

ITEM 14

Modification to an Approved Extractive Industry – Yammacoona Quarry

Combined Attachments

Attachment	1	-	Conditions of Consent
Attachment	2	-	Deed of Agreement
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ENVIRONMENT PLANNING AND ASSESSMENT ACT, 1979

NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION.

To: MR. W.L. CLIFT of P.O. BOX 34, WARIALDA.

being the applicant in respect of development application

No.32/87.....

Pursuant to section 92 of the Act notice is hereby given of the determination by the consent authority of the development application No. ..32/87..... relating to the land described as follows:-

..LOTS 5, 6 & 7 DP 264346, PARISH OF ADAMS WARIALDA.....

The development application has been determined by -

- ~~*(a) granting of consent unconditionally;~~
- *(b) granting of consent subject to the conditions specified in this notice;
- ~~*(c) Refusing of consent.~~

The conditions of the consent are set out as follows:-

1. AS PER ATTACHED SHEET
2.
3. etc.

The reasons for *the imposition of the conditions/the refusal are set out as follows:-

1. AS PER ATTACHED SHEET
2.
3. etc.

Endorsement of date of consent ..15TH APRIL, 1988.....

NOTES:

- (1) To ascertain the date upon which the consent becomes effective refer to section 93 of the Act.
- (2) To ascertain the extent to which the consent is liable to lapse refer to section 99 of the Act.
- (3) Section 97 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court exercisable within 12 months after receipt of this notice.

.....
Signature on behalf of consent authority
Date:21/4/88.....

YALLAROI SHIRE COUNCIL

CONDITIONS OF CONSENT - DEVELOPMENT APPLICATION NO. 32/87 - W. CLIFT.

1. That the applicant contribute to the cost of upgrading of the road on a basis to be negotiated.
2. That approval of the operation under Section 27 of the Noise Control Act be obtained from the State Pollution Control Commission.
3. That dust emission control be exercised.
4. That the recommendations of the Soil Conservation Service for erosion control be adopted and rehabilitation be carried out progressively as outlined in the E.I.S.
5. That blasting, if carried out, be during a period of one hour per day on week days only. Such time to be nominated by applicant.
6. That hours of operation be between the hours of 7.00 am to 5.00pm week days and 7.00 am to noon on Saturdays with no operation on Sundays or public holidays.
7. That the extent of clearing on the site be restricted to that necessary to allow for quarrying and reasonable fire breaks to buildings to be erected.
8. Access to the site to be built in accordance with the Traffic Authorities Guidelines and to the satisfaction of the Shire Engineer.
9. That block making plant be located a minimum distance of 50 metres from the property boundary with the road.
10. That upon operations on the site having to cease due to any reason that any uncompleted quarries be rehabilitated and buildings not suitable for other uses be removed prior to vacating the site.
11. Conformity of the proposal with the method and scale set out in the E.I.S. and conveyed to Council. Any extension beyond the proposal to be the subject of a further application to Council.
12. That this consent will not take effect until 28 days after endorsement of same.

THE REASONS FOR THE IMPOSITION OF THE CONDITIONS ARE SET OUT AS FOLLOWS:

1. To ensure safe and adequate access is provided to the site and the applicant meet an equitable share of the cost of upgrading.
2. To ensure the requirements of the Noise Control Act are observed.
3. To ensure that no dust is generated from the quarry or crushing site.
4. To ensure that erosion is controlled and rehabilitation is effected.
5. To ensure that other occupiers are aware of when blasting may take place and undue disturbance to stock, residents or wildlife is kept to a minimum
6. To ensure that there is no noise generated at unreasonable hours.

YALLAROI SHIRE COUNCIL

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7. To ensure that only necessary vegetation is removed for the safe operation of quarries and the fire protection of buildings.
8. To ensure the safe entry and exit of heavy vehicles to and from the site.
9. So that noise levels are at a minimum at the road boundary and vegetation can be retained in that area as a screen and noise control measure.
10. To ensure that site is not left in an unsightly condition if operations cease.
11. To ensure that the operation does not expand beyond that proposed at the time of application without prior approval.
12. To comply with Section 95 and 97 of the Act in respect of objector appeals.

THIS DEED made the Ninth day of August 1989
BETWEEN C.M.B. PROPRIETORY LIMITED a company duly
incorporated and having its registered office at
(hereinafter called the "Company")
of the one part.

AND THE COUNCIL OF THE SHIRE OF YALLAROI of Hope Street,
Warialda (Hereinafter called "The Council") of the other
part.

WHEREAS

- A. The Company is the registered proprietor of Lots 5, 6 and 7 in Deposited Plan No.264346, Parish of Adams, Warialda (hereinafter referred to as the Land) which is wholly situated within the Shire of Yallaroi.
- B. Development Application 32/87 relatively to the extraction of rock and sand for the manufacture of concrete bricks on site was approved by Council on 19th April 1989 subject to the terms and conditions set forth in the Notice to Applicant of Determination of Development Application dated 19th April 1989 (hereinafter referred to as "The Consent").
- C. Condition 1 of the consent required that the Company contribute to the cost of the upgrading of the road (known as the Adams Scrub Road) on a basis to be negotiated.
- D. The parties hereto have agreed that the contribution referred to in condition 1 of the said consent shall be on the basis of one dollar per ton load carried from the land until such time as the road is upgraded to a two lane gravel road with bitumen surface an area adjacent to houses in the Village of Koloona. Estimated cost of this work is \$100,000.

NOW THIS DEED WITNESSETH as follows:

- 1. The provisions of this Deed and the obligations of the parties hereunder shall have effect from the first day of July, 1989, but shall cease to have effect or to be enforceable forthwith upon the Company ceasing to manufacture and transport materials from the land.
- 2. The Company shall pay to the Council during the period of operation of this Deed one dollar for every ton of concrete bricks or similar material carted by the company from the land and transported along the subject road.

3. The contribution payable by the company shall be paid to Council on a quarterly basis during the continuance of this agreement. At the time of the payment the company will give to the Council particulars of the weight of material transported during the quarter to which the payment relates. Council reserves the right to have the quantities checked by a person or persons mutually agreed upon by both parties.
4. The Council shall progressively as and when funds become available to Council under the provisions of this Deed sufficient to carry out the work provide a two lane gravel road to Councils' usual standard and specification. Council shall commence this work as soon as practicable as funds become available from the contribution and Councils funds. The parties recognise that certain sections of the road requires more immediate attention and the work will be carried out in the first instance to such sections.
5. The contribution payable hereunder by the Company shall be applied exclusively by the Council towards upgrading of the subject road.
6. The Deed is entered into by the Company and the Council and in each case so as to bind itself its liquidators successors and assigns.
7. (a) If any dispute arises out of or in connection with this agreement either of the parties may give the other a notice by certified mail indentifying the particulars of the dispute.

(b) In the vent that the dispute can not be resolved between both parties notice shall be given by the issuer by certified mail that the dispute be repaired to arbitration.

(c) The arbitrator shall be appointed by the President of the Institution of Arbitrators of Australia.

(d) The arbitrator shall conduct proceedings in accordance with the rule to conduct of commercial arbitrators issued by the Institute of Arbitrators of Australia.

THE WITNESS WHEREOF the parties hereto have into set their hands the day and year first hereunder written.

C.M.B. Proprietors Limited
Witness.....

DIRECTOR

R. Martin
.....
Director
WITNESS

THE COMMON SEAL OF THE COUNCIL
OF THE SHIRE OF YALLAROI WAS
HEREUNTO AFFIXED THIS NINTH DAY
OF AUGUST 1989 PURSUANT TO
A RESOLUTION OF COUNCIL.

.....
SHIRE PRESIDENT

[Signature]
.....
SHIRE CLERK

Environment Protection Licence



Licence - 20792

<u>Licence Details</u>	
Number:	20792
Anniversary Date:	12-July

<u>Licensee</u>
CLAYSTONE MASONRY PTY. LTD.
4/111 MARKERI STREET
MERMAID WATERS QLD 4218

<u>Premises</u>
YAMMACOONA SAND QUARRY
VIA ADAM SCRUB ROAD
WARIALDA RAIL NSW 2402

<u>Scheduled Activity</u>
Extractive activities

<u>Fee Based Activity</u>	<u>Scale</u>
Land-based extractive activity	> 30000-50000 T annual capacity to extract, process or store

<u>Region</u>
North - Armidale
Ground Floor, NSW Govt Offices, 85 Faulkner Street
ARMIDALE NSW 2350
Phone: (02) 6773 7000
Fax: (02) 6772 2336
PO Box 494 ARMIDALE
NSW 2350

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Information about this licence

Dictionary

A definition of terms used in the licence can be found in the dictionary at the end of this licence.

Responsibilities of licensee

Separate to the requirements of this licence, general obligations of licensees are set out in the Protection of the Environment Operations Act 1997 ("the Act") and the Regulations made under the Act. These include obligations to:

- ensure persons associated with you comply with this licence, as set out in section 64 of the Act;
- control the pollution of waters and the pollution of air (see for example sections 120 - 132 of the Act);
- report incidents causing or threatening material environmental harm to the environment, as set out in Part 5.7 of the Act.

Variation of licence conditions

The licence holder can apply to vary the conditions of this licence. An application form for this purpose is available from the EPA.

The EPA may also vary the conditions of the licence at any time by written notice without an application being made.

Where a licence has been granted in relation to development which was assessed under the Environmental Planning and Assessment Act 1979 in accordance with the procedures applying to integrated development, the EPA may not impose conditions which are inconsistent with the development consent conditions until the licence is first reviewed under Part 3.6 of the Act.

Duration of licence

This licence will remain in force until the licence is surrendered by the licence holder or until it is suspended or revoked by the EPA or the Minister. A licence may only be surrendered with the written approval of the EPA.

Licence review

The Act requires that the EPA review your licence at least every 5 years after the issue of the licence, as set out in Part 3.6 and Schedule 5 of the Act. You will receive advance notice of the licence review.

Fees and annual return to be sent to the EPA

For each licence fee period you must pay:

- an administrative fee; and
- a load-based fee (if applicable).

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The EPA publication “A Guide to Licensing” contains information about how to calculate your licence fees. The licence requires that an Annual Return, comprising a Statement of Compliance and a summary of any monitoring required by the licence (including the recording of complaints), be submitted to the EPA. The Annual Return must be submitted within 60 days after the end of each reporting period. See condition R1 regarding the Annual Return reporting requirements.

Usually the licence fee period is the same as the reporting period.

Transfer of licence

The licence holder can apply to transfer the licence to another person. An application form for this purpose is available from the EPA.

Public register and access to monitoring data

Part 9.5 of the Act requires the EPA to keep a public register of details and decisions of the EPA in relation to, for example:

- licence applications;
- licence conditions and variations;
- statements of compliance;
- load based licensing information; and
- load reduction agreements.

Under s320 of the Act application can be made to the EPA for access to monitoring data which has been submitted to the EPA by licensees.

This licence is issued to:

CLAYSTONE MASONRY PTY. LTD.
4/111 MARKERI STREET
MERMAID WATERS QLD 4218

subject to the conditions which follow.

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1 Administrative Conditions

A1 What the licence authorises and regulates

- A1.1 This licence authorises the carrying out of the scheduled development work listed below at the premises listed in A2:
Construction of gravel laydown areas and limited lengths of unsealed road; installation of an amenities block; installation of portable equipment servicing area.
- A1.2 This licence authorises the carrying out of the scheduled activities listed below at the premises specified in A2. The activities are listed according to their scheduled activity classification, fee-based activity classification and the scale of the operation.

Unless otherwise further restricted by a condition of this licence, the scale at which the activity is carried out must not exceed the maximum scale specified in this condition.

Scheduled Activity	Fee Based Activity	Scale
Extractive activities	Land-based extractive activity	> 30000 - 50000 T annual capacity to extract, process or store

A2 Premises or plant to which this licence applies

- A2.1 The licence applies to the following premises:

Premises Details
YAMMACOONA SAND QUARRY
VIA ADAM SCRUB ROAD
WARIALDA RAIL
NSW 2402
LOT 5 DP 264346, LOT 6 DP 264346, LOT 7 DP 264346
ACCESS TO LOTS IS VIA ADAM SCRUB ROAD

A3 Other activities

- A3.1 This licence applies to all other activities carried on at the premises, including:

Ancillary Activity
Crushing, grinding and separating of small quantities of rock and gravel

A4 Information supplied to the EPA

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- A4.1 Works and activities must be carried out in accordance with the proposal contained in the licence application, except as expressly provided by a condition of this licence.

In this condition the reference to "the licence application" includes a reference to:

- a) the applications for any licences (including former pollution control approvals) which this licence replaces under the Protection of the Environment Operations (Savings and Transitional) Regulation 1998; and
- b) the licence information form provided by the licensee to the EPA to assist the EPA in connection with the issuing of this licence.

2 Limit Conditions

L1 Pollution of waters

- L1.1 Except as may be expressly provided in any other condition of this licence, the licensee must comply with section 120 of the Protection of the Environment Operations Act 1997.

L2 Waste

- L2.1 The licensee must not cause, permit or allow any waste to be received at the premises, except the wastes expressly referred to in the column titled "Waste" and meeting the definition, if any, in the column titled "Description" in the table below.

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

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

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

Code	Waste	Description	Activity	Other Limits
NA	Waste	Any waste received on site that is below licensing thresholds in Schedule 1 of the POEO Act, as in force from time to time	-	N/A
NA	General or Specific exempted waste	Waste that meets all the conditions of a resource recovery exemption under Clause 92 of the Protection of the Environment Operations (Waste) Regulation 2014	As specified in each particular resource recovery exemption	N/A

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L3 Hours of operation

Hours of operation

- L3.1 The licensee must only carry out activities related to the activity covered by the licence between the hours of 7am and 5pm Monday to Friday, and 7am and 12pm on Saturdays.

L4 Other limit conditions

- L4.1 The licensee, in regards to extraction, processing or storage of extractive materials, must not produce and transport more than 35,000 tonnes of finished material from the premises to which this licence applies in any 12 month reporting period.

3 Operating Conditions

O1 Activities must be carried out in a competent manner

- O1.1 Licensed activities must be carried out in a competent manner.
This includes:
a) the processing, handling, movement and storage of materials and substances used to carry out the activity; and
b) the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

O2 Maintenance of plant and equipment

- O2.1 All plant and equipment installed at the premises or used in connection with the licensed activity:
a) must be maintained in a proper and efficient condition; and
b) must be operated in a proper and efficient manner.

O3 Dust

- O3.1 Activities occurring at the premises must be carried out in a manner that minimises the emission of dust from the premises.
- O3.2 The premises must be maintained in a condition which minimises or prevents the emission of dust from the premises.
- O3.3 Trucks entering or leaving the premises must be covered at all times except during loading and unloading.

O4 Processes and management

Erosion and Sediment Control Plan

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- O4.1 The licensee must prepare, implement and maintain an Erosion and Sediment Control Plan (the Plan) that includes measures and practices to minimise the pollution of water during construction stages and for the operational life of the quarry.
- O4.2 The plan must be prepared in accordance with relevant guidelines including *Managing Urban Stormwater: Soils and Construction - Volume 2E Mines and Quarries* (DECC 2008)
- O4.3 The plan must be prepared and submitted to the EPA and Gwydir Shire Council prior to the commencement of any construction or operations at the quarry.

Processing of extracted material

- O4.4 The licensee must not process extracted materials into masonry or similar products at the premises to which this licence applies.

4 Monitoring and Recording Conditions

M1 Monitoring records

- M1.1 The results of any monitoring required to be conducted by this licence or a load calculation protocol must be recorded and retained as set out in this condition.
- M1.2 All records required to be kept by this licence must be:
 - a) in a legible form, or in a form that can readily be reduced to a legible form;
 - b) kept for at least 4 years after the monitoring or event to which they relate took place; and
 - c) produced in a legible form to any authorised officer of the EPA who asks to see them.
- M1.3 The following records must be kept in respect of any samples required to be collected for the purposes of this licence:
 - a) the date(s) on which the sample was taken;
 - b) the time(s) at which the sample was collected;
 - c) the point at which the sample was taken; and
 - d) the name of the person who collected the sample.

M2 Recording of pollution complaints

- M2.1 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.
- M2.2 The record must include details of the following:
 - a) the date and time of the complaint;
 - b) the method by which the complaint was made;
 - c) any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
 - d) the nature of the complaint;
 - e) the action taken by the licensee in relation to the complaint, including any follow-up contact with the

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complainant; and

f) if no action was taken by the licensee, the reasons why no action was taken.

M2.3 The record of a complaint must be kept for at least 4 years after the complaint was made.

M2.4 The record must be produced to any authorised officer of the EPA who asks to see them.

M3 Telephone complaints line

M3.1 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.

M3.2 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.

M3.3 The preceding two conditions do not apply until 2 months after the date of the issue of this licence.

5 Reporting Conditions

R1 Annual return documents

R1.1 The licensee must complete and supply to the EPA an Annual Return in the approved form comprising:

1. a Statement of Compliance,
2. a Monitoring and Complaints Summary,
3. a Statement of Compliance - Licence Conditions,
4. a Statement of Compliance - Load based Fee,
5. a Statement of Compliance - Requirement to Prepare Pollution Incident Response Management Plan,
6. a Statement of Compliance - Requirement to Publish Pollution Monitoring Data; and
7. a Statement of Compliance - Environmental Management Systems and Practices.

At the end of each reporting period, the EPA will provide to the licensee a copy of the form that must be completed and returned to the EPA.

R1.2 An Annual Return must be prepared in respect of each reporting period, 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.

R1.3 Where this licence is transferred from the licensee to a new licensee:

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

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

- R1.4** Where this licence is surrendered by the licensee or revoked by the EPA or Minister, the licensee must prepare an Annual Return in respect of the period commencing on the first day of the reporting period and ending on:
- a) in relation to the surrender of a licence - the date when notice in writing of approval of the surrender is given; or
 - b) in relation to the revocation of the licence - the date from which notice revoking the licence operates.
- R1.5** The Annual Return for the reporting period must be supplied to the EPA via eConnect *EPA* or 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').
- R1.6** The licensee must retain a copy of the Annual Return supplied to the EPA for a period of at least 4 years after the Annual Return was due to be supplied to the EPA.
- R1.7** Within the Annual Return, the Statements 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.

R2 Notification of environmental harm

- R2.1** Notifications must be made by telephoning the Environment Line service on 131 555.

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

- R2.2** The licensee must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.

R3 Written report

- R3.1** Where an authorised officer of the EPA suspects on reasonable grounds that:
- a) where this licence applies to premises, an event has occurred at the premises; or
 - b) where this licence applies to vehicles or mobile plant, an event has occurred in connection with the carrying out of the activities authorised by this licence,
- and the event has caused, is causing or is likely to cause material harm to the environment (whether the harm occurs on or off premises to which the licence applies), the authorised officer may request a written report of the event.
- R3.2** 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.
- R3.3** The request may require a report which includes any or all of the following information:
- a) the cause, time and duration of the event;

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

R3.4 The EPA may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the EPA within the time specified in the request.

6 General Conditions

G1 Copy of licence kept at the premises or plant

G1.1 A copy of this licence must be kept at the premises to which the licence applies.

G1.2 The licence must be produced to any authorised officer of the EPA who asks to see it.

G1.3 The licence must be available for inspection by any employee or agent of the licensee working at the premises.

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Dictionary

General Dictionary

3DGM [in relation to a concentration limit]	Means the three day geometric mean, which is calculated by multiplying the results of the analysis of three samples collected on consecutive days and then taking the cubed root of that amount. Where one or more of the samples is zero or below the detection limit for the analysis, then 1 or the detection limit respectively should be used in place of those samples
Act	Means the Protection of the Environment Operations Act 1997
activity	Means a scheduled or non-scheduled activity within the meaning of the Protection of the Environment Operations Act 1997
actual load	Has the same meaning as in the Protection of the Environment Operations (General) Regulation 2009
AM	Together with a number, means an ambient air monitoring method of that number prescribed by the <i>Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales</i> .
AMG	Australian Map Grid
anniversary date	The anniversary date is the anniversary each year of the date of issue of the licence. In the case of a licence continued in force by the Protection of the Environment Operations Act 1997, the date of issue of the licence is the first anniversary of the date of issue or last renewal of the licence following the commencement of the Act.
annual return	Is defined in R1.1
Approved Methods Publication	Has the same meaning as in the Protection of the Environment Operations (General) Regulation 2009
assessable pollutants	Has the same meaning as in the Protection of the Environment Operations (General) Regulation 2009
BOD	Means biochemical oxygen demand
CEM	Together with a number, means a continuous emission monitoring method of that number prescribed by the <i>Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales</i> .
COD	Means chemical oxygen demand
composite sample	Unless otherwise specifically approved in writing by the EPA, a sample consisting of 24 individual samples collected at hourly intervals and each having an equivalent volume.
cond.	Means conductivity
environment	Has the same meaning as in the Protection of the Environment Operations Act 1997
environment protection legislation	Has the same meaning as in the Protection of the Environment Administration Act 1991
EPA	Means Environment Protection Authority of New South Wales.
fee-based activity classification	Means the numbered short descriptions in Schedule 1 of the Protection of the Environment Operations (General) Regulation 2009.
general solid waste (non-putrescible)	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997

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flow weighted composite sample	Means a sample whose composites are sized in proportion to the flow at each composites time of collection.
general solid waste (putrescible)	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997
grab sample	Means a single sample taken at a point at a single time
hazardous waste	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997
licensee	Means the licence holder described at the front of this licence
load calculation protocol	Has the same meaning as in the Protection of the Environment Operations (General) Regulation 2009
local authority	Has the same meaning as in the Protection of the Environment Operations Act 1997
material harm	Has the same meaning as in section 147 Protection of the Environment Operations Act 1997
MBAS	Means methylene blue active substances
Minister	Means the Minister administering the Protection of the Environment Operations Act 1997
mobile plant	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997
motor vehicle	Has the same meaning as in the Protection of the Environment Operations Act 1997
O&G	Means oil and grease
percentile [in relation to a concentration limit of a sample]	Means that percentage [eg.50%] of the number of samples taken that must meet the concentration limit specified in the licence for that pollutant over a specified period of time. In this licence, the specified period of time is the Reporting Period unless otherwise stated in this licence.
plant	Includes all plant within the meaning of the Protection of the Environment Operations Act 1997 as well as motor vehicles.
pollution of waters [or water pollution]	Has the same meaning as in the Protection of the Environment Operations Act 1997
premises	Means the premises described in condition A2.1
public authority	Has the same meaning as in the Protection of the Environment Operations Act 1997
regional office	Means the relevant EPA office referred to in the Contacting the EPA document accompanying this licence
reporting period	For the purposes of this licence, the reporting period means the period of 12 months after the issue of the licence, and each subsequent period of 12 months. In the case of a licence continued in force by the Protection of the Environment Operations Act 1997, the date of issue of the licence is the first anniversary of the date of issue or last renewal of the licence following the commencement of the Act.
restricted solid waste	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997
scheduled activity	Means an activity listed in Schedule 1 of the Protection of the Environment Operations Act 1997
special waste	Has the same meaning as in Part 3 of Schedule 1 of the Protection of the Environment Operations Act 1997
TM	Together with a number, means a test method of that number prescribed by the <i>Approved Methods for the Sampling and Analysis of Air Pollutants in New South Wales</i> .

Environment Protection Licence



Licence - 20792

TSP	Means total suspended particles
TSS	Means total suspended solids
Type 1 substance	Means the elements antimony, arsenic, cadmium, lead or mercury or any compound containing one or more of those elements
Type 2 substance	Means the elements beryllium, chromium, cobalt, manganese, nickel, selenium, tin or vanadium or any compound containing one or more of those elements
utilisation area	Means any area shown as a utilisation area on a map submitted with the application for this licence
waste	Has the same meaning as in the Protection of the Environment Operations Act 1997
waste type	Means liquid, restricted solid waste, general solid waste (putrescible), general solid waste (non - putrescible), special waste or hazardous waste

Mr Robert O'Hern

Environment Protection Authority

(By Delegation)

Date of this edition: 12-July-2016

End Notes

Attn: The General Manager
Gwydir Shire Council

30/08/2016

RECEIVED
9 SEP 2016

Dear Sir,

In response to the article in the Wialda Standard dated Wednesday August 3rd, 2016 regarding the Yammacoona Quarry.

Gwydir Shire Council

The residents of Koloona, Adams Scrub Road on the Gwydir highway entrance want to remind council that we are in NO way agreeable to any upgrade of the Adams Scrub Road for the purpose of carrying freight from the proposed quarry site.

Adams scrub road is a quiet gravel road with a school bus run. Landholders also regularly move stock along this road between properties. Also, the foundations of the existing road would not cater for the continued use by heavy trucks.

As local residents we are NOT against the proposed Quarry with the potential employment for the Wialda area but are concerned in relation to the access via roads.

We feel that there are better solutions to access the estate rather than via the Adams Scrub Road.

We suggest that it may be possible to upgrade or reopen the Wialda Rail line up to the Yammacoona Estate which would approximately be 5-6km of rail line. This would allow the raw material to be reach that point with highway access to Wialda.

NO Quarry trucks on Adams Scrub Road!!!

Regards,

John & Tammy Taylor 624 Adams Scrub Road <i>John Taylor</i>	David & Caroline Taylor 762 Adams Scrub Road <i>Caroline Taylor</i>
Luke Taylor & Yassman Olsen 762 Adams Scrub Road <i>Yassman Olsen</i>	Christopher & Alison Taylor 539 Adams Scrub Road <i>Alison Taylor</i>
Phil & Amy Taylor 839 Adams Scrub Road <i>Phil Taylor</i>	A& L Prentice 'Cavanba'
C&T Dorman Koloona <i>C&T Dorman</i>	G Canham Koloona <i>G Canham</i>
J&C McMaster 'Glen Owen' Adams Scrub Rd <i>John McMaster</i>	Kent Family Koloona <i>Kent Family</i>
J&K Lane 'West End' <i>J&K Lane</i>	



RHODES KILDEA

LAWYERS

A.B.N 95 119 933 274

DIRECTORS:

PETER H. GALL
SARAH S. OSBORN

OUR REF: PHG:SSM:160529

YOUR REF:

17 November, 2016

The General Manager
Gwydir Shire Council
54 Hope Street
WARIALDA NSW 2402

By Email & Post

mail@gwydir.nsw.gov.au

Dear Sir

**Re: JE & DP Taylor
Objection to Yammacoona Quarry Development Approval Modification**

We act for Messrs John and David Taylor and have to hand your letter to our clients dated 31 October, 2016 giving notice of the abovementioned Application.

We are instructed to register our clients' objections to the Application in the strongest possible terms.

Our clients objections center around the proposed increase in truck movements along the Adams Scrub Road ("the Road") which services our clients properties "The Ranch", "Box Top", "Ford End", "Rose Valley" and "Myall Valley" together with other properties.

The reasons for our clients' objection are as follows:-

1. The Road is a single lane gravel Shire Road in only fair condition which at the best of times is suitable only for light farm traffic providing access to about fifteen residents in total;
2. The Road is and has been since 1960 the Koloona School Bus route with four trips per day during school terms from the Gwydir Highway to the south east corner of the Yammacoona Estate;
3. The Road, in addition to vehicular traffic and the school bus is also used by joggers, children's bikes and movement of overwidth farm machinery;
4. The Road is unfenced through "The Ranch" and "Ford End" and our clients have a Travelling Stock Permit from the LLS to use the Road for travelling stock. The unfenced section of the Road passes through grazing paddocks. .../2

MOREE:
33 HEBER STREET
MOREE NSW 2400
PO BOX 413 - DX 6301
TELEPHONE: (02) 6752 3344
FACSIMILE: (02) 6752 2826
EMAIL: reception@rhodeskildea.com.au

Please address all correspondence to our Moree Office

Liability limited by
a scheme approved
under Professional
Standards Legislation

Website: www.rhodeskildea.com.au

WARIALDA:
Cnr HOPE & STEPHENS STREETS
WARIALDA NSW 2402
TELEPHONE: (02) 6729 1038
OPEN WEDNESDAY

5. There are a number of residences quite close to the Road including two (2) near the junction with the Gwydir Highway which are only a few metres off the road. All of these residences will suffer severely from the exponential increase in noise and dust generated by the increased truck movements.

