



## **PLANNING VOTES OF THE ORDINARY MEETING OF KEMPSEY SHIRE COUNCIL**

20 September commencing at 9.00am.

### **1.7 Development Approvals & Regulatory Planning Functions**

#### **1.7.1 Two Lot Subdivision**

**File: T6-11-95 {Folio No. 457423}**

#### **SUMMARY**

Reporting that Council has received a development application for a two lot subdivision at 36-38 Pacific Street, Crescent Head. The application includes a State Environmental Planning Policy (SEPP) No. 1 objection seeking a variation to Clause 12(1)(a) and (c) of the Kempsey Local Environmental Plan (KLEP) 1987. The variation will permit the proposed lots to be created on land within the limits of the 1 in 100 year flood.

Previously Planning Circular B1 allowed councils to assume the concurrence of the Director General for the use of SEPP No. 1 when considering certain applications. However, following the Wollongong ICAC inquiry, Planning Circular PS 08-14 (issued November 2008) now requires that when the variation is greater than 10% the application must be determined at a full Council meeting. In this case, neither of the proposed lots includes a minimum area of 500m<sup>2</sup> that is above the 1 in 100 year flood level.

Applicant: Dennis Partners Pty Ltd  
Subject Property: Lot 12 DP1120476  
36-38 Pacific Street, Crescent Head  
Zone: 2(b2) (Residential B2 Zone)

**2011. 393 RESOLVED:**

***Moved: Cl. Walker  
Seconded: Cl. Saul***

**A That the use of SEPP 1 to vary the provisions of Clause 12(1)(a) and (c) of the *Kempsey Local Environmental Plan 1987* be supported; and**

**B That consent be granted subject to the following 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.**

<b>Plan No./ Supporting Document</b>	<b>Version</b>	<b>Prepared by</b>	<b>Dated</b>
<b>Subdivision Plan (Project No 1349/10, Sheet C01)</b>	<b>2</b>	<b>Dennis Partners</b>	<b>28/04/11</b>
<b>Proposed Contours and Lot Filling Plan (Project No 1349/10, Sheet No C03)</b>	<b>2</b>	<b>Dennis Partners</b>	<b>28/04/11</b>
<b>Tree Removal Plan (Project No 1349/10, Sheet C04)</b>	<b>2</b>	<b>Dennis Partners</b>	<b>28/04/11</b>
<b>Typical Section A-A (Project No 1349/10, Sheet No C05)</b>	<b>2</b>	<b>Dennis Partners</b>	<b>28/04/11</b>

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

**THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE**

- 3 Engineer's Details**  
Prior to the issue of a Construction Certificate engineer's details for the details of cut and fill shall be approved by the Principal Certifying Authority (PCA).

The Construction Certificate shall not be issued until the PCA is satisfied the engineer's details have been prepared in accordance with Council's Development Control Plan No. 36 by an appropriately qualified, experienced and practicing Engineer.

**THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO COMMENCEMENT OF SUBDIVISION WORKS.**

- 4 Written Notification**  
Written notification of intention to commence works must be forwarded to the Council seven (7) days prior to work commencing. Notification is to include contact details of the supervising engineer and site contractor.
- 5 Public Liability Insurance**  
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 public liability insurance cover is to be maintained for the duration of the period of the works and during any maintenance period.

- 6 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 Council's code of practice.

**THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH DURING CONSTRUCTION OF SUBDIVISION WORKS**

- 7 Construction times**  
Construction works shall not unreasonably interfere with the amenity of the neighbourhood. In particular construction noise, when audible on adjoining residential premises, can only occur:
- a) Monday to Friday, from 7.00am to 6.00pm.
  - b) Saturday, from 8.00am to 1.00pm.
  - c) No construction work is to take place on Sundays or Public Holidays.
- 8 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).
- 9 Construction dust suppression**  
All necessary works shall be undertaken to control dust pollution from the site. These works shall 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); and
  - c) Alter or cease construction work during periods of high wind.
- 10 Builders rubbish to be contained on site**  
All builders rubbish shall be contained on the site in a 'Builders Skips' or an enclosure. Building materials shall be delivered directly onto the property. Footpaths, road reserves and public reserves shall be maintained clear of rubbish, building materials and all other items at all times.
- 11 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.

- 12 Public safety requirements**  
All care is to be taken to ensure the safety of the public in general, road users, pedestrians and adjoining property. Council is not held responsible for any negligence caused by the undertaking of the works.
- 13 Council Specification**  
All works to be constructed to at least the minimum requirements of Council's Adopted Engineering Standard.
- 14 Approved Plans to remain on site**  
A copy of the approved Construction Certificate including plans, details and specifications must remain at the site at all times during construction of the subdivision.
- 15 Trees to be retained and protected**  
Any trees within the vicinity of the work site that have not been approved for removal shall be protected by a fence so as to minimise disturbance to existing ground conditions within the drip line of the trees. The fence shall be constructed:
- a) With a minimum height of 1.2 metres;
  - b) Outside the drip line of the trees;
  - 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 adequately separate the tree or stand of trees from the works; and
  - f) With orange barrier mesh, or similar, attached to the outside of the fence and continuing around its perimeter.
- The fence shall be maintained for the duration of the site clearing, preparation, demolition, and construction works.
- 16 No filling around trees**  
Excavations shall not take place within the drip line of any tree that has not been approved for removal, and no soil or fill material shall be placed within the drip line of any tree so as to cause changes in surface level by more than fifty millimetres (50mm) from the existing level. Such soil shall not to be compacted. Such soil fill shall not be finer than that being covered in situ (e.g. clay shall not be placed over loam soil).
- 17 Clearing Management**  
All hollow and fissure bearing and fire scar trees are to be clearly marked on suitably qualified ecologist and identified to the construction contractor, and are only to be removed as per the hollow bearing tree protocol.
- 18 Animal Welfare Pre-Clearing Survey**  
Prior to any clearing, the hollow bearing trees are to be inspected with a snake-eye camera to determine if any fauna are using the hollows/fissures at this time, and at a critical stage of their lifecycle, e.g. nesting birds.
- If eggs, nesting birds, or a large breeding colony of bats is found, FAWNA is to be contacted to take any young into care, or to handle the bats prior to release that evening.

