



PLANNING VOTES - ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL

Tuesday 14th July 2009 commencing at 9.05 a.m.

Councillor Sproule declared an interest in item DSDS5 for the reason that she is an adjoining land owner and retired from the Chambers.

DSDS5	PROPOSED EXTENSION OF QUARRY
FILE: T6-08-328 SDS	{Folio No. 403476}

SUMMARY:

Reporting that Council has received an application for the extension of the existing 'Bates' Quarry for which objections have been received

SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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2009. 491 RESOLVED:

*Moved: Cl. Walker
Seconded: Cl. Gribbin*

That the consent be granted subject to the following conditions:-

- 1. Development is to be in accordance with approved plans
The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.**

Plan No./ Supporting Document	Version	Prepared by	Dated
605/1 to 6051/7		Hopkins	20/07/2006
Staged Quarry Rehabilitation Plan 1/1		Rupert G.H. Milne Home, Landscape Consulting	13/08/2007
Proposed Rehabilitation	Document	Rupert G.H. Milne Home, Landscape Consulting	29/05/2006 & 23/01/2008
Noise and Blasting Impact Assessment	Document	Bridges Acoustics	02/09/2007
Air and Water quality monitoring	Document	Hackett Laboratory Services	15/04/2008
Traffic Impact	Document	Hopkins	02/2007

Assessment			
Flora and Fauna Impact Assessment	Document	Keystone	01/2007
Petrographic Report	Document	Geochempet Services – Hackett Laboratory	02/04/2007

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vent of any inconsistency between conditions of this development consent and the plans / supporting documents referred to above, the conditions of this development consent prevail.

2. Submission of written advice to Council of the nominated date on which it is intended to commence operations following compliance with all relevant conditions of this consent.
3. Submission of a separate application providing for a workers toilet in accordance with the BCA prior to commencement of extraction activities.
4. Submission of an application(s) to Council pursuant to Section 68 of the Local Government Act 1993 for the following, prior to the issue of a Construction Certificate:-
 - Installing, constructing or altering a waste treatment device or a human waste storage facility or a drain connected to any such device or facility.
5. Excavated material from the site is not to be placed within the road reserve or any other public place.
6. Permitted Extraction
 - a) This consent permits a total extraction volume of 450,000m³ of gravel from the quarry. The consent also permits excavation of material consisting of stripped topsoil which will be utilised in the rehabilitation of the site.
 - b) The amount of material extracted and transported is not to exceed 50,000 cubic metres per annum.
7. Hours of Operation
 - a) The hours of operation of the business are restricted to the times set out in the following table:-

Period	Start Time	Finish Time
Monday to Friday	7.00am	4.00pm
Saturday	8.00am	12.00pm
Sunday	No Work	No Work
Public Holiday	No Work	No Work

- b) Any alteration to the above hours of operation will require the further consent of Council.

INTERNAL ACCESS ROAD

8. Detailed Engineering Plans prepared by an appropriately qualified person are to be submitted to and endorsed by Council providing for construction of the internal haul access road from the intersection of Gowings Hill Road to the quarry site within the subject property, incorporating the following: -
 - a) Provision of a dust free wearing surface for the 50 metres of

the proposed internal haul access road. The minimum wearing surface treatment is to be a two coat bitumen seal in accordance with the requirements of the RTA and DCP 36.

- b) Submission of a separate Sediment and Erosion Control Plan for the proposed roadwork for the construction consistent with the requirements contained in *Managing Urban Stormwater: Soils and Construction, Volume 1, 4th Edition, 2004* (Landcom).
- c) The speed limit is to be restricted to 30km/hr. The applicant is to supply and erect adequate signage.

All works are to be carried out in accordance with such plans, as endorsed by Council, prior to commencement of extraction activities.

- 9. A water tanker or trailer is to be provided to ensure all manoeuvring areas are to be kept damp at all times, so as to minimise potential for dust.
- 10. A sign is to be provided in a prominent and visible position (on the building or fence) stating "Unauthorised entry to the site is not permitted", together with the name of the person responsible for the site and a contact number outside working hours.

WASTE MANAGEMENT PLAN REQUIRED

- 11. A Waste Management Plan is to be submitted to and approved by Council to ensure all waste is collected, stored and disposed of to the satisfaction of Council. The plan must incorporate measures to separate recyclable materials and describe the methods for collection of waste containers from the site.
- 12. Burning of felled trees prohibited
The burning of trees and associated vegetation felled during clearing operations is not permitted. Where possible, vegetation is to be mulched and reused on the site.

FLORA AND FAUNA

- 13. The quarry operator shall:
 - a) Comply with the rehabilitation plan and documentation as endorsed under this permit.
 - b) Reserve topsoil for future re-establishment of native vegetation in disturbed areas at completion of operations.
 - c) Implement appropriate sediment and erosion control measures to ensure minimal sedimentation and flooding of downstream environments.
 - d) Protect the strand of *Allocasuarina* in the south-eastern corner of the site which forms part of the feeding resource for the Glossy Black-Cockatoo
 - e) Retain hollow logs, large rocks, etc so they can be replaced during the restoration Works

WATER QUALITY

- 14. The quarry operator shall:
 - a) Ensure fuels and chemicals will be located away from natural drainage paths and stored in a covered and bunded area in accordance with the requirements of the DECC and WorkCover NSW.

ARCHAEOLOGY

15. The quarry operator shall ensure that all earthmoving contractors and operators are instructed that, in the event of any bone, or stone artefacts, or discrete distributions of shell, being unearthed during earthmoving, work must cease immediately in the affected area, and the Local Aboriginal Land Council and officers of the National Parks and Wildlife Service, informed of the discovery. Work must not recommence until the material has been inspected by those officials and permission has been given to proceed. Those failing to report a discovery and those responsible for the damage or destruction occasioned by unauthorised removal or alteration to a site or to archaeological material may be prosecuted under the National Parks and Wildlife Act 1974, as amended.

ROADS

16. **ROADS**
 - a) The heavy vehicle movements are limited to 15 haulage trips per day or 30 vehicle movements into and out of the site / day.
 - b) The intersection of the internal road network and Gowings Hill road must comply with the AustRoads Rural Road Design – A Guide to the Geometric Design of Rural Road 2005.
 - c) Line marking is required and should be installed 150 metres distance in both directions from the access road on Gowings Hill Road. Signage (truck symbol W5-22) is required in accordance with AS 1742 – Manual Uniform traffic Control Devices and AS 1743 – Road signs – Specifically and any other relevant Australian Standard.

DEPARTMENT OF ENVIRONMENT AND CLIMATE CHANGE (DECC)

Administrative Conditions

Information supplied to the DECC

17. Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:
 - a) the development application Development Application number T6-08-328 submitted to DECC on 20 October 2008;
 - b) the document *Environmental Impact Statement, Extension of Existing Gravel Quarry, Lot 4 DP 622304, Gowings Hill road, Dondingalong* relating to the development; and
18. **Fit and Proper Person**
 - a) The applicant must, in the opinion of the DECC, 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.
19. **Limit conditions**
 - a) **Pollution of waters**
Note: Mandatory condition
 - i) 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.
 - b) **Concentration Limits**

Note: Conditions to be used where applicable

- i) For each discharge point or utilisation area specified in the table/s below, the concentration of a pollutant discharged at that point, or applied to that area, must not exceed the concentrations limits specified for that pollutant in the table.
- ii) Where a pH quality limit is specified in the Table, the specified percentage of samples must be within the specified ranges.
- iii) To avoid any doubt, this condition does not authorise the discharge or emission of any other pollutants.

