

## DRAFT CONDITIONS OF CONSENT

### PART A – DEFERRED COMMENCEMENT CONDITIONS

#### Planning Agreement for Annual Contribution for Road Maintenance

1. Bland Shire Council and the Applicant execute a Planning Agreement pursuant to section 7.4 of the Environmental Planning and Assessment Act 1979 for the payment of an annual fee of \$7,000 to the Council on the anniversary of the current application being considered in lieu of payments relating to Section 7.11 of the Act.

All costs associated with the preparation and registration of the abovementioned planning agreement upon title are to be at the applicant's full cost.

### PART B - ADMINISTRATIVE CONDITIONS

#### General

2. The development must be carried out in accordance with the Environmental Impact Statement prepared by Umwelt Environmental and Social Consultants and dated March 2020, except where amended by other conditions of this development consent.

#### Notes:

- *Any alteration to the plans and/or documentation shall be submitted for the approval of Council. Such alterations may require the lodgement of an application to amend the consent under s96 of the Act, or a fresh development application. No works, **other than those approved under this consent**, shall be carried out without the prior approval of Council.*
- *Where there is an inconsistency between the documents lodged with this application and the following conditions, the conditions shall prevail to the extent of that inconsistency.*

#### Surrender of Development Consent 10/95

3. The proponent shall surrender development consent 10/95 prior to the disturbance of the extension extraction area in accordance with section 4.63 of the *Environmental Planning and Assessment Act 1979*.

#### Quarry Closure Plan

4. Prior to the commencement of the quarry operations under this consent the Applicant must prepare to Council's satisfaction a Quarry Rehabilitation and Closure Plan. The Quarry Rehabilitation and Closure Plan must describe:
  - i. the final land use and landform options considered, and justification of the preferred option;
  - ii. detail any rehabilitation methods to be implemented for both planned and unplanned closure of the site;
  - iii. suitable completion criteria;
  - iv. a risk assessment to demonstrate that post-closure risks associated with the proposed final landform and land use are acceptable; and

- v. an estimate of the closure costs prepared in accordance with the NSW Resources Regulator Rehabilitation Cost Estimation Tool and supporting guidelines, ESG1- Rehabilitation Cost Estimate Guidelines (June 2017).

The quarry rehabilitation and closure plan must be prepared in accordance with any applicable legislation and the principles of the Strategic Framework for Mine Closure produced by the Australian and New Zealand Minerals and Energy Council and Minerals Council of Australia (ANZMEC, 2000).

## **PART C – ENVIRONMENTAL PROTECTION AUTHORITY CONDITIONS**

### **General Terms of Approval**

5. The proponent is to fully comply with the General Terms of Approval, as issued by the Environment Protection Authority NSW are to be taken as conditions of consent under this approval. The proponent is to fully comply with the General Terms of Approval, as issued. A copy of the General Terms of Approval is attached at Appendix A of this Notice of Determination.

## **PART D – DEPARTMENT OF PLANNING, INDUSTRY & ENVIRONMENT–BIODIVERSITY AND CONSERVATION DIVISION CONDITIONS**

### **Ecosystem Credit Retirement**

6. Prior to the commencement of the quarry operations under this consent the class and number of ecosystem credits in Table C.1 must be retired to offset the residual biodiversity impacts of the development.
7. The requirement to retire credits in condition 6 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.
8. Evidence of the retirement of credits or payments to the Biodiversity Conservation Fund in satisfaction of condition 6 must be provided to Council prior to the commencement of the quarry operations under this consent.