The inspection is to be undertaken by a suitably qualified ecologist.

**19 Hollow Bearing Tree Removal Protocol**

The hollow-bearing trees are to be removed the day after removal of all other trees to encourage abandonment by any fauna potentially using the hollow at the time of clearing. This reduces the likelihood of fauna at risk of injury or stress during tree felling.

The following protocol is to be adopted for removal of the hollow-bearing trees on site:

1. As an overriding rule, unless deemed unsafe/impractical in OH&S terms, hollow-bearing trees or at least hollow-bearing limbs are to be removed via a method that does not require traditional tree felling/hollow-limb removal methods i.e. "clear-drop" chainsaw cut or bulldozer/excavator "rip and push" methods are not to be utilised due to the violence of tree-ground impact and associated high risk of injury/mortality to fauna (e.g. via hollow collapse, collision with walls, etc).
2. The preferred option for removal of a hollow-bearing tree (especially if hollows occur in the trunk) is employment of a suitable excavator with a rotating pincer/saw combination attachment (often used in commercial forestry). Depending on tree height and weight, this attachment can cut the crown or large limbs >10m above ground level, and then lower the cut section to the ground intact with minimal ground impact (thereby negating the risk of fauna being crushed by collapsed limbs). This method then allows hollows to be inspected (e.g. for bird eggs) and/or relocated to a position where animals may escape in their own time (e.g. at dusk).
3. If this is not available/practical, the following options in decreasing preference, are suggested:
  - Use of a crane to hold the tree section/limb while the base/section of sawn by an arborist, and then lower the tree/section to the ground for inspection. This commences from the largest and highest hollow-bearing crown limb and progresses until all hollow-bearing sections are removed (remainder of tree removed by routine method). This may require an arborist to scale the tree to make the cuts and appropriate OH&S controls.
  - Use of two excavators, with one pushing the tree over, and the other counterbalancing the tree to allow it to be slowly lowered to the ground.
  - If none of the above is practical, an excavator can cut the roots and slowly push over the tree, counterbalancing the fall rate by pushing down on the root ball to minimise acceleration and final impact (least preferred method), within safety constraints/practical limitations.
4. An ecologist or Construction OH&S certified member of FAWNA must be present during felling of the hollow bearing trees to monitor clearing procedure, capture any resident animals injured or not evacuating, and undertake appropriate emergency actions if required (e.g. transport animal to veterinary treatment, care at proponent's cost, or care by FAWNA). This procedure must also be undertaken if ground-dwelling native fauna are not evacuating/injured.
5. Hollows are to be immediately inspected (e.g. with a camera and/or torch) by the wildlife welfare person once the tree is felled, within OH&S guidelines, for injured individuals, eggs or abandoned offspring, and appropriate measures undertaken. If

hollows cannot be cleared, then the section of the tree containing the hollow should be left undisturbed overnight to allow fauna escape, or (if required to be immediately destroyed) sectioned carefully with a chainsaw by an appropriately qualified person e.g. arborist.

6. All rehabilitated animals are to be released in nearby suitable habitat.
7. A written report is to be provided to Council following the removal of hollow-bearing trees and the pre-clearing survey detailing all results and actions undertaken.

**21 Maintenance of sediment and erosion control measures**

All sediment and erosion control measures shall be maintained at all times until the site has been stabilised by permanent vegetation cover or hard surface.

**THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH PRIOR TO ISSUE OF A SUBDIVISION CERTIFICATE**

**22 Plan of Subdivision**

An application for a Subdivision Certificate must be made on the approved form. The Subdivision Certificate fees, in accordance with Council's adopted schedule of fees and charges, must accompany such application. Seven (7) copies of the plan of subdivision are to be submitted with the application for a subdivision certificate. The location of all permanent improvements including fences must be indicated on 1 of the copies, if relevant.

**23 Plan of Subdivision and Section 88B Instrument requirements**

A Section 88B Instrument and one (1) copy shall be submitted with the application for a Subdivision Certificate. The final plan of subdivision and accompanying Section 88B Instrument are to provide for the items listed in the following table:

Item for inclusion in Plan of Subdivision and/or Section 88B Instrument	Details of Item
Bushfire	The creation of any necessary easements for bushfire protection purposes on proposed Lot 121 and proposed Lot 122. The instrument is to benefit and burden proposed allotments as is appropriate to the satisfaction of Council.
Restricting Habitable Floor Level	A restriction which requires the habitable floor level of any building on proposed Lots 121 and 122 to be at or above the flood planning level for the site, as required by the version of Kempsey Shire Council's Flood Risk Management Policy current at the time an application for development is lodged.

**24 Completion of all Works**

All civil works required by this development consent and associated Construction Certificate are to be completed. Works are to include restoration, replacement and/or reconstruction of any damage caused to surrounding public infrastructure, including damage to road pavements along any haulage routes used of the construction of the subdivision.

**25 Contributions to be paid towards provision or improvement of amenities and services**

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

Public amenity or service	Unit Type	No. of Units	Contribution Rate (Amount per Unit)	Contribution Levied	Date until which Contribution rate is applicable
Roads (Catchment 4)	ET	2.5	\$1466	\$3665	30 June 2012
Public Domain	ET	2.5	\$982.5	\$982.50	30 June 2012
Outdoor Recreation	ET	1	\$474	\$474	30 June 2012
Section 94 Admin	6%	N/A		\$243.70	30 June 2012
<b>TOTAL</b>				<b>\$5365.20</b>	

The above plans may be viewed during office hours at the Council Offices located at 22 Tozer Street, West Kempsey.

