### **23. *The proposed development will disrupt lifestyle, increase local traffic and its conduct will affect quality of life.***

### **COUNCIL COMMENT**

Whilst the objection is of a general type, it is of particular pertinence to those properties which are located within a 1000 metre buffer from the areas of proposed extraction. This aspect was to be addressed in the form of further consultation and investigation to be undertaken by the applicant, particularly with regard to the premises in this proximity.

### **24. *The movement of haulage traffic on the southern end of Edenville Road will be incompatible with moving of dairy cattle along this part of the road***

### **COUNCIL COMMENT**

This objection assumes that Edenville Road to the south, through Richmond Valley LGA, will be an approved haulage route. This will not be the case.

### **25. *The movement of haulage traffic will interfere with the movement of school buses and Ettrock residents.***

### **COUNCIL COMMENT**

The current standard of the haulage road does not meet Councils minimum requirement for a two lane road (i.e. 6m seal) and passing of heavy vehicles and buses would present some risk in its present state. As such, it is proposed to require the upgrade of the haulage route back to the Summerland Way to provide the minimum required width. Submissions in favour of the proposed development were received by Council, with one such submission from a local bus operator stating that due to the capability of communications on two way radio between the buses and trucks, any disruption to movement of this traffic will be minimised.

#### 4.4.2 Submissions in Support of Proposal

The content and points raised in **support** of the application are outlined below. There has been no additional comments or clarifications provided by Council, and these points are simply listed for information.

1. The site contains a high quality resource which will have enormous benefit for the local community and Kyogle Council.
2. The proposed quarry will provide additional employment in the locality.
3. There is currently no quarry in the Kyogle LGA with hard rock aggregate of this quality.
4. The development will facilitate a reduction in freight costs to Council which will also result in savings to ratepayers, and local building and construction businesses.
5. The development will provide long term employment and flow-on to the community.
6. The longevity of the resource will provide a sound investment for the Town of Kyogle.
7. The development will assist in improving major road intersections and routes.
8. The development will provide improvements to bus routes in the area.
9. The site represents an excellent location for the conduct of the proposed quarry.
10. The development will be of major benefit to the whole of the Northern Rivers Region.
11. The proposal represents good management of the operation and also the surrounding environment.
12. The proposal will result in significantly reduced road haulage.
13. The proposal will ensure the availability of a good product locally.
14. The proposal represents an investment in the area's future.
15. The development will ensure that significant scar trees will be preserved.
16. The planting of screen trees on buffers has commenced.
17. The recording of previous drilling on the site has substantiated the proposal.

#### 4.4.3 Summary of Submissions

Councils Development Management Panel reviewed the submissions received and determined that a request for additional information and clarification of information provided was required for proper assessment of the proposal.

#### 4.5 Request for additional Information

On 11 February, 2011 Council wrote to the applicant requesting that the applicant to address the following issues:

*Development Management Panel has determined that you be requested to provide additional information relating to a number of anomalies within elements of the Environmental Impact Statement lodged with the submission and also to consult with the three adjoining landholders who are located within the 1000 metre buffer of the subject site, in accordance with the Director General's (Department of Planning) requirements as stated in correspondence dated 23 November, 2009 addressed to Balance Systems.*

*A copy of each of the submissions made by the above landholders is provided for your review, action and response. In addition copies of submissions made by the Roads and Traffic Authority, Department of Environment, Climate Change and Water and NSW Industry and Investment are attached for your review and action.*

- *effects and impact of noise;*
- *effect of noise generated by vehicles moving within the quarry;*
- *water management and stormwater runoff;*
- *effect of groundwater upon bores in the vicinity;*
- *lack of objectivity in the archaeological report and the geological report prepared for Kyogle Council.*

*It is noted that further information regarding the transport of sand to the subject site for mixing with materials extracted on site is required to be submitted, including the source/s of the sand, quantities proposed, placement of stockpile and methods and machinery to be utilised in the mixing process. Similarly the intention to transport concrete panels or slabs to the site and the means of crushing and recycling and other processes proposed to be utilised in this element of the development are to be submitted to Council.*

The applicant's Consultant then advised that further formal consultation with the three property owners located within the 1000 metre buffer has been arranged to be conducted on 14 March, 2011 following which any outstanding matters will be assessed and incorporated into a report to be provided to Kyogle Council, which was expected to be submitted by end March, 2011.

On 31 March, the applicant submitted an Addendum Report addressing the elements requested as above. The addendum report was forwarded to the Joint Regional Planning Panel on 6 April, 2011 and was advertised for public review on 9 April, 2011 with the closing date being 12 May, 2011. Note that upon an approach by residents adjoining the subject site requesting an extension of time within which to prepare

their submissions and independent Consultant reports, an extension of two weeks up to close of business 26 May, 2011 was granted by Council with the concurrence of the Joint Regional Planning Panel.

#### **4.6 Addendum Report Assessment**

The main focus of the Addendum Report was the direct consultation with the three property owners located within the 1000 metre buffer of the proposed extraction area. These are referred to in the original noise assessment report as Receptors 2 through 4, with Receptor 1 being the residence of the owners of the proposed quarry site. The relevant properties as described as follows;

- Receptor 1 – 882 Edenville Road, Cedar Point – Lot 2 DP 232453 (Owners Mr PA & Mrs RD Carlill, same owner as proposed quarry site)
- Receptor 2 – 794 Edenville Road, Cedar Point – Lot 1 DP 559560 (Owners Mr SW & Mrs TA Lynch)
- Receptor 3 – 732 Omagh Road, Cedar Point - Lot 13 Section B DP 5080 (Owners Mrs BJ & Mr WJ Canty)
- Receptor 4 – 800 Omagh Road - Lot 11 DP 582916 (Owners Mr JA & Mrs JJ Stuart).

Comments on the content within the Addendum Report submitted by the applicant are listed below, outlining the issues raised by landowners at Receptors 2, 3 and 4 followed by the summarised response of the applicant and then the Assessment Officer's comment :-

##### **1. Health issues relating to dust and pollutants**

###### **APPLICANTS RESPONSE**

- *Dust to be suppressed by means of a watering truck on the internal access road water being sourced from sedimentation basins;*
- *Planting of screens around the perimeter of the site to reduce airborne dust;*
- *Covers to be utilized on loaded trucks;*
- *Stockpiles of topsoil or overburden to be grassed in order to reduce the escape of dust;*
- *Control of trucks and machinery emitting diesel exhaust to comply with DECCW guidelines for emissions to be licensed, in comparison to farm machinery – which emits similar exhaust fumes, which have no requirement to be licensed;*
- *Quarry operator to be responsible for the control of this aspect.*

###### **COUNCIL COMMENT**

The content of the applicant's response is supported.

##### **2. Loss of amenity – view, air quality, noise, cultural heritage and traffic**

###### **APPLICANTS RESPONSE**

*Visual exposure of the operation will be limited due to the setback of quarry works from the edge of the plateau, existing and additional planting around the perimeter and along the slopes of the site;*

*The increase in traffic, regarding noise generated from truck movements, will be within the limits set by NSW EPA (1999) Guide to Traffic Noise, of not exceeding 2Db (A) above the existing noise level.*

*Although an assessment of the aboriginal significance of the site was undertaken in 1996, there has been no change to the site which would warrant further assessment.*

*The planned traffic movements to and from the site will be 83 truck movements and 4 employee movements, totalling 87 vehicles per day. Proposed upgrading of the road network includes a Type AUR Intersection at Summerland Way/Edenville Road, truck warning signs to be installed along the route, pavement to be widened between the existing bridge and Summerland Way to a minimum 8 metre carriageway with a 6 metre seal as will those sections of Omagh Road and Edenville Road which will cater for the haulage traffic.*

### **COUNCIL COMMENT**

Consultation was undertaken with the Guggin Guddaba Land Council at that time and also recently, where members of the Land Council walked the site with the property owner and Council Officers. The applicant has moved the area of extraction further to the north in order to retain and lessen the impact on documented scar trees. At a recent inspection undertaken on site on 24 May, 2011 by the Aboriginal Heritage Conservation Officer – Northern Region of the Office of Environment and Heritage, Department of Premier and Cabinet in association with members of the Guggin Guddaba Land Council. The outcome of the inspection was:-

- there are already two known registered Aboriginal sites situated on the subject land which are of cultural significance to Aboriginal people;
- a new recoding has been entered onto the Aboriginal Heritage Information System which outlines a further two scar trees on the site, which are also recommended to be retained and protected from impacts of any development.

Typically Council would impose a condition that “Should operations uncover evidence of Aboriginal heritage of the area, or the presence of any threatened, endangered or vulnerable flora and fauna, all work is to cease immediately and the National Parks and Wildlife Service and the Local Aboriginal Land Council are to be contacted. No work is to recommence until the National Parks and Wildlife Service permits such works to continue.” However, the indigenous heritage on the land is documented and its setting and significance need to be retained through the development.

Although mitigation of noise and visual amenity impacts are proposed which will significantly decrease the level of impact on nearby properties, there is a need to ensure that ongoing monitoring of the effectiveness of these measures is undertaken. The Department of Environment, Climate Change and Water has determined that it is able to issue a licence for the proposed quarry under the *Protection of the Environment and Operations Act 1997*. The draft conditions for such a licence were supplied to Council, and the limits for noise, blasting, ground vibration and water management are also proposed to be imposed as conditions on any consent issued under the *EP&A Act*. The requirement for a licence through the DECCW will also ensure that appropriate monitoring equipment is installed to measure noise levels and that regular testing of ground and surface waters is undertaken and reported to the DECCW each year.

However, it is still possible that some of these Receptors in close proximity will be impacted upon by the proposed quarry, and that the limits proposed by DECCW and Council may not be met. If this occurs and mitigation measures cannot be put in place to comply with the limits imposed, the only way the quarrying activities could continue would be if the affected receptors were removed. This could be done by either purchasing the receptors and retaining them in the same ownership as the quarry land and/or quarry operator, or by relocation of the affected dwelling/s. This is not something that is considered capable of being conditioned under the *EP&A Act*, but may be the only way to resolve potential impacts on these Receptors should the proposed mitigation measures fail to meet the required limits.

Receptor 2 could be impacted on due to the proximity of the residence to the quarry site. It is also considered that Receptor 4 will be impacted on by the haulage traffic in close proximity to the residence. It is considered that the means of resolving future conflict at these two Receptors will be achieved by imposing a greater separation buffer from Receptor 2 when blasting is to occur and the provision of a vegetative buffer along the internal access road between the road and Receptor 4. Whilst there is also future potential for Receptor 3 to be impacted on by the development, the quarrying operations are not likely to impact on this Receptor until later, i.e. until the excavation from proposed Cell 3 commences which will be some twenty years after Cells 1 and 2 are completed. It is important to acknowledge that this property also contains a portion of the extractive resource, and there is sufficient room within this property for consideration of moving the dwelling from its existing location to a more favourable location within the property should impacts not be within the limits set.

### **3. Decrease in land values on surrounding land**

#### **APPLICANTS RESPONSE**

*As the site has been considered for use as a quarry since 1996, it is not expected to affect property values.*

*The site has been identified in the Far North Coast Regional Strategy as a significant resource since 2006 and the Industries Standing Committee since 1998.*

*Dilapidation reports are to be undertaken on nearby sites within 6 months of the date of consent and prior to commencement of works with a second dilapidation report to be undertaken after work has commenced in the quarry. Should any damage be identified by the second survey as a consequence of quarry operations, the damage will be repaired or the respective property owner compensated by the quarry operators.*

#### **COUNCIL COMMENT**

This objection is speculative and not substantiated. The subject site is currently used for pasture improvement and cattle production, both of which are proposed to be continued. It is considered that, with the implementation of appropriate mitigation measures, the land uses currently conducted on surrounding properties will also be able to be continued and that no major changes in land values should occur. However, if the proposed mitigation measures fail to deliver the required limited impacts on the closest Receptors, there is potential for reduced property values if the quarrying operations continue without additional mitigation measures being put in place.



#### **4. Property within 500 metre buffer**

##### **APPLICANTS RESPONSE**

*A Land Use Conflict Risk Assessment of the 3 existing dwellings located within the 500 metre buffer and 4 within the 1000 metre buffer has been undertaken, indicating a low to medium level risk impact on these dwellings.*

*The vertical separation of the dwellings from the excavation site also assists in mitigating the level of impact of the development on the surrounding dwellings.*

##### **COUNCIL COMMENT**

Notwithstanding the applicant's response on this matter, Land use conflict is a significant issue raised by the proposed development. Even with the imposition of conditions of consent controlling noise emissions, there exists the capacity for conflict (e.g. fly rock, vibration, dilapidation monitoring and the potential for breaches of consent requirements). Recommended minimum buffers between rural dwelling houses and extractive industries are described in the Department of Primary Industries handbook *Living and Working in Rural Areas* as 1,000 metres. It is considered that, due to the distances of the existing surrounding dwellings to the proposed development, in particular those closer than 500 metres, there is potential for the proposed development to impact on those properties, particularly, as discussed above, if the proposed mitigation measures fail to deliver the required limited impacts on the closest Receptors.