In view of the above, it should be abundantly clear to the Council that the Road is totally unsuitable for any increased traffic let alone any increase in the order of 123 extra loaded truck movements per day.

We note that the totally unsuitable nature of the Road has already been alluded to in two places, firstly at Condition 1 of Development Consent 32/87 and secondly, at the top of page 7 of the so called Statement of Environmental Effects ("EIS"). We comment on these as follows:-

Firstly: The Development Consent states *"That the applicant contribute to the cost of upgrading the road on a basis to be negotiated"*.

Notwithstanding the 1989 Deed, there is no indication that in the 29 years since the original Development Consent was granted, there has been any meaningful attempt by either the Council or the applicant to upgrade the Road to a standard capable of sustaining the then proposed heavy traffic; and

Secondly: The EIS blithely states that the Road would be used *"for approximately two years until a new access road from the quarry to the Gwydir Highway, proposed by Council, has been completed"*.

Has Council done anything more than propose a new road? Who would fund a new road? Has the route of the new road been determined and designed? What will happen to the existing Road whilst the new road is being built? What happens if it takes longer than 2 years which seems very likely?

The EIS itself which is being relied upon by the applicant also seems to be very unsatisfactory for a number of reasons as follows:-

- (a) The EIS provides no real indication that during the period from 1989 until 6 months ago there was no activity whatsoever at the quarry and therefore virtually no traffic generated.

.../3

- (b) The EIS is unclear about the exact number of truck movements when at full capacity. The number of movements (both ways) would be vastly increased if the quarry was working at full capacity i.e. 1,300,000 tons per year.

The EIS suggest 6 trucks per hour, 16 hours a day, 6 days per week plus 12 hours on Sunday to be loaded so presumably they would then travel on the Road loaded and then return unloaded. The numbers provided are totally unreliable but would obviously be many more than the suggested additional 134 movements referred to at the top of page 16. The AADT numbers quoted here are quite meaningless when one considers the loaded truck numbers mentioned above.

- (c) The EIS is obsessed with the supposed additional number of persons likely to be employed ("Social and Economic Impact"). This takes up 3½ pages whereas access to the site is dealt with in less than half a page!
- (d) Whilst the abovementioned matters may not completely undermine the reliability of the EIS, they certainly give one grave concern for its accuracy on all of the issues that have been canvassed.

In view of the above, our clients object to the Application. Indications from our client are that there may well be a number of other objections and that if these objections are not properly and fully addressed, the objectors may be prepared to take the matter to the Land and Environment Court.

Yours faithfully
RHODES KILDEA


Peter H Gall

Michelle Clarke

212 Yammacoona Est Rd

Warialda Rail N.S.W 2402

POSTAL ADDRESS

212 Yammacoona Rd

Delungra N.S.W 2403

Re: Yammacoona RD Sand Mine

To-Whom-It-May-Concern,

As only received notice of mine at beginning of November 2016, more time to consider the proposal would be appreciated.

As of this moment we would be very against the amendments that the mine is proposing.

The two roads used by the mine would be affected by a larger volume of vehicles. Both roads are completely unsuitable for more traffic. The roads are one lane only. Cars have trouble finding safe places to pull off to allow large trucks to pass. There are blind spots, narrow curves, soft edges, thrown rocks and dust. The roads would have to have major improvements. After the proposed 2 years of usage a new road is meant to be operational. Where is this new road and has this road been assessed yet? What happens if there is no new road? Who is responsible for the incidents of damage or accidents caused by thrown rocks, bogging, blind spots and dust by the trucks and condition of road to other vehicles, quads, ag-bikes, trail bikes, push bikes, horses, people walking and joggers?

Adam scrub rd has a school bus. How will council protect it and the children travelling on, getting on, getting off, walking to, walking from, the parents picking up and dropping off? Would a CB fitted to the bus allow the driver to inform the mine when it is entering and leaving the road so the trucks could stop movement until safe? The road is also a stock route with mobs of sheep and cattle grazing and moving on it. The road should be speed limited.

A bore sunk to a depth of 90 meters did not intersect any aquifers, so how does the mine know if where they bore for water will produce water and/or be the amount of water they need? What happens if they do not get the water or if it dries out in harder times?

The original proposal in 1988 had a limit of 35 000 tonnes with 24 semi-trailers per week, and operating from 7am to 5pm Monday to Friday with a shift of 7am to 12pm Saturdays. The new proposal wants:

' 1.3 million tonnes at maximum output. This increase is a bigger development than previously approved. So please explain the sentence, "The Quarry would continue to be developed in THE SAME MANNER as is currently approved"?

'7 days a week averaging 6 trucks per hour. From 24 semi-trailers to 96 semi-trailer movements in a week is a lot more noise and wear on the road. The proposal states that the mine would use the road for two years then a new road would be utilized. Where is this new road going and has it been surveyed and approved? What happens if the two years are over and no new road is available?

'hours of operating will become two eight hour shifts per day Monday to Saturday and a 12 hour shift on Sunday. What are the times of the two eight hour shifts and when is the 12 hour Sunday shift? There is no mention of public holidays, are they included? Page 2 DA 32/87 states "there is no noise generated at unreasonable hours", there must be some noise created at unreasonable hours with a mine working 16 hours. The two houses at the beginning of the road would be hardest hit but the surrounding land would also be affected by the noise.

Who carried out the search of the Department of Environment and Heritage web site to use the Protected Matters Search Tool on 30 march 2016, and the inspection of the site [what day, days, time of year etc] to determine whether there was any environmental impact? There are many birds, animals, insects and plants that are only seen at certain times of the year. The roads are on the bird watching route for this area. There must be a better survey done than what has occurred.

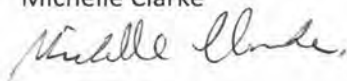
"No visible dust has been observed at the property boundary when extraction is under way". There is a difference between the dust produced by 4000 tonnes and the dust produced by 1.3 million tonnes'.

The peace and quiet is a big selling point of the land so the massive increase of production and traffic would lower the lands' value.

So the road fixed; the new road decided where it is going and timetable of construction ;the bus and children safety issues dealt with; the aquifer and environment looked into more deeply ;the noise pollution for the houses close to the road and during holidays and weekends for the rest of the residents ;times of work known and finally the acknowledgement of who would be responsible for any change of lifestyle or healthy resulting from the increase of production of the mine!

Replies to the questions and concerns would be welcomed as there is a great lack of information available.

Michelle Clarke



21/11/16

RECEIVED
23 NOV 2016

Gwydir Shire Council

Lee Carrow

Delungra

NSW, 2403

17/11/16

The Mayor and Councillors of Gwydir Shire Council

Dear Sirs / Madams

I wish to bring some concerns to your attention and ask some questions, regarding the sand mine in ADAMS SCRUB. The number of vehicles reported in their revised submission states 6 semis per hour, does this mean 3 in and 3 out or 6 in and 6 out , if the latter that is 12 / hr . Six is an unacceptable amount and 12 is ridiculous. Is the hourly rate over an 8hr working day, 12hr day or 24hr period?

I am the local school bus operator on this road and have concerns , from safety of children on and off to safety of bus whilst driving through dust , whilst cornering , whilst making my 3 point turn at end of run , sliding off the road in wet conditions , not being able to see out my back window during wet conditions (due to dust mixed with moisture). I am assuming that these points are just as important to you as they are to me and I am hoping you are able to address them.

They state in their application that the land is unattractive to animals! This seems to have come from a Laurel and Hardy script , there are koalas in this area and I could list many more native animals that find this land a desirable habitat (goannas, birds, frogs, wallabies , kangaroos ,lizards etc.) please tell me that someone hasn't just written a few words on a piece of paper and submitted it. I am hopeful that a full environmental statement has been prepared by someone of repute, not associated with this company

I also notice they talk about air micro climate on the site, but there is no mention of air micro climate along the road way. This is a serious lack of foresight or is it care. Not once whilst addressing the impact on road users or traffic was a school bus mentioned. It seems to me that if I was conducting a study into the impact of transport I would consider it important to contact, approach, ask, or write to the roads most frequent user carrying the roads most precious cargo.

This leads me to be VERY concerned that the rest of their application has not been thorough in its process. I would certainly be concerned about the professionalism of the rest of the studies undertaken in this application

Major upgrading work needed for this enterprise is a given what about the amount of ongoing maintenance that would be needed, perhaps overwhelming. After grading, this road holds up reasonably for 7 to 10 days then by 14 days it is back to being awful (that is with existing traffic) .

I am not against progress and am aware there are benefits, however do the benefits out way the negatives. At this point I am very much doubtful.

So please here are some Questions

- 1) Number of trucks travelling in /hr?
- 2) Number of trucks travelling out / hr?
- 3) Is it an 8 hr /12 hr or 24 hr period we are talking about?
- 4) Can trucks coming in come from Bingara end and trucks travelling out go Inverell way?
- 5) Who did their environmental impact study?

- 6) Who did their transport impact statement and whom did they question?
- 7) What is proposal to enhance children safety?
- 8) How is the dust problem along the road to be addressed?
- 9) Where is the proposed direct route to Gwydir Hwy and why is it designated as their access road only?
- 10) What is proposed at school bus turn around point (they will know this as they have done an impact on transport statement)
- 11) I am curious what was there solution to 10
- 12) Will there be a supressed speed limit?
(When road is rough bus travels at between 15 and 18km/hr)
- 13) Who will monitor and then police number trucks / speeding infringements and what are the consequences?
- 14) What measures do they propose for the koala population over this area?
- 15) In their impact statement on animals what animals did they mention frequented this land area?

I have only just been made aware of this application and am aware of a tight time frame for response so please excuse me if I have missed some important issues

I thank councillors for their time and commitment to our shire and look forward to your response

Yours faithfully

Andrew Phillips



Email- leecarrow2@bigpond.com

Ph- 0428951059

RECEIVED
06 DEC 2016

Gwydir Shire Council

To Gwydir Shire Councillors

RE: Proposed Amendment to modify operating hours and output tonnage from Yammacoona Quarry, 35,000 ton to 100,000 ton then to 1.3 million ton output.

My name is John Taylor and I live on the Adam Scrub, Yammacoona Estate road as a farmer, grazier.

The Yammacoona Estate prior to being subdivided was owned by the late MR PETER TURVEY. I trapped rabbits for many years in the 1970s for Mr Turvey walking the many trails & roads that divided the property.

There is no one that can tell you more than I about the property or its wild life. The Koalas, possums, bush turkeys, birds etc that live in the bush including that of the quarry site.

At the meeting by Council in Warialda locals expressed then, concerns and objections and asked many questions with very few answered from Mr Clift and his consultant planner Mr Richard Clowes.

Mr Clowes Environmental Impact Statement (EIS) that was submitted is not worth the paper it is written on and confirmed by our consultants. Mr Clowes gave us a name from EPI that was handling the case, I contacted him and he knew nothing about it. In fact he contacted the Shires Glen Pereira and Council had to quickly go looking for documentation to be sent. I can give the name of the EPI on request only.

Local residents are outraged that Council wishes to increase the number of hours to be operated to 16 hours a day 7 days a week and increase truck numbers to 16 trucks per day. The road is a single lane gravel road with many bends and sharp corners, one at the Gwydir Highway and the other at Yammacoona Road entrance.

There is a school bus run 4 times a day, children riding bicycles and joggers. There are stock grids on the road, 3 in total, Quarry trucks would destroy these as well as the stock they are separating on boundaries.

Mr Pereira stated at the meeting that the Adams Scrub Road is receiving a re-sheeting of gravel, worth approx \$120,000. Very conveniently timed to coincide with the Quarries start of operation. When Glen was questioned about this his reply was that it had been in the pipeline for some time, so has the sand Quarry only a somewhat longer pipeline.

I pay approximately \$27,629.39 in rates to council. our total output of production plus incoming supplies, fertilizer, fuel etc totals 4280 ton this equates to \$6.49 per ton cost for use of road. Mr Clift proposes to pay \$1.00 per ton output to the shire. An insult I believe when you consider

100,000 tonne = \$100,000.00

Rates = \$3,500.00

Incoming Freight = \$1,000/ton

\$103,500.00/

101,000 Ton

= \$1.02 per ton cost

Council need to charge at least \$4.00 per ton royalty on sand extracted.

Council should also be aware of Mr Clifts intentions to do more core drilling on the area south & west of his Quarry. He has been entering local properties, intimidating owners & stating they can't stop him, not correct. It seems he can pull money out of the air when he requires it for drilling but none for Council.

Questions were asked about water. Where would they get it as there are no bores on the property. Department Land and water stated no application had been received for a bore by Clowes or Clift.

Mr Clowes stated they intended to buy Water Shares, that may be possible but this doesn't get water on site. a proposed 10 meg is required by the Quarry. Mr Clowes also stated that catchment ponds would be built to collect run off. Remember this is sandy soil with no run off and there is no quarry at present.

If a bore was sunk to cater for consumption by the quarry, what effect would a draw of 10 mega litres have on the underground aquifer. I already have 7 bores that have dried out and can't be used for stock.

Has the DA of April 1988 lapsed as there was no significant construction on the site other than a few sand diggings in the five year period after. If there was, then documentation should have been provided, or a new DA applied for, as I saw nothing of change in that period. A soil test doesn't mean anything.

I believe that there is a clear breach in the clearing of vegetation on the Quarry site, as removed vegetation is to be stockpiled and replaced in the rehabilitation order. Vegetation has been bulldozed, some pushed under the canopy of surrounding trees and some windrowed and burnt by Mr Bob Swain who did the clearing. Vegetation must not be burnt. This we are following up on.

There needs to be a second exit road also in case of fire as this is bushland. A new EIS must include all of these factors. This land is not uninhabited as stated by Mr Clowes at the meeting and the comment that he made that any animal crossing the road would first be run over by trucks, is that the case also for my livestock on the road?

I believe Council and Councillors need to be very cautious in its actions and decisions it makes in relation to Claystone Masonry Pty Ltd and Yammacoona Sand Quarry. As the Quarry is non operational as yet, we ask the question , If the Quarry was to operate at 100,000 ton extraction rate, what plans are there in place for OH & S for employees. Amenities block, water for showers for truckies fire safety. There is no electricity generators would be required, waste water & sewerage. Mr Clowes & Mr Clift both had no answers.

Council said a quarry road was proposed to be build in two years heading north to Gwydir Highway but plans had not yet commenced so this sounds unlikely.

My Suggestion would be to go south from Quarry to Bob Swains property adjoining the Quarry. Through his property to Adams Scrub Road then to Bingara, Warialda Road then to Warialda Rail.

Stock Pile sand, gravel, there for freight to Brisbane added freight cost would be minimal. This option would be a cheaper alternative as road construction materials would be on-site at Bob Swains and he has noted he is in favour of the Quarry because he has been guaranteed work with his 2 bulldozers by Mr Clift. That is if the Quarry ever starts operation!

We are very disappointed with Council in the way it has treated its rate payers there has been no consultation with Koloona residents but many with Mr Clowes and Mr Clift it appears.

We are pursuing all avenues & departments and will not give up on objecting. I hope that information I have given is food for thought and that you ask questions & get answers to the many points I have made because you as our elected councillors are the ones that will decide the future for us when you vote on this matter.

Should you have a question I may be contacted on 0429148394 or return e-mail.

Regards

John Taylor

Ford End Pastoral Co

The General Manager
Gwydir Shire Council
54 Hope St
Warialda

RECEIVED
2 DEC 2016
Gwydir Shire Council

Dear Sir,

Re: JC & C McMaster

Glen Owen
Adams Scrub Road
Delungra

Objection to Yammacoona Quarry Development Approval Modification

We wish to register our objection to the Application to Modify a Development Consent
DA No 10.2016 33.1 for "Yammacoona Quarry" 337 Yammacoona Estate Rd Delungra Lots 5,6&7

Our main objection to the development is the use of the Adams Scrub Rd for removal of material. In the development application the consultant mentions the New England Highway at Dundee and also the Summerland Highway, stating that these roads are of a two lane construction. This may be so but it is ludicrous to compare these highways to the Adams Scrub Rd, which can only be considered as a basically single lane, low impact gravel road servicing properties between Koloona and the Warialda Bingara Road. The road is basically for light traffic only with farm produce carted on it in suitable conditions.

At harvest time traffic has to pull over into the table drains to let grain trucks pass. These trucks are considerably smaller loads than the proposed gravel trucks. There is also concern about the volume of traffic with these trucks moving about 30,000 tonnes of material a month, several times a year.

The Adams Scrub Road to the Yammacoona Rd is a school bus route and the volume of traffic would be of great concern to the children getting on and off the bus as well as dust in neighbouring homes and all other road users.

We understand that a desirable width for a road would be 7.7 metres in width or perhaps a minimum of 5.5 m. The Adams Scrub Rd is nothing like these widths.

Starting at the Koloona end the road is 4.1 m wide on the tarred surface before the gravel starts. Moving approximately 1km from the highway the black soil has broken through the gravel surface. Roughly 2km on there is a blind corner. There are blocked culverts and another that needs replacing. About 5kms from Koloona the black soil has broken through again and the road is 5m wide. There are several more blind corners, one in particular being on a crest to the west of the "Ford End" entry. The condition of the road does not improve and neither does the width which varies from 4.8ms to 5ms wide - surely not wide enough for trucks which we understand will be "B" doubles carrying around 42 tonnes of material.

We understand that Council will be re gravelling some of this road. It is our belief that more serious work than this needs to occur before the movement of material can commence.

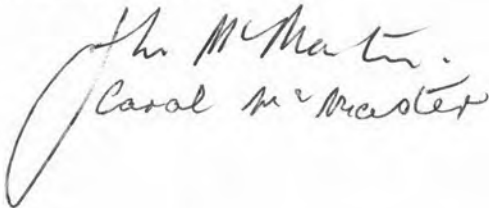
The ideal outcome would be to have a service road direct from the Quarry, north to the Gwydir Highway.

We also understand that the quarry operators will be contributing \$1 per tonne of material to go towards this service road and we feel that this will do nothing to contribute to the upkeep of the Adams Scrub Rd, let alone provide for a new service road.

It seems that a vast sum of money will be needed for the upkeep of the existing road and Council will be hard pressed to continue this upkeep and perhaps more thought should be given to the private access road in the first place.

If there are restrictions to truck movements during school bus times it will only increase the density of this traffic. We consider that the proposed modification if undertaken will affect the enjoyment of our land due to the horrendous movement of trucks, coupled with dust and noise as well as safety.

Yours Faithfully


Carol McMaster

1st December 2016

Amanda Pennington
41 Granville St
Inverell NSW 2360

The General Manager
Gwydir Shire Council
54 Hope St
Warialda NSW 2402

To Whom it may concern,

I am writing to express my concerns regarding the proposed Quarry expansion at Yammocoona, Adams Scrub Road.

I travel the Adams Scrub Road quite frequently with my young children to visit my family at Ford-End and I am concerned that with the amount of trucks that are proposed to be using the road, it will become even more dangerous on the already blind corners. I have had several near misses along the road with local traffic cutting the corners and I worry that it will become even more dangerous than it currently is, with the proposed amount of big trucks to be using the road to access the quarry. Is it going to take a head on collision or a fatal crash for the council to realise just how dangerous it would be to go ahead with allowing Adams Scrub Road to be the route for the large volume of big trucks to go back and forth to this quarry, even if it is only supposed to be for two years.

Another concern is the condition of the road becoming increasingly worse with the extra traffic. The road is unsealed and therefore potholes, as well as loose gravel on the edges of the road are frequently created with local usage. This is only going to be worsened with all the extra traffic using the road to access the quarry and poses an extra risk when travelling the road and passing trucks.

I hope you take these concerns into account when making your final decision regarding this matter, and I thank you for your time.

Regards,

Amanda Pennington

Luke Taylor & Yassman Olsen

"Ford End Cottage"

762 Adams Scrub Rod

DELUNGRA NSW 2403

RECEIVED
06 DEC 2016

Gwydir Shire Council

The General Manager

Gwydir Shire Council

54 Hope Street

WARIALDA NSW 2402

18th November 2016

OBJECTION TO YAMMACOONA QUARRY DEVELOPMENT

Dear Sir,

We wish to register our objections to the proposed truck movements or increase in truck movements along the Adams Scrub Road.

To this day there has been very little activity from the Quarry on the Adams Scrub Road. Possibly the movement of two truckloads of proposed sand. No more than that because I have been watching what has been happening there. There has never been removal of 1000s of tons.

Our objection to the use of the Adams Scrub Road are as follows.

1. The road is a school bus route with four trips per day from the Yammacoona Estate Road through to the Gwydir Highway and picks up our 2 children daily. Totally unsafe for children.
2. Local residences living close to the road would suffer severely from the dust and noise generated by the increase in trucks.

3. The road is a single lane gravel shire road in fair condition suitable for light traffic and farm machinery only. Often with the movement of stock travelling on it. It services about twenty local residents daily.
4. The road has several bad bends and two right angle bends, one at Yammacoona Estate Road and one at Gwydir Highway which would be totally unsuitable for quarry trucks.
5. The structure and nature of the road is totally unsafe, for the use by quarry trucks as the road has a number of bends making it difficult to see around and the fact that my children and other residents ride bicycles and jog along the road regularly is totally unsafe with trucks.

In view of the above we object to the application.

Regards



Luke Taylor



Yassman Olsen

"Ford End Cottage"

762 Adams Scrub Road

DELUNGRA NSW 2403

Tammy Taylor

"Myall Valley"

624 Adams Scrub Road

DELUNGRA NSW 2403

The General Manager

Gwydir Shire Council

54 Hope Street

WARIALDA NSW 2402

29th November 2016



Dear Sir,

I wish to register my objection to the use of Adams Scrub Road for the use of quarry trucks or movement of sand from Yammacoona Estate to Gwydir Highway.

My objection are as follows

- 1 The surveyed line of Adams Scrub Road has many dangerous bends, unsuited for the numbers of trucks proposed.
- 2 As I am a register child care educator and travel on this road with children in my care between the hours of 9am and 4pm Monday to Friday. Council would need to guarantee the road would be safe for transport of children in my care during these hours.
- 3 The proposed hours of movement by trucks is unbelievably stupid. This would lead to excessive noise , dust , no privacy at all. A good reason for intervention by locals.

Regards

Tammy Taylor

A handwritten signature in black ink, appearing to read "Tammy Taylor", written in a cursive style.



The General Manager
Gwydir Shire Council
54 Hope st
Warialda NSW 2402.

Sunday 27 November 2016.

Re: C J & A L Taylor
Objection to the Yammacoona quarry development approval modification.

- A. The road it's self is a single lane road and an area wide enough for only single lane.
- B. The road and soil underlying the road would not be able to accommodate that volume.
- C. The rd now can't accommodate the harvest season and is regularly getting maintained by other sources than the shire council.
- D. The modification to approximately 6 trucks per hour will heavily affect me with shifting of stock and farm equipment.
- E. My mail box is the bus stop for my children and my wife often walks the road.
- F. It was mentioned at the meeting at Warialda that the land at the quarry is inhabitable, it can only consist of goannas and kangaroo's, that those animals "will have to move or get run over". I am going to assume this will include my stock and Family.

Yours Faithfully for now,
C J & A L Taylor
RoseValley 539
Adams scrub rd
Delungra 2403

A handwritten signature in blue ink, appearing to read 'C J & A L Taylor'.

67248482



Phillip & Amy Taylor

"The Ranch"

839 Adam Scrub Road

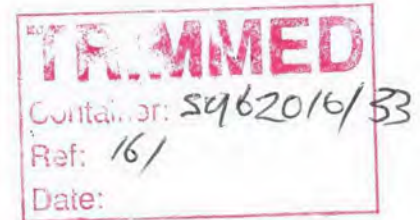
DELUNGRA NSW 2403

General Manager

Gwydir Shire Council

Locked Bag 5

BINGARA NSW 2404

1st December 2016

Dear Sir,

OBJECTIONS TO INCREASED TRAFFIC MOVEMENTS ON ADAMS SCRUB ROAD FROM YAMMACOONA
ESTATE QUARRY DEVELOPMENT

We would like to register the following objections to the increased traffic volume for the Adams Scrub Road in the proposed Modification of development for Lots 5,6 & 7 DP 264346 Yammacoona Estate Road Delungra.

Adams Scrub Road is a quite narrow gravel road, providing local residents access to their properties. Travelling this road at least twice daily with my small children, I believe the road does not have the foundations to withstand the proposed increase in truck movements. At its best the road is in fair condition that is suitable to local traffic and farm machinery only.

The road also has stock being moved between properties on a regular basis, which in my opinion would be quite unsafe if the application was to be approved.

Adams Scrub Road is also a registered School Bus Route, with the school bus travelling the road four times daily. Our children will be catching this bus in the coming years and we as parents think that it is completely unsafe for children, A. getting on and off the bus at property mailboxes with trucks coming and going and B. travelling 10km of a gravel road having to pass numerous large trucks,

There are numerous local residents that live close to the road, these residents would be severely impacted by noise from the traffic increase, as well as inundated with dust that the trucks would create.

The road also has several bends that allow no vision of oncoming traffic, which with the increased truck movements proposed would make the road considerably more dangerous for the local residents travelling the road daily.



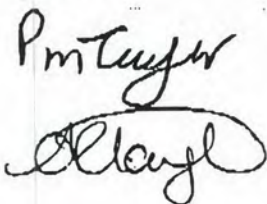
67248482

There would also be issues with large trucks maneuvering the two right angle bends when entering Adams Scrub Road from the Gwydir Highway then again entering Yammacoona Estate Road from Adams Scrub Road to gain access to the Quarry.

The road is also frequented by children and adults riding bicycles, jogging & walking with prams along the road, due the quite nature of the road, this would become very unsafe for all involved if the Modification to allow the increased traffic was to be approved.

As concerns parents and daily road users we submit these objections as important points that need to be considered before the application be approved.

Regards



Phillip & Amy Taylor

8 December 2016

The General Manager
Gwydir Shire Council
Locked Bag 5
BINGARA NSW 2404

Dear Mr Eastcott

RE: Submission for DA 10.2016.33.1 Modification

This is a submission prepared on behalf of Mr Jon Taylor, Ford End Pastoral Co, 624 Adams Scrub Road, Delungra who is an adjoining neighbour. In regards to the information provided on Council's website for the proposed modification, I would like to make the following points:

1. Current Pit Operations

It is put that the current development has not "physically commenced" and has not been in use during the period since development consent has been issued, and as such the development consent has lapsed. The Statement of Environmental Effects (SEE) for the proposed modification has stated that *"The approved maximum rate of dispatch of quarry materials of 35,000 tonnes per year has not been realised to date, with actual quarry products dispatched from the quarry, being 4,000 tonnes in 1989 with a number of smaller samples since."*

This indicates that the quarry has not operational, with only testing being undertaken to source a market. This does not constitute commencement of the quarry, particularly when the development is to be expanded from 35,000 tonnes per annum to 100,000 tonnes per annum. To ascertain further, the proponent should be asked to provide audited figures to contend operation versus testing.

The legal definition of what is sufficient to constitute "physical commencement" was answered in *Hunter Development Brokerage Pty Ltd v Cessnock City Council [2005] NSWCA 169*, where the Land & Environment Court held that the consent had lapsed as the work was "preparatory" to commencement and not commencement itself. For the work to be "physically commenced" physical activity which manifests itself on the land and which was not merely a sham is required. It is believed that the extraction that was undertaken in 1989 was "preparatory" only for the market testing and that the quarry has been abandoned. Therefore, that a new development application is required under the provisions of Section 109 of the *Environmental Planning & Assessment Act 1979*.

Section 109(3) states:

- 109(3) *Without limiting the generality of subsection (2) (e), a use is presumed, unless the contrary is established, to be abandoned if it ceases to be actually so used for a continuous period of 12 months.*

Therefore, unless the proponent can establish that the development has been used for a continuous period of 12 months and a fully fledged commercial enterprise, the development has been abandoned and that a new development application is required as per Section 109(2)(e) of the EP & A Act.

