



**Department of  
Primary Industries**  
Office of Water

Contact: Vanessa Sultmann  
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Our ref: 30 ERM2014/0099  
Our file: 9057686  
Your ref: DA2014/0024

The General Manager  
Clarence Valley Council  
Locked Bag 23  
Grafton NSW 2460

**Attention: Patrick Ridgeway**

**SCANNED**

DOC #	
DOC LOG	
G	12 MAR 2014
CLARENCE VALLEY COUNCIL	

Dear Sir/Madam

**Re: Integrated Development Referral – General Terms of Approval**  
**Dev Ref: DA2014/0024**  
**Description of proposed activity: Extractive Industry – Crossing Upgrade**  
**Site location: Boundary Creek Road, Nymboida**

I refer to your recent letter regarding an integrated Development Application (DA) proposed for the subject property. Attached, please find the Office of Water's General Terms of Approval (GTA) for works requiring a controlled activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 91A (3) of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires a consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, the Office of Water requests that these GTA be included (in their entirety) in Council's development consent. Please also note the following:

- The Office of Water should be notified if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works on waterfront land (which includes (i) the bed of any river together with any land within 40 metres inland of the highest bank of the river, or (ii) the bed of any lake, together with any land within 40 metres of the shore of the lake, or (iii) the bed of any estuary, together with any land within 40 metres inland of the mean high water mark of the estuary).
- Once notified, the Office of Water will ascertain if the amended plans require review or variation/s to the GTA. This requirement applies even if the proposed works are part of Council's proposed consent conditions and do not appear in the original documentation.
- The Office of Water should be notified if Council receives an application to modify the development consent and the modifications change any activities on waterfront land.
- The Office of Water requests notification of any legal challenge to the consent.



As the controlled activity to be carried out on waterfront land cannot commence before the applicant applies for and obtains a controlled activity approval, the Office of Water recommends the following condition be included in the development consent:

"The Construction Certificate will not be issued over any part of the site requiring a controlled activity approval until a copy of the approval has been provided to Council".

**The attached GTA are not the controlled activity approval.** The applicant must apply (to the Office of Water) for a controlled activity approval **after consent** has been issued by Council **and before** the commencement of any work or activity on waterfront land.

Finalisation of a controlled activity approval can take up to eight (8) weeks from the date the Office of Water receives all documentation (to its satisfaction). Applicants must complete and submit (to the undersigned) an application form for a controlled activity approval together with any required plans, documents, the appropriate fee and security deposit or bank guarantee (if required by the Office of Water) and proof of Council's development consent.

Application forms for the controlled activity approval are available from the undersigned or from the Office of Water's website:

[www.water.nsw.gov.au](http://www.water.nsw.gov.au)      [Water licensing](#) > [Approvals](#) > Controlled activities

The Office of Water requests that Council provide a copy of this letter to the applicant.

The Office of Water also requests that Council provides the Office of Water with a copy of the determination for this development application as required under section 91A (6) of the EPA Act.

The EIS indicates the likelihood of groundwater interception in connection with quarrying activities. This interception of groundwater requires a licence under the Water Act 1912 (W Act).

Attached, please find the Office of Water's General Terms of Approval (GTA) for works requiring a licence under the W Act as detailed in the subject EIS.

Yours Sincerely



10/3/14

Patrick Pahlow  
Senior Water Regulation Officer  
Office of Water - Water Regulation, North/North Coast



# General Terms of Approval

for work requiring a controlled activity approval  
under s91 of the Water Management Act 2000

**Our Reference:** 30 ERM2014/0099

**File No:** 9057686

**Site Address:** Boundary Creek Road, Nymboida

**DA Number:** DA2014/0024

**LGA:** Clarence Valley Council

Number	Condition
<b>Plans, standards and guidelines</b>	
1	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA2014/0024 and provided by Council.</p> <p>Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.</p>
2	<p>Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.</p>
3	<p>The consent holder must prepare or commission the preparation of:</p> <ul style="list-style-type: none"><li>(i) Works Schedule</li><li>(ii) Erosion and Sediment Control Plan</li><li>(iii) Soil and Water Management Plan</li></ul>
4	<p>All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The plans must be prepared in accordance with the NSW Office of Water's guidelines located at <a href="http://www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx">www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx</a></p> <ul style="list-style-type: none"><li>(i) In-stream works</li><li>(ii) Watercourse crossings</li></ul>
5	<p>The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.</p>
<b>Rehabilitation and maintenance</b>	
6	<p>The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.</p>
7	<p>The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.</p>
<b>Reporting requirements</b>	
8	<p>The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as</p>

[www.water.nsw.gov.au](http://www.water.nsw.gov.au)

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170912



<b>Our Reference:</b>	30 ERM2014/0099	<b>File No:</b> 9057686
<b>Site Address:</b>	Boundary Creek Road, Nymboida	
<b>DA Number:</b>	DA2014/0024	
<b>LGA:</b>	Clarence Valley Council	

Number	Condition
	required.
<b>Security deposits</b>	
9	N/A
<b>Access-ways</b>	
10	N/A
11	N/A
<b>Bridge, causeway, culverts, and crossing</b>	
12	N/A
13	The consent holder must ensure that any bridge, causeway, culvert or crossing does not obstruct water flow and direction, is the same width as the river or sufficiently wide to maintain water circulation, with no significant water level difference between either side of the structure other than in accordance with a plan approved by the NSW Office of Water.
<b>Disposal</b>	
14	The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body, or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
<b>Drainage and Stormwater</b>	
15	The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the NSW Office of Water; and (ii) do not obstruct the flow of water other than in accordance with a plan approved by the NSW Office of Water.
16	The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the NSW Office of Water.
<b>Erosion control</b>	
17	The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
<b>Excavation</b>	
18	The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the NSW Office of Water.
19	N/A
<b>Maintaining river</b>	
20	The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation



**Our Reference:** 30 ERM2014/0099

**File No:** 9057686

**Site Address:** Boundary Creek Road, Nymboida

**DA Number:** DA2014/0024

**LGA:** Clarence Valley Council

Number	Condition
	other than in accordance with a plan approved by the NSW Office of Water.
21	N/A
<b>River bed and bank protection</b>	
22	N/A
23	N/A
<b>Plans, standards and guidelines</b>	
24	N/A
25	N/A
26	N/A
27	N/A
<b>END OF CONDITIONS</b>	



# General Terms of Approval

for work requiring a licence  
under Part 5 of the Water Act 1912

30 ERM2014/0099

File No: 9057686

Boundary Creek Road, Nymboida

DA2014/0024

Clarence Valley Council

## Condition

1. Before commencing any works or using any existing works for the purpose of dewatering an approval under Part V of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
2. An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.
3. When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or let lapse.
4. All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
5. All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
6. The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
7. All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
8. The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.
9. A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.
10. The water extracted under the approval to be granted shall be used for the purpose of dewatering and for no other purpose. A proposed change in purpose will require a replacement license to be issued.
11. Works for construction of a bore must be completed within such period as specified by the Department.
12. Within two months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are specified in the approval.