Sediment Basin Discharge Point (location yet to be identified)

Pollutant	Units of Measure	50 percentile concentration limit	90 percentile concentration limit	3DGM concentration limit	100 percentile concentration limit
Total Suspended Solids	mg/L				50
Grease & Oil	mg/L				5
pH					5.5-9.5

c) Waste

- i) 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.
- ii) 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.

d) Noise limits

- i) Noise from the premises must not exceed the sound pressure level (noise) limits presented in the table below. Note the limits represent the sound pressure level (noise) contribution, at the nominated receiver locations in the table.

Noise Limits (dB(A))

Noise Assessment Location	Day
	L _{Aeq} (15 minute)
Early Stage 1	
R3	39
R5	36
Stage ½	
R3	40
R5	36
Stage 2/3	
R3	40
R5	36

Late Stage 3	
R3	40
R5	35

Note: Assessment locations are shown in Figure A1 of *"Hopkins Consultants PTY LTD – Noise and Blasting Impact Assessment – Bates Quarry, Dondingalong, dated 2 September 2007 and prepared by Bridges Acoustics for Hopkins Consultant Pty Ltd.*

For guidance in the selection of an assessment location, reference should be made to the NSW Industrial Noise Policy.

- e) For the purposes of condition (d) Noise Limits:
 - i) Day is defined as the period from 7am to 4pm Monday to Saturday and 8am to 12pm Saturdays.
- f) Noise from the premises is to be measured at the most affected point with the residential boundary, or at the most effected point within 30 metres of the dwelling where the dwelling is more than 30 metres from the boundary, to determine compliance with the noise level limits in Condition (d) Noise Limits unless otherwise stated.

Where it can be demonstrated that direct measurement of noise from the premises is impractical, the DECC may accept alternative means of determining compliance. See Chapter 11 of the NSW Industrial Noise Policy.

The modification factors presented in Section 4 of the NSW Industrial Noise Policy shall also be applied to the measured noise level where applicable.
- g) The noise emission limits identified in condition (d) Noise Limits apply under meteorological conditions of:
 - i) Wind speed up to 3m/s at 10 metres above ground level; or
 - ii) Temperature inversion conditions of up to 3°C/100m and wind speed up to 2m/s at 10 metres above the ground.

20. Construction

- a) All construction work at the premises must be conducted between 7am and 4pm Monday to Friday and between 8am and 1pm Saturdays and at no time on Sundays and public holidays, unless inaudible at any residential premises.
- b) The proponent must prepare and implement a construction Noise Management Plan (CNMP), prior to commencement of construction activities, that includes but is not necessarily limited to;
 - i) identification of each work area, site compound and access route (both private and public);
 - ii) identification of the specific activities that will be carried out and associated noise sources at each work area, site compound and access route;
 - iii) identification of all potentially affected sensitive receivers;
 - iv) the construction noise and vibration objectives identified in the EIS for construction periods less than 26 weeks;
 - v) assessment of potential noise and vibration from the proposed construction methods (including noise from construction traffic) against the objectives identified in the EIS fro construction periods less the 26 weeks;
 - vi) where the objectives are predicted to be exceeded and analysis of feasible and reasonable noise mitigation

- measures that can be implemented to reduce construction noise impacts;
- vii) description of management methods and procedures and specific noise mitigation treatments that will be implemented to control noise and vibration during construction, including the early erection of operational noise control barriers;
- viii) procedures for notifying residents of construction activities that are likely to affect their noise and vibration amenity;
- ix) measures to receive, record and respond to complaints;
- x) measure to monitor and report against noise performance.

21. Noise Management Plan

The proponent must prepare and implement a Noise Management Plan that covers all quarry extension, processing and transport operations. The plan must be developed prior to submitting an application for an Environment Protection Licence with DECC and must include but not be limited:

- a) Detailing the actual noise attenuation measures that will be implemented on site in order to achieve the noise limits identified in (d) Noise Limits;
- b) Where the limits in (d) Noise Limits exceed the Project Specific Noise Levels (as identified as 35 dB(A) in the Noise and Blasting Impact Assessment produced by Bridges Acoustic), the plan must identify how noise will be reduced over time to satisfy the PSNL;
- c) Outline a compliance monitoring program to be implemented within six (6) months of commencement of operation.
- d) Ongoing assessment of feasible and reasonable noise mitigation measures to seek to achieve the noise limits in (d) Noise Limitations at all times;
- e) A system that allows for periodic assessment of best Management Practice (BMP) and Best Available Technology Economically Achievable (BATEA) to minimize noise impacts over the life of the proposal;
- f) Measures to monitor noise performance and respond to complaints;
- g) Measures for community consultation including site contact details;
- h) Noise monitoring, and reporting procedures.

22. Blasting

Overpressure

The overpressure level from blasting operations on the premises must not:

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

Ground Vibration (ppv)

Ground vibration peak particle velocity from the blasting operation at the premises must not:

- a) Exceed 5mm/s for more than 5% of the total number of blasts over a period of twelve (12) months; and
- b) Exceed 10mm/s at any time, when measured at any point

within one (1) metre of any affected receiver.

Time of Blasting

- a) Blasting operation on the premises may only take between 9am and 5pm Monday to Saturday.
- b) The hours of operation for blasting operations specified in this condition may be varied if the DECC, having regard to the effect that the proposed variation would have on the amenity of the residents in the locality, gives written consent to the variation.

Frequency of Blasting

- a) Blasting at the premises is limited to one (1) blast each day on which blasting is permitted.
- b) The hours of operation specified in condition 24 may be varied with written consent if the DECC is satisfied that the amenity of the residents in the locality will not be adversely affected.

23. Operating Conditions

Hours of Operation

- a) Noise generating activities are permitted during the following periods:
 - i) 7am to 4pm Monday to Friday; and
 - ii) 8am to 12pm Saturdays.

No noise generating activities are permitted on Sundays and Public Holidays.

- b) All construction work at the premises must be conducted between 7am and 7pm Monday to Friday and between 8am and 12pm Saturdays, and at no time on Sundays and Public Holidays.
- c) The hours of operation specified in condition 24 may be varied with written consent if the DECC is satisfied that the amenity of the residents in the locality will not be adversely affected.

24. Dust

- a) Activities occurring at the premises must be carried out in a manner that will minimize emissions of dust from the premises.
- b) Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.

Stormwater / Sediment and Erosion Control – Construction and Operation Phases

25. A Soil and Water Management Plan (SWMP) must be prepared and implemented for the site. The plan must describe the measures that will be employed to minimise soil erosion and the discharge of sediment and other pollutants to land and / or waters during construction and operation activities including but not limited to:

- a) How surface runoff from adjacent un-quarried land will remain isolated and un-impacted from runoff generated from the quarry site;

- b) How all runoff up to a five (5) – day rainfall depth of 70.0mm will be retained on site through the implementation of reuse strategies etc;
- c) The location of any discharge points.

The SWMP should be prepared in accordance with the requirements for such plans outlined in *Managing Urban Stormwater: Soils and Construction* (Blue Book).

