

20 August 2014

**NOTICE TO APPLICANT OF DETERMINATION
OF A DEVELOPMENT APPLICATION**

The Manager
Alchemy Pastoral Projects Pty Ltd
PO Box 9218
BATHURST WEST NSW 2795

being the applicant in respect of **Development Application No 2014/0155**.

Pursuant to section 81(1)(a) of the Environmental Planning and Assessment Act 1979, as amended, notice is hereby given of the determination by Council of Development Application No 2014/0155, relating to the land described as follows:

**LOT: 80 DP: 566081, LOT: 7475 DP: 1121891, 1088 MID WESTERN HIGHWAY
EVANS PLAINS, 90 STEWART STREET EVANS PLAINS**

The Development Application has been determined by GRANTING consent to the following development:

- 1. EXTENSION TO EXISTING EXTRACTIVE INDUSTRY AND ASSOCIATED PROCESSING AND STOCKPILING AREA.**
- 2. INSTALLATION OF A WEIGH BRIDGE**
- 3. ADVERTISING SIGNAGE**

Building Code of Australia building classification **10b**.

IMPORTANT NOTICE TO APPLICANT

If this consent relates to a subdivision or to the erection of a building, one of the conditions listed below will require you to obtain a construction certificate prior to carrying out any work. **YOU MUST NOT COMMENCE WORK UNTIL YOU HAVE RECEIVED THE CONSTRUCTION CERTIFICATE**, even if you made an application for a construction certificate at the same time as you lodged this development application. Due to changes in the law relating to planning and building approvals, Council is unable to issue the construction certificate with the development consent. If there are no conditions in this development consent which need to be met before Council issues the construction certificate, and if your plans comply fully with the Building Code of Australia, the construction certificate will be forwarded to you shortly.

This consent is issued subject to the following conditions and reasons:

1. **The development is to be carried out in accordance with the General Terms of Approval outlined by NSW Environment Protection Authority listed below:**

Administrative conditions

Except as expressly provided by these General Terms of Approval, works and activities must be carried out in accordance with the proposal contained in:

- the Development Application 2014/0155 submitted to Bathurst Regional Council on 9 April 2014; and
- the accompanying Environmental Impact Statement prepared by R.W. Corkery and Co. Pty Limited and dated 16 April 2014.

The proponent must apply for and hold an in-force Environment Protection Licence issued by the NSW Environment Protection Authority prior to the proponent carrying out any scheduled development work and scheduled activity as defined by Schedule 1 of the *Protection of the Environment Operations Act 1997*.

The proponent must comply with any additional requirements imposed by an in-force environment protection licence issued by the NSW Environment Protection Authority.

Operating hours

Operational activities at the premises must only be conducted during the following hours:

- a) 7 am to 6 pm Monday to Friday;
- b) 8 am to 6 pm Saturdays; and
- c) at no time on Sundays or public holidays.

Noise

Noise from the premises must not exceed 35 dB(A) LAeq (15 minute) at any time at any neighbouring residential property.

To determine compliance with the 35 dB(A) LAeq (15 minute) noise limit, noise must be measured:

- a) approximately on the property boundary, where any dwelling is situated 30 metres or less from the property boundary closest to the premises; or
- b) within 30 metres of a dwelling facade, but not closer than 3 metres where any dwelling on the property is situated more than 30 metres

from the property boundary closest to the premises.

The noise limit does not apply at properties where the proponent has a written agreement with the landowner to exceed the noise limit.

Air quality

Activities occurring at the premises must be carried out in a manner that will minimise the emission of dust from the premises.

The premises must be maintained in a condition which minimises or prevents the emission of dust from the premises.

Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.

Water management

The proponent must comply with Section 120 of the Protection of the Environment Operations Act 1997, except where expressly provided for in any condition of an environment protection licence held by the proponent.

The proponent must develop and implement an Erosion and Sediment Control Plan for the premises within

3 months of the granting of development consent consistent with the EPA endorsed publication "*Managing Urban Stormwater - Soils and Construction, 4th Edition*" (Landcom, 2004) (or any revision) and the EPA produced addendum publication "*Volume 2E: Mines and Quarries*" (DECC, 2008) (or any revision).

