



24 January 2018

NOTICE OF SPECIAL MEETING

Notice is hereby given that a Special Meeting of Council will be held in the Council Chambers on **Monday, 29 January 2018 at 5.30pm.**

Agenda

- (1) Apologies
- (2) Declarations of Interest:

At this juncture, Councillors should indicate any items in which they have an interest and therefore will not be participating in discussion or voting.

- (3) Reports from Servants

David Neeves
General Manager

DA 2017/218

SUMMARY

To present Development Application 2017/218 for determination.

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Attached to this report is a detailed development assessment report undertaken by Mr Mike Svikis, external Consultant Planner.

Also separately attached is a copy of all submissions received in relation to this development application.

<u>Principal Activity</u>	Legislation & Bylaws
<u>Policy Implications</u>	Nil
<u>Budget Implications</u>	Will depend on Council's determination regarding road maintenance
<u>Delivery Program Actions</u>	7.1.1.1 Provide assessments of development and subdivision approvals in a timely manner

RECOMMENDATION

That Development Application 2017/218 be approved, subject to the conditions, notes and general terms of agreement listed in the detailed report.

Lindsay Mathieson
Director Planning & Environment



PO Box 23
GILGANDRA 2827

Development Assessment Report

Application Details:

Development Application No: DA2017/218

Applicant: Sandy Creek Family Trust
C/- Colin and Leslie Kilby
557 Berida Innisfail Road
Gilgandra NSW 2827

Description of Development: Undertake an extractive industry being a basalt quarry inclusive of crushing, loading and transportation of product. Up to 30,000 cubic metres per year of basalt is to be extracted by blasting and then crushed on site. The land area to be affected is approximately 2 hectares of which 1.5 hectares will be the active quarry. The balance will be for crushing, stockpiles and roads. With extraction to a depth of up to 20 m below ground surface the estimated yield is up to 625,000 tonnes of rock. With extraction of the maximum 80,000 tonnes per year (convert volume to weight by multiplying by 2.65) the quarry has a life of about 8 years. The crushed basalt has been tested as suitable for use in concrete, road construction and for railway ballast. The key haulage routes will be Ostlers Lane, Berida Innisfail Road, Leeches Creek Road and the Oxley Highway.

BCA Class: N/A

Landowner(s): Sandy Creek Family Trust
557 Berida Innisfail Road
Gilgandra NSW 2827

Landowners consent provided: Yes No

(All Landowners must give consent to the proposed development)

Date application received: 30 August 2017

Property Description:

Street/Road No: 144
Street/Road: Ostlers Lane
Suburb: Collie, NSW
Lot & DP: Lot 45, DP752563

Correct dimensions on plan: Yes No N/A

Existing Use: Yes No N/A

Current land-use: Agriculture (grazing) plus a pit dug to sample the basalt

Site Zone and permissibility: Under Gilgandra LEP 2011 the site is zoned entirely RU1 Primary Production and extractive industries are permitted with Council consent. It is partly identified as containing an area of Biodiversity Sensitivity. The proposed quarry is located within Biodiversity Sensitivity area.

**Designated/integrated/
advertised development:**

The applicant has intentionally applied for a maximum extraction of 30,000 cubic metres with a disturbance area of not more than 2 hectares to ensure that the proposal is **not designated development**. If the quarry is to expand beyond this size or extraction rate then a fresh application and environmental impact statement is required.

It is *integrated development* pursuant to S.91 of the Environmental Planning and Assessment Act 1979 because an Environment Protection Licence is required pursuant to S. 43 of the POEO Act, 1997. The application has been referred to the EPA. EPA has provided Council with General Terms of Approval which are included with this report and the conditions of approval.

It is also *advertised development*. The application has been advertised.

Site Description:

The site is a 2 hectare piece of Lot 45 (which is an 800 hectare lot) that is located on the "Berakee" property at Collie. It is accessed via an internal farm road, Ostlers Lane and the Berida Innisfail Road. All access roads are unsealed upon leaving the Oxley Highway. Berakee is a grazing and cropping property that has some Class 2 Soil and Land Capability areas and some Class 4 areas that align with the Myall Glen Basalt outcrops. The basalt outcrop area has shallow soil and is associated with the Poplar Box-White Cyprus Pine-Wilga-Ironwood Woodland.

Site History:

The site where the Myall Glen Basalt outcrops occur has been grazed over the long term. The shallow soils are not suitable for cropping. More recently the applicant has undertaken a test pit to establish the quality of the basalt. The material extracted has been crushed on site and is being used for internal farm roads. It is good quality material. A small farm dam has been dug adjacent to the site and the material from this has also been used for internal farm roads.

Additional Information:

Additional information requested: Yes No

Date: 22/9/2017

Received on: 5/10/2017

Additional information requested related to: OEH comments on threatened species and vegetation offsets; and RMS requirements for the upgrade to the Oxley Highway / Berida Innisfail Road intersection.

Public Notification:

Advertised in newspaper: Yes No
Start Date: 19/9/2017
End Date: 6/10/2017

Notified to neighbours: Yes No
Start Date: 6/9/2107
End Date: 6/10/2017

Submissions received: Yes No
(refer to S 79C(1)(d) 'Any Submissions' for consideration of submissions received by Council)

Submissions were received from OEH, RMS, DPI (Water), EPA and NSW Geological Survey. These are addressed in the Submissions from Public Authorities section of this report.

Assessment:

The application has been assessed in accordance with Section 79(c) of the Environmental Planning and Assessment Act 1979. The main issues are addressed below:

Section 79C(I) Evaluation Matters

S 79c(1)(a)(i) provisions of any environmental planning instrument(s)

(i) Gilgandra Local Environmental Plan (LEP) 2011

The proposed development is a:

- permissible use within the RU1 Primary Production zone
 existing use

The proposed extractive industry is consistent with the following objectives of the RU1 Primary Production zone (others relate to matters that are not relevant):

Objectives of zone:

- 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.
- To allow the development of non-agricultural land uses that are compatible with the character of this zone.

Special clauses of the Gilgandra LEP 2011 relevant to the application:

- none apply
 Special Clause(s) of the Gilgandra LEP 2011 apply (refer to comments below)

1.2 Aims of Plan

The proposed extractive industry is consistent with the following aims of Gilgandra LEP 2011:

(2)

- (a) N/A
- (b) to promote the orderly and economic use and development of land within the Gilgandra local government area,
- (c) to encourage the proper management of the natural and human-made resources of the Gilgandra local government area,
- (d) N/A
- (e) to minimise land use conflicts and adverse environmental impacts,
- (f) to increase employment opportunities within the Gilgandra local government area through the efficient use of resources,
- (g) N/A
- (h) to protect and promote the use of rural resources for agricultural and primary production and related processing, service and value adding industries
- (i) N/A
- (j) N/A
- (k) to protect places and buildings of archaeological or heritage significance, including Aboriginal relics and places.

The following other clauses of the LEP apply to the development:

1.4 Definitions

The proposed quarry development is defined as an:

extractive industry means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

And extractive materials are defined as:

extractive material means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the [Mining Act 1992](#).

5.14 Siding Spring Observatory—maintaining dark sky

The subject land is located approximately 81 km from the Siding Spring Observatory. The development is consistent with the objective to “*protect observing conditions at the Siding Spring Observatory by promoting lighting practices that minimise light pollution*” as follows:

(2) Light emissions (and dust)

Comment: the site is not connected to reticulated electricity and the applicant has no intention of doing this. Extraction and crushing is proposed to be carried out during daylight hours and conditions will be imposed accordingly. Dust from roads will be suppressed on site as required with a water truck and crushing and screening activities will also be watered. Soil stockpiles will be vegetated with 70% coverage within 60 days to avoid dust.

(7) Development on land 18 kilometres or more from observatory

Comment: concurrence of the Secretary is not required as the development will not result in the emission of light of 1,000,000 lumens or more. Consultation with the observatory director is not required because the development does not involve a dwelling house, secondary dwelling or dual occupancy.

7.1 Biodiversity protection

This clause applies to the subject land because it is identified as having “Biodiversity Sensitivity” on the [Sensitivity Biodiversity Map](#) in the LEP. The objectives of the clause are to:

- (a) protect native fauna and flora,
- (b) protect the ecological processes necessary for their continued existence,
- (c) encourage the recovery of native fauna and flora and their habitats.

The proposal generally complies with these objectives through compliance with the following clauses:

(3) Consider any adverse impact of the proposed development on:

(a) native ecological communities –

Comment: The area of impact is confined to 2 hectares which the applicant’s ecologist describes as Poplar Box-White Cyprus Pine- Wilga- Ironwood shrubby woodland. The understorey is native grassland. The area has been disturbed by past grazing and resource testing and does not contain any hollow bearing trees. It is in low to moderate condition.

The vegetation community on this property is about 131 hectares in area so the impact is a 1.5% loss. Only three White Cyprus trees will be destroyed. The 2 hectares equates to the area that landowners were able to clear for regular agricultural management activities (RAMA) under the now defunct Native Vegetation Act, 2003. Overall the adverse impact is unlikely to be significant.

- (b) the habitat of any threatened species, populations or ecological community'
Comment: The vegetation on the site is not an EEC. No threatened species were found but two threatened grass species are known to occur in the wider area and may be present on the site when the weather is warmer. No hollow bearing trees are to be removed so this habitat feature will remain. The seven part tests undertaken by the applicant show that the loss of this area will not significantly affect threatened species or populations if any were to occur on the site.
 - (c) regionally significant species of fauna and flora or habitat
Comment: No regionally significant species of fauna and flora or habitat are known to occur on the subject site.
 - (d) habitat elements providing connectivity.
Comment: The vegetation community (approximately 131 hectares) is isolated by agricultural land. It is approximately 2 kilometres from Boothaguy Creek to the north and has poor connectivity to other forested or natural areas. The impact to a small edge located part of the habitat will not impact on its connectivity. It will not exacerbate isolation of the remnant vegetation.
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
- (a) the development is designed, sited and will be managed to avoid any adverse environmental impact, or
Comment: The nature of a quarry is that land must be cleared and there will be adverse impacts on the environment. The internal roads will follow existing tracks to avoid clearing for roads.
 - (b) if that impact cannot be avoided—the development is designed, sited and will be managed to minimise that impact, or
Comment: Testing has shown that the basalt resource extends for an area of at least 7 hectares. The two hectare site chosen has minimal tree cover and no hollow bearing trees. It is already heavily disturbed by grazing and the resource is close the surface. It is an appropriate siting choice.
 - (c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

Comment: Impacts will be managed by minimal clearing and once extraction is completed through site restoration. Top soil will be stockpiled to allow parts of the quarry to be rehabilitated to have some habitat value when the material is exhausted. Sediment and erosion controls will be implemented and surface water directed to a sediment control pond. A vegetation offset area could be imposed (as recommended by OEH) but the small size of the quarry (2 ha) and the fact that it's not in an EEC indicate this is not warranted. If a future application is lodged for a larger quarry then a vegetation offset area should be reconsidered.

(ii) State Environmental Planning Policies (SEPP'S):

The SEPP's relevant to this proposal include:

State Environmental Planning Policy No 44—Koala Habitat Protection.

This SEPP applies to Gilgandra LGA. The Koala food tree known as Poplar Box is known to occur in the vegetation community on the lot on which the quarry is located. The lot is larger than one hectare.

Comment: The definition of *potential koala habitat* is “*areas of native vegetation where the trees of the types listed in Schedule 2 (of the SEPP) constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.*” In this case the applicant's ecologist found that Poplar Box is more than 15% of the upper stratum of trees in this locality. So the site **is potential koala habitat**.

The definition of *core koala habitat* means “*an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is, females with young) and recent sightings of and historical records of a population.*” In this case the applicant's ecologist found that there was no evidence of Koalas found in the field survey and no records of Koala sightings within 10km of the subject land.

On this basis the site is **not core koala habitat** and the SEPP has no further effect on the determination of the application.

