

**JOINT REGIONAL PLANNING PANEL**  
**(Northern Region)**

<b>JRPP No</b>	2015NTH013
<b>DA Number</b>	DA15/0521
<b>Local Government Area</b>	Tweed Shire Council
<b>Proposed Development</b>	Resource Recovery Facility, Waste or Resource Transfer Station and Intensification of an Existing Extractive Industry (Staged Development)
<b>Street Address</b>	Lot 2 DP 590220; Leddays Creek Road Stotts Creek; Lot 1 DP 590220; No. 298 Bartletts Road Eviron
<b>Applicant</b>	GR & KD O'Keefe Pty Ltd
<b>Owner</b>	GR & KD O'Keefe Pty Ltd and Tweed Shire Council
<b>Number of Submissions</b>	<p>Five public submissions were received, all in support of the proposed development.</p> <p>Submission have also been received from/on behalf of the following Public Authorities:</p> <ul style="list-style-type: none"> <li>• Environmental Protection Agency;</li> <li>• NSW Office of Environment &amp; Heritage;</li> <li>• Department of Primary Industries – Water;</li> <li>• Department of Primary Industries – Agriculture;</li> <li>• Department of Primary Industries – Lands;</li> <li>• Roads &amp; Maritime Services – Transport; and</li> <li>• Department of Industry – Geological Survey of NSW.</li> </ul>
<b>Recommendation</b>	Approval with conditions
<b>Regional Development Criteria</b>  (Schedule 4A of the Act)	<p><i>Extractive industries, which meet the requirements for Designated Development under <b>clause 19</b> of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.</i></p> <p><i>Waste management facilities or works, which meet the requirements for Designated Development under <b>clause 32</b> of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.</i></p>

	<p>The proposed development is Designated Development pursuant to clauses 16(1)(a), <b>19(1)(b)</b>, <b>19(1)(c)(iii)</b>, <b>32(1)(b)(iii)</b>, <b>32(1)(d)(ii)</b> and <b>32(1)(d)(v)</b> of Schedule 3 to the EP&amp;A Regulations 2000. As such, the Northern Regional Planning Panel is the determining authority.</p>
<p><b>List of All Relevant s79C(1)(a) Matters</b></p>	<ul style="list-style-type: none"> <li>• <u>List all of the relevant environmental planning instruments: s79C(1)(a)(i)</u> <p>SEPP No. 33 – Hazardous and Offensive Development</p> <p>SEPP No. 44 – Koala Habitat Protection</p> <p>SEPP No. 55 - Remediation of Land</p> <p>SEPP (Infrastructure) 2007</p> <p>SEPP (Mining, Petroleum Production &amp; Extractive Industries) 2007</p> <p>Tweed Local Environmental Plan 2014</p> </li> <li>• <u>List any relevant development control plan: s79C(1)(a)(iii)</u> <p>Tweed DCP Section A2 – Site Access &amp; Parking Code</p> <p>Tweed DCP Section A3 - Development of Flood Liable Land</p> <p>Tweed DCP Section A11 - Public Notification of Development Proposals</p> <p>Tweed DCP Section A13 – Socio-Economic Impact Assessment</p> <p>Tweed DCP Section A15 – Waste Minimisation &amp; Management</p> <p>Tweed DCP Section A16 – Preservation of Trees or Vegetation</p> </li> </ul>
<p><b>List all planning legislation requirements that the consent authority <u>must</u> consider</b></p>	<ul style="list-style-type: none"> <li>• Clause 13 of SEPP 33 – Hazardous and Offensive Development;</li> <li>• Clause 7 of SEPP 55 – Remediation of Land;</li> <li>• Clause 104 of SEPP (Infrastructure) 2007; and</li> <li>• Clause 13, 14, 15, 16 and 17 of the SEPP (Mining, Petroleum and Extractive Industries) 2007;</li> <li>• Clause 5.10(8), 7.2(3), 7.3 and 7.10 of the Tweed LEP 2014.</li> </ul> <p>All of the applicable consent considerations associated with the abovementioned SEPP's have been addressed within the body of this report.</p>
<p><b>List all documents</b></p>	<p>Section 79C Assessment Report including proposed conditions of</p>

<b>submitted with this report for the panel's consideration</b>	consent.
<b>Report by</b>	Colleen Forbes (Team Leader Development Assessment)
<b>Report date</b>	30 November 2016

### Summary of s79C matters

Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	Yes
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### Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarised, in the Executive Summary of the assessment report?	Yes
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*e.g. Clause 7 of SEPP55 - Remediation of Land, Clause 4.6(4) of the relevant LEP*

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### Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	Not Applicable
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### Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S94EF)?	Not Applicable
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*Note: Certain Das in the Western Sydney Growth Areas Special Contributions Areas may require specific Special Infrastructure Contributions (SIC) conditions*

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### Conditions

Have draft conditions been provided to the applicant for comment?	
<i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	Yes

# Assessment Report and Recommendation

**FILE NO:** DA15/0521

**REPORT TITLE:**

Development Application DA15/0521 for a resource recovery facility, waste or resource transfer station and intensification of an existing extractive industry (staged development) JRPP at Lot 2 DP 590220; Leddays Creek Road Stotts Creek; Lot 1 DP 590220; No. 298 Bartletts Road Eviron

**SUMMARY OF REPORT:**

Council is in receipt of a development application seeking consent to establish a Resource Recovery Facility (RRF), Waste or Resource Transfer Station (WRTS) and intensification of the existing extractive industry at the subject site, which is located at Bartletts Road, Eviron.

The existing quarry has been in operation since the 1950's and is currently limited to an extraction rate of 15,000 tonnes per annum (tpa). It is proposed to increase the extraction and processing of the quarry material up to 40,000tpa. The increase in extraction rates will enable the proponent to provide a development footprint for the RRF / WRTS component of the development.

The proposed volumes of material associated with the extractive industry and RRF / WRTS trigger the provisions of clause 19 and clause 32 of Schedule 3 of the *Environmental Planning and Assessment (EP&A) Regulation 2000*, resulting in the proposal being classified as Designated Development. Accordingly, the proposed development meets the Regional Development Criteria under Schedule 4A of the EP&A Act 1979. As such, the Northern Regional Planning Panel is the determining authority for the proposed development.

Being Designated Development, the proposed uses require the approval of the Environment Protection Agency (EPA), who following a detailed assessment and several revisions of the proposal, has issued General Terms of Approval for the development. The construction and operation of the RRF / WRTS will be staged, in accordance with the requirements of the EPA.

There are four stages proposed, with each stage incorporating the winning, processing and transportation of up to 40,000tpa of gravel in association with the quarry. It is estimated that the available quarry material will be exhausted in five years at the increased extraction rates.

The RRF/WRTS will receive and process up to 50,000tpa of construction and demolition waste, concrete and bricks, sand and soil, green waste and wood waste. Buildings associated with the development include: a waste processing and storage shed; the main site shed which also incorporates staff amenities; an office; and weighbridge.

The main issues arising from the assessment of this application include:

- The management of leachates from green waste;
- Stormwater drainage incorporating water quality treatments; and
- Biodiversity offsets associated with the proposed loss of native vegetation.

Being Designated Development, the proponent was required to prepare an Environmental Impact Statement in accordance with the requirements of the Secretary's Environmental Assessment Requirements (SEAR's). The proposed development is considered to have satisfactorily addressed the SEAR's. The application was forwarded to relevant public authorities and their comments are incorporated into the assessment report. The proposed development was advertised in accordance with the provisions of the EP&A Act, with five submissions received, all in support of the development.

Appropriate management strategies have been proposed in an effort to avoid / minimise potential impacts associated with the proposal. The subject site is considered to be suitable for the proposed development and subject to compliance with the recommended conditions of consent, the proposed development is recommended for approval.

There are a number of planning legislation requirements that the consent authority must consider. A detailed assessment of the relevant clauses is noted within the report. A summary is noted below:

- **Clause 13 of State Environmental Planning Policy (SEPP) No 33 – Hazardous and Offensive Development.** Council officers are satisfied that the proposal is not a hazardous industry and appropriate management strategies will be imposed to manage any offensive impacts associated with the proposal;
- **Clause 7 of SEPP No 55 – Remediation of Land.** The proponent's assessment of the subject site concluded that the land is not contaminated and is suitable for the proposed development. Council officers are satisfied that the proposed development meets the provisions of clause 7 of SEPP 55;
- **Clause 13 of SEPP (Mining, Petroleum Production and Extractive Industries) 2007.** Clause 13 relates to the compatibility of the proposed development with the existing / future uses of the site and surrounding areas. The public benefit of the proposed development must also be considered. Council officers are satisfied that the proposed development meets the provisions of clause 13 of the SEPP;
- **Clause 14 of SEPP (Mining, Petroleum Production and Extractive Industries) 2007.** Clause 14 requires the consent authority to consider natural resource management and environmental management issues associated with the proposed development. Council officers are satisfied that, subject to conditions of consent, the proposal will adequately address any impacts arising from the development. Considerations include impacts on threatened species and biodiversity, as well as greenhouse gas emissions. Accordingly, it is considered that the development meets the provisions of clause 14 of the SEPP;
- **Clause 15 of SEPP (Mining, Petroleum Production and Extractive Industries) 2007.** Clause 15 relates to the optimisation and efficiency of the proposed resource recovery facility. Subject to conditions of consent, Council officers are satisfied that the provisions of clause 15 of the SEPP have been met;
- **Clause 16 of SEPP (Mining, Petroleum Production and Extractive Industries) 2007.** Clause 16 requires the consent authority to consider uses relating to the transport of materials associated with the extraction industry. Subject to conditions of consent, Council officers consider that the proposed development satisfies the provisions of clause 16 of the SEPP;
- **Clause 17 of SEPP (Mining, Petroleum Production and Extractive Industries) 2007.** Clause 17 relates to the rehabilitation of land associated with the extractive industry. Council officers are satisfied that the rehabilitation of the site is not required given the end use of the quarry site (i.e. the RRF / WRTS). Appropriate conditions have been applied with regard

to offsetting requirements associated with the loss of native vegetation on the subject site. Accordingly, Council officers consider that the proposed development meets the provisions of clause 17 of the SEPP;

- **Clause 104 of Infrastructure SEPP 2007 – *Traffic Generating Development*.** Clause 104 requires the consent authority to consider accessibility of the site as well as traffic / transport impacts associated with the development. Subject to conditions of consent, Council officers are satisfied that the proposed development meets the provisions of clause 104 of the Infrastructure SEPP;
- **Clause 5.10(8) of the Tweed Local Environmental Plan (LEP) 2014 – *Heritage Conservation*.** Clause 5.10(8) requires the consent authority to consider the effects of the proposed development on the heritage significance. Following advice from the Tweed Byron Local Aboriginal Land Council and subject to conditions of consent, Council officers are satisfied that the proposed development meets the provisions of clause 5.10(8) of the Tweed LEP 2014;
- **Clause 7.2(3) of the Tweed LEP 2014 – *Earthworks*.** Clause 7.2(3) requires the consent authority to consider effects and potential impacts on the site and surrounding locality as a result of the proposed earthworks. Subject to conditions of consent, Council officers are satisfied that the proposed development meets the provisions of clause 7.2(3) of the Tweed LEP 2014;
- **Clause 7.3 of the Tweed LEP 2014 – *Flood Planning*.** The provisions of clause 7.3 require the consent authority to consider potential impacts and compatibility of the proposed development in terms flooding. Subject to conditions of consent, Council officers are satisfied that the proposed development meets the provisions of clause 7.3 of the Tweed LEP 2014; and
- **Clause 7.10 of the Tweed LEP 2014 – *Essential Services*.** Clause 7.10 requires the consent authority to consider essential services for the proposed development. Subject to conditions of consent, Council officers are satisfied that the proposed development meets the provisions of clause 7.10 of the Tweed LEP 2014;

In summary, the assessment of the proposed development has adequately addressed all consent considerations required by the abovementioned SEPP's and LEP clauses. It is therefore considered that the Panel can proceed with determining the application, subject to the recommended conditions of consent.

## **REPORT:**

<b>Applicant:</b>	<b>GR &amp; KD O'Keeffe Pty Ltd</b>
<b>Owner:</b>	<b>GR &amp; KD O'Keeffe Pty Ltd and Tweed Shire Council</b>
<b>Location:</b>	<b>Lot 2 DP 590220; Leddays Creek Road Stotts Creek; Lot 1 DP 590220; No. 298 Bartletts Road Eviron</b>
<b>Zoning:</b>	<b>SP2 - Infrastructure Waste Management Facilities RU1 - Primary Production</b>
<b>Cost:</b>	<b>\$632,940.00</b>

## **SITE AND SURROUNDS:**

The subject site has a total area of 28.85 hectares (ha) and is located at Barletts Road, Eviron (approximately 10km north east of Murwillumbah).

The majority of the site is utilised for sugar cane production. A hard rock gravel quarry (O'Keeffe's Quarry No.1), having an area of 3.2ha, exists in the south western portion of the site. The quarry has been in operation since the 1950's and is authorised to extract material from the site at a rate of 15,000 tonnes per annum (tpa).

Quarrying operations over many years has resulted in a highly disturbed development site, with levels ranging from RL 1.0m AHD to approximately RL 13m AHD on the elevated tree lines.

Land to the north and east of the site is used for sugar cane production. Tweed Shire Council's Stotts Creek Resource Recovery Facility (SCRRF), including a landfill, exists to the south and west of the subject site. Leachate ponds associated with the SCRRF are located immediately to the western and southern boundaries of the subject site. Tweed Shire Council's Animal Pound is located adjacent to the south western corner of the site.

The nearest dwelling house to the development site is located approximately 300m to the west of the subject site, as shown in Figure 1 below.



**Figure 1 – Development Site & Surrounds**

## **PROPOSED DEVELOPMENT:**

### Original Proposal – as lodged on 7 July 2015

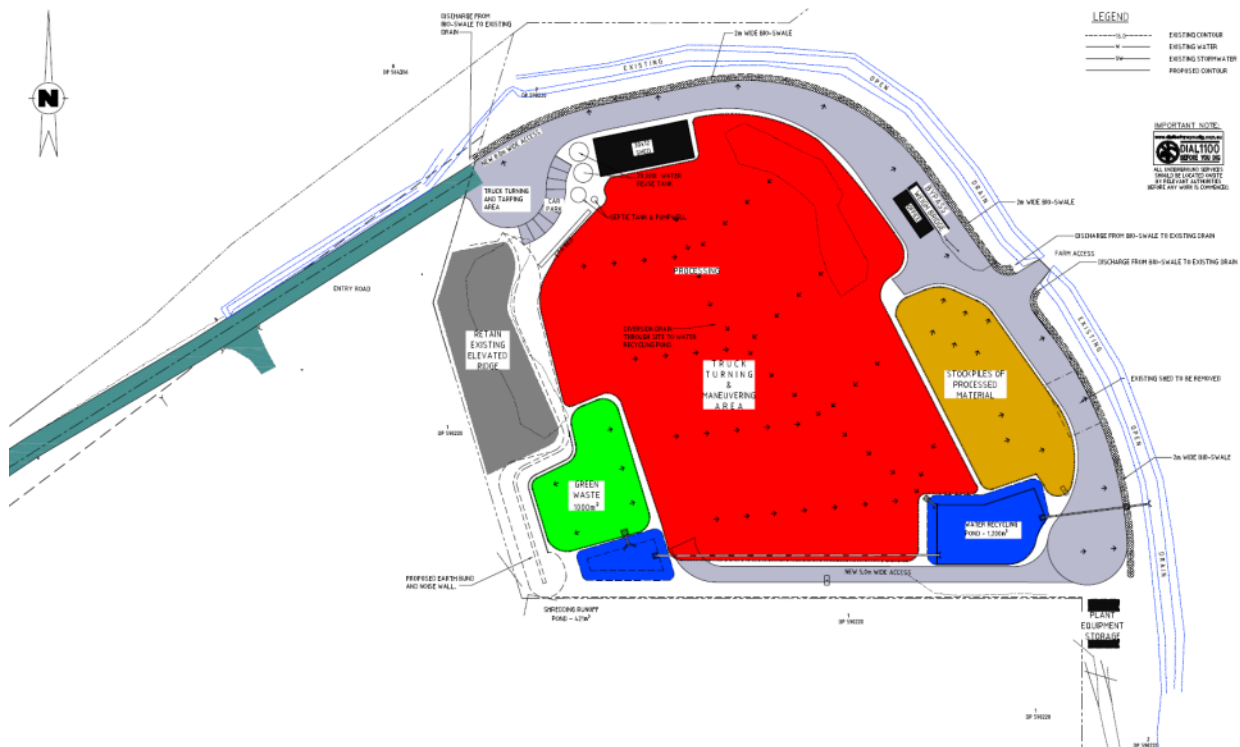
On 7 July 2015 Council received the subject application DA15/0521, which sought approval for a proposed Resource Recovery Facility, Waste or Resource Transfer Station (RRF/WRTS) and intensification of the existing extractive industry operating from the subject site.

The proponent has advised that the proposed development would incorporate the following:

- Expansion, intensification and crushing / screening of gravel. Up to 40,000tpa of material is proposed to be extracted and processed. Drilling and blasting will not be required. Processed gravel will be transported to Tweed Valley Way by the existing right of carriageway within Lot 1 DP 590220 (which will be upgraded), Bartletts Road and Leddays Creek Road;
- Receiving and processing of up to 50,000 tonnes per year of construction and demolition waste, concrete and bricks, sand and soil; and receiving and processing including chipping / grinding of green waste, garden waste and wood waste. Composting will not be undertaken;
- Access will be via Tweed Valley Way, Leddays Creek Road/Bartletts Road and the existing right of carriageway burdening Lot 1 DP 590220 (owned by Tweed Shire Council) and benefiting the subject land, which will be widened and upgraded to a two lane, 6m wide sealed standard, together with upgrading of the intersection of the right of carriageway and Bartletts Road. To incorporate the upgraded intersection and provide sight distance, dedication as public road of approximately 164.1m<sup>2</sup> of Lot 8 DP 564356 will be required;
- A building with a GFA of approximately 360m<sup>2</sup> to be erected on site to accommodate machinery, plant, equipment, worker's amenities and an office together with a weighbridge, rainwater tanks and an onsite wastewater management system;

- Construction of a bunded concrete slab for processing and storage of green waste and garden waste;
- Construction of a leachate pond and water quality pond; and
- Establishment of tipping, sorting, storage and stockpile areas within the “processing area”. The layout of the processing area will depend on hard rock extraction rates and the rate of receipt of construction and demolition waste and green waste.

The proposed layout for the development site is shown in Figure 2 below.



**Figure 2 – Originally Proposed Layout of Development Site**

#### Revised Application – as amended on 9 October 2015

The subject application was amended by the proponent on 9 October 2015, with a response to Council's and various State Agencies requests for further information that was issued on 31 August 2015.

The proponent's response addressed matters in relation to: on-site sewage management; habitat restoration and ecological assessment requirements; leachate, stormwater and flooding management; treatment of green waste; an amended Cultural Heritage Assessment; confirmation of materials being accepted; and water supply.

There was no amendment to the layout of the proposed development.

#### Revised Application – as amended on 1 February 2016

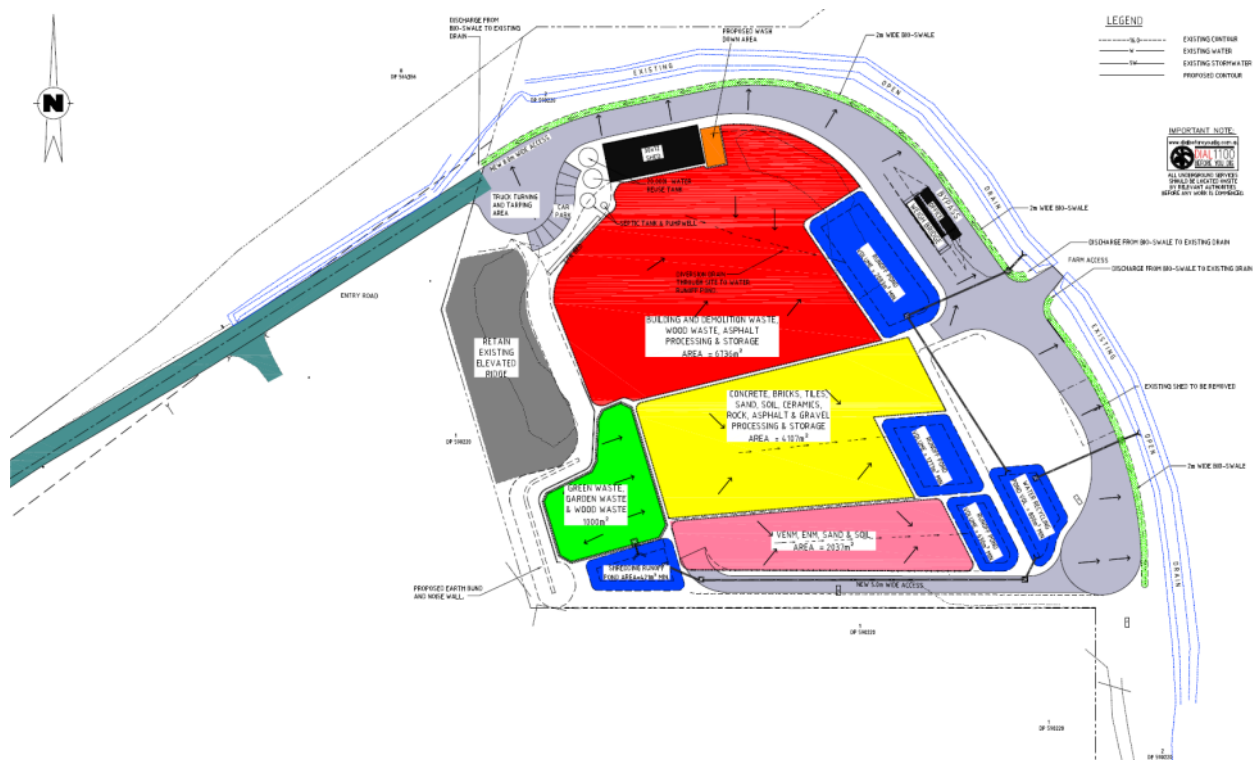
The subject application was further amended by the proponent on 1 February 2016, with a response to Council's and the Environment Protection Agency's (EPA) request for further information that was issued on 2 December 2015.

The proponent's response addressed EPA matters in relation to: how leachate that is generated on site is to be captured, stored, used or disposed of; design requirements in relation to leachate barriers, collection and storage; design of stormwater basins; quality of stormwater discharge; information on the

anticipated sources of waste; pollution controls; and the process and storage of waste above flood.

In response to Council's concerns, the proponent revised the overall layout plan in terms of removing any notation to a plant and equipment storage building in the south western corner of the site. A revised Vegetation Offset Plan was also submitted.

The amendment also incorporated a reconfiguration of the proposed development (incorporating five dams), largely to address leachate and stormwater management within the site, as shown in Figure 3 below.



**Figure 3 – Revised Layout of Development Site (February 2016)**

#### Revised Application – as amended on 3 March 2016

The subject application was again amended by the proponent on 3 March 2016, with a response to EPA's request for further information that was issued on 26 February 2016.

The response aimed to address the EPA's request for further detail and clarification as to how leachate levels on the site will be managed after a rainfall event.

There was no amendment to the layout of the proposed development.

#### Final Revision – as amended on 8 November 2016

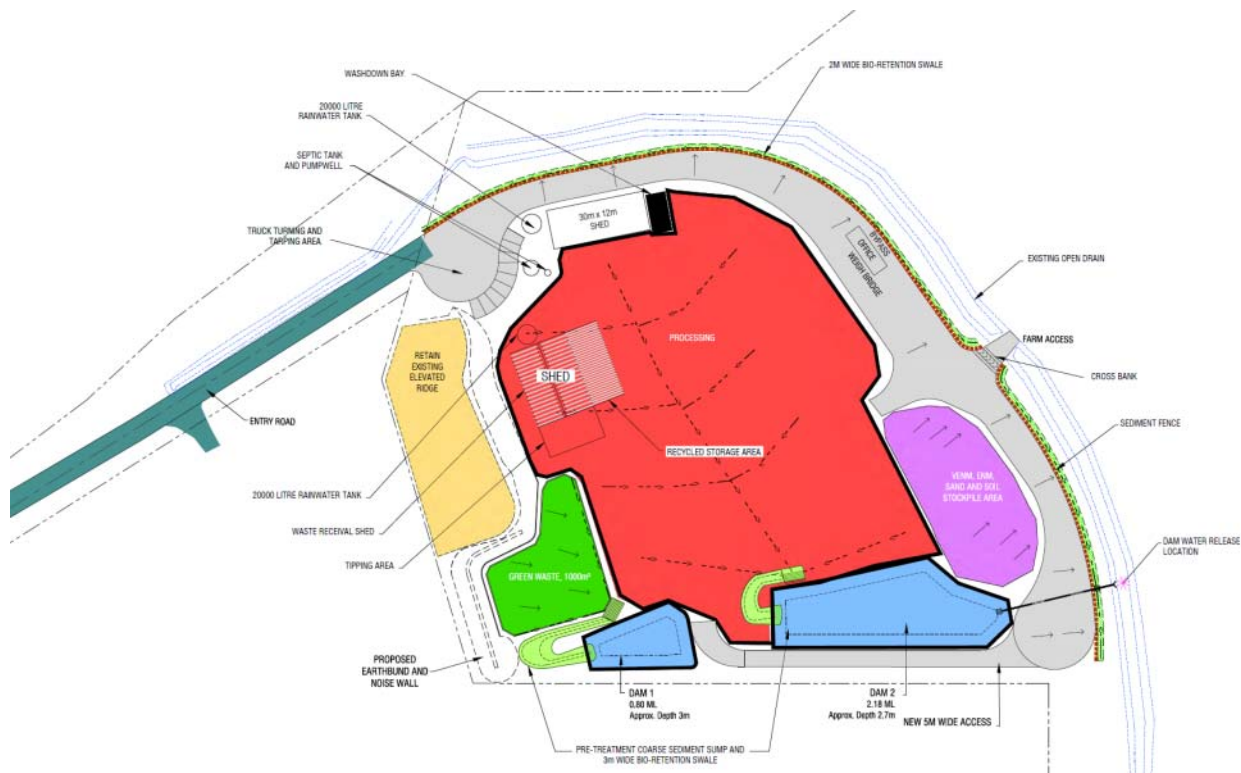
Following the engagement of new consultants to address the outstanding leachate management issue associated with the proposed development, and further to a number of meetings with the EPA to discuss JRPP (\*\*\*) Region) Business Paper – Item # - Date of Meeting – JRPP Reference

an appropriate solution to the matter, the subject application was amended by the proponent on 8 November 2016.