The aerial photograph taken from Six Maps on 8 December 2016 shows quite distinctly that there has been no quarry activity for some period of time. The dwelling and associated infrastructure that has been constructed on Lot 6 is quite clear, with no evidence being shown of any quarrying or testing on the residue land.



Source: NSW LPI Six Maps

2. Modification under Section 96 of the *Environmental Planning & Assessment Act 1979*

The power to amend a consent is not restricted to situations where circumstances have changed, or there is new information available since the original consent was given. However, the proposed modification must fall into one of these categories before it can be addressed.

Minor Errors – Section 96(1)

This may be to correct a minor error, misdescription or miscalculation in regards to a development consent, or to change the development subject of the consent in a manner that has only a minor environmental impact

Minimal Environmental Impact – Section 96(1A)

On application, a consent authority can modify the consent if, amongst other things, it is satisfied that the proposed modification is of minimal environmental impact and that the development as modified is substantially the same development as the development for which the consent was originally granted (s 96(1A)).

It has been held that whether a modification has minimal environmental impact depends on particular circumstances of the case. Even though "minimal" means "very small" or "negligible", a proposal that adds an additional level to part of an approved development, is not necessarily incapable of falling within section 96(1A) (*Bechara v Plan Urban Services Pty Ltd* [2006] NSWLEC 594; *King v Bathurst Regional Council* [2006] NSWLEC 505).

"Substantially the Same" Development – Section 96(2)

On application, a consent authority can modify a consent if it is satisfied that the development is "substantially the same development" as the development for which consent was originally granted. Before doing so, it must consult relevant government bodies regarding concurrence or integrated development approval requirements (s 96(2); cl 120).

The test of whether the development is substantially-the same is essentially one of fact (*Hope L' Council of the City of Bathurst* [1980] HCA 16; *Fernance Family Holdings Pty Ltd v Newcastle City Council* [2000] NSWLEC 190). In *Vacik Pty Ltd v Penrith City Council* [1992] NSWLEC 8 Stein J said:

In my opinion "substantially" when used in the section means essentially or materially or having the same essence. The applicant for modification bears the onus of showing that the modified development is substantially the same, see Seaforth Services Pty Ltd v Byron Shire Council (No 2) (1991) 72 LGRA 44 and CSR Ltd (t/as CSR Readymix) v Wingecarribee Shire Council (unreported, Land and Environment Court, 17 December 1990).

In assessing whether the consent as modified will be substantially the same development one needs to compare the before and after situations

Stein J emphasised that the development as modified would not necessarily be substantially the same development simply because it was for precisely the same use as that for which consent was originally granted. Development, particularly the extractive industries must be assumed to include the way in which the development is to be carried out.

See also *North Sydney Council v Michael Standley & Associates Pty Ltd* (1998) 97 LGERA 433). In *Mato Projects (No 2) Pty Limited v North Sydney Council* [1999] NSWLEC 280, Bignold J said that the comparison between the original development and the development as modified "involves an appreciation, qualitative, as well as quantitative, of the developments being compared in their proper contexts (including the circumstances in which the development consent was granted)" (at [56]). It also involved comparison of the environmental impacts.

It is contended that this development is not a modification and cannot be considered as "substantially the same" as the original development proposal. It does not meet the requirements of Section 96 of the Environmental Planning & Assessment Act for modification of a development consent and that a new development application should be submitted.

3. Annual Output

There was nothing in the original SEE to state what the actual quantity of material win is in the pit, hence Council put a limit on the actual annual output. The increase from the approved 35,000 tonnes to 100,000 tonnes is an 285% increase. This is significant. It would be hard to accept this increase in the annual output based on the scarce detail provided in the modification SEE. In fact only 4,000 tonnes have been extracted, since approval was issued, some 28 years ago.

4. Traffic Impact

The letter attached to the modification only states that the annual quantity will be reduced from 1,300,000 tonnes to 100,000 tonnes, but it does not note how the operation of the quarry will differ. Therefore, it must be presumed that the operation will be as per the modified SEE.

The impact on the Kaloona Road will be significant. The SEE modification has identified that quarry the proponent would like to use the largest capacity truck to haul, thus it is assumed this would be a B-Double. Kaloona Road has not been constructed to a B-Double Standard neither has the Yammacoona Estate Road. Significant work would need to be undertaken, particularly on the Yammacoona Estate Road to constructing these roads up to the required standard. This construction work would be required before the intensification of the quarry was undertaken, to ensure the safety of the passing traffic particularly on the Yammacoona Estate Road. Currently the Yammacoona Road is quite narrow and it would be quite dangerous for 2 trucks to pass as there are few areas this can be achieved safely. The road alignment itself is not conducive to the high number of haul and employee vehicles that would be required to operate the quarry at 100,000 tonnes per annum, let alone 1,300,000 tonnes per annum.

It is assumed that the Gwydir Highway and Kaloona Road intersection will be impacted upon and that the Roads Marine Service will require an intersection upgrade as per the provisions of the Infrastructure SEPP Clause 17(1). There has been no discussion on this impact.

The SEE notes that a future road would be constructed purposely to be used by the quarry. **This is a significant deviation from the original development approval, so it is presumed that this would be subject to a separate development application, with a route identified and the supporting scientific studies to identify the impact on flora, fauna, bushfire and traffic generation.**

There has been no traffic generation assessment provided to identify what road improvements or traffic management measures are required to accommodate the increased traffic on the road network. There are a range of traffic impacts that need to be addressed including:

- Physical impacts which relate directly to the operation and movement of motor vehicles, such as safety, noise, air pollution, vibration, visual intrusion,
- Community impact which relate to the land use and socio-economic implications of traffic flow, and
- Environmental capacity in regards to the specific location of the road, with traffic flow and nature, road and habitat characteristics all having a major influence.

5. Original Statement of Environmental Effects

The original SEE is very light on the necessary information that Council needs to complete an assessment as per the Section 79C of the *Environmental Planning & Assessment Act*. It makes general sweeping statements but does not have any scientific fact supporting it. If a new application was to be submitted, scientific fact would support the SEE and would be able allow Council to make a full assessment under Section 79C of the *Environmental Planning & Assessment Act*.

Section 79C obliges consent authorities to take into consideration those matters specified in that section that are relevant to the subject of the application, otherwise there are grounds for judicial review. Materially misleading statements that are considered by the consent authority in the assessment of the modification have the capacity to vitiate its decision. However, such statements will not vitiate a consent authorities' decision if the evidence shows that the consent authority nevertheless properly discharged its duty under section 79C (*Moorebank Recyclers Pty Ltd v Liverpool City Council* [2009] NSWLEC 100).

The original SEE and the SEE for the modification make a lot of sweeping statements which could easily be considered to be misleading, in that they are not supported by scientific fact, particularly in regards to environmental impact. There are no references in the original SEE as to flora, fauna, cultural heritage or bushfire effects being supported by a scientific study undertaken by a suitably qualified person. The sweeping statements made in the SEE tend to push these issues aside. As the SEE infers there is little impact, the statements made in regards to these issues can definitely be classified as "misleading statements" as per the finding of the above NSWLEC decision.

An approval issued by Gwydir Shire Council without supporting scientific fact would be creating solid grounds for an appeal of the Council decision in the Land & Environment Court, as due diligence and assessment under 79C was not correctly undertaken without the scientific fact supporting the statements made within the SEE accompanying the proposed modification application.

6. Environmental Impact

Attached to this letter is a letter by Mr David Carr of Stringybark Ecological, an experienced ecological consultant, with extensive experience working in and around the Warialda area and who has recently conducted extensive environmental surveys within 10km of the site of the sand quarry site.

He states that:

In my opinion, the change in the development is of a substantial nature, requiring a much more detailed assessment of environmental impacts. It would seem to me to fit the definition of a "Designated Development", requiring an Environmental Impact Statement, rather than a simple modification of an existing development consent. The significant changes from the original development consent are:

- 1. A 40-fold increase in the volume of material extracted annually from the site, and*
- 2. Changes in environmental protection legislation since 1987 include the introduction of the Native Vegetation Act 2003, the Threatened Species Conservation Act 1995, State Environmental Planning Policy 44 (Koalas) and the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.*

Further,

The Statement of Environmental Effects accompanying the Application to Modify inadequately assesses the substantially greater impacts from the modified proposal. It ignores all impacts except the increased truck movements. The Statement does not provide any evidence of methods or results for flora, fauna and cultural heritage studies allegedly carried out on the property. The details of any consultants or experts engaged to carry out these specialised studies are not given, nor are their qualifications or experience cited.

The Statement of Environmental Effects claims all environmental impacts will be mitigated by restoration of the site as work progresses, yet there is no restoration or remediation plan to support this. It is common practice to have a restoration plan that sets out reference ecosystems,

timeline and methods, seed and seedling planning, weed management and monitoring and evaluation of restoration success.

There is a high likelihood of a number of threatened fauna and flora species that may be in the close vicinity. These species include:

- Black-chinned Honeyeater,
- Hooded Robin,
- Speckled Warbler,
- Squirrel Glider,
- Grey-crowned Babbler,
- Pine Orchid,
- Polygala linariifolia,
- Black-striped Wallaby,

Mr Carr has identified that:

The site is likely to support individuals in the threatened population of Brush Turkeys in the Brigalow Belt South and Nandewar bioregions. It is also likely to support threatened ecological communities such as:

- *Semi-evergreen Vine Thicket,*
- *Box-Gum Grassy Woodland.*

Many of these threatened species, populations or ecological communities would be significantly affected by the sand extraction, requiring mitigation and possibly biodiversity offsets.

The increased traffic on local roads would have a substantial impact on a number of species, including threatened species. Koalas in particular are vulnerable to being killed on roads if they are present in an area, particularly during late spring when males are actively moving around to find mates. Other species, such as Brush Turkeys and Grey-crowned Babblers are vulnerable to traffic because they fly or walk at ground level. As well as extra truck movements each day there will be increased traffic to the site as workers drive to and from the site each day.

The impact from this development at no time has been supported by scientific investigation or supporting fact from a suitably qualified ecologist. To allow an increase of impact without such supporting background information to assess any potential impact from the intensification of development would be considered as environmental vandalism and, that due diligence had not been given by Gwydir Shire Council in its assessment of this development.

7. Current Legislation

The current federal legislation that would apply to this development is the *Environment Protection and Biodiversity Conservation Act 1999*. The *Environment Protection and Biodiversity Conservation Act 1999* is the Australian Government's central piece of environmental legislation. It provides a legal framework to protect and manage nationally and internationally important flora, fauna, ecological communities and heritage places. This Act prescribes the Commonwealth's role in environmental assessment, biodiversity conservation and the management of protected areas.

The *Environment Protection and Biodiversity Conservation Act 1999* is administered by the Department of the Environment and Energy and provides protection for listed Matters of National Environmental Significance. There are currently nine Matters of National Environmental Significance:

- World heritage properties

- National heritage properties
- Wetlands of international importance
- Listed threatened species and ecological communities
- Listed migratory species
- Protection of the environment from nuclear actions
- Commonwealth marine areas
- The Great Barrier Reef Marine Park
- Water resources

There has been no assessment back against this Act particularly in regards to listed threatened species and ecological communities, and migratory species. This would require an assessment from a qualified ecologist to assess if there were any matters of significance and if a referral to the Department of Environment and Energy is was required.

The current state legislation that would apply to this development would include:

Environmental Planning & Assessment Act 1979

Development in NSW is assessed in accordance with the provisions of the *Environmental Planning & Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*. The *Environmental Planning & Assessment Act 1979* institutes a system for environmental assessment, including approvals and environmental impact assessment for proposed developments. The *Environmental Planning & Assessment Act 1979* contains three parts that impose requirements for planning approval:

- Part 4 provides for control of ‘local development’ that requires development consent from the local Council. State significant development is also assessed under Part 4 (Division 4.1).
- Part 5 provides for control of ‘activities’ that do not require approval or development consent under Part 4.
- Part 5.1 provides for control of State significant infrastructure.

The need or otherwise for development control is set out in environmental planning instruments – State Environmental Planning Policies (SEPPs), Regional Environmental Plans or Local Environmental Plans (LEPs).

Section 79C of the *Environmental Planning & Assessment Act 1979* lists the matters that a consent authority must take into account when determining a development application. These matters are:

- (a) the provisions of:
 - (i) any environmental planning instrument, and
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
 - (iii) any development control plan, and
 - (iii) any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F, and
 - (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and

- (v) any coastal zone management plan (within the meaning of the Coastal Protection Act 1979), that apply to the land to which the development application relates,
- (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,
- (c) the suitability of the site for the development,
- (d) any submissions made in accordance with this Act or the regulations,
- (e) the public interest.

It is contended that there was not enough information submitted with the original SEE and neither is there enough information and detail submitted with the modified SEE to undertake a full assessment under Section 79C of the *Environmental Planning & Assessment Act 1979*. Therefore, the application should be refused based on the lack of quality and quantitative information supplied.

Section 96 of the Act – modification of development applications has been discussed in the first part of this submission.

Environmental Planning & Assessment Regulation 2000

In New South Wales, there are several different systems for the assessment of development proposals. These assessment systems are specifically tailored to cater for varying size, nature and complexity of different project types.

Integrated Development

Some proposals not only require development consent from the Council or the Minister but also a permit or licence from a NSW Government Agency. In these cases, the Council or NSW Planning & Environment will refer the application to the necessary agency so that there is an integrated assessment of the proposal. Division 5 of Section 91 of the *Environmental Planning & Assessment Act 1979* provides detailed information on the definition of integrated development. This development falls under this category as it will require approval from the Environmental Protection Authority in conjunction with approval from Gwydir Shire Council.

Designated Development

Development classed as 'designated' requires scrutiny because of its nature or potential environmental impacts. Designated development includes development that has a high potential to have adverse impacts because of their scale or nature or because of their location. These 'designated developments' are listed in Schedule 3 of the *Environmental Planning and Assessment Regulation 2000*. Clause 19 of this schedule relates to this development. It reads:

Clause 19

(1) Extractive industries (being industries that obtain extractive materials by methods including excavating, dredging, tunnelling or quarrying or that store, stockpile or process extractive materials by methods including washing, crushing, sawing or separating):

(a) that obtain or process for sale, or reuse, more than 30,000 cubic metres of extractive material per year, or

(b) that disturb or will disturb a total surface area of more than 2 hectares of land by:

(i) clearing or excavating, or

(ii) constructing dams, ponds, drains, roads or conveyors, or

- (iii) storing or depositing overburden, extractive material or tailings, or
- (c) that are located:
 - (i) in or within 40 metres of a natural waterbody, wetland or an [environmentally](#) sensitive area, or
 - (ii) within 200 metres of a coastline, or
 - (iii) in an area of contaminated soil or acid sulphate soil, or
 - (iv) on land that slopes at more than 18 degrees to the horizontal, or
 - (v) if involving blasting, within 1,000 metres of a residential zone or within 500 metres of a dwelling not associated with the development, or
 - (vi) within 500 metres of the site of another extractive industry that has operated during the last 5 years

Applicants must submit an Environmental Impact Statement (EIS) with the Development Application. The EIS provides a comprehensive assessment of the impacts of the development proposal. Prior to preparing an EIS, applicants must consult with the Secretary of NSW Planning & Environment and, in completing the EIS, must have regard to the Secretary's requirements in relation to the form, content and public availability of the EIS.

By intensifying the development by way of making a modification under the Section 96 of the *Environmental Planning Assessment Act 1979*, the proponent is trying to avoid having the proposed development classified as being designated and addressing the impacts this will yield. **Yallaroi Shire Council recognised the threshold for designated development and the lack of address of impact at the time of the issuing the original development consent, and limited the annual extraction to being 30,000 tonnes per annum. It is requested that this annual threshold not be increased unless all the application can be assessed as designated development and all relative impacts are investigated and addressed.**

State Environmental Planning Policy No. 33 (Hazardous and Offensive Development)

Provides definitions for 'hazardous industry', 'hazardous storage establishment', 'offensive industry' and 'offensive storage establishment'. The definitions apply to all planning instruments, existing and future. The new definitions enable decisions to approve or refuse a development to be based on the merit of proposal. The consent authority must carefully consider the specifics of the case, the location and the way in which the proposed activity is to be carried out. The policy also requires specified matters to be considered for proposals that are 'potentially hazardous' or 'potentially offensive' as defined in the policy.

SEPP 33 presents a systematic approach to planning and assessing proposals for potentially hazardous and offensive development or industry. It applies to any proposal which falls under the policy's definition of 'potentially hazardous industry' or 'potentially offensive industry'. If not controlled appropriately some activities within these industries may create an offsite risk or offence to people, property or the environment, thereby making them potentially hazardous or potentially offensive.

Clause 3 of the Hazardous and Offensive Development SEPP defines a 'Potentially Hazardous Industry' as:

a development for the purposes of any industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would pose a significant risk in relation to the locality:

- (a) to human health, life or property, or
- (b) to the biophysical environment, and includes a hazardous industry and a hazardous storage establishment.

Clause 3 of the SEPP defines a Potentially Offensive Industry as:

potentially offensive industry means a development for the purposes of an industry which, if the development were to operate without employing any measures (including, for example, isolation from existing or likely future development on other land) to reduce or minimise its impact in the locality or on the existing or likely future development on other land, would emit a polluting discharge (including for example, noise) in a manner which would have a significant adverse impact in the locality or on the existing or likely future development on other land, and includes an offensive industry and an offensive storage establishment.

The very nature of extractive industries suggests the potential for such uses to be hazardous or offensive to the local environment if not appropriately managed. There has been NO assessment back to the provisions of this SEPP.

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

This Policy aims to provide for the proper management and development of mineral, petroleum and extractive material resources for the social and economic welfare of the State. The Policy establishes appropriate planning controls to encourage ecologically sustainable development. **NO assessment has been made back to the provisions of this SEPP.**

SEPP (Infrastructure) 2007

Provides a consistent planning regime for infrastructure and the provision of services across NSW, along with providing for consultation with relevant public authorities during the assessment process. The SEPP supports greater flexibility in the location of infrastructure and service facilities along with improved regulatory certainty and efficiency. **Assessment under this SEPP would be required due to the traffic generation that would impact on the Gwydir Highway and Kaloona Road intersection.**

SEPP (Rural Lands) 2008

The aim of this policy is to facilitate the orderly and economic use and development of rural lands for rural and related purposes. **As assessment of impact would be required on the adjoining land used for agricultural uses.**

SEPP No. 44 - Koala Habitat Protection

Encourages the conservation and management of natural vegetation areas that provide habitat for koalas to ensure permanent free-living populations will be maintained over their present range. The policy applies to 107 local government areas, including Gwydir Shire. Local councils cannot approve development in an area affected by the policy without an investigation of core koala habitat. The policy provides the state-wide approach needed to enable appropriate development to continue, while ensuring there is ongoing protection of koalas and their habitat. **No recognised scientific investigation has been undertaken.**

SEPP No. 55 - Remediation of Land

Introduces state-wide planning controls for the remediation of contaminated land. The policy states that land must not be developed if it is unsuitable for a proposed use because it is contaminated. If the land is unsuitable, remediation must take place before the land is developed. The policy makes remediation permissible across the State, defines when consent is required, requires all remediation to comply with standards, ensures land is investigated if contamination is suspected, and requires councils to be notified of all remediation proposals. To assist councils and developers, the Department, in conjunction with the Environment Protection Authority, has prepared Managing Land Contamination: Planning Guidelines. **No reference has been made to the possible contamination of the land by the brick making plant.**

Heritage Act 1977

The Heritage Act 1977 is administered by the NSW Heritage Council and aims to ensure that the heritage of NSW is adequately identified and conserved. **There has been no reference to either European or Aboriginal Cultural heritage, and the potential actions to be undertaken by the proponent, particularly if Aboriginal heritage artefacts are discovered.**

Protection of the Environment Operations Act 1997

The *Protection of the Environment Operations Act* establishes a licensing regime for pollution generating activities in NSW. Under Section 47 and 48, an Environmental Protection Licence is required for scheduled development work and scheduled activities respectively. The project will extract more than 30,000 tonnes of sand per year and therefore meets the definition of a scheduled activity under Clause 19 of Schedule 1 of the *Protection of the Environment Operations Act*. An Environmental Protection Licence (EPL) is therefore required from the Environment Protection Authority. **Therefore, this makes this application an integrated application and any modification would be required to gain the consent of the Environment Protection Authority and have them issue a General terms of Approval to be included in any development consent issued by Council.**

National Parks and Wildlife Act 1974

The *National Parks and Wildlife Act* is administered by NSW Office of Environment and Heritage. It is an offence not to notify them of the location of Aboriginal sites and objects under Section 89A of the National Parks and Wildlife Act. **There has been no study undertaken to identify any potential sites on the land.**

Native Vegetation Act 2003

This Act regulates the clearing of native vegetation on land in NSW and requires consent by the Minister before such clearing activities are undertaken. **Approval is required under the Act for this development and a Property Vegetation Plan as per the provisions of the Act is required to be issued by the Local Land Service. NO discussion has been provided as to the extent of any proposed clearing or of any biodiversity offsets to be established as part of the rehabilitation of the site in either the original or the modification SEE.**

Roads Act 1993

The Roads Act determines the rights of the public and adjacent land owners to use public roads, and establishes procedure for the opening and closing of public roads. Under the Act applications are required to be made for the closure of roads and works in the road reserve.

The modification does not indicate that a Traffic Control Plan has been prepared for Yammacona Estate Road, Kaloona Road nor the Gwydir Highway for the proposed volume of traffic. The upgrading of the access road within the public road reserve will also require a Section 138 approval from Gwydir Shire Council.

Threatened Species Conservation Act 1995

The objects of this Act are as follows:

- a) to conserve biological diversity and promote ecologically sustainable development, and
- b) to prevent the extinction and promote the recovery of threatened species, populations and ecological communities, and
- c) to protect the critical habitat of those threatened species, populations and ecological communities that are endangered, and

- d) to eliminate or manage certain processes that threaten the survival or evolutionary development of threatened species, populations and ecological communities, and
- e) to ensure that the impact of any action affecting threatened species, populations and ecological communities is properly assessed, and
- f) to encourage the conservation of threatened species, populations and ecological communities by the adoption of measures involving co-operative management.

Approval is required to:

- a) harm any animal that is of, or is part of, a threatened species, population or ecological community
- b) pick any plant that is of, or is part of, a threatened species, population or ecological community
- c) damage critical habitat
- d) damage habitat of a threatened species, population or ecological community

No assessment has been undertaken to assess the impact from the proposed increase in the extractive industry on endangered or threatened species or communities.

Water Management Act 2000

This Act regulates the taking, interception, storage and use of surface water and ground water within areas subject to water sharing plans. This site is affected by the *Gwydir Regulated River Water Source Water Sharing Plan* commenced in 2004 and was replaced on 1 July 2016. It includes rules for protecting the environment, extractions, managing licence holders' water accounts, and water trading in the plan area. It is further affected by the *NSW Fractured Rock Groundwater Sources Plan*.

Water sharing plans are required to reserve water for the overall health of the groundwater source and to protect specific ecosystems that depend on groundwater, such as wetlands. This share of water reserved for the environment is also intended to sustain the aquifer system's aquatic fauna and flora. Most of the groundwater within the area covered by the plan is protected from extraction. The total volume of water licensed for extraction in each water source is generally much less in comparison to their average annual recharge.

Water sharing plans provide a legislative basis for sharing water between the environment and consumptive purposes. Under the *Water Management Act 2000*, a plan for the sharing of water must protect each water source and its dependent ecosystems and must protect basic landholder rights. For groundwater, basic landholder rights referred to in the plan are domestic and stock rights as defined in section 52 of the *Water Management Act 2000*. Sharing or extraction of water under any other right must not prejudice these. Therefore, licensed water users are effectively the next priority for water sharing. Amongst licensed water users, priority is given to water utilities and licensed stock and domestic use, ahead of commercial purposes such as irrigation and other industries.

No reference has been made to either of these plans and nor how water will be utilised or sourced onsite for dust suppression.

Planning for Bushfire Protection 2006

Following the Sydney bush fires in 2001/2002 a Joint Parliamentary Inquiry was established and, in its 28 June 2002 report, endorsed the release of Planning for Bushfire Protection 2001. *Planning for Bush Fire Protection 2006* is a revised NSW Rural Fire Service (NSW RFS) publication outlining the required bush fire protection measures for development applications located on land that has been designated as bush fire prone.

Planning law in NSW now requires new development on bush fire prone land to comply with the provisions of *Planning for Bush Fire Protection 2006*.

Planning for Bush Fire Protection 2006 is intended for use by consent authorities, town planners, NSW fire authorities, developers, planning and bush fire consultants, surveyors, and building practitioners.

This land is classified as being in a bushfire hazard area, yet no assessment has been made back against this piece of legislation.

Work Health and Safety Act 2011 & Work Health and Safety (Mine and Petroleum Sites) Act 2013

Both these Acts ensure the the safe operation of mines and quarries. There has been no Operations Management Plan submitted with this application to determine compliance with safe work methods. This would include the employees travel to and from work.

8. Conclusion

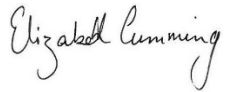
I contend that:

- a) This development has not “physically commenced” and been not been operation. In 1989, extraction undertaken at that time was preparatory (testing) only, therefore the quarry should be considered not “physically commencing” and as being abandoned. Therefore a new application should be submitted as under Section 109(3) of the *Environmental Planning & Assessment Act 1979* the pit ceased operation in December 1989 and has not been used since.
- b) The proposed annual extraction rate of 100,000 per annum should be considered as a trigger for designated development as it is 70,000 tonnes over the threshold limit, and that a submission of a modification to the original development is a way of avoiding the assessment of and mitigation of the impacts created by the increased development. The applicaiotn should be refused and a new development applicaiotn be submitted eith a full assessment of impact as designated development.
- c) This application cannot be considered under Section 96(1A) of the *Environmental Planning & Assessment Act 1979* as is not substantially the same development as approved for which the consent was originally granted but a 285% increase. The proposed modification adds an additional level to part of the approved development, in that the proposed annual output is increased substantially.
- d)
- e) The original Statement of Environmental Effects was very ligt on detail and did not then and does not now provde enough supporting information to assess the impact of the original or to be used as s upporting information for the prpoosed modification.
- f) The Statement of Environmental Effects submitted with the application for modification is inadequate for the level of impact of the proposal as it:
 - Makes sweeping and misleading statements that are not supported by scientific evidence, thus not giving Gwydir Shire Council enough information to undertake its due diligence in competing a full assessment under Section 79C of the *Environmental Planning & Assessment Act 1979*,
 - Does not address the short term and long term traffic impact caused by the increased traffic generation.
 - Does not detail as to where the new road is to be constructed, and its impact
 - Does not address flora, fauna, cultural heritage or bushfire impact or proposed measures of mitigation of that impact,
 - Clearing of Native vegetation has not been considered neither has a Property Vegetation Plan been prepared in conjunction with the requirements of the Native Vegetation Act 2003.

- No reference has been made as to how water will be utilised or sourced onsite for dust suppression.
 - No assessment has been made in regards to bushfire hazard.
- g) Yamacooona Estate Road and Kaloona Roads have not been designated as a B-Double route.
- h) The proposed development should be subject to the comprehensive environmental assessments required by current environmental legislation, using qualified consultants or individuals.
- i) All current legislation has not been addressed in relation to the increased impact of the proposed modification to the development.
- j) Not enough information has been provided to ascertain if the development is classed as being hazardous or offensive to the local environment and will be appropriately managed as per the requirements under State Environmental Planning Policy 33 (Hazardous and Offensive Development).
- k) A Property Vegetation Plan has not been prepared for the required land clearing, neither has a biodiversity offset area been offered.

additional level to part of an approved development

Yours sincerely



Elizabeth Cumming
Principal

Encl: Letter dated 6 December 2016, Mr David Carr, Stringybark Ecological



Stringybark Ecological

0418 651 263

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www.stringybarkecological.com.au

To whom it may concern

I have been requested by my client, Mr Jon Taylor, to review the *Application to modify a Development Consent DA 10.2016.33.1* in relation to my expertise in assessment of development impacts on fauna, flora and the natural environment. I have reviewed the Application and the associated Statement of Environmental Effects.