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

This SEPP applies to any application for extractive industry in Gilgandra LGA. The following clauses are relevant to this application:

12 *Before determining an application for consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must:*

(a) *consider:*

(i) *the existing uses and approved uses of land in the vicinity of the development, and*

(ii) *whether or not the development is likely to have a significant impact on the uses that, in the opinion of the consent authority having regard to land use trends, are likely to be the preferred uses of land in the vicinity of the development, and*

(iii) *any ways in which the development may be incompatible with any of those existing, approved or likely preferred uses, and*

(b) *evaluate and compare the respective public benefits of the development and the land uses referred to in paragraph (a) (i) and (ii), and*

(c) *evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).*

Comment: The land surrounding the subject land is a mixed broad acre grazing and cropping area similar to the subject land. There are fourteen landowners with property within a 5km radius of the site. There are nine dwellings on these landholdings the nearest being 2km south of the quarry site and 2km to the north west, followed by 3km to the north east and 4km to the south east. The quarry is relatively small and will typically blast and then crush on 3 or 4 occasions a year in order to stockpile product for sale throughout the year as required. As documented in the SEE, noise, blast air pressure and dust can all be controlled to the point of not being a significant impact. Traffic issues can be dealt with by conditions of approval. The benefits of the development are that it will provide an additional income for the Berakee farm and some employment at the quarry and transporting material. There will be multiplier effects from this. It will also supply a necessary road and concrete product to local users including potentially Gilgandra Council. This material is currently sourced from quarries in other LGAs. The location of the quarry is over 400 metres from the nearest property boundary. It is generally compatible both with existing surrounding land uses and likely future uses (mainly grazing and cropping).

14 *Natural resource management and environmental management*

(1) *Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring that the development is undertaken in an environmentally responsible manner, including conditions to ensure the following:*

(a) *that impacts on significant water resources, including surface and groundwater resources, are avoided, or are minimised to the greatest extent practicable,*

(b) *that impacts on threatened species and biodiversity, are avoided, or are minimised to the greatest extent practicable,*

- (c) that greenhouse gas emissions are minimised to the greatest extent practicable.*
- (2) Without limiting subclause (1), in determining a development application for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider an assessment of the greenhouse gas emissions (including downstream emissions) of the development, and must do so having regard to any applicable State or national policies, programs or guidelines concerning greenhouse gas emissions.*
- (3) Without limiting subclause (1), in determining a development application for development for the purposes of mining, the consent authority must consider any certification by the Chief Executive of the Office of Environment and Heritage or the Director-General of the Department of Primary Industries that measures to mitigate or offset the biodiversity impact of the proposed development will be adequate.*

Comment: The impacts on surface water will be minimal and restricted to the impact area of 2 hectares plus the roads. No waterways will be affected or impacted. A sediment basin will collect and settle run off from the quarry. Roads are equipped with drainage and culverts. If heavy rain puts water in the quarry this can be pumped to the sediment basin and used for agriculture or dust control at a later date. Groundwater was not encountered in test drilling on the site to a depth of 18 metres. Some water did accumulate in test holes at a later date indicating some accumulation from surface layers over time. Groundwater bores in the area typically encounter water at a depth of 20 metres. Given the quarry will be at a high point in the basalt outcrop then limiting it to a depth of 20 metres should avoid any groundwater if there is any. The nearest groundwater producing bore located in basalt is 3km to the east and it is unlikely to be affected. The wider locality is mapped as having a low to moderate groundwater vulnerability rating.

There is no evidence that threatened species are located on the site. Seven part tests on species that may be present (but have not been found) suggest that there is unlikely to be a significant impact on them. The location of the quarry avoids the hollow bearing trees on the site that represent the best habitat. The SEE does not provide a greenhouse gas emission assessment but notes that the primary source of greenhouse gas will be diesel fuel consumed by heavy machinery, the crushing plant and road transport of crushed rock. It is likely that the size of this quarry and the fact that crushing will be three to four times a year rather than every day, will limit greenhouse gas production over all. Amelioration measures in the SEE include minimal truck idling, fully loaded haulage trucks and periodic machinery use. The nearest alternative hard rock quarries are about 60 km or more distant from this site. Using material from this site for local Gilgandra jobs will significantly decrease the diesel consumed in haulage from other quarries and will therefore reduce greenhouse gases from fuel consumption.

There is not a lot more that can be done in this location to minimise greenhouse gases.

OEH has suggested to Council that a 6 hectare area of Poplar Box-White Cyprus Pine- Wilga-Ironwood shrubby woodland be fenced and managed in perpetuity as a bio offset for the loss of 2 hectares of the same community as a result of this quarry.

Mandatory biodiversity offsetting is not triggered by this development. It is a relatively small area to be cleared (2 ha) and does not contain any tree hollows or major stands of trees. The native grass land understory has a history of grazing. The applicant could have cleared up to 2 hectares under the Native Vegetation Act, 2003 (now superseded) as part of routine agricultural management activities (RAMA). On balance the offset is not warranted in this situation but should be considered if a larger quarry development application involving a larger area for clearing is proposed.

15 Resource recovery

- (1) Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider the efficiency or otherwise of the development in terms of resource recovery.*
- (2) Before granting consent for the development, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at optimising the efficiency of resource recovery and the reuse or recycling of material.*
- (3) The consent authority may refuse to grant consent to development if it is not satisfied that the development will be carried out in such a way as to optimise the efficiency of recovery of minerals, petroleum or extractive materials and to minimise the creation of waste in association with the extraction, recovery or processing of minerals, petroleum or extractive materials.*

Comment: The efficiency of the material recovered from this site is proportional to the size of the operation. The crushing plant is mobile and will only be brought in when needed. Heavy machinery used in the quarry business will be stored or used on farm till it is required. Haulage trucks will access material stockpiles as required and are not going to be stored on the site. The applicant is aware that the site has a recoverable basalt resource over at least a 7 hectare area that could yield about 3.2 million tonnes of rock. This resource will not be sterilised by the initial small quarry and if it is financially viable to exploit the wider resource at a later date then this would be subject to a new development assessment process that would include an environmental impact statement.

The waste created by this quarry will be minimal as the overburden is shallow and will be stockpiled for site restoration. All rock to be removed is high quality and will be sold to consumers in various forms. Vegetation clearing is minimal as the site has sparse tree cover.

16 Transport

- (1) *Before granting consent for development for the purposes of mining or extractive industry that involves the transport of materials, the consent authority must consider whether or not the consent should be issued subject to conditions that do any one or more of the following:*
 - (a) *require that some or all of the transport of materials in connection with the development is not to be by public road,*
 - (b) *limit or preclude truck movements, in connection with the development, that occur on roads in residential areas or on roads near to schools,*
 - (c) *require the preparation and implementation, in relation to the development, of a code of conduct relating to the transport of materials on public roads.*
- (2) *If the consent authority considers that the development involves the transport of materials on a public road, the consent authority must, within 7 days after receiving the development application, provide a copy of the application to:*
 - (a) *each roads authority for the road, and*
 - (b) *the Roads and Traffic Authority (if it is not a roads authority for the road).*

(Note: Section 7 of the [Roads Act 1993](#) specifies who the roads authority is for different types of roads. Some roads have more than one roads authority.)
- (3) *The consent authority:*
 - (a) *must not determine the application until it has taken into consideration any submissions that it receives in response from any roads authority or the Roads and Traffic Authority within 21 days after they were provided with a copy of the application, and*
 - (b) *must provide them with a copy of the determination.*
- (4) *In circumstances where the consent authority is a roads authority for a public road to which subclause (2) applies, the references in subclauses (2) and (3) to a roads authority for that road do not include the consent authority.*

Comment: The only option for material haulage at this stage for this development is via internal roads leading to the public road network. The haulage routes indicated in the SEE are Ostlers Lane, Leeches Creek Road and the Berida Innisfail Road. To the north this leads to the Oxley Highway. The SEE also indicates that trucks would head south along Berida Innisfail Road towards Narromine Shire and Warren Shire destinations. All indicated haulage roads are un-sealed other than the Oxley Highway. It is not possible to impose a consent requiring material be transported other than by road as no alternatives exist. This may change if the Inland Rail project goes ahead but it is not an option at this stage. It is important that trucks be limited to specific haulage routes to avoid widespread damage to basic rural roads that have not been designed to accommodate significant heavy truck movements. This will also limit the number of residents affected by truck movements. The upgrade and maintenance of the preferred haulage route will be addressed in conditions of approval or through a VPA.

Although there are no schools along the nominated haulage route the approval will include a condition preventing truck movements while school buses are using the public roads. A code of conduct relating to the transport of materials on public roads will also be included as a condition of approval. This application has been referred to RMS and its views in relation to upgrading the Oxley Highway / Berida Innisfail Road have been incorporated in to the conditions of approval.

RMS has agreed that the proposed upgrade to the Oxley Highway / Berida Innisfail Road can be undertaken over the first 12 months of operation of the quarry subject to certain limitations on extraction rates and truck movements. These have been incorporated into conditions of approval.

17 Rehabilitation

- (1) *Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring the rehabilitation of land that will be affected by the development.*
- (2) *In particular, the consent authority must consider whether conditions of the consent should:*
 - (a) *require the preparation of a plan that identifies the proposed end use and landform of the land once rehabilitated, or*
 - (b) *require waste generated by the development or the rehabilitation to be dealt with appropriately, or*
 - (c) *require any soil contaminated as a result of the development to be remediated in accordance with relevant guidelines (including guidelines under section 145C of the Act and the [Contaminated Land Management Act 1997](#)), or*
 - (d) *require steps to be taken to ensure that the state of the land, while being rehabilitated and at the completion of the rehabilitation, does not jeopardize public safety.*

Comment: The quarry will not generate any significant waste as all rock removed will be sold and all overburden will be stockpiled for re-use in rehabilitation. No soil contamination is anticipated. If a machinery malfunction causes loss of fuel or fluids then it will be cleaned up with a spill kit and disposed at a licenced landfill. The information in section 2.10 and Figure 2.5 of the SEE will be required to be included in a site rehabilitation plan that will be included as a condition of the approval.

S 79C(1)(a)(ii) provisions of any draft Environmental Planning Instrument(s)

Yes No

Comments: Nil.

S 79C(1)(a)(iii) provisions of any Development Control Plan(s)

The Gilgandra Shire Development Control Plan 2011 clauses which are relevant to the application are as follows:

i) Chapter 6 – Rural Zones

Clause 6.3 – Extractive Industries

Comments: The SEE contains a summary of consultation with neighbouring properties (SEE section 1.6.2). One landowner queried groundwater effects on his neighbouring property “Myall Glenn”. Groundwater was not encountered in test drilling on the site to a depth of 18 metres. Groundwater bores in the area typically encounter water at a depth of 20 metres. Given the quarry will be at a high point in the basalt outcrop then limiting it to a depth of 20 metres should avoid any groundwater if there is any. The nearest groundwater producing bore located in basalt is 3km to the east and it is unlikely to be affected. Another landowner to the north west (“Ashgrove”) noted that crushing operations were audible from his land during a test run. Noise from the operation as heard from the nearest dwelling is predicted to be 30-35 dB(A) based on an operational excavator, truck, front end loader and crushing plant. This is less than the noise intrusiveness criteria of 35 dB(A). The noise may be noticeable but it is not excessive.

Clause 6.3.1 – Visual Amenity

Comments: The SEE adequately addresses the issue of visual impact from private dwellings (SEE section 4.4). Although an elevated site it is approximately 2.5km from the nearest busy public road (Berida Innisfail Road) and will not be easily visible with a back drop of mature scattered native vegetation. Three dwellings have a potential line of sight to the subject land but the nearest is approximately 2km to the south and this is a long distance impact on a view scape. Impacts can be further ameliorated by locating the crushing plant down in the pit as soon as it is of sufficient size plus careful use of topsoil stockpiles.