The revised proposal incorporated a Surface Water Investigation Report and revised drawings. The amended (final) layout for the development site is similar to the layout proposed in the original application, as shown in Figure 4 below.

The key changes to the proposal relate to: the re-sizing and reconfiguration of the proposed dam sites; minor changes to the pattern of site drainage; the addition of pre-treatment facilities upstream of each dam (to improve water quality before it reaches the dam); the addition of a second shed (670m<sup>2</sup>) to weatherproof receiving of greenwastes; and wider access road (7m wide - as per the request of Council's Waste Management Unit).

Importantly, the Surface Water Investigation describes: how runoff and leachate will be managed on site; provides calculations for sizing of dams; and how water quality will be monitored. The Investigation also incorporates an adaptive strategy that includes an effluent characterisation period to allow the performance of the proposed system to be monitored, reviewed and improved as necessary, in consultation with the EPA.



**Figure 4 – Final Layout of Development Site (November 2016)**

## OPERATIONAL DETAILS:

Winning and processing of hard rock gravel from the existing quarry within the development site will continue, including stockpiling of volumes up to 10,000 tonnes to establish a suitable development footprint for the RRF/WRTS. Depending on demand, the proponent expects that all suitable gravel

material will be won, processed and removed from the site within a five year timeframe. It is estimated that 41,000 bank cubic metres (102,500 tonnes) of hard rock material remains within the quarry.

The proponent has noted the main processes of proposed development, summarised as follows:

#### **Winning and processing of gravel (Quarry)**

- Excavator and jackhammer breaks up rock material and / or rip with bulldozer.
- Bulldozer and / or excavator and bucket and / or loader stockpile the broken rock.
- Excavator or loader feed rock to jaw crusher and / or cone crusher.
- Crushed rock is fed by the crusher to a screening plant.
- Oversize rock will recirculate to the crusher.
- Road base materials will be separated from rock to make drainage aggregates from the rock.
- Two screening plants may be used, particularly when making drainage aggregates.
- Stockpilers and loader will stockpile the end products.

#### **Products**

The products produced would include specified road base materials and drainage aggregates.

#### **RRF/WRTS Processes**

Whilst quarrying operations are continuing, it is proposed to establish Stage 1 of the RRF/WRTS, with subsequent stages implemented as required to meet demand and as per the requirements of the EPA. Staging details are noted later.

Up to 50,000tpa of selected construction and demolition waste, sand and soil, green and garden waste and wood waste material will be delivered to the site by truck and will pass over the weighbridge, at which point the gross vehicle mass will be recorded.

The vehicle will then be directed to the relevant tipping area where the material will be unloaded. The truck then returns to the weighbridge where it is again weighed to determine the weight of the load if the tare weight of the vehicle is not already known.

The main processes are summarised as follows:

#### **a) Concrete, bricks, tiles, rock, asphalt**

- Tipped by truck on tipping slab.
- Pulverise with excavator and pulveriser attachment.
- Stockpile with bulldozer and / or excavator and / or loader.
- Primary Crush with jaw crusher.
- Secondary Crush with cone or impact crusher.

- Screen to size with screening plants.
- Stockpile to materials stockpile with stockpilers and loader.

#### Products

The products produced would include materials that meet the Specification for *Supply of Recycled Material for Pavements, Earthworks and Drainage 2010* published by Department of Environment, Climate Change and Water NSW, such as: road base; select fill; bedding material; and drainage medium.

#### Customers

Customers are expected to be Government, civil contractors, landscapers, builders and private sector.

### **b) Construction and demolition waste**

- Tipped by truck on tipping slab.
- Sorting with small excavator and bobcat to remove larger materials (e.g. salvage construction timber where possible for reuse).
- Shred and / or use trommel screen or reclaimer to remove fines.
- Picking station to segregate and remove plastics, timber, glass, plasterboard, metals, concrete, tiles etc.
- Timber and green waste will be recycled on site as per (c) below.
- Concrete, bricks, tiles, etc. will be recycled as per (a) above.
- Metals, plastics, paper, cardboard, etc. will be sold to recyclers.
- Some products may be fine shredded before sale to recyclers.

### **c) Green waste / garden waste / wood waste**

- Tipped by truck on dedicated green waste hardstand area with controlled surface drainage.
- Shred / chip material on a concrete slab within the green waste hardstand area.
- Screen to size.
- Stockpile.

#### Products

Include mulch, wood chip, firewood etc.

Sold for biofuel, composters, mulch, private or agriculture.

**d) Sand & soil**

- Tipped by truck.
- Screen with trommel screen or reclaimer screen and / or screening plants to remove rocks and timber / wood waste.
- Rocks will be recycled as per (a) above.
- Timber / wood waste will be recycled as per (c) above.
- Sand and soil will be stockpiled in materials stockpile with stockpilers and loader.

Products

Include sand and soil which will be sold to government, developers, landscapers, wholesalers, private sector.

Green waste received at the site will comprise garden organics and raw mulch. Processing of garden organics and raw mulch is proposed by shredding, screening of mulch material and/or blending with soil and stockpiled for immediate sale. Green waste will be processed and stored on the bunded green waste hardstand area. No composting of green or garden waste would occur. No putrescible wastes would be received at the site.

Material stored within the “green waste” shredding area will be located on graded hardstand area with perimeter dish drain discharging to water quality controls and processed in a reasonable time period. During this time material will be stockpiled on site and unprocessed material will be covered with a tarpaulin to minimise breakdown and leachate generation where material is not for direct sale.

It is not expected that material that is shredded for direct sale will be cause for concern due to the rapid turnover of the material and the chance for biological breakdown within this area will be minimal.

Waste material will be sorted using a bobcat, loader/excavator and by hand and placed into separate bays for processing, including crushing, screening or dismantling.

Processed material will then be stockpiled in bays with inert material such as masonry, stockpiled to a maximum height of 10 -12m and organic material such as timber and green waste stockpiled to a maximum height of 4m (average height 2m). Storage bays will be primarily formed by concrete blocks or other solid structure.

Processed material will then be transported from the stockpile to the weighbridge and then to the desired destination. Processed material not suitable for recycling or reuse will be disposed of at a landfill.

Stormwater runoff from the greenwaste area will discharge to water quality treatments upstream of the greenwaste pond. These include a gross pollutant trap which will have a settling area for coarse sediments, a coarse and fine screen for removal of organic debris, and an underflow weir. The gross pollutant trap will discharge to a bio-retention swale for removal of nutrients and other pollutants. Water stored in the greenwaste pond will be used on-site for dust suppression, and if required discharged from site after any further treatments necessary to meet discharge water quality criteria.

Stormwater from the general processing area will grade towards and be collected in a gross pollutant trap where a settlement chamber will remove coarse sediments, screens will remove trash and debris, and an

underflow weir will retain oils. From there, water will filter through a short bio-retention swale, and discharge into the pond where water will be stored for dust suppression on site, and if necessary discharge from site any further treatments necessary to meet the EPA's discharge water quality criteria.

If required, water supplies for use on the site can be further supplemented by utilising the existing bore licence for the site (Bore Licence No. 30BL185675 issued by the NSW Office of Water to GR & KD O'Keeffe Pty Ltd on 16 October 2013).

## **PLANT AND EQUIPMENT:**

The proponent has noted that at full capacity, the following plant and equipment will be utilised on the development site:

- 1 x 25 – 35 tonne loader
- 1 x 15 -25 tonne loader & attachments including forklift attachment
- 2 x 20 – 50 tonne excavators & attachments including a concrete pulveriser, hammer and ripper
- 1 x 6 – 12 tonne excavator & attachments
- 1 bobcat
- 50 tonne mobile jaw crusher
- 50 tonne mobile cone or impactor crusher
- 1 x high speed timber shredder
- 1 x low speed timber shredder / grinder
- 1 x waste shredder
- 1 x fine waste shredder
- 1 x mobile reclaimer or trommel screen
- 2 x mobile screeners
- 4 - 6 mobile stackers
- 1 x fixed or mobile picking station & trommel
- Skip bin trucks and storage of skip bins
- Water truck
- 2 x rigid flat top or tipper trucks
- 1 truck & dog
- 1 x service truck
- 30 - 80 Tonne Bulldozer
- Utilities
- Small pumps

- Generators

### Operating Hours

Operating hours for the existing quarry are not limited by any development consent; however, as the expanded/intensified extractive operation will involve crushing/screening of material, the proponent has proposed to limit operating hours to 6.00am - 6.00pm Monday to Saturday, with no work on public holidays. Blasting is not proposed.

The proposed RRF/WRTS is proposed to operate from 6.00am - 6.00pm Monday to Saturday with no work on public holidays.

## **DEVELOPMENT STAGING:**

The proponent has noted the following staging for the proposed development:

### Stage 1

- Winning, processing and transporting of up to 40,000tpa of gravel.
- Construction of the car park, weighbridge, Dam 2, water treatment facilities required for Stage 1 in accord with EPA conditions, and temporary wash down bay is to be undertaken prior to commencing receiving, processing, stockpiling and disposal of up to 30,000tpa of concrete and bricks, sand and soil. Stage 1 does not include mixed waste skip bin receivals.
- Use of the existing machinery shed as a temporary site storage shed.
- Expand processing and storage areas and appropriate land forming in conjunction with continued extractive industry operation.
- Commence construction of the waste processing and storage shed during Stage 1.

### Stage 2

- Winning, processing and transporting of up to 40,000tpa of gravel.
- Construction of the waste processing and storage shed is to be completed prior to receiving, processing, stockpiling and disposal of up to 50,000tpa of construction and demolition waste (including mixed waste skip bins), sand and soil, garden and green waste, and wood waste.
- Expand processing and storage areas.
- Green waste or garden waste that is received at the site during Stage 2 is proposed to be stored in the waste processing and storage shed prior to sale or removal from the site. Green waste and garden waste operations and storage in the waste processing and storage shed is to be undertaken separately from any other wastes in this shed.
- Commence construction of the green waste hardstand and Dam 1 during Stage 2.

### Stage 3

- Winning, processing and transporting of up to 40,000tpa of gravel.
- Construction of the green waste hardstand, Dam M1 and associated water treatment facilities is to be completed prior to the commencement of Stage 3.
- Receiving, processing, stockpiling and disposal of up to 50,000tpa of construction and demolition waste, sand and soil, garden and green waste, and wood waste.
- Expand processing and storage areas.
- Commence and complete construction of the first stage of the main site shed during Stage 3.

#### Stage 4

- Winning, processing and transporting of up to 40,000tpa of gravel.
- Receiving, processing, stockpiling and disposal of up to 50,000tpa of construction and demolition waste, sand and soil, garden and green waste, and wood waste.
- Expand processing and storage areas.
- Complete construction of the main site shed and wash down bay in accord with plans.

### **DEVELOPMENT ALTERNATIVES:**

There are limited potentially suitable land uses for the development site because of the RU1 Primary Production zoning, adjoining Tweed Shire Council owned SCRRF (which includes a landfill) and existing animal pound.

The adjoining, low lying cane fields are also a constraint on the development potential of the site because of the need to avoid alienating that land from sugar cane production or other agricultural land uses, by inappropriate non-agricultural uses.

Based on investigations in the North Coast area, there are currently very limited existing facilities which receive, process and reuse construction and demolition waste, concrete and bricks and sand and soil. Council's SCRRF over adjoining land does process green waste but does not have a construction and demolition waste facility, other than for concrete recycling.

In the context of key statutory planning controls and key site opportunities and constraints and as required by the Department of Planning & Environment's Secretary's Environmental Assessment Requirements (SEAR's), the proponent has identified the following alternative development options:

#### Alternative Option 1 – Do Nothing

This option would result in quarrying operations continuing until the economic resource is exhausted and then the site would be effectively abandoned, other than occasional use for parking of agricultural machinery and equipment. In addition, the resulting landform would detract from the landscape value and scenic qualities of the locality.

An RRF/WRTS would increase the reuse of resources, minimise disposal to landfill and reduce unlawful dumping. The proposed development would also be compatible with and complimentary to, the adjoining SCRRF and accordingly, the no development option is not an appropriate outcome.

#### Alternative Option 2 – Erection of a Dwelling House

The subject land has a dwelling entitlement, however suitable sites are constrained by flooding. The existing SCRRF and animal pound also impose a constraint on the siting of a dwelling because of the need for buffer requirements.

Tweed Development Control Plan 2008 (TDCP2008), Section A5 – Subdivision Manual, Appendix E – Garbage Tips, recommends a buffer of 300m from the perimeter of any garbage tip to a dwelling house. Therefore the proposed development site would not comply with the buffer requirement for a dwelling.

The development site, following completion of quarrying, would be mostly above flood level and would have sufficient area for onsite effluent management. However, the juxtaposition of the site with the adjoining animal pound, leachate pond, landfill and SCRRF would result in significant adverse amenity impacts including noise, dust and odours. The erection of a dwelling house is therefore not considered to be a feasible development option within the proposed development site.

#### Alternative Option 3 – Agriculture

Because of the soil types (hard rock gravel) the development site is not suitable for growing of crops or pasture as “*extensive agriculture*” which is permissible, without development consent, in the RU1 zone.

“*Intensive plant agriculture*” is permitted without consent and “*plant nurseries*” are permitted with consent. The development site’s hard rock is not suitable for growing commercial plants typical for intensive agriculture and plant nurseries. Any such plants grown would have to be grown hydroponically in a suitable media. Hydroponic agriculture or plant nurseries require significant quantities of water storage and / or significant quantities of bore water. The development site that is flood free (this would be necessary for intensive plant agriculture and plant nurseries) is relatively small for these land uses. The significant water storages required would need to be constructed on the sugar cane land which has other constraints such as acid sulfate soils, flooding etc. It is considered that the development site would not be of a suitable size for an economically viable intensive plant agriculture facility or plant nursery and is therefore not appropriate for such uses.

“*Intensive livestock agriculture*” is permitted with consent but under TDCP2008, Section A5 – Subdivision Manual, Appendix E – Recommended Buffers, the recommended secondary buffers for small piggeries & feedlots are 600 metres and for large piggeries and feedlots is 1,000 metres. There are dwellings within these recommended buffers that would be impacted by odour if these types of developments were proposed. The economic viability of feedlots, piggeries and other intensive livestock uses particularly small size projects distant from traditional grain supplies is highly doubtful. The relatively small size of the development site further reduces the prospect of viability. Accordingly “*Intensive livestock agriculture*” is not a suitable use of the site.

“*Turf farming*” is permitted with consent but the hard rock is not appropriate for turf farming.

“*Agricultural produce industries*” are permissible, with consent. The dominant land use on the nearby Tweed Valley floodplain is sugar cane production. There is an existing sugar mill at Condong that processes sugar cane approximately 7 km to the west of the subject property. There are no other apparent agricultural produce industries that would be considered economically viable.

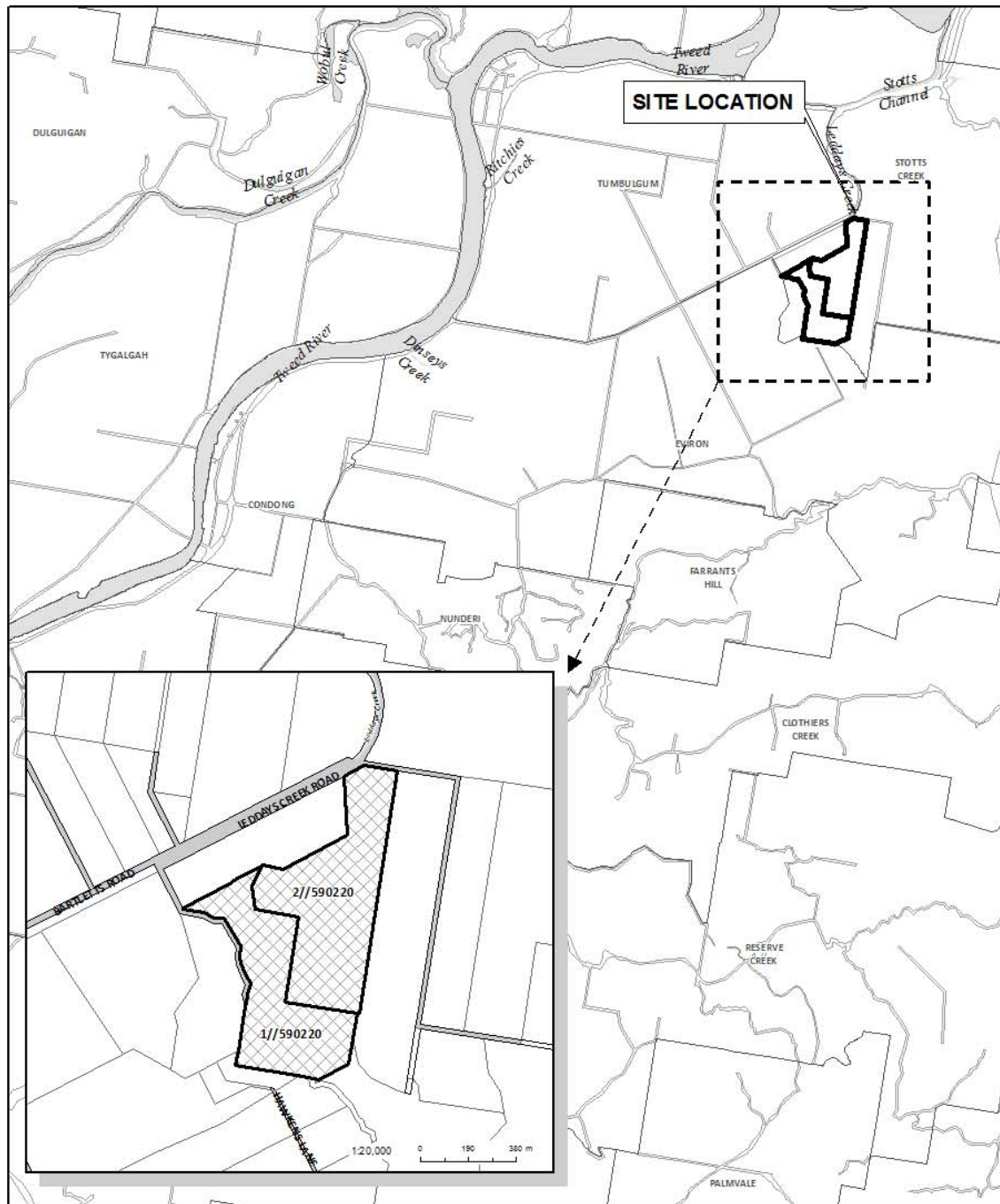
Development for the purposes of “*rural supplies*” and “*rural industry*” is prohibited in the RU1 zone.

In summary, development of the site for the purpose of agriculture or ancillary activities is not considered to be economically viable or appropriate other than the use of a small area on an infrequent basis for the storage of agricultural plant and equipment used in the adjoining cane fields. This use could continue in conjunction with any RRF/WRTS.

#### Preferred Alternative

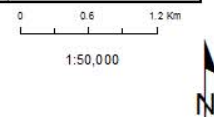
Having regard to current statutory planning controls, key site opportunities and constraints, adjoining uses and Local / State policies relating to the management of construction and demolition waste, it is considered that the proposed RRF/WRTS is the most suitable and appropriate land use for the subject site.

## SITE DIAGRAM:



### LOCALITY PLAN

Lot 1 DP 590220 No. 298 Bartletts Road, Eviron  
Lot 2 DP 590220 Leddays Creek Road, Stotts Creek



Disclaimer: While every care is taken to ensure the accuracy of this data, Tweed Shire Council makes no representations or warranties expressed or implied, statutory or otherwise, about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which may be incurred as a result of data being inaccurate in any way and for any reason. This information is supplied for the general guidance and is to be considered indicative and diagrammatic only. It should not be used for survey or construction purposes and prior to any excavations a "Call before you dig" enquiry must be made by calling 8000. This information contained on this document remains valid for 30 days only from the date of supply.



Coordinate System - MGA Zone 56  
Datum - GDA 94

Cadastral: 30 June, 2010  
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**TWEED**  
SHIRE COUNCIL

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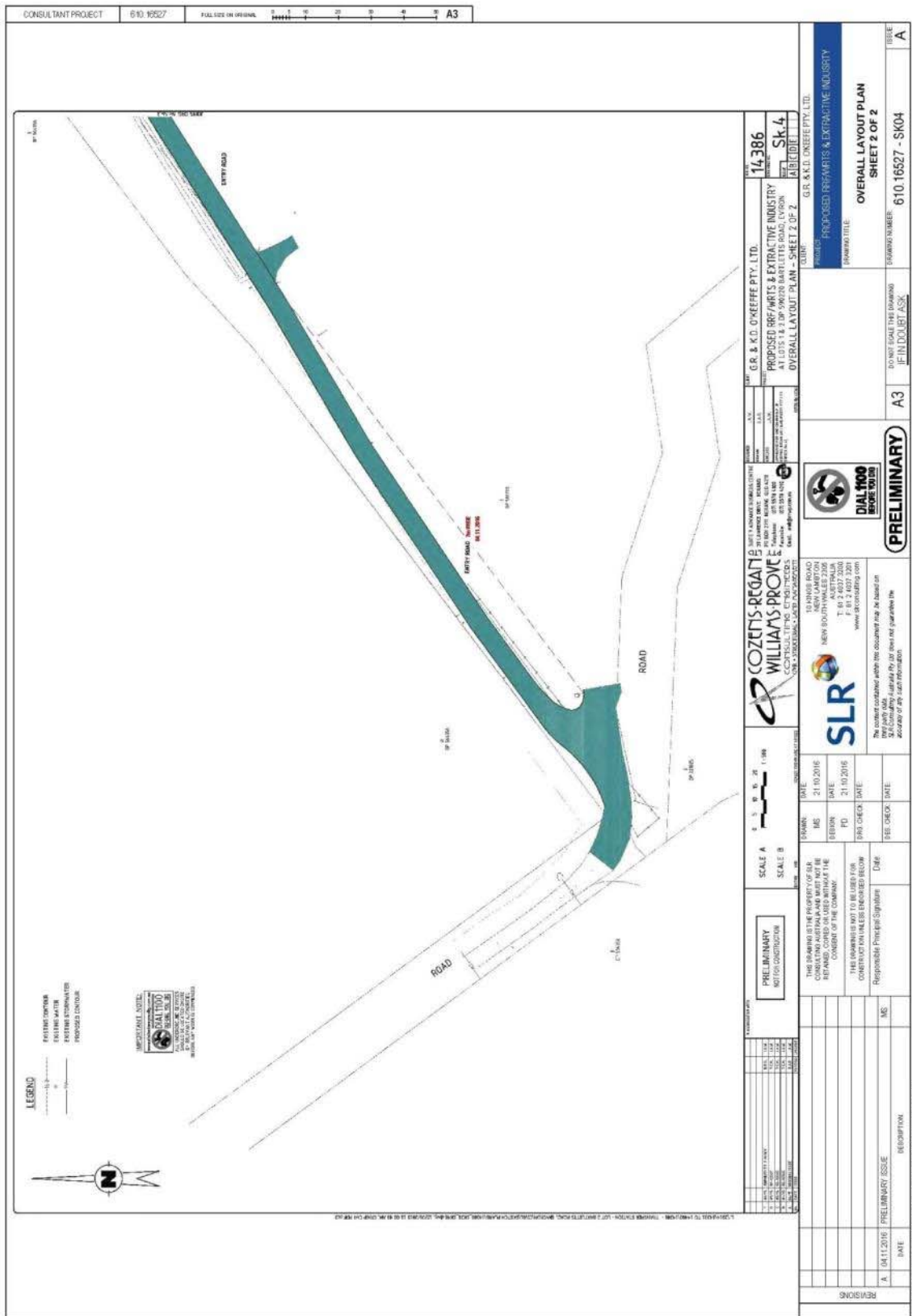
Author: S. Scott - GIS

Date Printed: 28 November, 2016

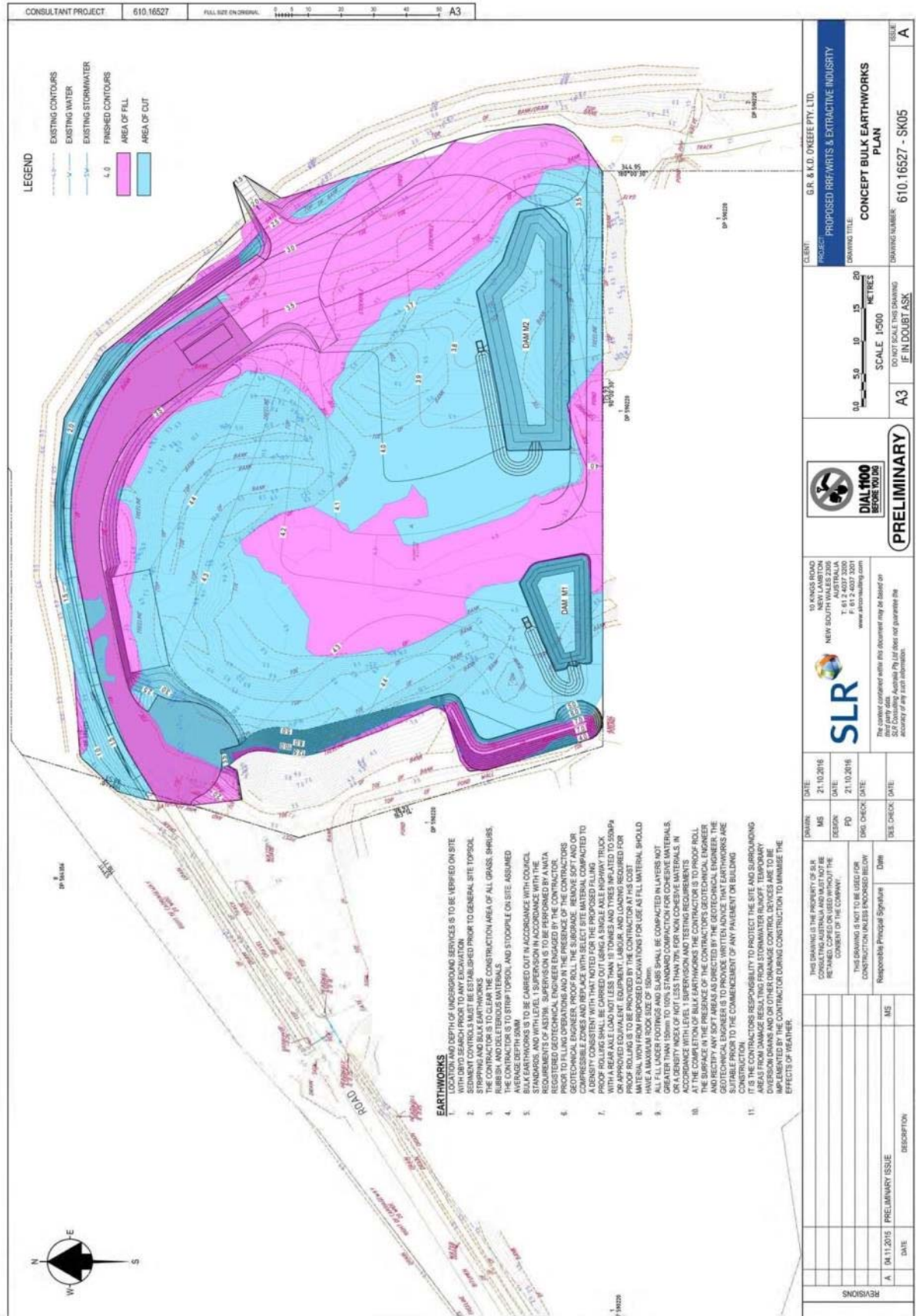
JRPP (\*\* Region) Business Paper – Item # - Date of Meeting – JRPP Reference