Qualifications to provide expert review.

I am a qualified and experienced ecological consultant, with extensive experience working in and around the Warialda area. I am a member of the Ecological Consultants Association of New South Wales, the Ecological Society of Australia and the Society for Ecological Restoration Australasia. I hold a Bachelor of Science degree, a Masters in Resource Science and an Advanced Certificate in Horticulture. I am happy to provide details of my qualifications and experience if required.

I have recently conducted extensive environmental surveys within 10km of the site of the sand quarry.

In my opinion, the change in the development is of a substantial nature, requiring a much more detailed assessment of environmental impacts. It would seem to me to fit the definition of a “Designated Development”, requiring an Environmental Impact Statement, rather than a simple modification of an existing development consent. The significant changes from the original development consent are:

1. A 40-fold increase in the volume of material extracted annually from the site, and
2. Changes in environmental protection legislation since 1987 include the introduction of the Native Vegetation Act 2003, the Threatened Species Conservation Act 1995, State Environmental Planning Policy 44 (Koalas) and the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

The Application to Modify declares that the modification will have minimal environmental impact and that the development will remain substantially the same (Section 4). While the proponent argues that the change is simply a change in the frequency of truck movements, the increase of extracted material annually from 35,000 tonnes to 1,300,000 tonnes will also have a greater impact on the environment at the site. It is not possible to increase production from an extractive industry by 40 times without having an impact over a much greater area each year. Even just considering truck movements, this will increase from 24 to 890 truck movements per week. There will a substantially greater impact on flora, fauna and the natural environment, as well as potential impacts from noise, dust, vibration, light pollution and on ground water, local hydrology and humans and animals using the roads. These impacts must be assessed in light of the scale of the changes.

The *Statement of Environmental Effects* accompanying the Application to Modify inadequately assesses the substantially greater impacts from the modified proposal. It ignores all impacts

except the increased truck movements. The Statement does not provide any evidence of methods or results for flora, fauna and cultural heritage studies allegedly carried out on the property. The details of any consultants or experts engaged to carry out these specialised studies are not given, nor are their qualifications or experience cited.

The Statement of Environmental Effects claims all environmental impacts will be mitigated by restoration of the site as work progresses, yet there is no restoration or remediation plan to support this. It is common practice to have a restoration plan that sets out reference ecosystems, timeline and methods, seed and seedling planning, weed management and monitoring and evaluation of restoration success.

The Statement claims: "...the proposed amendment does not alter the overall footprint of the approved quarry including the extraction area, batter profiles and the restoration of disturbed land, accordingly, the proposed changes would have minimal environmental impact." It is hard to imagine that changing from 35,000 to 1,300,000 tonnes extracted annually will not alter the overall footprint of the quarry will not alter the overall footprint of the quarry.

The proponent should be required to state the actual change in the annual footprint of the quarry and then assess the impact of this change in regard to current environmental protection legislation, such as those listed above. Since 1988, environmental protection provided by legislation has substantially changed in response to changing community expectations. Given the substantial change in this development, the proponent should be required to assess the impact of the development against this legislation.

Likely impacts on fauna, flora and the natural environment

Current legislation requires that an assessment of the impact of a development be made on threatened plant and animal species, threatened populations, critical habitats and threatened ecological communities under the Threatened Species Conservation Act and the Environmental Protection and Biodiversity Conservation Act. The EPBC Act also requires consideration of other "matters of environmental significance" such as migratory birds, wetlands and heritage places. The development must also consider impacts on koala populations under SEPP 44 and on fish (Including common species) under the Fisheries Management Act. These considerations usually require a desktop assessment of likely environmental matters found at the site based on database searches, followed by field assessments using approved methodologies and conducted by qualified environmental consultants.

The size of the remnant vegetation at the site (196ha), the soil type and the probable vegetation type indicates a high likelihood of finding a number of threatened fauna and flora species, such as:

- Black-chinned Honeyeater,
- Hooded Robin,
- Speckled Warbler,
- Squirrel Glider,
- Grey-crowned Babbler,
- Pine Orchid,
- *Polygala linariifolia*,
- Black-striped Wallaby,

The site is likely to support individuals in the threatened population of Brush Turkeys in the Brigalow Belt South and Nandewar bioregions. It is also likely to support threatened ecological communities such as:

- Semi-evergreen Vine Thicket,
- Box-Gum Grassy Woodland.

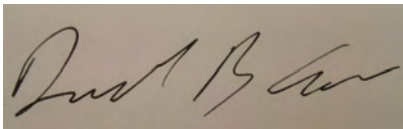
Many of these threatened species, populations or ecological communities would be significantly affected by the sand extraction, requiring mitigation and possibly biodiversity offsets.

The increased traffic on local roads would have a substantial impact on a number of species, including threatened species. Koalas in particular are vulnerable to being killed on roads if they are present in an area, particularly during late spring when males are actively moving around to find mates. Other species, such as Brush Turkeys and Grey-crowned Babbler are vulnerable to traffic because they fly or walk at ground level. As well as extra truck movements each day there will be increased traffic to the site as workers drive to and from the site each day.

The Application to Modify mentions a proposed road linking the quarry with the Gwydir Hwy. This will have additional impacts on the environment but is no doubt part of a separate DA.

In summary, the changes to the volume of sand extracted and the increase in truck and car movements, are major changes that will have a significant impact on the environment, including threatened species, populations, ecological communities and other matters. The proposed development should be subject to the comprehensive environmental assessments required by current environmental legislation, using qualified consultants or individuals. The Statement of Environmental Effects submitted with the Application to Modify is inadequate for the level of impact of the proposal.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David Carr', on a light-colored rectangular background.

David Carr

Principal

Stringybark Ecological

6/12/2016

*SUBMISSION IN RESPONSE TO APPLICATION BY WILLIAM CLIFT TO GWYDIR SHIRE
COUNCIL, TO MODIFY THE YAMMACOONA SAND QUARRY, DA 32/87,
337 YAMMACOONA ESTATE ROAD*

December 6, 2016

To the mayor, members and general manager of Gwydir Shire Council,

After review of the Application to Modify a Development Consent (DA 32/87, Yallaro Shire) for the Yammacoona Quarry, made by lot 7/264346 owner William Clift and co-signed by lots 5/264346 and 6/263346 owner and resident David Duncan, we have several critical questions concerning how Gwydir Shire Council determined the original development application, issued in 1988 to William Clift, had not lapsed within the five years defined by the Environmental Planning and Assessment Act, 1979.

There are also many deficits of evidence provided by the planning consultant, Richard Clowes, in regards to the Statement of Environmental Effect provided in relation to the request to increase extraction to 1.3 million tonnes, and assumedly then, by default, for the 100,000 tonne application. There was no separate modification application made, so the assumption is the one lodged on July 11, 2016 is meant to convey the relevant details.

The letter to amend the modification application, which downgrades the request from 1.3 million tonnes to 100,000 tonnes per year already increases the environmental, transport, ecological and community impact footprint by three. It is implausible that tripling the amount of sand extracted per annum does not alter the effect on the environment, wear and tear on the roads, dust, water usage, erosion and inconvenience to local residents. This is not a modification, but in our view, a necessity for a new development application. Any conversation it is a mere modification we find unacceptable.

We have lodged a Government Information (Public Access) request to Gwydir Shire for the evidence and documentation used to discern how and why the original DA had not lapsed.

After consultation with the North West and Northern Tablelands Local Land Service, Environmental Defenders Group, external local government planners and consultants, independent ecologists and much research, we are unsatisfied by the manner by which council has dealt with what purports to be a massive impact on a stable and sustainable rural farming community and the ratepayers of Gwydir Shire.

Until residents are provided with all information demonstrating that due process has been followed in regards to the lawful and physical development of the quarry and its ecological, environmental and social impact on the area, we cannot be assured this development meets the legal and social requirements entrusted to the council.

ORIGINAL DEVELOPMENT CONSENT

- In review of the original 1988 DA, without relevant documentation, it seems apparent Mr Clift has failed to meet or violated conditions 1, 2, 3, 4, 7, 8, 10, and 11.
- He has not demonstrated any proven work practices over the course of time to instill confidence an expansion of activities will be met with due diligence. This is not an expansion after years of responsible land management and fulfillment of the consent. Instead, it is an expansion of an alleged extraction 28 years ago to a full-blown operation.
- The original DA has lapsed.
- We have aerial imagery from 1985, 1989, 1991, 2003, 2011, 2013 and 2015, which I will bring to the council meeting December 12, 2016 for council to examine. Within the timeframe of 1985 to 1989, there is no discernable change or scarring to the landscape in keeping with the claimed 4000 tonnes of sand, equaling a total of 2,496.878 cubic metres, with all requisite land clearing and road work necessary, as outlined by the

original consent, to extract and transport the material, as claimed by Mr Clift in the new modification application, within the months of July 1988 to December 1989.

- If the paperwork to meet all specifications of the original DA are not able to prove the application has been lawfully and physically met, then any of the land clearing and extraction activities undertaken within the last 18 months, as evidenced by aerial and satellite imagery obtained from 1985-2016, could be illegal under the NSW Native Vegetation Act 2003 and could violate reforestation/revegetataion legislation.
- This clearing commenced prior to the lodgment of the Application to Modify the Development Consent in July of this year as evidenced by 2015 satellite imagery, so it is critical Mr Clift provide evidence the DA had not lapsed prior to the commencement of the clearing, and this predates the application date of July 11, 2016. We submit the proposal should be considered ineligible for a modification, as all available evidence indicates that the original consent has lapsed.

MODIFICATION CONSIDERATIONS

- Under the NSW Environmental Planning and Assessment Regulation 2000, Schedule 3, designated development, part 1, clause 19 Extractive Industries, anything that extracts 30,000 or more cubic metres of material is considered designated development. 100,000 tonnes of dry sand is 62,421.97 cubic metres of sand.
- It would be alarming to the community that Council could determine that a three-fold increase in extraction, and associated vegetation clearing, truck movements, and other impacts as set out below in this submission, are only of "minimal environmental impact" under s 96(1A) of the NSW Environmental Planning and Assessment Act 1979. This is because of:
 1. Effects on threatened species known to be in the area

2. Changes to the water catchment and flows into underground springs and neighbouring dams
 3. Erosion due to extended clearing for more truck traffic
 4. Effects on road damage and creation of dust due to extra truck traffic
 5. Inconvenience to local traffic including a school bus.
- It would be similarly alarming to the community for Council to consider this is "substantially the same development" as the original consent under s 96(2) of the NSW Environmental Planning and Assessment Act 1979. This is because according to the Mr Clift's application (11/7/2016) there will be:
 1. Increased truck traffic to 12 trucks per hour (6 trucks each direction).
 2. Increased water usage to 10 mega litres per year to be removed from the aquifer or water catchment.
 3. Increased hours of operation to 16hrs a day, 6 days a week and 12hrs on Sundays.
 - We submit that the proposal should not be considered a modification.
 - Even if Council accepts this as a modification application, Council should still determine that the proposal is designated development under Schedule 3 Part 2 of the Environmental Planning and Assessment Regulation 2000.
 - Under the definition of designated development, the approval escalates to the NSW Joint Regional Planning Panels for assessment. It all must be transparent.
 - There is concern in the community that this modification application seeks to avoid a JRPP decision-making process, which would also require a more transparent impact assessment, by way of an EIS.
 - We submit that Council should consider the proposal to be designated development. The proposal will need to be eventually dealt with as State Significant Development.
 - Should Mr Clift wish, as was stated in the original modification application and has been stated anecdotally on several occasions, to pursue extraction of 1.3 million tonnes per year, this then becomes a matter of state significance. Any extraction over 500,000 tonnes/year is immediately escalated, and is no longer within the council's purview to approve without state consent, and requires the highest level of scrutiny (under State

Environmental Planning Policy (State and Regional Development) 2011 Schedule 1).

Why Mr Clift and his consultant, Mr Clowes approached council with this modification in the first place is unclear.

MATTERS OF ENVIRONMENTAL AND ECOLOGICAL IMPACT, AND SITES OF ABORIGINAL SIGNIFICANCE

- In regards to the Statement of Environmental Effects within the modification application, please see the attached review completed by Wendy Hawes, ecological consultant of The EnviroFactor and long-time NSW government ecological consultant, legislative framer, and expert. She has thoroughly addressed Mr Clowes' SEE.
- We engaged Ms Hawes to assess the SEE because many of us in the community felt it was greatly lacking in information and substantiation that should have been made available to council.
- Ms Hawes' qualifications may be known to Gwydir Shire as she stated she had been called upon by council for her expertise in the past, but they are listed within her response. In the current environment when preservation of threatened species is not only extremely relevant, but promoted by Gwydir Shire Council, such as support and hosting of the Cool Country Koala Project, it is surprising council has not been more demanding of the SEE attached to this modification application, especially when koalas have been anecdotally sighted and photographed in adjacent lots to the area in question.
- The site is designated Sensitive Land under clause 6.3 of the Gwydir LEP and is also mapped as BSAL high value agricultural land, which makes a sandy quarry inappropriate use of the land.
- There has been no adequate assessment or documentation made by named, qualified individuals, on any stated date, in relation to any significant sites of Aboriginal heritage on lots 5/264346, 6/264346 and 7/264346.

- There has been no study or survey of the sustainability of local aquifers/groundwater or applications made for the construction of dams, catchments as stated in the modification application. Mr Clift seems to have no plan for water accumulation or storage in order to control the assumed vast amounts of dust which will results from the extraction site and truck travel on the roads by the "largest capacity trucks legally available" as stated in his amended letter requesting 100,000 tonnes of extraction.
- We submit that the SEE does not meet the standard required by the Environmental Planning and Assessment Act 1979 and council should require further study and reporting by qualified experts in the field to meet those standards – please the report by Wendy Hawes attached to this document.

ROADS

In regard to the roads meant to carry the sand to either ports or a yet-unbuilt block-making facility in Warialda:

- There has been no road degradation survey proposal mentioned within the Modification application, no study of road traffic patterns/effects by the NSW Roads and Maritime Service.
- Gwydir Shire Council has claimed (statement made by Mr Glen Periera at a public meeting November 23, 2016) it would be within their discretionary right to clear trees from Yammacoona Estate Road in order to widen the road. That statement is unsound.

As stated by North West Local Land Service Team Leader - Land Services (Native Vegetation) Dennis Boschma:

"If the DA for the road upgrades, quarry and quarry access track was not approved under a S25 exclusion, then dual consent under the NV Act is required prior to any clearing of Native Vegetation."

"Routine Agricultural Management Activities (RAMAs) do not apply to private quarries. If dual consent is required and the clearing has been undertaken, then the clearing is potentially illegal and should be reported to OEH via the enviro-line number 131 555.

"If dual consent for the proposed expansion is required then Council must refer the applicant to NWLLS for consent under the NV Act prior to any further clearing of Native Vegetation.

"-Please note if the access track across private land to the quarry was not part of a DA approved under a S25 exclusion then NV Act approval to clear native vegetation for the access track is required."

- There was no original access to the site built in accordance with the Traffic Authorities Guidelines (condition 8 of the 1988 DA 32/87) and no paperwork filed with the modification application by the council engineer at the time.
- There is no record Mr Clift contributed to the upgrade of roads as a condition of the original consent.
- There is no traffic study report by the NSW Roads and Maritime services.
- There is no road dust management plan in regards to crop, stock, water and human health.
- And whether every road in Gwydir Shire Council has been rated to carry B-double truck and trailers, there is no conclusive study provided by the applicant about how the volume of traffic, again, by the "largest capacity trucks legally available", will affect driver safety, native fauna, human health, erosion and environmental impact.
- Yamacoon Estate Road is a sloped road on both ends, with the centre being the main drainage point to the creek. It is a sandy, unstable road which degrades quickly in wet weather due to the nature of the surface and terrain. It would be, from experience, extremely unfit to carry the volume of traffic predicted by Mr Clift.

EMPLOYMENT

- The claims within the modification application that the project would create opportunities for local employment, were plainly refuted by the applicant at a public meeting held in Warialda on November 23 with members of Gwydir Shire council and approximately 26 local residents, when he stated there would be no local jobs as there was nobody within the area who would be qualified to perform the work.
- There was a statement training could be offered at some future point to skill-up residents for the work. Who will provide the training? How much will it cost? Where will it be provided? Are there numbers enough planned for to ensure delivery can take place in Warialda or a nearby community within easy reach of job seekers? There is no plan for this provided for public consideration.
- The block-making facility planned for Warialda has not had a development application lodged, so any additional jobs are at this point, hypothetical and entirely dependent upon the modification of the original application, which in our view is highly problematic.

CONCLUSION

In closing, consideration of nearly every aspect of this modification application seems fraught with unanswered questions and flawed conclusions, not the least of which is validation. There has been a failure by the council and Mr Clift to adequately demonstrate to the community both legal and physical reasons why the original development application consent has not lapsed, which would make the amended proposal void and recent work on this site illegal.

If it has, and if in an environment where Gwydir Shire Council has been declared unfit for the future where residents have been hit with a 30 per cent rate rise when many landholders are still struggling to get out from debt incurred by the drought, and when the project does not have a track record of good, proven work practices, for a project which was stated by the applicant (Mr Clift) to create no local jobs in the short to mid term, it seems very ill-advised for Gwydir Shire to even consider a project which seems likely to only benefit one individual – at what will undoubtedly be a very heavy cost to ratepayers.

Even if an argument can be made to push a "road through the bush" to the highway to carry the material away, and even if Mr Clift pays \$1 per tonne of the requested 100,000 tonnes of extracted material (as the council has agreed), that will not be enough to maintain Yammacoona Estate and Adams Scrub Roads, even in the short-term with the projected traffic.

In the end, would it be the Gwydir ratepayers who will finance a road through the bush to a dead-end road and one individual's private quarry that does not stand to benefit the people who live in the shire?

Lastly, the members of Gwydir Shire Council were elected to speak for and stand behind its residents. By his own admission, Mr Clift has stated (public meeting on November 23, 2016 at Warialda council) Yammacoona Quarry will not be the breadbasket of employment as purported by the Application to Modify as lodged in July. Therefore, who does this DA even benefit?

In our view, it will impact our water, our native flora and fauna, our safety on our roads, ill-equipped to handle such volumes of traffic, our fragile local ecological environment and multi-generational farming families along Adams Scrub Road.

We request council deny further consideration of this project, or request Mr Clift submit a new development application for his requested 100,000 tonnes of sand per year, under full scrutiny of all relevant legislation.

Sincerely,

Ross A Jacobs

164 Yammacoona Estate Road

Delungra, 2403 NSW



THE ENVIROFACTOR PTY LTD
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To: Ross Jacobs

From : Wendy Hawes,
Principal Terrestrial Ecologist

Date: 22nd Nov 2016

**REVIEW of the STATEMENT of ENVIRONMENTAL EFFECTS
REGARDING the YAMMACOONA SAND QUARRY**

Hi Ross

As requested I have reviewed the Statement of Environmental Effects (SEE) Regarding the Yammacoona Sand Quarry. The primary focus of this review is the assessment of the impacts on flora and fauna and in particular threatened species, populations and ecological communities. Attachment 1 outlines my qualifications and expertise in this area.

In preparing this document I have reviewed the following documents:

- Application to Modify a Development Consent DA 10.2016.33.1 dated 11/07/2016
- Clowes R (2016) *Statement of Environmental Effects for a proposed increase in truck movements from Yammacoona Sand Quarry*. A report prepared for Claystone Masonry P/L
- Letter dated 5th Sept 2016 from R Clowes to Mr Glen Pereira General Manger Gwydir Shire Council regarding Claystone Masonry Section 96 Application lodged 11/07/2016

The following are my comments re this proposal.

General comments

Notwithstanding the SEE report which proposes increasing the extraction rate from 35,000 tonnes per annum (pa) to 1.3million tonnes pa, the letter of the 5th September indicates the proposed extraction rate will be reduced to 100,000 tonnes pa. The significant difference in these figures, ie a 40 fold increase in extraction reduced to a 3 fold increase, is hard to reconcile and does, I believe, require explanation and a revised assessment. As such a reduction will change the potential environmental impacts and the number of jobs created. Further there is

little if any indication as to how any environmental impacts will be mitigated. Usually with these documents there are a number of plans including but not limited to; sediment and erosion control plans, biodiversity and vegetation management plans and rehabilitation plans. At very least there are recommended mitigation actions. None of these appear to have been prepared for this development.

Additionally, there is no supporting data. The SEE states, *'several inspections of the land have been undertaken between 2010 and 2016 in relation to flora and fauna as well as to assess the land's potential to contain Aboriginal archaeology.'* However, no reports are appended to the SEE, nor is any data collected during these visits or details of the methods used to collect data supplied. There is also no indication given of who inspected the site on these occasions or their qualifications and/or expertise with regard to flora and fauna and indigenous cultural heritage. This is a serious shortfall of this document.

Environment Planning and Assessment Act Regulation 2000

As indicated in the SEE, Schedule 3 Part 2 of the EP&A Act Reg 2000 outlines the extent to which an existing development can be modified before it should be classified as a designated development (see Attachment 2). The SEE states that, *'the proposed amendment does not alter the overall footprint of the approved quarry including batter profiles and rehabilitation of disturbed land'*. It is however difficult to understand how increasing extraction 40 fold or even 3 fold will not alter the footprint of the quarry, its batter profiles or the degree of rehabilitation required (note there is no rehabilitation plan attached to the SEE). Further, the Council must take into account the likely impact of additional truck movements, road widening and upgrade, potential for increased erosion, noise and dust pollution from the modified proposal when considering whether the modification should be classified as a designated development.

In considering the impact on the environment it must be noted that many legislative changes have occurred since the approval of the original development consent, such as threatened species legislation including, the Commonwealth *Environment Protection and Biodiversity Act 1999* (EPBC Act) and NSW *Threatened Species Conservation Act 1997* (TSC Act). Consequently, any modification to the proposed development must now adequately address the requirements of the existing legislative framework.

Assessment under the Commonwealth EPBC Act

The assessment of matters under the EPBC Act presented in the SEE is inadequate. While the consultant has accessed the EPBC *Protected Matters Search Tool* (PMST) (<http://www.environment.gov.au/epbc/pmst/index.html>) no list of species potentially occurring on the area nor an assessment under the EPBC *Assessment of Significance* guidelines has been undertaken. The reason given in the SEE for this is as follows, *'an inspection of the site has determined that no habitat suitable for these species is present on the land'*. However, nowhere in the SEE is a description of the vegetation communities present on the site, their condition or habitat values in relation to these species. Nor is there any indication of the qualifications and expertise of the person making the nil habitat assessment conclusion.

A similar search undertaken on by this author, on 22/11/2016 indicates habitat for the following ecological communities, populations and species listed under the EPBC Act are potentially present on, or within 5km, of the quarry site (refer Attachment 3). These comprise 5 endangered ecological communities, 15 threatened fauna species, 3 threatened plant species and 8 migratory species. My brief viewing of vegetation on the site from Yammacoona Estate Road (17/11/2016) would indicate that at least along the road the vegetation present comprises;

- Northern Smooth-barked Apple - pine shrubby open-forest of the northern Nandewar Bioregion and Brigalow Belt South Bioregion [OEH Vegetation Information System (VIS) Plant Community Type (PCT) 998] and/or
- Smooth-barked Apple - cypress pine - Narrow-leaved Ironbark - White Bloodwood tall heathy woodland of the Pilliga forests to Warialda region, Brigalow Belt South Bioregion (OEH VIS PCT 422).

The vegetation observed consisted of a mature age stand that supported old growth elements and overstorey/shrub regeneration. Fallen woody debris (including fallen hollow logs) appeared to be common, large and small tree hollows are present, as leaf litter and a range of flowering trees and shrubs. Aerial photograph interpretation indicates permanent water is present both in dams on the site and within an unnamed creek 500m to the east.

Given the size of the area (196ha), the changing topography and the fact my viewing was limited to what could be seen from the public road, it is likely the site supports more plant community types than those indicated above.

With the exception of national parks and state conservation areas, the flora and fauna of Warialda area has generally been poorly surveyed. The standard method of determining the likely presence of threatened species within a given area, where no fauna/flora survey has been undertaken, involves overlaying a species' known distribution and its known habitat requirements with vegetation composition, structure and the habitat elements present on a site. Siting records in the locality (ie with 5 -10km) can also give a good indication of the likely occurrence of a species on an area.

Using this method, and what little is known about the vegetation on site, I would consider the area provides habitat for; 8 threatened fauna species, 1 endangered population and 4 migratory species listed in Table 1. A comprehensive flora survey carried out by a suitably qualified person is required to establish the presence or absence of the threatened ecological communities and threatened flora species listed in Attachment 1. Although based on vegetation type it is considered habitat potentially exists for *Tylophora linearis*.

Contrary to the SEE finding, I believe none of the above species can be discounted from occurring on the project area. An assessment of significance in accordance with the DOE (2013) guidelines for threatened and migratory fauna listed under the EPBC Act, is therefore required for the modified development before Council can make a determination regarding the proposal. Additionally, if the assessment indicates there is likely to be an impact on any of matters of national environmental significance then the proposal will need to be referred to the Commonwealth Environment Minister.

TABLE 1: Threatened species and populations listed under the Commonwealth EPBC Act 1999 likely to occur on the Yamaccoona Quarry Site

Status under the EPBC Acts: **CE**=Critically Endangered, **E**=Endangered, **V**=Vulnerable, **M**=Migratory spp under international agreements CAMBA, JAMBA and RoKAMBA

Species identified on the quarry site

Species recorded within a 5km radius of the study area (Data from BioNet website: *Atlas of NSW Wildlife* – accessed Nov 2016)

Common Name	Scientific Name	EPBC Act#	Habitat within Yamaccoona Quarry Site
Flora			
	<i>Tylophora linearis</i>	E	Vegetation on site is likely to provide habitat for this slender vine which is known to occur in open forest communities in the region
Birds			
Regent Honeyeater ²	<i>Anthochaera phrygia</i>	CE	Large mature eucalypts and angophora present on the site are likely to provide foraging habitat for this nomadic species
Fork-tailed Swift	<i>Apus pacificus</i>	M	Vegetation on site is likely to provide foraging habitat for this largely aerial species
Painted Honeyeater	<i>Grantiella picta</i>	V	Mistletoes within the large eucalypts and angophora provide foraging and nesting habitat
White-throated Needle-tail	<i>Hirundapus caudacutus</i>	M	Vegetation on site is likely to provide foraging habitat for this largely aerial species
Swift Parrot	<i>Lathamus discolor</i>	E	Large mature eucalypts and angophora present on the site are likely to provide foraging habitat for this nomadic species
Rainbow Bee-eater	<i>Merops ornatus</i>	M	Vegetation and soils on site are likely to provide both foraging and breeding habitat
Satin Flycatcher	<i>Myiagra cyanoleuca</i>	M	Vegetation on site likely to provide foraging habitat for this species
Mammals			
Large-eared Pied Bat	<i>Chalinolobus dwyeri</i>	V	It is unknown whether the site or its surrounding landscape supports cave or rock overhangs, the preferred roosting habitat for this species. Although it is also known to roost in Fairy Martin nests. Vegetation on the site does provide suitable foraging habitat.
Spotted-tail Quoll	<i>Dasyurus maculatus</i>	E	Forest communities provide both breeding (fallen hollows logs) and foraging habitat
Corben's Long-eared Bat	<i>Nyctophilus corbeni</i>	V	Vegetation on the site provides both roosting/breeding (tree hollows) and foraging habitat
Koala	<i>Phascolarctos cinereus</i>	EP	Blakely's Red Gum (<i>Eucalyptus blakelyi</i>) a known koala feed tree occurs on site. Anecdotal evidence indicates koalas have been observed in adjoining vegetation
Grey-headed Flying Fox	<i>Pteropus poliocephalus</i>	V	Large mature eucalypts and angophora within the forest vegetation provide foraging habitat
Reptiles			
Border Thick-tailed Gecko	<i>Uvidicolus sphyrrurus</i>	V	Sandy soils, fallen logs, leaf litter and potentially areas of rock outcropping provide protection, breeding and foraging habitat for this ground dwelling reptile

Assessment under the NSW TSC Act 1997

Under section 5a of the EP&A Act, an assessment is required to determine the potential impact of any development on threatened species, populations and ecological communities listed under the NSW TSC Act. This is commonly known as a '7 part test'. It should be noted that while there are some overlaps between the EPBC and TSC listings, there are a number of species, populations and communities that, because of state population declines, occur only on the TSC list. The SEE provides no assessment (7 part test) of the potential impact of the proposed increased extraction on these species, populations, communities, or their habitats. Further no assessment under this legislation has ever been carried out for this development, as the original application and approval predates this legislation. Council as part its due diligence must therefore require a section 5a assessment for species, populations and ecological communities, or their habitats, listed under the TSC Act that are likely to occur on the quarry site. This assessment must be undertaken by a suitably qualified person.

