

COUNCIL ASSESSMENT REPORT TO PANEL

NORTHERN REGIONAL PLANNING PANEL

PANEL REFERENCE & DA NUMBER	PPSNTH2023-260 PAN371551 DA2023/0580
PROPOSAL	Extractive Industry (proposed continuation of use and expansion of existing quarry)
ADDRESS	Lot 31 DP 1203488 9720 Armidale Road Tyringham NSW 2453
APPLICANT	Gary Peacock
OWNER	Abby Lee Richards and Toby John Sheridan
DA LODGEMENT DATE	19 October 2023
APPLICATION TYPE	Development Application (Designated and Integrated Development)
REGIONALLY SIGNIFICANT CRITERIA	Section 2.19(1) and Clause 7(1)(a) of Schedule 6 of State Environmental Planning Policy (Planning Systems) 2021 declares the proposal regionally significant development as: Development for the purposes of extractive industry facilities that meet the requirements for designated development.
CIV	\$440,000.00 (excluding GST)
CLAUSE 4.6 REQUESTS	Nil
LIST OF ALL RELEVANT PLANNING CONTROLS (S4.15(1)(A) OF EP&A ACT)	<ul style="list-style-type: none"> • Environmental Planning and Assessment Act 1979 • Environmental Planning and Assessment Regulation 2021 • Local Government Act 1993 • Protection of the Environment Operations Act 1997 • Biodiversity Conservation Act 2016 • Water Management Act 2000 • Fisheries Management Act • Rural Fires Act 1997 • State Environmental Planning Policy (Biodiversity and Conservation) 2021 • State Environmental Planning Policy (Planning Systems) 2021 • • State Environmental Planning Policy (Transport and Infrastructure) 2021 • State Environmental Planning Policy (Resilience and Hazards) 2021 • State Environmental Planning Policy (Resources and Energy) 2021 • Clarence Valley Council Local Environmental Plan 2011;

	<ul style="list-style-type: none"> Clarence Valley Council Rural Zone Development Control Plan 2011
AGENCY REFERRALS	Department of Planning and Environment-Water Department of Primary Industries (Fisheries) Transport for NSW Department of Planning and Environment (DPE) Biodiversity and Conservation Division Environment Protection Authority
TOTAL & UNIQUE SUBMISSIONS	Nil
KEY ISSUES	<ul style="list-style-type: none"> Biodiversity assessment and biodiversity offsetting significant impact on threatened species – former clearing of land under investigation Mitigation Measures and Impact Assessment Noise and Blasting Air Quality Landscape and Visual Impacts Heritage Traffic Social and Economic
DOCUMENTS SUBMITTED FOR CONSIDERATION	Environmental impact statement Appendix A – SEARS Appendix B – Faheys Pit DA Appendix C - Geotechnical report Appendix D – Property fires Appendix E - Contamination and/or remediation action plan Appendix F – Quarry Design, Stage Plans and Sections Appendix G - Water Balance Report Appendix H – Ecological Assessment Appendix I - Aboriginal Due Diligence Assessment Appendix J – Consultation Documents - Newsletter Appendix K - Acoustic & Vibration Assessment Appendix L - Air Quality Assessment (amended) Appendix M -Traffic Impact Assessment Cost estimate report Memorandum Air Quality Assessment 4.12.23
PREVIOUS BRIEFINGS	20 February 2024
PLAN VERSION	1 May 2023
ASSESSMENT STATUS	Approval Recommended
PREPARED BY	Pat Ridgway, Senior Development Planner
DATE OF REPORT	6 August 2024

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report?	Yes
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Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the assessment report?	Yes
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Clause 4.6 Exceptions to development standards

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

Does the DA require Special Infrastructure Contributions conditions (S7.24)? <i>Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions</i>	Not Applicable
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Conditions

Have draft conditions been provided to the applicant for comment.	Yes
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1. EXECUTIVE SUMMARY

The development application has been referred to the Regional Planning Panel – Northern pursuant to Section 2.19(1) and Clause 7(1)(a) of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* which declares the proposal regionally significant development as: Development for the purposes of extractive industry facilities that meet the requirements for designated development. Extractive Industries are designated development under Clause 26 of Schedule 3 of the *Environmental Planning and Assessment Regulation 2021*.

The property has an area of 11.46 hectares with an existing quarry known as 'Faheys Pit' which was approved by the former Nymboida Shire Council on 21 February 1996. The applicant seeks consent for the expansion of the quarry from 4,200 tonnes per annum be increased up to a maximum of 150,000 tonnes per annum.

Fahey's Pit is underlain by residual soil and rocks of the Moombil Siltstone of the Coffs Harbour Block which typically comprises black massive siltstone, rare lithofeldspathic wacke and granule conglomerate. The operation will consist of one extraction site on the property and the quarry is anticipated to produce up to an additional resource of approximately 730,000 cubic metres, equivalent to about 1.8 million tonnes (Mt). The total quarry, including the land proposed for lateral extension, will have an area of approximately 4.1 hectares.

1.1 The Site

The quarry comprises land within the Clarence Valley Local Government area (LGA) comprising Lot 31 in Deposited Plan (DP) 1203488, at No. 9720 Armidale Road, Tyringham NSW 2453, having an area of 11.46ha. The internal access route to the quarry connects directly with Armidale Road and the access is shared with the adjoining sawmill and Council owned quarry.

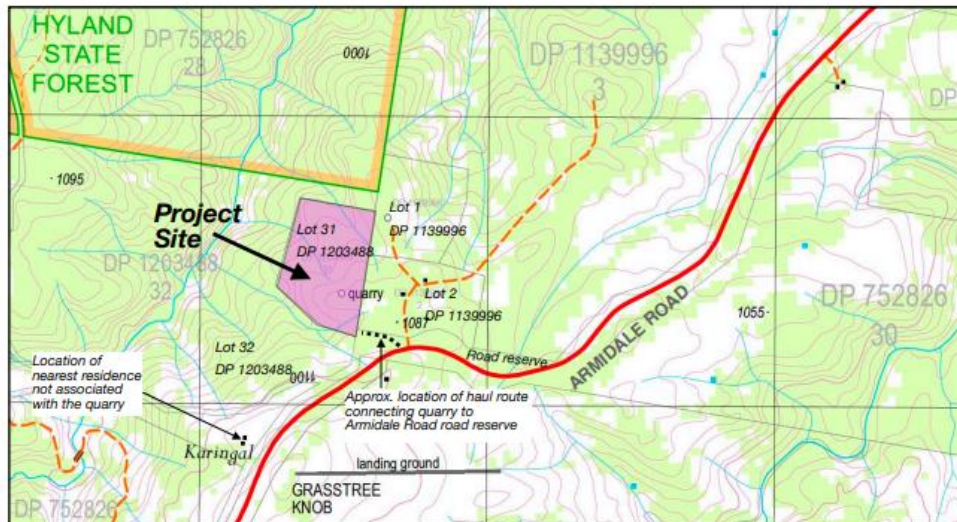


FIGURE 0.1: Location of Project Site- coloured pink

(Map Base Source: SIX Maps Hernani1:25,000 Topographic map 9337-2N, 1km grid)



1.2 The Locality

To the west of the quarry is a rural property comprising Lot 32 DP 1203488, with the Hyland State Forest located to the north. Adjoining the quarry to the east is an existing sawmill and dwelling, on Lot 2 DP 1139996, and a local council quarry pit, known as 'Ellis' Pit', on Lot 1 DP 1139996.



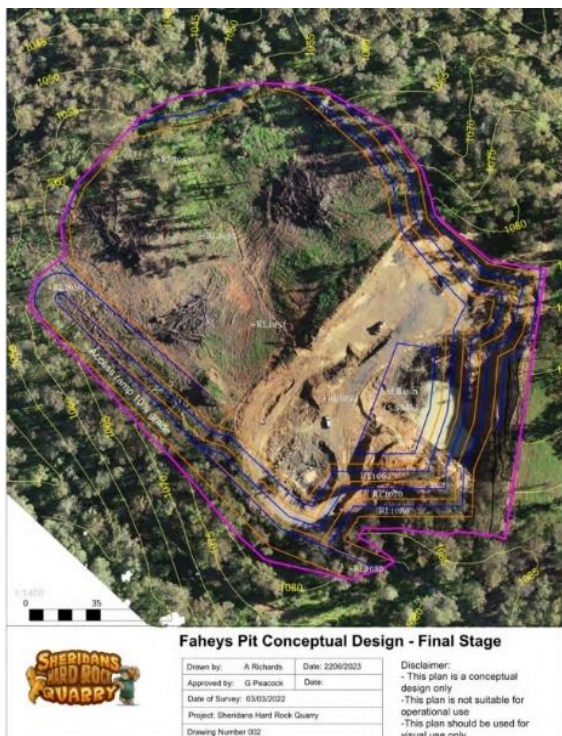
FIGURE 1.1: Project Site- regional setting

(Map Base Source: Whereis online mapping)





FIGURE 0.2: Aerial Photograph of Faheys Pit & Surrounds
- Approx. Quarry Footprint Shown with Pink Edging
 (Map source: NSW Government MinView website 7 March 2022.)



PHOTOGRAPH 0.1: Drone photograph of current active pit and sediment basin at Faheys Pit, with neighbouring sawmill in background

2. THE PROPOSAL AND BACKGROUND

2.1 The Proposal

Faheys Pit has been in operation since before 1960 and consent was granted on 21 February 1996 following the guidelines issued under *State Environmental Planning Policy No 37* for the continued use of existing quarries and gravel pits. It adjoins a pit owned and operated by Clarence Valley Council, known as Ellis' Pit and an existing sawmill operation known as Baff Sawmilling.

Development consent is required to allow Faheys Pit to continue operating and to expand beyond the limits imposed in the 1996 consent. No permanent infrastructure is proposed which will be subject to separate assessment and approvals in the future, where required.

The proposal seeks consent for:

- A continuation of quarrying the resource from the project site.
- Rate of extraction limited to 150,000 tonnes per annum (pa).
- A lateral expansion of the existing quarry footprint and a deepening of extraction, enabling a continuation of the extraction and production of a range of road construction and allied quarry materials from the quarry.
- The total quarry, including the land proposed for lateral extension, will have an area of approximately 4.1 hectares.

As described in the Environmental Impact Statement, the proposal involves:

Quarry component	Summary description
Extraction Method	<i>Bulldozer or excavator used to remove weathered rock, with drill and blast used for unweathered rock.</i>
Resource	<i>Weathered and unweathered siltstone, rare lithofeldspathic wacke and conglomerate, comprising Moombil Siltstone geology.</i>
Disturbance area	<i>A lateral expansion of existing quarry to include all cleared areas, with extraction of up to about 42 metres in depth. Total quarry area approximately 4.1ha ie. 36% of the total Project Site area (rounded up figure).</i>
Processing	<i>Crushing and screening of quarry resource on a campaign basis. Mobile plant and equipment to be brought to the site when required.</i>
Annual extraction rate	<i>Up to 150,000 tonnes per annum.</i>
Transport	<i>Access to the quarry from Armidale Road, the existing quarry haul route. A mix of truck and dog combination, with larger and smaller trucks used where road weight limits allow. It is anticipated that the quarry may generate up to 60 loaded quarry trucks per day.</i>
Waste management	<i>Minimal waste materials are anticipated to be generated.</i>
Hours of operation	<i>Limited to 7.00am to 6.00pm Monday to Friday (ie. 11 hours operation per day) and 7.00am to 1.00pm on Saturdays (ie. 6 hours operation). Hours of blasting are to be restricted to 9.00am to 3.00pm Monday to Friday.</i>
Total recoverable resource and project life	<i>Preliminary estimates indicate that the total quarry resource is estimated to be approximately 730,000 cubic metres-equivalent to about 1.8 million tonnes (Mt).</i>
Workforce	<i>Up to 4 employees working on site + contractors (eg. blasting contractor, machinery servicing contractors, refuelers).</i>
Key environmental issues	<i>Impacts relating to noise, blasting impacts, rehabilitation and traffic. Rehabilitation of existing quarry workings will also be involved.</i>

The key development data is provided in **Table 1**.

