

Appendices

(Total No. of pages including blank pages = 88)

- Appendix 1 Compliance Review of Project Approval
08_0212 (32 pages)
- Appendix 2 Compliance Review of Environment
Protection Licence 20377 (10 pages)
- Appendix 3 Compliance Review of M(MO)L6 (6 pages)
- Appendix 4 Meteorological Data Recorded during 2017
(4 pages)
- Appendix 5 DPE Compliance Action Documents (34 pages)



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Appendix 1

Compliance Review of Project Approval 08_0212

(Total No. of pages including blank pages = 32)

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Table A1-1
Compliance Review of PA 08_0212
for New Berrima Clay/Shale Quarry for the 2017 Reporting Period

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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 2: ADMINISTRATION CONDITIONS				
OBLIGATION TO MINIMISE HARM TO THE ENVIRONMENT				
2/1	In addition to meeting the specific performance criteria established under this approval, the Proponent must implement all reasonable and feasible measures to prevent and/or minimise any material harm to the environment that may result from the construction, operation, or rehabilitation of the project.	Compliant	All reasonable and feasible measures to minimise potential for harm during the reporting period were implemented.	A, D
TERMS OF APPROVAL				
2/2	The Proponent must carry out the project generally in accordance with the: a) EA; b) EA (MOD 1); and c) EA (MOD 2).	Compliant	The works completed during the reporting period are considered to be generally consistent these documents.	D, A
2/2A	The Proponent must carry out the project in accordance with the Project Plans, statement of commitments, and the conditions of this consent. <i>Notes:</i> a) <i>The Project Plans are shown in Appendix A; and</i> b) <i>The statement of commitments is reproduced in Appendix B.</i>	Compliant	The works completed during the reporting period are considered to be generally consistent these conditions and commitments.	D, A
2/3	If there is any inconsistency between the documents in condition 2, the most recent document shall prevail to the extent of the inconsistency. However, the conditions of this approval shall prevail to the extent of any inconsistency.	Noted	-	-
2/4	The Proponent must comply with any reasonable requirement/s of the Secretary arising from the Department's assessment of: a) any reports, strategies, plans, programs, reviews, audits or correspondence that are submitted in accordance with this approval; and b) the implementation of any actions or measures contained in these documents.	Compliant	The Management Plans and 2016 Annual Review were reviewed and updated in response to the Department's requirements.	D
<p>* = Basis for assessment of compliance</p> <p>D = Documentation Sighted A = Advised by Austral Employee O = Observation</p>				



Table A1-1 (Cont'd)
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 2: ADMINISTRATION CONDITIONS (Cont'd)				
LIMITS ON APPROVAL				
Quarrying Operations				
2/5	Consent shall lapse 31 December 2045. <i>Note: Under this approval, the Proponent is required to rehabilitate the site and carry out additional undertakings to the satisfaction of the Secretary or DRG. Consequently, this approval will continue to apply in all other respects other than the right to conduct quarrying operations until the rehabilitation of the site and those undertakings have been carried out to a satisfactory standard.</i>	Noted	-	-
Extractive Material Extraction				
2/6	The Proponent must not carry out any development in the extraction area below a level of 640m AHD. <i>Note: This condition does not apply to the construction of any bores approved by DPI – Water or pollution and sediment control structures described in the EA or EA (MOD 1).</i>	Not Yet Applicable	Extraction operations yet to commence.	D, A
2/7	The Proponent must not extract more than 150 000 tonnes of extractive materials from the site in any calendar year.	Not Yet Applicable	Transportation operations yet to commence.	D, A
Extractive Material Transport				
2/8	The Proponent must not transport more than: a) 150 000 tonnes of product from the site in any calendar year; b) 68 laden trucks from the site in a day; and c) 8 laden trucks from the site in an hour.	Not Yet Applicable	Transportation operations yet to commence.	D, A
2/9	The Proponent must only transport extractive material on the haul route.	Not Yet Applicable	Transportation operations yet to commence.	D, A
STRUCTURAL ADEQUACY				
2/10	The Proponent must ensure that all new buildings and structures, and any alterations or additions to existing buildings and structures, are constructed in accordance with the relevant requirements of the BCA.	Not Yet Applicable	No buildings, structures, etc. which the BCA applies have been constructed to date.	D, A
<p>* = Basis for assessment of compliance</p> <p>D = Documentation Sighted A = Advised by Austral Employee O = Observation</p>				