[www.water.nsw.gov.au](http://www.water.nsw.gov.au)

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170912



Boundary Creek Road, Nymboida

DA2014/0024

Clarence Valley Council

**Condition**

13. The Department has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.
14. The licensee must allow authorised officers of the Department, and it's authorised agents reasonable access to the licensed works with vehicles and equipment at any time for the purposes of:
  - 1 -inspecting the said work
  - 2 -taking samples of any water or material in the work and testing the samples.
15. The licensee shall within 2 weeks of being notified install to the satisfaction of the Department in respect of location, type and construction an appliance(s) to measure the quantity of water extracted from the works. The appliance(s) to consist of either a measuring weir or weirs with automatic recorder, or meter or meter(s) of measurement as may be approved by the Department. The appliance(s) shall be maintained in good working order and condition. A record of all water extracted from the works shall be kept and supplied to the Department upon request. The licensee when requested must supply a test certificate as to the accuracy of the appliance(s) furnished either by the manufacturer or by some person duly qualified.
16. The authorised work shall not be used for the discharge of polluted water into a river or lake otherwise than in accordance with the conditions of a licence granted under the protection of the Environment Operations Act 1997. A copy of the licence to discharge is to be provided to the Department.
17. The maximum term of this licence shall be five (5) years.
18. The volume of groundwater extracted from the work authorised by this licence shall not exceed 5 megalitres/year for the term of the licence.
19. The authorised work shall not be used for the discharge of water unless the ph of the water is between 6.5 and 8.5, or the water has been treated to bring the ph to a level between 6.5 and 8.5 prior to discharge, or the water is discharged through the council's sewerage treatment system.
20. The work shall be managed in accordance with the constraints set out in a Dewatering Management Plan approved by the Department.
21. The retention or holding pond must be lined with an impermeable material (such as clay or geotextile) to prevent seepage, leakage or infiltration of treated water.

END OF CONDITIONS



Our reference: EF14/752; DOC14/54276-01  
Contact: Peter Lynch 66402502

Sarah Ducat  
Development Planner Clarence Valley Council  
Locked Bag 23  
Grafton NSW 2460

28 APR 2014

Dear Ms Ducat,

**General Terms of Approval for the proposed quarry at Boundary Creek Road, Nymboida**

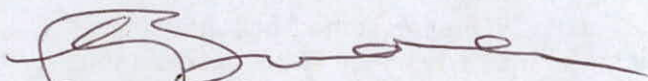
I refer to your letter received 17 April 2014 and the subsequent discussions with Graeme Budd and Peter Lynch concerning the proposed quarry at Lot 20 DP 46031, Part Lot 50 DP 752839 and Part of Lot 48 DP 752839 located at Boundary Creek Road Nymboida operated by Greensill Bros Pty Ltd.

The EPA has revised the General Terms of Approval (GTA) for this proposal taking account of your comments and the information in your letter. These revised GTAs are provided at Attachment A. If development consent for this proposal is granted, the EPA recommends these GTAs should be incorporated into the consent.

The GTA relate to the development as proposed in the documents and information currently provided to the EPA. In the event that the development is modified either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, it will be necessary to consult with EPA about the changes before the consent is issued. This will enable us to determine whether our GTAs need to be modified in light of the changes.

Should you wish to discuss the EPA's GTA for this project or require any further information please contact Peter Lynch on 6640 2502.

Yours sincerely



**Graeme Budd**  
**Head Environmental Management Unit North Coast**  
**Environment Protection Authority**

**SCANNED**

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G	30 APR 2014
CLARENCE VALLEY COUNCIL	



**ATTACHMENT A: Director General's Requirements for the proposed quarry at Lot 20 DP 46031, Part Lot 50 DP 752839 and Part of Lot 48 DP 752839 located at Boundary Creek Road Nymboida operated by Greensill Bros Pty Ltd.**

**Administrative conditions**

**A1. Information supplied to the EPA**

**A1.1** Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:

DA 2014/0024 for the proposed quarry at Lot 20 DP 46031, Part Lot 50 DP 752839 and Part of Lot 48 DP 752839 located at Boundary Creek Road Nymboida operated by Greensill Bros Pty Ltd.

**A2. Fit and Proper Person**

**A2.1** The applicant must, in the opinion of the EPA, be a fit and proper person to hold a licence under the Protection of the Environment Operations Act 1997, having regard to the matters in s.83 of that Act.

**Discharges to Air and Water and Applications to Land**

**P1.1** The following utilisation areas referred to in the table below are identified in the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, for the purposes of the monitoring and/or setting of limits for any application of solids or liquids to the utilisation area.

**Water and land**

EPA Identification no.	Type of Monitoring Point	Type of Discharge Point	Location Description
Stormwater Collection Sump	Water	Water	Overflow point Stormwater Collection Sump.

**Limit conditions**

**L1. Pollution of waters**

**L.1.1** Except as may be expressly provided by a licence under the Protection of the Environment Operations Act 1997 in relation of the development, section 120 of the Protection of the Environment Operations Act 1997 must be complied with in and in connection with the carrying out of the development.

**L2. Concentration limits**

**L2.1** For each monitoring/discharge point or utilisation area specified in the table/s (by a point number), the concentration of a pollutant discharged at that point, or applied to that area, must not exceed the concentration limits specified for that pollutant in the table.

**L2.2** Where a pH quality limit is specified in the Table, the specified percentage of samples must be within the specified ranges.



**L2.3** To avoid any doubt, this condition does not authorise the pollution of waters by any pollutant other than those specified in the table/s.

## **L2.4 Water and/or Land Concentration Limits**

### **DISCHARGE POINT 1 (Stormwater Collection Sump)**

<b>Pollutant</b>	<b>Units of measure</b>	<b>100 % concentration</b>
Total Suspended Solids	mg/L	50.
pH	pH units	6.5 - 8.5
Oil and grease	mg/L	Nil

**L2.5** The concentration limits in the above table do not apply to any discharge from the sediment basin (at Point 1) solely arising from rainfall measured at the premises exceeding 75.4 mm in total falling over any consecutive five day period.