Table 1: Key Development Data

Control	Proposal
Site area	11.46ha
GFA	4.1ha
Clause 4.6 Requests	No
Car Parking spaces	0

2.2 Background

The development application was lodged on 19 October 2023. A chronology of the development application since lodgement is outlined in **Table 2**.

Table 2: Chronology of the DA

Date	Event
19 October 2023 and 20 November 2023	Exhibition of the application
19 October 2023	DA referred to external agencies
19 October 2023	Request for Information from Council to applicant
5 December 2023	Response provided to Council
20 February 2024	Panel briefing
6 November 2023	TfNSW response
17 November 2023	EPA request for information letter
21 November 2023	Request for Information from Council to applicant
19 January 2024	EPA Response
8 December 2023	DPE – Water Response
2 February 2024	DPE - BCD request to review ecology assessment
20 February 2024	EPA GTA
20 February 2023	Panel briefing
24 March 2024	DPE-BCD response
2 April 2024	Council legal advice sought

22 April 2024	Legal advice provided
30 April 2024	Information request – Biodiversity assessment or withdrawal
12 June 2024	Meeting with Applicant and quarry operator
25 June	Applicant without prejudice response Environmental Compensatory Measures and Assessment

2.3 Site History

Abbey Richards and Toby Sheridan are the owners of Faheys Pit, purchased in 2020, with Sheridans Hard Rock Quarry Pty Ltd (ABN 58 151 721 989) the appointed quarry operator.

As submitted by the applicant, the project site is in a high bushfire prone area, with fires from the recent 2019 catastrophic fires reaching into the site up to the edge of the current worked quarry area. The Environmental Impact Statement advised that in the face of perceived imminent risk to life and property from further fires in late 2021 some of the burnt out timbered area was cleared on the property.

The clearing of around two (2) hectares of the land between, July 2020 and July 2023, is also the subject of an investigation by the Department of Planning and Environment – Compliance and Regulatory section - Biodiversity Conservation Division under Part 5A of the *Local Land Services Act 2013*. Notably, this investigation is a separate matter to this development application.

Council has considered compensatory measures for the clearing that occurred on the site along with the proposed clearing of an additional 0.83 hectares in accordance with Council's Biodiversity Strategy and Biodiversity Offset Strategy. The Applicant and Council staff have agreed to a monetary offset amount of \$32,666.87 in accordance with Council's policies, noting that Council's our position was the application is to be assessed as if the vegetation was not cleared.

Section 7.7 of the *Environmental Planning and Assessment Act 1979* provides that a consent authority can require a planning agreement to be entered into as a condition of development consent of the only if the is in the terms of an offer made by the developer in connection with a development application. The applicant has offered to enter into a VPA and agree with the imposition of the proposed draft condition 20.

This will be subject to a Planning Agreement in terms agreed between Council, the applicant and the land owners. A draft condition regarding the Voluntary Planning Agreement is included in the schedule of draft conditions.

3. PLANNING CONTROLS

The site is zoned RU1 Primary Production under the Clarence Valley Local Environmental Plan 2011 (LEP). "Extractive industries" as defined, are a use permissible with the consent of Council in this zone.

Objectives of the zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To prevent dispersed rural settlement.*
- *To ensure that development does not unreasonably increase the demand for public services or public facilities.*
- *To ensure development is not adversely impacted by environmental hazards.*

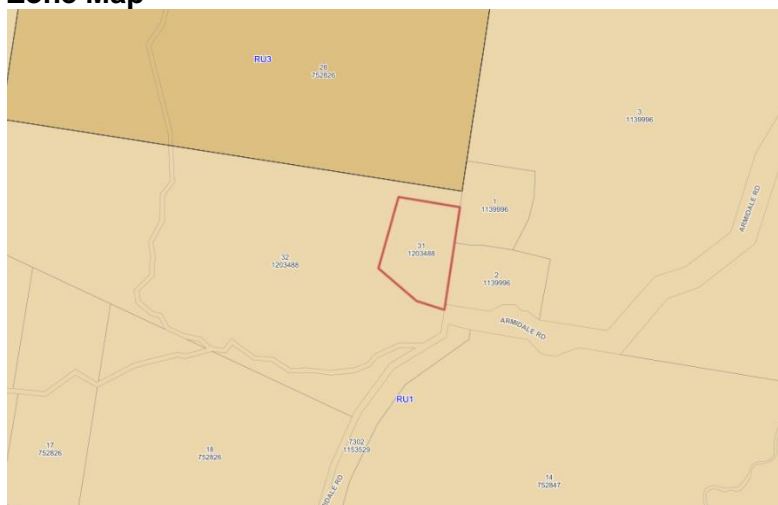


Table 3: Summary of Key Matters in the Relevant EPIs

State Environmental Planning Policy (Resources and Energy) 2021	Chapter 2: Mining, petroleum production and extractive industries <ul style="list-style-type: none"> Part 2.10 Determination of permissibility under local environmental plans Part 2.3 Development applications—matters for consideration Section 2.17 Compatibility of proposed mine, petroleum production or extractive industry with other land uses Section 2.20 Natural resource management and environmental management 2.23 Rehabilitation 	Yes
State Environmental Planning Policy (Transport and Infrastructure) 2021	Chapter 2: Infrastructure <ul style="list-style-type: none"> comment in accordance with Section 2.22 	Yes
State Environmental Planning Policy (Resilience and Hazards) 2021	Chapter 3 Hazardous and offensive development <ul style="list-style-type: none"> Part 2 Hazardous or offensive development 3.12 Matters for consideration by consent authorities 	Yes
LEP	<ul style="list-style-type: none"> Clause 2.3 Permissibility and zone objectives Clause 5.10 Heritage conservation Clause 7.7 Drinking water catchment Clause 7.8 Essential Services 	Yes
DCP	Clarence Valley Council Rural Zone Development Control Plan 2011 <ul style="list-style-type: none"> Part C General Controls for Rural Zones C5. Setbacks 	Yes

STATUTORY CONSIDERATIONS

Protection of the Environment Operations Act 1997

The *Protection of the Environment Operations Act 1997* (POEO Act) provides the legislative and administrative framework to protect, restore and enhance the quality of the environment in NSW by reducing risks to human health and the preventing the degradation of the environment from development and other relevant activities. The most significant element of the legislation with regard to the proposal is the management of Environment Protection Licences (EPL). An EPL is required to authorise the carrying out of any 'Scheduled Activities'. As a land based extractive industry, the existing operation is classified as a 'Scheduled Activity' under Schedule 1(19) of the POEO Act and therefore operates in accordance with EPL 20598.

As noted above, the EPA has issued the general terms of approval.

Environment Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act) covers 'matters of national environmental significance' (MNES) that include:

- world heritage properties;
- wetlands listed under the Ramsar Convention;
- listed threatened species and ecological communities;
- listed migratory species protected under international agreements;
- nuclear actions;

- the Commonwealth marine environment; and
- National heritage places.

Under the EPBC Act, if a project has the potential to have a significant impact on a matter of national environmental significance, it is required to be referred to the Commonwealth Department of the Environment and Energy for assessment as to whether it represents a 'controlled action' and therefore requires approval from the Minister for the Environment.

The ecological assessment has concluded that significant impacts to MNES are not anticipated and referral of the proposal to the Commonwealth Department of the Environment is not required. An assessment of potential biodiversity impacts was included in the assessment.

National Parks and Wildlife Act 1974

The *National Parks and Wildlife Act 1974* (NP&W Act) aims to manage and conserve nature, objects, places and features that have ecological and cultural value. The NP&W Act is administered and enforced by the Department of Climate Change, Energy, the Environment and Water - Biodiversity Conservation and Science division of the (DCCEEW- BCS).

Aboriginal places and objects are protected under the NP&W Act. The Director-General has a database of information and records regarding Aboriginal objects whose existence and location have been reported, known as the Aboriginal Heritage Information Management System (AHIMS). An Aboriginal Heritage Impact Permit (AHIP) is required for consent to destroy, deface or damage Aboriginal object or Aboriginal place.

No Aboriginal places or objects of significance have been identified within the Quarry Site and the Aboriginal Due Diligence assessment indicates it is not likely that Aboriginal places or objects would be found within the Quarry Site.

Environmental Planning and Assessment Act 1979

The *Environmental Planning and Assessment Act 1979* (EP&A) Act provides the framework for the assessment and determination of development in NSW.

Extractive industries are permitted with development consent on land zoned RU1 Primary Production under the *Clarence Valley Local Environmental Plan 2011* (CVLEP). Development consent for the Proposal is being sought in accordance with Part 4, Division 4.1 of the EP&A Act and will need to be evaluated in accordance with Section 4.15 of the EP&A Act.

As an extractive industry with an annual production rate greater than 30,000m³ per annum, the proposal is classified as "designated development" under Clause 26 of Schedule 3 of the *Environmental Planning and Assessment Regulation 2021*. As designated development for the purpose of an extractive industry, the application is also classified as Regionally Significant Development under Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011* and the consent authority for the application will be the Northern Regional Planning Panel in accordance with Section 4.5(b) of the EP&A Act.

The proposal is also classified as 'integrated development' in accordance with Division 4.8 of the EP&A Act. The application has been referred to the Environment Protection Authority (EPA) and Department of Planning and Environment – Water (DPE-Water) in accordance with Section 4.47 of the EP&A Act, Council must obtain general terms of approval from the EPA prior to approving the application (which has been obtained from the EPA and DPE-Water). Any consent must be consistent with those general terms of approval.

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the EP&A Act. These matters as are of relevance to the development application include the following:

- (a) the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
 - (i) any environmental planning instrument, and*
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
 - (iii) any development control plan, and*
 - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and*
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), that apply to the land to which the development application relates,*
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) the suitability of the site for the development,*
- (d) any submissions made in accordance with this Act or the regulations,*
- (e) the public interest.*

These matters are further considered below.

It is noted that the proposal is Integrated Development and Designated Development.

3.1 Environmental Planning Instruments, proposed instrument, development control plan, planning agreement and the regulations

The relevant environmental planning instruments, proposed instruments, development control plans, planning agreements and the matters for consideration under the Regulation are considered below.

(a) Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application

- *State Environmental Planning Policy (Planning Systems) 2021*
- *State Environmental Planning Policy (Biodiversity and Conservation) 2021*
- *State Environmental Planning Policy (Primary Production) 2021*
- *State Environmental Planning Policy (Resilience and Hazards) 2021*
- *State Environmental Planning Policy (Resources and Energy) 2021*
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *Clarence Valley Local Environmental Plan 2011*

Consideration of the relevant SEPPs is outlined below.