Erosion and sediment control structures (basins or sumps) must be constructed to meet the design criteria for Type D Sediment retention basins (> 3 years) as specified in the EPA produced addendum publication "*Volume 2E: Mines and Quarries*" (DECC, 2008) (or any revision).

Waste

The proponent must not cause, permit or allow any waste to be received at the premises, except the wastes expressly referred to in the column titled "Waste" and meeting the definition, if any, in the column titled "Description" in the table below.

Any waste received at the premises must only be used for the activities referred to in relation to that waste in the column titled "Activity" in the table below.

Code	Waste	Description	Activity	Other limits
NA	General or specifically exempted waste	Waste that meets all the requirements of a resource recovery exemption under Clause 51A of the Protection of the Environment Operations (Waste) Regulation 2005	As specified in each resource recovery exemption	NA

Activities must be carried out in a competent manner

Activities must be carried out in a competent manner. This includes:

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

Maintenance of plant and equipment

All plant and equipment installed at the premises or used in connection with the activity:

- a) must be maintained in a proper and efficient condition;
- b) must be operated in a proper and efficient manner.

REASON: Because of representations to that effect made by that body (those bodies). Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979, as amended.

2. **Except where modified by the condition imposed upon this consent the development is to be carried out in accordance with the Environmental Impact Statement prepared by RW Corkery & Co Pty Ltd dated 16 April 2014 and the Response to Submissions prepared by RW Corkery & Co Pty Ltd dated 11 August 2014.**

REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

3. **Within three months of the date of this consent or as otherwise agreed by Council, the applicant shall surrender all existing development consents for extractive industries relied on by the applicant for the site (other than this consent) in accordance with Section 80A(1)(b) of the Environmental, Planning and Assessment Act 1979.**

REASON: Because Council is of the opinion that the consent should be limited so that any development consent is consistent with the approval granted by an approval body. Section 80A(1)(d) of the Environmental Planning and Assessment Act 1979, as amended.

4. **The external boundary of the extraction areas are to be clearly identified by way of readily identifiable survey markers within 3 months of the date of this consent.**

NOTE: The survey markers may be offset by up to 10m to avoid damage through movement of equipment and placement of stockpiles beyond the extraction area.

REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

5. **The areas of yellow box woodland identified in the Aquila Ecological Survey at the northern end of the extraction site is to be fenced with stock proof fencing within 3 months of the date of this consent**

REASON: To minimise the impacts of the proposal on the environment. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

6. **The aboriginal artefact (basalt flake) identified in the Aboriginal Heritage Assessment is to be fenced with stock proof fencing and a sign placed on the fence stating 'Do not disturb – Culturally sensitive material contained' within 3 months of the date of this consent.**

REASON: To record and preserve historic details of previous uses of the site. Section 79(C)(1)(b) and (e) of the Environmental Planning and Assessment Act 1979.

7. **The applicant is to plant a vegetative screen on the batter slope to the south of the initial terrace extraction within 3 months of the date of this consent. The vegetative screen is to include fast growing trees such as *pinus radiata*, *acacia dealbata*, *eucalyptus meliodora* – yellow box, *eucalyptus viminalis* – ribbon gum (suitable for along water courses) and *eucalyptus blakely's* red gum. Commencement of extraction within Cells 2 to 6 is contingent upon the establishment (and maintenance) of this screen to a height of at least 5 metres.**

REASON: So that the development does not reduce the amenity of the area. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

8. **Within three months of the date of this consent the applicant is to provide a rehabilitation plan for those areas of disturbance outside of the extraction area approved under Development Application 1997/0148. Further this area is to be rehabilitated in accordance with plan within 12 months of approval of the plan.**

REASON: Because Council is of the opinion that the subject land should be reinstated to the condition that it was in before the development commenced. Section 80A(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

9. **The access road into the quarry is to be paved in two coats of bitumen seal, a minimum of 4 metres wide from the end of the existing bitumen seal up to the proposed weighbridge, in accordance with Bathurst Regional Council's Guidelines for Engineering Works. These works are to occur within 12 months of the date of this consent.**

NOTE 1: If other hard standing, dust free and weather proof surfaces are proposed instead of concrete, written approval is to be obtained from Council that the proposed alternative is acceptable.

