

JOINT REGIONAL PLANNING PANEL

(Northern Region)

JRPP No	2014NTH017
DA Number	DA T6-14-272
Local Government Area	Kempsey Shire
Proposed Development	Extractive Industry – Hard Rock Quarry
Street Address	Lot 2 DP1194582, 627 Pacific Highway, South Kempsey
Applicant/Owner	Applicant: Pacific Blue Metal Pty Ltd Owner: Galban Pty Ltd
Number of Submissions	Two (2)
Regional Development Criteria (Schedule 4A of the Act)	Extractive Industry - Designated Development
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Mining, Petroleum and Extractive Industries) 2007 • State Environmental Planning Policy 33 – Hazardous and Offensive Development • State Environmental Planning Policy 44 - Koala Habitat Protection • Kempsey Local Environmental Plan 2013.
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Application and Environmental Impact Statement (R.W. Corkery and Co.) August 2014 • Public Submissions received during exhibition period (2) • NSW EPA General Terms of Approval (March 2015 and October 2014) • NSW RMS Submission (x3) • NSW Office of Environment and Heritage Submission (x2) • Response to Submissions Report (R.W. Corkery and Co.) May 2015
Recommendation	That the Joint Regional Planning Panel grant consent to DA-T6-14-272 for expansion of an existing extractive industry on Lot 2 DP1194582 at 627 Pacific Highway South Kempsey subject to the

	conditions of consent contained Appendix A.
Report by	Rachael Jeffrey, Town Planner, Kempsey Shire Council Erin Fuller, Manager Development Assessment, Kempsey Shire Council

Assessment Report and Recommendation

Development application T6-14-272 (JRPP Ref: 2014NTH017) seeks development consent for an expansion of an existing quarry known as “Farrawell’s Quarry” at 627 Pacific Highway South Kempsey. The quarry expansion would involve an 8m increase in the depth of the quarry floor within the existing approved extraction area, lateral expansion of the quarry footprint from the approved 8ha to 15ha, and a 20 year extension to the approved quarry life.

Recommendation

That the Joint Regional Planning Panel grant consent to DA-T6-14-272 for expansion of an existing extractive industry on Lot 2 DP1194582 at 627 Pacific Highway South Kempsey subject to the conditions of consent contained Appendix A.

1 Background

1.1 Existing Approval - T6-07-146 – Gravel Quarry

Kempsey Shire Council (‘Council’) approved development application T6-07-146 for a gravel quarry in April 2007. A total of six (6) modifications have been made to the original approval, with the current consent being T6-07-146 (Rev 06). The quarry is known as ‘Farrawell’s Quarry’ and is located at 627 Pacific Highway in South Kempsey.

Farrawell’s Quarry has approval to extract a total volume of 590,000m³ of material, consisting of 500,000m³ of hard rock gravel and 90,000m³ of stripped topsoil to be utilised in quarry rehabilitation. The existing quarry has a footprint of approximately 8ha.

An aerial photograph of the quarry is provided as *Figure 1.1*.



Figure 1.1 Aerial Photograph of Farewell's Quarry and Surrounding Land (Source: Google Maps, 2015)

Product won from Farrawell's Quarry is used to produce high quality road construction materials for use as select fill and road-base/ sub-base materials for both the Pacific Highway upgrade and other local uses (R.W. Corkery and Co. Pty. Limited, 2014).

Once quarry operations cease, the applicant intends to have a final landform that is suitable for use as part of an approved industrial subdivision. Council granted approval to DA T6-11-301 for clearing, bulk earthworks and the development of a staged industrial subdivision in May 2012. The footprint of both the existing and proposed expansion of Farrawell's Quarry is within the land approved for industrial subdivision under T6-11-301. Stage 1 of this industrial development included clearing of the site, including the land where the existing quarry is and surrounding land subject to the proposed expansion. This clearing has commenced under this development consent but is not complete.

2 Site and Locality Description

The location of Farrawell's quarry is on Lot 2 DP1194582, 627 Pacific Highway in South Kempsey (referred to as 'the site' within this report). The site is approximately 67ha in area and is an irregular 'U' shape. The site is approximately 4.4km south of the Kempsey CBD. The location of the quarry is illustrated on *Figure 2.1*.



Figure 2.1 Farrawell's Quarry Locality Plan (Source: LPI, 2015)

The approved disturbance area for the quarry site is approximately 8ha within western part of Lot 2 DP1194582.

Access to the quarry is from the Pacific Highway/ Macleay Valley Way Interchange and then via the Industrial Subdivision Access Road as illustrated on *Figure 1.1*. The central access road currently only services the quarry and the existing dwelling on the site however, in the future, it will also service the approved industrial subdivision (T6-11-301) which is to be developed initially on adjacent land, but will also include the quarry site once quarry operations have ceased.

The quarry site comprises the western and southern slopes of an elevated knoll on the eastern side of the property. Elevations at the quarry range from 84m AHD in the eastern area of the site to approximately 50m on the northern and southern boundaries (RW Corkery & Co, 2014). The site is zoned *IN1 General Industrial* and *RU2 Rural Landscape* under the *Kempsey Local Environmental Plan 2013* (KLEP 2013). The proposed quarry extensions are located wholly within the *IN1 General Industrial* portion of the lot. The zoning of the site is illustrated on *Figure 2.2*.

