

DATE OF DETERMINATION	24 June 2021
PANEL MEMBERS	Paul Mitchell (Chair), Penny Holloway, Stephen Gow and Ann Luke
APOLOGIES	Blake O’Mullane
DECLARATIONS OF INTEREST	Andrew Johns declared a conflict of interest as the DA was assessed by his staff members at Council. Jamie Chaffey declared a perceived conflict of interest as a company he owns has in the past contracted the services of Mackellar Excavations (owned by proponent) to complete remunerated works

Public meeting held by teleconference on 24 June 2021, opened at 1.30pm and closed at 3.00pm. The Panel provided the decision to a public meeting by teleconference on 24 June 2021, opened at 3.30pm and closed at 3.35pm.

MATTER DETERMINED

PPSNTH-55 – Gunnedah – 2020/054 at 334 Pownall Rd, Mullaley and 259 Barker Rd, Marys Mount – landfill into void of established quarry (as described in Schedule 1)

PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

Development application

The panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The panel determined to approve the application for the following reasons:

1. The proposal is a permissible use in the RU1 zone and is consistent with relevant zone objectives because it will encourage a sustainable rural land use and, subject to the proposed conditions, minimise land use conflicts.
2. The proposal will enable productive use of the quarry void and the upgraded road system. In doing this it will add a valuable waste management facility to the locality and enable more effective rehabilitation of the quarry void.
3. The proposal, with the conditions imposed in this consent and the EPA’s General Terms of Approval, incorporates all necessary environmental safeguards. As such it will not have any unacceptable impacts on nearby land uses, local infrastructure or the natural environment.
4. The panel has given particular attention to the issues raised in submissions and believes that the issues have or will be addressed by safeguards incorporated into the proposal and/or the conditions imposed. There are no residual issues that warrant refusal of the application.
5. For the reasons given above approval of the application is in the public interest.

CONDITIONS

The development application was approved subject to the conditions agreed between Council and the applicant, with the following amendments from the Panel:

- Condition C5 – amended to remove amount and insert requirement for Quantity Surveyor’s Report.
- Condition F6 – amended to include reasons for Restriction to prohibit construction or excavation within identified area and prevent penetration of cell lining structure.
- Condition E16 – correct General Terms of Approval Condition number to Condition O5.6
- New Condition E24 to be imposed for landscaping to be provided on adjoining properties if requested. Landscaping plan to provide screening from waste management facility.

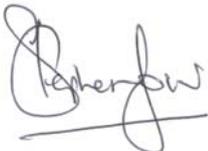
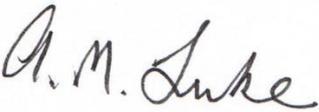
The approved conditions of consent are attached as Schedule 2.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The panel notes that issues of concern included:

- Quia Road and Blackjack Road are not approved as B-Double routes
- Cumulative impacts on rail infrastructure to be considered
- EIS does not entirely conform with minimum requirements of Environmental Guidelines: Solid Waste Landfill (EPA 2016).
- Non-Putrescible landfill can generate odour non offensive odour assessment has been conducted
- Emissions inventory has not been updated for Air quality assessment to add landfill operations to Quarry
- Lack of meaningful consultation with the community
- Inadequate visual assessment from North and North East orientation, omitting nearby residences
- Incorrect prevailing wind data in noise assessment
- Loss of financial property value and adequate compensation
- Extension to operations on site and impact on locality
- Pollution of ground water system and use of monitoring points
- Storage of suspect loads offsite
- Appropriate location of site to generated waste source
- Assurance of no odour from or toxic waste at facility
- Dust from crushing at quarry
- Air quality modelling only based on Non-putrescible wastes
- Clarification of operational lifespan and extraction volumes
- Ambiguity comments regarding waste types received “including Class 2 (Non-putrescible Waste)”
- References to neighbouring locality being Carroll not Mullaley
- Release of waste and dust from the site by wind
- Development preventing subdivision and residential development potential of adjoining lots

The panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting. The panel notes that in addressing these issues, appropriate and additional conditions have been imposed addressing all issues raised.

PANEL MEMBERS	
 Paul Mitchell OAM (Chair)	 Penny Holloway
 Stephen Gow	 Ann Luke

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-55 – Gunnedah – 2020/054
2	PROPOSED DEVELOPMENT	Establishment of a Waste Disposal Facility within the void of an existing approved and operating Extractive Industry (Quarry) for disposal of a maximum 200,000 tonnes of waste (non-putrescible waste)
3	STREET ADDRESS	334 Pownall Rd, Mullaley and 'Beulah' 259 Barker Rd, Marys Mount
4	APPLICANT/OWNER	Outline Planning Consultants Pty Ltd on behalf of Gunnedah Quarry Products
5	TYPE OF REGIONAL DEVELOPMENT	Designated development - waste management facility or works
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> • Environmental planning instruments: <ul style="list-style-type: none"> ○ State Environmental Planning Policy (State and Regional Development) 2011 ○ State Environmental Planning Policy No 33 – Hazardous and Offensive Development ○ State Environmental Planning Policy No 55 – Remediation of Land ○ State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industry) 2007 ○ State Environmental Planning Policy (Koala Habitat Protection) 2020 ○ State Environmental Planning Policy (Infrastructure) 2007 ○ State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 ○ Gunnedah Local Environmental Plan 2012 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Gunnedah Development Control Plan 2012 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil • Coastal zone management plan: Nil • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> • Council assessment report: 16 June 2021 • Written submissions during public exhibition: 26 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Allan and Donna Hanlen ○ Renaye Benham ○ Mac Howarth ○ Robyn Howarth ○ Council assessment officer – Wade Hudson ○ On behalf of the applicant – Gary Peacock and Tim MacKellar
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 12 April 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow and Ann Luke ○ <u>Council assessment staff</u>: Wade Hudson and Jack Morrissey