- 26. The SWMP must be completed prior to applying to DECC for an Environment Protection Licence for the quarry, and should be submitted with the application.
- 27. The drainage of all areas on the premises with the potential to mobilize sediment must be controlled and diverted through appropriate sediment control measures / structures.
- 28. Sediment basins must be designed and maintained to capture a five (5) day rainfall depth of 70.0mm.
- 29. Natural watercourse is not permitted to be utilized for the management and treatment of sediment and erosion control on site.
- 30. Noise
Blast management protocol
 - a) A Blasting / Vibration Management Protocol must be prepared in relation to the development and implemented. The protocol must include, but need not be limited to, the following matters:
 - compliance standards;
 - mitigation measures;
 - remedial action;
 - monitoring methods and program;
 - monitoring program for flyrock distribution;
 - measures to protect underground utilities (e.g.: rising mains, subsurface telecommunication and electric cables) and livestock nearby;
 - notification of procedures for neighbours prior to detonation of each blast;
 - measures to ensure no damage by flyrock to people, property, livestock and power lines.
- 31. Monitoring and recording conditions
Monitoring records
 - a) The results of any monitoring required to be conducted by the DECC'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 34.
 - i) 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 four (4) years after the monitoring or event to which they relate took place; and

- produced in a legible form to any authorised officer of the DECC who asks to see them.
- ii) 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.
- b) Requirement to monitor concentration of pollutants discharged
- For each monitoring / discharge point or utilization area specified below (by a point number), the applicant must monitor (by sampling and obtaining results by analysis) the concentration of each pollutant specified in Column 1. The applicant must use the sampling method, units of measure, and sample at the frequency, specified opposite in the other columns:

Sediment Basin Discharge Point

Pollutant	Units of measure	Frequency	Sampling Method
Total Suspended Solids	mg/L	Daily during discharge	Grab sample
Oil and Grease	mg/L	Daily during discharge	Grab sample
pH		Daily during discharge	Grab sample

32. Testing methods – concentration limits
- a) Monitoring for the concentration of a pollutant discharged to waters or applied to a utilisation area required by condition 33 must be done in accordance with:
- i) the Approved Methods Publication; or
 - ii) if there is no methodology required by the Approved Methods Publication or by the general terms of approval of in the licence under the Protection of the Environment Operations Act 1997 in relation to the development or the relevant load calculation protocol, a method approved by the DECC in writing before any tests are conducted; and
 - iii) unless otherwise expressly provided in the licence.
33. Blast Monitoring
- a) For the purpose of blast monitoring, the ground vibration or the over-pressure must be measured at receivers R3 and R5 as identified in *“Hopkins Consultants PTY LTD – Noise and Blasting Impact Assessment – Bates Quarry, Dondingalong, dated 2 September 2007 and prepared by Bridges Acoustics for Hopkins Consultant Pty Ltd.*
34. Reporting conditions
- a) The applicant must provide an annual return to the DECC 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.

35. **General Terms of Approval**
Mandatory Conditions for all DECC Licences

OPERATING CONDITIONS

36. Licensed activities must be carried out in a competent manner.
- a) This includes:
- i) the processing, handling, movement and storage of materials and substances used to carry out the activity; and
 - ii) the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

Maintenance of plant and equipment

- b) All plant and equipment installed at the premises or used in connection with the licensed activity:
- i) must be maintained in a proper and efficient condition; and
 - ii) must be operated in a proper and efficient manner.

MONITORING AND RECORDING CONDITIONS

37. **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.
- a) The record must include details of the following:
- i) the date and time of the complaint;
 - ii) the method by which the complaint was made;
 - iii) any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
 - iv) the nature of the complaint;
 - v) the action taken by the licensee in relation to the complaint, including any follow-up contact with the complainant; and
 - vi) 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 four (4) years after the complaint was made.

The record must be produced to any authorised officer of the DECC who asks to see them.

38. **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.

Environment Protection Authority – NSW

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

REPORTING CONDITIONS

39. Annual Return documents

What documents must an Annual Return contain?

- a) The licensee must complete and supply to the DECC and Annual Return in the approved form comprising:
 - i) a Statement of Compliance; and
 - ii) a Monitoring and Complaints Summary.

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

40. 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.

- a) Where this licence is transferred from the licensee to a new licensee:
 - the transferring licensee must prepare an annual return for the periods 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
 - 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.

- b) Where this licence is surrendered by the licensee or revoked by the DECC 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
 - i) in relation to the surrender of a licence – the date when notice in writing of approval of the surrender is given; or
 - ii) in relation to the revocation of the licence – the date from which notice revoking the licence operates.

41. Deadline for Annual Return

The Annual Return for the reporting period must be supplied to the DECC 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').

42. **Notification where actual load can not be calculated (Licences with assessable pollutants)**
Where the licensee is unable to complete a part of the Annual Return by the due date because the licensee was unable to calculate the actual load of the pollutant due to circumstances beyond the licensee's control, the licensee must notify the DECC in writing as soon as practicable, and in any event not later than the due date.
- a) Notification must specify:
 - b) The assessable pollutants for which the actual load could not be calculated; and
 - c) The relevant circumstances that were beyond the control of the licensee.

43. **Licensee must retain copy of Annual Return**
The licensee must retain a copy of the annual return supplied to the DECC for a period of at least 4 years after the annual return was due.

44. **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 DECC to sign on behalf to 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 the first review this licence.

45. **Notification of environmental harm**

Note: the licensee or its employees must notify the DECC of incidents causing or threatening material harm to the environment as soon as practicable 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 DECC's Pollution Line service on 131555.

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

46. **Written Report**
Where an authorised officer of the DECC 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 DECC within such time as may be specified in the request.

- c) The request may require a report which include any or all of the following information:
- i) the cause, time and duration to the event;
 - ii) the type, volume and concentration of every pollutant discharge as a result of the event;
 - iii) 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
 - iv) the name, address and business hours telephone number of any 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;
 - v) action taken by the licensee in relation to the event, including any follow-up contact with any complainants; (details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event;
 - vi) (any other relevant matters).

The DECC 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 DECC within the time specified in the request.

GENERAL CONDITIONS

47. Copy of the licence kept at the premises or on the vehicle or mobile plant.
- a) A copy of this licence must be kept at the premises or on the vehicle or mobile plant to which the licence applies;
 - b) The licence must be produced to authorised officer of the DECC who asks to see it;
 - c) The licence must be available for inspection by any employee or agent of the licensee working at the premises or operation the vehicle or mobile plant.

DEPARTMENT OF PRIMARY INDUSTRIES

48. The operator shall provide ensure that the quarry is managed so it does not have an adverse impact of the adjoining or downstream agricultural and uses.

ROADS AND TRAFFIC AUTHORITY

49. The traffic generation for the project should be limited to 30 haulage trips per day.
50. A truck warning sign, W5-22, including a suggested distance of 200 metres should be provided on Wyrallah Road on each approach to the quarry access to be displayed during hours of operation.

51. The proponent is required to upgrade their access to meet Austroads figure 6.6.1 for rural property access – layout for semi-trailers.

Section 94 Contributions

52. Payment of a cash contribution at the rate of \$2.19 per cubic metre for 2009 / 2010 (indexed) of extracted material from Bates Quarry site towards the upgrading and maintenance of Gowings Hill Road has been determined in accordance with the current Section 94 Rural Roads Developer Contribution Plan subject to the following provisions:-
- a) Payment is to be made within 30 days of Council's notification of the amount of the contribution payable for the specified period, and;
 - b) Submission of a return 12 months from the date of this consent and thereafter within each 12 month period, containing sufficient documentation to establish the amount of material removed from the quarry in cubic metres. The return is to be accompanied by a Statutory Declaration stating that all the information is true and accurate record of extraction within the relevant period.

Department of Water & Energy

The following conditions have been imposed through the General Terms of Approval issued by the Department of Environment and Climate Change.

