

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2017STH023
<b>DA Number</b>	DA13/0307.01
<b>LGA</b>	Wagga Wagga
<b>Proposed Development</b>	Application to modify consent DA13/0307 for the expansion of the Tarcoola Sand and Gravel Quarry located on Gillard Road, East Wagga Wagga, originally approved by the Southern Region Joint Regional Planning Panel on 1 December 2014. The requested modification includes the removal of the requirement to seal Gillard Road and replacement with road maintenance agreement including emulsion treatment. Also a request to modify conditions 8, 9, 16, 18, 19, 32, 47 and M2.2.
<b>Street Address</b>	Gillard Rd, East Wagga Wagga, Lot 4 DP 740222
<b>Applicant/Owner</b>	Tarcoola Quarries/Kenneth Tyson
<b>Date of DA lodgement</b>	5 September 2017
<b>Number of Submissions</b>	One
<b>Recommendation</b>	Approve subject to conditions
<b>Regional Development Criteria (Schedule 4A of the EP&amp;A Act)</b>	Particular designated development (extractive industries)  Under Clause 21 of State Environmental Planning Policy (State and Regional Development) 2011, the Planning Panel remains the consent authority for modifications under Section 96(2) of the Act
<b>List of all relevant s79C(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Section 96(2) of the Environmental Planning and Assessment Act 1979</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</li> <li>• State Environmental Planning Policy No. 55</li> <li>• State Environmental Planning Policy No. 33 - Hazardous and Offensive Development</li> <li>• State Environmental Planning Policy (Rural Lands) 2008</li> <li>• State Environmental Planning Policy No.44 - Koala Habitat Protection</li> <li>• Wagga Wagga Local Environmental Plan 2010 (WWLEP)</li> <li>• Wagga Wagga Development Control Plan 2010 (WWDCP)</li> <li>• Environmental Planning and Assessment Regulations 2000</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Statement of modification from applicant titled: <i>Tarcoola Quarries - Tarcoola Modification and Planning - Extension of Tarcoola Quarry - Modification 1</i></li> <li>• Original Section 79C assessment report for DA13/0307</li> </ul>
<b>Report prepared by</b>	Cameron Collins Development Assessment Coordinator
<b>Report date</b>	5 February 2018

<b>Summary of s79C matters</b> Have all recommendations in relation to relevant s79C matters been summarised in the Executive Summary of the assessment report?	<b>Yes</b>
<b>Legislative clauses requiring consent authority satisfaction</b> Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? <i>e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP</i>	<b>Yes</b>
<b>Clause 4.6 Exceptions to development standards</b> If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?	<b>Not Applicable</b>
<b>Special Infrastructure Contributions</b> Does the DA require Special Infrastructure Contributions conditions (S94EF)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	<b>Not Applicable</b>
<b>Conditions</b> Have draft conditions been provided to the applicant for comment? <i>Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report</i>	<b>Yes</b>

## Executive Summary

- This application seeks a modification under Section 96(2) of the Environmental Planning and Assessment Act 1979 of Development Consent DA13/0307 for the expansion of the Tarcoola Sand and Gravel Quarry located on Gillard Road, East Wagga Wagga as originally approved by the Southern Region Joint Regional Planning Panel on 1 December 2014.
- The primary intent of the application is to remove the need to seal an 800 metre section of Gillard Road from its intersection with the Sturt Highway to the entry of the site and a further 100 metre section of the access road into the site.
- The applicant intends to continue a program of maintenance on the existing unsealed surface of Gillard Road. The maintenance program will be supported by an approved maintenance plan, which will incorporate grading and gravel re-sheeting of the road as required. To minimise erosive actions and to reduce dust, the applicant also proposes to regularly treat the road with the application of an emulsion (by water truck) known as "Petro Tac".
- The modification will require reconsideration of the following conditions:
  - Condition 8 - to remove the requirement for sealing of Gillard Road.
  - Condition 9 – to remove the requirement for sealing of the first 100 metre section of the internal access road.
  - Condition 32 – to alter the maintenance requirements for the road to correspond with the standard of construction required under condition 8.
- It is recommended that the requirement to seal Gillard Road (and internal access road) under Conditions 8 and 9 be removed subject to an approved maintenance plan being trialed and reviewed across a 12 period.

- In addition to the trial period, it is recommended that Council require the following works occur if deemed necessary following review of the maintenance plan:
  - A 100m extension to the sealed section of Gillard Road providing a greater buffer between the unsealed road and the Sturt Highway intersection; and/or
  - installation of a shaker system to be positioned upon exit from the weighbridge, for the purpose of removing loose material from quarry trucks exiting the quarry.
- Council's operations Manager is supportive of the requested modification. RMS are also supportive subject to the maintenance plan being monitored and reviewed prior to its final adoption.
- The application also seeks to rectify what the applicant considers to be a number of minor errors or misdescriptions within the consent. The requested modification will involve the review of the following eight conditions:
  - Condition 16 – dealing with the method of certifying the approved quarry extraction limit to allow weighbridge records to be used as opposed to the engagement of a quantity surveyor.
  - Condition 18 – removing the 12 month timeframe for the surrendering of the original development consent (DA292/88) on the basis that it is unreasonable and that the condition is therefore potentially invalid.
  - Condition 19 – removing the requirement for reporting on extraction rates under the original consent (DA292/88) until that consent is surrendered, on the basis that it does not accord with the provisions of the Act and is therefore potentially an invalid condition.
  - Condition 47 – correcting an error in the required method of reporting on air quality. The required units of measurement (micrograms per cubic metre) are incorrectly stated and should be amended to micrograms per square metre.
  - Condition M2.2 – This General Term of Approval (issued by the EPA) incorporates an error in the required frequency of noise monitoring. The request is to alter the required frequency from biannual to biennial.
- The application to modify consent has been referred to the integrated approval bodies (EPA, OEH and Office of Water). Referrals have also been referred to other relevant government authorities including Crown Lands and RMS. No objection has been raised to the modifications requested by any of these authorities and any comments have been appropriately addressed.
- The modified proposal was advertised and notified to adjoining and nearby properties. One public submission was received objecting to the application.
- It is satisfied, that the mitigation measures proposed will safeguard against impacts generated by the proposed modifications, including concerns raised in

the public submission received.

- The modified proposal complies with the requirements of the Environmental Planning and Assessment Act 1979 (including the provisions of s.96(2)), relevant environmental planning instruments and Council policies.
- The modified development is considered satisfactory and it is recommended that the application be approved subject to the conditions of development consent incorporating those amendments summarized above and discussed within this assessment report.

## **DESCRIPTION OF DEVELOPMENT**

Consent was granted for Development Application DA13/0307 for the expansion of the Tarcoola Sand and Gravel Quarry located on Gillard Road, East Wagga Wagga by the Southern Region Joint Regional Planning Panel (the Panel) on 1 December 2014.

The original assessment report provided to the Panel included the following description of the development which provides an overview of the development:

*The applicant seeks permission for an extension to the operations at Tarcoola Sand and Gravel Quarry. The original operation was approved under DA292/88 on 23 March 1989.*

*The quarry has therefore been in operation at this location for some 24 years. Recent issues have been raised with regards to the current operations complying with approved and licensed extraction limits and the approved extraction area. This application has been lodged in part to rectify these concerns and provide for the expansion of the quarry over approximately the next 15-20 years. The quarry is currently operating a scheduled activity without the appropriate licence from the Environmental Protection Authority. To gain the required EPA licence an updated development approval is required, hence the lodgement of the subject application on 20 June 2013.*

*The proposal involves increasing the extraction rate to a maximum of 150,000 tonnes per annum, progressively extending the quarry footprint to the north and west in a series of pits.*

*Stage 1 of the proposal includes the continuation of the existing operations to an area of approximately 5 hectares directly to the north of the existing operations. Stage 2 of the proposal will involve extraction activities to the west of Gillard Road with an overall area of approximately 7.5 hectares.*

*Quarrying at the site will involve the following 5 phases:*

- *Overburden removal and levee construction*
- *Extraction*
- *Screening, washing and stockpiling the raw material*
- *Loading, transport and distribution*
- *Rehabilitation (progressive and sequential)*

*The proposal includes 4 pits with the first 3 split into two cells and a sedimentation basin. Two pits currently exist on site. Two pits are proposed to be available for extraction at any one time with a 1:10 level AEP flood protection levee constructed around the operational pits and the processing plant. Each pit will be split into two levels to allow for a range of material to be extracted as well*

as providing quarrying opportunities in times of high water table. The levee will be moved to protect each pit when opened for operation. Progressive rehabilitation of the quarry will be undertaken with rehabilitation of one exhausted pit undertaken concurrently with overburden removal and levee construction for the next pit to be incorporated into the operations.

The applicant has also proposed that a 'last bucket' extraction take place below the water table to enable access to some more economical viable gravel deposits. The applicant has proposed a maximum pit depth of 160 AHD, the current pit base is 169 AHD and the ground level is approximately 179 AHD. Excavation will be undertaken with the use of 2 excavators with material transported to the current processing area by dump truck.

The main products being targeted are materials such as loam, sand and gravel. The current and proposed gravel aggregates include:

- 20mm
- 14mm
- 10mm
- 5mm

The quarry is currently sub-let with 4 full time staff operating from the site and working hours proposed within this application (i.e. 7am - 6pm Monday to Friday and 8am - 6pm on Saturday) are generally consistent with the previous approval (i.e. 7.30am - 6pm Monday to Friday and 8am - 6pm on Saturday). The information submitted with the application suggests that the current operational arrangements will remain similar, with this application providing the option to quarry more material in line with market demand and for new pits to be opened when the current pits are exhausted.

Currently the majority of the material is distributed within the Riverina Region, supplying product to the construction industry as well as for flood mitigation works in more recent years.

The quarry requires water to operate and is proposing to operate within the water table at times. Water licences are therefore required from the relevant authorities. The relationship with the operations and water table has been discussed in the body of this report.

If approval was to be granted for the expansion, a condition would be placed on the consent requiring the original consent to be surrendered, thus bringing the whole operation under the one consent. It is considered that such a requirement would bring the current operations up to appropriate standards.

The applicant confirmed via additional information dated June 2014, that the existing quarry includes a processing area including an integrated screening, washing and stockpiling operation which is proposed to be retained. The integrated screening plant incorporates three Finlay Supertrack 683 screens including a washery, a small cone crusher and a cyclone.

The applicant has therefore confirmed that crushing does form part of the current operations and is proposed to form part of this application.

The applicant also confirmed that the proposed hours of operation are as follows:

- Monday - Friday 7am - 6pm
- Saturday 8am - 6pm

## Proposed modification

The applicant has lodged an application under the provisions of Section 96(2) of the Environmental Planning and Assessment Act 1979, seeking a modification to the consent. The primary intent of the application is to remove the need to seal an 800 metre section of Gillard Road from its intersection with the Sturt Highway to the entry of the site and a further 100 metre section of the access road into the site. The application also seeks to rectify what the applicant considers to be a number of minor errors or misdescriptions within the consent.

The requested modification will involve the review of the following eight conditions:

- Condition 16
- Condition 18
- Condition 19
- Condition 47
- Condition M2.2
- Condition 8
- Condition 9
- Condition 32

## Condition 16

***The extraction is limited to 150,000 tonnes per annum. The proponent must supply Council with a quantity surveyors report at the end of each financial year that clearly certifies the amount of material extracted and further certifies that approved extraction limit has not been exceeded.***

The applicant has requested that this condition be reconsidered so that weigh bridge records can be relied upon as evidence of compliance with the extraction limit as opposed to engaging a quantity surveyor to report on this matter. The applicant considers that this method will provide a more accurate measure of extracted material given that all material leaving the quarry will do so via the existing weighbridge facility located on the site.

## Discussion

The weighbridge provides the most logical and accurate mechanism for the recording of material extracted. A quantity surveyor would be relying on weighbridge records to inform their report. It is onerous to require the engagement of a quantity surveyor where the proponent can provide their records as appropriate evidence of extraction rates. It is recommended that the condition be reworded (shown in italics) as follows:

***The extraction is limited to 150,000 tonnes per annum. All laden trucks exiting the quarry are to cross the weigh bridge for the purpose of recording the quantity of material extracted. The proponent must supply Council with a report presenting the truck movements and weight of material at the end of each financial year that clearly certifies the amount of material extracted and further certifies that approved extraction limit has not been exceeded.***

## Condition 18

***Within 12 months of the date of this approval the consent given by Council's Notice of Determination of Development Application No. 292/88 and dated 23 March 1989 must be surrendered by the submission of a document in accordance with Clause 97(1) of the Environmental Planning and Assessment Regulation 2000.***

The applicant has requested that this condition be reconsidered on the basis that the 12 month time period is unreasonable and does not accord with the provisions of Section 80(A) (Imposition of Conditions) of the Environmental Planning and Assessment Act 1979. The applicant claims that the time period is unreasonable as it has been imposed to address compliance issues relating to the original quarry consent and that this is not a valid reason for imposing a condition under the Act. The applicant concurs that the original consent will need to be surrendered upon commencement of the new consent and therefore requests that the condition be amended to remove the 12 month time frame.

### Discussion

Generally, the purpose of a condition requiring the surrender of a previous consent is to enable a later, and inconsistent, consent to operate as envisaged. Without such a condition, the consent itself may be incompatible with the development authorised by the earlier consent. This is the primary reason why this condition was imposed and it is recommended that the requirement to surrender the earlier consent remain.

However the imposition of a 12 month period for surrender has no logical basis as the need for surrender only arises if the Consent is taken up. The condition requires the owner of the Quarry to surrender the Original Consent irrespective of whether it decides to act on the Consent and effectively pre-empts the owner's discretion to decide to do so. The 12 month time frame is primarily a mechanism to enforce previous breaches of the original consent by seeking to obtain the cessation of operations under that consent.

Prior, unlawful use, is generally not relevant to the determination of a development application and is therefore considered unreasonable. If challenged, it is likely that the Court would find that the condition is unreasonable and that the condition (and possibly the consent) is invalid.

It is recommended that the 12 month time period nominated within the condition be removed and that the time frame for surrender of the original consent be tied to the date of commencement of operations under the new consent. No objection is raised to the proposed rewording of the condition as follows:

***Upon commencement of operations under this consent, the consent given by Council's Notice of Determination of Development Application No. 292/88 and dated 23 March 1989 must be surrendered by the submission of a document in accordance with Clause 97(1) of the Environmental Planning and Assessment Regulation 2000.***

## Condition 19

***The applicant is to submit monthly extraction reports to Council from the date of this consent until Development Application No.292/88 has been surrendered or the period of 12 months referred to in condition 18 has lapsed. The extraction reports must show compliance with the extraction limits listed under DA292/88.***

***The extraction reports are to be verified by an independent environmental auditor approved by Council.***

The applicant has requested that this condition be reconsidered as the requirement does not accord with the provisions of Section 80(A) (Imposition of Conditions) of the Act. The applicant claims that the requirement to prepare extraction reports relating to the original consent for the quarry is unreasonable as it has also (like condition 18) been imposed to address compliance issues relating to the original quarry consent and that this is not a valid reason for imposing a condition under the Act. The applicant has requested that this condition be deleted.

