

NORTHERN JOINT REGIONAL PLANNING PANEL

Meeting held at Gwydir Shire Council Bingara offices on Thursday 9 July 2015 at 9:30am

Panel Members: Garry West (chair), Pamela Westing, John Griffin, Cr John Coulton and Cr Catherine Egan

Apologies: None - Declarations of Interest: None

Determination and Statement of Reasons

2015NTH004 Gwydir Shire DA 28/2013 [at 530 Gil Gil Creek Rd, Parish Bullala] as described in Schedule 1.

Date of determination: 9 July 2015

Decision:

The panel determined to approve the development application as described in Schedule 1 pursuant to section 80 of the *Environmental Planning and Assessment Act 1979*.

Panel consideration:

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

Reasons for the panel decision:

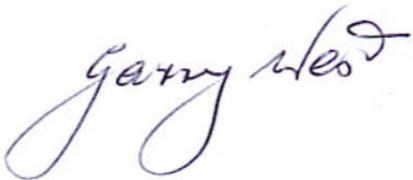


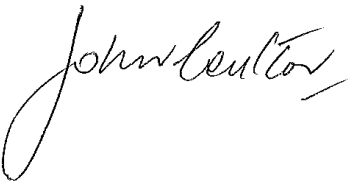

The panel adopted the assessment of those matters in the Council Assessment Report and the Addendum Report except for the matters regarding the road upgrading works which were discussed and agreed with the Applicant at the Determination meeting.

The principal reason for the panel decision was that the demand for production extracted in the north-west of NSW was increasing. Other reasons for the panel decision were:

- 1) GTA's were provided by the EPA and the Office of Water;
- 2) Appropriate Management Plans together with site rehabilitation were conditioned;
- 3) A satisfactory S94 was agreed by Council and the Applicant;
- 4) Council resolved to take ownership of the quarry access road currently vested in the Minister for Environment as a Council public road with the Applicant being responsible for all costs associated with the transfer of this road; and
- 5) The Applicant agreed to an enhanced timetable for the road works detailed in the draft conditions.

Conditions: The development application was approved subject to the conditions in Annexure 2 of the Council Addendum Report as amended at the meeting requiring the section of Gil Gil Creek Road as detailed in condition 4.1 (b) to be undertaken within 6 years of the commencement of the consent and the road works as detailed 4.1(a) by completed within 10 years of the commencement of the consent.

Panel members:

 Garry West (chair)	 Pamela Westing	 John Griffin
 John Coulton	 Catherine Egan	

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SCHEDULE 1

1	JRPP Reference – LGA- Council Reference: 2015NTH004 Gwydir Shire DA 28/2013
2	Proposed development: Increase in annual production to 300,000 tonnes per year
3	Street address: 530 Gil Gil Creek Road, Parish Bullala
4	Applicant: Johnstone Concrete and Quarries Pty Ltd
5	Type of Regional development: Clause 8 Particular Designated Development: development for the purpose of an extractive industry, which meets the requirement for designated development under clause 19 of Schedule 3 to the <i>Environmental Planning and Assessment Regulation 2000</i>
6	Relevant mandatory considerations <ul style="list-style-type: none"> • Yallaroi Local Environmental Plan 1991 • Draft Gwydir Local Environmental Plan • Traffic Generating Development • State Environmental Planning Policy 33 • State Environmental Planning Policy 34 • State Environmental Planning Policy 55 • State Environmental Planning Policy (Mining, Petroleum Production & Extractive Industries) 2007 • State Environmental Planning Policy (State and Regional Development) 2011 • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality. • The suitability of the site for the development. • Any submissions made in accordance with the EPA Act or EPA Regulation. • The public interest.
7	Material considered by the panel: Council Assessment Report Dated: 6 March 2015 Written submissions during public exhibition: one (1) Verbal submission at public meeting on 18 March 2015: Peter Taylor on behalf of the applicant Supplementary Council Assessment Report dated 25 June 2015 Verbal submissions at the 9 July 2015 panel meeting: Support- None; Against- None; On behalf of the applicant- Mitchell Johnstone and Brett Schoupp.
8	Meetings and site inspections by the panel: Site Visit on 18 March 2015 & determination meeting on 9 July 2015
9	Council recommendation: Approval with Conditions
10	Draft conditions: Attached to supplementary report dated 25 June 2015 as amended by the Panel on 9 July 2015.

