

JOINT REGIONAL PLANNING PANEL (Northern Region)

JRPP No:	2014NTH007
DA Number:	DA-47-2014
Local Government Area:	Guyra
Proposed Development:	Construction of a tomato farm in two stages. Including construction of 4 x 5 hectare glasshouses and ancillary buildings for the growing, packaging and distribution of tomatoes.
Street Address:	4774 New England Highway FALCONER NSW 2365 4850 New England Highway FALCONER NSW 2365
Applicant/Owner:	Applicant- Greg Hill of Hill Lockart, Architects. Owners- Tomato Exchange Pty Limited P J Bell Pty Ltd P G Bell Crown
Number of Submissions:	Thirteen
Regional Development Criteria (Schedule 4A of the Act)	General Development having a capital investment value in excess of \$20 Million
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No 33—Hazardous and Offensive Development • State Environmental Planning Policy (Infrastructure) 2007 • Guyra Local Environmental Plan 2012 • Guyra Development Control Plan 2013
List all documents submitted with this report for the panel's consideration	<ol style="list-style-type: none"> 1. Site Analysis Map 1 and 2 prepared by Hill Lockart Architects dated 13 October 2014 2. Recommended conditions
Recommendation:	Conditional consent be granted
Report by:	Chris Pratt
Report date:	5 November 2014

Assessment Report and Recommendations

DA-47-2014 / JRPP Ref: 2014NTH007

Assessment Summary

This development application was considered by the Joint Regional Planning Panel (JRPP) on 6 August 2014. The Panel resolved to defer the application until a peer review of the assessment report and the information had been undertaken. I have undertaken that review. The main issues were:

- The lack of a complete description of the proposed operation of the tomato farm in the application,
- The impact that the proposed access from the New England Highway would have on the overtaking lane on the Highway,
- The inadequate assessment of the water demand and available water for the 20 hectare tomato farm, and
- Lack of information on the impacts of the coal and gas heating systems.

A comprehensive Statement of Environmental Effects (SEE) has subsequently been submitted with some revised and new supporting expert reports. The revised SEE was publicly notified for 30 days and landowners within a 2.5 km radius of the subject site were notified.

Some further clarification of the revised SEE was subsequently sought by Council and NSW Office of Water. The Road and Maritime Services have now endorsed the new highway access and the NSW Office of Water has now issued their General Terms of Approval.

Seven submissions were received in support of the proposed development and six submissions objecting to the revised proposed development. One of the submissions in support was a letter endorsed by 129 current employees of Costa. The supporting submissions refer to the economic and social benefits that would be generated by the development.

Again the major objection to the development is the sustainability of the water supply. The revised report from the Costa's consultants reveals that the current water availability is only sufficient for the supply of 15 of the 20 hectares of glasshouses. On this basis it has been recommended that approval of the second ten hectares of glasshouses (Stage 2) only proceeds if the proponent can provide an independent report, endorse by the NSW Office of Water, to demonstrate a sustainable water supply for the second ten hectares of the farm.

The proposed development will generate positive economic and social impacts for Guyra and the region; though it is essential that the economic opportunities generated by the proposed development do not adversely impact nearby farming enterprises and residents. The recommended conditions will minimise those possible adverse impacts while ensuring the positive social and economic benefits of the proposed development are realised. In particular the conditions require an Operational Plan of Management with annual auditing to ensure that the proponent is continually monitoring and reviewing its processes and procedures to improve its water sustainability and reduce the external impacts on its neighbours.

Recommendation

- (a) That Development Application DA-47-2014 (JRPP ref 2014NTH007) be granted conditional consent as per the recommended conditions of consent attached, and**
- (b) That persons that made submissions in relation to the Application be notified of the determination in writing.**

Update

This development application was considered by the JRPP on 6 August 2014. The Panel resolved:

"That Development Application 47/2014 be deferred until a peer review of the assessment report and the information submitted by the applicant with the development application is completed. The matter will then be considered again by the panel at a public meeting."

I have been engaged to undertake that review. I visited Guyra on Tuesday 12 August 2014. I viewed the vicinity of the existing tomato farm operated by Costa and also viewed the on site earthworks underway on the subject site. I have reviewed the original application, public and public authority submissions, additional information supplied prior to the JRPP consideration of the application and the assessment report presented to the JRPP.

Deficiencies in the application were determined and conveyed to the applicant via letter dated 25 August 2014. This request for additional information also took into consideration the matters raised in public submissions. .

The applicant submitted a new Statement of Environmental Effects (SEE) dated 17 September 2014 which included some revised and new supporting expert reports. This SEE has been prepared by Kate Campbell, Town Planning Manager of Sixhills Group consultancy (Sixhills). Sixhills advises that the new SEE includes:

- *A full description of the proposed development in terms of processes (including site waste management), inputs and outputs.*
- *Details outlining compliance with Section 79C of the Environmental Planning and Assessment Act 1979.*
- *Clarification that the proposed development is classified as 'integrated' pursuant to the provisions of Section 91 of the Environmental Planning and Assessment Act 1979.*
- *A revised Traffic Impact Assessment clarifying anticipated vehicle movements.*
- *Detailed designs of the proposed access point in accordance with the requirements of the NSW Roads and Maritime Services.*
- *An analysis of the site in the context of the locality.*
- *An assessment of the possible impact on residents and motorists on the highway from the reflectivity of the proposed glass houses and security lighting.*
- *A visual analysis of the proposed development.*
- *A landscaping plan.*
- *Further details in relation to the social and economic benefits and impacts of the proposed development.*
- *A Stormwater Management Strategy and a Water Cycle Management Strategy developed by Kelley Covey Group Pty Ltd.*
- *A Hydrogeological Investigation prepared by Jacobs Group (Australia) Pty Limited.*
- *Clarification of operating hours and anticipated staff numbers.*

The applicant confirms that following changes to the application have been made since the application was last considered by the Panel:

Item No. 1

The orientation of all buildings on site has been altered approximately six (6) degrees to provide a true north orientation for the glasshouses in lieu of the magnetic north location originally planned. This will optimise the heat gain to the glasshouses during the peak growing periods. All buildings and infrastructure still fall within the sub-divided allotment.

Item No.2

At the time of the original Development Application the overall water strategy for the site and in particular the design of the water storage dams was not fully resolved. Since the original submission extensive design and consultation with the Office of Water has occurred. In the south eastern corner of the allotment the previous Development Application identified 5, 20 and 80 mega litre dams. The dams have been re-orientated to take account of the levels and optimise the catchment and construction methodology. The 5 mega litre storage dam has been deleted from the proposal. The 20 and 80 mega litre dams have been re-orientated across the slope and their design and methodology is more fully detailed and explained in the water strategy prepared and submitted with the additional information.

Item No.3

The kidney shaped dam originally shown adjacent to Glasshouse 38 has now been relocated to the south between Glasshouse 38 and 48. The primary purpose of this dam is catchment of water from hard stand areas in the centre of the development site between the glasshouses. It's relocation to this position optimises the falls on the proposed site and the piping methodology.

This relocation has occurred following a more developed stormwater design strategy for the site.

Item No.4

With the relocation of the kidney shaped dam the coal boiler building has been relocated to allow the dam to fall within its new position.

The gas boiler is in approximately the same location as originally designed with the coal boiler now to the northern side of the gas boiler along with the hot water storage tanks.

Item No.5

All of the following buildings have been retained in their original design, scale and form;

- Administration*
- Packing Shed and Cool Room*
- Glasshouse Stores*
- Links*
- Staff Buildings*
- 4No Glasshouses*

The MSB Building has changed slightly in its size and proportion to take account of the now known design for the main switchboards, the pre-fabricated generator system and the point of installation of sub-stations from Essential Energy.

The Work Shop/Irrigation and RO Buildings have been altered in size without an increase in their combined floor area. The RO Building has been reduced to a single span portal frame with that section of the RO Building now added to the end of the Workshop/Irrigation Building. This change has occurred following the developed design of the irrigation system.

The requirement of pipework originally designed to be included in the RO Building are now more efficiently designed in close proximity to the irrigation and fogging rooms within the Workshop/Irrigation Building.

Item No. 6

The external Ring Road on the development site has been rationalised where car parking locations have been identified adjacent to staff buildings and where the main trucks enter and exit the loading dock area.

Some of the curved sections of driveway have been eliminated to reduce the impact of the trucks on the road surface.

Item No.7

The location of the New England Highway intersection and internal road to the proposed development site have also been altered following continued design discussions with the RMS Grafton office.

Item No.8

The amended Development Application now shows the location of the proposed fire and domestic water system in the south western corner of the allotment, following its developed design.

The applicant has formally requested, in terms of Clause 55 of the Regulations, that the development application be modified as set out above.

Sixhills Group has also provided the following further clarification of changes to the application:

- The originally submitted development application proposed an access point off the New England Highway further south than the access point currently proposed. The new access has been nominated as it is in proximity to the existing temporary access established as part of DA 4/2014, has good sight distance and can be upgraded to provide a suitable intersection without impacting on the existing northbound overtaking lane.*
- The proposed internal access to the development site has been revised in order to run parallel to the New England Highway before connecting with a paper road. It is considered that the location of the revised access will minimise the potential for land use conflict between the development and the adjoining owner's grazing activities. It is noted that acquisition of additional land has been required in order to accommodate this alteration.*
- The location of the proposed reticulated water and sewer infrastructure is proposed to traverse private property to the south of the subject land, as opposed to being located in the road reserve of the New England Highway.*

The revised SEE was publicly notified for 30 days from Friday 19 September to Monday 20 October 2014. A 30 day notification period was required pursuant to *State Environmental Planning Policy No 33—Hazardous and Offensive Development*. A notification letter was sent to landowners within a 2.5 km radius of the subject site.

The development is integrated development due to the development also being a controlled activity approval under the *Water Management Act 2000* (WM Act) and requiring a groundwater licence under the *Water Act 1912*. The application was therefore referred to the NSW Office of Water on 18 September 2014.

Roads Maritime Services (RMS) concurrence is required pursuant to *State Environmental Planning Policy (Infrastructure) 2007* and the application was referred to the RMS on 18 September 2014.

Section 79(c) Evaluation

Sixhills Group has provided a comprehensive Statement of Environmental Effects having accurately described the site, the history of development on the land and the proposed development. In particular the SEE now has a good description of the processes involved in the operation of the tomato farm.