Table A1-1 (Cont'd)
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for New Berrima Clay/Shale Quarry for the 2017 Reporting Period

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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 2: ADMINISTRATION CONDITIONS (Cont'd)				
STRUCTURAL ADEQUACY (Cont'd)				
	<p>Notes:</p> <ul style="list-style-type: none"> Under Part 4A of the EP&A Act, the Proponent is required to obtain construction and occupation certificates for the proposed building works. Part 8 of the EP&A Regulation sets out the requirements for the certification of the project. 			
DEMOLITION				
2/11	The Proponent must ensure that all demolition work on site is carried out in accordance with AS 2601-2001: The Demolition of Structures, or its latest version.	Not Applicable	No demolition undertaken during the reporting period.	D, A
PROTECTION OF PUBLIC INFRASTRUCTURE				
2/12	<p>The Proponent must:</p> <ol style="list-style-type: none"> repair, or pay the full costs associated with repairing, any public infrastructure that is damaged by the project; and relocate, or pay the full costs associated with relocating, any public infrastructure that needs to be relocated as a result of the project. 	Not Applicable	No infrastructure required to be repaired or relocated.	D, A
OPERATION OF PLANT AND EQUIPMENT				
2/13	<p>The Proponent must ensure that all plant and equipment used at the site is:</p> <ol style="list-style-type: none"> maintained in a proper and efficient condition; and operated in a proper and efficient manner. 	Compliant	The equipment (crane and trucks) used to replace the bridge across Stony Creek were appropriately maintained and operated.	A
STAGED SUBMISSION OF ANY STRATEGY, PLAN OR PROGRAM				
2/14	<p>With the approval of the Secretary, the Proponent may submit any strategy, plan or program required by this approval on a progressive basis.</p> <p>Notes:</p> <ul style="list-style-type: none"> While any strategy, plan or program may be submitted on a progressive basis, the Proponent will need to ensure that the existing operations on site are covered by suitable strategies, plans or programs at all times; and 	Not Applicable	The Management Plans prepared relate to all stages of operations.	D
<p>* = Basis for assessment of compliance</p> <p>D = Documentation Sighted A = Advised by Austral Employee O = Observation</p>				



Table A1-1 (Cont'd)
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for New Berrima Clay/Shale Quarry for the 2017 Reporting Period