53. These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to T6-08-328 and provided by Council.
- i) Site plan, map and/or surveys
 - ii) Structural design and specifications
 - iii) A Vegetation Management Plan
 - iv) Works Schedule
 - v) Erosion and Sediment Control Plan
 - vi) Soil and Water Management Plan
 - vii) Rehabilitation Plan

Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the Department of Water & Energy must be notified to determine if any variations to these GTA will be required.

54. Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder obtain a Controlled Activity Approval (CAA) under the Water Management Act from the Department of Water & Energy. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the to of the bank or shore of the identified.
55. The consent holder must prepare or commission the preparation of:
- i) Vegetation Rehabilitation Plan
 - ii) Erosion and Sediment Control Plan
 - iii) Soil and Water Management Plan

56. All plans must be prepared by a suitably qualified person and submitted to the Department of Water & Energy for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with Department of Water & Energy guidelines located at www.naturalresources.nsw.gov.au/water/controlled_activity.shtml
 - i) Vegetation Management Plans
 - ii) Riparian Corridors
57. The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and / or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the Department of Water & Energy.
58. The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the Department of Water & Energy.
59. The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the Department of Water & Energy as required.
60. The consent holder must provide a security deposit (bank guarantee or cash bond) – equal to the sum of the cost of complying with the obligations under any approval – to the Department of Water & Energy as and when required.
61. The consent holder must ensure that no materials or cleared vegetation that may obstruct flow, wash into the water body or cause damage to river banks are left on waterfront land other than in accordance with a plan approved by the Department of Water & Energy.
62. The consent holder is to ensure that all drainage works (i) capture and convey runoffs, discharges and flood flows to low flow water level in accordance with a plan approved by the Department of Water & Energy.
63. The consent holder must stabilise drain discharge points to prevent erosion in accordance with a plan approved by the Department of Water & Energy.
64. The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the Department of Water & Energy. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.
65. The consent holder must ensure that no excavation is undertaken on waterfront land other than in accordance with a plan approved by the Department of Water & Energy.

- 66. The consent holder must ensure that any excavation does not result in (i) diversion of any (ii) bed or bank instability of (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the Department of Water & Energy.
- 67. The consent holder must ensure that (i) river diversion, realignment or alteration does not result from any controlled activity work and (ii) bank control or protection works maintain the existing river hydraulic and geomorphic functions, and (iii) bed control structures do not result in river degradation other than in accordance with a plan approved by the Department of Water & Energy.
- 68. The consent holder must ensure that the surfaces of river banks are graded to enable the unobstructed flow of water and bank retaining structures result in a stable river bank in accordance with a plan approved by the Department of Water & Energy.
- 69. The consent holder must establish a riparian corridor along the unnamed creek in accordance with a plan approved by the Department of Water & Energy.
- 70. The use of the road by haulage trucks shall be restricted to outside the hours of use by school buses.

In this regard, it will be necessary to obtain the written advice from the local school bus operator to be incorporated in the required plan of management.

A Division on this decision resulted in the following votes.

F = Voted For
 A = Voted Against

Campbell	F	Green	F	Gribbin	F	Hayes	F	Saul	F	Snowsill	F
Walker	F										

Councillor Sproule returned to the Chamber.

DSDS14	MIXED USE DEVELOPMENT - 22 STRAIGHT STREET HAT HEAD
	FILE: T6-08-469 SDS {Folio No. 403489}

SUMMARY:

Reporting that Council has received an application for a mixed-use development for which objections have been received.

SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

◆◆◆◆◆

- A. The applicant be invited to submit amended plans to reduce the height of the building to a maximum of 8.5 metres from ground level to the top of the roof.
- B. That upon receipt of suitable amended plans, which consent be issued subject to the following conditions:

Conditions of Consent

- 1. Development is to be in accordance with approved plans
- 2. Design Changes: Amended plans required
The design of the development is to be modified as set out in the following table. Amended plans and specifications incorporating the following design amendments must be incorporated in the plans and specifications submitted with the application for a Construction Certificate:

Design Amendment	Reason for Amendment
(a) Security measures are to be provided from car parking area to rear of the commercial area.	CEPTED

- 3. Separate application required for signs not approved by this consent
Separate development consent is required from Council prior to the erection of any advertisements or advertising structures other than the sign/s, approved in this consent.
- 4. Separate application required for fit out of individual tenancies
Separate development consent is required from Council prior to the provision of any proposed partitions, fittings, fixtures and other tenancy work unless such work is exempt development.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS

- 5. Water and Sewerage Section 68 approval required
An approval under Section 68 of the Local Government Act 1993 to carry out water supply work and sewerage work must be obtained. This application is to include the installation of the proposed rainwater tank and any associated plumbing.
- 6. Trade Waste Section 68 approval required
An approval under Section 68 of the Local Government Act 1993 to discharge liquid trade waste into Council's sewer must be obtained.
- 7. Reticulated sewer supply
Prior to the issue of a Construction Certificated design details and specifications for the provision of reticulated sewer supply to the site are to be submitted for approval by the Manager of Macleay Water. The plans are to clearly detail the adequate design detail including justification of ET

calculation and flows from the system, type of system and management of such system including the establishment of any required easements or restrictions and maintenance.

Although reticulated sewer system is available at the site there are problems with the supply of adequate pressure / flow to the future development therefore this advice is required to be complied with prior to the issue of the Certificate of Compliance under the Water Management Act 2000 and a Construction Certificate.

8. **On-site stormwater detention approval required**
Stormwater drainage is to be designed to direct all water to a Council approved drainage system to prevent discharge runoff onto adjoining land. On-site stormwater detention is required, restricting stormwater discharge to the pre-development runoff rate, for a 1 in 5 year storm event. The design detail is to include the following information:
- Hydraulic calculations are required demonstrating that the existing Council stormwater system has sufficient spare capacity to cater for the additional load provided by this development; and
 - The internal stormwater system should collect all flows at one point on property and then discharge to the stormwater pits and not contain seven lines crossing Council's road reserve.

This system must be designed in accordance with AS/NZS 3500.3:2003 - *Plumbing and drainage, Part 3: Stormwater drainage*. All piped drainage lines over adjoining land are to be located within drainage easements.

All costs are the responsibility of the proponent.

An approval is to be obtained under Section 68 of the Local Government Act 1993 to *carry out stormwater drainage work*.

The engineering plans and specifications are to be designed by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

Engineering plans and specifications are to be submitted in triplicate and must include details in accordance with Appendix C of AS/NZS 3500.3:2003 - *Plumbing and drainage, Part 3: Stormwater drainage*.

The plans must be in compliance with Council's Adopted Engineering Standard.

9. **Consent required for works within the road reserve**
Consent from Council must be obtained for all works within the road reserve including driveway and any awnings or parts of the building that overhang Council's road reserve

pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve. Such plans are to be in accordance with Council's Adopted Engineering Standard.

10. Footpath area to be reconstructed

The footpath area for the full street frontage (Straight Street) of the development must be paved (with materials consistent with those in the locality). Pedestrian access from car parking area to commercial area especially for disabled access is to be provided. A full set of amended plans are required to be submitted to Council for approval. Design is to be in accordance with DCP 36 and relevant Australian Standards.

In this regard, plain concrete will only be accepted if it is the predominant material in the immediate area. Prior consent for the proposed paving must obtain from Council pursuant to Section 138 of the Roads Act 1993.

11. Access and facilities for disabled

The application for a Construction Certificate is to include plans and specifications that indicate access and facilities for persons with access disabilities to and within the development in accordance with AS 1428.1 - *Design for Access and Mobility* and Part D3 of the *Building Code of Australia*.