Contributions set out in the above Schedule are to be paid to Council. 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 in 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.

**26 Certificate of Compliance**

Prior to the release of a subdivision a Certificate of Compliance pursuant of Section 305 of the *Water Management Act 2000* shall be submitted to Council.

Please refer to the Advice section of consent for additional information on water and sewer works and contributions.

**GENERAL TERMS OF APPROVAL – RURAL FIRE SERVICE**

**27 NSW Rural Fire Service General Terms of Approval**

The following conditions of consent have been imposed by the NSW Rural Fire Service as "General Terms of Approval" under Section 100B of the *Rural Fires Act 1997*, and shall be complied with prior to the issue of a Subdivision Certificate and in perpetuity:

**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. To achieve this, the following conditions shall apply:

- At the issue of subdivision certificate and in perpetuity the entire property shall be managed as 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' for proposed Lots 1 & 2.**

**General Advice – consent authority to note**

**Any future development application lodged within this subdivision under section 79BA of the 'Environmental Planning & Assessment Act 1979' will be subject to requirements as set out in 'Planning for Bush Fire Protection 2006'.**

**ADVICE**

**Contributions for Water and Sewer Services**

**Prior to the issue of the Construction Certificate a Certificate of Compliance pursuant of Section 305 of the *Water Management Act 2000* shall be submitted to Council.**

**Contributions set out in the following table are to be paid to Council. Contributions are levied in accordance with Council's Kempsey Shire Council Macleay Water DSP for Water dated July 2006. The Plans may be viewed during office hours at Council's Offices.**

**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. 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.**

<b>Public service</b>	<b>No. of Equivalent Tenements</b>	<b>Contribution Rate (Amount per ET)</b>	<b>Contribution Levied</b>	<b>Date until which Contribution rate is applicable.</b>
<b>Water</b>	<b>1</b>	<b>\$8390</b>	<b>\$8390</b>	<b>30 June 2012</b>
<b>Sewer</b>	<b>1</b>	<b>\$7078</b>	<b>\$7078</b>	<b>30 June 2012</b>
<b>TOTAL</b>		<b>\$15468</b>	<b>\$15468</b>	

**General Landscaping**

**This advice in relation to landscaping was provided in the Threatened Species Assessment, carried out by Darkheart Ecoconsultancy, dated June 2010.**

**Any landscaping provided on the site should give due consideration to the establishment of native plants as ornamental species to maintain and/or increase biodiversity and replacement habitat, and minimise water demand. Specifically, such species should include Eucalypts, Grevilleas, Banksias, Melaleucas, Acacias, Allocasuarinas and Callistemons (especially Winter-flowering species which are useful for the Squirrel Glider, honeyeaters and Grey Headed Flying Fox e.g. *Banksia intergrifolia*), and fruiting rainforest species such as Brush Cherry (*Syzygium australe*), figs, *Acronychia littoralis*, etc.**

**Plantings should preferably not be in parkland style or isolated trees, as this minimises their effectiveness to provide habitat to all but common medium sized species which may in fact become detrimental to the presence of other species e.g. Currawongs and Indian Mynahs (Catterall 2004).**



Rather, plantings should be planned to recreate a natural structure (i.e. layered). Such plantings thus may consist of at least one or two canopy trees, underlain by a few understorey trees, and finally a number of shrubby species. This multi-layered planting can provide effective aesthetics while supporting passerine birds (who depend on the lower strata and structural complexity), bats, and canopy species such as arboreal mammals.

Use of and reliance on garden chemicals should be limited as much as possible.

**Country Energy**

Excerpt from the Standard Form Customer Supply Contract (Effective 2 February 2004)

**8 ACCESS AND YOUR OBLIGATIONS TOWARDS EQUIPMENT**  
**8.1 ACCESS TO YOUR PREMISES**

- (1) You must provide authorised officers with safe and unhindered access to the premises during reasonable daylight hours to:
- (a) Read meters;
  - (b) Inspect, test, adjust, repair or remove any of our equipment installed at the premise; or
  - (c) Exercise any other rights or carry out any other duties set out in this contract or any laws.

For more information please visit [www.countryenergy.com.au/meteraccess](http://www.countryenergy.com.au/meteraccess)

The complete *Service and Installation Rules of New South Wales October 2006* can be found by visiting the Publications page at [www.deus.nsw.gov.au](http://www.deus.nsw.gov.au)

A Division resulted in the following votes.

F = Voted For  
A = Voted Against

Bowell	F	Campbell	F	Green	A	Saul	F	Snowsill	A
Sproule	A	Walker	F						

**1.7.2 Planning Proposal for Residential Rezoning**  
**File: T5-116 {Folio No. 457426}**

**SUMMARY**

Reporting that Council has received a Planning Proposal to rezone land from 1(d) (Rural (Investigation) "D" Zone) to 2(a) (Residential "A" Zone), 7(a) (Wetlands Protection Zone) and to 7(b) (Environmental Protection (Habitat) Zone).

Applicant: Wells Environmental Services – Gary Freeland  
Subject Property: Lot 10 DP754396, Gilbert Cory Street, South West Rocks  
Zone: 1(d) (Rural (Investigation) "D" Zone)

**2011. 394 RESOLVED:**

**Moved: Cl. Bowell**  
**Seconded: Cl. Walker**

- A That planning proposal T5-116 be forwarded to the Department of Planning for a Gateway Determination pursuant to Section 56 of the Environmental Planning and Assessment Act 1979.**
- B That Council request the Department of Planning & Infrastructure, to include the growth area boundary in the Residential Component of the Local Growth Management Strategy as previously endorsed by Council.**

**A Division resulted in the following votes.**

**F = Voted For**

**A = Voted Against**

<b>Bowell</b>	<b>F</b>	<b>Campbell</b>	<b>F</b>	<b>Green</b>	<b>F</b>	<b>Saul</b>	<b>F</b>	<b>Snowsill</b>	<b>F</b>
<b>Sproule</b>	<b>F</b>	<b>Walker</b>	<b>F</b>						

**1.7.3 Modification to approved Gravel Quarry to include blasting  
File: T6-07-146 {Folio No. 457428}**

**SUMMARY**

Reporting that Council has received a section 96 (2) modification application proposing to make changes to the approved gravel quarry in South Kempsey to include blasting, for which objections have been received.