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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 2: ADMINISTRATION CONDITIONS (Cont'd)				
STAGED SUBMISSION OF ANY STRATEGY, PLAN OR PROGRAM (Cont'd)				
2/14 (Cont'd)	<ul style="list-style-type: none"> If the submission of any strategy, plan or program is to be staged, then the relevant strategy, plan or program must clearly describe the specific stage to which the strategy, plan or program applies, the relationship of this stage to any future stages, and the trigger for updating the strategy, plan or program. 			
PRODUCTION DATA				
2/15	The Proponent must:			
	a) provide annual quarry production data to DRG using the standard form for that purpose; and	Not Yet Applicable	Extraction operations yet to commence.	D, A
	b) include a copy of this data in the Annual Review (see condition 4 of schedule 5).	Not Yet Applicable	Table 4 of this Annual Review summarises the production data – confirming there has been nil to date.	D
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS				
IDENTIFICATION OF BOUNDARIES				
3/1	<p>Prior to carrying out any development on site under this approval, the Proponent must:</p> <ul style="list-style-type: none"> a) engage a registered surveyor to mark out the boundaries of the approved limits of extraction; and b) submit a survey plan of these boundaries to the Secretary. 	Compliant	Plans submitted on 18 March 2016.	D
3/2	During the project, the Proponent must ensure that these boundaries are clearly marked at all times in a permanent manner that allows operating staff and inspecting officers to clearly identify the limits of extraction.	Compliant	All relevant boundaries are marked with posts at nominated locations. These markers were retained throughout the reporting period.	A
NOISE				
Bund Construction				
3/3	<p>The Proponent must construct the Visibility Barriers prior to carrying out any quarrying operations on site under this approval to the satisfaction of the Secretary. This condition does not prohibit the winning of extractive material on site to be used in the construction of the Visibility Barriers.</p> <p><i>Note: Visibility Barriers are shown on the project layout plans in Figure 1 of APPENDIX A.</i></p>	Not Yet Applicable	Extraction operations (or construction of the Visibility Barriers) have not yet commenced.	D, A
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Table A1-1 (Cont'd)
Compliance Review of PA 08_0212
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Condition No.	Requirement	Compliance	Comment	Basis*																									
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS (Cont'd)																													
NOISE (Cont'd)																													
Visibility Barrier and Stockpile Dimensions																													
3/3A	<p>The Visibility Barriers and surplus overburden stockpile (refer Figure 1 Appendix A) must be constructed to meet the dimensions specified in Table 1A, unless the Secretary agrees otherwise.</p> <p>Table 1A: Visibility Barriers and Surplus Overburden Stockpile Dimensions</p> <table><tr><th>Structure</th><th>Height</th><th>Base Width (m)</th><th>Length (m)</th><th>Surface Area (ha)</th></tr><tr><td>Central Barrier (minimum)</td><td>675 (m AHD)</td><td>30 - 45</td><td>420</td><td>1.5</td></tr><tr><td>Northern Barrier (minimum)</td><td>672 (m AHD)</td><td>35 - 50</td><td>160</td><td>0.7</td></tr><tr><td>Southern Barrier (minimum)</td><td>4 metres above the natural land surface</td><td>20</td><td>350</td><td>0.7</td></tr><tr><td>Overburden Stockpile (maximum)</td><td>683 (m AHD)</td><td>-</td><td>-</td><td>-</td></tr></table>	Structure	Height	Base Width (m)	Length (m)	Surface Area (ha)	Central Barrier (minimum)	675 (m AHD)	30 - 45	420	1.5	Northern Barrier (minimum)	672 (m AHD)	35 - 50	160	0.7	Southern Barrier (minimum)	4 metres above the natural land surface	20	350	0.7	Overburden Stockpile (maximum)	683 (m AHD)	-	-	-	Not Yet Applicable	Construction of the barriers has not yet commenced.	D, A
Structure	Height	Base Width (m)	Length (m)	Surface Area (ha)																									
Central Barrier (minimum)	675 (m AHD)	30 - 45	420	1.5																									
Northern Barrier (minimum)	672 (m AHD)	35 - 50	160	0.7																									
Southern Barrier (minimum)	4 metres above the natural land surface	20	350	0.7																									
Overburden Stockpile (maximum)	683 (m AHD)	-	-	-																									
Noise Criteria – Bund Construction																													