**L2.6** If the applicant uses turbidity (NTU) in place of total suspended solids (TSS) to determine compliance with the EPA's general terms of approval, or a licence issued under the Protection of the Environment Operations Act 1997, the applicant must develop a statistical correlation which identifies the relationship between NTU and TSS for water quality in the sediment basin/s in order to determine the NTU equivalent of 50 mg/L TSS prior to its use.

**L2.7** If the applicant uses turbidity (NTU) in place of total suspended solids (TSS) to determine compliance with the EPA's general terms of approval, or a licence issued under the Protection of the Environment Operations Act 1997, the applicant must provide the EPA with a copy of the statistical correlation assessment methodology and results before using NTU in place of TSS.

**L2.8** If the applicant uses turbidity (NTU) in place of total suspended solids (TSS) to determine compliance with the EPA's general terms of approval, or a licence issued under the Protection of the Environment Operations Act 1997, the applicant must develop and implement a method to enable the ongoing verification of the relationship between NTU and TSS.

**L2.9** If the applicant uses turbidity (NTU) in place of total suspended solids (TSS) to determine compliance with the EPA's general terms of approval, or a licence issued under the Protection of the Environment Operations Act 1997, the applicant must provide the EPA with any amendments the applicant makes to the statistical correlation as a result of the ongoing verification required by Condition L2.8 before using the revised statistical correlation.

## **L3. Waste**

**L3.1** The applicant must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.

**L3.2** This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the Protection of the Environment Operations Act 1997.



#### **L4. Noise limits**

**L4.1** Noise from the premises must not exceed an L Aeq (15 minute) noise emission criterion of 35 dB(A), except as expressly provided by these general terms of approval:

**L4.2** Noise from the premises is to be measured at the most affected residential receiver who has not given written permission for an exceedance of condition L4.1 to determine compliance with this condition.

**L4.3** The noise limits set out in condition L4.1 apply under all meteorological conditions except for the following:

- Wind Speeds greater than 3 metres/second at 10 metres above ground level; or
- Temperature inversion conditions up to 3° C/100m and wind speeds greater than 2 metres/second at 10 metres above ground level; or
- Temperature inversion conditions greater than 3°C/100m.

#### **L5 Blasting**

**L5.1** Blasting operations at the premises may only take place between 09:00 to 15:00 Monday to Friday. (Where compelling safety reasons exist, the Authority may permit a blast to occur outside the above mentioned hours. Prior written (or facsimile) notification of any such blast must be made to the Authority).

**L5.2.** 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 any point within 1 meter of any affected residential boundary or other noise sensitive location unless the location is owned by the licensee or is subject to a private written agreement between the owner of the residence or noise sensitive location as to an alternative overpressure level.

**L5.3** 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 any point within 1 meter of any affected residential boundary or other noise sensitive location unless the location is owned by the licensee or is subject to a private written agreement between the owner of the residence or noise sensitive location as to an alternative ground peak velocity level.

**L5.4** All sensitive receivers are to be given at least 24 hours notice when blasting is to be undertaken.

**L5.5** The air-blast overpressure level and the ground vibration peak particle must be monitored for from all blasting operations.

#### **L6. Hours of operation**

**L6.1** Activities covered by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, must only be carried out between the hours of 7:00 am and 5:00 pm Monday to Friday, and 8:00 am and 1:00 pm Saturday, and at no time on Sundays and Public Holidays.

**L6.2** This condition does not apply to the delivery of material outside the hours of operation permitted by condition L6.1 if that delivery is required by police or other authorities for safety reasons; and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification must be provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of emergency.



**L6.3** The hours of operation specified in condition L6.1 may be varied with written consent if the EPA is satisfied that the amenity of the residents in the locality will not be adversely affected.

## **Operating conditions**

### **01. Dust**

**01.1** Activities occurring in or on the premises must be carried out in a manner that will minimise the generation, or emission from the premises, of wind-blown or traffic generated dust.

### **02. Processes and management**

**02.1** Sediment basins shall be treated, if required, to reduce the Total Suspended Solids level to the concentration limit of 50 mg/L provided by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, before being released to the environment. Treatment can be with gypsum or any other material that has been approved by the EPA.

**02.2** The applicant must maximise the diversion of run-on waters from lands upslope and around the site whilst land disturbance activities are being undertaken.

**02.3** The applicant must maximise the diversion of stormwater runoff containing suspended solids to sediment basins installed on the premises.

**02.4** Where sediment basins are necessary, all sediment basins and associated drainage must be installed and commissioned prior to the commencement of any clearing or grubbing works within the catchment area of the sediment basin that may cause sediment to leave the site.

**02.5** The applicant must ensure the design storage capacity of the sediment basins installed on the premises is reinstated within 5 days of the cessation of a rainfall event that causes runoff to occur on or from the premises.

**02.6** The applicant must ensure that sampling point(s) for water discharged from the sediment basin(s) are provided and maintained in an appropriate condition to permit:

- a) the clear identification of each sediment basin and discharge point;
- b) the collection of representative samples of the water discharged from the sediment basin(s); and
- c) access to sampling point(s) at all times by an authorised officer of the EPA.

**02.7** The applicant must endeavour to maximise the reuse of captured stormwater on the premises.

**02.8** Each sedimentation basin must have a marker (the "sediment basin marker") that identifies the upper level of the sediment storage zone.

**02.9** Whenever the level of liquid and other material in any sedimentation basin exceeds the level indicated by the sedimentation basin marker, the licensee must take all practical measures as soon as possible to reduce the level of liquid and other material in the sedimentation basin.

**02.10** All liquid chemicals, fuels and oils must be stored in tanks or containers inside suitable bund(s). Bund(s) are to be designed, constructed and maintained in accordance with AS1940-2004 Storage and Handling of Flammable and Combustible Liquids.

### **M1 Monitoring records**

**M1.1** The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, in relation to the development or in



order to comply with the load calculation protocol must be recorded and retained as set out in conditions M1.2 and M1.3.

**M1.2** All records required to be kept by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, must be:

- a) in a legible form, or in a form that can readily be reduced to a legible form;
- b) kept for at least 4 years after the monitoring or event to which they relate took place; and
- c) produced in a legible form to any authorised officer of the EPA who asks to see them.

**M1.3** The following records must be kept in respect of any samples required to be collected:

- a) the date(s) on which the sample was taken;
- b) the time(s) at which the sample was collected;
- c) the point at which the sample was taken; and
- d) the name of the person who collected the sample.

