

DATE OF DETERMINATION	Thursday, 20 September 2018
PANEL MEMBERS	Garry West (Chair), Pamela Westing, John Griffin, John Coulton and Catherine Egan
APOLOGIES	Stephen Gow
DECLARATIONS OF INTEREST	None

Public meeting held at Warialda Memorial Hall on 20 September 2018, opened at 10.55am and closed at 12.10pm.

#### **MATTER DETERMINED**

**2018NTH004 – Gwydir Shire Council – DA 05/2018** at "Tikitere" 1135 Croppa Creek Road North Star (as described in Schedule 1)

#### **PANEL CONSIDERATION AND DECISION**

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

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

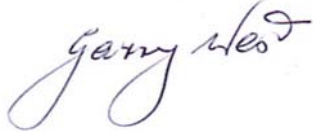



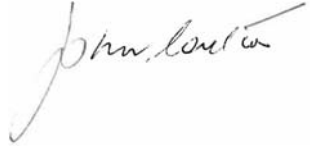
- The proposed development is permissible within the RU1 zone with consent;
- The extracted materials are to be provided to the Inland Rail Project;
- The proposed development will only haul material from the quarry to a loading platform on the rail line within the property;
- The proposal is supported by the North West & New England Regional Plan.

#### **CONDITIONS**

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

- Part A – General: Condition 2 was amended to restrict extracted material being transported by road external to the property;
- Part A – General: Condition 7 was amended to add drilling equipment associated with blasting as permitted plant to be used on site;
- Part A – General: Condition 10d was amended to clarify the reference to condition 10c;
- Part A – General: Draft conditions 13 and 14 were deleted;
- Part A – Health: Condition 1 was amended to change the hours of operation and delete the reference to haulage trucks on roads external to the property;
- Part B – Condition 1 was amended to refer to the Environmental Management Plan instead of 'strategy';
- Part B – Condition 9 was added to include an advisory note regarding the requirements of the Department of Industry – Water;
- Part C – Condition 3.1 was amended to reference upgrade works 'if required';
- Part C – Condition 3.2 was amended to delete draft subclauses d & e as no haulage off site is approved;

- Part E – Condition 3 (i) (b) (c) (d) were amended to delete reference to ‘detailed’ requirements as part of the annual reporting;
- Part C – Draft conditions 4, 5 & 6 were deleted as they were no longer relevant as external haulage has been prohibited;
- References to Draft Conditions of Approval – Department of Industry – Water and Conditions of Approval – Office of Environment & Heritage were deleted as they did not represent General terms of Agreement (GTAs).

PANEL MEMBERS	
Garry West (Chair) 	Pamela Westing 
John Griffin 	Catherine Egan 
John Coulton 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018NTH004 – Gwydir Shire Council – DA 05/2018
2	PROPOSED DEVELOPMENT	500,000 tonne/yr hard rock & white rock quarry
3	STREET ADDRESS	"Tikitere" 1135 Croppa Creek Road North Star
4	APPLICANT/OWNER	Alan Pearlman/Alan Trevor Pealman
5	TYPE OF REGIONAL DEVELOPMENT	Designated development - extractive industry
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>• Environmental planning instruments: <ul style="list-style-type: none"> <li>○ Environmental Planning and Assessment Act 1979</li> <li>○ Biodiversity Conservation Act 2016</li> <li>○ National Parks and Wildlife Act 1974</li> <li>○ The Heritage Act 1977</li> <li>○ Threatened Species Conservation Act 1994 (Repealed)</li> <li>○ Rural Fires Act 1997</li> <li>○ Protection of the Environment Operations Act 1997</li> <li>○ Water Management Act 2000</li> <li>○ Local Land Services Act 2017</li> <li>○ State Environmental Planning Policy No 33 – Hazardous and Offensive Development</li> <li>○ State Environmental Planning Policy No 44 – Koala Habitat Protection</li> <li>○ State Environmental Planning Policy No 55 – Remediation of Land</li> <li>○ State Environmental Planning Policy (Infrastructure) 2007</li> <li>○ State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Rural Lands) 2008</li> <li>○ State Environmental Planning Policy (State and Regional Development) 2011</li> <li>○ Gwydir Local Environmental Plan 2013</li> <li>● Draft environmental planning instruments: <ul style="list-style-type: none"> <li>○ State Environmental Planning Policy (Primary Production and Rural Development)</li> </ul> </li> <li>● Development control plans: NIL</li> <li>● Planning agreements: Nil</li> <li>● Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil</li> <li>● Coastal zone management plan: Nil</li> <li>● The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>● The suitability of the site for the development</li> <li>● Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>● The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>● Council assessment report: 31 August 2018</li> <li>● Written submissions during public exhibition: one (1)</li> <li>● Verbal submissions at the public meeting: <ul style="list-style-type: none"> <li>○ Support – NIL</li> <li>○ Object – NIL</li> <li>○ On behalf of the applicant – Hayley Greenham, Environment and Resource Consultant – SMK; Alan Pearlman, Owner.</li> </ul> </li> </ul>
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>● Site inspection on 20 September 2018 and final briefing to discuss council's recommendation, 20 September 2018, 8.30am</li> <li>● Attendees: <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Garry West (Chair), Pamela Westing, John Griffin, John Coulton and Catherine Egan</li> <li>○ <u>Council assessment staff</u>: Patsy Cox, Planning Officer</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	As amended and attached as schedule 2