**Table C.1 Ecosystem credits required to be retired – like for like**

<b>Impacted plant community type</b>	<b>No. of Ecosystem Credits</b>	<b>IBRA Subregion</b>	<b>Plant community type(s) that can be used to offset the impacts from development</b>
White Cypress Pine open woodland of sand plains, prior streams and dunes mainly of the semi-arid (warm) climate zone.	16	Lower Slopes	PCT 28

## Species Credit Retirement

9. Prior to the commencement of the quarry operations under this consent the class and number of species credits in Table C.2 must be retired to offset the residual biodiversity impacts of the development.
10. The requirement to retire credits outlines in condition 9 may be satisfied by payment to the Biodiversity Conservation Fund of an amount equivalent to the class and number of species credits, as calculated by the BAM Credit Calculator.
11. Evidence of the retirement of credits or payments to the Biodiversity Conservation Fund in satisfaction of Table C.2 requirements must be provided to the consent authority prior to the commencement of the quarry operations under this consent .

**Table C.2 Species credits required to be retired – like for like**

Impacted species credit species	Number of species credits	IBRA Subregion
<i>Swainsona sericea</i> (Silky Swainson-pea)	16	Anywhere in NSW

## Biodiversity Management Plan

12. Prior to the commencement of the quarry operations under this consent, a Biodiversity Management Plan must be prepared to the satisfaction of the consent authority consistent with s5.1 of the Biodiversity Development Assessment Report. The Biodiversity Management Plan may form part of a Construction Environmental Management Plan.
13. The Biodiversity Management Plan must identify the development site as per the Biodiversity Development Assessment Report (BDAR) and approved plans. The applicant shall provide shape files and vegetation data consistent with Table 25 and Table 26 of the Biodiversity Assessment Method prior to the commencement of the quarry operations under this consent.
14. The Biodiversity Management Plan must identify areas of native vegetation that are to be retained as outlined in the BDAR.
15. Construction impacts must be restricted to the development site and must not encroach into areas of retained native vegetation and habitat. All materials stockpiles, vehicle parking, machinery storage and other temporary facilities must be located within the areas for which biodiversity impacts were assessed in the BDAR.
16. The Biodiversity Management Plan must identify all measures proposed in s5.1 of the BDAR to mitigate and manage impacts on biodiversity outlined in Table C.3, including performance measures for each commitment.

**Table C.3 Statement of Commitments to mitigate and manage biodiversity impacts**

<b>Biodiversity Issue</b>	<b>Measure</b>	<b>Timing</b>	<b>Responsibility</b>
Exclusion fencing	Fencing installed in accordance with s5.1 of the BDAR	During expansion phase	Operator
Install signage	Signage installed in accordance with s5.1 of the BDAR	During expansion phase	Operator
Stockpile management	Stockpiles are to be located in accordance with s5.1 of the BDAR	Operation	Operator
Parking and machinery storage management	Parking and machinery management is to take place in accordance with s5.1 of the BDAR.	Operation	Operator
Biosecurity measures to reduce weed encroachment	Vehicles entering the site are to be free weed seeds in accordance with s5.1 of the BDAR	Operation	Operator
Access to vegetation clearance area	Vehicles are to enter the vegetation clearance area in accordance with s5.1 of the BDAR	Operation	Operator
Mulching	Native vegetation that is cleared from the site is to be mulched in accordance with s5.1 of the BDAR	Operation	Operator
Dust generation	Dust generation is to be managed in accordance with s5.1 of the BDAR	Operation	Operator
Sediment and erosion control measures	Sedimentation and erosion control is to be undertaken in accordance with s5.1 of the BDAR.	During expansion phase	Operator
Vegetation preclearance surveys	Surveys are to be undertaken in accordance with s5.1 of the BDAR	During expansion phase	Operator
Bush rock relocation	Bush rock and boulders are to be managed in accordance with s5.1 of the BDAR	During expansion phase	Operator

### **Aboriginal Culture Heritage**

17. If any Aboriginal object is discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the proponent must:

- (a) not further harm the object
- (b) immediately cease all work at the particular location
- (c) secure the area so as to avoid further harm to the Aboriginal object

- (d) Notify the Department of Planning, Industry and Environment as soon as practical on 131 555, providing any details of the Aboriginal object and its location
- (e) Not recommence any work at the particular location unless authorised in writing by the Department of Planning, Industry and Environment.