		<ul style="list-style-type: none"> ○ <u>Department</u>: Sung Pak and Lisa Foley ● Applicant Briefing: 19 May 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair) and Stephen Gow ○ <u>Applicant representatives</u>: Gary Peacock, Tim MacKellar and Brendan MacKellar ○ <u>Council staff</u>: Wade Hudson ○ <u>Department staff</u>: Amanda Moylan and Lisa Foley <p><u>Note</u>: Applicant briefing was requested to provide the Panel with clarification and to respond to issues</p> ● EPA Briefing: 17 June 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Stephen Gow and Ann Luke ○ <u>EPA representative</u>: Rebecca Scrivener ○ <u>Council staff</u>: Wade Hudson ○ <u>Department staff</u>: Carolyn Hunt and Lisa Foley ● Site inspection: 24 June 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Stephen Gow and Ann Luke ○ <u>Council assessment staff</u>: Wade Hudson, Daniel Noble and Ashleigh Stewart ○ <u>Department staff</u>: Carolyn Hunt ● Final briefing to discuss council’s recommendation: 24 June 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway, Stephen Gow and Ann Luke ○ <u>Council assessment staff</u>: Wade Hudson, Ashleigh Stewart, Daniel Noble and Jack Morrissey ○ <u>Department staff</u>: Carolyn Hunt
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report

SCHEDULE 2 – Conditions of Consent

A. THAT DEVELOPMENT CONSENT BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

A1. The proposed development shall be carried out generally in accordance with the details set out in the following:

- Development Application form lodged, 10 August 2020;
- Environmental Impact Statement, prepared by Outline Planning Consultants Pty Limited, dated July 2019;
- Response to Submissions: EIS Proposed Landfill Marys Mount Quarry, prepared by Outline Planning Consultants Pty Limited, dated 8 October 2020;
- Response to Council RFI: EIS Proposed Landfill Marys Mount Quarry, prepared by Outline Planning Consultants Pty Limited, dated 15 January 2021;
- Response to Council's Further Request for Additional Information: Proposed Landfill in Quarry Void at Marys Mount, prepared by Outline Planning Consultants Pty Limited, dated 21 May 2021; and
- Submitted plans:
 - Prepared by Martens and Associates Pty Ltd, dated 20/05/2020, Project No. P1907436, Planset No. PS01, Drawing No. PS01-A000, Rev C (Cover Sheet), Drawing No. PS01-B200, Rev B (Staging Plan), Drawing No. PS01-C102, Rev C (Stage 2 Landfill), Drawing No. PS01-C103, Rev C (Stage 3 Landfill),
 - Prepared by Martens and Associates Pty Ltd, dated 14/05/2020, Project No. P1907436, Drawing No. PS01-A050, Rev B (Development Overview Plan), Drawing No. PS01-A100, Rev B (Pre-Quarry Surface), Drawing No. PS01-B100, Rev B (Cell Layout Plan), Drawing No. PS01-C100, Rev B (Final Rehabilitation Landform Final Stage), Drawing No. PS01-C500, Rev B (Finished Rehabilitation Volume Analysis Final Surface), Drawing No. PS01-C501, Rev B (Total Landfill Volume Analysis), Drawing No. PS01-C510, Rev A (Stage 1 Volume Analysis), Drawing No. PS01-C511, Rev A (Stage 2 Volume Analysis), Drawing No. PS01-C512, Rev A (Stage 3 Volume Analysis), Drawing No. PS01-C600, Rev B (Final Rehabilitation Landform Section Sheet 1), Drawing No. PS01-C601, Rev B (Final Rehabilitation Landform Section Sheet 2), Drawing No. PS01-C602, Rev B (Final Rehabilitation Landform Section Sheet 3), Drawing No. PS01-C603, Rev B (Final Rehabilitation Landform Section Sheet 4), Drawing No. PS01-C604, Rev B (Final Rehabilitation Landform Section Sheet 5), Drawing No. PS01-C605, Rev B (Final Rehabilitation Landform Section Sheet 6), Drawing No. PS01-C606, Rev A (Stage 1 Section), Drawing No. PS01-C607, Rev A (Stage 2 Section), Drawing No. PS01-C608, Rev A (Stage 3 Section Sheet 1), Drawing No. PS01-C609, Rev A (Stage 3 Section Sheet 2),
 - Prepared by Martens and Associates Pty Ltd, dated 22/05/2020, Project No. P1907436, Drawing No. PS01-C101, Rev D (Stage 1 Landfill), Drawing No. PS01-E100, Rev D (Concept Stormwater Management Plan), Drawing No. PS01-E200, Rev A (Landfill Watercycle Management Plan),
- Supporting Documentation:
 - Landfill Design and Water Cycle Management Plan: Proposed Landfill Facility, Marys Mount Quarry, Gunnedah, NSW, prepared by Martens and Associates Pty Ltd, dated June 2020, Ref: P1907436JR01V04;
 - Traffic Impact Assessment, prepared by Street Wise Road Safety and Traffic Services, dated 23/06/2020;
 - Landfill Remediation Plan, prepared by Stringybark Ecological, dated July 2020, Document ID: 200707_02, Revision 1;
 - Air Quality Assessment, prepared by VIPAC Engineers and Scientists, dated 13 May 2021, Ref: 70B-19-0119-TRP-10150359-2;
 - Noise Impact Assessment Report, prepared by VIPAC Engineers and Scientists, dated 13 May 2021, Ref: 70B-19-0119-TRP-10150359-2;

except as otherwise provided by the conditions of consent.

Reason: To ensure compliance with application and plans.