## SCHEDULE 2

### PART A - GENERAL

#### 1. Obligation to Minimise Harm to the Environment

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

#### 2. Scope of Approval

i. The Applicant/Owner shall carry out the development generally in accordance with:

- a) DA No 5/2018;
- b) Conditions of this consent; and
- c) The following documents & plans

Item	Council's Stamp No/Date	Drawing/Job No	Drawn by	Dated
Environmental Impact Statement	28/2013 20/09/2018	Booklet called Environmental Impact Statement Proposed Increase In Annual Production From Runnymede Quarry	SMK Consultants	February 2018
Appendices	28/2013 20/09/2018	Booklet Including Appendix 1-12 and Potential Road Routes	SMK Consultants	-
Response to Opposing Submission related to Proposed Development of the Tikitere Quarry	28/2013 20/09/2018	Sht's 7/7	SMK Consultants	26/04/2018

- ii. No material extracted from the site is to be transported by any road external to the property
- iii. If there is any inconsistency between the above, the conditions of this consent shall prevail to the extent of the inconsistency.

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

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

4. Limits on Production

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

- a. The Applicant/Owner shall not extract and/or transport more than 500,000 tonnes of material, including hard rock, gravel, fines and sand from the development site in any year.
- b. This consent expires 5 years from the date of consent or when the material to be extracted has been exhausted, whichever occurs first.
- c. The Applicant shall not import material, other than additive type products, onto the site.
- d. The Applicant shall notify the Council, within three (3) months of the end of the calendar year, the total quantity of material quarried and provide details of final output in terms of product.

**5. Limits on Area**

The Applicant/Owner shall not develop/extract material from outside the areas as detailed in the Site Plans (Appendix 1 – Environmental Impact Statement – Appendix, SMK Consultants).

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

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

**7. Only the plant and equipment detailed in the EIS shall be used in the carrying out/operation of the development, namely:**

- Trucks loaded /unloaded
- Bulldozers
- Mobile Crushing/Screening Plant
- Rear Dump Trucks
- Front End Loaders
- Excavators
- Light service vehicles
- Drilling Equipment associated with blasting

**8. Vegetation Management/Clearing - not requiring a development consent**

Under the Biodiversity Conservation Act 2016, prior to undertaking any vegetation management/removal on rural lands which fall outside of the allowable activities or the Land Management Code of Practice as prescribed by the Local Land Services Act - a Biodiversity Assessment Report (prepared by an accredited assessor) may be required to be submitted to the Native Vegetation Panel for assessment.

For further information see attached LLS guideline “Allowable Activities for Landholders” and/or visit [www.lls.nsw.gov.au](http://www.lls.nsw.gov.au) and /or contact LLS – North West Region on 02 6790 7600 (Narrabri) or 02 6750 9000 (Moree).

*Reason: To secure sustainable vegetation management whilst preserving the native ecological systems, habitat, flora and fauna for the region.*

9. Change of Building Use

Any change of use/classification in relation to the use of the building or site shall not be made until approval in writing by this Council is first obtained.

10. Compliance

- a. The Applicant must put in place a management system, and take reasonable steps, to ensure that employees, contractors and sub-contractors are aware of, and comply with, the conditions of this consent relevant to their respective activities.
- b. The Applicant must be responsible for the works the subject of this consent and the environmental impacts that may result from those works, and must put in place an environmental management system governing the conduct of all persons on the site, including contractors, subcontractors and visitors.
- c. Prior to the commencement of each of the events listed from a) to b) below, or within such period as otherwise agreed by Council, the Applicant must certify in writing, to the satisfaction of the Council, that it has complied with all conditions of this consent applicable prior to the commencement of that event.

Where an event is to be undertaken in stages, the Applicant may, subject to the agreement of the Council, stage the submission of compliance with conditions certification consistent with the staging of activities relating to that event. The events referred to in this condition are as follows:

- a) construction of the development; and
- b) operation of the development.
- d. Notwithstanding condition 10c. (above) of this consent, the Council may require an update on compliance with all, or any part, of the conditions of this consent. Any such update shall meet the reasonable requirements of the Council and be submitted within such period as the Council may agree.

