



Goulburn Mulwaree Council
Locked Bag 22
Goulburn NSW 2580

Civic Centre
184 - 194 Bourke Street
Goulburn NSW 2580
t (02) 4823 4444
e council@goulburn.nsw.gov.au
www.goulburn.nsw.gov.au

DRAFT

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

Pursuant to Sections 4.16(1), 4.17 & 4.18 of the Environmental Planning and Assessment Act 1979 **'the Act'**

Development Application No:	DA/0313/2122
Applicant's Name:	Andrew Divall 17090 Hume Highway CARRICK NSW 2580
Land to be developed:	Lot 1 DP 235911 and Lot 2 DP 874997
Property Address:	282 Carrick Road CARRICK NSW 2580
Approved Development:	Establishment and operation of a temporary resource recovery facility that would recover and process up to 45,000 tonnes of excavated public road material (EPRM) for a maximum period of 18 months
Cost of Development:	\$ 49,330.43
Determination:	The application was determined by the Southern Regional Planning Panel by granting consent subject to the conditions listed in Schedule 1 DATE .
Other Approvals:	Not Applicable
Consent is to operate from:	DATE
Consent will lapse on:	The consent lapses five years after the date of consent in accordance with Section 4.53 of 'the Act' and cannot be extended. Works must physically commence onsite by DATE
BCA Classification:	Not Applicable

REASONS FOR CONDITIONS

Section 4.17 of the **'the Act'** provides for the imposition of conditions to address matters discerned during evaluation of the proposal under Section 4.15 of **'the Act'**. An unconditioned consent may affect the environmental amenity of the locality, the wider area and would, therefore, not be in the public interest.

REASON FOR THE DECISION:

The development application has been assessed against all applicable environmental planning instruments and was found to be generally satisfactory, including in relation to the Goulburn Mulwaree Local Environmental Plan 2009 **'GM LEP 2009'**.

The development application if carried out will not likely result in any unreasonable adverse effects on the local built and natural environments and is unlikely to result in any unreasonable adverse social or economic impact.

The development application would promote the orderly and economic use and development of land and its approval is in the public interest.

The development application having regard to the provisions of Section 4.15 of **'the Act'**, is considered to be satisfactory and therefore, can be approved subject to conditions.

HOW WERE COMMUNITY VIEWS TAKEN INTO ACCOUNT IN MAKING THE DECISION?

The application was required to be notified in accordance with the *Goulburn Mulwaree Community Participation Plan*.

A total of four (4) legible submissions were received. One (1) submission provided their support for the proposal. The other three (3) submissions raised the following matters:

- Traffic safety – Traffic safety associated with the Hume Highway and the intersection in question are the responsibility of Transport for NSW (TfNSW). TfNSW would be required to consider the impact of the temporary mitigation measures on Hume Highway traffic (in terms of safety, Level of Service and cumulative impacts) and the site intersection with any Road Occupancy License sought under the *Roads Act 1993*.
- Justification for location – Use of the Marulan bypass site was immediately discounted given the road reserve is not sufficiently sized to permit a suitably sized area to be established that could stockpile the excavated material, process it, and stockpile the processed material prior to using it on site. Coupled with the fact that the Marulan Bypass work area is over several kilometres long, a single processing site at the bypass would still require haulage of materials to this work area.
- Noise - The overall level of noise emission from the operation of the site is at or below the Environment Protection Authority's (EPA) Project Noise Trigger Levels at all receptors during the day, evening and night time periods, with the exception of Receptor R3 on some occasions (R3 is located on the subject site).
- Air quality - It is unlikely that traffic associated with the temporary use would result in any dust-related impact on livestock, nor effect on pasture palatability, particularly given that loads to and from the site are legally required to be covered.
- Income from business impacted – Rental income loss and impact on property values are not considerations under section 4.15 of the *Environmental Planning and Assessment Act 1979*.

Conditions regarding hours of haulage, noise parameters, amenity conditions and operational matters will adequately address any potential and unreasonable adverse impacts to the locality and ensure the protection of the environment and public interest.

REVIEW OF DETERMINATION:

A right to request a review of this determination exists under Division 8.2 of **'the Act'** provided that this determination is not made in respect of designated or Crown development. The determination cannot be reviewed after the expiry of six (6) months from the date of determination.

RIGHT OF APPEAL:

Section 8.7 of **'the Act'** provides for the right to appeal to the Land and Environment Court within six (6) months after the date of determination. Where a development consent is for designated development, **'the Act'** gives a right of appeal to an objector. That appeal may only be made within twenty-eight (28) days after the date the objector is notified of the decision. In all other circumstances there is no right of appeal to the Court by an objector.

If considering exercising a right of appeal or lodging a request for a review, it may be advisable to obtain legal advice regarding the interpretation of your rights in relation to such matters.