Section 79C(1)(a) - environmental planning instruments

Sixhills have provided a comprehensive evaluation of the provisions of relevant planning instruments (Pages 31 to 41), pursuant to Section 79C(1)(a), except in regard to the permissibility of the development pursuant to *Guyra Local Environmental Plan 2012*. The following table provides a summary of Section 79C(1)(a) evaluation:

Summary of Section 79C(1)(a) Evaluation

Relevant Provision	Compliance with the provision
<p><i>State Environmental Planning Policy No. 33 – Hazardous and Offensive Development</i></p> <p>The purpose of this Policy is to provide definitions for potentially hazardous industry and potentially offensive industry and to apply suitable planning provisions for such land uses.</p>	<p>The quantity of calcium nitrate, potassium nitrate and coal to be stored on the subject land exceeds the thresholds specified by Table 3 of the Hazardous and Offensive Development Application Guidelines (NSW Department of Planning, January 2011). Therefore, the proposed development is potentially hazardous and the provisions of SEPP No. 33 apply.</p> <p><i>A Hazardous Chemicals Storage and Segregation assessment has been carried by Noel Arnold. & Associates (part of Greencap Consulting risk management and compliance consultants). Greencap have confirmed that they are satisfied in regard to the applicant's adoption of their recommendations in the design of the development.</i></p>
<p><i>State Environmental Planning Policy No. 44 – Koala Habitat</i></p> <p>The consent authority must, prior to granting consent to carry out development on land over one hectare, satisfy itself whether or not the land has koala habitat.</p>	<p>A Koala Habitat Assessment was completed by Melaleuca Enterprises for Development Application 4/2014. This assessment revealed that the site is not classified as core habitat. Conditions have been recommend that require some inclusion in the landscaping of the koala habitat tree species found on the site.</p>
<p><i>State Environmental Planning Policy No. 55 – Remediation of Land</i></p> <p>The consent authority is required to consider whether land is unsuitable for a proposed use because it is contaminated, prior to granting consent to the carrying out of that development.</p>	<p>The proposed use is not a change of use in terms of SEPP55. In any event the applicant advises: <i>Previous known uses of the subject allotment include agricultural activities, specifically grazing and cropping. An inspection of the site did not reveal any visual indicators of contamination.</i></p>

Relevant Provision	Compliance with the provision
Should the land be contaminated consent authority must be satisfied that the land is suitable in a contaminated state for the proposed use or that the land will be remediated before the land is used for that purpose	<i>The property is not included in Council's information system for potentially contaminated land as having been previously used for a purpose that may have resulted in contamination, nor is it listed on the NSW Environment Protection Authority's online register of Records under Section 58 of the Contaminated Land Management Act 1997. If any (at present unknown) contamination comes to light during site works, the appropriate actions shall be taken in accordance with SEPP 55, WHS and environmental protocols to address any issues relating to human health and environmental protection.</i>
State Environmental Planning Policy No. 64 – Advertising and Signage This Policy provides requirements for outdoor advertising and signs	The applicant advises that they will seek separate consent for any signs that are not exempt development.
State Environmental Planning Policy (Infrastructure) 2007 Referral to the NSW Roads and Maritime Services (RMS) is required as the development involves more than 200 motor vehicle movements. The consent authority must consider any submission that the RMS provides	The application was referred to RMS and their recommended conditions have been incorporated into the recommend conditions of consent.
Guyra Local Environmental Plan 2012 Clause 1.2 (2) Aims Relevant aims are: <i>(2)(a) to encourage the orderly management, development and conservation of resources by protecting, enhancing and conserving:</i> <i>(ii) timber, minerals, soils, water and other natural resources</i> <i>(2)(c) to facilitate development for a range of business enterprises and employment opportunities</i> and <i>(d) to ensure that development is sensitive to both the economic and social needs of the community, including the provision of community facilities and land for public purposes.</i>	The proposed tomato farm is designed to make efficient use of resources so as to increase the production of tomatoes. The proposed development builds upon Guyra and the region's agricultural base. A healthy economic base provides the opportunities to improve positive social outcomes. Conditions of consent have been recommended to protect the living environment of neighbouring residents.
Guyra Local Environmental Plan 2012 Clause 2.1 Land use zones	The subject site is located in zone RU1 – Primary Production. See the land zoning map below. The proposed development is defined as

Relevant Provision	Compliance with the provision
	<p><i>intensive plant agriculture (horticulture), farm building; and</i></p> <p><i>rural industry (agricultural produce industry)</i></p> <p>These uses are permissible in the zone. See the detailed discussion below in regard to permissibility.</p>
<p>Guyra Local Environmental Plan 2012</p> <p>Clause 2.3 Zone objectives</p> <p>The consent authority must have regard to the relevant zone objectives. The objectives for the RU1 zone are:</p> <ul style="list-style-type: none"> • <i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</i> • <i>To encourage diversity in primary industry enterprises and systems appropriate for the area.</i> • <i>To minimise the fragmentation and alienation of resource lands.</i> • <i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i> • <i>To allow for non-agricultural land uses that will not restrict the use of other land in the locality for agricultural purposes.</i> 	<p>The proposed development is consistent with the relevant zone objectives as it constitutes a sustainable primary industry with specific systems that have been developed for the Guyra region.</p> <p>The proposed development provides for diversity in primary industry enterprises. Adjoining land uses are also generally associated with primary industry.</p> <p>Conditions have been recommended to ensure the proposal can operate so that it is compatible with surrounding development.</p>
<p>Guyra Local Environmental Plan 2012</p> <p>Clause 5.9 Preservation of trees or vegetation</p> <p>Requires consent for the removal of certain trees.</p>	<p>There is no tree removal proposed as part of this application. Tree removal was addressed as part of DA 4/2014 for earthworks.</p>
<p>Guyra Local Environmental Plan 2012</p> <p>Clause 6.1 Earthworks</p> <p>Requires consideration of the environmental impacts of any earthworks to be carried out in conjunction with development.</p>	<p>DA 4/2014 sought development consent for bulk earthworks associated with the proposed development, including all individual building pads.</p> <p>The applicant seeks consent for the following additional earthworks as part of this application:</p> <ul style="list-style-type: none"> • Main highway work. • Construction of the access road from the highway intersection to the site. • Construction of the main ring road around the site (with the exception of the bulk cutting and shaping of the ground). • Construction of the driveways and car park areas (other than the bulk cutting and shaping). <p>An erosion and sediment control plan will be</p>

Relevant Provision	Compliance with the provision
	required as part of the project Construction Management Plan
<p><i>Guyra Local Environmental Plan 2012</i></p> <p>Clause 6.4 Essential services Development consent must not be granted unless the consent authority is satisfied that services that are essential for the development are available or that adequate arrangements have been made to make them available when required.</p>	<p>Satisfactory arrangements can be made with Council for the supply of water and sewerage services to the land.</p> <p>The supply of electricity to the proposed development was considered as part of DA 4/2014.</p> <p>A satisfactory Stormwater Management Strategy has been prepared by Kelley Covey Group Pty Ltd Consulting Engineers.</p> <p>Suitable vehicular access has been detailed in the application. The RMS has endorsed the revised access from the Highway.</p>
<p><i>Guyra Development Control Plan 2013</i></p> <p>Chapter 1- Development in Rural Areas</p>	<p><i>Part 1 – Introduction</i></p> <p>The development application is accompanied by the documentation required by the provisions of this Part.</p> <p><i>Part 2 – Environmental Protection</i></p> <p>In accordance with the objectives of this Part, the proposed development considers the physical constraints of the land and mitigates any negative environmental impacts as detailed within the SEE. This is reinforced via the recommended conditions of consent.</p> <p><i>Part 6 – Infrastructure Services</i></p> <p>Appropriate services are proposed to be provided as part of the development as detailed in Section 7.1.3 of the SEE.</p> <p><i>Part 7 – Section 94 Contributions</i></p> <p>A condition of consent is recommended for payment of Section 94A Contributions. The recommended conditions permit payment of these contributions in instalments.</p> <p><i>Part 8 – Advertising</i></p> <p>The applicant advises that further consent will be sought for any signs that are not exempt development.</p>

Relevant Provision	Compliance with the provision
<i>Guyra Development Control Plan 2013</i> Chapter 3 - Approval & Notification of Applications	<i>Part 1 – Notification of Applications</i> The revised Development Application has been notified in accordance with the provisions of this Part.
<i>Guyra Development Control Plan 2013</i> Chapter 6 - Parking Control Plan	As the proposed development as more than 50 parking spaces the development has been designed in accordance with relevant Australian Standards.
<i>Guyra Development Control Plan 2013</i> Chapter 7 - Contaminated Land	An assessment of the subject land has been undertaken in accordance with the provisions of <i>State Environmental Planning Policy No. 55 – Remediation of Land</i> .

In regard to permissibility I advise as follows:

The land is within *Zone RU1 Primary Production* under the provisions of *Guyra Local Environmental Plan 2012*. The Land Zoning Map appears below and the land is indicated by the white arrow.

Sixhills Group reports the permissibility at Page 38 of their SEE as follows:

The proposed development is specified as a use permissible with consent in the zone under Part 3 of the relevant zone table, being "horticulture", which is a form of "intensive plant agriculture" as defined in the Dictionary of the LEP namely

horticulture means the cultivation of fruits, vegetables, mushrooms, nuts, cut flowers and foliage and nursery products for commercial purposes, but does not include a plant nursery, turf farming or viticulture.

Intensive plant agriculture is actually permitted without development consent within *Zone RU1 Primary Production* under the provisions of *Guyra Local Environmental Plan 2012*.