NOTE 2: The bitumen seal shall conform with the Roads and Maritime Services Sprayed Sealing Guide.

REASON: To adequately provide for the safe, all-weather loading, unloading, manoeuvring and parking of vehicles within the development. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

10. **The area of stockpiling and processing is not to exceed 1.1 ha. The stockpiling and processing area identified in Figure 2.5 Processing and Stockpiling Operations of the EIS is to be clearly identified by way of readily identifiable markers within 3 months of the date of this consent.**

NOTE 1: The markers may be offset by up to 10m to avoid damage through movement of equipment and placement of stockpiles beyond the extraction area.

REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

11. **The area of active extraction is not to exceed 1.5ha and be limited to a single area within the quarry site. The active extraction area is to be clearly identified by way of readily identifiable markers prior to commencement of disturbance within this area.**

NOTE 1: The markers may be offset by up to 10m to avoid damage through movement of equipment and placement of stockpiles beyond the extraction area.

REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

12. **The survey markers for external boundary of the extraction area are to be maintained until rehabilitation has been completed.**

REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

13. **No crushing of granite is to occur on site.**

REASON: Because development consent has not been issued for onsite processing. Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979, as amended.

14. **Areas of disturbance within the extraction area additional to the 1.5ha active extraction area are to be actively rehabilitated in accordance with an Extraction and Rehabilitation Plan (ERP).**

REASON: Because Council is of the opinion that this consent should be so limited. Section 80A(1)(d) of the Environmental Planning and Assessment Act 1979, as amended.

15. **Prior to the commencement of, or progression to a new area of extraction, the operator is to provide Council with an Extraction and Rehabilitation Plan (ERP) from a suitably qualified and experienced environmental consultant detailing the following.**

a) Area to be managed as:

- i) active extraction;**
- ii) stockpiling and processing;**
- ii) rehabilitation under management; and**
- iii) rehabilitation completed.**

b) Objectives, completion criteria and performance indicators for rehabilitation.

c) Implementation and maintenance of rehabilitation to be undertaken within the extraction area.

- d) **Timeframe for the completion of the nominated extraction and rehabilitation.**
- e) **An Erosion and Sediment Control Plan (ESCP) for the nominated works and period.**

Progress of extraction and rehabilitation against the ERP is to be presented in the Annual Report to Council).

No works are to commence within a new extraction area until such time as Council is satisfied that the rehabilitated areas are being undertaken and an ERP (for this area) has been accepted in writing.

A copy of the Report is to be provided, on request, to adjoining property owners.

Note 1: The 1.5ha limit on active extraction excludes that area of the 1.2 ha of the quarry operated for the purpose of stockpiling, processing and product load-out noted in condition 10

REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

16. **Within the 14 days of the receipt of a written complaint received from an adjoining owner the applicant is to provide a written response to the complainant. A copy of the complaint and response is to be provided to Council.**

REASON: To ensure the impacts on adjoining properties are appropriately mitigated. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

17. **By the end of August each year the applicant shall review the environmental performance of the development for the preceding financial year (reporting period) and provide a copy of the report to Council. This review must:**

- a) **describe the development carried out in the reporting period inclusive of the volume of material extracted;**
- b) **demonstrate compliance with each condition imposed upon the development consent;**
- c) **review and report on progress against the active ERP, confirming areas of active extraction, rehabilitation under maintenance and completed rehabilitation during the reporting period;**