11. *Heritage and Archaeology*

If any Aboriginal archaeological relics are found or uncovered during the course of the work, then all works shall cease immediately in that area and the applicant shall contact the Department of Environment Climate Change and Water and Council. Depending on the possible significance of the relics, an archaeological assessment and an excavation permit under the *National Parks & Wildlife Act 1974* may be required before further works can be considered in that area. The applicant shall comply with any request made by the Department of Environment & Heritage and/or Council to cease work for the purposes of archaeological recording.

12. General Terms of Approval – NSW Environment Protection Authority

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

13. Rural Addressing

The applicant/owner shall make application for a separate Rural Address number/s for the quarry in order to accurately direct emergency services. The application shall be accompanied by the requisite fee to Council's GIS Officer.

14. Mining Lease

The Applicant/Owner shall, prior to the commencement of any work on the site of the proposed quarry, obtain from the DPI all statutory approvals, leases and licences required under the Mines Act 1992. Within thirty (30) days of receiving a license or approval, the Applicant/Owner shall furnish copies to Council.

15. Protection of Public Infrastructure

The Applicant/Owner shall:

- a) Repair, or pay the full costs associated with repairing any public infrastructure that is damaged by the development; and
- b) Relocate, or pay the full costs associated with relocating any public infrastructure that needs to be relocated as a result of the development.

PART A – HEALTH

1. Hours of Operation

**The hours of operation are restricted to the following:**

Activity	Monday to Saturday	Sunday	Public Holidays
Loading of trucks to haul produce	6:00am to 6:00pm	Nil	Nil

Light Vehicle traffic associated with employees, or light service vehicles entering or leaving the site	24 hours a day		
Maintenance of plant and equipment including repairs/alterations to processing equipment and unloaded test runs	6:00am to 6:00pm	Nil	Nil
Drilling	7:00am to 6:00pm	Nil	Nil
Blasting	9:00am to 5:00pm		
Operation of associated equipment with the confines of the excavated quarry area	6:00am to 6:00pm	Nil	Nil
Operation of loaders, excavators, trucks, screening & crushing equipment with the property	6:00am to 5:00pm	Nil	Nil
Exceptional circumstances – all crushing, loading and product haulage activities within the site to enable manufacture and delivery to high priority ARTC projects only.	24 hours with written notification and approval from Gwydir Shire Council and the Environment Protection Authority		

*Note: Any requirements for extended work hours to service short term increases in demand shall not be undertaken without prior Council approval and the notification of effected residence.*

2. All covered outdoor areas that permit smoking must comply with the *Smoke Free Environment Act, 2000* and the *Smoke Free Environment Amendment (Enclosed Places) Regulation, 2006*.

#### PART A - BUILDING

##### 1. Structural Adequacy

The Applicant shall ensure that all new buildings, structures, and transportable buildings/structures are constructed in accordance with the relevant requirements of the BCA.

*Notes:*

- *Under the EP&A Act, the Applicant/Owner is required to obtain construction and occupation certificates for the proposed building works.*
- *Part 8 of the EP&A Regulation sets out the detailed requirements for the certification of development.*

#### PART B – PRIOR TO COMMENCEMENT OF WORKS

##### 1. Environmental Management Plan

- 1 The Applicant/Owner shall prepare and implement an Environmental Management Plan for the development which will govern the quarries construction, operation and rehabilitation. This Plan must:



- a) Provide the overall strategic context for environmental management of the development, including for the environmental monitoring program and the various management plans required by this development consent;
- b) Identify the statutory requirements that apply to the development;
- c) Describe in general how the environmental performance of the development would be monitored and managed;
- d) Describe the detailed procedures that would be implemented to:
- Keep the local community and relevant agencies informed about the operation and environmental performances of the development;
  - Receive, handle, respond to, and record complaints;
  - Resolve any disputes that may arise during the course of the development;
  - Respond to any non-compliance;
  - Education of contractors and employees;
  - Manage cumulative impacts;
  - Response to emergencies;
  - Manage waste;
  - Prevent damage to vegetation outside the quarry sites;
  - Manage the discovery unexpected Aboriginal Heritage;
  - Manage weeds and vegetation;
  - Manage traffic onsite and offsite;
  - Manage pollution incidents
  - Manage rehabilitation
- e) Describe the roles, responsibility, authority, and accountability of all the key personnel involved in environmental management of the development.
- f) Include the following site plans and management plans as submitted as Appendices to the Environmental Impact Statement, February 2018, prepared SMK:
- Site Plans – Appendix 1
  - Rehabilitation Plan – Appendix 9
  - Erosion and Sediment Control Plan – Appendix 10
  - Soil and Water Management Plan – Appendix 11
  - Vegetation Management Plan – Appendix 12

2 The Applicant/Owner shall not carry out any development at the development site before Council has approved the plan referred to in Condition B1.1.