## ***M2. Requirement to monitor concentration of pollutants discharged***

**M2.1** The applicant must monitor (by sampling and obtaining results by analysis) the concentration of each pollutant specified in Column 1. The applicant must use the sampling method, units of measure, and sample at the frequency, specified opposite in the other columns:

### **POINT 1 Water and Land**

#### **Discharge point 1**

<b>Pollutant</b>	<b>Units of measure</b>	<b>Frequency</b>
Total Suspended Solids	mg/L	Special Frequency 1.
pH	pH units	Special Frequency 1
Oil and grease	mg/L	Special Frequency 1

< *Special Frequency 1* > means sampling any discharge, whether controlled or otherwise, which has not occurred from rainfall exceeding 74.5 mm over any consecutive five day period.

## ***M3. Testing methods - concentration limits.***

**M3.1** Subject to any express provision to the contrary of the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, monitoring for the concentration of a pollutant discharged to waters or applied to a utilisation area must be done in accordance with the Approved Methods Publication unless another method has been approved by the EPA in writing before any tests are conducted.

## ***M4. Environmental monitoring***

**M4.1** The applicant is required to install and maintain a rainfall depth measuring device.

**M4.2** Rainfall at the premises must be measured and recorded in millimetres per 24 hour period, at the same time each day.

Note: The rainfall monitoring data collected in compliance with Condition M4.2 can be used to determine compliance with L2.4.



**M6. Other monitoring and recording condition**

**M6.1** For the purposes of monitoring for compliance with the noise limit conditions of the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, (condition L4) noise emitted from the premises must be measured or computed at 30 metres from the nearest residential dwelling/s over a period of 15 minutes using the "FAST" response on the sound level meter. A modifying factor correction must be applied for tonal, impulsive, or intermittent noise in accordance with the document NSW Industrial Noise Policy (NSW EPA, January 2000).

**Reporting conditions**

**R1.1** The applicant must provide an annual return to the EPA in relation to the development as required by any licence under the Protection of the Environment Operations Act 1997 in relation to the development. In the return the applicant must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of licence fees (administrative fees and, where relevant, load based fees) that are payable. If load based fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.



## **Special Condition 1. Soil and Water Management Plan (SWMP)**

A Soil and Water Management Plan is required to be produced for the site. The key objective of the SWMP is to ensure that the potential impacts to soil and water quality are minimised in accordance *Managing Urban Stormwater Soils and Construction: Volume 1 and Volume 2 E. Mines and quarries*.

The SWMP must include:

- A description of the overflow point of sediment basin of the quarry is needed as this point will be the licensed discharge point for the quarry.
- Sizing the sediment basins in accordance with operational standards of *Managing Urban Stormwater Soils and Construction: Volume 1 and Volume 2 E. Mines and quarries*. (Calculations for the sizing must refer to type D and F sediment basins.)

(This report is to be submitted with the EPL application.)

## **Special Condition 2.**

### **Noise Mitigation Works and monitoring.**

(i) The licensee must engage a noise consultant to prepare a report detailing Noise Mitigation Works so that the premise is compliant with the noise limits in the licence, that is a L Aeq (15 minute) noise emission criterion of 35 dB(A). (This report is to be submitted with the EPL application.)

(ii) Complete installation of Noise Mitigation Works designed to reduce the noise impacts on residents. These works are to be completed prior to the commencement of extractive activities at the premises.

iii) Engage a noise consultant to conduct compliance noise monitoring of normal quarry operations, within 30 days of commencement of extraction, to establish if compliance with the noise limits in the licence has been achieved at all potentially affected residences.

(iv) Submit a report on the monitoring and outcomes of the above compliance noise monitoring. This report is to be submitted within 60 days of commencement of extraction activities.



## **Attachment – Mandatory Conditions for all EPA licences**

### **Administrative conditions**

#### **Other activities**

This licence applies to all other activities carried on at the premises, including:

- Extractive Activities; and

#### **Operating conditions**

##### **Activities must be carried out in a competent manner**

Licensed activities must be carried out in a competent manner.

This includes:

- the processing, handling, movement and storage of materials and substances used to carry out the activity; and
- the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

#### **Maintenance of plant and equipment**

All plant and equipment installed at the premises or used in connection with the licensed activity: must be maintained in a proper and efficient condition; and must be operated in a proper and efficient manner.

#### **Monitoring and recording conditions**

##### **Recording of pollution complaints**

The licensee must keep a legible record of all complaints made to the licensee or any employee or agent of the licensee in relation to pollution arising from any activity to which this licence applies.

The record must include details of the following:

- the date and time of the complaint;
- the method by which the complaint was made;
- any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
- the nature of the complaint;
- the action taken by the licensee in relation to the complaint, including any follow-up contact with the complainant;
- and if no action was taken by the licensee, the reasons why no action was taken.

The record of a complaint must be kept for at least 4 years after the complaint was made.

The record must be produced to any authorised officer of the EPA who asks to see them.

#### **Telephone complaints line**

The licensee must operate during its operating hours a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises or by the vehicle or mobile plant, unless otherwise specified in the licence.

The licensee must notify the public of the complaints line telephone number and the fact that it is a complaints line so that the impacted community knows how to make a complaint.

This condition does not apply until 3 months after this condition takes effect.

### **Reporting conditions**

#### **Annual Return documents**

##### ***What documents must an Annual Return contain?***

The licensee must complete and supply to the EPA an Annual Return in the approved form comprising:

- a Statement of Compliance; and
- a Monitoring and Complaints Summary.



A copy of the form in which the Annual Return must be supplied to the EPA accompanies this licence. Before the end of each reporting period, the EPA will provide to the licensee a copy of the form that must be completed and returned to the EPA.

***Period covered by Annual Return***

An Annual Return must be prepared in respect of each reporting, except as provided below

*Note: The term "reporting period" is defined in the dictionary at the end of this licence. Do not complete the Annual Return until after the end of the reporting period.*

Where this licence is transferred from the licensee to a new licensee, the transferring licensee must prepare an annual return for the period commencing on the first day of the reporting period and ending on the date the application for the transfer of the licence to the new licensee is granted; and the new licensee must prepare an annual return for the period commencing on the date the application for the transfer of the licence is granted and ending on the last day of the reporting period.

*Note: An application to transfer a licence must be made in the approved form for this purpose.*

☐

Where this licence is surrendered by the licensee or revoked by the EPA or Minister, the licensee must prepare an annual return in respect of the period commencing on the first day of the reporting period and ending on in relation to the surrender of a licence - the date when notice in writing of approval of the surrender is given; or in relation to the revocation of the licence - the date from which notice revoking the licence operates.