3/4	<p>During the construction of the Visibility Barriers, the Proponent must ensure that the noise generated on site does not exceed the criteria in Table 1.</p> <p>Table 1 – Noise Criteria – Bund Construction</p> <table><tr><th>Receiver</th><th>L_{Aeq} (15 min) dB(A)</th></tr><tr><td>R2</td><td>43</td></tr><tr><td>All other receivers</td><td>38</td></tr></table> <p>Notes:</p> <ul style="list-style-type: none">Receiver locations are shown in Figure 4 of APPENDIX A.Noise generated by the project is to be measured in accordance with the relevant procedures and exemptions (including certain meteorological conditions) of the NSW Industrial Noise Policy.	Receiver	L _{Aeq} (15 min) dB(A)	R2	43	All other receivers	38	Not Yet Applicable	Construction of the barriers has not yet commenced.	D, A																			
Receiver	L _{Aeq} (15 min) dB(A)																												
R2	43																												
All other receivers	38																												
Noise Criteria																													
3/5	<p>Except for the period when the Visibility Barriers are being constructed, the Proponent must ensure that the noise generated by the project does not exceed 38dB(a) L_{Aeq} (15min) at any residence on privately-owned land.</p> <p>However, this criterion does not apply if the Proponent has a written agreement with the relevant landowner to exceed the criteria, and the Proponent has advised the Department in writing of the terms of this agreement.</p>	Not Yet Applicable	Barrier construction or extraction operations have not yet commenced.	D, A																									
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Table A1-1 (Cont'd)
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Condition No.	Requirement	Compliance	Comment	Basis*																
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS (Cont'd)																				
NOISE (Cont'd)																				
Hours of Operations																				
3/6	<p>The Proponent must comply with the operating hours in Table 2.</p> <p><i>Table 2 – Operating Hours</i></p> <table><tr><th>Day</th><th>Transport</th><th>Quarrying Operations</th><th>Construction</th></tr><tr><td>Monday – Friday</td><td>7 am to 4 pm</td><td>7 am to 5 pm</td><td>7 am – 5 pm</td></tr><tr><td>Saturday</td><td>8 am to 1 pm</td><td>8 am to 1 pm</td><td>8 am – 1 pm</td></tr><tr><td>Sundays and Public Holidays</td><td>None</td><td>None</td><td>None</td></tr></table> <p><i>Note: Maintenance activities may occur at any time provided they are inaudible at privately-owned residences.</i></p>	Day	Transport	Quarrying Operations	Construction	Monday – Friday	7 am to 4 pm	7 am to 5 pm	7 am – 5 pm	Saturday	8 am to 1 pm	8 am to 1 pm	8 am – 1 pm	Sundays and Public Holidays	None	None	None	Compliant	No activities were undertaken outside of the approved hours of operation.	A
Day	Transport	Quarrying Operations	Construction																	
Monday – Friday	7 am to 4 pm	7 am to 5 pm	7 am – 5 pm																	
Saturday	8 am to 1 pm	8 am to 1 pm	8 am – 1 pm																	
Sundays and Public Holidays	None	None	None																	
Operating Conditions																				
3/7	<p>The Proponent must:</p> <p>a) implement best practice noise management to minimise the construction, operational, low frequency and traffic noise of the project;</p> <p>b) minimise the noise impacts of the project during meteorological conditions when the noise limits in this approval do not apply;</p> <p>c) maintain the effectiveness of any noise suppression equipment on plant at all times and ensure defective plant is not used operationally until fully repaired; and</p> <p>d) regularly assess noise monitoring data and relocate, modify, and/or stop operations on site to ensure compliance with the relevant conditions of this approval, to the satisfaction of the Secretary.</p>	<p>Compliant</p> <p>Not Yet Applicable</p> <p>Not Yet Applicable</p> <p>Not Yet Applicable</p>	<p>Activities during the reporting period were limited to monitoring and replacement of the bridge span which required limited traffic and no specific noise controls.</p> <p>Applicable conditions have not yet occurred during periods of site activity.</p> <p>The crane utilised to replace the bridge span did not require any specific noise suppression and was on-site for a very limited time.</p> <p>No data yet assembled.</p>	<p>A</p> <p>A</p> <p>A</p> <p>A</p>																
Noise Management Plan																				
3/8	<p>The Proponent must prepare a Noise Management Plan for the project to the satisfaction of the Secretary. This plan must:</p> <p>a) be prepared in consultation with the EPA, and submitted to the Secretary for approval prior to the construction of the Visibility Barriers;</p>	Compliant	The Plan was submitted to the Secretary on 18 March 2016 and approved on 13 May 2016. The Plan was updated during the reporting period and submitted for approval (approval expected early 2018).	D																
* = Basis for assessment of compliance																				
D = Documentation Sighted A = Advised by Austral Employee O = Observation																				