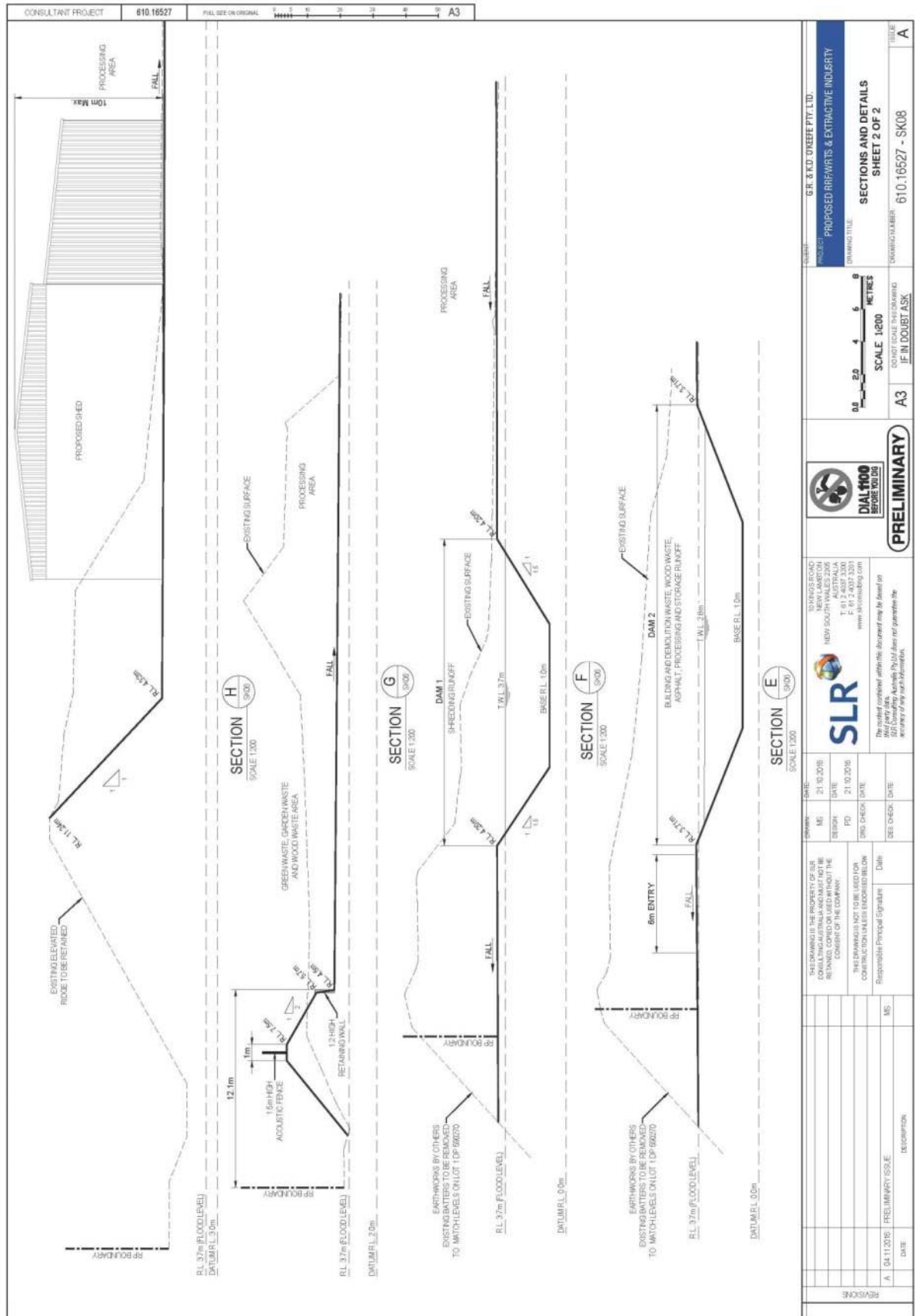


<b>COZENS REGION</b> <b>WILLIAMS PROVE</b> COZENS REGION WILLIAMS PROVE COZENS REGION WILLIAMS PROVE		14,386 Sk 4 14,386 Sk 4
CLIENT: G.R. & K.D. O'KEEFE PTY. LTD. PROJECT: PROPOSED PREPARED & EXTRACTIVE INDUSTRY AT 1375 14 3RD STREET BARTLETT'S DAM, COZENS OVERALL LAYOUT PLAN - SHEET 2 OF 2		14,386 Sk 4 14,386 Sk 4
PROJECT: PROPOSED PREPARED & EXTRACTIVE INDUSTRY SHEET 2 OF 2 OVERALL LAYOUT PLAN SHEET 2 OF 2		
DRAWING NUMBER: 610.16527 - SK04 TO NOT SCALE THE DRAWING JINDOUBT ASK		TITLE: A



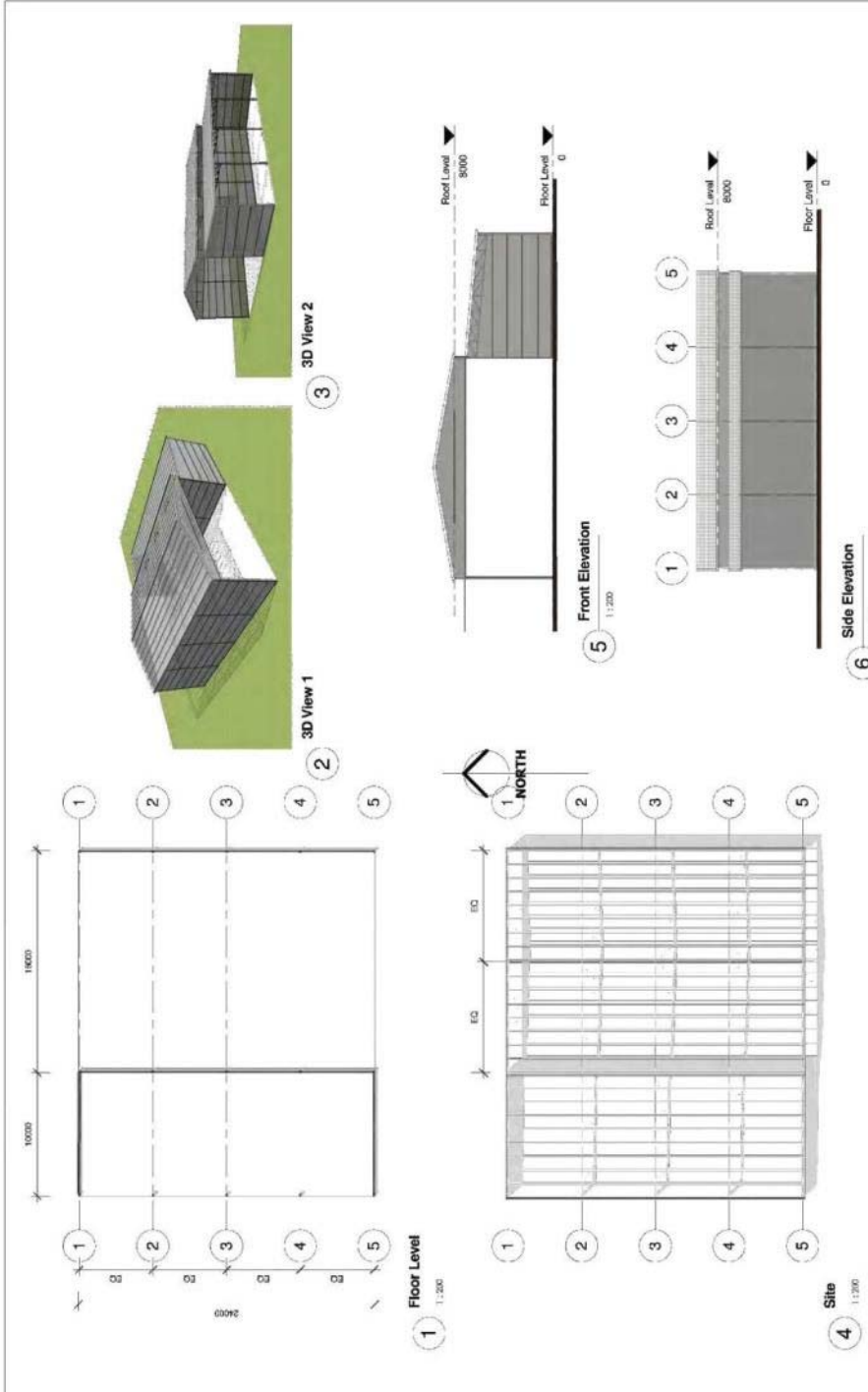


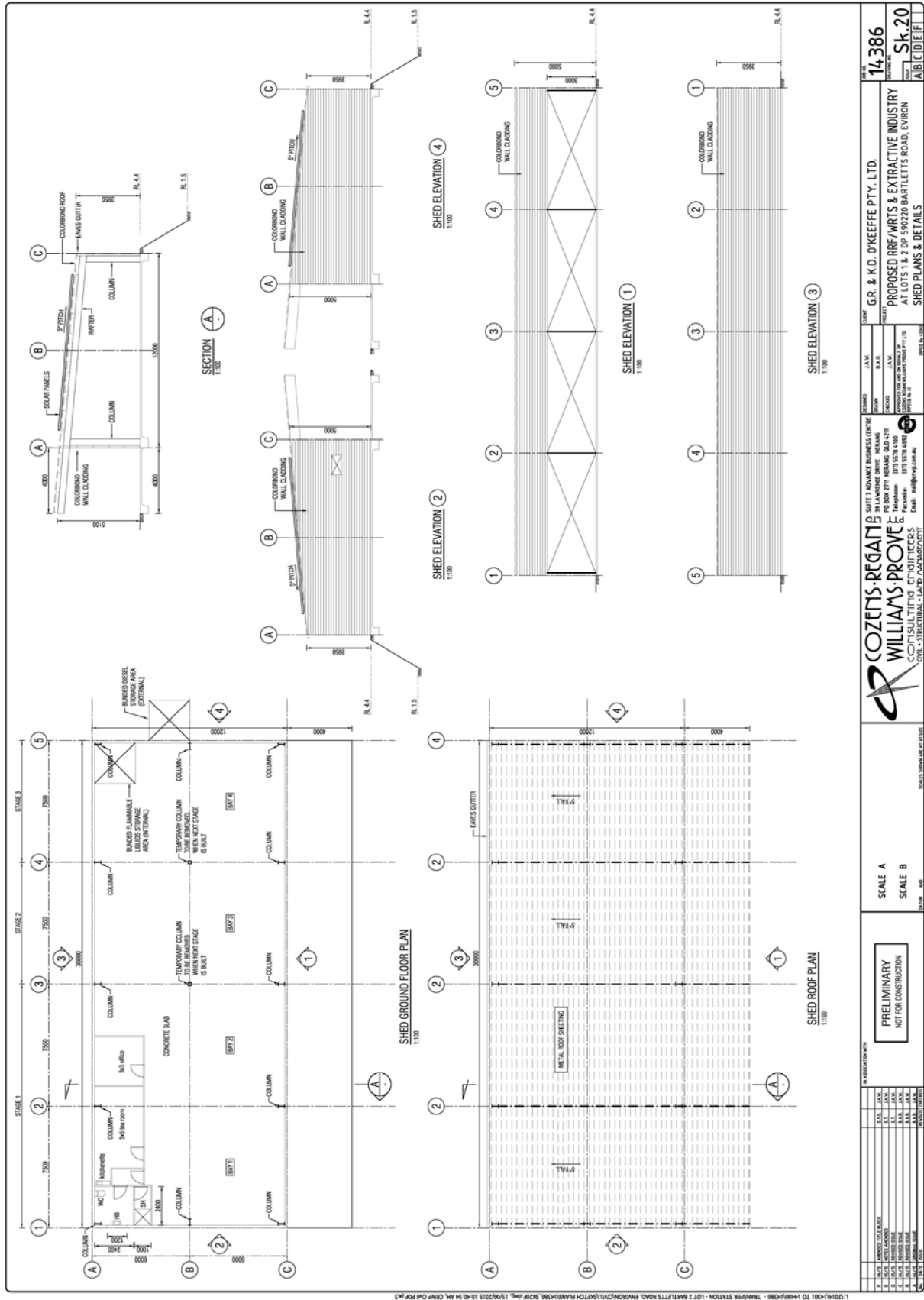




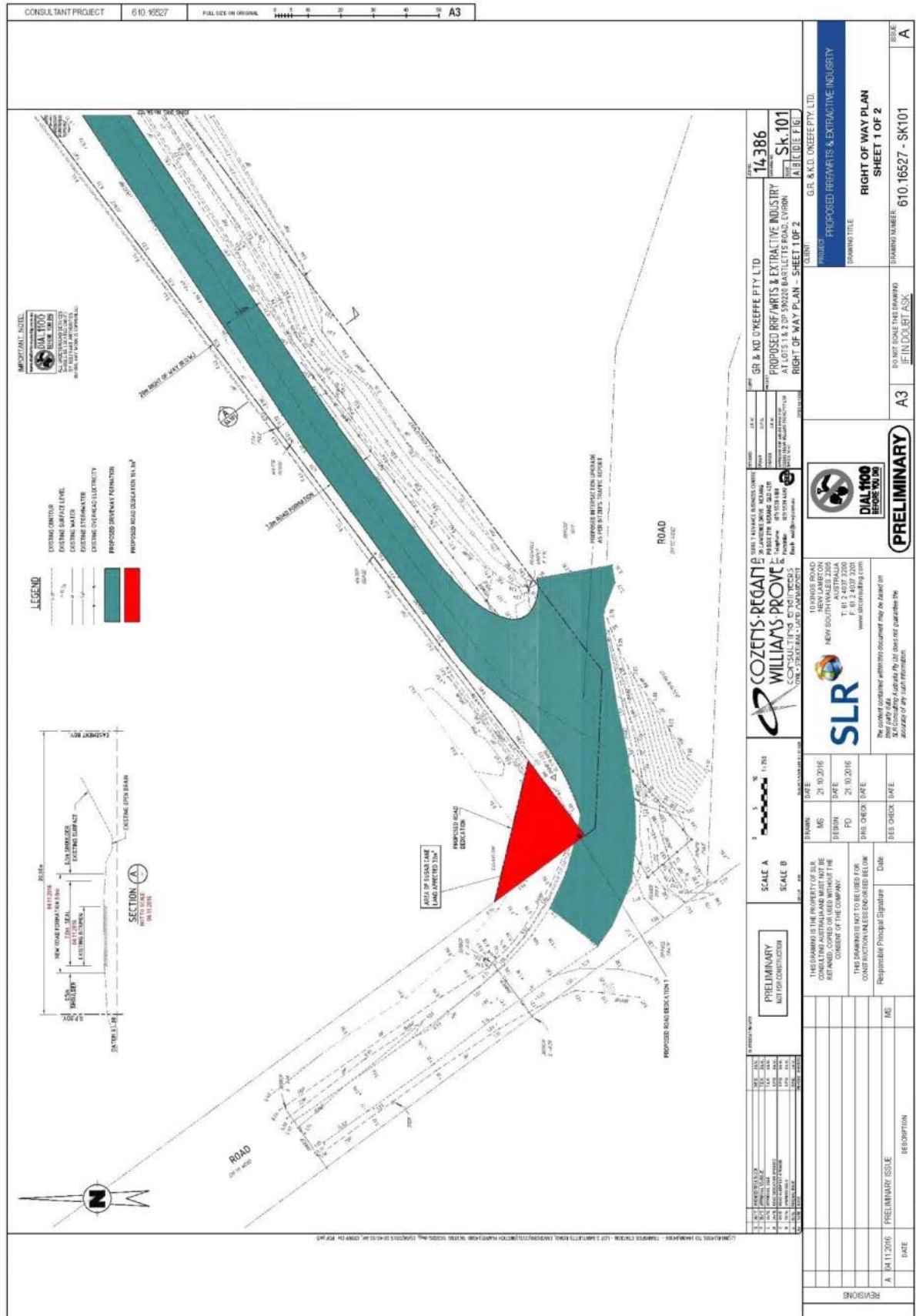




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<b>COZENS-REAGAN</b> <b>WILLIAMS PROVE</b> CONSULTING ENGINEERS CIVIL-STRUCTURAL-GEOTECHNICAL		SUITE 7 ADVANCE BUSINESS CENTRE 1500A 27TH STREET NEARBY PERTH WA 6150 Tel: (08) 9447 4444 Email: info@williamsprove.com.au		<b>GR &amp; K.D. O'KEEFE PTY. LTD.</b> PROPOSED RRE/WRTS & EXTRACTIVE INDUSTRY AT LOTS 1 & 2 DP 590220 BARTLETT'S ROAD, EVRON SHED PLANS & DETAILS		14386 DATE: 14/01/2015 DRAWN BY: J.A.M. CHECKED BY: B.A.S. PROJECT NO: 14386 SHEET NO: 14386-01
PRELIMINARY NOT FOR CONSTRUCTION		SCALE A SCALE B		14386-01		14386-01





## CONSIDERATIONS UNDER THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT REGULATIONS 2000:

### Schedule 3 – Designated Development

Part 1 of Schedule 3 of the Environmental Planning & Assessment Regulations relates specifically to the types of development that is considered as Designated Development. If a proposal triggers any of the thresholds associated with a particular use, it is declared to be designated development for the purposes of the Act and the development application must be accompanied by an Environmental Impact Statement. In addition, any objectors to the proposal have rights of appeal on merit. An assessment of the various clauses of Schedule 3 applicable to the proposed development is noted below.

#### 16 Crushing, grinding or separating works

Clause 16 relates to the crushing, grinding or separating works (such as sand, gravel, rock or minerals) or materials for recycling or reuse (such as slag, road base, concrete, bricks, tiles, bituminous material, metal or timber) by crushing, grinding or separating into different sizes.

The proponent has identified that the provisions of Clause 16(1)(a) apply, with the development proposing a processing capacity of 50,000tpa (*30,000tpa is the threshold*).

#### 19 Extractive industries

Clause 19 provides for a number of thresholds applying to extractive industries, being industries that obtain extractive materials by methods including excavating, dredging, tunneling or quarrying or that store, stockpile or process extractive materials by methods including washing, crushing, sawing or separating.

The proponent has identified that the proposal triggers several aspects of clause 19(1):

- (b) that disturb a total surface area of more than 2 hectares of land (*the proposed development will disturb approximately 3.2 hectares of the site*); and
- (c)(iii) that are located in an area of contaminated soil or acid sulfate soil (*the site is within an area containing acid sulfate soils*).

#### 32 Waste management facilities or works

Clause 32 incorporates a number of thresholds applying to waste management facilities or works that store, treat, purify or dispose of waste or sort, process, recycle, recover, use or reuse material from waste.

The proponent has identified that the proposal triggers the following components of clause 32(1):

- (b)(iii) that have an intended handling capacity of more than 30,000 tonnes per year of waste such as glass, plastic, paper, wood, metal, rubber or building demolition material (*50,000 tonnes per year proposed*).
- (d)(ii) in an area of high watertable, highly permeable soils, acid sulfate, sodic or saline soils (*the site is mapped as a small part moderate, part moderately high and in part high in terms of ground water vulnerability. The site is mapped as mainly Class 5 and part Class 2 in terms of ASS*).

(d)(v) on a floodplain (*parts of the site are within the floodplain*).

As a result, the proposed development is considered Designated Development and an EIS has been prepared to address the SEAR's issued by the Department, as noted below.

#### **Secretary's Environmental Assessment Requirements (SEAR's)**

Given that the proposal is considered to be Designated Development, the proponent was required to request Secretary's Environmental Assessment Requirements (SEAR's) from the Department of Planning & Environment (Department).

The SEAR's issued by the Department on 5 January 2015 requires the proponent to prepare an Environmental Impact Statement (EIS), including an assessment of all potential impacts of the proposed development on the existing environment (including cumulative impacts if necessary) and develop appropriate measures to avoid, minimise, mitigate and / or manage these potential impacts. The EIS assessment must assess the matters raised in the following table.

<b>Secretary's Environmental Assessment Requirements (SEAR's)</b>	<b>Proponent Comments</b>	<b>Council Comments</b>
<ul style="list-style-type: none"><li>• <b>strategic context</b> - including:<ul style="list-style-type: none"><li>- a detailed justification for the proposal and suitability of the site for the development; and</li><li>- a demonstration that the proposal is consistent with all relevant planning strategies, environmental planning instruments, development control plans (DCP's), or justification for any inconsistencies; and</li><li>- a list of any approvals that must be obtained under any other Act or law before the development may be lawfully carried out.</li></ul></li></ul>	<p>Reference is made to Sections 4.2 &amp; 13.0 of the EIS.</p> <p>Reference is made to Sections 6.0 &amp; 7.0 of the EIS.</p> <p>Reference is made to Sections 12 of the EIS.</p>	<p>The proponent has provided a detailed justification for the proposal &amp; suitability of the site.</p> <p>It is considered that the proposal is consistent with all applicable legislation.</p> <p>The proponent has provided a list of approvals under other Acts that must be obtained.</p>
<ul style="list-style-type: none"><li>• <b>land resources</b> - including:<ul style="list-style-type: none"><li>- a resource assessment documenting the size and quality of the resources and demonstrating that both have been adequately assessed and thoroughly documents the methods used to assess the resource and its suitability for the intended applications;</li><li>- a description and assessment of</li></ul></li></ul>	<p>Reference is made to Sections 10.1 to 10.1.5 of the EIS.</p>	<p>The proponent has provided a resource assessment for the proposed development.</p> <p>A detailed assessment has been undertaken with regard to impacts and appropriate mitigation measures have been</p>

Secretary's Environmental Assessment Requirements (SEAR's)	Proponent Comments	Council Comments
<p>impacts to local and regional landforms and topography, including cliffs, rock formations, landforms, steep slopes;</p> <ul style="list-style-type: none"> <li>- an assessment of the potential impacts on soil and land capability, including activities that would cause erosion and the measures proposed to minimise erosion and sedimentation; and</li> <li>- an assessment of the potential impacts on surrounding land uses, including agricultural, forestry and conservation lands.</li> </ul>		<p>proposed and conditions of consent applied in this regard.</p>
<ul style="list-style-type: none"> <li>• <b>waste management</b> - including: <ul style="list-style-type: none"> <li>- details of the type, quantity and classification of waste to be received at the site;</li> <li>- details of the resource outputs and any additional processes for residual waste;</li> <li>- details of waste handling including transport, identification, receipt, stockpiling and quality control; and</li> <li>- the measures that would be implemented to ensure that the proposed development is consistent with the aims, objectives and guidelines in the NSW Waste Avoidance and Resource Recovery Strategy 2007 and Draft NSW Waste Avoidance and resource Recovery Strategy 2013-2021.</li> </ul> </li> </ul>	<p>Reference is made to Sections 4.0 and 10.2 of the EIS.</p>	<p>The proponent's EIS and subsequent updates have incorporated a detailed assessment with regard to waste management.</p> <p>Appropriate conditions of consent have been applied to ensure the proposal meets the aims and objectives of the applicable guidelines for resource recovery facilities.</p>
<ul style="list-style-type: none"> <li>• <b>hazards and risk</b> – including a preliminary risk screening undertaken in accordance with the <i>State Environmental Planning Policy No. 33 – Hazardous and Offensive Development</i> (SEPP 33) and <i>Applying SEPP 33</i> (DoP, 2011), and if necessary, a Preliminary Hazard Analysis (PHA).</li> </ul>	<p>Reference is made to Sections 10.3 and Appendix 7 of the EIS.</p>	<p>The proponent has undertaken an assessment against SEPP 33, concluding that the proposal is <u>not</u> hazardous development and as such a PHA is not considered necessary.</p>

Secretary's Environmental Assessment Requirements (SEAR's)	Proponent Comments	Council Comments
<ul style="list-style-type: none"> <li>• <b>air quality</b> - including: <ul style="list-style-type: none"> <li>- a description of all potential sources of air emissions, including odour;</li> <li>- an air quality impact assessment in accordance with relevant Environment Protection Authority Guidelines; and</li> <li>- a description and appraisal of air quality impact mitigation and monitoring measures.</li> </ul> </li> </ul>	<p>Reference is made to Sections 10.4 and Appendix 10 of the EIS.</p>	<p>The proponent has supported the proposed development with an Air Quality Impact Assessment in relation to air quality, and odour. It is considered that the proposed development has satisfactorily addressed the air quality provisions of the SEAR's, subject to conditions of consent.</p>
<ul style="list-style-type: none"> <li>• <b>noise and vibration</b> - including: <ul style="list-style-type: none"> <li>- a description of all potential noise and vibration sources during construction and operation, including road traffic noise;</li> <li>- a noise and vibration assessment in accordance with relevant Environment Protection Authority Guidelines; and</li> <li>- a description and appraisal of noise and vibration mitigation and monitoring measures.</li> </ul> </li> </ul>	<p>Reference is made to Sections 10.5 and Appendix 11 &amp; 17 of the EIS.</p>	<p>The proponent has supported the proposed development with an Air Quality Impact Assessment in relation to noise and vibration. It is considered that the proposed development has satisfactorily addressed the noise and vibration provisions of the SEAR's, subject to conditions of consent.</p>
<ul style="list-style-type: none"> <li>• <b>soil and water</b> - including: <ul style="list-style-type: none"> <li>- surface water, groundwater, stormwater management, wastewater management and flooding;</li> <li>- details of erosion and sediment controls;</li> <li>- details of water requirements including water supply and any water license arrangements;</li> <li>- the potential for soil and groundwater contamination;</li> </ul> </li> </ul>	<p>Reference is made to Sections 10.5 and Appendix 11 &amp; 17 of the EIS.</p>	<p>The proponent has undertaken a detailed analysis soil and water impacts associated with the proposed development. Appropriate conditions have been applied, including GTA's from the EPA, which relate specifically to leachate management and</p>

Secretary's Environmental Assessment Requirements (SEAR's)	Proponent Comments	Council Comments
<ul style="list-style-type: none"> <li>- details of contaminated soil and groundwater management; and</li> <li>- details of leachate management.</li> </ul>		stormwater discharge.
<ul style="list-style-type: none"> <li>• <b>traffic and transport</b> - including: <ul style="list-style-type: none"> <li>- details of road transport routes and access to the site;</li> <li>- road traffic predictions for the development during construction and operation;</li> <li>- an assessment of impacts to the safety and function of the road network; and</li> <li>- the details of any road upgrades required for the development.</li> </ul> </li> </ul>	Reference is made to Sections 10.7 and Appendix 12 of the EIS.	<p>The proponent has prepared a Traffic Impact Assessment which addresses the suitability of the site, traffic impacts and road upgrade requirements.</p> <p>Applicable conditions of consent have been applied in this regard.</p>
<ul style="list-style-type: none"> <li>• <b>biodiversity</b> - including: <ul style="list-style-type: none"> <li>- accurate predictions of any vegetation clearing on the site or for any road upgrades;</li> <li>- a detailed assessment of the potential impacts on any threatened species, populations, endangered ecological communities or their habitats, groundwater dependent ecosystems and any potential for offset requirements; and</li> <li>- a detailed description of the measures to avoid, minimise, mitigate and offset biodiversity impacts.</li> </ul> </li> </ul>	Reference is made to Sections 10.8 and Appendix 13 of the EIS.	<p>The proposed development is considered to have satisfactorily addressed all of the SEAR's requirements with regard to biodiversity.</p> <p>Appropriate conditions of consent have been applied. Refer to the flora and fauna assessment within the body of this report for further details.</p>
<ul style="list-style-type: none"> <li>• <b>visual impacts</b> – including an impact assessment at private receptors and public vantage points.</li> </ul>	Reference is made to Sections 10.9 and Appendix 14 & 16 of the EIS.	The proponent has undertaken an assessment of visual impacts from a pedestrian, neighbourhood and shire wide scale. The proposal incorporates landscaping to mitigate such impacts. Appropriate conditions of consent have been applied in this regard.