***Deadline for Annual Return.***

The Annual Return for the reporting period must be supplied to the EPA by registered post not later than 60 days after the end of each reporting period or in the case of a transferring licence not later than 60 days after the date the transfer was granted (the 'due date').

***Licensee must retain copy of Annual Return***

The licensee must retain a copy of the annual return supplied to the EPA for a period of at least 4 years after the annual return was due to be supplied to the EPA.

***Certifying of Statement of Compliance and Signing of Monitoring and Complaints Summary***

Within the Annual Return, the Statement of Compliance must be certified and the Monitoring and Complaints Summary must be signed by:

- (a) the licence holder; or
- (b) by a person approved in writing by the EPA to sign on behalf of the licence holder.

A person who has been given written approval to certify a Statement of Compliance under a licence issued under the Pollution Control Act 1970 is taken to be approved for the purpose of this condition until the date of first review this licence.

***Notification of environmental harm***

*Note:* The licensee or its employees must notify the EPA of incidents causing or threatening material harm to the environment immediately after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the Act.

Notifications must be made by telephoning the EPA's Pollution Line service on 131 555.

The licensee must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.

***Written report***

Where an authorised officer of the EPA suspects on reasonable grounds that:





## Department of Primary Industries

Our Ref: IDA#14/13

The General Manager  
Clarence Valley Council  
Locked Bag 23  
GRAFTON NSW 2460

**SCANNED**

14 February 2014

Attention: Mr Patrick Ridgway

DOC #	_____
DOC LOC.	_____
G	18 FEB 2014
CLARENCE VALLEY COUNCIL	

Dear Mr Ridgway

**Re: Development Application No. DA 2014/0024**  
**Extractive industry hard rock quarry, Lot 20 DP 46031 Boundary Creek Road**  
**Nymboida, Clarence Valley LGA**

Thank you for your letter of 3 February 2014 requesting that Fisheries NSW, a division within the Department of Primary Industries provide General Terms of Approval on the above mentioned development application.

Receipt of the proscribed \$320 fee under cl253 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation 2000) is acknowledged. Consistent with cl70 of the EP&A Regulation 2000, Fisheries NSW have provided this response within 40 days after the Department received a copy of this application on 5 February 2014.

Fisheries NSW is responsible for ensuring that fish stocks are conserved and that there is "no net loss" of key fish habitats upon which they depend. To achieve this, the Aquatic Habitat Protection Unit assesses activities under Part 5 of the *Environmental Planning and Assessment Act 1979* in accordance with the objectives of the *Fisheries Management Act 1994*, the aquatic habitat protection and threatened species conservation provisions in Parts 7 and 7A of the Act, and the *Policy and Guidelines for Fish Habitat Conservation and Management (2013 Update)*. In addition Fisheries NSW is responsible for ensuring the sustainable management of commercial, quality recreational fishing and viable aquaculture within NSW.



## General Terms of Approval

- Sections 219-220 of the *Fisheries Management Act* 1994 require appropriate fish passage be provided when designing, modifying or constructing watercourse crossings (pipelines, floodgates, causeways or weirs) that are constructed or modified. Provision of fish passage needs to satisfy Fisheries NSW requirements for fish passage available in the document *Why Do Fish Need To Cross The Road? Fish Passage Requirements for Waterway Crossings*, available on the internet at:  
[http://www.fisheries.nsw.gov.au/\\_\\_data/assets/pdf\\_file/5054/booklet-fish-passage.pdf](http://www.fisheries.nsw.gov.au/__data/assets/pdf_file/5054/booklet-fish-passage.pdf)
- Prior to the release of the Construction Certificate for DA2014/0024 the proponent shall liaise with Fisheries NSW in relation to the design and construction methodology for the culvert over Copes Creek. The final plans for the culvert and the Construction and Environmental Management Plan are to be signed by Fisheries NSW to demonstrate endorsement of the plans.
- A permit under s198-202 of the *Fisheries Management Act* 1994 for dredging and reclamation works or a Controlled Activity Approval under the *Water Management Act* 2000 be obtained prior to commencement of the works at the site.
- Environmental safeguards (silt curtains, booms etc.) are to be utilised during construction of the culvert to ensure there is no escape of turbid plumes into the aquatic environment. Erosion and sediment controls must be in place prior to commencing, during and after works, until the site has stabilised.

If you or the proponent wish to discuss these General Terms of Approval please contact Fisheries Conservation Manager (North), Patrick Dwyer on 02 6626 1397.

Yours sincerely



Patrick Dwyer  
**Fisheries Conservation Manager (North)**





File No: NTH14/00015; CR2014/003503  
Your Ref: GD14/0024

The General Manager  
Clarence Valley Council  
Locked Bag 23  
GRAFTON NSW 2460

Attention: Sarah Ducat

Dear Sir

**DA2014/0024 Extractive Industry Hard Rock Quarry Boundary Creek Road Nymboida.**

I refer to your letter of 1 July 2014, regarding the quarry at Boundary Creek Road Nymboida.

**Roles & Responsibilities**

The key interests for Roads and Maritime Services are the safety and efficiency of the road network, traffic management, the integrity of infrastructure assets and the integration of land use and transport.

In accordance with *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* Clause 16(3), Roads and Maritime is given the opportunity to review and provide comment on the subject development application.

**Roads and Maritime Response**

Roads and Maritime suggests that Items 1 to 5 in Appendix A of the Roads Safety Audit prepared by Roadnet dated 13 June 2014 should be implemented to manage haulage traffic attributable to the quarry operation.

Item 1, Boundary Creek Road, suggestion 3 recommends restricting truck speeds as part of the conditions of operation of the quarry. Council may like to consider requiring a Code of Conduct for haulage vehicles. The code of conduct may include:

- A map of any approved haulage routes highlighting specific locations for consideration such as school zones, school bus routes, residential areas or potential risk locations.
- An induction process for staff and sub contractors outlining clear expectations and consequences for any breach of the code.
- Instruction on operational and safety requirements.

**Roads & Maritime Services**



If you require further information please contact Michael Baldwin on 6640 1362 or email [Development.Northern@rms.nsw.gov.au](mailto:Development.Northern@rms.nsw.gov.au).

Yours faithfully,

A handwritten signature in blue ink, appearing to read 'Sirol', with a small flourish at the end.

31 July 2014

for Monica Sirol  
Network & Safety Manager, Northern Region

CC:  
ENC:





File No: NTH14/00015; CR2014/000668  
Your Ref: GD14/0024

General Manager  
Grafton City Council  
Locked bag 23  
GRAFTON NSW 2460

Attn: Mr Patrick Ridgway – Development Planner

Dear Sir

**Clarence Valley Council. Development Application 2014/0024.  
Extractive Industry. Boundary Creek Road. Nymboida.**

I refer to your letter of 4 February 2014 regarding the abovementioned development application forwarded to Roads and Maritime Services for consideration and comment.