In the event that skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorized access and NSW Police and the Department of Planning, Industry and Environment contacted.

## **PART E – TRANSPORT FOR NSW CONDITIONS**

18. The proponent shall prepare and implement a Transport Management Plan, in consultation with Council and Transport for NSW to outline measures to manage traffic related issues associated with the operation of the quarry and the transport of quarried material. This plan shall detail the potential impacts, the measures to be implemented, and the procedures to monitor and ensure compliance. It shall address, but not be limited to:

- (a) measures to address restrictions on haulage during periods of low visibility eg heavy rain periods or fog etc, along the haulage route,
- (b) measures to ensure that dust and loose surface road material generated by traffic activities on and access the subject site do not cause nuisance or hazard to traffic on the public road network,
- (c) measure to ensure that all loaded vehicles entering or leaving the site are covered, and are cleaned of materials that may fall onto public roads,
- (d) details of procedures for receiving and addressing complaints from the community concerning traffic issues associated with truck movements to and from the quarry.
- (e) measures to ensure that the provisions of the Traffic Management Plan are implemented and complied with.

The Traffic Management Plan is required to be approved by Transport for NSW and Council's Director Technical Services prior to the annual production being greater than 100,000 tonnes

19. The quarry operator shall maintain accurate records of the extraction quantities and traffic movement to and from the subject site. These records shall be kept on site and be available for inspection at the request of either of the Consent Authority or Transport for NSW.

20. Works associated with the proposed development shall be at no cost to Transport for NSW.

## PART F – OPERATIONAL CONDITIONS

### Hours of Operation

21. The approved hours of operation are:

On-site Activities (extraction, processing and loading) <sup>1</sup>	
Monday to Friday	7.00 am to 6.00 pm
Saturday	7.00 am to 3.00 pm
Sunday	No operation
Note 1	Toolbox meetings, pre-start inspections or other activities not involving mobile equipment operations may be undertaken prior to 7.00 am

Blasting	
Monday to Friday	9.00 am to 5.00 pm
Saturday	No operation
Sunday	No operation

Transportation	
Monday to Friday	6.00 am to 6.00 pm <sup>2</sup>
Saturday	6.00 am to 3.00 pm <sup>2</sup>
Sunday	No operation
Note 2	Pre-loaded trucks exiting the Quarry or unladen trucks arriving.

### Amenity

22. The development is to be conducted in a manner that will not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, dust, wastewater, waste products and/or oil.

## **PART G – REASONS FOR CONDITIONS**

### ***Conditions of consent have been imposed to:***

1. Ensure the proposed development:
  - a) achieves the objects of the Environmental Planning and Assessment Act, 1979;
  - b) complies with the provisions of all relevant environmental planning instruments;
  - c) is consistent with the aims and objectives of Council's Development Control Plans, Codes and Policies.
2. Ensure that the relevant public authorities and the water supply authority have been consulted and their requirements met or arrangements made for the provision of services to the satisfaction of those authorities.
3. Meet the increased demand for public amenities and services attributable to the development in accordance with Section 7.11 of the Environmental Planning and Assessment Act, 1979.
4. Ensure the protection of the amenity and character of land adjoining and in the locality of the proposed development.
5. Minimise any potential adverse environmental, social or economic impacts of the proposed development.
6. Ensure that all traffic, carparking and access requirements arising from the development are addressed.
7. Ensure the development does not conflict with the public interest.

## **PART H – GENERAL ADVICE**

### ***LAPSING OF DEVELOPMENT CONSENT***

Development consent does not lapse if the approved use has actually commenced or the proposed work is physically commenced before the consent lapse date, except where a condition specifies a limit to the duration of the consent.

### ***RIGHT OF APPEAL***

If you are the applicant:

You can appeal against this decision in the Land and Environment Court within twelve (12) months of the date of this notice (section 8.7 and 8.10 of the *Environmental Planning and Assessment Act, 1979*). You cannot appeal, however, if a Commission of Inquiry was held and the development is designated development or state significant development.