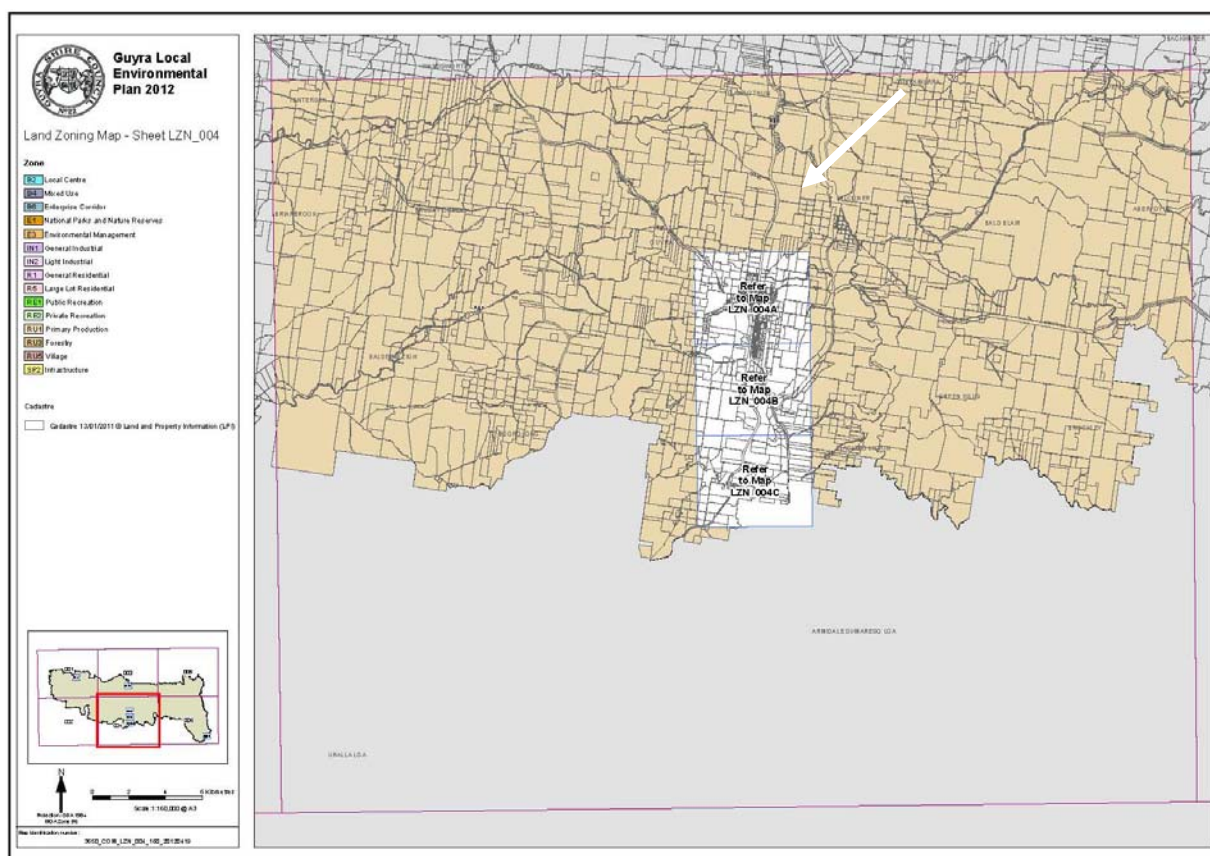
However Clause 2.3(3) of *Guyra Local Environmental Plan 2012* provides:

(3) *In the Land Use Table at the end of this Part:*

(a) *a reference to a type of building or other thing is a reference to development for the purposes of that type of building or other thing, and*

(b) *a reference to a type of building or other thing does not include (despite any definition in this Plan) a reference to a type of building or other thing referred to separately in the Land Use Table in relation to the same zone.*

Land Zoning Map



Source: <http://www.legislation.nsw.gov.au>

As such the relevant definitions of *farm building* and *rural industry* appear in the *Land Use Table in relation to the same zone*. These two uses are permitted with the consent and are defined as follows:

farm building means a structure the use of which is ancillary to an agricultural use of the landholding on which it is situated and includes a hay shed, stock holding yard, machinery shed, shearing shed, silo, storage tank, outbuilding or the like, but does not include a dwelling.

rural industry means the handling, treating, production, processing, storage or packing of animal or plant agricultural products for commercial purposes, and includes any of the following:

- (a) agricultural produce industries,*
- (b) livestock processing industries,*
- (c) composting facilities and works (including the production of mushroom substrate),*
- (d) sawmill or log processing works,*
- (e) stock and sale yards,*
- (f) the regular servicing or repairing of plant or equipment used for the purposes of a rural enterprise.*

Further

agricultural produce industry means a building or place used for the handling, treating, processing or packing, for commercial purposes, of produce from agriculture (including dairy products, seeds, fruit, vegetables or other plant material), and includes wineries, flour mills, cotton seed oil plants, cotton gins, feed mills, cheese and butter factories, and juicing or canning plants, but does not include a livestock processing industry.

The development is therefore properly defined as *intensive plant agriculture (horticulture)*, *farm building* and a *rural industry (agricultural produce industry)*. The roads, dams, services etc are all ancillary to these three land uses. As such the proposed development is permitted with the consent of Council.

It is noted that pursuant to *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* exempt greenhouses (Subdivision 9) are limited to maximum area of 50m² in the RU1 zone and exempt farm sheds (Subdivision 16) to a maximum size of 200m² and maximum height of 7 metres. The buildings exceed these minimums and therefore development consent is required for these components.

79C(1) (b) and (c) Impacts and suitability of the site

Sixhills have now provided a satisfactory evaluation of the proposed development pursuant to Sections 79C(1) (b) and (c). There were some matters in the revised SEE that had not been adequately assessed. All these matters have now been satisfactorily resolved where by the matters can be adequately conditioned. These matters are:

A. Site Analysis

The applicant had not provided a site analysis in the context of the locality as requested. This has now been provided and is attached. This plan puts the proposed tomato farm in the context of nearby dwellings. It shows the distance to these dwellings and also where there is intervening topography blocking the direct line of sight. This allows a better understanding of the likely impacts in terms of noise and pollution from the boilers.

B. Pollution from Coal and Gas Boilers

The applicant had not provided sufficient details in regard to the operation of the gas and coal boilers as requested. The applicant submitted a report prepared by GHD (engineering and environmental consultants) entitled *Review of air emissions from boiler operations*.

This report was referred to Michael Lewis - Armidale Regional Operations Officer at the NSW Environment Protection Authority. Mr Lewis has advised:

....I agree as discussed that the facility & boilers would not be considered a scheduled premises under Schedule 1 of POEO. Under Division 3 Clause 43 of the Clean Air Reg. the plant would fall into Group C and Schedule 6 provides the concentration limits for non-scheduled activities.

While Schedule 6 only sets out a standard for particulate matter the consultant has drawn on the standards used for Scheduled Premises under Schedule 4 to look at particular individual pollutants that would be emitted from these facilities, and I would consider this to be a good approach. These levels could be applied to the consent with a requirement as mentioned for the proponent to undertake periodic stack monitoring or testing to ensure the equipment is still operating efficiently, discharge limits are ok and minimising air pollution in accordance with Sect. 128 of POEO.

The GHD report mentions the burning of tomato plant waste in the coal boiler but then does not provide any information in regard to the resultant pollutants from burning this waste. This is not a key component of the development as alternatively waste can be composted and the primary heating fuel source is from coal and gas. Therefore it is reasonable to impose a condition in regard to the burning of the tomato waste. Conditions have also been recommended in accordance with

the NSW Environment Protection Authority advice.

C. Use and storage of Hazardous Chemicals

Appendix 0 contains a *Hazardous Chemicals Storage and Segregation report* by Noel Arnold. & Associates (part of Greencap Consulting risk management and compliance consultants). A review of the Greencap report revealed that the chemical storage amounts in the report varied in regard to all the amounts quoted in the Sixhills SEE. Council sought clarification from the applicant in regard to the variation in these amounts and as to how the recommendations of Greencap had been incorporated into the revised development proposal.

The applicant sought a further update from Greencap in this regard. Greencap confirmed that the variation in the amount was not of significant consequence and that they were satisfied in regard to the applicant's response to their report. .

The chemical hazards appear to mainly involve risks to workers and on this basis the Greencap report was referred to WorkCover for their input. Workcover advised that:

WorkCover supports the recommendations contained within the report and strongly recommends the implementation of them.

D. Office of Water issues

The NSW Office of Water requested additional information in a letter dated 7 October 2014. . This additional information was provided via a letter dated 16 October 2014 from the consulting engineers the Kelly Covey Group. This information was provided to the NSW Office of Water. The NSW Office of Water provided their General Term of Approval dated 28 October 2014.

The latest additional information provided by the applicant was provided to the NSW Office of Water and they advise by email dated 29 October 2014 that there was no need to alter their General Terms of Approval.

The NSW Office of Water also advised:

The proposed dams appear to comply with the Farms Dams Policy including the following exemption:

'Dams for the capture, containment and recirculation of drainage and/ or effluent that conform to best management practice or are required by regulation to prevent the contamination of a water source '.

The additional information provided as outlined in A to D above has been received post the second exhibition period. The additional information has not resulted in any fundamental change to the proposed development. As such there is no requirement to renotify the application in terms of Clause 90 of the Regulations.

Section 79C(d) any submissions made in accordance with the Act or the Regulations

Agency submissions

As outlined above brief comments and General Terms of Approval have been provided by the NSW Office of Water.

Additionally WorkCover and the NSW Environment Protection Authority, as requested, provided specific comments on the additional information received. Their comments have been outlined above.

The Road and Maritime Services have provided their support for the relocated permanent access via

letter dated 28 October 2014. The location of the access was a significant short coming of the original development proposal. This new location will not have any impact on the overtaking lane on the Highway. Road and Maritime Services have provided a list of suggested conditions. These conditions have been incorporated into the recommended conditions of consent with the assistance of Council's Engineer.

Public submissions

As a result of this further period of public notification seven submissions were received in support of the proposed development and six submissions objecting to the proposed development. One of the submissions in support was a letter endorsed by 129 current employees of Costa.

The following extract from a letter of support provides a good summary of the points made.

I support the new tomato glasshouse to be built in Guyra. This type of development is important for the Guyra township and the New England region because it means more jobs for local people.

The current tomato glasshouse has been tremendous for Guyra and came along after the closure of the abattoir. Without it our town would have withered away.

Over the last decade Costa have proven to be good corporate citizens and have also supported many local businesses and activities within the town.

The jobs that will be created for local people and the money they will spend locally is vital for the future of our towns.

The main issue raised in each of the objections was concerns in regard to impacts on water supplies for surrounding agricultural enterprises and Guyra township. Other issues are the burning/disposal of the green waste, use of Rixons and Falconer Road and the premature approval of the earthworks for the tomato farm.