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SCHEDULE 2

Amended Schedule of Conditions

PART A - GENERAL

1. Obligation to Minimise Harm to the Environment

The Applicant/Owner/Operator shall implement all practicable measures to prevent and/or minimise any harm to the environment that may result from the operation and/or rehabilitation of the development.

2. Scope of Approval

1. The Applicant/Owner shall carry out the development generally in accordance with:
 - a) DA No 28/2013;
 - b) Conditions of this consent; and
 - c) The following documents & plans

Item	Council's Stamp No/Date	Drawing/Job No	Drawn by	Dated
Environmental Impact Statement	28/2013 TBA	Booklet called Environmental Impact Statement Proposed Increase In Annual Production From Runnymede Quarry	SMK Consultants	July 2013
Addendum	28/2013 TBA	Booklet called Addendum - Additional Information Development Application 28/2013 Increase In Annual Production From Runnymede Quarry	SMK Consultants	May 2014
Addendum II	28/2013 TBA	Booklet called Addendum II - Additional Information	SMK Consultants	Sept 2014

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		Development Application 28/2013 Increase In Annual Production From Runnymede Quarry		
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2. If there is any inconsistency between the above, the conditions of this consent shall prevail to the extent of the inconsistency.

3. Surrender of Existing Development Consent

The owner shall, in writing, surrender all previous development consents which relate to extractive industries on the subject land.

This consent does not operate until previous consents are surrendered in accordance with the Environment Protection and Assessment Act, 1979 and Environment Protection and Assessment Regulation 2000.

4. The Applicant/Owner/Operator shall comply with any reasonable requirement/s of the Council or authorised Officer of Council arising from the Council's assessment of:

- a) Any reports, plans or correspondence that are submitted by the Applicant/Owner in accordance with this consent; and
- b) The implementation of any actions or measures contained in these reports, plans or correspondence.

5. Limits on Production

To confirm and clarify the terms of this approval, consent is given for the following;

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- a. The Applicant/Owner shall not extract and/or transport more than 300,000 tonnes of material, including hard rock, gravel, fines and sand from the development site in any 12 month period.
- b. This consent expires 40 years from the date of consent or when 5,000,000 tonnes of material has been extracted, which ever occurs first.
- c. The Applicant shall not import material, other than additive type products, onto the site.
- d. The Applicant shall notify the Council, within three (3) months of the end of the calendar year, the total quantity of material quarried and provide details of final output in terms of product.

6. Limits on Area

The Applicant/Owner shall not develop/extract material from outside the currently cleared areas as detailed in Plan 2 dated May 2012 (Appendix 2 – Environmental Impact Statement - Addendum, Additional information, May 2014 SMK Consultants).

7. To confirm and clarify the terms used in this approval, the following definitions are provided:

- *Extraction Operations* means the removal of overburden, the extraction, processing, handling, storage of extracted material onsite and the transportation of extracted material off site in relation to this consent.

8. General Terms of Approval – Environment Protection Authority

The development shall be carried out in accordance with the General Terms of Approval issued by the Environmental Protection Authority, attached in Annexure A to this consent.

9. Conditions of Approval – Office of Water

The development shall be carried out in accordance with the General Terms of Approval issued by the Office of Water, attached in Annexure A to this consent.

PART A – HEALTH

There are no relevant conditions for this section.

PART A - BUILDING

There are no relevant conditions for this section.