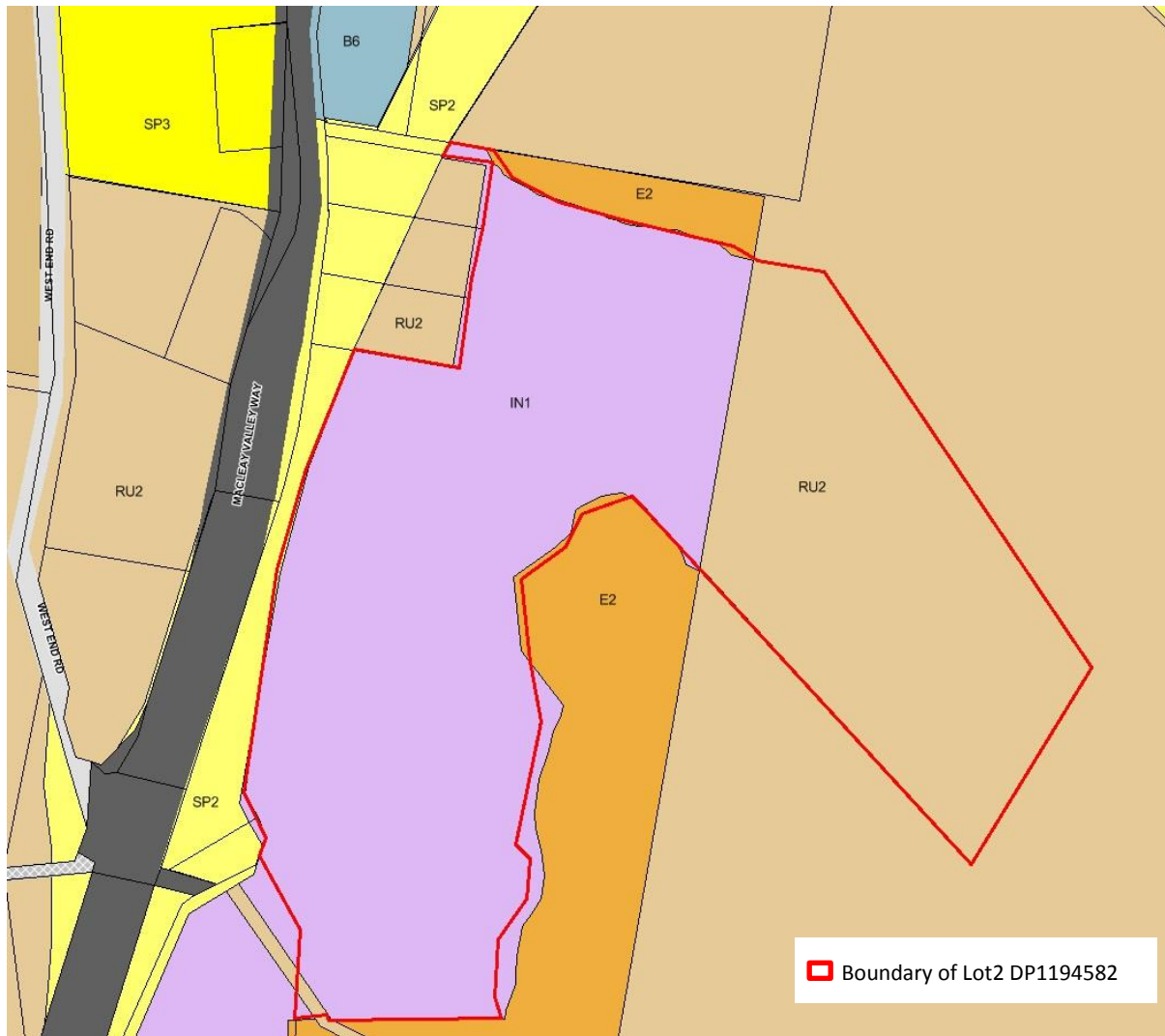


Figure 2.2 – Zoning map KLEP 2013

Land immediately to the north and south east of the quarry is vegetated and is zoned *E2 Environmental Conservation* according to the KLEP 2013. To the south of the quarry the recently completed Pacific Highway service centre and future industrial land subdivision. The Pacific Highway is immediately to the west of the quarry site.

There are four (4) residences within 500m of Farrawell's Quarry, with the closest being approximately 280m to the west (refer to *Figure 2.3*).



Figure 2.3 – Land Ownership and Sensitive Receivers (R.W. Corkery and Co. Pty. Limited, 2014)

3 Project Description

Council received development application T6-14-272 (JRPP Ref: 2014NTH017) on 2 September 2014.

Development application T6-14-272 seeks approval for the following expansion at Farrawell's Quarry:

- an 8m increase in the depth of the quarry floor (to approximately 50m AHD), within the existing approved extraction area;
- lateral expansion of the quarry footprint from the approved 8ha to 15ha; and
- a 20 year extension to the approved quarry life.

No increase to the approved annual extraction rate of 500,000 tonnes per annum (tpa) is proposed.

The applicant has stated the following aspects of the existing quarry operations would not change as a result of the proposed extension:

- extraction and processing methods;
- waste management;
- infrastructure services;
- operational hours; and
- rehabilitation objectives and final land use.

3.1.1 Quarry Footprint and Output

As stated above, the applicant is seeking to laterally expand the footprint of the quarry from 8ha to approximately 15ha, and increase the depth of quarrying an additional 8m. The current extraction rate of 500,000 tpa is proposed to be maintained. The applicant estimates that the total amount of resource within both the approved and proposed extended quarry footprint is approximately 3.3 million tonnes.

The proposed quarry layout is illustrated in *Figure 1.3*.

3.1.2 Resource Extraction

No change to the approved extraction method is proposed in T6-14-272. The approved extraction method generally involves the following:

1. Exposed rock extracted by bulldozer or excavator until refusal.
2. Extracted rock either pushed by bulldozer into a stockpile or loaded directly into mobile crushing and screening plant.
3. Where required, drilling and blasting is undertaken (resulting in fragmentation of between 20,000 and 30,000 tonnes of material per blast).
4. Blasted material is then either pushed by bulldozer into a stockpile or loaded directly into mobile crushing and screening plant.
5. Stockpiled material is hauled within the quarry to the active processing area as required.