State Environmental Planning Policy (Planning System) 2021

State Environmental Planning Policy (Planning Systems) 2021 applies to the proposal as it identifies the development as regionally significant development. Section 2.19(1) and Clause 7(a) of Schedule 6 of *State Environmental Planning Policy (Planning Systems) 2021* declares the proposal as regionally significant development being extractive industry facilities that meet

the requirements for designated development under the *Environmental Planning and Assessment Regulation 2021*.

Accordingly, the Northern Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

State Environmental Planning Policy (Biodiversity and Conservation) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021, Chapter 3, clauses 3.1 to 3.9 applies to the proposal and were considered in the assessment. The proposed development is located within the RU1 Primary Production zone. The applicant provided an evaluation of the potential impacts for the proposed development site and is conducted as part of the ecological impact assessment.

Council has considered compensatory measures for the clearing that occurred on the site in accordance with Council's Biodiversity Strategy and Biodiversity Offset Strategy and for the proposed additional clearing that is below the Biodiversity Offset Threshold. This will be subject to a Planning Agreement in terms agreed between Council and the applicant and the land owners.

A draft condition regarding the Voluntary Planning Agreement is included in the schedule of draft conditions.

Council is satisfied that the site of the development does not constitute potential koala habitat, nor as a result, does it constitute core koala habitat. The proposal is consistent with this Policy.

State Environmental Planning Policy (Primary Production) 2021

The aims of the *State Environmental Planning Policy (Primary Production) 2021* are to:

- identify and protect State significant agricultural lands and to determine whether development of such lands is compatible with agriculture uses and would result in a public benefit.
- Allow for circumstances under which emergency livestock activities can occur.
- Regulate sustainable aquaculture.

The EIS demonstrates that the proposal will not impact on land managed for agriculture and the proposal would not be incompatible with continued use of the site.

Council staff are satisfied that the site of the development does not constitute State significant impacts on agricultural land, that the operation of the quarry will not limit or inhibit any existing or future agricultural operations on the adjacent lands and will not deny any significant public benefit in consenting to the proposed development. Having regard to the proposal, with the adoption of satisfactory environmental safeguards to mitigate land use conflict with the adjoining land uses and limitations on the hours of operation the proposal is considered consistent with the Policy. As such the application is recommended for approval.

State Environmental Planning Policy (Resilience and Hazards) 2021

The Policy requires specified matters to be considered for proposals that are 'potentially hazardous' or 'potentially offensive' as defined in the policy. Under S4.6 of the Policy a consent authority must consider contamination and remediation prior to the determination of a development application.

The quarry is considered to be a suitable use of the land and through the imposition of the existing conditions will achieve the following aims of the Policy:

- (a) to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and*
- (b) to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and*
- (b1) to promote the development of significant mineral resources, and*
- (c) to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources, and*
- (d) to establish a gateway assessment process for certain mining and petroleum (oil and gas) development:*
 - (i) to recognise the importance of agricultural resources, and*
 - (ii) to ensure protection of strategic agricultural land and water resources, and*
 - (iii) to ensure a balanced use of land by potentially competing industries, and*
 - (iv) to provide for the sustainable growth of mining, petroleum and agricultural industries.*

There is an existing quarry approved on the site and despite the intensification of the activities on the site the impacts will be similar to the existing activities to that originally approved. All rehabilitation of the site will be carried out in accordance with the Plan of Management at the timing consistent with the approved conditions of consent.

The Policy requires that the consent authority is satisfied that the site is either suitable for the proposed use in its current state, or, can be made suitable after remediation. The existing quarry footprint has been significantly altered from its natural state, after carrying out the initial evaluation there is sufficient information demonstrating that the land is suitable for the proposed expansion of the use in accordance with the Policy. No further investigation is required. The quarry operator will be required to undertake a contamination assessment when the quarry is rehabilitated.

Having regard to the above it is considered that the site is suitable for the proposed development.

State Environmental Planning Policy (Resources and Energy) 2021

Clause 2.17 requires the consent authority to consider whether or not the proposed extractive industry is compatible with other land uses in the vicinity of the proposed development site.

Clause 2.19 applies to development applications for development on land that, immediately before the application determination, in the vicinity of an existing mine, petroleum production facility or extractive industry or identified as being the location of State or Regionally significant resources of minerals, petroleum or extractive materials or identified by an environmental planning instrument as being the location of significant resources of minerals, petroleum or extractive materials.

Clause 2.20 requires the consent authority to 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 impacts on surface and groundwater resources, impacts on threatened species and biodiversity and the minimisation of greenhouse gases.

Clause 2.21 requires the consent authority to consider the efficiency of the development in terms of resource recovery and 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. This clause also allows the consent authority to refuse to give consent if it is not satisfied that the development will be carried out in such a way as to optimize the efficient recovery of extractive materials and to minimise the creation of waste in association with the extraction process.

Clause 2.22 requires the consent authority to consider whether or not the consent should be issued subject to conditions that require that some or all of the transport of materials in connection with the development is not to be by public roads, that limits or preclude truck movements that occur on roads in residential areas or near schools and that a code of conduct relating to transport of materials on public roads be prepared and implemented.

Clause 2.23 requires the consent authority to consider whether or not the consent should be issued subject to conditions to ensure rehabilitation of land. In particular, whether conditions that require the preparation of a rehabilitation plan, that ensure waste generated at the site is dealt with appropriately, that require any soil contamination resulting from the development be remediated in accordance with the relevant guidelines and to require steps to be taken to ensure that the state of the land during rehabilitation and at the completion of rehabilitation, is not jeopardizing public safety.

Management and mitigation measures for each of the elements comprising a potential social impact (e.g. Noise, traffic, visual amenity and air quality) have been addressed in their relevant sections of the EIS. With the implementation of the proposed mitigation and management measures, it is considered that the proposed development impacts can be suitably managed and the matters to be considered under the Policy are satisfied.

The application has been referred to Transport for NSW for consideration.

A draft condition in regard to the rehabilitation of the site following its cessation is proposed.

State Environmental Planning Policy (Transport and Infrastructure) 2021

The application was referred to Transport for NSW (TfNSW) seeking comment in accordance with Section 2.121 and Schedule 3 of the *State Environmental Planning Policy (Transport and Infrastructure) 2021*.

Armidale Road (MR74) is a classified (Regional) road. Council is the roads authority for the road and all other public roads in the area, in accordance with Section 7 of the *Roads Act 1993*. As the Roads Authority, Council sets standards, determines priorities, and carries out works on this road. It is appropriate for Council to consider and determine if proposed arrangements for the development are acceptable from a safety and efficiency perspective. The following comments have been provided by TfNSW:

- *Council should have consideration for appropriate sight line distances in accordance with Section 3 of the Austroads Guide to Road Design Part 4A (Unsignalised and Signalised Intersections) and the relevant Australian Standards (i.e. AS2890:1:2004) and should be satisfied that the location of the proposed driveway promotes safe vehicle movements.*
- *TfNSW highlights that in determining the application under Part 4 of the Environmental Planning & Assessment Act, 1979 it is the consent authority's responsibility to consider the environmental impacts of any road works which are ancillary to the development.*

- *All matters relating to internal arrangements on-site such as traffic / pedestrian management, parking, manoeuvring of service vehicles and provision for people with disabilities are matters for Council to consider.*

Conditions of consent have been provided to address the matters raised in the TfNSW letter and to otherwise manage traffic impacts including parking on-site, sealing of the access road and truck movement warning signs and Roads Act approvals within the road reserve. The project site area will allow all vehicles to enter and exit the site in a forward direction. The site currently operates as a quarry and allows for the circulation of large trucks across the site. The internal traffic movements and operations are controlled on-site which includes a Drivers Code of Conduct for internal and external traffic movements. Existing access arrangements will be utilised and site distances at the intersection will be required to be improved under the consent.

Clarence Valley Local Environmental Plan 2011

The site is located within the RU1 Primary Production zone pursuant to Clause 2.3 of the Clarence Valley Local Environmental Plan 2011. Extractive Industries are permitted with consent within the RU1 zone.

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.

The objectives of the zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To prevent dispersed rural settlement.*
- *To ensure that development does not unreasonably increase the demand for public services or public facilities.*
- *To ensure development is not adversely impacted by environmental hazards.*

The proposed use of the land for an extractive industry provides productive use of these natural resources and provides for the continued supply of a range of stone and gravel products. It is considered that the proposal would not result in land use conflicts between the adjoining RU1 zoned land and adjoining industry uses of the nearby quarry and timber mill.

The proposed use does not impact on primary industry production, does not detract from the rural landscape in regard to existing approved uses on the land, does not increase the demand for public services or facilities and does not prevent the establishment of compatible land uses. Adverse impacts in regard to noise, dust and water quality will be subject to an environmental protection licence (EPL) and maintained to comply with industry standards. Consequently, the use is not inconsistent with the zone objectives.

Draft conditions of consent are proposed to mitigate the potential adverse impacts of the development.

Clause 7.2 - Earthworks

The quarry will operate in accordance with the Environment Protection Licence issued by the EPA and Controlled Activity approval under the Water Management Act 2000. The likely impacts on watercourses, drinking water catchments and environmental sensitive areas are minimal and can be adequately managed and or mitigated.

Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are no relevant proposed instruments subject of public consultation under the EP&A Act, to the proposal

Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Rural Zones Development Control Plan (DCP)

There are no specific requirements for extractive industries under the DCP. The proposed development is not inconsistent with the objectives of the plan. Draft conditions of consent and Environmental Protection Licence and controlled activity approval requirements will mitigate impacts from erosion and sediment and water quality impacts.

Clarence Valley Council Contributions Plan 2011

This Contributions Plan has been considered and an appropriate condition requiring payment of S.7.12 contributions based on the value of the proposal has been included in the recommended conditions of consent.

Section 4.15(1)(a)(iiia) – Planning agreements under Section 7.4 of the EP&A Act

NA

Section 4.15(1)(a)(iv) - Provisions of Regulations

Section 61 of the 2021 EP&A Regulation contains matters that must be taken into consideration by a consent authority in determining a development application. There are no matters being relevant to the proposal.

Clause 66A – Conflict of Interest – No potential Conflicts of Interest were identified during assessment of the application.

Section 4.15(1)(b) - Likely Impacts of Development

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality have been considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The site has a current development approval for an extractive industry and the environmental impacts on the additional area has been assessed as having environmental impacts that can be suitably managed. The site is located in close proximity to a major road, being Armidale Road and associated access to potential markets. There are no unreasonable conflicts with surrounding land uses anticipated to that already approved.