- 3 Within 14 days of receiving Council approval for the environmental management plan, the Applicant/Owner shall;
- a) Send copies of the approved environmental management plan to the relevant agencies, and
  - b) Ensure the approved environmental management plan is publicly available.

**2. Traffic Management Plan and Truck Driver Code of Practice**

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

- a. The road maintenance program;
- b. Surrounding environment, existing conditions and road safety;
- c. Existing private property driveways and farm access points;
- d. Dust suppression methods including water supply management, monitoring, reporting, source, licencing and drought;
- e. Noise suppression methods including monitoring and reporting;
- f. Road inspection activities to be implemented for the life of the quarry;
- g. Approved haulage routes highlighting specific locations for consideration such as school zones, school bus routes, residential areas or potential risk locations (including map);
- h. Induction process for staff and sub-contractors outlining clear expectations and consequences for any breach of the code; and
- i. Instruction on all operational and safety requirements related to the quarry operations.

**3. The quarry is to operate in accordance with the approved Traffic Management Plan and Truck Driver Code of Practice.**

**4. Workcover**

The Applicant/Owner's attention is drawn to the Workcover Authority's requirements under the Factories, Shops and Industries Act 1962, particularly in respect to amenities. It is recommended that the Workcover Authority be consulted to ensure requirements will be complied with prior to commencement of activities.

**5. Surface Water Management**

Run-off and erosion controls must be implemented before construction to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land, as follows:

- a) divert uncontaminated run-off around cleared or disturbed areas,
- b) erect a silt fence to prevent debris escaping into drainage systems or waterways,
- c) prevent tracking of sediment by vehicles onto roads,
- d) stockpile topsoil, excavated material, construction, landscaping supplies and debris within the site.
- e) construction of the sediment pond to the relevant standards.

6. *Advisory Note 1*

Dial before you Dig

Underground assets may exist in the area that is subject to this application. In the interests of health and safety and in order to protect damage to third party assets please contact Dial before you Dig at [www.1100.com.au](http://www.1100.com.au) or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before you Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before you Dig service in advance of any construction or planning activities.

7. *Advisory Note 2*

Telecommunications Act 1997 (Commonwealth)

Telstra (and its authorised contractors) are the only companies that are permitted to conduct works on Telstra's network and assets. Any person interfering with a facility or installation owned by Telstra is committing an offence under the Criminal Code Act 1995 (Cth) and is liable for prosecution. Furthermore, damage to Telstra's infrastructure may result in interruption to the provision of essential services and significant costs. If you are aware of any works or proposed works which may affect or impact on Telstra's assets in any way, you are required to contact: Telstra's Network Integrity Team on Phone Number 1800810443.

8. *Advisory Note 3*

## Disturbance or Impact on Telecommunications Infrastructure

1. If the development is likely to disturb or impact upon telecommunications infrastructure, written confirmation from the service provider that they have agreed to the proposed works must be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate or any works commencing.
2. The arrangements and costs associated with any adjustment to telecommunications infrastructure shall be borne in full by the applicant/developer.

### 9. *Advisory Note 4*

Development must comply with the requirements of the Department of Industry – Water attached to this consent.

*Note: See Annexure A attached to these conditions of consent.*

## PART C – DURING OPERATIONS

### 1. Operation of Plant and Equipment

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

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

### 2. Bunding and Spill Management

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

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

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

### **3. Transport & Traffic**

#### **3.1 Road Works**

Any upgrade works, if required, of the access to the quarry site from the Croppa Creek road shall be undertaken at the developer's expense and to the guidelines and specifications of Council.

#### **3.2 Operating Conditions**

- a) The Applicant/Owner shall ensure that all vehicles, before they are allowed to leave the site, are cleaned of materials that may fall on the road.
- b) The Applicant/Owner shall ensure that trucks operating on, entering and leaving the site that are carrying loads are covered at all times, except during loading and unloading.
- c) All vehicles shall leave the site in a forward direction.

### **4. Waste Management**

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

### **5. Visual Impact**

The Applicant/Owner shall carry out all practical measures to maintain existing natural vegetation screens so as to prevent and/or minimises the visual impacts of the development.

### **6. Lighting Emissions**

- 1 The Applicant/Owner shall take all practicable measures to prevent and/or minimise any off-site lighting impacts including light spill and prevent contribution to sky glow from the development.

- 2 All external lighting associated with the development shall comply with *Australian Standard AS4282(INR) 1995 – Control of Obtrusive Effects of Outdoor Lighting*.