**Roles & Responsibilities**

The key interests for Roads and Maritime are the safety and efficiency of the road network, traffic management, the integrity of infrastructure assets and the integration of land use and transport.

Armidale Road (MR74) is a classified (regional) road. Clarence Valley Council is the 'Roads Authority' for this road and all other public roads in the subject area. Roads and Maritime concurrence is required for Council's approval of works on this road under Section 138 of the Roads Act.

In accordance with *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* Clause 16(3), Roads and Maritime is given the opportunity to review and provide comment on the subject development application.

**Roads and Maritime Response**

The following comments concerning the impacts on road safety and traffic management are provided for Council's consideration.

- i. As mentioned in the Traffic Impact Assessment a Road Safety Audit of the haulage routes should be undertaken prior to any consent being issued. This should be undertaken in accordance with Austroads Guide to Road Safety Part 6.



- ii. Current Austroads warrants indicate that the existing junction of Armidale Road and Boundary Creek Road requires realigned and the provision of an Austroads BAR treatment for right-turning southbound traffic and a BAL for left-turning traffic.
- iii. The first 50ms of Boundary Creek Road should be sealed to reduce the tracking of material onto Armidale Road.
- iv. If the local road haulage route is approved then an annual contribution should be made to council for the maintenance of these roads.
- v. In accordance with Clause 16(1) of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* the Consent Authority may require the Quarry operator to adopt a Code of Conduct for haulage sub-contractors and drivers. The documents should be approved by Council prior to the commencement of the increased extraction limit. The Code of Conduct may include;
  - a map of any approved haulage route/s highlighting specific locations for consideration such a schools zones, residential areas or potential risk locations
  - an induction process for staff and sub-contractors outlining clear expectations and consequences for any breach of the code
  - clear guidance on operational and safety requirements.

Upon determination of the application, it would be appreciated if Council could forward a copy of the Notice of Determination for our records. If you have any further enquiries regarding the above comments please do not hesitate to contact Greg Sciffer on 6640 1362 or email [development.northern@rms.nsw.gov.au](mailto:development.northern@rms.nsw.gov.au).

Yours faithfully,



John Alexander  
Regional Manager, Northern Region

25 FEB 2014





Office of  
Environment  
& Heritage

Your reference: DA2014/0024  
Our reference: DOC14/16631 SF14/2274  
Contact: John Martindale 02 6659 8222

The General Manager  
Clarence Valley Council  
Locked Bag 23  
Grafton NSW 2460

Att: Mr Clem Rhoden, Manager Development Services

Dear Mr Greensill

**Re: Proposed hard rock quarry - Boundary Road, Nymboida NSW**

Thank you for your letter dated 4 February 2014 advising the Office of Environment and Heritage (OEH) that an Environmental Impact Statement (EIS) relating to the above proposal has been placed on public exhibition. OEH appreciates the opportunity to provide comment in relation to its recommended requirements for the EIS provided to your department on 10 February 2012.

Please note that subsequent to the issue of those requirements, OEH has undergone a restructure such that the Environment Protection Authority (EPA) is now an independent body. As such, you may receive independent comment from the EPA on matters of relevance to it, for example water quality, dust and noise, under separate cover.

In relation to the remaining requirements, OEH now has statutory responsibilities for biodiversity, Aboriginal cultural heritage, historic heritage, flooding and OEH estate. OEH has reviewed the exhibited EIS documents and advises it has concerns relating to the following (detailed OEH comments are provided in Attachment 1):

1. consistency with Clarence Valley Council's adopted Biodiversity Management Strategy 2010 with respect to biodiversity values and wildlife corridors on site and along Boundary Creek Road,
2. the application of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007,
3. the impact on local populations of threatened species,
4. the risk of disturbance to known sites of significance to the Aboriginal community.

Should you require further information or clarification, or should Council be in possession of information that suggests that OEH's statutory interests may be further affected, please contact Conservation Planning Officer, Mr John Martindale, on telephone 02 6659 8222.

Yours sincerely

*Dimitri Young* 14 March 2014

**DIMITRI YOUNG**  
Senior Team Leader Planning, North East Region  
Regional Operations

Locked Bag 914, Coffs Harbour NSW 2450  
Federation House, Level 7, 24 Moonee Street  
Coffs Harbour NSW  
Tel: (02) 6651 5946 Fax: (02) 6651 6187  
ABN 30 841 387 271  
[www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

**SCANNED**

DOC #	_____
DOC LOC.	_____
G	19 MAR 2014
CLARENCE VALLEY COUNCIL	



## **Attachment 1 – Detailed OEH Comments - Proposed hard rock quarry, Boundary Road, Nymboida**

### General planning matters

OEH advises that the land in the vicinity of the proposal is considered to be of high conservation value due to its regional wildlife corridor function, the presence of a number of threatened species (24 according to the Executive Summary in Appendix C), the proximity of an endangered ecological community and the almost continuous presence of mature native forest containing numerous hollow bearing trees. The land is acknowledged in the EIS (page 19 of Appendix C) to be mapped as “state significant” in the OEH Biodiversity Conservation Lands layer. A copy of this layer is understood to be held by Council and was used in developing Council’s adopted Biodiversity Management Strategy 2010. OEH requests that Council ensure that the proposal is consistent with that strategy.

It is noted that the proposal occurs over lands zoned as Rural Landscape (RU2) and that extractive industry (quarries) is listed as prohibited in this zone. Given the high conservation value of the land OEH strongly supports Council’s zoning. However, OEH notes that the prohibition is apparently overridden by the provisions of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (SEPP) 2007 (page 26 of EIS). OEH recommends that Council clarify the application of the SEPP to areas of demonstrated high conservation value since it has ramifications for prohibited activities in other zones, particularly E zones.

OEH also notes that the EIS does not discuss the availability of currently approved hard rock quarries elsewhere in the Local Government Area that may be located in areas that are less environmentally sensitive and closer to the Pacific Highway upgrade. Demand for the product appears to be insufficiently justified and at least part of it (the upper layers) is acknowledged in the EIS (page 9) to be unsuitable for road base and concrete aggregate. OEH recommends that Council pay careful attention to whether the materials could be or are already sourced elsewhere in the LGA thereby reducing impact on an environmentally sensitive part of the LGA.