Water

Costa have provided a written response to the water issues raised. These responses are set out below followed by my commentary.

Objections summary:

The 20ha Glasshouse and buildings will not contribute to natural surface water flows impacting Washpool Creek and the Gara River severely compromising downstream operations and their viability.

The development will severely affect both natural and built environments downstream.

Costa Response:

The total catchment of the Gara River is approximately 20,000 ha of which the Development contributes 48.77 ha representing 0.24% of the total catchment area. The conclusion that this development can severely impact downstream operations is not supported by the facts. It is also noted that all areas which are not hardstands within the site must comply with the relevant legislation for the harvesting of water and therefore maximum harvestable rights are applicable. All areas upstream of the property cannot and will not be included in any such calculation per advice from the NSW Office of Water. Upstream water will be diverted around the edges of the property and released in the south east corner to continue downstream.

My Response:

Costa have been able to increase their harvestable rights given that the runoff from buildings is not included in the calculated area; in this a case an unusually large building area of over 20 ha. The NSW Office of Water has been sufficiently satisfied in regard to the water issues presented to issue

their General Terms of Approval. Further it is noted that the recommended conditions of consent limits the approved tomato farm to 10 hectares until such time the proponent can demonstrate a sustainable water supply for the extra 10 hectares of glasshouse.

Objections summary:

The proposal also proposes a significantly high extraction of underground water (bore) - concerned that the proposed amount is unlikely to be sustainable.

Independent assessment needed that carefully considers the assumptions and justification for the suggested extraction amount.

Completely dependent on bore water and the water from the Wash Pool Creek for both domestic and agricultural use

Costa Response:

A Hydrogeological Report has been written based upon what is sustainable according to the relevant legislation and the test pumping groundwater assessment guidelines for bore licence applications. These guidelines include a full test assessment with 7 day pumping duration, a further 7 day recovery test, an impact assessment and a proposed operational regime. The consultant writing the report must meet NSW Office of Water certification requirements and the report is submitted to the NSW Office of Water who acts as the sole independent assessor of such an application. The Office of Water makes their recommendations independently to Council through the provision of General Terms of Approval.

My Response:

The NSW Office of Water has been sufficiently satisfied in regard to the water bore to issue their General Terms of Approval for a groundwater licence under the *Water Act 1912*.

Objections summary:

The development will impact the Guyra water supply and the recharge of the Guyra water supply. The Guyra community should not be faced with future water restrictions due to the over allocation of water for the Development.

Costa Response:

The catchment area for the Guyra water supply does not include the Development site as the dam is upstream of the development. The design of the Development's Water Management Strategy was undertaken with the intent of making the growing production cycle independent and completely non-reliant upon the potable water supply of the Guyra reticulated water network. Town water will not be used to irrigate the glasshouse crops and no allocation has been provided by Council for this purpose. The provision of town water is for site amenities for staff (e.g. to provide fresh drinking water). All related infrastructure to achieve this will be a part of the development costs and will not be provided for by Guyra Shire Council.

My Response:

The recommended conditions of consent clearly restrict the use of the town water supply for staff amenities. Additionally the recommended conditions require the use of water saving fixtures such as waterless male urinals. The proponent is also required to prepare an Operational Plan of Management that sets out measures to conserve water and in particular potable water supplied from Council's water supply system.

Objections summary:

The water study completed by the SGNSW has indicated that the lack of available water means that the site does not have enough water to operate a 20ha system.

Water availability is very optimistic and this places further doubt about what water is really available.

The fundamentals of water availability and water cycle have been misinterpreted in the water study or the water study is misleading.

Costa Response:

The water study was conducted by the Developer's Engineering Consultant, Kelley Covey Group Pty Ltd. The water study clearly states that the current water sources cannot sustain a 20Ha glasshouse. The report was specifically undertaken to establish what was possible and what was not possible. It also clearly shows that there is sufficient water to support a 10ha glasshouse and this includes modelling for a drought year similar to that currently being experienced in Guyra. The water study was part of the Stormwater Drainage and Water Management Report submitted not only to Guyra Shire Council but also to the NSW Office Of Water for their independent assessment. The water study uses source data taken from the Bureau of Meteorology for average light and rainfall and considers the unique ability of the proposed glasshouse to capture and recycle 30% of the input water normally lost through drain in field crops. The proposed glasshouse design is one of the most water efficient cropping systems on the planet and cannot be directly compared to conventional field cropping. If approved, the operation of the proposed development will be within the bounds of the limits set by the NSW Office of Water and Guyra Shire Council. In this regard, additional water supplies may be investigated or alternative strategies may be developed to reduce water demand. These supplies may include the following:

- Effluent water from Guyra Waste Water Treatment Plant;*
- Additional groundwater bores (subject to approval from the NSW Office of Water);*
- Increase in site area to increase IVIHR allocations;*
- Careful planning of crop planting cycles so that no more than 15 hectares of glasshouse is operational at anyone time, particularly during the high peak demand summer months;*
- Potential reduction in water usage at the site, including the possibility of reducing fogging demand or reducing evaporation rates in the dams by covering them with a liner.*

My Response:

The recommended conditions of development consent require the proponent to prove that they can provide enough water to supply the second stage of the tomato farm. The potential supplies listed by Costa above may provide sufficient water supply for the entire development once investigated further.

Given that Kelley Covey Group have calculated that there is sufficient for 15 hectares the approval of only 10 hectares at this time will provide a precautionary staging of the development in terms of water security.

Objections summary:

The development will not protect the quality and yield of the water supplies and will not ensure an acceptable degree of drought resistance downstream as required under the Guyra Shire Council Development Control Plan 2012 (GSDCP)

Costa Response:

The development will utilise one of the most water efficient irrigation systems currently available to horticulture. The systems will include a reverse osmosis unit and ultra-filtration unit which will ensure the quality of the water input helps to provide the possibility of 100% water recycling. This includes the major benefit that no fertilised irrigation water is released downstream (it is captured and reused). Our irrigation practices are 5 times more water efficient than a field crop and they do not leach unnecessary and unwanted fertilisers into the soil and water table.

My Response:

The recommended conditions of consent will ensure the development is carried out as described. In particular the conditions requiring an Operational Plan of Management with annual auditing will

ensure that the proponent is continually monitoring and reviewing its processes and procedures to improve its water sustainability.

Burning/disposal of the green waste

Objections summary:

Regarding the large amount of vegetable waste produced by this enterprise I would be adversely affected by the odour from the said method of burning. If this method is used, will there to be a guarantee that the odour will not encroach on to my property.

The disposal of green waste and composting matter can be offensive and we seek assurance that this will not occur.

Sixhills Response:

The attached report prepared by GHD, comprising the review of air emissions from boiler operations, indicates that all emissions from the subject land will comply with the Clean Air Regulation limits and adopted NSW emission standards.

My Response:

The GHD report mentions the burning of green waste in the coal burner but then fails to provide any analysis of the same. This is not a key component of the development as alternatively waste can be composted and the primary heating fuel source is from coal and gas. Therefore it is reasonable to impose a condition in regard to the burning of the tomato waste.

Use of Rixons and Falconer Road

Objections summary:

Concerns that Falconer Rd and Rixons Rd maybe used as alternative access in the future, which would be unacceptable, as there is a number of dwellings with young families on these roads.

Sixhills Response:

Access via Falconer Road and Rixons Road. As detailed in the submitted Statement of Environmental Effects, Traffic Impact Assessment, Concept Design Report for the New Access and the architectural drawings, access to the subject land will be provided from the New England Highway only. Falconer Road and Rixons Road will not be utilised by the proposed development.

My Response:

This issue has arisen due to temporary approval to use these roads during construction of earthworks. As stated by Sixhills the development application is only for access via the New England Highway.

The premature approval of the earthworks for the tomato farm

Objections summary:

We feel we have been let down by our local Shire Council, with the start and current progression of the Tomato Farm, before careful consideration and assessment was carried out. We hope that the advanced state of the operation does not impact on this decision.

My Response:

Both the approval of the earthworks and subdivision were premature before the full extent and impact of the tomato farm were fully understood. This has eroded the public confidence to some extent in the assessment of the current application. However the site for the proposed tomato farm is suitable and the impacts of the development can be mitigated. It appears that the landowners will be able to expand the land area and/or gain the necessary easements to permit the development to proceed. It is essential that these land ownership issues be resolved before any further work is approved on the land.

Section 79C(d) public Interest

The proposed development is in the public interest in that it provides for the orderly and economic use of land for purposes permissible under the relevant planning regime and in accordance with the prevailing planning controls. The proposed development will provide employment opportunities for the region through construction activities and ongoing operation of the tomato farm. The proposed development will also provide wider on-going economic benefits for the growth of the region.

Though as outlined in the submissions it is essential that the economic opportunities generated by the proposed development do not adversely impact nearby farming enterprises and residents. The recommended conditions will minimise those possible adverse impacts while ensuring the positive social and economic benefits of the proposed development are realised.

Recommended Conditions:

The recommended conditions have the following key features:

1. Extensive use of Plan of Managements. These are backed up with an annual audit and review mechanism. This provides flexibility for the proponent but also ensures that the conditions remain relevant and the management of the development is always aimed towards minimising impacts.
2. Compliance and resolution of some key matters before any further development is carried out. In particular this includes finalising all landownership issues. The recent subdivision of the land was clearly premature with the proponents now needing to obtain additional land and/or easements from the now adjoining landowner.
3. Staging of the commencement of Stage 1. The proponents have been significantly impacted by the delays in the determination of the development application. They have requested the ability to commence the foundations of the glasshouses as soon as possible. However as mentioned above there are some key matters of ownership and construction management that must be resolved before any further work is permitted on the site.
4. A requirement of independent report, endorsed by the NSW Office of Water, to demonstrate a sustainable water supply before the second ten hectares of glasshouses (Stage 2) can proceed. There is an option here of taking a more precautionary approach of granting consent to Stage 1 of the development only and requiring the proponent to gain separate consent for the second stage. It has been raised in the submissions that there may be undue pressure on the Council to approve the currently unsustainable second stage. On this basis I have recommended that any water sustainability proposal be endorsed by the NSW Office of Water. Costa has outlined some water supply options that may provide the required future water supply.
5. The establishment of a Community Reference Group involving Council and local residents as a venue to try to minimise and resolve external impact issues early. The establishment of the group is supported by the applicant.
6. Clear objectives for the landscaping plan. This includes clusters of trees to better mimic the current landscape. The proposed rows of trees may to some extent introduce a new element into the landscape and thereby draw attention to the development. The applicant in their revised landscape plan adopted this principle to some extent but not sufficiently.