Date of Endorsement: **DATE**

Ellie Varga

SENIOR DEVELOPMENT ASSESSMENT OFFICER

for and on behalf of

SOUTHERN REGION PLANNING PANEL

Conditions

Consent is granted subject to the following conditions imposed pursuant to Section 4.17 of the *Environmental Planning & Assessment Act 1979* 'the Act' and the provisions of the *Environmental Planning & Assessment Regulation 2021* 'the Regulation' such conditions being reasonable and relevant to the development as assessed pursuant to Section 4.15 of 'the Act'.

Interpretation of Conditions – Where there is any need to obtain an interpretation of the intent of any condition this must be done in writing to Council and confirmed in writing by Council.

Satisfaction of Conditions – Where information is to be submitted to 'Council' to discharge a condition then that information is to be sent via email: council@goulburn.nsw.gov.au marked for the attention of the Planning & Development Business Unit accompanied by a clear explanation as to what information is being provided and why. Please note review and advice fees may apply in accordance with Council's adopted fees and charges.

Definitions

Unless specified otherwise, words in this document have the same meaning as defined by 'the Act' 'the Regulation' the *Interpretation Act 1987* and 'GM LEP 2009' as in force at the date of consent.

- '**Accredited Certifier**' means the holder of a certificate of accreditation as an accredited certifier as described under the *Building Development Certifiers Act 2018*.
- '**Applicant**' means the applicant of the development application to which this Notice of Determination has been issued for.
- '**Approved Plans**' means the plans endorsed by Council referenced by this Notice of Determination as amended by conditions of this consent.
- '**AS** or **AS/NZS**' means Australian Standard or Australian/New Zealand Standard, respectively, published by Standards Australia International Limited.
- '**Certifier**' means a Council or an accredited certifier.
- '**Council**' means Goulburn Mulwaree Council.
- '**Court**' means the Land and Environment Court.
- '**EPA**' means Environment Protection Authority.
- '**EPRM**' means excavated public road material
- '**GM LEP 2009**' means the *Goulburn Mulwaree Local Environmental Plan 2009*.
- '**GM DCP 2009**' means the *Goulburn Mulwaree Development Control Plan 2009*.
- '**L_{Aeq} (15 minute)**' means 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*).
- '**L_{AFmax}**' – the maximum sound pressure level of an event measured with a sound level meter satisfying Australian Standard AS IEC 61672.1-2013 *Electroacoustics - Sound level meters - Part 1: Specifications* set to 'A' frequency weighting and fast time weighting.
- '**Local Native Plants/Trees**' means species of native plant or tree endemic to the Goulburn Mulwaree Local Government Area.
- '**MBPR Project**' means the Marulan Bypass Pavement Rehabilitation Project.
- '**NCC**' means the National Construction Code as published by the Australian Building Codes Board as in force at the date of issue of any Construction Certificate.
- '**Noise Policy for Industry**' means the document titled the document entitled "Noise Policy for Industry" published by the NSW Environment Protection Authority in October 2017.
- '**Owner**' means the owner of the site and successors in title to the site.
- '**Principal Certifier**' for building or subdivision work means the '**Certifier**' appointed as the principal certifier for the building work under s.6.6 (1) of 'the Act' for the subdivision work under s.6.12 (1) 'the Act'.
- '**Professional Engineer**' has the same meaning as in the National Construction Code.
- '**POEO Act**' means the *Protection of the Environment Operations Act 1997*.
- '**Public Place**' has the same meaning as in the *Local Government Act 1993*.
- '**Road**' has the same meaning as in the *Roads Act 1993*.

- **'SoEE'** means the final version of the Statement of Environmental Effects lodged by the *Applicant*.
- **'Site'** means the land being developed subject to this Notice of Determination.
- **'the Act'** means *Environmental Planning and Assessment Act 1979* as amended.
- **'the Development Certification and Fire Safety Regulation'** means *Environmental Planning and Assessment (Development Certification and Fire Safety) Regulation 2021*
- **'the Regulation'** means *Environmental Planning and Assessment Regulation 2021*.
- **'Works'** for the purposes of this Notice of Determination means:
 - a. the use of land in connection with development;
 - b. the subdivision of land;
 - c. the erection of a building;
 - d. the carrying out of any work;
 - e. the carrying out of earthworks;
 - f. the use of any site crane, machine, article, material, or thing;
 - g. the storage of any waste, materials, site crane, machine, article, material, or thing;
 - h. the demolition of a building;
 - i. the piling, piercing, cutting, boring, drilling, rock breaking, rock sawing or excavation of land;
 - j. the delivery to or removal from the *site* of any machine, article, material, or thing; or
 - k. the occupation of the *site* by any person.

SCHEDULE ONE:**SECTION A: GENERAL CONDITIONS****1. Approved Development and Use**

Development consent has been granted in accordance with this Notice of Determination for the purpose of operating a temporary resource recovery facility under the *Goulburn Mulwaree Local Environmental Plan 2009* for processing EPRM associated with the MBPR Project.

