

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSNTH-9
DA Number	29/2019
LGA	Gwydir Shire Council
Proposed Development	490,000 tonne/yr Quarry
Street Address	1135 Croppa Creek Road North Star
Applicant/Owner	Alan Pearlman/Alan Trevor Pearlman
Date of DA lodgement	5 February 2020
Number of Submissions	1
Recommendation	Approval with conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Clause 7 Particular Designated Development. Development for the purpose of an extractive industry, which meets the requirements of designated development under clause 19 of Schedule 3 of the Environmental Planning and Assessment Regulation 2000
List of all relevant s4.15(1)(a) matters	<p>i.e. any:</p> <ul style="list-style-type: none"> • relevant environmental planning instruments <ul style="list-style-type: none"> - Gwydir Local Environment Plan 2013 - Environmental Planning and Assessment Act 1997 - Biodiversity Conservation Act 2016 - National Parks and Wildlife Act 1974 - The Heritage Act 1977 - Rural Fires Act 1997 - Protection of the Environment Operations Act 1997 - Water Management Act 2000 - Local Land Services Act 2017 - State Environmental Planning Policy 33 – Hazardous and Offensive Development - State Environmental Planning Policy 44 – Koala Habitat Protection - State Environmental Planning Policy 55 – Remediation of Land - State Environmental Planning Policy Infrastructure 2007 - State Environmental Planning Policy Mining, Petroleum Production and Extractive Industries 2007 - State Environmental Planning Policy Rural Lands 2008 - State Environmental Planning Policy State and Regional Development 2011 • relevant development control plan <ul style="list-style-type: none"> - s94 Contributions Plan - Traffic Generating Development • relevant 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 <ul style="list-style-type: none"> - Nil • coastal zone management plan <ul style="list-style-type: none"> - N/A • relevant regulations e.g. Regs 92, 93, 94, 94A, 288 <ul style="list-style-type: none"> - Environmental Planning and Assessment Regulation 2000 - State Environmental Planning Policy
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Annexure 1 – Statutory Requirement – s4.15 • Annexure 2 – Draft Schedule of Conditions • Annexure 3 – Environmental Impact Statement • Annexure 4 – Environmental Impact Statement – Part 1

	Appendix 1 – 5 <ul style="list-style-type: none"> Annexure 4 – Environmental Impact Statement – Part 2 Appendix 6-10 <ul style="list-style-type: none"> Annexure 5 – Submission and Proponents Response Annexure 6 – Referral Agencies General Terms of Approval and Recommendations Annexure 7 – Late advice from the proponent regarding the Traffic Impact Assessment
Report prepared by	Patsy Cox Planning Officer
Report date	31 August 2018

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**

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 Executive Summary of the assessment report?
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP **Yes**

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**

Special Infrastructure Contributions

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

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

1. Executive Summary

1.1 Reason for consideration by Joint Regional Planning Plan

The development application has been referred to the Joint Planning Panel pursuant to s2.19(1)(c) of the Environmental Planning and Assessment Act 1997 and clause 7, Schedule 7 of the State Environmental Planning Policy (State and Regional Development) 2011 as the development is classified as an Extractive Industry and is designated development under Clause 19 of Schedule 3 of the Environmental Planning and Assessment Regulation 2000.

1.2 Brief Description of the Proposed Development

The applicant seeks consent for the operation of a 490,000 tonnes/year quarry operation. The operation to be known as 'Pearlman's Quarry' will consist of one extraction site and use of the existing stockpile site for 'Tikitere Quarry'. The quarry is anticipated to produce up to 490,000 tonnes of material per year for a period of approximately 10 years. The intention of the operation is to supply material for the Inland Rail Project and Roads and Maritime Services Newell Highway Upgrade project.

1.3 Development History

The proposed development site is located on the property "Tikitere" consisting 1698.5 hectares of agricultural land located in the north western corner of the Gwydir Shire Council and forms part of the areas highest crop yielding area known as the "Golden Triangle". The property has historically been used for mixed cultivation and grazing operations since colonial settlement. Apart from the existing agricultural land use the property is also the location of an approved 500,000 tonne per annum quarry and stockpile site known as 'Tikitere Quarry'. Tikitere Quarry was approved under DA 5/2018 by the Regional Planning Panel (2018NTH004) on the 20 September 2018. No other types of development apart from erection of residential and farm buildings affect the property.

1.4 Compliance with Planning Controls

The property is zoned RU1 Primary Production under the Gwydir Local Environmental Plan 2013.

An extractive industry is permissible within this zone with development consent.

1.5 Integrated Development

The proposed development is integrated development pursuant to Section 4.46(1) of the Environmental Planning and Assessment Act 1997, as the development requires an Environmental Protection Licence issued by the NSW Environment Protection Authority (EPA), as required by Schedule 1(19) of the Protection of the Environment Operations Act 1997. The General Terms of Approval by the EPA are contained in Annexure 6.

1.6 Designated Development

The proposed development is also identified as designated development pursuant to Section 4.10 of the Environmental Planning and Assessment Act 1997, and Clause 19, Schedule 3 of the Environmental Planning and Assessment Regulation 2000.

1.7 Consultation

The development application was exhibited, advertised and notified in accordance with the relevant provision of Schedule 1 of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulations 2000 for designated development. One opposing submission was received by Council. A copy of the submission is contained within Annexure 5 and is discussed in greater detail in Annexure 1.

1.8 Recommendation

It is recommended that the Development Application (DA 29/2019) be approved subject to the imposition of the draft conditions attached (Annexure 2).

2 Background, Location and Site Description

2.1 Background

Gwydir Shire Council received a development application (DA 29/2019) on the 5 September 2019, for a proposed 490,000 tonne/year extractive industry (Pearlman's Quarry) operating on the property "Tikitere" located approximately 10 kilometres south of North Star, 12 kilometres north of Croppa Creek and 60 kilometres North North-west of Wyallda. The materials extracted from the quarry are to provide, primarily, the Inland Rail Project with processed hard rock for the repair/reconstruction of the Camurra Boggabilla Railway line between Moree and the Macintyre River. In particular, the Narrabri to North Star and North Star to the NSW/QLD Border sections of the Australian Rail Track Corporation (ARTC) projects. The proposed quarry will also provide materials to Road and Maritime Service projects such as the upgrade to the Newell Highway. Figure 1 below depicts the location of Tikitere in relation to local communities.