In preparing this review the OEH *Atlas of NSW Wildlife – BioNet* database (<http://www.bionet.nsw.gov.au/>) was accessed. This database identifies known species records as well as generates a list of potential species which may occur within a defined area. Using the database results and the method described above for EPBC Act listed species, I believe the Yammacoona Quarry site would potentially provide habitat for; 3 threatened plant species, 25 threatened fauna species and 1 endangered population as listed in Table 2. There is also potential for the occurrence of one or more threatened ecological communities including:

- White Box Yellow Box Blakely's Red Gum Woodland
- Semi-evergreen Vine Thicket
- *Cadellia pentastylis* (Ooline) community.

A comprehensive flora survey carried out by a suitably qualified person at an appropriate time of year is required to establish the presence or/absence of threatened ecological communities and threatened flora species on the site.

Table 2: Threatened species and populations listed under the NSW TSC Act know to, or likely to, occur on the Yammacoona Quarry area

Status under the TSC Act: CE=Critically Endangered, E=Endangered, EP= Endangered population, V=Vulnerable

Species and communities identified on the quarry site

Species recorded within a 5km radius of the study area (Data from BioNet website: *Atlas of NSW Wildlife* – accessed Oct 2016)

Common Name	Scientific Name	TSC Act #	Habitat within Yammacoona Quarry Area
Flora			
Yetman Wattle	<i>Acacia jucunda</i>	E	Sandy and sand-loam soils on the site potentially provide habitat for this wattle
	<i>Cyperus conicus</i>	E	Damp and run-on areas within the sandy soils on the area potentially provide habitat for this sedge
	<i>Tylophora linearis</i>	E	Vegetation on site is likely to provide habitat for this slender vine which is known to occur in open forest communities in the region

Common Name	Scientific Name	TSC Act #	Habitat within Yammacoona Quarry Area
Birds			
Australian Brush Turkey	<i>Alectura lathamii</i>	EP	Forest communities provide suitable roosting, nesting and foraging habitat for the mound-building bird. Anecdotal evidence indicates this species occurs on the quarry site
Regent Honeyeater ²	<i>Anthochaera phrygia</i>	E	Large mature eucalypts and angophora present on the site are likely to provide foraging habitat for this nomadic species
Dusky Woodswallow	<i>Artamus cyanopterus cyanopterus</i>	V	Forest communities provide both nesting and foraging habitat for this nomadic species
Brown Treecreeper	<i>Climacteris picumnus victoriae</i>	V	Forest communities provide both nesting (tree hollows) and foraging habitat
Speckled Warbler	<i>Chthonicola sagittata</i>	V	Forest communities with patches of shrubs provide both nesting and foraging habitat
Varied Sittella	<i>Daphoenositta chrysoptera</i>	V	Forest communities with patches of shrubs provide both nesting and foraging habitat
Black Falcon	<i>Falco subniger</i>	V	Forest communities provide both nesting and foraging habitat
Little Lorikeet	<i>Glossopsitta pusilla</i>	V	Forest communities provide both nesting (tree hollows) and foraging habitat
Painted Honeyeater	<i>Grantiella picta</i>	V	Mistletoes within the large eucalypts and angophora provide foraging and nesting habitat
Little Eagle	<i>Hieraaetus morphnoides</i>	V	Forest communities provide both nesting and foraging habitat
Swift Parrot	<i>Lathamus discolor</i>	E	Large mature eucalypts and angophora present on the site are likely to provide foraging habitat for this nomadic species
Square-tailed Kite	<i>Lophoictinia isura</i>	V	Forest communities provide both nesting and foraging habitat
Turquoise Parrot	<i>Neophema pulchella</i>	V	Forest communities provide both nesting (tree hollows) and foraging habitat
Black-chinned Honeyeater (eastern subspecies)	<i>Melithreptus gularis gularis</i>	V	Large mature eucalypts and angophora present on the site are likely to provide foraging habitat
Barking Owl	<i>Ninox connivens</i>	V	Forest communities provide both nesting (tree hollows) and foraging habitat
Masked Owl	<i>Tyto novaehollandiae</i>	V	Forest communities provide both nesting (tree hollows) and foraging habitat
Mammals			
Large-eared Pied Bat	<i>Chalinolobus dwyeri</i>	V	It is unknown whether the site or its surrounding landscape supports cave or rock overhangs, the preferred roosting habitat for this species. Although it is also known to roost in Fairy Martin nests. Vegetation on the site does provide suitable foraging habitat.
Little Pied Bat	<i>Chalinolobus picatus</i>	V	Forest communities provide roosting/ breeding (tree hollows) and foraging habitat
Spotted-tail Quoll	<i>Dasyurus maculatus</i>	V	Forest communities provide both breeding (fallen hollows logs) and foraging habitat
Corben's Long-eared Bat	<i>Nyctophilus corbeni</i>	V	Forest communities on the site provide both roosting/breeding (tree hollows) and foraging habitat
Eastern Bent-wing Bat	<i>Miniopterus schreibersii oceanensis</i>	V	It is unknown whether the site or its surrounding landscape supports cave or rock overhangs, the preferred roosting habitat for this species. Vegetation on the site does provide

Common Name	Scientific Name	TSC Act #	Habitat within Yammacoona Quarry Area
			suitable foraging habitat.
Bristle-faced Free-tailed Bat	<i>Mormopterus eleryi</i>	E	Forest communities provide roosting/ breeding (tree hollows and bark fissures) and foraging habitat
Squirrel Glider	<i>Petaurus norfolcensis</i>	V	Forest communities provide both nesting (tree hollows) and foraging habitat
Koala	<i>Phascolarctos cinereus</i>	V	Blakely's Red Gum (<i>Eucalyptus blakelyi</i>) a known koala feed tree occurs on site. Anecdotal evidence indicates koalas have been observed in adjoining vegetation
Grey-headed Flying Fox	<i>Pteropus poliocephalus</i>	V	Large mature eucalypts and angophora within the forest vegetation provide foraging habitat
Delicate Mouse	<i>Pseudomys delicatulus</i>	E	Forest communities on sandy soils provide both breeding and foraging habitat
Yellow-bellied Sheath-tail Bat	<i>Saccolaimus flaviventris</i>	V	Forest communities provide both nesting (tree hollows) and foraging habitat
Eastern Cave Bat	<i>Vespertilio troughtoni</i>	V	It is unknown whether the site or its surrounding landscape supports cave or rock overhangs, the preferred roosting habitat for this species. Although this species will also use buildings and human structures for this purpose. Vegetation on the site does provide suitable foraging habitat.
Reptiles			
Zig Zag Velvet Gecko	<i>Amalosia rhombifer</i>	E	Forest communities provide both breeding and foraging habitat
Pale-headed Snake	<i>Hoplocephalus bitorquatus</i>	V	Woodland, woodland patches within the uncultivated Murroon Creek drainage depression
Border Thick-tailed Gecko	<i>Uvidicolus sphyrrurus</i>	V	Sandy soils, fallen logs, leaf litter and potentially areas of rock outcropping provide protection, breeding and foraging habitat for this ground dwelling reptile

Potential impacts of the proposal to modify the development

In general, the impacts of increasing the extraction from the Yammacoona Quarry Site include:

- habitat loss, fragmentation and isolation – currently the quarry site forms a relatively large intact remnant that is part of a much larger regional remnant that includes Warialda State Conservation Area. Removal of 196ha of native vegetation is likely to adversely impact flora and fauna populations within this remnant.
- increased fauna injury and mortality as a result of clearing activities, vehicle strike from increased truck and vehicle movements, intra and inter specific competition for reduced resources and increased predation
- erosion, sedimentation and contamination from changed surface water flows, increased dust and soil disturbance
- changes to surface water flows from reduced vegetation cover, increased hardstand areas and landform reshaping
- increased weed invasion and edge effects from clearing, fragmentation and increased movement of people and vehicles across the landscape

- increased pests and pathogens from extraction activities, more concentrated human activity, movement of vehicles and changed surface water flows
- increased and on-going disturbance (human activity, light, noise and vibration).

The SEE has failed to consider any of these impacts as they relate to flora and fauna, although all of these impacts are likely to adversely affect local flora and fauna populations. Their impact must be assessed and avoidance and/or mitigation actions implemented. Where avoidance and mitigation of the impacts is not possible then an offset may be required to protect environmental values in the locality and region.

Aboriginal Cultural Heritage

The *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* (DECCW 2010) outlines the process that individuals or organisations proposing to undertake developments need to follow in order to determine whether or not:

- Aboriginal objects are, or are likely to be, present in an area
- activities associated with the development are likely to harm Aboriginal objects (if present)
- an Aboriginal Heritage Impact Permit application is required.

The cultural heritage assessment provided in the SEE does not adequately address this guideline. While the consultant has accessed the AHIMS database to determine whether there are any registered sites on the quarry area, their assessment of the landscape features that may indicate the presence of Aboriginal objects is overly simple. The area in question while certainly on poor nutrient soils, is in close proximity to spring fed creeks and while the ground layer is naturally dominated by litter, animals (a potential food source) would have been present. Additionally, vegetation communities on poorer soils tend to have a greater botanical diversity than those on better quality soils and therefore plant based food sources (including cycads, lilies, geebung, grass trees, five corners), medicines (eg eucalypts, hopbush) and species useful in tool making (eucalypts, grass trees, cypress pine) often occur in greater abundance. As stated previously, the SEE implies that someone has inspected the area on more than one occasion for indigenous archeology. However, no data is presented in the report and no indication is given who undertook that inspection or what their qualifications/expertise is.

Council as part of their due diligence must request an archeological inspection of the area by a suitably qualified person to determine whether an Aboriginal Heritage Impact Permit (AHIP) is required before they make a determination regarding this development.

Attachment 1

CONSULTANT'S QUALIFICATIONS AND EXPERIENCE

Wendy Hawes – Principal Ecologist

Wendy has over 20 years experience in vegetation investigations and assessment of impacts on threatened species and ecological communities. She has a Bachelor of Science and Master of Science (prelim) majoring in Ecology and Zoology from the University of New England.

Scientific Licence: S11105

Her experience includes:

- Undertaking numerous assessments under the NSW *Environment Planning and Assessment Act 1979* (including Part 3A and Section 5A assessments) and EPBC Act – *Significant Impact Guidelines* for urban and rural development.
- Conducting and/or participating in numerous flora and fauna surveys for research and assessment.
- Preparing environmental harm reports and/or remediation plans for alleged breaches of NSW native vegetation and Commonwealth environmental legislation.
- Writing the draft national recovery plan for *White Box Yellow Box Blakely's Red Gum Grassy Woodland and Derived Native Grassland*.
- Writing the koala recovery strategy for the Northern Tablelands
- Sitting on Department of Environment, Water, Heritage and the Arts expert panels to advise on definitions and condition criteria for threatened ecological communities under consideration by the Commonwealth Scientific Committee including; Box-Gum Grassy Woodlands, Coolabah/Black Box Woodlands, Bluegrass Grasslands and Myall Woodlands.
- Writing guidelines for State Government departments on floristic survey, vegetation mapping, threatened species assessment.
- Conducting training courses in biodiversity, threatened species and general ecological assessment, for a range of clients.
- Member of NSW Department of Environment, Climate Change and Water: Border Rivers Community Conservation Advisory Committee, OEH Northern Tablelands Regional Advisory Committee and Goonoowigall State Conservation Area Community Advisory Group.
- Nature Conservation Council representative on Northern Tablelands Bushfire Management Committee.
- Department of Natural Resources member of expert panels benchmarking woodland communities for condition assessment, which have been utilised for state incentive funding programmes and in the Property Vegetation Planning Developer, for assessments under the *Native Vegetation Act 2003*.

Attachment 2

Environment Planning and Assessment Act Regulation 2000

Schedule 3

Part 2 Are alterations or additions designated development?

35 Is there a significant increase in the environmental impacts of the total development?

Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.

Note. Development referred to in this clause is not designated development for the purposes of section 77A of the Act. This means that section 98 of the Act (Appeal by an objector) will not extend to any such development even if it is State significant development.

36 Factors to be taken into consideration

In forming its opinion as to whether or not development is designated development, a consent authority is to consider:

(a) the impact of the existing development having regard to factors including:

(i) previous environmental management performance, including compliance with the conditions of any consents, licences, leases or authorisations by a public authority and compliance with any relevant codes of practice, and

(ii) rehabilitation or restoration of any disturbed land, and

(iii) the number and nature of all past changes and their cumulative effects, and

(b) the likely impact of the proposed alterations or additions having regard to factors including:

(i) the scale, character or nature of the proposal in relation to the development, and

(ii) the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is or is to be carried out and the surrounding locality, and

(iii) the degree to which the potential environmental impacts can be predicted with adequate certainty, and

(iv) the capacity of the receiving environment to accommodate changes in environmental impacts, and

(c) any proposals:

(i) to mitigate the environmental impacts and manage any residual risk, and

(ii) to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department or other public authorities.

Attachment 3

EPBC PROTECTED MATTERS SEARCH TOOL RESULTS



Australian Government
Department of the Environment and Energy

EPBC Act Protected Matters Report

This report provides general guidance on matters of national environmental significance and other matters protected by the EPBC Act in the area you have selected.

Information on the coverage of this report and qualifications on data supporting this report are contained in the caveat at the end of the report.

Information is available about [Environment Assessments](#) and the EPBC Act including significance guidelines, forms and application process details.

Report created: 22/11/16 08:51:25

[Summary](#)

[Details](#)

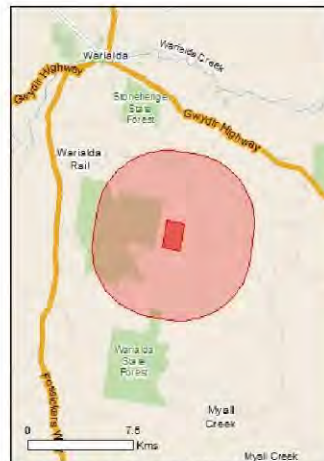
[Matters of NES](#)

[Other Matters Protected by the EPBC Act](#)

[Extra Information](#)

[Caveat](#)

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This map may contain data which are
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Buffer: 5.0Km



Details

Matters of National Environmental Significance

Wetlands of International Importance (Ramsar)	[Resource Information]
Name	Proximity
Banrock station wetland complex	1000 - 1100km
Gwydir wetlands: gingham and lower gwydir (big leather) watercourses	100 - 150km upstream
Riverland	1000 - 1100km
The coorong, and lakes alexandrina and albert wetland	1200 - 1300km

Listed Threatened Ecological Communities [Resource Information]

For threatened ecological communities where the distribution is well known, maps are derived from recovery plans, State vegetation maps, remote sensing imagery and other sources. Where threatened ecological community distributions are less well known, existing vegetation maps and point location data are used to produce indicative distribution maps.

Name	Status	Type of Presence
Coolibah - Black Box Woodlands of the Darling Riverine Plains and the Brigalow Belt South Bioregions	Endangered	Community may occur within area
Natural grasslands on basalt and fine-textured alluvial plains of northern New South Wales and southern Queensland	Critically Endangered	Community likely to occur within area
New England Peppermint (Eucalyptus nova-anglica) Grassy Woodlands	Critically Endangered	Community may occur within area
Weeping Myall Woodlands	Endangered	Community may occur within area
White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland	Critically Endangered	Community likely to occur within area

Listed Threatened Species [Resource Information]

Name	Status	Type of Presence
Birds		
Anthochaera phrygia Regent Honeyeater [82338]	Critically Endangered	Foraging, feeding or related behaviour likely to occur within area
Calidris ferruginea Curlew Sandpiper [856]	Critically Endangered	Species or species habitat may occur within area
Erythrotriorchis radiatus Red Goshawk [942]	Vulnerable	Species or species habitat may occur within area
Geophaps scripta scripta Squatter Pigeon (southern) [64440]	Vulnerable	Species or species habitat may occur within area
Grantiella picta Painted Honeyeater [470]	Vulnerable	Species or species habitat known to occur within area
Rostratula australis Australian Painted Snipe [77037]	Endangered	Species or species habitat may occur within area
Fish		
Maccullochella peelii Murray Cod [66633]	Vulnerable	Species or species

Name	Status	Type of Presence habitat may occur within area
Mammals		
<i>Chalinolobus dwyeri</i> Large-eared Pied Bat, Large Pied Bat [183]	Vulnerable	Species or species habitat likely to occur within area
<i>Nyctophilus corbeni</i> Corben's Long-eared Bat, South-eastern Long-eared Bat [83395]	Vulnerable	Species or species habitat known to occur within area
<i>Petauroides volans</i> Greater Glider [254]	Vulnerable	Species or species habitat may occur within area
<i>Phascolarctos cinereus</i> (combined populations of Qld, NSW and the ACT) Koala (combined populations of Queensland, New South Wales and the Australian Capital Territory) [85104]	Vulnerable	Species or species habitat likely to occur within area
<i>Pteropus poliocephalus</i> Grey-headed Flying-fox [186]	Vulnerable	Foraging, feeding or related behaviour known to occur within area
Plants		
<i>Homopholis belsonii</i> Belson's Panic [2406]	Vulnerable	Species or species habitat may occur within area
<i>Thesium australe</i> Austral Toadflax, Toadflax [15202]	Vulnerable	Species or species habitat likely to occur within area
<i>Tylophora linearis</i> [55231]	Endangered	Species or species habitat may occur within area
Reptiles		
<i>Anomalopus mackayi</i> Five-clawed Worm-skink, Long-legged Worm-skink [25934]	Vulnerable	Species or species habitat may occur within area
<i>Uvidicolus sphyrurus</i> Border Thick-tailed Gecko, Granite Belt Thick-tailed Gecko [84578]	Vulnerable	Species or species habitat likely to occur within area
<i>Wollumbinia belli</i> Bell's Turtle, Western Sawshelled Turtle, Namoi River Turtle, Bell's Saw-shelled Turtle [86071]	Vulnerable	Species or species habitat may occur within area
Listed Migratory Species		[Resource Information]
* Species is listed under a different scientific name on the EPBC Act - Threatened Species list.		
Name	Threatened	Type of Presence
Migratory Marine Birds		
<i>Apus pacificus</i> Fork-tailed Swift [678]		Species or species habitat likely to occur within area
Migratory Terrestrial Species		
<i>Hirundapus caudacutus</i> White-throated Needletail [682]		Species or species habitat likely to occur within area
<i>Motacilla flava</i> Yellow Wagtail [644]		Species or species habitat may occur within area
<i>Myiagra cyanoleuca</i> Satin Flycatcher [612]		Species or species habitat known to occur within area

Name	Threatened	Type of Presence
Rhipidura rufifrons Rufous Fantail [592]		Species or species habitat likely to occur within area
Migratory Wetlands Species		
Calidris ferruginea Curlew Sandpiper [856]	Critically Endangered	Species or species habitat may occur within area
Gallinago hardwickii Latham's Snipe, Japanese Snipe [863]		Species or species habitat may occur within area
Pandion haliaetus Osprey [952]		Species or species habitat may occur within area

Other Matters Protected by the EPBC Act

Listed Marine Species		[Resource Information]
* Species is listed under a different scientific name on the EPBC Act - Threatened Species list.		
Name	Threatened	Type of Presence
Birds		
Apus pacificus Fork-tailed Swift [678]		Species or species habitat likely to occur within area
Ardea alba Great Egret, White Egret [59541]		Species or species habitat likely to occur within area
Ardea ibis Cattle Egret [59542]		Species or species habitat may occur within area
Calidris ferruginea Curlew Sandpiper [856]	Critically Endangered	Species or species habitat may occur within area
Gallinago hardwickii Latham's Snipe, Japanese Snipe [863]		Species or species habitat may occur within area
Haliaeetus leucogaster White-bellied Sea-Eagle [943]		Species or species habitat may occur within area
Hirundapus caudacutus White-throated Needletail [682]		Species or species habitat likely to occur within area
Merops ornatus Rainbow Bee-eater [670]		Species or species habitat may occur within area
Motacilla flava Yellow Wagtail [644]		Species or species habitat may occur within area
Myiagra cyanoleuca Satin Flycatcher [612]		Species or species habitat known to occur within area

Name	Threatened	Type of Presence
Pandion haliaetus Osprey [952]		Species or species habitat may occur within area
Rhipidura rufifrons Rufous Fantail [592]		Species or species habitat likely to occur within area
Rostratula benghalensis (sensu lato) Painted Snipe [889]	Endangered*	Species or species habitat may occur within area

Extra Information

State and Territory Reserves	[Resource Information]
Name	State
Warialda	NSW
Warialda	NSW

Invasive Species	[Resource Information]
Weeds reported here are the 20 species of national significance (WoNS), along with other introduced plants that are considered by the States and Territories to pose a particularly significant threat to biodiversity. The following feral animals are reported: Goat, Red Fox, Cat, Rabbit, Pig, Water Buffalo and Cane Toad. Maps from Landscape Health Project, National Land and Water Resources Audit, 2001.	

Name	Status	Type of Presence
Birds		
<i>Anas platyrhynchos</i> Mallard [974]		Species or species habitat likely to occur within area
<i>Carduelis carduelis</i> European Goldfinch [403]		Species or species habitat likely to occur within area
<i>Columba livia</i> Rock Pigeon, Rock Dove, Domestic Pigeon [803]		Species or species habitat likely to occur within area
<i>Passer domesticus</i> House Sparrow [405]		Species or species habitat likely to occur within area
<i>Streptopelia chinensis</i> Spotted Turtle-Dove [780]		Species or species habitat likely to occur within area
<i>Sturnus vulgaris</i> Common Starling [389]		Species or species habitat likely to occur within area
<i>Turdus merula</i> Common Blackbird, Eurasian Blackbird [596]		Species or species habitat likely to occur within area
Mammals		
<i>Canis lupus familiaris</i> Domestic Dog [82654]		Species or species habitat likely to occur within area

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STATEMENT OF ENVIRONMENTAL EFFECTS

FOR A PROPOSED
Increase in Truck Movements from Yammacoona Sand Quarry

Lot 5, 6, & 7
DP 264346
Parish of Adams
County of Burnett

Proponent: Claystone Masonry Pty Ltd
C/- PO Box 67
Pallamallawa, NSW 2399

Prepared by: Richard Clowes
71 Paramellowa Street
Pallamallawa NSW 2399

Date June 2016

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INTRODUCTION:

This Statement of Environmental Effects has been prepared to accompany an application to Gwydir Shire Council under the provisions of Section 96(1)A of the Environmental Planning and Assessment Act 1979.

The application seeks Council's consent to modify conditions 6, 9 and 11 of Development Consent No. 32/87 to permit an increase in annual production from the Yammacoona Sand Quarry on Lots 5, 6 and 7 in DP 264346, Yammacoona Estate Road, Warialda to permit annual output to increase to 1.3 million tonnes.

The subject land is zoned RU1 Primary Production and comprises an area of approximately 195 hectares. Extractive Industries are a permitted use in this zone.

A locality plan is attached as Appendix 1, a site plan as Appendix 2, a pit concept plan as Appendix 3 and a copy of Development Consent 32/87 is attached as Appendix 4.

BACKGROUND:

Claystone Masonry Pty Ltd received development consent to extract, screen, and transport sand and rock and also to construct and operate a block making plant on Lots 5, 6, and 7 in Deposited Plan 264346 on the Yammacoona Estate at Koloona in northern New South Wales on the 15th of January, 1988. The purpose of the block making plant was to process sand and sandstone extracted from the site for the casting of building materials such as bricks, tiles, clip-on facades, pavers and the like.

On the 15th of June, 1989, in accordance with condition number 2 of the consent, application was made for a Pollution Control Approval and on the 15th of September, 1989, Pollution Control Approval No. 89/487W was obtained from the then State Pollution Control Commission to construct the block making plant.

On the 9th of August 1989 a deed of agreement between Claystone Masonry Pty Ltd and Yallaro Shire Council was entered into agreeing to road works contributions fulfilling the requirements of condition number 1 of the consent.

Between July 1988 and December 1989 approximately 4,000 tonnes of the coloured sand was excavated, screened and a pilot run manufacturing architectural masonry products using this sand was undertaken by the Besser Company Pty Ltd.

More recently, tests carried out on an extensive deposit of unusually pure quartz and alumina sand, has determined that when crushed and screened, this material produces a quartz rich sand which is highly suited as an admixture in the manufacture of high strength concrete.

Due to the unique nature of these quartz rich sands produced at the Yammacoona quarry, a number of overseas manufacturers have shown an interest in importing this product for use as an admixture in their manufacturing facilities. This would enable the production of high strength concrete for use in large engineering structures such as bridges and high-rise buildings in these overseas countries.

EXISTING DEVELOPMENT:

The land that comprises the current quarry area benefits from an existing development consent for an extractive industry approved under Development Application No. 32/87 on 21 April 1988.

The existing quarry is approved to operate from 7.00 am to 5.00 pm, Monday to Friday and 7.00 and Noon on Saturday. Within these hours of operation extraction is permitted in accordance with the development consent. The approved maximum rate of dispatch of quarry materials of 35,000 tonnes per year has not been realised to date, with actual quarry products dispatched from the quarry, being 4,000 tonnes in 1989 with a number of smaller samples since.

Development Consent No 32/87 did not directly specify an annual output from the quarry, rather, via condition 11 it limited output to around 35,000 tonnes per year by limiting truck movements to 24 semi-trailers per week.

Quarry operations have involved excavating and screening, with the end product being transported from the site via semi-trailers.

The haulage of quarry material from the site is subject to a weekly limitation on the development consent of 24 laden truck (four per day, six days per week).

Three positions are required on-site under the existing approved quarry operations, with other services including cartage, maintenance, fabrication, hardware and plumbing, being outsourced.

PROPOSED AMENDMENT:

The amendment sought involves:

- Modification to hours of operation (condition 6),
- Relocation of the block making plant (condition 9),
- Application to modify the number of daily truck movements (condition 11), and
- Inserting a condition to limit annual output to a maximum of 1.3 million tonnes.

This application seeks authorisation to increase the operating hours and to set the annual production permitted under the development consent issued for Development Consent No. 32/87, including:

- operating two, eight hour shifts per day Monday to Saturday for production;
- one 12 hour shift on Sunday for vehicle loading and plant maintenance;
- deleting the reliance on restricting truck movements from the quarry as a de facto means of limiting production; and
- setting the annual output to a maximum of 1.3 million tonnes.

The proposed development is within the ambit of the provisions of Schedule 3 Part 2 of the Environmental Planning and Assessment Regulation 2000 regarding alterations or additions to designated development and is not considered to be classified as designated development in its own right.

The Application is being made pursuant to Section 96(1A) of the Environmental Planning and Assessment Act 1979 as the proposed amendment does not alter the overall footprint of the approved quarry including the extraction area, batter profiles and the rehabilitation of disturbed land, accordingly, the proposed changes would have minimal environmental impact.