- d) **include a comprehensive review of the monitoring results and complaints records of the development over the reporting period, which includes a comparison of these results against the:**
 - i) **the relevant statutory requirements, limits or performance measures/criteria;**
 - ii) **the monitoring results of previous years; and**
 - iii) **the relevant predictions in the EIS;**
- e) **identify any non-compliance over the last year, and describe what actions were (or are being) taken to ensure compliance;**
- f) **identify any trends in the monitoring data over the life of the development;**
- g) **identify any discrepancies between the predicted and actual impacts of the development, and analyse the potential cause of any significant discrepancies; and**
- h) **describe what measures will be implemented over the next year to improve the environmental performance of the development; and**
- i) **provide a record of any complaints received inclusive of the time and date of the complaint, details of the complainant and complaint and any action taken to rectify the complaint.**

The review is to be conducted by a suitably qualified, experienced and environmental consultant.

As part of the environmental performance review the applicant and/or consultant is to consult with all adjoining properties. For the purposes of the conditions the adjoining owners are taken to be properties identified in Figure 3.2 Land Ownership of the Environmental Impact Statement.

A copy of the review is to be provided, on request, to adjoining property owners.

REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

- 18. The maximum production limit of the extractive industry is to be no more than 100,000 tonnes per annum.**

REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

19. The applicant is to submit three copies of engineering plans, specifications and calculations in relation to:

- a) drainage infrastructure; and
- b) road construction.

Further, the works are to comply with Bathurst Regional Council's Guidelines for Engineering Works.

REASON: Because it is in the public interest that the design of that (those) aspect(s) of the development comply with Council's Engineering Guidelines. Section 79C(1)(c) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

20. The applicant is to provide further details of the location of the proposed pylon sign which is to be designed in accordance with the details provided in part 2.7.1 of the Environmental Impact Statement submitted with the Development Application, prior to the issue of a Construction Certificate.

REASON: So that Council may adequately assess the impact of advertising for the development in line with the goals established in Council's adopted Bathurst Regional (Interim) Development Control Plan 2011. Section 79C(1)(a) of the Environmental Planning and Assessment Act 1979, as amended.

21. Unless the development is exempt the applicant is to obtain a Construction Certificate pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended from either Council or an accredited certifying authority for the proposed weighbridge and pylon sign certifying that the proposed works are in accordance with Bathurst Regional Council's Guidelines for Engineering Works prior to any subdivision works commencing.

NOTE 1: No building, engineering or excavation work is to be carried out in relation to weighbridge and pylon sign until the necessary Construction Certificate or certificates have been obtained.

REASON: So that the design of the proposed work may be assessed in detail before construction commences and because it is in the public interest that the development comply with the appropriate construction standards. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

22. The applicant is to arrange an inspection of the development works by Council's Engineering Department at the following stages of the

development. This condition applies notwithstanding any private certification of the engineering works.

COLUMN 1	COLUMN 2
Road construction	* Following site regrading, and prior to installation of footway services; * Excavation and trimming of subgrade; * After compaction of subbase; * After compaction of base, and prior to sealing; * Establishment of line and level for kerb and gutter placement; * Subsoil Drainage; * Road pavement surfacing; * Pavement test results (compaction, strength).
Drainage	* After laying of pipes and prior to backfill; * Pits after rendering openings and installation of step irons.
Erosion and sediment control	* Prior to the installation of erosion measures.
All development and/or subdivision works	* Practical completion.

REASON: Because it is in the public interest that Council inspect the work at these stages of development. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

23. **All stormwater runoff from the proposed development is to be collected on site and conveyed to Evans Plains Creek in a manner consistent with AS 3500 and Bathurst Regional Council's Guidelines for Engineering Works.**

REASON: To provide for the drainage of storm water and minimise the risk of flood damage to adjoining properties. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

24. **The developer is to relocate, if necessary, at the developer's cost any utility services.**

REASON: Because the circumstances are such that the services be relocated. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

25. **During and after construction, minimum distances from powerlines are to be maintained.**

REASON: So that safe clearances are maintained from electrical powerlines, and because of representations to this effect from Essential Energy. Section 79C(1)(b) and (d) of the Environmental Planning and Assessment Act 1979, as amended.

