

DETERMINATION AND STATEMENT OF REASONS

NORTHERN JOINT REGIONAL PLANNING PANEL

DATE OF DETERMINATION	Wednesday, 14 December 2016
PANEL MEMBERS	Garry West (Chair), Pamela Westing, Stephen Gow and Stephen Phillips
APOLOGIES	Ned Wales, Robert Quirk
DECLARATIONS OF INTEREST	Robert Quirk declared a conflict of interest, as a relative owns land near the site, and did not participate in any meetings of the Planning Panel in relation to this application.

Public meeting held at Murwillumbah Civic and Cultural Centre on Wednesday, 14 December 2016, opened at 11:00 am and closed at 11.50 am.

MATTER DETERMINED

2015NTH013 – Tweed - DA15/0521 - Lot 1 and 2 in DP 590220, Bartletts Road, EVIRON (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

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

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

REASONS FOR THE DECISION

The reasons for the decision of the Panel were:

- Management of leachates from green waste was satisfactorily resolved;
- Stormwater drainage management and water quality issues were satisfactorily resolved;
- Biodiversity offsets were agreed and protection of old growth native vegetation were resolved; and
- The proposed intensification of extraction rates will provide a development footprint for the proposed resource Recovery Facility and the Waste or Resource transfer Station, which will in turn provide a net public benefit in terms of recycling construction material.

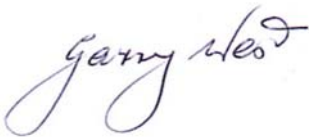

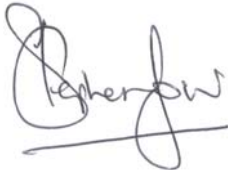

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments.

- New deferred commencement condition – requiring Lot 8 owners agreement re: dedication;
- Amendment to Condition 1 – to refer to EIS addendums etc;
- Amendment to Condition 6 – minor edit;
- Amendment to Condition 11 – additional word “walls”;
- Replacement of Condition 14 to better reflect the protection and management of the “Conservation Zone” (including Tree No 64);
- New Condition 16 – asbestos condition;
- New Condition 17 – Remediation Plan (if the RRF / WRTS does not go ahead);
- Amendment to Condition 21 (now Condition 23) – making reference to the “Conservation Zone” etc;
- Amendment to Condition 22 (now Condition 24) – incorporating Tree No 64 into the Veg Management;

- Amendment to Condition 24 (now Condition 26) – minor edit;
- New Condition 27 – survey of Tree No 64;
- Amendment to Condition 39 (now Condition 42) – reference to OEH;
- Amendment to Condition 73 (now Condition 76) – additional word “*relevant*”; and
- Amendment to Condition 84 (now Condition 87) – making reference to the “Conservation Zone”.

The final conditions of consent are attached as Schedule 2

PANEL MEMBERS	
 Garry West (Chair)	 Pamela Westing
 Stephen Gow	 Stephen Phillips

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2015NTH013 – Tweed - DA15/0521
2	PROPOSED DEVELOPMENT	Resource Recovery Facility, Waste or Resource Transfer Station and Intensification of an Existing Extractive Industry (Staged Development)
3	STREET ADDRESS	Lot 2 DP 590220; Leddays Creek Road Stotts Creek; Lot 1 DP 590220; No. 298 Bartletts Road Eviron
4	APPLICANT OWNER	GR & KD O’Keefe Pty Ltd GR & KD O’Keefe Pty Ltd and Tweed Shire Council
5	TYPE OF REGIONAL DEVELOPMENT	<p><i>Extractive industries, which meet the requirements for Designated Development under clause 19 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 clause 32 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), 19(1)(b), 19(1)(c)(iii), 32(1)(b)(iii), 32(1)(d)(ii) and 32(1)(d)(v) of Schedule 3 to the EP&A Regulations 2000. As such, the Northern Regional Planning Panel is the determining authority.</p>
6	RELEVANT MANDATORY CONSIDERATIONS	SEPP No. 33 – Hazardous and Offensive Development SEPP No. 44 – Koala Habitat Protection SEPP No. 55 - Remediation of Land SEPP (Infrastructure) 2007

