

**A. Conditions Prescribed by the Environmental Planning and Assessment Regulation 2000**

98: Compliance with *Building Code of Australia* and insurance requirements under the Home Building Act 1989

98A: Erection of signs

98B: Notification of *Home Building Act* 1989 requirements

98C: Conditions relating to entertainment venues

98D: Conditions relating to maximum capacity signage

98E: Conditions relating to shoring and adequacy of adjoining property

98F Conditions relating to development involving use of buildings as build-to-rent housing

Please refer to the NSW State legislation for full text of the clauses under Division 8A of the *Environmental Planning and Assessment Regulation 2000*.

**B. Planning conditions**

**PURSUANT TO SECTION 4.16(3) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979 THIS IS A 'DEFERRED COMMENCEMENT' CONSENT SUBJECT TO COMPLIANCE WITH THE FOLLOWING CONDITIONS OF CONSENT**

**D1. Department of Planning, Industry and Environment**

The Applicant must comply with all conditions and requirements outlined in NSW Department of Planning, Industry and Environment – Biodiversity and Conservation Division correspondence (including correspondence Dated 12 November 2019), attached to this Development Consent as Appendix 1, along with any future correspondence from Heritage NSW.

**Reason: To ensure compliance with NSW Department of Planning, Industry and Environment – Biodiversity and Conservation Division conditions of consent.**

**D2. Development Contributions**

Section 7.11 (formally known as Section 94) Development Contributions must be paid to Council prior to the commencement of this consent. Please contact Council's Engineering Department to ascertain the correct amount. The fee will be charged by way of a maintenance contribution of (\$0.15 x road length x ton). Charges are for the proposed extractive industry which will create additional demand on Council's road infrastructure.

Alternative arrangements for the development to maintain the road in lieu of Section 7.11 Contribution to the satisfaction of Council's Engineering Department to be conducted at inspection intervals of upgraded road classification. Road maintenance must be approved by Council under Section 138 of the *Roads Act* 1993.

The subject Section 7.12 Levy Development Contributions are imposed under the former Murray Shire Council Section 94A Levy Development Contributions Plan 2011, of which is available for inspection at Murray River Council's Moama office, 52 Perricoota Road, Moama NSW 2731, and on Council's website at [www.murrayriver.nsw.gov.au](http://www.murrayriver.nsw.gov.au).

**Reason: To comply with Council's Development Contribution policies and to protect Council's infrastructure.**

**D3. Landscape plan**

A comprehensive landscaping plan must be submitted to Council for approval. The plan must indicate the following information:

- a) Advanced (minimum 1 metre height at planting) screening trees along boundaries. The trees must be accompanied by plantings of shrubs and/or ground covers;
- b) The location and name of shrub and tree species to be planted (native plant species must be utilised);
- c) Measures to assist in the establishment and maintenance of the landscaping.

Once Council has approved the plan it will form part of this Development Consent. The registered proprietor must maintain the approved landscaping throughout the life of the development. If any of the vegetation dies or is removed, it must be replaced with the same species and the same maturity.

**Reason: To ensure the site is appropriately landscaped.**

**D4. Works in road reserve**

Roads used for transport of extracted material must be upgraded from current road classification (L3) to suitable pavement for proposed development including any drainage works required. An application must be made to Council prior to constructing hard surface driveways, footpaths or the like on or over the road reserve. Any works in the road reserve, including landscaping, require approval under the Roads Act 1993.

**Reason: To comply with the Roads Act 1993.**

**D5. Land rehabilitation plan**

The Applicant must prepare a land rehabilitation plan ensuring the rehabilitation of land which will be affected by the development. The plan must include the following:

- Identification of the proposed end use and landform of the land once rehabilitated.
- Outline how waste generated by the development or the rehabilitation will be dealt with appropriately.
- Outline 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.