**Applicant:** Phyllis Farrawell/Farrawell Property Trust c/- GHD  
**Subject Property:** Lots 100 and 104 DP776239, 511 and 627 Pacific Highway, South Kempsey  
**Zone:** 1 (a1) (Rural "A1" Zone), 4(e) (Industrial (Extractive) "E" Zone), 7(b) (Environmental Protection (Habitat) Zone) and 4(a) (Industrial (General) Zone)

**2011. 395 RESOLVED:**

*Moved: Cl. Walker  
Seconded: Cl. Snowsill*

**That:**

**A That Development Application be approved 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.**

<b>Plan No./ Supporting Document</b>	<b>Version</b>	<b>Prepared by</b>	<b>Dated</b>
<b>Document - S96 Modification to DA T6-07-146</b>		<b>GHD</b>	<b>3 November 2010</b>
<b>Document – Airblast Overpressure (Noise)</b>		<b>GHD</b>	<b>04 July 2011</b>

Plan No./ Supporting Document	Version	Prepared by	Dated
and Ground Vibration Assessment			
Environmental Impact Statement	22/12135/10927	GHD	30/3/07
SEPP1	22/12135/12318	GHD	30/10/07
Extraction Strategy – Stage 1 – Rev A	22/14028/ES01	GHD	28/05/09
Extraction Strategy – Stage 2 – Rev A	22/14028/ES02	GHD	28/05/09
Extraction Strategy – Stage 3 – Rev A	22/14028/ES03	GHD	28/05/09
Extraction Strategy – Stage 4 – Rev A	22/14028/ES04	GHD	28/05/09
Additional information		GHD	2/12/09
Amended Noise Impact Assessment		GHD	01/10
GHD – Noise Impact Assessment		GHD	8/01/10

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.

2. This consent permits the quarry to operate for a period of four (4) years from the date of commencement of operation. Separate consent will be required to operate the quarry beyond the specified period.
3. In the event of the construction of the Kempsey Bypass, separate application shall be made for construction of amended access arrangements in accordance with the requirements of the Roads & Traffic Authority. Such application should also have regard to the provision of landscaping needed to screen the quarry from view of the Highway.
4. 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.
5. Submission of a separate application providing for a workers toilet in accordance with the Building Code of Australia (BCA) prior to commencement of extraction activities.
6. 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.

7. Excavated material from the site is not to be placed within the road reserve or any other public place.

#### Permitted Extraction

8. a) This consent permits a total extraction volume of 500,000m<sup>3</sup> of gravel from the quarry. The consent also permits excavation of 90,000m<sup>3</sup> of material consisting of stripped topsoil which will be utilised in the rehabilitation of the site.

#### Hours of Operation

9. Deleted – GTA condition 30 (Rev 1 - 30 March 2010).

#### Blasting

10. a) The operator/blasting contractor is required to monitor airblast overpressure (noise) and ground vibration at the closest/ most affected premises for every blast to ensure that the operations are in compliance with the *Protection of the Environment Operations Act 1997*. These reports are to be made available to Council Officers at any time or if requested.

A report is to be prepared by the operator/ blasting contractor within seven days of the initial blast. This report is to be provided to Kempsey Shire Council and the Office of Environment and Heritage (OEH) to ensure compliance with the relevant airblast overpressure (noise) and vibration standards.

If in the event that compliance with the blasting requirements is not met by the initial blast, there is to be no further blasting until the further mitigation measures that may be imposed by OEH or Council are implemented and approved. Blasting is not to occur until the operator has written confirmation from both Council and OEH.

- b) Temporary noise barriers shall be used to attenuate Drill Rig noise. They shall be capable of reducing the noise level by 10dB(A), and be at least two meters in height and have no gaps. The barrier shall be located to shield residential receivers.

The drill rig shall be orientated in such a way that the noisiest side is facing away from any residential receiver.

- c) The airblast overpressure (Noise) level from blasting operations on the premise must not exceed:

1. 115dB (Lin Peak) for no more than 5% of the total number of blasts during each reporting period, and
2. 120 dB (Lin Peak) at any time.

- d) The ground vibration peak article velocity from blasting operations carried out on the premises must not exceed:

- 5mm/s for more than 5% of the total number of blasts carried out on the premises during each reporting period, and

- 10mm/s at any time.

#### **Plan of Management**

- 11. Submission of a Plan of Management, which may be varied from time to time, depending on the results of monitoring prior to commencement of any works, to include of the following:-**

##### **A. Monitoring**

**The Plan of Management is to provide for monitoring in accordance with the following program to ensure compliance with all criteria prescribed by relevant conditions of this consent. The results of such monitoring shall form the basis of required performance criteria and are to be reported to Council as specified by this consent.**

##### **a) Noise**

- i) Details of the proposed means of monitoring the effects of operational including but not limited to airblast overpressure and traffic noise on adjoining residences are to be included.**
- ii) Monitoring is to be carried out by a suitably qualified acoustic consultant. The results of monitoring are to be reported to Council within three (3) months from the nominated date of commencement, except if monitoring is required as part of any other specific condition or as requested by Kempsey Shire Council following receipt of any complaints which, in the opinion of Council, are justified.**