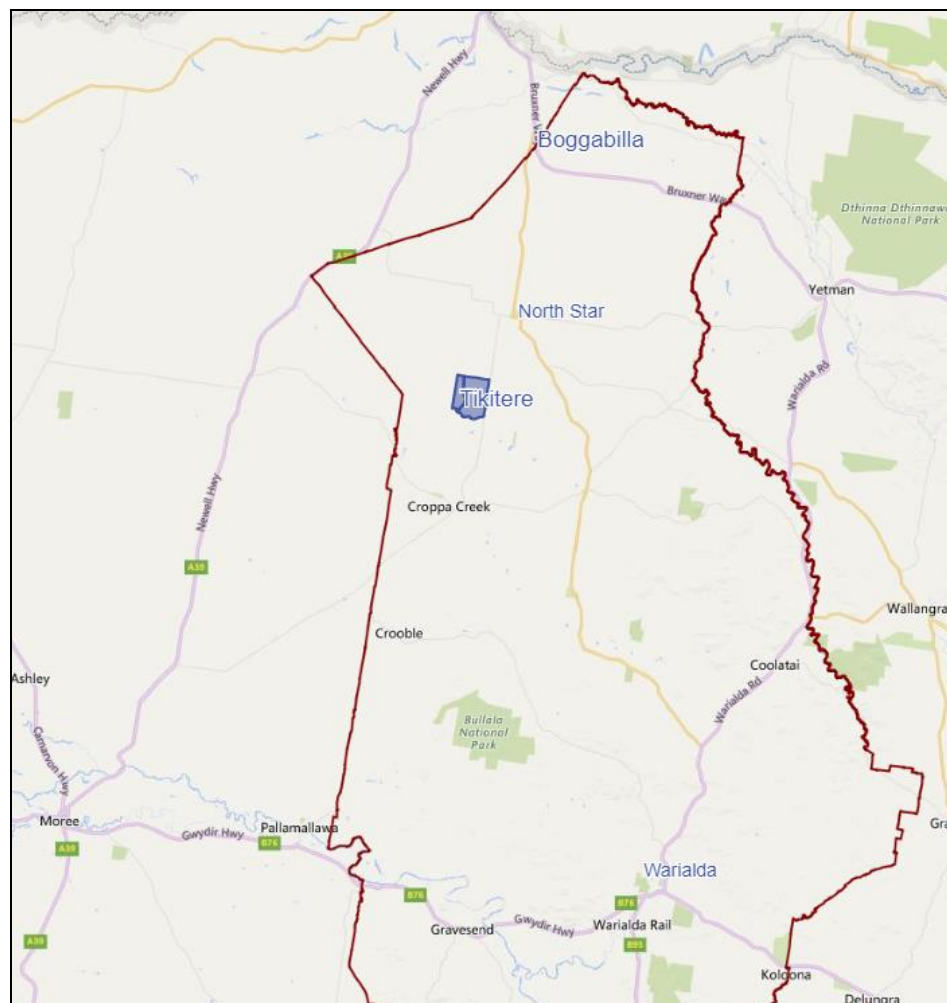


Figure 1 – Location Map

Initial assessment of the quantities of materials required by the ARTC projects indicate that a minimum of 1,000,000 cubic metres of rail ballast and up to 500,000 tonnes of

manufactured dense grade base course which will be needed for the reconstruction of the rail line. There are few quarries in the region able to supply the type and quantity of materials required.

The proposed development will predominantly haul material from the quarry site, internally to the existing stockpile site on the property and from there to its final destination via the public road network. It is understood that some material may be transported off the property by rail, but that the bulk of the material will be hauled by trucks along local roads. The proposed development will utilise the property's existing harvestable right to construct sedimentation basins, the water from which will be used in the mitigation of dust and during crushing operations. Should a secondary source of water be needed the proponent will obtain an offsite supplier or apply for a further groundwater allocation licence.

2.2 Site Location

As stated above the proposed quarry is situated on the property "Tikitere", 1135 Croppa Creek Road North Star, which is located approximately 10 kilometres south of North Star and 12 Kilometres north of Croppa Creek. The property "Tikitere" is owned by Alan Trevor Pearlman (the applicant), encompasses an area of 1698.5 hectares and consisted of Lot 5 and 17 in DP 755984. A recent subdivision of Lot 5 DP 755984 into two allotments (Lot 1 DP 1256597 - area 1062 Ha and Lot 2 DP 1256597 – 203.5 Ha) now has the proposed quarries extraction and existing stockpile sites entirely encompassed within Lot 2 DP 1256597. The property of "Tikitere" is bordered by Tackinbri Creek in the south, the Croppa Creek Road to the east, Bushes Access Rd to the north and the property "Strathaine" on the western side. See Figures 2 and 3 below for an aerial representation of the proposed location and the property.

The properties holding is currently occupied by a homestead, various agricultural buildings, internal farm roads, an existing farm quarry, irrigation infrastructure and an existing quarrying operation, which includes two extraction sites and a stockpile site, located approximately 850m west of the proposed Pearlman Quarry. The existing quarrying operation, known as 'Tikitere Quarry', has an approved extraction limit of 500,000 tonnes per year. The property is predominantly cleared of vegetation to allow for cropping, however areas of remnant vegetation remain along low ridge lines, fence lines, riparian areas and volcanic protrusions.

The proposed development (Pearlman's Quarry) is to disturb one site within Lot 5 along one such low ridge line known as "Death Adder Hill". The proposed Pearlman's Quarry will encompass an area of 9.25 hectares and will involve the clearing of 8.7 hectares of native vegetation. Pearlman's Quarry will utilise the existing approved stockpile site for Tikitere Quarry for the stockpiling of material. The stockpile site is located adjacent to the rail line corridor west of all quarry sites encompasses an area of 7 hectares. Figures 2 & 3 below identifies the proposed sites in relation to the existing quarry sites, the local area and the rest of the property including the quarry sites proximity to roads and the rail corridor.