Any soil contaminated as a result of the development must be remediated in accordance with relevant guidelines (including guidelines under Clause 3 of Schedule 6 to the *Environmental Planning and Assessment Act 1979* and the Contaminated Land Management Act 1997).

**Reason: To protect the natural environment and to comply with the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.**

**D6. Waste Management Plan**

The Applicant must submit a detailed Waste Management Plan to Council for approval. Every effort must be made to recycle or repurpose waste generated onsite. Please contact Council's Waste Department for more information.

**Reason: To protect the amenity of the area.**

Upon resolution of the above Deferred Commencement Conditions. the following conditions will be applied to the 'Operational Development Consent':

**General Conditions which must be fulfilled****1. Approved plans**

The development must be carried out in accordance with the plans and information submitted to and approved by Council. All conditions of consent must be fulfilled to the standard of Council and at the expense of the Applicant.

The development must comply with the definition of extractive industry as outlined within the Murray LEP 2011. Under the Murray LEP 2011:

***extractive industry*** means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

**Note—**

*Extractive industries are not a type of **industry**—see the definition of that term in this Dictionary.*

No other use is permitted unless prior consent by Council is obtained. No washing of vehicles is permitted to occur on the site at any time. No fixed building, plant or machinery is permitted to be erected or installed on the site without the prior approval of Council.

**Reason: To ensure the development is carried out as assessed.**

**2. Hours of operation**

The hours of operation for the development must be in accordance with the requirements of EPA, and/or the following:

- a. Mondays to Fridays – 7am – 5pm.
- b. Saturdays, 7am to 12pm (noon).
- c. The site is not permitted to operate on Sundays or Public Holidays unless authorised by EPA.

**Reason: To comply with the requirements of EPA and to protect the amenity of the area.**

**3. Engineering Guidelines**

The Applicant must comply with Council's Engineering Guidelines for Subdivisions and Development Standards in conjunction with advice from Council.

**Reason: To ensure the development is carried out in accordance with Council's Development Requirements.**

**4. Water supply work, sewerage work and stormwater drainage work**

Water supply work or sewerage work which is plumbing and drainage work within the meaning of the Plumbing and Drainage Act 2011 must comply with that Act and the regulations under that Act. Any water supply work or sewerage work which is not plumbing and drainage work under that Act, and any stormwater drainage work, must comply with the Plumbing Code of Australia.

**Reason: Council and Statutory requirement of Local Government (General) Regulation 2005.**

**5. Protection of vegetation**

There must be no clearing of any vegetation (including within Council's road reserve).

**Reason: To comply with the Biodiversity Conservation Act 2016.**

**6. Aboriginal Cultural Heritage**

- No Aboriginal objects may be harmed without an approval from Heritage NSW under the *National Parks and Wildlife Act 1974*.
- If any Aboriginal object(s) are discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the Proponent must:
  - o Not further harm the object(s);
  - o Immediately cease all work at the particular location;
  - o Secure the area to avoid further harm to the Aboriginal object(s);
  - o Notify Heritage NSW as soon as practical by calling 131 555 or emailing: [info@environment.nsw.gov.au](mailto:info@environment.nsw.gov.au), providing any details of the Aboriginal object(s) and its location;
  - o Not recommence any work at the particular location unless authorised in writing by Heritage NSW.
- If harm to Aboriginal objects cannot be avoided, an application for an Aboriginal Heritage Impact Permit (AHIP) must be prepared and submitted to Heritage NSW before work may continue.
- If skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access and NSW Police and Heritage NSW contacted.

It is the responsibility of the Proponent to ensure the development is consistent with the *Due diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*. All reasonable precautions must be taken to prevent damage to Aboriginal objects.

**Reason: To protect Aboriginal heritage and to ensure compliance with the *National Parks and Wildlife Act 1974*.**

**7. Vehicles**

All loading and unloading associated with the development must be carried out within the site. All vehicles must enter and exit the site in a forward direction.