Like the imposition of the "12 month period" under condition 18 (see discussion above), condition 19 is primarily a mechanism to enforce previous breaches of the original consent. The condition is unreasonable and it is recommended that it be deleted from any modified consent.

## Condition 47

***The air quality monitoring in Condition M2.3 shall be reported to Council in units of micrograms per cubic metre.***

This condition relates to the method of reporting on air quality monitoring. Currently the method imposed under this condition is inconsistent with the method outlined in the General Terms of Approval (Condition M2.3 - Section 1) issued by the Environment Protection Authority (EPA). The condition is reproduced below:

***M2.3 For each monitoring/ discharge point or utilisation area specified below (by a point number), the applicant must monitor (by sampling and obtaining results by analysis) the concentration of each pollutant specified in Column 1. The applicant must use the sampling method, units of measure, and sample at the frequency, specified opposite in the other columns. Dust monitoring must be undertaken at the following receptors R1, R2, R4 and R5***

### ***Air***

<b><i>Pollutant</i></b>	<b><i>Units of measure</i></b>	<b><i>Frequency</i></b>	<b><i>Sampling Method</i></b>
<b><i>Total Suspended Particles and PM10</i></b>	<b><i>g/m<sup>3</sup>/Month</i></b>	<b><i>Quarterly</i></b>	<b><i>Australian Standard AS3580.10.1</i></b>

For the purpose of clarity, the applicant has requested that condition 47 be reworded so that it is consistent with the condition (M2.3) that will be imposed on their Environmental Protection License as follows:

***The air quality monitoring in Condition M2.3 shall be reported to Council in units of micrograms per square metre.***



This matter has been referred to Council's Senior Environmental Officer who raises no concern with this request. EPA have raised no concern with this modification.

#### **Condition M2.2 (Section 1)**

***M2.2 A Noise Management Plan for the site should be produced and noise monitoring undertaken on a biannual basis at the key receptors identified in the EIS as R1, R2, R4 and R5. An annual noise audit of plant and activities should be implemented to ensure best available economically achievable technologies are used.***

***R1, R2, R4 and R5.  
Noise***

<b><i>Pollutant</i></b>	<b><i>Units of Measure</i></b>	<b><i>Frequency</i></b>	<b><i>Sampling Method</i></b>
<b><i>Noise</i></b>	<b><i>dB(A)</i></b>	<b><i>Biennial</i></b>	<b><i>As described in the NSW Industrial Noise Policy, Jan 2000 as amended from time to time.</i></b>

This is a General Term of Approval imposed by the EPA and relates to the method and frequency of noise monitoring. The applicant has identified that the frequency of reporting (Biannual) required under this condition is inconsistent with the current Environmental Protection License (EPL 20543) which requires biennial reporting. It is also noted that the frequency of reporting is also inconsistent between the condition (biannual) and condition table (biennial) as identified above. The applicant has requested that this inconsistency be rectified as follows:

***M2.2 A Noise Management Plan for the site should be produced and noise monitoring undertaken on a biennial basis at the key receptors identified in the EIS as R1, R2, R4 and R5. An annual noise audit of plant and activities should be implemented to ensure best available economically achievable technologies are used.***

***R1, R2, R4 and R5.  
Noise***

<b><i>Pollutant</i></b>	<b><i>Units of Measure</i></b>	<b><i>Frequency</i></b>	<b><i>Sampling Method</i></b>
<b><i>Noise</i></b>	<b><i>dB(A)</i></b>	<b><i>Biennial</i></b>	<b><i>As described in the NSW Industrial Noise Policy, Jan 2000 as amended from time to time.</i></b>

EPA have raised no concern with this requested modification.

#### **Condition 8**

***Gillard Road shall be constructed and sealed to provide for 2 travel lanes in accordance with Council's Engineering Guidelines to minimum 30 year life span. The road shall be sealed from the Sturt Highway up to and including the entry to the site by a suitably experienced contractor. Prior to commencement of works, plans and a pavement design carried out by a suitably experienced Geotechnical Engineer shall be submitted to Council's Development Engineer for approval. Plans are to indicate how***

***stormwater runoff will be drained from the road surface and how any low points in the road will be drained and location of additional safety signage.***

The applicant is seeking approval to remove the requirement for the sealing of Gillard Road. The applicant claims that the requirement to maintain a sealed road is unviable given the high frequency of flood inundation experienced at this location and the resulting damage and reinstatement work required.

Historically, the quarry operator has undertaken the maintenance work on Gillard Road and it is the applicant's intention under this application to continue a program of maintenance on the existing unsealed surface. The maintenance program will be supported by an approved maintenance plan (see discussion under condition 32 below) as opposed to the largely unregulated maintenance that has occurred in the past.

It is the applicant's intention that the maintenance plan will incorporate grading and gravel re-sheeting of the road as required. To minimise erosive actions and to reduce dust, the applicant also proposes to regularly treat the road with the application of an emulsion (by water truck) known as "Petro Tac". The application of the emulsion works by saturating, penetrating and bonding dust and aggregated particles on the road surface to form a hard and durable surface that is not susceptible to water damage and also significantly reduces dust.

The applicant contends that the proposed maintenance regime will result in a very stable road surface that will produce minimal dust and sediment under haulage from the proposed quarry operation. The road will perform similar to a sealed road without the high costs associated with maintenance and reconstruction following flood inundation.

The application to modify the consent has been referred to Council's Manager Operations who is responsible for the ongoing maintenance and repair of Council's public road network. The Manager Operations provided the following overview of the current road and commentary on the proposed modification. Additional comments have been provided for the purpose of providing further detail to the comments:

- *Gillard Road north of Tarcoola Road primarily services the Turf Farm and the Quarry. It also leads to the Orange Tree Point reserve at the northern end. Riverina Water has a bore located at the boundary of the reserve.*

Additional comment - Other traffic Gillard Road is minimal and includes users of the Crown reserve (Orange Tree Point), Riverina Water service vehicles and access to the paintball business carpark (first 50m unsealed section only).

- *Gillard Road is a Council-owned road from the Sturt Highway right through to the reserve.*

Additional comment - The operator of the quarry has been maintaining Gillard Road in its unsealed form since the quarry commenced operations back in the 1980's. Upon the commencement of the quarry, the road was a Crown road. The current DA was approved on the agreement of the Crown that the road would be transferred to Council prior to operations commencing under the new consent. This transfer process occurred with gazettal on 3 July 2015. Gillard Road (north of Tarcoola Road) is now an unmaintained Council road.

- *The section of Gillard Road from the Sturt Highway to the intersection of Tarcoola Road (approximately 80 metres) is maintained by Council, with patching undertaken as and when required. This short section of road is utilised by several businesses fronting the Sturt Highway (for rear and side access) and several businesses located in Tarcoola Road.*

Additional comment - this section of Gillard Road is used by a number of other businesses (including other heavy vehicle operators) in addition to the quarry. This includes an earthmoving/concrete batching business (Burgess Earthmoving), a heavy vehicle diesel mechanic (Detroit Diesel) and the Tarcoola turf farm. The need for ongoing maintenance of this section of Gillard road is attributed to all users of the road.

- *The section of Gillard Road between Tarcoola Road and the entrance to the quarry (approx. 700 metres) is maintained by the quarry owner. The sixty metres of this section is utilised by the paintball operator to provide access.*
- *Gillard Road is unformed and unmaintained beyond the entrance to the quarry (approx. 400 metres).*

Additional comment: this 400m section of Gillard road is not maintained by Council or the Quarry. It can be described as an access track providing basic access to Orange Tree Point Reserve and also a Riverina Water pump station. No change to the maintenance regime or condition of this part of Gillard Road is proposed under this application.

- *The section maintained by the quarry owner is presently maintained to a suitable standard to support this use of the road. The quarry owner undertakes dust suppression utilising water carts. There have been no dust complaints from residents in the vicinity of this section of the road. There is no requirement for anything further in terms of either road standard or maintenance regime.*

Additional comment - Despite the position of Council's Manager Operations with regard to the suitability of the current maintenance regime, the applicant intends to prepare an ongoing maintenance plan which will include the use of emulsion to further stabilize the road surface and to minimise dust and the tracking of sediment.

- *The section of Gillard Road between Tarcoola Road and the waterway (approx. 360 metres) was apparently sealed some years ago as part of the compliance requirements for an earlier DA. This section has washed away in a subsequent flood. There is no need and no point in reinstating it.*

Additional comment - The impact of flood waters on previous road infrastructure are noted. A possible minor extension of the seal to the north of the Tarcoola Road intersection could be considered in the event that the maintenance regime is not effective, particularly with regard to the tracking of sediment across the Tarcoola Road intersection and beyond towards the Sturt Highway. This is supported by comments received from RMS who are concerned with the potential impact of sediment encroaching onto the Sturt Highway (see comments below).

- *Council has no counts to support any estimates of traffic volumes, however the only significant user apart from the Tarcoola Quarry and the Tarcoola Turf Farm appears to be Riverina Water. Riverina Water visits its bore several times a week. Anecdotal evidence suggests that there are only a few visitors to the reserve each month. The state of the unformed road would generally restrict visitors to 4WD vehicles. The number of vehicles accessing the paintball centre is unknown.*
- *In summary, I am content that the present maintenance regime and standard of Gillard Road suits the current and projected traffic volumes and needs of the road users. Increased traffic volumes from the quarry will not impinge on this as the quarry owner will need to maintain the road to support his increased use. Improving the road standard by requiring the quarry owner to seal the road will place an unnecessary cost burden on the quarry and ultimately on Council when/if the quarry ceases operating.*

The application to modify the consent has been referred the Roads and Maritime Service (RMS). RMS raises no objection to the proposed modification including the removal of the requirement to seal Gillard Road, subject to the following comments:

- *In relation to this condition (condition 8) the concern of Roads and Maritime is road safety and the potential for loose material being dragged onto the sealed section of Gillard Road and its intersection with the Sturt Highway.*
- *As a portion of Gillard Road is currently unsealed there is evidence of loose material and dust issues along the sealed portion of Gillard Road and at the intersection of Gillard Road with Hammond Avenue (the Sturt Highway) due to the haulage of quarry material. For road safety reasons Roads and Maritime considers that Gillard Road should be treated and haulage vehicles managed so as to minimise dust generation and the tracking of loose material onto the sealed section of Gillard Road and the Sturt Highway.*
- *Condition 32 is proposed to be modified to provide a formal agreement between the proponent and the Council for the ongoing maintenance of both Gillard Road and the internal access road. The submission proposes a number of items to be addressed as part of the agreement. Roads and Maritime Services considers that a further item would be the requirement for mechanisms to be implemented to minimise the tracking of loose material onto the sealed section of Gillard Road and processes for the ongoing monitoring and removal of loose material from the sealed section of Gillard Road on a regular basis.*
- *The effectiveness of the emulsion proposed in relation to the tracking of material onto the sealed section of Gillard Road is unknown and should be monitored for a period of 6 to 12 months. An option for the extension of the seal on Gillard Road at least to the toe of the slope on the northern side of the intersection of Gillard Road with Tarcoola Road would aid to minimise the tracking of loose material over the crest of the intersection. This could also be considered for road safety reasons.*

Having regard to the comments received from both RMS and Council's Manager Operations, it is recommended that the requirement to seal Gillard Road under Condition 8 be removed. It is further recommended that the implementation of an approved maintenance plan (see discussion under condition 32 below) be monitored

across a 12 trial period. If necessary, an extension to the sealed section (100m) of Gillard Road should be imposed at the conclusion of the trial period if deemed necessary to provide a greater buffer between the unsealed road and the Sturt Highway intersection.

To further reduce dust and the tracking of sediment, the applicant has again offered the installation of a shaker system to be positioned upon exit from the weighbridge. The original proposal to install a shaker was removed in light of the following assessment of the original application:

*The proposal is to install a shaker and signage at the location of the weighbridge and consideration of sealing Gillard Road in discussions with Council. Council considers the shaker not to be a favourable option as it creates additional noise and there is no certainty it will be used by every truck, the shaker also has very little impact on reducing dust. Council's position would be to require the sealing of Gillard Road to the entry of the Quarry and a further 100m into the quarry site.*

Despite the previous assessment and in light of the current proposal to allow for the continued use of Gillard Road in its unsealed format, it is recommended that the option for a shaker be reconsidered. Upon review of the maintenance plan following the trial period, Council can require the installation of the shaker if it is identified that trucks are continuing to drop material.

It is recommended that Condition 8 be reworded as follows:

- (A) Subject to 8(C), Gillard Road shall be constructed and sealed to provide for 2 travel lanes in accordance with Council's Engineering Guidelines from its intersection with Tacoola Road for a minimum distance of 100m to the north. The road shall be sealed by a suitably experienced contractor. Prior to commencement of works required to be carried out under this condition, plans and a pavement design carried out by a suitably experienced Geotechnical Engineer shall be submitted to Council's Development Engineer for approval.***
- (B) Subject to 8(C), a shaker system designed to remove loose material/debris from all quarry trucks leaving the site shall be installed immediately upon exit from the weighbridge.***
- (C) The works in 8(A) and 8(B) are deferred until such time as Council notifies the Applicant, under condition 32 of this Consent, that the final maintenance plan is to the satisfaction of the Director of Commercial Operations. At the time of that notification, Council is to notify the Applicant in writing whether or not the construction/sealing of the road and/or the installation of a shaker system can be deferred indefinitely. If Council notifies the Applicant that the draft final maintenance plan is not acceptable and that the required works in 8(A) and/or 8(B) are to be completed, the Applicant is to complete the works within 6 months of the date of that notification.***

#### **Condition 9**

***Within the site, the first 100m of the access road from the front boundary on Gillard Road shall be maintained with a continuous seal to reduce the transportation of sediment and to minimise dust.***

The applicant has also requested that the requirement under this condition to seal the first section of the internal access road be removed. As Gillard Road will no longer be sealed, any dust or sediment generated from the internal access road will have negligible impact on the unsealed surface of Gillard Road.

Subject to consent being granted to the modification of Condition 8 to remove the requirement to seal Gillard Road, no objection is raised to the deletion of Condition 9.

## **Condition 32**

***The applicant/owner of the quarry is required to ensure that Gillard Road is maintained to a standard acceptable to Council and as approved under condition 8 of this consent.***

***For the life of this consent the applicant shall provide a bank guarantee to the value of 30% of the works required under Condition 8 of this consent for the purpose of making good any damage caused to Gillard Road as a consequence of the doing of anything to which this consent relates.***

***Should any repair and maintenance works be required during the life of the quarry they shall be at the full cost of the owner of the quarry. Council will undertake any works required and bill the owner appropriately or, if required, access the required security referred to above to fund the works.***

***Any repair works required on Gillard Road, by Council, shall be addressed to Council's satisfaction within 14 days of written notice by Council to the quarry operator, or Council will utilize bond monies for the purpose of undertaking required road maintenance works. Bond monies shall be replenished to required 30 % threshold within 14 days after Council carries out any required road maintenance works.***

This condition requires the ongoing maintenance of Gillard road to the standard required under condition 8 (i.e. a sealed standard). Any approval to modify condition 8 allowing Gillard Road to be maintained in its current un-sealed format, will require modification of this condition.