The consideration of impacts on the natural and built environments includes the following:

- Context and setting – The proposal is considered to be generally consistent with the context of the site and surrounds.
- Access and traffic – has been discussed in this report and minor upgrades to the access road network will be required.
- Water/air/soils impacts and contamination have been considered in the assessment.
- Flora and fauna impacts - The significance of the impact of the proposal on these *Biodiversity and Conservation Act 2016* listed species was assessed. Compensatory offsetting will be required and it is unlikely that the proposal will have any significant impact on these threatened species or result in the extinction of a local populations.
- Noise and vibration – The assessment under the EIS investigated the worst-case noise emissions associated with the construction and operation of the proposed development. The assessment has demonstrated that the predicted noise emissions from the site to the surrounding environment are low.
- Natural hazards – The site is mapped as being bushfire prone land and the development will meet the requirements of the NSW Rural Fire Service.
- Safety, security and crime prevention – The site is secured by a gate and there will be no access for the general public. Adequate security measures are in place.
- Social impact – The site is already impacted by the operation of the quarry. The proposal will not significantly increase the current social impacts on the surrounding lands.
- Economic impact – Operation of the proposed facility in accordance with the proposed management plans and mitigation measures. Employment of local workforce, and service personnel will be required by the proposal.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

Section 4.15(1)(c) - Suitability of the site

The proposed location of the quarry is considered to be suitable in that there has been an existing quarry there for some time and the proposal to extract more of the available resource is being applied for. The facility will join to the existing road network and minor improvements to service the development will be required. It is unlikely that the proposal will be impacted by any environmental hazards nor will have any significant impact on these threatened species or result in the extinction of a local population. Offsetting has been required for the removal of vegetation and will be subject to a Voluntary Planning Agreement and payment into Council's Biodiversity Offset Fund.

Section 4.15(1)(d) - Public Submissions

From the exhibition of the application between 19 October 2023 and 20 November 2023 no submissions were received.

Section 4.15(1)(e) - Public interest

The proposed development complies on planning grounds with the relevant legislation and local Council policies ensuring that the public interest is maintained and any potential impacts from the development can be minimised through the imposition of the recommended conditions of consent.

4. REFERRALS AND SUBMISSIONS

4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 4**.

Table 4: Concurrence and Referrals to agencies

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
Concurrence Requirements (s4.13 of EP&A Act)			
NA			
Referral/Consultation Agencies (if none – N/A – to show consideration)			
Department of Planning and Environment - Biodiversity and Conservation Division	Biodiversity Conservation Act 2016	The proposal has provided a biodiversity development assessment report (BDAR). Comments have been provided in regard to the report and former clearing on the land	Yes
TfNSW	Section 2.22 of the State Environmental Planning Policy (Resources and Energy) 2021	TfNSW has reviewed the information provided and raises no objection to or requirements for the proposed development as it is considered there will be no significant impact on the nearby classified (State) road network.	Yes
Integrated Development (S 4.46 of the EP&A Act) (if none – N/A – to show consideration)			
Environmental Protection Agency	ss.43(a), 47 & 55 Protection of the Environment Operations Act 1997	The EPA has reviewed the information provided and has issued issue General Terms of Approval (GTA) for the proposal.	Yes
DPE - Water	for proposed development requiring approval under s89, 90 or 91 of the Water Management Act 2000	Department of Planning and Environment-Water's General Terms of Approval (GTA) for the proposed development	Yes

4.2 Council Referrals

The development application has been referred to various Council officers for technical review as outlined **Table 5**.

Table 5: Consideration of Council Referrals

Officer	Comments	Resolved
Engineering	Council's Engineering Officer	Comments provided
Environmental Health	Environmental Health Officer	Comments provided
Environment	Biodiversity Officer	Comments provided

4.3 Community Consultation

The proposal was notified in accordance with the Council's Community Participation Plan from 19 October 2023 and 20 November 2023. No submissions were received.

5. KEY ISSUES

The following key issues have been assessed and where possible have been addressed through conditions of consent:

- Biodiversity assessment and biodiversity offsetting
Comment: This has been addressed in the report and Council staff are satisfied that the required offsets are consistent with Council's Biodiversity Offset Policy.
- Mitigation Measures and Impact Assessment
Comment: The avoid and minimise hierarchy is difficult to achieve in regard to extractive industries. Offsetting has been proposed and on cessation of the quarry will be rehabilitated.
- Noise and Blasting, Air Quality, Landscape and Visual Impacts
Comment: Various specialist assessments have been undertaken regarding the potential impacts from the development on adjoining land uses and habitats. These studies conclude that acceptable impacts will ensue. The quarry will operate under an EPA Environmental Protection Licence to ensure ongoing impacts are suitably managed.
- Heritage
Comment: No Aboriginal places or objects of significance have been identified within the Quarry Site and the Aboriginal Due Diligence assessment indicates it is not likely that Aboriginal places or objects would be found within the Quarry Site. A condition of consent addresses any finds of any aboriginal relics or artefacts be uncovered during works on the site.
- Traffic
Comment: Conditions of consent have been provided to address the matters raised in the TfNSW letter and to otherwise manage traffic impacts including parking on-site, sealing of the access road and truck movement warning signs and Roads Act approvals within the road reserve.

6. RECOMMENDATION

That the Development Application: PPSNTH2023-260 (PAN371551 / DA2023/0580) for the proposed continuation of use and expansion of existing extractive industry on Lot 31 DP 1203488, 9720 Armidale Road Tyringham NSW 2453 be approved pursuant to Section 4.16(1)

of the *Environmental Planning and Assessment Act 1979* subject to the recommended conditions of consent to this report.

The following attachments are provided:

- Draft Schedule of Conditions of Consent

7. ATTACHMENTS

Draft schedule of Conditions of Consent

GENERAL

1. **Approved documents and Plans**

Development must be carried out in accordance with the following approved plans and documents, except where the conditions of this consent expressly require otherwise.

Document title	Version number	Prepared by	Date of document
Environmental Impact Statement – Faheys Pit Continued Operations Project dated September 2023, prepared by; including:	-	Outline Planning Consultants Pty. Limited	September 2023
• Appendix A – Planning Secretary's Environmental Assessment Guidelines	-	Department of Planning and Environment	30.8.2022
• Appendix B - Existing Approved Quarry, Council report on Ellis' Pit	-	Nymboida Shire Council	21.2.1996 20.5.2008
• Appendix C - Appendix C Geotechnical assessment	1	Douglas Partners Pty Ltd	24.11.2022
• Appendix D – Property Report; Fires	-	Planning portal generated document and ABC post	19.5.2022 31.8.2020
• Appendix E – Contamination Report	1	Ballpark Environmental Pty Ltd	17.6.2022
• Appendix F – Quarry Design Plans	-	A Richards	1.5.2023
• Appendix G – Water Management Plan	3	Martens & Associates Pty Ltd	20.7.2023
• Appendix H – Ecological Assessment	1	Bower Ecology	1.9.2023
• Appendix I – Aboriginal Due Diligence Assessment	-	Niche Environment and Heritage Pty Ltd	29.8.2023
• Appendix J – Consultation documents	-	Sheridans Hard Rock Quarry	July 2022
• Appendix K – Noise and Vibration Impact Assessment	01	Vipac Engineers and Scientists Limited	14.8.2023
• Appendix L- Air Quality Assessment Report	01	Vipac Engineers and Scientists	4.12.23

		Limited	
• Appendix M – Roads and Traffic Assessment	4	StreetWise Road & Safety Traffic Services Pty LTd	28.11.2022
DA2023-0580 Memorandum Air Quality Assessment	-	Vipac Engineers and Scientists Limited	4.12.2023
NSW DPE-Water Integrated Development Referral General Terms of Approval IDAS-2023-10661	-	Department of Planning and Environment - Water	8.12.2023
NSW EPA Integrated Development Referral General Terms of Approval Notice No: 1635443	-	NSW Environment Protection Authority	19.1.2024
NSW TfNSW Referral comments	-	Transport for NSW	6.11.2023

In the event of any inconsistency with the approved plans or documents and a condition of this consent, the condition prevails.

Condition reason: To ensure all parties are aware of the approved plans and supporting documentation that applies to the development

2. Operating hours

Limited to 7.00am to 6.00pm Monday to Friday (i.e. 11 hours operation per day) and 7.00am to 1.00pm on Saturdays (i.e. 6 hours operation).

There is to be no quarrying, processing or transportation on Sundays or statutory public holidays except for emergency purposes; for example, but not limited to, sudden damage to public infrastructure or any damage posing an immediate risk to life or property.

The quarry operator is to inform Council on the first working day following the emergency that trucks were carrying quarry products outside the approved hours for emergency purposes.

Condition reason: To protect the amenity of the surrounding area

3. Blasting hours

Hours of blasting are to be restricted to 9.00am to 3.00pm Monday to Friday.

Condition reason: To protect the amenity of the surrounding area

4. Maximum annual extraction

Development consent is given to extract a maximum of up to 150,000 tonnes per annum of material per year.

Extraction means the removal of overburden, the extraction, processing, handling, of extracted material in relation to this consent

Condition reason: To limit annual of extraction amounts in accordance with approval

5. **Maximum annual extraction**

The area of the quarry is not to exceed the area of 4.1 hectares as shown in the Quarry Design Plans (Appendix F of the EIS).

Condition reason: To limit the extraction area in accordance with approval

6. **Advertising**

No advertising sign is to be erected, painted or displayed on the frontage of Armidale Road without approval from Council.

Condition reason: To protect the safety of road users and amenity of the local area

7. **Costs of alterations and extensions**

The developer shall be responsible for any costs relating to alterations and extensions of existing roads, drainage and services for the purposes of the development.

Condition reason: To ensure due diligence for aboriginal relics or artefacts uncovered during works on the site

8. **Works in Road Reserve**

For works within the road reservation a Section 138 Roads Application is to be lodged and a specific Traffic Control Plan, prepared by a person authorised by the Transport for NSW to prepare Traffic Control Plans, must be submitted to and approved by Council prior to the occupation and works on the road reserve.

Condition reason: To ensure a Roads Act approval is issued for works within the road reservation

PRIOR TO COMMENCEMENT FOR QUARRY OPERATIONS

9. **Surrender of Consent**

That the applicant surrender DA40/95 issued by Nymboida Shire Council on 21 February 1996 in accordance with Section 4.63 of the *Environmental Planning and Assessment Act 1979* prior to the commencement of this consent.

Condition reason: To ensure that there is only one active consent relating to the subject land

10. **Extraction area**

The quarry/extraction area is to be defined on the ground by the establishment of permanent survey marks located and shown on a plan by a registered surveyor and submitted to council, prior to commencement of quarrying under this approval.

Condition reason: To ensure that the quarry does not exceed the approved footprint

11. **Section 7.12 Contributions**

Payment to Council of the contributions pursuant to Section 7.12 of the Environmental Planning and Assessment Act 1979 and the Clarence Valley Contributions Plan 2011:

\$4,400.00 GL S94ACVCOthResAcco

This amount is based on the following calculation:

Proposed cost of carrying out the development is more than \$200,000 = value of development x 0.01

a. The value of development stated in the application was \$440,000.00

The contributions are to be paid to Council prior to prior to commencement of quarrying under this approval. All contribution plans are available for inspection on Council's website.

In the event of any subsequent amendment to the approved Development Plans, the calculated contribution amounts may vary, and if so will become the contribution payable.

Condition reason: To comply with Council's Contributions Plans

12. **Plan of Management**

Submission of a Plan of Management prepared by suitably qualified and experienced person/s to Council for approval prior to the commencement of quarrying under this development approval. The Plan of Management is to include at least the following details:

- a. operating details including: numbers, type and location (if fixed plant) of plant and machinery; numbers of employees on site and off site;

stockpile and overburden storage areas; vehicle storage and refuelling areas; and fuel storage areas.