## 7. Hazards Management

The Applicant/Owner shall ensure that the storage, handling, and transport of dangerous goods is done in accordance with the relevant *Australian Standards*, particularly *AS1940* and *AS1596*, and the *Dangerous Goods Code*.

## 8. Fire Management

The Applicant/Owner shall:

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

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

## 9. Greenhouse Gas Management

The developer shall:

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

## PART D – PRIOR TO COMMENCEMENT

### 1. Compliance with Conditions

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

## PART E – POST COMMENCEMENT

### 1. Operating Conditions

## Dust

- i. Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.
- ii. The developer shall take appropriate measures to assist in the mitigation of potential dust nuisance which may arise including from vehicular movements on the subject site.

## Maintaining of holding ponds

- iii. All holding ponds, evaporation ponds and associated drains must be maintained to prevent infiltration.

## Activities must be carried out in a competent manner

- iv. Development activities must be carried out in a competent manner.

This includes:

- 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.

## 2. Site Rehabilitation

At cessation of the quarry operation or expiration of the consent the owner/operator shall remove all buildings and facilities associated with the development from the land and rehabilitate the site in accordance with the Rehabilitation Plan (Appendix 9 of the Environmental Impact Statement, dated February 2018, prepared by SMK Consultants).

## 3. Environmental Management, Monitoring, Auditing and Report.

### i Annual Reporting

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

- a) Identify the standards and performance measures that apply to the development;
- b) Include a summary of the complaints received during the past year, and over time compare this to the complaints received in previous years since the development commenced;
- c) Include a summary of the monitoring results on the development during the past year;
- d) Include an analysis of these monitoring results against the relevant:
  - Impact assessment criteria;
  - Monitoring results from previous years; and
  - Predictions in the EIS
- e) Identify any trends in the performance of the development shown by monitoring over the life of the development;
- e) Identify any non-compliance during the previous year; and
- f) Describe what actions were, or are being taken to ensure compliance.

ii Complaints Procedure

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

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

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

iii Complaints Register



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

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

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

#### PART F – OTHER APPROVALS

There are no other approvals issued with this consent.

#### REASONS FOR CONDITIONS:

- (a) to ensure compliance with the terms of the Environmental Planning Instrument and/or Development Control Plan;
- (b) having regard to Council's duties of consideration under *Section 79C(1) of the Environmental Planning and Assessment Act, 1979 (as amended)* as well as Section 80A of the Act which authorises the imposing of consent conditions.

- (c) to protect the existing and likely future amenity of the locality;
- (d) prevent, minimise, and/or offset adverse environmental impacts;
- (e) set standards and performance measures for acceptable environmental performance;
- (f) require regular monitoring and reporting;
- (g) to protect the structure from bushfire and comply with Planning for Bushfire Protection 2006.
- (h) provide for the on-going environmental management of the development;
- (i) having regard to the circumstances of the case and the public interest; and
- (j) to ensure compliance with the *Building Code of Australia* and referenced standards.

#### Annexure A.

### 1. NSW EPA – General Terms of Approval

#### Administrative Conditions

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

A1.1 Except as expressly provided by the general terms of approval, works and activities must be carried out in accordance with the proposal contained in

- The development application DA 05/2018 submitted to Gwydir Shire Council on 21 February 2018;
- The “*Tikitere*” *Quarry Environmental Impact Statement* dated February 2018; and
- All additional documents supplied to the EPA in relation to the development, including the revised Noise Impact Assessment dated 25 May 2018.

##### 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 the licence under the *Protection of the Environment Operations Act 1997* in relation to 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.

**L2. Concentration limits**

- L2.1 The only discharge point in is the spillway of the sediment dam to the premises. The exact location and coordinates must be provided to council and the EPA as soon as practicable once the dam is built.
- L2.2 For each discharge point, the concentration of a pollutant at that point, or applied to that area, must not exceed the concentration limits specified for that pollutant in Table 1.
- L2.3 Where a pH quality limit is specified in Table 1, the specified percentage of samples must be within the specified ranges.
- L2.4 To avoid any doubt, Conditions L2.1, L2.2 and L2.3 do not authorise the discharge or emission of any other pollutants.
- L2.5 The total suspended solids concentration limits specified in Table 1 may be exceeded for water discharged from the sediment dam provided that:
- a) the discharge occurs solely as a result of rainfall measured at the premises exceeding 36.3 millimetres over any consecutive 5 day period immediately before the discharge occurred, and
  - b) all practical measures have been implemented to dewater all sediment dams within 5 days of rainfall so they have sufficient capacity to store runoff from a 36.3 millimetre, 5-day rainfall event.

Note: 36.3 millimetres in the 5-day 90<sup>th</sup> percentile rainfall depth for Moree in Table 6.3a of Volume 1 of *Managing urban stormwater: soils and construction* (4<sup>th</sup> edition, March 2004).