The objectives of this condition (and condition 8) are not only to ensure the maintenance of an appropriate haulage route for the quarry operation, but also to minimise the generation of dust and sediment from the road surface. Historically, the quarry operator has undertaken the maintenance work on Gillard Road and it is the applicant's intention under this application to continue a program of maintenance in lieu of sealing. The maintenance program, however, will be supported by an approved maintenance plan to be negotiated with Council.

As discussed earlier, RMS have recommended that any maintenance plan be trialed over a 6 - 12 month period to determine the effectiveness of the program. Following the completion of this trial period, the applicant will be required to submit a final maintenance plan for review and approval by Council. Council will have the opportunity to require modification to the plan if issues are identified during the trial period. This will also include the opportunity for Council to require the extension of seal and/or installation of a shaker system as stipulated under the modified condition 8 if deemed necessary.

It is recommended that the Condition 32 be reworded as follows:

**(A) Prior to commencement of quarrying operations under this consent, the Applicant is to prepare, and submit to Council, a 12 month trial maintenance plan for Gillard Road. The trial plan shall cover the section of Gillard Road extending from the entry to the quarry through to its intersection with Tarcoola Road and shall incorporate a program of maintenance works to be carried out by the applicant, including, but not limited to, the application of an emulsion, and that will aim to:**

- **Maintain the unsealed section of Gillard Road (from Tarcoola Road to the quarry entrance) to a standard appropriate for the movement of quarry trucks without posing unacceptable risk to other users of the road.**
- **Suppress dust generated by vehicles using the unsealed section of Gillard Road (from Tarcoola Road to the quarry entrance).**
- **Prevent the tracking of sediment from the unsealed section of Gillard Road onto the sealed section of Gillard Road and the Sturt Highway.**
- **Manage the surface level of Gillard Road where it traverses the floodway to minimise impact on the movement of water along that floodway.**

**The plan shall also incorporate details of required approvals and licences that must be maintained in order to undertake the maintenance works required under this plan on a public road.**

**(B) Prior to the commencement of quarrying operations under this consent, the applicant shall obtain confirmation in writing from Council that the trial plan is to the satisfaction of the Director of Commercial Operations, or their delegate. The trial plan shall be implemented for a trial period of 12 months from the commencement of quarrying operations under this consent.**

**(C) For the purpose of administering this condition, the applicant shall notify Council in writing of the date of commencement of quarrying operations under this consent. Notification is to be given within 14 days of the commencement of quarrying operations under this consent.**

**(D) At least two months prior to the expiration of the 12 month trial period, the applicant shall:**

- **Provide Council with a draft final maintenance plan outlining any amendments required to address any identified limitations in meeting the aims of the trial plan.**
- **Arrange for Council to undertake an inspection of Gillard Road for the purpose of reviewing the effectiveness of the trial plan and assessing any proposed amendments proposed within the draft final maintenance plan.**

**Following this review, the Council shall notify the applicant whether the draft final maintenance plan is acceptable or not and if so any**

***details of any additional amendments required to be included to achieve the aims identified in 32(A).***

***The applicant is to incorporate any amendments to the final maintenance plan in accordance with any directions issued by the Council and submit the final plan to Council for approval a minimum of 1 month prior to the expiration of the trial period.***

***Upon confirmation in writing from Council that the final plan is to the satisfaction of the Director of Commercial Operations, or their delegate, the final maintenance plan shall be implemented for the life of the quarry operation under this consent.***

- (E) Until such time as Council confirms in writing that the final management plan is to the satisfaction of the Director of Commercial Operations, or their delegate, the applicant is to continue to maintain the road in accordance with the trial maintenance plan.***

## **THE SITE & LOCALITY**

The subject site being Lot 4 DP 740222, 2 Gillard Road is known as Tarcoola Turf and Quarries. The property is located approximately 3.5km east of the CBD. The site is located to the rear of the industrial/business land on the north eastern side of Koorlingal Road and Hammond Avenue. The site is bound by the Murrumbidgee River to the north. Gillard Road dissects the subject site with the current quarrying operations to the east and the turf farm to the west.

Access to the site is off the Sturt Highway and along Gillard Road which is sealed for the first 400m and then unsealed through to a Crown reserve and the River to the north.

Tarcoola Turf and Quarries currently operate turf, weighbridge and quarry operations. The turf operations equate to approximately 80ha of the site (the majority of the site). The weighbridge is situated adjacent to the site office and Gillard Road at the southern end of the property.

The quarry has been operational in excess of 25 years, with the existing operations being located to the east of Gillard Road. The existing quarry operation consists of a northern and southern pit, screening and stockpiling facilities and a sediment pond located in the riverine corridor of the Murrumbidgee River. The quarrying operations currently equate to approximately 2ha of the site.

The surrounding land uses include industrial/commercial development (along the Sturt Highway to the south) and rural land uses, including a small number of rural dwellings, along the river corridor. Other adjoining landuses include a paintball business to the south and a further sand and gravel quarry to the east.

The site is generally flat, contains substantial vegetation along the river and sporadic vegetation across the remainder of the site.

## **MATTERS FOR CONSIDERATION PURSUANT TO SECTION 96(2)**

***(2) Other modifications***



*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

- (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

**Comment** - The development is substantially the same.

- (b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

**Comment** - General Terms of Approval have been issued by the relevant approval bodies in regard to approvals granted under:

- Sections 43(b) and 48 of the Protection of the Environment Operations Act 1997
- Sections 89, 90 and 91 of the Water Management Act 2000
- Section 90 of the National Parks and Wildlife Act 1974

The application to modify consent has been referred to the approval bodies identified above. No objection has been received by any of the approval bodies (see comments later in this report).

- (c) it has notified the application in accordance with:*  
*(i) the regulations, if the regulations so require, or*

**Comment** - There is no specific regulation governing the notification of this application.

- (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

**Comment** - The application has been notified to adjoining and nearby landowners and also publicly advertised. See details later in this report.

- (d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

**Comment** - One public submission has been received in relation to the application. The submission has been considered as detailed later in this report.

### **MATTERS FOR CONSIDERATION PURSUANT TO SECTION 79C(1)**

The assessment of this modification remains consistent with the original assessment with exception of any additional comments provided below:

*For the purpose of determining this development application, the following matters*

that are of relevance to the development have been taken into consideration pursuant to the provisions of Section 79C(1) of the Environmental Planning and Assessment Act, 1979.

**(a)(i) - The provisions of any environmental planning instrument (EPI) Local Environmental Plan**

**Wagga Wagga Local Environmental Plan 2010 (LEP 2010)**

The following provisions of the LEP 2010 apply:

**Land Use Table**

Under the LEP the site is zoned RU1 - Primary Production

The objectives of the zone that would be considered relevant are;

- • *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource land*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To foster strong, sustainable rural community lifestyles.*
- *To maintain the rural landscape character of the land*
- *To allow tourist and visitor accommodation only where it is in association with agricultural activities.*

Under section 3 of Zone RU1, Extractive Industries are considered permissible with consent.

Extractive Industries area defined as follows:

***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.

Despite the modifications proposed, the development remains consistent with the “extractive industry” definition. The modification also does not alter the original assessment against the objectives of the RU1 zone as reproduced below:

*Quarry has been operating in this location for the past 24 years and the proposed expansion is to ensure the quarry remains in operations for the foreseeable future. The proposed expansion will supply a critical resource to the city and will minimise the demand to expand into other areas where impacts on resource land are likely to be more considerable. The proposed operation will therefore assist in minimising the fragmentation and alienation of resource land across the city by focussing on the development of an existing quarry site as opposed to a new operation.*

*The principle of the quarry extension is not contrary to the objectives listed above and the accompanying assessment of this proposal has indicated that*

*the proposal would have an acceptable impact on the character of the area and the adjoining land uses. It is therefore considered that the proposed expansion meets the objectives listed.*

## **5.10 Heritage conservation**

The original assessment identified the presence of an isolated Aboriginal object on the site. The modification proposed will not affect the protection of the object and will not result in any amendment to the requirements of the current consent concerning the protection of this object.

General Terms of Approval (GTAs) were issued by the Office of Environmental and Heritage (OEH) and are included as conditions of the current consent. The modification has been referred back to OEH who have raised no concern with the proposed modification (including matters relating to Aboriginal cultural heritage, biodiversity and flooding) and have requested no amendment to the original GTAs.

## **Part 7 - Additional Local Provisions**

### **7.1A Earthworks**

The proposed modifications will not impact on the earthworks proposed under this application and therefore does not require further consideration with regard to the matters identified under the clause. The modified development will remain consistent with the objectives of the clause.

### **7.2 Flood Planning**

*(1) The objectives of this clause are as follows:*

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

*(2) This clause applies to:*

- (a) land that is shown as "Flood planning area" on the Flood Planning Map, and*
- (b) other land at or below the flood planning level.*

*(3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:*

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

The proposed modification will not have any additional adverse impact with regard to

flooding. The modifications will not affect the extent of the quarrying operation or the finished levels of the extraction pits, levees or other works.

However, with respect to the likely impact of flooding on the economic cost to the community, the applicant contends that the proposed modification seeking approval to remove the requirement for the construction (sealing) of Gillard Road, will result in a development outcome that will significantly reduce costs associated with the regular maintenance and repair as a result of damage caused by flood inundation.

Council's Development Engineer has confirmed that Gillard Road is regularly inundated by flood events with recurrence intervals of less than 1 in 20. The potential for these flood events to damage and degrade the road surface and subgrade is significant. The resulting maintenance and repair costs would be a continual burden on with the quarry operator and Council.

### **7.3 Biodiversity**

This clause applies to land identified as "Biodiversity" on the Terrestrial Biodiversity Map. The application would be subject to assessment under this clause.

The proposed modification under this application will not impact on biodiversity. The modified development will not require further consideration with regard to the matters identified under the clause. The modified development remains consistent with the objectives of the clause and remains consistent with the original assessment.

The modification has been referred back to OEH who have raised no concern with the proposed modification (including matters relating to Aboriginal cultural heritage, biodiversity and flooding) and have requested no amendments be made to the consent with respect to biodiversity impacts.

### **7.5 Riparian Lands and Waterways**

This clause applies to land identified as "water" on the Water Resource Map. The application would be subject to assessment under this clause.

The proposed modification under this application will not impact on riparian lands and waterways. The modified development will not require further consideration with regard to the matters identified under the clause. The modified development remains consistent with the objectives of the clause and remains consistent with the original assessment.

The modification has been referred back to OEH, EPA and Office of Water. All of these authorities raise no objection to the proposal including its potential to impact on riparian lands and waterways. The application was also referred to NSW Fisheries who made no comment in relation to the application.

### **7.6 Groundwater vulnerability**

This clause applies to land identified as "Groundwater" on the Water Resource Map. The application would be subject to assessment under this clause.

The proposed modification under this application will not impact on groundwater. The modified development will not require further consideration with regard to the matters identified under the clause. The modified development remains consistent with the objectives of the clause and remains consistent with the original assessment.

## **State Environmental Planning Policies**

### **State Environmental Planning Policy (State and Regional Development) 2011**

The development is identified under Schedule 4A of the Environmental Planning and Assessment Act 1979 and is therefore regional development under Clause 20 of the State and Regional Development SEPP. Under Clause 21 of the SEPP, the Joint Regional Planning Panel remains the consent authority for modifications under Section 96(2) of the Act.

### **State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007**

The original assessment concluded that this development was consistent with the provisions of this SEPP. The modified consent has been reviewed against the following provisions:

#### *Part 3 Development applications-matters for consideration*

#### *12 Compatibility of proposed mine, petroleum production or extractive industry with other land uses*

*Before determining an application for consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must:*

*(a) consider:*

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

*(ii) whether or not the development is likely to have a significant impact on the uses that, in the opinion of the consent authority having regard to land use trends, are likely to be the preferred uses of land in the vicinity of the development, and*

*(iii) any ways in which the development may be incompatible with any of those existing, approved or likely preferred uses, and*

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

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

The potential impacts of the proposed modification relate primarily to the continued operation and use of Gillard Road in an unsealed format which could lead to the movement of dust and sediment from the surface of the road. As discussed earlier in this report, the applicant intends to mitigate against these impacts by implementing an approved maintenance plan which will include the regular grading and gravel re-sheeting of the road. In addition, the plan will include the application of an emulsion ("Petro Tac") that will work to bind dust and aggregate across the surface of the road forming a stable and durable surface. The road will perform similar to a sealed road without being susceptible to dust generation and water damage.

It is recommended that the implementation of an approved trial maintenance plan be monitored over a 12 month period prior to being finally adopted. This will allow Council to require adjustments to the maintenance of the road so that further reductions in dust and sediment movement can be achieved if considered necessary. This will also include an option to require a minor extension of the existing sealed section of Gillard Road (and shaker) to provide an increased buffer to the Sturt Highway and nearby businesses if deemed necessary.

Subject to the implementation of the modified conditions of consent recommended as part of this assessment, it is concluded that the modified development can operate in a manner that will remain compatible with the existing and approved uses of land within its vicinity.

#### 14 Natural resource management and environmental management

*(1) Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring that the development is undertaken in an environmentally responsible manner, including conditions to ensure the following:*

- (a) that impacts on significant water resources, including surface and groundwater resources, are avoided, or are minimised to the greatest extent practicable,*
- (b) that impacts on threatened species and biodiversity, are avoided, or are minimised to the greatest extent practicable,*
- (c) that greenhouse gas emissions are minimised to the greatest extent practicable.*

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

The modifications proposed will have negligible impact with regard to the matters addressed under this part of the SEPP. The development will remain consistent with the original assessment against these provisions, which concluded that the expected impacts were acceptable.

#### 15 Resource recovery

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

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

*(3) The consent authority may refuse to grant consent to development if it is not satisfied that the development will be carried out in such a way as to optimise the efficiency of recovery of minerals, petroleum or extractive materials and to minimise the creation of waste in association with the extraction, recovery or processing of minerals, petroleum or extractive materials.*

The modifications proposed will have negligible impact with regard to the matters addressed under this part of the SEPP. The development will remain consistent with the original assessment against these provisions.

## 16 Transport

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

- (a) require that some or all of the transport of materials in connection with the development is not to be by public road,*
- (b) limit or preclude truck movements, in connection with the development, that occur on roads in residential areas or on roads near to schools,*
- (c) require the preparation and implementation, in relation to the development, of a code of conduct relating to the transport of materials on public roads.*

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

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

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

*(3) The consent authority:*

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

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

The proposed modification will have no impact on the location of the haulage route, the method of which material will be hauled from the quarry or the volume, timing and type of traffic generated. The applicant's proposal to maintain Gillard Road in its current un-sealed format has been discussed at length elsewhere in this report.

As required under this provisions of the SEPP, the modified proposal has been referred to RMS for comment. RMS raise no objection to the modification subject to certain recommendations relating to the implementation of a trial period to monitor the effectiveness of the maintenance plan and also the potential extension of seal to provide a larger buffer to the Sturt Highway if deemed necessary.