- b. a plan identifying the sedimentation dam(s) at each proposed stage of the quarry operations. That is, as quarry expansions are proposed, any necessary relocation of sedimentation structures should be identified on the plan. The dimensions, capacity and anticipated levels of waste water within these structures should be included in this detail.
- c. Details of measures for drainage or pumping from the dams after storm events are to be provided, including the time taken for the dams to empty.
- d. any proposals for the re-use of waste water from the dams is to be provided. Such water could be used for water of access roads and exposed areas to avoid dust nuisance.
- e. compliance with the NSW EPA General Terms of Approval requirements.
- f. Compliance with the NSW DPE- Water General Terms of Approval requirements.
- g. full rehabilitation details, including fencing and signage details.
- h. details of dust mitigation measures and monitoring program.
- i. details of noise mitigation measures for fixed and mobile plant and machinery and monitoring programs.
- j. a schedule is to be included which allows for the annual update of the rates of extraction. This will ensure monitoring of the amount of material extracted and enable Council to calculate the contributions for Council road maintenance.
- k. a waste management plan, including measures to optimise the efficiency of resource recovery and the reuse or recycling of material.
- l. a code of conduct relating to the transport of materials on public roads, including a schedule so that haulage times do not coincide with school bus services.
- m. a code of conduct for truck drivers

Condition reason: To detail the operations of the quarry

13. **Driver Code of Conduct**

A Driver Code of Conduct (the 'Code') for the transport of quarry products on public roads shall be developed and implemented for all heavy vehicle operators that access the subject development, including haulage and delivery vehicles. All drivers will be required to sign a register of acceptance (or similar) of the Code, with the Code including as a minimum the following:

- a. A map of the primary haulage routes, highlighting critical locations, safety issues and other relevant traffic/transport issues;
- b. Expected Driver Behaviour;
- c. Requirements for compliance with road rules and safety;
- d. Requirements for minimising dust and noise emissions;
- e. Known safety considerations along the proposed haul route (including school bus routes and timetables, school zones, concealed driveways, wet weather safety and other known local hazards);
- f. Requirements for all loads are covered prior to leaving the Quarry site;

- g. Requirements for all vehicles leaving the quarry site to be clear of rock/extractive material by sweeping, cleaning draw bars and external truck/trailer components;
- h. Any community consultation measures required to address busy haulage periods.

The Code of Conduct shall be provided to Council prior to commencement of quarrying under this approval and made available TfNSW upon request.

Condition reason: To ensure the safe operation of vehicles on the public road system.

14. **Safe Intersection Site Distance**

The applicant is required to implement the recommendations to achieve compliant Safe Intersection Site Distance as identified in Section 5.1 of the Traffic Impact Assessment prepared by Streetwise Road Safety & Traffic Services dated 28 November 2022.

All proposed works must be supported with a detailed plan which nominates the extent of works and appropriate Traffic Control Plans for works within the road reserve. This information must be submitted to Council for approval prior to commencement. No vegetation clearing is to be commenced until a Section 138 approval for works on Council roads has been issued.

All works must be completed prior to the activation of the development approval.

Condition reason: To ensure ongoing public safety of the road network

15. **Warning signs**

Warning signs shall be installed and maintained within the vicinity of the Quarry entrance off Armidale Road to advise motorists of truck movements in the area prior to commencement of quarrying under this approval. The location of the signage shall be provided in accordance with the Traffic Impact Assessment by Streetwise Road & Safety Traffic Services and installed in accordance with relevant Australian Standard.

Condition reason: To ensure ongoing public safety of the road network

16. **Quarry access road**

A bitumen seal must be applied and regularly maintained along the quarry access road located within the road reserve to Armidale Road. The seal must be applied prior to commencement of quarrying under this approval.

Condition reason: To ensure ongoing public safety of the road network and road users

17. **Fire Management Plan**

A Fire Management Plan (FMP) shall be prepared in accordance with NSW Rural Fire Service Requirements. The FMP shall include:

- a. 24 hour emergency contact details including alternative telephone contact;
- b. site infrastructure plan;
- c. fire fighting water supply plan;
- d. site access and internal road plan;
- e. Methods for protection of assets within the quarry footprint;
- f. location of hazards (physical, chemical and electrical) that will affect fire fighting operations and procedures to manage identified hazards during fire fighting operations.

Condition reason: To ensure ongoing safety and protection from bushfires

18. **Entry signage**

A sign must be erected on the subject land in a prominent position visible from the entrance of the property during quarry operations. The sign is to:

- a. state that unauthorised entry to the quarry work area is prohibited; and
- b. show the name of the person in charge of the quarry operations and a contact number for that person.

Condition reason: To ensure no that there is unauthorised entry to the quarry work area and provide contact details

19. **Integrated Development General Terms of Approval**

The development is to comply with the Integrated Development Approval granted under Section 4.47 of the Environmental Planning and Assessment Act 1979 as contained in the correspondence, as attached to this report, from the:

- NSW DPE-Water Integrated Development Referral General Terms of Approval IDAS-2023-10661, consisting of 4 pages, dated 8.12.2023, and
- NSW EPA Integrated Development Referral General Terms of Approval, Notice No: 1635443, consisting of 21 pages, dated 19.1.2024

A suitably qualified person/s is to certify compliance with any General Terms of Approval or Permit or License by an approval body and provide copies of any approvals, permit or license to Council prior to prior to commencement of quarrying under this approval.

Condition reason: To comply with legislative requirements

20. **Voluntary Planning Agreement**

Prior to commencement of quarrying under this approval, pursuant to section 7.4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act), the applicant/developer is to execute and deliver to the Council the Planning Agreement, in accordance with the EP&A Act and *Environmental Planning and*

Assessment Regulation 2021, which the applicant/developer has offered to enter into, for a contribution of \$32,666.87 to be made to Council's Biodiversity Offset Fund.

Condition reason: To ensure that adequate offsetting measures are provided for Development

21. **Fauna spotter for clearing**

Prior to vegetation clearing, mature trees must be inspected by a suitably qualified and experienced ecologist or fauna spotter determine that no fauna or fauna habitat features (nests, dreys) are present or active. If present, the suitably qualified and experienced professional shall be present during the removal of trees to ensure the potential for fauna injury or mortality is reduced. In the event that fauna are present and require care, fauna must be transported to local wildlife carers or a local veterinary hospital.

Condition reason: To ensure no that potential for fauna injury or mortality is reduced

DURING OPERATIONS

22. **Vehicle parking**

All vehicles associated with the use of the premises, including employee's vehicles, are to be parked within the confines of the site, at all times.

Condition reason: To ensure that all vehicles are to be parked within the confines of the site

23. **Annual Plan of Management**

An annual update of the Plan of Management is to be submitted to Council by 31 July of each year. This update is to include a plan by a registered surveyor and statement demonstrating compliance with this consent and the Plan of Management. Specifically, the statement is to include:

a) A site plan by a registered surveyor showing;

- the extraction area at the date of report
- the areas intended for extraction in the next twelve (12) months
- sediment ponds
- stockpile sites
- overburden storage sites
- erosion controls in place at the time of the report

b) Written details addressing:

- state of compliance with each condition of consent and the Plan of Management at the time of the report
- the quantity of material extracted in the immediately preceding twelve (12) months
- the quantity of material proposed to be extracted in the next twelve (12) months
- results from all monitoring programs for the preceding twelve (12) months
- sedimentation ponds constructed during the proceeding twelve (12) months or proposed to be constructed in the next twelve (12) months
- revision of the expected life of the extractive operation
- a staged rehabilitation plan for the life of the quarry

Condition reason: To provide an update of annual operations in accordance with the Plan of Management

24. **Compliance with Plan of Management**

The establishment, operation and management of the development is to comply with the approved and updated Plan of Management at all times.

Condition reason: To ensure compliance with the Plan of Management

25. **Remediation**

At the completion of extractive operations, the quarry operator will commission the completion of a Contamination Assessment Report for the site. Any recommended remediation actions are to be completed by the quarry operator and shall be identified within the report.

Condition reason: To ensure the rehabilitation of the site.

26. **Rehabilitation**

At the completion of extractive operations rehabilitation of the site shall be undertaken in accordance with a rehabilitation methods the Environmental Impact Statement (dated September 2023; Section 3.14). The rehabilitation management plan must include performance and completion criteria for progressive and final rehabilitation including measures to:

- a. Ensure species used during rehabilitation operations are consistent with vegetation community types located within the vicinity of the area to be rehabilitated and are suitable for the proposed final landform and land use.
- b. Monitor all areas of progressive and final rehabilitation.
- c. Undertake any necessary remedial action in order to satisfy the relevant completion criteria.

Condition reason: To ensure the rehabilitation of the site.

27. **Keeping accurate records**

Accurate records of quantities extracted are to be kept, maintained and available for inspection by authorised council officers on request. The method of recording and the location where records are to be kept are to be outlined in the Plan of Management.

Condition reason: To ensure accurate records of annual quantities extracted

28. **Aboriginal relics**

Should any aboriginal relics or artefacts be uncovered during works on the site, all work is to cease and the Director-General of the NSW Department of Environment and Conservation shall be contacted immediately and any directions or requirements of that Department complied with.

Condition reason: To ensure the protection of objects of potential significance during works

29. **Dust suppression**

During dry weather, standard dust suppressions methods are to be used as often as is necessary to ensure that adjoining properties are not adversely affected by undue dust.

Condition reason: to ensure that adjoining properties are not adversely affected by undue dust

30. **Clearing of vegetation**

No clearing is to occur beyond the edge of the quarry footprint as shown in the EIS, including for the purpose of asset protection zones. Asset Protection Zones are not to extend beyond the quarry.

Condition reason: To restrict any clearing beyond the edge of the quarry footprint

31. **Hazardous materials**

All hazardous materials are to be appropriately stored so as to prevent environmental damage in case of spillage or contaminated lands. Oils and lubricants shall be stored in an impermeable permanent bunded and roofed area with holding capacity of 110% of the total volume of all containers. Fuel and oil shall be only handled or transferred in designated areas on the site. Plans showing the designated areas and details of bunds and drainage shall be submitted to and approved by the Council and approved works shall be carried out before any such handling or transfer area is used.

Condition reason: To provide for the storage of sensitive equipment

32. **Drainage berms**

Drainage berms are to be constructed so as to direct clean run-off around the quarry area. All run-off from disturbed areas, including access roads, is to be diverted into sedimentation dams. The design and location of these features is to be incorporated into the plan of management and revised as required.

Condition reason: To ensure run-off from disturbed areas, including access roads, is to be diverted into sedimentation dams.

33. **Covering of loads**

All trucks carrying quarry or crusher products from the site shall ensure their loads are fully covered by a suitable material to prevent spillage or dust falling from the truck.

Condition reason: To prevent spillage or dust falling from the truck

34. **Containment tanks for the above ground fuel storage tanks**

Prior to use of the above ground fuel storage tanks, the above ground fuel storage tanks, fill points and re-fuelling areas shall be contained in roofed and bunded areas with a containment tank. The roof shall overhang the perimeter of the bunded area by no less than 10 degrees from vertical on all open sides to minimise rainwater ingress. The bund shall have the capacity to retain at least 110% of the volume of the largest storage container in the bund.

The containment tanks for the above ground fuel storage tanks shall have available reserve capacity of the greater of either; 9000L or the capacity of the largest compartment of a delivery tanker delivering fuel to the site. They shall also have extra capacity to manage rainwater ingress. The containment tanks shall have a high level audible and visual alarm fitted to alert when pump out is required to ensure the available reserve capacity is maintained.