(Reason: *To confirm the components of the approval)*

2. Development in Accordance with Documentation

The development must only be carried out:

- a) in compliance with the conditions of this Notice of Determination; and
- b) in accordance with the approved plans and documentation listed in the table below.

DOCUMENT REF.	REV	TITLE OF PLAN OR DOCUMENT	PREPARED BY	DATE
-	Final	Environmental Impact Statement	GYDE	01/11/2021
-	-	Response to RFI Letter	GYDE	11/03/2022
-	-	Response to Requests for Information	GYDE	10/06/2022
2108005E-R	B	Environmental Noise and Vibration Assessment	Harwood Acoustics	09/06/2022
2108005E-I2	-	Response to Acoustic Peer Review	Harwood Acoustics	09/06/2022
610.30523.0000 0-R01	-v1.0	Air Quality Impact Assessment	SLR Consulting	03/09/2021
-	-	Bushfire Assessment	Nattery Consulting Pty Ltd	As Submitted
-	-	Preliminary Risk Screening	Divall's Earthmoving & Bulk Haulage	24/09/2021
-	00	Soil and Water Assessment	SEEC	13/09/2021
21000383 ESCP01	00	Soil and Surface Water Management Plan	SEEC	13/09/2021
PS126280- P&M-REP-001	D	Traffic Impact Study	WSP	27/10/2021
PS126280- P&M-LTR-002	B	Supporting Letter	WSP	08/06/2022
-	-	Waste Management Plan	Divall's Earthmoving and Bulk Haulage	As Submitted
-	-	Proposed Site Plan	Divall's Earthmoving & Bulk Haulage	As Submitted

(Reason: *To ensure that the development is undertaken in accordance with the submitted plans and documents as amended)*

3. Documentation Inconsistency

In the event of any inconsistency between the conditions of this Notice of Determination, the drawings and any accompanying documentation referred to above, the conditions of this Notice of Determination prevail, to the extent of the inconsistency.

(Reason: *To ensure that the development is undertaken in accordance with the submitted plans and documents as amended)*

4. Consent is Time Limited

The temporary use shall operate for no more than an eighteen (18) month period. This shall be known as the temporary use period. The temporary use period shall start the day of the first EPRM haul truck arriving

at the site from the MBPR Project site. The temporary use shall cease to operate on the **'site'** at the end of the temporary use period. At the end of the temporary use period, the use of the **'site'** must revert back to the use approved under development consent DA 53/96 (as modified by MOD/0077/1213) including compliance with all conditions of that consent, as though DA/0313/2122 had not been granted.

(Reason: *To confirm the development as submitted)*

5. Water NSW - General

The **'site'** layout and works shall be as specified in the Environmental Impact Statement (EIS) (dated 1 November 2021) prepared by Gyde Consulting. No revised site layout, staging or external works that will have any impact on water quality, shall be permitted without the agreement of Water NSW.

(Reason: *Water NSW has based its assessment under State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011 on this version of the development)*

6. NSW Environment Protection Authority – Information supplied to the EPA

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

- the development application DA/0313/2122 submitted to Goulburn Mulwaree Council on 5 November 2021; and
- the environmental impact statement "Temporary Waste Management Facility, 282 Carrick Road, Carrick" prepared on behalf of Denrith P/L by GYDE Consulting and dated 1 November 2021, relating to the development, and appendices to that EIS.

(Reason: *To ensure consistency and compliance with the NSW Environment Protection Authority's General Terms of Approval)*

7. NSW Environment Protection Authority – Fit and Proper Person

The applicant must, in the opinion of the EPA, be a fit and proper person to hold a licence under the *Protection of the Environment Operations Act 1997* (POEO Act), having regard to the matters in s.83 of the POEO Act.

(Reason: *To ensure consistency and compliance with the NSW Environment Protection Authority's General Terms of Approval)*

SECTION B: PRESCRIBED CONDITIONS IMPOSED UNDER EP&A ACT, THE REGULATION, AND OTHER RELEVANT LEGISLATION

8. Construction Certificate Requirements

Building work, demolition or excavation in accordance with the Notice of Determination must not be commenced until a Construction Certificate required by s.6.3 of **'the Act'** for the relevant part of the works has been issued in accordance with the provisions of **'the Act'** and **'the Regulation'**.

(Reason: *Statutory; To ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)*

9. Issue of a Construction Certificate

In accordance with cl.19 of the **'Development Certification and Fire Safety Regulation'**, the plans and specifications submitted with a Construction Certificate must be consistent with this Notice of Determination and approved plans.