#### **5. Noise and Blasting**

##### **APPLICANTS RESPONSE**

*The EIS states that blasting can occur from 3 and up to 5 times per year. The General Terms of Approval from DECCW Licensing requires a Blast Management Protocol to be prepared detailing the blasting procedure, addressing compliance, mitigation measures, remedial action, monitoring methods and programs, monitoring flyrock distribution, etc.*

*A number of submissions made included an independent report undertaken by a Consultant which outlined and alleged that there were some issues with the Noise Impact Assessment submitted by the applicant as part of the Environmental Impact Statement. In particular, the independent Consultant states that should a blast occur at a distance of 250 metres from a Receptor, a reading of 117 Db would result which would be 3 Db above the limit outlined by the Department of Environment, Climate Change and Water.*

##### **COUNCIL COMMENT**

From the Department of Primary Industries handbook *Living and Working in Rural Areas* and discussion with an adjoining Local Government in this region which contains a major operational quarry and includes blasting, it is deemed that a separation distance in excess of 500 metres should be maintained from the blasting site to adjoining residences where blasting is to be undertaken at or near the ground level. Although the test blast undertaken in 1996 functioned well with minimal impact on surrounding sites, there are a number of variables including weather, moisture content of the resource, wind direction and others which will either individually or collectively determine the level of impact of the blasting operation on nearby properties. It is considered that there is scope for the noise level from a blast to

exceed the limit of 115 dB if undertaken at a distance of 250 metres from a Receptor. A condition should therefore be imposed that whilst the nearby properties remain in the ownership of other parties, a minimum separation distance of 500 metres from the blasting site to any residence in alternate ownership be maintained where blasting is to be undertaken at or near the ground level.

## **6.      *Pollution of ground and surface water***

### **APPLICANTS RESPONSE**

*The pit style quarry will prevent stormwater runoff to the surrounding areas.*

*A surface water monitoring program will be established to determine baseline information of the existing water quality of the drainage lines near the proposed quarry site, quarterly monitoring of the drainage lines is proposed and as required when releasing water from the sump ponds on the site.*

*An Annual Environmental Management Report is required to be completed and made available to DECCW and Council.*

*Pumping from the Richmond River will not be permitted unless a separate licence is obtained from DECCW.*

### **COUNCIL COMMENT**

The content of the applicant's response is supported.

## **7.      *Environmental Ecosystems***

### **APPLICANTS RESPONSE**

*The Flora and Fauna assessment states that there will be a potential loss of 246 trees. Planting will be undertaken on a 1:1 basis for those trees which will be removed.*

*There was no evidence of koalas occurring on the site and no recordings have been undertaken since 1977 within a 5 kilometre radius of the site. One tree per 40 square metres of excavated area is to be planted which will result in a 10:1 outcome for the loss of each tree.*

### **COUNCIL COMMENT**

The content of the applicant's response is substantially supported, with the proposed offset area to be amended to coincide with the distribution of Swamp Box and Broad-leaved Apple on the floodplain. This is where the same or similar ecological characteristics as the area affected by the development exist on the land.

## **8.      *Loss of property values***

### **APPLICANTS RESPONSE**

*It is not expected that the establishment of a quarry will affect property values as the subject site has been identified as a potential quarry operation since at least 1996, when an EIS for the establishment of a quarry was prepared. It has also been identified in the Far North Coast Regional Strategy as a significant resource since 2006 and prior to that by the Industries Standing Committee since 1998.*

*A Dilapidation Report is to be undertaken within 6 months of the date of consent and prior to commencement of works. This report is to be undertaken by a suitably qualified structural engineer, architect or building surveyor for all*

*buildings within the primary and secondary buffers. A second Dilapidation Report is to be undertaken after works has commenced in the quarry and if damage is recorded as a result of quarrying operations, this damage will be repaired at the cost of the quarry operators who are to compensate the property owners.*

#### **COUNCIL COMMENT**

This objection is speculative and not substantiated. The subject site is currently used for pasture improvement and cattle production, both of which are proposed to be continued. It is considered that, with the implementation of appropriate mitigation measures, the land uses currently conducted on surrounding properties will also be able to be continued and that no major changes in land values should occur. However, if the proposed mitigation measures fail to deliver the required limited impacts on the closest Receptors, there is potential for reduced property values if the quarrying operations continue without additional mitigation measures being put in place.

#### **9. Community Consultation**

##### **APPLICANTS RESPONSE**

*Consultation was undertaken with State Government Departments, Local Council and Aboriginal Groups and it had always been the intention to undertake a form of consultation with the Council and local residents.*

#### **COUNCIL COMMENT**

The applicant was requested by the Director General to undertake additional consultation with residents in close proximity to the subject site on which the development is proposed. Following further consideration by the Council and discussion with the Joint Regional Planning Panel Chairman, further consultation with the community in accordance with this requirement was undertaken. The consultation requirements of the *EP&A Act* are considered to have been met.

#### **10. Lack of objectivity in archaeological report, geological report and other impact reports prepared by the author of the EIS**

##### **APPLICANTS RESPONSE**

*Issues such as the load limit of the bridge were raised and solutions sought throughout the process.*

*The archaeological and geological reports are based on the information found at the site. The Department of Mineral Resources requires a subsurface assessment of geology and material properties to be undertaken prior to commencement of quarry operations.*

#### **COUNCIL COMMENT**

The content of the applicant's response is supported.

#### **11. Insufficient information regarding analysis to social and economical impact**

##### **APPLICANTS RESPONSE**

*The quarry provides for economic benefits through reduced wear on roads from quarry trucks from other areas servicing the locality. There are also flow-on effects for those established in the haulage business in addition to those directly involved with the quarry operations. The potential impacts relating to the socio-economic elements have been addressed and ameliorations have been proposed within the EIS.*

#### **COUNCIL COMMENT**

The content of the applicant's response is supported.

#### **12. *Recycling of concrete and back loading of sand from south-west of the quarry.***

#### **APPLICANTS RESPONSE**

*Recycling of concrete can be undertaken as part of "resource recovery" including good use of crushed concrete as a recycled product. This would be carted back to the subject site on back loads. The objection refers to sourcing of sand from an existing extractive industry owned by the applicant. The haulage route will be limited to that in and out on to the Summerland Way. Cartage of sand from the south-west will not be allowed as it would not be considered to be a backload.*

#### **COUNCIL COMMENT**

The re-use of concrete materials is similar to the mixing of sand with basalt from the quarry, whereby the sand will also be carted in to the site on "back loads." As the level of detail justifying these elements of the proposal was not comprehensive, it is considered that any approval should not include these aspects of the proposal.

#### **13. *Single lane bridge side steps the issue of the previous EIS***

#### **APPLICANTS RESPONSE**

*The proposed use of a 20 tonne truck limit deals with the issue of bridge capacity (20 tonne limit). Potentially this will result in more traffic movements, however a Traffic Impact Assessment has been undertaken and determined upgrades that are required due to the possible increase in truck movements.*

#### **COUNCIL COMMENT**

Whilst the proposed use of load limited trucks is supported, it is also anticipated that the traffic generated by the quarry at full proposed production rate would cause the design limitations of the bridge to lead to possible delays, excessive queuing, and a reduction in the remaining life of the structure. It is proposed that the production rate be limited to 23,500 m<sup>3</sup> per annum until such time as a two lane bridge without load weight restrictions is constructed to replace the existing Edenville Road (Cedar Point) Bridge, or the existing bridge is upgraded such that Council determines that the load weight restrictions are no longer required.

#### **14. *Jargon in Traffic Data Collection is confusing and the analysis is superficial – highly subjective and uninformative***

#### **APPLICANTS RESPONSE**

*The language utilized in the reports was for the use of the relative departments undertaking the assessment of the EIS. The use of tones and cubic metres was to determine the volume of rock within the site (cubic metres) and the amount of material sold through the gate (tonnes) as this is weighed prior to exiting the site.*

#### **COUNCIL COMMENT**

The content of the applicant's response is supported.

#### **15. Lease of part of the land will create a subdivision which is ignored in the EIS**

#### **APPLICANTS RESPONSE**

*A legal document detailing the lease of the quarry will be undertaken as a private matter between the landowner and quarry operator and would not require a subdivision to be undertaken.*

#### **COUNCIL COMMENT**

The content of the applicant's response is supported.

#### **16. Report contradicts whether fuel is to be stored on site**

#### **APPLICANTS RESPONSE**

*Mobile refuelling is to be undertaken on site. Any change to this would require DECCW approval.*

#### **COUNCIL COMMENT**

The content of the applicant's response is supported.

#### **17. How will threatened species such as black swan and little lorikeet survive?**

#### **APPLICANTS RESPONSE**

*The black necked stork was observed flying over the site and it is understood that it uses waterways, including the dam on the property so that no change will occur to this pattern. The flora and fauna assessment recognizes the potential impact on the little lorikeet due to loss of hollow trees and recommends that nest boxes are used around the property to compensate for this loss.*

#### **COUNCIL COMMENT**

The content of the applicant's response is supported.

#### **18. Wind data is from Casino and climate from Lismore, not from the subject site.**

#### **APPLICANTS RESPONSE**

*These are monitored locations from which the Bureau of Meteorology provides weather statistics for the Region.*

#### **COUNCIL COMMENT**

The content of the applicant's response is supported.

**19. Markets for the quarry product could increase throughout the region.**

**APPLICANTS RESPONSE**

*The markets for the quarry product have been identified as being the Grahams Concrete and local roads, such as used by Council and local contractors. The increase in the distance to market the product could occur if local quarries such as this are not approved or continue to operate.*

**COUNCIL COMMENT**

The extent of the distance to market and transport the product would also naturally expand if a project such as the Pacific Highway upgrade required such a product. The content of the submission is supported.

**20. Hours of Operation - Consideration should be given to reducing the hours of operation of the quarry from 9.00 am to 4 pm Monday to Friday only.**

**APPLICANTS RESPONSE**

*The restrictions as outlined are understood to have been requested in order to reduce the level of potential conflict with school buses and also to reduce noise levels.*

**COUNCIL COMMENT**

It is standard practice to impose hours of operation of quarries from 7 am to 6 pm Monday to Friday and from 8.00 am to 1 pm on Saturday. However, due to the scale of this proposed operation, consideration should be given to restrictions of particular components of the operation, including maintenance only on Saturdays.

**21. Advertising of notification. Date on letter is 8 October, 2010, took 20 days to receive in mail and did not go on public display until 31 October, 2010.**

**COUNCIL COMMENT**

The letters notifying surrounding property owners were forwarded on 20 October, 2010. The initial public notice was inserted in the Northern Star on 9 October, 2010 stating that the closing date for submissions was 9 November, 2010. As there were some anomalies with the first advertisement, the development application was re-advertised on 27 October, 2010 with a closing date for submissions being 29 November, 2010.

#### **4.6.1 Addendum Report Submissions**

The Addendum Report was placed on public exhibition from 9 April, 2011 until 26 May, 2011 during which a further 35 submissions were received, 33 against the proposal and 2 in favour of the proposal. The following issues were raised in submissions received either by Kyogle Council and/or the Joint Regional Planning Panel during the exhibition period;

- i) A seven part test is required to be undertaken. There also may be koala habitat, for which a thorough assessment has not been submitted. The quality of Richmond River will be impacted on as a result of the quarry.***

#### **COUNCIL COMMENT**

All of the Departmental requirements of both the Department of Environment, Climate Change and Water and the Department of Planning, in addition to the requirements and criteria stated by Kyogle Council have been adequately addressed concerning the above matters within Appendices B and C of the Environmental Impact Statement.

- i) The proposal will cause traffic disruption with the Edenville Bridge's 20 tonne limit, leaving the only alternative option to travel west along Edenville Road. There will be no road levy collected from the operator. Who will pay for the new bridge?***

#### **COUNCIL COMMENT**

As stated in the development application, the defined haulage route does not include Edenville Road to the west and south. Should the development be approved, haulage contributions will be imposed and traffic movements controlled as conditions of approval.

Council does not have a contributions plan for the replacement of this bridge, and as such, there is no contribution amounts determined in relation to existing development and proposed development. This means that there is no set cost sharing arrangement determined for the replacement of the bridge, nor is there any plan for the date or timing of a replacement structure. Council or the proponent will need to plan for a replacement structure in the future, including a review of possible cost sharing arrangements, in consultation with the community.

- ii) Industrial noise from the blastings will interfere with the surrounding area. No audits of the operation are to be carried out by Council. The operating hours are too extensive.***

#### **COUNCIL COMMENT**

The EIS states that blasting can occur from 3 and up to 5 times per year. The General Terms of Approval from DECCW Licensing requires a Blast Management Protocol to be prepared detailing the blasting procedure, addressing compliance, mitigation measures, remedial action, monitoring methods and programs, monitoring flyrock distribution, etc.

A condition should be imposed that whilst the nearby properties remain in the ownership of other parties, a minimum separation distance of 500 metres from the blasting site to any residence in alternate ownership be maintained where blasting is to occur at or near the ground level.

Due to the scale of this proposed operation, consideration should be given to restrictions of particular components of the operation, including maintenance only on Saturdays.

- iii) *The surrounding land use is not consistent with the development of a quarry.***

**COUNCIL COMMENT**

Whilst there is a range of land use and area varying from small concessional lots to operational farms in the surrounding area, it is considered that the number on which a definable and ascertainable impact will occur is limited to three properties in particular. It is also considered that the level of impact on these properties can either be eliminated or minimized due to procedures as outlined earlier in this assessment report.

- iv) *The proposal will cause devaluation of properties due to the proximity of the quarry.***

**COUNCIL COMMENT**

This objection is speculative and not substantiated. The subject site is currently used for pasture improvement and cattle production, both of which are proposed to be continued. It is considered that, with the implementation of appropriate mitigation measures, the land uses currently conducted on surrounding properties will also be able to be continued and that no major changes in land values should occur. However, if the proposed mitigation measures fail to deliver the required limited impacts on the closest Receptors, there is potential for reduced property values if the quarrying operations continue without additional mitigation measures being put in place.