Condition reason: To provide fuel storage tanks, the above ground fuel storage tanks, fill points and re-fueling areas

35. **Certification for above ground fuel storage tanks**

Prior to use of above ground fuel storage tanks, certification shall be provided to Council from the tank manufacturer prior to issuing the Occupation Certificate that the above ground fuel storage tanks are designed in accordance with AS1692 Steel tanks for flammable and combustible liquids.

Condition reason: To provide certification for above ground fuel storage tanks

36. **Storage and handling of flammable and combustible liquids**

The above ground fuel storage tanks are to comply with AS1940-2017 - The storage and handling of flammable and combustible liquids.

Condition reason: To ensure compliance with Australian Standards

37. **Spills or wastewater capture**

Any spills or wastewater captured in the bunded area containment tanks is not permitted to discharge to the environment. They shall be disposed of at a

facility lawfully able to accept the waste.

Condition reason: To ensure proper disposal of wastewater

38. **Disposal records**

Receipts for disposal of the contents of containment tanks shall be kept and made available to the NSW EPA and Council upon their request.

Condition reason: To prove copies of disposal records

39. **On-Site sewerage disposal**

The proponent to obtain the necessary approval pursuant to the provisions of sections 68 and 68A of the *Local Government Act 1993* in the event that an on-site sewage disposal facility is proposed.

Condition reason: To obtain the necessary approvals under the *Local Government Act 1993*

Department of Planning and Environment



Contact: Department of Planning and Environment-Water
Phone: 1300081047
Email: waterlicensing.servicedesk@dpie.nsw.gov.au

Our ref: IDAS-2023-10661
Your ref: DA2023/0580

8 December 2023

The General Manager
CLARENCE VALLEY COUNCIL
2 PRINCE STREET GRAFTON 2460

Attention: Pat Ridgway

Uploaded to the ePlanning Portal

Dear Sir/Madam

Re: IDAS-2023-10661 - Integrated Development Referral – General Terms of Approval
Dev Ref: DA2023/0580
Description: Proposed continuation of use and expansion of existing quarry, known as Faheys Pit
Location: Lot 31, DP1203488, 9720 ARMIDALE ROAD TYRINGHAM 2453

I refer to your recent referral regarding an integrated Development Application (DA) proposed for the above location. Attached, please find Department of Planning and Environment-Water's General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.46 of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, the department requests these GTA be included (in their entirety) in Council's development consent. Please also note the department requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities (i) in the bed of any river, lake or estuary; (ii) on the banks of any river lake or estuary, (iii) on land within 40 metres of the highest bank of a river lake or estuary; or (iv) any excavation which interferes with an aquifer.

The Department of Planning and Environment-Water will ascertain from the notification if the amended plans require review of or variation/s to the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.

- if Council receives an application under s4.46 of the EPA Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.
- of any legal challenge to the consent.

As the proposed work or activity cannot commence before the applicant applies for and obtains an approval, the department recommends the following condition be included in the development consent:

The attached GTA issued by the Department of Planning and Environment-Water do not constitute an approval under the *Water Management Act 2000*. The development consent holder must apply to the department for a Controlled Activity approval after consent has been issued by Council and before the commencement of any work or activity.

A completed application must be submitted to the department together with any required plans, documents, application fee and proof of Council's development consent. Finalisation of an approval can take up to eight (8) weeks from the date the application and all required supporting documentation is received.

Department of Planning and Environment



Contact: Department of Planning and Environment-Water
Phone: 1300081047
Email: waterlicensing.servicedesk@dpie.nsw.gov.au

Our ref: IDAS-2023-10661
Your ref: DA2023/0580

8 December 2023

The General Manager
CLARENCE VALLEY COUNCIL
2 PRINCE STREET GRAFTON 2460

Attention: Pat Ridgway

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Description: Proposed continuation of use and expansion of existing quarry, known as Faheys Pit
Location: Lot 31, DP1203488, 9720 ARMIDALE ROAD TYRINGHAM 2453

I refer to your recent referral regarding an integrated Development Application (DA) proposed for the above location. Attached, please find Department of Planning and Environment-Water's General Terms of Approval (GTA) for part of the proposed development requiring a Controlled Activity approval under the *Water Management Act 2000* (WM Act), as detailed in the subject DA.

Please note Council's statutory obligations under section 4.46 of the *Environmental Planning and Assessment Act 1979* (EPA Act) which requires consent, granted by a consent authority, to be consistent with the general terms of any approval proposed to be granted by the approval body.

If the proposed development is approved by Council, the department requests these GTA be included (in their entirety) in Council's development consent. Please also note the department requests notification:

- if any plans or documents are amended and these amendments significantly change the proposed development or result in additional works or activities (i) in the bed of any river, lake or estuary; (ii) on the banks of any river lake or estuary, (iii) on land within 40 metres of the highest bank of a river lake or estuary; or (iv) any excavation which interferes with an aquifer.

The Department of Planning and Environment-Water will ascertain from the notification if the amended plans require review of or variation/s to the GTA. This requirement applies even if the amendment is part of Council's proposed consent conditions and do not appear in the original documentation.

- if Council receives an application under s4.46 of the EPA Act to modify the development consent and the modifications change the proposed work or activities described in the original DA.

Applications for controlled activity approval should be made to the department, by lodgement of a Controlled Activity Approval – New approval application on the NSW Planning Portal at:
<https://www.planningportal.nsw.gov.au/>

The Department of Planning and Environment-Water requests that Council provide a copy of this letter to the development consent holder.

The Department of Planning and Environment-Water also requests a copy of the determination for this development application be provided by Council as required under section 4.47(6) the EPA Act.

Yours Sincerely

For
Patrick Pahlow
Team Leader
Licensing and Approvals
Department of Planning and Environment-Water

General Terms of Approval

Notice No: 1635443



Mr Patrick Ridgway
Senior Development Planner
Clarence Valley Council
Locked Bag 23
GRAFTON NSW 2460

Attention: Mr Patrick Ridgway

Notice Number 1635443
Date 19-Jan-2024

Re: Integrated Development Application - DA2023/0580
Proposed continuation of use and expansion of existing quarry, known as Faheys Pit
Lot 31 DP 1203488, 9720 Armidale Road, TYRINGHAM NSW 2453

Issued pursuant to Section 4.46 Environmental Planning and Assessment Act 1979

I refer to the Integrated Development Application and accompanying information provided for the above proposal received by the Environment Protection Authority (EPA) via the NSW Planning Portal on 19 October 2023.

The EPA has reviewed the information provided and has determined that it is able to issue General Terms of Approval (GTA) for the proposal. Please note that the provisions of the *Protection of the Environment Operations Act 1997* and its Regulations also apply. The applicant will need to make a separate application to the EPA to obtain an Environment Protection Licence once development consent has been granted.

The GTA for this proposal are provided at attachment A and attachment B. If the Regional Planning Panel grants development consent for the proposal, these conditions should be incorporated into the consent.

These GTA relate to the development as proposed in the documents and information currently provided to the EPA. If the development is modified either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, it will be necessary to consult with the EPA about the changes before the consent is issued. This will enable the EPA to determine whether its general terms of approval need to be modified in light of the changes.

In assessing the proposal, the EPA has identified the following environmental issues that Clarence Valley Council and/or the Regional Planning Panel may wish to consider in its overall assessment of the application.

Page 1

General Terms of Approval

Notice No: 1635443



1. Soil and Water Management Plan

A Soil and Water Management Plan (SWMP) was not included with the Environmental Impact Statement for the proposal. The applicant must prepare a SWMP for the development and submit it to the EPA on application for a licence under the *Protection of the Environment Operations Act 1997*.

- The SWMP must be guided by the 'Blue Book' (Managing Urban Stormwater - Soils and Construction, Volumes 1 and 2E).
- The SWMP 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.
- The SWMP must detail how all stormwater generated from a 5-day rain event of up to 84.8mm can be captured and treated prior to discharge.
- The SWMP must include calculations for the sizing of sediment basins during the different stages of the quarry's life cycle and include the location/s of any discharge points from the sediment basin/s.
- The SWMP should also include a water balance that demonstrates how the sediment basin/s designed for the site can adequately cater for quarry process water storage without compromising the basins ability to meet its design stormwater management functions outlined above.

2. Environmental Management Plan

An Environmental Management Plan (EMP) was not included with the Environmental Impact Statement for the proposal. The applicant must prepare an EMP for the development and submit it to the EPA on application for a licence under the *Protection of the Environment Operations Act 1997*. The EMP must take into account any management and mitigation measures identified in the document titled *Environmental Impact Statement Faheys Pit Continued Operations Project* (Outline Planning Consultants, September 2023), and any development consent conditions that may be included as part of the proposal approval.

3. Air Quality Management Plan

Information provided in the revised Air Quality Impact Assessment (AQIA) submitted for the proposal concludes that there are no predicted additional exceedances of the EPA's assessment criteria. However, results and conclusions are contingent on the diligent and proactive implementation of the proposed mitigation measures summarised below:

- Ongoing watering of unpaved roads within the quarry.
- Ongoing watering during drilling operations.
- Ongoing watering during dozer operations.
- Ongoing watering for overburden operations.
- Maximum speed limit of 40 km/hr at the premises.
- Continuous watering during crushing and screening operations.
- Ongoing watering of stockpiles and pit.

Notwithstanding the above, it should be noted that failing to achieve in practice the assumed levels of control will increase the risk of adverse air quality impacts, including short-term amenity impacts that may result in complaints. Therefore, it is pertinent that the proponent ensures the diligent and ongoing implementation of the proposed controls and mitigation measures as assumed in the AQIA.

Page 2

General Terms of Approval

Notice No: 1635443



The applicant must prepare an Air Quality Management Plan (AQMP) for the development and submit it to the EPA on application for a licence under the *Protection of the Environment Operations Act 1997*. As a minimum, the AQMP must include the following:

- Proactive and reactive mitigation strategies of all significant, and potentially significant emissions sources including the implementation of those mitigation measures contained in the revised AQIA dated 4/12/2023;
- Auditable and measurable key performance indicator(s) to inform and evaluate the proactive implementation of the proposed mitigation measures;
- Monitoring method(s);
- Location, frequency, and duration of monitoring;
- Record keeping;
- Response mechanisms and contingency measures;
- System and performance review for continuous improvement;
- Compliance reporting.

4. Blast Management Protocol

The applicant must prepare a Blasting/Vibration Management Protocol for the development and submit it to the EPA on application for a licence under the *Protection of the Environment Operations Act 1997*. The Protocol must include, but need not be limited to, the following:

- Compliance standards;
- Measures to ensure compliance with licence limits;
- Analysis of representative meteorological data to identify sub-optimal dispersion conditions during which blasting should not be undertaken;
- Mitigation measures;
- Remedial and reporting action plan;
- Monitoring methods and program;
- Monitoring program for flyrock distribution;
- Notification of procedures for neighbours prior to detonation of each blast;
- Measures to ensure no damage by flyrock to people, property, livestock and powerlines.

If you have any questions or wish to discuss this matter further please contact Nicole Power on 6641 1529.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. Bancroft', is written over a dotted line.