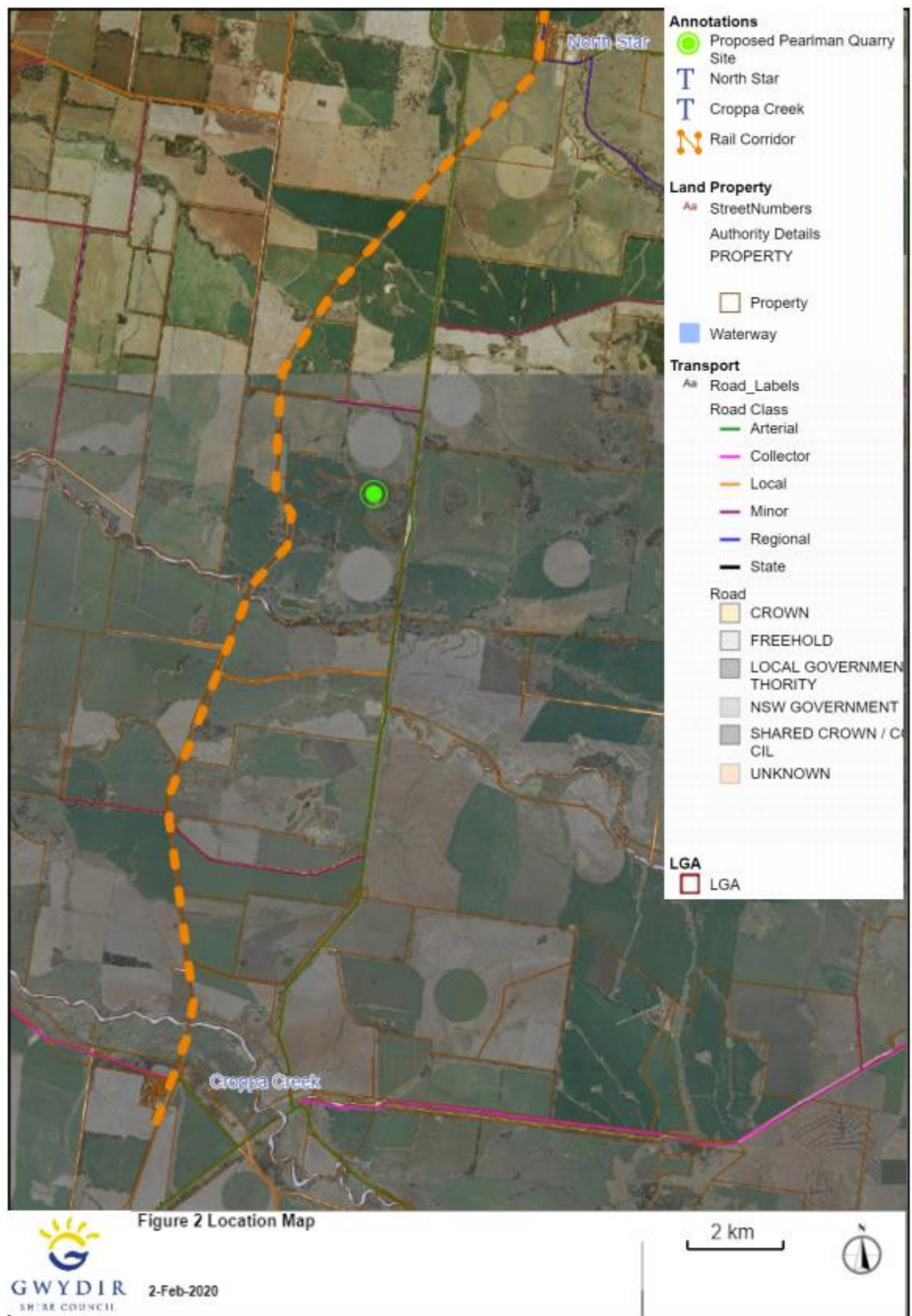


Figure 2 – Locality Plan

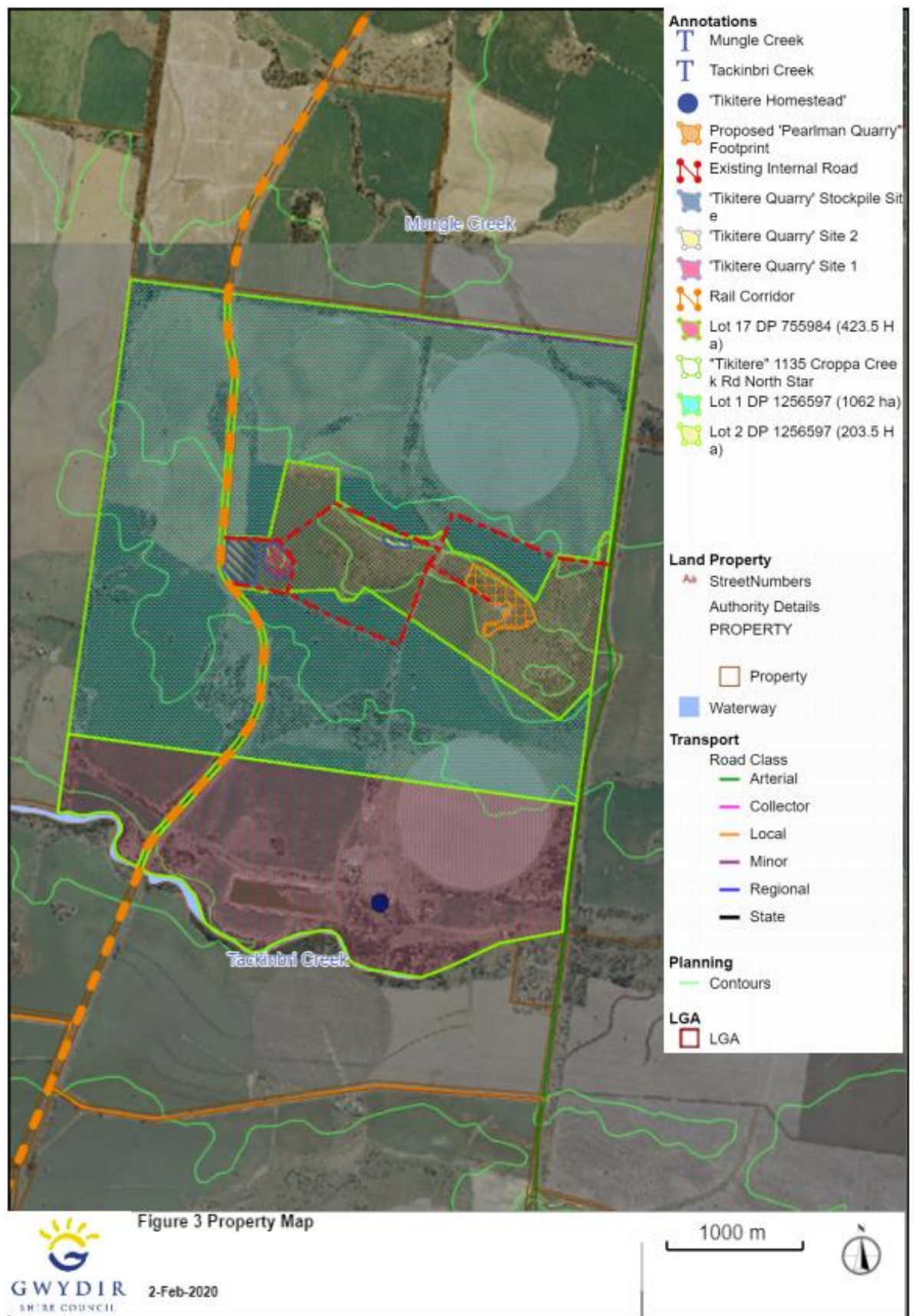
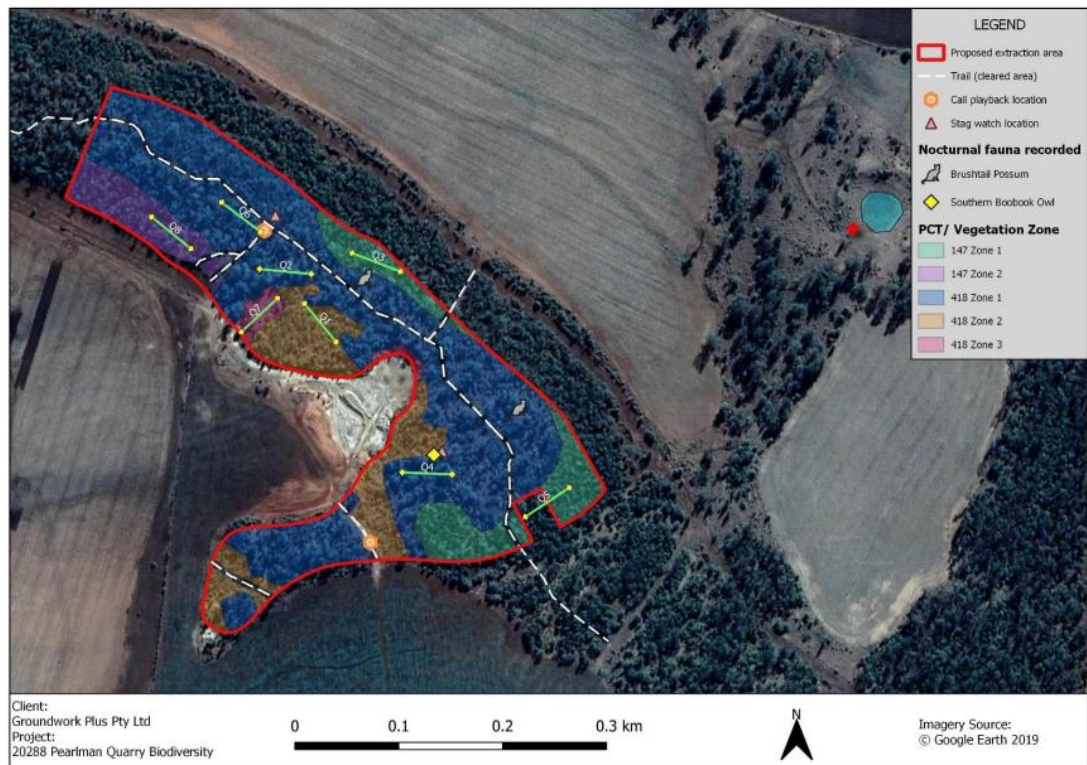


Figure 3 – Property Map

2.3 Site Description and Uses

Generally the “Tikitere” property consists of undulating hills traversed by ephemeral streams and gullies. However, the Pearlman quarry site along part of Death Adder Hill is described as a laterally extensive basalt ridge and considered to be a remnant flow, possibly from the nearby volcanic vent located further to the west. The basalt flow overlies Jurassic sandstone and siltstone.

The quarry site is covered with native vegetation considered to be of a good to very good condition. The existing vegetation mapping indicates the potential for two Plant Community Types (PCT) to be located at the site. The below figure *called Location of quadrats and targeted fauna survey (May 2019)* shows the location of the PCT's that will be effected by disturbance at the propose quarry site.



See Figure 2.1 “Location of quadrants and targeted fauna surveys (May 2019), page 11 of “Biodiversity Development Assessment Report” Pealman’s Quarry Rev3, dated 23 December 2019, by Advitech Environmental, Attachement 3 of “Pearlman Quarry Environmental Impact Statement, dated August 2019, by Groundwork Plus.

PCT 418 being White Cypress Pine – Silverleaved Ironbark – Wilga shrub grass woodland for the Narrabri-Yetman region, Brigalow Belt South Bioregion. This PCT covers 6.98 hectares of the extraction site and will be cleared as a part of the quarries operation. See below photographs shows the conditions of this PCT at the site.



PCT 418 – Poor Condition *



PCT 418 – Good Condition *



PCT 418 –Very Good Condition *

** Photographs taken from page 20-21 of “Biodiversity Development Assessment Report” Pealman’s Quarry Rev3, dated 23 December 2019, by Advitech Environmental, Attachement 3 of “Pearlman Quarry Environmental Impact Statement, dated August 2019, by Groundwork Plus.*

PCT 147 being Mock Olive – Wilga – Peach Bush – Carissa semi-evergreen vine thicket (dry rainforest) mainly on basalt soils in the Brigalow Belt South Bioregion. This PCT covers 1.73 hectares of the extraction site and is listed as an Endangered Ecological Community (ECC) under the Biodiversity Conservation Act 2016 and Environmental Protection and Biodiversity Conservation Act 1999. See below photographs shows the conditions of this PCT at the site (both are considered in very good condition).