Clause 6.3.2 – Noise and Vibration and Blasting

Comments: The SEE adequately addresses the issue of noise and vibration and blasting. The acoustic environment is fairly quiet with an estimated prevailing background noise level of 30 dB(A). The noise level for this development should be no more than 5dB(A) above that level when measured at the nearest sensitive receiver. Noise from the operation as heard from the nearest dwelling is predicted to be 30-35 dB(A) based on an operational excavator, truck, front end loader and crushing plant. This is less or equal to the noise intrusiveness criteria of 35 dB(A). The noise may be noticeable but it is not excessive. Impacts from noise will be further ameliorated by locating the crushing plant down in the pit as soon as it is of sufficient size plus careful use of topsoil stockpiles to act as noise barriers. Vibration during site operation will not be an issue for dwellings that are located approximately 2km or more from the site.

Blasting is required on average three times per year to fracture the hard basalt and enable it to be extracted for crushing. Only qualified blasting contractors will be used and no blasting materials will be stored on site. A 500 metre exclusion zone will be applied and all residents within 2km notified. The nearest public road is 1.5km from the site (Lewis Lane) but it services only the Lewis property. Berida Innisfail Road is 2.5km away and should be unaffected. The SEE (section 4.7) states that the blast will not exceed the EPA and ANZECC airblast overpressure and ground vibration levels for any blast. This will be included as a condition of approval. Noise, vibration and blast monitoring will be imposed as a condition of approval for the first extraction and crushing campaign to ensure predicted levels are not exceeded. Blasting will only be carried out 9 AM to 3PM Monday to Friday as a condition of approval. These matters are all covered in the EPA GTA matters that are incorporated as conditions of approval on this application.

Clause 6.3.3 – Air Quality and Pollution Control

Comments: The SEE adequately addresses the issue of dust which is the key air quality issue on this site. Fumes from machinery will be a minor matter given the open site and distance to sensitive receivers. Dust sources will be site stripping, blasting, crushing, loading and transport. Controls include watering internal roads and stockpiles and avoiding stripping during windy weather. The SEE predicts that dust deposition would comply with the requirement that it not increase by more than 2g/m²/year. It states that ambient deposited dust levels would not be measurably affected 500 m from the project site. Dust monitoring will be imposed as a condition of approval inclusive of extraction and crushing campaigns to ensure predicted levels are not exceeded.

Clause 6.3.4 – Water Resources

Comments: The SEE adequately addresses the issue of water resources (sections 4.1, 4.2 and 4.3). Given the elevated location and distance to water course direct impact on waterways and groundwater is not anticipated.

The impacts on surface water will be minimal and restricted to the impact area of 2 hectares including the roads. No waterways will be affected or impacted. A sediment basin will collect and settle run off from the quarry. Roads are equipped with drainage and culverts. If heavy rain puts water in the quarry this can be pumped to the sediment basin and used for agriculture or dust control at a later date. Groundwater was not encountered in test drilling on the site to a depth of 18 metres. Some water did accumulate in test holes at a later date indicating some accumulation from surface layers over time. Groundwater bores in the area typically encounter water at a depth of 20 metres. Given the quarry will be at a high point in the basalt outcrop then limiting it to a depth of 20 metres should avoid any groundwater if there is any. The nearest groundwater producing bore located in basalt is 3km to the east and it is unlikely to be affected. The erosion and sediment control plan contained in Fig 4.1 of the SEE will be imposed as a condition of approval to ensure that surface water quality is protected.

Clause 6.3.5 – Transport

Comments: The SEE does not include a traffic survey or study and does not adequately address this issue. Council staff consider that prior to it being used as a haulage route, the Berida Innisfail Road and Leeches Creek Road will under normal circumstances be at a standard described under Council's classification system as *unsealed secondary through road condition 3*. Ostlers Lane will under normal circumstances be at a standard described under Council's classification system as *unsealed secondary non- through road condition 4*. This standard should be adequate to service a quarry of this size and extraction rate if it is maintained at this standard.

Council staff and RMS both consider that the Berida Innisfail Road / Oxley Hwy intersection does need an upgrade to make it suitable for haulage vehicles. The only option for material haulage at this stage for this development is via internal roads leading to the public road network. The main haulage routes indicated in the SEE are Ostlers Lane and the Berida Innisfail Road. To the north this leads to the Oxley Highway. The SEE also indicates that trucks would head south along Berida Innisfail Road towards Narromine Shire and Warren Shire destinations via Leeches Creek Road. All indicated haulage roads are unsealed and have basic formations other than the Oxley Highway. It is not possible to impose a consent requiring material be transported other than by road as no alternatives exist. This may change if the Inland Rail project goes ahead but it is not an option at this stage. It is important that trucks be limited to specific haulage routes to avoid widespread damage to basic rural roads that have not been designed to accommodate significant heavy truck movements. This will also limit the number of residents affected by truck movements. The maintenance of the preferred haulage route will be addressed in conditions of approval. A Voluntary Planning Agreement (VPA) was discussed at length but agreement could not be reached.

Council considers that the Ostlers lane / Berida Innisfail Road / Oxley Highway is the primary haulage route for the material to be extracted over the life of this quarry. A number of conditions are required to upgrade sections of this road including surfaces, corners, sight distances and intersections. These will need to be undertaken at the expense of the quarry operator.

It is reasonable that quarry trucks use some roads only for the first 12 months from the commencement of the quarry. These are temporary haulage routes. Temporary haulage could be permitted on the section of Berida Innisfail Road from Ostlers Lane to the Leeches Creek Road intersection; and the section of road from Berida Innisfail and Leeches Creek Road intersection to the intersection of Leeches Creek Road and Yungundi Road intersection. A bond will be required by Council to ensure any damage trucks do to these roads is paid for by the quarry operator. A maximum of 20,000 tonnes of material can be hauled on these temporary haulage routes to further limit the damage that can be done over this time.

Council staff contacted Warren Shire in relation to quarry trucks accessing its road system and it has requested a condition be imposed addressing pavement and traffic management concerns.

Although there are no schools along the preferred haulage route the approval will include a condition preventing truck movements while school buses are using the public roads. A code of conduct relating to the transport of materials on public roads will also be included as a condition of approval.

This application has been referred to RMS and its views in relation to upgrading the Oxley Highway / Berida Innisfail Road have been incorporated in to the conditions of approval. Council supports the RMS position.

RMS has agreed that the proposed upgrade to the Oxley Highway / Berida Innisfail Road intersection can be undertaken over the first 12 months of operation of the quarry subject to certain limitations on extraction rates and truck movements. These have been incorporated into conditions of approval.

It is important that load limits be imposed to limit the damage to public roads. Council will impose a condition to achieve this. No haulage should take place on the unsealed haulage route during wet weather to further reduce road damage and maintenance. Haulage hours will be limited to Monday to Friday - 7.00 am to 6.00 pm and Saturday 7.00 am to 4.00 pm.

A weigh bridge is not proposed to be installed at the site so the front end loader will be required to have a weighing bucket to ensure vehicles are not overloaded.

ii) Chapter 11 – Indigenous Heritage

Clause 11.2 – General Controls

Comments: The SEE adequately addresses the issue of Aboriginal heritage (sections 3.11 and 4.9) and includes a due diligence archaeological assessment (Appendix 8). No Aboriginal sites are listed on AHIMS as being within 7km of the subject land. An archaeologist inspected the 2 hectare site (which had good exposure) and found no Aboriginal sites or significant landforms. Although mature trees are scattered throughout the wider area none were found to be subject to cultural scarring or modification at the July 2017 inspection. The nearest water course is Boothaguy Creek which is approximately 2km to the north.

On balance it is highly unlikely that the subject land has Aboriginal heritage values. However, it is appropriate that conditions be imposed that address what should happen if Aboriginal cultural heritage matters are encountered as the consent is being implemented.

iii) Chapter 25 – Erosion and Sediment Control

Clause 25.1 – Plans

Comments: The SEE adequately addresses the issue of erosion and sediment control (sections 4.1 and 4.2). Sediment and erosion controls will be implemented around all disturbance areas and surface water directed to a sediment control pond at the low end of the site. In due course the extraction site itself will also contain surface run off. The erosion and sediment control plan contained in Fig 4.1 of the SEE will be imposed as a condition of approval to ensure that surface water quality is protected.

S 79C(1)(a)(iv) any matters prescribed by the regulations

Yes No

Comments: The development is below the threshold to be designated development and no EIS is required.

S 79C(1)(b) the likely impact on the natural and built environment(s) and the likely social and/or economic impact on the locality

Site Requirements:

Boundary Clearance(s): Complies Does not comply N/A
Front Building setback: Complies Does not comply N/A

Site Coverage: Satisfactory Unsatisfactory N/A

(NOTE: Site coverage is generally determined having regard to the level of compliance with Council's standards in relevant DCP's (eg: carparking, internal vehicle manoeuvring, setbacks, landscaping, etc)

Easement(s):

Existing Easement (s) **Clear of easement(s)** Encroaches
easement(s) N/A
Proposed Easement(s) **Easement(s) required** Easement(s) not
required N/A

Comments: Nil.

Consolidation of Lot(s): Required **Not required** N/A

Drainage:

Sewer Main: Work(s) clear of main Work(s) within 1m of main
 N/A
Likely Gradient: Satisfactory Unsatisfactory
 N/A

Roof Water: to street gutter to rainwater tank
 to absorption trench 3000mm from the building
 N/A Other
 No change to existing

The following relevant matters have also been assessed in accordance with S 79C1(b):-

Context and Setting

The development site is remote from dwellings on neighbouring properties and set back from the nearest boundary by 400 metres. The quarry is located on a sparsely vegetated area so minimal trees are required to be removed. It is considered that the proposed development generally fits in with the character of the locality and will not detrimentally impact on any surrounding land uses.

Access, transport and traffic

The proposed development will have impact on traffic, particularly Ostlers lane, the Berida Innisfail Road and Leeches Creek Road. The intersection with the Oxley Highway needs to be upgraded. The formation of Ostlers Lane, the Berida –Innisfail Road and Leeches Creek Road will all require regular maintenance by the applicant to ensure road standards are maintained. There will be specific pressure points along both proposed haulage routes that have the potential to fail rapidly these include the 90 degree bends and the intersections. Temporary use of some routes is acceptable for small amounts of quarry material. Bonds will be required to ensure roads damaged by quarry trucks are repaired to Council standards.

The RMS was referred the development and have made a submission which forms a part of this assessment. The RMS position is reasonable and is supported.

Its worthy of noting that 80,000 tonnes per year, will equate to approximately 5000 truck movements annually (based on 32T maximum load). Average of 96 movements per week or 19 per every weekday.

Below is a summary of the traffic counts recorded since the 30 August 2017. There is no road usage data prior to 30 August to compare.

Traffic Counts

As recorded between 30 August 2017 to Thursday, 25 January 2018
(148 days)

	Berida Innisfail Rd Seg 00		Ostlers Lane		Berida Innisfail Road Seg 10	
	Average Daily Traffic	Total Count	Average Daily Traffic	Total Count	Average Daily Traffic	Total Count
Passenger	12	1761	5	740	7	982
Rigid	2	332	1	171	2	302
Articulated	0	70	0	21	0	41

Public Domain

It is considered that the proposed development will not have a negative impact on the public domain. Once the haulage trucks have accessed the Oxley Highway they will become part of the general traffic volume.

Utilities

It is considered that the proposed development will not have a negative impact on existing utilities. It does not require reticulated water or sewerage or electricity. The applicant will be required to include a site office at the entry to the site. The will include a rain water tank for hand washing. A composting toilet or temporary toilet that meets Council requirements will be required on site for workers.

A 20,000 litre firefighting storage tank is also required on site.

Heritage

No Impacts. The site does not contain any listed European heritage items. The nearest are farm buildings is located several kilometres to the north on the Oxley Highway.

No Aboriginal sites are listed on AHIMS as being within 7km of the subject land. An archaeologist inspected the 2 hectare site and found no Aboriginal sites or significant landforms. Although mature trees are scattered throughout the wider area none were found to be subject to cultural scarring or modification at the July 2017 inspection. The nearest water course is Boothaguy Creek which is approximately 2km to the north.

Water

The impacts on surface water will be minimal and restricted to the impact area of 2 hectares plus the roads. No waterways will be affected or impacted. A sediment basin will collect and settle run off from the quarry. Roads are equipped with drainage and culverts. If heavy rain puts water in the quarry this can be pumped to the sediment basin and used for agriculture or dust control at a later date. Groundwater was not encountered in test drilling on the site to a depth of 18 metres.