Such plans and specifications must be approved as part of the Construction Certificate.

12. Driveway details required

The application for a Construction Certificate is to include plans and specification that indicate vehicular access from the site boundary to the proposed car space(s). Comply with the requirements of AS/NZS 2890.1 for a domestic driveway and dimensions would be required to comply with table 2.2 and fit for the B85. Plans are to include the following items:

- a) pavement description (grades exceeding 15% must be sealed);
- b) site conditions affecting the access;
- c) existing and design levels;
- d) drainage (open drains, pipes, etc.), including calculations and catchment details.

The plans must be in compliance with Council's Adopted Engineering Standard.

13. Car parking plans required

The application for a Construction Certificate is to include plans and specification that indicate access, parking and manoeuvring details in accordance with the plans approved by this consent. The access, parking and manoeuvring for the site is to comply with the requirements of Council's Development Control Plan for Car Parking. Plans are to include, but not be limited to, the following items:

- a) pavement description;
- b) site conditions affecting the access;
- c) existing and design levels;
- d) drainage (pipes, pits, on-site detention, etc.);
- e) Disabled space design and access paths to buildings in accordance with AS1428;
- f) a clearance height 2.2m for all internal car parking areas. Where disabled parking is to be provided a minimum clearance height of 2.5m is required. Building elements such as pipes, ducts, conduits and beams are not to encroach below the specified clearance height; and
- g) linemarking and signs.

The engineering plans and specifications are to be designed by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

The plans must be in compliance with AS2890.1. Such plans and specifications must be approved as part of the Construction Certificate.

14. Contribution to be paid towards provision or improvement of amenities or services prior to the issue of a Construction Certificate

The particulars of the contributions levied pursuant to Section 94 of the Act are set out in the following table:

The specific public amenity or service in respect of which the condition is imposed.	The contributions plan under which the condition is imposed	Date of contributions plan
Open Space	Section 94 Contribution Plan for Outdoor Recreation	Sep 2001
S94 Administration	Project Administration	10 th Aug 2007

The above plans may be viewed during office hours at the Council Customer First Centre located at 22 Tozer Street West Kempsey.

Contributions set out in the following Schedule are to be paid to Council prior to the issue of a Construction Certificate. The following contributions are current at the date of this consent. The contributions payable will be adjusted in accordance with the relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment. The contribution rates for specific dates are available from Council offices during office hours. Payments will only be accepted by cash or bank cheque.

Schedule of Contributions pursuant to Section 94 of the Environmental Planning and Assessment Act 1979.

Public amenity or service	Unit type	No. of Units	Contribution Rate (Amount per Unit)	Contribution Levied	Date until which Contribution rate is applicable
Open Space	ET	0.66	\$549.00	\$362.00	30 th June 2009 / 10
Sub Total				\$362.00	
Section 94 Admin	6% of total Section 94 charge applicable			\$22.00	30 th June 2009 / 10
TOTAL				\$384.00	

15. **Public liability insurance cover required prior to the issue of a Construction Certificate**
The developer and / or contractor must produce evidence to the Principal Certifying Authority of public liability insurance cover for a minimum of \$10 million. Council is to be nominated as an interested party on the policy.

16. **Compliance with BASIX Certificate**
The Principal Certifying Authority (PCA) is to ensure that the proposed development is constructed in accordance with the requirements of BASIX Certificate No. 222820M, dated 10th December 2008. The Plans submitted for approval with the Construction Certificate must include all of the BASIX Certificate commitments indicated in this certificate.

Where changes to the development are proposed that may affect the water, thermal comfort or energy commitments, a new BASIX Certificate may be required.

17. **Long Service Levy to be paid**
A Long Service Levy must be paid to the Long Service Payments Corporation prior to the issue of a Construction Certificate. This amount payable is currently based on 0.35% of the cost of the work. This is a State Government Levy and is subject to change.

These payments may be made at Council's Administration Office. Cheques are to be made payable Council.

18. **Flood Planning Level for new buildings**
The plans and specifications to accompany the construction certificate application are to indicate a ground floor level of 2.1 m AHD.

The plans and specifications to accompany the construction certificate application are also to indicate the use of flood compatible materials, fixtures and power outlets where used in the building below the flood planning level. The flood compatible materials, fixtures and power outlets must be those components listed in the Australian Department of Housing and Construction "Housing in Flood Prone Areas 1975".

- 19. Storage facilities above floor level**
The application for a Construction Certificate is to include the plans and specifications that indicate secure storage facilities, within the approved proposal, above the flood planning level. Such space is to be equivalent to at least one cubic metre per square metre of floor space that is subject to flooding. Such space must accommodate goods or fittings that are not flood compatible. The nominated space may be used for purposes other than storage when flooding is not expected, provided the space is readily available and can be made secure during the period of flooding.

Such plans and specifications must be approved as part of the Construction Certificate.

- 20. Garbage storage area required**
The application for a Construction Certificate is to include details indicating the construction of a garbage storage area on-site. The garbage storage area is to be designed and constructed so as to conceal its contents from view from public places and adjacent properties and is to be blended into the landscaping layout. The storage area is to be located so as to be readily accessible from within the site and serviceable by the waste collector from the adjoining road.

Specifically the garbage storage area is to contain the following design elements:

- a. Bunded with a minimum volume of the bund being capable of containing 110% of the capacity of the largest container stored, or 25% of the total storage volume, whichever is the greatest;
- b. Provided with a hose tape connected to the water supply;
- c. Paved with impervious material;
- d. Graded and drained to the sewer system; and
- e. Roofed to prevent the entry of rainwater.

Such plans must be approved as part of the Construction Certificate.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ANY BUILDING OR CONSTRUCTION WORKS COMMENCING

- 21. Erosion & sediment measures in accordance with Council's Guidelines**
Erosion and sedimentation controls are to be in place in accordance with Development Control Plan (DCP) 36.
- 22. Toilet facilities**
Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a standard flushing toilet connected to a public sewer.
- 23. Site construction sign required**

A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:

- a. showing the name, address and telephone number of the principal certifying authority for the work;
- b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c. stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. No sign is to have an area in excess of one (1) m².

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION

24. Construction times

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:

- Monday to Friday, from 7 am to 6 pm.
- Saturday, from 8 am to 1 pm.

No construction work is to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

25. Limiting construction noise

Construction noise is to be limited as follows:

- a. For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b. For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

26. Construction dust suppression

All necessary works are to be undertaken to control dust pollution from the site.

These works must include, but are not limited to:

- a. restricting topsoil removal;
- b. regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion);
- c. alter or cease construction work during periods of high wind;

- d. erect green or black shade cloth mesh or similar products 1.8m high around the perimeter of the site and around every level of the building under construction.
- 27. **Builders rubbish to be contained on site**
All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.
- 28. **Maintenance of sediment and erosion control measures**
Sediment and erosion control measures must be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.
- 29. **Removal of asbestos**
All asbestos wastes associated with demolition / renovation works are to be disposed of in accordance with the requirements of the WorkCover Authority. The applicant / owner is to produce documentary evidence that this condition has been met. Council requires 48 hours notice prior to disposal at Council's waste depot.
- 30. **Standards for demolition work**
All demolition works are to be undertaken in accordance with the provision of Australian Standard AS 2601-2001 *The Demolition of Structures*. Prior to demolition, all services are to be disconnected and capped off.