A2. To confirm and clarify the terms of this approval, consent is given for the following:

- a) Disposal of no more than 200,000 tonnes per annum of non-putrescible waste to landfill;

- b) Disposal of no more than 2,509,000 cubic metres (approximately 4,014,000 tonnes) of non-putrescible waste to land fill over three (3) stages;
- c) Rehabilitation of the site (Stage 4).

If contrary to the maximum disposal volume of 2,509,000 cubic metres listed as b), the final land form is not to exceed that of the Final Rehabilitation Landform Final Surface Plan, prepared by Martens & Associates Pty Ltd, dated 14/05/2020, Project No. P1907436, Drawing No. PS01-C100, Rev B.

Note: Non-putrescible waste is wastes as permitted by condition A3.

Reason: To ensure compliance with application and plans.

A3. To confirm and clarify the terms of this approval, development consent is given for the disposal of the following wastes only:

- General Solid Wastes, including:
 - Building and demolition waste other than from chemical works, mineral processing works, container reconditioning works or (human) waste treatment facilities;
 - Asphalt waste (including asphalt resulting from road construction and water proofing works);
 - Garden waste;
 - Glass, plastic, rubber, plasterboard, ceramics, bricks, concrete or metal;
 - Paper or cardboard;
 - Household waste from municipal clean-up that does not contain food waste;
 - Waste collected by, or on behalf of, local council's from street sweepings;
 - Grit, sediment, litter and gross pollutants collected in, and removed from, stormwater treatment devices and/or stormwater management systems, that has been dewatered so that they do not contain free liquids;
 - Grit and screenings from potable water and water reticulation plants that has been dewatered so that it does not contain free liquids;
 - Wood waste;
 - Waste contaminated with lead (including lead paint waste) from residential premises or education or child care institutions;
 - Containers, previously containing dangerous goods, from which residues have been removed by washing or vacuuming;
 - Drained oil filters (mechanically crushed), rags and oil-absorbent materials that only contain non-volatile petroleum hydrocarbons and do not contain free liquids;
 - Drained motor oil containers that do not contain free liquids;
 - Non-putrescible vegetative waste from agriculture, silviculture or horticulture;
 - Building cavity dust waste removed from residential premises or educational or child care institutions, being waste that is packaged securely to prevent dust emissions and direct contact;
 - Synthetic fibre waste (from materials such as fibreglass, polyesters and other plastics) being waste that is packaged securely to prevent dust emissions, but **excluding asbestos waste**;
 - Biosolids categorised as unrestricted use, or restricted use, 1, 2 or 3, in accordance with the criteria set out in the *Biosolids Guidelines*;
 - Cured concrete waste from batch plant;
 - Fully cured and set thermosetting polymers and fibre-reinforcing resins;
 - Fully cured dried residues of resins, glues, paints, coatings and inks;
- Excavated natural material (ENM), certified in accordance with *Protection of Environment Operations (Waste) Regulations 2014*;
- Virgin excavated natural material (VVENM);
- Materials subject to a Resource Recovery Order under Clause 91 and 92 of the *Protection of Environment Operations (Waste) Regulations 2014*, including recovered fines and treated drilling mud.

Despite the wastes approved for disposal to landfill listed above, this consent does **not** permit the disposal of any of the following wastes:

- Special waste (including clinical waste, asbestos-contaminated Construction & Demolition or Commercial & Industrial waste) but excluding sealed asbestos or waste tyres;
- Anything classified as special waste under an EPA gazettal notice as defined in EPA (2014a) Step 1;
- Liquid waste as defined in EPA (2014a) Step 2 eg. solvents, oils and greases;

- Waste pre-classified as hazardous waste as defined in EPA (2014a) Step 3 eg paints, dyes, pesticides;
- General solid waste (putrescible) as defined in EPA (2014a) Step 4;
- Waste that requires chemical assessment to determine its classification as defined in EPA (2014a) Step 5.

Reason: To ensure compliance with application and plans.

- A4.** To confirm and clarify the terms of this approval, development consent is given for the operational life of the Waste Disposal Facility for:
- a) A maximum of 25 years from the commencement of the operation of the Waste Disposal Facility;
OR
 - b) The final landform identified on Final Rehabilitation Landform Final Surface Plan, prepared by Martens & Associates Pty Ltd, dated 14/05/2020, Project No. P1907436, Drawing No. PS01-C100, Rev B, is achieved;
- Whichever occurs first.

Upon completion of the operational life, achieved by either a) or b) above, the developer is to cease all waste disposal. Within a minimum period of 6 months from the ceasing of waste disposal the developer is to commence rehabilitation works as required by Stage 4 of the development proposal.

Note. The Waste Disposal Facility (landfill) operator is required to inform Council of the commencement date of waste disposal approved under this consent. Council will then provide written confirmation of the lapsing date for landfill operations under this development consent.

Reason: To ensure a clear end of operational life and commencement of rehabilitation work.

- A5.** If there is any inconsistency between the documents referred to in condition A1, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this consent shall prevail to the extent of any inconsistency.

Reason: To ensure compliance with application and plans.

- A6.** To confirm and clarify the terms of this approval, any non-authorised or suspect wastes identified within vehicle loads are to be immediately removed of from site, until validated to be of a waste type listed within condition A3. No non-authorised waste is to be stored within the boundaries of the development allotment.

Reason: To ensure compliance with application and plans.

- A7.** To confirm and clarify the terms of this approval, no vehicle movements are permitted to or from Pownall Road. All vehicle movements to and from the site shall be via the right of carriageway over Lot 2 DP 865898, 259 Barker Road from Marys Mount Road.

Reason: To ensure clarity of safety of vehicle movements, as safety of Pownall Road and Oxley Highway has not been considered as part of this development assessment.