(Reason: *Prescribed by legislation)*

SECTION C: CONDITIONS THAT MUST BE ADDRESSED PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

10. Civil Engineering Drawings

Prior to the issue of a Construction Certificate for earthworks associated with the establishment of Sediment Basin 3, plans shall be submitted to the **'Certifier'** demonstrating Sediment Basin 3:

- is to be constructed in accordance with the Soil and Water Assessment and the Soil and Surface Water Management Plan both prepared by SEEC dated 13 September 2021
- sediment and erosion control techniques must be in accordance with The Blue Book published by Landcom; and
- Goulburn Mulwaree Council's *Standards for Engineering Works*.

(Reason: *to ensure the development is constructed as proposed)*

SECTION D: PRIOR TO THE COMMENCEMENT OF ANY DEMOLITION, BUILDING OR SUBDIVISION WORKS

11. Sediment and Erosion Control

Where construction or excavation activity requires the disturbance of the soil surface and existing vegetation, adequate measures for erosion and sediment control must be provided. As a minimum, control techniques are to be in accordance with The Blue Book published by Landcom provisions on Erosion and Sediment Control.

All required erosion and sedimentation techniques must be properly installed prior to the commencement of any '**site**' '**works**' and maintained in a functional and effective condition throughout the construction activities until the '**site**' is stabilised.

The installation is to be approved by the '**Principal Certifier**' prior to any further commencement of '**site**' '**works**'.

(Reason: *To protect the environment from the effects of sedimentation and erosion from development sites)*

12. Prior to Commencement

'**Works**' must not commence on '**site**' in connection with this Notice of Determination until:

- a Construction Certificate (where required) for the building work has been issued by:
 - i. the consent authority; or
 - ii. an '**Accredited Certifier**'; and
- b) the person having the benefit of the development consent has:
 - i. appointed a '**Principal Certifier**' for the work, and
 - ii. notified the '**Principal Certifier**' that the person will carry out the building work as an owner-builder, if that is the case, and
- c) the '**Principal Certifier**' has, no later than two (2) days before the work commences:
 - i. notified the '**Council**' of their appointment, and
 - ii. notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- d) the person having the benefit of this Notice of Determination, if not carrying out the work as an owner builder, has:
 - i. appointed a '**Principal Contractor**' for the building work who must be the holder of a contractor licence if any residential building work is involved, and
 - ii. notified the '**Principal Certifier**' of such appointment, and
 - iii. unless that person is the '**Principal Contractor**' notified the '**Principal Contractor**' of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- e) the person having the benefit of this Notice of Determination has given at least two (2) days' notice to the '**Council**' of the person's intention to commence building work.

Documentary evidence confirming the above statutory requirements have been satisfied must be submitted to '**Council**' not less than two (2) days before any commencement of '**works**'.

(Reason: *Statutory; to ensure appropriate safeguarding measures are in place prior to the commencement of any building work, demolition or excavation)*

13. Vary Environment Protection License

Prior to the issue of a Construction Certificate for earthworks associated with the establishment of Sediment Basin 3, an application to the EPA to vary the EPL for the existing use on the site must be approved.

A copy of the approved EPL variation must be provided to the '**Certifier**' prior to the issue of a Construction Certificate to demonstrate compliance with this condition.

(Reason: *to ensure the development is constructed as proposed)*

SECTION E: CONDITIONS TO BE COMPLIED WITH DURING EXCAVATION WORKS

14. Construction Hours

All excavation '**works**' associated with site preparation (Sediment Basin 3 and trafficable bund) must be restricted to within the hours of 7.00 am to 6.00 pm Monday to Friday and on Saturday to within the hours of 8.00 am to 1.00 pm inclusive, with no work on Sundays and Public Holidays.

Note: *Excavation work means the use of any excavation machinery and the use of jackhammers, rock breakers, excavators, loaders, or the like, regardless of whether the activities disturb or alter the natural state of the existing ground stratum or are breaking up/removing materials from the site and includes the unloading of plant or machinery associated with excavation work.*

(Reason: *To ensure that works do not interfere with reasonable amenity expectations of residents and the community)*

15. Earthworks

Any earthworks (including any structural support or other related structure for the purposes of the development) must: -

- a) not cause a danger to life or property or damage to any adjoining building or structure on the lot or to any building or structure on any adjoining lot;
- b) not redirect the flow of any surface or ground water or cause sediment to be transported onto an adjoining property;
- c) in the first instance be reused on '**site**';
- d) ensure that any fill brought to the '**site**' contains only virgin excavated natural material (VENM) as defined in Part 3 of Schedule 1 to the *Protection of the Environment Operations Act 1997* or any other waste-derived material the subject of a resource recovery exemption;
- e) ensure that any excavated soil to be removed from the '**site**' is disposed of in accordance with any requirements under the *Protection of the Environment Operations (Waste) Regulation 2005*;
- f) ensure that documentation verifying the lawful disposal of all waste is to be kept by the applicant and provided to '**Council**' on request.
- g) not permit fill to change existing ground levels at the property boundary. Cutting and filling is to be restricted to that described in the submitted documentation. Any further cutting or filling will require separate approval.
- h) ensure that any excavation is carried out in accordance with *Excavation Work: Code of Practice* (ISBN 978-0-642-785442), published in October 2013 by Safe Work Australia.