- v) *The development will cause the loss of the Edenville Plateau, which is an Aboriginal Landmark. The Archaeological surveys undertaken in 1996/98 are out of date.***

**COUNCIL COMMENT**

For the purposes of the public, the plateau will remain a local landmark. Quarrying operations are internal to the plateau and will not adversely affect the scale of the plateau or the aesthetics when viewed from the lowland and adjoining land.

Although an assessment of the aboriginal significance of the site was undertaken in 1996, there has been no change to the site which would warrant further assessment. The area of the proposed quarry has been reduced in the current format in order to provide permanent protection to significant scar trees at the southern end of the site. The plateau has been grazed, ploughed and significantly altered over the last 5 or more decades, so that no other aboriginal artefacts have been detected on this area during these activities. As with similar proposals, should this development application be approved, Council will advise the proponent that:- "Should operations uncover evidence of Aboriginal heritage of the area, or the presence of any threatened, endangered or vulnerable flora and fauna, all work is to cease immediately and the National Parks and Wildlife Service and the Local Aboriginal Land Council are to be contacted. No work is to recommence until the National Parks and Wildlife Service permits such works to continue." Similarly, in this instance Local Land Council members will be required to be contacted in the event that such evidence is uncovered establishing the Aboriginal heritage of the area.



It is a recommended condition that a plan of management for Aboriginal cultural heritage on the land be prepared to ensure that the conservation of the Aboriginal place of heritage significance and its setting is facilitated by a development consent.

- vi) *Will the quarry be financially sustainable? Management of quarry. Who determines compensation for the surrounding owners? How about fencing around the quarry? It will have a detrimental effect on tourism.***

#### **COUNCIL COMMENT**

Due to the quality and extent of the resource to be procured on the site and the savings for customers in reduced haulage costs and access to the product it has been established that the development will be financially sustainable.

The Manager of the quarry will be required to be trained in all facets of the operation.

It is considered that the development will exert an acceptable level of impact on adjoining properties where it complies with all relevant licences, permits and consents. The matter of consideration of any compensation payable is subsequently not a component of the development application. Where the respective landowners wish to raise the matter of compensation with the operator for matters such as entering private land to undertake dilapidation reports, then this is a civil matter in which Council will have no role.

The quarry will be fenced off in each cell in order to define the limit of each cell and to prevent the entry of stock associated with the ongoing farming/grazing operations of the subject site.

The concern regarding any impacts of the development on tourism has not been justified or substantiated and is unlikely to be a result of the development.

- vii) *Pollution from the operation, in particular dust emission, will impact poorly on the health of residents.***

#### **COUNCIL COMMENT**

As has been addressed earlier in this assessment:-

- Dust will be suppressed by means of a watering truck on the internal access road, with the water being sourced from sedimentation basins;
- Screens of trees will be planted around the perimeter of the site to reduce airborne dust;
- Covers will be utilized on loaded trucks;
- Stockpiles of topsoil or overburden will be grassed in order to reduce the escape of dust;
- Trucks and machinery emitting diesel exhaust will comply with DECCW guidelines for emissions (this can exceed requirements for farm machinery that operate as exempt development, have no requirement to be licensed, yet emit similar exhaust fumes);
- Quarry operator to be responsible for the implementation of this aspect.

- viii) *There has been a lack of community consultation. Who are the landowners – there was a change from the original to the addendum***

***report. There was a lack of identified deficiencies before it was placed on public exhibition.***

#### **COUNCIL COMMENT**

The development application has been publicly exhibited on a number of occasions, most recently including an addendum report addressing anomalies and other issues which had not been completed in the original EIS. A reference is made by the Consultant to another member of the Carlill family, Peter and Robyn's son, Tim in the addendum report. The owners are as defined on the development application form. In preparing the Statement of Environmental Effects and Environmental Impact Statement, the applicant was required to consult with each State Government Department, Council and other organizations as defined by the Department of Planning in order for the criteria and issues to be outlined and addressed in the development application and supporting documentation. The preparation, discussion and submission of these details was undertaken over a two year period. Whilst it is always preferable that any development application contains succinct and conclusive data, this is quite often not the case with all types and scale of development applications, so that a further timeframe for the preparation of additional information as requested by Council follows, as was the case with the subject application.

***ix) Will the gravel road be sealed? How occasional will trucks be travelling along the road? Does this proposed quarry conflict with adjacent existing land use?***

#### **COUNCIL COMMENT**

The submission refers to the section of Edenville Road to the south west of the proposed quarry. This section of Edenville Road does not form part of the proposed haulage route and, as such, no improvements to the road are proposed. Local deliveries only will be allowed on this section of Edenville Road.

It is considered that the proposed quarry will not conflict with the majority of the established land uses in the surrounding area, which are of either a grazing or agricultural production type. It has been determined that the quarry will impact on two nearby receptors, in terms of amenity, noise and traffic movement. However, there are some means available to mitigate and/or resolve such impacts.

***x) The Addendum seems to only address issues from Council, some government departments and 3 resident submission concerns. There is no reference to submissions that (were) raised by other residents or stakeholders. Were proponents given the submissions other than those (address) in the Addendum? If not what are the guidelines that allow this?***

#### **COUNCIL COMMENT**

As the submissions lodged by the 3 residents in closest proximity to the proposed quarry contained the majority of issues raised by others and/or the issues raised by others were able to be addressed without further input from the applicant, the proponents were not provided with copies of the remaining submissions. It is adopted process by Council that although an applicant has access to all submissions made, Council requests the applicant to make further comment on issues which are either more complex, require additional research or clarity or which have not been

specifically addressed in the documentation submitted with the development application.

- xi) Use of recycled concrete – what guidelines are in place so that contaminated concrete is not taken to the quarry site, e.g. concrete that contains asbestos, arsenic etc.***

#### **COUNCIL COMMENT**

Provisions for the reprocessing, storage and treatment of materials on site are to be in accordance with the *Protection of the Environment Operations Act 1997* and also any specific conditions of licence to be issued by the Department of Environment, Climate Change and Water. However, due to the absence of any substantial justification for these elements of the proposal, it is considered that they should not be included as a component of the development, should the development application be approved.

- xii) Page 3, paragraph 6 states “however information will be provided to Council for consideration as part of the assessment of the proposal” – 7<sup>th</sup> generation is of the understanding that Council will not be assessing the DA- can this be clarified please?***

#### **COUNCIL COMMENT**

The issue refers to a general inclusion within the NSW Agriculture’s “Primefact: Agricultural Issues for Extractive Industries on Rural Lands”. Information was provided in the EIS, Page 22, clause 2.4.7 Agricultural Capability Assessment, which defined the subject land as containing Class 4 – Land suitable for grazing but not cultivation. At the time the DA was lodged, it was expected that Kyogle Council would be the determining authority, however the Joint Regional Planning Panel will be the consent authority with Council providing this assessment report to them.

- xiii) Page 3, paragraph 8 states “that the proposal is justified in a regional context (as the site is regionally significant) – this is in contradiction to the EIS which states that the proposed quarry would produce primarily concrete aggregate for the Grahams Concrete Plant at Kyogle, sealing aggregate, road base, for uses in the Kyogle Shire Council area” – and that last quote is also a contradiction within the same EIS documents on page 73 that states “(quarry) is a potential supplier of these materials to the NSW Roads and Traffic Authority”. What is the proposed purpose of the quarry?***

#### **COUNCIL COMMENT**

It would be expected that the quarry would provide extracted material for a range of uses and projects throughout the region. The proposed development is of sufficient scale to accommodate regional demand without resorting to a modification of consent to meet market spikes.

- xiv) The Cedar Point residents have been under the impression that the quarry would never go ahead after the previous development application did not proceed. Residents did not know of the Far North Coast Regional Strategy identifying the site as a significant quarry resource.***

### **COUNCIL COMMENT**

The residents' impression does not preclude any individual from lodging a subsequent development application. The classification of the site as a regionally significant extractive industry resource is based on research from Soils and Geology data undertaken by the Department of Mines identifying the resource material at the subject location. The designation has been formalized by the Department of Planning in the adoption and publication of the Far North Coast Regional Strategy 2006-2031.

**xv) Page 28 under "Consultation" it states as a reply to residents' concerns about no community consultation that "it had always been the intention to have this type of consultation with the Council and local residents" – however it appears that this intention did not proceed until many months later at the request of Council and not as an initiative of the proponents.**

### **COUNCIL COMMENT**

The intention to consult with agencies and the community has been realised prior to a determination of the development application and forms an integral component of the consent authority's consideration pursuant to section 79C of the EP&A Act.

**xvi) Page 29 – "Other issues" the concern raised "insufficient information regarding analysis to social and economical impact" – the reply states in part, that "The quarry provides for economic benefits through reduced wear on the roads by trucks from other areas servicing the locality" – this statement is contradictory as whilst other trucks may not be bringing in gravel if the quarry goes ahead there will be 87 truck movements in that area every day taking gravel away so that the comment in regard to reduced wear on the roads is not substantiated.**

### **COUNCIL COMMENT**

The response addresses the fact that due to the availability of the extracted resource locally, this will have the effect of reducing haulage traffic along routes to and from other, more isolated, operating quarries and their markets.

**xvii) The same reply states "The potential impacts relating to the immediate locality have been addressed and ameliorations have been proposed within the EIS". Is this the reply to the social part of (b)? The reply shows a lack of understanding of the stress, anxiety and financial burden this DA has had on some Cedar Point residents particularly those living in or near the buffer zone.**

### **COUNCIL COMMENT**

As stated earlier in this report it is agreed that there will be impacts on two Receptors in particular, with a third receptor to be impacted on in some twenty years when extraction within the third cell commences. Additional means of addressing these impacts over and above those outlined by the applicant have been considered and will be recommended to be imposed should an approval be granted.

**xviii) This is also evident on page 31 under "Conclusion" stating "It is our consideration that the issues raised by the Government Departments and the objectors have been either dealt with within the EIS and**

***associated documents, or can be provided in more detail as part of the consent conditions to the Development Application”.***

#### **COUNCIL COMMENT**

The applicant's perspective will naturally be different to that of many of those who have made submissions. In assessing the proposal, not only the documentation submitted as part of the development application was considered, but also the submissions made by State Government Departments and individuals, families and action groups and others within the community. The merit and basis on which the information provided has been derived has also been considered in preparing the assessment report.

***xix) Due to the lack of understanding of the stress and anxiety that Cedar Point residents are feeling, the 7<sup>th</sup> generation Inc. requests that a comprehensive Social Impact Study be conducted to understand the real impact this proposed quarry will have on the Cedar Point residents especially those living in or near the buffer zone before any further decisions are made in regard to this DA.***

#### **COUNCIL COMMENT**

The criteria for the applicant to address in preparing the EIS have been set by the Department of Planning after input from Kyogle Council and the other Government Departments as outlined by the Department of Planning. Whilst there are social impacts to be considered, the consideration must be based on those which are genuine, those which may have some basis of merit and those which have little or no merit at all. It is considered that there is sufficient material presented through the development application process to make an informed decision on social impacts generated by the proposed development without resorting to a specific Social Impact Study.

***xx) How is the amount of compensation determined following the outcomes of the dilapidation report?***

#### **COUNCIL COMMENT**

It is usual practice for quotations to be obtained for the restoration of any damage and compensation payable in the amount quoted by the appointed Contractor/s.

***xxi) Political Donations and Gifts Disclosure. The owners are known to host National Party functions at their property in Cedar Point, e.g. 5/8/2010.***

#### **COUNCIL COMMENT**

Under the provisions of Section 147 of the *EP&A Act*, the applicant and any other person having a financial interest in the development application is required to disclose the following:-

*A person who makes a relevant planning application to a council is required to disclose the following reportable political donations and gifts (if any) made by any person with a financial interest in the application within the period commencing 2 years before the application is made and ending when the application is determined:*

*(a) all reportable political donations made to any local councillor of that council,*

*(b) all gifts made to any local councillor or employee of that council.*

*A reference in this subsection to a reportable political donation made to a local councillor includes a reference to a donation made at the time the person was a candidate for election to the council.*

*(5) A person who makes a relevant public submission to a council in relation to a relevant planning application made to the council is required to disclose the following reportable political donations and gifts (if any) made by the person making the submission or any associate of that person within the period commencing 2 years before the submission is made and ending when the application is determined:*

*(a) all reportable political donations made to any local councillor of that council,*

*(b) all gifts made to any local councillor or employee of that council.*

*A reference in this subsection to a reportable political donation made to a local councillor includes a reference to a donation made at the time the person was a candidate for election to the council.*

The objection refers to a level of support by the landowner to the Local Member for Lismore. Although not relevant in this instance, the landowner has responded stating that he has been a financial member of the National Party for almost 50 years and as a booth worker assisting on election day – 26 March, 2011, was invited along with all other booth workers to attend a function at the Campaign Office in Woodlark Street, Lismore on the night of the election.

The landowner has also responded stating that in August, 2010 a fundraising day was held at his property to assist the campaign for Kevin Hogan, Nationals Candidate for the seat of Page, where no monies were contributed by him to the campaign.

***xxii) A substantial safety fence will be required to be installed around the quarry site in order to prevent access by young children who reside in the area.***

#### **COUNCIL COMMENT**

The submission has merit and will be addressed as a condition of consent should an approval be issued.