PCT 147 –Very Good Condition **



PCT 147 –Very Good Condition **

*** Photographs taken from page 17-18 of “Biodiversity Development Assessment Report” Pealman’s Quarry Rev3, dated 23 December 2019, by Advitech Environmental, Attachement 3 of “Pearlman Quarry Environmental Impact Statement, dated August 2019, by Groundwork Plus.*

The landscape consists of gently undulating rises to low hills. Slopes ranging from 3-10%, with local relief varying from 5-50m and elevations between 200-330 m.

The quarry site is quiet some distance from natural waterways. Tackinbri Creek is located approximately 2.2 kilometres to the south from the quarry operations closest point and Mungle Creek is approximately 2 kilometre to the north. Tackinbri and Mungle Creeks are considered ephemeral waterways.

The proposed quarry site is approximately 1.4-1.7 kilometres from the existing stockpile area and rail corridor and approximately 550m west of the property boundary with Croppa Creek Road. Those areas not associated with the proposed development site and access roads will continue to be cultivated and grazed as a part of existing agricultural enterprise.

2.4 Surrounding Land Uses

The property “Tikitere” is bound by the following properties:

Property Name	Property Address	Location	Approx Distance - Homesteads to Quarry Site	Approx Distance - Homesteads to Stockpile Site	Receiver ID (See Noise Impact Assessment)
Strathaine	1137 Croppa Creek Rd	West	3km	1.4km	R1
Bonny Ridge	1545 Croppa Creek Rd	North	2.7km	2.3km	R3
Windridge North	1835 Croppa Creek Rd	North	3.8km	4.2km	R4
Minilya	427 Minilya Rd	North East	No Homestead	No Homestead	-
Yannarie	1216 Croppa Creek Rd	South East	3.3km	5.2km	R6
Valley Heights	141 Boonery Park Rd	South	3.5km	3.8km	R8
Crestview	204 Boonery Park Rd	South	3.6km	3.5km	R7
Boonery Park / Brooklyn	Boonery Park Road	South-West	6.4km	4.8km	R9
Merwood	391 Boonery Park Rd	South South-West	4.9km	3.9km	R5
Birralee	473 Birralee Rd	West	5.3km	3.5km	R2

Please note that above distances are approximate and have measured using Council’s Spectrum Spatial Mapping System

All of these properties engage primarily in dry land and irrigated cropping and cattle grazing with the exception of the property “Tulin Tulla” which also operates a 5,000 head Feedlot operation. In addition “Myola Feedlot” which accommodates 20,000 head (soon to be 35,000 head – approved but not yet completed) is also located 6.2km to the south of the proposed quarry site. Figure 6 below shows the location of the neighbouring properties and their homesteads.

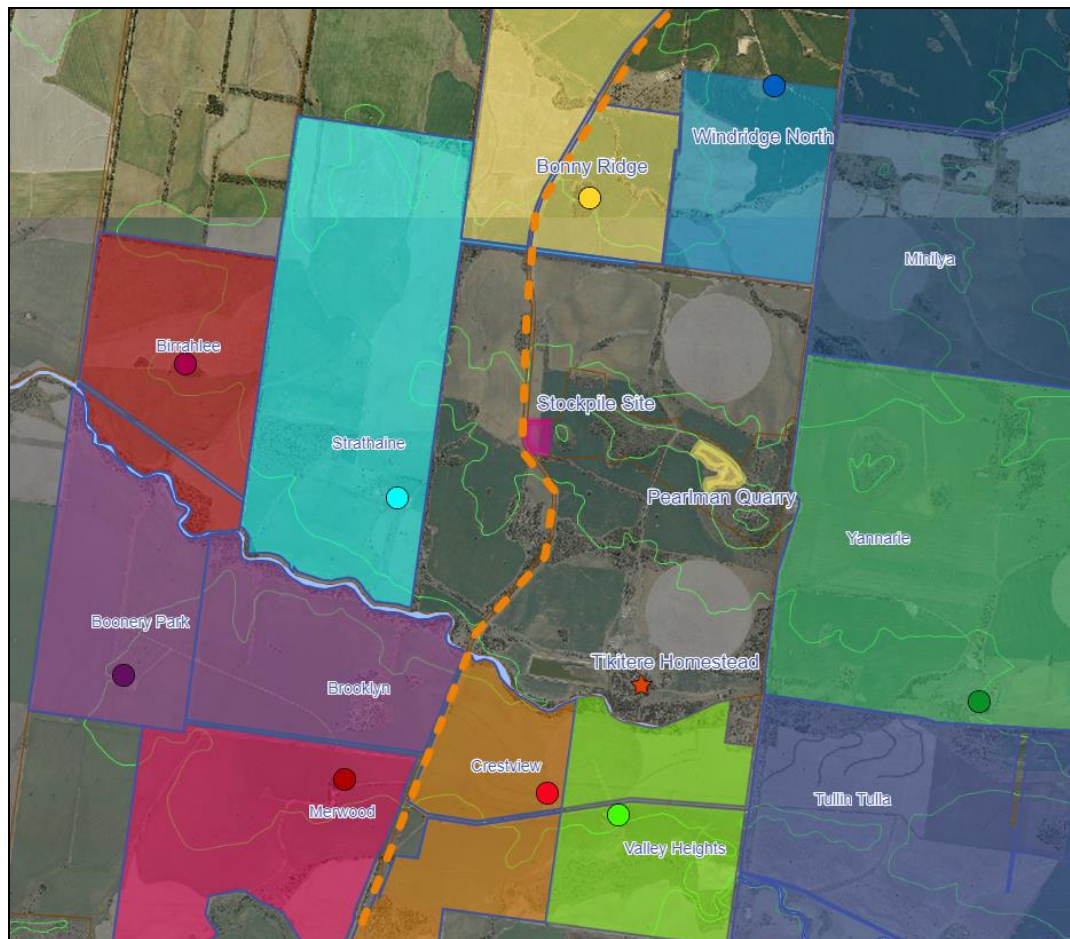


Figure 6 – Surrounding Properties and Homesteads

Note: Homesteads are depicted with a large dot

The proposed development is located approximately half way between the hamlets/villages of Croppa Creek and North Star both of which are located along the rail corridor. Croppa Creek is located 12km to the south and as an approximate population of 75 residents. North Star is located 10km to the north and as an approximate population of 50 people. Both communities have limited services but do have a recreation clubs, a general store and a small number of agricultural support businesses.

1.5 Public Consultation and Referrals

The application was notified for a period of 28 days, in accordance with the relevant provisions for designated development pursuant to Schedule 1 of the Environmental Planning and Assessment Act 1997, Division 5 of the Environmental Planning and Assessment Regulation 2000 and Council's Notification Policy – A.01.01 as detailed in the following table.

The application was also advertised as designated development on two separate occasions, with an entire submission period of 28 days, in accordance with the provision of the Environmental Planning and Assessment Regulation 2000.

Council's consultation with stakeholders has been extensive and in keeping with the scale and implications of the proposed development. The view expressed by each government agency and individual have been carefully considered.

The public consultation included:

- Advertising, notification and public exhibition of the Development Application by Council from 16 September to 16 October 2019;
- Advertising of the exhibition period for the Development Application was placed in the local newspaper 'Gwydir News' and the regional newspaper 'North West Magazine'.

- Notification of nearby and potentially affected nearby landholders and residents along haulage routes and placement of signs at the site during the exhibition period;
- Exhibition of the Development Application were physically located at the Warialda Office of the Gwydir Shire Council, 54 Hope Street, Warialda NSW 2402; Office of the Gwydir Shire Council, 33 Maitland Street, Bingara and NSW Office of Planning and Environment, Level 1 155-157 Marius Street, Tamworth NSW 2340. In addition the Development Application was digitally available during the exhibition periods from the Gwydir Shire Council Website www.gwydirshire.com

Gwydir Shire Council Community Consultation Policy – A.01.01: Notification Type • Level E - Locality	Development where impacts affect the broader locality, in addition to adjoining properties, as determined by Council; Extractive Industries
Notification	
Landowners/Occupiers	Adjacent land owners with a radius of 500m for the proposed site were notified
Newspaper advertisements	Yes
Exhibition Dates	28-30 days
Exhibition Venues	Gwydir Shire Council Office Bingara Gwydir Shire Council Office Warialda NSW Office of Planning & Environment Tamworth
Internal consultation	Council's Technical Services Department
External Referrals	<ul style="list-style-type: none"> • Department of Planning Industry and Environment – Biodiversity Conservation Division • Department of Primary Industries • Environmental Protection Authority • Office of Environment & Heritage • Roads and Maritime Services • Water NSW • Moree Plains Shire Council
Public Submissions	1 submission received
Referral Submissions	4 submissions were received. A copy of submissions is found at Annexure 6. Issues are considered in section 4 of this report and further in section 6 of Annexure 1 to this report

3 The Development Proposal

On the 5 September 2019, the applicant, Alan Pearlman owner of the property "Tikitere", lodged a Development Application with Council under the provisions of the Environmental Planning and Assessment Act 1979 for the establishment of a 490,000 tonnes/year from an extraction site known as Death Adder Hill on the property "Tikitere".