Assessment Conclusion

The proposed tomato farm is permissible with consent under *Guyra Local Environmental Plan 2014*.

The revised SEE and subsequent additional clarification of issues has extensively resolved the outstanding issues to an extent whereby it can be recommended that conditional development consent be granted.

The proposed development will generate positive economic and social impacts for Guyra and the region; though it is essential that the economic opportunities generated by the proposed development do not adversely impact nearby farming enterprises and residents. The recommended conditions will minimise those possible adverse impacts while ensuring the positive social and economic benefits of the proposed development are realised. In particular the conditions requiring an Operational Plan of Management with annual auditing will ensure that the proponent is continually monitoring and reviewing its processes and procedures to improve its water sustainability and reduce the external impacts on its neighbours.

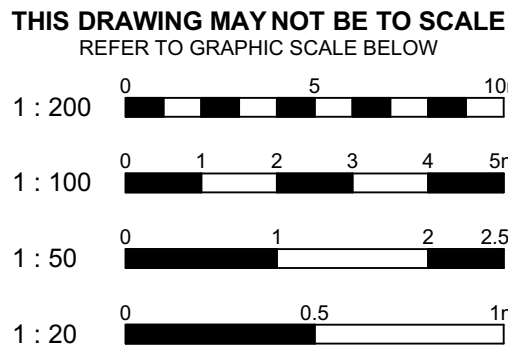


Chris Pratt
Land Use Planner



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SITE ANALYSIS MAP - 1

NOT TO SCALE

PROJECT
PROPOSED TOMATO FARM
FOR COSTAS PTY LTD
LOT 156, DP751474, 4774 NEW ENGLAND HIGHWAY, GUYRA

P.O. BOX 801, TAMWORTH N.S.W. 2340
228 MARIUS STREET, TAMWORTH N.S.W. 2340
TELEPHONE (02) 6766 5188 FAX (02) 6766 7055
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SITE ANALYSIS MAP - 1

DESIGN GREG HILL	DOCUMENTATION FD, LO, NP	NSW ARCHITECTS REGISTRATION BOARD No. GREG HILL 5680	Member Architects of Australia
PLOT DATE 13/10/2014	SCALE 1:0.67	SIZE A1	DRAWING No. C1513 WD-00-106 Rev. 1



Hill Lockart Architects

GREGORY HILL ARCHITECTS PTY. LTD. A.C.N. 080 788 403



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SITE ANALYSIS MAP - 2
NOT TO SCALE

Hill Lockart Architects

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Recommended Conditions

DEFINITIONS	
BCA	Building Code of Australia
CCC	Community Consultative Committee
Council	Guyra Shire Council
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EP&A Regulation	<i>Environmental Planning and Assessment Regulation 2000</i>
Land	Land means the following lots; Lot 1 & 2 DP 1196363 Crown Road adjoining Lot 1 & 2 DP1196363 and Lot 6 DP755824 Lot 210 DP755824 Lot 4 DP755824 Lot 5 DP755824 Lot 6 DP755824 Lot 15 DP755824 Lot 267 DP 755824 Lots 305 to 308 DP755824 Lot 309 DP755824 Lot 12 DP800805
Plans of Management	Means the following plans as approved by Council: <ul style="list-style-type: none">• Sediment and Erosion Control Plan• Traffic Management Plan• Construction Management Plan• Operational Plan of Management• Water Conservation and Management Plan
Proponent	The operator of the tomato farm

PARAMETERS OF THIS CONSENT

1. The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No./ Supporting Document	Date and Version	Title	Prepared by
	17 Sept 2014	Statement of Environmental Effects and Appendices	SixHills Group
WD-00-100	09/09/2014 Rev. 2	Title Page	Hill Lockart Architects
WD-00-101	15/09/2014 Rev. 5	Locality Plan & Architects Impressions	Hill Lockart Architects
WD-00-102	15/09/2014 Rev. 7	Site Plan	Hill Lockart Architects
WD-00-103	09/09/2014 Rev. 2	Part Site Plan	Hill Lockart Architects
WD-00-104	09/09/2014 Rev. 2	Part Site Plan	Hill Lockart Architects
WD-00-105	15/09/2014 Rev. 3	Landscaping Plan	Hill Lockart Architects
WD-00-201	09/09/2014 Rev. 2	Site Elevations	Hill Lockart Architects
WD-02-101	09/09/2014 Rev. 2	Services - Locality Plan	Hill Lockart Architects
WD-02-102	15/09/2014 Rev. 3	Services - Site Plan	Hill Lockart Architects
WD-03-101	15/09/2014 Rev. 3	Administration – Site Map & Locality Key Plan	Hill Lockart Architects
WD-03-102	09/09/2014 Rev. 3	Administration – Part Site Plan	Hill Lockart Architects
WD-03-103	22/04/2014 Rev. 1	Administration – Floor Plan/Roof Plan & Door Schedule	Hill Lockart Architects
WD-03-201	22/04/2014 Rev. 1	Administration – Elevations Sections, Details	Hill Lockart Architects
WD-04-101	15/09/2014 Rev. 3	Packing Shed – Site Map and Locality Plan	Hill Lockart Architects
WD-04-102	09/09/2014 Rev. 3	Packing Shed – Part Site Plan	Hill Lockart Architects

Plan No./ Supporting Document	Date and Version	Title	Prepared by
WD-04-103	28/07/2014 Rev. 3	Packing Shed – Overall Floor Plan	Hill Lockart Architects
WD-04-201	28/07/2014 Rev. 3	Packing Shed – Elevations	Hill Lockart Architects
WD-05-101	15/09/2014 Rev. 3	Staff Building – Site Map and Locality Key Plan	Hill Lockart Architects
WD-05-102	30/06/2014 Rev. 2	Staff Building – Part Site Plan	Hill Lockart Architects
WD-05-103	22/04/2014 Rev. 1	Staff Facilities Building – Floor Plan	Hill Lockart Architects
WD-05-201	22/04/2014 Rev. 1	Staff Facilities Building – Elevations/ Window Schedule	Hill Lockart Architects
WD-06-101	15/09/2014 Rev. 3	Glass House Store and Links – Site Map & Locality Key Plan	Hill Lockart Architects
WD-06-102	16/07/2014 Rev. 1	Glass House Store & Links – Part Site Plan	Hill Lockart Architects
WD-06-103	16/07/2014 Rev. 1	Glass House Store– Floor Plan	Hill Lockart Architects
WD-06-104	22/04/2014 Rev. 1	Links – Floor Plan	Hill Lockart Architects
WD-06-201	22/04/2014 Rev. 1	Glass House Store – Elevations	Hill Lockart Architects
WD-06-202	22/04/2014 Rev. 1	Links – Elevations	Hill Lockart Architects
WD-07-101	15/09/2014 Rev. 3	Workshop Building – Site Map & Locality Key Plan	Hill Lockart Architects
WD-07-102	28/07/2014 Rev. 3	Workshop Building – Part Site Plan	Hill Lockart Architects
WD-07-103	02/09/2014 Rev. 4	Workshop Building – Floor Plan	Hill Lockart Architects
WD-07-105	28/07/2014 Rev. 3	R.O Building – Floor & Roof Plans	Hill Lockart Architects
WD-07-106	04/08/2014 Rev. 5	MSB Building – Floor & Roof Plans	Hill Lockart Architects

Plan No./ Supporting Document	Date and Version	Title	Prepared by
WD-07-201	02/09/2014 Rev. 4	Workshop Building – Elevations	Hill Lockart Architects
WD-07-203	28/07/2014 Rev. 3	R.O Building – Elevations & Sections	Hill Lockart Architects
WD-07-204	04/08/2014 Rev. 5	MSB Building – Elevations & Section	Hill Lockart Architects
WD-08-101	15/09/2014 Rev. 2	Boiler Sheds – Site Map & Locality Key Plan	Hill Lockart Architects
WD-08-102	09/09/2014 Rev. 3	Boiler Sheds – Part Site Plan	Hill Lockart Architects
WD-08-103	09/09/2014 Rev. B	Coal Boiler Shed – Floor & Plan	Hill Lockart Architects
WD-08-104	04/07/2014 Rev. A	Gas Boiler Shed – Floor & Roof Plan	Hill Lockart Architects
WD-08-201	09/09/2014 Rev. B	Coal Boiler Shed – Elevations & Section	Hill Lockart Architects
WD-08-202	07/07/2014 Rev. A	Gas Boiler Shed – Elevations & Section	Hill Lockart Architects
	16 October 2014	Additional information for the NSW Office of Water	Kelly Covey Group
	22 October 2014	Review of air emissions from boiler operations	GHD

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. Development consent is granted based on the development via the following two stages:

Stage 1:

- ☐ 2 x 5 hectare glasshouses;
- ☐ Administration building;
- ☐ Staff facilities;
- ☐ Workshop;
- ☐ Storage building;
- ☐ Packing shed and cool rooms;

- ☐ Site works including road upgrades, access road and car parking.

Stage 2:

- ☐ 2 x 5 hectare glasshouses;
 - ☐ Additional staff facilities;
 - ☐ Storage building;
 - ☐ Site works including road upgrades and car parking.
3. Integrated development approval under Water Management Act 2000 is issued concurrently with this development consent. The conditions of this approval are listed at the end of this consent.
 4. The number of non-operational visitors to the site is to be limited to ten vehicles per day without obtaining further development consent.
 5. The applicant must comply with the Category 1-fire safety provisions of Part 7B. (P2) of the Building Code of Australia. Building work, only as and if necessary to comply with Category 1 fire safety provisions, may be carried out. These requirements do not apply to the extent to which an exemption is in force under Clause 187 or 188 of the Environmental Planning and Assessment Regulation 2000, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188(4).
 6. All building work must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate or complying development certificate was made).
 7. The town potable water service proposed for the development is only to be available for staff amenities, cleansing of amenities and offices and storage for emergency fire purposes. Use of potable town water service is not permitted for irrigation or treatment of tomatoes. This is a private water supply connection and no other property may be connected to this water supply connection.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE FOR THE GREENHOUSE FOUNDATIONS IN STAGE 1 OF THE DEVELOPMENT

8. All lot boundary adjustments and/or easements necessary to enable the establishment and ongoing operation of the tomato farm are to be created on the respective tiltes. This includes lot boundary adjustments and/or easements to:
 - a. Establish legal and practical access from Lot 2 DP 1196363 to the New England Highway;
 - b. Provide legal unimpeded access to allow maintenance of all stormwater catchment drains that are required to be located outside the boundary of Lot 2 DP 1196363;
 - c. Dedication to Council of land for any road widening along the New England Highway to establish adequate access to the property; and
 - d. Easements for both the sewer and water supplies from Council's systems to the land.