##### **b) Dust**

- i) The Plan of Management is to include the means proposed to monitor the effects of dust on adjoining residences so as to ensure that dust levels meet the criteria prescribed by relevant conditions of this consent.**
- ii) The plan is to provide for placement of sufficient dust monitors on the subject land and adjoining allotments which contain dwellings (with the consent of owners).**
- iii) Monitoring is to be carried out by a suitably qualified environmental consultant. The results of monitoring are to be submitted to Council on a quarterly basis for the first twelve (12) months from the nominated date of commencement and thereafter immediately following the anniversary of the nominated date of commencement.**

##### **c) Water Quality**

- i) Details of the means of monitoring the quality of water at the point of discharge from the lowest required sediment control pond.**
- ii) Monitoring shall be carried out in accordance with the relevant Australian Standard by a suitably qualified person. The results of monitoring shall be submitted to Council on a quarterly basis for the first twelve (12) months from the nominated date of commencement and thereafter immediately following the anniversary of the nominate date of commencement.**

**B. Sediment Control**

**The Plan of Management shall include the following information relating to sediment control measures.**

- a) Details providing for the construction of sediment control pond to be designed to collect runoff from all extraction and rehabilitated areas suitable to cater for the 1 in 20 year ARI 24-hour event.**
- b) No extraction or clearing, except required for constructing and maintaining the required sediment control pond(s), shall occur within fifty (50) metres of any gully or water course.**
- c) Details of the means proposed for de-silting the required settlement pond.**
- d) The Erosion and Sediment Control Plan shall:
  - i) be consistent with the requirements of *Managing Urban Stormwater: Soils and Construction, Volume 1, 4th Edition, 2004* (Landcom);**
  - ii) identify activities that could cause soil erosion and generate sediment;**
  - iii) describe measures to minimise soil erosion and the potential for the transport of sediment to downstream waters;**
  - iv) describe the location, function, and capacity of erosion and sediment control structures; and**
  - v) describe what measures would be implemented to maintain (and if necessary decommission) the structures over time.****

**C. Landscaping/Rehabilitation**

**The Plan of Management shall include the following information relating to landscaping and rehabilitation.**

- a) Details of the means of stabilising proposed topsoil stockpiles.**
- b) A detailed contingency for controlling the emergence of weed species.**

- c) **Details of the means proposed to propagate species proposed to be replanted.**
- d) **Details of the proposed rehabilitation including time frames (*rehabilitation is to be completed within four (4) years from the commencement of operations*) for rehabilitation, areas to be rehabilitated, including a list of endemic species to be planted and ongoing maintenance of the site.**

**D. Bushfire Management**

**The Plan of Management is to incorporate a Bushfire Management Strategy prepared in consultation with the Rural Fire Service.**

**E. Method of Extraction**

**The Plan of Management is to provide for a clearing and extraction program within clearly defined quarry perimeter incorporating the following:-**

- a) **Deleted (Rev 1 – 30 March 2010)**
- b) **Deleted (Rev 1 – 30 March 2010)**
- c) **Deleted (Rev 1 – 30 March 2010)**
- d) **A plan specifying proposed extraction levels to Australian Height Datum.**
- e) **A check survey to be carried out upon the anniversary of commencing quarry operations each year confirming compliance with design levels.**
- f) **Deleted (Rev 1 – 30 March 2010)**
- g) **The extraction program shall be consistent with all recommendations of the Amended - Noise Impact Assessment dated January 2010 and noise impact assessment contained within the approved Environmental Impact Statement (EIS).**
- h) **Deleted (Rev 1 – 30 March 2010)**
- i) **The area nominated for exclusion from quarrying activities shall be fenced and maintained in accordance with any requirements of the required Bushfire Management Strategy.**

**F. Check List**

**The Plan of Management is to contain a check list including all management procedures and conditions of this consent to be included in required reporting.**

**Environmental Audit**

12. **An Environmental Audit Report prepared by a suitably qualified person shall be submitted to Council on the anniversary of the nominated date of commencement certifying that the quarry meets all relevant requirements of the Plan of Management and conditions of this consent.**
- 13.
- a) **The operator is to employ such measures as are necessary to achieve noise criteria at an adjoining residence not associated with the operation of the quarry in compliance with the relevant conditions of this consent. Such measures shall include, but not necessarily be limited to, all recommendations of the Noise Impact Statement contained within the approved EIS.**
  - b) **In the event monitoring indicates non-compliance with any relevant noise criteria, all quarrying activities are to cease and are not to recommence until such time as a revised Noise Impact Assessment has been provided to Council incorporating additional measures to ensure compliance and the carrying out of such measures.**
- 14.
- a) **The operator shall employ such measures as are necessary to achieve the criteria specified by relevant conditions of this consent in respect to dust generated by the proposed development.**
  - b) **In the event monitoring indicates non-compliance with any relevant dust criteria, all quarrying activities are to cease and are not to recommence until such time as a revised assessment has been provided to Council incorporating additional measures to ensure compliance and the carrying out of such measures.**

#### **Internal Access Road**

15. **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 Pacific Highway South Kempsey to the quarry site within the subject property, incorporating the following: -**
- a) **Details of the Pacific Highway bypass works corridor.**
  - b) **Provision of a dust free wearing surface for the full length of the proposed internal haul access road. The minimum wearing surface treatment is to be a two coat bitumen seal.**
  - c) **The proposed road pavement (depth and width) and associated stormwater drainage structures are to be designed to support the anticipated traffic loadings over the life of the quarry.**
  - d) **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, 4<sup>th</sup> Edition, 2004* (Landcom).**
  - e) **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.**

- 16. The quarry operator shall prepare a Drivers Code of Conduct (DCC) to address noise and dust issues associated with heavy vehicle haulage to and from the quarry. The DCC shall be prepared and presented to Council for approval prior to any operations commencing at the quarry.**

**The applicant shall adopt and enforce the DCC approved by Council and ensure:**

- That all contractors and drivers receive a copy of the DCC and acknowledge in writing having received and understood same. Such written acknowledgments are to be retained by the applicant to be produced to Council for inspection when required.**
  - That all truck drivers and contractors responsible for the movement of vehicles to and from the site shall comply with the DCC.**
- 17. 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.**
- 18. 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**