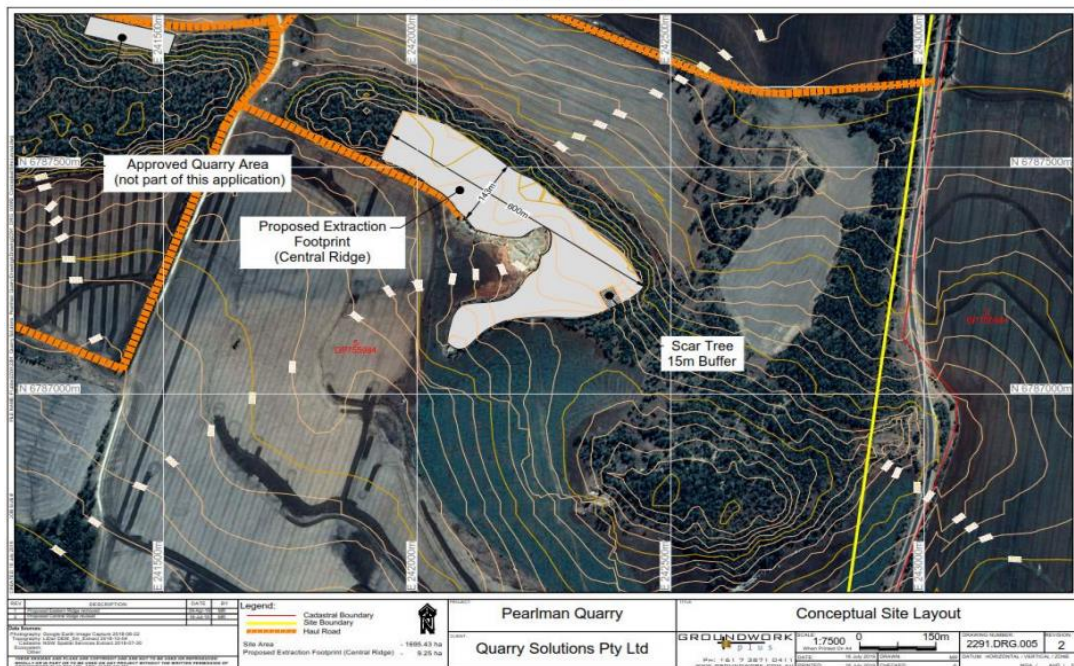
The main components of the applicant's proposal include the following:

- Construction and Operation of a Hard Rock Quarry to be known as 'Pearlman Quarry' including;
 - Site Office/Amenities/Maintenance/Storage Areas
 - Crushing Area (with mobile crusher/screening plant)
 - Stockpiles (topsoil/subsoil, raw and processed material, overburden)
 - Sediment Basins
 - Stormwater Diversion and Retention Banks/Fences
 - Roads
 - Fencing

- Utilisation of the existing approved stockpile area for the 'Tikitere Quarry' which lie along-side the Rail Corridor for the storage of material won from the proposed 'Pearlman Quarry'

The quarry site is located along the central east-west ridgeline and protruding southern ridgeline of part of Death Adder Hill. The quarry's excavation footprint is to cover 9.25 hectares, 8.7 hectares of which is covered in native vegetation. The geology of the ridgeline is described as an undifferentiated Tertiary basalt flow overlying Jurassic sandstones and siltstones. The material to be extracted from this site is predominantly hard basalt rock to be used as ballast material. It is anticipated that little to no waste material will be generated from the processing of this material. Consequently, due to the materials toughness and density it will be necessary for the material to be blasted. The EIS indicates that it is expected that at least one (1) blast will be undertaken each day, Monday to Friday, within the hours of 9:00am and 5:00pm. Figure 4 below is taken from the EIS and shows the proposed developments Conceptual Site Layout.

Figure 4 – Conceptual Site Layout



The existing stockpile sight associated with the approved "Tikitere Quarry" encompasses an area of 7 hectares and is located adjacent to the rail corridor which transverses the 'Tikitere' property. The proposed 'Pearlman Quarry' will also use this area for the stockpiling of material won from the new extraction site. The stockpile area is located on a cultivated field and does not require the removal of any vegetation. Figure 3 located earlier in this report shows the location and extent of the stockpile site.

The components of the quarry construction and operations listed above indicate that the quarry site will include a small demountable site office with staff amenities. During discussion with the developer it was indicated that the existing 'Tikitere Quarry' and the proposed 'Pearlman Quarry' would function under a joined quarry operations umbrella and that most of the offices, crushing and screening plant, amenities, workshops and hazardous material storage areas etc needed for the Pearlman Quarry are already onsite at the 'Tikitere Quarry' site and these would be utilised for both. A site layout including the location of any buildings/amenities/hardstand/maintenance area was requested however was not presented to Council.

The operation of the quarry will include the following processes:

- Removal of overburden and storage of overburden and topsoil for rehabilitation;
- Extraction of hard rock;

- Transportation of material to mobile crushing and screening plant;
- Operation of mobile crushing and screening p to size and screen the material;
- Stockpile the finished material for loading into trucks
- Transport from quarry to the construction project site;
- Rehabilitation of the site to a landform capable of supporting ongoing rural activities.

The operation of the quarry will include the following mobile plant:

- Mobile Crushing and Screening Plant;
- Rear dump Trucks;
- Front end loader (FEL);
- Excavator; and
- Light Service Vehicles
- Dog and Truck Combination Haulage Vehicles;
- Drilling equipment associated with blasting
- Bulldozer/s

It is currently expected that up to 5,000 tonnes per day will be excavated, processed and transported during the proposed operating hours of 6:00am to 6:00pm Monday to Saturdays. With no operations (apart from light vehicle traffic) on Sunday or Public Holidays. Strictly, blasting operations will only occur between the hours of 9:00am and 5:00pm Monday to Fridays but generally will occur between the hours of 9:00am and 3:00pm on these days. As suggested by the EPA it may be reasonably expected that quieter quarry operations such as plant and equipment maintenance would be schedule for the more sensitive times during these proposed hours such as between 6:00am and 8:00am and 5:00pm to 6:00pm. A more detailed explanation of the proposed hours can be found in s 2.27 of the EIS.

It is expected that approximately 80% of the excavated material will be transported by heavy vehicles over the local road network and the remainder by rail. Between the operations of the two quarries (Tikitere and Pearlman) during peak demand periods it is estimated that 11 heavy vehicle movements per hour would be experienced along haulage routes. The proposed haulage routes include both sealed and unsealed roads within the Gwydir Shire Council and the Moree Plains Shire Council areas. In order to maintain the haulage routes the proponent/quarry operator will be required to contribute to the cost of road rehabilitation in accordance with the Gwydir Shire Council s94 Developer Contribution Plan – Traffic Generating Development. The proponent has offer a figure of 80 cents per tonne. However, calculations made by Council's Technical Services have indicated that a contribution rate of \$1.12 per tonne would be necessary to adequately compensate the impact to road due to the operation of the proposed quarry.

Likewise, the proponent has offer a contributions rate of 50 cents per tonne, to the Moree Plains Shire Council, for the impact of the quarry operations on road within their shire. However, it would be presumptuous of this assessment to accept this rate on behalf of the Moree Plains Shire Council without expressed written permission. To date this permission has not been given. Therefore it is suggested that a condition be included in the Schedule of Conditions accompanying any approval, that obligates the proponent to enter into a written agreement with the Moree Plains Shire Council regarding this matter prior to commencement of works. In addition, a copy of that agreement be presented to Gwydir Shire Council as proof of the fulfillment of the condition prior to commencement of the proposed quarry operations.