## 17 Rehabilitation

*(1) Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring the rehabilitation of land that will be affected by the development.*

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

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

- (b) require waste generated by the development or the rehabilitation to be dealt with appropriately, or*
- (c) require any soil contaminated as a result of the development to be remediated in accordance with relevant guidelines (including guidelines under section 145C of the Act and the Contaminated Land Management Act 1997, or*
- (d) require steps to be taken to ensure that the state of the land, while being rehabilitated and at the completion of the rehabilitation, does not jeopardize public safety.*

The modifications proposed will have negligible impact with regard to the matters addressed under this part of the SEPP. The development will remain consistent with the original assessment against these provisions.

#### **State Environmental Planning Policy No. 55**

The proposed modifications will have no bearing on the assessment of the original application against the provisions of SEPP 55.

#### **State Environmental Planning Policy No. 33 - Hazardous and Offensive Development**

The proposed modifications will have no bearing on the assessment of the original application against the provisions of SEPP 33.

#### **State Environmental Planning Policy (Rural Lands) 2008**

The nature of the modifications are such that the compliance of the development with State Environmental Planning Policy (Rural Lands) 2008 will remain largely unchanged and the previous assessment remains valid.

#### **State Environmental Planning Policy No.44 - Koala Habitat Protection**

The nature of the modifications are such that the development will remain consistent with the provisions of SEPP Rural Lands and SEPP 44. The original assessment undertaken against these SEPPs remains valid.

#### **(a)(ii) - The provisions of any draft environmental planning instrument**

##### **Draft Local environmental plans**

N/A

##### **Draft state environmental planning instruments**

N/A

#### **(a)(iii) - Any development control plan**

#### **Wagga Wagga Development Control Plan 2010**

The relevant controls of the DCP have been addressed below.

Section 2 Controls that apply to all development



## 2.2 Vehicle access and movements

The proposed modification will result in the unsealed section of Gillard Road remaining as opposed to the current requirement for sealing of the road. It is satisfied that the maintenance plan, along with the program of emulsion application, will result in a stable road surface that will continue to provide appropriate access to and from the quarry. The maintenance plan will be reviewed over a period of 12 months following which any required adjustments will be made prior to final adoption and implementation.

The modification will not result in any amendment to the number or type of vehicle movements generated by the proposed quarry operation. In this regard, its impact on the surrounding road network remains consistent with the original assessment

## 2.3 Off-street parking

The proposed modification does not alter the original assessment undertaken in relation to this section of the DCP.

## 2.4 Landscaping

The proposed modification does not alter the original assessment undertaken in relation to this section of the DCP.

## 2.6 Safety and Security

The proposed modification does not alter the original assessment undertaken in relation to this section of the DCP.

## 2.7 Changing the Landform - Cut and fill

The proposed modification does not alter the original assessment undertaken in relation to this section of the DCP.

## 2.8 Erosion and Sediment Control Principles

The proposed maintenance plan will ensure issues associated with the generation of dust and/or sediment will be managed with respect to the operation of quarry trucks across Gillard Road. The proposed modification does not alter the original assessment undertaken in relation to this section of the DCP with respect to the operation of the quarry pits.

## 2.9 Development adjoining open space

The expanded quarry operation adjoins the existing Crown reserve (Orange Tree Point Reserve) adjacent to the Murrumbidgee River. The proposed modification will not impinge on the continued use of the reserve. The modification will continue to provide public road access to the reserve via Gillard Road that is at least equivalent in condition - i.e. an unsealed public road that will continue to be maintained by the quarry operator.

## Section 4 Environmental Hazards and Management

## 4.1 Bushfire

The proposed modification does not alter the original assessment undertaken in relation to this section of the DCP.

## 4.2 Flooding

Assessment of this modification remains consisted with the original assessment undertaken in regards to this section of the DCP. The proposed modification will not have any additional adverse impact with regard to flooding. The modifications will not affect the extent of the quarrying operation or the finished levels of the extraction pits, levees or other works.

However, with respect to the likely impact of flooding on the economic cost to the community, the applicant contends that the proposed modification will result in a development outcome that will significantly reduce costs associated with the regular maintenance and repair as a result of damage caused by flood inundation.

Council's Development Engineer has confirmed that Gillard Road is regularly inundated by flood events with recurrence intervals of less than 1 in 20. The potential for these flood events to damage and degrade the road surface and subgrade is significant. The resulting maintenance and repair costs would be a continual burden on with the quarry operator and Council.

## **Section 5 Natural Resource and Landscape Management**

### 5.4 Environmentally sensitive land

As discussed under part 7 of the LEP, the proposed modification will have negligible impact on biodiversity, on riparian lands and waterways or on groundwater. The modified development will not require further consideration with regard to the matters identified under this section of the DCP.

## **Section 8 Rural Development**

### 8.1 Development in Rural Areas

The proposed modification does not alter the original assessment undertaken in relation to this section of the DCP with the exception of the following comments:

#### *Controls*

*C1 Uses are to be compatible with the character of the locality in terms of buildings, structures and the nature of operations.*

It is satisfied that the current condition and proposed maintenance of Gillard Road is suitable and will not result in detrimental impacts on surrounding and nearby landuses.

*C2 Provide adequate buffer areas and setbacks to minimise potential conflicts with adjoining lawful land uses. Where there is potential for a conflict between land uses, priority will be given to the existing productive use.*

The proposed modifications will not alter the original assessment. Appropriate buffers will be maintained with respect to impacts generated from the use of Gillard Road as a haulage route. As identified earlier in this report, a recommended

condition will require the extension of seal on Gillard road to provide an improved buffer to the Sturt Highway and adjacent land uses if deemed necessary following a 2 month maintenance plan trial. The option to install a shaker system will also be available if necessary.

*C3 Use landscaping and other screening options to help integrate new uses and developments into the rural landscape.*

The proposed modifications will not alter the original assessment. Existing conditions of consent will be maintained requiring the provision of landscaping around the quarry for mitigation of dust and provision of visual screening.

*C4 Uses must be capable of operating within capacities of available existing services.*

The proposed modifications will not alter the original assessment. It is satisfied that the continued maintenance of Gillard Road will provide ongoing and appropriate access to the quarry and other land uses in the area.

*C5 Provide adequate facilities for additional traffic in terms of vehicle access and movements, parking areas, and loading and unloading of goods.*

The proposed modifications will not alter the original assessment. Adequate area exists within the site to manage all operations relating to vehicle access and movements, parking and loading and unloading of goods.

*C6 In the case of larger projects Council may require the applicant to demonstrate that the roads in the locality are of satisfactory construction and condition to accommodate the size, weight and volume of vehicles that could be generated by the use, and that the local traffic conditions are suitable.*

Subject to the amended conditions recommended under this application, it is satisfied that Gillard Road will be maintained to a satisfactory standard to accommodate the traffic generated from the expanded quarry operation whilst also providing for other users of the road.

*C7 Provide satisfactory arrangements for storage and disposal of waste.*

The proposed modifications will not alter the original assessment. Satisfactory arrangements remain in place to deal with waste generation.

**(a)(iia) - any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and**

No planning agreement has been entered into under section 93F.

**(a)(iv) - any matters prescribed by the regulations**

There are no matters prescribed by the Regulation that are relevant to the proposed modification.

**(b) The likely impacts of the development**

**Context and setting**

The modified proposal will remain consistent with the existing context and setting of the area. The development involves the expansion of the existing quarry which has been operating in this location for more than 25 years. Gillard Road will continue to be used as the haulage route from the quarry through to the Sturt Highway. The road condition and traffic will remain generally consistent with the current operation. Maintenance of the road, however, will be managed by the operator in accordance with particular provisions as stipulated within an approved maintenance plan.

### **Access, transport and traffic**

These issues have been discussed in detail within this report. Subject to the conditions recommended under this application, it is satisfied that Gillard Road will continue to serve as an appropriate haulage route from the quarry without imposing significant additional impacts on surrounding and nearby land uses.

### **Utilities**

Appropriate access to utilities will remain as part of the modified development proposal.

### **Heritage**

The modified development proposal will not result in any additional impact with respect to European heritage or Aboriginal cultural heritage.

### **Other land Resources**

The modified development proposal will have no additional impact with regard to other land resources. The impacts of the modification relate primarily to the standard of construction and maintenance of the haulage road.

### **Water**

The modified development proposal is not expected to have any additional or significant impact on water resources compared with the development as originally proposed. The retention of Gillard Road in an unsealed condition will result in the ongoing control of dust and sediment through the use of water. However, the expected volumes of water required for the maintenance of the road is considered insignificant with regard to the overall water usage proposed as part of the quarrying operations.

To assist in the reduction of water use, the applicant will also apply an emulsion to the surface of the road which acts to bind the loose material forming a hard and durable surface. This process will assist in reducing dust and sedimentation thereby reducing the impact of this material from entering surrounding or nearby water courses.

### **Soils**

The retention of Gillard Road in an unsealed condition will require an ongoing maintenance regime to ensure the loss of soil through erosive actions are minimised. As discussed elsewhere, the modification proposes regular maintenance of Gillard Road including the use of an emulsion that will assist in minimizing the movement of dust and sediment within the environment.

## Air and Microclimate

The original air quality assessment undertaken to support the development proposal concluded that the development would comply with the air quality requirements at surrounding residential receivers if appropriate mitigation measures were introduced. It should be noted that the assessment was carried out based on the original proposal which did not factor in the requirement to seal Gillard Road. The initial modelling identified that the primary source of dust would be trucks operating on unsealed surfaces including the haul road. The assessment recommended the following mitigation measures:

- 1. Level 2 (greater than 2L/m<sup>2</sup>/hr) water spraying would be undertaken on the unsealed access road from the site office onto the site. This should be undertaken during daytime weather conditions that assist dust dispersion (dry and windy) towards Receivers 1 and 4. During times of consistent adverse weather conditions (dry and winds), operations of these items should be reduced if possible.*
- 2. Material should be watered prior to it being loaded for haulage, where appropriate.*
- 3. The size of storage piles should be minimised where possible.*
- 4. Cleared areas of land should be limited and cleared only when necessary to reduce fugitive dust emissions.*
- 5. On-site traffic should be controlled by designating specific routes for haulage and access and limiting vehicle speeds to below 25km/hr*
- 6. All trucks hauling material should be covered before exiting the site and should maintain a reasonable amount of vertical space between the top of the load and top of the trailer.*
- 7. Material spillage on sealed roads should be cleaned up as soon as practicable.*
- 8. A rumble-strip at the interface of the sealed road and the unsealed access road should be considered.*
- 9. Excavating operations conducted in areas of low moisture content material should be suspended during high wind speed events or water sprays should be used.*

The consent includes a condition (Condition 12) requiring the preparation and implementation of a Dust Management Plan. Since the issue of the original consent, the required management plan has been prepared by the applicant and has been approved by Council. The plan has adopted the above recommendations as general management practices (with the exception of the rumble-strip (or shaker) installation - see earlier discussion).

It is satisfied that through the implementation of an approved maintenance plan for Gillard Road, issues surrounding dust generation from the road can be appropriately managed without the need for a complete sealing. In addition to the adopted general management practices, the required ongoing maintenance of the road (including continued watering and application of emulsion) will provide adequate measures to reduce the impact of dust generation.

As discussed earlier, the effectiveness of the maintenance plan will be trialed over a 12 month period to allow for its adjustment if deemed necessary. These adjustments could potentially include amendments to the rate and frequency of water/emulsion

application and the frequency of repair and re-sheeting works. In addition to this, Council will retain the option to require the extension of seal to provide a greater buffer to the Sturt Highway and also the installation of a shaker system adjacent to the weigh bridge if deemed necessary.

### **Waste**

The modified development proposal will not result in any additional impact with respect to the management of waste.

### **Energy**

The modified development proposal will result in negligible additional impact with respect energy waste.

### **Natural Hazards**

The proposed modification will not have any additional adverse impact with regard to flooding. The modifications will not affect the extent of the quarrying operation or the finished levels of the extraction pits, levees or other works. However, with respect to the likely impact of flooding on the economic cost to the community, the applicant contends that the proposed modification will result in a development outcome that will significantly reduce costs associated with the regular maintenance and repair as a result of damage caused by flood inundation.

Council's Development Engineer has confirmed that Gillard Road is regularly inundated by flood events with recurrence intervals of less than 1 in 20. The potential for these flood events to damage and degrade the road surface and subgrade is significant. The resulting maintenance and repair costs would be a continual burden on with the quarry operator and Council.

The site is bush fire prone land. The modified development proposal will not result in any additional bush fire risk.

### **Safety, security and crime prevention**

The modified development proposal will not result in any additional impact with respect to these matters.

### **Hours of operation**

The modified development does not alter the approved hours of operation, which remain:

- 7am - 6pm Monday to Friday
- 8am to 6pm Saturday

### **Social Impacts**

It is satisfied that the impacts generated from the proposed modified development have been appropriately addressed and that any additional social impacts resulting are acceptable.

### **Economic Impacts**

As identified earlier in this assessment, the primary economic impact associated with the modified development is the reduction in the ongoing cost to the community of

reconstruction and maintenance Gillard Road. Given the high frequency of flood inundation experienced along Gillard Road, it is expected that significant works will be required each time the road is inundated. The modification proposes that the applicant will carry the maintenance requirements and costs to ensure that Gillard Road is maintained to an appropriate standard with minimal burden on the community.

## **Construction**

Impacts associated with construction work will be reduced as a result of the proposed modification having regard to the fact that Gillard Road will be predominantly maintained in its current state.

## **Noise and vibration**

As identified during the original assessment, noise emissions from the operation are primarily due to excavation and screening works. Noise from vehicles using Gillard road were identified as an intermittent noises source when compared to the more constant operation of the quarry equipment. Subject to regular maintenance of the surface of Gillard Road in accordance with an approved maintenance plan, it is anticipated that additional noise generated by quarry trucks will not be significant to that originally assessed.

## **Services**

The modified development will have no additional impact with regard to the adequacy of existing services to the site.

## **Flora and fauna**

The modified development relates predominantly to the required condition of Gillard Road. While there might be minor impacts associated with noise, dust and erosion, these impacts are expected to be negligible having regard to the overall impact of the quarry development.

## **The Principles of Ecologically Sustainable Development**

*The following are principles of ecological sustainability:*

### ***1 The precautionary principle***

*Where there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.*

*In the application of the precautionary principle, public and private decisions should be guided by:*

*(a) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and*

*(b) an assessment of the risk-weighted consequences of various options.*

*The principle requires decision-making to give the environment the benefit of the doubt.*

### ***2 Intergenerational equity***

*The present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations (that is, a partnership among all of the generations that may use or expect to benefit from the nation's resources).*

### **3 Conservation of biological diversity and ecological integrity**

*Conservation of biological diversity and ecological integrity should be a fundamental consideration.*

### **4 Improved valuation, pricing and incentive mechanisms**

*Environmental factors should be included in the valuation of assets and services:*

- (a) polluter pays (that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement), and*
- (b) the users of goods and services should pay prices based on the full cycle costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste, and*
- (c) environmental goals having been established should be pursued in the most cost-effective way by establishing incentive structures, including market mechanisms which enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.*

The modified development will not result in serious or irreversible damage. The proposal is consistent with the precautionary principle to the extent that all potential threats to the environment have been identified and assessed and appropriate mitigation measures discussed to minimise the impacts. Conditions of consent will require ongoing monitoring to further reduce the risk of environmental damage.

