



PCU53430

Our Reference: TM:MR:DA60-2013
Your Reference: DA60-2013
Contact Name: Tony Meppem
Telephone: (02) 67996855

23 May 2014

Ms Nabila Samadie
Regional Panels Secretariat
Department of Planning and Environment
GPO Box 39
SYDNEY NSW 2001

Department of Planning
Received
26 MAY 2014
Scanning Room

Dear Madam,

Re: VPA for JRPP Ref No: 2012NTH012- DA 60/2013 for Expansion of Existing Quarry 975 Wave Hill Road, Narrabri

I refer to the abovementioned application currently before the JRPP pending determination of an offer by Johnstone Concrete and Landscape Supplies Pty Ltd (JCLS) to enter into a Voluntary Planning Agreement (VPA) with Council for the upgrading and maintenance of the Wave Hill Road to mitigate the impacts of the development.

I wish to advise that Council at its meeting held on 6 May 2014 resolved to accept the VPA offer provided (copy of offer attached) by JCLS as follows:

MINUTE 298/2014

Moved: Cr Flower

Second: Cr Lowder

1. *That in relation to DA60/2013 Council enter into a planning agreement for the upgrading of Wave Hill Road (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 provide 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 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."*

CARRIED

Council has now instructed its solicitors to complete the proposed agreement and will then advertise the proposed agreement as required. To allow the matter to be determined Council requests that the JRPP approve the development application in accordance with the report presented to the JRPP meeting held on 21 August 2013 at Narrabri with the addition of the abovementioned additional condition of consent.

Should there be other additional requirements to allow determination of this application please email me at tonym@narrabri.nsw.gov.au or phone on 0267996876.

Yours sincerely,



Tony Meppem

MANAGER STRATEGY AND LAND USE MANAGEMENT



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26 March 2014

Narrabri Shire Council
46-48 Maitland Street,
Narrabri, NSW 2390

COPY

Attention: Mr Paul Bawden
Director Planning and Development

Dear Paul,

With reference to, the Wave Hill Quarry expansion discussions held at Chambers with Mr. Tony Meppem, Monday 24 March 2014, I would like to submit the following points to support our current expansion request. In light of having a now clearer idea of expectations and an understanding of the Wave Hill Road (SR18) upgrade proposal process and current council budget plans, Johnstone Concrete & Landscape Supplies Pty Ltd (JCLS) would like to submit the following points to be contained within our final Voluntary Planning Agreement (VPA) offer to Narrabri Shire Council.

Breakdown of distribution costs of road section (approx. 5.7 km) to Boral Quarry from current seal on Wave Hill Road, these works based on estimate costing provided by Narrabri Shire Council (NSC) to JCLS with the road design engineered and provided by NSC ;

- Narrabri Shire Council - \$750,000.00
- Johnstone Concrete & Landscape Supplies Pty Ltd - **\$1,976,972.00**

This offer sum provided by JCLS equates to 66.66% of outstanding balance after NSC contribution based on an estimate value of work totalling \$3,715,458.00.

JCLS offers to fund the costs of additional section of road between Boral and Johnstone quarries. NSC has estimated an approximant 2.1 km of road upgrade at a cost of **\$1,371,771.00** with these works also in line with the requirements of road design engineered and provided by NSC. It is JCLS intention to fund the completion of this section road within 2 years of signing of VPA

Johnstone Concrete & Landscape Supplies Pty Ltd total contribution offer for the Wave Hill Road upgrade will constitute approximately **\$3,350,000.00** factored over an offer of fifteen (15) years or sooner as the terms of review conditions contained within VPA.

The following matters provided as terms contained with final VPA offer submission to Narrabri Shire Council with regard to the scope and provisions of the Wave Hill Road upgrade works.

- JCLS provided with option to engage or conduct its own road civil works to the conditions of NSC provided design for its inclusively funded section between Boral eastern entrance boundary and Johnstone quarry entrance.
- The VPA contain terms for periodic review of changes if the conditions of Wave Hill Road use change or varied by unforeseen circumstances or events.
- JCLS as a participating stakeholder in the Wave Hill Road upgrade provided with an opportunity to engage and participate in tender discussions and considerations of assessment conditions related to Wave Hill Road tendered works.
- JCLS to breakdown contributions into offer of an annual tonnage contribution levy of \$1.12 per tonne delivered with an annual CPI indexed increase. This contribution is offered for 15 years from signing VPA or on full completion of agreed sealing sections of Wave Hill Road. JCLS understands if circumstances allow for NSC to complete Wave Hill Road upgrade works before the nominated expiry period of 15 years, JCLS will maintain payments of \$1.12 per tonne for the full 15 year period.
- Contributions levy calculated and paid monthly by JCLS to NSC **Wave Hill Road** fund account.
- JCLS to provide \$0.20 per tonne CPI indexed to NSC Wave Hill Road fund account for ongoing and future Wave Hill road maintenance purposes. This contribution is not to commence until 12 months after signing of VPA in recognition of previous maintenance contributions paid by JCLS for Wave Hill Road maintenance upgrades and works. The \$0.20 contribution offer is for maintenance of Wave Hill Road from the end of existing western bitumen seal to JCLS Quarry entrance gate.
- JCLS offers to pay the road maintenance contribution of \$0.20 per tonne extracted indexed to inflation over 14 year life of the planning agreement being a maximum contribution of \$560,000 (excluding inflation increases) with an undertaking to renegotiate contribution amount upon any changes to either or both JCLS or Boral extractive licensing arrangements or operations. In event of no change to operating tonnages from either both or any other quarry within 5 years of the signing of the VPA, both parties to calculate actual maintenance costs to calculate the life cycle costs of the road over the life of the Wave Hill Quarry conduct an agreed review.
- JCLS as priority of its section of works from Boral quarry to Johnstone quarry will seal 300 metres in front of immediate western neighbour entrance and home.
- JCLS seeks a provision to review the terms of this VPA should existing or future third parties express interest in submitting a new or expansion request for quarry operations on Wave Hill Road that provides a requirement of a development application.
- JCLS requests a bank guarantee be limited to one year's payment capped at \$250,000 or another suitable surety mutually agreeable to both JCLS and NSC.

- JCLS requests any dispute resolution be arbitrated by a mutually acceptable and appropriately qualified third party in matters pertained in the contents of this VPA .

Johnstone Concrete & Landscape Supplies Pty Ltd will engage in partnership with Narrabri Shire Council and any other prospective stakeholder to ensure the conditions and requirements to upgrade SR 18 Wave Hill Road are carried out in a spirit of co-operation and best intent and result for parties involved.

A handwritten signature in black ink, appearing to read 'Ian A Johnstone', with a long horizontal flourish extending to the right.

Ian A Johnstone
Managing Director
Johnstone Concrete & Landscape Supplies Pty Ltd