



Our Ref: MSR:TKJ:221084
Your Ref:
Reply to: ALBURY OFFICE

18 August 2022

Attention: Mr T Donoghue
Coolman Shire Council
55 Cowabbie Street
COOLAMON NSW 2701

Email: tdonoghue@coolamon.nsw.gov.au and cfarmer@coolamon.nsw.gov.au

Dear Sir/Madam

Wallerroobie Quarry Development Application 2021/44

We act for Rockwood Investment Group Pty Ltd who is the applicant in this matter.

A submission has been previously lodged on behalf of our client by R.W. Corkery & Co Geological and Environmental Consultants.

We are instructed to make a further submission addressing the proposed conditions of consent which is to supplement the prior submission by R.W. Corkery & Co. We understand that this application is scheduled for a determination on 23 August 2022.

For the sake of ease we have **attached** to this submission a table setting out the conditions of consent and our comments and our proposed revised conditions of consent.

We note that condition 2 of the draft conditions of consent requires our client to enter into a voluntary planning agreement with Council prior to the operation of the consent. We have prepared a voluntary planning agreement. Please see **attached** copy. The document has been prepared to reflect the offer made by our client on 16 June 2022.

If you wish to discuss this submission or require any further information, please contact either of the below named.

Yours faithfully
KELL MOORE

Per: 

Matthew Rogers
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**LOCAL
GOVERNMENT
PROCUREMENT**
APPROVED CONTRACTOR

Conditions of Consent

Original Condition No.	Comments	Proposed condition
3	<p>Conditions 4, 8 and 18 address the matters set out in this condition. To save duplication and conflicts arising relating to the different conditions we propose that these conditions be incorporated into condition 3, thereby deleting conditions 4, 8 and 18 without any impact on required actions.</p> <p>Delete conditions 4, 8 and 18.</p>	<p>Prior to the commencement of operations under this consent, the applicant must prepare, and following approval, implement, an Environmental Management Plan for the development to the satisfaction of Council. This strategy must:</p> <p>(a) Be a single document kept on site and submitted to Council annually based on the date of approval of the first document.</p> <p>(b) Provide the strategic context for environmental management of the development</p> <p>(c) Identify the statutory requirements that apply to the development</p> <p>(d) Describe how the environmental performance of the development would be monitored and managed during the development including:</p> <ul style="list-style-type: none"> • a Transport Management Plan • an Air Quality Management Plan • a Noise Management Plan • a Rehabilitation and Landscape Management Plan • a Biodiversity Management Plan • a Soil and Water Management Plan • a Waste Management Plan • a Bushfire Management Plan

		<p>(e) Describe the procedures that would be implemented to:</p> <ul style="list-style-type: none"> • Keep the local community and relevant agencies informed about the operation and environmental performance of the development • Receive, handle, respond to, and record complaints • Resolve any disputes that may arise during the life of the proposal • Respond to any non-compliance • Manage cumulative impacts; and • Respond to emergencies <p>(f) Describe the role, responsibility, authority, and accountability of the key personnel involved in environmental management of the development.</p> <p>(g) Include a Pollution Incident Report Management Plan</p> <p>(h) Be made available to the public for inspection in the Quarry office and be placed on the applicant's web site. If no such site exists, the Environmental Management Plan must be made available on Council's web site.</p> <p>Note - Each part (including the required management plans, reports and programs) of the EMS must include a list identifying all relevant conditions of consent (including GTAs) specific to that section and how those requirements have been satisfied/addressed within the document.</p> <p>REASON: To prevent the proposed development having a detrimental effect on the developments existing on the adjoining lands. Section 4.15(1)(e) of the <i>Environmental Planning and Assessment Act 1979</i>, as amended.</p>
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<p>6</p>	<p>The imposition of this condition places an unreasonable burden on the applicant to engage suitably qualified persons to prepare a landscaping plan.</p> <p>The condition also requires the applicant to provide semi-mature trees. Given the size of the site and its location we submit this to be an overly onerous condition when the visual impacts to the public will be minimal. The site only fronts onto Seberrys Lane and Doyles Lane. There is already existing vegetation along Walleroobie Road that largely shields the quarry.</p> <p>Less mature trees could be provided by the applicant and maintained during the life of the development. Any trees that are damaged or destroyed can be replaced.</p>	<p>Prior to the operation of this consent, the applicant shall prepare a Landscaping Plan in accordance with table 6.1 of the Environmental Impact Statement to the satisfaction of Council.</p> <p>Landscaping shall be maintained for the life of the development.</p> <p>REASON: It is in the public interest that visual impacts associated with the development be ameliorated. Section 4.15(1)(e) of the <i>Environmental Planning and Assessment Act 1979</i>, as amended.</p>
<p>7</p>	<p>The imposition of this condition is very unorthodox and places a burden on a solicitor to hold and manage funds. It may also be in breach of Trust Accounting rules for solicitors to hold funds for this period of time and in this manner.</p> <p>Both the EIS and Rehabilitation and Landscape Management Plan require the applicant to attend to rehabilitation requirements throughout the lifetime of the development. The Council has input into the management and delivery of these mechanisms and can effect certainty of rehabilitation from the business operator and then the landowner.</p>	<p>Prior to the operation of this consent, the applicant is to enter into a General Security Agreement with Council regarding the assets of the Quarry for a sum of \$380,000 for the proposed rehabilitation.</p> <p>REASON: To ensure that rehabilitation will be provided on the subject land. Section 4.15(1)(b) of the <i>Environmental Planning and Assessment Act 1979</i>, as amended.</p>