Secretary's Environmental Assessment Requirements (SEAR's)	Proponent Comments	Council Comments
<ul style="list-style-type: none"> <li><b>heritage</b> – including Aboriginal cultural heritage.</li> </ul>	Reference is made to Sections 10.10 and Appendix 15 of the EIS.	The proponent has undertaken a review of the proposed development in terms of Cultural Heritage. The Tweed Byron Local Aboriginal Land Council is satisfied with the assessment, subject to a condition of consent in relation to any finds during construction.

## CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

### (a) (i) The provisions of any environmental planning instrument

#### Tweed Local Environmental Plan 2014

##### **Part 1 Preliminary**

##### Clause 1.2 - Aims of the Plan

The aims of this plan as set out under Section 1.2 of this plan are as follows;

- (1) This Plan aims to make local environmental planning provisions for land in Tweed in accordance with the relevant standard environmental planning instrument under section 33A of the Act.
- (2) The particular aims of this Plan are as follows:
  - (a) *to give effect to the desired outcomes, strategic principles, policies and actions contained in the Council's adopted strategic planning documents, including, but not limited to, consistency with local indigenous cultural values, and the national and international significance of the Tweed Caldera,*
  - (b) *to encourage a sustainable, local economy, small business, employment, agriculture, affordable housing, recreational, arts, social, cultural, tourism and sustainable industry opportunities appropriate to Tweed Shire,*
  - (c) *to promote the responsible sustainable management and conservation of Tweed's natural and environmentally sensitive areas and waterways, visual amenity and scenic routes, the built environment, and cultural heritage,*
  - (d) *to promote development that is consistent with the principles of ecologically sustainable development and to implement appropriate action on climate change,*
  - (e) *to promote building design which considers food security, water conservation, energy efficiency and waste reduction,*
  - (f) *to promote the sustainable use of natural resources and facilitate the transition from fossil fuels to renewable energy,*
  - (g) *to conserve or enhance the biological diversity, scenic quality, geological and ecological integrity of the Tweed,*
  - (h) *to promote the management and appropriate use of land that is contiguous to or interdependent on land declared a World Heritage site under the Convention Concerning the Protection of World Cultural and Natural Heritage, and to protect or enhance the environmental significance of that land,*

- (i) *to conserve or enhance areas of defined high ecological value,*
- (j) *to provide special protection and suitable habitat for the recovery of the Tweed coastal Koala.*

The proposed development is considered to be generally in accordance with the aims of this plan, subject to conditions of consent.

#### 1.4 Definitions

Under this Plan, the proposed development is considered to be a “waste or resource management facility”, defined as follows;

***waste or resource management facility*** means any of the following:

- (a) *a resource recovery facility,*
- (b) *a waste disposal facility,*
- (c) *a waste or resource transfer station,*
- (d) *a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).*

### **Part 2 Permitted or prohibited development**

#### 2.1 Land use zones

The subject site is zoned RU1 – Primary Production. The proposed waste or resource management facility is prohibited within the RU1 zone, and as such relies upon the provisions of the Infrastructure SEPP for permissibility.

#### 2.3 Zone objectives and Land Use Table

The objectives of the **RU1 Primary Production** zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To protect prime agricultural land from the economic pressure of competing land uses.*

Despite its prohibition under the LEP, the proposed development is considered to be consistent with the RU1 zone objectives.

#### Clause 4.3– Height of Buildings

TLEP 2014 provides for a 10m building height limit for the subject site. The proposed structures associated with the development include; the machinery/plant/equipment/workers amenity shed; the office and weighbridge; and the waste processing and storage shed, all of which are 10m in height or less, thereby complying with the provisions of clause 4.3.

#### Clause 4.4 – Floor Space Ratio

Floor Space Ratio provisions associated with clause 4.4 are not applicable to the proposed development.

### **Part 5 Miscellaneous provisions**

#### 5.5 Development within the coastal zone

The subject site is not located within the coastal zone and as such clause 5.5 of the TLEP 2014 is not applicable to the proposed development.

#### 5.9 - Preservation of Trees or Vegetation

The objective of this clause is to preserve the amenity of the area, including biodiversity values, through the preservation of trees and other vegetation.

As noted later in this report, the proposed development will involve the removal of 54 mature native trees. In addition to the rehabilitation of areas within the site, the proponent has agreed to revegetate 0.40ha of the site in an effort to offset the loss of the trees. Council officers have reviewed the application with respect to potential ecological impacts, with it being determined that subject to the provision of appropriate conditions of consent, the development is acceptable from an ecological perspective. Therefore, the proposal is considered to comply with clause 5.9 of the TLEP 2014.

#### 5.10 – Heritage conservation

The objectives of this clause are as follows:

- (a) to conserve the environmental heritage of Tweed,*
- (b) to conserve the heritage significance of heritage items and heritage conservation areas, including associated fabric, settings and views,*
- (c) to conserve archaeological sites,*
- (d) to conserve Aboriginal objects and Aboriginal places of heritage significance.*

The proponent submitted a Cultural Heritage Due Diligence Assessment (*Everick Heritage Consultants, June 2015*) to support the proposed development. The assessment noted that: an AHIMS search was undertaken; a site inspection was undertaken by Everick's Senior

Archaeologist and a Site Officer from the Tweed Byron Local Aboriginal Land Council (TBLALC); and discussions were held with the TBLALC and the Tweed Shire Council Aboriginal Advisory Committee (AAC).

The assessment noted the following:

- *“No Indigenous cultural heritage sites or relics were identified within the Project Area.*
- *No areas have been identified that are considered to potentially contain subsurface deposits of significant Aboriginal heritage.*
- *All of the Project Area has been disturbed in a manner which constitutes ‘disturbance’ consistent with the Due Diligence Code.*
- *There were no locally significant historic cultural heritage sites within the Project Area. It is considered that the Project will not impact on unidentified items of historic heritage significance”.*

The assessment provided several recommendations based on the desktop review, site inspection and ongoing consultation with the TBLALC and the AAC, noting that the *“...recommendations were draft until members from both organisations have been able to review the assessment and provide feedback”*.

The proposed development was reviewed by the NSW Office of Environment & Heritage (OEH), who provided the following advice:

*“Aboriginal Cultural Heritage*

- i. *The draft Aboriginal cultural heritage assessment report be updated to include the description of consultation with Aboriginal people and documentation of the consideration of their views as required in the SEARS prior to determination; and*
- ii. *The final report be renamed to reflect its purpose as an Assessment of Aboriginal cultural heritage.”*

The proponent subsequently submitted an updated Cultural Heritage Assessment (Everick Heritage Consultants, October 2015), which noted the following regarding consultation:

*“Everick has made repeated requests to the Tweed Byron LALC to provide written feedback on this report. The Tweed Byron LALC responded to these requests on 28 May 2015 and again on 30 September 2015, noting that final comments were pending. To date, Everick has received no written comments or feedback. No concerns have been raised by the TSCAAC or Tweed Byron LALC over potential heritage impacts from the Project. Written comments as to the heritage values of the Project Area will be incorporated as it is received”.*

The provisions of clause 5.10(8) state that the consent authority must consider the following:

- (a) *consider the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place by means of an adequate investigation and assessment (which may involve consideration of a heritage impact statement), and*

- (b) *notify the local Aboriginal communities, in writing or in such other manner as may be appropriate, about the application and take into consideration any response received within 28 days after the notice is sent.*

Council was provided with the following comments from the TBLALC on 23 November 2016:

*“The Tweed Byron Local Aboriginal Land Council were commissioned by Evericks to undertake a cultural site inspection of the Resource Recovery Facility at Bartlett’s Road, Eviron. On the 4th of December 2014 Tweed Byron LALC Cultural Sites Officer Warren Phillips and Evericks Senior Archaeologist Adrian Piper carried out the inspection.*

*No areas or objects of Aboriginal cultural heritage significance were identified within the project area, however the following precautionary recommendation is made;*

*Recommendation – Procedure for Unexpected Finds*

*Although there were no specific areas or objects of Aboriginal cultural heritage significance identified within the project area, there still exists potential unexpected finds. A process must be implemented with regard to the management of unexpected finds during development activities. During development activity the Proponent must have a Cultural Heritage Awareness Induction program delivered to employees or sub-consultants to ensure them to be aware of and vigilante for Aboriginal cultural heritage.*

*In the event that suspected cultural heritage is found, a buffer zone surrounding the area should be setup and all activities must cease within this buffer zone until such time as the necessary approval is given to continue work within the buffer zone.*

*The proponent is bound under State legislation (National Parks and Wildlife Act, 1974) to inform the Office of Heritage and Environment (OEH) immediately of any cultural heritage objects found and must also inform the Tweed Byron LALC immediately of any suspected cultural heritage”.*

As noted by the proponent’s cultural heritage assessment and the TBLALC comments above, no areas or objects of significance were found during the site inspection. In line with OEH’s advice and the TBLALC recommendation, a condition of consent will require the proponent’s cultural heritage assessment to be updated to reflect the precautionary requirements for any unexpected finds during any development activities. Accordingly, the proposed development is considered to satisfy the provisions of clause 5.10.

Clause 5.11 – Bush fire hazard reduction

Part of the subject site is mapped as bushfire prone land, as noted in Figure 5 below. The application is supported by a Bushfire Hazard Assessment (*Darryl Anderson Consulting, June 2015*).



**Figure 5 – Bushfire Prone Land (shaded red)**

The bushfire assessment notes that the bushfire hazard is a narrow strip of vegetation on and adjoining the southern boundary of the site. The proposed buildings associated with the development are located approximately 60m from the bushfire buffer area.

The assessment report addresses the applicable provisions of *Planning for Bushfire Protection* (PFBP) 2006, with regard to: the non-permanent occupation of the buildings; the provision of a defendable space around each of the buildings and non-combustible materials being used; access to the site; appropriate separation between the hazard and the buildings; and available water supply for firefighting purposes.

The report concludes that having regard to the nature of the proposal, the development is not inconsistent with the aims and objectives of the PFBP, 2006. The assessment does not consider that any specific bushfire conditions are considered necessary for the proposed development.

Council officers concur with the proponent's bushfire assessment.

## **Part 7 Additional local provisions**

### **7.1 Acid sulfate soils**

The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils (ASS) and cause environmental damage.

The subject site is a mix of ASS Class 5 (rock and high ground) and ASS Class 2 (low lying cane land to the northeast). The proposed development / operational area will be located within the ASS Class 5 area. The proponent has submitted a Surface & Groundwater Investigation (*HMC dated June 2015*), which largely addresses the hard rock area. In addition, the EIS acknowledges that the works associated with the upgraded right of carriageway is likely to disturb ASS. As such, the EIS has noted that an ASS Management Plan will be required prior to that stage of works.

Council officers have reviewed the proposed development with regard to ASS with no objections, subject to the requirement for an ASS Management Plan to be approved prior to the issue of a Construction Certificate.

As such, the provisions of clause 7.1 are considered to have been satisfied, subject to the recommended condition of consent.

## 7.2 Earthworks

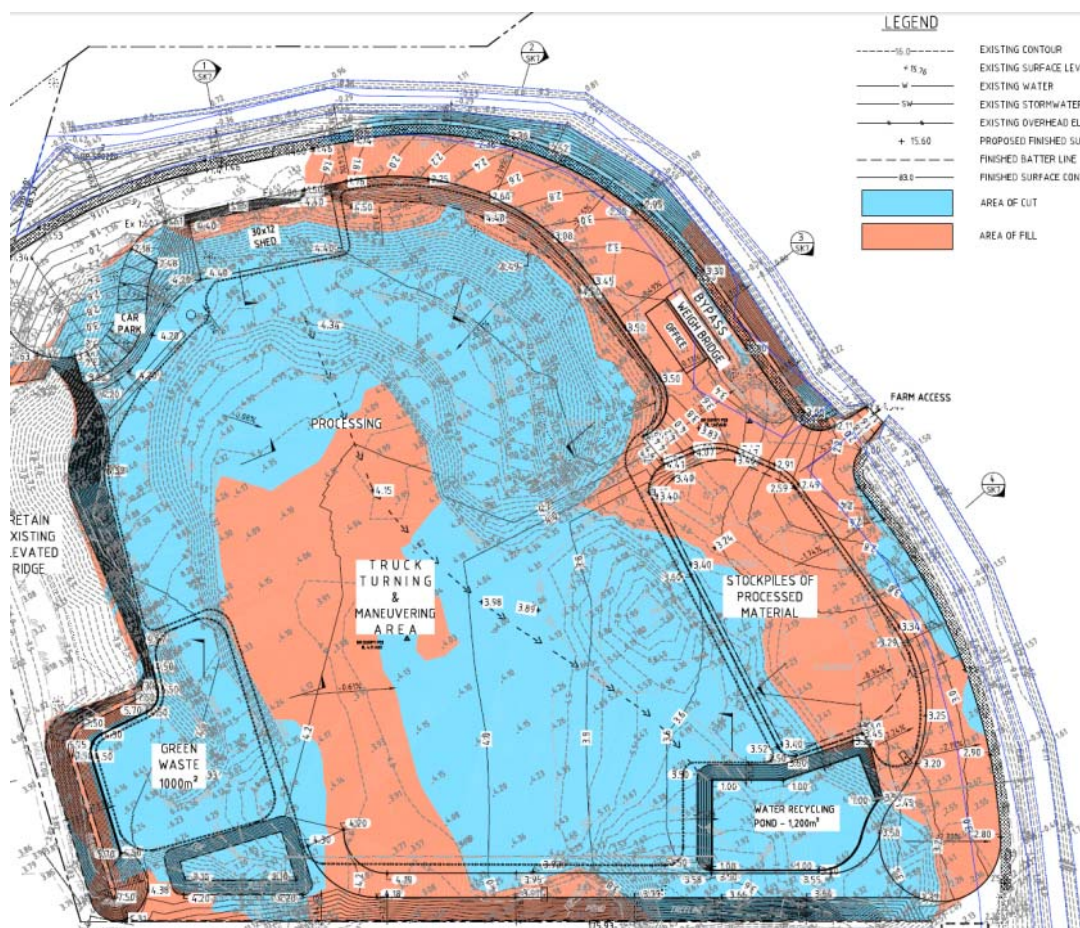
The objective of this clause is to ensure that earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.

The provisions of clause 7.2(3) state that the consent authority must consider the following matters:

- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
- (b) the effect of the development on the likely future use or redevelopment of the land,*
- (c) the quality of the fill or the soil to be excavated, or both,*
- (d) the effect of the development on the existing and likely amenity of adjoining properties,*
- (e) the source of any fill material and the destination of any excavated material,*
- (f) the likelihood of disturbing relics,*
- (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development,*
- (i) the proximity to, and potential for adverse impacts on, any heritage item, archaeological site, or heritage conservation area.*

The proposed expanded extraction footprint will result in the removal of the elevated ridge on the northern part of the quarry site. The western ridge will remain and be extended to the south to act as a buffer to the SCRRF (refer to Figure 6 below).

To mitigate noise impacts, the proponent's Noise Impact Assessment recommends an earth mound between the onsite equipment and the nearest offsite receiver (dwelling), as well as management controls, such as limiting the types of equipment and hours of operation.



**Figure 6 – Proposed Cut and Fill of the Site**

Council officers have reviewed the proposed development in terms of earthworks. With regard to the matters of consideration, the proposal is not considered likely to significantly impact upon the drainage patterns and soil stability of the locality. The proposed fill will be utilised from the excavated material onsite. Appropriate measures have been recommended to minimise impacts upon the amenity of adjoining properties. Conditions of consent have been applied with regard to Cultural Heritage matters. A detailed assessment has been undertaken with regard to potential impacts upon the surrounding waterways.

Overall, the proposed earthworks associated with the development are considered to have minimal impact and appropriate conditions of consent to manage such impacts have been applied and the proposal is considered to be in accordance with the provisions of clause 7.2.

### 7.3 Flood planning

The objectives of this clause are as follows:

- (a) *to minimise the flood risk to life and property associated with the use of land,*
- (b) *to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,*
- (c) *to avoid significant adverse impacts on flood behaviour and the environment.*

This clause goes on to further state that development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:

- (a) is compatible with the flood hazard of the land, and*
- (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and*
- (c) incorporates appropriate measures to manage risk to life from flood, and*
- (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and*
- (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.*

Council officers have reviewed the proposed development in terms of potential flooding impacts. The majority of the development site is above the Design Flood Level (DFL). However, the designated Sand/Soil Stockpile area that is located on the lower region of the facility is below the DFL. The flooding assessment concluded that the proposal is considered to be acceptable, subject to conditions of consent. Further detail on flooding impacts is noted later in this report.

With regard to the consent considerations noted above: the proposal is within the low flow hazard area; the majority of the development site is already above the DFL; the proposed filling of the site (1046m<sup>2</sup>) is allowable within the low flow area; appropriate conditions of consent have been recommended to ensure the proposal does not cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses; and the proposal is not considered likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

As such, the proposal is considered to be in accordance with the provisions of this clause.

#### Clause 7.4 – Floodplain risk management

The objectives of this clause are as follows:

- (a) in relation to development with particular evacuation or emergency response issues, to enable evacuation of land subject to flooding in events exceeding the flood planning level,*
- (b) to protect the operational capacity of emergency response facilities and critical infrastructure during extreme flood events.*

As noted elsewhere in this report, the proposed filling of the development site is within the allowable provisions for flood prone land identified as Low Flow areas. Accordingly, the proposal complies with the provisions of the “*Tweed Valley Flood Plain Risk Management Plan*”, thereby satisfying the provisions of clause 7.4.

#### Clause 7.6 - Stormwater Management

The objective of this clause is to minimise the impacts of urban stormwater on land to which this clause applies and on adjoining properties, native bushland and receiving waters.

Although the provisions of clause 7.6 do not apply to the subject site, being zoned RU1 Primary Production, a detailed assessment in terms of stormwater management has been undertaken. Refer to further detail later in this report.

#### Clause 7.10 – Essential Services

This clause outlines that consent must not be granted to development unless the consent authority is satisfied that essential services such as water, electricity, sewerage, stormwater drainage and vehicular access are available or that adequate arrangements have been made to make them available when required.

Power and telephone services are available to the subject site. The EIS notes that a potable water supply will be provided by rainwater tanks and water supply for dust abatement and plant and equipment cleaning will be provided by recycling runoff from the site, supplemented by an existing licenced bore which may be constructed on the land if required. DPI Water have acknowledged the existence of the current industrial bore licence with a 19ML allocation, noting that the proponent will need to ensure they have an adequate water supply for the life of the project and obtain further licences if necessary.

An onsite sewerage management facility is proposed to treat and dispose of waste water. Refer to detailed assessment later in this report. Overall, the proposed development is considered to be in accordance with clause 7.10, subject to conditions of consent.

Having regard to the above assessment, the subject application is considered to be in accordance with the provisions of the Tweed Local Environmental Plan 2014.

### **State Environmental Planning Policies**

#### SEPP No. 33 - Hazardous and Offensive Development

SEPP 33 aims to:

- *ensure that in determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account; and*
- *ensure that in considering any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact.*

The proponent has undertaken an assessment (*HMC June 2015*) against the provisions of SEPP 33. The assessment provides the following summary:

*“A risk screening has been completed for potentially hazardous industry has been undertaken in accordance with section 7 of the Department of Planning (2011) Hazardous and Offensive Development Application Guidelines Applying SEPP 33. The*

*risk screening confirms that the proposed development would not be a potentially hazardous industry and no preliminary hazard analysis is required.*

*The proposed development would require an Environmental Protection License to be issued by the NSW Environmental Protection Agency for proposed scheduled activities and the proposed development would therefore be considered a potentially offensive industry. Strategies have been developed to manage likely air, noise and water emissions, and it is expected an Environmental Protection Licence would be issued”.*

Clause 13 of the SEPP provides for certain matters that the consent authority must consider in determining the proposed development. Council’s assessment against the provisions of Clause 13 of SEPP 33 is noted below.

### **13 Matters for consideration by consent authorities**

*In determining an application to carry out development to which this Part applies, the consent authority must consider (in addition to any other matters specified in the Act or in an environmental planning instrument applying to the development):*

- (a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and*

As noted above, the proponent has addressed the relevant guidelines published by the Department of Planning relating to hazardous or offensive development, in this case, the *Hazardous and Offensive Development Application Guidelines Applying SEPP 33, 2011*.

- (b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and*

The proposed development was referred to the EPA for approval. Following a detailed review process, with particular regard to leachate management and stormwater discharge, general terms of approval have now been issued by the EPA. The application was also referred to other public authorities for comment, as noted later in this report.

- (c) in the case of development for the purpose of a potentially hazardous industry— a preliminary hazard analysis prepared by or on behalf of the applicant, and*

The proponent’s assessment of SEPP 33 identified that the proposed development is not classified as a potentially hazardous industry. No further assessment is considered necessary in this regard.

- (d) any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and*

The proponent has provided an assessment of alternative options for development of the site, concluding that the proposed RRF/WRTS is the most suitable and appropriate land use. The proponent's assessment is concurred with in terms of feasible alternatives.

*(e) any likely future use of the land surrounding the development.*

The land surrounding the development site is largely used for sugar cane production, with the exception of Tweed Shire Council's SCRRF to the south and west of the subject site. Given the flood liability of the surrounding area, it is unlikely that the land use of the sugar cane areas will change in the future. This conclusion is supported by DPI – Agriculture, who note that the site and surrounding area incorporates regionally significant farmland which is highly important for supporting agriculture in the North Coast region.

Council officers are satisfied that proposed development is not a hazardous industry. In terms of being an offensive industry, appropriate assessments have been undertaken by the proponent in terms of developing strategies to manage likely air, noise, vibration and water emission impacts. The EPA has assessed the proposal with regard to such strategies and has issued general terms of approval for the proposed development.

As such, the proposed development is considered to meet the specific provisions of Clause 13 of SEPP 33.

SEPP No. 44 - Koala Habitat Protection

SEPP 44 aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas.

The proponent has undertaken an Environmental Assessment (JWA, June 2015), which concluded that a Koala Plan of Management is not required for the proposed development.

Council officers concurred with the proponent's assessment, noting that there are no Koala Food Trees occurring on site; there was no evidence of a resident koala population on site; and that the subject site did not support Potential Koala Habitat. As such, the provision of Clause 8 of the SEPP (Core Koala Habitat) do not apply and a plan of management is not required.

SEPP No. 55 - Remediation of Land

SEPP 55 aims to promote the remediation of contaminated land for the purposes of reducing risk of harm to human health or any other aspect of the environment.

Clause 7 of the SEPP provides for certain matters that the consent authority must consider and be satisfied with prior to determining the proposed development. Council's assessment against the provisions of Clause 7 of SEPP 55 is noted below.

**7 Contamination and remediation to be considered in determining development application**

- (1) A consent authority must not consent to the carrying out of any development on land unless:
- (a) it has considered whether the land is contaminated, and

The proponent has undertaken a Preliminary Site Investigation assessment (HMC June 2015) against the current and former land uses to determine whether the subject site is contaminated.

- (b) if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and

The Preliminary Site Investigation concluded that the land is not contaminated and is suitable for the proposed development.

- (c) if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose.

The Preliminary Site Investigation concluded that site remediation is not required for the proposed land use.

- (2) Before determining an application for consent to carry out development that would involve a change of use on any of the land specified in subclause (4), the consent authority must consider a report specifying the findings of a preliminary investigation of the land concerned carried out in accordance with the contaminated land planning guidelines.

Given that the subject site incorporates a previous / current land use that is listed in Table 1 of the contaminated land planning guidelines (i.e. extractive industries); an assessment has been undertaken by the proponent. As noted above, the Preliminary Site Investigation report concluded that the land is not contaminated and remediation is not required.

- (3) The applicant for development consent must carry out the investigation required by subclause (2) and must provide a report on it to the consent authority. The consent authority may require the applicant to carry out, and provide a report on, a detailed investigation (as referred to in the contaminated land planning guidelines) if it considers that the findings of the preliminary investigation warrant such an investigation.

Council officers are satisfied with the investigation undertaken and the conclusions made within the Preliminary Site Investigation report. No further information or investigation was required in this regard.