***xxiii) The Flora and Fauna Assessment states that the life of the quarry will be 80 years whereas elsewhere in the EIS an approximate operational life of the quarry of 45 years is stated. Which period is correct?***

#### **COUNCIL COMMENT**

The estimated volume of 4 million cubic metres will be procured depending on the final area and depth of extraction. The flora study calculates a specified volume as against the total estimate of extraction per annum to result in 80 years, whereas the Operational Management Plan factors in other constraints such as the final quarry area, resulting in a lesser operational life of approximately 45 years. In any case, should the development application be approved, the annual volume able to be extracted would be stipulated over a defined period.

***xxiv) The methodology of collection of koala statistics is not supported as the recoding of data did not include sightings by residents within the Cedar Point area or any scratch marks on food tree trunks by koalas.***

#### **COUNCIL COMMENT**

The process and estimation of potential or core Koala habitat has been undertaken in accordance with the provisions of State Environmental Planning Policy No. 44 – Koala Habitat Protection.

***xxv) It is considered that there will be further destruction of hollows in trees than the two hollow bearing trees stated within the Flora and Fauna Assessment.***

#### **COUNCIL COMMENT**

As stated under 5.3 Amelioration, the report recommends that an ecologist or wildlife carer be present when vegetation clearance is to be undertaken. It is considered that this aspect would alleviate the above issue as would the installation of additional nest or shelter boxes to substitute any lost hollows to be removed.

In addition to the assessment under the EP&A Act, an approval under the *Native Vegetation Act 2003* will be required prior to land clearing.

***xxvi) It is disappointing that the proponents have not offered to prepare a carbon offset plan.***

#### **COUNCIL COMMENT**

Carbon offsets could be considered through the assessment process under section 79C of the EP&A Act and the section 5 objects of that Act. It is considered that the requirement for vegetation offsets, screening plantings and site rehabilitation works will provide adequate measures to mitigate adverse carbon emissions.

***xxvii) Conditions that should be implemented if the proposed quarry is approved.***

- ***electricity to quarry site to reduce noise emissions and pollutants;***
- ***a Consultative Committee formed prior to quarry operations commencing;***
- ***a public complaints hotline operational from day 1 of quarry operations;***
- ***all road work recommended by the RTA done prior to commencing quarry operations at the expense of the proponents not Kyogle ratepayers or Council;***
- ***upgrade of Cedar Point bridge prior to commencement of quarry operations at a cost to proponents not Kyogle ratepayers or Council and not after bridge becomes structurally damaged;***
- ***hours of operation 8am to 4pm weekdays, no weekend or public holidays all maintenance work to be done in weekday hours;***
- ***Quarry Manager to have all relevant and current qualifications and to be sited by Council and adjoining land owners;***
- ***A current 2011 Aboriginal Survey of site not 1996-1998 data;***
- ***DECCW conditions be implemented prior to quarry operations;***

- ***Compliance audits enforced by Council at a regular basis, e.g. 3 monthly;***
- ***Compulsory acquisition at the current 2011 market value plus legal, relocation and removal fees plus compensation for the stress and personal hardship that this proposal has caused.***

#### **COUNCIL COMMENT**

A number of the above suggestions have merit and should be supported if the development application is approved. The following elements are not considered appropriate or necessary:

- electricity to conduct machinery rather than a generator which is proposed. It is considered that a generator with sufficient suppression of noise emission will be adequate for the operations;
- the establishment of a Consultative Committee is not considered to be necessary;
- a sign will be required to be erected on the property indicating the point and means of contact for any complaints regarding the quarry operations;
- all RTA requirements are to be imposed for the Summerland Way/Edenville Road intersection;
- the upgrade of Cedar Point Bridge will be included as a condition of approval;
- hours of operation to be limited to 7 am to 6 pm Monday to Friday and from 8.00 am to 1 pm on Saturday, with Saturday to be restricted to maintenance duties only;
- a current 2011 Aboriginal Cultural Heritage Study is not necessary due to the consultation with the Indigenous Groups having been recently undertaken and the conditions to be imposed as stated previously in this report;
- all DECCW conditions to be imposed as stated by that Department;
- Quarry Manager will be required to hold all necessary qualifications and certifications;
- Quarry Operational Plan of Management to be updated annually , with an initial six month report to be prepared and submitted to Council;
- It is not within Councils powers to compulsory acquire properties impacted on by development, nor is it within Councils powers to require the developer to acquire these properties. That is a matter for negotiations between the owners and the operators and/or owners of the proposed quarry.

***xxviii) Groundwater has not been determined and validated so therefore the impacts of quarry operations on groundwater cannot be identified and addressed.***

#### **COUNCIL COMMENT**

As stated by the Department of Environment, Climate Change and Water, it is considered appropriate to establish background data and provide ongoing sampling to monitor any potential effects the quarry may have on the groundwater at those licensed bore sites in proximity to the site. It is considered that part of the Operational Management Plan will include the monitoring of bores within the subject property in order to determine, by periodical monitoring, any impacts of the quarry operations on groundwater throughout and exiting the subject site. Also further consultation with the



NSW Office of Water is to be undertaken by the applicant to determine any regulatory requirements required to manage groundwater issues.

***xxix) The provisions of the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 have not been addressed with supporting evidence.***

#### **COUNCIL COMMENT**

Should the development be approved, an Operational Plan of Management will be required to be developed. The plan will include measures to be incorporated into the operation of the quarry aimed at minimising gas emissions, erosion and sediment control, air quality monitoring, dust emission control, etc.

***xxx) The rehabilitation plan proposal to be completed within 5 years of ceasing of operations within a cell is most unsatisfactory.***

#### **COUNCIL COMMENT**

It is considered appropriate for the rehabilitation following completion of extraction in each cell for a period of 5 years and then a further 5 years of maintenance in order for these works to be comprehensive and meaningful in terms of establishing and ensuring the ongoing stability of the landform and vegetation.

***xxxi) There are other quarry options available in Kyogle, for example an extension to the existing Chadburns Quarry.***

#### **COUNCIL COMMENT**

A possible extension to the Chadburns Quarry has been investigated by Council. However, due to the amount of overburden to be produced on-site, it was deemed uneconomical to procure the resource in the longer term. In any case, Council and the determining authority are faced with assessing and determining the development application currently before them.

***xxxii) Why is data paid for by the Kyogle Council being used in the 2010 EIS when Kyogle Council is not the applicant?***

#### **COUNCIL COMMENT**

In the preparation of the previous development application undertaken by Kyogle Council in 1997 Greg Alderson and Associates and his sub consultants were commissioned to prepare documentation to accompany the application. Once submitted the EIS and supporting documentation was public information. Whilst elements such as the original Archaeological Assessment and Geological Assessment have been included as Appendices to the current EIS prepared in and dated 2010, the current EIS has been altered significantly with the inclusion of a Quarry Operational Management Plan (September 2010), Flora and Fauna Assessment (September 2010), Noise Impact Assessment (September 2010), Traffic Impact Assessment (August 2010) and Groundwater Summary Information (August 2010).

***xxxiii) The EIS does not accord with the Dept. of Planning and Investment Guidelines for Extractive Industries (1996)***

### **COUNCIL COMMENT**

The Department of Planning has stated to the applicant which criteria are to be addressed in the preparation of the EIS including input from those other State Government Departments which are of relevance to this type of proposal, in addition to the criteria as nominated by Kyogle Council. As the development is of a Major status, it was also required to address the provisions of the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007, which have been established after the date of the above document quoted.

***xxxiv) Quality of the EIS and DA Process. Residents have collated 10 pages of anomalies, contradictions and inaccuracies in the EIS, whereas Council staff failed to identify a single deficiency on receiving and registering the DA.***

### **COUNCIL COMMENT**

Whilst these type of statements have been made on a number of occasions since the development application was lodged, the matter is addressed as follows.

Subsequent to lodgement Council resolved that due to its former involvement with the preparation of a similar development application for approval to conduct a quarry on the subject site, it would out-source the development application for an independent assessment. Following a number of requests which were not able to be upheld by other Local Governments within the Region, it was established by contact with the Joint Regional Planning Panel that the status of the development application constituted one which warrants determination by the Panel. Up until that time, in January 2011 Council staff had only glanced through the content of the EIS on the basis that they would not be assessing the development application. Only after the appointment of the Joint Regional Planning Panel as the consent authority did Council staff review the EIS. This development application has been reviewed and assessed as all other development applications are by members of Council's Development Management Panel. The majority of development applications lodged and assessed contain anomalies or omit information or detail pertinent to the assessment. In most circumstances Council staff can remediate or alleviate such anomalies or omissions by including specific conditions of approval which address those issues which have not been sufficiently addressed by applicants. The subject application is no different in this regard. It has satisfied the concurrence Agencies which have granted their terms of approval and has submitted sufficient material for a determination to be made.

### **4.6.2 Summary of Submissions**

The applicant has suitably addressed the majority of the additional discussion items raised by the landowners at Receptors 2, 3 and 4. However, should the proposed development be approved, a number of significant elements are to be further considered and translated into the conditions of approval. These include:-

- stringent noise control and monitoring conditions to ensure that the proposed mitigation measures to limit the impact of noise on Receptors 2, 3, and 4 are effective for the life of the quarry;

- the imposition of a minimum buffer distance of 500 metres for the conduct of blasting on or near the surface of the development site from each of the residences located at Receptors 2, 3 and 4; and
- the limiting of extraction rates to reduce traffic generation and associated impacts on the Edenville Road (Cedar Point) Bridge.

The above impacts and the nominated means of resolving the conflicts must be considered against the defined location of the subject site as a regionally significant resource; its proximity to a number of markets; and the proposed design and location of the extraction site which will not be exposed to view from the surrounding area. Although mitigation of noise and visual amenity impacts are proposed which will significantly decrease the level of impact on nearby properties, there is a need to ensure that ongoing monitoring of the effectiveness of these measures is undertaken. The Department of Environment Climate Change and Water has determined that it is able to issue a licence for the proposed quarry under the *Protection of the Environment and Operations Act 1997*. The draft conditions for such a licence were supplied to Council, and the limits for noise, blasting, ground vibration and water management are also proposed to be imposed as conditions on any consent issued under the EP&A Act. The requirement for a licence through the DECCW will also ensure that appropriate monitoring equipment is installed to measure noise levels and that regular testing of ground and surface waters is undertaken and reported to the DECCW each year.

Despite the above, it remains possible that some of the Receptors in close proximity to the development will be impacted upon by the proposed quarry, and that the limits proposed by DECCW and Council may not be met. If this occurs and mitigation measures cannot be put in place to comply with the limits imposed, then the only way that quarrying activities could occur would be if the affected receptors were removed. This could be done by either purchasing the receptors and retaining them in the same ownership as the quarry land and/or quarry operator, or by relocating the affected dwelling/s outside the affected area. This is not something that can be conditioned under the EP&A Act, but may be the only way to resolve potential impacts on these Receptors should the proposed mitigation measures fail to meet the required limits.

Receptor 2 could be impacted on due to the proximity of the residence to the quarry site. It is also considered that Receptor 4 will be impacted on by the haulage traffic in close proximity to the residence. It is considered that the means of resolving future conflict at these two Receptors will be achieved by imposing a greater separation buffer from Receptor 2 when blasting is to occur and the provision of a vegetative buffer along the internal access road between the road and Receptor 4. Whilst there is also future potential for Receptor 3 to be impacted on by the development, the quarrying operations are not likely to impact on this Receptor until later, i.e. until the excavation from proposed Cell 3 commences which will be some twenty years after Cells 1 and 2 are completed. It is important to acknowledge that this property also contains a portion of the extractive resource, and there is sufficient room within this property for consideration of moving the dwelling from its existing location to a more favourable location within the property should impacts not be within the limits set.

## **5 Final Assessment by Development Management Panel**

### **5.1 Section 79C (1) Environmental Planning and Assessment Act 1979**

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

#### **5.1.1 The Provisions of any Environmental Planning Instrument**

##### **Interim Development Order No. 1-Shire of Kyogle ("IDO")**

The site is currently zoned "2(v) Village" under the IDO. Pursuant to Clause 3(b) of the IDO the proposed development is permissible subject to development consent.

Clause 7(a) of the IDO requires the maintenance of visual amenity from public places. Landscape screening is recommended to be implemented and maintained to address the visual impacts of the development of an internal driveway, amenities shed/toilets/site office, 6 metre high barrier around the drill rig, car parking, on-site machinery, stockpiles, and so forth when viewed from a public area. The development site constitutes a significant gateway to the township of Kyogle, being situated near the convergence of two major tourist routes which lead from Casino and Lismore to Kyogle, and warrants aesthetic treatment.

Clause 22 of the IDO requires consideration of an adequate supply of water and adequate facilities for sewerage or drainage to the development. Stormwater is proposed to be harvested in sedimentation ponds and reused in dust suppression, while potable water is to be brought on-site by staff

Proposed on-site facilities include toilets, a site office and a 4-bay car park. No floor plans or elevations for the buildings accompanied the DA, nor engineering design plans for the 4 bay car park. These are likely to be developed as an exemption under SEPP (Mining, Petroleum Production and Extractive Industries) 2007 but will require relevant authorisations under the *Local Government Act 1993*.

##### **North Coast Regional Environmental Plan**

Regulation 18 states that the council shall not consent to a development application for an extractive industry unless it includes any necessary conditions of consent to require implementation both during and after extractive operations of an erosion and sediment control plan and rehabilitation plan.

It is considered that the development application accords with the provisions of the NCREP.