Janelle Bancroft

A/ Unit Head

Environment Protection Authority

(by Delegation)

General Terms of Approval

Notice No: 1635443



Attachment A – Specific conditions for DA2023/0580

1 Administrative conditions

A1 Information supplied to the EPA

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

- the development application DA2023/0580 submitted to Clarence Valley Council on 18 October 2023;
- the document titled *Environmental Impact Statement Faheys Pit Continued Operations Project* prepared by Outline Planning Consultants dated September 2023 relating to the development; and
- all additional documents supplied to the EPA in relation to the development, including but not limited to:
 - *Faheys Pit Impact Assessment, Air Quality Assessment, Vipac* dated 4 December 2023 (Document Reference: 70B-22-0110-TRP-39884-1)

A1.2 Notwithstanding any condition in these GTA, or a licence under the *Protection of the Environment Operations Act 1997 (POEO Act)*, extractive activity at the premises must not exceed 150,000 tonnes per annum.

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 POEO Act, having regard to the matters in s.83 of that Act.

2 Discharges to Air and Water and Applications to Land

P1 Location of monitoring/discharge points and areas

P1.1 The following utilisation areas referred to in the table below are identified in these GTA, or a licence under the POEO Act, for the purposes of the monitoring and/or the setting of limits for any application of solids or liquids to the utilisation area.

P1.2 The following points referred to in the table below are identified in these GTA, or a licence under the POEO Act, for the purposes of the monitoring and/or setting limits for discharges of pollutants to water from the point.

General Terms of Approval

Notice No: 1635443



Water and Land

EPA Identification no.	Type of Monitoring Point	Type of Discharge Point	Location Description
1	Discharge quality monitoring	Discharge to waters	Spillway of the lower sediment basin (5.86 ML) constructed for Stage 1 of the proposal. (Easting: TBA, Northing: TBA)

P1.3 The following points referred to in the table below are identified in these GTA, or a licence under the POEO Act, for the purposes of weather and/or noise monitoring and/or setting limits for the emission of noise from the premises.

Noise/Weather

EPA Identification no.	Type of Monitoring Point	Location Description
2	Meteorological Station	9720 Armidale Road, Tyringham NSW 2453 (Easting: TBA, Northing: TBA)

3 Limit conditions

L1 Pollution of waters

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

L2 Concentration limits

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

L2.2 Where a pH quality limit is specified in the Table, the specified percentage of samples must be within the specified ranges.

Page 5

General Terms of Approval

Notice No: 1635443



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

L2.4 Water and/or Land Concentration Limits

Point 1

Pollutant	Units of measure	50% concentration limit	90% concentration limit	3DGM concentration limit	100% concentration limit
Oil and Grease	Visible				Nil
pH	pH				6.5 to 8.5
Total suspended solids	mg/L				50

L2.5 The concentration limits in the above table do not apply to any passive discharge (overflow) from Point 1 arising solely from a rainfall event exceeding 84.8 mm (the 90th percentile 5 day rain event) in total falling over any consecutive five day period.

L2.6 If the applicant uses turbidity (NTU) in place of TSS to determine compliance with Condition L2.4, the applicant must develop a statistical correlation which identifies the relationship between NTU and TSS for water quality in the sediment basin/s in order to determine the NTU equivalent of 50 mg/L TSS before its use.

L2.7 If the applicant uses turbidity (NTU) in place of TSS to determine compliance with Condition L2.4, the applicant must provide the EPA with a copy of the statistical correlation assessment methodology and results before using NTU in place of TSS.

L2.8 If the applicant uses turbidity (NTU) in place of TSS to determine compliance with Condition L2.4, the applicant must develop and implement a method to enable the ongoing verification of the relationship between NTU and TSS.

L2.9 If the applicant uses turbidity (NTU) in place of TSS to determine compliance with Condition L2.4, the applicant must provide the EPA with any amendments the applicant makes to the statistical correlation as a result of the ongoing verification required by Condition L2.8 before using the revised statistical correlation.

L2.10 All controlled discharges from the premises must be from licensed discharge points. They must not exceed a 100th percentile limit specified in Condition L2.4.

Note: Passive discharge is an overflow event occurring solely as a result of rainfall. Active or controlled discharge is a discharge occurring as a result of human intervention such as syphoning, pumping or trenching.

L3 Waste

Page 6

General Terms of Approval

Notice No: 1635443



- L3.1** The applicant 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 POEO Act.

Note: 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 POEO Act.

Note: Condition L3.1 is included to ensure that a premises based activity is not used as a waste facility (unless that scheduled activity is permitted by another condition with relevant development consent).

L4 Noise limits

- L4.1** Noise generated at the premises must not exceed the noise limits at the times and locations in the table below.

Location	Noise Limits in dB(A)
	Day
	L _{Aeq} (15 minute)
Any residential receiver	40

- L4.2** For the purposes of condition L4.1:

- a) Day means the period from 7am to 6pm Monday to Saturday and the period from 8am to 6pm Sunday and public holidays.

L4.3 Noise-enhancing meteorological conditions

- a) The noise limits set out in condition L4.1 apply under the following meteorological conditions:

Assessment Period	Meteorological Conditions
Day	Stability Categories A, B, C and D with wind speeds up to and including 3m/s at 10m above ground level.

- b) For those meteorological conditions not referred to in condition L4.3(a), the noise limits that apply are the noise limits in condition L4.1 plus 5dB.

L4.4 For the purposes of condition L4.3:

- a) The meteorological conditions are to be determined from meteorological data obtained from an on-site meteorological weather station identified as **EPA monitoring point 2**.
- b) Stability category shall be determined using the following method from Fact Sheet D of the *Noise Policy for Industry* (NSW EPA, 2017):

General Terms of Approval

Notice No: 1635443



i. Use of sigma-theta data (section D1.4).

L4.5 To assess compliance:

- a) with the $L_{Aeq(15 \text{ minutes})}$ noise limits in condition L4.1 and L4.3, the noise measurement equipment must be located:
 - (i) approximately on the property boundary, where any residence is situated 30 metres or less from the property boundary closest to the premises; or where applicable,
 - (ii) in an area within 30 metres of a residence façade, but not closer than 3 metres where any residence on the property is situated more than 30 metres from the property boundary closest to the premises; or, where applicable,
 - (iii) in an area within 50 metres of the boundary of a National Park or Nature Reserve,
 - (iv) at any other location identified in condition L4.1
- b) with the $L_{Aeq(15 \text{ minutes})}$ noise limits in condition L4.1 and L4.3, the noise measurement equipment must be located:
 - (i) at the reasonably most affected point at a location where there is no residence at the location; or,
 - (ii) at the reasonably most affected point within an area at a location prescribed by condition L4.5 (a).

L4.6 A non-compliance of conditions L4.1 and L4.3 will still occur where noise generated from the premises is measured in excess of the noise limit at a point other than the reasonably most affected point at the locations referred to in condition L4.5 (a) or L4.5 (b).

NOTE to L4.5 and L4.6: The reasonably most affected point is a point at a location or within an area at a location experiencing or expected to experience the highest sound pressure level from the premises.

L4.7 For the purpose of determining the noise generated from the premises, the modifying factor corrections in Table C1 in Fact Sheet C of the *Noise Policy for Industry* (NSW EPA, 2017) may be applied, if appropriate, to the noise measurements by the noise monitoring equipment.

L4.8 Noise measurements must not be undertaken where rain or wind speed at microphone level will affect the acquisition of valid measurements.

L4.9 The noise limits specified in conditions L4.1 and L4.3 do not apply if agreement between the applicant and the occupier of the noise sensitive location has been reached. Any agreement(s) between the applicant and the affected noise sensitive receivers must be recorded in writing and a copy of the agreement(s) kept on the premises for the duration of any licence issued under the POEO Act for this development.

Note: Noise sensitive locations means buildings used as a residence, hospital, school, childcare centre, places of public worship and nursing homes. A noise sensitive location includes the land within 30m of the building.

Page 8

General Terms of Approval

Notice No: 1635443



Definitions

Noise Policy for Industry - the document entitled "*Noise Policy for Industry*" published by the NSW Environment Protection Authority in October 2017.

Noise – 'sound pressure levels' for the purposes of conditions L4.1 to L4.8.

- L_{Aeq} (15 minute) - the value of the A-weighted sound pressure level of a continuous steady sound that, over a 15 minute time interval, has the same mean square sound pressure level as a sound under consideration with a level that varies with time (Australian Standard AS 1055:2018 *Acoustics: description and measurement of environmental noise*).

L5 Hours of operation

L5.1 Extractive, processing and loading activities at the premises may only take place between the following hours:

- 7:00am-6:00pm Monday to Friday;
- 7:00am-1:00pm Saturday; and
- at no time on Sundays or public holidays.

L5.2 Maintenance and/or repairs to plant and equipment may only take place between the following hours and is subject to the following provisions:

- 6:00am-6:00pm Monday to Friday;
- 6:00am-4:00pm Saturday;
- at no time on Sundays or public holidays;
- if outside the hours specified by condition L5.1, the plant and equipment that require the maintenance and/or repairs must be located as far away as possible from the most affected residential receivers; and
- if outside the hours specified by condition L5.1, the noise levels at the most affected residential receivers are not adversely affected.

L5.3 Blasting at the premises may only take place between the following hours:

- 9:00am-3:00pm Monday to Friday; and
- at no time on public holidays.

L5.4 Condition L5.1 does not apply to the delivery of material outside the hours of operation 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 must be provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of emergency.

General Terms of Approval

Notice No: 1635443



- L5.5** The hours of operation specified in conditions L5.1, L5.2 and L5.3 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.

L6 Blasting

- 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 locations. 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 locations for more than five per cent of the total number of blasts over 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.
- L6.3** Ground vibration peak particle velocity from the blasting operations at the premises must not exceed 10mm/sec at any time at any noise sensitive locations. 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 the blasting operations at the premises must not exceed 5mm/sec at any noise sensitive locations for more than five per cent of the total number of blasts over 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.
- L6.5** The airblast overpressure and ground vibration levels in conditions L6.1 to L6.4 do not apply at noise sensitive locations that are owned by the applicant or subject to a private agreement, relating to airblast overpressure and ground vibration levels, between the applicant and land owner.
- L6.7** Blasting at the premises is limited to 1 blast on each day on which blasting is permitted.
- L6.8** All sensitive receivers are to be given at least 24 hours notice when blasting is to be undertaken.

4 Operating conditions

O3 Dust

- O3.1** All operations and activities occurring at the premises must be carried out in a manner that will prevent or minimise the generation of air pollution including dust from the premises.
- O3.2** The premises must be maintained in a condition to prevent or minimise the generation of air pollution including dust from the premises.

Page 10

General Terms of Approval

Notice No: 1635443



- O3.3** All trafficable areas in or on the premises must be maintained at all times in a condition that will minimise the emission of wind-blown or traffic generated dust to the air.
- O3.4** Wet suppression infrastructure, including water sprays, must be installed and operated during all drilling, dozer, crushing and screening operations to prevent or minimise the generation of air pollution including dust.
- O3.5** Wet suppression infrastructure, including water sprays, must be installed, and operated to prevent or minimise the generation of air pollution including dust from product stockpiles.
- O3.6** Trucks entering and leaving the premises that are carrying loads of materials that may generate air impurities, including dust, must have their loads covered at all times, except during loading and unloading.