PART B – PRIOR TO COMMENCEMENT OF WORKS

1. Environmental Management Strategy

- 1 The Applicant/Owner shall prepare and implement an Environmental Management Strategy for the development. This strategy must:
 - a) Provide the overall strategic context for environmental management of the development, including for the environmental monitoring program and the various management plans required by this development consent;
 - b) Identify the statutory requirements that apply to the development;
 - c) Describe in general how the environmental performance of the development would be monitored and managed;
 - d) Describe the detailed procedures that would be implemented to:
 - Keep the local community and relevant agencies informed about the operation and environmental performances of the development;
 - Receive, handle, respond to, and record complaints;

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- Resolve any disputes that may arise during the course of the development;
 - Respond to any non-compliance;
 - Manage cumulative impacts; and
 - Respond to emergencies; and
 - e) Describe the roles, responsibility, authority, and accountability of all the key personnel involved in environmental management of the development.
- 2 The Applicant/Owner shall not carry out any development at the development site before Council has approved the strategy referred to in Condition B1.1.
- 3 Within 14 days of receiving Council approval for the environmental management strategy, the Applicant/Owner shall;
- a) Send copies of the approved environmental management strategy to the relevant agencies, and
 - b) Ensure the approved environmental management strategy is publicly available.

2. Traffic Management Plan and Truck Driver Code of Practice

Prior to commencement of quarry operations, the applicant shall submit a 'Traffic Management Plan and Truck Driver Code of Practice' for assessment and approval by Council. The plan shall document:

- a. The road maintenance program;
- b. Surrounding environment, existing conditions and road safety;
- c. Existing private property driveways and farm access points;
- d. Dust suppression methods including water supply management, monitoring, reporting, source, licencing and drought;
- e. Noise suppression methods including monitoring and reporting;
- f. Road inspection activities to be implemented for the life of the quarry;

- g. Approved haulage routes highlighting specific locations for consideration such as school zones, school bus routes, residential areas or potential risk locations (including map);
 - h. Induction process for staff and sub contractors outlining clear expectations and consequences for any breach of the code; and
 - i. Instruction on all operational and safety requirements related to the quarry operations.
- 3. The quarry is to operate in accordance with the approved Traffic Management Plan and Truck Driver Code of Practice.

PART C – DURING OPERATIONS

1. Operation of Plant and Equipment

The Applicant/Owner shall ensure that all plant and equipment at the site, haulage vehicles, or used in connection with the development are:

- a) Maintained in a state of sound mechanical repair; and
- b) Operated in a proper and efficient manner

3. Bunding and Spill Management

The Applicant/Owner shall store and handle all hazardous chemicals, dangerous goods, fuels and oils, strictly in accordance with;

- a) All relevant Australian Standards; and
- b) The EPA's Environment Protection Manual Technical Bulletin *Bunding and Spill Management*.

In the event of an inconsistency between the requirements listed in a) and b) above, the most stringent requirement shall prevail to the extent of the inconsistency.

4. Transport & Traffic

4.1 Road Works

Design plans and documentation for the following works are required to be assessed and approved by Council. The applicant is to submit an application under section 138 of the Roads Act 1993. The works shall then be constructed by the applicant and approved by Council before undertaking the works.

- a) The road section that provides access to the quarry site from the existing Council maintained Gil Gil Creek Road section, is to be constructed as a 7m wide sealed carriageway with 0.5m wide shoulders (minimum). Stormwater drainage culvert road crossings are to provide a minimum 1 in 5 year Average Recurrence Interval (ARI) immunity against flood and drainage flows. The location of the existing road with respect to the public road reserve boundaries is to be determined by “a centre line” survey.
- b) The section of Gil Gil Creek Road, extending north from the Mosquito Creek causeway, is to be constructed as a 8m wide sealed carriageway with minimum 0.5m wide shoulders. Cross-road drainage culvert crossings are to provide a minimum 1 in 5 year Average Recurrence Interval (ARI) immunity against flood and drainage flows. The location of the existing road with respect to the public road reserve boundaries is to be determined by “a centre line” survey.
- c) Certification from the supervising professional engineer or registered land surveyor, that all works have been constructed in accordance with the Council approved plans and specifications are required.
- d) The Applicant/Owner shall ensure that all the road works associated with the development in the road reserve comply with current RMS and Austroads Design Standards, and the RMS’s Quality Assurance Specifications.
- e) The Applicant/Owner shall bear all the costs associated with the design, road reserve realignment, survey, construction, maintenance, and removal of any development in the road reserve and the current Gil Gil Creek Road alignment.