**Table 1 – Discharge Point: Overflow from the spillway of sediment dam (exact location to be confirmed)**

Pollutant	Units of measure	50% concentration limit	90% concentration limit	3DGM concentration limit	100% concentration limit
Oil & grease	mg/L	-	-	-	10
pH		-	-	-	6.5-8.5
Total suspended solids	mg/L	-	-	-	50

**L3. Waste**

- L3.1 The licensee must not cause, permit or allow any waste generated outside of the premise 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*.
- L3.2 Condition L3.1 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*.

*Note: Condition L3 ensures that a premises based activity is not used as a waste facility (unless that scheduled activity is permitted by another condition).*

**L4. Noise limits**

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

Location	NOISE LIMITS dB(A)			
	Day LAeq (15 minute)	Evening LAeq (15 minute)	Night LAeq (15 minute)	Night LAmax
1137 Croppa Creek Road, North Star	40	35	35	52
1176 Oaklands Road, North Star	40	35	35	52
141 Bonnerly Park Road, North Star	40	35	35	52
1216 Croppa Creek Road, North Star	40	35	35	52

**L4.2** For the purpose of L4.1:

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

**L4.3** The noise limits in Condition L4.1 apply under all meteorological conditions except for:

- Wind speeds greater than 3 metres per second at 10 metres above ground level
- Stability category F temperature inversion conditions and wind speeds greater than 2 metres per second at 10 metres above ground level, or
- Stability category G temperature inversion conditions.

**L4.4** Noise from the premises must not exceed the limits in L4.1 positively adjusted by 5dB, during these meteorological conditions:

- Wind speeds greater than 3 metres per second at 10 metres above ground level
- Stability category F temperature inversion conditions and wind speeds greater than 2 metres per second at 10 metres above ground level, or
- Stability category G temperature inversion conditions.

**L4.5** For the purposes of Conditions L4.3 and L4.4:

- Data recorded by a Bureau of Meteorology meteorological station at Moree must be used to determine meteorological conditions, and
- Temperature inversion conditions (stability category) must be determined by the sigma-theta method referred to in Fact Sheet D of the Noise Policy for Industry.

*Note: The location of the Bureau of Meteorology Meteorological Station is to be negotiated with the Proponent by the EPA and Consent Authority.*

L4.6 To determine compliance:

- a) with the Leq(15 minute) noise limits in Condition L4.1 and L4.4, the noise measurement equipment must be located:
  - approximately on the property boundary, where any dwelling is situated 30 metres or less from the property boundary closest to the premises
  - within 30 metres of a dwelling façade, but not closer than 3m, where any dwelling on the property is situated more than 30 metres from the property boundary closest to the premises, or, where applicable
  - within approximately 50 metres of the boundary of a National Park or a Nature Reserve.
- b) with the noise limits in Condition L4.1 and L4.4, the noise measurement equipment must be located:
  - at the most affected point at a location where there is no dwelling at the location, or
  - at the most affected point within an area at a location prescribed by Condition L4.5(a).

L4.7 A non-compliance of Condition L4.1 or L4.4, as applicable, will still occur where noise generated from the premises in excess of the appropriate limit is measured:

- at a location other than an area prescribed by conditions L4.6(a) and L4.6(b), and/or
- at a point other than the most affected point at a location.

L4.8 For the purposes of determining the noise generated at the premises the modification factors in Fact Sheet C of the Noise Policy for Industry must be applied, as appropriate, to the noise levels measured by the noise monitoring equipment.

*L5. Hours of operation*

L5.1 The hours of operation must be limited to 6am to 6pm, Monday to Saturday. No work is to be carried out on Sunday or public holidays. For the purpose of this licence, "work" includes all activities on the premises associated with the project, during construction and operation.

L5.2 The following activities may take place outside the hours specified in Condition L5.1:

- a) the delivery of materials required by the police or other authorities for safety reasons
- b) activities required in an emergency to avoid loss of life, property, and/or to prevent environmental harm
- c) activities approved through the process in Condition L5.3.

L5.3 The hours of operation specified in condition L5.1 may be varied with the prior written approval of the EPA. Any request to vary the hours of operation must include:

- a) details of the nature and justification for activities to be conducted during the varied construction hours

- b) evidence that appropriate consultation has been undertaken with potentially affected sensitive receivers and Gwydir Shire Council
- c) a noise impact assessment using the guidelines in the *Noise Policy for Industry* (EPA 2017), and other relevant EPA noise guidelines in force at the time of assessment.