##### **State Environmental Planning Policies ("SEPPs")**

The following State Environmental Planning Policies (SEPPs) apply to the proposed development.

##### **State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007**

*Clause 12 – Compatibility of proposed extractive industry with other land uses.*

(a) The existing and approved uses of the land is grazing. The land has been farmed for many years and it is proposed that this use will continue. The land use trends in this locality are likely to remain as grazing. This site has been identified as a potential quarry for some years, by Council and in the Far North Coast Regional Strategy 2006-2031. This proposed quarry land use does not eliminate the grazing activity in the long term. It is proposed that the final rehabilitation of the land after the quarrying activity is completed would revert the land back to grazing. The impact on grazing is only to an area of up to 4 hectares at any one time, being the proposed maximum work area of the quarry and part rehabilitation area. With the exception of several dwelling houses, the proposed quarry is not considered to be incompatible with the current land uses in the locality.

The public benefit of the proposed quarry activity is that a source of good quality concrete aggregate, sealing aggregate and road base would be available in a convenient location for access to the Summerland Way and the Sydney Brisbane rail line.

The proposal includes measures to reduce potential impacts, such as

- working the quarry in a pit type to reduce potential noise issues to neighbours.
- Placing acoustic bunds to also assist in reducing potential noise issues for neighbours.
- Construction of sedimentation control measures, to collect sediments before they leave the site.
- The construction of an upgraded entrance to Edenville Road, to improve traffic safety at the entrance to the site.
- The construction of an upgraded road system to the Summerland Way to meet Austroads and Council standards and to offer maximum safety to local road traffic sharing roads with small quarry trucks.
- Controlling haulage loads and extraction rates by limiting maximum truck sizes to a total of 20 tonne with a payload of 10 tonne and overall annual extraction rates to 23,500m<sup>3</sup> such that the bridge over the Richmond River does not require upgrading until higher extraction rates are achieved.
- Undertaking blasting in a controlled manner.
- Fencing the quarry work area to allow cattle grazing to continue and to physically restrict quarry operations to the approved areas.
- Rehabilitating the site in stages as the extraction area moves around the total site.

*Clause 13 – compatibility of proposed development with extractive industries.*

The proposed quarry will provide a resource for concrete aggregate to the local Grahams Concrete works. Grahams make concrete products such as septic tanks and currently purchase aggregate from other quarries. They own and operate a sand quarry at Ettrick and seek to be able to source aggregate for their plant from a local supply.

The proposed quarry product would also be suitable as a road base, and it is expected that the local road building and maintenance contractors and Council will use some of the product material from time to time. The product aggregate is suitable for road sealing and it could also be used as a local supply of this product in the

Kyogle area. The quarry product is also suitable for railway ballast and may provide a good local source of ballast for the local rail construction and maintenance teams.

The major source of comparable aggregate in the Kyogle area is the Millers Quarry at Afterlee, which is operated by Kyogle Council. This quarry has a limited life. The proposed quarry at Cedar Point could provide clients with a good resource in the south eastern portion of the Council area, thus saving transport costs to the community.

*Clause 14 natural resource management and the environmental management*

The proposed development seeks to control stormwater within the quarry work area. The proposed quarry is to be a pit type of operation, which will ensure that stormwater does not readily run out to the environment. Sedimentation ponds will be installed in the work area as primary sediment filters. Initially water will be pumped over the barrier of the quarry pit walls when required into secondary sedimentation ponds. A detailed stormwater management plan is provided as part of the development application.

The proposed quarry extraction involves the removal of material within a plateau or spur. Ground water on the land below the plateau may be adversely impacted by the development and will be subject to ongoing monitoring accordingly. As the quarry floor will still be well above the farm land below the plateau the likelihood of an adverse impact being realised is considered remote. These potential impacts have been assessed in the stormwater assessment report.

The applicants have carried out an assessment of the proposed quarry site and determined that the proposed development is not likely to have a significant effect on threatened species, populations or ecological communities.

*Clause 15 Resource Recovery*

The proposal included some limited information on the possible recycling of concrete product materials from the concrete plant that could be blended with the raw product to produce a better quality quarry product. It is possible that the quarry could also process road products that are excavated by a civil engineering contractor during repairs to road pavements. Due to the lack of detail submitted in justifying this component of the proposal, it is recommended that it not form part of any approval of the extractive industry operations.

Overburden from the quarry work area will be retained for use on the site as noise amelioration bunds and landscape bunds. It should not be necessary to import soil to create the bunds.

*Clause 16 Transport*

The proposed quarry will involve heavy truck movements that transport quarry product. The principle destination for the quarry product will be the Grahams Concrete plant in Kyogle. This involves a haul route of Edenville Road, then the Summerland Way to Kyogle. The local road network will need upgrading to ensure adequate road network capacities.

The proposal is that Edenville Road will be widened to provide a 6m wide bitumen sealed pavement to the bridge and then from the bridge to the Summerland Way.

The entrance to the quarry site will need to be upgraded to give adequate site distance and general entrance safety for trucks and passing vehicles. The development application has been referred to the Council's engineering section (Road Authority) and the RTA (concurrence role for Classified Road, Summerland Way) for assessment with respect to the surrounding road network.

#### *Clause 17 Rehabilitation*

The proposed development includes rehabilitation of the quarry so that the end use is returned back to grazing land. The final profile of the land shall be left in a fashion that allows grazing to recommence after quarrying.

Waste from the quarrying activity is expected to be minimal. All basalt material can be used to produce aggregate while all soil and agglomerate will be used during the activity as bunds and finally as a material to rehabilitate the site.

It is considered that the proposal predominantly accords with the provisions of this SEPP. The proposal of blending sand and recycled products with the extracted material on site is not supported due to it not being adequately addressed or justified by the applicant.

#### **State Environmental Planning Policy No. 33 – Hazardous and Offensive Industries**

SEPP No. 33 defines 'hazardous industry', 'hazardous storage establishment', 'offensive industry' and 'offensive storage establishment'. The Policy aims to ensure that in the determination of a development that is a 'hazardous industry' or 'offensive industry' measures proposed to be employed to reduce the impact of the development are taken into account and sufficient information is provided to the consent authority to assess whether or not the development is hazardous or offensive.

As there is no storage of explosives and/or detonators proposed as part of this development, it is not defined as a 'hazardous industry', 'hazardous storage establishment', 'offensive industry' or 'offensive storage establishment'. It is therefore deemed that the proposal complies with the provisions of this SEPP.

#### **State Environmental Planning Policy (Infrastructure) 2007**

Although not addressed by the applicant, it is considered that as the proposal constitutes a "Traffic Generating Development" the provisions of this SEPP must be considered and addressed. Within Clause 104 – Traffic Generating Development, it is stated that the consent authority must take in to consideration the accessibility of the site concerned, including the efficiency of movement of people or freight to and from the site and the extent of multi-purpose trips.

The proposed development will generate significant additional traffic, particularly haulage vehicles associated with transport of final quarry product. In order to mitigate the impact of this additional traffic a number of conditions are proposed to be imposed. These conditions seek to identify the preferred haulage route, limit the movements away from this haulage route for local deliveries, require improvements to be made to the haulage route, and limit the peak extraction rate.

### **5.1.2 Draft Environmental Planning Instruments**

Draft Local Environmental Plan 18 applies to this development application. The draft LEP has undergone public exhibition and addresses heritage items, sites and areas within the Kyogle Local Government Area. A note to the draft LEP states that

"Where Aboriginal heritage is not listed in Schedule 1, section 79C of the Environmental Planning and Assessment Act 1979 will require that matters involving Aboriginal heritage significance are taken into consideration in determining a development application."

No Aboriginal heritage is described in Schedule 1 of the draft LEP, placing the onus on section 79C of the EP&A Act to assess this issue.

### **5.1.3 Development Control Plans**

Development Control Plan No. 2 - Development in Rural Areas applies to the site. The proposal is construed as "other rural uses" described under clause 10.0 of the Plan and is to be assessed on its merits.

Development Control Plan No. 5 - Off-Street Car Parking Requirements applies to the development. The Development Application acknowledges the requirement to develop on-site parking and adequate land exists for its development.

### **5.1.4 Planning Agreements**

No planning agreements have been entered into or offered under Section 93F of the *Environmental Planning and Assessment Act 1979*. Generally, a planning agreement is a voluntary understanding between a planning authority and a developer under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit.

### **5.1.5 The Regulations (prescribed matters)**

There are no prescribed matters which are considered to affect the proposal.

## **5.2 The Likely Impacts of the Development**

### **5.2.1 Context and Setting**

It is considered that, due to the elevated location of the proposed extraction in relation to the surrounding area, the setting of the site is suited to the development.

### **5.2.2 Access, Transport and Traffic**

The proposed development will generate significant additional traffic, particularly haulage vehicles associated with transport of final quarry product. In order to mitigate the impact of this additional traffic a number of conditions are proposed to be imposed. These conditions seek to identify the preferred haulage route, limit the



movements away from this haulage route for local deliveries, require improvements to be made to the haulage route, and limit the peak extraction rate.

The haulage route for loaded vehicles leaving the quarry is to be via Edenville Road directly to the Summerland Way in all cases except for local deliveries on Edenville Road between Rural Road Numbers 224 and 880 and Omagh Road between Rural Road Numbers 361 and 800.

The following roadworks are required to be undertaken by the applicant prior to the commencement of quarrying operations:

- (1) The intersection of Edenville Road and the Summerland Way is to be upgraded to provide for the following treatments:
  - (a) CHR(S) channelized right turn treatment with a short turn slot in accordance with Figure 7.6 of Austroads Guide to Road Design 2009 Part 4A: Unsignalised and Signalised Intersections;
  - (b) BAL basic left turn treatment in accordance with Figure 8.2 of Austroads Guide to Road Design 2009 Part 4A: Unsignalised and Signalised Intersections; and
  - (c) AUL auxiliary left turn treatment in accordance with Figure 8.4 of Austroads Guide to Road Design 2009 Part 4A: Unsignalised and Signalised Intersections.

- (2) The intersection of Edenville Road and Omagh Road is to be upgraded to meet the requirements of a Simple Left Turn Treatments for Rural Intersections in accordance with Figure D1.8 of the Northern Rivers Local Government Development and Design Manual Part D1 Geometric Road Design (Urban and Rural).

- (3) Edenville Road is to be upgraded from the intersection with the Summerland Way to 150m west of the proposed quarry access (excluding Edenville Bridge) to meet the requirements for a Minor Road 150-500 AADT in accordance with the Carriageway and seal widths for rural roads shown in Table T1.27 of the Northern Rivers Local Government Development and Design Manual Part D1 Geometric Road Design (Urban and Rural), i.e. a 6m seal with 1m shoulders.

The proposed access to the quarry is to be constructed to meet the requirements for a BAR basic right turn treatment with sealed widened shoulders in accordance with Figure 7.5 of Austroads Guide to Road Design 2009 Part 4A: Unsignalised and Signalised Intersections. The quarry access road is required to be of a two lane standard (6m wide) and sealed where grades exceed 12%.

Hinged truck entering warning signs are to be erected on each approach to the quarry access on Edenville Road and displayed during quarry operational hours.

The Cedar Point Bridge located on Edenville Road is currently subject to a 20 tonne weight limit. This weight limit is imposed on the basis of the original design and construction of the bridge not allowing compliance with current bridge design guidelines, not due to deterioration of any components of the bridge or the bridge being in "poor condition" or the "end of its structural life". A structural engineering assessment was undertaken on the bridge in 2001, and the design limitations were identified and detailed in this report. The report recommended a maximum load limit

of 20 tonnes for a rigid truck. Any approval to conduct haulage of materials over the bridge will be subject to this limit.

Council does not have a contributions plan for the replacement of this bridge, and as such, there is no contribution amounts determined in relation to existing development and proposed development. This means that there is no set cost sharing arrangement determined for the replacement of the bridge, nor is there any plan for the date or timing of a replacement structure. There is concern that allowing full production from the proposed quarry will result in the replacement structure needing to be provided in the near future (5-10 years). It is also anticipated that the traffic generated by the quarry at the full proposed production rate would cause the design limitations of the bridge to lead to possible delays, excessive queuing, and a reduction in the remaining life of the structure. It is proposed that the production rate be limited to 23,500 m<sup>3</sup> per annum until such time as a two lane bridge without load weight restrictions is constructed to replace the existing Edenville Road (Cedar Point) Bridge, or the existing bridge is upgraded such that Council determines that the load weight restrictions are no longer required. Council will then need to plan for a replacement structure in the future, including a review of possible cost sharing arrangements, in consultation with the community and the quarry owners and operators.

The quarry operator and the truck drivers shall be responsible for ensuring vehicles leaving the site are loaded so as not to exceed the legal weight limitations in force on the Edenville Road (Cedar Point) Bridge at the time.

### **5.2.3 Utilities**

As the proposed development will predominantly rely on diesel powered machinery there is no reliance on the provision or connection to utilities in this instance.

### **5.2.4 Land and natural resources**

Due to the elevated area of the proposed development and the solidity of the material to be extracted, it is not expected that the process will impact on the surrounding groundwater systems in the Cedar Point area. In terms of impact on the existing vegetation, clearing of trees is to be limited and these are to be replaced at a ratio of 10 to each tree lost.