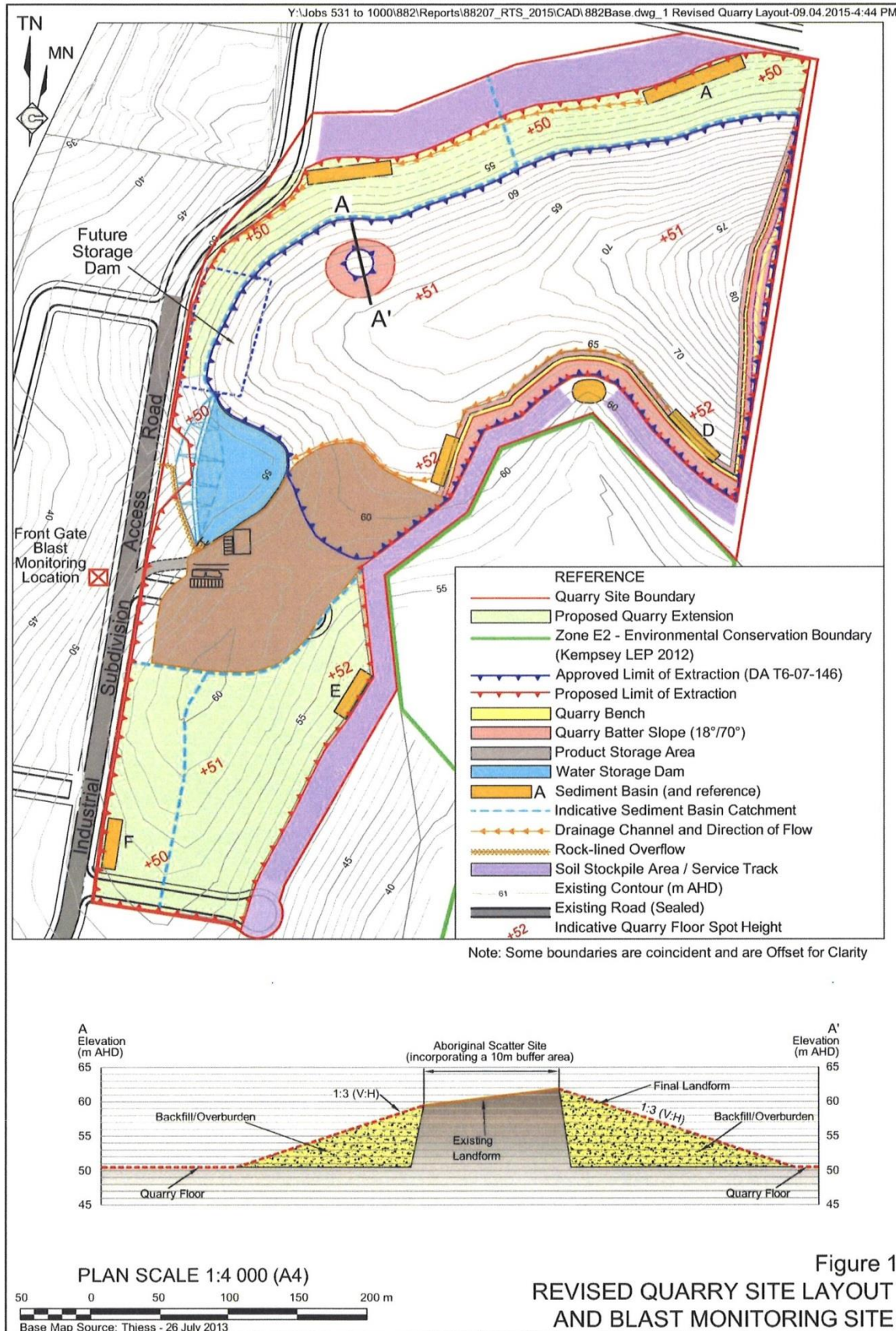


Figure 1.3 Proposed quarry site layout (R.W. Corkery and Co. Pty. Limited, 2015).

3.1.3 Material Processing and Stockpiling

No change to the approved processing method is proposed in T6-14-272. Material is processed using mobile crushing and screening plant. Each plant consists of a jaw crusher with a reclaimer screen and/or horizontal impactor.

Processed quarry material is to be stockpiled on site within the 'product storage area' indicated on the site layout plan (*Figure 1.3* above). The Applicant has indicated that this area will be relocated as quarrying progresses and may be located in two separate areas if required.

3.1.4 Transportation of Material

Site Access

Access to Farrawell's quarry is via the Industrial Subdivision Access Road (approved as part of T6-11-301) which is serviced by the grade separated Pacific Highway/ Macleay Valley Way interchange (refer to *Figure 1.1*). This road is a two lane bitumen sealed road (to the quarry entrance) designed and constructed to service up to 25m B-double road trains (R.W. Corkery and Co. Pty. Limited, 2014).

Haul Route

The quarry is situated close to the Pacific Highway. As a result the applicant envisages haul trucks using the Pacific Highway would enter and/or exit the Pacific Highway at the Pacific Highway/ Macleay Valley Way interchange and use the Industrial Subdivision Access Road to get to or from Farrawell's quarry.

Alternatively, haul trucks servicing markets within Kempsey or other areas of the Macleay Valley may pass over the Pacific Highway/ Macleay Valley Way interchange and proceed into (or from) Kempsey, depending on the project location.

Truck Movements

The applicant has nominated a maximum of 250 truckloads being dispatched per day from the quarry, and a maximum of 40 truckloads per hour.

3.1.5 Hours of Operation

The hours of operation proposed are Monday to Friday 7am to 5pm and Saturday 7am until 1pm. No work would be undertaken on Sundays or Public Holidays.

3.1.6 Quarry Rehabilitation

The intended final use for the quarry site, once quarrying activities cease, is for it to become part of the already approved industrial subdivision. The final landform will be of a comparable elevation to the Industrial Subdivision Access Road (approximately 50m AHD) (approved under DA T6-11-301) to allow ease of access and, once quarry extraction ceases, the land can be developed for industrial purposes.

The applicant proposes that the benches on the eastern side of the quarry site will be revegetated using a mixture of mulch and topsoil placed upon approximately 0.5m to 1.0m of overburden on the

final bench. This would be spread once quarrying and haulage activities have ceased in this area and prior to the creation of the adjoining extraction face.

In regards to the quarry floor, any unusable subsoil or clay will be spread over the final land form which will be covered with a layer of topsoil/mulch mix to approximately 15cm. This would be allowed to regenerate naturally. Any areas not adequately vegetated within three months are to be seeded and fertilised to establish vegetative cover to stabilise the quarry surface. The applicant states all rehabilitation works would be completed within 12 months of the completion of quarry extraction and processing activities.

Sediment Basins A and B and the surface water dam are to be retained until the industrial subdivision is developed to assist in long term water management.

3.1.7 Summary of Existing and Proposed Expanded Quarry Operations

Table 1.1 provides a comparison between what is currently approved under DA T6-07-146 (Rev06) and what is proposed under DA T6-14-272 at Farrawell's Quarry.

Table 1.1 Summary of existing and proposed quarry operations

	DA T6-07-146 (Rev 06) (Current)	DA T6-14-272 (Proposed)
Quarry Footprint Area	8ha	15ha
Maximum Extraction m ³	1.2 million tonnes (approx.)	3.3 million tonnes (approx.) which includes resources remaining within existing approved extraction area
Maximum Extraction Per Year	500, 000 tpa	500, 000 tpa
Hours of Operation (Mon-Fri)	7.00am to 5.00pm	7.00am to 5.00pm
Hours of Operation (Saturday)	7.00am to 1.00pm	7.00am to 1.00pm
Maximum Truck Movements Per Day	210	250
Maximum Quarry Life	Four (4) years (to 2017)	20 years (to 2037)

4 Development Assessment Framework

4.1 Environment Protection and Biodiversity Conservation Act 1999 (Cth)

The Fauna Assessment prepared by Kendall & Kendall Ecological Services Pty Ltd (2015) and the Flora Assessment undertaken by Idyll Spaces Environmental Consultants (2015) both conclude that the proposed quarry expansion is unlikely to result in a significant impact to any matters of national environmental significance listed under the EPBC Act, and therefore referral of the proposal to the Commonwealth Department of Environment is not required.

4.1 Environmental Planning and Assessment Act 1979 (NSW)

The applicant is seeking development consent for the quarry expansion pursuant to Part 4 of the EP&A Act 1979.

Designated Development

Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* identifies development that is ‘designated development’. The proposed extractive industry (hard rock quarry) is considered designated development for the following reasons:

- the quarry will process for sale more than 30,000 cubic metres of extractive material per year; and
- more than 2ha of land will be disturbed by clearing and excavating; and
- quarry activities will involve blasting within 500 metres of a dwelling not associated with the development.

In accordance with clause 78A(8)(a) of the EP&A Act 1979 an Environmental Impact Statement has been prepared and submitted with the application.

Integrated Development

The proposal is ‘integrated development’ as it requires an environment protection licence (EPL) under the *Protection of the Environment Operations Act 1997* (POEO Act). Schedule 3 of the POEO Act lists ‘scheduled activities’ which require an environment protection licence (EPL) which includes any proposal that involves the extraction, processing or storage of more than 30,000 tonnes per year of extractive materials. The proposed development is for the extraction of up to 500,000 tonnes per year, therefore an EPL is required. The existing quarry holds an EPL which would need to be modified to encompass the proposed development if approved. The EPA has issued General Terms of Approval (GTA’s) which have been included in the Conditions of Consent (refer to *Appendix A*).