- A8.** The development consent is to be operated in such a manner as to be consistent with the Koala Plan of Management, prepared by Niche Environment and Heritage, dated 9 July 2014, Project No. 1466, Rev 3.

Reason: To ensure compliance with individual Koala Plan of Management approved for the site.

- A9.** To confirm and clarify the terms of this approval and despite condition A3, loads of waste disposed to the facility are not to contain a volume of any more than 20% of any such load as green waste. Green Waste is to be determined as per the waste classification within the NSW EPA Waste Classification Guidelines.

Reason: To ensure compliance with application and plans.

B. PRESCRIBED CONDITIONS

Note: The following conditions are prescribed conditions and may or may not relate directly to this development.

B1. Compliance with Building Code of Australia and insurance requirements under the [Home Building Act 1989](#)

(cf clauses 78 and 78A of EP&A Regulation 1994)

- (1) For the purposes of section 4.17(11) of the Act, the following conditions are prescribed in relation to a development consent for development that involves any building work—
 - (a) that the work must be carried out in accordance with the requirements of the *Building Code of Australia*,
 - (b) in the case of residential building work for which the *Home Building Act 1989* requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any building work authorised to be carried out by the consent commences.
- (1A) For the purposes of section 4.17(11) of the Act, it is prescribed as a condition of a development consent for a temporary structure that is used as an entertainment venue, that the temporary structure must comply with Part B1 and NSW Part H102 of Volume One of the *Building Code of Australia*.
- (2) This clause does not apply—
 - (a) to the extent to which an exemption is in force under clause 164B, 187 or 188, subject to the terms of any condition or requirement referred to in clause 164B(4), 187(6) or 188(4), or
 - (b) to the erection of a temporary building, other than a temporary structure to which subclause (1A) applies.
- (3) In this clause, a reference to the *Building Code of Australia* is a reference to that Code as in force on the date the application is made for the relevant—
 - (a) development consent, in the case of a temporary structure that is an entertainment venue, or
 - (b) construction certificate, in every other case.

Note. There are no relevant provisions in the *Building Code of Australia* in respect of temporary structures that are not entertainment venues.

Reason: To ensure compliance with the statutory requirements.

B2. Erection of signs

- (1) For the purposes of section 4.17(11) of the Act, the requirements of subclauses (2) and (3) are prescribed as conditions of a development consent for development that involves any building work, subdivision work or demolition work.
- (2) A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out—
 - (a) showing the name, address and telephone number of the principal certifier for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the work site is prohibited.
- (3) Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.
- (4) This clause does not apply in relation to building work, subdivision work or demolition work that is carried out inside an existing building that does not affect the external walls of the building.

- (5) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State’s building laws.
- (6) This clause applies to a development consent granted before 1 July 2004 only if the building work, subdivision work or demolition work involved had not been commenced by that date.

Note. Principal certifiers and principal contractors must also ensure that signs required by this clause are erected and maintained (see clause 227A which currently imposes a maximum penalty of \$1,100).

Reason: To ensure compliance with the statutory requirements.

B3. Notification of [Home Building Act 1989](#) requirements

- (1) For the purposes of section 4.17(11) of the Act, the requirements of this clause are prescribed as conditions of a development consent for development that involves any residential building work within the meaning of the *Home Building Act 1989*.
- (2) Residential building work within the meaning of the *Home Building Act 1989* must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the following information—
 - (a) in the case of work for which a principal contractor is required to be appointed—
 - (i) the name and licence number of the principal contractor, and
 - (ii) the name of the insurer by which the work is insured under Part 6 of that Act,
 - (b) in the case of work to be done by an owner-builder—
 - (i) the name of the owner-builder, and
 - (ii) if the owner-builder is required to hold an owner-builder permit under that Act, the number of the owner-builder permit.
- (3) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (2) becomes out of date, further work must not be carried out unless the principal certifier for the development to which the work relates (not being the council) has given the council written notice of the updated information.
- (4) This clause does not apply in relation to Crown building work that is certified, in accordance with section 6.28 of the Act, to comply with the technical provisions of the State’s building laws.

Reason: To ensure compliance with the statutory requirements.

B4. Conditions relating to entertainment venues

For the purposes of section 4.17(11) of the Act, the requirements set out in Schedule 3A are prescribed as conditions of development consent for the use of a building as an entertainment venue.

Reason: To ensure compliance with the statutory requirements.

B5. Fulfilment of BASIX Commitments

- (1) This clause applies to the following development:
 - (a) BASIX affected development,
 - (b) any BASIX optional development in relation to which a person has made a development application that has been accompanied by a BASIX certificate or BASIX certificates (despite there being no obligation under clause 2A of Schedule 1 for it to be so accompanied).

- (2) For the purposes of section 4.17 (11) of the Act, fulfilment of the commitments listed in each relevant BASIX certificate for development to which this clause applies is a prescribed condition of any development consent for the development.

Reason: To ensure compliance with the statutory requirements.

B6. Condition relating to maximum capacity signage

- (1) For the purposes of section 4.17(11) of the Act, the requirement set out in subclause (2) is prescribed as a condition of development consent (including an existing development consent) for the following uses of a building, if the development consent for the use contains a condition specifying the maximum number of persons permitted in the building—
- (a) entertainment venue,
 - (b) function centre,
 - (c) pub,
 - (d) registered club,
 - (e) restaurant.
- (2) From 26 January 2010, a sign must be displayed in a prominent position in the building stating the maximum number of persons, as specified in the development consent, that are permitted in the building.
- (3) Words and expressions used in this clause have the same meanings as they have in the Standard Instrument.

Reason: To ensure compliance with the statutory requirements.