**Reason: To provide safe movement of vehicles.**

**8. Noise control**

The emission of noise associated with the use of the premises including the operation of any mechanical plant and equipment must comply with all standards outlined in the *Noise Policy for Industry 2017* (NSW EPA) & *A Guide to the Noise Policy for Industry* (NSW EPA).

In the event the use exceeds permitted levels, the person in control of the premises must arrange for an acoustic investigation to be carried out by an accredited acoustic engineer and implement those measures to reduce noise to acceptable levels. Additional ongoing mitigations will be required to be installed and maintained for the life of the development.

**Reason: To protect the amenity of the area and to comply with the *Protection of the Environment Operations Act 1997* and *Noise Policy for Industry 2017*.**

**9. Amenity protection**

The approved development must not adversely affect the amenity and environment of the neighbourhood in any way including:

- (a) The appearance of any buildings, works or materials used.
- (b) The parking or movement of motor vehicles.
- (c) The transporting of materials or goods to or from the site.
- (d) Noise, air and water discharges from the site.
- (f) Electrical interference.
- (g) The storage and handling of garbage, fuels, chemicals, pesticides, gasses, waste products or other materials.
- (h) Emissions or discharges into the surrounding environment including, from wastewater, sediment, dust, vibration, odours or other harmful products.

Note: The Applicant must notify, at the earliest opportunity, Murray River Council of any incident which has caused, or threatens to cause, material harm to the environment. For any other incident associated with the development, the Applicant must notify Murray River Council as soon as practicable after the Applicant becomes aware of the incident. Within 7 days of the date of the incident, the Applicant must provide Murray River Council with a detailed report on the incident, and such further reports as may be requested.

**Reason: To protect the amenity of the adjoining area.**

**10. Environment**

The development must be undertaken in an environmentally responsible manner, including compliance with the following;

- i. Impacts on significant water resources, including surface and groundwater resources must be avoided, or minimised to the greatest extent practicable.
- ii. Impacts on threatened species and biodiversity must be avoided, or minimised to the greatest extent practicable.
- iii. Greenhouse gas emissions must be minimised to the greatest extent practicable.

**Reason: To protect the natural environment and to comply with the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.**

**11. Resource recovery**

The site must be operated which optimises the efficiency of resource recovery and the reuse or recycling of material.

**Reason: To protect the natural environment and to comply with the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.**

**12. Avoid residential areas**

Truck movements in connection with the development must avoid roads in residential areas or on roads near to schools as much as possible.

**Reason: To protect the amenity of residential areas and schools.**

**Conditions which must be complied with during operation**

**13. Vehicles**

Vehicles must be clean and free of debris prior to leaving the site. Deposited material may be ordered to be removed at the Applicant/operator's expense.

**Reason: To ensure sediment is not trafficked onto Council's road network.**

**14. Waste Containment**

Designated waste containment areas must be provided on site and maintained to prevent any windblown litter escaping from the site.

**Reason: To comply with the Protection of the Environment Operations Act 1997 and to preserve the environmental health and amenity of the adjoining area.**

**15. Council property**

Any damage or deterioration to any Council property including road reserves, or removal of any existing street trees, must be reinstated to its original condition at the Applicant's expense to the satisfaction of Council. Replacement tree(s) must be the same species and size as the one removed.

**Reason: To maintain safe access for pedestrians and to protect the amenity of the area.**

**16. Minimise dust and noise**

The Applicant must undertake measures to minimise dust and noise and ensure the impact on neighbouring properties is minimised.

**Reason: To minimise environmental and amenity impacts in respect to construction of the development.**

**17. No pollution of waterways**

The Applicant must take all necessary precautions and implement measures to prevent pollution of waterways during construction and operation of the development.