The section of Crown Road reserve required to permit the development must be legally created and consolidated with Lot 2 DP 1196363.

9. A Section 94A Contribution is to be paid to Council amounting to 1% of the development cost to carry out the development pursuant to Council's *Section 94A*

Development Contributions Plan 2006. The contribution will be applied to the provision or augmentation of existing public facilities.

To estimate the amount of the levy it will be necessary for a Cost Estimate Report to be prepared by a registered quantity surveyor, in accordance with Schedule 3 of Council's *Section 94A Development Contributions Plan 2006*. The payments may be staged in accordance with the approved staging of works via this consent and a formal agreement for payment must be approved by Council prior to the issue of any Construction Certificate

10. A cash bond or bank guarantee of \$50,000 is to be provided to Council as guarantee against damage to surrounding public land and infrastructure during construction of the proposed development. Evidence is to be provided to Council indicating the pre development condition of the surrounding public land and infrastructure. Such evidence must include photographs. The proponent will be held responsible for the repair of any damage to roads, kerb and gutters, footpaths, driveway crossovers or other assets caused as a result of construction works under this consent.

This cash bond or bank guarantee will be held until Council is satisfied that the infrastructure is maintained/repared to pre development conditions and that no further development work is to be carried out that may result in damage to Council's roads, footpaths etc.

11. The developer and/or contractor must produce evidence to the Principal Certifying Authority of public liability insurance cover for a minimum of \$10 million. Council is to be nominated as an interested party on the policy.
12. Consent from Council must be obtained for a Traffic Management Plan pursuant to Section 138 of the Roads Act 1993. The Traffic Management Plan is to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction of the development. The traffic control plan is to be designed in accordance with the requirements of the Roads and Traffic Authority's Manual, *Traffic Control at Work Sites Version 2*, and Australian Standard 1742.3 - 1985, *Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'*.

The Traffic Management Plan must incorporate measures to ensure that motorists using the road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The Traffic Management Plan is to be prepared by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field. The Traffic Management Plan must include a traffic control plan prepared by an accredited person.

13. A Long Service Levy must be paid to the Long Service Payments Corporation. This amount payable is currently based on 0.35% of the cost of the work. This is a State Government Levy and is subject to change. These payments may be made directly to the Long Service Corporation.
14. The submission of a detailed Construction Management Plan for the approval of the Council, prior to the issue of a Construction Certificate for the development, to ensure that work is undertaken safely and to minimise nuisance to the surrounding area during all construction/work on site. This Plan must include, as a minimum, provision for:
 - a. Off-street parking for employees, contractors, sub-contractors and visitors to the site;
 - b. Site access for construction vehicles and equipment;

- c. Storage and removal strategies for construction wastes;
- d. Measures to ensure the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation does not exceed the background level by more than 10 dB(A);
- e. Construction works not to unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur Monday to Saturday, from 7 am to 6 pm.

No construction work is to take place on Sundays or Public Holidays;

- f. Provision of sanitary amenities and ablution facilities for employees. Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council;
- g. Fire precautions during construction;
- h. Dust suppression;
- i. Fencing and security details safeguarding both contractors and the public while works are being carried out in any road reserve. Contractor must endeavour to minimise disturbance to pedestrian / vehicle traffic in the vicinity of the site;
- j. Details of all construction-related signs;
- k. Careful management of construction activities to prevent any contaminant discharge from the site (including oils, fuels, paints or chemicals), particularly with respect to excess concrete or concrete truck washings; and
- l. Location of all public utility facilities and methods of protecting them.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE FOR THE REMAINDER OF STAGE 1 OF THE DEVELOPMENT

- 15. The application for a Construction Certificate is to include a Sediment and Erosion Control Plan that indicates the measures to be employed to effectively control erosion and loss of sediment from the site. Control over discharge of stormwater and containment of run-off and pollutants leaving the site must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, and sedimentation basins. The Sediment and Erosion Control Plan is to be designed in accordance with the requirements of the Landcom Blue Book, "Soils and Construction -Managing Urban Stormwater".

The Sediment and Erosion Control Plan is to be prepared by a suitably qualified person that has appropriate experience and competence in the related field.

The plans must be in compliance with Council's current Adopted Engineering Standard. Such plans and specifications must be approved as part of the Construction Certificate.

- 16. An approval under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained for the connection of the development to Council's water and sewer systems.

These are private connections to Council's systems and must be provided and maintained at the cost of the Proponent.

The sewage disposal system must be designed to ensure that sewage does not remain within that system for longer than four (4) hours to ensure that the sewage is kept in an aerobic state.

Sewerage connection to the Council reticulation system must be designed to connect to the existing gravity sewer access point "BD01A" at the corner of Falconer Road and the New England Highway, or by other connection approved by Council.

17. For all construction work required on Council road reserves (eg. vehicular footpath crossings, utilities and stormwater work, footpath paving, kerb and gutter etc.), the Applicant is to submit an Application to Council as the roads authority pursuant to Section 138 of the Roads Act 1993 and obtain approvals for all such proposed work.
18. The application for a Construction Certificate is to include plans and specifications that indicate access and facilities for persons with access disabilities to and within the development in accordance with AS 1428.1 - *Design for Access and Mobility* and Part D3 of the *Building Code of Australia*. Such plans and specifications must be approved as part of the Construction Certificate.
19. The application for a Construction Certificate is to include a schedule of building colours and materials consistent with the plans approved via this consent.
20. The application for a Construction Certificate is to include plans and specification that indicate access, parking and manoeuvring details in accordance with the plans approved by this consent. The access, parking and manoeuvring for the site is to comply with the relevant Australian Standards for car parking.

The internal access road design from the Highway intersection is to be in accordance with Austroads Rural Road Design. The access formation works must be designed within one (1) metre of clear undisturbed vegetation zone to any property boundary. The main access road is to be designed and constructed in accordance with the requirements for use by B Double trucks. Driveway connections within the site to the access road are to be appropriately divided to accommodate two-way traffic and must adequately facilitate the turning paths of the largest design vehicle requiring access to that section of the site.

The internal access road design is to include a vegetated screen to protect Highway traffic from the impact of headlight glare of any vehicles using the access road other than the actual Highway intersection. It is noted that electricity line runs parallel to the New England highway. Plantings need to be located to be provided the separation distance from that electricity line that meets the requirements of the electricity authority. As such, the proposed eastern boundary of the access handle running parallel to the highway is to be widened to accommodate separation distance, plantings and road construction. The screening is also to consider the impact of headlight glare of any vehicles using the access road upon nearby public roads including Llangothlin Road and Crystalbrook Road.

Plans are to include, but not be limited to, the following items:

- a) pavement description;
- b) site conditions affecting the access;
- c) existing and design levels;
- d) longitudinal section from the road centreline to the car space(s);

- e) cross sections at appropriate intervals, with a maximum separation of 15 metres;
- f) drainage (pipes, pits, on-site detention, etc.);
- g) Car spaces and access paths to buildings for people with access disabilities in accordance with AS1428;
- h) turning paths; and
- i) linemarking and signs.

The engineering plans and specifications are to be designed by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

Such plans and specifications must be approved as part of the Construction Certificate.

21. The application for a Construction Certificate is to include plans and specifications that indicate the landscaping of the site.

The landscaping must be designed achieve the following criteria:

- a) provide areas of landscaping at least to the extent shown on the Hill Lockhart Architects *Landscape Plan* (C1513 WD-00-105 dated 15/09/2014) however must be spaced and located to maximise screening whilst mimicking natural vegetation communities. In particular nine (9) clustered landscape plots must be provided. These clustered landscape plots must:
 - (1) have a minimum area of 1000 m²,
 - (2) have a minimum width of 25 metres,
 - (3) have a minimum mature canopy cover of seventy percent,
 - (4) consist of trees with a minimum mature height of 10 metres,
 - (5) be strategically spread out such that six (6) clustered landscape plots are located around the perimeter of the buildings and three (3) along the access road.
- b) provide for effective screening of any undue glare received by any motorist on a surrounding public road or any resident in a nearby dwelling within one growing season of the erection of the greenhouses;
- c) be predominately of a species type and distribution that replicates the vegetation communities on and within the vicinity of the land. This must include a predominance of the eucalyptus species identified by Melaleuca Enterprises Environmental Services Consultancy Services in their *Koala Habitat Assessment* of the land dated 16 October 2013;
- d) consist of approximately 50% of seed or rootstock derived from provenance within the boundaries of the development site or the locality; and
- e) be functional and safe.

The plan is to be prepared by a suitably qualified landscape architect and/or ecologist who has appropriate experience and competence in landscaping. Such plans and

specifications must be approved as part of the Construction Certificate and must include.

- I. proposed location for planted shrubs and trees;
 - II. botanical name of shrubs and trees to be planted;
 - III. mature height of trees to be planted;
 - IV. location of grassed and paved areas;
 - V. location of trees identified for retention;
 - VI. type and the duration of fencing required to protect planted areas; and
 - VII. the maintenance regime required to ensure the planted landscape reaches maturity.
22. An Operational Plan of Management is to be prepared and approved by Council. The tomato farm Operational Plan of Management is to include:-
- a) the objectives and overall strategic framework for environmental management of the tomato farm,
 - b) arrangements for an annual audit of operations to be submitted by the Proponent to Council by 31 January in each year, after the commencement of tomato farm operations. This audit must:
 - I. include a comprehensive review of the monitoring results and complaint records of the project over the past year, which includes a comparison of these results against the relevant statutory requirements, limits or performance measures/criteria;
 - II. a comparison with the monitoring results of previous years;
 - III. the relevant predictions in the Plans of Management;
 - IV. identify any non-compliance over the last year, and describe what actions were (or are being) taken to ensure compliance;
 - V. identify any trends in the monitoring data over the life of the project;
 - VI. identify any discrepancies between the predicted and actual impacts of the project, and analyse the potential cause of any significant discrepancies; and
 - VII. describe what measures will be implemented over the next year to improve the environmental performance of the project.