(Reason: *To ensure structural safety and to ensure excavation and fill are handled correctly)*

SECTION F: CONDITIONS TO BE COMPLIED WITH PRIOR TO THE FIRST DELIVERY OF EPRM TO THE SITE

16. Trafficable Earth Bund

A trafficable earth bund must be established across the quarry floor as shown in Figure 5 of the Soil and Water Assessment and the Soil and Surface Water Management Plan, both prepared by SEEC dated 13 September 2021 prior to the receipt of any EPRM associated with the MBPR Project at the site. The trafficable earth bund must have the purpose of delineating the EPRM processing area and separating its catchment from other parts of the quarry floor.

The installation must be approved by the '**Principal Certifier**' prior to the first delivery of EPRM at the '**site**'.

(Reason: *To ensure the development is undertaken as proposed)*

17. Sediment Basin 3

Sediment Basin 3 must be constructed in accordance with Table 6 of the Soil and Water Assessment and the Soil and Surface Water Management Plan both prepared by SEEC dated 13 September 2021 prior to the receipt of any EPRM associated with the MBPR Project at the site.

The installation must be approved by the **'Principal Certifier'** prior to any further commencement of **'site' 'works'**.

(Reason: *To ensure the development is undertaken as proposed)*

18. Water NSW – Stormwater Management

All stormwater management measures as specified in the Soil and Water Assessment - Appendix J of the EIS (Revision 00; dated 13/09/2021) and associated Soil and Surface Water Management Plan (Project 21000383; Drawing ESCP01; Rev 00; dated 13/09/21) prepared by SEEC, shall be incorporated in the existing Quarry Environmental Management Plan to be approved by Council.

(Reason: *To ensure that the stormwater quality management measures and structures for the proposed development have a sustainable neutral or beneficial impact on water quality over the longer term)*

19. Water NSW - Stormwater Management

A suitably qualified stormwater consultant or engineer shall certify in writing to Water NSW and Council, prior to the issuance of an approval for the commencement of operations to recover and process EPRM, that all stormwater management structures have been installed as per these conditions of consent and are in a functional state.

(Reason: *To ensure that the stormwater quality management measures and structures for the proposed development have a sustainable neutral or beneficial impact on water quality over the longer term)*

20. Water NSW – Stormwater Management

The existing Quarry Environmental Management Plan (QEMP) shall be updated in consultation with Water NSW by a person with knowledge and experience in the preparation of such plans. The QEMP shall be updated prior to the issuance of an approval for the commencement of operations to recover and process EPRM. The updated QEMP shall also:

- include details on the location, description and function of stormwater management structures such as bunds and ponds and any other stormwater structures and drainage works
- outline the responsibilities and detailed requirements for the inspection, monitoring and maintenance of all stormwater management structures, including the frequency of such activities
- identify the individuals or positions responsible for inspection and maintenance activities, including a reporting protocol and hierarchy, and
- include checklists for recording inspections and maintenance activities.

(Reason: *To ensure that the stormwater quality management measures and structures for the proposed development have a sustainable neutral or beneficial impact on water quality over the longer term)*

21. Traffic Management Plan

Prior to any additional trips to or from the site, the developer (or contractor for the MBPR Project team) must obtain approval for the facility's Traffic Management Plan (TMP) from the Marulan Bypass Pavement Rehabilitation Project team. The TMP must be prepared in accordance with RMS Specification G10. A copy of the TMP and written approval must be emailed to development.south@transport.nsw.gov.au.

(Reason: *To satisfy the requirements of TfNSW (Development Southern))*

22. Road Occupancy License for temporary traffic mitigation measures on the Hume Highway

Prior to any additional trips to or from the site, the developer (or contractor for the MBPR Project team) must apply for, and obtain a Road Occupancy Licence (ROL) from the TfNSW Traffic Operations Unit (TOU) prior to commencing roadworks on the Hume Highway or any other works or traffic control measures that impact a travel lane of the Hume Highway.

All activities associated with the consent must be conducted under the project ROL obtained from TfNSW.

Notes: *For information on the ROL process and to lodge an ROL application, please visit*

<https://myrta.com/oplinc2/pages/security/oplincLogin.jsf>

The applicant will need to create an account (this may take a few days to register), prior to submitting the ROL application. The applicant must submit the ROL application 10 business days prior to commencing work. It should be noted that receiving an approval for the ROL within this 10 business day period is dependent upon TfNSW receiving an accurate and compliant TMP.