Initially the applicant proposed to impact a known AHIMS site and as a result the development would have also required integrated approval under Section 90 of the *National Parks and Wildlife Act 1974* (NP&W Act). However, after feedback and discussions with OEH the applicant has decided to leave NPWS Site 30-3-111 in-situ and therefore no approval under Section 90 of the NP&W Act is required {refer to *Extension of Farrawell’s Quarry South Kempsey (DA T6-14-272) Response to Submissions* (R.W. Corkery and Co., 2015) and OEH correspondence dated 15 June 2015 in *Appendix B*}.

5 Consultation

5.1 Public exhibition

The proposed quarry expansion was placed on public exhibition and notified to nearby landholders between 24 September and 23 October 2014 in accordance with clause 79 of the EP&A Act. Two (2) submissions were received. A summary of the submissions is provided in *Table 5.1* with copies of the submissions provided in *Appendix C*.

Table 5.1 – Summary of public submissions

Issue	Comment
Blasting causes noise amenity concerns and is impacting on resident health.	The Noise and Vibration Impact Assessment submitted with the application concluded from modelling results that noise and vibration from

	typical blasting operations will not exceed the relevant criteria at the nearest receiver which is approximately 280 metres west of the closest section of the pit. This conclusion is supported by blast monitoring undertaken to date. In any event, the applicant has committed to continue to monitor all blasts at one of the nearest residential receivers on Macleay Valley Way as is currently occurring.
Damage to dwellings and paths due to blast vibration.	See above.
Repair work cannot be undertaken until blasting stops.	See above.
Damage to water pipes servicing the dwelling from the blasting resulting in higher water rates charges.	See above.
Difficulty in selling the property, and loss of property value, due to the proximity of the quarry to the dwelling and damage to the dwelling from blasting activities.	See above.
Flooding issues have been caused by the Kempsey bypass road works.	Not related to the proposed development.
Dirty water is flowing into the dam on the resident's property as a result of quarry operations.	Water from Farrawell's Quarry must meet EPL requirements prior to discharge from the water storage dam. This requirement would continue to be enforced if the quarry expansion is approved (refer to Conditions of Consent in Appendix A).
Concerns over the proposed depth of quarrying in regards to vibration when blasting occurs.	Vibration resulting from blasting at the quarry operations will continue to be monitored and be required to meet the EPA criteria (refer to Conditions of Consent in Appendix A).
Concerns over the proposed quarry life.	The extended quarry life will allow a resource to be extracted from an already disturbed site with minimal environmental constraints. No additional impacts to surrounding residences are likely to occur as a result of the extended quarry life.
Request for additional independent noise and vibration studies to assess the potential impacts on nearby residences.	The applicant has provided noise and vibration assessments as part of the EIS. No additional studies are considered necessary.

5.2 State Agency Referrals

5.2.1 Environment Protection Agency (EPA)

The proposal is 'integrated development' as it requires an EPL from the EPA under the POEO Act (refer to *Section 4.1*). The EPA has issued General Terms of Approval which have been incorporated into the Conditions of Consent in Appendix A.

5.2.2 NSW Office of Environment and Heritage (OEH)

The OEH has provided comments in respect of flora and fauna and Aboriginal heritage. These are summarised and discussed in *Table 5.1* and produced in full at Appendix B.

Please note that initially the applicant proposed to impact the known AHIMS site (NPWS Site 30-3-111) and as a result the development would have also required integrated approval under Section 90 of the *National Parks and Wildlife Act 1974* (NP&W Act). However, after feedback and discussions with OEH the applicant has decided to leave NPWS Site 30-3-111 in-situ and therefore no approval under Section 90 of the NP&W Act is required {refer to *Extension of Farrawell's Quarry South Kempsey (DA T6-14-272) Response to Submissions* (R.W. Corkery and Co., 2015) and OEH correspondence dated 15 June 2015 in Appendix B}.

5.2.3 NSW Roads and Maritime Service (RMS)

The proposed development was referred to the RMS for comment pursuant to clause 16 of *State Environmental Planning Policy (Mining, Petroleum and Extractive Industries) 2007*. The RMS comments are discussed in *Table 5.1* and produced in full at Appendix B. In summary, the additional information and revised Driver Code of Conduct received from the applicant has addressed the initial concerns raised by the RMS.

5.2.4 Department of Primary Industries - NSW Office of Water (NOW)

The proposed development was referred to the NOW as an authority that may have an interest in the determination of the application. No response has been received to date.

Table 5.1 – State Agency Referral Comments

Authority	Authority Response	Date	Comments
EPA	No issues. Revised GTA's provided.	2/3/15	-
OEH	Flora and Fauna <ul style="list-style-type: none"> - OEH notes the flora and fauna assessments undertaken indicate 4.5ha of Dry Open Forest (<i>Eucalyptus siderophloia</i> – <i>Eucalyptus carnea</i>) is to be removed. - DA T6-14-272 must demonstrate that offsets for the above impact can be provided. - Offsets must be enforceable (Principle No. 13 of OEH's <i>Principles for the Use of Biodiversity Offsets in NSW</i>). - OEH noted the fauna assessment provided in the Response to Submissions states that compensation measures, including those required under the <i>Kempsey Comprehensive Koala Plan of Management</i> (CKPoM) for the loss of preferred Koala habitat, are not required as offsets for this site were provided when the land was rezoned for industrial use (adjacent land now zoned E2 Environmental Conservation). - OEH noted a Conservation Zone Management Plan (GHD, 2010) was prepared for the E2 zoned land and tied to the development consent for the subdivision of this land for industrial purposes. - OEH notes that the Notice of Determination (as modified by Council) for the industrial subdivision (T6-11-301 Rev 02) does not appear to contain a condition of development consent specific to the implementation of the Conservation Zone Management Plan (GHD, 2010) or the management of the land as a biodiversity offset in perpetuity. - OEH notes the E2 zoned land was later subdivided from the site via a boundary adjustment (T6-13-276, Oct 2013) and was transferred to RMS for a biodiversity offset for the Pacific Highway upgrade. Principle 12 of OEH's <i>Principles for the Use</i> 	15/6/15	<p>The potential ecological impacts associated with developing the site for industrial use were assessed during the rezoning of the subject land to its current industrial zoning. The rezoning accounted for all the industrial land being cleared and the offsets were provided through a 7(b) <i>Environmental Protection (Habitat)</i> (now E2) zoning (refer to <i>Figure 2.2</i>). In summary, the rezoning of the land accounted for the vegetation that would be cleared to enable the land to be developed for industrial purposes, and the high ecological areas were protected and offsets provided as part of this process. Council's preferred method of securing offsets in perpetuity is through land zoning (i.e. an <i>E2 Environmental Conservation</i> zone) and this KLEP amendment provided the ideal opportunity to do this and also secure the offset upfront prior to any impacts occurring. It is unfortunate if the RMS has more recently used this already established offset to provide an offset for one of their own projects.</p> <p>The applicant has indicated clearing will be undertaken in accordance with the already approved DA T6-11-301 (industrial subdivision) and this clearing has indeed commenced. Condition 2 of this consent stipulates that the development must be undertaken in accordance with the <i>Conservation Zone Management Plan</i> (GHD, 2010), amongst other documents.</p> <p>Despite the above, in response to initial concerns from the OEH, the applicant undertook additional flora and fauna assessments in accordance with OEH survey and assessment</p>