The water collected in the sediment basins will be used as the primary source of water meet the EIS mitigate obligation such as dust suppression, cleaning of vehicles and equipment, fire-fighting and during the crushing/screening process. In the absence of the availability of water from the sedimentation basins the proponent is committed to sourcing water from offsite suppliers and/or the existing licensed onsite bore and/or obtaining further groundwater allocations. If further water licenses are necessary the will be the

responsibility of the proponent to ensure they are obtained in consultation with the relevant water authorities and government departments.

Generally, it is expected that the proposed quarry will require 5-10 full time equivalent staff, including traineeships over its life span. The predicted life span of the proposed operation is expected to be either when the total amount of usable material is consumed or in 10 years time.

4 Statutory Planning Considerations

4.1 Gwydir Shire Local Environment Plan 2013 (GLEP)

The proposed development site is located within the RU1 Primary Production zone under the GLEP. The proposed development is defined as an extractive industry and is categorised as intensive livestock agriculture under the GLEP. As such is permissible development in the RU1 Primary Production zone with consent.

The proposed development is also compliant with all other relevant sections of the GLEP. For more detailed information regarding the above see Annexure 1

4.2 Section 94 Development Contribution Plan No 1 – Traffic Generating Development (DCP)

The proposed quarry is development to which the DCP applies. As such, the proposed quarry operation shall be required to enter into an agreement with the Gwydir Shire Council for any movement of trucks on Council roads in accordance with the DCP. For more detailed information regarding the above see section 4.9 of Annexure 1.

The proponent has offered a per tonne s94 contribution rate of 80 cents to the Gwydir Shire and 50 cents to the Moree Plains Shire Council. A response to referral to Council's Technical Services Department has advised that minimum s94 contribution rate should be set at \$1.12 per tonne of material being hauled along the Gwydir Shire Council Roads. The full calculations to support this rate can be found in section 4.9 of Annexure 1 to this report.

It would be presumptuous of this assessment to accept any s94 contributions rate on behalf of the Moree Plains Shire Council without expressed written permission. To date this permission has not been given. Therefore it is suggested that a condition be included in the Schedule of Conditions accompanying any approval, that obligates the proponent to enter into a written agreement with the Moree Plains Shire Council regarding this matter prior to commencement of works. In addition, a copy of that agreement be presented to Gwydir Shire Council as proof of this conditions fulfilment prior to commencement of the proposed quarry operations.

4.3 New England North West Regional Plan

The objectives of the NENWRP were considered during the assessment of the proposed development. It is considered that the proposed development is in line with the goals of the NENWRP, specifically, as the intended purpose of the quarry is to supply material to the Inland Rail Project, the delivery of "strong infrastructure and transport networks for a connected future" is particular relevant.

4.4 State Legislation

4.4.1 Environmental Planning and Assessment Act 1979 & Environmental Planning and Assessment Regulation 2000

Aside from Council's Local Environmental Plan, the proposed extractive industry development is classified as *designated development* under the provisions of s4.10 of the *Environmental Planning and Assessment Act 1979* and clause 19 of Schedule 3 of the *Environmental Planning and Assessment Regulation 2000*. As the proposal will exceed the required level of 30,000 cubic metre and will also disturb more than 2 hectares of surface area.

Further, the proposed development is also listed under s4.46 of the *Environmental Planning and Assessment Act 1979* as an activity which is required to be licensed under the clause 19 of Schedule 1 of the *Protection of the Environment Operations Act 1997*.

Thus it is determined that the proposed quarry is both designated and integrated development.

4.4.2 Other State Legislation relevant to the proposed Development

The proposed development is considered to be compliant with the following Acts. Further details are available in Annexure 1.

- Biodiversity Conservation Act 2016
- National Parks and Wildlife Act 1994
- The Heritage Act 1977
- Rural Fires Act 1997
- Protection of the Environment Operations Act 1997
- Water Management Act 2000
- Native Vegetation Act 2003 (Repealed)
- Local Land Service Act 2017

Please note that the proposed development was lodged prior to the end of the transitional period (which ended on the 25 February 2018) for the implementation of the Biodiversity Conservation Act 2016 and has been assessed under the now repealed Threatened Species Conservation Act 1995.

4.5 State Environmental Planning Policies & Draft State Environmental Planning Policies

The proposed development is considered to be compliant with the following relevant State Environment Planning Policies (SEPP). For further detail see Annexure 1.

- SEPP 33 – Hazardous and Offensive Development
- SEPP 44 – Koala Habitat Protection
- SEPP 55 – Remediation of Land
- SEPP Infrastructure 2007
- SEPP Mining, Petroleum Production and Extractive Industries 2007
- SEPP Primary Production and Rural Development
- SEPP State and Regional Development 2011

4.6 Commonwealth Legislation

The proposed development is considered compliant with the following relevant Commonwealth Legislation. For further detail see Annexure 1

- Environment Protection and Biodiversity Conservation Act 1999

4.7 Site Suitability and Potential Impacts

4.7.1 Site Suitability

The proposed 'Pearlman' quarry operation is located approximately 12 kilometres north of Croppa Creek and 10 kilometres south of North Star, in an area known as the "Golden Triangle". The surrounding land uses consists of the agricultural enterprises of dryland and irrigated cropping and cattle grazing, with the inclusion of two cattle feedlots within a 6.5-kilometer radius. There are no other developments of this type in the immediate surrounding area excepting for the existing 'Tikitere Quarry' which operates on the same property and under the Groundworks Plus operations umbrella.

The property "Tikitere" is bisected by the Camurra Boggabilla Railway line and has outcrops and low ridges containing basalt rock and siltstone. It is for this reason along with the proposed sites isolation from neighbouring homesteads and its close proximity to the rail line, which have made the property an ideal location for the supply, processing and transportation of materials for the Inland Rail Project.

The proposed quarry operation site will be in excess of 1km from the nearest residence on a neighbouring property and is approximately 1400m from the rail line, which bisects the property. In addition, the proposed operations, also has access to the Croppa Creek Road, a sealed public road, which runs along the eastern boundary of the property and is approximately 550m from the Pearlman Quarry site.

The proposed development will mainly use water from the quarry's sediment basins, for dust suppression along internal haulage roads and during the crushing and screen activities.

4.7.2 Potential Impacts

i. Biodiversity Impacts

The proponent has prepared a Biodiversity Impact Assessment Report (BDAR) in accordance as required by the Biodiversity Conservation Act 2016 (BC Act). As required, a list of Threatened Species, Endangered Ecological Communities (ECC) and Plant Community Types (PCT) that may occur in the local area was prepared and are listed in Annexure 1.

The first version of the BDAR was reviewed by the Biodiversity Conservation Division of NSW Planning Industry and Environment and as deemed to be generally adequate with some minor shortfalls which were easily corrected (See BDAR Rev 2). Thus, not serious and irreversible impacts (SAII) were identified and the BDAR adequately addressed ways of avoiding, minimising and mitigating the developments impact on flora/fauna and Ecological Communities. The BDAR also adequate identified, with assumed presence in mind (see explanation in next paragraph), the local flora/fauna and PCT that would be impacted by the proposed development. Thus accurately producing the number of ecosystem and species credits required to offset under the Biodiversity Offset Scheme.

Generally, the BC Act requires that during adverse climatic conditions (flood, drought etc) or due to seasonal growth inclinations that any flora/fauna and PCT known to occur in the local area of a development site is to be assumed present even if at the time of field surveys are undertaken that flora/fauna or PCT is not currently found. The list of flora/fauna assumed to present can be reduced by preforming further field survey's at different seasons or in more favourable climatic conditions.

Further site assessment were carried out and the BDAR amended to discount all species credits and as a consequently, reduce the proponents offset liability. The BCD has agreed to undertake a second review of the BDAR being Rev 3 (this is highly unusual as generally only one review from the BCD is allowed per development proposal). Unfortunately, the BC's second review of the BDAR will not be received by Council until after the submission of this report. However, verbal advice from the BCD has been that climatic conditions have not improve to such an extent in the region to discount assumed presence of flora and fauna species.