The proposed hours of operation would involve two shifts Monday to Saturday with loading operations over seven days per week averaging six trucks per hour.

The heavy vehicle movements from the quarry are proposed to use Adams Scrub Road up to the intersection with the Gwydir Highway at Koloona. This would occur for approximately two years until a new access road from the quarry to the Gwydir Highway, proposed by Council, has been completed.

It is projected that the operation would employ 45 workers, including delivery drivers, in stage 1, which involves production of 500,000 tonnes per year. This would increase to 84 workers, including delivery drivers once stage 2, involving production of 1,300,000 tonnes per year is completed, although whether such positions are permanent, full time or otherwise is dependent on demand for the quarry material.

An Environment Protection Licence is being separately sought by the proponent from the Environment Protection Authority for an Extractive Industry extracting up to 500,000 tonnes per year. This licence will be increased subsequently to cover stage 2 production.

The quarry has a harvestable water right under the *Water Management Act 2000* of 13.65 ML per annum. A water licence is also being separately sought by the proponent from the NSW Office of Water for the proposed extraction of up to 10ML of water annually from a groundwater bore. The water would be used for the primary purpose of dust suppression and fire fighting. This licence is not linked to this Application, with the NSW Office of Water being responsible for managing access to water.

IS THE APPLICATION DESIGNATED DEVELOPMENT?:

Development that is designated development is listed under Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* and includes Extractive industries at Clause 19 as follows:

"19 Extractive industries

(1) Extractive industries (being industries that obtain extractive materials by methods including excavating, dredging, tunnelling or quarrying or that store, stockpile or process extractive materials by methods including washing, crushing, sawing or separating):

(a) that obtain or process for sale, or reuse, more than 30,000 cubic metres of extractive material per year, or

(b) that disturb or will disturb a total surface area of more than 2 hectares of land by:

((i) clearing or excavating, or

(ii) constructing dams, ponds, drains, roads or conveyors, or

(iii) storing or depositing overburden, extractive material or tailings, or

(c) that are located:

(i) in or within 40 metres of a natural waterbody, wetland or an environmentally sensitive area, or

(ii) within 200 metres of a coastline, or

(iii) in an area of contaminated soil or acid sulphate soil, or

(iv) on land that slopes at more than 18 degrees to the horizontal, or

(v) if involving blasting, within 1,000 metres of a residential zone or within 500 metres of a dwelling not associated with the development, or

(vi) within 500 metres of the site of another extractive industry that has operated during the last 5 years.”

Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* also provides the following at Part 2:

“Part 2 Are alterations or additions designated development?

Clause 35 Is there a significant increase in the environmental impacts of the total development?

Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.

Note. Development referred to in this clause is not designated development for the purposes of section 77A of the Act. This means that section 98 of the Act (Appeal by an objector) will not extend to any such development even if it is State significant development.”

The above provides that a development application for alterations or additions to designated development (in this instance the designated development extractive industry endorsed under Development Consent No. 32/87) is not by default designated development that is subject to an Environmental Impact Statement and determination by the Joint Regional Planning Panel.

This Section 96 application has been submitted to Council under Part 2, Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* and the Council must form the requisite opinion under clause 35 to enable the application to be considered as other than designated development. Clause 36 provides the factors to be taken into consideration by Council in forming its opinion as to whether or not the development is designated development. The matters to be considered are provided below and commented on in turn.

“Clause 36(a)

(a) the impact of the existing development having regard to factors including:

(i) previous environmental management performance, including compliance with the conditions of any consents, licences, leases or authorisations by a public authority and compliance with any relevant codes of practice, and

(ii) rehabilitation or restoration of any disturbed land, and

(iii) the number and nature of all past changes and their cumulative effects, and”

Comment:

The previous environmental management performance of the development is considered through a compliance assessment addressing the conditions of consent imposed on Development Consent No. 32/87. That assessment concludes that all conditions have been complied with by the Applicant.

Conditions:

-
1. *That the applicant contribute to the cost of upgrading of the road on a basis to be negotiated.*

Comment: On 9/8/1989 a Deed of Agreement was entered into between the applicant and Council setting out the agreed contribution schedule in accordance with the above condition.

2. *That approval of the operation under Section 27 of the Noise Control Act be obtained from the State Pollution Control Commission.*

Comment: Pollution Control Approval No. 89/487W was issued by the Commission on 15/9/1989 in satisfaction of the above condition.

3. *That dust emission control be exercised.*

Comment: Due to the nature of the sand little dust is generated. No dust complaints have been received by the applicant or the Council.

4. *That the recommendations of the Soil Conservation Service for erosion control be adopted and rehabilitation be carried out progressively as outlined in the E. I. S.*

Comment: No erosion is evident on the land. Rehabilitation has been carried out in line with best industry practice using seeds obtained on-site resulting in regeneration of natural species.

5. *That blasting, if carried out, be during a period of one hour per day on week days only. Such time to be nominated by applicant.*

Comment: Due to the nature of the extractive material no blasting has been undertaken. All material has been extracted using a bulldozer and an excavator loading directly into trucks.

6. *That hours of operation be between the hours of 7.00 am to 5.00pm week days and 7.00 am to noon on Saturdays with no operation on Sundays or public holidays.*

Comment: No operations have been conducted outside these hours.

7. *That the extent of clearing on the site be restricted to that necessary to allow for quarrying and reasonable fire breaks to buildings to be erected.*

Comment: Clearing has been minimised wherever possible and disturbed areas promptly stabilised and rehabilitated.

8. *Access to the site to be built in accordance with the Traffic Authorities Guidelines and to the satisfaction of the Shire Engineer.*

Comment: Council approved the present access driveway.

9. *That block making plant be located a minimum distance of 50 metres from the property boundary with the road.*

Comment: The block making plant has not been constructed. Negotiations are underway with Council and approval will be sought to construct the plant in the Warialda Industrial Area.

10. *That upon operations on the site having to cease due to any reason that any uncompleted quarries be rehabilitated and buildings not suitable for other uses be removed prior to vacating the site.*

Comment: Quarry operations were temporarily suspended on the site and all pits were stabilised and revegetated as required by this condition.

11. Conformity of the proposal with the method and scale set out in the E. I. S. and conveyed to Council. Any extension beyond the proposal to be the subject of a further application to Council.

Comment: The quarry has been operated strictly in accordance with Development Consent No 32/87 conditions of approval. This application to amend the original conditions of approval complies with the second part of the above condition.

12. That this consent will not take effect until 28 days after endorsement of same.

Comment: This is an advisory condition and has been observed.

"Clause 36(b)

(b) the likely impact of the proposed alterations or additions having regard to factors including:

- (i) the scale, character or nature of the proposal in relation to the development, and*
- (ii) the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is or is to be carried out and the surrounding locality, and*
- (iii) the degree to which the potential environmental impacts can be predicted with adequate certainty, and*
- (iv) the capacity of the receiving environment to accommodate changes in environmental impacts, and"*

Comment:

The likely impact of the proposed alterations or additions are assessed as follows:

The overall footprint of the approved quarry would not change as a result of the proposed amendment to the development consent. This Statement of Environmental Effects provides an assessment of the effects of the increase in truck movements on the environment that would result from the proposed increase in production. The assessment concludes that the increase in production could proceed given there is no evident environmental reason to prevent the increase in production at the Quarry from proceeding.

In summary, the following comments are provided for each factor.

- (i) The scale of the approved area of the Quarry would not change and the Quarry would continue to be developed in the same manner as is currently approved.
- (ii) The vegetation, air, noise and water effects would be comparable to the existing approved operation, with the exception of an increase in road noise, albeit at levels considered acceptable. The Quarry's location generates negligible visual impacts.
- (iii) The environmental effects outlined in this document are considered certain given the observations and performance of the existing quarry.
- (iv) The environment surrounding the Quarry has considerable capacity to accommodate any adverse effects of its ongoing operation in the manner described in this document.

96 Modification of consents--generally

(1A) Modifications involving minimal environmental impact A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:

- (a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- (b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all), and*
- (c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulations so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- (d) it has considered any submissions made concerning the proposed modification within any period prescribed by the regulations or provided by the development control plan, as the case may be.*

Subsections (1), (2) and (5) do not apply to such a modification.

Comment

The proposed amendment does not alter the overall footprint of the approved quarry including the extraction area, batter profiles and the rehabilitation of disturbed land.

Accordingly, the proposed amendment:

- a) is of minimal environmental impact;
- b) is substantially the same development for which consent was originally granted;
- c) Council shall notify this application in accordance with the regulations; and
- d) Council shall consider any submission received in accordance with the regulations.

IS THE APPLICATION INTEGRATED DEVELOPMENT?:

Section 91 of the Environmental Planning and Assessment Act 1979 creates a category of development known as Integrated Development:

(1) Integrated development is development (not being State significant development or complying development) that, in order for it to be carried out, requires development consent and one or more of the following approvals:

A modification of a development consent under Section 96 is not a Development Consent as set out in Section 96(4) of the Act:

(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this

***Part**, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

As an amendment under Section 96 is not a Development Consent it does not trigger the requirements set out in Section 91. Accordingly, the application is not Integrated Development.

SECTION 79C(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

Comment:

The matters that require assessment under S79C(1) of the Environmental Planning and Assessment Act 1979 have been considered in the original Development Consent and under Section 96(1)A do not require further review as the proposed amendments have no additional environmental impacts on the quarry site.

The following considers potential impacts that may result from the proposed amendments.

REFERRAL/CONCURRENCE AUTHORITIES:

Referral authorities for this Application are:

- (1) The Environment Protection Authority; and
- (2) The Roads and Maritime Services.

SECTION 79(C)(1) – MATTERS FOR CONSIDERATION.

THE PROVISIONS OF ANY ENVIRONMENTAL PLANNING INSTRUMENT:

Regional Environmental Planning Policy:

No Regional Environmental Planning Policies apply to this proposal.

State Environmental Planning Policy:

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

The aims of this Policy are, in recognition of the importance to New South Wales of mining, petroleum production and extractive industries:

- (a) to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State, and*
- (b) to facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources, and*
- (c) to establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources.*

Clause 7(3) (a) provides that extractive industries are permissible with consent on the subject land and **clause 7(3) (c)** provides that facilities for the processing and transportation of extractive materials are also permissible on the subject land with consent.

The quarry has already received development consent under the provisions of Section 76 of the Environmental Planning and Assessment Act 1979 and the present application to modify that consent is being made pursuant to Section 96(2) of that Act.

This SEPP is prospective in its intent rather than retrospective and its requirements are directed towards Development Applications.

Environmental Protection and Biodiversity Conservation Act 1999 (Commonwealth)

A search of the Department of Environment and Heritage web site was undertaken using the Protected Matters Search Tool on 30 March, 2016.

The report indicated that the habitat of a number of threatened species may be present on the subject land, however, an inspection of the site has determined that no habitat suitable for these species is present on the land. The report also indicated that a number of migratory birds may overfly the site.

As no habitat suitable for the listed species is present on the land, no physical works other than those already approved by Development Consent No. 32/87 are required by this development proposal and the existing use of the land will not change as a result of this proposal it is concluded that the proposed development does not need to be referred to the Commonwealth Environment Minister as there will not be a significant impact on a matter of national environmental significance.

Local Environmental Planning Policy:

Gwydir Local Environmental Plan 2013 applies to the subject land. The subject land is zoned RU1 primary production under the zoning table and extractive industries are permissible with consent in this zone.

Does the proposal satisfy the requirements of the EPI?

Yes as extractive industries are permissible with the consent of Council.

Is the proposal permissible within the zone?

The proposal is permissible in the RU1 Primary Production zone under the Land Use Table of Gwydir Local Environmental Plan 2013 .

The objectives of the zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*

The proposal is consistent with the aims and objectives of the EPI & land use zone.

THE PROVISIONS OF ANY DRAFT ENVIRONMENTAL PLANNING INSTRUMENT (EPI)

Draft SEPP:

No draft State Environmental Planning Policies apply to this proposal.

Draft LEP:

No draft Local Environmental Plans apply to this proposal.

DEVELOPMENT CONTROL PLAN/POLICIES

Development Control Plans:

A search of Council's web site did not reveal any Development Control Plans relevant to this proposal.

Local Policies:

A search of council's web site did not reveal any Local Policies relevant to this proposal.

ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000:

The Environmental Planning and Assessment Regulation 2000 requires that certain documents must accompany an application for the modification of a development consent at Clause 115(1).

(1) An application for modification of a development consent under section 96 (1), (1A) or (2) or 96AA (1) of the Act must contain the following information:

- (a) the name and address of the applicant,*
- (b) a description of the development to be carried out under the consent (as previously modified),*
- (c) the address, and formal particulars of title, of the land on which the development is to be carried out,*
- (d) a description of the proposed modification to the development consent,*
- (e) a statement that indicates either:*
 - (i) that the modification is merely intended to correct a minor error, misdescription or miscalculation, or*
 - (ii) that the modification is intended to have some other effect, as specified in the statement,*
- (f) a description of the expected impacts of the modification,*
- (g) an undertaking to the effect that the development (as to be modified) will remain substantially the same as the development that was originally approved,*
- (h) if the applicant is not the owner of the land, a statement signed by*

the owner of the land to the effect that the owner consents to the making of the application (except where the application for the consent the subject of the modification was made, or could have been made, without the consent of the owner),

(i) a statement as to whether the application is being made to the Court (under section 96) or to the consent authority (under section 96AA),

and, if the consent authority so requires, must be in the form approved by that authority.

This Statement of Environmental Effects and its attachments satisfies the relevant requirements of this clause.

Clause 120(1) requires the consent authority to provide a copy of the application to concurrence and approval bodies.

(1) As soon as practicable after receiving an application for the modification of a development consent, a consent authority must cause a copy of the application to be given to each concurrence authority and approval body for the development to which the application relates.

Council must provide a copy of this application to:

- (3) The Environment Protection Authority; and
- (4) The Roads and Maritime Service.

THE LIKELY IMPACTS OF THE DEVELOPMENT

Context & Setting

The quarry is located in the RU1 – Primary Production zone and surrounding lands are within the same zone.

The quarry is located on a sandy ridge and surrounded by farmland. Due to the topography and retained vegetation buffers the quarry is not visible from public places.

Likely impacts of the proposed modification will result from increased road traffic movements. Impacts are considered below.

Potential impact on adjacent properties:

The subject land and adjacent properties are zoned RU1 Primary Production under Gwydir Local Environmental Plan 2013. Extractive industries are permissible in the zone with the consent of Council.

The nearest residences not associated with the quarry are located 1.246 km northeast, 1.183 km east and 1.283 km southeast from the boundary of the subject land.

Due to the design of the quarry and retained vegetative buffers it is not visible from adjacent land or public spaces. Noise impacts are considered elsewhere in this report.

Access, Transport & Traffic

The sand quarry is located on Yammacoona Estate Road and is accessed via the Gwydir Highway and Adams Scrub Road. The Gwydir Highway has an AADT of 1296 with heavy vehicles making up 18 percent (RMS Station 3133). Both Adams

Scrub Road and Yammacoona Estate Road presently carry local traffic made up by a combination of light vehicles and farm traffic. The quarry presently contributes seven movements to the AADT.

In the first years the increased vehicle traffic from the quarry will add an additional 63 movements to the AADT, rising to 134 when peak production is achieved.

AADT Present	AADT Stage One	AADT Stage Two
1296	1359	1430

Figure 1 Gwydir Highway traffic volumes

For comparison, the New England Highway at Dundee has an AADT of 2098 and Summerland Way has an AADT of 3259. All of these roads are two lane construction (single lane in each direction) indicating that the Gwydir Highway has adequate capacity to carry the additional traffic.

Operational Noise & Vibration

There are three residences not associated with the quarry development. These are located 1.246 km northeast, 1.183 km east and 1.283 km southeast from the boundary of the subject land as shown in Appendix 2.

The impacts of noise reduce by the inverse square of the distance from the source to the receiver. The formula used to calculate the reduction of impact due to spherical divergence is:

$$L_2 = L_1 + 20 \cdot \log_{10} (d_1/d_2)$$

Where L_1 is the level of impact measured at distance d_1 and L_2 is the level of impact expected at distance d_2 .

In calculating noise, L_1 and L_2 are measured in dB(A).

The decay with distance screening method is very conservative as it assumes 'line of sight' travel and does not account for noise reduction due to topography, vegetation, atmospherics or man-made obstructions such as bunds or buildings.

The New South Wales Industrial Noise Policy provides the following guidance on acceptable industrial noise impacts on residential premises in rural areas. This is set out in Table 1 below

		Acceptable	Maximum
Day	7.00am - 6.00pm	50 dB(A)	55 dB(A)
Evening	6.00pm - 10.00pm	45 dB(A)	50 dB(A)
Night	10.00pm - 7.00am	40 dB(A)	45 dB(A)

Table 1: acceptable noise levels

In assessing the impact of noise from an extractive industry the following equipment noise outputs were obtained from the DEFRA Construction Noise Database :

Equipment	Power rating kW	Size	A-weighted Sound Pressure Level LAeq dB @ 10m
Hydraulic excavator	184 Kw	37 Tonnes	80
Loader	198 Kw	29 Tonnes	83
Screen stockpiler	56 Kw	15 Tonnes	81

Table 2 From DEFRA Construction Noise Database

The inputs to our equation are then:

- the maximum sound pressure level, expressed as dB(A) is 83, which is the maximum measured for a wheeled loader under actual operating conditions at 10 metres from the equipment. This is the noisiest equipment expected on site.
- d_1 is 10 metres, and
- d_2 is 1183 metres (the nearest residence).

If we feed the data into our equation $L_1 = 83$ dB(A), $d_1 = 10$ metre and $d_2 = 1183$ metres, we achieve $L_2 = 42$ dB(A) which is below the accepted maximum noise level of 45 dB(A) for night operation.

Residence	Distance in metres	Predicted max noise
1	1,246	41 dB(A) Leq
2	1,183	42 dB(A) Leq
3	1,283	41 dB(A) Leq

Table 3 Calculated Noise Levels on Nearby Receivers

The only time noise could exceed the acceptable level would be in the shoulder period between 6.00 and 7.00am for residence 2. However, there is high ground between the approved quarry and both residence 2 and 3 so exceedence is considered unlikely.

Utilities

The development, as proposed to be modified, makes no demand on public utilities.

Heritage

The Aboriginal Heritage Information Management System (AHIMS) was interrogated on the 6th of May 2016 and indicated that no Aboriginal Places or relics are recorded on the subject land. Several inspections of the land have been undertaken between 2010 and 2016 in relation to flora and fauna as well as to assess the land's potential to contain Aboriginal archaeology.

The land is sandy and poor in nutrients. It supports little ground cover which means it does not attract animals. It is distant from permanent water, contains no permanent or ephemeral water, has no rock overhangs suitable for shelter and therefore is considered unsuitable for camping.

There are no scarred trees as trees on site are younger than European settlement due to prior logging and there are no signs of Aboriginal activity such as middens or artefact scatters.

Water

Due to the porosity of the sand which comprises the entire site there is no surface water, rain soaks in rather than pooling or running off. A bore sunk to a depth of 90 metres to test the geology of the site did not intersect any aquifers.

A licence to sink a bore at the southern end of the subject land, on lower ground, to provide operational water is being sought separately. Two dams are located in this area and collect runoff from black soil.

Air & Microclimate

The main emissions from site are diesel exhausts from a hydraulic excavator, dump truck and screen stockpiler. All machinery would be maintained in accordance with the manufacturers' requirements and exhaust emissions would be within approved guidelines.

Due to the grain size of the sand that is extracted there is little dust generated. Vehicles moving on the site generate little visible dust and the dust that is generated does not remain airborne and quickly returns to earth. No visible dust has been observed at the property boundary when extraction is underway.

The sand that makes up the site is porous and rainwater soaks into the ground rather than runs off. Any erosion during excavation is into the pit where it is contained.

Social and Economic Impact in the Locality

An analysis of the Australian Bureau of Statistics Census data in the Time Series Catalogue number 2003.0 for both the Gwydir Shire and New South Wales from 2001 to 2011 allows us to develop a picture of the socio-economic characteristics of Gwydir Shire and compare these with the State.

Over this period the population of the State has grown by approximately 8.4 percent while that of Gwydir Shire has declined by approximately 14.3 percent.

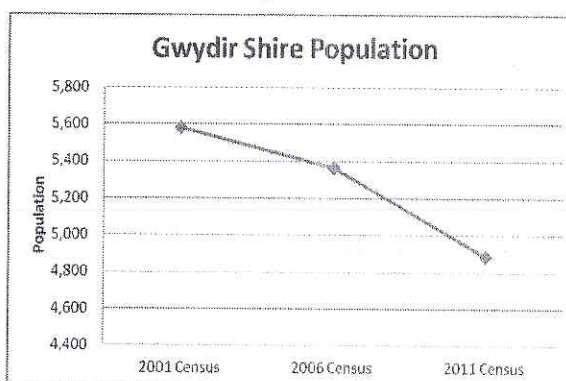


Figure 2 Gwydir Shire population change

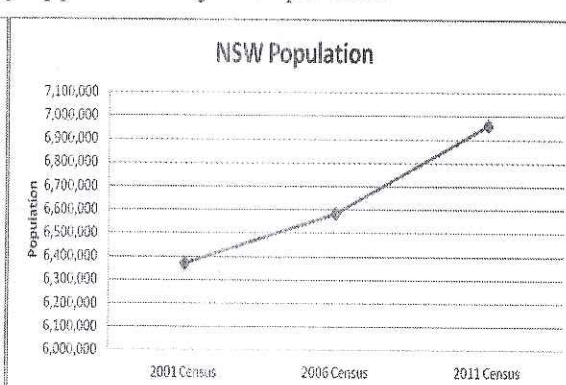


Figure 3 NSW population change

A population decline of this magnitude is concerning due to its effect on residents' wealth and social wellbeing.

The population decline in Gwydir Shire has not been even with a disproportionate number of young people moving from the area. The following graphs compare the Gwydir Shire population structure with that of NSW as a whole.

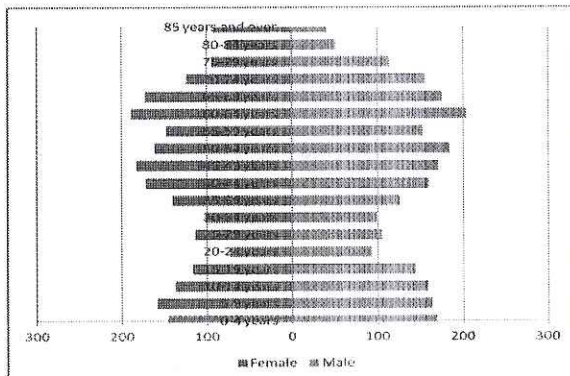


Figure 3 Gwydir Shire population structure

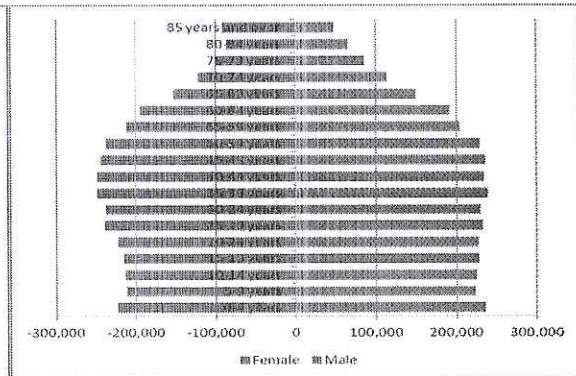


Figure 4 NSW population structure

The decline in population in the Gwydir Shire begins with the high school-age group and continues up to the late 30 year olds. This band includes the prime breeding ages and is reflected in a reduced birth-rate compared to the state as a whole.

While it is usual for young people to move from country areas to pursue education the data show that over the census period the young are leaving earlier and those that do return are returning later and a growing number are not returning at all.

There are no doubt a number of factors at play in the population decline which include the lack of job opportunities, low wages, the casualisation of the agricultural workforce, the increasing mechanisation of this sector, along with the attractiveness of larger centres that offer greater opportunities.

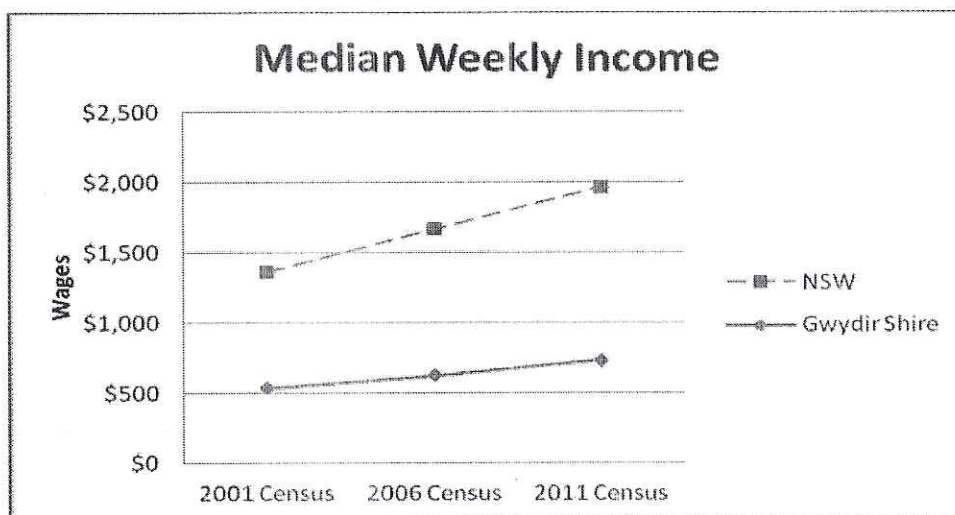


Figure 5 Median weekly household income

The above chart shows that while Gwydir Shire households were lagging the NSW median income by around \$300 in 2001 they were some \$500 behind by 2011 and this accelerating trend appears to be long-term as the disparity was only \$100 in the 1991 Census.

Gwydir Shire also has a narrow economic base with the major employer being the primary production sector. During the 2001 – 2011 decade the number of people employed in primary production has declined by 24 percent and most other employment sectors have declined or remained flat with the exception of health care.