The application will require a Traffic Management Plan (TMP) to be prepared by a person who is certified to prepare Traffic Control Plans. Should the TMP require a reduction of the speed limit, a Speed Zone Authorisation will also be required from the TOU.

An approved ROL does not constitute an approval to commence works until an authorisation letter for the works has been issued by TfNSW Project Manager.

(Reason: Statutory; to satisfy the requirements of section 138 of the Roads Act 1993)

23. Prior to Commencement

The temporary use must not commence on **'site'** in connection with this Notice of Determination until:

- a) a Subdivision Works Certificate for the subdivision work has been issued by:
 - iii. the consent authority; or
 - iv. an **'Accredited Certifier'**; and
- b) the person having the benefit of this Notice of Determination has:
 - iii. appointed a **'Principal Certifier'** for the subdivision work, and
- c) the **'Principal Certifier'** has, no later than two (2) days before the subdivision work commences:
 - iii. notified the **'Council'** of his or her appointment, and
 - iv. notified the person having the benefit of the development consent of any inspections that are to be carried out in respect of the subdivision work, and
- d) the person having the benefit of this Notice of Determination has given at least two (2) days' notice to the **'Council'** and the **'Principal Certifier'** if not **'Council'** of the person's intention to commence subdivision work.

Documentary evidence confirming the above statutory requirements have been satisfied must be submitted to **'Council'** not less than two (2) days before any commencement of **'works'**.

(Reason: Statutory; to ensure appropriate safeguarding measures are in place prior to the commencement of any subdivision work)

SECTION G: CONDITIONS TO BE COMPLIED WITH AT ALL TIMES

24. Impact on Amenity of Locality

At all times the implementation and intensity of this development must not adversely affect the amenity of the locality by reason of the emission of noises, noxious fumes, odours, waste and traffic generation.

(Reason: To ensure that the amenity of the surrounding locality is not adversely affected by the nature of the approved activity)

25. Dust Emissions and Air Quality

Any person acting on this Notice of Determination must ensure that the following condition is adhered to during site preparation works and whilst the temporary use is operating at the **'site'**:

- a) Dust mitigation measures as recommended in Section 8 (Table 23) of the approved *Air Quality Impact Assessment* prepared by SLR Consulting dated 03/09/2021;
- b) materials must not be burnt on the **'site'**;
- c) vehicles entering and leaving the **'site'** with soil or fill material must be covered;
- d) dust suppression measures as required must be carried out throughout the undertaking of the **'works'** to minimise wind-borne emissions;
- e) exposed surfaces and stockpiles are suppressed by regular watering or hydro mulching;
- f) odour suppression measures must be carried out where appropriate so as to prevent nuisance occurring at adjoining properties;
- g) public roads used by these trucks are kept clean; and
- h) land stabilisation works are carried out progressively on site to minimise exposed surfaces.

(Reason: To protect the environment and the amenity of the surrounding area)

26. Haul Periods

There shall be no more than two 12 hour haul truck periods in any week. For the purpose of this Notice of Determination, a 'week' is from Monday 12.00am to Sunday 11.59pm.

The two haul periods are:

- one haul period where EPRM is received at the site; and
- one haul period where treated EPRM is returned to the MBPR Project site.

These two haul periods shall never occur at the same time or overlap. Only one of each of the above nominated haul periods can occur in a week.

(Reason: *To confirm the components of the development; to ensure site safety; to ensure the amenity of the locality is not adversely impacted)*

27. Restriction of Haul Periods

Haul periods, where possible, shall not occur within the following peak periods as identified in the Traffic Impact Assessment prepared by WSP, dated 27 October 2021.

Time Period	Activity
8.00am – 9.00am	Light vehicle inbound staff arrival School Buses
9.00am – 10.00am	Heavy vehicles leaving the site
2.00pm – 4.00pm	2019 sustained Hume Highway traffic flow peak (figure 3.5 in TIA) Note: the TIS indicate 3.00pm-4.00pm School buses
5.00pm – 6.00pm	Light vehicle outbound staff departure

(Reason: *To confirm the components of the development; to ensure site safety; to ensure the amenity of the locality is not adversely impacted)*

28. EPRM Storage on Site

At all times, no more than 5000t of EPRM is permitted to be stockpiled on 'site', at any one time.

(Reason: *To confirm the components of the development)*

29. Waste

In accordance with the approved Waste Management Plan, no EPRM, binder, bi-product, or product, associated with the temporary use shall be disposed of to landfill.

(Reason: *To confirm the components of the development; to ensure site safety; to ensure the amenity of the locality is not adversely impacted)*

30. Nil Discharge

The temporary use must remain consistent with the EPL for the 'site' and result in nil-discharge of water occurring.

(Reason: *To ensure consistency with the EPL for the site and ensure the proposal would have an sustainable neutral or beneficial effect on water quality)*

31. Water NSW – Stormwater Management

No changes to stormwater treatment and management that will have any impact on water quality, shall be permitted without the agreement of Water NSW.