### Biodiversity

OEH notes that the proposal is to be spread over a 25 year time period with the final and fourth stage occurring over 10 years and subject to further development approval. However, the environmental assessments in the EIS are intended to cover the entire period. OEH recommends that the approvals for the final stage also be subject to further biodiversity assessment at the time. This is because the time frames are long and the impact of the earlier stages on the local biodiversity cannot be adequately predicted that far in advance. It may be that the remaining habitat associated with the proposed Stage 4 area becomes of increasing importance, for example, with respect to the prevalence of hollow bearing trees.

The EIS (page 60) states that 11.6ha of threatened species habitat and 66 hollow bearing trees are to be cleared in accordance with certain protocols. Although OEH agrees with these clearing protocols, it is considered that the associated assessments of significance (AoS) pursuant to section 5A of the *Environmental Planning and Assessment Act 1979* have failed to adequately assess the potential impact on local populations of threatened species. This is because the results of relevant surveys and desk top reviews over surrounding lands have either not occurred or are inadequately discussed.

For example, a map of threatened flora/fauna records in the vicinity of the site is not provided. Furthermore, the EIS does not clearly define the local Yellow-bellied Glider population (i.e. number of interacting family groups based on survey work) or the hollows used by the species for denning, both key considerations in the AoS for this species. This threatened species was recorded in the impact area and is known to occur in family groups often sporadically associated with Grey Gums on more fertile soils and to utilise tree hollows for denning. Further survey work should be undertaken to clarify the number of family groups associated with the local population of this species, the trees used for denning in the impact area and the availability of suitable trees with hollows beyond the impact area. This information should then be used to re-address the



AoS for this species so that a justifiable conclusion is provided. Similar information may also be required to adequately assess the impacts on other hollow-dependent fauna species, such as the Brish-tailed Phascogale and threatened bats via the AoS.

The presence of threatened orchid species also remains to be confirmed (refer page 17 of Appendix C). Such species can occur in small local populations which could be impacted by the proposal. In addition, the occurrence of a recent fire has placed limits on the adequacy of the ecological surveys. This may be of particular relevance to the Koala which was not recorded despite sufficient canopy of suitable feed trees being present (page 48 of Appendix C). OEH notes that there are 109 records of Koala within 10km of the site (page 48 of Appendix C) and, given time to recolonise after fire, OEH considers it likely that this species would be recorded there in the future.

There is therefore insufficient information in the EIS to allow a well-justified conclusion as to whether a significant effect could occur on threatened species, populations, ecological communities, or their habitats. This shortfall should be addressed before the matter is determined.

The site occurs within a regional wildlife corridor mapped under the OEH Key Habitats and Corridors Study (refer map on page 20 of Appendix C). The study identifies the corridor to be of importance for the threatened Yellow-bellied Glider, Rufous Bettong and Brush-tailed Phascogale; all of which have been recorded either on or in close proximity of the site.

The proposal has potential to reduce the mapped corridor width by nearly 50% and total vegetated width by about 20%. Combined with the additional impacts created by truck movements along Boundary Creek Road (up to 44 per day over 15 years – Table 2.4 on page 18 of EIS), OEH considers the long term impact on corridor values could be substantial. Council's Biodiversity Management Strategy identifies these corridors as important and priorities for habitat protection and restoration. OEH recommends Council pay careful attention as to whether the proposal is consistent with the strategy.

The EIS does not adequately discuss the potential impact of the Copes Creek road crossing upgrade and the additional truck traffic on flora and fauna. For example, the impact of dust on adjacent flora and of noise on fauna along the road (as distinct to the quarry itself) is not mentioned. The impacts of potential road widening and/or maintenance on potential road-side adapted species such as the threatened *Tylophora woollsii*, *Cynanchum elegans* and possibly, *Olearia flocktoniae* are not mentioned and surveys for these species along the road are yet to be conducted.

OEH supports the proposed ameliorative measures, buffer distances and clearing protocols documented in the EIS and recommends they be included in any conditions of consent. However, the details of the Rehabilitation and Landscape Plans (pages 120 and 126 of the EIS) should have been presented as part of the EIS rather than being left to preparation and implementation after consent.

OEH also notes that the applicant intends to dedicate the remainder of the lands (including the dry rainforest endangered ecological community) on the development lot to conservation. Whilst this is also supported by OEH, details of the proposed methods to accomplish this are either not provided or somewhat inconsistent. For example, the Ecological Assessment (page 50) indicates the lands are to be managed under the *Native Vegetation Act 2003* whilst the EIS (page 60) suggests that the Routine Agricultural Management Activities (RAMAs) and logging will not be allowed.

OEH would prefer to see these lands set aside under the Bio-banking legislation (Part 7A of the *Threatened Species Conservation Act 1995*). Alternatively, some consideration could be given to including it in the nearby Hortons Creek Nature Reserve using Planning Agreements under Section 93F of the *Environmental Planning and Assessment Act 1979*.

It should also be noted that, should the applicant opt to adopt bio-banking in full across the site, further survey and assessment work to derive credit ratios etc. would be required. Council should note that if the applicant wishes to apply the results to obtain consent concessions then this work will need to be done



prior to consent being issued. OEH recommends that the proposed Biodiversity Offset Strategy (page 60 of EIS) be prepared and included in the EIS prior to consent. OEH is prepared to provide further advice on these matters if requested.

### Aboriginal Cultural Heritage

OEH has reviewed the documentation provided by the applicant in support of the DA, including 'The archaeological assessment for sites of Indigenous cultural significance on Lot 48 DP752839 & Lot 20 DP46031, Proposed Quarry, Boundary Creek Road, Nymboida, NSW' (dated September 2012) (the archaeological assessment) to assess the potential impacts of the proposed development on Aboriginal cultural heritage. The following advice is provided to Council and the applicant following this review:

OEH acknowledges the significance of the local environment to the local Aboriginal community including the existence of numerous registered Aboriginal sites in the immediate locality. One site identified in the archaeological assessment as 'within 100 metres of Boundary Creek Road' and not being relocatable due to possible mapping errors is a highly significant Aboriginal cultural site recorded in detail in OEH's Aboriginal Heritage Information Management System (AHIMS).

The AHIMS site information identifies a site complex consisting of three loci situated respectively 50m north of the road, 100m south near an old dead tree (documented in the site recording through photography) and 100m west of the road. The site recording information details the connection of this area to the Aboriginal Place gazetted in Nymboida. It is of concern to OEH that the discussion in the report does not reflect the recorded information detailed in the AHIMS register. OEH does not consider that the potential impacts to this culturally significant location have been fully addressed in the report.