B7. Condition relating to shoring and adequacy of adjoining property

- (1) For the purposes of section 4.17(11) of the Act, it is a prescribed condition of development consent that if the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense—
- (a) protect and support the building, structure or work from possible damage from the excavation, and
 - (b) where necessary, underpin the building, structure or work to prevent any such damage.
- (2) The condition referred to in subclause (1) does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

Reason: To ensure compliance with the statutory requirements.

C. PRIOR TO COMMENCEMENT OF WORKS

- C1.** Prior to work commencing and for the life of the development, the developer must install and maintain suitable erosion and sediment control measures onsite, in accordance with the relevant requirements of the Managing Urban Stormwater: Soils and Construction – Volume 1: Blue Book (Landcom, 2004).

Reason: To ensure erosion and sediment control on the development site.

- C2.** Prior to work commencing the applicant is to prepare a Landfill Environmental Management Plan (LEMP) to the satisfaction of Gunnedah Shire Council.

As part of the LEMP, the applicant must include the following:

- (a) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the landfill development, including the keeping of records and monitoring results;

- (b) describe the procedures that would be implemented to:
- (i) keep the local community and relevant agencies informed about the operation and environmental performance of the development;
 - (ii) receive, handle, respond to, and record complaints;
 - (iii) resolve any disputes that may arise;
 - (iv) respond to any incidents;
 - (v) respond to emergencies. In this regard the LEMP shall also include an emergency response plan, prepared by the applicant, which shall document the procedures to deal with all types of incidents (eg: breakdowns of equipment and plant) that may occur at the premises that are likely to cause harm to the environment; and
- (c) include the following management plans:
- (i) Landfilling and Leachate Management Plan, including measures to control landfill operations, the acceptance and handling of waste, and leachate management measures as identified in the documents referred to in Condition A1 of the consent;
 - (ii) Site Water and Groundwater Management Plan including measures to control ground water and surface water impacts as identified in the documents referred to in Condition A1 of the consent;
 - (iii) Air Quality Management Plan, including measures to control dust and odours as identified in the documents referred to in Condition A1 of the consent;
 - (iv) Noise Management Plan, including measures to control noise as identified in the documents referred to in Condition A1 of the consent;
 - (iv) Landfill Closure and Rehabilitation Plan (LGMP) developed in accordance with the requirements of the EPA's Environmental Guidelines: Solid Waste Landfills 2016 or its latest version, and including measures as identified in the documents referred to in Condition A1 of the consent;
 - (v) Vegetation Management Plan, including measures as identified in the documents referred to in Condition A1 of the consent;
 - (vi) Landfill Day Management Plan; including measures relating to site security, WH&S management system, traffic management, driver code of conduct, measures to minimise koala injury and death, litter and debris control, fire management, pollution incidents and emergencies (including contact details for emergency services), and the control of feral pests and vermin, as identified in the documents referred to in Condition A1 of the consent;
 - (vii) Koala Management Plan, including measures as identified in the currently approved Koala Plan of management as well as measures as identified in the documents referred to in Condition A1 of the consent;
 - (viii) Pollution Incident Management; and
 - (ix) Bushfire Management Plan.
- (d) Include the following:
- (i) Contact telephone number details: Within 3 months of the date of issue of the revised EPL, the applicant must operate during its operating hours a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the Premises or by the vehicle or mobile plant, unless otherwise specified in the EPL;
 - (ii) Complaints register: The applicant must keep a legible record of all complaints made to the applicant or any employee or agent of the applicant in relation to pollution arising from any activity to which this Consent applies. This record must include details of the following:
 - The date and time of the complaint;
 - The method by which the complaint was made;
 - Any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
 - The nature of the complaint; The action taken by the Applicant in relation to the complaint, including any follow-up contact with the complainant; and
 - If no action was taken by the Applicant, the reasons why no action was taken.
 - (iii) Community notification and liaison: The local community, and in particular the owners the nearby residences, shall be kept informed of the progress of the landfill operation over time. Except in the case of an emergency, notification shall occur at least 24 hours prior to the works being undertaken.

- e) Include the following:
 - (i) Site Security;
 - (ii) OH&S Management System; and
 - (iii) Contact details for emergency services;

Note: any existing plan in effect for the site relating to the existing Extractive Industry may be updated to include reference to the Waste Disposal Facility and the terms of this consent.

Reason: To ensure that appropriate Management Plans are developed for the ongoing operation of the Waste Management Facility.

Identification of Waste Disposal Boundary

- C3.** Prior to the commencement of operations of each stage of the Waste Management Facility, a "Peg Survey Report", including clear physical markers (durable pegs), is to be supplied to Council confirming the location of the external boundary of the land fill area for the stage. Waste disposal is only permitted within the area identified by the physical markers.

Reason: To ensure that waste is only deposited within the approved waste disposal area.

C4. *Financial Assurance – POEO Act 1997.*

In accordance with Part 9.4 of the *Protection of the Environment Operations Act 1997*, prior to the commencement of any works or disposal of any material, whichever occurs first, the operator of the Waste Disposal Facility is to provide 'Financial Assurance' as to the cost of all rehabilitation works to the NSW Environment Protection Authority (NSW EPA). The Financial Assurance is to be provided in the form of an unconditional and irrevocable guarantee from an Australian bank, building society or credit union in favour of the NSW Environment Protection Authority. The requirement for Financial Assurance is to be included within the Environmental Protection Licence.

The value of Financial Assurance is to be determined by the appropriate regulatory authority and is to be to the amount which represents a reasonable estimate of the total likely costs and expenses that may be incurred in carrying out any remediation and/or rehabilitation works required by the development. In determining this reasonable estimate the developer is to engage an independent expert to prepared advice as to the total cost of rehabilitation and/or remediation works. The Financial Assurance shall be adjusted each financial year in line with the Consumer Price Index (CPI) for the previous year.