Soils

The soil type on the quarry site is very shallow with surface rock outcropping in places. Topsoil that can be obtained will be stockpiled for use in rehabilitation in due course. It can be used as vegetated noise control mounds in the interim.

Air & Microclimate

The SEE adequately addresses the issue of dust which is the key air quality issue on this site. Fumes from machinery will be a minor matter given the open site and distance to sensitive receivers. Dust sources will be site stripping, blasting, crushing, loading and transport. Controls include watering internal roads and stockpiles and avoiding stripping during windy weather. The SEE predicts that dust deposition would comply with the requirement that it not increase by more than 2g/m²/year. Dust monitoring and control will be required as a condition of consent. These matters are addressed in the EPA General Terms of Agreement (GTA).

Flora and Fauna

The area of impact is confined to 2 hectares which the applicant's ecologist describes as Poplar Box-White Cyprus Pine- Wilga- Ironwood shrubby woodland. It is not an EEC. The understorey is native grassland. The area has been disturbed by past grazing and resource testing and does not contain any hollow bearing trees. It is in low to moderate condition. The vegetation community on this property is about 131 hectares in area so the impact is a 1.5% loss. Only three White Cyprus trees will be destroyed. Overall the adverse impact is unlikely to be significant. The seven part tests undertaken by the applicant show that the loss of this area will not significantly affect threatened species or populations if any were to occur on the site. None are known to occur.

Waste

It is considered that the proposed development will not significantly increase the generation of solid and liquid waste. Refuse will be taken to a licensed landfill periodically and a toilet for workers will be installed on site at the site office.

Energy

All machinery on site will run on diesel fuel supplied by a mobile truck mounted tank. Reticulated electricity will not be supplied to the site. No work will take place outside of daylight hours. The site will be most active during blasting and crushing campaigns when material will be stockpiled for later distribution. Trucks carrying material will account for a significant amount of energy consumption over the life of the quarry. Consumption of energy will be a function of the distance the material is required to travel. This is offset against where this material would have come from if not from this site.

It is considered that the proposed development will not have significant impact on energy demand.

Noise & Vibration

The acoustic environment of the locality is fairly quiet with an estimated prevailing background noise level of 30 dB(A). The noise level for this development should be no more than 5dB(A) above that level when measured at the nearest sensitive receiver. Noise from the operation as heard from the nearest dwelling is predicted to be 30-35 dB(A) based on an operational excavator, truck, front end loader and crushing plant. This is less or equal to the noise intrusiveness criteria of 35 dB(A). The noise may be noticeable but it is not excessive. Impacts from noise will be further ameliorated by locating the crushing plant down in the pit as soon as it is of sufficient size plus careful use of topsoil stockpiles to act as noise barriers. Vibration during site operation will not be an issue for dwellings that are located approximately 2km or more from the site.

It is considered that the proposed development will not significantly increase the levels of noise and vibration as to impact on neighbouring properties. Conditions will be imposed through the EPA GTAs.

Technological Hazards / Potentially Contaminated land

The site is not contaminated by past land use or natural hazards. The proposed quarry has a low likelihood of causing contamination as it is not likely to impact on groundwater and surface water can be contained in ponds.

Safety, Security & Crime Prevention

The site is remote from public roads and accessible only through a private road with a locked gate. Signage will be used to advise that public entry is prohibited. It is not considered that any special considerations are required for safety, security or crime prevention with this development.

Social impact on the locality

The key social impact on the locality is likely to be increased truck traffic on local roads. This can be offset by the extractive industry maintaining the roads to an acceptable standard over the life of the quarry. The Oxley Highway intersection will need to be upgraded. These matters will be addressed in conditions of approval.

Economic impact on the locality

It is considered that there are no negative economic impacts as a result of this proposed development. The applicant suggests that local wages from the quarry would be about \$100,000 annually and purchase of local goods and services would also be about \$100,000 annually. This would have flow on effects in the community. There may be some savings to quarry product users if this basalt can be supplied to local sites at a reduced rate due to cheaper transport costs.

Cumulative impacts

It is considered that the proposed development will not have significant cumulative impacts. It is the first basalt quarry to be approved by Council in this locality.

S 79C(1)(c) the suitability of the site for the development

(NOTE: Assessment requires referral to the specific considerations for each primary matter listed below, as specified in 'the Act')

Does the proposal fit in with the locality? Yes No

Are the attributes of the site conducive to the proposed development?

Yes No

S 79C(1)(d) any submissions made in accordance with the Regulation(s)

Public Submissions:

Development Advertised:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Development Notified:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Public submissions received:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

One objection was received from a property owner on the Berida Innisfail Road. The following concerns were raised A planning comment is provided as follows:

Risk to neighbours' groundwater

Comment: Test bores on the quarry site did not encounter groundwater. Given the quarry will be at a high point in the basalt outcrop then limiting it to a depth of 20 metres should avoid any groundwater if there is any. The nearest groundwater producing bore located in basalt is 3km to the east and it is unlikely to be affected.

Traffic safety on Berida Innisfail Road

Comment: Council agrees that this road needs to be brought up to an appropriate standard and maintained at that standard for the life of the quarry to ensure public safety. It is intended to achieve this with appropriate conditions of consent.

School bus safety on Berida Innisfail Road

Comment: Council agrees that school buses need to be separated from quarry trucks. A condition will be imposed that prohibits trucks using the school bus route on school days during the pickup and drop off times.

Excessive noise and dust

Comment: Information supplied with the application indicates that noise and dust will not be a major issue for neighbours and measures can be taken to control both to acceptable levels. A series of conditions will be imposed to monitor and control noise and dust. Quarry traffic will be prohibited from going beyond the nominated haulage route. There are dwellings within 100 metres of the roads along this route back to the Oxley Highway or along Leeches Creek Road.

Stock fence along Ostlers Lane

Comment: Ostlers lane is a low speed public rural road that services three properties only. It has a straight alignment and good visibility. It is a stock owner's responsibility to keep stock off public roads by fencing or signposting their presence to provide adequate warning to road users. Quarry trucks are unlikely to collide with stock along this road. It is not the quarry owner's responsibility to fence this road.

Submissions from Public Authorities:

Is the proposed development 'State Significant Development'? Yes
 No

Is the proposed development 'Designated Development'? Yes
 No

Is the proposed development 'Integrated Development'? Yes
 No

Was the proposed development referred to any Public Authorities? Yes
 No

Were any submissions made by Public Authorities? Yes
 No

Referrals were forwarded to the following Public Authorities:

- Office of Environment and Heritage (OEH) (see comments below)
- Environment Protection Authority (EPA) (see comments below)
- DPI (Water) (see comments below)
- Roads and Maritime Services (RMS) (see comments below)
- Heritage Council of NSW
- NSW Police Service
- NSW Agriculture
- NSW Fisheries
- Country Energy
- AGL/Agility
- Telstra
- Other: NSW Geological Survey (see comments below)

RMS: The RMS do not object to the development but provide a series of suggested conditions relating to road and intersection upgrades and traffic safety. Most of the conditions relate to the Oxley Highway and the Berida Innisfail Road intersection. These have been referred to the applicant and discussed at length. All of the RMS proposed conditions are to be included in the development approval.

OEH: OEH reviewed the SEE and supplied a range of comments and recommendations that Council should consider. These were referred to the applicant and a response has been received.

As a result an additional suite of seven part tests have been undertaken to establish that the quarry will not impact on the habitat of threatened species.

OEH also suggested that targeted surveys be carried out over summer to look for four plant species that may occur in this general area. This has not been requested of the applicant because the area is small (two hectares) and has been grazed for many years. The seven part tests indicate that even if present the disturbance would not endanger the species.

OEH also suggested that an offset package be prepared that comprises six hectares of Poplar Box - White Cypress Pine - Wilga - Ironwood shrubby woodland. The area should be fenced and be subject to a Biodiversity Offset Management Plan and secured in perpetuity. This has not been imposed as a condition of consent because the area of impact is minor (2 ha) compared to the size of the vegetation community; the applicant has chosen a location that does not include hollow bearing trees and the community is not an EEC.

EPA: EPA reviewed the SEE and has agreed that the consent can be issued subject to a range of conditions addressing noise, dust, blasting, water quality and reporting. These requirements have all been included as conditions of approval via the General Terms of Agreement (GTAs).

NSW Geological Survey: The NSW GS supports the issue of consent for the quarry and requests that a condition be imposed that the proponent should be required to provide annual production data for the subject site to the NSW Division of Resources and Geoscience. This has been included as a condition of approval.

NSW DPI (Water): Raise no concerns as the quarry is not anticipated to affect surface water or impact on groundwater.

S 79C(1)(e) the public interest

Are there any Federal, State or Local Government and/or Community Interests?:

Yes No

State government comments are outlined in the previous section.

NSW Geological Survey notes a future development application may be required in order to meet market demand from projects such as the Melbourne to Brisbane Inland Rail. In this regard the State government support early investigation of the broader resource in support of potential future applications for expansion.

No Federal authority has made a submission and no Commonwealth land is located in the vicinity of the development.

Community interest has been limited to one adjacent landowner. No submissions were received from the wider community consultation.

There is a genuine demand for the material that will be obtained from this quarry and it is important that Council is able to access resources locally for local public infrastructure projects.

Council officers' assessments:

Building Assessment :

Comments: At this stage there are no constructions plans to assess.

Environmental and Health Assessment

Comments: Environmental impacts will be regulated by the General Terms of Agreement issued by the EPA, Notice Number 1557997

Summary

Issues of non-compliance/inconsistency with Council's Policies, the Act or Regulation(s):

The application is consistent with Council policies and planning controls subject to implementation of the suggested conditions of approval.

Yes No

Conclusion

The subject proposal is considered to be generally acceptable with respect to the relevant provisions of the applicable Environmental Planning Instruments, Development Control Plans and Council policies. The proposal is not considered likely to have any significant negative impact upon the environment or upon the amenity of the locality as long as the conditions of approval are implemented. It is important that the conditions relating to road and intersection upgrades and continued maintenance be imposed to ensure that the cost of damage to public infrastructure is borne by the applicant and not the broader community.

Recommendation

- Consent be granted unconditionally; or
 Consent be granted subject to condition(s) (detailed in Annexure 'A' attached); or
 Consent be refused (reasons specified in Annexure 'A' attached).
-

Declaration

Development Application determined by Gilgandra Shire Council under the delegated authority vested in:-

- Council; or
 Council's Development Control Unit; or
 Council's Building Surveyor.

Mike Svikis
Consultant Planner

22/01/2017
Date

CONDITIONS

1. Development of the site shall be carried out generally in accordance with the approved plans, specifications and documentation submitted with the application in the Statement of Environmental Effects prepared by R W Corkery, Ref 971/01 dated August 2017, subject to any notations in red or modification required as a consequence of any condition. The relevant plans are:

Project Site Layout – Figure 2.1

Extraction Area Layout – Figure 2.3

Conceptual Final Landform – Figure 2.5

Erosion and Sediment Controls – Figure 4.1

Reason: To ensure compliance with this consent.

2. The Applicant shall comply with the General Terms of Approval Notice No. 1557997 dated 30 October 2017 from the NSW EPA (copy attached).

Reason: To ensure compliance with Section 91 of the Environmental Planning and Assessment Act, 1979 and NSW EPA requirements.

3. A sign must be erected on the development site at Ostlers Lane showing:
 - a) Name of the Principal Contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours.
 - b) Stating that unauthorised entry to the work site is prohibited.

Reason: To ensure compliance with the Environmental Planning and Assessment Act, 1979.

4. The maximum extraction rate for the quarry shall be limited to 30,000 cubic metres per calendar year of basalt (equivalent to 80,000 tonnes per calendar year). The active quarry shall not exceed 1.5 hectares in area. Material storage, crushing and roads shall not exceed 0.5 hectares in area.

Reason: To ensure compliance with the Environmental Planning and Assessment Act, 1979.