### **5.2.5 Social and Economic Impacts**

The public benefit of the proposed quarry activity is that a source of good quality concrete aggregate, sealing aggregate and road base would be available in a convenient location for access to the Summerland Way and the Sydney Brisbane rail line. The proposal includes measures to reduce potential impacts, such as

- working the quarry in a pit type to reduce potential noise issues to neighbours.
- Placing acoustic bunds to also assist in reducing potential noise issues for neighbours.
- Construction of sedimentation control measures to collect sediments before they leave the site.

- The construction of an upgraded entrance to Edenville Road to improve traffic safety at the entrance to the site.
- The construction of an upgraded road system to the Summerland Way to meet Austroads and Council standards and to offer maximum safety to local road traffic sharing roads with quarry trucks.
- Access to a significant resource in proximity to the concrete batching plant and other clients who will readily utilize the extracted material in the Kyogle locality, thereby saving in transport and acquisition costs.
- Provision of flow on employment opportunities as a result of the establishment of a new quarry operation in the Cedar Point locality.

### 5.3 Conclusion

Many of the concerns raised by the objectors are considered to be warranted. In particular, those residents in close proximity to the proposed development, being located at Receptors 2, 3 and 4 have demonstrated that they may be affected by a number of impacts associated with visual amenity, noise, dust and haulage.

The Department of Environment Climate Change and Water has determined that it is able to issue a licence for the proposed quarry under the *Protection of the Environment and Operations Act 1997*. The draft conditions for such a licence were supplied to Council, and the limits for noise, blasting, ground vibration and water management are also proposed to be imposed as conditions on any consent issued under the EP&A Act to minimise any adverse impact on these properties in close proximity to the proposed quarry. The requirement for a licence through the DECCW will also ensure that appropriate monitoring equipment is installed to measure noise levels and that regular testing of ground and surface waters is undertaken and reported to the DECCW each year.

However, it is possible that some of the properties in close proximity will be adversely impacted upon by the proposed quarry, and that the limits proposed by DECCW and Council may not be met by the proponent. If this occurs and mitigation measures cannot be put in place to comply with the limits imposed, then the only way the quarrying activities could continue would be if the affected receptors were removed. This could be done by either purchasing the receptors and retaining them in the same ownership as the quarry land and/or quarry operator, or by relocating the affected dwelling/s. This is not something that can be conditioned under the EP&A Act, but may be the only way to resolve potential impacts on these receptors should the proposed mitigation measures fail to meet the required limits.

Whilst a number of the objections have raised concerns about the advertising, notification and consultation process, Kyogle Council and the Joint Regional Panel have ensured that all interested parties have had sufficient opportunity to prepare submissions either for or against the proposed development.

A number of submissions raised the issue of the designation of the subject site within the Far North Coast Regional Strategy 2006-2031 as a Regionally Significant Extractive Resource and their lack of notification and/or awareness of this aspect. It is acknowledged that items of such significance within a document which is exhibited by a State Department would not be readily accessible by all residents and this is an

issue which should be raised in the forthcoming preparation by the State of the Far North Coast Strategy Review 2011 – 2036. The impression stated by a number of residents of Cedar Point that a quarry would never eventuate following the decision by Kyogle Council in 1999/2000 not to proceed with the previous development application for a quarry at that time does not constitute a valid objection. Nevertheless, this designation is a significant factor in the lodgement, consideration and determination of the subject development application.

As a consequence there are specific issues relating to individuals or families who adjoin or are in such close proximity to the proposed development and who have justifiable and substantiated concerns which are required to be mitigated or negated in order for the development to proceed.

Similarly, in terms of the wider public interest of the Cedar Point residents, their concerns relating in particular to the adequacy or otherwise of the Cedar Point Bridge to cater for not only the established traffic patterns but also the proposed impacts of up to 87 truck movements per day are supported.

It is considered that the above concerns, along with the majority of other tangible concerns raised in the objections and cited throughout this report, can be accommodated by means of the imposition of conditions, should it be determined in favour of the development application. It is also agreed that the applicant has not suitably addressed or justified the need to backload sand to the site of the proposed development for the purpose of blending with the extracted material or similarly the need for transporting concrete materials to the site for crushing and blending into the saleable product for transport off the site. Whilst the Addendum Report refers to a small amount of these components being back loaded to the site, this is insufficient for the consent authority to determine the amount and duration of haulage proposed from a sand extraction area located to the south-west of the subject site and approved for extraction under DA 1995.73 only until 2015. It also omits particulars on the haulage routes, the weight of the materials to be brought back and the distances to be travelled by haulage vehicles in delivering their loads from the subject quarry and then travelling to pick up a “back-load”. Therefore these elements should not be considered as part of any approval of the development application.

On balance, it is not considered that the grounds for objection are sufficiently substantiated or warranted with a view to recommending a refusal of the development application. However, a number of limitations should be imposed, including the volume of material to be extracted as an interim measure until a bridge replacement strategy is implemented and a replacement structure is constructed over the Richmond River (at which time the peak projected volume of 47,000 cubic metres per annum could proceed to be extracted), a minimum separation buffer of 500 metres from any blasting at or near the surface to any receptor which is not in the ownership of the quarry land and/or quarry operator, and the restriction of days of operation for extraction.

#### **5.4 Final Recommendation**

It is recommended that the Joint Regional Planning Panel determine in favour of the development application submitted by R. & K. Graham to establish and operate an

Extractive Industry – Hard Rock Quarry on land located at 904 Edenville Road, Cedar Point, being described as Lot 12 on DP582916 and Lot 1 on DP366036, subject to conditions.

## 6 Recommended Conditions

1. The development shall be in accordance with development application number 2011/0034 submitted on October 5, 2010 and in accordance with the following:

Environmental Impact Statement dated September 2010, as prepared by Greg Alderson & Associates on behalf of R. & K. Graham.
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Addendum Report dated 22 March, 2011 prepared by Greg Alderson & Associates
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except where otherwise provided by the conditions of this development consent.

7. In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.
3. This development consent is limited to a period of five (5) years in accordance with Section 95(1) of the *Environmental Planning and Assessment Act 1979*. Following the expiration of this period the consent will lapse unless work relating to the development is physically commenced before the date on which the consent would otherwise lapse.
4. Apart from developer funded works, no improvements to existing roads, access and services will be provided by Council or any other utility authority.
5. Lot 2 DP232453 is to be retained in the same ownership as the proposed quarry site and access being Lot 12 DP 582916 and Lot 1 DP 366036 whilst the quarry is operational.
6. This consent is limited to the extraction, processing and haulage of materials from the subject site. It does not include any approval to import or haul sand or concrete/waste products for blending or recycling by back loading or any other means.
8. Where this development consent envisages the erection of a building or buildings (including the installation of a 6 metre high barrier wall), no temporary buildings shall be placed on the site and no site excavation, filling, removal of trees or other site preparation shall be implemented prior to the issue of a Construction Certificate concerning these buildings or structures.
9. Extraction is to be limited to 23,500 m<sup>3</sup> per annum until such time as a two lane bridge without load weight restrictions is constructed to replace the existing Edenville Road (Cedar Point) Bridge or the existing bridge is upgraded such that Council determines that the load weight restrictions are no longer required.
10. This consent shall lapse upon:
  - a) extraction of a total of 4,000,000 cubic metres of basalt material, OR
  - b) the extraction of all material within the approved extraction area,

whichever occurs first.

11. All crushing and screening of extracted material is to be undertaken within a suitable location of the work area which is to have appropriate noise bunds installed prior to the commencement of these uses.
12. Vegetation screening must be planted and maintained to provide a dense canopy between the development (including buildings, driveways and vehicle bays, stockpiles, plant, drill rigs and barriers) and any public place. In order to obtain the desired density, landscaping must extend from the ridgeline of the development site to at least 15 metres below the ridgeline. All plantings shall:
  - (a) be derived from seed or rootstock taken from provenance within the boundaries of the development site, or the vicinity of the site;
  - (b) be of a species type and distribution that replicates the vegetation communities mapped by LandPartners in the plan entitled *Vegetation Map*, Drawing Number LM100006-PL3A, 22 June 2010;
  - (c) be spaced and located to maximise screening whilst mimicking natural vegetation communities; and
  - (d) be functional and safe.

The plantings must be undertaken prior to the commencement of quarry operations and shall be undertaken in accordance with a plan prepared by a suitably qualified practitioner to an auditable standard and endorsed by the consent authority detailing:

- (e) the use of seed or rootstock derived from provenance taken within the boundaries of the development site, or the vicinity of the site;
- (f) species type and distribution;
- (g) specifications for soil preparation, weed control, watering, fertilising and general maintenance during establishment;
- (h) provisions to preclude the impacts of farming activities and provide for sustainable vegetation communities; and
- (i) spacings and locations to maximise environmental benefits and be functional and safe.

The plan must be complied with at all times.

13. Compensatory plantings of the open woodland (Swamp Box, Broad-leaved Apple, Pink Bloodwood) must be undertaken prior to the commencement of any land clearing operations. The plantings shall target the floodplain in the northeast of the site in order to capture similar ecological characteristics to the area affected by the development, and shall be subject to a detailed rehabilitation plan that addresses, but is not necessarily limited to:
  - (a) the use of seed or rootstock derived from provenance taken within the boundaries of the development site, or the vicinity of the site;
  - (b) measures to provide a 1:1 offset ratio at maturity at a minimum;
  - (c) species type and distribution to replicate the endangered ecological community "Subtropical coastal floodplain forest of the NSW North Coast bioregion;"
  - (d) specifications for soil preparation, weed control, watering, fertilising and general maintenance during establishment;

- (e) provisions to preclude the impacts of farming activities and provide for sustainable vegetation communities; and
- (f) spacings and locations to maximise environmental benefits and be functional and safe.

The plans/specifications must be prepared by a suitably qualified practitioner to an auditable standard and, subject to endorsement, must be complied with at all times.

14. Land clearing must be undertaken in stages, with each stage to be limited to the minimum necessary to quarry the cell the subject of the stage. No land clearing shall be undertaken outside six (6) months of the commencement of quarry operations in a new cell.  
**Note.** For the purposes of this condition, each cell is as defined by the plan entitled *Figure 8: Quarry Plan of Management*, prepared by Greg Alderson and Associates Pty Ltd for Grahams Concrete.
15. The quarry operator must apply for and obtain a licence under the *Protection of the Environment and Operations Act 1997* prior to the commencement of any quarrying operations. Quarrying operations are to be undertaken in accordance with the licence conditions as required by the relevant NSW Government agency.
16. Prior to the commencement of any works a plan of management for Aboriginal cultural heritage on the land must be prepared by a suitably qualified practitioner in conjunction with the Local Aboriginal Land Council. The plan must ensure that the conservation of the Aboriginal place of heritage significance and its setting is facilitated by the development consent and shall address matters such as offsets for development from the scar trees. The plan is subject to the approval of the consent authority and must be complied with at all times.

## QUARRY PRODUCTION AND OPERATION

17. An Operational Plan of Management is to be prepared for the approval of Council prior to commencement of extraction works on the site. The Operational Plan of Management is to include:-
  - a) projected date of an annual audit of quarry operations to be undertaken, including planting of vegetation, noise attenuation, monitoring and bunding or screening (including that surrounding the site office), details of volumetric surveys, discharges from sedimentation ponds, projected dates for blasting to be undertaken on site;
  - b) ground and surface hydrology and water quality management;
  - c) Soil and Water Management Plan;
  - d) Occupational Health and Safety and NSW Workcover matters and requirements to be implemented;
  - e) a detailed landscaping and revegetation plan (including noise mounds) to avoid any adverse impacts on the scenic amenity of the locality and vegetation regeneration on the site;



- f) waste disposal, including that of disused plant and equipment from the site;
  - g) air quality management and monitoring;
  - h) Aboriginal archaeology procedures;
  - i) procedures on the receipt of complaints against operations and action to be taken in response to complaints;
  - j) truck movement and traffic/haulage management, including a code of conduct for drivers to adhere to that includes, but is not limited to, the prohibition of using compressed air brakes near houses close to haulage roads or access points, the prohibition of tailgating and the limiting of all trucks to within the posted weight limits and speed limits;
  - k) benchmarks for progressive reporting on staged rehabilitation, including provision and ongoing maintenance of landscaping and revegetation;
  - l) performance reviews of quarry operations, including soil and water management, compliance with *Protection of the Environment and Operations Act 1997* licence terms and conditions of consent (Non compliance may result in additional works to be carried out by others at full cost to the quarry operator to ensure compliance, or even the cessation of operations); and
  - m) measures to be incorporated into the operation of the quarry to reduce greenhouse gas emissions.
18. The proponent shall engage, at the proponent's cost, a registered surveyor to prepare and sign a plan of survey to delineate and peg accurately the proposed limit of disturbance/extraction as nominated in the Environmental Impact Statement and the Statement of Environmental Effects Cahill's Quarry, dated 27/5/2010. This plan shall be completed and submitted to Council prior to the commencement of works, including any land clearing. The delineation pegs are to be monitored and protected for the duration of this consent. Any pegs removed during the operation shall be replaced by the registered surveyor and a new signed plan resubmitted indicating the placed peg and the date of that replacement.
19. Prior to the commencement of any quarry operations the proponent must submit to the consent authority a sub-surface assessment of geology and material properties undertaken by a suitably qualified practitioner.
20. Council must be notified in writing within seven (7) days of the commencement of the extractive industry the date on which the industry commenced.
21. Every six (6) months after the commencement of the extractive industry, the owner/operator shall submit to Council a volumetric survey report from a registered surveyor. The report shall indicate the extent of material extracted from the site and the extent of overburden stock piled on the site for rehabilitation. The report must be submitted to Council within thirty (30) days of this period passing.
22. No topsoil or overburden shall be sold or otherwise removed from the site.

