14 November 2014

Tony Blue
Blueprint Planning Consultants
6 Braeroy Drive
PORT MACQUARIE NSW 2444

Our ref: 22/17047
16197

Your ref:

Dear Tony

T6 14 67 - Proposed Church Hill Quarry, Crescent Head Road, Kempsey Koala Offset

As outlined in the *Flora and Fauna Impact Assessment* (GHD, 2014), the proposed quarry would impact on 6.97 hectares of secondary (A) preferred Koala habitat. Under the Kempsey Comprehensive Koala Plan of Management (CKPoM), the proposal therefore triggers the requirement for an offset. Accordingly, the offset site would need to be at least 13.94 hectares in size and contain up to 6.97 hectares of preferred Koala habitat.

The CKPoM also stipulates that the offset area is protected by a valid legally binding agreement and the agreement must include a Vegetation Management Plan (VMP), detailing how the area will be revegetated and maintained.

To achieve the offset requirements, it is proposed to use the area surrounding the proposed quarry and Lot 16 DP 1157615 and Lot 189 DP 754400, as shown on the attached plan. A comparison of the offset proposal and the CKPoM requirements is presented in Table 1 below.

Table 1 Offset Proposal Justification

Requirement	Proposed
a) Loss of koala habitat must be compensated via the securement of a corresponding measure of land that equates to no less than two times the total area to be affected by vegetation removal. Habitat Compensation should be undertaken on the same site as clearing where possible	Removal of 6.97ha requires a 13.94ha offset site. The proposed offset is 21 ha in area and is on the same site or adjacent to the impact site.
b) The Habitat Compensation Measures must take the form of a valid legally binding agreement between the proponent of the development and any person being the lawful owner of land.	It is proposed to either: • re-classify the site to “Community Land”, or • establish protective covenants over the land under a S88B Instrument and • rezone it, as shown on the attached plan during the next LEP review. This would establish two layers of protection for

Requirement	Proposed
	the site in perpetuity.
c) For purposes of a) and b) above, the area to be secured as compensation must comprise no more than half existing preferred koala habitat, the remaining area comprising cleared or partially cleared land for revegetation purposes	The area to the south consists of 14.8 ha of preferred koala habitat. The area shown in the attached plan surrounding the proposed quarry is 6.2 ha. This area is partially cleared and will require revegetation. Although less than the 6.97 ha required, the area south of the proposed quarry would also require some revegetation works.
d) Secured existing preferred koala habitat must be at least of equivalent habitat value to koalas as that to be impacted by development. If the land to be secured is of a lesser quality to that subject to impact, enhancement of the secured existing habitat will also be required.	Figure 4 and Table 5 of the Flora and Fauna Impact Assessment show that the area to be secured is of equal or better quality habitat than the area to be removed. It also contains areas of EEC.
e) Cleared, or partially cleared land for revegetation purposes must be planted out with a species mix to establish a vegetation community (including an appropriate understorey, midstorey and overstorey) equivalent to the area being disturbed. The proportion of preferred koala feed trees in the vegetation community must be equivalent to that being disturbed, or 15%, whichever is the larger. Half of all replanted preferred koala feed trees must be tallowwood.	The revegetation would be undertaken in accordance with a VMP which is to be approved by KSC.
f) Areas being the subject of the compensation measures must be protected by a valid legally binding agreement, that ensures the protection of the habitat compensation area in perpetuity through the rezoning of land for habitat protection and/or the application of restrictive covenants on title. Development Consent must be conditional upon the agreement being in place (ie signed registered or otherwise as per the legal requirements of the relevant agreement) prior to any work related to the Development Application occurring on the site, or where the proposed development involves the erection of a building, prior to the release of the Occupation Certificate.	It is proposed to either: • re-classify the site to “Community Land”, or • establish protective covenants over the land under a S88B Instrument and • rezone it, as shown on the attached plan during the next LEP review. This would establish two layers of protection for the site in perpetuity..
g) All costs associated with enacting the valid legally binding agreement, including funding and maintenance of the revegetation component, must be borne by the applicant.	The costs associated with enacting the legally binding agreement will be borne by the applicant and land owner.