5. Trucks hauling quarry materials or accessing the site to obtain quarry materials will only use the haulage route map marked "Berakee Quarry Nominated Haulage Route" dated January 2018(see attachment A). No truck movements from the quarry operations are permitted outside the nominated haulage route.

Reason: To ensure compliance with the Environmental Planning and Assessment Act, 1979 and limit quarry road maintenance impacts.

6. For a 12 month period from the commencement of the quarry temporary haulage (see attachment B) is permitted on the following road sections:
 - a) The section of Berida Innisfail Road from Ostlers Lane to the Leeches Creek Road intersection.
 - b) The section of road from Berida Innisfail and Leeches Creek Road intersection to the intersection of Leeches Creek Road and Yungundi Road intersection.

A maximum of 20,000 tonnes of quarry material is allowed to be transported on these temporary haulage routes for the 12 month period.

A security Bond (Bank guarantee) in the amount of \$150,000 shall be supplied by the applicant to Gilgandra Shire Council for the temporary haulage route nominated above. Gilgandra Shire Council can access this money to undertake road maintenance at any time during the 12 month period if the applicant does not undertake the work.

At the end of the 12 month period, or as required to maintain a safe travelling surface, the applicant is to undertake maintenance of the above nominated road sections (or pay Gilgandra Shire Council to undertake it) to ensure the roads are at or above the following standards in accordance with the Gilgandra Local Hierarchy Plan as adopted by Council – Resolution Number-235/13

- Berida Innisfail Road and Leeches Creek Road – *unsealed secondary through road condition 3*

Following completion of the road maintenance at the end of 12 months. Council will inspect the maintenance works to ensure the sections of road are returned to condition 3 as nominated above. At this point Council will release the security bond (or balance of it).

Any road works undertaken by Contractors shall be authorised and completed to the satisfaction of Council.

Reason: To ensure compliance with the Environmental Planning and Assessment Act, 1979 and ensure quarry related road maintenance is paid for by the Applicant

7. The Applicant shall at the anniversary of commencement of the quarry operation (for the life of the quarry) or as required to maintain a safe travelling surface, undertake maintenance of the nominated haulage route (or pay Gilgandra Shire Council to undertake it) to ensure the nominated haulage route is at or above the following standards in accordance with the Gilgandra Local Hierarchy Plan as adopted by Council – Resolution Number – 235/13:

- Berida Innisfail Road and Leeches Creek Road – unsealed secondary through road condition 3
- Ostlers Lane – unsealed secondary non- through road condition 4

Any road works undertaken by Contractors shall be authorised and completed to the satisfaction of Council.

Reason: To ensure compliance with the Environmental Planning and Assessment Act, 1979 and ensure quarry related road maintenance is paid for by the Applicant.

8. A security bond (bank guarantee) in the amount of \$300,000 shall be supplied by the Applicant to Gilgandra Shire Council prior to the commencement of the quarry operation to pay for maintenance of the nominated haulage route in the event that the work is not undertaken by the Applicant within 60 days of the anniversary of commencement of the quarry. Gilgandra Shire Council can access this money to undertake road maintenance at any time during the 12 month period if the applicant does not undertake the work. This bond will be held for the life of the quarry and the bond or balance of the bond will only be returned when the quarry ceases operation.

Reason: To ensure compliance with the Environmental Planning and Assessment Act, 1979 and ensure quarry related road maintenance is paid for by the Applicant.

9. Within a 12 month period from the date of the commencement of the quarry operation, the intersection of Berida Innisfail Road and the Oxley Highway shall be upgraded by the Applicant to include the following:
 - A sealed Basic Left (BAL) turn treatment as shown in Part 4A Figure 8.2 of the Austroads Guide to Road Design 2017.
 - A sealed Basic Right (BAR) turn treatment as shown in Part 4 Figure A.28 of the Austroads Guide to Road Design 2017.

- Berida Innisfail Road is to be sealed a minimum of twenty (20) metres from the edge of the travel lane in the Oxley Highway
- A copy of construction plans for any road work on and adjoining the Oxley Highway is to be submitted to Roads and Maritime for approval. As the Oxley Highway is a state road, the developer will be required to enter into a Works Authorisation Deed (WAD) with Roads and Maritime for approval of and construction of the intersection upgrade.
- Prior to the commencement of construction works, the proponent is to contact Roads and Maritime's Field Traffic Manager to determine if a Road Occupancy Licence (ROL) is required. In the event that an ROL is required, the proponent will obtain the ROL prior to works commencing within three (3) metres of the travel lanes in the Oxley Highway.

Reason: To ensure compliance with the Environmental Planning and Assessment Act, 1979 and Roads and Maritime Services requirements.

10. Within a 12 month period from the date of the commencement of the quarry operation, a 200m section of Berida Innisfail Road (starting 20m from the edge of the travel lane in the Oxley Highway) shall be sealed at full cost to the Developer to accommodate for the increased traffic proposed to be generated by the extractive industry (quarry)

Prior to any construction works being undertaken on the Berida Innisfail Road, detailed design (fully dimensioned) plan(s) inclusive of drainage requirements are to be lodged with and approved by Council.

All design and construction works to be in accordance with Council's adopted Aus-Spec Standards, Austroads "Guide To Road Design" Standards (or any subsequent Council adopted standards i.e. NATSPEC)

Reason: To ensure that the impact of the proposed development upon public roads is adequately addressed

11. Safe Intersection Sight Distance (SISD) requirements outlined in Part 4A of the Austroads Guide to Road Design are to be provided at full cost to the applicant and maintained at all intersections and bends along the nominated haulage route. Prior to any clearing works being undertaken a detailed plan and environmental assessment of the proposed clearing are to be submitted and approved by council. The Oxley Highway has a 110 km/h speed limit and SISD at its intersection with Berida Innisfail Road is to be 300 metres in each direction.

Reason: To ensure compliance with the Environmental Planning and Assessment Act, 1979 and Roads and Maritime Services requirements.

12. At the point when transport of quarry materials on Berida Innisfail Road between Ostlers Lane and the Oxley Highway exceeds 15,000t and, at no cost to Council, the applicant will undertake gravel resheeting of Berida Innisfail Road for 200m either side of each 90 degree bends nominated on the Ostlers Lane to Oxley Highway component of the “Berakee Quarry Nominated Haulage Route” including the intersection of Ostler lane and Berida Innisfail Road. A minimum of 150mm compacted gravel be incorporated to the existing road formation for the entire width of the road. From hinge point to hinge point.

Prior to any road construction works being undertaken on the Berida Innisfail Road, a scope of works is to be developed in consultation with and to the satisfaction of Council.

Any road works undertaken by Contractors shall be authorised by and completed to the satisfaction of Council.

Reason: To ensure that the impact of the proposed development upon public roads is adequately addressed

13. Until Berida Innisfail Road and the Oxley Highway intersection upgrade is completed all traffic from Berida Innisfail Road must turn right (turn East) towards Gilgandra, and must not turn left (turn West) toward Warren. All traffic turning into Berida Innisfail Road must approach from the East and turn left into Berida Innisfail Road. A right turn into Berida Innisfail Road will not be permitted.

Reason: To ensure compliance with the Environmental Planning and Assessment Act, 1979 and Roads and Maritime Services requirements.

14. Until Berida Innisfail Road and the Oxley Highway intersection upgrade is completed all quarry material haulage shall be restricted as follows:

- A maximum number of vehicle haulage movements of four (4) vehicle movements per hour (two vehicles in / two vehicles out)
- A maximum vehicle size of a semi-trailer or truck and dog, with a maximum of 32 Tonne in any given load
- Not more than 50,000 Tonnes to be transported within any 12 month period.
- It is proposed that there will be a maximum speed limit of 60km/hour which will apply to all quarry material haulage traffic vehicles on the nominated truck haulage route
- No “Wet Weather” access is permitted on the nominated haulage route.

Reason: To ensure compliance with the Environmental Planning and Assessment Act, 1979 and Roads and Maritime Services requirements.

15. Trucks hauling quarry materials or accessing the site to obtain quarry materials will not use Berida Innisfail Road or Leeches Creek Road on school days while the school bus is using these roads. School bus times are typically between 7:00-8:00am and 3:30-4:30pm.

Reason: To ensure the safety of the school bus and its passengers

16. Trucks hauling quarry materials on nominated haulage route will not exceed a 32 tonne payload at any time

Reason: To reduce road maintenance impacts.

17. Trucks are not permitted to use the nominated haulage route during wet weather for the life of the quarry.

Reason: To reduce road maintenance impacts.

18. Prior to quarrying operations on the subject property commencing, a Code of Conduct for the transportation of materials on public roads shall be submitted to and approved by Council. The Code of Conduct as approved shall be implemented for the life of the development.

Reason: Compliance with 16(1) of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.

19. Prior to any work commencing within any road reserve an application shall be lodged and approval received for road works pursuant to Section 138 of the Roads Act 1993.

Reason: To ensure compliance with the Environmental Planning and Assessment Act, 1979 and the Roads Act 1993.

20. Prior to quarry vehicles using roads in Warren Shire (as defined on the temporary haulage route), the applicant shall prepare Traffic Management Plans(TMP) and Pavement Management Plans (PMP) for approval by Warren Shire Council detailing probable impacts on Warren Shire Council roads and bridges. The applicant shall provide full funding for the works issuing from the approved plans.

Reason: The roads in the Warren Shire Council areas have not been designed to carry continuous heavy loads and Councils should not suffer additional costs due to this development

21. The site shall be protected from erosion and sediment loss during the construction works. This work must be carried out and maintained in accordance with erosion and sediment control guidelines for building sites.

NOTE: All erosion and sediment control measures must be in place prior to earthworks commencing.

Reason: To protect the environment.

22. Any water discharged from the site shall ensure that water quality is maintained in accordance with all quality standards being chemical, physical and microbiological for primary recreational water contact as stated ANZECC Guidelines and water quality objectives in NSW 2000.

Reason: To prevent pollution of waterways and the environment

23. No chemicals, explosives or fuel are to be stored at or near the quarry site

Reason: To prevent pollution of waterways and the environment

24. Prior to quarrying operations on the subject property commencing, a site office must be erected at the entrance to the quarry site to control access to the site and provide shelter for staff. It must include toilet facilities, hand washing facilities and drinking water. A rain water tank of at least 10,000 litres shall be installed at the site office and a 20,000 litre tank for firefighting purposes. A 65mm Storz fitting and ball or gate valve shall be installed on the tank.

Any proposed building or structure shall be designed and constructed in conformity with the applicable design criteria applicable under the NCC (building Code of Australia) and Disability (Access to Premises-Buildings) Standards 2010 of the Disability Discrimination Act 19

Reason: To provide a safe work site and sanitary facilities for workers and Council requirement to ensure compliance with the applicable Premises Standards under the DDA is demonstrated.

25. The sanitary wastewater disposal and water plumbing installations shall comply with the provisions of the Local Government (General) Regulation, 2005 and the requirements of Council as the delegated plumbing/drainage regulator. The applicant shall obtain appropriate approvals pursuant to S.68 of the Local Government Act 1993.

Reason: Statutory and Council requirement to protect the environment and ensure sanitary facilities for workers

26. Construction works and operation of the quarry are to be limited as follows:

- a) Monday to Friday - 7.00 am to 6.00 pm.
- b) Saturday 7.00 am to 4.00 pm.
- c) No construction work or quarry activity which will adversely impact on the amenity of the area is to take place on Sundays or Public Holidays.

Reason: To preserve the amenity of the area

27. Blasting at the quarry will only be carried out between 9 am and 3 pm Monday to Friday and all neighbours will be given not less than 24 hours' notice.

Reason: To preserve the amenity of the area

28. No external lighting shall be located on the quarry site.

Reason: To ensure compliance with Gilgandra Local Environmental Plan 2011.

29. The quarry operator shall provide annual production data for the subject site to the NSW Division of Resources and Geoscience and Gilgandra Shire Council on a date agreed with that authority or on the anniversary of the commencement of the quarry.

Reason: To assist in the collection of construction material production data for the estate of NSW

30. All waste generated on site is to be disposed at an approved waste management facility regulated or licensed to receive such waste.

Reason: To protect public health, safety and the environment.