(Reason: *To ensure that the stormwater quality management measures and structures for the proposed development have a sustainable neutral or beneficial impact on water quality over the longer term)*

32. Water NSW – Stormwater Management

All stormwater treatment and management structures shall be monitored, maintained and managed as per the Quarry Environmental Management Plan.

(Reason: *To ensure that the stormwater quality management measures and structures for the proposed development have a sustainable neutral or beneficial impact on water quality over the longer term)*

33. NSW Environment Protection Authority – Dust

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

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

(Reason: *To ensure consistency and compliance with the NSW Environment Protection Authority's General Terms of Approval)*

34. NSW Environment Protection Authority – Hours of Operation

Unless otherwise agree to in writing by the EPA, activities covered by the Licence must only be carried out during the operating hours in the table below:

Activity	Day	Time
Crushing, grinding or separating. Extractive activities	Monday to Friday	7.00am - 6.00pm
	Saturday	7.00am - 6.00pm
	Sunday and Public Holidays	Nil
Resource Recovery	Monday to Thursday	12.00am - 11.59pm
	Friday	12.00am to 12.00pm
	Saturday, Sunday and Public Holidays	Nil

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

The hours of operation specified above 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.

(Reason: *To ensure consistency and compliance with the NSW Environment Protection Authority's General Terms of Approval)*

35. NSW Environment Protection Authority – Pollution of Waters

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.

(Reason: *To ensure consistency and compliance with the NSW Environment Protection Authority's General Terms of Approval)*

36. NSW Environment Protection Authority – Waste

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

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.

The licensee must not cause, permit or allow any waste to be received at the premises, except the wastes expressly referred to in the column titled "Waste" and meeting the definition, if any, in the column titled "Description" in the table below.

Any waste received at the premises must only be used for the activities referred to in relation to that waste in the column titled "Activity" in the table below.

Any waste received at the premises is subject to those limits or conditions, if any, referred to in relation to that waste contained in the column titled "Other Limits" in the table below.

This condition does not limit any other conditions in this licence.

Code	Waste	Description	Activity	Other Limits
N/A	General or Specific exempted waste	Waste to which "The excavated public road material order 2014" applies.	Resource Recovery	The waste must be sourced only from the Marulan Bypass Project, during the life of that project.

(Reason: To ensure consistency and compliance with the NSW Environment Protection Authority's General Terms of Approval)

37. NSW Environment Protection Authority –Noise Limits

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 $L_{Aeq}(15 \text{ minute})$	Evening $L_{Aeq}(15 \text{ minute})$	Night $L_{Aeq}(15 \text{ minute})$	Night L_{AFmax}
R1	42	42	42	47
R2	40	36	36	40
R3	40	38	38	42

For the purposes of the above Table:

- Day means the period from 7am to 6pm Monday to Saturday and the period from 8am to 6pm Sunday and public holidays.
- Evening means the period from 6pm to 10pm.
- Night means the period from 10pm to 7am Monday to Saturday and the period from 10pm to 8am Sunday and public holidays.
- The receivers identified under "Location" are those as described in "Environmental Noise & Vibration Impact Assessment - Proposed Waste Management Facility Divall's Earthmoving & Bulk Haulage Pty Ltd" At:- 17090 Hume Highway Goulburn, NSW 2580 Prepared for: - Divall's Earthmoving and Bulk Haulage Pty Ltd 17090 Hume Highway Goulburn NSW 2580, by Harwood Acoustics and dated 22 October 2021.

(Reason: To ensure consistency and compliance with the NSW Environment Protection Authority's General Terms of Approval)

38. NSW Environment Protection Authority – Noise-enhancing meteorological conditions

- The noise limits set out in the Table in Condition 37 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.
Evening	Stability Categories A, B, C and D with wind speeds up to and including 3m/s at 10m above ground level.
Night	Stability Categories A, B, C and D with wind speeds up to and including 3m/s at 10m above ground level; or Stability category E and F with wind speeds up to and including 2m/s at 10m above ground level.

- For those meteorological conditions not referred to above, the noise limits that apply are the noise limits above plus 5dB.

- c) For the purposes of the above meteorological conditions, stability category shall be determined using sigma-theta data as per the method in section D1.4 of Fact Sheet D of the *Noise Policy for Industry* (NSW EPA, 2017).