26. Compliance with any requirements of the

- a) NSW Department of Primary Industries**
 - i) Fisheries Aquaculture and Aquatic Environmental Branch**
 - ii) NSW Office of Water;**
- b) Environment Protection Authority;**
- c) Road and Maritime Services; and**
- d) Office of Environment & Heritage.**

REASON: Because of representations to that effect made by that body (those bodies). Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979, as amended.

27. The applicant is to submit to Council one set of electronic files in both Portable Document Format (.pdf) and in CAD Drawing (.dwg) format (MGA co-ordinates, with each of the services on a separate layer eg separate out water, sewer, storm water to their own layers) and one set of paper copies of the works as executed plans for the drainage infrastructure.

Each sheet is to include a bar scale or scales adjacent to the title block showing the scale (the works as executed plan is to be scaled at 1:500) and each sheet is to be properly signed and dated by the person responsible for the carrying out of those works. Further, the works are to comply with Bathurst Regional Council's Guidelines for Engineering Works.

REASON: So that Council may ensure that the construction is in accordance with Council's requirements, and so that a permanent record of the design as constructed may be held by Council, to assist in future maintenance, or for the information of the emergency services. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

28. The applicant is to obtain an Occupation Certificate pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, from either Council or an accredited certifying authority prior to occupation of the weighbridge or advertising sign.

NOTE 1: The issuing of an Occupation Certificate does not necessarily indicate that all conditions of development consent have been complied with. The applicant is still responsible for ensuring that all conditions of development consent have been complied with.

REASON: Because it is in the public interest that an Occupation Certificate be issued prior to occupation of the building. Section 79C (1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

29. **The rural address number shall be displayed in a position clearly visible from the road, at the entrance to the property, in letters having a height of not less than 75 mm (3 inches). The number must be in a contrasting colour to the background on which it is placed. The correct rural address number is stated on the Notice of Determination.**

REASON: Because it is in the public interest that the building/property be easily identifiable. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

30. **The site shall be managed so that:**
- a) **no additional filling shall be placed on the land which may impede the flow of flood waters;**
 - b) **any clearing or drainage activities shall not alter the drainage patterns across the site;**
 - c) **no landscaping or similar type structures shall be installed which will inhibit the flow of flood waters;**
 - d) **any plant or goods stored upon the site shall be stored in a manner which will not allow pollution of the flood waters;**
 - e) **all actions shall be taken upon the site which will minimise the effect of the property upon the flood waters.**

REASON: The allotment is within a recognised flood zone. Development in accordance with the Flood Manual is required to reduce adverse environmental impacts. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

31. **All heavy vehicles associated with the extractive industry are to enter and exit the site via the Mid Western Highway entrance. No heavy vehicles associated with the extractive industry are to use the Stewart Street access.**

REASON: To prevent unsafe access to the adjoining road and to minimise the number of accesses to that road. Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, as amended.

32. **Dust monitoring is to be carried out at locations on the boundary of the applicant's property between the activities and nearest residential receivers. In the event that elevated levels are detected, the operator is to advise the EPA, Council and the affected landowners.**

REASON: So that the development does not reduce the amenity of the area.
Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

33. Hours of operation are to be restricted to:

- **7am to 6pm – Monday to Friday**
- **8am to 6pm – Saturdays**
- **No work on Sundays**

This restriction applies to all activities associated with the operation of the extractive industry inclusive of extraction of material, screening and washing of material, transportation of material within and from the site and rehabilitation works.

REASON: So that the development does not reduce the amenity of the area.
Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

34. The development is to cease at, or before, midnight, 50 years from the date of this consent.

REASON: Because Council is of the opinion that this consent should be so limited. Section 80A(1)(d) of the Environmental Planning and Assessment Act 1979, as amended.

PRESCRIBED CONDITIONS

The following conditions are known as "Prescribed Conditions" and are required to be imposed as part of any development consent whether or not they are relevant to the development approved under this consent. Please do not hesitate to contact staff in Council's Planning and Development Department who will be happy to advise you as to whether or not the conditions are relevant.

35. 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).

