

<b>JRPP Ref. No</b>	2012NTH012
<b>Application Number</b>	DA-60/2013
<b>Proposed Development</b>	Expansion of Existing Quarry
<b>Property Address</b>	Lots 77 and 89 Wavehill Road, Narrabri
<b>Property Description</b>	Lot 77 DP 754937 and Lot 89 DP 821255
<b>Applicant</b>	Johnstone Concrete and Landscape Supplies, c/- SMK Consultants
<b>Date Received</b>	9 July 2012
<b>Assessing Officer</b>	Tony Meppem
<b>Recommendation</b>	<b>Approval, subject to conditions.</b>

## 1 REPORT

At its meeting on Wednesday 21 August 2013, the Northern Joint Regional Planning Panel considered the above application. The Panel resolved

*That the Panel defers consideration of Development Application 60/2013 for a period of up to 30 days to allow for the relevant parties to consider a resolution to the issues of the unsealed road.*

The proponent approached Council with a Voluntary Planning Agreement (VPA) to address the matter of sealing and maintenance of Wavehill Road and negotiations have been underway since.

The matter was considered by the Council in closed session on the 3<sup>rd</sup> December 2013 with the following resolution being made:

- 1. That Council supports the staged program of upgrading Wavehill Road Narrabri outlined as Option 'D' in the Supplementary report, subject to the applicant entering into a Voluntary Planning Agreement prior to the increased production commencing under DA 60/2013.*
- 2. That the Northern Joint Regional Planning Panel be advised of the approach supported by Council.*
- 3. Ongoing maintenance should be reviewed prior to the draft VPA being finalised.*

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4. *That Council advise that this VPA does not fully fund the upgrade and maintenance requirements of Wavehill Road.*

Further negotiations were held with the proponent, particularly in respect of minute point 3, and an amended offer letter (attached as attachment '1') was received from the proponent on the 5<sup>th</sup> May 2014. The contents of the VPA have now been agreed to at the Council meeting held on the 6<sup>th</sup> May 2014 wherein Council resolved in minute No 298/2014:

1. *That in relation to DA60/2013 Council enters into a planning agreement for the upgrading of Wave Hill Road with (Johnstone Concrete and Landscaping Supplies (JCLS)) in the following general terms:*
- *Payment of \$1.12 per tonne produced annually for 15 years or until the whole road is sealed whichever comes first to be used for the construction and sealing of segment 'A' noting that funding will be required for the full 15 years should Council expedite the sealing of the road.*
  - *A commitment for JCLS to 100% fund the construction and sealing of segment 'B' (between the Boral quarry gate and the JCLS quarry gate) within 2 years of signing the VPA.*
  - *A commitment to contribute \$0.20 per tonne produced for road maintenance over the first 12 months after signing of the planning agreement and participate in the development with Council of a road maintenance plan wherein the road will be graded on four (4) occasions in that period and the quality of road surface monitored to allow the parties to agree to an appropriate contribution over the remaining 14 years of the planning agreement*
  - *Provision to review the terms of the VPA should the Boral quarry seek to increase annual volumes extracted thereby triggering a development application.*
  - *A bank guarantee be limited to one year's payments capped at \$250000 or other suitable surety as agreed between the parties.*
  - *All contribution amounts are to be indexed to inflation.*
2. *That Council provides the Joint Regional Planning Panel with a proposed condition of consent as follows:*

*"The applicant/owner of the land shall enter into a planning agreement with Narrabri Shire Council in accordance with Section 93F of the Environmental Planning and Assessment Act 1979 generally in accordance with the offer made by the applicant to Council to carry out certain upgrade works to Wave Hill Road and to make a monetary contribution to the*

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*Council of an annual tonnage contributions levy of \$1.12 per tonne (indexed to inflation) towards upgrade works of Wave Hill Rd to be carried out by the Council and further to contribute a maintenance levy of \$0.20 per tonne produced within the first twelve months and participate in the development of a road maintenance plan over the first 12 months after signing of the planning agreement wherein accurate maintenance costs will be determined and a proportional component thereof attributed to JCLS will be agreed between the parties over the remaining 14 years of the planning agreement.*

*Further that the applicant/owner shall fully fund the cost of construction and sealing of the section of Wave Hill Road between the existing Boral Quarry entrance and the entrance to the quarry the subject of DA60/2013 within 2 years of the date of the signing of the planning agreement.*

*Such planning agreement must be entered into and registered at Land and Property Information within 3 months of the grant of this development consent."*

The recommended conditions of consent have also been revised to incorporate references to the VPA after obtaining legal advice and these are attached to this report as attachment '2' and incorporate the General Terms of Approval from the NSW EPA previously received.

## **2 CONCLUSION**

This supplementary report addresses the reasons cited by the Panel for deferring consideration of this application. The proponent has submitted an amended VPA offer which Council have considered in the context of the required upgrading works, long term maintenance of Wavehill Road, and the regional demand for the quarry product.

Recommended conditions of consent are attached that reference the VPA as provided by Council's legal representatives that allows the determination of the application while the formal VPA instrument is finalized and exhibited for 28 days as required by Section 93G of the Environmental Planning and Assessment Act 1979.

## **3. RECOMMENDATION**

That:

1. DA 60/2013 for expansion of the existing quarry at Lot 77 DP 754937 and Lot 89 DP 821255 Wavehill Road Narrabri be approved subject to the attached conditions;
2. That those making a submission in relation to the application be advised of this decision.

## **ATTACHMENTS**

1. Letter of offer to enter into a VPA from JCLS received 5 May 2014
2. Draft conditions of consent.