Authority	Authority Response	Date	Comments
	<p><i>of Biodiversity Offsets in NSW</i> states that land already managed by the government such as National Parks, flora reserves and public open space cannot be used as offsets. Therefore, as this land has been transferred to RMS the land cannot be used to offset impacts associated with quarry expansions or the industrial subdivision.</p> <ul style="list-style-type: none"> - If the clearing for the quarry expansion is to be undertaken under T6-11-301 (industrial subdivision) Council should liaise with the proponent to identify alternative offsets for that clearing to compensate for the biodiversity loss. - Offsets for the impacts of the quarry expansion on biodiversity should be provided and secured in perpetuity by a suitable mechanism. - OEH recommends the use of the Biobanking Assessment Methodology to identify the type and quantum of offsets required to compensate for those impacts. This matter should be resolved before Council determines the DA. <p>Aboriginal Heritage</p> <ul style="list-style-type: none"> - OEH notes the Aboriginal cultural heritage area is now to remain in-situ with extraction to occur around the identified site and buffer area. - OEH supports this approach provided conditions are imposed on any consent issued for the development requiring adequate protection measures to be installed around the site and buffer area to ensure the site is not impacted. - Council should consider imposing conditions to ensure the stability of the retained site as the floor of the quarry is lowered around it. 		<p>guidelines which were submitted as part of the Response to Submissions document. These assessments concluded that the proposal would not result in significant ecological impact. Should the applicant elect to undertake the clearing as part of the quarry expansion application, then the recommendations contained within these assessments would apply and this is reflected in the conditions contained in Appendix A.</p> <p>The draft conditions of consent include requirements to provide a protective barrier around the Aboriginal site and buffer area as well as conditions to ensure the stability of the retained site.</p>
RMS	The applicant has revised the Drivers Code of Conduct and this is attached at Annexure 3 in the Response to Submissions. The addition of condition 27 of the Drivers Code of Conduct has	16/6/15	Noted.

Authority	Authority Response	Date	Comments
	<p>addressed the concerns raised in our letter of 16 December 2014 which were:</p> <ul style="list-style-type: none"> - The response has not identified the peak traffic flows arising from the proposed development or provided an analysis of the subsequent impacts on intersections used to access the Pacific Highway. - Whilst RMS acknowledges that the interchange will likely be capable of accommodating the peak daily traffic generated by the proposed development, it remains unclear how the identified hourly rate of heavy vehicle movements will impact on the safety and efficiency of affected intersections, particularly during network peak periods. - The response has identified that trucks will leave the quarry at 1.5 to 2 minute intervals. This is an average spacing equivalent to the nominated maximum of 40 loads per hour. Council may wish to condition a required minimum spacing for vehicles leaving the quarry and maximum permitted hourly/ daily truck movements to minimise impacts on the road network. Compliance with such a condition could be monitored through the installation of vehicle counters at the quarry access and reported annually. - A Drivers Code of Conduct could be prepared to address, but not be limited to, the following: <ul style="list-style-type: none"> o A map of primary haulage routes highlighting critical locations; o Safety initiatives for trucks travelling through residential areas and school zones; o An induction process for vehicle operators; o Format of regular toolbox meetings; o A complaints resolution and disciplinary procedure; and o Any community consultation measures to address peak haulage periods. 		

6 Section 79C Considerations

6.1 (a)(i) the provisions of any environmental planning instrument

6.1.1 State Environmental Planning Policy (State and Regional Development) 2011

Clause 21 of SEPP State and Regional Development states:

(1) A regional panel for a part of the State may exercise the following consent authority functions of the council or councils for that part of the State for development to which this Part applies:

.....

(b) the functions of a consent authority under Divisions 2of Part 4 of the Act
.....

‘Designated development’ is identified in Division 2 Part 77A(1) of the EP&A Act and therefore designated development may be determined by the JRPP. As the proposed quarry expansion is considered ‘designated development’ (refer to *Section 4.1*) the development application is to be determined by the JRPP.

Schedule 1 of SEPP State and Regional Development identifies development that is State significant. In regards to extractive industry it states:

(1) Development for the purpose of extractive industry that:

- a) extracts more than 500,000 tonnes of extractive materials per year, or*
- b) extracts from a total resource (the subject of the development application) of more than 5 million tonnes, or*
- c) extracts from an environmentally sensitive area of State significance.*

The proposed quarry expansion is not considered State significant as the proposal is for:

- the extraction of up to 500,000tpa (not more than 500,000tpa);
- a total extraction of 3.3 million tonnes of material; and
- the site is not an environmentally sensitive area of State significance.

6.1.2 State Environmental Planning Policy (Mining, Petroleum and Extractive Industries) 2007

Clause 7(3)(a) of *State Environmental Planning Policy (Mining, Petroleum and Extractive Industries) 2007* (SEPP Mining Petroleum and Extractive Industries) permits (with consent) extractive industry development on land where development for the purposes of agriculture or industry may be carried out (with or without development consent). The site of the quarry is zoned *IN1 General Industrial* and therefore the proposed quarry expansion is permitted with consent.

Part 3 of SEPP Mining Petroleum and Extractive Industries provides matters for consideration for determining authorities before determining an application.

Clause 12 requires determining authorities to consider the compatibility of the proposed extractive industry with other land uses. Table 6.1 below provides a summary of the considerations.

Table 6.1 SEPP(Mining, Petroleum and Extractive Industries, clause 12 considerations

<i>(a)(i)</i>	<i>The existing uses and approved uses of land in the vicinity of the development.</i>
	<p>Land to the north and east is vegetated rural zoned land. Land immediately to the south west is being developed as a highway service centre and industrial subdivision. Immediately to the west is the Pacific Highway. A number of rural dwellings are located on the western side of the Pacific Highway in proximity to the quarry.</p> <p>The proposed quarry expansion is generally considered compatible with these land uses in proximity to the site. The existing quarry has been operating since 2013 with minimal conflicts with surrounding land uses. Noise and vibration monitoring has demonstrated that quarry operations comply with relevant criteria at nearby residences. Further, EPL conditions will require any exceedances of criteria to be reported to the EPA and relevant monitoring and/ or mitigation undertaken.</p> <p>Traffic studies have demonstrated that haul trucks servicing the quarry are unlikely to cause traffic issues on nearby roads. The implementation of the Driver's Code of Conduct will further assist in minimising any potential traffic issues.</p>
<i>(a)(ii)</i>	<i>Whether or not the development is likely to have a significant impact on the uses that, in the opinion of the consent authority having regard to land use trends, are likely to be the preferred uses of land in the vicinity of the development.</i>
	<p>The KLEP 2013 provides the preferred uses of land in the vicinity of the development by way of land zoning and permissible land uses within the zones. Part of the subject site and adjoining land to the southwest is zoned industrial with an approved subdivision.</p> <p>Other adjacent land to the east is vegetated rural land either under the same ownership as the quarry (as it is within the same allotment), or owned by the RMS forming part of the biodiversity offset for the Pacific Highway upgrade. As a result, the land use in this direction is likely to stay the same for some time (or in perpetuity in the case of the biodiversity offset lands).</p> <p>As mentioned above, there are some nearby dwellings at a distance of 280-500 metres from the quarry (to the west of the Pacific Highway, on Macleay Valley Way) however modelling and monitoring to date indicates that it is unlikely that significant amenity impacts resulting from the proposed quarry expansion would occur.</p>
<i>(a)(iii)</i>	<i>Any ways in which the development may be incompatible with any of those existing, approved or likely preferred uses.</i>
	<p>As outlined above, it is considered that the proposed quarry expansion is generally compatible with existing and future surrounding land uses. The implementation of conditions on the consent, and management measures outlined within the EIS and Response to Submissions reports, will further assist in avoiding land use conflicts.</p>
<i>(b)</i>	<i>Evaluate and compare the respective public benefits of the development and the land uses referred to in paragraph (a) (i) and (ii).</i>
	<p>The upgrade of the Pacific Highway will result in a much safer road through both the Kempsey LGA, and the wider Mid North Coast region, which is a significant public benefit. The material sourced at Farrawell's Quarry is primarily used for road construction purposes and, with the substantial sections of highway upgrade currently being undertaken to both the north and south of Kempsey, there is a significant demand for road construction product locally as well as further afield. The quarry expansion would also ensure the ongoing employment of staff at the quarry (10 full-time equivalent</p>