31. In the event that any Aboriginal archaeological material is discovered during earthmoving/construction works, all work in that area shall cease immediately and the Office of Environment and Heritage (OEH) notified of the discovery as soon as practicable.

Work shall only recommence upon the authorisation of the OEH.

Reason: To protect Aboriginal heritage

32. A copy of this development consent and the EPA GTA requirements must be kept at the quarry site office. The development consent must be produced to any authorised officer of Council or the EPA who asks to see it. The development consent must be available for inspection by any employee or subcontractor working at the premises or operating the vehicle or mobile plant.

Reason: To ensure compliance with the Environmental Planning and Assessment Act, 1979.

33. Within 12 months of commencing the quarry operation the applicant will prepare a site rehabilitation plan based on the information in section 2.10 and Figure 2.5 of the SEE and submit this for Council's approval.

Reason: To protect the environment and rehabilitate the site post extraction

34. The proposed development is located in a Bushfire Prone Area. The owner shall ensure that any proposed building or structure is designed and constructed in accordance with the requirements of the "Planning for Bushfire Protection" guidelines.

Reason: Requirement of the Environmental Planning and assessment Act 1979.

35. At the completion of the 12 months from Quarry commencement the applicant shall enter into a planning agreement with Gilgandra Shire Council pursuant to Section 93F of the Environmental Planning and Assessment Act 1979, which will address the following Issues:

- Maintenance of the Berakee Quarry Nominated Haulage Route

The contribution shall be based on a monetary figure based on the tonnage rate of product won from the subject development as determined by Gilgandra Shire Council and the applicant

Reason: To ensure that the impact of the proposed development upon public roads is adequately addressed.

NOTES

- (1) A separate application is required to be submitted to either Council or an accredited certifier to obtain a Construction Certificate to permit the erection of any proposed buildings or structures.
- (2) Any proposed building or structure is required by the Deemed-to-satisfy BCA and the Premises Standards to provide disabled access. However, notwithstanding this, the applicant's attention is drawn to the owners' and employers' obligations under the NSW Anti-Discrimination Act whereby the design of the premises and workplace should not discriminate against a disabled persons visiting and obtaining access to such premises. It should be noted that compliance with the BCA and the Premises Standards is not a defence against prosecution, or the issue of a rectification order under the subjects Act in respect of all disability access issues. Accordingly, Council recommends that the applicant and owner investigate their liability under such Acts.
- (3) Any proposed building or structure is to provide a list of Fire Safety Measures which must be submitted with the Construction Certificate application pursuant to clause 139 of the Environmental Planning and Assessment Regulation 2000. The Regulation prescribes that the information to be submitted must include:
 - A list of any existing fire safety measures provided in relation to the land or any existing building on the land; and
 - A list of the proposed fire safety measures to be provided in relation to the land and any building on the land as a consequence of the building work.

(4) Details of the disabled facilities (including access paths, toilets, signage and location of any tactile ground surface indicators) need to be adequately detailed on the Construction Certificate application plans to permit assessment and compliance evaluation with the provisions of the Council's Development Control Plan (where applicable), the Premises Standards and the BCA. In particular, the submitted details for the proposed disabled and ambulant toilets should include elevations and floor plans of the facilities drawn to scale of 1:20. Reference should be made to AS 1428.1, the Access Code under the Premises Standards and AS/NZS 2890.6 regarding specific design parameters.

(5) It is a statutory requirement that an Approval to Operate a System of Sewerage Management must be obtained from the Council prior to occupation of the building and/or commissioning of the sewerage management facility (eg septic tank, AWTs etc). This approval to operate the sewerage management system is time limited and must therefore, be renewed on a regular basis by the owner of the premises. Accordingly, the applicant to this consent should ensure that the owner of the subject premises is made aware of the following:

- (a) That an approval to Operate a System of Sewerage Management must be obtained from the Council prior to occupation of the building and/or commissioning of the sewerage management facility; and
- (b) That such approval once obtained must be renewed on a regular basis.

(6) Any proposed building or structure requires the owner of the building to submit to the Principal Certifying Authority (PCA) a Fire Safety Certificate(s) with respect to each *essential fire safety measure* installed in association with the building – as listed on the Fire Safety Schedule attached to the Construction Certificate. Such certificate(s) must also be forwarded by the owner to the PCA prior to occupation or use of the subject building.

Copies of the subject Fire Safety Certificate(s) must also be forwarded by the owner to Council (if not the appointed PCA) and the Commissioner of Fire and rescue NSW and displayed within the subject building in a prominent position.

(7) Any proposed building or structure requires the owner of the building to submit to Council at least once in each period of 12 months following the completion of the building and Annual Fire Safety Statement(s) with respect to each essential fire safety measure associated with the building.

Copies of the subject Annual Fire Safety Statement(s) must also be forwarded by the owner to the Commissioner of Fire and Rescue NSW and displayed within the subject building in a prominent position. In this regard Fire and Rescue NSW has requested that only electronic copies of the statement be forwarded, with their dedicated email address for such Statements being afss@fire.nsw.gov.au

- (8) Approvals that will be required to be obtained under Section 68 of the Local Government Act include:
- Install and construct a human waste storage facility and drain connected to such facility: and
 - Operate a system of sewerage management (within the meaning of section 68A).
- (9) Offensive noise as defined under the Protection of the Environment Operations Act 1997 shall not be emitted from the proposed development.
Air impurities as defined under the Protection of the Environment Operations Act 1997 shall not be released or emitted into the atmosphere in a manner which is prejudicial to the health and safety of occupants, the surrounding inhabitants or the environment.
- (10) The Development shall be carried out in accordance with Roads and Maritime Services correspondence dated 10 January 2017 (copy attached).

RIGHT OF APPEAL

Section 97 of the Environment Planning and Assessment Act 1979 confers the right for an applicant who is dissatisfied with Council's determination to appeal to the Land and Environment Court within 6 months after the date on which you receive this Notice.

General Terms of Approval - Issued



Notice No: 1557997

The General Manager
Gilgandra Shire Council
PO Box 23
GILGANDRA NSW 2827

Attention: Brian Irvin

Notice Number 1557997
Date 30-Oct-2017

Re: DA2017/218 - Berakee Quarry - Lot 45 DP 752563 - 144 Ostlers Lane Collie NSW 2827

Issued pursuant to Section 91A(2) Environmental Planning and Assessment Act 1979

I refer to the development application and accompanying information provided for the Extractive Industry (Quarry) at Lot 45 DP 752563 144 Ostlers Lane, Collie NSW 2837 received by the Environment Protection Authority (EPA) on 5 September 2017.

The EPA has reviewed the information provided and has determined that it is able to issue a licence for the proposal, subject to a number of conditions. The applicant will need to make a separate application to the EPA to obtain this licence prior to commencement of scheduled development (construction) or schedule activities.

The general terms of approval for this proposal are provided at **Attachment A**. If Gilgandra Shire Council (Council) grants development consent for this proposal these conditions should be incorporated into the consent.

These general terms relate to the development as proposed in the documents and information currently provided to EPA. In the event that the development is modified either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, it will be necessary to consult with EPA about the changes before the consent is issued. This will enable the EPA to determine whether its general terms need to be modified in light of the changes.

The EPA would like to advise Council that every Protection of the Environment Operations Act 1997 (POEO) licence will contain a number of mandatory conditions. A copy of the mandatory conditions has been included as a separate attachment to the General Terms of Approval and is provided in **Attachment B**.

General Terms of Approval - Issued



Notice No: 1557997

The proponent should be aware of their obligation to prepare a Pollution Incident Response Management Plan (PIRMP) for the premises as required by the Protection of the Environment Legislation Amendment Act 2011. Guidelines on the preparation of the PIRMP can be found at <http://environment.nsw.gov.au/legislation/20120027egprepirm.pdf>.

If you have any questions, or wish to discuss this matter further please contact Joshua Loxley on 02 6883 5326.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bradley Tanswell', written over a horizontal dotted line.

Bradley Tanswell

Unit Head

Central West

(by Delegation)

General Terms of Approval - Issued



Notice No: 1557997

Administrative conditions

A1. Information supplied to the EPA

A1.1 Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:

- the development application DA2017/218 submitted to Gilgandra Shire Council on 30 August 2017;
- *Statement of Environment Effects for Sandy Creek Family Trust for the Berakee Quarry Via Gilgandra August 2017* at Lot 45 DP 752563 144 Ostlers Lane Collie NSW 2827.

A2. Fit and Proper Person

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

Discharges to Air and Water and Application to Land

P1.1 The following points referred to in the table are identified in this licence for the purpose of the monitoring and/or setting of limits for discharges of pollutant to water from the point

EPA identification No.	Types of Monitoring Point	Type of discharge point	Location Description
Sediment Basin 1 overflow (Location TBA)	Surface water Quality	Surface water discharge	TBC in site specific Water management Plan
Blast monitoring point	Blast monitoring		TBC in consultation with the EPA
Weather Station	On site weather Station		TBC in specific Air Quality Management Plan

Notes:

- 1) The monitoring requirements may be modified by the EPA subject to ongoing review of the licence conditions and monitoring results
- 2) A licence application will need to define the sediment basins and other monitoring and discharge points on the premises.
- 3) Discharge of pollutants to water from the sediment basins is only permitted when the discharge occurs solely as a result of rainfall that exceeds the minimum design criteria for sediment control measures in *Managing Urban Stormwater: Soils and Construction - Volume 2E Moines and Quarries*.

General Terms of Approval - Issued



Notice No: 1557997

Limit conditions

L1. Pollution of waters

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

L2. Concentration limits

L2.1 For each discharge point or utilisation area specified in the table/s below, the concentration of a pollutant discharged at that point, or applied to that area, must not exceed the concentrations limits specified for that pollutant in the table.

L2.2 Where a pH quality limit is specified in the Table, the specified percentage of samples must be within the specified ranges.

L2.3 To avoid any doubt, this condition does not authorise the discharge or emission of any other pollutants.

Water and Land

Monitoring point 1

Pollutant	Units of measure	50% concentration limit	90% concentration limit	3DGM concentration limit	100% concentration limit
TSS	mg/L				<50
Oil and Grease	mg/L				<10
pH					6.5-8.5

L5. Waste

L5.1 The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.

L5.2 This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the Protection of the Environment Operations Act 1997.

L6. Noise limits

L6.1 Noise from the premises must not exceed:

- (a) an LAeq (15 minute) noise emission criterion of 35 dB(A) (7am to 6pm) Monday to Friday and 7am to 4pm

General Terms of Approval - Issued



Notice No: 1557997

- Saturday; and
- (b) an LAeq (15 minute) noise emission criterion of 35 dB(A) during the evening (6pm to 10pm) Monday to Friday; and
- (c) an LAeq (1 minute) of 45dB(A) at night (10pm to 7am) Monday to Saturday and 10pm to 8am Sundays and Public Holidays.

Note:

- 1) LAeq(15 minute) is defined as the continuous 'A' weighted sound pressure level-the energy average of the noise measured over a 15 minute period.
- 2) LA1(1 minute) is defined as the sound pressure level exceeded for one percent of a 1 minute measurement period.

L6.2 The noise limits set out in condition L6.1 apply under all meteorological conditions except for any one of the following:

- a) Wind speeds greater than 3 metres/second at 10 metres above ground level; or
- b) Stability category G conditions and wind speeds greater than 2 metres/second at 10 metres above ground level;

L6.3 For the purposes of condition L6.2:

- a) The meteorological data to be used for determining meteorological conditions is the data recorded by the on-site meteorological weather station.
- b) Temperature inversion will be assessed by use of the sigma-theta process as outlined in Appendix E4 of the NSW Industrial Noise Policy (INP).

L6.4 For the purposes of determining the noise generated at the premises Class 1 or 2 noise monitoring equipment as defined by AS IEC61672.1-2004 and AS IEC61672.2-2004, or other noise monitoring equipment accepted by the EPA in writing, must be used.