In summary the proposal has the following advantages:

- At 21 hectares, it would secure a greater area than is required.
- It is located directly adjacent to the site.
- It includes preferred koala habitat that is in better condition than the vegetation to be removed, areas of endangered ecological communities and hollow bearing trees.
- Some degraded areas exist within the offset site and these would be regenerated.
- By either reclassifying the land as Community Land or establishing appropriate protective covenants under a S88B instrument and rezoning it to E2 and E3, there would be two layers of protection to ensure the offset is conserved in perpetuity.

As the landowner, the attached letter from Council staff shows their support for the offset proposal and commitment to presenting a report to Council recommending:

- The site is re-classified from ‘Operational Land’ to ‘Community Land’ or a protective covenant under S88B being established .
- The site is rezoned, as shown on the attached plan, in the next review of Kempsey Local Environmental Plan 2013.

In accordance with the CKPoM, NSW Quarries Pty Ltd are committed to:

- Preparing a VMP for the offset site in accordance with the requirements in the CKPoM, prior to any clearing occurring and providing the VMP to Council for approval.
- Achieving practical completion of the VMP within 12 months of clearing commencing.

If the above proposal is supported, we understand this will be sufficient for the determination of the development application.

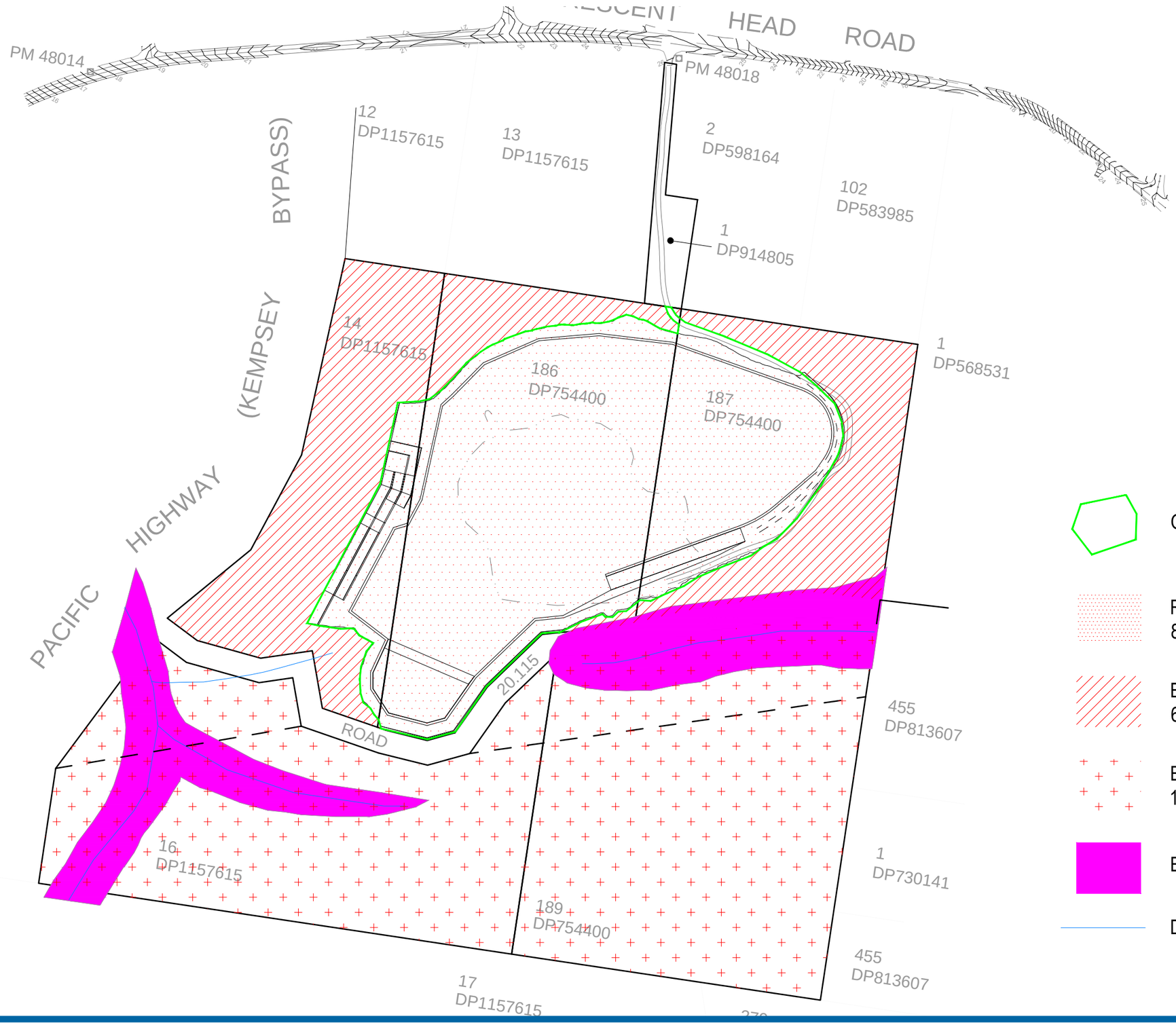
If you would like any further information, please contact the undersigned.