#### L6. *Blasting*

##### Overpressure

- L6.1 The airblast overpressure level from blasting operations at the premises must not exceed 120dB (Lin Peak) at any time at any noise sensitive location. Error margins associated with any monitoring equipment used to measure this are not to be taken into account in determining whether or not the limit has been exceeded.
- L6.2 The airblast overpressure level from blasting operations at the premises must not exceed 115dB (Lin Peak) at any noise sensitive location for more than five per cent of the total number of blasts in each reporting period.  
Error margins associated with any monitoring equipment used to measure this are not to be taken into account in determining whether or not the limit has been exceeded.

##### Ground vibration (ppv)

- L6.3 Ground vibration peak particle velocity from blasting operations at the premises must not exceed 10 millimetres per second at any time at any noise sensitive location. Error margins associated with any monitoring equipment used to measure this are not to be taken into account in determining whether or not the limit has been exceeded.
- L6.4 Ground vibration peak particle velocity from blasting operations at the premises must not exceed 5 millimetres per second at any noise sensitive location for more than five per cent of the total number of blasts in each reporting period. Error margins associated with any monitoring equipment used to measure this are not to be taken into account in determining whether or not the limit has been exceeded.

##### Time of blasting

- L6.5 Blasting at the premises may only take place between 9am and 5pm, Monday to Saturday. Blasting must not take place on public holidays
- L6.6 Blasting outside the hours specified in Condition L6.5 can only take place with the written approval of the EPA.

##### Frequency of blasting

- L6.5 Blasting at the premises is limited to 1 blast each day on which blasting is permitted.

*L7. Production Limit*

- L7.1 Extraction from the premises must not exceed 500,000 tonnes during any consecutive 12 month period.
- L7.2 For the purposes of determining compliance with this condition, a record of each vehicle carrying each load from the premises must be maintained by the applicant, to enable production to be calculated for any consecutive 12 month period by multiplying the number of loads for each vehicle type by the known capacity of each relevant vehicle.

*Operating conditions*

*O1. Odour*

*Note: The POEO Act states that no offensive odour may be emitted from particular premises unless potentially offensive odours are identified in the licence and the odours are emitted in accordance with conditions specifically directed at minimising the odours.*

*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.

*O3. Stormwater/sediment control - Construction Phase*

- O3.1 A *Soil and Water Management Plan (SWMP)* 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 waters during construction activities, and be prepared in accordance with the guidance in *Managing Urban Stormwater: Soils and Construction* (available at <http://www.environment.nsw.gov.au/stormwater/publications.htm>).

*O4. Stormwater/sediment control - Operation Phase*

- O4.1 An erosion and sediment control plan must be prepared and implemented. The plan must describe the measures that will be used to minimise soil erosion and the discharge of sediment and other pollutants to lands and waters for the life of the project, and be prepared in accordance with the guidance in Managing Urban Stormwater: Soils and Construction, particularly Volume 2E: Mines and quarries (available at <http://www.environment.nsw.gov.au/stormwater/publications.htm>).

O5. *Emergency Response*

- O5.1 The licensee must maintain, and implement as necessary, a current emergency response plan for the premises. The licensee must keep the emergency response plan on the premises at all times. The emergency response plan must document systems and procedures to deal with all types of incidents (e.g. spills, explosions or fire) that may occur at the premises or that may be associated with activities that occur at the premises and which are likely to cause harm to the environment. If a current emergency response plan does not exist at the date on which this condition is attached to the licence, the licensee must develop an emergency response plan within three months of that date.

*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, must be recorded and retained as set out in conditions M1.2 and M1.3.
- M1.2 All records required to be kept by the licence must be:
- a) in a legible form, or in a form that can readily be reduced to a legible form;
  - b) kept for at least 4 years after the monitoring or event to which they relate took place; and
  - c) produced in a legible form to any authorised officer of the EPA who asks to see them.
- M1.3 The following records must be kept in respect of any samples required to be collected:
- a) the date(s) on which the sample was taken;



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

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

M2.1 For each monitoring/ discharge point or utilisation area specified below, 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:

*Table 2 - Discharge Point: Overflow from the spillway of water sediment basin (exact location to be confirmed)*

Pollutant	Units of measure	Frequency	Sampling Method
Oil & Grease	mg/L	Special frequency 1	Representative sample
pH	pH	Special frequency 1	Representative sample
Total suspended solids	mg/L	Special frequency 1	Representative sample

M2.2 For the purposes of Condition M2.1, "Special frequency 1" means as soon as practicable, and no more than 12 hours, after overflow commences, and before any controlled discharge from the sediment basin.

**M3. Testing methods - concentration limits**

M3.1 Monitoring for the concentration of a pollutant discharged to waters or applied to a utilisation area required by condition M2 must be done in accordance with:

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

**Blast Monitoring**

M4.1 To determine compliance with Conditions L6.1 to L6.4:

- a) Airblast overpressure and ground vibration levels must be measured and recorded, for all blasts carried out at the premises, at the nearest residence that is not owned by the applicant or subject to a private agreement relating to airblast overpressure and ground vibration levels.
- b) Instrumentation used to measure and record airblast overpressure and ground vibration levels must meet the requirements of Australian Standard AS 2187.2-2006.