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- f) To ensure all works are completed in accordance with the appropriate specifications and approved plans compliance certificates are to be issued at significant stages throughout the construction period. These stages are:
- Pre-construction meeting
 - After setout (prior to any excavation)
 - Laying and compaction of subgrade
 - Compaction of roadbase or placing reinforcement for concrete works
 - During sealing of pavements
 - Final – all disturbed areas revegetated.
 - Final inspection of completed development.
- g) The works detailed in condition 4.1 (b) shall be completed within 6 years from the date of the commencement of this consent and the works detailed in condition 4.1 (a) shall be completed within 10 years from the date of the commencement of this consent.

4.2 Operating Conditions

- a) The Applicant/Owner shall ensure that all vehicles, before they are allowed to leave the site, are cleaned of materials that may fall on the road.
- b) The Applicant/Owner shall ensure that trucks entering and leaving the site that are carrying loads are covered at all times, except during loading and unloading.
- c) All vehicles shall leave the site in a forward direction.
- d) The haulage route for all heavy vehicle movements shall be restricted towards the south of the quarry along Gil Gil Creek Road and west along Mosquito Creek Road.
- e) Haulage of material is allowed for local Shire road maintenance and other works less than <100 tonnes without Council notification and for material >100 tonnes and < 500 tonnes per project with the prior approval of Council is required for haulage north along Gil Gil Creek Road and east along Mosquito Creek Road.

5. Road Maintenance Levy - Section 94 Plan – Traffic Generating Development

From the date of Commencement of the development consent the developer shall pay a cash contribution to Council at the rate determined under Councils Development Control Plan – Traffic Generating Development (indexed as described

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below), currently 25.65 cents per tonne, of material extracted and transported from the quarry development in accordance with the following:

- a. Payment of quarterly contributions are to be accompanied by the submission of quarterly returns to Council specifying the amount of material in tonnes extracted and transported within each quarter. The quarterly returns and contribution are to be submitted to Council within 21 days from the end of each quarter. The return is to take the form of a Statutory Declaration given by the developer (or if the developer is a Corporation, by a Director of that Corporation) and is to include:-
 - i) Copies of Company records relating to the amount extracted
 - ii) Records of the weights recorded at the weigh bridge, or by any other approved method for weighing the material
 - iii) Payment of the required contribution.

Quarterly declarations/returns are to be audited annually and a copy of the auditor's verification provided to Council within 60 days from the end of each 12 month period.

- b. Any payments received after the specified periods shall accrue interest at a daily rate equivalent to 10% per annum, or equivalent to Council's current interest rate for late payment of annual Council rates, whichever is the lesser, unless prior agreement reached with Council
- c. The contribution rate shall be subject to indexation in accordance with the "BITRE Road Construction and Maintenance Price", as published by the Australian Bureau of Statistics or other approved system of indexation as may be adopted by Council from time to time.
- d. Council shall have the right to request and inspect all relevant records detailed above at any time, subject to prior written notice being provided by Council.

6. Access Road

The proponent shall enter into a license agreement with the NSW National Parks and Wildlife Service for the continued use of the access road through the Bullala National Park from the Gil Gil Creek Road the property boundary until such time as the Council takes control of the road under the Roads Act 1993.

7. Waste Management

Except as expressly permitted by Council, the Applicant/Owner shall not cause, permit or allow any waste generated outside the development site to be received at the development site for storage, treatment, processing, reprocessing or disposal, or any waste generated at the development site to be disposed of at the development site.

8. Visual Impact

The Applicant/Owner shall carry out the development in a way that prevents and/or minimises the visual impacts of the development.

9. Lighting Emissions

- 1 The Applicant/Owner shall take all practicable measures to prevent and/or minimise any off-site lighting impacts including light spill and prevent contribution to sky glow from the development.
- 2 All external lighting associated with the development shall comply with *Australian Standard AS4282(INR) 1995 – Control of Obtrusive Effects of Outdoor Lighting*.