**Reason: To comply with NSW EPA requirements.**

**18. Extraction Volume**

This consent authorises a total extraction of 200,000 cubic meters of extractive material (sand) per year across an area outlined on approved plans. Details of the actual extraction rates must be submitted to Council on a quarterly basis (3 monthly). Prior formal development consent must be obtained from Council for any proposed extraction in excess of this amount. No sand extraction is to occur outside the area shown on the proposed extension areas of the Mallee Sands Quarry Figure 2-1 in Environmental Impact Statement prepared by NGH Environmental. The extraction rate records must be submitted via email to: [admin@murrayriver.nsw.gov.au](mailto:admin@murrayriver.nsw.gov.au).

**Reason: To minimise environmental and amenity impacts.**

**19. Potable water**

An adequate supply of potable water must be provided on site for workers and visitors. Worker's amenities must be provided in accordance with the requirements of SafeWorkNSW.

**Reason: To comply with the *Environmental Planning and Assessment Act 1979*.**

**20. Stockpiles**

Any stockpile of sand which is to stand undisturbed on the site for more than one week must be covered with an appropriate cover or treated with other appropriate measures such as watering to prevent sand from being blown from the site.

**Reason: To protect the natural environment.**

**21. Dust control**

Dust control measures must always be implemented in traffic areas, processing and loading areas and on stockpiles.

**Reason: To protect the natural environment.**

**22. Sand**

Any sand which falls on Rushy Road or any other road(s) from trucks servicing the site must be swept and collected from the roadway. The sand must not be hosed onto the adjoining road reserve.

**Reason: To protect the natural environment.**

**23. Loads covered**

Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading. All loading and unloading of trucks must be carried out off-street and wholly within the site.

**Reason: To protect the natural environment.**



**Compliance with Government Department conditions of consent**

**24. EPA**

The Applicant must comply with all conditions and requirements outlined in EPA correspondence (Dated 19 December 2016), attached to this Development Consent as Appendix 2.

**Reason: To ensure compliance with EPA conditions of consent.**

**25. Department of Primary Industries – Water**

The Applicant must comply with all conditions and requirements outlined in (former) Department of Primary Industries – Water correspondence (Dated 11 May 2017), attached to this Development Consent as Appendix 3.

**Reason: To ensure compliance with (former) NSW Department of Primary Industries – Water conditions of consent.**

**26. Transport for NSW – Roads**

The Applicant must comply with all conditions and requirements outlined in Transport for NSW - Roads (formally RMS) correspondence (Dated 5 December 2016), attached to this Development Consent as Appendix 4.

**Reason: To ensure compliance with Transport for NSW – Roads conditions of consent.**

**27. RFS**

The Applicant must comply with all conditions and requirements outlined in NSW RFS correspondence (Dated 16 September 2016), attached to this Development Consent as Appendix 5.

**Reason: To ensure compliance with NSW RFS conditions of consent.**

**28. Department of Industry – Resources & Energy**

The Applicant must comply with all conditions and requirements outlined in Department of Industry – Resources & Energy correspondence (Dated 26 October 2016), attached to this Development Consent as Appendix 6.

**Reason: To ensure compliance with Department of Industry – Resources & Energy conditions of consent.**

**Conditions which must be fulfilled prior to the use of the site**

**29. Conditions**

The Applicant must not allow or permit the site to be occupied or used, until:

- a. All conditions of this consent have been completed in full.

**Reason: To comply with the *Environmental Planning and Assessment Act 1979* and to ensure compliance with conditions of consent.**

**30. Letter of Completion**

The Applicant must not allow or permit the development to be occupied or used, until:

- a) All conditions of this consent have been completed in full;
- b) Correspondence being submitted to Council outlining how each relevant condition has been met; and
- c) Council has issued a Letter of Completion.

Extraction rate records must be submitted to [admin@murrayriver.nsw.gov.au](mailto:admin@murrayriver.nsw.gov.au) and attention to the Planning Department.