Sincerely
GHD Pty Ltd

Ben

Ben Luffman
Senior Environmental Scientist/Planner
02 6650 5600

Attachment: Proposed Koala Offset and Rezoning Plan
KSC Letter of Support



QUARRY EXTENT

RU2
8.9 Ha

E3 - KOALA OFFSET
6.2 Ha

E2 - KOALA OFFSET
14.8 Ha

EEC

DRAINAGE LINE

NSW Quarries Pty Ltd
Church Hill Quarry

PROPOSED KOALA OFFSET
AND REZONING

Job Number	22-17047
Revision	A
Date	OCT 2014

Figure 01

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Ref: T6–14-67
RJS:rjs

14 November 2014

Mr Ben Luffman
GHD Pty Ltd
PO Box 1340
COFFS HARBOUR NSW 2450
Ben.Luffman@ghd.com

Dear Mr Luffman

APPLICATION FOR DEVELOPMENT APPROVAL – (T6 14-67) PROPOSED EXPANSION OF CHURCHILL QUARRY – KPOM OFFSETS

I understand that GHD is the applicant on behalf of NSW Quarries for the abovementioned development application.

NSW Quarries are part of a commercial lease arrangement with Council for the development and operation of Churchill Quarry. This arrangement was entered into by both parties following an open tender process conducted in accordance with the Local Government Act & Regulations. The lease is conditional upon development consent being granted and the conditions of consent become part of the terms of the lease upon being issued.

I understand that due to the area proposed to be cleared by the quarry development, the Koala Plan of Management requires an offset area to be established and maintained in perpetuity. This requirement will form part of the conditions of consent for the quarry approval and there are a number of ways in which it may be achieved. Due to the contractual relationship between Council and NSW Quarries, Council will have an obligation to support the implementation of the controls necessary to satisfy the development consent with respect to the offset area.

I understand that the offset is proposed to be secured by reclassification of the land to "Community Land" under the Local Government Act and eventual rezoning of the land to "E2" & "E3" zones under the next revision of the KLEP. Council's preference is for the land to be initially secured by appropriate restrictions/covenants on a Section 88B Instrument and then rezoning. A separate submission has been made to the development assessor in this regard.

As noted above, Council is a party to a commercial arrangement which includes the conditions of development consent. This effectively binds the Council to support implementation of the controls nominated in the conditions of development consent for the protection of the offset land. Failure to do so would be inconsistent with the contract and have potential ramifications for the Council.

If the proposed development is approved, Council staff will proceed to prepare a report to the next Council meeting for endorsement of the appropriate recommendation(s) to proceed with implementing the initial controls as soon as possible.

Should you require further information, please do not hesitate to contact Council as detailed below.

Yours faithfully

Robert Scott
DIRECTOR INFRASTRUCTURE SERVICES