No work is to be commenced in regard to the demolition or removal of the building until such time as the appropriate fees for disconnection of water and sewerage services are paid to Council where such services are no longer required. The sewer drainage system is to be appropriately sealed to prevent ingress of water and debris into the Council's main. Arrangements are to be made with Council for the withdrawal of the garbage services and collection of the waste bins.

- 31. **Support for neighbouring buildings**
If an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
 - a. must preserve and protect the adjoining building from damage;
 - b. if necessary, must underpin and support the building in an approved manner; and
 - c. must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land, public road or any other public place is not to be held liable for any part of the cost of work carried out, whether carried out on the allotment of land being excavated or on the public road, any other public place or the adjoining allotment of land.

32. Food premises fitout

The food premises are to be fitted out to comply with the *National Code for the Construction and Fitout of Food Premises, Food Act 2003, Australia and New Zealand Food Standards Code and the Australian Standard 4674 - Design, construction and fit-out of food premises.*

33. Wiring in flood prone buildings

All wiring, power outlets, switches, etc., must be provided in accordance with the following requirements:

- a. To the maximum extent possible must be located above the flood planning level;
- b. All electrical equipment installed below the flood planning level must be suitable for continuous submergence in water and must not contain fibrous components;
- c. All electrical equipment installed below the flood planning level must be capable of disconnection by a single plug and socket assembly;
- d. Electrical circuits to areas below the flood planning level must be separated from circuits serving areas above the flood planning level;
- e. Only submersible-type splices are to be used below flood planning level;
- f. All conduits located below flood planning level are to be so installed that they will be self-draining when subjected to flooding; and
- g. Any existing wiring is to be certified by a licensed electrical contractor as compliant with current electrical standards.

34. Design of basement car park in relation to flood risk

Any pedestrian and vehicle exit doors in the basement car park are to be constructed to ensure that doors can be opened within the basement car park during an extreme flood. In particular the design must ensure that:

- a. the doors can be opened when there is an ingress of flood waters from all flood events up to a Probable Maximum Flood (PMF) (e.g. - the door opens away from the incoming water or in parallel with the adjacent wall.(i.e. a grilled door);
- b. the electrical motor to open the vehicle security door to the garage is located above the PMF level); and
- c. all doors can be opened at all times from within the basement car park (internal handles of doors to be unlocked at all times). If applicable, the doors must also comply with the relevant fire regulations.

35. Stormwater drainage work

Stormwater must be collected and disposed within the road reserve and must be sewer class or other approved

equivalent. All drainage works are to be installed by a suitably qualified person and in accordance with the requirements of AS/NZS 3500.3:2003 - *Plumbing and drainage*, Part 3: Stormwater drainage.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO OCCUPATION OF THE BUILDING

36. **Works to be completed**
All of the works shown on the plans and granted by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of an Occupation Certificate.
37. **Site to be landscaped**
The site must be landscaped in accordance with the approved landscape plan.
38. **Car parking areas to be completed and signs to be provided**
The car parking areas are to be constructed in accordance with the approved plans. Signs are to be erected clearly indicating the availability of off-street parking and the location of entry / exit points, visible from both the street and the subject site.
39. **Sealed driveway in accordance with Roads Act**
A sealed driveway is to be constructed from the edge of the road formation to property boundary in accordance with the Roads Act consent.
40. **Access and facilities for persons with disabilities are to be provided**
Access and facilities for persons with disabilities are to be provided in accordance with AS 1428 - *Design for Access and Mobility*. An accessible car parking space is to be provided in the car parking area.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH AT ALL TIMES

41. **Car parking spaces are to be available for the approved use**
Tenants and customers of the development must have unrestricted access to the car parking spaces on a daily basis during business hours of the development.

No car parking spaces are to be reserved (generally or specifically) for any tenant or customer.

42. **Goods not to be stored or displayed for sale on footpath**
No goods to be displayed for sale or stored on the footpath in front of the premises at any time without further consent of Council.
43. **Restricted hours of operation**
The hours of operation of the proposed business are restricted to the times set out in the following table:-

Period	Start	Finish
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	Time	Time
Monday to Friday	7am	7pm
Saturday	7am	7pm
Sunday	7am	7pm
Public Holiday	7am	7pm

Any alteration to the above hours of operation will require the further consent of Council.

Advice

Contributions for Water and Sewer Services prior to this issue of a Construction Certificate

Contributions set out in the following table are to be paid to Council prior to the issue of a Construction Certificate. Contributions are levied in accordance with Council's Kempsey Shire Council Macleay Water DSP for Water & DSP for Sewage Services dated July 2006. The Plans may be viewed during office hours at Council's Offices.

The contributions payable will be adjusted in accordance with relevant plan and the amount payable will be calculated on the basis of the contribution rates that are applicable at the time of payment. Payments will only be accepted by cash or bank cheque.

The Certificate of Compliance under Section 306 of the Water Management Act 2000, identifying payment of the contributions, is to be provided to the Principal Certifying Authority.

Public service	No. of Equivalent Tenements	Contribution Rate (Amount per ET)	Contribution Levied	Date until which Contribution rate is applicable
Water	0.72	\$8,146.00	\$5,865.00	30 th June 2009
Sewer	1.23	\$6,872.00	\$8,453.00	30 th June 2009
TOTAL			\$14,318.00	

C. That the objectors be advised of Council's decision.

A Division on this decision resulted in the following votes.

F = Voted For

A = Voted Against

Campbell	F	Green	F	Gribbin	F	Hayes	F	Saul	F	Snowsill	F
Sproule	F	Walker	F								

MOVED:

*Moved: Cl. Hayes
Seconded: Cl. Campbell*

1. That Council's confidential business paper be distributed to Councillors at the pre-meeting on the day before the Council meeting and be handed in to the General Manager at the conclusion of the pre-meeting and returned to Councillors on Council meeting day.
2. That Councillors leave the confidential section of their business paper with the staff for shredding at the close of the Council meeting.

An AMENDMENT was MOVED:

*Moved: Cl. Green
Seconded: Cl. Sproule*

1. That confidential papers continue to be included in the business paper.
2. That the following words be included in the motion to move into the confidential (committee of the whole) "and Councillors are again reminded of their statutory obligations in relation to the non disclosure to any outside person of matters included in this section"
3. That the confidential papers be destroyed at the end of the Council meeting.
4. That any alleged incidences of breach of confidentiality be fully investigated.

2009. 516 RESOLVED:

Moved: Cl. Green

That the MOTION be PUT.

2009. 517 The AMENDMENT was PUT to the MEETING and was CARRIED, became the MOTION and was CARRIED.

A DIVISION ON THE FOREGOING DECISION RESULTED IN THE FOLLOWING;

Campbell	F	Green	F	Gribbin	A	Hayes	F	Saul	A	Snowsill	A
Sproule	F	Walker	F								

DSDS12

CONSTRUCTION OF A CLASSROOM AT THE KEMPSEY ADVENTIST SCHOOL

FILE: T6-09-97 SRR

{Folio No. 403485}

SUMMARY:

Reporting that Council has received an application to construct a single classroom building to replace an existing demountable classroom, for which objections have been received.

SECTION 375A OF LOCAL GOVERNMENT ACT, 1993 REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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2009. 532 RESOLVED:

*Moved: Cl. Walker
Seconded: Cl. Green*

A. That the development application be approved subject to conditions:-

PARAMETERS OF THIS CONSENT

1. Development is to be in accordance with approved plans
The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No./ Supporting Document	Version	Prepared by	Dated
Existing Site Plan and Demolition plan	-	Kneeler Design Pty Ltd	June 2009
Proposed Site Plan	-	Kneeler Design Pty Ltd	June 2009
Proposed Floor Plan	-	Kneeler Design Pty Ltd	June 2009
Elevations	-	Kneeler Design Pty Ltd	June 2009

In the event of any inconsistency between conditions of this development consent and the plans / supporting documents referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. **Compliance with Building Code of Australia**
All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.