The resource that has been identified would allow for quarrying for a further 20-25 years, providing a resource to the construction industry that would benefit the future generations. The conditions imposed will ensure that the excavation is undertaken in accordance with current best practice to minimise the impact on the environment.

The impacts on biological diversity and ecological integrity are acceptable.

Tarcoola quarry will be required to ascertain licences from the relevant authorities, implement all mitigation measures and rehabilitate the site at their full cost. Undertaking the above measures will ensure that the expansion has an acceptable level of impact on the environment given the resource is a necessity.

### **(c) The suitability of the site for the development**

The site is currently zoned rural and contains an existing quarry and turf farm. The site is considered suitable for an expansion of the quarry operation as proposed under this modified application.

### **(d) any submissions made in accordance with this Act or the Regulations**

#### **Internal**

Operations Manager - see earlier comments.

#### **External**

The following external referrals were distributed to public authorities.



- Department of Industry - Crown Land (comments received - see below)
- Roads and Maritime Services (comments received - see below)
- NSW Office of Water (comments received - see below)
- NSW Fisheries (no comments received)
- Environmental Protection Authority (comments received - see below)
- NSW Office of Environment and Heritage (comments received - see below)
- Division of Resources and Energy - Mine Safety operations Branch (no comment received)
- Rural Fire Service (no comment received)
- Riverina Water (no comment received)
- Essential Energy (comments received - see below)

## **Notification and Advertising**

In accordance with Council's advertising and notification provisions outlined in Section 1.10 of the WWDCP the modified application was advertised and notified for a period of 30 days between the following dates 25/09/17 to 20/10/17 and referred to surrounding properties and tenancies. One public submissions was received during this period.

## **Public Submissions and those from public authorities**

The main issues and comments raised in the submissions received have been addressed below.

### Trade and Investment - Crown Lands

Comment: Crown lands raise no objection to the proposal subject to the Gillard Road being transferred into Council ownership.

Response: Noted. As mentioned earlier in this report, the transfer process has already occurred with gazettal of the transfer occurring on 3 July 2015.

### Transport - Roads and Maritime (Maritime)

Comment: RMS (Maritime) raise not objection to the proposed modification subject to the inclusion of the following condition of consent:

*No discharge (including sedimentary run-off) from the development can impact on the normal conditions of the adjacent river (in accordance with the Protection of the Environment Operations Act 1997).*

Response: Mitigation of impacts associated with the potential discharge and potential impacts on the river have already been addressed in the proposal and the current conditions of consent.

### Transport - Roads and Maritime (Roads)

The following comments have been received from RMS (Roads). These comments have been addressed earlier in this report.

*Condition 16 - Roads and Maritime has no objection to the proposed modification.*

*Condition 8 - In relation to this condition the concern of Roads and Maritime is road safety and the potential for loose material being dragged onto the sealed*

*section of Gillard Road and its intersection with the Sturt Highway. It is understood that as Gillard Road is currently sealed to its intersection with Tarcoola and that as Gillard Road is classed as a local road that this sealed part of Gillard Road is maintained by the Council.*

*As a portion of Gillard Road is currently unsealed there is evidence of loose material and dust issues along the sealed portion of Gillard Road and at the intersection of Gillard Road with Hammond Avenue (the Sturt Highway) due to the haulage of quarry material. For road safety reasons Roads and Maritime considers that Gillard Road should be treated and haulage vehicles managed so as to minimise dust generation and the tracking of loose material onto the sealed section of Gillard Road and the Sturt Highway.*

*It is noted that the modification requests the deletion of Condition 8 and alterations to Condition 32 to address this issue.*

*Condition 32 - This condition is proposed to be modified to provide a formal agreement between the proponent and the Council for the ongoing maintenance of both Gillard Road and the internal access road. The submission proposes a number of items to be addressed as part of the agreement. Roads and Maritime Services considers that a further item would be the requirement for mechanisms to be implemented to minimise the tracking of loose material onto the sealed section of Gillard Road and processes for the ongoing monitoring and removal of loose material from the sealed section of Gillard Road on a regular basis.*

*The effectiveness of the emulsion proposed in relation to the tracking of material onto the sealed section of Gillard Road is unknown and should be monitored for a period of 6 to 12 months. An option for the extension of the seal on Gillard Road at least to the toe of the slope on the northern side of the intersection of Gillard Road with Tarcoola Road would aid to minimise the tracking of loose material over the crest of the intersection. This could also be considered for road safety reasons.*

*Roads and Maritime Services does not object to the deletion of the requirement for the sealing of the extent of Gillard Road as defined in Condition 8 of the current development Consent on the basis that the concerns and options outlined above are considered as part of Councils assessment of the request for modification under section 96 of the Environmental Planning & Assessment Act.*

#### Department of Primary Industries - Office of Water

Comment: The office of water have responded to the requested modification including a review of the GTAs issued for the integrated approval under Sections 90 and 91 of the Water Management Act 2000. The Office of Water have confirmed that the existing GTAs remain valid for the amended proposal and that no amendments to the existing GTAs are necessary

Response : Noted

#### Office of Environment & Heritage

Comment: The Office of Environment and Heritage have responded to the requested modification including a review of the GTAs issued for the integrated approval under Section 90 of the National Parks and Wildlife Act 1974. OEH have noted that the proposed amendments relate primarily to the road surface and, based on this information, have no further comment.

Response: Noted

#### Environment Protection Authority

Comment: The Environment Protection Authority have responded to the requested modification including a review of the GTAs issued for the integrated approval under Clauses 43b and 48 of the Protection of the Environment Operations Act 1997. EPA raise no objection to the modification including the proposed use of emulsion on Gillard Road.

Response: Noted

#### Essential Energy

The following comments have been received from Essential Energy.

*We refer to the above matter and to your correspondence seeking comment from Essential Energy in relation to the proposed development at the above property.*

*Strictly based on the documents submitted, Essential Energy has no objection to this development at this time, provided:*

- 1. If the proposal changes, Essential Energy would need to be informed for further comment; and*
- 2. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property are complied with.*

*In addition, Essential Energy's records indicate there is electricity infrastructure located within close proximity of the property. Any activities within this location must be undertaken in accordance with the latest industry guideline currently known as ISSC 20 Guideline for the Management of Activities within Electricity Easements and Close to Infrastructure.*

*Prior to carrying out any works, a "Dial Before You Dig" enquiry must be undertaken in accordance with the requirements of Part 5E (Protection of Underground Electricity Power Lines) of the Electricity Supply Act 1995 (NSW).*

*Given there is electricity infrastructure in the area, it is the responsibility of the person/s completing any works around powerlines to understand their safety responsibilities. SafeWork NSW ([www.safework.nsw.gov.au](http://www.safework.nsw.gov.au)) has publications that provide guidance when working close to electricity infrastructure. These include the Code of Practice - Work near Overhead Power Lines.*

Response: The comments received have been noted as they are not directly relevant to any of the modifications proposed under this application. The applicant is required to comply with all requirements identified in this submission despite those requirements not being specifically addressed in the development consent.

#### Public Submissions

One public submission was received during the notification period. The key issues raised in the submission are addressed below.

#### Issue

*Sand and gravel on Sturt Highway as a result of Gillard Road not being sealed, loads not being properly covered and inadequate cleaning/shaking down of trucks.*

#### Comment

This matter has been addressed throughout this assessment report. Appropriate measures are proposed to manage the existing unsealed road to minimised issues surrounding material being deposited on the highway from quarry trucks. This includes the continued maintenance of Gillard road in accordance with an approved maintenance plan, the review and amendment of this plan following a 12 month trial period and the potential extension of seal and installation of a shaker system if deemed necessary. It is satisfied that appropriate measures and safeguard are in place to minimise the risk of material being deposited on the Highway.

#### Issue

*The condition of Gillard Road is unsafe for other users (providing access to a public reserve) as a result of the impact of quarry trucks on that road.*

#### Comment

Appropriate access will be maintained for other users of Gillard road including visitors to the Crown reserve at the northern end of the road. The standard of road access that has existed along Gillard Road for the past 25 years and that has provided reasonable access to the reserve, will be maintained under the modified consent. The quarry operator will continue to undertake maintenance of Gillard Road through to the entry to the quarry. It is argued that the standard of this maintenance and the quality of the road will improve under the new consent given that the maintenance regime will be undertaken in accordance with a maintenance plan that will be negotiated and approved by Council.

As identified earlier in this report, the current proposal has resulted in Gillard Road being transferred from the Crown into Council ownership. Whilst Council has no plans to commence any form of maintenance on Gillard Road, the Council can now intervene (as the road authority) to ensure appropriate access for other users is preserved if deemed necessary.

#### Issue

*Flood waters have been disrupted by the “building up” of the road over the floodway culvert without adequate drainage being provided under the road leading to damage occurring to nearby properties.*

#### Comment

The maintenance, re-sheeting and reshaping of Gillard road will result in minor variations to the surface that will affect the movement of water particularly at the natural floodway that traverses the road to the north of the weigh bridge. The existence of the road and its finished surface level will result in minor impacts to the drainage of adjacent land. The recommended rewording of condition 32 requires that the adopted maintenance plan include measures to ensure that the surface level of Gillard Road is managed to minimise impact on the movement of water along that floodway. Subject to the surface level of the road being managed in the location of the floodway, it is satisfied that the continued use of the road will have negligible impact on the inundation of adjacent land.

#### Issue

*The required sealing of Gillard road for a distance of 400m under the original consent has not been complied with.*

#### Comment

The modified development proposal specifically seeks consent for maintenance of the entire length of Gillard Road in an unsealed condition. The fact that the objector has identified that the applicant has not met the requirements of the original consent will have no bearing on a merits decision with regard to the modification requested.

The applicant claims that the 400m section of sealed road deteriorated and now no longer exists as a result of regular flood inundation and subsequent damage from heavy vehicles. This highlights the difficulty in maintaining a sealed road in the prevailing conditions and supports the proposed modification to maintain an unsealed haulage route.

#### Issue

*The required bank guarantee under condition 32 is critical to ensure maintenance does occur given the history of inadequate and poor maintenance by the quarry operator.*

#### Comment

Council's Operations Manager has identified that Council has no intention of undertaking any maintenance of the unsealed section of Gillard Road. The primary function of the road is to provide access to the quarry and for this reason, the applicant will undertake their own maintenance for the purposes of their needs. As the road will no longer be sealed, Council has no intention or need to secure the asset via a bank guarantee as it is no longer a potential liability to the community.

It is satisfied that any potential impacts (e.g. dust, sediment or noise) that result from inadequate maintenance, can be addressed through compliance action if deemed necessary. No objection is raised to the removal of the requirement to secure a bank guarantee.

#### Issue

*Council has failed to ensure compliance with conditions imposed under the new consent.*

#### Comment

Council's actions with regard to enforcing the conditions of this consent are not relevant to determining the merits of the requested modification. However, in response to the submission made, Council cannot enforce conditions of this consent until such time that the applicant has commenced the development and thereby taken up the benefit of the consent. As the applicant has not commenced operations under the provisions of this consent, it is satisfied that there is no breach at the time of assessing this application.

Despite this position, consideration must be given to the requirements of Conditions 18 and 19 which are the subject of this application to modify consent. These conditions require certain actions to occur with respect to the original consent prior to the applicant commencing operations under the new consent. The applicant has not complied with the requirements of these conditions.

The applicant is specifically challenging the validity of condition 18 and 19 and has requested that the requirements of these conditions be reconsidered as part of this

application to modify the consent. With respect to the discussion provided earlier in this report, it is recommended that:

- The 12 month period for surrender of the original consent under condition 18 be removed; and
- Condition 19 be deleted in its entirety.

This recommendation is made on the basis that both conditions were unreasonable and would likely be determined as being invalid by the Court if challenged. Subject to these recommendations being adopted as part of any modified consent, is satisfied that there are no compliance issues to be considered under this consent until such time that it is enacted.

#### Issue

*Council has failed to ensure compliance with conditions imposed under the original consent.*

Even if Council was unable to pursue compliance action with regard to the new consent (and specifically Conditions 18 and 19), there is a legitimate question as to why Council did not then pursue compliance action with regard to possible breaches of operation under the original consent. This is a matter that Council may respond to however the circumstances remain irrelevant to the determination of this application.

#### **(e) the public interest**

##### **Federal, state and local government interests and general community interests**

It is within the public interest that Tarcoola Road does not impose liability on the community because of the ongoing cost of maintenance and repairs. The proposed modification will reduce the potential cost on the community by ensuring that the upkeep of the road is the responsibility of the operator.

Despite this, the report has identified a number of potential impacts resulting from Gillard Road remaining in an unsealed condition. It is satisfied, however, that the mitigation measures proposed will safeguard against these impacts thereby ensuring that the community will not be unduly burdened by the modified proposal.

Economically the modified proposal will allow for the ongoing supply of construction materials to meet the demand of the Riverina Region. The modified proposal will assist the operator in providing a competitive supply of sand and gravel leading to more affordable construction projects across the region.

#### **Other Legislative Requirements**

##### **Section 5AA and Part 7 of the *Biodiversity Conservation Act 2016* (Test for determining whether proposed development or activity likely to significantly affect threatened species or ecological communities, or their habitats)**

The proposed modifications will result in minimal changes to the impacts of the development on threatened species.

#### **Council Policies**

N/A

#### **Comments by Council's Officers**

Council's other relevant officers have reviewed the application in accordance with Council's processing procedures.

### **Development Contributions**

No change to original assessment.

### **Other Approvals**

The development is integrated development in accordance with the following:

- Sections 43(b) and 48 of the Protection of the Environment Operations Act 1997
- Sections 89, 90 and 91 of the Water Management Act 2000
- Section 90 of the National Parks and Wildlife Act 1974

All approval bodies have reviewed the requested modification and have no objections or concerns. No request to amend General Terms of Approval have been received.

### **Conclusion**

The modified development is considered satisfactory based on the foregoing assessment. The proposal complies with the requirements of the Environmental Planning and Assessment Act 1979 (including the provisions of s.96(2)), relevant environmental planning instruments and Council policies.

It is satisfied, that the mitigation measures proposed will safeguard against impacts generated by the proposed modifications, including concerns raised in the public submission received from the general public and comments received from public authorities.

It is recommended that the application to modify the consent be approved subject to the conditions of development consent incorporating those amendments discussed and recommended within this assessment report.