- 19. 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.**
- 20. 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**

- 21. The quarry operator shall:**
- a) Mark the clearing envelope before commencement of clearing, and exclude movement of plant, machinery or materials beyond the clearing boundary.**
  - b) Reserve topsoil for future re-establishment of native vegetation in disturbed areas at completion of operations.**

- c) **Prepare and implement a Vegetation Management Plan (VMP) that revegetates the extraction area with the same species of vegetation that currently exists at the site as soon as extraction is complete.**
- d) **Implement appropriate sediment and erosion control measures to ensure minimal sedimentation and flooding of downstream environments.**
- e) **Install and maintain twenty microbat nesting boxes of a design that has proved successful elsewhere, and shall be placed appropriately within the landscape to maximise their usefulness and shall be monitored and maintained for the life of the proposal.**
- f) **Have a qualified ecologist inspect trees for possible fauna, prior to their removal.**
- g) **Retain hollow logs, large rocks, etc so they can be replaced during the restoration Works.**

#### **Water Quality**

##### **22. The quarry operator shall:**

- a) **Prepare and maintain an Emergency Response Plan for spills or leakages of fuels and chemicals.**
- b) **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**

- 23. 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.**

#### **Department of Environment, Climate Change and Water (DECCW)**

**The following conditions have been imposed by the NSW Department of Environment, Climate Change and Water under the Integrated Development provisions of the *Environmental Planning and Assessment Act, 1979* and the *Protection of the Environment Operations Act 1997* (ref: FIL07/1661-02, dated 11 Feb 2010).**

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

- a) Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:
- the development application DA number T6-07-146 submitted to the Kempsey Shire Council in April 2007;
  - the environmental impact statement "*Kevin Farrarwell-Proposed Extractive Industry - Gravel Quarry at Lot 100 and 104, DP 776239, Pacific Highway, South Kempsey: Environmental Impact Statement, (prepared by GHD Pty Ltd, 30 March 2007*" relating to the development; and
  - additional documents supplied to the EPA in relation to the development, including the following:
    - Information received by DECC on 4 June 2007 via email from Shaun Lawer (GHD Pty Ltd)
    - Information received by DECC on 6 June 2007 via email from Shaun Lawer (GHD Pty Ltd)
    - Correspondence received by the Department of Environment, Climate Change and Water (DECCW) from Kempsey Shire Council dated 2 October 2009.
    - An amended Noise Impact Assessment report (GHD, January 2010) received by DECCW via email from Mike Graver (GHD) dated 14 January 2010.
- b) These general terms of approval apply to all activities carried on at the premises, including but not limited to extraction, crushing, grinding and separating activities.

**25. Fit and Proper Person**

- a) 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.

**LIMIT CONDITIONS**

**26. Pollution of waters**

- a) 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) Rainfall runoff from all disturbed areas of the premises arising from up to 70mm (up to five day event duration) must, prior to discharge from the premises, be captured and treated to the standards set out in condition 27 below.

**27. Concentration Limits**

- a) The quality of rainfall runoff referred to in condition 26 (b) which discharges from the premises must not exceed the concentration limit(s) specified for that pollutant in the table.

Pollutant	Units of	50 <sup>th</sup>	90 <sup>th</sup> percentile	100 <sup>th</sup> percentile
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	Measure	percentile concentration limit	concentration limit	concentration limit
Total Suspended Solids	mg/L			50
pH	pH			6.5-8.5
Oil and Grease	mg/L			10

- b) To avoid any doubt, this condition does not authorise the pollution of waters by any pollutant other than those specified in 27 (a) above.

## 28. Waste

- a) The applicant 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.
- b) 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.

## 29. Noise

- a) Noise from the premises must not exceed the noise emission criteria specified in the table below:

Receiver Location	Noise emission limit [L <sub>Aeq</sub> (15 minute)]
1	46
2	46
3	46
4	47
5	46

- b) To determine compliance with condition(s) 29 and 10 noise must be measured at the affected noise sensitive receiver locations 1 - 5 identified in the amended Noise Impact Assessment (GHD, January 2010) referred to in condition A1.1. A modifying factor correction must be applied for tonal, impulsive or intermittent noise in accordance with the "Environmental Noise Management - NSW Industrial Noise Policy (NSW EPA, January 2000)".
- c) The noise emission limits identified in these conditions apply under all meteorological conditions except:
- (a) during rain and wind speeds (at 10m height) greater than 3m/s; and
- (b) under "non-significant weather conditions".

**Note:** Field meteorological indicators for non-significant weather conditions are described in the NSW Industrial Noise Policy, Chapter 5 and Appendix E in relation to wind and temperature inversions.

**30. Hours of operation**

- a) **Activities covered by this licence must only be carried out between the hours of 0700 and 1700 Monday to Friday, and 0700 and 1300 Saturday, and at no time on Sundays and Public Holidays.**
- b) **This condition does not apply to the delivery of material outside the hours of operation permitted by condition 30, if that delivery is required by police or other authorities for safety reasons; and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification is provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of emergency.**
- c) **The hours of operation may be varied with prior written consent if the EPA is satisfied that the amenity of the residents in the locality of the premise will not be adversely affected.**

**31. Plant and Equipment Restrictions**

- a) **Blasting is strictly prohibited at the premises.**
- b) **The use of rock drills and rock picks is strictly prohibited at the premises.**

**OPERATING CONDITIONS**

**32. General**

- a) **Activities must be carried out in a competent manner. This includes:**
  - o **the processing, handling, movement and storage of materials and substances used to carry out the activity; and**
  - o **the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.**
- b) **All plant and equipment installed at the premises:**
  - o **Must be maintained in a proper and efficient condition; and**
  - o **Must be operated in a proper and efficient manner.**