23. All topsoil shall be progressively stripped from areas to be excavated and stockpiled separately. Stockpiles are to be located away from the general operation of the quarry in a location to assist in noise mitigation and be preserved for the future rehabilitation of the quarry. Topsoil that is stripped is to be stockpiled in a suitable location with appropriate sedimentation management practices.
24. All overburden extracted from the approved extraction area shall be stockpiled separately. Stockpiles are to be located away from the general operation of the quarry in a location to assist in noise mitigation and be preserved for the future rehabilitation of the quarry. Overburden stockpile are to be sited in a suitable location with appropriate sedimentation management practices.
25. All hazardous materials are to be appropriately stored so as to prevent environmental damage in case of spillage. Oils and lubricants must be stored in an impermeable bunded and roofed area with:
  - (a) a holding capacity of 110% of the capacity of the largest container, or
  - (b) a holding capacity equal to the capacity of the largest tank plus the volume that would be displaced by other tanks or structures within the bund area, whichever is the greater volume, at a minimum. Re-fuelling areas shall be located upslope from sedimentation dams and shall be indicated in the plan of management. No waste fuels or oils or grease containers are to be disposed of on-site. All repairs and major services must be carried out at the respective depot for each machine.
26. All vehicles and machines used as part of the operation must comply with the *Protection of the Environment Operations Act 1997* and all regulations made under that Act and be fitted with properly maintained emission controls relevant to their date of manufacture.
27. The boundary of the quarry must be appropriately fenced along areas easily accessible in a manner to discourage unauthorized entry and maintained at all times to accord with NSW Work Cover specifications. Regenerated areas are to be permanently fenced to exclude stock from grazing in these areas and avoid damage to newly planted trees.
28. Annual audits shall be carried out of quarry operations against the approved Operational Plan of Management, inclusive of the Environmental, Noise, Soil and Water and Rehabilitation Management Plans and consent and licence conditions. The audit shall be undertaken by an independent, suitably qualified practitioner and shall identify areas of non-compliance and management responses to the same. An annual report of audit findings shall be submitted to Council prior to the 31<sup>st</sup> January following the date of this consent.
 

Where non-compliance is identified the proponent shall identify amelioration works to be implemented and shall undertake monthly monitoring until the amelioration measures have been completed and compliance demonstrated.
29. Industry and Investment or its successor must be provisioned with annual production data on the prescribed form at the end of each financial year. The data must detail the quantity and value of construction materials produced.

30. An annual update of the Operational Plan of Management shall be submitted to council by 31 January in each year. This update must include:
- (a) the quantity of material extracted in the immediately preceding calendar year;
  - (b) the area of land used in quarry operations in the immediately preceding calendar year (this is to be related to the survey undertaken for the current year);
  - (c) the rehabilitation undertaken in the immediately preceding calendar year and the rehabilitation program for the current year;
  - (d) results from the water quality monitoring program of sedimentation dams and ground water bores for the immediately preceding calendar year;
  - (e) details of all sedimentation ponds constructed during the immediately preceding calendar year or proposed to be constructed during the current year; and
  - (f) two (2) volumetric surveys of the development site from a certified surveyor for the immediately preceding calendar year.
31. All discharges from the sedimentation ponds shall meet the requirements of the *Protection of the Environment Operations Act 1997* and the relevant criteria of the appropriate NSW Government agency. Design details shall cater for the one in ten year Average Recurrence Interval storm for 24 hours, with all discharges to contain less than 50 mg/L of non-filterable residue, no visible oil or grease, less than 10 mg/L of oil and grease, and a pH in the range 6.5 - 8.5 unless an alternative standard is approved in writing by the DECCW, in which case all discharges shall comply with the DECCW standard as applicable at the time of discharge.

## **BLASTING**

32. Blasting activities shall comply with the criteria of the DEH in relation to over blast pressure and ground vibration and amelioration measures are to be used as described in the Quarry Operational Management plan section 4.5 (blasting). The following shall be undertaken prior to any blast on the site.
- (a) A minimum of three days prior to any blast, written notification shall be given to the occupants of all dwellings within 1,000 m of the quarry and notice to Kyogle Council of the impending closure of Edenville and Omagh roads 1km from the proposed blast site before blasting taking place.
  - (b) A minimum buffer of 500m to be maintained to all residents' residential developments where blasting is at or near the ground level and a vibration disturbance limit of 5mm/s.

- (c) A minimum buffer of 250 m to be maintained to all residents' residential developments where blasting is at least 5m below ground level and a vibration disturbance limit of 5mm/s.
33. A minimum of 1 in 3 blasts (other than those associated with 'popping' boulders) shall be monitored for peak particle velocity and blast over pressure at the four (4) nearest residences. As a part of the monitoring process, the following records shall be kept and made available to Council and the public, if requested:
- (a) date and time of blast, and name of the person responsible for the blast;
  - (b) location of blast and blast drilling pattern;
  - (c) type and weight of explosive used in each hole;
  - (d) Maximum Instantaneous Charge (MIC) weight;
  - (e) climatic conditions generally, including wind direction and extent of cloud cover;
  - (f) vibration and air blast emission levels recorded; and
  - (g) a record of the blast, including yield.

For each blast event the proponent shall monitor noise, air blast over pressure and ground vibration at a different boundary location approximately 250m from blast site. Licensed drilling and blasting contractors must always be used in the quarry. No flying rock is permitted to travel past the property boundary or more than 250 meters from the blast site.

34. In the event that any structural damage is demonstrated to have occurred as a consequence of the quarry operations, the operator shall either compensate the respective property owners or carry out satisfactory repairs to make new or restore the structures to their previous state.
35. The air blast overpressure level from blasting operations in or on the premises must not exceed:
- (a) 115 dB (Lin Peak) for more than 5% of the total number of blasts during each reporting period; and
  - (b) 120 dB (Lin Peak) at any time

at the most affected residence or noise sensitive location that is not owned by the quarry land owner and/or quarry operator, or subject to a private agreement between the owner of the residence or noise sensitive location and the quarry operator as to an alternative overpressure level.

## **GROUND VIBRATION**

36. The ground vibration peak particle velocity from blasting operations carried out in or on the premises must not exceed:
- (a) 5mm/s for more than 5% of the total number of blasts carried out on the premises during each reporting period; and

- (b) 10 mm/s at any time

at the most affected residence or noise sensitive location that is not owned by the quarry land owner and/or quarry operator, or subject to a private agreement between the owner of the residence or noise sensitive location and the quarry operator as to an alternative ground vibration peak particle velocity.

37. Hours of operation for the development shall not exceed the following table:

<b>Activity</b>	<b>Monday to Friday</b>	<b>Saturday</b>
Quarry extraction	7AM - 6PM	Nil
Crushing, Washing and Screening	8AM - 5PM	Nil
Routine Maintenance (satisfying EPA noise design goals)	7AM - 6PM	8AM - 1PM
Haulage vehicle entrance/exit	7AM - 6PM	Nil
Blasting	10AM - 3PM	No Blasting
Drilling	9AM - 3PM	No Drilling

There shall be no quarrying, processing or transportation on Sundays or statutory public holidays. Council may permit access and operation outside of the periods identified in this consent for emergency purposes only.

## NOISE

38. The proposed landuse shall not result in the emission of offensive noise. Offensive noise means noise that by reason of its level, nature, character or quality, or the time at which it is made, or any other circumstance, is likely to:
- be harmful to,
  - be offensive to,
  - interfere unreasonably with the comfort or repose of,
- a person who is:
- if the offensive noise is made in premises that are not a public place - outside those premises,
- or
- if the offensive noise is made in premises that are a public place - within or outside those premises.
39. Where the affected sensitive receptors are in ownership other than the quarry land owners and/or the quarry operators, intrusive Noise impact from the premises shall not exceed sound pressure level ( $LA_{eq15minute} \leq$  rating background level plus 5 dB A) as presented in appendix E Noise Impact Assessment section 3.1.1 at monitoring points described below:
- Noise monitor 1 RBL = 40.5 dB (A)
  - Noise monitor 2 RBL = 39.2 dB (A)
  - Noise monitor 3 RBL = 38.9 dB (A)
  - Noise monitor 4 RBL = 42.3 dB (A)

during the day (7am to 6pm) Monday to Friday and 8am to 1pm Saturday, where  $L_{Aeq}$  means the equivalent continuous noise level - the level of noise equivalent to the energy-average of noise levels occurring over a measurement period.

40. Where the affected sensitive receptors are in ownership other than the quarry land owners and/or the quarry operators, all noise attenuation measures as provided for in the EIS appendix B Quarry Operational Management Plan section 4.4 and 4.5 – Carlills Quarry, dated September 2010, shall be implemented to meet the recommended limits of 40dB(A) for operational noise and a maximum of 45dB(A) at neighbouring dwellings or 60dB(A) for the  $L_{Aeq}$  1 hr for road traffic noise.

Note: Noise from the premises is to be measured at the most affected point on or within the residential property boundary or, if this is more than 30m from the residence, at the most affected point within 30m of the residence to determine compliance with this condition.

## **DUST AND AIR POLLUTION**

41. All trucks carrying quarry or crusher products from the site shall ensure their loads are fully covered by a suitable material to prevent spillage or dust falling from the truck.
42. Internal unsealed roadways, quarry floor and stockpiles shall be watered as required to ensure that dust generation does not impact on the natural or built environment.
43. Screening, crushing and blending activities shall have water sprays installed and operated to minimise the generation of dust.
44. Accidental spillage occurring from haulage trucks on site shall be cleaned up by the proponent as soon as practicable.
45. Burning of site refuse and materials is prohibited and all such materials shall be prevented from escaping onto adjoining land and shall be maintained in a tidy manner while on site at all times.

## **WATER AND WASTE**

46. Existing ground water bores on the property known as GW 30087 and GW 046190 shall be tested prior to undertaking any works and shall be tested annually thereafter for contamination and changes in water quality. All results must be submitted to Council within one month of test completion. The following parameters shall be tested:
  - pH;
  - Conductivity;
  - total dissolved salts;
  - total suspended solids;
  - BOD<sub>5</sub>; and
  - TPH.

47. Bottled potable water must be made available to all personnel at the development site. Where rain water is to be harvested on site, a first flush device must be incorporated in the plumbing of the water storage tank to prevent the first portion of runoff from being conveyed to the storage tank. This water shall only be used for flushing of toilets and cleaning purposes and all tanks shall bear a sign a minimum of 450mm wide by 250mm high stating that the water is "not for drinking."

Non-potable water from sedimentation ponds may be used for dust suppression within the quarry cells and watering of rehabilitated landscaped areas only.

48. All waste materials generated from construction and demolition works must be disposed at waste management facilities capable of receiving the waste as classified under the NSW Department of Environment and Climate Change (EPA) guideline document *Waste Classification Guidelines: Part 1 Classifying Waste 2008* and the *Protection of the Environment Operations Act 1997* and waste regulations there under.
49. All stormwater from the site shall be disposed of without causing nuisance to adjoining properties or pollution to natural waterways.

#### **DILAPIDATION SURVEY**

50. Within six (6) months of the date of this consent, a dilapidation survey by a suitably qualified structural engineer, architect or building surveyor shall be undertaken and submitted to Council. The dilapidation survey shall cover all buildings nominated as sensitive receptors 1-4 described in section 3.1.1 of the QOMP dated September 2010.

#### **GENERAL CONDITIONS**

51. The proponent shall ensure that all State and Federal statutory requirements are met, with copies of all issued licenses, approvals and notices to be provided to Council within fourteen (14) days of their issue.
52. Council reserves the right to restrict the days and hours of operation described under condition 34 to minimise the emission of "offensive noise" as defined in the *Protection of the Environment Operations Act 1997* and its Regulations.
53. The proponent shall install signs within the site, as required by the Department of Mineral Resources, alerting the public to any potential hazards. The signs shall be located, designed and constructed to the satisfaction of Council's Director Planning and Environmental Services.
54. The applicant shall ensure that the site is secure during non-working hours by the means of appropriate lockable gates and fencing, in accordance with the requirements of the Department of Mineral Resources.

55. Where any staff member or contractor undertakes any task or performs any function on or around the site and where a person or company must be an authorised, licensed or otherwise approved person to do that task then that person or company must hold all current valid approvals and licences and authorisations.
56. All exploration holes shall:
- (a) be sealed or otherwise supported to prevent collapse of surrounding surfaces; and
  - (b) be permanently sealed upon completion of use with cement plugs to prevent surface discharge to ground waters.

Where any drill hole meets natural gas, methane or other noxious vapour or gas the hole must be immediately plugged to prevent their escape. The incident must be reported immediately to Council.

Where any drill hole meets artesian or sub-artesian flow the hole must be immediately plugged and sealed to prevent contamination of aquifers. The incident must be reported immediately to Council.

Once any drill hole ceases to be used the hole, the land in which it is constructed and its immediate vicinity must be left in a clean, neat, tidy and stable condition.

## **BULK EARTHWORKS**

57. Measures shall be put in place to control stormwater runoff. These control measures shall be in place prior to the commencement of works and shall prevent soil erosion and the transport of sediment from the development site into either:
- adjoining land
  - natural drainage courses
  - constructed drainage systems, or
  - waterways.

All disturbed areas shall be stabilised and revegetated. Turfing or another approved seeding method shall be undertaken in each part of the development within 14 days of completion of earthworks.