- (4) *The land concerned is:*
- (a) *land that is within an investigation area,*
  - (b) *land on which development for a purpose referred to in Table 1 to the contaminated land planning guidelines is being, or is known to have been, carried out,*
  - (c) *to the extent to which it is proposed to carry out development on it for residential, educational, recreational or child care purposes, or for the purposes of a hospital—land:*
    - (i) *in relation to which there is no knowledge (or incomplete knowledge) as to whether development for a purpose referred to in Table 1 to the contaminated land planning guidelines has been carried out, and*
    - (ii) *on which it would have been lawful to carry out such development during any period in respect of which there is no knowledge (or incomplete knowledge).*

Council officers are satisfied that the proponent's Preliminary Site Investigation was carried out generally in accordance with the Contaminated Land Management Act 1997 and the proposed development is considered to meet the specific provisions of Clause 7 of SEPP 55.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

The Mining, Petroleum Production and Extractive Industries SEPP aims to:

- (a) *to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and*
- (b) *to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and*
- (c) *to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources, and*
- (d) *to establish a gateway assessment process for certain mining and petroleum (oil and gas) development:*

- (i) *to recognise the importance of agricultural resources, and*
- (ii) *to ensure protection of strategic agricultural land and water resources, and*
- (iii) *to ensure a balanced use of land by potentially competing industries, and*
- (iv) *to provide for the sustainable growth of mining, petroleum and agricultural industries.*

Clauses 13 to 17 of the SEPP are applicable to the proposed development in terms of the extractive industry component of the development. These clauses provide for certain matters that the consent authority must consider and be satisfied with prior to determining the proposed development. Council's assessment against the provisions of each clause is noted below.

**13 *Compatibility of proposed development with mining, petroleum production or extractive industry***

- (1) *This clause applies to an application for consent for development on land that is, immediately before the application is determined:*
  - (a) *in the vicinity of an existing mine, petroleum production facility or extractive industry, or*

The subject site incorporates an existing extractive industry (O'Keefe's Quarry No. 1) and is approximately 700m north west of the O'Keefe's Quarry No. 2. As such, Clause 13 is applicable to the proposed development.

- (b) *identified on a map (being a map that is approved and signed by the Minister and copies of which are deposited in the head office of the Department and publicly available on the Department's website) as being the location of State or regionally significant resources of minerals, petroleum or extractive materials, or*

*Note. At the commencement of this Policy, no land was identified as referred to in paragraph (b).*

Not applicable to the proposed development – there is no map showing the location of the site as a location of State or regional significant resources of extractive materials.

- (c) *identified by an environmental planning instrument as being the location of significant resources of minerals, petroleum or extractive materials.*

Not applicable to the proposed development – the subject site is not identified in any environmental planning instrument as being a location of extractive materials.

(2) *Before determining an application to which this clause applies, the consent authority must:*

(a) *consider:*

(i) *the existing uses and approved uses of land in the vicinity of the development, and*

The surrounding area incorporates three main land uses: sugar cane production to the north and east of the site; Tweed Shire Council's SCRRF exists to the south and west; and the O'Keefe's Quarry No. 2 to the north west of the subject site.

(ii) *whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and*

It is not considered likely that the proposed development will have a significant impact upon the current or future extraction. The proposal includes the increased extraction of the existing quarry, which will provide a footprint for the proposed RRF / WRTS on the hard rock quarry floor once extraction has been completed in that area of the site. The proposed development will not impact upon the existing access to the nearby O'Keefe's Quarry No 2.

(iii) *any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery, and*

As noted, existing and approved uses include sugar cane production, Council's SCRRF and extractive industry at O'Keefe's Quarry No. 2. The proposed development is not considered to be incompatible with any of these uses.

(b) *evaluate and compare the respective public benefits of the development and the uses, extraction and recovery referred to in paragraph (a) (i) and (ii), and*

The proponent has identified significant public benefits including: winnable hard rock quarry material will be extracted and processed more efficiently and promptly; the quarry site will

provide an ideal location for the RRF / WRTS, which will provide significant public benefit by significantly reducing the volume of construction and demolition waste being disposed of unlawfully or going to landfill. Council officers concur with the public benefits noted by the proponent.

- (c) *evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).*

The proponent has proposed a number of mitigation measures to minimise any impact upon the surrounding land uses. In summary, the mitigation measures are considered to be acceptable. Further detail is provided elsewhere in this report. Appropriate conditions of consent have been applied in this regard.

#### **14 Natural resource management and environmental management**

- (1) *Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must 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,*

The proponent has been required by the EPA to undertake a detailed assessment of the proposal in terms of leachate management and stormwater discharge associated with the proposed RRF/WRTS. The proposed design is considered to be acceptable in terms of avoiding/minimising impacts upon the surrounding waterways. Appropriate conditions of consent (including the EPA's General Terms of Approval) have been applied in this regard.

- (b) *that impacts on threatened species and biodiversity, are avoided, or are minimised to the greatest extent practicable,*

The proposed increase in extraction and proposed upgrade of the access road will result in the loss of 54 trees. Council officers have reviewed the proposal in terms of impact on threatened species and biodiversity. Further detail is provided later in this report, including the regeneration and rehabilitation of areas within the subject site as an offset to the loss of the 54 trees. Appropriate conditions of consent have been applied in this regard.

- (c) *that greenhouse gas emissions are minimised to the greatest extent practicable.*

The proponent has noted that the scale and nature of the operation is such that given that quarrying is of such a short term nature only, long term greenhouse gas emissions would be limited to plant and equipment used as part of the RRF/WRTS. Appropriate conditions of consent have been applied to minimise gas emissions to the greatest extent possible.

- (2) *Without limiting subclause (1), in determining a development application for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider an assessment of the greenhouse gas emissions (including downstream emissions) of the development, and must do so having regard to any applicable State or national policies, programs or guidelines concerning greenhouse gas emissions.*

The proponent has undertaken an assessment of the proposed increase in extractive industries, noting the following:

*“In summary, existing hard rock quarry operations utilise the following major plant:*

- *1 x 20 – 50 tonne excavators & attachments including a hammer and ripper*
- *1 x 25 – 35 tonne loader*
- *30 - 80 tonne bulldozers*
- *Crushers*
- *Screening plants*
- *Haulage trucks*

*The plant results in greenhouse emissions and these emissions will continue until the economic hard rock gravel resource of approximately 41,000m<sup>3</sup> (102,500 tonnes) is removed.*

*At the current allowable rate of extraction (15,000 tonnes per annum), it will be approximately 7 years before extraction is completed.*

*In part these greenhouse emissions would have occurred regardless of the current development proposal. By intensifying the rate of extraction and processing, which includes the use of additional equipment (crushing/screening) it is expected that quarrying operations will be reduced to less than 5 years. In addition, a better quality product will be produced. In this context, significant changes in greenhouse emissions are not expected and will be limited to approximately 5 years.*

*The plant and equipment to be used in the RRF/WRTS will also generate greenhouse emissions during the life of the project. The NSW Environment, Climate Change & Water document “Environmental benefits of recycling” (see Appendix 24) addresses greenhouse gases in waste recycling. Specifically, “The aim of the Environmental Benefits of Recycling (EBR) Study (October 2009) is to develop tangible measures to express the environmental benefits associated with the recycling of various materials.*

*It measures the estimated energy, water, greenhouse gas and landfill savings of recycling programs". EBR states that there is a net greenhouse gases benefit of recycling of metals, asphalt, bricks, concrete, plasterboard, cardboard, timber pallets & packaging, garden organics, glass & plastics. The EBR clearly supports that the proposed development will likely have a net greenhouse gas benefit".*

Council officers are satisfied with the proponent's greenhouse gas emissions assessment and concur that the proposed development will likely have a net greenhouse gas benefit.

- (3) *Without limiting subclause (1), in determining a development application for development for the purposes of mining, the consent authority must consider any certification by the Chief Executive of the Office of Environment and Heritage or the Director-General of the Department of Primary Industries that measures to mitigate or offset the biodiversity impact of the proposed development will be adequate.*

Subclause (3) is not considered to be applicable to the proposed development, but it is noted that advice from OEH in terms of biodiversity offsets have been taken into consideration and applied appropriately to the proposed development.

## **15 Resource recovery**

- (1) *Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider the efficiency or otherwise of the development in terms of resource recovery.*

The proponent has noted that the proposed intensification of the rate of extraction of hard rock material will improve the efficiency of operations and create a site with an end use which is appropriate and sustainable, being the RRF/WRTS. Council officers concur with the proponents assessment in this regard.

- (2) *Before granting consent for the development, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at optimising the efficiency of resource recovery and the reuse or recycling of material.*

It is considered that the design and operation of the proposed increased extraction rates will optimise the efficiency of the resource recovery process. It is not considered necessary to apply any specific conditions of consent in this regard.

- (3) *The consent authority may refuse to grant consent to development if it is not satisfied that the development will be carried out in such a way as to optimise*

*the efficiency of recovery of minerals, petroleum or extractive materials and to minimise the creation of waste in association with the extraction, recovery or processing of minerals, petroleum or extractive materials.*

The proposed development is considered to be satisfactory in terms of optimising the efficiency of the recovery of extractive materials and minimising the creation of waste. Any waste created by the extractive industry can be processed / recycled as part of the proposed RRF.

## **16 Transport**

(1) *Before granting consent for development for the purposes of mining or extractive industry that involves the transport of materials, the consent authority must consider whether or not the consent should be issued subject to conditions that do any one or more of the following:*

(a) *require that some or all of the transport of materials in connection with the development is not to be by public road,*

Access to the site is limited, as such the transport of material to and from the subject site must be by the public road network.

(b) *limit or preclude truck movements, in connection with the development, that occur on roads in residential areas or on roads near to schools,*

Limiting/precluding truck movements is not considered necessary as the access route to the site (off Tweed Valley Way) does not occur in residential areas or near schools.

(c) *require the preparation and implementation, in relation to the development, of a code of conduct relating to the transport of materials on public roads.*

The RMS provided comment on the proposed development, recommending that the consent authority request a Code of Conduct relating to the transport of materials on public roads. Further details in this regard are noted later in this report. The proponent advised that they were amenable to a condition of consent requiring a Code of Conduct to be prepared and approved prior to commencement of operations for the development. An appropriate condition of consent has been applied to this effect.

(2) *If the consent authority considers that the development involves the transport of materials on a public road, the consent authority must, within 7 days after receiving the development application, provide a copy of the application to:*

- (a) *each roads authority for the road, and*
- (b) *the Roads and Traffic Authority (if it is not a roads authority for the road).*

*Note. Section 7 of the Roads Act 1993 specifies who the roads authority is for different types of roads. Some roads have more than one roads authority.*

The application was referred to the RMS for consideration, as required by the Infrastructure SEPP.

(3) *The consent authority:*

- (a) *must not determine the application until it has taken into consideration any submissions that it receives in response from any roads authority or the Roads and Traffic Authority within 21 days after they were provided with a copy of the application, and*
- (b) *must provide them with a copy of the determination.*

As noted above, the RMS has provided advice on the proposed development, with particular regard to the preparation of a Code of Conduct. A copy of the determination will be provided to the RMS.

(4) *In circumstances where the consent authority is a roads authority for a public road to which subclause (2) applies, the references in subclauses (2) and (3) to a roads authority for that road do not include the consent authority.*

Noted.

## **17 Rehabilitation**

(1) *Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must 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.*

Given that the end use of the hard rock quarry site is an RRF / WRTS, the proponent has suggested that rehabilitation of the land would not be required, noting that appropriate offset plantings and landscape planting is proposed to minimise visual impact and offset

removal of existing native vegetation. Council officers concur with the proponent in that rehabilitation of the quarry site is not warranted. Appropriate conditions of consent have been applied with regard to offsetting requirements.

(2) *In particular, the consent authority must consider whether conditions of the consent should:*

(a) *require the preparation of a plan that identifies the proposed end use and landform of the land once rehabilitated, or*

The proposed end use of the site is the RRF / WRTS. Appropriate plans have been prepared in this regard. No further plans are considered necessary, other than details required by conditions of consent.

(b) *require waste generated by the development or the rehabilitation to be dealt with appropriately, or*

Given the proposed end use of the development site, it is considered that appropriate conditions of consent are in place with regard to waste generation.

(c) *require any soil contaminated as a result of the development to be remediated in accordance with relevant guidelines (including guidelines under section 145C of the Act and the Contaminated Land Management Act 1997), or*

As noted earlier in this report, the proponent's SEPP 55 assessment concluded that remediation of the site was not required for the proposed use of the land as an RRF / WRTS. No further assessment in this regard is considered necessary.

(d) *require steps to be taken to ensure that the state of the land, while being rehabilitated and at the completion of the rehabilitation, does not jeopardize public safety.*

As noted above, rehabilitation of the quarry site is not considered necessary given the proposed end use as an RRF/WRTS.

In summary, the proposed development is considered to meet the specific provisions of Clause 13 to 17 of the Mining, Petroleum Production and Extractive Industries SEPP.

## SEPP (Infrastructure) 2007

The Infrastructure SEPP (ISEPP) aims to identify the environmental assessment category of different types of development and identify matters to be considered in the assessment process.

Clause 104 of the ISEPP provides for certain matters relating to traffic generating development that the consent authority must consider and be satisfied with prior to determining the proposed development. Council's assessment against the provisions of Clause 104 of the ISEPP is noted below.

### **104 Traffic-generating development**

(1) *This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves:*

(a) *new premises of the relevant size or capacity, or*

The proposed WRTS is a land use specified in Column 1 of Schedule 3 of the ISEPP.

(b) *an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*

Not applicable to the proposed development.

(2) *In this clause, relevant size or capacity means:*

(a) *in relation to development on a site that has direct vehicular or pedestrian access to any road—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*

Column 2 of the Schedule 3 refers to waste transfer stations of any size or capacity. As such, clause 104 applies to the proposed development.

(b) *in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.*

Not applicable to the proposed development.

(3) *Before determining a development application for development to which this clause applies, the consent authority must:*

(a) *give written notice of the application to the RTA within 7 days after the application is made, and*

As noted above, the application was referred to the RMS for consideration.

(b) *take into consideration:*

(i) *any submission that the RTA provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, the RTA advises that it will not be making a submission), and*

The RMS has provided advice on the proposed development, with particular regard to the preparation of a Code of Conduct. Appropriate conditions of consent have been applied in this regard.

(ii) *the accessibility of the site concerned, including:*

(A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*

Accessibility of the site is considered to be satisfactory. The proposed development incorporates an upgrade of the access road, which will provide for the efficient movement of people and freight from the site.

(B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*

As noted above, access to the subject site is limited to public road only. Movement of freight by rail to the site is not available.

(iii) *any potential traffic safety, road congestion or parking implications of the development.*

The proponent has prepared a Traffic Impact Assessment, which concludes that the proposed development does not introduce any traffic or transport impacts that would preclude its approval. Subject to conditions of consent, Council officers concur with this conclusion.

- (4) *The consent authority must give the RTA a copy of the determination of the application within 7 days after the determination is made.*

A copy of the determination will be provided to the RMS.

It is considered that the proposed development meets the specific provisions of Clause 104 of ISEPP.

**Clause 121** of the ISEPP provides for certain waste or resource management facilities to be permitted with consent. The proposed development meets the provisions of:

- Clause 121(1) being a resource management facility in a prescribed zone RU1 – Primary Production;
- Clause 121(2) being a resource transfer station in a prescribed zone RU1 – Primary Production; and
- Clause 121(3) being development for the purpose of the recycling of construction and demolition material on land which extractive industries may be carried out with consent under any environmental planning instrument (TLEP 2014 - extractive industries are permissible with consent in the RU1 zone. Mining, Petroleum, Production & Extractive Industries SEPP – extractive industries are permissible with consent).

**Clause 123** is not considered to apply to the proposed development. This clause is only applicable to construction, operation or maintenance of a landfill site for the disposal of waste, including putrescible waste. The applicant has stated that putrescible waste will not be accepted at the RRF/WRTS and will need to be taken to the adjoining SCRRF.

#### SEPP (State and Regional Development) 2011

Clause 23 of Schedule 1 of the State & Regional Development SEPP sets out criteria for certain waste and resource management facilities that trigger state significant development.

The proposed development does not meet the thresholds of Clause 23 of Schedule. As such, it is not considered to be state significant development and the JRPP is the determining authority.

(a) (ii) **The Provisions of any Draft Environmental Planning Instruments**

Draft State Environmental Planning Policy (Coastal Management) 2016

The draft Coastal Management SEPP relates to areas of land comprised of the following coastal management areas:

- (a) *the coastal wetlands and littoral rainforests area,*
- (b) *the coastal vulnerability area,*
- (c) *the coastal environment area,*
- (d) *the coastal use area.*

Part of the subject site is located within the *Coastal Use Area* map associated with the draft SEPP (refer to Figure 7 below). As such, the SEPP applies and the consent authority is required to have regard for the proposed development against the provisions of clause 15 and 16 of the draft SEPP.



**Figure 7 – Coast Use Mapping (shown in orange)**

**15 Development on land within the coastal use area**

*Development consent must not be granted to development on land that is wholly or partly within the coastal use area unless the consent authority:*

- (a) *is satisfied that the proposed development:*

*(i) if near a foreshore, beach, headland or rock platform—maintains or, where practicable, improves existing, safe public access to and along the foreshore, beach, headland or rock platform, and*

The subject site is located approximately 8kms from the beaches and foreshore areas to the east.

*(ii) minimises overshadowing, wind funnelling and the loss of views from public places to foreshores, and*

The proposed development will have no impact upon existing views from public places to the foreshore.

*(iii) will not adversely impact on the visual amenity and scenic qualities of the coast, including coastal headlands, and*

The proposed development is not considered to have any adverse impact upon the visual amenity and scenic qualities of the coast.

*(iv) will not adversely impact on Aboriginal cultural heritage and places, and*

Cultural Heritage matters have been addressed elsewhere in this report. Appropriate conditions of consent have been applied in this regard.

*(v) will not adversely impact on use of the surf zone, and*

Being located approximately 8kms from the coast, it is not considered that the proposed development will have any impact upon the surf zone.

*(b) has taken into account the type and location of the proposed development, and the bulk, scale and size of the proposed development.*

Appropriate conditions of consent have been applied to mitigate any potential impacts on the surrounding environment arising from the proposed development. The type, location,

bulk, size and scale of the proposed development is considered to be suitable for the subject site.

**16    *Development in coastal zone generally—development not to increase risk of coastal hazards***

- (1)    *Development consent must not be granted to development on land within the coastal zone (other than land to which clause 13 applies) unless the consent authority is satisfied that the proposed development is not likely to cause increased risk of coastal hazards on that land or other land.*

Council officers are satisfied that appropriate conditions of consent have been applied to ensure that the proposed development is not likely to cause an increased risk of coastal hazards on the subject site or surrounding locality.

Although the draft SEPP is not imminent or certain of being adopted in the very near future, Council officers are satisfied the proposed development meets the provisions of the SEPP.

**(a)    (iii)    Development Control Plan (DCP)**

Tweed Development Control Plan

A2 - Site Access and Parking Code

The application is supported by a Traffic Impact Assessment (*Bitzios Consulting, June 2015*). The assessment addresses: traffic generation; intersection analysis; swept path analysis for articulated vehicle into and within the subject site; and parking requirements.

Council officers have reviewed the Traffic Impact Assessment, noting the requirement to upgrade the intersection of the site access road and Bartletts Road in order to ensure turning paths and passing movements are completed safely. An aerial photo of the existing intersection is shown below in Figure 8.



assessed as suitable in their current form without upgrading required. Council officers concur with this assessment.

The proposed development incorporates nine parking spaces near the site shed. This is considered to be adequate for the five staff and development traffic (which will generally be trucks). The internal road and access is considered to adequately cater for the various types of large vehicles which are likely to service the site. The hard stand area within the site is considered to provide sufficient internal queueing and manoeuvrability for trucks.

An appropriate condition has been applied with regard to the intersection upgrade of the site access road and Bartletts Road.

The proposed development is considered to comply with the provisions Section A2 of the DCP.

#### A3 - Development of Flood Liable Land

The EIS includes a Civil Engineering Report (*Cozens Regan Williams Prove, June 2015*), which incorporates a flooding assessment. The assessment notes the following:

*“a portion of the site is located in a “Low Flow Area”. The proposed site reshaping will result in a loss of the low flow flood area in the order of 1,046m<sup>2</sup>. This loss is within the allowable flood prone land filling provided under the provisions of the “Tweed Valley Flood Plain Risk Management Plan”, which allows loss of low flow area of up to 1% of the total Low Flow area, without assessing cumulative impacts”.*

Council officers have undertaken a review of the proposal against the provisions Section A3. The proposed filling of the lower areas of the development site are considered to be acceptable in that the volume of fill does not exceed that allowed within the low flow area.

Given that the majority of the proposed development will be above the design flood level and appropriate flood free storage areas will be available for stock and equipment susceptible to water damage, the proposed development is considered to comply with the provisions of Section A3 of the DCP, subject to conditions of consent.

#### A11 - Public Notification of Development Proposals

The proposed development was advertised on two separate occasions, as per the requirements of the EP&A Act for Designated Development.

A total of five submissions from surrounding residences and local companies in the construction / demolition business were received, all in favour of the proposed development.

#### A13 - Socio-Economic Impact Assessment

Section A13 requires a socio-economic assessment to accompany any application that is Designated Development. The proposed development is supported by a Socio-Economic Impact Assessment (*Darryl Anderson Consulting, June 2015*). The assessment has identified likely economic impacts (such as the creation of five full time employment positions), as well as an analysis of impacts resulting from the development. The report concludes that the

proposal will result in positive socio-economic outcomes. Council officers concur with the conclusions of the report and the proposed is considered to comply with the provisions of Section A13 of the DCP.

#### A15 - Waste Minimisation and Management

The proponent's EIS acknowledges that all applications for development (with the exception of minor development) must be accompanied by a Waste Management Plan WMP).

The EIS notes that given that the principal purpose of the development is to process and recycle construction and demolition waste and green waste, it is not expected that the development itself will generate significant volumes of waste. Putrescible waste will be collected in bins and disposed of at the adjacent SCRRF. Material suitable for recycling such as cardboard, plastic bottles, aluminium cans and the like will be stored in separate bins and recycled via the SCRRF. Any construction waste generated by onsite construction will be stored and processed onsite and then recycled.

Council officers have reviewed the application from a waste management perspective, noting that *"...waste processing activities need to be controlled for waste, dust, leachate, odour and vectors. These are generally regulated by way of an Environmental Protection Licence"*, which is issued by the EPA.

The proposed development is considered to comply with the provisions Section A15 of the DCP.

#### A16 - Preservation of Trees or Vegetation

As noted above, the proposed development will involve the removal of 54 mature native trees. This matter is discussed in detail later in the report. Council officers have reviewed the application with respect to Section A16, with it being determined that subject to the provision of appropriate conditions of consent, the development is acceptable from an ecological perspective. Therefore, the proposal is considered to comply with Section A16 of the DCP.

### **(a) (iv) Any Matters Prescribed by the Regulations**

#### Clause 92(a) Government Coastal Policy

The subject site is not located within the coastal zone and as such, the provisions of the Government Coastal Policy do not apply to the proposed development.

#### Clause 92(b) Applications for demolition

There is no demolition proposed as part of this application.

#### Clause 93 Fire Safety Considerations

Clause 93 of the Regulations is not applicable to the proposed development.

Clause 94 Buildings to be upgraded

Clause 94 of the Regulations is not applicable to the proposed development.

**(a) (v) Any coastal zone management plan (within the meaning of the *Coastal Protection Act 1979*)**

Tweed Shire Coastline Management Plan 2005

This Plan applies to the Shire's 37 kilometre coastline and has a landward boundary that includes all lands likely to be impacted by coastline hazards plus relevant Crown lands. This Plan does not apply to the subject site.

Tweed Coast Estuaries Management Plan 2004

This Plan applies to the Cudgen Creek and Cudgen Lake, Cudgera Creek and Mooball Creek systems and does not apply to the subject site.

Coastal zone Management Plan for Cobaki and Terranora Broadwater (adopted by Council at the 15 February 2011 meeting)

This Plan applies to the Cobaki and Terranora Broadwater and does not apply to the subject site.

**(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality**

Waste Management

The proposed RFF facility will accept pre classified 'General Solid Waste (non-putrescible)'. As noted previously, the following products will be accepted at the site:

- *Building and demolition waste, wood waste, asphalt;*
- *Concrete, bricks, tiles, sand, soil, ceramics, rock, asphalt and gravel;*
- *Virgin Excavated Natural material (VENM), Excavated Natural material (ENM), sand and soil; and*
- *Greenwaste, garden waste and wood waste.*

The site will not accept the following types of waste which potentially pose higher environmental risk:

- *Municipal putrescible wastes;*

- *Biosolids; and*
- *Farm wastes such as spent litter or manures.*

The EPA has issued GTA's with regard to waste, limiting the type of waste product that may be received at the site. The GTA's also limit the total amount of waste to be received per year (50,000 tonnes) and the maximum amount of waste permitted on the premises at any one time (10,000 tonnes).

A condition of consent will require the preparation of an Operational Management Plan for each stage of the development. The plan will fully detail the onsite waste management practices and lawful disposal pathway for wastes.

#### Amenity - Noise

The operation of the proposed development is likely to create noise emissions. In this regard, the proponent has submitted an Environmental Noise Impact Statement (*CRG Acoustics, June 2015*), which incorporated noise prediction modelling to determine likely quarry activity noise impacts at the nearest affected sensitive receivers. The assessment also included the effect from increased vehicle movements associated with the proposed RRF / WRTS.

The modelling assumptions applied in the assessment included the following noise attenuation measures for future operations:

- *Hours of operation;*
- *Earth Mound / bunding; and*
- *Management controls (including a noise management plan).*

The noise assessment concluded that there was only one exceedance in modelled noise emissions (relating to crushing activities) for amenity or intrusive noise criteria, and that the predicted noise levels would be acceptable.

Council officers undertook a review of the proposed development with regard to noise impact. No objections were raised, subject to the inclusion of a condition of consent relating to the recommendations of the Noise Impact Statement.

The EPA has also issued General Terms of Approval (GTA's) which incorporate noise limit restrictions.

#### Amenity - Vibrations

The operation of the proposed development is likely to create vibrations. In this regard, the proponent has submitted an Assessment of Vibration Emissions (*SLR Global Environmental Solutions, June 2015*), which assessed the proposed development against relevant guidelines. The assessment included the properties surrounding the subject site potentially affected by future operations.

The assessment concluded that the level of vibration associated with proposed activities will be below both the human response and the building cosmetic damage vibration criteria.

Council officers undertook a review of the proposed development with regard to vibration impact. No objections were raised, subject to the inclusion of a condition of consent requiring vibration levels to be in accordance with acceptable vibration dose values required by the EPA's *Assessing Vibration: A Technical Guideline*.