**33. Air quality**

- a) **The applicant must prepare and submit an Air Quality Management Program to the Environment Protection Authority (EPA) with any application for an environment protection licence to develop and operate the quarry. The Program must include, as a minimum:**
  - **Detailed prevention and mitigation measures proposed to be implemented at the premises designed to ensure that the assessment criteria prescribed in the EPA document *"Approved methods for the Modelling and Assessment of Air Pollutants in New South Wales"* (DEC, August 2005) for**

**Total Suspended Particles (TSP), PM<sub>10</sub> and dust are achieved.**

- b) All operations and activities occurring at the premises must be carried out in a manner that will minimise dust at the boundary of the premises.**
- c) Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.**

#### **34. Soil and Water Management**

- a) The applicant must prepare and submit a Soil and Water Management Plan (SWMP) to the EPA with any application for an environment protection licence to develop and operate the quarry. The plan must:**
  - be prepared in accordance with the document *Managing Urban Stormwater: Soils and Construction (LANDCOM, 2004)*, and;**
  - include a waste water monitoring program, proposing monitoring locations, monitoring frequencies and monitoring procedures.**

#### **35. Noise Management Plan**

- a) The applicant must prepare and submit a Noise Management Plan to the EPA with any application for an environment protection licence to develop and operate the quarry. The Plan must, as a minimum:**
  - identify detailed measures to attenuate and mitigate noise so as not to exceed the compliance limits set in conditions 10 and 29.**
  - include a noise monitoring program, including:**
    - monitoring locations;**
    - monitoring procedures;**
    - monitoring frequencies; and**
    - community consultation/complaint handling and reporting procedures.**

### **MONITORING AND RECORDING CONDITIONS**

#### **36. Monitoring Records**

- a) The results of any monitoring required to be conducted by these EPA's general terms of approval must be recorded and retained as set out in conditions 36 (b) and 36 (c).**
- b) All records required to be kept by the applicant 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**
  - produced in a legible form to any authorised officer of the EPA who asks to see them.**
- c) 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.

**37. Requirement to monitor concentration of pollutants discharged**

- a) For all waste water discharge points from the premises 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:

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	Ph	Daily during discharge	Grab sample

**38. Requirement to Monitor Noise Impacts**

- a) The applicant must conduct an initial noise monitoring round in accordance with conditions 29 (b) and 29 (c) of these General Terms of Approval within 21 days of commencing operations after the issue of this licence in order to determine whether the noise emissions from the premises comply with the noise limits established in 29 (a).
- b) The applicant must submit a report on the compliance noise monitoring conducted under 38 (a) above to the EPA within 21 days of undertaking the monitoring.

**39. Requirement to Monitor Weather**

- a) The applicant must monitor (by sampling and obtaining results by analysis) the parameters specified in Column 1 for the purposes of demonstrating compliance with 26 (a). The licensee must use the sampling method, units of measure, averaging period and sample at the frequency, specified opposite in the other columns.

Parameter	Units of Measure	Frequency	Averaging Period	Sampling Method
Rainfall	mm	Continuous	24 hour	AM-4

**Note:** Methods AM-4 are specified in the [Approved Methods for Sampling and Analysis of Air Pollutants in NSW](#) and all monitoring must be conducted strictly in accordance with the requirements outlined in this document.

**40. Recording of pollution complaints**

- a) The licensee must keep a legible record of all complaints made to the applicant or any employee or agent of the applicant 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.
- b) The record of each complaint must be kept for at least 4 years after the complaint was made.
- c) The records must be produced to any authorised officer of the EPA who asks to see them.

#### **41. Telephone complaints line**

- a) The applicant 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 these general terms of approval.
- b) The applicant 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**

#### **42. Annual Returns**

- a) 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.
- b) The licensee must complete and supply to the EPA an Annual return in the approved form comprising:

**a Statement of Compliance; and  
a Monitoring and Complaints Summary.**



- c) **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.**
- d) **Licensee must retain copy of Annual Return**  
**The applicant 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.**
- e) **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.**

**43. Notification of environmental harm**

- a) **The licensee must notify the EPA 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.**
- b) **Notifications must be made by telephoning the EPA's Pollution Line service on 131 555.**
- c) **The applicant must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.**
- d) **Where an authorised officer of the EPA suspects on reasonable grounds that an event has occurred at the premises and the event has caused, is causing or is likely to cause material harm to the environment the authorised officer may request a written report of the event.**
- e) **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:**
  - the cause, time and duration of the event;**
  - the type, volume and concentration of every pollutant discharged as a result of the event;**
  - 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 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;**
  - 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;**
  - 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 and such further details must be provided to the EPA within the time specified in the request.**

#### **Department of Lands**

- 44. In relation to the Crown Public road located passing through the southern section of Lot 104 DP 776239, the quarry operator shall ensure:**
- a) That the road environment is not interfered with or degraded by any activities as a result of the new development.**
  - b) All quarry works and improvements are restricted within freehold land with appropriate offsets to avoid encroachments onto the Crown public road.**
  - c) That any upgrading of pedestrian access or public use generally (including vehicular access) within the road boundaries are to be authorized by the Department of Lands.**

#### **Former Department of Natural Resources**

- 45. An ecologically based Fire Management Plan shall be prepared by the applicant to manage the site to exclude some fires in order to re-establish ground and mid-storey plant species.**
- 46. A comprehensive drainage line vegetation rehabilitation plan shall be developed for the entire property and this plan shall be implemented for the duration of the project.**
- 47. A Part 3A permit under the Rivers and Foreshores Improvement Act 1948 will need to be obtained from the new Department of Water and Energy. This permit will include the following special conditions and the attached general conditions.**
- 48. Site Sediment and erosion control plan to be provided and implemented.**
- 49. Drainage line rehabilitation/revegetation plan to be provided and implemented.**