	positions) resulting in associated flow on benefits within the local economy. As discussed above, there is unlikely to be significant impacts on the surrounding land uses as a result of the proposed quarry expansion and therefore it is considered that the public benefits of these land uses will not be reduced.
(c)	<i>Evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a)(iii).</i>
	It is considered that the proposed quarry is generally compatible with surrounding primarily rural and industrial land uses. Ongoing noise and vibration monitoring will continue to be undertaken at a sensitive receiver on Macleay Valley Way ensuring compliance with relevant criteria. Potential impacts to roads and traffic will be minimised through the implementation of the Drivers Code of Conduct. As a result, it is considered that the measures proposed to avoid or minimise any incompatibility with surrounding land uses are satisfactory.

Clause 13 requires consideration of the compatibility of the proposal with surrounding mining, petroleum production or extractive industry developments. There are no other nearby mining, petroleum production or extractive industry development and therefore no likely conflicts.

Clause 14 requires the consent authority to consider whether or not the consent should be issued subject to conditions aimed at ensuring that the development is undertaken in an environmentally responsible manner, including conditions to ensure the following:

- (a) that impacts on significant water resources, including surface and groundwater resources, are avoided, or are minimised to the greatest extent practicable,*
- (b) that impacts on threatened species and biodiversity, are avoided, or are minimised to the greatest extent practicable,*
- (c) that greenhouse gas emissions are minimised to the greatest extent practicable.*

The Conditions of Consent (refer to *Appendix A*) are aimed to ensure the development is undertaken in an environmentally responsible manner.

Clause 15 requires the consent authority to consider the efficiency of the proposed extractive industry resource recovery. As all material extracted at Farewell's Quarry is identified for use in quarry products or rehabilitation and therefore there is no waste of resource material. The extraction method is considered to be efficient.

Where a proposal requires the transportation of extracted materials, *clause 16(1)* requires the consent authority to consider if the consent should be issued subject to conditions aimed at:

- determining if products should be transported other than by public road;
- limiting impacts on the road network;
- limiting potential impacts to residential areas or school zones; or
- considering if a code of conduct relating to the transport of materials on public roads is appropriate.

Farrawell's quarry is located within close proximity to the Pacific Highway with good access to and from the highway. No schools are located on the haul route between the quarry and the Pacific Highway and residences off Macleay Valley Way have their own access road. The Applicant has developed a Driver's Code of Conduct, satisfactory to the RMS, which will be incorporated into the EMP for the quarry.

Clause 17 requires the consent authority to consider whether or not the consent should be issued subject to conditions aimed at ensuring the rehabilitation of land that will be affected by the development. As indicated previously in this report, the intended final use for the quarry site is for industrial development (associated with the approved DA T6-11-301). In the interim, the applicant has proposed to rehabilitate the site and this is reinforced through the Conditions of Consent contained in Appendix A.

6.1.3 State Environmental Planning Policy 33 – Hazardous and Offensive Development

The applicant states within the EIS (page 3-10) that substances used at the quarry that are relevant to SEPP 33 are diesel and ammonium nitrate. The applicant goes on to state that small amounts of diesel and other hydrocarbon which will be stored at the quarry do not trigger SEPP 33. In regards to ammonium nitrate the applicant states that this substance would not be stored on site and instead would be transported to the site prior to each blast. The quantity of ammonium nitrate required for each blast does not trigger SEPP 33. Therefore the proposal is not considered to be a 'potentially hazardous' or 'potentially offensive' industry.

6.1.4 State Environmental Planning Policy 44 - Koala Habitat Protection

State Environmental Planning Policy 44 - Koala Habitat Protection (SEPP 44) applies within the Kempsey LGA.

Kempsey Shire Council has prepared a *Comprehensive Koala Plan of Management for the Eastern Portion of the Kempsey LGA* (CKPoM) (KSC, 2011) which applies to the eastern portion of the Kempsey LGA, which includes the quarry site. The site is mapped as 'Secondary B Koala habitat' under the Kempsey CKPoM.

The vegetation that would be cleared to allow for the proposed lateral expansion of Farewell's quarry was subject to environmental assessment as part of the LES undertaken for the rezoning of the surrounding lands to allow for industrial development. This included an assessment on potential impacts on the koala and its habitat. The LES concluded that parts of the land proposed for rezoning should be set aside and zoned *7(b) Environmental Protection (Habitat)*. The recommended rezoning occurred as an amendment to KLEP 1987 and the land is now zoned *E2 Environmental Conservation* under KLEP 2013.

6.1.5 Kempsey Local Environmental Plan 2013 (KLEP 2013)

The Farrawell's quarry site is zoned *IN1 – General Industrial* under KLEP 2013. The objectives of the IN1 – General Industrial zone are:

- *To provide a wide range of industrial and warehouse land uses.*
- *To encourage employment opportunities.*

- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.

Extractive industries are permissible within the *IN1 – General Industrial* zone with consent. It is considered that the proposed quarry expansion is in accordance with the objectives of the zone as it will result in the ongoing extraction of a valuable resource with positive economic flow on effects within the Kempsey community. The quarry is an existing land use in the locality and it is considered that, with the implementation of consent conditions and mitigation measures within the EIS, impacts on the surrounding environment will be minimal and manageable. Further, at the completion of quarrying at the site it is proposed that it will be incorporated into the surrounding industrial land development.

6.2 (a)(ii) the provisions of any draft environmental planning instrument

There are no draft environmental planning instruments relevant to the proposal.

6.3 (a)(iii) any development control plans

Kempsey Development Control Plan 2011 (Kempsey DCP) provides comprehensive controls for development within the LGA. Relevant sections of the DCP and where they are addressed within this report are provided in *Table 6.2*.