Note: A breach will still occur if airblast overpressure or ground vibration levels from blasting at the premises exceeds a limit specified in Conditions L6.1 to L6.4 at any "noise sensitive location" other than the one specified in Condition M4.1.

M4.2 The airblast overpressure and ground vibration limits in Conditions L6.1 to L6.4 do not apply at noise sensitive locations that are owned by the licensee or subject to a private agreement, relating to airblast overpressure and ground vibration, between the applicant and owner of the noise sensitive location.

#### Noise Monitoring

M5.1 Noise monitoring requirements may be added to the environment protection licence for the premises if the EPA receives complaints about noise emissions from the premises, or otherwise suspects that noise limits have not been complied with.

#### *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.

#### *Definitions*

- Approved Methods Publication - the document entitled "Approved Methods for the Sampling and Analysis of Water Pollutants in New South Wales", prepared by the EPA and published in the Gazette, as in force from time to time.
- Noise Policy for Industry - the document entitled "Noise Policy for Industry" published by the Environment Protection Authority in October 2017.

- Noise - 'sound pressure levels' for the purposes of Conditions L4.1 to L4.7.
- "Noise sensitive locations" are buildings used as a residence, hospital, school, child care centre, place of public worship and nursing homes, as well as the land within 30 metres of any such building.

### Operating conditions

Activities must be carried out in a competent manner

Licensed activities must be carried out in a competent manner.

This includes:

- a. the processing, handling, movement and storage of materials and substances used to carry out the activity; and
- b. the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

### Maintenance of plant and equipment

All plant and equipment installed at the premises or used in connection with the licensed activity:

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

### Monitoring and recording conditions

#### Recording of pollution complaints

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

The record must include details of the following:

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

- if no action was taken by the licensee, the reasons why no action was taken.

The record of a complaint must be kept for at least 4 years after the complaint was made.

The record must be produced to any authorised officer of the EPA who asks to see them.

#### Telephone complaints line

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

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

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

#### Reporting conditions

##### Annual Return documents

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

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

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

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

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

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

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

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

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

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

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

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

#### *Deadline for Annual Return*

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

#### *Notification where actual load can not be calculated*

(Licences 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:

- a. the assessable pollutants for which the actual load could not be calculated; and
- b. 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.

#### *Notification of environmental harm*

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

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

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

#### *Written report*

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

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

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

The licensee must make all reasonable inquiries in relation to the event and supply the report to the EPA within such time as may be specified in the request.

The request may require a report which includes any or all of the following information:

- a. the cause, time and duration of the event;

- b. the type, volume and concentration of every pollutant discharged as a result of the event;
- c. the name, address and business hours telephone number of employees or agents of the licensee, or a specified class of them, who witnessed the event; and
- d. the name, address and business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event, unless the licensee has been unable to obtain that information after making reasonable effort;
- e. action taken by the licensee in relation to the event, including any follow-up contact with any complainants;
- f. details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event;
- g. any other relevant matters.

The EPA may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the EPA within the time specified in the request.

#### General conditions

#### Copy of licence kept at the premises

A copy of this licence must be kept at the premises 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.

## 2. Advice – Department of Industry – Water

### 1. Controlled Activity Approval

Works and activities do not appear to be within 40 meters of any watercourse, therefore no controlled activity approval is required. Council is advised that if any works are to occur within 40 meters of a watercourse, the proponent must contact DoI Water to discuss the requirement for a controlled activity approval. Please refer to the following web site for further information on controlled activities:

<https://www.water.nsw.gov.au/water-licensing/approvals/controlled-activity>

### 2. Water Supply

It is noted that total water supply requirements are yet to be determined. A primary water supply has been identified as GAB water authorised under an existing licence of 486ML (WAL 15704) with

the secondary water supply option being Harvestable rights dams located on the property. It is not clear if water needs will exceed the available water therefore it is recommended that the proponent prepare a site water balance and investigate water supply options with WaterNSW if additional water is required prior to the development being approved.

3. Groundwater

The EIS indicates that groundwater is not likely to be intercepted. Should groundwater be intercepted, licence requirements would need to be discussed with WaterNSW.

4. Site Decommissioning and Rehabilitation

Final landform will result in a void that is proposed to be utilised as on-farm storage. A licence may be required to maintain water in the storage post operation. It is recommended that the proponent seek advice from WaterNSW regarding potential licensing requirements.

Further information on water licensing under the Water Management Act 2000 can be obtained from the DoI Water website:

<http://www.water.nsw.gov.au/water-licensing>