#### **Rivers and Foreshores Improvement Act 1948**

##### **General Terms of Approval**

- 50. Irrespective of the granting of this consent or approval by any other Authority, work is not to commence in or within a horizontal distance of 40m from the top of the bank of the watercourse, without the prior issue of a Part 3A permit by the Department of Natural Resource (DRN).**
- 51. The Part 3A permit will be issued upon application to DRN comprising:**
- 52. A copy of Council's development consent including all conditions of approval;**

- 53. Plans and/or other documentation (1 copy) that satisfy the DNR General Terms of Approval and recommendations which are included in Council's consent conditions; and,**
- 54. The appropriate permit fee paid to DNR.**
- 55. Work is to be carried out in accordance with drawings and any management plans required by these conditions and approved by DNR that will accompany the Part 3A permit.**
- 56. Any Part 3A permit issued is to be renewed on an annual basis until all works and all rehabilitation, including maintenance provisions, have been satisfactorily completed on accordance with the permit expiry date.**
- 57. Work shall not cause damage to, or increase erosion of, the stream bed or banks. The permit holder shall carry out any instructions given DNR with a view to preventing degradation of the stream bed or banks.**
- 58. Any vegetation or other material removed from the area of works shall be disposed of in such a way that the material cannot be swept back into the stream during a flood.**
- 59. Any stormwater outlet to the watercourse is to be designed and constructed to minimize any erosion or scour of the banks or bed of the watercourse.**
- 60. All works proposed must be designed, constructed and operated so they do not cause erosion of sedimentation and do minimise adverse impacts on aquatic and riparian environments.**
- 61. Erosion and sediment measures are required to be implemented prior to any works to commencing and must be maintained for as long as necessary after the completion of works, to prevent sediment and dirty water entering the river system. These measures are to be in accordance with Council's requirements and follow best management practice as outlined in the NSW Department of Housing's "Managing Urban Stormwater: Soils and Construction" (1998) manual (the "Blue Book").**
- 62. The excavation of soil/spoil and its removal is the responsibility of the permit holder and the owner or occupier of the land.**
- 63. These conditions are issued with the provision that operations shall be carried-out on freehold land. Should operations be on crowned land, these conditions are rendered null and void and the occupier of Crown land should contact the Department of Lands.**
- 64. Work is to be carried out in accordance with any conditions imposed by other government agencies, provided such conditions do not conflict with these conditions on the Part 3A permit.**
- 65. The permit holder and the owner or occupier of the land is responsible for any works undertaken by other person or company on this site.**

66. **The rehabilitation of the area in accordance with the Part 3A permit conditions is the responsibility of the permit holder and the owner or occupier of the land.**
67. **Any Part 3A permit granted is not transferable to any other person or company without the written approval of DNR and does not authorize works at any other site.**
68. **Any Part 3A permit granted does not give the holder of any obligation which may exist to also obtain permission from local government and other authorities who may have some form of control over the site and/or the activities proposed.**
69. **Work as executed survey plans of a professional standard shall be provided to DNR upon request.**
70. **If, in the opinion of a DNR officer, any activity is being carried out in such a manner that it may degrade the riparian zone, stream lake or foreshore environment, all work shall cease immediately upon oral or written direction of such an officer.**
71. **If the permit conditions have been breached, the permit holder shall restore the site in accordance with the permit conditions and/or as directed by DNR. If any breach of the permit conditions required a special site inspection by DNR. If any breach of the permit conditions requires an inspection and all subsequent breach inspection.**
72. **If works are to cease prior to completion, DNR must to be notified in writing one month in advance of the cessation of the operation.**
73. **Any changes to plans/drawings are to be prepared in consultation with, will require the approval of DNR.**

#### **Department of Primary Industries**

74. **The operator shall provide annual production data to DPI Mineral Resources in the manner required and on the standard form supplied for that purpose.**

#### **Roads and Traffic Authority**

75. **If the development proceeds prior to the upgrade of the Pacific Highway then the following will be required:**
  - a) **All access to the Pacific Highway for the development shall be taken from the existing driveway described as Option 2 in the EIS.**
  - b) **The driveway (Option 2) will need to be upgraded to AUSTRROADS and RTA requirements to maintain the safety and efficiency of the highway.**
  - c) **The western side of the highway will need to be widened to provide an RTA modified BAR treatment to enable northbound highway traffic to safely negotiate right-turning traffic. The eastern side will need to be widened to provide an AUSTRROADS AUL left-turn deceleration lane.**

- d) The above improvements are the minimum required and will need to take into consideration the impact on the other access opposite and could require further upgrading to cater for it.
- e) The driveway will need to be upgraded to an RTA Rural Access Standard and sealed for at least 30m back into the property to prevent the fouling of the highway.
- f) Hinged "Truck Entering" signs are to be erected on the highway, either side of the access and displayed during operational hours.
- g) These road works are to be undertaken at no cost to the RTA.
- h) Any further development of this area will require the highway to be fully upgraded.
- i) Any road works on the highway will require the execution of a Works Authorisation Deed with the RTA and is subject to fees to cover the cost of processing the documentation.

**Advice**

This development is a Scheduled Activity under the *Protection of the Environment Operations Act 1997* and as such the operator / owner will require an Environment Protection Licence to carry out a Scheduled Activity.

**B That the objectors be advised of Council's decision.**

**A Division resulted in the following votes.**

**F = Voted For**

**A = Voted Against**

<b>Bowell</b>	<b>F</b>	<b>Campbell</b>	<b>F</b>	<b>Green</b>	<b>F</b>	<b>Saul</b>	<b>F</b>	<b>Snowsill</b>	<b>F</b>
<b>Sproule</b>	<b>A</b>	<b>Walker</b>	<b>F</b>						

Council noted that the planning comment in the report under the listed objection '*impact of blasting to people and houses*' was a duplicate of the objection and needed to be corrected.