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### **RECOMMENDATION**

It is recommended that the Southern Region Joint Regional Planning Panel approve application DA13/0307.01, made under Section 96(2) of the Environmental Planning and Assessment Act 1979, to modify Development Consent DA13/0307 for Extension to Existing Tarcoola Quarry, Lot 4 DP 740222, Gillard Road, East Wagga Wagga, subject to conditions of consent as follows:-

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## CONDITIONS

### Approved Plans and Documentation

1. The development must be carried out in accordance with the approved plans and specifications as follows.

Plan/Doc. No.	Plan/Doc. Title	Prepared by	Issue	Date
23/14626	Tarcoola Turf and Quarries - Extension of Tarcoola Quarry - Environmental Impact Statement - Volumes 1 and 2	GHD	-	June 2013
23/14626	Tarcoola Turf and Quarries - Extension of Tarcoola Quarry - Supplementary Report	GHD	-	November 2013
23/14626	Tarcoola Turf and Quarries - Extension of Tarcoola Quarry - Additional Supplementary Information	GHD	-	June 2014
23/14626	Tarcoola Quarries - Environmental Impact Assessment Flood Assessment Addendum	GHD	-	August 2014
2315965	Tarcoola Quarries - Tarcoola Modification and Planning - Extension of Tarcoola Quarry - Modification 1	GHD	-	September 2017

The Development Application has been determined by the granting of consent subject to and as amended by the conditions of development consent specified below.

**NOTE:** Any modifications to the proposal shall be the subject of an application under Section 96 of the Environmental Planning and Assessment Act, 1979.

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

### Prior to commencement of works

2. Prior to the commencement of works erosion and sediment control measures are to be established and maintained to prevent silt and sediment escaping the site or producing erosion. This work must be carried out and maintained in accordance with Council's:-
  - a) Development Control Plan 2010 (Section 2.8 and Appendix 2) and



**b) Managing Urban Stormwater, Soils and Construction  
Volume 2E Mines and Quarries.**

**Prior to commencement of works, a Erosion and Sediment Control Plan illustrating these measures shall be submitted to, and approved by, Council.**

**NOTE: All erosion and sediment control measures must be in place prior to earthworks commencing.**

**REASON:** To ensure the impact of the work on the environment in terms of soil erosion and sedimentation is minimised. Section 79C (1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

**3. Prior to the commencement of works, the Applicant shall:**

- (a) engage a registered surveyor to mark out the boundaries of the approved limits of extraction within the entire site; and**
- (b) submit a survey plan of these boundaries with applicable GPS coordinates to the Council.**
- (c) ensure that the boundaries of the pit being quarried are clearly marked at all times.**

**REASON:** To ensure the approved plans are complied with. Section 79C (1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

**Prior to Operation**

**4. Prior to operation the applicant shall submit to Council for approval a revised site plan that indicates;**

- i) The stormwater overland flow paths for all 'clean' water in all possible levee configurations. This plan must include the treatment of Gillard Road with culvert locations and sizing's at low points in the road adjacent to natural watercourses.**
- ii) The plan must show natural existing drainage paths and proposed drainage paths in accordance with the proposed levy layout.**
- iii) The plan must demonstrate that flow paths for overland flow and flooding will have negligible additional impact to neighbouring properties.**
- iv) The plan is to be approved by the Director Planning Regulatory Services or their delegate.**

**REASON:** It is in the public interest that drainage does not impact on the adjoin properties. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

**5. Prior to works or activities commencing within the road reserve approval under Section 138 of the Roads Act 1993 is required from Council.**

**A written application for Consent to Work on a Road Reserve is required to be submitted to and approved by Council. This shall include the preparation of a certified Temporary Traffic Management Plan (TTP) for the works.**

**It should be noted that work in the existing road reserve can only commence after the plan has been submitted and approved and then only in accordance with the submitted TTP.**

REASON: It is in the public interest that proposed works being carried out within the road reserve, in association with the subject development, are assessed for compliance against relevant traffic management standards and the terms and conditions of the *Roads Act 1993*. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

6. **The applicant shall submit a detailed landscape plan and legend to be approved prior to commencement of operations.**
- (1) **Landscape plan shall be in accordance with Council's Landscape Guidelines and Landscape Application Checklist.**
  - (2) **A Plant Schedule indicating all plant species, pot sizes, spacings and numbers to be planted within the development shall be submitted with the Landscape Plan. Plant species are to be identified by full botanical name. All plants proposed in the landscape plan are to be detailed in the plant schedule.**
  - (3) **The Landscaping Plan shall include planting along the southern boundary of Pit 1 Cell A and the Basin, the north western boundary of the site and along Gillard Road.**
  - (4) **The landscaping Plan and documentation shall include details of when the plantings will occur and measures for ongoing establishment and maintenance to ensure a 100% survival rate of trees. Any trees lost due to death, disease, vandalism etc will require replacement by the proponent.**
  - (5) **The plan is to be approved by the Director Planning Regulatory Services or their delegate**

REASON: To ensure that landscaping will be provided on the subject land. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

7. **The Proponent shall prepare and implement a Transport Management Plan, in consultation with Council and Roads and Maritime Services to outline measures to manage traffic related issues associated with the operation of the quarry and the transport of quarried material. This plan shall detail the potential impacts, the measures to be implemented, and the procedures to monitor and ensure compliance. It shall address, but not necessarily limited to;**
- **measures to address restrictions on haulage during periods of low visibility - e.g. heavy rain periods or fog etc, along the haulage route,**
  - **measures to be employed to minimise truck movement during the morning and afternoon peak traffic periods and limit disruption to other motorists, emergency vehicles and school bus timetables, so as to minimise potential conflict with haulage vehicles,**
  - **measures to ensure that all loaded vehicles entering or leaving the site are covered, and are cleaned of materials that may fall onto public roads,**
  - **measures to address dust generated by quarry vehicles accessing site,**
  - **details of procedures for receiving and addressing complaints from the community concerning traffic issues associated with truck movements to and from the quarry,**
  - **measures to ensure that dust and loose surface road material generated by traffic activities on and accessing the subject site do not cause a nuisance or hazard to traffic on the public road network.**
  - **measures to ensure that the provisions of the Traffic**

- Management Plan are implemented and complied with.
- **NOTE: The plan is to be approved by the Director Planning Regulatory Services or their delegate**

REASON: To ensure traffic related impacts associated with the development are minimised. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

8. (A) Subject to 8(C), Gillard Road shall be constructed and sealed to provide for 2 travel lanes in accordance with Council's Engineering Guidelines from its intersection with Tacoola Road for a minimum distance of 100m to the north. The road shall be sealed by a suitably experienced contractor. Prior to commencement of works required to be carried out under this condition, plans and a pavement design carried out by a suitably experienced Geotechnical Engineer shall be submitted to Council's Development Engineer for approval.
- (B) Subject to 8(C), a shaker system designed to remove loose material/debris from all quarry trucks leaving the site shall be installed immediately upon exit from the weighbridge.
- (C) The works in 8(A) and 8(B) are deferred until such time as Council notifies the Applicant, under condition 32 of this Consent, that the final maintenance plan is to the satisfaction of the Director of Commercial Operations. At the time of that notification, Council is to notify the Applicant in writing whether or not the construction/sealing of the road and/or the installation of a shaker system can be deferred indefinitely. If Council notifies the Applicant that the draft final maintenance plan is not acceptable and that the required works in 8(A) and/or 8(B) are to be completed, the Applicant is to complete the works within 6 months of the date of that notification.

REASON: To ensure traffic related impacts associated with the development are minimised. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended

9. **DELETED**

10. Prior to the commencement of operations a Flood Management and Evacuation Plan for the development shall be submitted to Council. The plan shall include but is not limited to the following:

- safe evacuation of personnel
- details of management of stockpiles and other loose material
- details of management of machinery
- storage of chemicals/liquids

**NOTE: The plan must be to the satisfaction of the Director Planning Regulatory Services or their delegate.**

REASON: To provide a permanent, fail-safe, and maintenance-free measure for the orderly evacuation of people from the area in the event of a flood. Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979*, as amended.

11. Prior to the commencement of works the applicant is to establish a bank guarantee to act as a trust deed to be managed by an agreed solicitor in order to accrue funds for the proposed rehabilitation. These funds are to be accrued annually via an Environmental Levee. The levee will be calculated upon an

agreed cubic metre extracted rate and determined by a surveyors report at the end of each financial year that clearly identifies the amount of material extracted. The funds are to be managed in such a manner that they may only be released via written approval by Wagga Wagga City Council for the purpose of rehabilitation of closed quarry pits.

The cost of formulating such an agreement will be wholly borne by the applicant; these costs will include the engagement of Council's solicitor for the purpose of creating such an agreement between the applicant and Council

REASON: To ensure that rehabilitation will be provided on the subject land. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

12. **Prior to the issue of a Construction Certificate the applicant shall submit a Dust Management Plan for approval by the Director of Planning and Regulatory Services. The Management Plan must demonstrate that the activities of the proposed development will not create emissions of dust that will impact upon neighbouring properties. The Management plan must address but not be limited to:**

- **Monitoring - locations and schedule**
- **On site trafficable areas - sealed and unsealed**
- **Stockpiles - bunds, topsoil, material for sale**
- **Material handling areas**
- **Matters identified in Section O2 of the General Terms of Approval (GTA's) of the Environment Protection Authority**

REASON: To ensure dust amenity issues at neighbouring properties are appropriately addressed. Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979*, as amended.

13. **Prior to commencing operations a progressive rehabilitation plan shall be prepared to the satisfaction of the Director Planning and Regulatory Services or their delegate.**

REASON: The consent period should be limited to minimise environmental and social impacts. Section 80A(1)(d) of the *Environmental Planning and Assessment Act 1979*, as amended.

14. **Prior to carrying out any development, the applicant shall prepare an Environmental Monitoring Program for the development, in consultation with the relevant agencies, and to the satisfaction of the Director Planning and Regulatory Services. This program must consolidate the following monitoring requirements of this consent into one document to be included in the Environmental Management Strategy (EMS).**

- **Noise**
- **Air**
- **Water**

REASON: To prevent the proposed development having a detrimental effect on the developments existing on the adjoining lands. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

15. **Prior to carrying out any development, the applicant shall prepare,**

and following approval implement, an Environmental Management Strategy for the development to the satisfaction of the Director Planning and Regulatory Services. This strategy must:

- (a) Be a single document kept on site and submitted to Council annually based on the date of approval of the first document.
- (b) Provide the strategic context for environmental management of the development
- (c) Identify the statutory requirements that apply to the development
- (d) Describe how the environmental performance of the development would be monitored and managed during the development including:
  - a Transport Management Plan
  - a Dust Management Plan
  - a Noise Management Plan
  - a Rehabilitation Plan
  - a Flood Management and Evacuation Plan
  - a Soil and Water Management Plan
  - a Environmental Monitoring Program
- (e) Describe the procedures that would be implemented to:
  - Keep the local community and relevant agencies informed about the operation and environmental performance of the development
  - Receive, handle, respond to, and record complaints
  - Resolve any disputes that may arise during the course of the development
  - Respond to any non compliance
  - Manage cumulative impacts; and
  - Respond to emergencies
- (f) Describe the role, responsibility, authority, and accountability of the key personnel involved in environmental management of the development.
- (g) Include a monitoring program updated annually as required
- (h) Include an Incident Report Management Plan
- (i) Include an Annual Environmental Management Report (AEMR) to be included in the second submission and annual thereafter.
- (j) Be made available to the public for inspection in the Quarry site offices and be placed on the Proponent's web site. If no such site exists, the Environmental Management Strategy shall be made available on Council's web site..

**Note:** Each part (including the required management plans, reports and programs) of the EMS shall include a list identifying all relevant conditions of consent (including GTAs) specific to that section and how those requirements have been satisfied/addressed within the document.

REASON: To prevent the proposed development having a detrimental effect on the developments existing on the adjoining lands. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

- 15A. **Prior to carrying out any development, the proponent shall engage a suitably qualified acoustic practitioner to measure daytime background L90 levels at each of residences R1, R2, R4 and R5. The background readings shall be taken with no activities occurring at the quarry, including no product deliveries. The daytime LAeq (15 minute) shall be limited to five dB(A) above the measured background or condition L6.1, whichever is the lower.**

## **General**

16. **The extraction is limited to 150,000 tonnes per annum. All laden trucks exiting the quarry are to cross the weigh bridge for the purpose of recording the quantity of material extracted. The proponent must supply Council with a report presenting the truck movements and weight of material at the end of each financial year that clearly certifies the amount of material extracted and further certifies that approved extraction limit has not been exceeded.**

REASON: It is in the public interest that the development complies with all the conditions of the development consent. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

17. **The development is to remain consistent with the Environmental Protection Licence (EPL) to the satisfaction of Council at all times. Should there be any inconsistencies between conditions of consent and the EPL, the condition closest to the relevant Industry/Australian Standard at that particular time shall prevail unless agreed in writing by both Council and the EPA.**

REASON: It is in the public interest that the development complies with all the conditions of the development consent. Section 79C(1)(e) of the *Environmental Planning and Assessment Act 1979*, as amended.

18. **Upon commencement of operations under this consent, the consent given by Council's Notice of Determination of Development Application No. 292/88 and dated 23 March 1989 must be surrendered by the submission of a document in accordance with Clause 97(1) of the Environmental Planning and Assessment Regulation 2000.**

REASON: Council is of the opinion that, having determined this Development Application by granting consent, it is not appropriate to permit the continuation of the consent or right referred to in the condition. Section 80A(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

19. **DELETED**

20. **The applicant is to install broadband backing alarms on all Machinery to be used in conjunction with the Quarry operations and all existing machinery shall be retrofitted with the alarms within 3 months of the date of this consent.**

REASON: To ensure noise amenity issues at neighbouring properties are appropriately addressed. Section 79C(1)(c) of the *Environmental Planning and Assessment Act 1979*, as amended.

21. **This approval is for the development to be undertaken in accordance with the approved plan (Figure 2.1 dated 4 November 2013) contained within the Supplementary Report (Extension of Tarcoola Quarry - dated November 2013) and the staging identified in this plan, namely:-**

- (1) Continued extraction from pit 1 cell A and B, the opening of pit 2 cell A and B and construction of levee bank for this stage (Stage 1);**
- (2) Opening of pit 3 cell A and B, opening of pit 4 and construction of levee bank around this stage (Stage 2);**

**Stage 1 must be completed prior to any other Stage. All other Stages are required to be undertaken in order.**

**Each pit is to be opened in numerical order and each cell in alphabetical order.**

**Unless otherwise expressly stated, the conditions must be read as being applicable to all Stages.**

**No approval is granted for the development to occur in accordance with any superseded plan referencing 5 pits as contained within the Environmental Impact Statement - Volume 1 and 2 (Extension of Tarcoola Quarry - dated June 2013).**

**REASON:** So that the development proceeds in a planned manner in accordance with the approved plans. Section 79C(1)(b) and (c) of the *Environmental Planning and Assessment Act 1979*, as amended.