**Reason: To ensure compliance with conditions of consent.**

**31. Government Agencies**

Prior to the use of the site, the Applicant must provide evidence to Council outlining how relevant conditions from Government Agencies listed in the subject DA have been complied with. The evidence must be to the satisfaction of Council and the relevant Government Authority.

**Reason: To ensure Government Department requirements are met.**

**32. Code of Conduct**

The Applicant must prepare and implement, in relation to the development, a code of conduct relating to the transport of materials on public roads. The Code of Conduct must be approved by Council's Engineering Department prior to the use of the site.

**Reason: To comply with the requirements of the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.**

**33. Sealing of Rushy Road**

Rushy Road must be sealed for a length of 50m from the edge of Barmah Road. Please contact Council's Engineering Department for more information.

**Reason: To protect Council assets.**

**34. Emergency Spill Response Plan**

An Emergency Spill Response Plan must be submitted to and approved by Council. A copy of this plan must be kept on site during operating hours.

**Reason: To protect the natural environment.**

**35. Waste receptacle area**

An adequate waste receptacle area must be provided on-site to store all waste pending disposal. Such area must be screened, regularly cleaned and accessible to collection vehicles in the interest of amenity, safety and public convenience.

**Reason: To ensure a waste receptacle area is provided.**

**36. Landscaping**

All landscape works must be constructed in accordance with the stamped approved plan. Landscaping must be maintained:

- In accordance with the approved plan, and
- In a healthy state, and
- In perpetuity by the existing or future owners and occupiers of the property.

If any of the vegetation comprising landscaping dies or is removed, it must be replaced with vegetation of the same species and the same maturity, as the vegetation which died or was removed.

**Reason: To ensure the site is appropriately landscaped.**

**Advice to Applicant**

The land subject to this consent may have restrictive private covenants applying to it. It is the responsibility of the Applicant and owner/builder to ensure private covenants are adhered to. Council does not enforce or regulate private covenants and therefore accepts no responsibility for checking the compliance of building design with such covenants.

**Reason: To advise of the details of 1.9A of the Standard Instrument.**

Underground assets may exist in the area subject to this application. In the interests of health and safety and to prevent damage to third party assets, please contact Dial Before You Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures. If alterations are required to the configuration, size, form or design of the development upon contacting the Dial Before You Dig service, an amendment to the development consent (or a new development application) may be necessary.

Individuals owe asset owners a duty of care which must be observed when working in the vicinity of plant or assets on the relevant property via contacting the Dial Before You Dig service in advance of any construction or planning activities.

**Reason: To protect underground assets.**

It is the responsibility of the Applicant to check, understand and seek assistance where needed to ensure full compliance with the conditions of this Development Consent. Please contact Murray River Council on 1300 087 004 or [admin@murrayriver.nsw.gov.au](mailto:admin@murrayriver.nsw.gov.au) if there is any difficulty in understanding or complying with any of the above conditions.

**Reason: To ensure the Applicant is aware of their obligations.**

The development must be in accordance with the relevant provisions and Regulations of the *Biodiversity Conservation Act 2016*, the *Fisheries Management Act 1994*, the *Heritage Act 1977*, the *Local Government Act 1993*, the *National Parks and Wildlife Act 1974*, the *Protection of the Environment Operations Act 1997*, the *Roads Act 1993*, the *Rural Fires Act 1997*, the *Water Management Act 2000* and all other applicable legislation.

**Reason: To comply with relevant legislation.**

The Applicant should be aware that under Section 120 of the *Protection of the Environment Operations Act 1997* it is an offence to pollute waters.

**Reason: To comply with NSW Environment Protection Authority requirements.**

It is the Applicant's responsibility to ensure compliance with the requirements of the *Disability Discrimination Act 1992* (DDA). Note: Compliance with the Building Code of Australia does not necessarily meet the requirements of the DDA. You are advised to seek advice from the Australian Human Rights Commission (phone (02) 9284 9600) in respect of your application.

**Reason: To comply with the *Disability Discrimination Act 1992*.**