With this in mind Council staff have reviews the BDAR have agreed with the findings of Rev 3 accept for the exclusion of one flora species which is considered more than likely to be present at the proposed development site if climatic conditions were normal. That flora species is *Homopholis belsonii* (Belson's Panic). It was considered that not enough evidence was provided in the BDAR Rev 3 by the proponent to remove the species from the payment of credit offsets. It is recommended that the BDAR be amended to reinstate *Homopholis belsonii* (Belson's Panic) as a 'Assumed Present' species type.

Thus Ecosystem and Species credits should be:

PCT	Vegetation Zone	Area Impacted (ha)	Credits Required
147: Mock Olive – Wilga – Peach Bush – Carissa semi-evergreen vine thicket (dry rainforest) mainly on basalt soils in the Brigalow Belt South Bioregion	1	1.13	46
	2	0.60	23
Total		1.73	69
418: White Cypress Pine – Silverleaved Ironbark – Wilga Scrub grass woodland of the Narrabri-Yetman region, Brigalow Belt South Bioregion	1	5.43	156
	2	1.36	18
	3	0.19	2
Total		6.98	176
TOTAL ECOSYSTEM CREDITS REQUIRED			245

Species	NSW listing (BC Act)	Species presence type	PCT/ (Vegetation Zones)	Potential SAI	Area Impacted (ha)	Credits Required
<i>Homopholis belsonii</i> (Belson's Panic)	Endangered	Assumed Present	All Zones	N/A	8.79	152
TOTAL SPECIES CREDITS REQUIRED						152

Section 7.4 of the BDAR Rev 3 seeks to have a condition of consent included that would allow the proponent to retire credits in instalment over the lifecycle of the quarry, with a bank guarantee for the total credit obligation provided to the Biodiversity Conservation Trust prior to the commencement of works.

Advice from the Biodiversity Conservation Division of NSW Planning Industry and Environment is that under s7.13(5) of the BC Act, proponents are required to retire biodiversity credits before development is carried out that would impact on those biodiversity values. However, s7.13(5) also provides that for concept developments (defined under Division 4.4 of the EPA Act), the biodiversity credits that relate to each stage of the concept development can be retired prior to the commencement of stages. The proposed development of Pearlman Quarry was not lodged, registered or requested by the proponent to be assessed as a Concept Development as defined under Division 4.4 of the EPA Act. As such the full biodiversity credit obligation is due to the Biodiversity Conservation Trust prior to the commencement of any works for the proposed development.

ii. Noise and Dust

The proposed development is considered to comply with all separation distance criteria for noise and dust emissions. A comprehensive Noise Impact Assessment by Advitech Environmental and Land Use Conflict Risk Assessment by SMK Consultants have adequately addressed any potential impacts by careful siting of quarry equipment, minimise noise and

dust emissions through effective equipment maintenance and dust suppression, and implementation of a Mine Safety Management System. Greater detail regarding these issues is address in Annexure 1, throughout the EIS (Annexure 3) and the EIS Appendices (Annexure 4).

It is consider that the impacts of noise and dust will be adequately mitigated through the implementation of the proposed development management and mitigation practices. A summary of all mitigation measure, including dust suppression and noise minimisation for the construction and operation of the proposed development is included at pages 30-37 of the EIS (see Annexure 3 of this report).

iii. Erosion and Sediment Contamination

The impacts of erosion on landform during and after the operation of an extractive industry is a key general consideration of all quarry activities, the extent of which differs from site to site. The property “Tikitere” is located within undulating slopes of between 1-6%. The site of the proposed quarry is located along a low ridgeline only rising approximately 10 above the surrounding landform. The normal path of surface water along the ridge lin varies with each aspect of the landform. As such, the construction of sedimentation basins have been proposed a four locations around the perimeter of the quarry’s excavation site in order to slow the overland flow of water from the site and the capture of any surface water containing sediment or other contaminants.

The proposed development will include as part of the Quarry Environmental Management Plan comprehensive Soil and Water Management Strategy including a Erosion and Sediment Control Plan prepared in accordance with the DECC (2008) *Managing Urban Stormwater – Soils and Construction (Volume 2E)*. The plan will protect the surrounding agricultural land from erosion caused by the remove of vegetation and topsoil during the construction and operation of the quarry on the site.

It is considered that the potential for erosion impacts to affect surrounding properties and their agricultural operations is minimal, and with the implementation of the proposed mitigation measures for the site is considered adequate. Likewise, the proposed development will not significantly affect existing cultivation of the surrounding fields within “Tikitere” as long as mitigation measures and management protocols are upheld during the operation and rehabilitation of the site. Similarly, it is considered that potential impacts of erosion and sediment contamination of natural waterways in the area are low to non-existent due to their distance from the site. Should the erosion mitigation measures stated in the EIS and Quarry Environmental Management Plan prove to be inadequate the applicant must employ any and all further necessary and practical measures to mitigate any erosion on or outside the proposed development site caused by the quarry’s operations and/or activities.

iv. Aboriginal Heritage

The proposed development site is located within the area managed by the Moree Local Aboriginal Land Council MLALC and within the land claim region of the Gomeroi Nation. Although direct consultation with the MLALC was sought but not undertaken by the applicant, a due diligence archaeological survey, as required by legislation, was undertaken. The due diligence process includes a search of the Aboriginal Heritage Information Management System (AHIMS) register, an assessment of the landscape to identify any signs of disturbance by aboriginal ancestors and a desktop and visual inspection of the site for artefacts and sites. A detailed Aboriginal Cultural Heritage Assessment and a Historical Heritage Archaeological Report were prepared by Advitech Environmental on behalf of the proponent. As a part of the Aboriginal Cultural Heritage Assessment field surveys were conducted in conjunction with two registered interested Aboriginal representatives. Several items or sites of Aboriginal significance were identified by a AHIMS search to be located in the general facility of the proposed quarry site. The field surveys failed to locate

any known items or sites of Aboriginal significance within the quarry's excavation footprint or stockpile area. However, a previously unknown item of Aboriginal significance was located within the proposed quarry footprint. The item of significance was a fallen scar tree which was located close to a Kurrajong Tree on the eastern slope of the ridgeline. The interested Aboriginal representative present connected the site to a potential Women's site and recommended that any further assessment of the site be carried out with female Aboriginal representatives in attendance. The site has been excised from the site, along with a 15m buffer protection zone. The area will be fenced and sign posted as a no-go area to prevent disturbance during quarry operations and to allow the item to remain in situ for any future assessment. No other artefacts or archaeology was located. The due diligence guidelines have been followed and the applicants consultants, Advitech Environmental, have prepared and provided a summary of the survey results as a part of the EIS and Attachments (see Attachments 4 and 5).

As a part of the consultation process Council received a submission (See Annexure 5) particularly questioning the adequacy of the applicants due diligence survey, citing the discovery of scar trees and stone artefacts on the "Tikitere" property as well as the possibility of an pre-colonial axe quarry on the proposed quarry site. Further correspondence with the applicant's consultants, Advitech Environmental, confirmed and clarified the submitter's claims. This clarification is further discuss in section 5 of this report, section 6.9 of the Annexure 1 to this report and Annexure 5.

It is unlikely that the proposed development will result in the disturbance of any known Aboriginal sites or objects and the newly discovered item has been protected from disturbance or destruction by the quarry operations. In the event of a site or artefact being discovered during the construction or operation of the proposed development all ground-disturbing activities will cease, the area protected and notification of OEH and the appropriate Local Land Council will be undertaken. The impact of the proposed development on Aboriginal Heritage is deemed to have satisfactorily complied with the legislation and guidelines. Additionally, adequate management and mitigation measure will be implemented by the quarry operator to ensure minimum impacts are experienced.

v. Haulage Routes

Detailed information regarding the delivery of processed material via the road network is available in section 4.9, but in summary the following roads are proposed to be used:

- Croppa Creek Road
- Croppa Moree Road
- North Star Road
- IB Bore Road
- Bruxner Way
- Buckie Road
- Tucka Tucka Road
- Tumba Road
- Boonery Park Road
- Crooble Road

Some of these road are sealed, unsealed or partial sealed. Some are located within the Moree Plains Shire Council. The proponent has proposed reasonable management and mitigation measure that will be implemented by the quarry operator to ensure minimum impacts are experienced by those located along the haulage routes. These management and measure shall form part of the Quarry Environmental Management Plan and Traffic Management Plan.