This condition does not apply:

- a. to the extent to which an exemption is in force under clause 187 or 188, subject to the terms of any condition or requirement referred to in clause 187 (6) or 188 (4), or
- b. to the erection of a temporary building.

3. This consent does not permit commencement of any works

This consent does not permit commencement of any works. Works are not to commence until such time as a Construction Certificate has been obtained and the appointment of a Principal Certifying Authority.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ISSUE OF A CONSTRUCTION CERTIFICATE FOR BUILDING WORKS

4. Engineer's details

Engineer's details for all structural members reinforced concrete slabs and cut and fill are to be submitted to Council prior to the issue of a Construction Certificate. The engineer's details shall be prepared by qualified and experienced practicing Engineer.

5. Sediment and erosion control plan required

The application for a Construction Certificate is to include plans and specifications that indicate the measures to be employed to control erosion and loss of sediment from the site. Control over discharge of stormwater and containment of run-off and pollutants leaving the site / premises must be undertaken through the installation of erosion control devices such as catch drains, energy dissipaters, level spreaders and sediment control devices such as hay bale barriers, filter fences, filter dams, and sedimentation basins. The sediment and erosion control plan is to be designed in accordance with the requirements of the Landcom Blue Book, "Soils and Construction - Managing Urban Stormwater".

The sediment and erosion control plan is to be prepared by a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field.

The plans must be in compliance with Council's current Council's Adopted Engineering Standard. Such plans and specifications must be approved as part of the Construction Certificate.

6. Stormwater disposal on-site

The application for a Construction Certificate is to include plans and specifications that indicate stormwater management for the site, in accordance with AS/NZS 3500.3:2003 - *Plumbing and drainage*, Part 3: Stormwater drainage. The point of disposal for stormwater is to be via an infiltration pit located on the subject property.

The infiltration area is to be designed:

- By a qualified practising Civil Engineer. The Civil Engineer is to be a corporate member of the Institution of Engineers Australia or is to be eligible to become a corporate member and have appropriate experience and competence in the related field;
- With a safety factor of 2 to allow for any long-term deterioration in infiltration rate;

- To ensure that the stormwater run-off entering the infiltration area is pre-treated to remove sediment and gross pollutants;
- To ensure that the stormwater run-off from the site is restricted to a pre-development discharge rate for all storm events up to and including the 1 in 20 year storm;
- In accordance with the requirements of Landcom Blue Book, "Soils and Construction -Managing Urban Stormwater"; and
- Via percolation tests on the site in accordance with Appendix 4.1F of AS/NZS 1547:2000, *On-site Domestic-wastewater management*.

Such plans and specifications must be approved as part of the Construction Certificate.

The plans must be in compliance with Council's Adopted Engineering Standard.

7. Construction Traffic Management Plan

Consent from Council must be obtained for a traffic management plan pursuant to Section 138 of the Roads Act 1993. The plans and specifications are to include the measures to be employed to control traffic (inclusive of construction vehicles) during construction of the development. The traffic control plan is to be designed in accordance with the requirements of the Roads and Traffic Authority's Manual, *Traffic Control at Work Sites Version 2*, and Australian Standard 1742.3 - 1985, *Manual of Uniform Traffic Control Devices Part 3, 'Traffic Control Devices for Works on Roads'*.

The plan must incorporate measures to ensure that motorists using road adjacent to the development, residents and pedestrians in the vicinity of the development are subjected to minimal time delays due to construction on the site or adjacent to the site.

The traffic control plan must be prepared by an accredited person trained in the use of the current version of *RTA Traffic Control at Work Sites* manual (minimum certificate level Select & Modify).

8. Access and facilities for disabled

The application for a Construction Certificate is to include plans and specifications that indicate access and facilities for persons with access disabilities to and within the development in accordance with AS 1428.1 - *Design for Access and Mobility* and Part D3 of the *Building Code of Australia*.

Such plans and specifications must be approved as part of the Construction Certificate.

9. Public liability insurance cover required prior to the issue of a Construction Certificate

The developer and / or contractor must produce evidence to the Principal Certifying Authority of public liability insurance cover for a minimum of \$10 million. Council is to be nominated as an interested party on the policy.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ANY BUILDING OR CONSTRUCTION WORK COMMENCING

10. Public safety requirements

All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. The public liability insurance cover, for a minimum of \$10 million, is to be maintained for the duration of the construction of the development. Council is to be nominated as an interested party on the policy. Council is not held responsible for any negligence caused by the undertaking of the works.

11. Plumbing Standards and requirements

All Plumbing, Water Supply and Sewerage Works are to be installed and operated in accordance with the Local Government Act 1993, the NSW Code of Practice for Plumbing and Drainage and AS/NZS 3500 Parts 0-5, the approved plans (any notations on those plans) and the approved specifications.

The plumber must obtain a Plumbing Permit at least two (2) working days prior to commencing work in accordance with the Local Government Act and the NSW Code of Practice for Plumbing and Drainage. The proponent must ensure the plumber has obtained a Plumbing Permit prior to commencing work on the site.

12. Erosion & sediment measures in accordance with the approved Erosion and Sediment Control Plan

Erosion and sedimentation controls are to be in place in accordance with the approved Erosion and Sediment Control Plan.

Additionally the enclosed sign, to promote the awareness of the importance of maintenance of sediment and erosion controls, is to be clearly displayed on the most prominent sediment fence or erosion control device for the duration of the project.

Note: Council may impose on-the-spot fines of up to \$600 for non-compliance with this condition.

13. Trees to be protected

Trees to be retained are to be protected by a fence so as to minimise disturbance to existing ground conditions within the dripline of the trees. The fence is to be constructed:

- a. with a minimum height of 1.2 metres;
- b. outside the dripline of the tree;
- c. of steel star pickets at a maximum distance of 2 metres between pickets;
- d. using a minimum of 3 strands of steel wire;
- e. to enclose the tree; and

- f. with orange barrier mesh, or similar, attached to the outside of the fence and continuing around its perimeter.

The fence is to be maintained for the duration of the site clearing, preparation and construction works.

14. Toilet facilities

Toilet facilities are to be provided, at or in the vicinity of the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be a toilet connected to an accredited sewage management system approved by the Council.

15. Site construction sign required

A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:

- a. showing the name, address and telephone number of the principal certifying authority for the work;
- b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c. stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. No sign is to have an area in excess of one (1) m².

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH DURING CONSTRUCTION

16. Construction times

Construction works must not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:

- Monday to Friday, from 7 am to 6 pm.
- Saturday, from 8 am to 1 pm.

No construction work is to take place on Saturdays and Sundays adjacent to Public Holidays and Public Holidays and the Construction Industry Awarded Rostered Days Off (RDO) adjacent to Public Holidays.

17. Limiting construction noise

Construction noise is to be limited as follows:

- a. For construction periods of four (4) weeks and under, the L10 noise level measured over a period of not less than fifteen (15) minutes when the construction site is in operation must not exceed the background level by more than 20 dB(A).
- b. For construction periods greater than four (4) weeks and not exceeding twenty-six (26) weeks, the L10 noise level measured over a period of not less than fifteen

(15) minutes when the construction site is in operation must not exceed the background level by more than 10 dB(A).