The EPA may require an increase in the amount of the financial assurance at any time as a result of reassessment of the total likely costs and expenses of rehabilitation of the premises.

The Financial Assurance must contain a term that provides that any money claimed can be paid to the NSW EPA or, at the written direction of the NSW EPA, to any person. The Financial Assurance must be maintained during the operation of the facility and thereafter until such time as the NSW EPA is satisfied the premises is environmentally secure and any required remediation work are completed.

The financial assurance must be replenished by the full amount claimed or realised if the NSW EPA has claimed on or realised the financial assurance or any part of it to undertake a work or program required to be carried out by the licence which has not been undertaken by the licence holder.

The licensee must provide to the EPA the original counterpart guarantee within five working days of the issue of the financial assurance required by this condition and the adjusted financial assurance as required by this condition.

The EPA may claim on a financial assurance under S303 of the POEO Act if a licensee fails to carryout any work or program required to comply with the condition the Environmental Protection Licence (EPL).

Reason: To ensure at an appropriate Financial Assurance guarantee is provided to the cost of remediation work that is required because of activities undertaken as part of development works, being the works to which an Environmental Protection Licence will be subject, in accordance with Part 9.4 of the Protection of the Environment Operations Act 1997.

- C5. Prior to the commencement of any operations the Developer shall pay to Council a levy as applicable at the time of payment, relative to the total project value, in accordance with the Council's Section 94A Contributions Plan 2013 under Section 7.12 of the Environmental Planning and Assessment Act 1979. The current levy payable is calculated at 1% of the development cost. The payment of \$7.12 contributions must be accompanied by a Quantity Surveyors Report, prepared by a Quantity Surveyor registered with the Australian Institute of Quantity Surveyors, in accordance with 1.13 of the Gunnedah S94A contributions Plan.

Note: The Gunnedah Shire Council's Section 94A Contributions Plan 2013 can be viewed on Council's web site at: <http://www.gunnedah.nsw.gov.au>

Reason: To make provision for public amenities and services within the community.

E. GENERAL

- E1. The waste management facility is to be operated in accordance with NSW EPA Guidelines: Solid Waste Landfill, 2nd Edition (2016), or subsequent versions AND the Environmental Protection Licence issued for the facility, by the NSW Environmental Protection Authority, as amended from time to time.

Reason: To ensure appropriate operation of the facility in accordance with EPA Guidelines.

- E2. Stormwater from within the waste land fill is not to be directly discharged or concentrated onto adjoining land. Stormwater is to be managed in accordance with the Landfill Design and Water Cycle Management Plan: Proposed Landfill Facility, Marys Mount Quarry, Gunnedah NSW, prepared by Martens Consulting Engineers, dated June 2020, Ref: P1907436JR01V04, except as elsewhere required by condition of consent.

Reason: To ensure compliance with Council's requirements.

- E3. All Leachate and Stormwater generated/captured within the Waste Disposal Facility landfill area is to be discharged to the Stormwater and Leachate Sump and/or Leachate Dam. Leachate or Stormwater generated/captured within the Waste Disposal Facility landfill area is not permitted to be discharged from the site or to a natural water course located within the site, except where transported off the premises to a facility lawfully able to receive and treat or process the leachate.

Reason: To ensure potentially contaminated water are adequately managed and retained onsite to ensure that not discharged from the site of these waters occurs.

Traffic and Parking

- E4. Onsite car parking accommodation shall be provided for a minimum of six (6) vehicles, to ensure the provision of adequate on-site parking facilities commensurate with the demand likely to be generated by the proposed development. This parking number is in addition to any previous parking demand already present onsite, and relates to the parking demand generated by the Waste Disposal Facility. These parking spaces are to be provided in excess of any other onsite parking demand generated by any other development consent effective on the development site.

Reason: To ensure compliance with Council's requirements.

- E5. All internal driveways, parking areas, loading bays and vehicular turning areas are to be constructed with a base course of adequate depth to suit design traffic. Parking areas must comply with AS 2890 – Parking Facilities.

Reason: To ensure compliance with relevant Australian Standards and to facilitate the use of vehicular access and parking facilities.

Haulage

- E6. Haulage operations shall cease when the school bus is travelling along the identified sections of the haul route as illustrated on the submitted plan - Haulage Operations to Cease at School Bus Times, prepared by Stewart Surveys Pty Ltd, at the following times on school days:
- Marys Mount Road to Quia Road – 7.50am-8.10am and 3.50pm-4.10pm;

- Emerald Hill to Quia Road – 7.50am-8.10am and 3.50pm-4.10pm; and
- Quia Road to Gunnedah – 8.00am-8.30am and 3.30pm-4.00pm.

Note: Should a school bus operating time or the bus route change, an amendment to the above time and/or route shall be submitted to and approved by Council prior to any change in haulage operations.

Reason: To ensure compliance with submitted documentation.

- E7.** All haulage operations are to be limited to the following routes:
- Via Barker Road – Marys Mount Road – Goolhi Road – Kamilaroi Highway (at Emerald Hill); and
 - Via Barker Road – Marys Mount Road – Goolhi Road – Quia Road – Blackjack Road – Oxley Highway (west of Gunnedah).

No vehicle movements are to occur from the vehicle access to Pownall Road.

A record of movements shall be kept, noting the direction, date, and type of haulage vehicle utilised. The record of movements shall be submitted to Council every 12 months. The register shall also be made available to Council upon request.

Note: There shall be no haulage of material extracted from the development site on any other public road, without an amendment to this development consent.

Reason: To ensure compliance with application and plans.