- 22. Prior to the construction of any and every levee bank, the proponent must lodge and have approved by Council detailed plans and documentation prepared by a suitably qualified person. The plans and documentation must include:**

- Construction method and testing regime of levee construction detailing the thickness of each layer of fill placed for the levee and the frequency of compaction testing**
- Detail of method of stabilisation of the levee banks through vegetation or other means**
- Detailed assessment on the flow path of floodwaters in the case of the levee being overtopped for flood events exceeding the Levee height. (break in points and construction)**
- Sign off and certification from a structural engineer that the construction will not sustain structural damage from the force of flowing floodwaters or from impact of debris associated with floodwaters for all events up to and including the 1% AEP flood event.**
- The height of the levees does not exceed 2.5m above natural ground level at any location.**
- Details of the proposed levee bank to be constructed and compliance with the staging of the levee bank construction. Noting that removal of levee banks may be required prior to the construction of future levee banks.**
- Confirmation that the levees around excavation pits shall be removed prior to the remediation of the pits and shall be limited to protecting a maximum of two active pits with a maximum area of protection of 5 hectares at any one time.**

**REASON:** To prevent the proposed development having a detrimental effect on the developments existing on the adjoining lands. Section 79C(1)(b) and (e) of the *Environmental Planning and Assessment Act 1979*, as amended.

23. **Once work has commenced on each levee bank the works must be completed within 6 months. This applies to each levee bank. The proponent must supply Council with written documentation confirming commencement of works and projected completion date. Sign off from a suitably qualified person that the works have been constructed in accordance with approved plans and all test results are required to be submitted to Council within 1 Month of the completion of the works.**

REASON: To prevent the proposed development having a detrimental effect on the developments existing on the adjoining lands. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

24. **Levee banks are to be constructed and removed in accordance with the staging plan and submitted information.**

REASON: To prevent the proposed development having a detrimental effect on the developments existing on the adjoining lands. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

25. **Flood protection bunds and topsoil stockpiles shall be stabilised with vegetation.**

REASON: To prevent the proposed development having a detrimental effect on the developments existing on the adjoining lands. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

26. **All earthworks, filling, building, driveways or other works, must be designed and constructed (including stormwater drainage if necessary) so that at no time, will any ponding of stormwater occur on adjoining land as a result of this development.**

REASON: To prevent the proposed development having a detrimental effect on the developments existing on the adjoining lands. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

27. **All chemicals/fuels are to be stored 500mm above the 1:100 ARI level.**

REASON: To prevent the proposed development having a detrimental effect on the developments existing on the adjoining lands. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

28. **All loading and unloading associated with the development are to take place within the subject site.**

REASON: To prevent the proposed development having a detrimental effect on the developments existing on the adjoining lands. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

29. **All exterior lighting associated with the development must be designed and installed so that no obtrusive light will be cast onto any adjoining property.**

**NOTE: Compliance with Australian Standard AS4282.1997 —Control of the Obtrusive Effects of Outdoor Lighting will satisfy this condition.**

REASON: To prevent the proposed development having a detrimental effect on the developments existing on adjoining land. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

30. **The site must be managed so that:**



- a) No additional fill is placed on the land which impedes the flow of flood waters, other than that approved by Council under this application;
- b) Any clearing or drainage activities must not alter the drainage patterns across the site;
- c) No landscaping or similar type structures are installed which will inhibit the flow of flood waters other than that approved as part of this application;
- d) Any plant or goods stored upon the site must be stored in a manner which will not allow pollution of the flood waters;
- e) All actions must be taken upon the site to minimise the adverse affect on the property by flood waters.

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

31. **The quarry operator shall maintain accurate records of the extraction quantities and traffic movement to and from the subject site. These records shall be kept on site and be available for inspection at the request of either of the Wagga Wagga City Council or Roads and Maritime Services.**

REASON: To ensure traffic related impacts associated with the development are minimised. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

32. **(A) Prior to commencement of quarrying operations under this consent, the Applicant is to prepare, and submit to Council, a 12 month trial maintenance plan for Gillard Road. The trial plan shall cover the section of Gillard Road extending from the entry to the quarry through to its intersection with Tarcoola Road and shall incorporate a program of maintenance works to be carried out by the applicant, including, but not limited to, the application of an emulsion, and that will aim to:**
- Maintain the unsealed section of Gillard Road (from Tarcoola Road to the quarry entrance) to a standard appropriate for the movement of quarry trucks without posing unacceptable risk to other users of the road.
  - Suppress dust generated by vehicles using the unsealed section of Gillard Road (from Tarcoola Road to the quarry entrance).
  - Prevent the tracking of sediment from the unsealed section of Gillard Road onto the sealed section of Gillard Road and the Sturt Highway.
  - Manage the surface level of Gillard Road where it traverses the floodway to minimise impact on the movement of water along that floodway.

**The plan shall also incorporate details of required approvals and licences that must be maintained in order to undertake the maintenance works required under this plan on a public road.**

- (B) Prior to the commencement of quarrying operations under this consent, the applicant shall obtain confirmation in writing from Council that the trial plan is to the satisfaction of the Director of Commercial Operations, or their delegate. The trial plan shall be implemented for a trial period of 12 months from the**

commencement of quarrying operations under this consent.

(C) For the purpose of administering this condition, the applicant shall notify Council in writing of the date of commencement of quarrying operations under this consent. Notification is to be given within 14 days of the commencement of quarrying operations under this consent.

(D) At least two months prior to the expiration of the 12 month trial period, the applicant shall:

- Provide Council with a draft final maintenance plan outlining any amendments required to address any identified limitations in meeting the aims of the trial plan.
- Arrange for Council to undertake an inspection of Gillard Road for the purpose of reviewing the effectiveness of the trial plan and assessing any proposed amendments proposed within the draft final maintenance plan.

Following this review, the Council shall notify the applicant whether the draft final maintenance plan is acceptable or not and if so any details of any additional amendments required to be included to achieve the aims identified in 32(A).

The applicant is to incorporate any amendments to the final maintenance plan in accordance with any directions issued by the Council and submit the final plan to Council for approval a minimum of 1 month prior to the expiration of the trial period.

Upon confirmation in writing from Council that the final plan is to the satisfaction of the Director of Commercial Operations, or their delegate, the final maintenance plan shall be implemented for the life of the quarry operation under this consent.

(E) Until such time as Council confirms in writing that the final management plan is to the satisfaction of the Director of Commercial Operations, or their delegate, the applicant is to continue to maintain the road in accordance with the trial maintenance plan.

REASON: To ensure traffic related impacts associated with the development are minimised. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

33. **The landscaping plan approved under condition 6 is to be implemented and maintained at all times throughout the life of the application.**

REASON: To ensure that landscaping will be provided on the subject land. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended

34. **Full unobstructed public access shall remain to reserve 71325 at all times.**

REASON: To ensure impacts associated with the development on the reserve are minimised. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

35. **The depth of extraction on each pit is limited to 160 AHD.**

REASON: To ensure impacts associated with the development on the groundwater are minimised. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

36. **No blasting is permitted.**

REASON: To ensure impacts associated with the development on the amenity of the area are minimised. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

37. **The development consent does not include approval for the site to receive or process waste or other materials.**

**Within 6 months of the date of this approval the site is to be cleared of all building and demolition waste.**

REASON: To ensure impacts associated with the development on the environment are minimised. Part 5.6 of the Protection of the Environment Operations Act 1997.

38. **Noise emission from the activities associated with the proposed development shall comply with the requirements of the New South Wales Industrial Noise Policy.**

REASON: To ensure impacts associated with the development on the amenity of the area are minimised. Section 79C(1)(b) of the *Environmental Planning and Assessment Act 1979*, as amended.

39. **No process water from the activities of the proposed development shall be discharged into the Murrumbidgee River or associated lagoons and drainage lines.**

REASON: To ensure impacts associated with the development on the environment are minimised. Part 5.3 of the Protection of the Environment Operations Act 1997.

40. **Wagga Wagga City Council's Engineering Guidelines for Subdivisions and Development shall be referred to for the design of engineering requirements. Any aspect of the design which is not covered in Council's document should reference relevant specifications selected from other sources. Any aspect of the design that is not in accordance or not covered in council's document shall be listed and submitted with the plans for separate approval.**

REASON: So that Council may ensure that the design and construction is in accordance with Council's requirements and for the information of the emergency services. Section 79c (l) (e) of the Environmental Planning and Assessment Act 1979, as amended.

41. **This consent for the expansion and operation of the existing Tarcoola Quarry shall lapse at midnight on 7 March 2030.**

REASON: The consent period should be limited to minimise environmental and social impacts. Section 80A(1)(d) of the Environmental Planning and Assessment Act 1979, as amended.

42. **Within 12 months of the date of this consent, and annually thereafter, the applicant shall submit an Annual Environmental Management Report (AEMR) to Council. This report must:**

- (a) Identify the standards and performance measures that apply to the development**
- (b) Describe the works carried out in the last 12 months**
- (c) Describe the works that will be carried out in the next 12 months**
- (d) Include a summary of the complaints received during the past year, and compare this to the complaints received in previous years**
- (e) Include a summary of the monitoring results for the development during the past year**

- (f) Include an analysis of these monitoring results against the relevant:**
  - **Impact assessment criteria/limits**
  - **Monitoring results from previous years; and**
  - **Predictions in the EIS**
- (g) Identify any trends in the monitoring results over the life of the development**
- (h) Identify any non compliance during the previous year; and**
- (i) Describe what actions were, or are being, taken to ensure compliance.**
- (j) The AEMR shall be placed on the proponent's website. If no such site exists, the AEMR shall be made available on Council's website.**

REASON: To ensure the proposed development complies with conditions of consent. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

- 43. Within 7 days of detecting an exceedance of the limits/performance criteria in this consent or an incident causing (or threatening to cause) material harm to the environment; the applicant shall report the exceedance/ incident to Council and any relevant authority. The report must:**
- **Describe the date and time of any complaint**
  - **Method by which any complaint was made**
  - **Any personal details provided by complainant**
  - **Describe the date, time and nature of the exceedance/incident**
  - **Identify the cause (or likely cause) of the exceedance/incident**
  - **Describe what action has been taken to date; and**
  - **Describe the proposed measures to address the exceedance/incident.**

REASON: To prevent the proposed development having a detrimental effect on the developments existing on the adjoining lands. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

- 44. Within 3 years of the date of this consent, and every 5 years thereafter, the applicant shall commission and pay the full cost of an Independent Environmental Audit of the development and submit this audit to Council within 3 months of its completion. This audit must:**
- (a) Be conducted by a suitably qualified, experienced, and independent person.**
  - (b) Be consistent with relevant guidelines and standards for Environmental Auditing**
  - (c) Assess the environmental performance of the development, and its effects on the surrounding environment**
  - (d) Assess whether the development is complying with the relevant standards, performance measures and statutory requirements**
  - (e) Review the adequacy of any strategy/plan/program required under this consent.**

**Note:** Any environmental auditor proposed to carry out work in satisfaction of this condition shall be approved by Council.

REASON: It is in the public interest that the development complies with all

conditions of development consent. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

45. **At least 5 years prior to the cessation of the quarry operations, the applicant shall prepare a quarry exit strategy for the development to the satisfaction of Council. This plan must:**
- (a) Define the objectives and criteria for quarry closure**
  - (b) Investigate options for the future use of the site**
  - (c) Describe the measures that would be implemented to minimise or manage the ongoing environmental effects of the development; and**
  - (d) Describe how the performance of these measures would be monitored over time.**

REASON: It is in the public interest that the development complies with all conditions of development consent. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

46. **Rehabilitation works are to be completed prior to the commencement of each new pit in accordance with the plan approved under condition 13 and as follows:**

<b>Rehabilitation to be completed for:</b>	<b>Prior to</b>
<b>Pit 1 Cell A</b>	<b>commencing extraction Pit 2 Cell A</b>
<b>Pit 1 Cell B</b>	<b>commencing extraction Pit 2 Cell B</b>
<b>Pit 2 Cell A</b>	<b>commencing extraction Pit 3 Cell A</b>
<b>Pit 2 Cell B</b>	<b>commencing extraction Pit 3 Cell B</b>
<b>Pit 3 Cell A</b>	<b>commencing extraction Pit 4 Cell A</b>
<b>Pit 3 Cell B</b>	<b>commencing extraction Pit 4 Cell B</b>
<b>Pit 4 Cell A &amp; B</b>	<b>the release of any unused Environmental Levy funds and within 12 months of completion of extraction in Pit 4.</b>

REASON: The consent period should be limited to minimise environmental and social impacts. Section 80A(1)(d) of the Environmental Planning and Assessment Act 1979, as amended.

47. **The air quality monitoring in Condition M2.3 shall be reported to Council in units of micrograms per square metre.**
48. **Processing and crushing is to be permitted only between 8am and 4pm weekdays and 8:00am and 12 noon on Saturdays.**

### **General Terms of Approval**

- Section 1 - Environment Protection Authority (EPA)
- Section 2 - Office of Environment and Heritage (OEH)
- Section 3 - Office of Water (NOW)

### **Section 1 - Environment Protection Authority (EPA)**

Notice No: 1515519

#### **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 DA13/0307 submitted to Wagga Wagga City Council on 18 June 2013; and
- the environmental impact statement, *Tarcoola Turf and Quarries Extension of Tarcoola Quarry Volume 1 June 2013* relating to the development. And
- Supplementary report dated November 2013
- Tarcoola Turf and Quarries. Extension of Tarcoola Quarry Additional Supplementary Information June 2014.

## ***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.

## **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.

### ***L5. Waste***

**L5.1** The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.

**L5.2** This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the Protection of the Environment Operations Act 1997.

### ***L6. Noise limits***

**L6.1** Noise from the premises must not exceed the sound pressure level (noise) limits presented in the Table below. Note the limits represent the sound pressure level (noise) contribution, at the nominated receiver locations in the table.

#### **Noise Limits (dB(A))**

Noise Assessment Location	Day
	LAeq(15 minute)
R1	43
R2	42
R3	43
R4	43
R5	43

Note: R1, R2, R3, R4 and R5 refer to noise receptors identified in the EIS

identified in A1.1.

**L6.2** For the purpose of Condition 6.1:

- Day is defined as the period from 7am to 6pm Monday to Saturday and 8am to 6pm Sundays and Public Holidays,
- Evening is defined as the period from 6pm to 10pm
- Night is defined as the period from 10pm to 7am Monday to Saturday and 10pm to 8am Sundays and Public Holidays

**L6.3** Noise from the premises is to be measured at the most affected point within the residential boundary, or at the most affected point within 30 metres of the dwelling where the dwelling is more than 30 metres from the boundary, to determine compliance with the noise level limits in Condition **L6.1** unless otherwise stated.

Where it can be demonstrated that direct measurement of noise from the premises is impractical, the DEC may accept alternative means of determining compliance. See Chapter 11 of the NSW Industrial Noise Policy.

The modification factors presented in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise levels where applicable.

**L6.4** The noise emission limits identifies in condition L6.1 apply under meteorological conditions of:

- Wind speed up to 3m/s at 10 metres above ground level; or
- Temperature inversion conditions of up to 3C/100m and wind speed up to 2m/s at 10 metres above the ground.