The EPA is satisfied with Council's approach in this regard. No specific concerns are raised in terms of vibration by the EPA and no specific conditions have been applied to their GTA's.

#### Air Quality - Dust

The operation of the proposed development is likely to create dust. In this regard, the proponent has submitted an Air-Quality Impact Assessment (*Airlabs Environmental, June 2015*), which assessed and modelled potential impact for six nearby residences.

The report concluded that in order to comply with dust emissions criteria the following dust mitigation measures would be required:

- *Application of water sprays on crusher and screeners to achieve a minimum 50% control efficiency;*
- *Level 2 watering of at least >2l/m<sup>2</sup>/hr will be required on unpaved roads to achieve a minimum 75% control efficiency; and*
- *Application of water sprays on raw and product stockpiles to achieve a minimum 50% control efficiency.*

Council officers undertook a review of the proposed development with regard to dust impact. No objections were raised, subject to the inclusion of conditions of consent relating to the recommendations of the air quality assessment and dust monitoring requirements.

The EPA has also issued GTA's which incorporate dust restrictions.

#### Air Quality - Odour

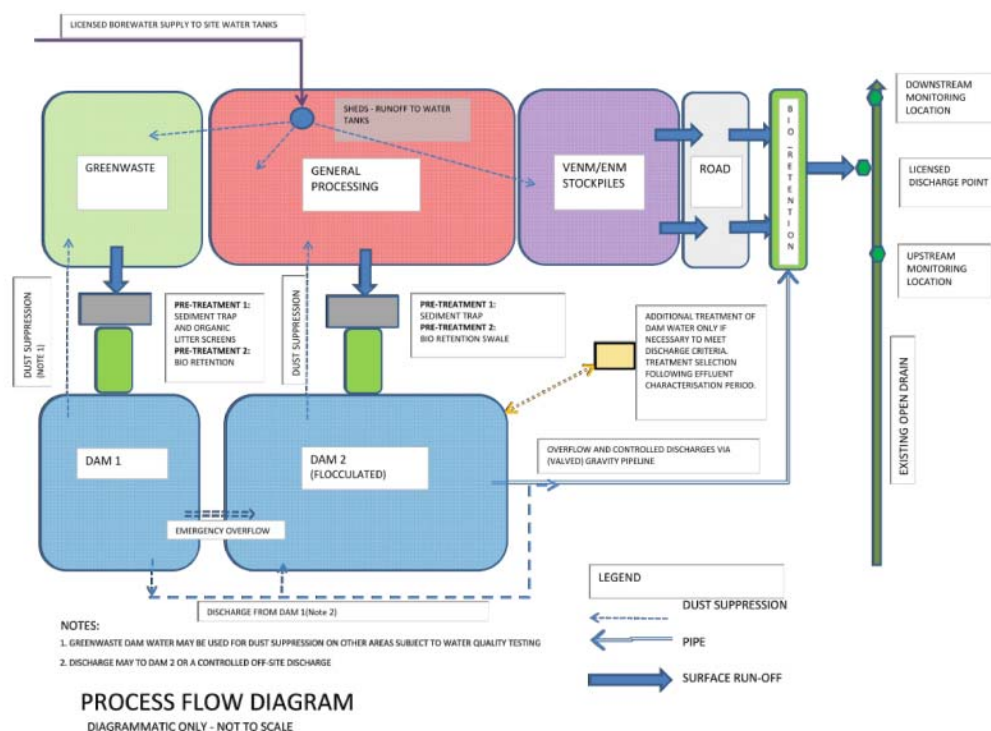
In addition to the abovementioned dust impact, the operation of the proposed RRF / WRTS is likely to create odour emissions. The proponent's Air-Quality Impact Assessment (*Airlabs Environmental, June 2015*), also incorporated an assessment of the proposal (specifically in relation to green waste) as a potential odour producing activity.

The report concluded that the proposed waste being collected at the development site (soils, timber, garden trimmings etc) are generally not classified as putrescible wastes. The report noted that the non-putrescible wastes are generally low-odour producing and concluded that further odour assessment was not required.

Council officers undertook a review of the proposed development with regard to odour impact. The conclusions of the Air Quality report were concurred with. No objections were raised, subject to the inclusion of a standard condition of consent with regard to the ongoing use of the site not resulting in odours that would affect the amenity of the locality.

#### Stormwater

The latest design for the proposed development was the result of a detailed assessment of the facility, with particular regard to the surface water management (refer to Figure 10 below). The revised stormwater design took into consideration the requirements of the EPA.



**Figure 10 – Flow Diagram relating to Management of Water on site**

The NSW Environmental Protection Agency (EPA) has reviewed the proposed development in terms of leachate management and stormwater discharge. Following a number of amendments in this regard, the EPA has provided GTA's for the proposal.

The EPA's assessment also noted a number of environmental issues that Council may wish to consider in its overall assessment:

1. *Condition L1.2 requires that all water that is in contact with waste materials be directed into an appropriate treatment dam/storage within the premises. To meet the requirements of this condition this could require some minor change to finished surface levels and or filling plans.*
2. *The general terms of approval are issued with consideration to a leachate characterisation program that will be conducted during the operation of a licence. Once the leachate has been appropriately classified it is a possibility that further infrastructure (such as leachate storage or capture) may be necessary to comply with licencing obligations.*

With regard to the EPA's first item, it is noted that this relates to the VENM, ENM, sand and soil stockpile. The EPA have verbally advised that the design of this stockpile area will not necessarily require a new dam or change in grade.

As noted in Item 2 above, the leachate characterisation program may result in the need for further infrastructure to be incorporated into the RRF / WRTS development site. This would likely require an amendment to any approval associated with this application.

The Department of Primary Industries (DPI) Water also reviewed the proposed development, providing the following advice in terms of stormwater:

*“The EIS outlines a number of stormwater management measures for the capture and treatment of stormwater including water recycling ponds, rainwater harvesting tanks and bio-retention swales. Once adequately treated, the stormwater will be directed to a lawful point of discharge which has been identified as an unlined open drain which traverses along the north eastern boundary of the site. DPI Water recommends all stormwater must be adequately treated prior to discharge to minimise potential impacts on surface water and groundwater in the locality”.*

Council officers have assessed the proposed development in terms of stormwater drainage, noting that the lawful point of discharge is the existing open drain which traverses the north east boundary of the development site. As shown in the Flow Diagram above, any stormwater from the site is proposed to be directed to and treated by a series of stormwater treatment devices, prior to discharge from site.

The EPA has identified two points on the site for monitoring and setting of limits for discharges of pollutants to water. The GTA's set concentration limits of pollutants (oil / grease, suspended solids and pH levels). The discharge of stormwater into the open drain will not be permitted unless the water is within the set limits. Appropriate GTA's have been issued by the EPA with regard to monitoring requirements.

To ensure downstream water quality and aquatic values not directly negatively affected by the proposed development, Council officers are also seeking a high quality revegetation outcome along the length of the waterway within the development site. Accordingly, a condition of consent has been imposed requiring the riparian buffer to be densely vegetated in accordance with a detailed landscape plan.

#### Erosion & Sediment Control

DPI Water also provided advice on the proposed development with regard to erosion and sediment control measures, noting the following:

*“The EIS outlines the potential of groundwater and surface water contamination through the mobilisation of sediments, nutrients and gross pollutants and infiltration of dissolved sediments. There are a number of control measures proposed for the site to minimise erosion. It is considered the installation of appropriate erosion and sediment control measures as outlined in the erosion and sediment control plan included in the EIS will aid in minimising any potential impacts on groundwater and surface water resources”.*

Council officers have also reviewed the proposal in this regard, applying applicable conditions of consent.

#### Flooding

The proponent submitted a Civil Engineering Report (*Cozens Regan Williams Prove, June 2015*), which incorporates a flooding assessment. The assessment noted that the subject site is flood prone and that a portion of the site is located in a Low Flow Area. As noted

above, the proposal incorporates the filling of some areas of the development site, compliant with the requirements of Council's DCP Section A3 for Low Flow Areas.

The proposed development was reviewed by the NSW Office of Environment & Heritage, who provided the following advice:

"Flooding

- i. *The recovery material pads are to be filled above the 1% AEP flood level to minimise the risk of material being washed into the receiving waters."*

In response to the OEH flooding comment, the proponent provided the following response on 9 October 2015:

*"As indicated in Section 7.4.2 of the EIS, to comply with Tweed Shire Council's Policy concerning development of flood prone land, only 1945m<sup>2</sup> of the site can be filled and therefore the processed recycled material stockpiles (predominantly of heavy materials being road base, drainage aggregates, etc.) has been limited to approximately RL 3.2m to RL 3.4m AHD to achieve compliance. The design flood level (1% AEP) for the subject site is RL 3.7m AHD. The 5% AEP at Stotts Island is RL 2.7m AHD (TSC, Bruce Chick Conservation Park, Draft Plan of Management, Undated) and it is estimated that this would also be the 5% AEP level at the development site.*

*On this basis, it is estimated that the stockpiles will be at the approximate 2% AEP (ie. 1:50 year flood level). Given that the recycled stockpiled material (road base, drainage aggregates, etc.) will be processed and heavy material is unlikely to float or wash away, it is considered that the proposed stockpile levels are reasonable in the circumstances. Unprocessed materials or recycled materials that have the potential to float (eg. timber and plastic) will be stored in areas above RL 3.7m AHD.*

*In addition, the volume of water in the floodplain in the 1:50 year event and the amount of debris would be so significant that the impact of any additional processed material from the stockpile area would be negligible".*

Council officers have undertaken an assessment of the proposed development in terms of potential flooding impacts. In general, it is considered that the Stormwater Management philosophy as outlined in the SLR reporting which utilises a covered green waste processing and storage shed and two treatment dams before discharge into the adjacent agricultural drains is acceptable.

The following flooding comments were noted:

*"The majority of the operational and processing components of the facility is above the Design Flood Level of RL 3.7m AHD. There is a nominated Sand / Soil Stockpile designated area that is located on the lower region of the facility ranging in level from RL 3m AHD to RL 3.7m AHD approximately. The lower part of the regions is slightly above the regional 5% Annual Exceedance Probability flood event (was previously*

*referred to as the 20 Year Average Recurrence Interval event). The nominated stockpile area is elevated approximately 1.5 to 2m above the surrounding agricultural cane lands. Given that the processed soil/sand is fairly benign in respect to contaminants I am comfortable with the proposed flood immunity as proposed, even though it is below the Design Flood Level.*

*The nominated stockpile region is located on a side slope of less than 5% which is acceptable. However the region will drain towards the adjacent internal access roadway with runoff collected and in a perimeter bio retention swale before discharge into the neighbouring cane lands”.*

Appropriate conditions of consent have been applied with regard to flooding.

### Flora and Fauna

The proponent has identified that the subject site contains five vegetation communities, as well as a number of fauna species. The original application was supported by an Ecological Assessment (*JWA Ecological Consultants, June 2015*), which addressed the potential impact of the proposed development (including the loss of 52 mature native trees) and proposed amelioration measures to address potential impact.

The proposed development was reviewed by the NSW Office of Environment & Heritage (OEH), who provided the following advice:

#### “Biodiversity

- i. Council consider the ‘avoid mitigate and offset’ approach, particularly in relation to the hollow bearing trees;*
- ii. Council should satisfy itself that an appropriate offset is provided for the proposed biodiversity impacts of the proposal; and*
- iii. If nest boxes are to be used, a nest box plan should be developed to ensure the nest boxes are being maintained and used for their intended purpose.”*

In addition to the abovementioned OEH comments, Council officers undertook a detailed ecological assessment of the proposed development, raising concerns with regard to:

- The accuracy of tree survey data;
- Offsetting principles and methodology adopted by the proponent to compensate for the loss of remnant vegetation;
- Loss of hollow bearing trees and appropriate mitigation; and
- Restricted waterway buffers.

In response to the OEH and Council’s request for further information in August 2015, the proponent submitted an Amended Ecological Assessment (*JWA Ecological Consultants,*

October 2015), which identified 54 trees would be lost as a result of the proposed development (refer to Figure 11 below).

**Figure 11 – Existing trees to be removed (shown as red circles with cross hatch)**

Amelioration measures proposed by the revised JWA assessment included:

- *The offset of the 54 mature native trees at a ratio of 2:1 over an area of 0.4ha;*
- *On-site rehabilitation of 0.43ha;*
- *A vegetation management and rehabilitation plan;*
- *An 88b Instrument over the offset area to ensure long term protection for conservation purposes;*
- *A fauna management plan, including installation of nest boxes; and*
- *Landscaping.*

Council officers issued a second request for information in December 2015 in relation to the quantum, position and type of ecological offsets, as well as the position of the building for plant/equipment storage.

The proponent provided a response in January 2016, whereby the plant/equipment storage building was removed from the site layout and revised offset plan (refer to Figure 12 below) was submitted for consideration.



**Figure 12 – Location of Revegetation/Rehabilitation Areas**

The assessment of the proponent's Amended Ecological Assessment and offset plan for the proposed development concluded that Council officers were "...satisfied that any adverse ecological impacts likely to be associated with the proposed development can be avoided, minimised and managed to an acceptable level".

As such, the matters raised by OEH are considered satisfied.

Appropriate conditions of consent have been applied, relating to: the long term protection and rehabilitation of a suitable offset area on site; the preparation and implementation of construction/operational based vegetation and fauna management plans; and landscaping of the waterway buffer.

### Hours of Operation

The proponent has noted that the operating hours for the existing quarry are not limited by any development consent; however, as the expanded/intensified extractive operation will involve crushing/screening of material, the proponent's Acoustic Report has proposed to limit operating hours to 6.00am - 6.00pm Monday to Saturday, with no work on public holidays. Blasting is not proposed.

Quarrying operations will be carried out for a limited time (estimated at 5 years) as the economically winnable resource is relatively small. Therefore potential adverse impacts from quarrying operations will not occur for a long period.

The proposed RRF/WRTS will also operate from 6.00am to 6.00pm Monday to Saturday with no work on public holidays.

An appropriate condition of consent has been applied to minimise impact upon the surrounding locality.

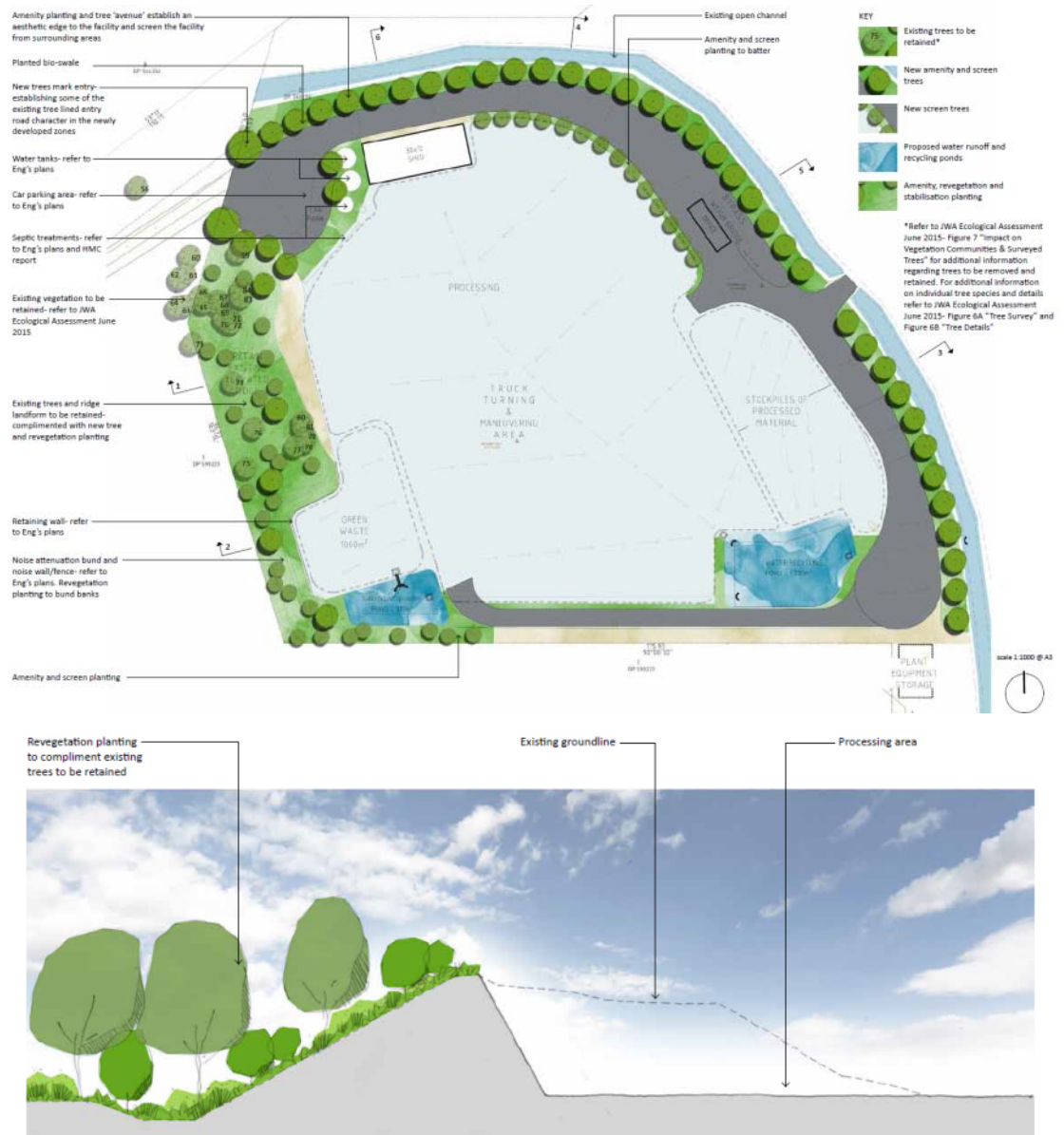
The EPA has also issued GTA's which limits hours of operation associated with the constructions and operation of the proposed development.

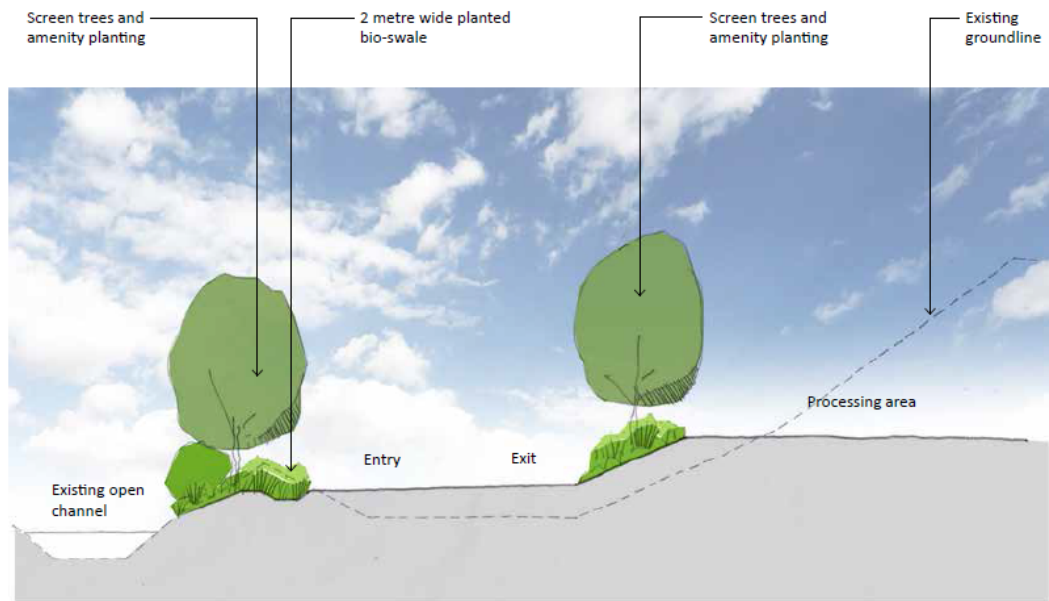
### Visual Impact

As required by the SEAR's, the proponent prepared a Visual Assessment Report (*Interplan Architects, June 2015*), which assessed the potential visual impacts of the proposed development from a pedestrian, neighbourhood and shire wide scale.

The assessment concludes that the proposal will have minimal impact on the existing visual character of the immediate and surrounding area. The proposed landscaping (as shown on Figure 13 below) is likely to improve the existing visual amenity of the site and increase the site's screen from adjoining and surrounding areas.

Given the existing use of the subject site and the limited residential development in the surrounding area, the proposed landscaping is considered to be acceptable in terms of providing additional screening of the site from the surrounding locality. As noted above, conditions of consent have been applied with regard to the detail required for an approved landscaping plan, particularly in relation to the dense plantings along the waterway buffer.



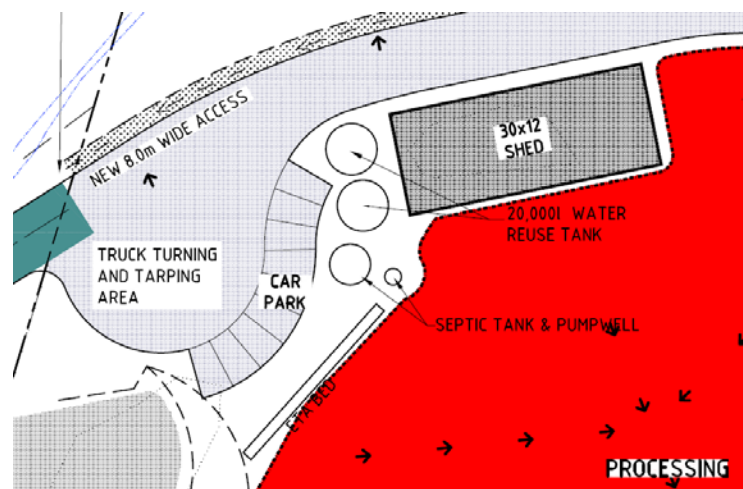


**Figure 13 – Proposed Landscaping**

**(c) Suitability of the site for the development**

**On-Site Sewage Management (OSSM)**

The proposed development involves a Site Shed which incorporates an office, staff room/kitchenette and amenities. The proponent has proposed an on-site sewerage management (OSSM) facility to treat and dispose of waste water. The EIS was supported by an On-site Sewage Management Design Report (*HMC Environmental Consulting, June 2015*), which proposed a 3000L septic tank and 50m<sup>2</sup> evapo-transpiration/absorption (ETA) bed adjacent to the storage shed (as shown in Figure 14 below). The ETA bed would be densely planted with Vetiver grass.



**Figure 14 – Location of the OSSM facility**

Council's initial review raised concerns with the proposed OSSM facility. The proponent was requested to demonstrate that the proposed ETA bed will function as modelled by HMC within the excavated rock material and to provide further detail on vetiver grass performance in the proposed rock substrate environment.

The proponent provided an Addendum to the OSSM Design Report (*HMC Environmental Consulting, September 2015*), providing further detail on the proposed facility, concluding that *"...this approach will provide an acceptable level of environmental impact resulting from the proposed use of the site amenities, subject to the establishment and regular maintenance of dense, vigorously growing Vetiver grass on the surface of the ETA bed"*.

Council officers reviewed the Addendum Report, noting the following:

*"The proposal is dependent on the estimated ET performance of Vetiver grass, and that the grass will constantly and continuously exceed the influent loading on the ETA bed (which is now proposed as an 'ET' bed only).*

*ETA beds work on the basis that evapotranspiration and absorption work together to provide a safe sub-surface disposal option for treated wastewater. Depending on factors which include soil capacity to absorb water, plant vigour, season and rainfall, the 'ET' balances the 'A'. Without absorption into the rock substrate, there might be no 'fail-safe' method for the safe sub-surface disposal.*

*The applicant has not considered contingencies for performance issues which may be encountered with the proposed ET bed, such as: Crop failure; actual ET is less than expected ET; seasonal ET variation; prolonged periods of rainfall - any of which may cause trench failure/ surcharge".*

Accordingly, an appropriate condition of consent has been applied which gives the proponent a 'trial period' of 18 months for the OSSM technology to be verified, and provide an alternate solution should the proposed OSSM fail. Other standard conditions relating to OSSM requirements have been recommended.

### Groundwater

The proposed development was referred to the DPI – Water for review. The following advice was provided:

*"The proposed resource recovery facility, waste transfer station and intensification of the existing quarry is to be located generally within the existing quarry on the elevated hardrock. No void would be created during the quarry operation. Groundwater investigations including the installation of four groundwater monitoring bores and excavation test pits, recorded groundwater in all cases below the proposed maximum depth of excavation. Groundwater would not be intercepted during construction and operations on the proposed development site. Consequently there are no licensing requirements or associated impacts with the take of water.*

*Elevated nutrient and heavy metal parameters were identified in the background sampling events but likely attributed to natural and or surround land use activities. This interpretation is supported.*

*The report concludes with the recommendation for submission of a Groundwater and Surface Water Monitoring Program consistent with any Environmental Protection Licence issued by the NSW EPA.*

*There are no objections or further recommendations required in relation to groundwater”.*

Council officers have reviewed the proposed development in terms of potential impact upon the groundwater. No issues or concerns were raised in this regard.

**(d) Any submissions made in accordance with the Act or Regulations**

As noted above, the proposed development was advertised on two separate occasions, as per the requirements of the EP&A Act for Designated Development.

A total of five submissions from surrounding residences and local companies in the construction / demolition business were received, all in favour of the proposed development.

**Public Authority Submissions**

Environmental Protection Agency (EPA)

As noted earlier in this report, the NSW Environmental Protection Agency (EPA) has undertaken a review of the original and various amendments to the proposed development. Of particular concern has been issues relating to the management of leachate associated with green waste and stormwater discharge from the site.

The proponent has undertaken a number of attempts to satisfy the concerns raised by the EPA, with the most recent amendment proposing: the re-sizing and reconfiguration of the proposed dam sites; minor changes to the pattern of site drainage; the addition of pre-treatment facilities upstream of each dam (to improve water quality before it reaches the dam); and the addition of a second shed to weatherproof receiving of green wastes.

Following a review of the final amendment, the EPA has advised that they have determined that they are “...able to issue a licence for the proposal, subject to a number of conditions. The applicant will need to make a separate application to EPA to obtain this licence”.

The GTA's issued by the EPA have been incorporated into the recommended conditions of consent.

NSW Office of Environment & Heritage (OEH)

The NSW Office of Environment & Heritage (OEH) reviewed the proposed development in an advisory role, raising several issues in relation to Aboriginal cultural heritage, biodiversity and flooding matters. The proponent provided a response to all of the abovementioned matters (as noted earlier in this report), with Council officers satisfied that all matters noted by OEH have been adequately addressed and conditioned appropriately.