Table 6.2 – Kempsey Development Control Plan 2013

	Relevant Kempsey DCP 2013 Chapter	Report Reference
B2	Parking, Access and Traffic Management	6.6.2
B4	Earthworks and Sediment and Erosion Control	6.6.1
B5	Stormwater Management	6.6.1
B10	Tree Preservation and Vegetation Management	6.6.5

6.4 (a)(iia) any planning agreement that has been entered into or any draft planning agreement that the developer has offered to enter into

There are no planning agreements or draft planning agreements relevant to this application.

6.5 (a)(iv) any matters prescribed by the regulations

No matters prescribed by the regulations are relevant to the proposed development.

6.6 (b) the likely impacts of the development

6.6.1 Soil and Water Impacts

Surface Water

The design of the proposed extension to Farrawell's Quarry ensures that surface water runoff will be contained within the quarry site. The quarry has been designed so each 'catchment area' has an associated sediment basin which will be constructed prior to disturbance within that section of the quarry. Each sediment basin drains to the water storage dam which is the discharge point for any water exiting the quarry site. The sediment basins and water storage dam will collect most of the sediment that is carried by any surface water runoff. GTA's issued by the EPA contain water quality limits for turbidity/ total suspended solids, pH and oil and grease which the applicant must test for

and meet prior to any discharge of water from the water storage dam to the surrounding environment (refer to Conditions of Consent in Appendix A).

The site is located within Zone 1 of the Rainfall Distribution Zones outlined in Landcom's *Managing Urban Stormwater Soils and Construction Volume 1, 4th Edition* (Landcom, 2004). The applicant will not undertake soil stripping activities within Catchments A and B of the quarry site during February and March (higher rainfall months) in accordance with the guidelines to further reduce the likelihood of water pollution occurring in the surrounding environment.

Consent conditions require the applicant to prepare a Water Management Plan (as part of the EMP) prior to commencement of operations the subject of this application to further ensure surface water runoff across the site is managed appropriately.

Conditions also require that all stockpiles and associated surface water runoff controls at the quarry be designed and constructed in accordance with *Managing Urban Stormwater Soils and Construction Volume 1, 4th Edition* (Landcom, 2004).

Groundwater

The applicant does not expect to intercept groundwater as a result of the proposed quarry expansion.

6.6.2 Traffic and Transport Impacts

The applicant proposes to increase the maximum number of truck loads per day from 210 to 250 (a total of 500 truck movements). Trucks will primarily use the Pacific Highway (immediately adjacent to the site) as the haulage route which will avoid residential areas and any school zones. The RMS is satisfied with the proposal, in particular given the Driver Code of Conduct proposed to be implemented.

6.6.3 Developer Contributions – Road Maintenance Levy

There is a small section of road under the care and control of Council which trucks will use to access the Pacific Highway, the primary haulage route. These truck movements will have an impact on the pavement of this section of road.

Kempsey Shire Council's *Local Roads and Traffic Infrastructure Developer Contributions Plan 2009* (effective from 12 January 2010) specifies the following requirement:

5.3.4 Haulage Provisions

Extractive and rural industries where land use is intensified and results in heavy vehicle movements on local roads will be subject to a contribution under this plan for the upgrade of the roads being used by the development. The contribution is calculated on gross tonnage hauled. Contributions payable are calculated on receipt of the development application and are unique to each application.

The NSW Independent Pricing and Regulatory Tribunal has issued the *Local Infrastructure Benchmark Costs – Costing Infrastructure in Local Infrastructure Plans Final Report April 2014* to guide Council's in the calculation of fair and reasonable contribution rates. The report provides

guidelines for section 94 contributions in mining areas based on the additional cost for road maintenance attributed to mining activity.

The IPART methodology specifies the following steps:

1. Step 1: Determine the lifetime cost of maintenance for a typical road with an assumed natural life of 20 years.
2. Step 2: Assume reduced lifespans resulting from mining activity using notional lower and upper bounds and convert this to an additional cost per km, per year.
3. Step 3: Apportion costs derived at lower and upper bands on a mine by mine basis by determining the total kilometres of affected road (shared and non-shared) for the relevant mine and allocating the total cost on a pro rata mine output basis across the different mines.

Using this methodology, Council has determined that a contribution rate of \$0.086/tonne/km for an extraction rate of 500,000 tpa and a haul route of 0.86km (from the end of the western roundabout to the entrance of the northern on ramp to the Pacific Highway) would apply. It is therefore recommended that a condition of consent be imposed requiring a contribution of \$0.086 per tonne.

6.6.4 Air Quality Impacts

The applicant has stated that appropriate measures will be undertaken to minimise dust emissions from the quarry, such as the use of water sprays on processing equipment and unsealed quarry roads as necessary. Further, activities that involve soil disturbance will be avoided during periods of high winds (>5m/sec) in the direction of sensitive receivers (west and north west of the quarry). Consent conditions will ensure these measures are implemented and incorporated into the EMP for the quarry.

6.6.5 Noise and Vibration Impacts

The applicant has undertaken noise and vibration modelling for proposed quarry operations.

Operational Noise

Ambient noise levels were determined using unattended noise loggers near residences on the western side of Macleay Valley Way in June and July 2013. Results from noise monitoring were used to identify applicable base noise objectives for the site as follows:

- Amenity: 52dB(A) L_{eq} (15 min); and
- Intrusiveness: 55 L_{eq} (Period) dB(A).

The project specific noise goal (PSNG) for the quarry is the more stringent of the above criteria {52 dB(A) L_{eq} (15 min)}. Only daytime noise criteria were determined as the quarry will only operate during the daytime period as defined within the INP.

The results of the modelling demonstrate that there will be no exceedance of the daytime noise amenity criteria at any of the residential receivers.

Public Road Traffic

As the haul route will include trucks using Macleay Valley Way and the Pacific Highway, criteria for both 'local road' and 'freeway/ arterial/ sub-arterial road' as defined in the NSW Road Noise Policy (RNP) were used.

The results of the road traffic noise assessment demonstrated that noise traffic criteria will be achieved at distances greater than 15m from the centre of traffic on an arterial road or freeway. The results also demonstrate that for a theoretical receptor 12m from the centre of traffic on a local road compliance with the relevant noise criteria will be achieved provided there are no more than 14 heavy vehicle movements per hour. There are no residences within 5km of the quarry that are situated 12m or closer to the centre of traffic on Macleay Valley Way.

Blasting

Noise and vibration modelling for blasting were assessed against the *Technical Basis for Guidelines to Minimise Annoyance due to Blasting Overpressure and Ground Vibration* (ANZECC, 1990) and building damage criteria nominated in AS2187.2-1993 *Explosives – Storage, Transport and Use. Part 2: Use of Explosives*.

The results in regards to blasting indicate the predicted noise and vibration levels will be below relevant criteria at all residential receivers. Nonetheless, the applicant has indicated that monitoring for each blast will continue adjacent to the most sensitive residential receivers.