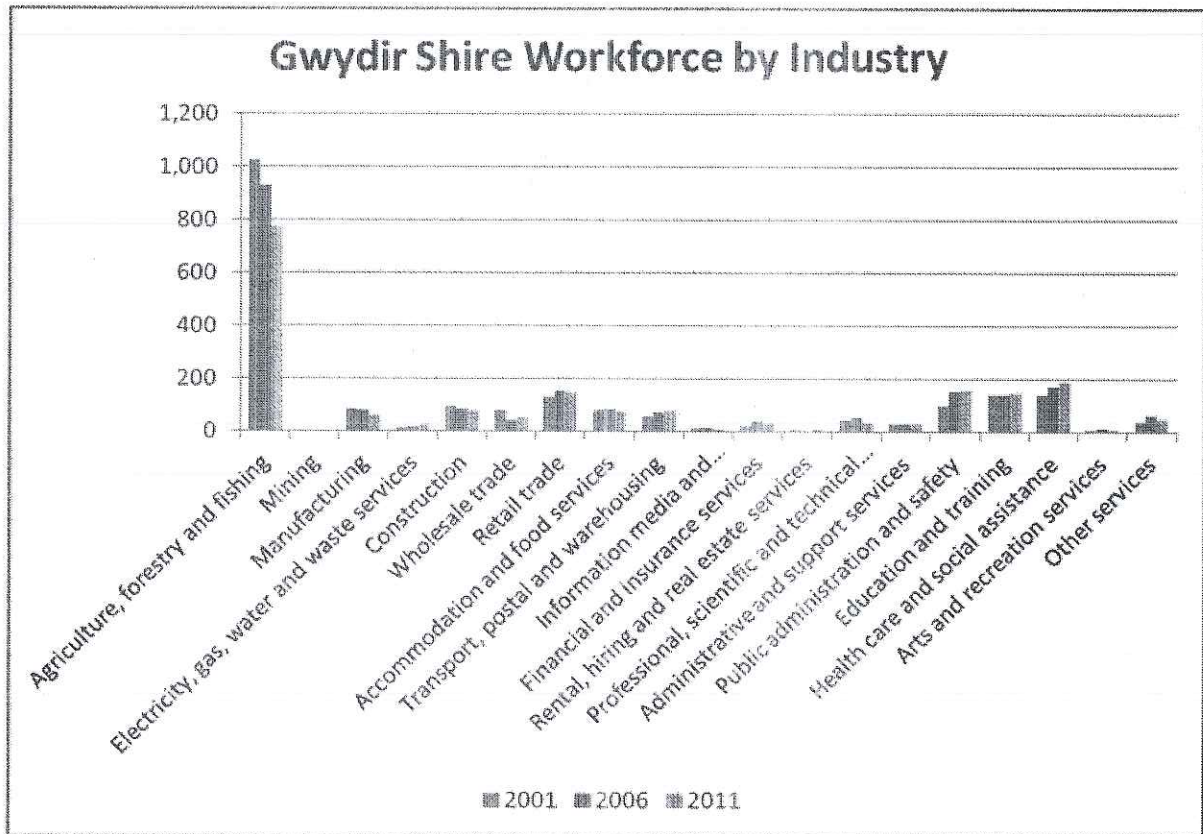


Figure 6 Gwydir Shire workforce by industry

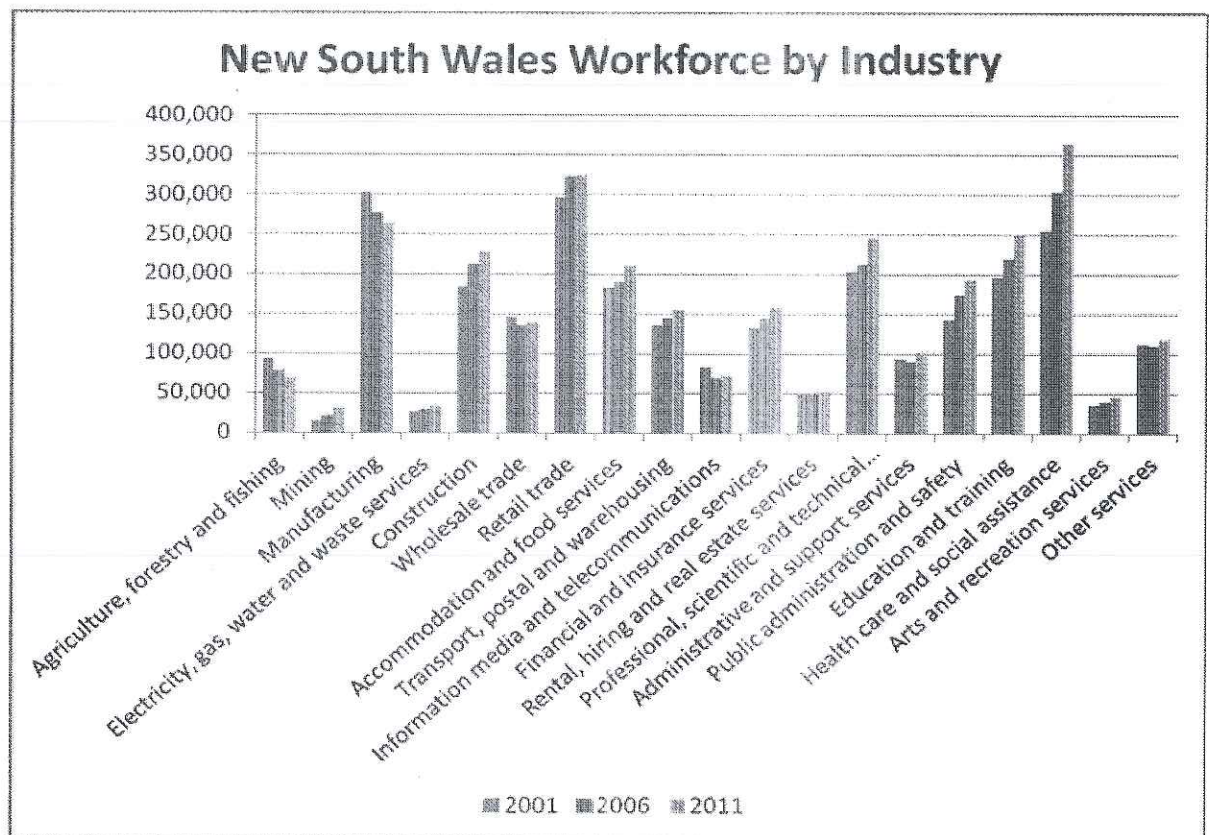


Figure 7 NSW workforce by industry

The total workforce for Gwydir Shire in 2011 was 2014 persons and falling while New South Wales on the whole has shown steady growth in most employment sectors apart from agriculture, manufacturing and media

Estimated Direct Employment:

The sand quarry would work two shifts per day six days per week, each shift comprising of 8 hours duration. A 12 hour shift on Sunday only for the purpose of truck loading and plant maintenance. The following tables provide an estimate of employee numbers per shift, excluding administrative employees, for the 500,000 tonne and 1,300,000 tonne operations.

Table 4 Estimated direct employment per shift at 500,000 tonnes per annum.

Excavator/loader operator	2
On-site truck driver	4
Screen operator/truck loader operator	2
Delivery driver	35
Unloader operator	2
Total	45

Table 5 Estimated direct employment per shift at 1,000,000 tonnes per annum.

Excavator/loader operator	4
On-site truck driver	6
Screen operator/container loader operator	2
Delivery driver	70
Unloader operator	2
Total	84

At a production output of 500,000 tonnes per annum direct employment would be 90 employees over the two shift operation and for 1,300,000 tonnes per annum this would rise to 164 workers. This would equate to an increase in direct employment of 4.5% and 8.0% respectively. Flow on employment would be created in the service industries, equipment providers and in the retail sectors. Wages spent by employees would create further employment throughout the local economy and export earnings would enhance Australia's balance of payments through the generation of export income.

THE PUBLIC INTEREST:

Federal, State, Local Government Interests and community interests.

NSW Economic Development Framework

Developed following extensive industry consultation, the Framework is designed to make it easier:

- *to attract investment to NSW*

-
- *increase export competitiveness by cutting through red tape and simplifying regulatory procedures*
 - *with clear objectives for government and industry collaboration to drive innovation and competitiveness*
 - *to increase critical infrastructure investment*
 - *to raise the global profile of Sydney and NSW.*

And

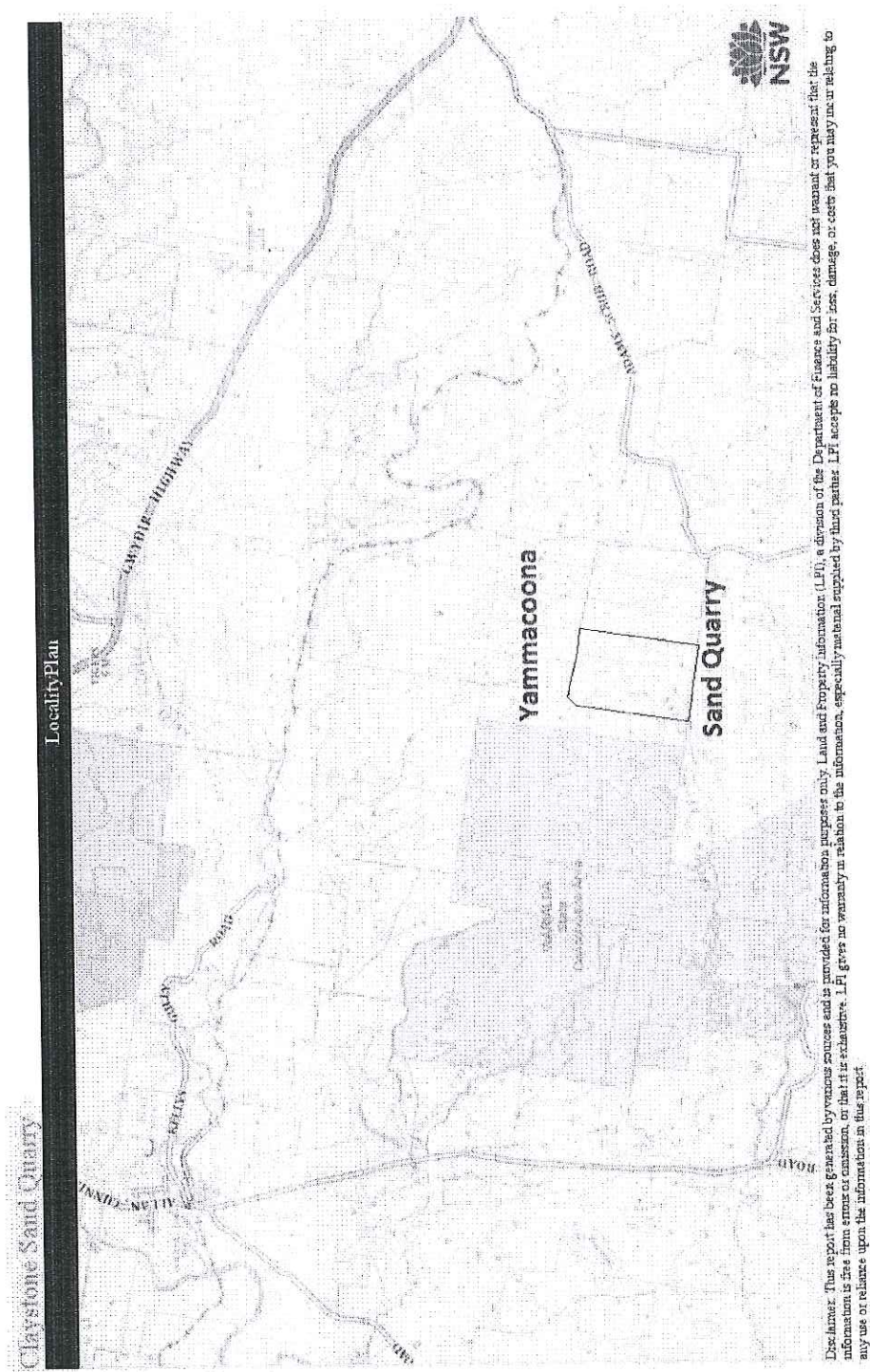
Jobs for NSW

Jobs for NSW is a private sector-led and NSW Government-backed initiative which aims to make the NSW economy as competitive as possible and therefore help create new jobs across the state.

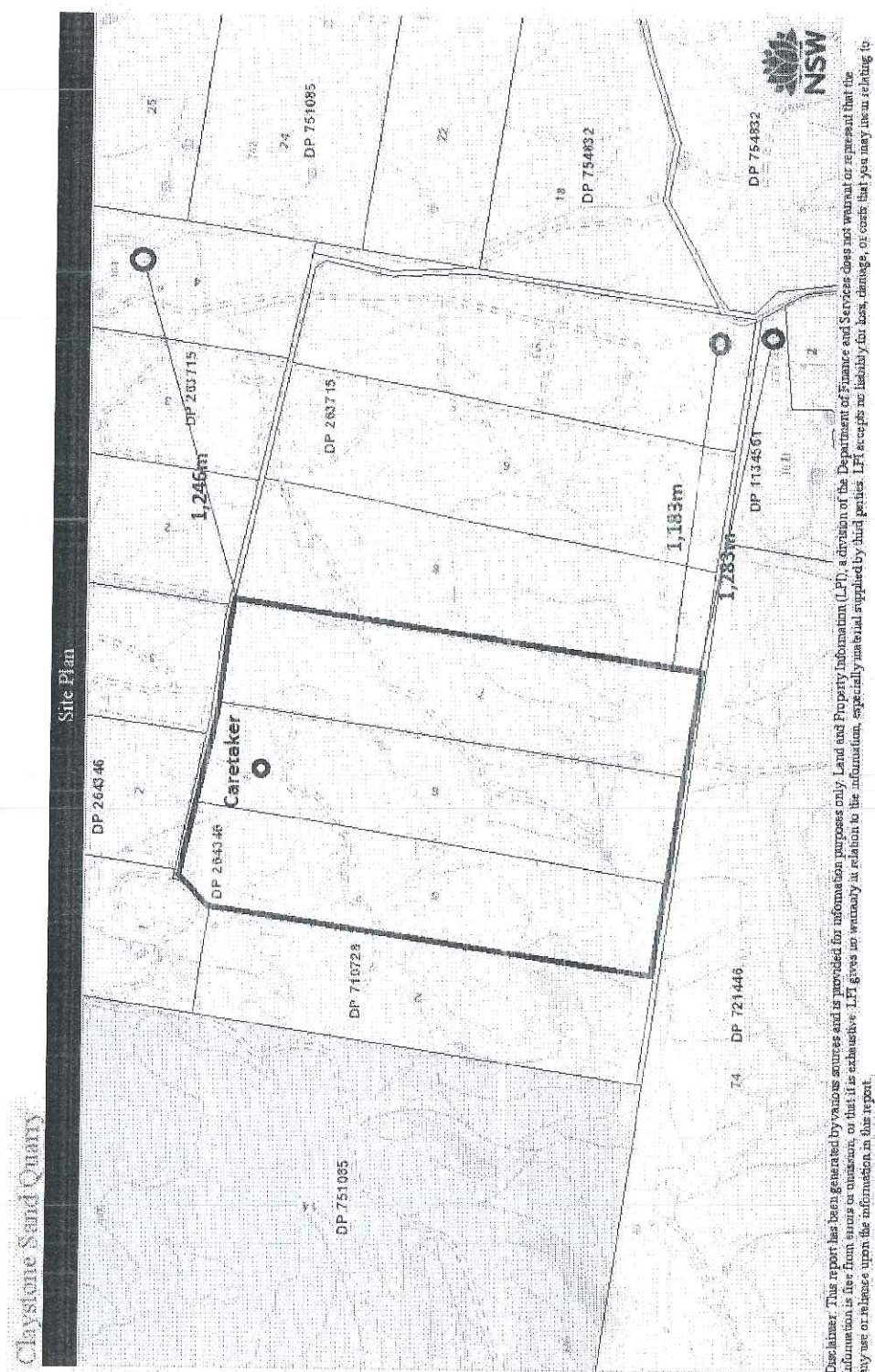
The initiative will help deliver on the NSW Government's election commitment to create 150,000 new jobs in the four years to March 2019.

This proposal dovetails nicely with both New South Wales and Commonwealth government policies in relation to investment and employment creation in regional New South Wales, creating significant local/regional employment and export income.

Appendix '1' Locality Plan

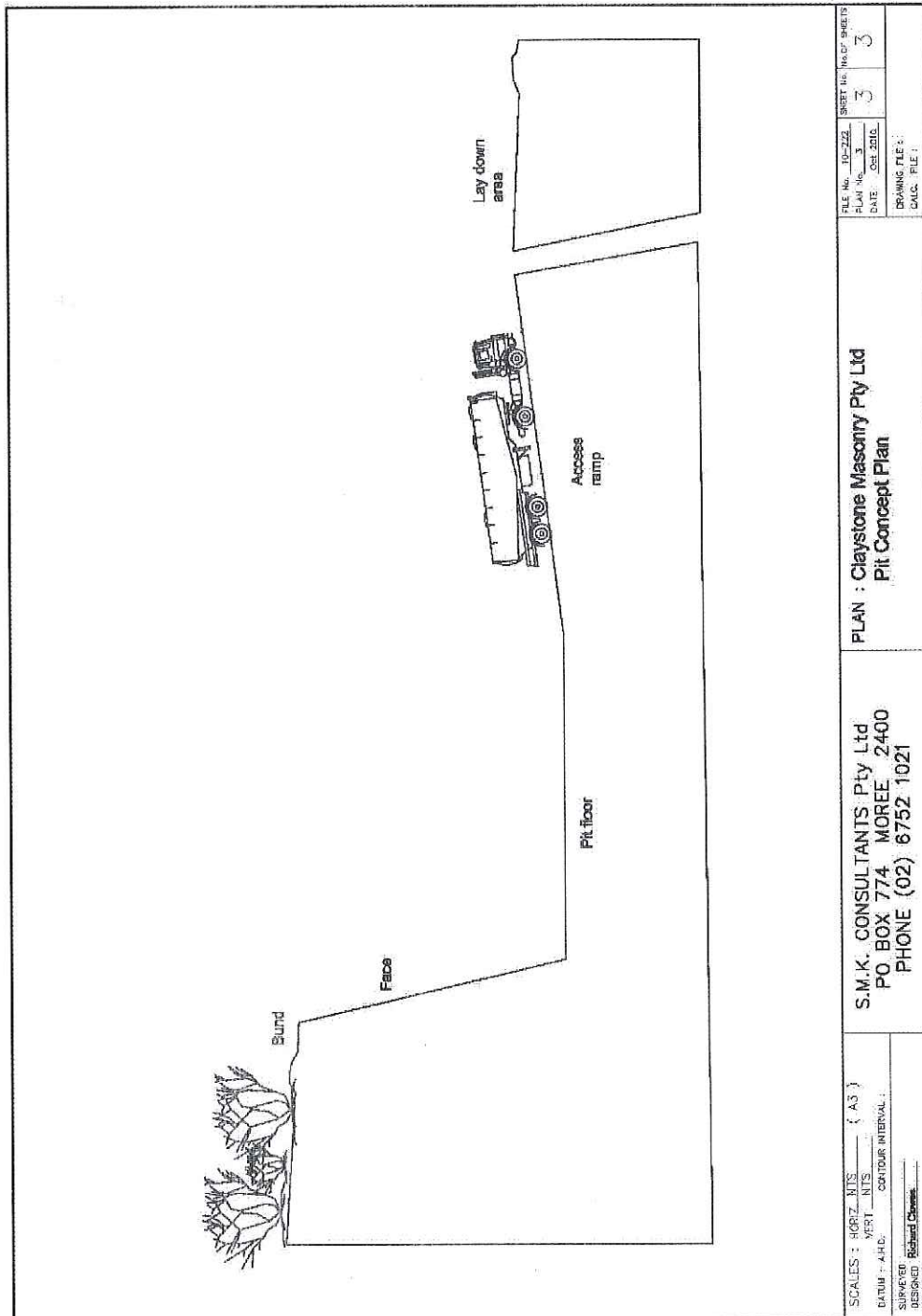


Appendix (2) Site Plan



Distance to nearest residences shown.

Appendix (3) Pit Concept Plan



SCALES : HORIZ. MTS. (1 : 100) VERT. MTS. (1 : 10) DATUM : A.H.D. SURVEYOR : Richard Chivers DESIGNED : CHECKED :		PLAN : Claystone Masonry Pty Ltd Pit Concept Plan		FILE No. 10-222 PLAN No. 3 DATE 08/2010 DRAWING FILE : Dwg. FILE :	SHEET No. 3 OF 3
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Appendix (4) Development Consent 32/87

ENVIRONMENT PLANNING AND ASSESSMENT ACT, 1979

NOTICE TO APPLICANT OF DETERMINATION OF A DEVELOPMENT APPLICATION

To: MR. W.L. CLIFT of P.O. BOX 34, WARIALDA.

being the applicant in respect of development application

No. 32/87

Pursuant to section 92 of the Act notice is hereby given of the determination by the consent authority of the development application No. 32/87..... relating to the land described as follows:-

LOTS 5, 6 & 7, DP 264346, PARISH OF ADAMS, WARIALDA.

The development application has been determined by -

- ~~*(a) granting of consent unconditionally;~~
- *(b) granting of consent subject to the conditions specified in this notice;
- ~~*(c) Refusing of consent.~~

The conditions of the consent are set out as follows:-

1. AS PER ATTACHED SHEET
- 2.
3. etc.

The reasons for the imposition of the conditions/the refusal are set out as follows:-

1. AS PER ATTACHED SHEET
- 2.
3. etc.

Endorsement of date of consent 15TH APRIL, 1988

NOTES:

- (1) To ascertain the date upon which the consent becomes effective refer to section 93 of the Act.
- (2) To ascertain the extent to which the consent is liable to lapse refer to section 99 of the Act.
- (3) Section 97 of the Act confers on an applicant who is dissatisfied with the determination of a consent authority a right of appeal to the Land and Environment Court exercisable within 12 months after receipt of this notice.

Signature on behalf of consent authority

Date:

* Delete whichever is inapplicable.

YALLAROI SHIRE COUNCIL

CONDITIONS OF CONSENT - DEVELOPMENT APPLICATION NO. 32/87 - W. CLIFT.

1. That the applicant contribute to the cost of upgrading of the road on a basis to be negotiated.
2. That approval of the operation under Section 27 of the Noise Control Act be obtained from the State Pollution Control Commission.
3. That dust emission control be exercised.
4. That the recommendations of the Soil Conservation Service for erosion control be adopted and rehabilitation be carried out progressively as outlined in the E.I.S.
5. That blasting, if carried out, be during a period of one hour per day on week days only. Such time to be nominated by applicant.
6. That hours of operation be between the hours of 7.00 am to 5.00pm week days and 7.00 am to noon on Saturdays with no operation on Sundays or public holidays.
7. That the extent of clearing on the site be restricted to that necessary to allow for quarrying and reasonable fire breaks to buildings to be erected.
8. Access to the site to be built in accordance with the Traffic Authorities Guidelines and to the satisfaction of the Shire Engineer.
9. That block making plant be located a minimum distance of 50 metres from the property boundary with the road.
10. That upon operations on the site having to cease due to any reason that any uncompleted quarries be rehabilitated and buildings not suitable for other uses be removed prior to vacating the site.
11. Conformity of the proposal with the method and scale set out in the E.I.S. and conveyed to Council. Any extension beyond the proposal to be the subject of a further application to Council.
12. That this consent will not take effect until 28 days after endorsement of same.

THE REASONS FOR THE IMPOSITION OF THE CONDITIONS ARE SET OUT AS FOLLOWS:

1. To ensure safe and adequate access is provided to the site and the applicant meet an equitable share of the cost of upgrading.
2. To ensure the requirements of the Noise Control Act are observed.
3. To ensure that no dust is generated from the quarry or crushing site.
4. To ensure that erosion is controlled and rehabilitation is effected.
5. To ensure that other occupiers are aware of when blasting may take place and undue disturbance to stock, residents or wildlife is kept to a minimum.
6. To ensure that there is no noise generated at unreasonable hours.

.../2

YALLAROI SHIRE COUNCIL

- 2 -

7. To ensure that only necessary vegetation is removed for the safe operation of quarries and the fire protection of buildings.
8. To ensure the safe entry and exit of heavy vehicles to and from the site.
9. So that noise levels are at a minimum at the road boundary and vegetation can be retained in that area as a screen and noise control measure.
10. To ensure that site is not left in an unsightly condition if operations cease.
11. To ensure that the operation does not expand beyond that proposed at the time of application without prior approval.
12. To comply with Section 95 and 97 of the Act in respect of objector appeals.

Richard Clowes

Consulting Urban & Regional Planner

ABN 30 764 420 218

Phone/Fax (02) 6754 9494

Mobile 0427 535 264

E rc122203@bigpond.net.au

September 5, 2016

The General Manager
Gwydir Shire Council
Locked Bag 5
BINGARA NSW 2404

Attn: Mr Glen Pereira

Dear Glen

Re: Claystone Masonry Section 96 Application lodged 11/07/2016

I refer to the above and our meeting with yourself and Mr Max Eastcott on 30/09/2016 where the application was further discussed.

Pursuant to that discussion we agree to:

1. *reducing the annual production from 1,300,000 tonnes per annum to 100,000 tonnes per annum;*
2. *extracting material from areas indicated on the attached site plan; and*
3. *using the largest capacity trucks legally available to transport the material to the port of Brisbane to reduce the number of transport movements.*

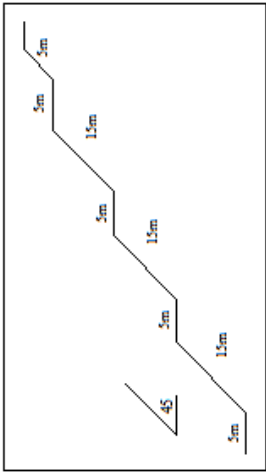
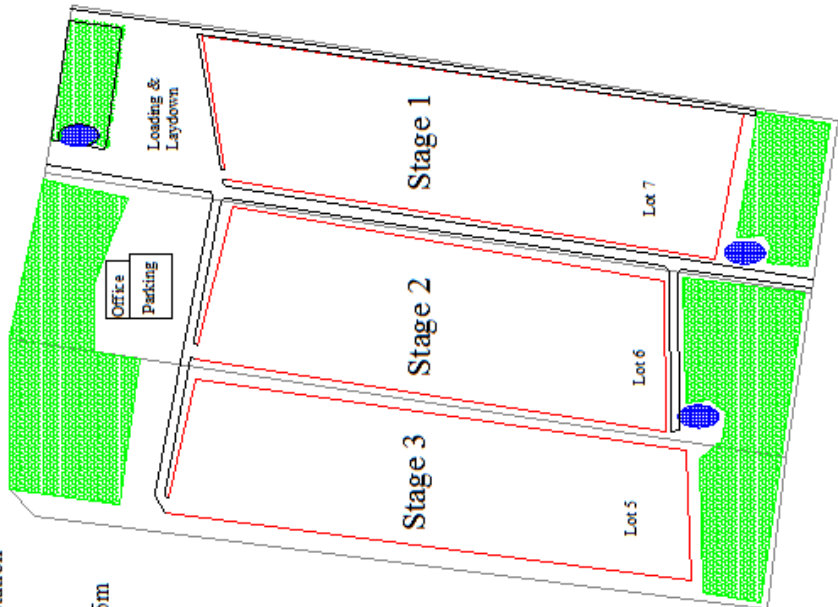
Please note that we are waiting on the approval of this application in order to begin accepting orders for the material. We therefore ask that you please amend our application and submit it to the first Council meeting following the election as promised.

Yours faithfully



Richard Clowes
B.A., Grad. Dip. Urb. Reg. Plan.

Areas shown in blue represent dams
Areas shown in green represent retained vegetation
Grey outlines represent cadastral boundaries
Red outlines represent pit boundaries
Black outlines represent traffic areas
All internal roads have a minimum width of 5m



Claystone Masonry Pty Ltd

Areas and quantities for Yammacoona Quarry

Extraction depth = 90 metres

Stage one - extraction area = 370,864m²

Stage two - extraction area = 347,074m²

Stage three - extraction area = 337,293m²

Total extraction area = 1,157,676m²

Total available resource = 76,219,290m³

@ 1.5 tonnes per cubic metre the available tonnage =

114,328,935 tonnes

Sand contained in batter = 18,751,500m³

Batter angle = 450 with five metre wide benches, first @ 5m

then each 15 m

Plant batter with grass and benches with shrubs to stabilise as work progresses

Claystone Masonry Quarry Layout

From: Richard Clowes [<mailto:rcl22203@bigpond.net.au>]
Sent: Friday, 9 December 2016 11:18 AM
To: Gwydir Mail <mail@gwydir.nsw.gov.au>
Cc: Bill Clift <wsanna_anna@yahoo.com>
Subject: Claystone Yammacoona Quarry

Attn: Max Eastcott

Hi Max, as per our discussion we agree for extraction to remain at 35,000 tonnes per annum provided we can also transport material that has been stockpiled over the 28 years of the operation of the quarry off site.

Operating hours for the quarry will be daytime only with no night operations, however, due to the requirements of the port operator we will need to load trucks on Sundays so that they can reach the port on Mondays. Suggested hours would be 6.00am to 6.00pm Monday to Friday, 7.00am to 12 noon Saturday with truck loading 7.00am to 5.00pm on Sunday.

Road contributions will remain as per the existing Deed of Agreement which specifies that the quarry will contribute \$1.00 per tonne of material transported off site.

The present SEE remains relevant to this matter other than as discussed above.

These concessions on both sides, I feel, will provide Claystone time to prepare and lodge a further development application to quarry Lot 8 DP 264346 whilst fulfilling current contractual obligations. It will also provide the money and the time to construct the alternative haul road as previously discussed with Council's engineer.