#### Department of Primary Industries - Agriculture

The Department of Primary Industries – Agriculture reviewed the proposal, noting that the “...site contains areas of regionally significant farmland that are highly important for supporting agriculture in the North Coast region”.

Whilst it was acknowledged that the proponent’s EIS addressed the majority of issues raised within the DPI Agriculture submission for SEAR’s, the issue of biosecurity (in particular potential for weed and other pest spread to surrounding agricultural lands) was highlighted as a concern. Biosecurity is seen as an important consideration, given that agriculture has been identified as a potential customer of the green/wood waste recycled products.

The proponent was directed to DPI’s website for information relating to the treatment and transport of host plant material or other items originating from within NSW.

With respect to the *Banana bunch top virus*, the proponent noted that banana waste will not be accepted at the proposed facility and would accept a condition of consent to this effect. In terms of weed management, the proponent acknowledged that a Weed Management Plan would be required prior to the commencement of operations of the waste management facility, proposing that a condition be applied to this effect.

#### Department of Primary Industries - Water

The Department of Primary Industries – Water reviewed the proposal and provided comments with regard to groundwater, water supply, stormwater, erosion and sediment control measures, which have been addressed elsewhere in this report. DPI Water was satisfied with the recommendations of the various reports associated with the proposed development.

#### Roads & Maritime Services – Transport (RMS)

The RMS provided comment on the proposed development, in accordance with Clause 104 of the Infrastructure SEPP and Clause 16 of the Mining, Petroleum Production & Extractive Industries SEPP. RMS highlighted that pursuant to Clause 16(1)(c) of the Extractive Industries SEPP, the consent authority may wish to request a Code of Conduct relating to the transport of materials on public roads.

RMS recommended that the Code address, but not be limited to:

- a. *A map of the primary haulage routes highlighting critical locations*
- b. *Procedures and/or safety initiatives specific to residential areas and school zones*
- c. *Format of an induction process for new operators and regular toolbox meetings*
- d. *A complaints resolution and disciplinary procedure*
- e. *Any community consultation measures to address busy haulage periods*

The proponent advised that they were amenable to a condition of consent requiring a Code of Conduct to be prepared and approved prior to commencement of operations for the development.

An appropriate condition of consent has been applied to this effect.

#### Department of Industry – Geological Survey of NSW

The NSW Department of Industry – Geological Survey of New South Wales (GSNSW) provided comment on the proposal, noting that they are ‘...*satisfied the proposal has addressed potential resource sterilisation and maximises the use of remaining in-situ construction materials. Additionally the remaining resource has been adequately assessed in terms of size and quality, and as such GSNSW has no issues to raise with the proposal*’.

#### Department of Primary Industries - Lands

The proposed development was referred to Department of Primary Industries - Lands for review, whereby the following comment was provided:

*“Whilst the proposal does not directly impact on the Crown estate there is a Crown public road adjoining the northern boundary of Lot 2, which provides legal access to multiple holdings. Any use of the road connected with the proposed development will require its transfer to Councils control under S151 of the Roads Act 1993”.*

The proponent has confirmed that the development does not require or rely upon access from the crown public road referred to by DPI Lands. No further assessment is considered necessary in this regard.

#### **(e) Public interest**

The subject site has been operating as a quarry since the 1950’s. The proposed intensification of extraction rates will provide a development footprint for the proposed RRF/WRTS, which will in turn provide a net public benefit in terms of recycling construction material etc. It is considered that any potential impacts from the development can be mitigated, subject to conditions of consent, such that the development can proceed and public interest issues are balanced.

#### **Contribution Charges for the subject development**

The proposed development will generate s94 developer contributions. In this regard, the proponent has applied to Council for a deferral of payment through Council’s Business Investment Policy. However, in the event that the deferral application is not supported, the proponent has requested that the applicable contributions be staged (over Stages 1 and 2). This is considered to be a reasonable request and an applicable condition of consent has been applied, allowing for both scenarios mentioned above.

#### **OPTIONS:**

1. Approve the application in accordance with the recommendation; or
2. Refuse the application with stated reasons for refusal.

Option 1 is recommended.

#### **LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:**

The applicant has the right of appeal in the NSW Land Environment Court if dissatisfied with the determination.

#### **POLICY IMPLICATIONS:**

Nil

#### **CONCLUSION:**

The proposed development is considered suitable for the site as it is a permissible form of development (pursuant to the provisions of the Infrastructure SEPP) and is compatible with and complimentary to the adjacent SCRRF. All relevant planning considerations have been taken into account in the assessment of the application. The proposal would increase the reuse of resources, minimise disposal to landfill and reduce unlawful dumping. As such, the proposed RRF/WRTS is considered to warrant approval, subject to conditions of consent.

#### **UNDER SEPARATE COVER:**

Nil.

#### **RECOMMENDATION:**

That Development Application DA15/0521 for a resource recovery facility, waste or resource transfer station and intensification of an existing extractive industry (staged development) JRPP at Lot 2 DP 590220; Leddays Creek Road Stotts Creek; Lot 1 DP 590220; No. 298 Bartletts Road Eviron, be approved subject to the following conditions:

#### **GENERAL**

1. The development shall be completed in accordance with the Environmental Impact Statement and the following Plans:

- Dwg 610.16527 - SK03 (Rev A) - **Overall Layout Plan** (Sheet 1 of 2), prepared by SLR and dated 4 November 2016;
- Dwg 610.16527 - SK04 (Rev A) - **Overall Layout Plan** (Sheet 2 of 2), prepared by SLR and dated 4 November 2016;
- Dwg 610.16527 - SK05 (Rev A) - **Concept Bulk Earthworks Plan**, prepared by SLR and dated 4 November 2016;
- Dwg 610.16527 - SK06 (Rev A) - **Concept Site Grading Plan**, prepared by SLR and dated 4 November 2016;
- Dwg 610.16527 - SK07 (Rev A) - **Sections & Details** (Sheet 1 of 2), prepared by SLR and dated 4 November 2016;
- Dwg 610.16527 - SK08 (Rev A) - **Sections & Details** (Sheet 2 of 2), prepared by SLR and dated 4 November 2016;
- Dwg 610.16527 - SK16 (Rev A) - **Extraction Plan**, prepared by SLR and dated 4 November 2016;
- Dwg 610.16527 - SK18 (Rev A) - **Weigh Bridge Plan**, prepared by SLR and dated 4 November 2016;
- Dwg 610.16527 - SK20 (Rev A) - **Shed Plans & Details**, prepared by SLR and dated 4 November 2016;
- Dwg 14386 - SK20 (Rev F) - **Shed Plans & Details**, prepared by Cozens Regan Williams Prove and dated June 2015;
- Dwg 610.16527 - SK101 (Rev A) - **Right of Way Plan** (Sheet 1 of 2), prepared by SLR and dated 4 November 2016;
- Dwg 610.16527 - SK102 (Rev A) - **Right of Way Plan** (Sheet 2 of 2), prepared by SLR and dated 4 November 2016,

except where varied by the conditions of this consent.

[GEN0005]

2. This consent endorses the use of crushing plant machinery, mechanical screening or mechanical blending of materials on site.

This consent does not endorse blasting of the rock gravel.

This consent limits the extraction and processing of hard rock quarry material to 40,000tpa and an overall extraction limit of 102,500 tonnes.

[GEN0045]

3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]

4. Approval is given subject to the location of, protection of, and/or any necessary approved modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

5. Council advises that the site is flood liable with a Design Flood Level of 3.7m AHD.

- (a) All building materials used below Council's Design Flood Level must not be susceptible to water damage.
  - (b) Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. for the proposed building should, to the maximum extent possible be located above the Design Flood Level. All electrical wiring installed below the Design Flood Level should to suitably treated to withstand continuous submergence in water and provide appropriate earth leakage devices.
  - (c) Define adequate provision for the flood free storage for goods and equipment susceptible to water damage.

[GEN0195]

6. The development is to be carried out in accordance with Councils Development Design and Construction Specifications.

[GEN0265]

7. The owner is to ensure that the proposed buildings are constructed in the position and at the levels as nominated on the approved plans or as stipulated by a condition of this consent, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

[GEN0300]

8. The development shall be completed in the following stages, unless agreed otherwise with Council.

**Stage 1**

- Winning, processing and transporting of up to 40,000tpa of gravel.
- Construction of the car park, weighbridge, Dam 2, water treatment facilities required for Stage 1 in accord with EPA conditions, and temporary wash down bay is to be undertaken prior to commencing receiving, processing, stockpiling and disposal of up to 30,000tpa of concrete and bricks, sand and soil. Stage 1 does not include mixed waste skip bin receivals.
- Use of the existing machinery shed as a temporary site storage shed.
- Expand processing and storage areas and appropriate land forming in conjunction with continued extractive industry operation.
- Commence construction of the waste processing and storage shed during Stage 1.

**Stage 2**

- Winning, processing and transporting of up to 40,000tpa of gravel.
- Construction of the waste processing and storage shed is to be completed prior to receiving, processing, stockpiling and disposal of up to 50,000tpa of construction and demolition waste (including mixed waste skip bins), sand and soil, garden and green waste, and wood waste.
- Expand processing and storage areas.
- Green waste or garden waste that is received at the site during Stage 2 is proposed to be stored in the waste processing and storage shed prior to sale or removal from the site. Green waste and garden waste operations and storage in the waste processing and storage shed is to be undertaken separately from any other wastes in this shed.
- Commence construction of the green waste hardstand and Dam 1 during Stage 2.

**Stage 3**

- Winning, processing and transporting of up to 40,000tpa of gravel.
- Construction of the green waste hardstand, Dam M1 and associated water treatment facilities is to be completed prior to the commencement of Stage 3.
- Receiving, processing, stockpiling and disposal of up to 50,000tpa of construction and demolition waste, sand and soil, garden and green waste, and wood waste.
- Expand processing and storage areas.
- Commence and complete construction of the first stage of the main site shed during Stage 3.

**Stage 4**

- Winning, processing and transporting of up to 40,000tpa of gravel.
- Receiving, processing, stockpiling and disposal of up to 50,000tpa of construction and demolition waste, sand and soil, garden and green waste, and wood waste.
- Expand processing and storage areas.
- Complete construction of the main site shed and wash down bay in accord with plans.

[GENNS01]

9. The proponent shall ensure that all surface water discharges from the site comply with the discharge limits set for project in the Environmental Protection Licence issued by the EPA.
10. Erosion and Sediment Control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

A detailed Erosion and Sediment Control Plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality* shall be administered by the Consulting Engineer for the development.

11. Proposed retaining shall not exceed 1.2m in height unless approved otherwise by Council.
12. The applicant shall not remove, damage or disturb native vegetation unless such activity is carried out in accordance with the approved site based Vegetation and Fauna Management Plan and all necessary permits/approvals have been obtained from the relevant authority/s.
13. All vegetation and fauna management measures detailed in the approved site based Vegetation and Fauna Management Plan shall be completed to the satisfaction of Council's General Manager or delegate.
14. The applicant must provide a 'compensatory habitat area' of 0.83 hectares to offset the loss of habitat necessary to establish and maintain the approved development. The compensatory habitat area shall be established within areas described as 'Proposed Revegetation Areas and 'Proposed Rehabilitation Areas' shown on Figure 8 Proposed Revegetation Areas dated 15 December 2015 prepared by JWA Ecological Consultants. The 'compensatory habitat area' must be subject to an ecological restoration program and managed for conservation purposes in perpetuity.

15. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

#### **PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE**

16. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council, unless a deferred payment agreement is approved under Council's Business Investment Policy, in which case contributions are to be paid in accordance with that agreement.

**A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.**

These charges include indexation provided for in the S94 Plan and will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

#### **Stage 1**

(a) Tweed Road Contribution Plan:

23 Trips @ \$1920 per Trips      \$26,496

(\$1,807 base rate + \$113 indexation)

**(\$17,664 subtracted from total for commercial job creating developments - 40% reduction)**

S94 Plan No. 4

**Stage 2**

(a) Tweed Road Contribution Plan:

23 Trips @ \$1920 per Trips      \$26,496

(\$1,807 base rate + \$113 indexation)

**(\$17,664 subtracted from total for commercial job creating developments - 40% reduction)**

S94 Plan No. 4

Sector10\_4

[PCC0215]

17. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

18. Prior to the issue of a construction certificate the applicant is required to lodge an application to install/operate an onsite sewerage management system under Section 68 of the Local Government Act 1993, pay the appropriate fee and be issued with an approval.

Any approval to install an onsite sewage treatment and disposal system shall comply with the recommended on-site sewage treatment and disposal method as detailed in the On-site Sewage Management Design Report (HMC2015.034.02), prepared by HMC Pty Ltd and dated June 2015 including all recommendations of that report and any addendum to the report (dated 26 October 2015) or to the satisfaction of Councils General Manager or his delegate.

[PCC1285]

19. Prior to the issue of a construction certificate, the applicant is to submit an Acid Sulfate Soils Management Plan (ASSMP) to the satisfaction of the General Manager or delegate. The ASSMP to be developed in accordance with ASSMAC 1998 guidelines.

[PCCNS01]

20. A detailed plan of landscaping is to be submitted and approved by Council's General Manager or delegate prior to issuing the construction certificate for the first of any stage of the development. The detailed plan shall:

- a. Address the watercourse buffer zone forming the eastern and northern perimeter of the development footprint (including the bio-swale and stormwater outlets); and
- b. Be generally based on the *Landscape Concept Plan Resource Recovery Facility Bartletts Road dated 15 June 2015 prepared by Plummer & Smith*.

The detailed plan of landscaping shall include:

- a. Minimum 100% of total plant numbers comprised of local native species; and
  - b. Specify an active maintenance period of minimum five (5) years.
21. A Habitat Restoration Plan (HRP) shall be prepared to address the 'compensatory habitat area (0.83 ha)'. The HRP shall be prepared by a person suitably qualified in Bushland Regeneration or Ecological Restoration and with knowledge and experience in local vegetation communities (e.g. wetlands, rainforest, open woodland).

The HRP shall be submitted and approved by Council's General Manager or delegate prior to issuing the construction certificate for the first of any stage of the development and shall include the following:

- a. An appraisal of the present condition of areas the subject of restoration activity;
- b. Reference to the following zones:
  - i. Revegetation - 0.40 ha;
  - ii. Assisted Rehabilitation - 0.43 ha.

- c. Plan overlaying an aerial photograph of the site which divides the area into zones for regeneration and zones for planting, including connections between existing vegetation where appropriate;
  - d. Management strategy for each of the zones, including the approach, methods and techniques to be used for vegetation restoration;
  - e. Detail a revegetation schedule of one (1) plant per square metre;
  - f. Schedule of local native plant species to be used for planting;
  - g. Program of works to be undertaken to remove invasive weed species;
  - h. Schedule of timing of proposed works;
  - i. Set of performance criteria to achieve site capture over the 5 year management period;
  - j. Maintenance, monitoring and reporting schedule with developer commitment for a period of not less than five (5) years; and
  - k. An adaptive management statement detailing how potential problems arising may be overcome and requiring approval of the General Manager or delegate for such changes.
22. A Vegetation and Fauna Management Plan (V&FMP) shall be prepared by a suitably qualified ecologist to be implemented during the construction phase (for all relevant stages of the development) and operational phase of the development (where specified). The V&FMP shall be submitted and approved by Council's General Manager or delegate prior to issuing the construction certificate for the first of any stage of the development. The V&FMP shall include (but not be limited to) the following:

#### Vegetation Management

- a. Particulars and locations of vegetation to be removed and vegetation to be retained in order to facilitate the development;

- b. A statement of the reasons why the damage is necessary and any relevant factors associated with the purpose of the proposed damage;
- c. Details of all proposed infrastructure, site access and services;
- d. Details of strategies and methods to be implemented to protect vegetation to be retained generally consistent with:
  - i. *Tree Report Lot 2 DP 590220 Bartletts Rd Tumbulgum NSW dated 26 September 2015 prepared by Tallow Tree Services; and*
  - ii. *Australian Standard AS 4970-2009 Protection of trees on development sites.*
- e. Methods for the reuse of felled vegetation from the subject site; and
- f. Disposal methods for remaining debris after the above methods have been employed.

#### Fauna Management

- a. Identification of known and potential habitat trees (displaying values such as hollows, fissures, nests, drays, arboreal termitaria used as nests etc.) and description of fauna species known/likely to utilise habitat features;
- b. Information on how trees are to be inspected for denning or nesting animals including constraints for inspecting trees (to provide acceptable alternative methods) and summary of removal and relocation methods for each faunal group (including observed species and species likely to occur in the area to be disturbed);
- c. Considerations relating to time periods for when fauna is to be removed/flushed prior to clearing;
- d. Details of special equipment required (such as cameras, elevated platforms etc.);
- e. Identification of general locations that wildlife will be relocated/translocated to if required (based on habitat requirements);

- f. Specify that a suitably qualified ecologist who holds a fauna survey licence is required to manage wildlife onsite during any tree removal and/or disturbance to wildlife habitat. Fauna management methods employed should be generally consistent with the Draft Queensland Code of Practice for the Welfare of Wild Animals Affected by Clearing and Other Habitat and Wildlife Spotter/Catchers (Hangar & Nottidge 2009) Where translocation is required the proponent shall seek any relevant permits from the state regulating agency (Office of Environment & Heritage). It is the responsibility of the proponents to ensure all relevant licences have been obtained prior to any fauna interactions;
  - g. Provide details of nest-box design, installation and monitoring requirements;
  - h. Provide monitoring details of fauna species known to exploit artificial food resources such as the Australian White Ibis (*Threskiornis moluccus*) and Torresian Crow (*Corvus orru*) including:
    - i. Commitment to minimum three (3) year monitoring period;
    - ii. Performance indicators; and
    - iii. Management and contingency recommendations for non-compliance with performance criteria.
  - i. Details of Cane Toad (*Rhinella marina*) exclusion fencing and revegetation requirements around the perimeter of all onsite runoff, water recycling ponds and any other constructed waterbodies that may provide habitat for the species.
23. Prior to the issue of a Construction Certificate, the applicant shall update the Surface Water Investigation / Site Water Balance (prepared by SLR and dated 4 November 2016), and the relevant stormwater management drawings submitted for Construction Certificate approval, to comply with the EPA's General Terms of Approval.
- [PCCNS04]
24. The Cultural Heritage Assessment (prepared by Everick Heritage Consultants, dated October 2015) is to be amended to reflect the comments and recommendations to Council by the Tweed Byron Local Aboriginal Land Council on 23 November 2016. The amended Cultural Heritage Assessment is to be submitted and approved by Council's General Manager or his delegate prior to the issues of a Construction Certificate.
- [PCCNS05]

## **PRIOR TO COMMENCEMENT OF WORK**

25. The proponent shall accurately locate and identify any existing above or underground infrastructure within or adjacent to the site and advise the Principal Certifying Authority of its location and depth prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure.

[PCW0005]

26. The erection of a building in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
- (b) the person having the benefit of the development consent has:
  - (i) appointed a principal certifying authority for the building work, and
  - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (c) the principal certifying authority has, no later than 2 days before the building work commences:
  - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
  - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
  - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
  - (ii) notified the principal certifying authority of any such appointment, and

- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

- 27. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least **2 days** prior to work commencing.

[PCW0225]

- 28. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one closet for every 15 persons or part of 15 persons employed at the site. Each toilet provided must be:

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

- 29. **Where prescribed by the provisions of the Environmental Planning and Assessment Regulation 2000**, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

30. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area, where required. These measures are to be in accordance with the approved erosion and sedimentation control plan and adequately maintained throughout the duration of the development.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

This sign is to remain in position for the duration of the project.

[PCW0985]

31. Prior to commencement of work, application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -

- (a) Upgrade of the Right Of Carriageway (ROC) access through Lot 1 DP 590220 to provide a 7.0m (min) seal on a 8.0m (min) formation, as well as providing both left and right turn movements from the ROC in the form of a Basic Right Turn / Basin Left Turn Treatment (BAR/BAL) intersection with Bartletts Road in accordance with "Austroads Guide to Road Design" (current version), in particular Part 4A - "Unsignalised and Signalised Intersections", giving particular attention to sight distance.

32. Works cannot commence for any of the following:

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

until prior, separate approval has been granted by Council under Section 68 of the Local Government Act.

Applications for these works must be submitted on Council's standard Section 68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

33. Prior to commencement of work, the Applicant must obtain all relevant licences and permits from State Agencies.
34. Prior to commencement of Stage 1 operations, the Applicant shall submit to the Principal Certifying Authority an Operational Management Plan for Stage 1. The Plan shall include, but is not limited to, the following:
- The Overall Stage 1 Site Layout Plan.
  - Engineering designs for Stage 1 drainage, water quality ponds, bio swales (or interim stormwater management controls), manoeuvring areas, processing areas, buildings, weigh bridge, acoustic mound/fence, upgrading of the intersection of Bartletts Road and the Right Of Carriageway and upgrading of the Right Of Carriageway to the weigh bridge.
  - The quantity of processed gravel to be transported from the site and the proposed extraction areas.
  - The quantity of waste to be transported to and from the site.

An amended Operational Management Plan shall be submitted to the PCA with each subsequent stage, or if there is a substantial change to the Site Layout Plan or volume of materials processed.

35. Prior to commencement of any works onsite a minimum of five (5) nest-boxes (based on a natural hollow compensation ratio of 1:1) are to be installed within the 'compensatory habitat area (0.83 ha)'. The design and specific location of each nest-box is to be determined by a suitably qualified ecologist who holds a fauna survey licence. Similarly, the installation of nest-boxes shall be undertaken by a qualified professional. The following requirements must be complied with:
- a. Following installation, all nest-boxes are to be maintained and monitored for a minimum period of five (5) years in accordance with the schedule detailed in the approved fauna management plan (pursuant to Condition 6).
  - b. Maintenance activities include, but are not limited to, the following:
    - i. The replacement of failed or damaged nest-boxes; and
    - ii. The removal of invasive species.
    - iii. The removal of invasive species must be determined by the engaged ecologist
    - iv. All nest-box locations are to be GPS recorded and provided to Council.

36. All pre-construction vegetation and fauna management measures shall be satisfactorily completed in accordance with the approved Vegetation and Fauna Management Plan
37. A Project Arborist who holds an Australian Qualification Framework Level 5 Arboriculture certificate must be appointed prior to commencement of any works onsite to:
- a. Supervise tree removal, limb/root pruning;
  - b. Recommend and supervise any required remedial works; and
  - c. Certify works on completion of the project.

#### **DURING CONSTRUCTION**

38. All proposed works are to be carried out in accordance with the conditions of development consent, approved Management Plans, approved Construction Certificate, drawings and specifications.

[DUR0005]

39. If during construction works any Aboriginal object or relic is disturbed or uncovered, works are to cease and the Department of Environment, Climate Change and Water are to be notified immediately, in accordance with the provisions of the National Parks and Wildlife Act 1974.

[DUR0025]

40. Construction of the Right Of Carriageway serving Lots 1 & 2 of DP 590220 to provide a 7.0m (min) seal on a 8.0m (min) formation, in accordance with the provision of Tweed Shire Council's Development Design and Construction Specifications.

[DUR0055]

41. The provision of 9 car parking spaces within Lot 2 DP 590220 (including parking for the disabled where applicable), unless agreed otherwise with Council. The layout and construction standards to be in accordance with Tweed Shire Council Development Control Plan, Part A2 - Site Access and Parking Code.

[DUR0085]

42. Construction and/or demolition site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council:

Monday to Saturday from 7.00am to 6.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

43. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

$L_{Aeq, 15 \text{ min}}$  noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

B. Long term period - the duration.

$L_{Aeq, 15 \text{ min}}$  noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

44. All building work (other than work relating to the erection of a temporary building) 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 was made).

[DUR0375]

45. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

46. It is the responsibility of the applicant to restrict public access to the construction works site, construction works or materials or equipment on the site when construction work is not in progress or the site is otherwise unoccupied in accordance with WorkCover NSW requirements and Work Health and Safety Regulation 2011.

[DUR0415]

47. All earthworks and filling to obtain final landforms shall be carried out in accordance with AS 3798 (current version) to a Level 1 inspection regime and testing in accordance with Table 8.1.

[DUR0795]

48. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited.

[DUR0815]

49. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction or delivery vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of an Occupation Certificate.

[DUR0995]

50. All work associated with this approval is to be carried out so as not to impact on the neighbourhood, adjacent premises or the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- Dust during filling and extraction operations and also from construction and delivery vehicles
- Material removed from the site by wind

[DUR1005]

51. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction and operation of the development.

[DUR1025]

52. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

53. Before the commencement of the Right Of Carriageway upgrade and intersection construction, pavement design detail including reports from a Registered NATA Consultant shall be prepared by the Applicant's Consulting Engineer and submitted to Council for approval and demonstrating.

- (a) That the pavement has been designed in accordance with Tweed Shire Councils Development Design Specification, D2.
- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils Construction Specifications, C242-C245, C247, C248 and C255.
- (c) That associated fill areas have been compacted to the specified standard.
- (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-2007.

[DUR1805]

54. During the Right Of Carriageway upgrade and intersection construction, tests shall be undertaken by a Registered NATA Geotechnical firm. A report including copies of test results shall be submitted to the PCA prior to the placement of the wearing surface demonstrating:

- (a) That the pavement layers have been compacted in accordance with Councils Development Design and Construction Specifications.
- (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.

[DUR1825]

55. The proponent must not undertake any work within the public road reserve without giving Council's Engineering Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.

[DUR1845]

56. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until Council is satisfied that the site is adequately rehabilitated.

[DUR2375]

57. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the Tweed Shire Council General Manager or his delegate.

[DUR2425]

58. All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50mg/l. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request.

[DUR2435]

59. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- (a) internal drainage, prior to slab preparation;
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- (c) external drainage prior to backfilling.
- (d) completion of work and prior to occupation of the building.

[DUR2485]

60. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work for proposed buildings.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the Plumbing Code of Australia and AS/NZS 3500.

[DUR2495]

61. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR2535]

62. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:

- \* 45°C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- \* 50°C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

63. An On-site Sewage Management System shall be installed in accordance with an Approval to Install an On-site Sewage Management System under Section 68 of the Local Government Act 1993.

[DUR2775]

64. Where earthworks result in the creation of batters and/or cuttings greater than 1m high and/or slopes within allotments 17<sup>0</sup> (1:3.27) or steeper, such slopes shall be densely planted in accordance with a detailed Landscaping Plan endorsed by Council.

Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

- (a) Contours and terraces where the height exceeds 1m.
- (b) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.
- (c) Densely plant with appropriate native species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.
- (d) Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on site.