	<p>In the event the business fails, the responsibility for rehabilitation falls to the landowner. The guarantee mechanism put forward offers the business as the first claimant, the company owners, and then landowners as guarantors.</p> <p>In addition to the above, at the point the site is to be rehabilitated only landforming etc should be considered in any cost estimate as the plant and equipment are assets of the company and valuable by any consideration. In the event of closure of the site, or abandonment, the physical assets would be removed and/or sold as part of the operational closure.</p>	
<p>9</p>	<p>Conditions 9, 34, 35 and 41 all address similar matters. For the sake of ease and to avoid conflicts between the conditions we propose that the above conditions be deleted and replaced with a new condition. See proposed condition in adjacent column.</p> <p>Delete conditions 34, 35 and 41.</p>	<p>Prior to the operation of this consent a quantitative/volumetric survey of the site shall be undertaken. An electronic copy of the survey data shall be provided in a format that can be used with subsequent surveys to determine/confirm the volume of material extracted from the site.</p> <p>The extraction and processing is limited to 300,000 tonnes per annum. The applicant must provide Council with a report at the end of each financial year that certifies the amount of material processed and further certifies that the approved extraction/processing limit has not been exceeded. Where the survey indicates that more material has been extracted than indicated by returns submitted by the applicant/operator, the applicant/operator shall pay a contribution in respect of the outstanding amount.</p> <p>Importation of concrete washout and any other material is limited to a maximum of 1,500 tonnes per annum. REASON: The Development is subject to Haulage Rate Contributions in accordance with Section 7.11 of the</p>

		<i>Environmental Planning and Assessment Act 1979</i> and the Coolamon Shire Council Section 7.11 Contributions Plan 2017, as amended, and it is in the public interest that accurate quantities of materials be established prior to works commencing and that the works continue to operate in accordance with the development consent.
14	<p>At the time the development application was advertised no submission was received from Temora Shire Council.</p> <p>The imposition of a condition requiring an agreement to be reached with Temora Shire Council would be impracticable in circumstances where Temora Shire Council have not raised a concern.</p> <p>The provisions of section 4.15(1)(e) of the <i>Environmental Planning and Assessment Act 1979</i> state that <i>public interest</i> should be considered. The applicant submits that the public interest has been addressed by the fact that Temora Shire Council had the opportunity to lodge a submission but choose not to.</p>	Condition to be deleted.
17	<p>The applicant acknowledges that biodiversity offset credits are to be retired prior to operation.</p> <p>The applicant is seeking to have established a biodiversity stewardship site however the timeframe for its finalisation is still unclear.</p> <p>The continued use of existing areas that have been cleared does not trigger the requirement for offsetting. The applicant submits that the condition can be amended to stipulate that before any further</p>	<p>Prior to any further clearing of the site occurs the applicant will ensure the class and number of ecosystem credits in Table 1 must be retired to offset the residual biodiversity impacts of the development.</p> <p>The requirement to retire credits in this condition may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of ecosystem credits, as calculated by the BAM Credit Calculator (BAM-C) 1.</p>

	<p>clearing is undertaken that biodiversity offsets are to be retired.</p>	<p>This condition may also be satisfied via the establishment of a Biodiversity Stewardship Site (BSS) that offsets all ecosystem credits.</p> <p>If the applicant seeks to satisfy this condition via staged offsetting or retirement of credits as the site is cleared, Council requires written confirmation from the Biodiversity Conservation Fund of the suitability of any such proposal.</p> <p>Evidence of the retirement of credits or payment to the Biodiversity Conservation Fund in satisfaction of this condition.</p> <p>Note: If the applicant satisfies this condition via the establishment of a stewardship site, then all biodiversity obligations identified under this consent and applying to the stewardship site shall be in perpetuity on the certificate of title via 88b Instrument.</p>
<p>44</p>	<p>The imposition of this condition is impracticable as it seeks to place a burden on the applicant to monitor traffic outside of their site that may not be associated with the development.</p> <p>The draft VPA requires the haulage rates to be calculated in accordance with the weighbridge records. Any concern that Council may have regarding the collection of the contributions is addressed by the monitoring and calculations undertaken at the weighbridge rather than the need to track and monitor truck movements external to the site.</p>	<p>Condition to be deleted.</p>