In addition to the proponents management and mitigation measure Council's Technical Service Department has recommended that the following conditions be included in the Draft Conditions of Consent:

- That both the Boonery Park Road and Tumba Road be upgraded to Arterial gravel road standard (8m crushed rock formation, 200mm thick) and the intersections of both roads be upgraded to Austroad standards to the nominated haulage configuration and predicted volumes at the cost of the proponent. Additionally any side tracks should be eliminated or blocked off due to potential conflict between vehicles merging between the two formations.
- That a condition of consent be included that states, that until IB Bore Road is upgraded to a sealed formation, approval is not granted to utilise the road as a haul route.
- That all unsealed roads must be avoided during adverse weather conditions.
- That the intersection of the quarry access road and Croppa Creek Road is to be upgraded to CHR/CHL Austroads standard, and until such time as the upgrade has been undertaken, total combined vehicle movements from both quarries must not exceed 15 per hour.
- A s94 Contribution rate is to be paid to the Gwydir Shire Council of \$1.12 per tonne.

The proponent has suggested that amount of s94 Contributions be paid to the Moree Plains Shire Council of 50 cents per tonne. However, it would be presumptuous of this assessment to accept this rate on behalf of the Moree Plains Shire Council without expressed written permission. To date this permission has not been given. Therefore it is suggested that a condition be included in the Schedule of Conditions accompanying any approval, that obligates the proponent to enter into a written agreement with the Moree Plains Shire Council regarding this matter prior to commencement of works. In addition, a copy of that agreement be presented to Gwydir Shire Council as proof of this conditions fulfilment prior to commencement of the proposed quarry operations.

5 Consultation

The proposed development was notified under Gwydir Shire Council's Community Consultation Policy for period of 28 days. Council received one submission (See Annexure 5) objecting to the proposed development. The main concerns raised along with the proponents response are summaries as follows:

1	Tikitere Bora Ground	<ul style="list-style-type: none"> • Group of Carved Trees are almost certainly a bora (initiation) ground. • Somewhere close to the proposed quarry site is a very important Aboriginal sacred site which was not addressed in the EIS. • Carved trees and there locality are documented in AHIMS • The Parish name Booraba – suffix Baa meaning place of or domain of, which adds to 	<ul style="list-style-type: none"> • The AHIMS register was reviewed as part of the Aboriginal Cultural Assessment Report. • During the assessment known AHIMS registered locations where reviewed in relation to the quarry footprint • During the assessment a previously unknown scar tree was located and the quarry site modified to ensure
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		the idea that the locality is of ceremonial significance.	the location was avoided.
2	Artefacts Known	<ul style="list-style-type: none"> • Aboriginal stone artefacts have been found along Tackinbri Creek near Croppa Creek to the south east of the proposed quarry. • Artefacts are likely to be found across the landscape where ground visibility is high. 	<ul style="list-style-type: none"> • The Aboriginal Cultural Assessment reports field assessment was undertaken in conjunction with interested aboriginal parties. • The field assessment concentrated on the presence of heritage items within the disturbance footprint for the quarry. • Tackinbri Creek is over 2.5km from the quarry site and consists of a different landscape which may be of higher cultural heritage value.
3	Possible Axe Quarry	<ul style="list-style-type: none"> • Based on known examples, small outcrops of hard basalt rock may have been quarried in pre-colonial times for stone axe heads, an important tool and trade item. • The quarry site and any basalt parts of the larger hill to the east should be thoroughly inspected for a Aboriginal axe quarry 	<ul style="list-style-type: none"> • The Cultural Heritage Assessment followed relevant industry guidelines including: <ul style="list-style-type: none"> - The Burra Charter - Guide to investigation, assessing and report on Aboriginal cultural heritage in NSW - Aboriginal Cultural Heritage Consultation Requirements for Proponents - Code of Practice for Archaeological investigation of Aboriginal Objects in NSW - Due Diligence Code of Practice for the Protection of Aboriginal

			Objects in NSW
4	Mitigation Relating to Cultural Heritage is Inadequate	<ul style="list-style-type: none"> Proposed mitigation with regards to unexpected finds not convincing as it relies on staff and contractors to recognise artefacts. Suggests that regular visits by a skilled local Aboriginal person throughout the quarries operations to check and train staff in what to look for. 	<ul style="list-style-type: none"> Awareness raising of Cultural Heritage Values at the site in only one part of the Quarry's Environmental Management Plan. Other measures include exclusion zones, fencing and signage for the scar tree, hazard identification and reporting, routine area inspections and pre-clearing inspections.
5	Aboriginal Consultation is Necessary	<ul style="list-style-type: none"> Consultation with the Aboriginal Community regarding potential impacts has not been carried out. Failed attempts at contacting the Local Aboriginal Land Council do not count. 	<ul style="list-style-type: none"> Refer to point 3 above
6	Commonwealth Legislation	<ul style="list-style-type: none"> Proposal should be referred to Commonwealth Minister under the Environment Protection and Biodiversity Conservation Act in relation to impacts on Semi-Evergreen Vine Thicket ECC 	<ul style="list-style-type: none"> Advitech Environmental completed a Biodiversity Development Assessment Report (BDAR) as part of the proposal. The BDAR has been accepted by the NSW Office of Environment and Heritage
7	Vegetation Management Plan	<ul style="list-style-type: none"> A Vegetation Management Plan should be assessed and approved prior to granting any development consent. The Vegetation Management Plan should be made an enforceable condition of consent. 	<ul style="list-style-type: none"> The BDAR covers the approval requirements with respect to vegetation aspects.
8	Protect the EEC	<ul style="list-style-type: none"> The DA should be refused based on the loss 	<ul style="list-style-type: none"> Refer to points 6 and 7 above

		<p>of the Semi-Evergreen Vine Thicket.</p> <ul style="list-style-type: none"> • The remaining Semi-Evergreen Vine Thicket be placed under a conservation management agreement to offset the area being destroyed by the quarry. • That the Aboriginal Community have an opportunity to be involved in the management of this vegetation area. 	
9	Groundwater	<ul style="list-style-type: none"> • Likely diversion of surface waters and increase in groundwater recharge once quarrying is completed and the site rehabilitated. • This requires further analysis 	<ul style="list-style-type: none"> • Rehabilitation will include the replacement of topsoil and revegetation of disturbed areas. • Groundwater recharge will not be accelerated in these areas.
10	Rehabilitation	<ul style="list-style-type: none"> • The proposed rehabilitation fund of \$15,000 is inadequate and more is recommended 	<ul style="list-style-type: none"> • Plant, equipment and labour costs are considered in-kind costs that have been excluded for this estimate
11	Cumulative Impacts	<ul style="list-style-type: none"> • The proposed quarry is in addition to the existing Tikitere Quarry. Both quarries are part of the inland rail development and should be assessed as cumulative parts of the major development, rather than as small stand-alone proposals 	<ul style="list-style-type: none"> • This point was not addressed in the applicant's response.

6 Conclusion

It is considered that the development application submitted to Council by Alan Pearlman for the operation of a 490,000 tonne/year Basalt Quarry, including the crushing plant, sediment pond, roads, fences, stockpiles and stormwater diversion methods, satisfactorily addresses:

- S4.15 matters for consideration of the Environmental Planning and Assessment Act 1979, and

- Addresses the potential impacts of the proposed quarry operations which can be either mitigated or managed
- is generally considered in the public interest

Based on the assessment, it is considered that the merits of the proposal warrant development approval subject to the recommended draft conditions of consent (see Annexure 2) and the recommendations of stated in the assessment report.

The conditions take into consideration issues raised by internal and external Government Departments and land owners. Conditions of consent establish compliance controls, performance and environmental audits to mitigate and manage the environmental impacts of the proposal to an acceptable level.

RECOMMENDATION

THAT the Joint Regional Planning Panel:

- Receive, consider the findings and recommendations of this report in relation to the proposal for the 490,000 tonne/yr quarry operation to be known as Pearlman's Quarry,
- Subject to the Conditions of Consent attached.

Further that the applicant is advised of Joint Regional Planning Panel decision and of their right to appeal to the Land and Environment Court within 12 months after the date of determination.

Further that the objectors are notified of the Joint Regional Planning Panel's decision.