[DURNS01]

65. The applicant must comply with any directions given by the Project Arborist in respect to vegetation management measures employed onsite in order to minimise any adverse environmental impacts.
66. A suitably qualified ecologist who holds a fauna survey licence (NSW) must be engaged to supervise any tree removal works onsite. Immediately following completion of tree clearing activity the qualified ecologist shall provide a final report to Council specifying the following:

- a. Brief summary of any fauna handling, mortality or other relevant fauna related incidents that may have occurred during tree removal;
  - b. Inventory of species encountered during tree removal;
  - c. If relocation was required, list of species and relocation location;
  - d. Location and type of nest boxes installed onsite (graphically depicted); and
  - e. Rates of nest box use by fauna, details of species utilising the nest boxes.
67. Stage 1 operations are to provide on-site facilities (1 toilet / 1 urinal or 2 toilets plus hand basin) in accordance with the Building Code of Australia. These facilities can be of permanent or semi-permanent in nature connected to the approved on-site system as proposed in the On-Site Sewage Management Design Report (HMC June 2015) or to the satisfaction of Council's General Manager or his delegate.

[DURNS03]

#### **PRIOR TO ISSUE OF OCCUPATION CERTIFICATE**

68. Prior to issue of an Occupation Certificate, all works/actions/inspections etc required at that stage by other conditions or approved Management Plans or the like shall be completed in accordance with those conditions or plans.
69. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).
70. Prior to the issue of an Occupation Certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all works required under Section 138 of the Roads Act 1993.
71. Prior to the occupation of any building and prior to the issue of any occupation certificate a final inspection report is to be obtained from Council to verify the satisfactory installation of all plumbing and drainage and the on-site sewage management facility.

[POC0005]

[POC0205]

[POC0745]

[POC1035]

72. Prior to the occupation of any building and prior to the issue of any occupation certificate approval to operate the on-site sewage management facility under Section 68 of the Local Government Act 1993 shall be obtained from Council.

Note: Any approval issued will require an assessment of the installed facility 12 months from the date of installation of the land application area demonstrating the adequacy to the disposal of treatment effluent.

[POC1040]

73. Prior to the issue of a final Occupation Certificate, all conditions of consent are to be met.

[POC1055]

74. Prior to the issue of an Occupation Certificate of the relevant stage, Council shall undertake a Final Practical Inspection of the Right Of Carriageway upgrade to be satisfied that works have been satisfactorily completed.

75. Prior to the issue of an Occupation Certificate of the relevant stage, a certificate signed by a practicing Civil Engineer with National Engineering Register (NER) or a Registered Surveyor is to be submitted to the Principal Certifying Authority to certify compliance with the consent and good engineering practice.

76. Prior to the issue of an Occupation Certificate (including interim) of the relevant stage, documentary evidence shall be provided to Council to confirm the registration of the widening of the Right Of Carriageway to encapsulate the upgraded access in through Lot 1 DP 590220.

77. Prior to the issue of an Occupation Certificate of the relevant stage, a certificate of practical completion shall be obtained from Council's General Manager or his delegate for all works required under Section 68 of the Local Government Act.

78. Prior to the issue of an Occupation Certificate (including interim) of the relevant stage, a certificate of compliance shall be submitted to Council by the Developer's Certifying Engineer or equivalent, verify that the placed fill has been compacted in accordance with the requirements of AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments" and is suitable for its intended use.

The submission shall include copies of all undertaken test results.

79. The production of written evidence from the local telecommunications supply authority certifying that satisfactory arrangements have been made for the provision of telephone supply to Lot 2 DP 590220, unless an alternative service is provided and accepted by Council.
80. The production of written evidence from the local electricity supply authority certifying that satisfactory arrangements have been made for the provision of electricity supply to Lot 2 DP 590220, unless an alternative service is provided and accepted by Council.
81. Prior to the issue of an Occupation Certificate (including interim), documentary evidence shall be provided to Council to confirm the registration of the Plan of Subdivision to dedicate road widening of Bartletts Road with the Land and Property Management Authority (formerly the Lands Titles Office).
82. All landscaping work is to be completed in accordance with the approved detailed plans of landscaping prior to the operation of the approved resource facility or use or occupation of any associated building whichever occurs first and shall be maintained at all times to the satisfaction of Council's General Manager or delegate.
83. Habitat restoration works shall be completed to a level specified in the approved Habitat Restoration Plan (HRP) prior to the issue of an occupation certificate.

The habitat restoration works shall be maintained at all times to the satisfaction of the Council's General Manager or delegate.

84. The 'compensatory habitat area (0.83 ha)' shall be registered under a restrictive statutory covenant for conservation purposes. The covenant shall be made under Section 88B of the Conveyancing Act 1919 for the benefit of the Tweed Shire Council on the terms specified below:
  - a. The area described as 'compensatory habitat area' (0.83 ha) must be subject to a habitat restoration program undertaken in accordance with an approved Habitat Restoration Plan and managed as a natural area for conservation purposes in perpetuity;
  - b. The following activities are not permitted within the 'compensatory habitat area' (0.83 ha) area:
    - i. Clearing, lopping or removal of any native plants, whether existing at the date of this approval or planted pursuant to conditions of this consent;
    - ii. Erection of any fixtures or improvements, including buildings or structures;

- iii. Construction of any trails or paths;
- iv. Depositing of any fill, soil, rock, rubbish, ashes, garbage, waste or other material foreign to the protected area;
- v. Keeping or permitting the entry of domestic animals or any other animals that are not indigenous to the conservation area; and
- vi. Performance of any other acts which may have detrimental impact on the values of the conservation area.

Burden: Part Lot 2 in DP 590220. Benefit: Tweed Shire Council

The Section 88B restriction shall be registered prior to prior to the issue of an occupation certificate.

85. The applicant shall prepare a Code of Conduct relating to the transport of materials on public roads. The Code shall be submitted to and approved by Council's General Manager or his delegate prior to the issue of an occupation certificate. The Code shall address (but not be limited to) the following:
- a. A map of the primary haulage routes highlighting critical locations;
  - b. Procedures and/or safety initiatives specific to residential areas and school zones;
  - c. Format of an induction process for new operators and regular toolbox meetings;
  - d. A complaints resolution and disciplinary procedure; and
  - e. Any community consultation measures to address busy haulage periods.

[POCNS03]

86. A site based Weed Management Plan is to be prepared. The Plan is to address the how the development will control the spread of weeds from material received at the site into surrounding agricultural lands. The Plan is to be submitted and approved by Council's General Manager or his delegate prior to the issue of an Occupation Certificate. The Plan may be incorporated into the overall Operational Management Plan for the development rather than being a standalone document.

[POCNS04]

## USE

87. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust and odours or the like.

[USE0125]

88. Hours of operation of the business are restricted to the following hours:

- \* 6.00am to 6.00pm - Mondays to Saturdays
- \* No operations are to be carried out on Sundays or Public Holidays

[USE0185]

89. The development shall be carried out in accordance with the provisions and recommendations of the Noise Impact Statement prepared by CRG Acoustics and dated 18 June 2015.

[USE0305]

90. All plant and equipment installed or used in or on the premises:

- (a) Must be maintained in a proper and efficient condition;
- (b) Must be operated in a proper and efficient manner; and
- (c) Must be operated such that gas emissions are minimised.

In this condition, “plant and equipment” includes drainage systems, infrastructure, pollution control equipment and fuel burning equipment.

[USE0315]

91. The activity is to be carried out in accordance with the report (ref: Air-labs Environmental Pty Ltd Report No. OCT14175.7), and that dust monitoring, for compliance with the *Protection of the Environment Operations (Clean Air) Regulation 2010* be carried out for the remaining life of the quarrying operation.

92. Vibration levels be in accordance with acceptable vibration dose values listed for ‘intermittent vibration’ in *NSW EPA Assessing Vibration: A technical guideline*.

93. The installation of an onsite sewage management system shall be subject to an 18 month trial period. During that period the ETA bed is to be monitored in accordance with the recommendations of the On-site Sewage Management Design Report, prepared by HMC Pty Ltd and dated June 2015 (HMC2015.034.02), including all recommendations of that report and

addendum to the report (dated 26 October 2015). Signs of ETA bed failure will require further investigation from a suitably qualified person, and a design report proposing appropriate mitigation measures to the satisfaction of Council's General Manager or delegate.

94. All operations must comply with the approved Vegetation and Fauna Management Plan. In the event that any threatened species, populations, ecological communities or their habitats not addressed in the report are discovered during operations appropriate Plans of Management for those species must be formulated to the satisfaction of the General Manager or delegate and/or if required the Department of Environment and Heritage. No further site clearing will take place until any respective Plan(s) of Management is/are approved.
95. The activity is to be carried out in accordance with the recommendations of the Surface Water Investigation / Site Water Balance (prepared by SLR and dated 4 November 2016), or as otherwise approved by the EPA.

[USENS03]

96. Banana waste is not permitted to be accepted at the facility.

[USENS05]

#### **PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE**

97. Prior to registration of the Plan of Subdivision to dedicate road widening of Bartletts Road (in the order of 164.1 m<sup>2</sup> from Lot 8 DP 564356 to achieve required sight distance), a Subdivision Certificate shall be obtained.

The following information must accompany an application:

- (a) original Plan of Subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) all detail as tabled within Tweed Shire Council Development Control Plan, Part A5 - Subdivision Manual, CL 5.7.6 and Councils Application for Subdivision Certificate including the attached notes.

[PSC0885]

## General Terms of Approval issued by the EPA - Protection of the Environment Operations Act 1997

### Administrative conditions

#### ***A1. Information supplied to the EPA***

**A1.1** 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 DA15/0521 submitted to Tweed Shire Council on 2 July 2015;
- The environmental impact statement titled PROPOSED RESOURCE RECOVERY FACILITY, WASTE OR RESOURCE TRANSFER STATION & EXPANSION / INTENSIFICATION OF AN EXISTING EXTRACTIVE INDUSTRY (O'KEEFE'S QUARRY NO.1) JUNE 2015
- all additional documents supplied to the EPA in relation to the development, including the Surface Water Investigation / Site Water Balance produced by SLR and dated 4 November 2016

#### ***A2. Fit and Proper Person***

**A2.1** The applicant must, in the opinion of the EPA, be a fit and proper person to hold a licence under the Protection of the Environment Operations Act 1997, having regard to the matters in s.83 of that Act.

### Discharges to Air and Water and Applications to Land

**P1.1** The following point referred to in the table is identified in this licence for the purposes of the monitoring and/or the setting of limits for discharges of pollutants to water from the point.

EPA Identification no.	Type of monitoring point	Type of discharge point	Location Description
1	Discharge to waters Discharge Quality Monitoring	Discharge to waters Discharge Quality Monitoring	Discharge Point labelled "Dam Water Release Location" on Drawing 610.16527SK03 contained within the Surface Water Investigation/Site Water

2	Discharge to waters	Discharge to waters	Discharge Point at spillway of dam 1 as shown in drawing 610.16527SK03 contained within the Surface Water Investigation/Site Water Balance report produced by SLR
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## Limit conditions

### **L1. Pollution of waters**

**L1.1** Except as may be expressly provided by a licence under the Protection of the Environment Operations Act 1997 in relation of the development, section 120 of the Protection of the Environment Operations Act 1997 must be complied with in and in connection with the carrying out of the development.

**L1.2** All waters that have passed through or over waste materials must, as a minimum, be directed to an appropriate leachate or stormwater dam prior to discharging from the premises.

**L1.3** Leachate is only permitted to overflow from point 2 as a direct result of a 1-in-10 year, 24-hour-period storm event, that is rainfall greater than 264mm within a 24 hour period.

**L1.4** The licensee shall install and maintain at least one (1) freeboard marker in the leachate dam 1 to indicate the freeboard required to accept a 1-in-10 year, 24-hour-period storm.

**L1.5** The licensee must ensure the design free board of leachate dam 1 is reinstated within 5 days of the cessation of a 1-in-10 year, 24-hour-period storm event.

### **L2. Concentration limits**

**L2.1** For each monitoring/discharge point or utilisation area specified in the table below (by a point number), the concentration of a pollutant discharged at that point, or applied to that area, must not exceed the concentration limits specified for that pollutant in the table.

**L2.2** Where pH quality limit is specified in the table, the specific percentage of samples must be within the specified ranges.

**L2.3** To avoid any doubt this condition does not authorise the pollution of waters by any pollutant other than those specified in the table.

**L2.4** Water and/or Land Concentration Limits - **POINT 1**

Pollutant	Units of measure	100 percentile concentration limit
oil and grease	visual	none
Total suspended solids	milligrams per litre	50
pH	pH	6.5-8.5

**L3. Waste**

**L3.1** The licensee must not cause, permit or allow any waste generated outside the premises 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.

Any waste received at the premises is subject to those limits or conditions, if any, referred to in relation to that waste contained in the column titled "other limits" in the table below. This condition does not limit any other conditions on this licence.

CODE	WASTE	DESCRIPTION	ACTIVITY
NA	General Solid Waste (non-putrescible)	Building and demolition waste	Resource recovery / Waste Storage
NA	General Solid Waste (non-putrescible)	Excavated natural material	Resource recovery / Waste Storage
NA	General Solid Waste (non-putrescible)	Virgin excavated natural material	Resource recovery / Waste Storage
NA	General Solid Waste	Cement fibre board	Resource recovery / Waste Storage

	(non-putrescible)		
NA	General Solid Waste (non-putrescible)	Paper or cardboard	Resource recovery / Waste Storage
NA	General Solid Waste (non-putrescible)	Glass, plastics, rubber, plasterboard, ceramics, brick, concrete or metal	Resource recovery / Waste Storage
NA	General Solid Waste (non-putrescible)	Wood waste	Resource recovery / Waste Storage
NA	General Solid Waste (non-putrescible)	Garden waste	Resource recovery / Waste Storage
NA	General Solid Waste (non-putrescible)	Asphalt waste	Resource recovery / Waste Storage

**L3.2** The applicant must have in place and implement procedures to identify and prevent the acceptance of waste not permitted by this licence to be at the premises.

**L3.3** The total amount of waste received from off site must not exceed 50,000 tonnes per year.

**L3.4** The authorised amount of waste permitted on the premises cannot exceed 10,000 tonnes at any one time.

#### **L4. Noise limits**

**L4.1** Noise from the premises must not exceed the noise limits in the table below.

<b>Time</b>	<b>Noise Limit</b>
<b>Morning (6am - 7am Mon-Sat)</b>	<b>46dB(A)Leq (15 minute)</b>
<b>Daytime (7am - 6pm Mon-Sat)</b>	<b>47dB(A) Leq (15 minute)</b>

**L4.2** To determine compliance with condition L4.1 the noise from the premises is to be measured within 30m of a dwelling facade, but not closer than 3m, where any dwelling is situated more than 30m from the property boundary closest to the premises.

**L4.3** All of the noise mitigation and management principles identified in Section 6 of the CRG Acoustics - Environmental Noise Impact Assessment dated 18 June 2015 (Appendix 11 of EIS) must be implemented prior to the commencement of accepting and or processing waste at the site and maintained for all operations.

#### ***Hours of operation***

**L4.4** All construction work at the premises must only be conducted between 7am and 6pm Monday to Saturday.

**L4.5** Activities at the premises, other than construction work, may only be carried on between 6am and 6pm with the exclusion of Sunday and public holidays.

**L4.6** The hours of operation specified in conditions L4.4 and L4.5 may be varied with written consent if the EPA is satisfied that the amenity of the residents in the locality will not be adversely affected.

#### ***01. Dust***

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

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

#### ***02. Waste Water***

**02.1** Waste water from vehicle washing and cleaning must be treated as leachate or disposed of at a facility that can lawfully receive the waste.

#### ***03. Stormwater / sediment control- Construction Phase***

**03.1** An Erosion and Sediment Control Plan must be prepared and implemented. The plan must describe the measures that will be employed to minimise soil erosion and the discharge of sediments and other pollutants to lands and/or waters during construction activities.

#### ***O4. Leachate Characterisation Program - Operation Phase***

**O4.1** A Leachate Characterisation and Stormwater Management Program must be prepared for the development prior to commencement of resource recovery operations and must be implemented. Implementation of the program must mitigate the impacts of leachate or stormwater run-off from and within the premises following the completion of construction activities. The program should be consistent with the Surface Water Investigation I Site Water Balance Plan produced by SLR global environmental solutions and dated 4 November 2016.

#### ***M1 Monitoring records***

**M1.1** The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained as set out in conditions M1.2 and M1.3.

**M1.2** All records required to be kept by the licence must be:

- a) in a legible form, or in a form that can readily be reduced to a legible form;
- b) kept for at least 4 years after the monitoring or event to which they relate took place; and
- c) produced in a legible form to any authorised officer of the EPA who asks to see them.

**M1.3** The following records must be kept in respect of any samples required to be collected:

- a) the date(s) on which the sample was taken;
- b) the time(s) at which the sample was collected;
- c) the point at which the sample was taken; and
- d) the name of the person who collected the sample.

#### ***M2 Weather Monitoring***

**M2.1** A meteorological weather station must be maintained so as to be capable of continuously monitoring the parameters specified in condition M2.2

**M2.2** The licensee must monitor (by sampling and obtaining results by analysis) the parameters specified in column 1 of the table below. The licensee must use the sampling method, units of measure, averaging period and at the frequency specified opposite in the other columns.

**Within the Premises**

Parameter	Units of measure	Frequency	Averaging Period	Sampling Method
Rainfall	mm	continuous	15 minutes	AM - 4

(Note: AM - Together with a number, means an ambient air monitoring method of that number prescribed by the *Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales*, EPA 2006).

**M2.3 - Point 1**

Pollutant	Units of measure	Frequency	Sampling Method
oil and grease	not visible	A minimum of 24hours prior to discharge and daily during any discharge until greater than 83mm received over a 5 day period	visual inspection
Total suspended solids	milligrams per litre	A minimum of 24hours prior to discharge and daily during any discharge until greater than 83mm received over a 5 day period	grab sample
pH	pH	A minimum of 24hours prior to discharge and daily during any discharge until greater than 83mm received over a 5 day period	grab sample

**R1 Reporting conditions**

**R1.1** The applicant must provide an annual return to the EPA in relation to the development as required by any licence under the Protection of the Environment Operations Act 1997 in relation to the development. In the return the applicant must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of licence fees (administrative fees and, where relevant, load based fees) that are payable. If load based fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.

## **Special Conditions**

### ***E1 Financial Assurance***

**E1.1** A financial assurance in the form of an unconditional and irrevocable and on demand guarantee from a bank, building society or credit union operating in Australia as 'Authorised Deposit- Taking Institutions' under the Banking Act 1959 of the Commonwealth of Australia and supervised by the Australian Prudential Regulatory Authority (APRA) must be provided to the EPA either in full within 6 months of the issue of the licence, or in three instalments. The financial assurance must be in favour of the EPA to an agreed amount. The financial assurance is required to secure or guarantee funding for works or programs required by or under this licence.

**E1.2** The licensee must provide to the EPA, along with the original counterpart guarantee, confirmation in writing that the financial institution providing the guarantee is subject to supervision by the Australian Prudential Regulatory Authority (APRA).

**E1.3** The financial assurance must contain a term that provides that any money claimed can be paid to the EPA or, at the written direction of the EPA, to any other person.

**E1.4** The financial assurance must be maintained during the operation of the facility and thereafter until such time as the EPA is satisfied the premises is environmentally secure.

**E1.5** The financial assurance must be replenished by the full amount claimed or realised if the EPA has claimed on or realised the financial assurance or any part of it to undertake a work or program required to be carried out by the licence which has not been undertaken by the licence holder.

**E1.6** The EPA may require an increase in the amount of the financial assurance at any time as a result of reassessment of the total likely costs and expenses of rehabilitation of the premises.

**E1.7** The licensee must provide to the EPA the original counterpart guarantee within five working days of the issue of:

- a) the financial assurance required by condition E1.1; and
- b) the adjusted financial assurance as required by condition E1.3 and E1.6.

**E1.8** The EPA may claim on a financial assurance under s303 of the POEO Act if a licensee fails to carry out any work or program required to comply with the conditions of this licence.

## **E2    *Environmental Obligations of Licensee***

**E2.1** While the licensee's premises are being used for the purpose to which the licence relates, the licensee must:

- a) Clean up any spill, leak or other discharge of any waste(s) or other material(s) as soon as practicable after it becomes known to the licensee or to one of the licensee's employees or agents.
- b) In the event(s) that any liquid and non-liquid waste(s) is unlawfully deposited on the premises, such waste(s) must be removed and lawfully disposed of as soon as practicable or in accordance with any direction given by the EPA.
- c) Provide all monitoring data as required by the conditions of this licence or as directed by the EPA.

**E2.2** In the event of an earthquake, storm, fire, flood or any other event where it is reasonable to suspect that a pollution incident has occurred, is occurring or is likely to occur, the licensee (whether or not the premises continue to be used for the purposes to which the licence relates) must:

- a) make all efforts to contain all firewater on the licensee's premises,
- b) make all efforts to control air pollution from the licensee's premises,
- c) make all efforts to contain any discharge, spill or run-off from the licensee's premises, d) make all efforts to prevent flood water entering the licensee's premises,
- e) remediate and rehabilitate any exposed areas of soil and/or waste,
- f) lawfully dispose of all liquid and solid waste(s) stored on the premises that is not already securely disposed of,
- g) at the request of the EPA monitor groundwater beneath the licensee's premises and its potential to migrate from the licensee's premises,
- h) at the request of the EPA monitor surface water leaving the licensee's premises; and

- i) ensure the licensee's premises is secure.

**E2.3** After the licensee's premises cease to be used for the purpose to which the licence relates or in the event that the licensee ceases to carry out the activity that is subject of this licence, that licensee must:

- a) remove and lawfully dispose of all liquid and non-liquid waste stored on the licensee's premises; and
- b) rehabilitate the site, including conducting an assessment of and if required remediation of any site contamination.

## **Administrative conditions**

Other activities

## **Operating conditions**

### **Activities must be carried out in a competent manner**

Licensed 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 licensed activity:

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

## **Monitoring and recording conditions**

### **Recording of pollution complaints**

The licensee must keep a legible record of all complaints made to the licensee or any employee or agent of the licensee in relation to pollution arising from any activity to which this licence applies.

The record must include details of the following:

- the date and time of the complaint;
- the method by which the complaint was made;
- any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
- the nature of the complaint;
- the action taken by the licensee in relation to the complaint, including any follow-up contact with the complainant; and
- if no action was taken by the licensee, the reasons why no action was taken.

The record of a complaint must be kept for at least 4 years after the complaint was made. The record must be produced to any authorised officer of the EPA who asks to see them.

### **Telephone complaints line**

The licensee must operate during its operating hours a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises or by the vehicle or mobile plant, unless otherwise specified in the licence.

The licensee must notify the public of the complaints line telephone number and the fact that it is a complaints line so that the impacted community knows how to make a complaint.

This condition does not apply until 3 months after this condition takes effect.

## **Reporting conditions**

### **Annual Return documents**

#### ***What documents must an Annual Return contain?***

The licensee must complete and supply to the EPA an Annual Return in the approved form comprising:

- a. Statement of Compliance; and
- b. Monitoring and Complaints Summary.

A copy of the form in which the Annual Return must be supplied to the EPA accompanies this licence. Before the end of each reporting period, the EPA will provide to the licensee a copy of the form that must be completed and returned to the EPA.

#### ***Period covered by Annual Return***

An Annual Return must be prepared in respect of each reporting, except as provided below

*Note: The term "reporting period" is defined in the dictionary at the end of this licence. Do not complete the Annual Return until after the end of the reporting period.*

Where this licence is transferred from the licensee to a new licensee,

- a. the transferring licensee must prepare an annual return for the period commencing on the first day of the reporting period and ending on the date the application for the transfer of the licence to the new licensee is granted; and
- b. the new licensee must prepare an annual return for the period commencing on the date the application for the transfer of the licence is granted and ending on the last day of the reporting period.

*Note: An application to transfer a licence must be made in the approved form for this purpose.*

Where this licence is surrendered by the licensee or revoked by the EPA or Minister, the licensee must prepare an annual return in respect of the period commencing on the first day of the reporting period and ending on

- a. in relation to the surrender of a licence -the date when notice in writing of approval of the surrender is given; or
- b. in relation to the revocation of the licence- the date from which notice revoking the licence operates.

#### ***Deadline for Annual Return***

The Annual Return for the reporting period must be supplied to the EPA by registered post not later than 60 days after the end of each reporting period or in the case of a transferring licence not later than 60 days after the date the transfer was granted (the 'due date').

#### ***Licensee must retain copy of Annual Return***

The licensee must retain a copy of the annual return supplied to the EPA for a period of at least 4 years after the annual return was due to be supplied to the EPA.

#### ***Certifying of Statement of Compliance and Signing of Monitoring and Complaints Summary***

Within the Annual Return, the Statement of Compliance must be certified and the Monitoring and Complaints Summary must be signed by:

- a. the licence holder; or
- b. by a person approved in writing by the EPA to sign on behalf of the licence holder.

A person who has been given written approval to certify a Statement of Compliance under a licence issued under the Pollution Control Act 1970 is taken to be approved for the purpose of this condition until the date of first review this licence.

#### ***Notification of environmental harm***

Note: The licensee or its employees must notify the EPA of incidents causing or threatening material harm to the environment immediately after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the Act

Notifications must be made by telephoning the EPA's Pollution Line service on 131 555.

The licensee must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.

### ***Written report***

Where an authorised officer of the EPA suspects on reasonable grounds that:

- a. where this licence applies to premises, an event has occurred at the premises; or
- b. where this licence applies to vehicles or mobile plant, an event has occurred in connection with the carrying out of the activities authorised by this licence,

and the event has caused, is causing or is likely to cause material harm to the environment (whether the harm occurs on or off premises to which the licence applies), the authorised officer may request a written report of the event.

The licensee must make all reasonable inquiries in relation to the event and supply the report to the EPA within such time as may be specified in the request.

The request may require a report which includes any or all of the following information:

- a. the cause, time and duration of the event;
- b. the type, volume and concentration of every pollutant discharged as a result of the event;
- c. the name, address and business hours telephone number of employees or agents of the licensee, or a specified class of them, who witnessed the event; and
- d. the name, address and business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event, unless the licensee has been unable to obtain that information after making reasonable effort;
- e. action taken by the licensee in relation to the event, including any follow-up contact with any complainants;

- f. details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event;
- g. any other relevant matters.

The EPA may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the EPA within the time specified in the request.

## **General conditions**

### **Copy of licence kept at the premises or on the vehicle or mobile plant**

A copy of this licence must be kept at the premises or on the vehicle or mobile plant to which the licence applies.

The licence must be produced to any authorised officer of the EPA who asks to see it.

The licence must be available for inspection by any employee or agent of the licensee working at the premises or operating the vehicle or mobile plant.