I am presently preparing a response to submissions lodged in relation to this application and will email the response to you later today.

Please call me should you require anything further.

Kind regards
Richard Clowes
B.A., Grad. Dip. Urb. Reg. Plan. MPIA(Ret)
Consulting Urban and Regional Planner
02 6754 9494
0427 535 264

From: Michael Lewis [<mailto:Michael.Lewis@epa.nsw.gov.au>]
Sent: Wednesday, 7 December 2016 4:48 PM
To: Glen Pereira; Gwydir Mail
Cc: Richard Clowes; 'Bill Clift'; Robert O'Hern
Subject: Proposal to modify DA32/87 Yammacona Sand Quarry

Hi Glen,

Further to the above and Council's letter seeking any general terms of approval dated 21 November 2016 (ref: s96 33/2016:16/20687:grp:pmc), the attached application from William Clift and the accompanying SEE from Richard Clowes the EPA understands the original supplied Section 96 application with the accompany SEE was to:

- Modify/extend the existing hours of operation to two eight hour shifts per day with a 12 hour shift on Sunday.
- Remove the block making facility/plant from the site.
- Modify/increase the number of daily truck movements.
- Insert condition/increase extraction limit to 1.3 million tonnes per annum.

Councils covering letter mentioned above & a letter from the proponent dated 5 September 2016 however has proposed a revised increase in the extraction quantity down to 100,000 tonnes per annum, but after discussions today along with an email from Council they are considering the modification with a 35,000 tonne extraction limit.

The EPA also notes that the Yammacona Sand Quarry currently holds Environment Protection Licence No. 20792 and considers any application as integrated development.

The EPA has reviewed the balance of the supplied material/documentation and can provide the following comments in regard to the proposed amendments:

- Modify/extend hours of operation – The current DA and EPL restricts the current hours of operation, the proposed modification has requested a substantial extension of the operating hours. As part of the supporting material for this extension of hours the SEE included an Operational Noise & Vibration assessment, unfortunately the material supplied (using the NSW Industrial Noise Policy or INP) was based solely on the amenity criteria and the intrusive criteria is not considered. The proponent needs to assess the proposal in accordance with the INP, (both amenity & Intrusive criteria need to be assessed) and the INP identifies that the most stringent noise levels assessed from both intrusion and amenity criteria are then applied.
- Remove block making facility – The EPA has no comment/issues with this proposal.
- Modify/increase the number of daily truck movements – This is a matter for RMS and Council to consider rather than the EPA as impacts will be primarily off site but heavy vehicle traffic to and from similar developments have been a source of significant complaints and community concerns at residences along public road haulage routes due to noise and dust impacts and road safety and maintenance issues. The EPA recommends that Council negotiates with the proponent to ensure possible impacts to residence along the proposed haulage routes are minimised and they make appropriate contributions to the sealing or upgrading of the property access and the Yammacona Estate Road to ensure safety, prevent pavement and culvert drainage damage and possible erosion issues.
- Increase of extraction Limits – The EPA has no comment or issues if Council proposes to establish an extraction limit within the DA of 35,000 tonnes of material per annum which will reflect the existing limit within the EPL which was calculated using the number of original truck movements proposed with the original DA.

Given the reduced extraction rate from 1.3 million tonnes provided in the SEE to the proposed 35,000 tonnes as mentioned the proponent may no longer have the requirement to extend the existing hours of operation however if the proponent is still seeking to extend the hours of operation they will need to provide additional information/assessment in accordance with the INP as outlined above before the EPA can provide any general terms of approval.

Regards

Michael Lewis

Regional Operations Officer – Armidale

North Branch, NSW Environment Protection Authority

+61 2 6773 7000 +61 418 208 635

michael.lewis@epa.nsw.gov.au www.epa.nsw.gov.au [@EPA_NSW](https://twitter.com/EPA_NSW)

Report pollution and environmental incidents 131 555 (NSW only) or +61 2 9995 5555





**Office of
Environment
& Heritage**

Our Ref. DOC16/568574
Your Ref. s96 33/2016

Mr Max Eastcott
The General Manager
Gwydir Shire Council
Locked Bag 5
BINGARA NSW 2404

Dear Mr Eastcott

Application to Modify Development Consent – Yammacoona Quarry

Thank you for your invitation for the Office of Environment Heritage (OEH) to comment on the exhibited Development Modification Proposal for the Yammacoona Quarry, Delungra.

Based on the information provided, the OEH has no specific comments to make on the proposed modification at this stage. Please note that if subsequent information indicates that any areas within the OEH's responsibility require further investigation, OEH may provide future input.

Should you require further information regarding issues that are the responsibility of the OEH please contact David Geering on 02 68835335 or david.geering@environment.nsw.gov.au.

Yours sincerely

STEVEN COX
Senior Team Leader Planning, North West Region
Regional Operations

14 November 2016



EPBC Act Protected Matters Report

This report provides general guidance on matters of national environmental significance and other matters protected by the EPBC Act in the area you have selected.

Information on the coverage of this report and qualifications on data supporting this report are contained in the caveat at the end of the report.

Information is available about [Environment Assessments](#) and the EPBC Act including significance guidelines, forms and application process details.

Report created: 11/12/16 11:50:51

[Summary](#)

[Details](#)

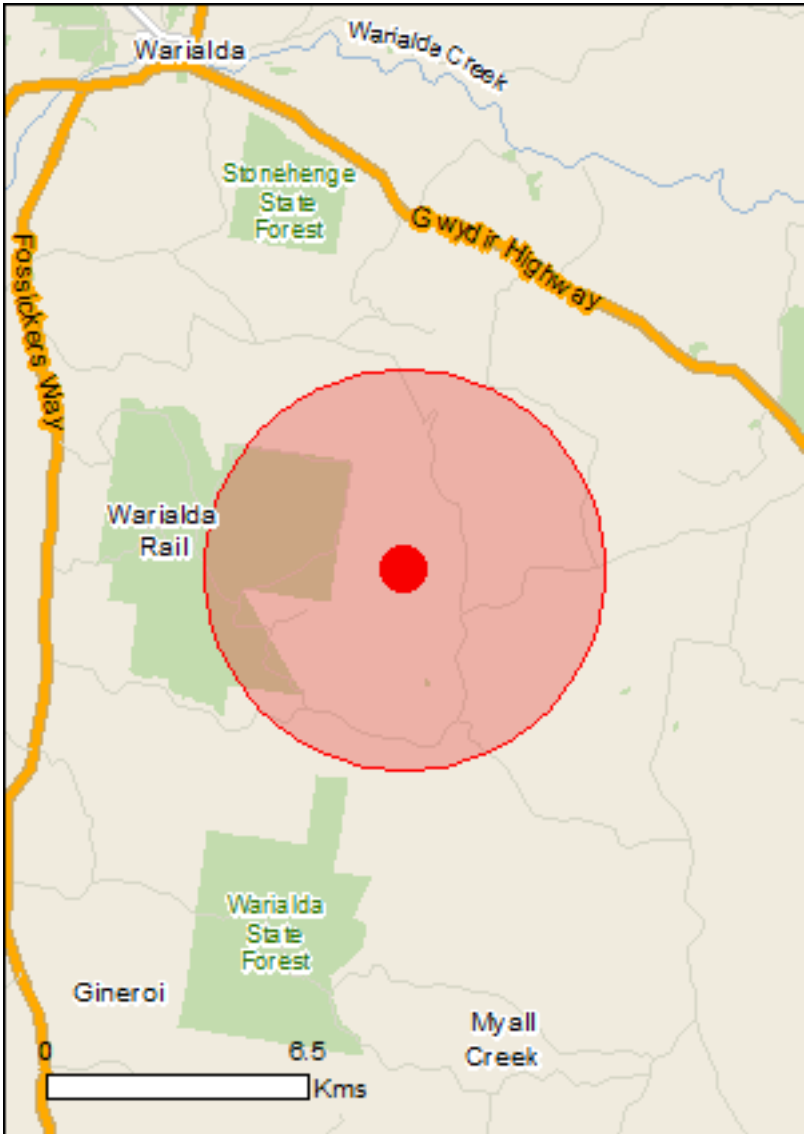
[Matters of NES](#)

[Other Matters Protected by the EPBC Act](#)

[Extra Information](#)

[Caveat](#)

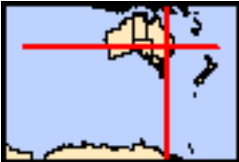
[Acknowledgements](#)



This map may contain data which are ©Commonwealth of Australia (Geoscience Australia), ©PSMA 2010

[Coordinates](#)

[Buffer: 5.0Km](#)



Summary

Matters of National Environmental Significance

This part of the report summarises the matters of national environmental significance that may occur in, or may relate to, the area you nominated. Further information is available in the detail part of the report, which can be accessed by scrolling or following the links below. If you are proposing to undertake an activity that may have a significant impact on one or more matters of national environmental significance then you should consider the [Administrative Guidelines on Significance](#).

World Heritage Properties:	None
National Heritage Places:	None
Wetlands of International Importance:	4
Great Barrier Reef Marine Park:	None
Commonwealth Marine Area:	None
Listed Threatened Ecological Communities:	5
Listed Threatened Species:	19
Listed Migratory Species:	8

Other Matters Protected by the EPBC Act

This part of the report summarises other matters protected under the Act that may relate to the area you nominated. Approval may be required for a proposed activity that significantly affects the environment on Commonwealth land, when the action is outside the Commonwealth land, or the environment anywhere when the action is taken on Commonwealth land. Approval may also be required for the Commonwealth or Commonwealth agencies proposing to take an action that is likely to have a significant impact on the environment anywhere.

The EPBC Act protects the environment on Commonwealth land, the environment from the actions taken on Commonwealth land, and the environment from actions taken by Commonwealth agencies. As heritage values of a place are part of the 'environment', these aspects of the EPBC Act protect the Commonwealth Heritage values of a Commonwealth Heritage place. Information on the new heritage laws can be found at <http://www.environment.gov.au/heritage>

A [permit](#) may be required for activities in or on a Commonwealth area that may affect a member of a listed threatened species or ecological community, a member of a listed migratory species, whales and other cetaceans, or a member of a listed marine species.

Commonwealth Land:	None
Commonwealth Heritage Places:	None
Listed Marine Species:	13
Whales and Other Cetaceans:	None
Critical Habitats:	None
Commonwealth Reserves Terrestrial:	None
Commonwealth Reserves Marine:	None

Extra Information

This part of the report provides information that may also be relevant to the area you have nominated.

State and Territory Reserves:	2
Regional Forest Agreements:	None
Invasive Species:	23
Nationally Important Wetlands:	None
Key Ecological Features (Marine)	None

Details

Matters of National Environmental Significance

Wetlands of International Importance (Ramsar)		[Resource Information]
Name	Proximity	
Banrock station wetland complex	1000 - 1100km	
Gwydir wetlands: gingham and lower gwydir (big leather) watercourses	100 - 150km upstream	
Riverland	1000 - 1100km	
The coorong, and lakes alexandrina and albert wetland	1200 - 1300km	

Listed Threatened Ecological Communities	[Resource Information]
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For threatened ecological communities where the distribution is well known, maps are derived from recovery plans, State vegetation maps, remote sensing imagery and other sources. Where threatened ecological community distributions are less well known, existing vegetation maps and point location data are used to produce indicative distribution maps.

Name	Status	Type of Presence
Coolibah - Black Box Woodlands of the Darling Riverine Plains and the Brigalow Belt South Bioregions	Endangered	Community may occur within area
Natural grasslands on basalt and fine-textured alluvial plains of northern New South Wales and southern Queensland	Critically Endangered	Community likely to occur within area
New England Peppermint (Eucalyptus nova-anglica) Grassy Woodlands	Critically Endangered	Community may occur within area
Weeping Myall Woodlands	Endangered	Community may occur within area
White Box-Yellow Box-Blakely's Red Gum Grassy Woodland and Derived Native Grassland	Critically Endangered	Community likely to occur within area

Listed Threatened Species	[Resource Information]
---------------------------	--------------------------

Name	Status	Type of Presence
Birds		
Anthochaera phrygia Regent Honeyeater [82338]	Critically Endangered	Foraging, feeding or related behaviour likely to occur within area
Calidris ferruginea Curlew Sandpiper [856]	Critically Endangered	Species or species habitat may occur within area
Erythroriorchis radiatus Red Goshawk [942]	Vulnerable	Species or species habitat may occur within area
Geophaps scripta scripta Squatter Pigeon (southern) [64440]	Vulnerable	Species or species habitat may occur within area
Grantiella picta Painted Honeyeater [470]	Vulnerable	Species or species habitat known to occur within area
Rostratula australis Australian Painted Snipe [77037]	Endangered	Species or species habitat may occur within area
Fish		
Maccullochella peelii Murray Cod [66633]	Vulnerable	Species or species

Name	Status	Type of Presence
habitat may occur within area		
Mammals		
Chalinolobus dwyeri Large-eared Pied Bat, Large Pied Bat [183]	Vulnerable	Species or species habitat likely to occur within area
Nyctophilus corbeni Corben's Long-eared Bat, South-eastern Long-eared Bat [83395]	Vulnerable	Species or species habitat known to occur within area
Petauroides volans Greater Glider [254]	Vulnerable	Species or species habitat may occur within area
Phascolarctos cinereus (combined populations of Qld, NSW and the ACT) Koala (combined populations of Queensland, New South Wales and the Australian Capital Territory) [85104]	Vulnerable	Species or species habitat likely to occur within area
Pteropus poliocephalus Grey-headed Flying-fox [186]	Vulnerable	Foraging, feeding or related behaviour known to occur within area
Plants		
Dichanthium setosum bluegrass [14159]	Vulnerable	Species or species habitat likely to occur within area
Homopholis belsonii Belson's Panic [2406]	Vulnerable	Species or species habitat may occur within area
Thesium australe Austral Toadflax, Toadflax [15202]	Vulnerable	Species or species habitat likely to occur within area
Tylophora linearis [55231]	Endangered	Species or species habitat may occur within area
Reptiles		
Anomalopus mackayi Five-clawed Worm-skink, Long-legged Worm-skink [25934]	Vulnerable	Species or species habitat may occur within area
Uvidicolus sphyrurus Border Thick-tailed Gecko, Granite Belt Thick-tailed Gecko [84578]	Vulnerable	Species or species habitat likely to occur within area
Wollumbinia belli Bell's Turtle, Western Sawshelled Turtle, Namoi River Turtle, Bell's Saw-shelled Turtle [86071]	Vulnerable	Species or species habitat may occur within area
Listed Migratory Species		[Resource Information]
* Species is listed under a different scientific name on the EPBC Act - Threatened Species list.		
Name	Threatened	Type of Presence
Migratory Marine Birds		
Apus pacificus Fork-tailed Swift [678]		Species or species habitat likely to occur within area
Migratory Terrestrial Species		
Hirundapus caudacutus White-throated Needletail [682]		Species or species habitat likely to occur within area
Motacilla flava Yellow Wagtail [644]		Species or species habitat may occur within area

Name	Threatened	Type of Presence
Myiagra cyanoleuca Satin Flycatcher [612]		Species or species habitat known to occur within area
Rhipidura rufifrons Rufous Fantail [592]		Species or species habitat likely to occur within area
Migratory Wetlands Species		
Calidris ferruginea Curlew Sandpiper [856]	Critically Endangered	Species or species habitat may occur within area
Gallinago hardwickii Latham's Snipe, Japanese Snipe [863]		Species or species habitat may occur within area
Pandion haliaetus Osprey [952]		Species or species habitat may occur within area

Other Matters Protected by the EPBC Act

Listed Marine Species	[Resource Information]	
* Species is listed under a different scientific name on the EPBC Act - Threatened Species list.		
Name	Threatened	Type of Presence
Birds		
Apus pacificus Fork-tailed Swift [678]		Species or species habitat likely to occur within area
Ardea alba Great Egret, White Egret [59541]		Species or species habitat likely to occur within area
Ardea ibis Cattle Egret [59542]		Species or species habitat may occur within area
Calidris ferruginea Curlew Sandpiper [856]	Critically Endangered	Species or species habitat may occur within area
Gallinago hardwickii Latham's Snipe, Japanese Snipe [863]		Species or species habitat may occur within area
Haliaeetus leucogaster White-bellied Sea-Eagle [943]		Species or species habitat may occur within area
Hirundapus caudacutus White-throated Needletail [682]		Species or species habitat likely to occur within area
Merops ornatus Rainbow Bee-eater [670]		Species or species habitat may occur within area
Motacilla flava Yellow Wagtail [644]		Species or species habitat may occur within area
Myiagra cyanoleuca Satin Flycatcher [612]		Species or species habitat known to occur within area

Name	Threatened	Type of Presence
Pandion haliaetus Osprey [952]		Species or species habitat may occur within area
Rhipidura rufifrons Rufous Fantail [592]		Species or species habitat likely to occur within area
Rostratula benghalensis (sensu lato) Painted Snipe [889]	Endangered*	Species or species habitat may occur within area

Extra Information

State and Territory Reserves	[Resource Information]
Name	State
Warialda	NSW
Warialda	NSW

Invasive Species

[Resource Information]

Weeds reported here are the 20 species of national significance (WoNS), along with other introduced plants that are considered by the States and Territories to pose a particularly significant threat to biodiversity. The following feral animals are reported: Goat, Red Fox, Cat, Rabbit, Pig, Water Buffalo and Cane Toad. Maps from Landscape Health Project, National Land and Water Resouces Audit, 2001.

Name	Status	Type of Presence
Birds		
Anas platyrhynchos Mallard [974]		Species or species habitat likely to occur within area
Carduelis carduelis European Goldfinch [403]		Species or species habitat likely to occur within area
Columba livia Rock Pigeon, Rock Dove, Domestic Pigeon [803]		Species or species habitat likely to occur within area
Passer domesticus House Sparrow [405]		Species or species habitat likely to occur within area
Streptopelia chinensis Spotted Turtle-Dove [780]		Species or species habitat likely to occur within area
Sturnus vulgaris Common Starling [389]		Species or species habitat likely to occur within area
Turdus merula Common Blackbird, Eurasian Blackbird [596]		Species or species habitat likely to occur within area

Mammals		
Canis lupus familiaris Domestic Dog [82654]		Species or species habitat likely to occur within area

Name	Status	Type of Presence
Capra hircus Goat [2]		Species or species habitat likely to occur within area
Felis catus Cat, House Cat, Domestic Cat [19]		Species or species habitat likely to occur within area
Feral deer Feral deer species in Australia [85733]		Species or species habitat likely to occur within area
Lepus capensis Brown Hare [127]		Species or species habitat likely to occur within area
Mus musculus House Mouse [120]		Species or species habitat likely to occur within area
Oryctolagus cuniculus Rabbit, European Rabbit [128]		Species or species habitat likely to occur within area
Rattus rattus Black Rat, Ship Rat [84]		Species or species habitat likely to occur within area
Sus scrofa Pig [6]		Species or species habitat likely to occur within area
Vulpes vulpes Red Fox, Fox [18]		Species or species habitat likely to occur within area
Plants		
Asparagus asparagoides Bridal Creeper, Bridal Veil Creeper, Smilax, Florist's Smilax, Smilax Asparagus [22473]		Species or species habitat likely to occur within area
Lycium ferocissimum African Boxthorn, Boxthorn [19235]		Species or species habitat likely to occur within area
Opuntia spp. Prickly Pears [82753]		Species or species habitat likely to occur within area
Pinus radiata Radiata Pine Monterey Pine, Insignis Pine, Wilding Pine [20780]		Species or species habitat may occur within area
Rubus fruticosus aggregate Blackberry, European Blackberry [68406]		Species or species habitat likely to occur within area
Solanum elaeagnifolium Silver Nightshade, Silver-leaved Nightshade, White Horse Nettle, Silver-leaf Nightshade, Tomato Weed, White Nightshade, Bull-nettle, Prairie-berry, Satansbos, Silver-leaf Bitter-apple, Silverleaf-nettle, Trompillo [12323]		Species or species habitat likely to occur within area

Caveat

The information presented in this report has been provided by a range of data sources as acknowledged at the end of the report.

This report is designed to assist in identifying the locations of places which may be relevant in determining obligations under the Environment Protection and Biodiversity Conservation Act 1999. It holds mapped locations of World and National Heritage properties, Wetlands of International and National Importance, Commonwealth and State/Territory reserves, listed threatened, migratory and marine species and listed threatened ecological communities. Mapping of Commonwealth land is not complete at this stage. Maps have been collated from a range of sources at various resolutions.

Not all species listed under the EPBC Act have been mapped (see below) and therefore a report is a general guide only. Where available data supports mapping, the type of presence that can be determined from the data is indicated in general terms. People using this information in making a referral may need to consider the qualifications below and may need to seek and consider other information sources.

For threatened ecological communities where the distribution is well known, maps are derived from recovery plans, State vegetation maps, remote sensing imagery and other sources. Where threatened ecological community distributions are less well known, existing vegetation maps and point location data are used to produce indicative distribution maps.

Threatened, migratory and marine species distributions have been derived through a variety of methods. Where distributions are well known and if time permits, maps are derived using either thematic spatial data (i.e. vegetation, soils, geology, elevation, aspect, terrain, etc) together with point locations and described habitat; or environmental modelling (MAXENT or BIOCLIM habitat modelling) using point locations and environmental data layers.

Where very little information is available for species or large number of maps are required in a short time-frame, maps are derived either from 0.04 or 0.02 decimal degree cells; by an automated process using polygon capture techniques (static two kilometre grid cells, alpha-hull and convex hull); or captured manually or by using topographic features (national park boundaries, islands, etc). In the early stages of the distribution mapping process (1999-early 2000s) distributions were defined by degree blocks, 100K or 250K map sheets to rapidly create distribution maps. More reliable distribution mapping methods are used to update these distributions as time permits.

Only selected species covered by the following provisions of the EPBC Act have been mapped:

- migratory and
- marine

The following species and ecological communities have not been mapped and do not appear in reports produced from this database:

- threatened species listed as extinct or considered as vagrants
- some species and ecological communities that have only recently been listed
- some terrestrial species that overfly the Commonwealth marine area
- migratory species that are very widespread, vagrant, or only occur in small numbers

The following groups have been mapped, but may not cover the complete distribution of the species:

- non-threatened seabirds which have only been mapped for recorded breeding sites
- seals which have only been mapped for breeding sites near the Australian continent

Such breeding sites may be important for the protection of the Commonwealth Marine environment.

Coordinates

-29.64181 150.62308

Acknowledgements

This database has been compiled from a range of data sources. The department acknowledges the following custodians who have contributed valuable data and advice:

- [-Office of Environment and Heritage, New South Wales](#)
- [-Department of Environment and Primary Industries, Victoria](#)
- [-Department of Primary Industries, Parks, Water and Environment, Tasmania](#)
- [-Department of Environment, Water and Natural Resources, South Australia](#)
- [-Department of Land and Resource Management, Northern Territory](#)
- [-Department of Environmental and Heritage Protection, Queensland](#)
- [-Department of Parks and Wildlife, Western Australia](#)
- [-Environment and Planning Directorate, ACT](#)
- [-Birdlife Australia](#)
- [-Australian Bird and Bat Banding Scheme](#)
- [-Australian National Wildlife Collection](#)
- Natural history museums of Australia
- [-Museum Victoria](#)
- [-Australian Museum](#)
- [-South Australian Museum](#)
- [-Queensland Museum](#)
- [-Online Zoological Collections of Australian Museums](#)
- [-Queensland Herbarium](#)
- [-National Herbarium of NSW](#)
- [-Royal Botanic Gardens and National Herbarium of Victoria](#)
- [-Tasmanian Herbarium](#)
- [-State Herbarium of South Australia](#)
- [-Northern Territory Herbarium](#)
- [-Western Australian Herbarium](#)
- [-Australian National Herbarium, Canberra](#)
- [-University of New England](#)
- [-Ocean Biogeographic Information System](#)
- [-Australian Government, Department of Defence](#)
- [Forestry Corporation, NSW](#)
- [-Geoscience Australia](#)
- [-CSIRO](#)
- [-Australian Tropical Herbarium, Cairns](#)
- [-eBird Australia](#)
- [-Australian Government – Australian Antarctic Data Centre](#)
- [-Museum and Art Gallery of the Northern Territory](#)
- [-Australian Government National Environmental Science Program](#)
- [-Australian Institute of Marine Science](#)
- [-Reef Life Survey Australia](#)
- [-American Museum of Natural History](#)
- [-Queen Victoria Museum and Art Gallery, Inveresk, Tasmania](#)
- [-Tasmanian Museum and Art Gallery, Hobart, Tasmania](#)
- Other groups and individuals

The Department is extremely grateful to the many organisations and individuals who provided expert advice and information on numerous draft distributions.

Please feel free to provide feedback via the [Contact Us](#) page.

Richard Clowes

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October 17, 2016

The General Manager
Gwydir Shire Council
Locked Bag 5
Bingara NSW 2404

Attn: Mr Max Eastcott

Dear Max

Re: Response to Submissions to Application s96 33/2016

I refer to the above and the copies of ten submissions provided for comment by Council. The names and addresses of the people making the submissions were redacted on the orders of Glen Pereira and in contravention of the Government Information (Public Access) Act 2009 as the notification on Council's web site made it plain that names and addresses can be released, see

<http://www.ipc.nsw.gov.au/gipa-guideline-3-local-councils-personal-information-contained-development-applications-what-should>

I ask that all submissions already provided and any received be Council subsequently be provided to me in full to enable a full response to relevant concerns raised in relation to the above s96 application.

All submissions seem to be based on Claystone's original application to extract 1.3 million tonnes of sand per annum rather than the reduced extraction negotiated with yourself and Glen Pereira on the 30th of August last which was confirmed by myself in writing on the 6th of September.

Concerns raised in the submissions can be categorised as:

Issue	Comment
road	Adams scrub road is an approved NSW B-double route and as noted in a submission by a solicitor is able to carry 'overwidth farm machinery'. Council recently resolved to approve North Star and Baroma Downs Roads as road train routes despite these roads also being 'narrow'.
Traffic volumes	Extraction is proposed to be reduced to 100,000 tonnes per annum and truck numbers would reduce accordingly. The AADT on the Gwydir highway would only increase by 14.
School bus	School busses manage to operate successfully amongst traffic on other NSW country roads. The school bus route on Adams Scrub Road coexists with

Issue	Comment
	harvest traffic and 'overwidth farm machinery'.
noise	Discussed on page 16 of the Statement of Environmental Effects and is within the limits set by the NSW Industrial Noise Policy for daytime noise. Note that no night time quarrying will take place.
dust	Discussed on page 18 of the Statement of Environmental Effects.
privacy	Not relevant.
rural serenity	Agriculture, by its very nature, is an industrial activity that uses heavy machinery, noise is a by-product of agriculture. Extractive industries and mining are permitted land uses within the zone, this includes the transport of materials from the extraction site. All landowners, if they cared to inform themselves, were aware of the full range of land uses permitted in the zone when they purchased their land.
Operating hours	Hours would be reduced to up to 12 hours per day with no night time operations
Unfenced land	Fencing of land is not compulsory in NSW and is a matter for the individual landowners.
Residences close to Adams Scrub Road	Apart from the two houses at Koloona there are four properties between Koloona and Yammacoona Estate Road intersection of which three have raised objections. The dwellings on these three properties are between 300 and 630 metres from the road. Dwellings in towns and villages on roads travelled by trucks are usually six to ten metres from the road.
Legal challenge	The only person who has standing to take action in this matter in the Land and Environment Court is the applicant, Mr W. Clift. Mr Taylor's solicitor would be aware of this and should have advised his client accordingly.

Further to the letter of the 6th I advise that there would only be one shift per day and all extraction would be carried out during daytime hours. Loading is still required on Sunday to meet the requirements of the Port Authority to commence delivery on Mondays.

I trust this response has assisted Council in its deliberations, however, should you require further information, please call me.

Yours faithfully

Richard Clowes
B.A., Grad. Dip. Urb. Reg. Plan.