		<p>SEPP (Mining, Petroleum Production & Extractive Industries) 2007</p> <p>Draft SEPP (Coastal Management) 2016</p> <p>Tweed Local Environmental Plan 2014</p> <p>Tweed DCP Section A2 – Site Access & 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 & Management</p> <p>Tweed DCP Section A16 – Preservation of Trees or Vegetation</p> <p>Clause 13 of SEPP 33 – Hazardous and Offensive Development;</p> <p>Clause 7 of SEPP 55 – Remediation of Land;</p> <p>Clause 104 of SEPP (Infrastructure) 2007; and</p> <p>Clause 13, 14, 15, 16 and 17 of the SEPP (Mining, Petroleum and Extractive Industries) 2007;</p> <p>Clause 5.10(8), 7.2(3), 7.3 and 7.10 of the Tweed LEP 2014.</p> <p>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</p> <p>The suitability of the site for the development</p> <p>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</p> <p>The public interest, including the principles of ecologically sustainable development</p>
7	MATERIAL CONSIDERED BY THE PANEL	<p>Council assessment report: 30 November 2016</p> <p>Written submissions during public exhibition: five</p> <p>Verbal submissions at the panel meeting:</p> <p>Support – Nil</p> <p>Object – Nil</p> <p>On behalf of the applicant – Nil</p>
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<p>Site visit and final briefing meeting on 14 December 2016</p>
9	COUNCIL RECOMMENDATION	<p>Approval</p>
10	DRAFT CONDITIONS	<p>Attached to the council assessment report</p>

SCHEDULE 2	
<p><u>"DEFERRED COMMENCEMENT"</u></p> <p><u>This consent shall not operate</u> until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within 12 months of the date of notification.</p> <p>Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 95 of the Environmental Planning and Assessment Regulations</p>	

subject to the conditions set out in Schedule "B".

SCHEDULE "A"

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 95 of the Regulations as amended.

- A. The applicant is to seek in writing from the owners of Lot 8 DP 564356 an indication of their agreement for the dedication of part of Lot 8 (164.1m²) for road widening purposes. A copy of such agreement is to be submitted to Council.

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.

GENERAL

1. The development shall be completed in accordance with the Environmental Impact Statement (and associated addendums) 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.

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 be 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 Council's 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 walls 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.

1. 14.

The following areas referenced in this consent are to be collectively described as the 'conservation zone' to be protected and managed for conservation purposes in perpetuity:

- (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;
- (b) Hollow bearing tree *Eucalyptus pilularis* (Blackbutt) (Tree Number 64) as depicted on 'Figure 6A Tree Survey' in Amended Ecological Assessment Lot 1 and 2 DP 590220 Bartletts Road Eviron dated October

2015 prepared by JWA Ecological Consultants and calculated tree protection zone pursuant to Condition 27; and

- (c) Area described as 'Retain Existing Elevated Ridge' on Dwg. No. 610.16527 – SK03 Issue A Overall Site Layout Plan dated 04 November 2016 prepared by SLR.**

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.
16. The proponent must:
- a. Implement auditable procedures to:
- Screen incoming waste loads;
 - Ensure that waste is not accepted at the site that is not permitted by the EPL; and
 - Ensure that asbestos waste is not accepted at the site.
- b. Ensure that:
- All waste that is controlled under a tracking system has the appropriate documentation prior to acceptance at the site; and
 - Staff receive adequate training in order to be able to recognise and handle any hazardous or other prohibited waste such as asbestos.
17. If the RRF / WRTS does not proceed within five years of the commencement of this consent, the applicant shall prepare to the satisfaction of the General Manager or his delegate a site based Extraction Remediation Plan to address the progressive rehabilitation of the approved extraction footprint across the entire site. The plan shall include the following details:
- a. Clear schedule of timeframes for remediation activity and establishment and maintenance periods to achieve site capture and soil stabilisation over the extraction area;
 - b. Plan overlaying an aerial photograph of the site which divides the area into zones for planting
 - c. Species list comprising 100% local native species suitable to the site and conditions
 - d. Provide a 10 m x 10 m indicative planting palette showing one (1) plant per two (2) metre square.
 - e. Provide details of performance criteria generally consistent with Council's Draft Habitat Restoration Plan Preparation Guideline dated February 2012 requirements i.e. 90% success of planted stock, no environmental weed species present, growth of 1 m by year 3 and 1.5 m by year 5
 - f. Maintenance, monitoring and reporting schedule with developer commitment for a period of not less than five (5) years; and
 - g. An adaptive management statement detailing how potential problems arising may be overcome and requiring approval of the General Manager or delegate for such changes
- If the RRF / WRTS commences within the 5 year period from commencement of this consent, this condition no longer applies.

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

18. 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

Sector10_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]

19. 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]

20. 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]

21. 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]

22. 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.

23. A Habitat Restoration Plan (HRP) shall be prepared to address the 'compensation zones'. 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 as shown on Figure 8 Proposed Revegetation Areas dated 15 December 2015, prepared by JWA Ecological Consultants;
 - ii. Assisted Rehabilitation - the balance of the conservation zone.
- 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.

24. 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. Details of the hollow bearing tree *Eucalyptus pilularis* (Blackbutt) (tree No 64) to be retained and protected as depicted on 'Figure 6A Tree Survey' in *Amended Ecological Assessment Lot 1 and 2 DP590220 Bartletts Road Eviron dated October 2015, prepared by JWA Ecological Consultants.*
- c. A statement of the reasons why the damage is necessary and any relevant factors associated with the purpose of the proposed damage;
- d. Details of all proposed infrastructure, site access and services;
- e. 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 Tumbulgun NSW dated 26 September 2015 prepared by Tallow Tree Services; and*
 - ii. *Australian Standard AS 4970-2009 Protection of trees on development sites.*
- f. Methods for the reuse of felled vegetation from the subject site; and
- g. 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.