### ***REVIEW OF DETERMINATION***

An applicant may request the Council to review this determination within one (1) year after the date the applicant received this notice. The prescribed fee must be paid with the request for a review. Once the review is completed the Council may confirm or change the determination.

If there is an appeal, the period of time within which Council may undertake a review is extended up to the time the Court hands down its decision.

A Review cannot be requested for:

- a determination to issue or refuse to issue a complying development certificate, or
- a determination in respect of designated development, or
- a determination in respect of integrated development, or
- a determination in respect of integrated development, or a determination made by Council under Division 4.2 in respect of an application by the Crown.



# **APPENDIX A**

## **EPA General Terms of Approval**

# General Terms of Approval - Issued



Notice No: 1594277

## Attachment 'A'

### Administrative conditions

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

**A1.1** 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 No 2020/0004 submitted to Bland Shire Council and referred to the EPA on 31 March 2020; and
- The Environmental Impact Statement titled "Wyalong Quarry Expansion Project" prepared by Umwelt and dated March 2020.

#### ***A2. Fit and Proper Person***

**A2.1** The applicant must, in the opinion of the EPA, be a fit and proper person to hold a licence under the Protection of the Environment Operations Act 1997, having regard to the matters in s.83 of that Act.

#### ***A3. Scheduled Activities***

**A3.1** Extractive activities and crushing, grinding or separating.

#### ***A4. Fee Based Activity***

**A4.1** Extractive activities - more than 100,000 tonnes but not more than 500,000 tonnes per annum.

### Limit conditions

#### ***L1. Pollution of waters***

**L1.1** Except as may be expressly provided by a licence under the Protection of the Environment Operations Act 1997 in relation of the development, section 120 of the Protection of the Environment Operations Act 1997 must be complied with in and in connection with the carrying out of the development.

#### ***L2. Waste***

**L2.1** 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 Protection of the Environment Operations Act 1997.

**L2.2** 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 Protection of the Environment Operations Act 1997.

## General Terms of Approval - Issued

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Notice No: 1594277

### ***L3. Noise limits***

**L3.1** Noise from the premises must not exceed an Leq (15 minute) noise emission criterion of 40dB(A) during the day time period (7.00am to 6.00pm) and 35dB(A) at all other times.

**L3.2** Noise from the premises is to be measured at the nearest affected sensitive receptor not associated with the development to determine compliance with this condition.

### ***L4. Hours of operation and construction***

**L4.1** The premises must only undertake quarrying activities between:

- 7.00am to 6.00pm Monday to Friday; and
- 7.00am to 3.00pm Saturdays; and
- At no time on Sundays or public holidays.

**L4.2** All construction work at the premises must only be conducted between 7.00am to 6.00pm Monday to Friday and 8.00am to 1.00pm Saturdays. No construction is to be undertaken on Sundays and public holidays.

The hours of construction 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.

### ***L5. Extraction limit***

**L5.1** The total volume of material extracted at the premises in any 12 month period must not exceed 250,000 tonnes.

### ***L6. Excavation limit***

**L6.1** The excavation of material at the premises must be limited to:

- Lot 51 DP 749271; and
- The maximum extent detailed in Figure 2.2 of the Environmental Impact Statement titled 'Wyalong Quarry Expansion Project' dated March 2020 and kept on EPA file DOC19/676173; and
- To a maximum depth of 218 metres AHD.

### ***L7. Processing limit***

**L7.1** The total volume of material processed by crushing, grinding or separating at the premises in any 12 month period must not exceed 250,000 tonnes.

### ***L8. Blasting***

**L8.1** The overpressure level from blasting operations on the premises must not:

- Exceed 115dB (Lin Peak) for more than 5% of the total number of blasts over a period of 12 months; and
- Exceed 120dB (Lin Peak) at any time.