6.6.6 Flora and Fauna Impacts

See comments provided in *Table 5.1* with respect to the OEH referral received. In summary, the proposed quarry expansion is contained within the land zoned *IN1 General Industrial*. As part of the rezoning of this land for industrial purposes, areas of high ecological value and environmental offsets were identified and zoned for environmental protection. These areas are now zone *E2 Environmental Conservation* and no encroachment into these areas is proposed.

The Applicant submitted a flora and fauna assessment for the vegetation that would need to be removed for the quarry expansion. This assessment concluded that the proposal would not result in significant ecological impacts. Conditions of consent contained in Appendix A require all recommendation contained within this assessment to be adhered to.

6.6.7 Aboriginal Heritage Impacts

A cultural heritage assessment undertaken in 1988 which resulted in a single artefact scatter site being identified in the north western section of the current extraction area identified as NPWS Site no. 30-3-111. As part of the assessment for the industrial subdivision (DA T6-11-301) NPWS Site no. 30-3-111 could not be located. Following the approval of the existing quarry (DA T6-07-146) an exclusion area including a 10m buffer was established at the documented location of NPWS Site no. 30-3-111 and quarry operations have been undertaken around this site leaving it an island within the quarry.

The applicant originally proposed to impact NPWS Site no. 30-3-111 and therefore would have required an AHIP under Section 90 of the *National Parks and Wildlife Act 1974*. Following discussions with OEH the applicant has now indicated that the site will not be impacted and will

remain as an island within the expanded quarry (refer to Section 2.5 of the Response to Submissions report by R.W. Corkery and Co., 2015). As a result an AHIP is not required.

To ensure the long term stability of NPWS Site no. 30-3-111 condition B6 requires engineering plans to be provided to Council prior to commencement demonstrating how this is to be achieved.

Further, conditions have been included to ensure that appropriate measures are undertaken if items are discovered that are suspected to be of Aboriginal cultural heritage significance.

6.6.8 Visual Impacts

As the quarry expands and vegetation between the quarry and the Pacific Highway removed, quarry operations will be visible from the Pacific Highway and residences to the west on Macleay Valley Way. To minimise this, a condition has been included that vegetation screening is maintained for as long as practical adjacent to the highway.

6.6.9 Socio-economic Impacts

The proposed quarry expansion will result in the longer term employment of staff at the quarry which will result both directly and indirectly in further positive economic benefits for the community in the Kempsey region.

Continued quarry at the site will allow a valuable resource to continue to be extracted from an already disturbed environment.

The proposed quarry expansion will also eventually result in a final landform suitable for development associated with the approved industrial subdivision.

6.6.10 Waste Management

There are no production wastes generated at the Farrawells Quarry as all extracted materials are incorporated in to products dispatched from the quarry site (R.W. Corkery and Co., 2014).

Other wastes are to be managed in an acceptable manner such as:

- non-production waste generated will be placed in a range of skips or bins and removed by local waste contractors;
- recyclable wastes are to be collected separately;
- waste oil is to be stored in a bunded facility and collected regularly by a waste oil contractor; and
- all ferrous waste is placed in a skip bin and collected by a recycling contractor.

6.6.11 Quarry Rehabilitation

The applicant states that the final landform will be of a comparable elevation to the Industrial Subdivision Access Road (approximately 50m AHD and approved under DA T6-11-301) to allow ease of access and, once quarry extraction ceases, the land can be developed for other industrial purposes.

The benches on the eastern side of the quarry site will be revegetated using a mixture of mulch and topsoil placed upon approximately 0.5m to 1.0m of overburden on the final bench. This would be spread once quarrying and haulage activities have ceased in this area and prior to the creation of the adjoining extraction face.

In regards to the quarry floor, any unusable subsoil or clay will be spread over the final land form which will be covered with a layer of topsoil/mulch mix to approximately 15cm. This would be allowed to regenerate naturally. Any areas not adequately vegetated within three months are to be seeded and fertilised to establish vegetative cover to stabilise the quarry surface. The applicant states all rehabilitation works would be completed within 12 months of the completion of quarry extraction and processing activities.

Sediment Basins A and B and the surface water dam are to be retained until the industrial subdivision is developed to assist in long term water management.

6.7 (c) the suitability of the site for development

It is considered that the site is suitable for the proposed development as with the implementation of conditions of consent, impacts to the surrounding environment will be minimal. The site is suitable for the development in that it contains the resource sought, it is in close proximity to the Pacific Highway thereby minimising any amenity or safety impacts associated with haulage trucks, and nearby residences are at an adequate distance that any potential amenity impacts can be appropriately managed.

6.8 (d) any submissions made in accordance with this Act or the Regulations

See section 5 of this report.

6.9 (e) the public interest

The proposed development complies with relevant legislation, environmental planning instruments and relevant development controls ensuring that the public interest is maintained. The implementation of Conditions of Consent (refer to *Appendix A*) will further ensure that impacts to the surrounding environment are minimal.

7 Conclusion

After consideration of the proposal against the relevant statutory considerations, it is concluded that on balance the proposed development is appropriate. The development is permissible with consent and not envisaged to have any adverse impacts. The vegetation removal required to enable the expansion has already been considered and offset as part of the rezoning of this land to industrial, and the information provided demonstrates that any potential amenity impacts can be appropriately mitigated. The EPA have issued General Terms of Approval for the development and the RMS are satisfied from a traffic and road safety aspect. In conclusion, it is recommended that the Joint Regional Planning Panel grant consent to DA-T6-14-272 for expansion of an existing extractive industry on Lot 2 DP1194582 at 627 Pacific Highway South Kempsey subject to the Conditions of Consent contained Appendix A.

References

GeoLink, 2008, *Local Environmental Study For Lots 100 and 104 in DP776239, Pacific Highway, South Kempsey*, for Kempsey Shire Council.

GHD, 2003, *Proposed Industrial Rezoning Lots 100 and 104, DP 776239, Pacific Highway, South Kempsey, Proposed Rezoning Justification Report*, prepared for Galban Pty Ltd.

Google Maps, 2015, *Imagery ©2015 DigitalGlobe, Map data © 2015 Google*, viewed on 3 June 2015 at <https://www.google.com.au/maps/@-31.1245162,152.8291463,2465m/data=!3m1!1e3>

KSC (Kempsey Shire Council), 2011, *Comprehensive Koala Plan of Management for the Eastern Portion of the Kempsey LGA*, accessed at <http://www.kempsey.nsw.gov.au/environment/biodiversity/pubs/volume-1-ckpom-working-provisions-04-2011.pdf>

LPI (Land and Property Information Services), 2015, *SIX Maps* viewed on 3 June 2015 at <https://maps.six.nsw.gov.au/#>

R.W. Corkery and Co. Pty. Limited, 2014, *Environmental Impact Statement for the Extension of Farrawell's Quarry South Kempsey*, for Pacific Blue Metal.

R.W. Corkery and Co. Pty. Limited, 2015, *Extension of Farrawell's Quarry South Kempsey (DA T6-14-272) Response to Submissions*, for Pacific Blue Metal.

Appendix A

Without Prejudice Conditions of Consent

Appendix B

Authority Submissions

Appendix C

Public Submissions

Appendix D

Response to Submissions