10. Bushfire Management

The Applicant/Owner shall:

- a) Ensure that the development is suitably equipped to respond to any fires on-site.
- b) Assist the Rural Fire Service and emergency services as much as possible if there is a fire on-site.

The developer is to manage bushfire risks by preparing and adopting a Bushfire Management Plan for the site.

11. Greenhouse Gas Management

The developer shall:

- a. Implement measures to reduce the consumption of fuel through optimisation of operational activities and logistics, the use of more efficient plant and vehicles and a fuel management strategy, and
- b. Investigate opportunities for the use of biodiesel and implement any recommendations as a result of the investigation.

PART D – PRIOR TO COMMENCEMENT

1. Compliance with Conditions

The increased use of the approved development shall not commence until such time as all conditions of this development consent have been complied with, failure to comply may make the applicant/developer liable to legal proceedings.

PART E – POST COMMENCEMENT

1. Site Rehabilitation

At cessation of the quarry operation or expiration of the consent the owner/operator shall remove all buildings and facilities associated with the development from the land and rehabilitate the site in accordance with the Environmental Impact Statement.

2. Environmental Management, Monitoring, Auditing and Report.

i Annual Reporting

The Applicant/Owner shall submit an Annual Environmental Management Report to the Council and the relevant agencies. This report must:

- a) Identify the standards and performance measures that apply to the development;
- b) Include a detailed summary of the complaints received during the past year, and over time compare this to the complaints received in previous years since the development commenced;
- c) Include a detailed summary of the monitoring results on the development during the past year;

- d) Include a detailed analysis of these monitoring results against the relevant:
 - Impact assessment criteria;
 - Monitoring results from previous years; and
 - Predictions in the SEE
- e) Identify any trends in the performance of the development shown by monitoring over the life of the development;
- e) Identify any non-compliance during the previous year; and
- f) Describe what actions were, or are being taken to ensure compliance.

ii Complaints Procedure

Throughout the life of the development, the Applicant/Owner shall ensure that the following contacts are available for community complaints;

- a) A telephone number on which complaints about the development may be registered;
- b) A postal address to which written complaints may be sent; and
- c) An email address to which electronic complaints may be transmitted.

The telephone number, the postal address and the email address shall be advertised in at least one appropriate local newspaper prior to the commencement of work at the development site. These details shall also be provided on the Applicant/Owner's internet site.

iii Complaints Register

The Applicant/Owner shall record details of all complaints received in a Complaints Register. The Register shall record, but not necessarily be limited to:

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- a) The date and time, where relevant of the complaint;
- b) The means by which the complaint was made (telephone, mail or email);
- c) Any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
- d) The nature of the complaint;
- e) Any action(s) taken by the Applicant/Owner in relation to the complaint, including any follow-up contact with the complainant;
- f) If no action was taken by the Applicant/Owner in relation to the complaint, the reason(s) for no action being taken; and
- g) A sign shall be erected at the site boundary giving contact details.

The Complains Register shall be made available for inspection by the Council or the Environmental Services Manager upon request. The Applicant/Owner shall also make summaries of the Register, without details of the complainants, available for public inspection.

PART F – OTHER APPROVALS

There are no other approvals issued with this consent.

REASONS FOR CONDITIONS:

The above conditions have been imposed:-

- (a) to ensure compliance with the terms of the Environmental Planning Instrument and/or Development Control Plan;
- (b) having regard to Council's duties of consideration under *Section 79C(1) of the Environmental Planning and Assessment Act, 1979 (as amended)* as well as Section 80A of the Act which authorises the imposing of consent conditions.
- (c) to protect the existing and likely future amenity of the locality;
- (d) prevent, minimise, and/or offset adverse environmental impacts;
- (e) set standards and performance measures for acceptable environmental performance;
- (f) require regular monitoring and reporting;
- (g) to protect the structure from bushfire and comply with Planning for Bushfire Protection 2006.
- (h) provide for the on-going environmental management of the development;
- (i) having regard to the circumstances of the case and the public interest; and
- (j) to ensure compliance with the *Building Code of Australia* and referenced standards.