## **Noise Management Plan**

**L6.5** The proponent must prepare and implement a Noise Management Plan to the satisfaction of the EPA that covers all quarry extraction, processing and transport operations. The plan must include but need not be limited to:

- a) Ongoing assessment of feasible and reasonable noise mitigation measures to achieve the noise limits in L6.1 at all times;
- b) Where the limits in L6.1 exceed the Project Specific Noise Levels (PSNLs) (as identified in the Noise and Vibration Assessment by GHD), reducing noise emissions over time to satisfy the PSNLs;
- c) A system that allows for periodic assessment of Best Management Practice (BMP) and Best Available Technology Economically Achievable (BATEA) to minimise noise impacts over the life of the proposal;
- d) Measures to monitor noise performance and respond to complaints;
- e) Measures for community consultation including site contact details;
- f) Noise monitoring, and reporting procedures.

## **Road Traffic Noise**

**L6.6** The proponent must prepare and implement a Traffic Noise Management Plan (TNMP), prior to commencement of operation activities, to ensure that feasible and reasonable noise management strategies for vehicle movements associated with the quarry are identified and applied, to include but not necessarily limited to the following;

- (a) driver training to ensure that noisy practices such as the use of compression engine brakes are not unnecessarily used near sensitive receivers;
- (b) best noise practice in the selection and maintenance of vehicle fleets;
- (c) movement scheduling where practicable to reduce impacts during sensitive times of the day (eg school bus times);
- (d) communication and management strategies for vehicles not owned and operated by the licensee to ensure the provisions of the TNMP are implemented;
- (e) a system of audited management practices that identifies non conformances, initiates and monitors corrective and preventative action (including disciplinary action for breaches of noise minimization procedures) and assesses the implementation and improvement of the TNMP;
- (f) specific procedures for drivers for minimising road traffic noise impacts;
- (g) clauses in conditions of employment, or in contracts, of drivers that require adherence to the noise minimisation procedures and facilitate effective implementation of the disciplinary actions for breaches of the procedures.

## **Noise Compliance Monitoring**

**L6.7** A noise compliance assessment shall be undertaken within three months of commencement of operations at the premises. The assessment shall be prepared by a suitably qualified and experienced acoustical practitioner and shall assess compliance with noise limits presented in L6.1.

## **Hours of operation**

**L6.8** All construction work at the premises must only be conducted between may only be carried on between 10:00 am to 3pm Monday to Friday.

**L6.9** Activities at the premises, other than construction work, may only be carried on between 7:00 am to 6pm Monday to Friday and 8:00am to 6pm Saturday excluding Sundays and public holidays.

**L6.10** This condition does not apply to the delivery of material outside the hours of operation permitted by condition L6.8 or L6.9, if that delivery is required by police or other authorities for safety reasons; and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification is provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of emergency.

**L6.11** The hours of operation specified in conditions L6.8 and L6.9 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.

## **Operating conditions**

### ***O2. Dust***

**O2.1** Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

**O2.2** Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.

**O2.3** All mitigation measures identified in the Environmental Impact Statement for



the control of dust must be fully implemented at all times.

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

**03.1** An Erosion and Sediment Control Plan (ESCP) must be prepared and implemented. The plan must describe the measures that will be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during construction activities. The ESCP should be prepared in accordance with the requirements for such plans outlined in *Managing Urban Stormwater: Soils and Construction*.

### ***04. Refuelling***

**04.1** All refuelling of plant and equipment must be undertaken in a designated hard stand area which has a bund that meets the relevant Australian Standard AS 4452B1997.

A bund consists of:

- an impervious bund wall or embankment surrounding the facility or tanks
- an impervious floor within the bunded area
- any joints in the floor or the wall, or between the floor and the wall
- any associated facilities designed to remove liquids safely from the bunded area without polluting the
- environment.

### ***05. Emergency Response -Pollution Incident Response Management Plan***

**05.1** The licensee must prepare a pollution incident response management plan. In summary,

- The plan must include the information detailed in the Protection of the Environment Operations Act 1997 (section 153C) and be in the form required by the Protection of the Environment Operations (General) Regulation 2009 (clause 98B);
- The licensee must keep the plan at the premises to which the environment protection licence relates or, in the case of trackable waste transporters and mobile plant, where the relevant activity takes place;
- Licensees must test the plan in accordance with the requirements of the Protection of the Environment Operations (General) Regulation 2009; and
- If a pollution incident occurs in the course of an activity so that material harm to the environment is caused or threatened, licensees must immediately implement the plan.

Note: The specific requirements for pollution incident response management plans are set out in Part 5.7A of the Protection of the Environment Operations Act 1997 and relevant clauses of the Protection of the Environment Operations (General) Regulation 2009.

### **Monitoring and recording conditions**

#### ***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:

- in a legible form, or in a form that can readily be reduced to a legible form;
- kept for at least 4 years after the monitoring or event to which they relate took place; and
- 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: the date(s) on which the sample was taken;

- the time(s) at which the sample was collected;
- the point at which the sample was taken; and
- the name of the person who collected the sample.

## ***M2. Requirement to monitor concentration of pollutants discharged***

**M2.2** A Noise Management Plan for the site should be produced and noise monitoring undertaken on a biennial basis at the key receptors identified in the EIS as R1, R2, R4 and R5. An annual noise audit of plant and activities should be implemented to ensure best available economically achievable technologies are used.

R1, R2, R4 and R5.

Noise

<b>Pollutant</b>	<b>Units of Measure</b>	<b>Frequency</b>	<b>Sampling Method</b>
Noise	dB(A)	Biennial	As described in the NSW Industrial Noise Policy, Jan 2000 as amended from time to time.

**M2.3** For each monitoring/ discharge point or utilisation area specified below (by a point number), the applicant must monitor (by sampling and obtaining results by analysis) the concentration of each pollutant specified in Column 1. The applicant must use the sampling method, units of measure, and sample at the frequency, specified opposite in the other columns. Dust monitoring must be undertaken at the following receptors R1, R2, R4 and R5

Air

<b>Pollutant</b>	<b>Units of measure</b>	<b>Frequency</b>	<b>Sampling Method</b>
Total Suspended Particles and PM10	g/m <sup>3</sup> /Month	Quarterly	Australian Standard AS3580.10.1

## ***M4. Testing methods -concentration limits***

**M4.1** Monitoring for the concentration of a pollutant emitted to the air 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 a relevant local calculation protocol must be done in accordance with:

- any methodology which is required by or under the POEO Act 1997 to be used for the testing of the concentration of the pollutant; or
- if no such requirement is imposed by or under the POEO Act 1997, any methodology which the general terms of approval or a condition of the licence or the protocol (as the case may be) requires to be used for that

testing; or

- if no such requirement is imposed by or under the POEO Act 1997 or by the general terms of approval or a condition of the licence or the protocol (as the case may be), any methodology approved in writing by the EPA for the purposes of that testing prior to the testing taking place.

**M4.2** Monitoring for the concentration of a pollutant discharged to waters or applied to a utilisation area required by condition **M3** must be done in accordance with:

- the Approved Methods Publication; or
- if there is no methodology required by the Approved Methods Publication or by the general terms of approval or in the licence under the Protection of the Environment Operations Act 1997 in relation to the development or the relevant load calculation protocol, a method approved by the EPA in writing before any tests are conducted, unless otherwise expressly provided in the licence.

## **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.

## **Operating conditions**

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

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

- the processing, handling, movement and storage of materials and substances used to carry out the activity; and
- 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:

- must be maintained in a proper and efficient condition; and
- 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
- a 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,

- 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

- 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 in relation to the surrender of a licence -the date when notice in writing of approval of the surrender is given; or
- 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').

### ***Notification where actual load cannot be calculated***

(Licenses with assessable pollutants)

Where the licensee is unable to complete a part of the Annual Return by the due date because the licensee was unable to calculate the actual load of a pollutant due to circumstances beyond the licensee's control, the licensee must notify the EPA in writing as soon as practicable, and in any event not later than the due date.

The notification must specify:

- the assessable pollutants for which the actual load could not be calculated; and
- the relevant circumstances that were beyond the control of the licensee.

### ***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 as soon as practicable 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:

- the cause, time and duration of the event;
- the type, volume and concentration of every pollutant discharged as a result of the event;
- 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
- 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;
- action taken by the licensee in relation to the event, including any follow-up contact with any complainants;
- details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event; and
- 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.

## **Section 2 - Office of Environment and Heritage Administrative Conditions**

### ***Information supplied to OEH***

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 D/2013/0307 submitted to Wagga Wagga City Council on 20 June 2013; and
- The Environmental Impact Statement (Tarcoola Turf and Quarries. Extension of Tarcoola Quarry Environmental Impact Statement - dated June 2013) relating to the development.

### **Aboriginal Cultural Heritage Conditions**

- No harm can occur to any aboriginal objects within the development area unless an Aboriginal Heritage Impact Permit (AHIP) has been issued by the Office of Environment and Heritage (OEH).
- The proponent must comply with the conditions of the AHIP that is issued by OEH.
- The proponent must ensure that all persons involved in actions or works covered by an AHIP (whether employees, contractors, sub-contractors, agents or invitees) are made aware of and comply with the conditions of the AHIP.
- If any human remains are disturbed in, or under the land, the AHIP holder must:
  - (a) Not further disturb or remove these remains;
  - (b) Immediately cease all work at that particular location;
  - (c) Notify OEH's Environmental Line on 131 555 and the local police as soon as practicable and provide any available details of the remains and their location; and
  - (d) Not recommence any work at the particular location unless authorized in writing by OEH.
- If any other Aboriginal objects are located during the life of the development activity, all work in the area of the finds must cease immediately and OEH contacted for advice. Works must not recommence unless authorized by OEH.

## **Section 3 - NSW Office of Water (NOW)**

### **General Terms of Approval for work requiring a controlled activity approval under s91 of the Water Management Act 2000**

<b>Our Reference:</b>	40 ERM2013/0561	<b>File No:</b> QUE00472
<b>Site Address:</b>	2 Gillard Rd, East Wagga Wagga, NSW, 2650	
<b>DA Number:</b>	DA13/0307	

**LGA:** Wagga Wagga City Council

Number	Condition
<b>Plans, standards and guidelines</b>	
1	These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to and provided by Council: (i) Site plan, map and/or surveys (ii) Structural design and specifications (iii) Vegetation Management Plan (iv) Works Schedule (v) Erosion and Sediment Control Plan (vi) Soil and Water Management Plan (vii) Rehabilitation Plan Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.
2	Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.
5	The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.
<b>Rehabilitation and maintenance</b>	
6	The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.
<b>END OF CONDITIONS</b>	

## General Terms of Approval

**for work requiring a water supply work approval under  
s90(2) of the Water Management Act 2000**

**Our Reference:** 40 ERM2013/0561  
QUE00472

**File No:**

**Site Address:** 2 Gillard Rd, East Wagga Wagga, NSW, 2650

**DA Number:** DA13/0307

**LGA:** Wagga Wagga City Council

Number	Condition
7	These General Terms of Approval (GTA) only apply to the activities requiring a water supply work approval described in the plans and associated documentation relating to and provided by Council: (i) Site plan, map and/or surveys (ii) Structural design and specifications (iii) Vegetation Management Plan (iv) Works Schedule (v) Erosion and Sediment Control Plan (vi) Soil and Water Management Plan (vii) Rehabilitation Plan Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.
8	Prior to the commencement of water use on the following parcel of land, Lot 4 DP 740222, the consent holder must make application to the NSW Office of Water to amend the appropriate water supply work approval prior to any intended changes to pump locations and/or pump size.



9	An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Management Act 2000.
10	When the NSW Office of Water grants an approval, it may require any existing approvals held by the applicant relating to the land subject to the consent to be surrendered or let lapse.
11	All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
12	All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
13	The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.
14	All vegetation clearing must be authorised under the Native Vegetation Act

**Our Reference:** 40 ERM2013/0561  
QUE00472

**File No:**

**Site Address:** 2 Gillard Rd, East Wagga Wagga, NSW, 2650

**DA Number:** DA13/0307

**LGA:** Wagga Wagga City Council

Number	Condition
	2003, if applicable.
15	The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction and/or operation of the works.
16	A fee calculated in accordance with the Water Management Act 2000 must be paid before an approval can be granted.
17	The consent holder must install suitable devices to all licensed pumps to accurately measure the quantity of water extracted or diverted by the works.
18	All water measuring equipment must be adequately maintained. It must be tested as and when required by the NSW Office of Water to ensure its accuracy.
19	The approval holder must produce, every year, an annual water use report which identifies the annual takes for the previous year, the expected take for the coming year, how any identified shortfalls in water requirement will be obtained (e.g. temporary trade). The water take must also account for water lost through evaporation.
20	If required by the NSW Office of Water, the extraction and use of water must be recorded and reported as specified by the NSW Office of Water.
21	Officers of the NSW Office of Water or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.
22	The NSW Office of Water has the right to vary the rate at which the allocation is taken in order to prevent the overuse of the aquifer.
<b>END OF CONDITIONS</b>	

## General Terms of Approval

for work requiring a flood control works approval  
under s167 of the Water Act 1912

**Our Reference:** 40 ERM2013/0561  
QUE00472

**File No:**

**Site Address:** 2 Gillard Rd, East Wagga Wagga, NSW, 2650  
**DA Number:** DA13/0307  
**LGA:** Wagga Wagga City Council

Number	Condition
<b>Plans, standards and guidelines</b>	
23	These General Terms of Approval (GTA) only apply to the flood control works described in the plans and associated documentation relating to and provided by Council: (i) Site plan, map and/or surveys (ii) Structural design and specifications (iii) Vegetation Management Plan (iv) Works Schedule (v) Erosion and Sediment Control Plan (vi) Soil and Water Management Plan (vii) Rehabilitation Plan Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.
24	The applicant must supply a copy of a flood study for the subject area, detailing the potential impacts on the environment, infrastructure and neighbouring properties. This must be submitted with the application.
25	Prior to the commencement of any flood control works on the subject lot, the consent holder must obtain a flood control works approval under the Water Act from the NSW Office of Water.
26	The consent holder must carry out the construction of any flood control works in accordance with approved plans and when required, provide a certificate of completion to the NSW Office of Water.
<b>END OF CONDITIONS</b>	

## General Terms of Approval

**for work requiring a water use  
approval**

**under s89(1) of the Water Management Act 2000**

**Our Reference:** 40 ERM2013/0561  
QUE00472

**File No:**

**Site Address:** 2 Gillard Rd, East Wagga Wagga, NSW, 2650

**DA Number:** DA13/0307

**LGA:** Wagga Wagga City Council

Number	Condition
<b>Plans, standards and guidelines</b>	
27	These General Terms of Approval (GTA) only apply to the water use approval described in the plans and associated documentation relating to and provided by Council: (i) Site plan, map and/or surveys (ii) Structural design and specifications (iii) Vegetation Management Plan (iv) Works Schedule (v) Erosion and Sediment Control Plan (vi) Soil and Water Management Plan (vii) Rehabilitation Plan Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.
28	Prior to the commencement of operations on the following parcel of land, Lot 4 DP 740222, the consent holder must apply for an amendment to the appropriate water use approval.
<b>END OF CONDITIONS</b>	