This annual audit is to include an update of the tomato farm Operational Plan of Management. This audit is to be undertaken by an independent suitably qualified practitioner approved by Council.

The required ameliorative measures identified in the audit, and as agreed with by Council, are to be implemented.
 - c) procedures where by the Proponent must notify, at the earliest opportunity, the Council and any other relevant agencies of any incident that has caused, or threatens to cause, material harm to the environment. For any other incident associated with the development, the Proponent must notify the Council and any other relevant agency as soon as practicable after the Proponent becomes aware

of the incident. Within 7 days of the date of the incident, the Proponent must provide the Council and any relevant agencies with a detailed report on the incident, and such further reports as may be requested;

- d) the recommendations of *Hazardous Chemicals Storage and Segregation* report by Noel Arnold & Associates Pty Ltd dated July 2014 and the additional recommendations in their email to Costa at 10:32 AM on 21 October 2014;
- e) restriction of the hours of operation to between 7am and 6pm Monday to Saturday and with no work on Sundays and public holidays for activities that will generate noise that will be audible on adjoining residential premises;
- f) the effectiveness of the site landscaping and any adjustments required to achieve the criteria for the landscape plan in this consent;
- g) measures to reduce any undue glare from the glass houses received by any motorist on a surrounding public road or any resident in a nearby dwelling, particularly while the landscaping is maturing;
- h) management of stormwater from the site such that it is disposed of without causing nuisance to adjoining properties or pollution to natural waterways. Such measures must be in accordance with the *Stormwater Drainage and Water Management Strategy for the Proposed Costa Exchange Tomato Farm* by Kelley Covey Group Pty Ltd dated September 2014;
- i) a continuous review of ground water availability and depletion rates and assessment of downstream flow changes. Where it is determined that ground water and surface water flows are depleted the measures proposed to ensure continuous sustainable water resource use;
- j) measures to conserve water and in particular potable water supplied from Council's water supply system;
- k) measures to ensure lighting used on site in connection with the development complies with AS 4282 (current edition) – Control of the Obtrusive Effects of Outdoor Lighting, to protect the amenity of the locality;
- l) measures to ensure all vehicles and machines used as part of the operation comply with the *Protection of the Environment Operations Act 1997* and all regulations made under that Act and be fitted with properly maintained emission controls relevant to their date of manufacture;
- m) control of site access and parking;
- n) A Code of Conduct for Heavy Vehicle Operators and Staff;
- o) an induction process relating to the Code of Conduct for Heavy Vehicle Operators and Staff;
- p) Emergency Access Procedures;
- q) Occupational Health and Safety and NSW Workcover matters and requirements that are to be implemented;

- r) measures for waste minimisation, measures to separate recyclable materials and the methods for the storage and collection of waste and recyclable materials containers from the site; and
- s) periodic boiler stack monitoring and testing to ensure the stacks are operating efficiently and that the discharge limits are minimising air pollution in accordance with Section 128 of the Protection of the Environment Operations Act 1997.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE FOR STAGE 2 OF THE DEVELOPMENT

23. A Water Conservation and Management Plan for the entire 20 ha tomato farm is to be prepared by an independent suitably qualified person/s approved by Council. The Water Conservation and Management Plan is to demonstrate a sustainable water supply strategy that provides long term water security for the required water needs for the operation of the entire tomato farm. Though the strategy may include the staged or reduce development of Stage 2 whereby only one further 5 ha greenhouse is constructed.

The water supply strategy must consider the future impacts of climate change.

The Water Conservation and Management Plan must be approved by Council and the NSW Office of Water.

24. Compliance with all conditions above required to be complied with prior to the issue of any construction certificate for any part of Stage 1 of the development where those conditions have previously only been complied with in relation to Stage 1.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO COMMENCE OF ANY WORKS AUTHORISED BY THIS CONSENT

25. The public liability insurance cover, for a minimum of \$10 million, is to be maintained for the duration of the construction of the development.
26. A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:
- i) showing the name, address and telephone number of the principal certifying authority for the work, and
 - ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - iii) stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work is being carried out, but must be removed when the work has been completed. No sign is to have an area in excess of one (1) m².

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO COMMENCEMENT OF THE TOMATO FARM OPERATIONS

27. The Section 94A Contributions must be paid in full in accordance the formal payment agreement approved by Council.
28. All of the works indicated on the plans and granted by this consent and development consent 4/2014 (Bulk Earthworks) and any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of an Occupation Certificate. The cash bond or bank guarantee for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Council's road/footpath reserve.
29. The site must be landscaped in accordance with the approved landscape plan.
30. The car parking areas are to be constructed in accordance with the approved plans. Signs are to be erected clearly indicating the availability of off-street parking and the location of entry/exit points, visible from both the New England Highway and the subject site.
31. If at any time it is proposed to burn the tomato plant waste in the coal boiler that waste must not be burnt until such time as the proponent has sought and gained written approval from Council. To gain such approval the proponent must provide a report by an independent suitably qualified person/s approved by Council setting out how the burning of the tomato plant waste can be carried out in accordance with the Clean Air Regulations or other current relevant State regulations. The report must also set out the handling and storage of the tomato plant waste waiting to be burnt. Procedures approved by Council pursuant to this condition must be incorporated into the Operational Plan of Management.
32. The permanent access intersection with the New England Highway must be fully completed and operational. This permanent access is to be located generally in accordance with the concept design demonstrated in Appendix C of the supporting *Traffic Impact Assessment* and dated 16 September 2014 or at an alternative location specified by Roads and Maritime Services. Such works are to be designed and constructed in accordance with current Austroads Guidelines, Australian Standards and Roads and Maritime Services (RMS) Supplements.

This access is to;

- a. Provide Austroads channelised right turn (CHR) deceleration lane for northbound traffic, and
- b. Provide Austroads auxiliary left turn (AUL) deceleration lane for southbound traffic, and
- c. Meet Austroads design requirements right turn movements entering the north bound lane from the development site.

No works are to commence on the New England Highway until approval to commence has been obtained in writing from Roads and Maritime Services. The proponent must enter into a "Works Authorisation Deed" (WAD). To initiate the Works Authorisation Deed (WAD) the developer will be required to submit to Roads and Maritime Services concept design plans of all conditioned road works on the New England Highway.

Where the northern end of any works related to north bound traffic movements occur within 100 metres of Crystalbrook Road, the design must include the reconstruction of the intersection of Crystalbrook Road and the New England Highway to provide an Austroads sealed left turn (BAL) treatment for northbound traffic in accordance with Austroads Guide to Road Design Part 4A.

A pre-qualified contractor will be required to complete all conditioned works under the WAD to practical completion, as determined by Roads and Maritime. The developer will be responsible for all costs associated with the works and the administration of the WAD process.

33. The temporary construction access on the New England Highway is to be legally and physically closed. Alternatively, the temporary construction access may be retained where it is upgraded to an Austroads Rural Property Access and used only as a secondary access for emergency vehicles.
34. Appropriate signs are to be erected to direct visitors to internal parking areas. Any signs proposed for the New England Highway to direct visitors to the site must have the approval of the Roads and Maritime Services.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH BY THE PROPONENT AT ALL TIMES:

35. The Proponent must implement all the Plans of Management prepared and approved as part of this consent. The Plans of Management must be so implemented to achieve the objectives of those plans and so as to prevent or minimise any harm to the environment or adverse impact on any neighbouring land and/or resident that may result from the construction and/or operation of the tomato farm.
36. Water efficient devices, with a AAA rating, must be installed for all staff facilities, including:
 - a) Pressure limiting valves;
 - b) Waterless urinals;
 - c) Dual flush toilet systems, and
 - d) Water efficient shower nozzles.

The male toilets shown on the approved plans must be replaced with waterless urinals to the maximum extent allowable under the provisions of the BCA. All staff hot water systems are to have a minimum rating of 3.5 stars.

37. The town water supply connection is to be operated to limit potable water supply to the site to 25 kl on any day and to a maximum potable water usage allocation of 8 ML in any one calendar year.
38. If at any time the residents of a dwelling house within 2km of the boundary of the tomato farm believe that the tomato farm is not operating in accordance with approved noise limits they may engage an independent noise consultant to carry out a noise assessment at their dwelling house. The noise consultant must be a consultant that Council has previously agreed is a suitably qualified and experienced noise consultant. The resident may call out the noise consultant without any reference to the Council or the Proponent. The parameters of the noise assessment

carried out by the independent noise consultant must be as previously agreed by Council.

The cost of engaging the noise consultant is to be met by the Proponent. The Proponent is not required to meet the cost of the independent noise consultant if the resident, or other resident of that dwelling house, has previously engaged the independent noise consultant on three occasions when it has been found the tomato farm is operating in accordance with approved noise limits. The Proponent is to maintain a deposit of funds with Council of a minimum \$10,000 to meet the cost of the engagement of an independent noise consultant. The fund is to be maintained with Council while ever residents can call out the independent noise consultant under the provisions of this condition or until such time that Council is satisfied that the tomato farm has been operating for a period of two years without any complaint from a resident pursuant to this condition.

39. The Proponent must establish a Community Consultative Committee (CCC) for the Project to the satisfaction of the Council. This CCC must be operated in general accordance with the Guidelines for Establishing and Operating Community Consultative Committees for Mining Projects (Department of Planning, 2007, or its latest version) to the satisfaction of the Council. The Committee must comprise an independent chair and at least one representative from the Proponent and Council and two adjoining landowners.
40. All approved landscaped areas are to be maintained in perpetuity by the proponent.
41. Access/facilities for people with disabilities are to be provided in accordance with the Building Code of Australia and maintained thereafter.
42. The Proponent must ensure that all State and Federal statutory requirements are met, with copies of all issued licenses, approvals and notices to be provided to Council within fourteen (14) days of their issue.