- E8.** The haulage of material is only permitted to be undertaken in vehicles legally permitted by the road authority to be used within the road network of the haulage route identified in condition D3.

Reason: To ensure compliance with application and plans.

Outdoor Lighting

- E9.** Outdoor lighting is to comply with *AS/NZS 11583.1 Pedestrian Area (Category P) Lighting* and *AS4282 Control of Obtrusive Effects of Outdoor Light*.

Reason: To ensure compliance.

Documentation

- E10.** A copy of all the approved documents related to this consent, shall be kept on site at all times and shall be made available upon inspection by Council or an authorised government agency.

Reason: To ensure all documents are available on inspection.

- E11.** Until they are replaced by an equivalent strategy, plan or program approved under this consent, the Operator shall continue to implement existing strategies, plans or programs for operations on site that have been approved by previous consents or approvals.

Reason: To ensure existing plans, strategies or programs are implemented until updated reports are endorsed.

- E12.** A copy of the Annual Return required in the General Terms of Approval shall be provided to Council in addition to the requirements of the Environment Protection Authority.

Reason: To ensure compliance with application and plans.

- E13.** The Leachate Dam is to have a minimum capacity of 7ML. The Stormwater and Leachate sump is to have a minimum capacity of 3.5ML for Stage 1 and a minimum capacity of 4.5ML for Stages 2 and 3, unless otherwise approved and acknowledged in the Environmental Protection Licence issued for the facility, by the NSW Environmental Protection Authority, as amended from time to time.

Reason: To ensure that leachate storage is provided to a minimum capacity in accordance with Landfill Design and Water Cycle Management Plan.

- E14.** Dam 'A', as indicated on Concept Stormwater Management Plan, prepared by Martens and Associates Pty Ltd, dated 22/05/2020, Project No. P1907436, Drawing No. PS01-E100, Rev D, is to have a minimum capacity of 7.7ML.

Reason: To ensure that Stormwater detention dams have adequate capacity in accordance with Landfill Design and Water Cycle Management Plan.

- E15.** The Operator is to establish appropriate diversion banks and swales directing surface water away from the waste disposal area within the landfill into stormwater detention dams.

Reason: To ensure appropriate management of surface water.

- E16.** No discharge is permitted from the development site from the Leachate Dam or Stormwater and Leachate Sump, identified on Landfill Watercycle Management Plan, prepared by Martens and Associates Pty Ltd, dated 22/05/2020, Project No. P1907436, Drawing No. PS01-E200, Rev A, except where permitted by Condition O5.6 the General Terms of Approval issued by the Environmental Protection Authority included within Annexure B.

Reason: To ensure no leachate and possible suspended contaminants migrate from the site.

- E17.** The Leachate Dam identified on Development Overview Plan, prepared by Martens and Associates Pty Ltd, dated 14/05/2020, Project No. P1907436, Drawing No. PS01-A050, Rev B, is to be managed as to always have a minimum capacity of 1.9ML as available for capture of runoff.

Reason: To ensure Leachate dams are maintained with a suitable capacity.

- E18.** The Leachate Dam is to be regularly maintained and cleaned. Any sludge/silt removed from the Leachate Dam is to be disposed of into the approved Waste Disposal Facility area onsite, only. Material is not to be disposed elsewhere onsite.

Any sludge/silt removed from the Leachate Dam, is to be tested to ensure that it meets the classification parameters as Solid Waste Non-Putrescible. In the event that the removed material does not constitute Solid Waste Non-Putrescible the waste is to be removed from site and disposed to a suitably licenced Waste Management Facility.

Reason: To ensure a suitable capacity is maintained within Leachate dams and removed material is disposed to locations as indicated within the development application and Environmental Impact Statement.

- E19.** The Operator shall ensure that all plant and equipment used for the Development is maintained in a proper and efficient condition and operated in a proper and efficient manner.

Reason: To ensure appropriate management of machinery and equipment.

- E20.** The Operator shall repair, or pay the full costs associated with the repair of any public infrastructure that is damaged by the developer.

Reason: To ensure that the community is not responsible for the costs of repair of any damage to public infrastructure.

- E21.** The operator of the Waste Disposal Facility shall install and maintain a security fence and gates around the perimeter of the waste disposal area (cell) for each stage of works. The operator is to ensure that the security gates around the waste disposal area are locked whenever the site is unattended.

Reason: To ensure that suitable security fencing is installed and managed.

Complaints Register

- E22.** The operator of the Waste Disposal Facility shall nominate a contact person and telephone number for the benefit of adjoining neighbours and establish a complaints register that includes records of nature, time and date of complaint, climatic conditions such as wind direction and speed and the action taken to address complaint. The register shall be made available to Council upon request.

The developer shall notify all landowners and tenants within a 5.0 kilometre distance of the boundary of the development site in writing of the contact details and associated information and that they may contact the quarry operator to make representations regarding the operation of the Waste Disposal Facility. A copy of the notification shall be provided to Council.

Reason: To ensure amenity of area.

- E23.** The developer is to provide CCTV cameras, in sufficient number and location to provide adequate coverage to the active waste disposal area. These cameras are to be in addition to any camera systems already in operation within the site. The capacity of footage storage should be a minimum of 28 days with the hard drive/s secured in a solid receptacle or external facility to avoid being removed by offender/s.

Camera footage should be made available to any public authority upon request.

Reason: To ensure adequate security measures and surveillance is provided due to the rural nature of the facility and absence of onsite occupation.

- E24.** The operator of the Waste Disposal Facility must undertake suitable landscaping on private property, upon request from member of the public where it is determined that a residential receiver has visual impact from the operation of the Waste Disposal Facility. The position and suitable extent of landscaping is to be determined in consultation with the land owner and Gunnedah Shire Council. Landscaping plans and selected vegetation species should be suitable to act as a visual screen of the Waste Disposal Facility, when viewed from the affected receiver.