L6.5 To determine compliance:

- a) With the LAeq(15 minute) noise limits in condition L6.1, the noise monitoring equipment must be located:
 - within 30 metres of a dwelling façade but not closer than 3 metres where any dwelling on the property is situated more than 30 metres from the property boundary that is closest to the premises;
 - approximately on the boundary where any dwelling is situated 30 metres or less from the property boundary that is closest to the premises;
 - within approximately 50 metres of the boundary of a National Park or a Nature Reserve.
- b) With the LA1(1minute) noise limit in Condition L6.1;the noise monitoring equipment must be located within 1 metre of the dwelling facade.
- c) The noise monitoring equipment must be located in a position that is:
 - at the most affected point at a location where there is no dwelling at the location; or
 - at the most affected point within an area at a location prescribed by conditions L6.5(a)or 6.5(b).

General Terms of Approval - Issued



Notice No: 1557997

L6.6 A breach of this Environment Protection Licence will still occur where noise generated from the premises in excess of the appropriate limit specified in the condition L6.1 is detected:

- at a location other than an area prescribed by Conditions L6.5(a) or L6.5(b); and/or
- at a point other than the most affected point at a location.

L6.7 For the purposes of determining the noise generated at the premises the modification factors in Section 4 of the NSW Industrial Noise Policy must be applied, as appropriate, to the noise levels measured by the noise monitoring equipment.

Hours of operation

L6.8 All construction work at the premises must only be conducted between 7am to 6pm Monday to Friday and 7am to 4pm Saturday.

L6.9 Activities at the premises, other than construction work, may only be carried on between 7am to 6pm Monday to Friday and 7am to 4pm Saturday.

L6.10 Activities are not permitted to be undertaken on Sundays or Public holidays.

L6.11 This condition does not apply to the delivery of material outside the hours of operation permitted by condition L6.8 or L6.9, if that delivery is required by police or other authorities for safety reasons; and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification is to be provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of emergency.

L6.12 The hours of operation specified in conditions L6.8 and L6.9 may be varied with written consent if the EPA is satisfied that the amenity of the residents in the locality will not be adversely affected.

L6.13 For the purposes of determining the noise generated at the premises the modification factors in Section 4 of the NSW Industrial Noise Policy must be applied, as appropriate, to the noise levels measured by the noise monitoring equipment.

L7. Blasting

Airblast Overpressure level

L7.1 The airblast overpressure level from blasting operations at the premises must not exceed 120dB (Lin Peak) at any time at the blast monitoring location on Lewis Lane or any noise sensitive locations. Error margins associated with any monitoring equipment used to measure this are not to be taken into account in determining whether or not the limit has been exceeded.

L7.2 The airblast overpressure level from blasting operations at the premises must not exceed 115dB (Lin Peak) at the blast monitoring location on Lewis Lane or any noise sensitive locations for more than five per cent of the total number of blasts over each reporting period. Error margins associated with any monitoring equipment used to measure this are not to be taken into account in determining whether or not the limit has been exceeded

Ground vibration (ppv)

L7.3 Ground vibration peak particle velocity from the blasting operations at the premises must not exceed 10mm/sec at the blast monitoring location on Lewis Lane or any noise sensitive locations. Error margins associated with any monitoring equipment used to measure this are not to be taken into account in determining whether or not the limit has been exceeded.

General Terms of Approval - Issued



Notice No: 1557997

L7.4 Ground vibration peak particle velocity from the blasting operations at the premises must not exceed 5mm/sec at the blast monitoring location on Lewis Lane or any noise sensitive locations for more than five per cent of the total number of blasts over each reporting period. Error margins associated with any monitoring equipment used to measure this are not to be taken into account in determining whether or not the limit has been exceeded.

Note:

"Noise sensitive locations" includes buildings used as a residence, hospital, school, child care centre, places of public worship and nursing homes. A noise sensitive location includes the land within 30 metres of the building.

Time of blasting

L7.5 Blasting at the premises may only take place between 9:00am-5:00pm Monday to Friday. Blasting is not permitted on Saturday, Sunday or public holidays.

L7.6 Blasting outside of the hours specified in L7.5 can only take place with the written approval of the EPA.

Blast monitoring

L7.7 To determine compliance with conditions L7.1 to L7.4:

- a) Airblast overpressure and ground vibration levels experienced at the blast monitoring location on Lewis Lane must be measured and recorded for all blasts carried out on the premises;
- b) Instrumentation used to measure and record the airblast overpressure and ground vibration levels must meet the requirements of Australian Standard AS 2187.2-2006.

NOTE: A breach of the licence will still occur where airblast overpressure or ground vibration levels from the blasting operations at the premises exceeds the limit specified in conditions L7.1 to L7.4 at any "noise sensitive locations" other than the locations identified in the above condition.

Frequency of blasting

L7.8 Blasting at the premises is limited to 1 blast each day on which blasting is permitted.

Operating conditions

01. Odour

01.1 The licensee must not cause or permit the emission of offensive odour beyond the boundary of the premises.

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

01.2 No condition of this licence identifies a potentially offensive odour for the purposes of Section 129 of the Protection of the Environment Operations Act 1997.

General Terms of Approval - Issued



Notice No: 1557997

02. Dust

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

02.2 Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.

02.3 All dust control equipment must be operable at all times with exception of shutdowns required for maintenance.

03. Stormwater/sediment control

03.1 The licensee must prepare and implement a Water Management Plan (WMP). The WMP for the project must be prepared to the satisfaction of the EPA and must be submitted with the Environment protection licence application. This plan must:

- a. be prepared by a suitably qualified and experienced person(s);
- b. address construction, operation and post closure monitoring, management and response arrangements;
- c. include a commitment to meet discharge limits outlined in condition L2; and
- d. include:
 - i. a Site Water Balance; and
 - ii. a Soil and Water Management Plan

03.1 The Proponent must prepare and implement a Soil Erosion and Sediment Control Plan. This Plan must as a minimum:

- a) describe how soil erosion and sediment pollution will be managed following the guidelines, principles and minimum design standards in *Managing Urban Stormwater: Soils and Construction - Volume 1* (the blue book) during the construction/commencement stages;
- b) describe how long-term soil erosion and sediment pollution measures such as dirty water diversion drains, sediment basins and soil stockpile areas will be designed and managed consistent with the guidelines, principles and minimum design standards in *Managing Urban Stormwater: Soils and Construction - Volume 2E Mines and Quarries* (DECC 2008)
- c) describe how the haul roads and access roads will be designed and managed consistent with the guidelines, principles and minimum design standards in *Managing Urban Stormwater: Soils and Construction - Volume 2C Unsealed Roads* (DECC 2008)
- d) provide plan drawings showing the locations of best management practices for the site during all construction/commencement and operational stages
- e) include written text detailing the installation, monitoring and maintenance requirements for each of the recommended best management practices for erosion and sediment control
- f) include drawings of any engineering structures such as sediment basins and dirty water diversion structures, including design standards and management regimes to return the erosion and sediment control system to design capacity following rainfall events.
- g) include design calculations and sizing for all dirty water diversion bunds and sediment basin on site:
- h) consider the potential for increasing the size of sediment basins to maximise water reuse and reduce the need for managed overflows or discharge;

General Terms of Approval - Issued



Notice No: 1557997

- i) ensure that unsealed roads are maintained consistent with practices and principles in 'Managing Urban Stormwater - Soils and Construction Volume 2C unsealed roads;
- j) ensure that any service installation will be managed consistent with the guidelines, principles and minimum design standards in 'Managing Urban Stormwater - Soils and Construction Volume 2A installation of Services.

04 Emergency response

04.1 The licensee must prepare, maintain and implement as necessary a Pollution Incident Response Management Plan ("PIRMP") for the premises. The licensee must keep the PIRMP on the premises at all times. The PIRMP must document systems and procedures to deal with all types of incidents (e.g. spills, explosions or fires) that may occur at the premises, or may be associated with activities that occur at the premises, and which are likely to cause material harm to the environment.

04.2 The PIRMP must be tested annually at a minimum, or following a pollution incident. If a current emergency response plan does not exist at the date of issue of this licence, the licensee must develop an emergency response plan within 3 months of that date.

Note: The licensee must develop the PIRMP in accordance with the requirements in Part 5.7A of the Protection of the Environment Operations Act 1997 and the Protection of the Environment Operations (General) Regulation 2009.

05. Bunding Requirements

05.1 All above ground storages containing flammable and combustible liquids must be bunded in accordance with Australian Standard AS 1940-200.

07. Noise and Blasting

Blast management protocol

07.1 A Blasting/Vibration Management Protocol must be prepared in relation to the development and implemented. The protocol must include, but need not be limited to, the following matters:

- compliance standards;
- mitigation measures;
- remedial action;
- monitoring methods and program;
- monitoring program for flyrock distribution;
- measures to protect underground utilities (eg: rising mains, subsurface telecommunication and electric cables) and livestock nearby;
- notification of procedures for neighbours prior to detonation of each blast;
- measures to ensure no damage by flyrock to people, property, livestock and powerlines.

08. Air

Air Quality Management Plan

08.1 The proponent must develop and implement an Air Quality Management Plan (AQMP) prior to the commencement of scheduled activities. The AQMP must include the following but not be limited to;

General Terms of Approval - Issued



Notice No: 1557997

- The AQMP must have key performance indicators, monitoring methods that includes location, frequency and duration of monitoring, record keeping, response mechanisms and compliance reporting.
- The AQMP must provide further evidence to support the conclusion that adverse air quality impacts will not result for the construction and operation of the proposed quarry.
- The AQMP must provide addition information to characterise the existing background air quality near to the proposed Berakee Quarry site.
- The AQMP must provide information regarding the mitigation measures proposed to control dust emissions from all aspects of operations.

The AQMP must be submitted to the EPA prior to the commencement of Scheduled Activities.

O8.2 All operations and activities occurring at the premises must be carried out in manner that will minimise the emission of air pollutants from the premise.

O8.3 The premises must be maintained in such a manner as to prevent and/or minimise the emissions of air pollutants from the premises at all times.

Monitoring and recording conditions

M1 Monitoring records

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

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

- in a legible form, or in a form that can readily be reduced to a legible form;
- kept for at least 4 years after the monitoring or event to which they relate took place; and
- produced in a legible form to any authorised officer of the EPA who asks to see them.

M1.3 The following records must be kept in respect of any samples required to be collected: the date(s) on which the sample was taken;

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

M2. Requirement to monitor concentration of pollutants discharged

M2.1 For each monitoring/ discharge point or utilisation area specified below (by a point number), the applicant must monitor (by sampling and obtaining results by analysis) the concentration of each pollutant specified in Column 1. The applicant must use the sampling method, units of measure, and sample at the frequency, specified opposite in the other columns:

General Terms of Approval - Issued



Notice No: 1557997

Water and Land

Monitoring point 1

Pollutant	Units of measure	Frequency	Sampling Method
Total Suspend Solids (TSS)	mg/L	Daily during discharge	Grab sample
Oil and Grease	mg/L	Daily during discharge	Grab sample
pH	mg/L	Daily during discharge	Insitu

M4. Testing methods - concentration limits

M4.1 Monitoring for the concentration of a pollutant discharged to waters or applied to a utilisation area required by condition M2.1 must be done in accordance with:

- the Approved Methods Publication; or
- if there is no methodology required by the Approved Methods Publication or by the general terms of approval or in the licence under the Protection of the Environment Operations Act 1997 in relation to the development or the relevant load calculation protocol, a method approved by the EPA in writing before any tests are conducted,
- unless otherwise expressly provided in the licence.

Meteorological Monitoring

M5.1 The meteorological weather station must be maintained so as to be capable of continuously monitoring the parameters specified in condition M5.2

M5.2 For each monitoring point specified in the table below the licensee must monitor (by sampling and obtaining results by analysis) the parameters specified in Column 1. The licensee must use the sampling method, units of measure, averaging period and sample at the frequency, specified opposite in the other columns.