GENERAL TERMS OF APPROVAL

General Terms of Approval for work requiring a controlled activity approval under s91 of the *Water Management Act 2000*

Our Reference:	90 ERM2014/0922
Site Address:	4774 New England Highway, Guyra NSW 2365
DA Number:	DA47/2014
LGA:	Guyra Shire Council

Number	Condition
Plans, standards and guidelines	
1	<p>These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to DA47/2014 and provided by Council:</p> <ul style="list-style-type: none">(i) Site plan, map and/or surveys(ii) Erosion and Sediment Control Plan(iii) Rehabilitation Plan <p>Any amendments or modifications to the proposed controlled activities may</p>

Our Reference: 90 ERM2014/0922
Site Address: 4774 New England Highway, Guyra NSW 2365
DA Number: DA47/2014
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Number	Condition
	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.
2	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.
3	The consent holder must prepare or commission the preparation of: (i) Erosion and Sediment Control Plan
4	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 following plans must be prepared in accordance with the NSW Office of Water's guidelines located at www.water.nsw.gov.au/Water-Licensing/Approvals/default.aspx (i) Vegetation Management Plans (ii) Laying pipes and cables in watercourses (iii) Riparian Corridors (iv) In-stream works (v) Outlet structures (vi) Watercourse crossings
5	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.
Rehabilitation and maintenance	
6	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.
7	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.
Reporting requirements	
8	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 required.
Security deposits	
9	N/A

Our Reference: 90 ERM2014/0922
Site Address: 4774 New England Highway, Guyra NSW 2365
DA Number: DA47/2014
LGA: Guyra Shire Council

Number	Condition
Access-ways	
10	N/A
11	N/A
Bridge, causeway, culverts, and crossing	
12	N/A
13	N/A
Disposal	
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.
Drainage and Stormwater	
15	N/A
16	N/A
Erosion control	
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.
Excavation	
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	The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the NSW Office of Water.
Maintaining river	
20	N/A
21	The consent holder must ensure that the surfaces of river banks are graded to enable the unobstructed flow of water and bank retaining structures result in a stable river bank in accordance with a plan approved by the NSW Office of Water.
River bed and bank protection	
22	N/A
23	N/A

Our Reference: 90 ERM2014/0922
Site Address: 4774 New England Highway, Guyra NSW 2365
DA Number: DA47/2014
LGA: Guyra Shire Council

Number	Condition
Plans, standards and guidelines	
24	N/A
25	N/A
26	N/A
27	N/A
END OF CONDITIONS	

General Terms of Approval

for a licence under the *Water Act 1912*

Our Reference:	90 ERM2014/0922
Site Address:	4774 New England Highway, Guyra NSW 2365
DA Number:	DA47/2014
LGA:	Guyra Shire Council

General Conditions (all approvals)

The purposes of these conditions are to:

- Define certain terms used in other conditions;
- Specify the need to obtain a license, permit or authority before commencing any works;
- Specify that, in most cases an approval will only be issued to the occupier of the lands where the works are to be located (as required by the *Water Act*);
- Require existing approvals to be cancelled or let lapse when a license is issued (if applicable);
- Require the safe construction and operation of all works;
- Require the use of appropriate soil conservation measures;
- Limit vegetation destruction or removal to the minimum necessary;
- Require the separate authorisation of clearing under the NVC Act;
- Allow conditions to be imposed for management of fuel (petroleum).

In the following conditions relating to an approval under the *Water Act 1912*;

‘the department’ means the department administering the *Water Act 1912*;

‘approval’ means a license, permit, authority or approval under that Act;

‘river’ has the same meaning as in Section 5 of the *Water Act 1912*;

‘work’ means any structure, earthwork, plant or equipment authorised under the approval to be granted, as defined in Section 5 and 105 of the *Water Act 1912*;

‘controlled work’ means any earthwork, embankment or levee as defined in Section 165 of the *Water Act 1912*.

1. Before commencing any works or using any existing works for the purpose of irrigation 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 or 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.

Conditions of Water Use (including irrigation)

The purpose of these conditions are to:

- Allow the department to obtain an accurate measure of water use where necessary;
 - Specify the purpose(s) for which the water may be used;
 - Specify conditions to protect water quality and the environment;
 - Specify the maximum rate that water may be taken from the water source;
 - Specify the limitations of when water may be taken from the water source;
 - Ensure proper management of tailwater drainage;
 - Ensure accessions to groundwater systems are restricted.
1. If and when required by the department, suitable devices must be installed to accurately measure the quality of water extraction or diverted by the works.
 2. All water measuring equipment must be adequately maintained. It must be tested as and when required by the department to ensure its accuracy.
 3. The water extracted under the approval to be granted shall be used for the purposes of irrigation, farming & industrial use and for no other purposes. A proposed change in purpose will require a replacement license to be issued.
 4. In order to protect the environment and the interests of other water users the approval may further specify how the water may be used (such as the type of crops irrigated) and the land on which it may be used.
 5. The use of water shall be conditional on no tailwater drainage being discharged into or onto:
 - Any adjoining public or crown road;
 - Any other person's land;
 - Any crown land;
 - Any river, creek or watercourse;
 - Any groundwater aquifer;
 - Any area of native vegetation;
 - Any wetlands.

1 Conditions for Bores and Wells

1.1 See also 'general conditions' and 'conditions for water use'

The purpose of these conditions are to:

- Set a limited period for bore construction;
- Require the bore to be properly completed and sealed;
- Require certain information to be provided on completion of the work, including a location plan;
- Allow NSW Office of Water access for inspection and testing;
- Restrict the bore diameter;
- Specify procedures if saline or polluted water found;
- Specify procedures if the bore is abandoned;
- Require advice if water found;
- Specify volumetric allocation for each purpose of the entitlement;
- Specify distances works to be sited from boundaries, streams other bores etc;
- Identify lands that may be irrigated;
- Specify a volumetric allocation for the works purpose;
- Overdraw rights?;
- Allow NSW Office of Water to alter the allocation at any time;
- Provide for a review of allocation if any subdivision occurs;
- Require regular measuring of water levels to provide information needed to manage aquifers.

1. Works for construction of the bore must be completed within such period as specified by the department.
2. The department must be notified if a supply of useable water is obtained and the bores shall then be suitably lined and capped to the standard required by the department.
3. 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.
4. The work must be at least:
 - 100 metres from any boundary of the property (unless agreement in writing is given by the neighbour for a lesser distance);
 - 400 metres from any irrigation bore on any adjoining property;
 - 500 metres from the town water supply bore;
 - 400 metres from any department observation bore;
 - 40 metres from the nearest bank or any river or creek.
5. Officers of the department or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.
6. All works must be constructed and maintained to properly control the water extracted to prevent wastage or any reduction in quality of the sub-surface water. The department may direct that any necessary repairs or alterations be undertaken to maintain the works in good working order (*is this adequately covered elsewhere?*)
7. The inside diameter of any casing used to line the bore must not exceed 200mm .
8. Any saline or polluted water located above a producing aquifer must be sealed by the use of cemented casing as specified by the department.
9. If the bore ceases to be productively used, the department must be notified and the aquifer must be sealed by a method acceptable to the department.

10. Any water extracted by the works must not be discharged into any watercourse or groundwater if it would pollute that water.
11. The volume of groundwater extracted as authorised must not exceed **88 megalitres** in any 12 month period commencing 1 July. The allocation will be reviewed if there is any change in the ownership of the land.
12. 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.
13. The department may specify rules from time to time for the accrual of unused water allocations for use in future seasons.
14. Both the pumping and non-pumping water levels must be recorded at least twice each year and reported with the annual groundwater return.
15. The licence holder shall develop a formal groundwater management plan, approved by this department, outlining a monitoring, assessment, and reporting strategy to detect and mitigate unacceptable impacts on other users. With other users being, licence holders and groundwater dependant ecosystems (eg springs), Unacceptable impacts being >10% reduction of the available drawdown within the licensed works.

END OF CONDITIONS

REASONS FOR CONDITIONS

- A. To comply with the provisions of Guyra Local Environmental Plan 2012.
- B. To ensure access for people with access disabilities
- C. To minimise loading on water and sewer services.
- D. To provide adequate off street parking space for the anticipated traffic that will be generated by the development.
- E. To ensure that the movement of traffic along the public road is not interfered with by activities relating to the development, and/or to comply with traffic regulations.
- F. To ensure the development is completed in accordance with conditions of consent and approved plans.
- G. To preserve the environment and existing or likely future amenity of the neighbourhood.
- H. To ensure adequate access to and from the development.
- I. To ensure that appropriate landscaping is provided.
- J. To provide funds for the provision of services and facilities as required by the increased activity.
- K. To ensure adequacy of services.
- L. To prevent future dealing in separately titled lands which are the subject of one development consent.
- M. To ensure that the land or adjoining land is not damaged by the uncontrolled discharge of runoff of stormwater from any buildings and paved areas that may be constructed on the land.
- N. To ensure compliance with engineering standards.

- O. To protect the environment.
- P. To preserve the amenity of the area.
- Q. To preserve the amenity and traffic safety of the area.
- R. To ensure adequacy of services to the development.
- S. To ensure public health and safety.
- T. To ensure compliance with Section 68 of the Local Government Act 1993.
- U. To ensure compliance with the Roads Act 1993.

ADVISORY NOTES

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

1. Further consent may be required for any change, enlargement or intensification of the premises or land use, including the display / erection of any new structure such as signage, partition walls or building fit-out (unless the proposed work is exempt from the need for consent). Please check with Council before commencement.
2. This development consent is issued under the Environmental Planning and Assessment Act 1979 and does not relate to structural aspects or specifications of the building under the Building Code of Australia. All buildings and alterations require the issue of a Construction Certificate prior to works commencing.
3. The Proponent must ensure that the development accords with the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
4. Council has assessed this application under the provisions of the Environmental Planning and Assessment Act 1979. It is the responsibility of applicants for BCA Class 3, 5, 6, 7, 8, 9 and 10a development (generally all commercial, industrial and professional offices) to make themselves aware of the provisions of the Disability Discrimination Act 1992 under which civil action may be taken if access for people with disabilities is denied or provide in a discriminatory way.
5. Failure to comply with conditions of development consent may lead to an on the spot fine (generally \$600) being issued pursuant to section 127A of the Environmental Planning & Assessment Act 1979 or prosecution pursuant to section 125 of the Environmental Planning & Assessment Act 1979.