O4 Stormwater/sediment control

- O4.1** Project operations must be in accordance with a Soil and Water Management Plan (SWMP) developed for the premises and submitted to the EPA on application for a licence under the POEO Act.
- The SWMP must be guided by the 'Blue Book' (Managing Urban Stormwater - Soils and Construction, Volumes 1 and 2E).
 - The SWMP 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.
 - The SWMP must detail how all stormwater generated from a 5-day rain event of up to 84.8mm can be captured and treated prior to discharge.
 - The SWMP must include calculations for the sizing of sediment basins during the different stages of the quarry's life cycle and include the location/s of any discharge points from the sediment basin/s.
 - The SWMP should also include a water balance that demonstrates how the sediment basin/s designed for the site can adequately cater for quarry process water storage without compromising the basins ability to meet its design stormwater management functions outlined above.
- O4.2** The applicant must take all practicable measures to minimise the tracking of mud or other materials by vehicles leaving the premises.
- O4.3** The applicant must maximise the diversion of run-on waters from lands upslope and around the site whilst land disturbance activities are being undertaken.
- O4.4** The applicant must maximise the diversion of stormwater runoff containing suspended solids to sediment basins installed on the premises.
- O4.5** Where sediment basins are necessary, all sediment basins and associated drainage must be installed and commissioned prior to the commencement of any clearing or grubbing works within the catchment area of the sediment basin that may cause sediment to leave the site.

Page 11

General Terms of Approval

Notice No: 1635443



- O4.6** The applicant must ensure the design storage capacity of the sediment basins installed on the premises is reinstated within 5 days of the cessation of a rainfall event that causes runoff to occur on or from the premises.
- O4.7** The applicant must ensure that sampling point(s) for water discharged from the sediment basin(s) are provided and maintained in an appropriate condition to permit:
- a) the clear identification of each sediment basin and discharge point;
 - b) the collection of representative samples of the water discharged from the sediment basin(s); and
 - c) access to the sampling point(s) at all times by an authorised officer of the EPA.
- O4.8** The applicant must endeavour to maximise the reuse of captured stormwater on the premises.
- O4.9** Each sedimentation basin must have a marker (the "sedimentation basin marker") that identifies the upper level of the sediment storage zone.
- O4.10** Whenever the level of liquid and other material in any sedimentation basin exceeds the level indicated by the sedimentation basin marker, the applicant must take all practical measures as soon as possible to reduce the level of liquid and other material in the sedimentation basin.
- O4.11** The sediment basins must meet the design and operational standards of Managing Urban Stormwater Soils and Construction: Volume 1 and Volume 2 E. Mines and quarries. This document requires that at a minimum 90th percentile five-day rainfall event be used to determine basin sizing for quarries.
- O4.12** The sediment basin(s) must be maintained and operated to ensure that:
- All 5-day rainfall events up to 84.8 mm (the 90th percentile 5 day rain event) are captured.
 - Any discharge from the licensed discharge points that occurs as a result of rainfall below the 5-day total of 84.8 mm or any controlled discharge must meet the limit conditions specified in condition L2.4.
- O4.13** Discharges shall be treated, if required, to reduce the Total Suspended Solids level to the GTA, or a licence under the POEO Act, limit of 50 mg/L before being released to the environment. Treatment can be with gypsum or any other material that has been approved by the EPA.

O5 Air / Noise

Blast Management Protocol

- O5.1** Project operations must be in accordance with a Blasting/Vibration Management Protocol developed for the premises and submitted to the EPA on application for a licence under the POEO Act. The protocol must include, but need not be limited to, the following matters:
- Compliance standards;
 - Measures to ensure compliance with licence limits;
 - Analysis of representative meteorological data to identify sub-optimal dispersion conditions during which blasting should not be undertaken;
 - Mitigation measures;

Page 12

General Terms of Approval

Notice No: 1635443



- Remedial and reporting action plan;
- Monitoring methods and program;
- Monitoring program for flyrock distribution;
- Notification of procedures for neighbours prior to detonation of each blast;
- Measures to ensure no damage by flyrock to people, property, livestock and powerlines.

Air Quality Management Plan

O5.2 Project operations must be in accordance with an Air Quality Management Plan (AQMP) developed for the premises and submitted to the EPA on application for a licence under the POEO Act. As a minimum, the AQMP must include the following parts:

- Proactive and reactive mitigation strategies of all significant, and potentially significant emissions sources including the implementation of those mitigation measures contained in the revised Air Quality Impact Assessment dated 4 December 2023;
- Auditable and measurable key performance indicator(s) to inform and evaluate the proactive implementation of the proposed mitigation measures;
- Monitoring method(s);
- Location, frequency, and duration of monitoring;
- Record keeping;
- Response mechanisms and contingency measures;
- System and performance review for continuous improvement;
- Compliance reporting.

O6 Environmental Management

O6.1 Project operations must be in accordance with an Environmental Management Plan (EMP) developed for the premises and submitted to the EPA on application for a licence under the POEO Act. The EMP must take into account any management and mitigation measures identified in the document titled *Environmental Impact Statement Faheys Pit Continued Operations Project* (Outline Planning Consultants, September 2023), and any development consent conditions that may be included as part of the proposal approval.

O7 Chemical Storage

O7.1 All above ground tanks and containers containing material that is likely to cause environmental harm must be bunded or have an alternative spill containment system in place. Bunds must:

- a) have walls and floors constructed of impervious materials;
- b) be of sufficient capacity to contain 110% of the volume of the tank (or 110% volume of the largest tank where a group of tanks are installed);
- c) have floors graded to a collection sump; and
- d) not have a drain valve incorporated in the bund structure, or be constructed and operated in a manner that achieves the same environmental outcome.

Page 13

General Terms of Approval

Notice No: 1635443



5 Monitoring and recording conditions

M1 Monitoring records

M1.1 The results of any monitoring required to be conducted by these GTA, or a licence under the POEO Act, 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

M2.1 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:

Point 1

Water and Land

Pollutant	Units of measure	Frequency	Sampling Method
Oil and Grease	Visible	Special Frequency 1	Visual Inspection
pH	pH	Special Frequency 1	Probe
Total suspended solids	mg/L	Special Frequency 1	Grab sample

Note: 'Special Frequency 1' means sampling daily during any discharge from Point 1 when that discharge is not a result of a 5-day rainfall event exceeding 84.8mm.

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 or by these GTA or in the licence under the POEO Act in relation to the development or the relevant load calculation

Page 14

General Terms of Approval

Notice No: 1635443



protocol, a method approved by the EPA in writing before any tests are conducted, unless otherwise expressly provided in the licence.

M4 Requirement to monitor noise

M4.1 Attended noise monitoring must be undertaken in accordance with Condition L4.5 and must:

- a) occur at the nearest sensitive receiver location (residence) where a noise agreement is not in place between the applicant and the respective land owner(s) in respect to noise impacts and/or noise limits;
- b) occur annually in a reporting period;
- c) occur during the day period as defined in the *Noise Policy for Industry* for a minimum of 1.5 hours
- d) occur for three consecutive operating days.

M4.2 For the purposes of condition M4.1, noise monitoring is not required when activities at the premises are inaudible at the nearest privately owned residence where a noise agreement is not in place between the applicant and the respective land owner(s) in respect to noise impacts and/or noise limits.

M4.3 Subject to any express provision to the contrary in these GTA or a licence under the POEO Act, measurement and analysis of noise required by this licence must be done in accordance with the Approved Methods for the Measurement and Analysis of Environmental Noise in NSW.

M5 Blast Monitoring

M5.1 To determine compliance with Conditions L6.1 to L6.4:

- (a) Airblast overpressure and ground vibration levels must be measured and electronically recorded in accordance with the ANZECC guidelines for all production blasts carried out in or on the premises; and
- (b) The written record must include:
 - i) the time and date of each blast;
 - ii) the station(s) at which the noise was measured;
 - iii) the ground vibration for each blast;
 - iv) the airblast overpressure for each blast;
 - v) evidence that during the past 12 month period, a calibration check had been carried out on each blast monitor to ensure accuracy of the reported data; and
 - vi) the waveform for the ground vibration and overpressure for each blast that exceeds a ground vibration of 5mm/sec (peak particle velocity) or an airblast overpressure of 115dB(L).
- (c) Instrumentation used to measure the airblast overpressure and ground vibration levels must meet the requirements of Australian Standard 2187.2 of 2006.

M6 Meteorological Monitoring

M6.1 The meteorological weather station identified as EPA monitoring point 2 must be maintained so as to be capable of continuously monitoring the parameters specified in condition M6.2.

Page 15

General Terms of Approval

Notice No: 1635443



- M6.2** The applicant must monitor (by sampling and obtaining results by analysis) the parameters specified in Column 1. The proponent must use the sampling method, units of measure, averaging period and sample at the frequency, specified opposite in the other columns.

Note: The rainfall monitoring data collected in compliance with Condition M6.2 can be used to determine compliance with condition L2.4.

Point 2

Parameter	Units of Measure	Frequency	Averaging Period	Sampling Method
Air temperature	°C	Continuous	1 hour	AM-4
Wind direction	°	Continuous	15 minute	AM-2 & AM-4
Wind speed	m/s	Continuous	15 minute	AM-2 & AM-4
Sigma theta	°	Continuous	15 minute	AM-2 & AM-4
Rainfall	mm	Continuous	15 minute	AM-4
Relative humidity	%	Continuous	1 hour	AM-4

- M6.3** The location of the meteorological weather station required by condition L4.4 must be negotiated with the Determining Authority and the EPA prior to being established.

- M6.4** The applicant must develop and implement a calibration, quality assurance, quality control and audit program for the meteorological monitoring station. The program must be approved by the EPA prior to the installation of any new monitoring equipment.

6 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 POEO Act 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.
- R1.2** The applicant must also include the following information with the Annual Return:
- A statement detailing the total volume of material extracted from the quarry for the reporting period; and
 - The total volume of extracted material transported from the premises for the reporting period.
- R1.3** A noise compliance assessment report must be submitted to the EPA within 30 days of the completion of the annual monitoring if annual monitoring is required by condition M4.1. The assessment must be prepared by a competent person and include:

Page 16

General Terms of Approval

Notice No: 1635443



- a) an assessment of compliance with noise limits presented in Condition L4.1 and L4.3; and
- b) an outline of any management actions taken within the monitoring period to address any exceedences of the limits contained in Condition L4.1 and L4.3.

R1.4 The applicant must provide a Blast Monitoring Report each year, which must include the following information relating to each blast carried out within the premises during the respective monitoring period:

- a) the date and time of the blast;
- b) the location of the blast on the premises;
- c) the blast monitoring results at the blast monitoring station with assessment against the Licence blast limits; and
- d) an explanation for any missing blast monitoring results or any exceedences of Licence blast limits.

General Terms of Approval

Notice No: 1635443



Attachment B – Mandatory Conditions for all EPA licences

Administrative conditions

Other activities

This licence applies to all other activities carried on at the premises, including:

- Extractive activities
- Crushing, grinding and/or separating of extracted materials

Operating conditions

Activities must be carried out in a competent manner

Licensed activities must be carried out in a competent manner.

This includes:

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

Maintenance of plant and equipment

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

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

Monitoring and recording conditions

Recording of pollution complaints

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

The record must include details of the following:

- the date and time of the complaint;
- the method by which the complaint was made;
- any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;

Page 18

General Terms of Approval

Notice No: 1635443



- 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 applicant 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 project approval/licence.

The applicant 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:

- Statement of Compliance; and
- 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

General Terms of Approval

Notice No: 1635443



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

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

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

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

Deadline for Annual Return

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

Licensee must retain copy of Annual Return

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

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

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

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

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

Notification of environmental harm

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

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

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

Written report

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

Page 20

General Terms of Approval

Notice No: 1635443



- 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;
- 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.