**L8.2** Ground vibration peak particle velocity from the blasting operations at the premises must not:

- Exceed 5 millimetres per second (mm/s) for more than 5% of the total number of blasts over a period of 12 months; and

## General Terms of Approval - Issued



Notice No: 1594277

- Exceed 10mm/s at any time, when measured at any point within 1 metre of any affected residential boundary or other noise sensitive location such as a school or hospital.

**L8.3** Blasting operations on the premises may only take place between 9.00am to 5.00pm Monday to Friday.

**L8.4** Blasting at the premises is limited to 1 blast per day, with a maximum of 12 blasts in any 12 month period.

### Operating conditions

#### ***O1. Odour***

**O1.1** No condition of these general terms of approval identifies a potentially offensive odour from the premises for the purpose of section 129 of the *Protection of the Environment Operations Act 1997* (POEO Act).

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

#### ***O2. Dust***

**O2.1** Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

**O2.2** All plant and activities must be managed to prevent the emission of dust from the premises including the application of water as detailed in the Air Quality section of Table 6.1 of the Environmental Impact Statement titled 'Wyalong Quarry Expansion Project' dated March 2020 and kept on EPA file DOC19/676173.

#### ***O3. Controlled drainage area***

**O3.1** All quarry operations including haul roads, stockpiles, crushing and screening operations and loading areas must be designed to direct stormwater to retention dams or the excavation pit.

#### ***O4. Primary crusher hopper***

**O4.1** The primary crusher hopper must be enclosed with cladding to minimise noise impacts

### Monitoring and recording conditions

#### ***M1 Monitoring records***

**M1.1** The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained as set out in conditions M1.2 and M1.3.

**M1.2** All records required to be kept by the licence must be:

- In a legible form, or in a form that can readily be reduced to a legible form;
- Kept for at least 4 years after the monitoring or event to which they relate took place; and

# General Terms of Approval - Issued

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Notice No: 1594277

- Produced in a legible form to any authorised officer of the EPA who asks to see them.

**M1.3** The following records must be kept in respect of any samples required to be collected:

- The date(s) on which the sample was taken;
- The time(s) at which the sample was collected;
- The point at which the sample was taken; and
- The name of the person who collected the sample.

## Reporting conditions

### ***R1 Annual returns***

**R1.1** The applicant must provide an annual return to the EPA in relation to the development as required by any licence under the Protection of the Environment Operations Act 1997 in relation to the development. In the return the applicant must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of licence fees (administrative fees and, where relevant, load based fees) that are payable. If load based fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.

# General Terms of Approval - Issued

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Notice No: 1594277

## Attachment 'B'

### Operating conditions

#### Activities must be carried out in a competent manner

Licensed activities must be carried out in a competent manner.

This includes:

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

#### Maintenance of plant and equipment

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

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

### Monitoring and recording conditions

#### Recording of pollution complaints

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

The record must include details of the following:

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

The record of a complaint must be kept for at least 4 years after the complaint was made. The record must be produced to any authorised officer of the EPA who asks to see them.



## General Terms of Approval - Issued



Notice No: 1594277

### Telephone complaints line

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

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

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

## Reporting conditions

### Annual Return documents

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

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

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

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

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

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

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

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

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

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

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

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

## General Terms of Approval - Issued

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Notice No: 1594277

### ***Deadline for Annual Return***

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

### ***Licensee must retain copy of Annual Return***

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

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

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

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

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

### ***Notification of environmental harm***

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

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

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

### ***Written report***

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

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

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

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

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

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



## General Terms of Approval - Issued

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Notice No: 1594277

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

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

### General conditions

#### Copy of licence kept at the premises or on the vehicle or mobile plant

A copy of this licence must be kept at the premises or on the vehicle or mobile plant to which the licence applies.

The licence must be produced to any authorised officer of the EPA who asks to see it.

The licence must be available for inspection by any employee or agent of the licensee working at the premises or operating the vehicle or mobile plant.