It is to the discretion of Gunnedah Shire Council to determine if a request under this Condition is unreasonable, to determine if visual impact from the Waste Disposal Facility warrants establishment of a landscaping barrier.

Note: Visual impacts are to be as a consequence of the Waste Disposal Facility only, Landscaping is not to address visual impacts from the operation of the Extractive Industry (Quarry) or other activity which has approval under a separate development consent.

Reason: To ensure that suitable landscaping is conducted at nearby receivers if visual impacts are determined.

F. DURING WORKS

- F1.** A stamped copy of the development consent, the approved plans and specifications are to be kept at the construction site at all times during the construction period.

Reason: To ensure compliance with approved application and plans.

- F2.** The approved erosion and sediment control facilities are to be provided and maintained throughout the construction and operation of the development.

Reason: To ensure compliance with Council's requirements.

- F3.** All operation works shall cease on site should the identification of an item of potential Aboriginal or European heritage significance be discovered during operation works. The Office of Environment and Heritage shall be contacted and any required approvals are to be obtained before the commencement of operation works.

Reason: To ensure that any item of heritage significance uncovered is suitably managed.

- F4. Toilet facilities**

Toilet facilities are to be provided, at or in the vicinity of the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Each toilet provided:

- (a) must be a standard flushing toilet, and
- (b) must be connected:
 - (i) to a public sewer, or
 - (ii) if connection to a public sewer is not practicable, to an accredited sewage management facility approved by the Council, or
 - (iii) if connection to a public sewer or an accredited sewage management facility is not practicable, to some other sewage management facility approved by the Council.

The provision of toilet facilities in accordance with this clause must be completed before any other work is commenced. In this clause:

accredited sewage management facility means a sewage management facility to which Division 4A of Part 3 of the *Local Government (Approvals) Regulation 1993* applies, being a sewage management facility that is installed or constructed to a design or plan the subject of a certificate of accreditation referred to in clause 95B of the Regulation.

approved by the Council means the subject of an approval in force under Division 1 of Part 3 of the *Local Government (Approvals) Regulation 1993*.

public sewer has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

sewage management facility has the same meaning as it has in the *Local Government (Approvals) Regulation 1993*.

Reason: To ensure environmental health standards are met.

Services Provision

F5. A Restriction as to User, pursuant to Section 88B of the *Conveyancing Act 1919*, is to be submitted which provides for the creation of an easement, in favour of Gunnedah Shire Council over the following locations:

- a) The entire waste disposal/landfill area (Stages 1, 2 and 3);
- b) The Leachate Dam;

The restriction as to user is to prohibit any construction or excavation from occurring within the identified area, to protect cell integrity by preventing penetration of final cell lining structure.

Reason: To ensure that appropriate easements are created over all waste disposal locations and any other potential location of contamination.

G. CONTINUED OPERATIONS

Operation Hours

- G1.** The landfill operation hours are limited to the following:
- Monday to Friday – 7.00am to 6.00pm (Australian Eastern Daylight Time)
 - Monday to Friday – 7.00am to 5.00pm (Australian Eastern Standard Time)
 - Saturday – 8.00am to 3.00pm
 - Sunday and Public Holidays – closed.

Reason: To ensure compliance with application and plans.

G2. The sealing to all internal driveways, vehicular parking, manoeuvring and loading areas is to be maintained at all times.

Reason: To ensure maintenance of car parking areas.

G3. All vehicular movement to and from the site shall be in a forward direction to ensure that the proposed development does not give rise to vehicle reversing movements on or off the Public Road with consequent traffic accident potential and reduction in road efficiency.

Reason: To ensure compliance with Council's requirements.

- G4.** Any waste unable to be accepted for disposal onsite is to be removed and be disposed of to a suitably licenced waste management facility.

Reason: To ensure unauthorised waste is disposed of off-site in an appropriate manner.

- G5.** The Operator shall ensure that the operation of the development is undertaken in accordance with all relevant updated and/or amended strategies, management plans and programs approved by the Gunnedah Shire Council as part of the conditions of this consent.

Reason: To ensure compliance with Council's requirements.

- G6.** Operations of the Waste Disposal Facility is to be limited to a maximum of 60 truck movements (includes loaded and unloaded) per day.

Reason: To ensure compliance with application and plans.

- G7.** All works shall cease on site should the identification of an item of potential Aboriginal or European heritage significance be discovered during excavation and operational works. The NSW Environment, Energy and Science shall be contacted and any required approvals are to be obtained before the commencement of excavation and operational works.

Reason: To ensure that any item of heritage significance uncovered is suitably managed.

Air Quality Mitigation

- G8.** To minimise the potential for dust nuisance generated by the development, the mitigation measures outlined in Section 6.2.1 Particulate Matter, Table 2.2, of the Air Quality Assessment, prepared by VIPAC, dated 13 May 2021, ref: 70B-19-0119-TRP-10150359-2, shall be implemented during the operations of the development.

Reason: To ensure compliance with application and plans.

Noise Mitigation Measures

- G9.** To ensure compliance with the NSW Noise Policy for Industry (2017) the mitigation measures outlined in Section 9 Operating Mitigation Recommendations, of the Environmental Noise Assessment, prepared by VIPAC, dated 21 May 2021, ref: 20E-19-0293-TRP-10550042-3, shall be implemented during the operations of the development.

Reason: To ensure compliance with application and plans.

H. General Terms of Approval – Environment Protection Authority

- H1.** The development shall be carried out in accordance with the General Terms of Approval issued by the Environmental Protection Authority, attached in Annexure B to this consent.

Reason: To ensure compliance with statutory requirements.