(Reason: *To ensure consistency and compliance with the NSW Environment Protection Authority's General Terms of Approval)*

39. NSW Environment Protection Authority – Noise-Compliance

- a) To achieve noise compliance with the $L_{Aeq(15 \text{ minutes})}$ or the L_{Amax} noise limits in the Development Consent, the noise measurement equipment must be located:
- approximately on the property boundary, where any residence is situated 30 metres or less from the property boundary closest to premises; or where applicable,
 - 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,
 - in an area within 50 metres of the boundary of a National Park or Nature Reserve, iv.at any other location identified in the Licence
- b) To achieve noise compliance with the $L_{Aeq(15 \text{ minutes})}$ or the L_{Amax} noise limits in the Development Consent, the noise measurement equipment must be located:
- at the reasonably most affected point at a location where there is no residence at the location; or,
 - at the reasonably most affected point within an area at a location prescribed by the Licence.

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. A non-compliance of the noise limits in the Development Consent 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 above.

(Reason: *To ensure consistency and compliance with the NSW Environment Protection Authority's General Terms of Approval)*

40. NSW Environment Protection Authority - Noise monitoring conditions

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

(Reason: *To ensure consistency and compliance with the NSW Environment Protection Authority's General Terms of Approval)*

41. NSW Environment Protection Authority – Reporting Conditions

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.

(Reason: *To ensure consistency and compliance with the NSW Environment Protection Authority's General Terms of Approval)*

SECTION H: CONDITIONS TO BE COMPLIED WITH AFTER THE COMPLETION OF THE TEMPORARY USE PERIOD**42. Temporary Use Period Completion**

At the completion of the temporary use period, written confirmation must be provided to Council from the operator of the temporary use, advising that the temporary use has finished and the date the last treated EPRM haul truck left the site.

Written confirmation addressing the above must be emailed to council@goulburn.nsw.gov.au within seven (7) days of the temporary use period finishing to satisfy this condition.

(Reason: *To confirm the components of the development)*

43. Site Restoration

At the end of the temporary use period the land must, as far as is practicable, be restored to the condition in which it was before the commencement of the temporary use.

This restoration must occur within six (6) months of the last treated EPRM haul truck leaving the site.

The land must be cleared of any EPRM, binder, bi-product or product i.e. free from contamination and documentary evidence must be provided to Council before the six (6) month period is complete for consideration.

Waste disposal receipts for any waste disposed associated with site restoration must be provided to Council with the documentary evidence confirming that the site has been restored to satisfy this condition.

(Reason: *To ensure the land is restored to the condition in which it was before the commencement of the temporary use)*

SECTION I: GENERAL TERMS OF APPROVAL PURSUANT TO SECTION 4.47 OF THE ENVIRONMENTAL PLANNING & ASSESSMENT ACT 1979**44. NSW Environment Protection Authority**

NSW Environment Protection Authority issued their General Terms of Approval (GTAs) on 22 December 2021 (Notice Number 1615118). Each condition must be satisfied during the relevant stage of the development and are included within this Notice of Determination for convenience. A full copy of the GTAs are found attached to this Notice of Determination.

(Reason: *To ensure the development is undertaken in accordance with the issued GTAs.*

SECTION J: CONCURRENCE AGENCY CONDITIONS**45. Water NSW Concurrence**

Water NSW concurs with Council granting consent to the application, subject to the conditions within the concurrence letter (ref: 21164-a1), dated 18 January 2022, which must be satisfied during the relevant stage of the development (or at a time as otherwise stated in the condition). A full copy of the concurrence conditions are found attached to this Notice of Determination.

(Reason: *To ensure the development has a neutral or beneficial effect on water quality)*

SECTION K: ADVISORY INFORMATION

- a) Prior to commencing any building, subdivision or associated constructions works, the following provisions of '**the Act**' are to be complied with:
 - (i) A Construction Certificate is to be obtained in accordance with Section 6.3 of '**the Act**'.
 - (ii) A Principal Certifier is to be appointed and Council is to be notified of the appointment in accordance with Section 6.6 of the Act.
 - (iii) Council is to be notified at least two (2) days of the intention to commence building works, in accordance with Section 6.6(2)(a) of the Act.

- b) Prior to any **'Work'** commencing on **'site'** all services should be clearly located and identified by contacting "Dial before you Dig" by telephoning 1100 or utilising www.1100.com.au
- c) **'Council's'** fees and charges are adjusted annually on the 1st July, all fees are calculated at the time of payment this may mean that amounts required to be paid increase.

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THIS FORM MUST BE PRESENTED WITH PAYMENT OF CHARGES AND DOES NOT FORM PART OF THE NOTICE OF DETERMINATION

SUMMARY OF CHARGES 22/23 RATE

Charges are reviewed each financial year (effectively 1 July each year) and the contribution rates are to be confirmed prior to payment. A copy of Council's fees and charges is available free of charge on Council's website.

Copy of this form and the receipt must be provided to Planning and Development Business Unit

DA Number: DA/0313/2122
Applicant: Andrew Divall
Owner: Rose Divall
Subject Land: 282 Carrick Road, Carrick (Lot 1 DP 235911 and Lot 2 DP 874997)
No. Of Lots: 2

Not applicable.

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