58. Sediment shall not be tracked by vehicles onto any public road.

## **IMPORTED MATERIAL CONDITIONS**

59. No material such as clay, gravel, sand, soil or rock fines shall be introduced into or onto the development site unless that material is required to comply with the consent. All material so imported must be clean and free from any contamination within the meaning of the *Managing Land Contamination – Planning Guidelines – SEPP55 – Remediation of Land* document published in 1998 by the NSW Government. All material must be Virgin Excavated Natural Material as defined in the *Protection of the Environment Operations Act 1997*.



Written verification from the supplier certifying the volume of material provided and that all the materials are free from contamination must be obtained by the proponent. Prior to undertaking any work with the material details demonstrating compliance with this condition must be submitted to and approved by the Certifying Authority.

A copy of the approved documentation must be submitted to the Consent Authority for record purposes.

## **MONITORING OF QUARRY OPERATIONS**

60. Accurate records of sales shall be kept and maintained and be available for inspection by authorised council officers on request. The method of sales recording and the location where records are to be kept are to be outlined in the Plan of Management and be to the satisfaction of Council's Director Planning and Environmental Services.
61. This approval allows for extraction only of material produced on-site. No imported quarry or waste bi-products are permitted to be deposited on the site without subsequent approval from Council.
62. The Plan of Management must be updated at least once every 5 years and a fully amended and updated plan must be formally lodged with Council for approval. All works must comply with the amended Plan of Management as endorsed by Council.
63. All site rehabilitation shall occur in accordance with the approved Site Rehabilitation Management Plan and the following:
  - (a) any soil contaminated as a result of the development must be remediated in accordance with the relevant guidelines (including guidelines under section 145C of the *Environmental Planning and Assessment Act 1979* and the *Contaminated Land Management Act 1997*);
  - (b) the final profile must be safe;
  - (c) the final profile must be designed to preclude prime habitat for the cane toad *Bufo marinus*; and
  - (d) all plantings must mimic the existing vegetation community found on the land.
64. The use must not involve exposure to view from any adjacent premises or from any public place of any unsightly matter.
65. The premises shall be maintained in a clean and tidy state at all times.
66. The industry must be conducted in such a manner so as not to interfere with the amenity of the neighbourhood by reason of the emission of discharge of noise, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or other harmful products of the industry.
67. The operator must not use mercury, cyanide or any other mineral recovery chemical agent without the prior written approval of the Department of Environment and Heritage and the Council.

68. In the event of an incident on the premises that has caused, is causing, or is likely to cause harm to the environment, the proponent shall report the event to Council immediately it becomes known to the proponent or the proponent's agent.

## HEAVY HAULAGE CONDITIONS

69. Haulage route for loaded vehicles leaving the quarry must be via Edenville Road directly to the Summerland Way in all cases except for local deliveries on Edenville Road between Rural Road Numbers 224 and 880 and Omagh Road between Rural Road Numbers 361 and 800.
70. The quarry operator and the truck drivers shall be responsible for ensuring vehicles leaving the site are loaded so as not to exceed the legal weight limitations in force on the Edenville Road (Cedar Point) Bridge at the time.
71. Hinged truck entering warning signs shall be erected on each approach to the quarry access on Edenville Road and displayed during quarry operational hours.
72. Payment of heavy haulage contributions under Section 94 of the *Environmental Planning and Assessment Act 1979* and the Kyogle Council *Section 94 Contributions Plan – Urban and Rural Roads 2002 (as amended)* are required. Kyogle Council levies these contributions for the provision of public amenities and services in such a manner as will meet the increased demand for those amenities and services arising from this development.

The rate and amount to be paid as at the date of this notice is **\$4,792** per annum, as described in the Schedule, to be paid in two (2) equal half yearly instalments. The first instalment is to be paid within six (6) months of the date of this consent notice or within six (6) months of the development commencing operation, whichever is the latter (in this condition the term 'commencing operations' means the physical commencement of the use of the development and not the 'commencement' of the Development Consent Notice).

The levy is to be increased annually in accordance with the Consumer Price Index for Brisbane commencing January each year for the life of the development.

Where the total contribution payable exceeds \$10,000, payment to Council must be by bank cheque or cash (personal cheques are not acceptable).

The contributions set out in the schedule are exclusive of any GST (if any) and where the provision of any services or the construction of any infrastructure or any other thing with those contributions occurs, then in addition to the amount specified above the Applicant will pay to the Council the GST (as defined below) which is payable by the Council in respect of the provision of such services or construction of any infrastructure or any other thing.

GST means any tax levy charge or impost under the authority of any GST Law (as defined by the GST Act) and includes GST within the meaning of the GST Act.

The GST Act means A New Tax System (Goods and Services Tax) Act 1999 or any amending or succeeding legislation.

## **VEHICULAR ACCESS**

73. The proponent must make written application to Council (accompanied by a location plan) for a vehicular access to the development and construct it in accordance with Council's approval (refer to Council's Property Access and Addressing Management Plan). No other accesses may be constructed or opened onto a Council road without the prior written approval of Council.
74. The proposed access to the quarry must be constructed to meet the requirements for a BAR basic right turn treatment with sealed widened shoulders in accordance with Figure 7.5 of Austroads Guide to Road Design 2009 Part 4A: Unsignalised and Signalised Intersections.
75. An all weather vehicular access shall be constructed and maintained from the point of connection to Council's road network to the proposed quarry site in accordance with Council's Property Access and Addressing Management Plan and the Northern Rivers Development and Design Manuals. This requires that the grade of the access does not exceed a grade of 1 in 6 or 16.67% within the road reserve, and does not exceed a grade of 1 in 4 or 25% within private property. Any section of the access that exceeds a grade of 1 in 8.3 or 12% shall be provided with a sealed surface on a suitable pavement. The access road is to be a minimum of 6m wide, with a minimum pavement depth of 300mm of compacted gravel, a maximum crossfall of 10%, and the radius on the inside of any bends shall not be less than 6m. Note that the proposed access at the top of the ridge line is to be moved to the north as far as is practical in order to provide maximum separation between the access road and the scar trees which are to be preserved on the site.
76. All loading and unloading shall take place within the property boundaries, including the parking of construction and private vehicles associated with the development.
77. Vehicles using any off-street loading/unloading and/or parking area must enter and leave in a forward direction. All driveways and turning areas shall be kept clear of obstructions that prevent compliance with this condition.
78. All allotments where access is obtained from a sealed road shall have a sealed vehicular access from the roadway to the boundary of private property in accordance with Council's Property Access and Addressing Management Plan.

## **ROADS GENERAL**

79. The proponent shall provide the following roadworks with associated stormwater drainage structures that have been designed and constructed in accordance with the requirements of the Roads and Traffic Authority. The proponent shall be responsible for any costs associated with the provision of the works and compliance with the requirements of the Roads and Traffic Authority. Required roadworks are:
- (1) The intersection of Edenville Road and the Summerland Way is to be upgraded to provide for the following treatments;
    - (a) CHR(S) channelized right turn treatment with a short turn slot in accordance with Figure 7.6 of Austroads Guide to Road Design 2009 Part 4A: Unsignalised and Signalised Intersections,
    - (b) BAL basic left turn treatment in accordance with Figure 8.2 of Austroads Guide to Road Design 2009 Part 4A: Unsignalised and Signalised Intersections, and
    - (c) AUL auxiliary left turn treatment in accordance with Figure 8.4 of Austroads Guide to Road Design 2009 Part 4A: Unsignalised and Signalised Intersections.
80. The proponent shall provide the following roadworks with associated stormwater drainage structures that have been designed and constructed in accordance with the Northern Rivers Local Government Development, Design and Construction Manual. The proponent shall be responsible for any costs associated with the provision of the works. Required roadworks are:
- (1) The intersection of Edenville Road and Omagh Road must be upgraded to meet the requirements of a Simple Left Turn Treatments for Rural Intersections in accordance with Figure D1.8 of the Northern Rivers Local Government Development and Design Manual Part D1 Geometric Road Design (Urban and Rural); and
  - (2) Edenville Road must be upgraded from the intersection with the Summerland Way to 150m west of the proposed quarry access (excluding Edenville Bridge) to meet the requirements for a Minor Road 150-500 AADT in accordance with the Carriageway and seal widths for rural roads shown in Table T1.27 of the Northern Rivers Local Government Development and Design Manual Part D1 Geometric Road Design (Urban and Rural), ie a 6m seal with 1m shoulders.
81. Full design plans of the proposed engineering works shall be submitted to and approved by Council prior to commencement of these works. Such plans shall be accompanied by the fee, as adopted at the time of the relevant payment, as indicated in Council's Fees and Charges.
82. No tree in the road reserve shall be damaged, destroyed or removed without the written consent of the Council.
83. Prior to carrying out any works within a public road reserve, the proponent shall complete an application under Council's Road Reserve Management Plan and receive written approval from Council. Satisfactory arrangements for restoration with Council's Technical Services Department shall also be required,

with all works constructed according to Council's Development, Design and Construction Manuals (as amended). All costs shall be the responsibility of the proponent.

84. The proponent shall provide a plan of management for the construction of all civil works outside the real property boundaries of the proposed development. The plan shall table scheduling of works so as to be completed in the shortest possible time with minimal impact on the general community. The plan shall include all requirements of Council's Road Reserve Management Plan. This plan of management shall be lodged with Council prior to the commencement of works.
85. A certified "Works as Executed" plan from a suitably qualified Engineer or Registered Surveyor must be submitted before the commencement of extraction operations certifying that the works have been constructed in accordance with the drawings and to the levels specified.
86. A maintenance period and Construction Bond shall apply to all construction carried out where the ownership of the asset is to pass to Council. The Construction Bond is to be paid upon completion of the works. The maintenance period shall extend from the completion of the construction and subsequent approval by Council, for six months. Within that time the developer is responsible for any omissions or defects. At the end of the maintenance period Council will inspect the asset and any work found not conforming to the plans and specifications shall be the responsibility of the developer to rectify. The maintenance bond shall be returned at the completion of the maintenance period and subsequent defect free approval by Council.

**Construction (contract) price Bond**

up to \$50,000 - 10% of contract price (minimum bond \$1,000)  
over \$50,000 \$5,000 plus 5% of balance over \$50,000

87. Where the existing physical road encroaches on the subject land, this area must be surveyed out and dedicated as public road. If the existing road is not contained within a public road reserve, the area is to be dedicated as public road with a suitable width. This must be done for the full area of the site at no cost to Council. A registered surveyor must provide confirmation in writing that this condition has been met, and no further encroachments exist before the commencement of extraction operations.
88. Plant, equipment or materials of any kind shall not be placed or stored upon the roadway unless approved by Council in writing.

**ADVISORY NOTES**

The Applicant is requested to take note of the following advice and where pertinent to convey the advice to future owners or users.

1. It is still possible that some of the Receptors in close proximity will be impacted upon by the proposed quarry, and that the limits proposed by DECCW and Council may not be met. If this is found to be the case during the Operational Management Plan auditing process or by the contact by or receipt of complaints from nearby residents and it is established that mitigation

measures cannot be put in place to comply with the limits imposed, the only way the quarrying activities could continue would be if the affected receptors were removed. This could be done by either purchasing the receptors and retaining them in the same ownership as the quarry land and/or quarry operator, or by relocation of the affected dwelling/s.

- 2 The proponent must apply for an Aboriginal Heritage Impact Permit in accordance with the *National Parks & Wildlife Act 1974* (NPW Act) prior to disturbing, damaging or destroying Aboriginal objects that occur on the land.

If Aboriginal cultural objects are uncovered due to development activities, all works should halt in the immediate area to prevent any further impacts to the find or finds, to resume only in accordance with the requirements of the Office of Environment and Heritage and the NPW Act.

- 3 Clearing native vegetation shall require a clearing consent from the Northern Rivers Catchment Management Authority under the *Native Vegetation Act 2003* prior to the conduct of works.
- 4 The proponent should ensure that the development accords with the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
- 5 Approval under the *Threatened Species Conservation Act 1995* may be required to clear native vegetation consisting only of groundcover.
- 6 Water extracted under Basic Landholder Rights in the *Water Management Act 2000* cannot be used for commercial purposes and the NSW Office of Water should be contacted prior to undertaking any such extraction.
- 7 The NSW Office of Water regulates groundwater under the provisions of the *Water Management Act 2000*.
- 8 A separate application must be made for a licence under *Protection of the Environment Operations Act 1997*.
- 9 A section 68 approval under the *Local Government Act 1993* is required to install and operate an on-site waste management system.  
**Note:** Any Effluent and Waste Water Management system must be designed by a qualified soil scientist, geotechnical engineer or water scientist or other suitably qualified person.
- 10 To protect the health, safety and welfare of people working in the extractive industry, compliance with the *Mine Health and Safety Act 2004* and the *Mine Health and Safety Regulation 2007* is required.
- 11 To protect, secure and promote the health, safety and welfare of people at work, compliance with the *Occupation Health and Safety Act 2000* and the *Occupation Health and Safety Regulation 2001* is required.
- 12 If the quarry is to service the Queensland market then the potential to minimise the need for travel by truck and to maximise movement of

freight by rail should be investigated and used if found viable (based on an assessment of the triple bottom line).

13 Industry and Investment NSW advises :-

- that ongoing protection of the wetland at the southwestern edge of the subject property is to be consistent with the I&I NSW Policy for Protection of Key Fish Habitats;
- The subject site is to be managed in conformity with the Primefact entitled, "Agricultural Issues for Extractive Industries on Rural Lands".