25. 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]

26. 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 issue of a Construction Certificate.

[PCCNS05]

27. Using survey grade equipment the accurate location of hollow bearing tree *Eucalyptus pilularis* (Blackbutt) (Tree Number 64) as depicted on 'Figure 6A Tree Survey' in *Amended Ecological Assessment Lot 1 and 2 DP 590220 Bartletts Road Eviron dated October 2015 prepared by JWA Ecological Consultants* (and described in the associated table), shall be shown on a site plan overlaid with the final engineering/earthworks plans.

Based on the survey, all earthworks, services and infrastructure associated with the development shall be positioned outside the tree protection zone or the projected canopy drip-zone, whichever is greater. The tree protection zone shall be calculated in accordance with *Australian Standard AS4970:2009 Protection of trees on development sites*.

The survey plan shall be submitted to and approved by Council's General Manager or delegate prior to issue of a construction certificate for the first of any stage of the development or prior to commencement of any works onsite whichever occurs first.

PRIOR TO COMMENCEMENT OF WORK

28. 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]

29. 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]

30. 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]

31. 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]

32. 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]

33. 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]

34. 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.

35. 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.

36. Prior to commencement of work, the Applicant must obtain all relevant licences and permits from State Agencies.

37. 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.

38. 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 22).
 - 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.
39. All pre-construction vegetation and fauna management measures shall be satisfactorily completed in accordance with the approved Vegetation and Fauna Management Plan
40. 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

41. 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]
42. If during construction works any Aboriginal object or relic is disturbed or uncovered, works are to cease and the NSW Office of Environment and Heritage are to be notified immediately, in accordance with the provisions of the National Parks and Wildlife Act 1974. [DUR0025]
43. 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]

44. 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]
45. 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]
46. 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]
47. 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]
48. 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]
49. 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]
50. 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]
51. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house, building or structure is strictly prohibited.
- [DUR0815]

52. 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]
53. 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]
54. 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]
55. 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]
56. 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]
57. 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]
58. 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]

59. 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]

60. 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]

61. 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]

62. 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]

63. 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]

64. 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]

65. 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]

66. 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]

67. Where earthworks result in the creation of batters and/or cuttings greater than 1m high and/or slopes within allotments 17^O (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]

68. 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.

69. 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.

70. 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

71. 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.

[POC0005]

72. 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).

[POC0205]

72. 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.

74. 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.

[POC1035]

75. 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]

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

[POC1055]

77. 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.

78. 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.

79. 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.

80. 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.

81. 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.

82. 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.

83. 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.

84. 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).

84. 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.

86. 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.

87. The 'conservation zone' pursuant to Condition 14 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 'conservation zone' 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 'conservation zone':
 - 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.

88. 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]

89. 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

90. 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]

91. 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]

92. 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]

93. 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]

94. 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.

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

96. 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.

97. 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.

98. 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]

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

[USENS05]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

100. Prior to registration of the Plan of Subdivision to dedicate road widening of Bartletts Road (in the order of 164.1 m² 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 "De Water Release Location" on Drawing 610.16527SK03 contained within the Surface Water Investigation/Site Water Balance Report produced by
2	Discharge to waters	Discharge to waters	Discharge Point at spillway dam 1 as shown in drawing 610.16527SK03 contained within the Surface Water Investigation/Site Water Balance report produced by SLR

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 St
NA	General Solid Waste (non-putrescible)	Excavated natural material	Resource recovery / Waste St
NA	General Solid Waste (non-putrescible)	Virgin excavated natural material	Resource recovery / Waste St
NA	General Solid Waste (non-putrescible)	Cement fibre board	Resource recovery / Waste St
NA	General Solid Waste (non-putrescible)	Paper or cardboard	Resource recovery / Waste St
NA	General Solid Waste (non-putrescible)	Glass, plastics, rubber, plasterboard, ceramics, brick, concrete or metal	Resource recovery / Waste St
NA	General Solid Waste (non-putrescible)	Wood waste	Resource recovery / Waste St
NA	General Solid Waste (non-putrescible)	Garden waste	Resource recovery / Waste St
NA	General Solid Waste (non-putrescible)	Asphalt waste	Resource recovery / Waste St

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.

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

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.

O1. Dust

O1.1 Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

O1.2 Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.

O2. Waste Water

O2.1 Waste water from vehicle washing and cleaning must be treated as leachate or disposed of at a facility that can lawfully receive the waste.

O3. Stormwater / sediment control- Construction Phase

O3.1 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.