REASON: So that the development complies with the requirements imposed under Clause 98 of the Environmental Planning and Assessment Regulations 2000, as amended. Section 80A(11) of the Environmental Planning and Assessment Act 1979, as amended.

36. Building work (within the meaning of the Home Building Act 1989) must not be carried out unless the principal certifying authority for the development:

- a) in the case of work done by a licensee under the Act:**
 - i) has been informed in writing of the licensee's name and contractor license number, and**
 - ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act, OR**
- b) in the case of work to be done by any other person:**
 - i) has been informed in writing of the person's name and owner-builder permit number, or**
 - ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in section 29 of the Act,**

and is given appropriate information and declarations under paragraphs a) and b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either a) or b).

NOTE 1: A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that the person is the holder of an insurance policy is sufficient evidence to satisfy this condition.

REASON: So that the development complies with the requirements of clause 98 of the Environmental Planning and Assessment Act Regulations 2000. Section 80A(11) of the Environmental Planning and Assessment Act 1979, as amended.

37. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

- a) stating that unauthorised entry to the site is prohibited, and**
- b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside work hours.**

Any sign is to be removed when the work has been completed.

NOTE 1: This condition does not apply to:

- a) **building work carried out inside an existing building, or**
- b) **building work carried out on premises that are to be occupied continuously (both during and outside work hours) while the work is being carried out.**

REASON: Because it is in the public interest that adequate safety measures are provided. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

38. **The commitments listed in any relevant BASIX Certificate for this development are to be fulfilled in accordance with the BASIX Certificate Report, Development Consent and the approved plans and specifications.**

REASON: So that the development complies with the requirements imposed under Clause 97A of the Environmental Planning and Assessment Regulations 2000, as amended. Section 80A (11) of the Environmental Planning and Assessment Act 1979, as amended.

39. **If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:**

- a) **protect and support the building, structure or work from possible damage from the excavation; and**
- b) **where necessary, underpin the building, structure or work to prevent any such damage.**

The condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

REASON: Because it is in the public interest that all building elements are able to withstand the combination of loads and other actions to which it may be subjected. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

Endorsement date of determination and operative date:

20 August 2014

NOTES:

1. **Lapsing of consent.** Unless a shorter period is specified in this notice, this consent will lapse if the development is not substantially commenced within five years of the date endorsed on this notice.
2. **Right of Review:** If you are dissatisfied with this determination, section 82A of the Environmental Planning and Assessment Act 1979, as amended, gives you the right to request the Council to review its determination. Such a request must be accompanied by the fee prescribed in Council's Revenue Policy.

For Development Applications lodged prior to 28 February 2011 the review must be undertaken within 12 months of the date endorsed on this notice.

For Development Applications lodged after 28 February 2011 the review must be undertaken within 6 months of the date endorsed on this notice.

3. **Right of appeal:** If you are dissatisfied with this determination, section 97 of the Environmental Planning and Assessment Act 1979, as amended, gives you the right of appeal to the Land and Environment Court.

For Development Applications lodged prior to 28 February 2011 the appeal must be lodged within 12 months of the date endorsed on this notice.

For Development Applications lodged after 28 February 2011 the appeal must be lodged within 6 months of the date endorsed on this notice.

4. See **attached** sheet for explanatory notes.
5. All monetary conditions are reviewed annually, and may change as of 1 July each year.

D R Shaw
DIRECTOR
ENVIRONMENTAL, PLANNING & BUILDING SERVICES



**DETERMINATION OF A DEVELOPMENT APPLICATION
EXPLANATORY NOTES**

1. Should further explanation of the terms or conditions of the approval be required, please contact Council's Environmental Planning and Building Services Department.
2. Unless otherwise stated in a particular condition, it is the developer's responsibility to obtain any additional permits, approvals, consents, easements, or permission to enter necessary for the satisfaction of any conditions or for the completion of any works to be carried out in connection with the development.
3. Application for modification of this consent must be made on the prescribed form and be accompanied by the prescribed fee.
4. If amended building plans are submitted they must be accompanied by the fee set out in Council's Revenue Policy.

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