Furthermore OEH has identified specific data conversion errors in the consultant's process for this archaeological assessment. OEH confirms that these errors will have contributed significantly to the difficulties in relocating known sites. OEH considers it appropriate that this process is redone and a second attempt to locate the registered AHIMS sites is undertaken to further inform this assessment.

The remaining results of the archaeological assessment of the project area are acknowledged, including the archaeological field survey undertaken by the applicant on 20 September 2012. It is noted that two (2) Aboriginal sites were identified during the assessment and subsequently Aboriginal objects may potentially be impacted or harmed by works associated with the proposed DA.

Under Section 89A of the *National Parks and Wildlife Act 1974*, it is an offence for a person not to notify OEH of the location of any Aboriginal object the person becomes aware of, not already recorded on the AHIMS. An AHIMS Site Recording Form should be completed and submitted to the AHIMS Registrar ([www.environment.nsw.gov.au/contact/AHIMSRegistrar.htm](http://www.environment.nsw.gov.au/contact/AHIMSRegistrar.htm)), for each Aboriginal site found during investigations.

OEH's preference would be to avoid impacting Aboriginal objects and OEH would advocate for a commitment from the applicant to protecting or conserving these Aboriginal cultural heritage values when planning any subsequent road upgrades.

The project area contains landforms which have yielded a volume of evidence of Aboriginal occupation in the immediate local area including burials. OEH notes that the consultant has not discussed or investigated the potential for burials to be present either within the project footprint or along Boundary Creek Road. OEH is aware of known Aboriginal burial sites in the immediate vicinity of Boundary Creek Road and considers that there is a moderate to high possibility of further, as yet unrecorded remains to be located in the area.

OEH reminds the applicant that they have a responsibility to manage any Aboriginal cultural heritage values of the project area in compliance with the requirements of the NPW Act.



OEH also notes that although the AHIMS search parameters cover a significant area around the project area they do not take into account the entire extent of Boundary Creek Road which would be the primary access for the project and related traffic. OEH has conducted an AHIMS search with parameters that include all of Boundary Creek Road and noted a number of other Aboriginal sites including significant Aboriginal cultural sites within the immediate vicinity.

OEH notes that any road upgrade activities associated with this DA may trigger the current Integrated Development Assessment provisions under Part 4 of the EP&A Act and Clarence Valley Council may need to seek General Terms of Approval for Aboriginal cultural heritage values from OEH. Further Aboriginal cultural heritage assessments/documentation will be required to support any subsequent DAs submitted by the applicant for upgrading the road servicing the project area.

It is important to note that any further assessment undertaken by the applicant to support the DA process must also include evidence of further archaeological and cultural investigation and assessment of the entire project area (including access and egress routes), evidence of consultation with representatives of the local Aboriginal community (demonstrating consultation undertaken in accordance with OEH's '*Aboriginal cultural heritage consultation requirements for proponents 2010*' (refer to [www.environment.nsw.gov.au/licences/consultation.htm](http://www.environment.nsw.gov.au/licences/consultation.htm)) and culminate in the preparation of an Aboriginal cultural heritage impact assessment report.

The report should also document a preferred management strategy demonstrating local Aboriginal community support for the strategy and compliance with the requirements of the NPW Act. If Aboriginal objects/sites are identified during this assessment and impact or harm cannot be avoided an Aboriginal Heritage Impact Permit will be required for the development to occur.

Please note that the outcome of any (AHIP) application process cannot be assured by OEH. Any application submitted will be reviewed on its merits, utilising OEH assessment guidelines and against the requirements of the NPW Act. These include OEH's '*AHIP Guide for Applicants*' and the '*Guide to AHIP processes and decision making*'.

These guidelines are available at: <http://www.environment.nsw.gov.au/licences/applyforahip.htm> and <http://www.environment.nsw.gov.au/resources/cultureheritage/110397guideahipprocess.pdf>.

### Summary of Recommendations

OEH recommends that prior to determining this matter Clarence Valley Council should:

1. consider whether the proposal is consistent with its Biodiversity Management Strategy 2010.
2. clarify the application of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) (SEPP) 2007 to areas of demonstrated high conservation value.
3. consider whether there is adequate justification for the proposal.
4. consider requiring that approvals for the final stage/s of the proposal be subject to further biodiversity assessment at that time given the long time frames involved.
5. request a map from the proponent of threatened flora/fauna records in the vicinity of the site to better inform the consideration of biodiversity.
6. consider requiring further flora and fauna information, including further targeted threatened species surveys, to better inform the consideration of threatened species, populations, ecological communities or their habitats, particularly for some threatened orchids, other threatened flora, the Yellow-bellied Glider, other hollow-dependent threatened fauna and Koala.



7. consider incorporating the proposed ameliorative measures, buffer distances and clearing protocols documented in the EIS into conditions of consent should the proposal be determined by way of approval.
8. consider requiring that the proposed Biodiversity Offset Strategy (page 60 of EIS) be prepared and incorporated into the EIS with clearly identified commitments and mechanisms for setting aside offsets in perpetuity with appropriate management funds.
9. require reanalysis of Aboriginal cultural heritage records to ascertain their locations with more accuracy in an attempt to relocate them on the ground.
10. require an AHIMS Site Recording Form to be completed and submitted to the AHIMS Registrar for each Aboriginal site found during investigations.
11. require that the Aboriginal cultural heritage assessment report document a preferred management strategy for Aboriginal cultural heritage demonstrating local Aboriginal community support for the strategy and compliance with the requirements of the NPW Act.





Our Ref: DOC14/084624  
Your Ref: GF14/0024

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29 October 2013

General Manager  
Clarence Valley Council  
LB 23  
GRAFTON NSW 2460

Dear Sir/Madam

**Re: DA 2014/0024 – Quarry - Greensils Bros Pty Ltd**

I refer to your letter of 5 February 2014 regarding the above development located at Lot 20 DP 46031 and Lot 48 DP 752839 at Nymboida.

While the proposal does not directly impact on the Crown estate Lot 48 does adjoin a Crown public road so Crown lands requests that the applicant does not undertake any activity on the road or use the road for any purpose associated with the development. The proponent may not:

- encroach upon the Crown road,
- remove any vegetation from the Crown road,
- stockpile materials, equipment or machinery on the Crown road,,
- direct stormwater discharges onto Crown land/road, or
- use the Crown road as Asset Protection Zone.

Crown lands also requests that any Crown roads/bridges that need to be constructed due to the proposal are to be transferred/acquired by Clarence Valley Council.

If you wish to discuss this matter further please contact me on 6640 3408.

Yours sincerely

Narelle Hooton  
Senior Property Officer  
Crown Lands Grafton