18. **Construction dust suppression**
All necessary works are to be undertaken to control dust pollution from the site.

These works must include, but are not limited to:

- a. restricting topsoil removal;
- b. regularly and lightly watering dust prone areas (note: prevent excess watering as it can cause damage and erosion);
- c. alter or cease construction work during periods of high wind;

19. **Builders rubbish to be contained on site**
All builders rubbish is to be contained on the site in a 'Builders Skips' or an enclosure. Building materials are to be delivered directly onto the property. Footpaths, road reserves and public reserves are to be maintained clear of rubbish, building materials and all other items.

20. **Maintenance of fencing to protect trees**
Fencing required to protect trees to be retained is to be maintained for the duration of the site clearing, preparation and construction works. During site works and construction all measures are to be taken to prevent damage to trees and other vegetation (including root systems) to be retained. Where any damage is caused to trees to be retained, remedial action must be carried out to the specifications of a tree surgeon.

No building materials or other items are to be placed or stored within the fenced off areas.

A qualified arborist experienced in tree management must be present on a full or part-time basis to advise on the maintenance of the trees for their protection for the duration of the project.

21. **Care to be taken when placing services near trees**
Where services are to be laid within the dripline of a tree all care is to be taken to manually excavate around or under any lateral structural support roots of any tree so as to minimise root disturbance.

22. **No filling around trees**
No soil or fill material is to be placed within the dripline of a tree so as to cause changes in surface level by more than 50mm from the existing level and such soil is not to be compacted. Such soil fill must not be finer than that being covered in situ, e.g. clay must not be placed over loam soil.

23. **Burning of felled trees prohibited**

The burning of trees and associated vegetation felled during clearing operations is not permitted. Where possible, vegetation is to be mulched and reused on the site.

24. Glazing requirements

Glazing materials used in the building are to be selected in accordance with the provisions of Australian Standard AS 1288 *SAA Glass Installation Code* and must comply with the requirements of Australian Standard AS 2208 "Safety Glazing Materials for Use in Buildings (Human Impact Considerations)" as required by the Building Code of Australia.

Windows must be constructed to comply with Australian Standard AS 1288 or Australian Standard AS 2047. Written certification must be submitted to Council prior to occupation inspection to confirm that glazing selection, manufacture and installation has been completed in accordance with the relevant Australian Standards for the job specific project.

25. Responsibilities under the National Parks and Wildlife Act 1974

All earthmoving contractors and operators must be instructed that, in the event of any bone, or stone artefacts, or discrete distributions of shell, being unearthed during earthmoving, work must cease immediately in the affected area, and the Local Aboriginal Land Council and officers of the National Parks and Wildlife Service, informed of the discovery. Work must not recommence until the material has been inspected by those officials and permission has been given to proceed. Those failing to report a discovery and those responsible for the damage or destruction occasioned by unauthorised removal or alteration to a site or to archaeological material may be prosecuted under the National Parks and Wildlife Act 1974, as amended.

Demolition

26. Standards for demolition work

All demolition works are to be undertaken in accordance with the provision of Australian Standard AS 2601-2001 *The Demolition of Structures*. Prior to demolition, all services are to be disconnected and capped off.

No work is to be commenced in regard to the demolition or removal of the building until such time as the appropriate fees for disconnection of water and sewerage services are paid to Council where such services are no longer required. The sewer drainage system is to be appropriately sealed to prevent ingress of water and debris into the Council's main. Arrangements are to be made with Council for the withdrawal of the garbage services and collection of the waste bins.

27. Removal of asbestos

All asbestos wastes associated with demolition / renovation works are to be disposed of in accordance with the requirements of the WorkCover Authority. The applicant / owner is to produce documentary evidence that this condition

has been met. Council requires 48 hours notice prior to disposal at Council's waste depot.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO OCCUPATION OF THE BUILDING

28. Works to be completed

All of the works shown on the plans and granted by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of an Occupation Certificate.

29. Intergraded Development Approval – Rural Fire Act 1997

The following conditions of consent have been imposed by the NSW Rural Fire Service under section 100b of the Rural Fire Act 1997:

Asset Protection Zones

The intent of measures is to provide sufficient space and maintain reduced fuel loads so as to ensure radiant heat levels of buildings are below critical limits and to prevent direct flame contact with a building.

- a) At the commencement of building works and in perpetuity the property to the south of the Year 2 and 5 building to a distance of 70 metres, shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- b) At the commencement of building works and in perpetuity the property to the east of the Year 2 and 5 building to a distance of 20 metres, shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- c) At the commencement of building works and in perpetuity the property to the west of the Year 2 and 5 building to a distance of 60 metres, shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.
- d) At the commencement of building works and in perpetuity the property to the north of the Year 2 and 5 building to a distance of 50 metres, shall be managed as an inner protection area (IPA) as outlined within section 4.1.3 and Appendix 5 of 'Planning for Bush Fire Protection 2006' and the NSW Rural Fire Service's document 'Standards for asset protection zones'.

Water and Utilities

The intent of measures is to provide adequate services of water for the protection of buildings during and after the passage of a bush fire, and to locate gas and electricity so as not to contribute to the risk of fire to a building.

DSDS13	PROPOSED GARAGES TO REPLACE AN EXISTING GARAGE
FILE: T6-08-201 SDS	{Folio No. 403487}

SUMMARY:

Reporting that Council has received an application for garages that are located over Council's sewer mains

SECTION 375A OF LOCAL GOVERNMENT ACT, 1993 REQUIRES THAT A DIVISION BE CALLED IN RESPECT TO THIS REPORT

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Director Sustainable Development Services Recommendation:

That Council allow the garage to be built over Council's sewer line any action to be at no cost to Council now or in the future.

2009. 533 **RESOLVED:** *Moved: Cl. Hayes
Seconded: Cl. Gribbin*

That the Director Sustainable Development Services recommendation be adopted with the addition of;

- 2. That a report be provided to Council in respect to consideration of adopting a policy regarding buildings over service lines.

A Division on this decision resulted in the following votes.

F = Voted For
A = Voted Against

Bowell	-	Campbell	F	Gree	F	Gribbin	F	Hayes	F	Sau	F	Snowsi	F
Sproule	F	Walker	F										

DSDS1	USE OF COUNCIL'S SEAL
CONF	FILE: T6-00-442 KJW
	{Folio No. 403542}

Section 10A(2)(d)(ii) – Commercial Advantage on Competitor

This report is submitted on a confidential basis as it involves commercial information of a confidential nature that would, if disclosed, confer a commercial advantage on a competitor of the council. (Local Government Act 1993, section 10A (2) (d) (ii))

On balance, the public interest in preserving the confidentiality of the commercial information outweighs the public interest in openness and transparency in council decision making by discussing the matter in open meeting.

SUMMARY:

Reporting on a request to vary a caveat's rank in priority on a certificate of title.

**SECTION 375A OF LOCAL GOVERNMENT ACT REQUIRES THAT A DIVISION
BE CALLED IN RESPECT TO THIS REPORT**

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2009. 572 RESOLVED:

*Moved: Cl. Green
Seconded: Cl. Hayes*

**That Councils seal be affixed to the necessary documents associated with
the rank in priority of Council's Caveat on the title as requested.**

A Division on this decision resulted in the following votes.

F = Voted For

A = Voted Against

Green	F	Gribbin	F	Hayes	F	Saul	F	Snowsill	F
Sproule	F	Walker	F						