Point 3 - Location to be confirmed in consultation with EPA

Parameter	Units of measure	Frequency	Averaging period	Sampling Method
Air Temperature	°C	Continuous	1 hour	AM-4
Wind Direction	o	Continuous	15 minute	AM-2 & AM-4
Wind speed	m/s	Continuous	15 minute	AM-2 & AM-4
Sigma Theta	o	Continuous	15 minute	AM2 & AM-4
Rainfall	mm	Continuous	15 minute	AM-4
Siting				AM-1

General Terms of Approval - Issued



Notice No: 1557997

Relative humidity	%	Continuous	1 hour	AM-4
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M6 Requirement to Monitor Blasting

M6.1 To determine compliance with blast limits;

- a. Air blast overpressure and ground vibration levels must be measured and electronically recorded at the nearest residence or noise sensitive location or for all the parameters in the first column of the table below.
- b. The licensee must use the units of measure, sampling method, and sampling frequency specified in the other columns.

Parameter	Units of Measures	Frequency	Sampling Method
Airblast Overpressure	Decibels (linear peak)	Continuous during all blasts	Australian Standards AS2187.2-2002
Ground vibration peak particle velocity	Millimetres/second	Continuous during all blasts	Australian Standard AS2187.2-2006

M7 Telephone complaints line

M7.1 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.

M7.2 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.

Reporting conditions

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

General Terms of Approval - Issued



Notice No: 1557997

Attachment B – Mandatory Conditions for all EPA licences

Administrative conditions

Other activities

This licence applies to all other activities carried on at the premises, including:

- Extractive Activities; and
- Crushing Grinding and Separating.

Operating conditions

Activities must be carried out in a competent manner

Licensed activities must be carried out in a competent manner.

This includes:

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

Maintenance of plant and equipment

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

- e. must be maintained in a proper and efficient condition; and
- f. must be operated in a proper and efficient manner.

Monitoring and recording conditions

Recording of pollution complaints

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

The record must include details of the following:

- the date and time of the complaint;
- the method by which the complaint was made;
- any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
- the nature of the complaint;

General Terms of Approval - Issued



Notice No: 1557997

- the action taken by the licensee in relation to the complaint, including any follow-up contact with the complainant; and
- if no action was taken by the licensee, the reasons why no action was taken.

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

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

Telephone complaints line

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

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

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

Reporting conditions

Annual Return documents

What documents must an Annual Return contain?

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

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

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

Period covered by Annual Return

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

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

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

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

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

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

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

General Terms of Approval - Issued



Notice No: 1557997

Deadline for Annual Return

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

Notification where actual load can not be calculated

(Licences with assessable pollutants)

Where the licensee is unable to complete a part of the Annual Return by the due date because the licensee was unable to calculate the actual load of a pollutant due to circumstances beyond the licensee's control, the licensee must notify the EPA in writing as soon as practicable, and in any event not later than the due date.

The notification must specify:

- a. the assessable pollutants for which the actual load could not be calculated; and
- b. the relevant circumstances that were beyond the control of the licensee.

Licensee must retain copy of Annual Return

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

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

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

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

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

Notification of environmental harm

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

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

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

Written report

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

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

General Terms of Approval - Issued



Notice No: 1557997

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

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

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

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

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

General conditions

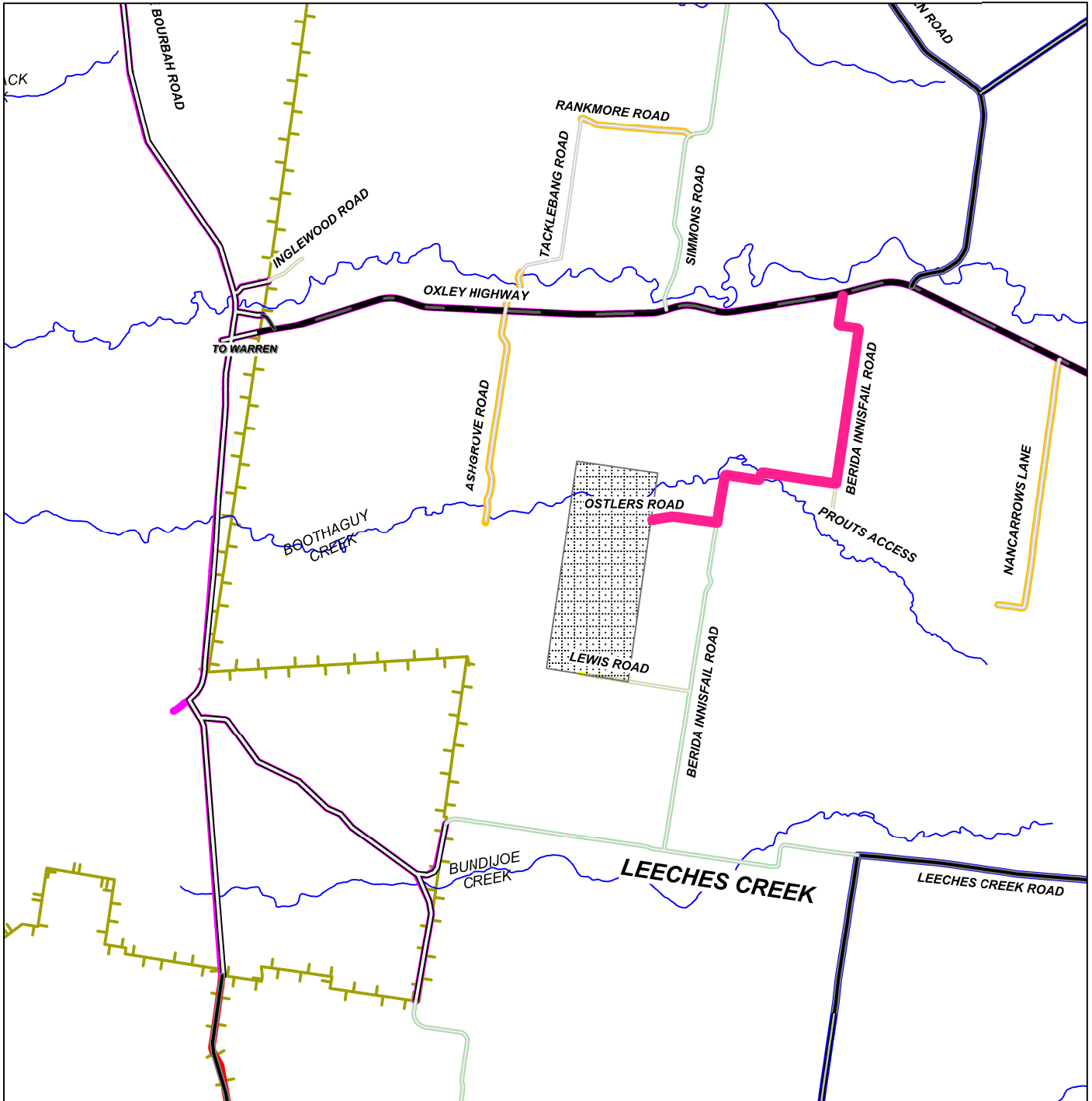
Copy of licence kept at the premises or on the vehicle or mobile plant

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

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

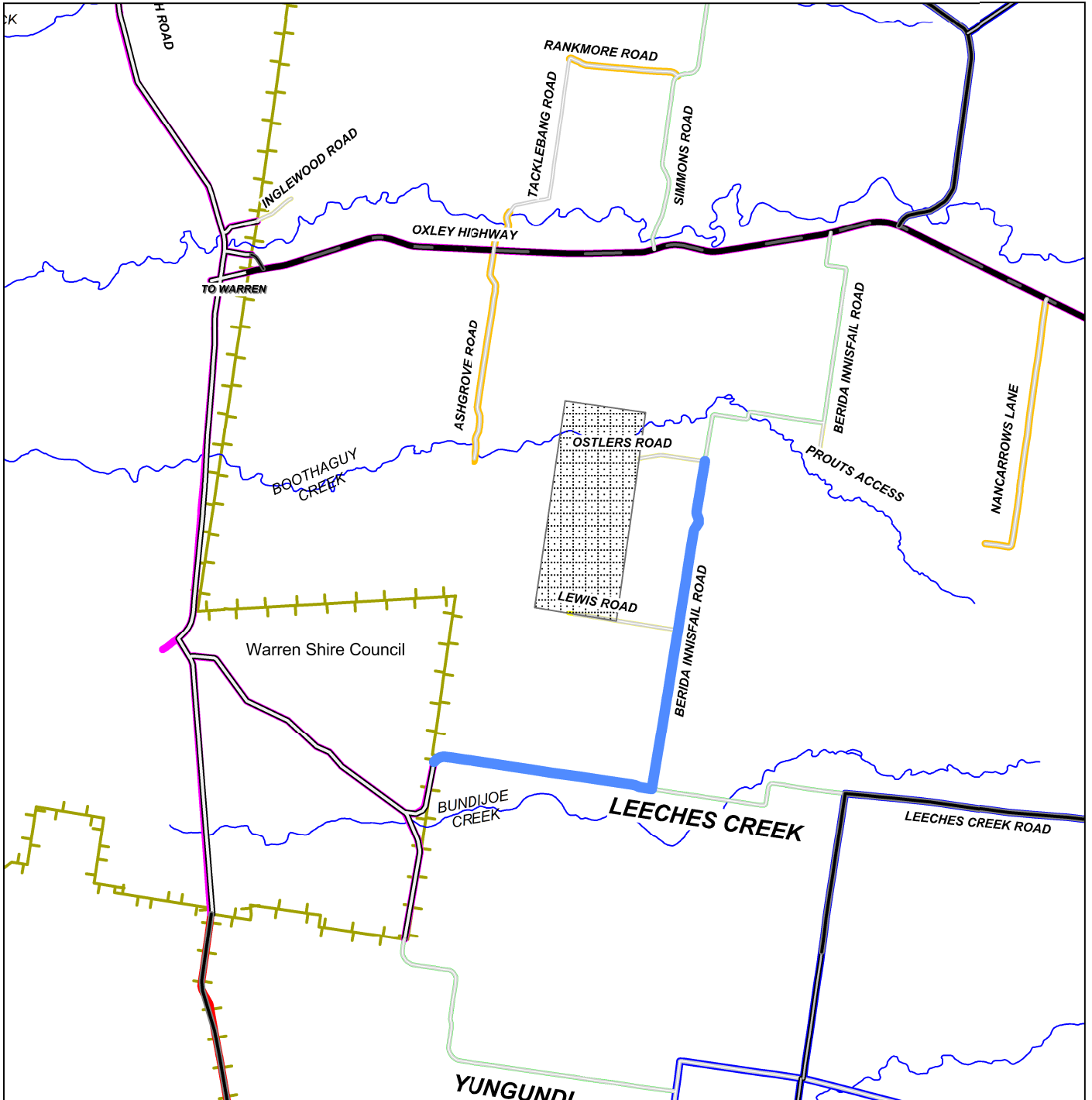
The licence must be available for inspection by any employee or agent of the licensee working at the premises or operating the vehicle or mobile plant.

Berakee Quarry Nominated Haulage Route January 2018



Nominated Route Legend
— Nominated Haulage Route

Proposed temporary Berakee Quarry Haulage Route January 2018



Temporary Route Legend
— Temporary Haulage Route

GRANT APPLICATION – GROWING LOCAL ECONOMIES FUND

SUMMARY

To seek a determination from Council to make application for funding to construct the required intersection on the Oxley Highway and Berida Innisfail Road.

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An opportunity is presented for Council to consider submitting a grant application under the Growing Local Economies Fund to upgrade the intersection of the Oxley Highway and Berida Innisfail Road.

Council has given consideration to this matter previously and has already determined at its September 2017 meeting to submit an application for a further industrial subdivision development and, in December 2017, determined to consider an upgrade of the Gilgandra Industrial Park intersection.

In conjunction with the Development Application determination, Council should now consider formalising its position in relation to this funding application.

<u>Principal Activity</u>	Economic Development
<u>Policy Implications</u>	Nil
<u>Budget Implications</u>	Nil at this stage
<u>Delivery Program Actions</u>	5.1.2.1 Provide support for existing business and facilitate opportunities for business development and growth

RECOMMENDATION

That Council submit an application under the Growing Local Economies Fund to upgrade the intersection of the Oxley Highway and Berida Innisfail Road necessitated by the condition of approval for the proposed quarry.

David Neeves
General Manager