Table A1-1 (Cont'd)
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Condition No.	Requirement	Compliance	Comment	Basis*															
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS (Cont'd)																			
NOISE (Cont'd)																			
Noise Management Plan (Cont'd)																			
3/8 (Cont'd)	<p>b) describe the measures that would be implemented to ensure:</p> <ul style="list-style-type: none">best management practice is being employed on site;the noise impacts of the project are minimised during meteorological conditions when the noise limits in this approval do not apply; andcompliance with the relevant conditions of this approval; <p>c) describe the proposed noise management system in detail; and</p> <p>d) include a monitoring program that:</p> <ul style="list-style-type: none">is capable of evaluating the performance of the project;includes a protocol for determining exceedances of the relevant conditions in this approval; andevaluates and reports on the effectiveness of the noise management system on site. <p>The Proponent must implement the approved management plan as approved from time to time by the Secretary.</p>																		
AIR QUALITY																			
Air Quality Criteria																			
3/9	<p>The Proponent must ensure that all reasonable and feasible avoidance and mitigation measures are employed so that particulate matter emissions generated on site do not exceed the criteria in Table 3, Table 4 and Table 5 at any residence on privately-owned land, or on more than 25% of any privately-owned land.</p> <p><i>Table 3 – Long-Term Impact Assessment Criteria for Particulate Matter</i></p> <table><tr><th>Pollutant</th><th>Averaging period</th><th>^a Criterion</th></tr><tr><td>Total suspended particulates (TSP)</td><td>Annual</td><td>^a 90 µg/m³</td></tr><tr><td>Particulate matter < 10 µm (PM₁₀)</td><td>Annual</td><td>^a 30 µg/m³</td></tr></table> <p><i>Table 4 – Short Term Impact Assessment Criteria for Particulate Matter</i></p> <table><tr><th>Pollutant</th><th>Averaging period</th><th>^a Criterion</th></tr><tr><td>Particulate matter < 10 µm (PM₁₀)</td><td>24 hour</td><td>^a 50 µg/m³</td></tr></table>	Pollutant	Averaging period	^a Criterion	Total suspended particulates (TSP)	Annual	^a 90 µg/m ³	Particulate matter < 10 µm (PM ₁₀)	Annual	^a 30 µg/m ³	Pollutant	Averaging period	^a Criterion	Particulate matter < 10 µm (PM ₁₀)	24 hour	^a 50 µg/m ³	Not Yet Applicable	Barrier construction and extraction activities have not yet commenced. Notwithstanding, deposited dust monitoring to date indicates compliance with the applicable criteria.	D, A
Pollutant	Averaging period	^a Criterion																	
Total suspended particulates (TSP)	Annual	^a 90 µg/m ³																	
Particulate matter < 10 µm (PM ₁₀)	Annual	^a 30 µg/m ³																	
Pollutant	Averaging period	^a Criterion																	
Particulate matter < 10 µm (PM ₁₀)	24 hour	^a 50 µg/m ³																	

* = Basis for assessment of compliance

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Table A1-1 (Cont'd)
Compliance Review of PA 08_0212
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Condition No.	Requirement	Compliance	Comment	Basis*								
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS (Cont'd)												
AIR QUALITY (Cont'd)												
Air Quality Criteria (Cont'd)												
3/9 (Cont'd)	<p>Table 5 – Long-Term Impact Assessment Criteria for Deposited Dust</p> <table><tr><th>Pollutant</th><th>Averaging period</th><th>Maximum increase in deposited dust level</th><th>Maximum total deposited dust level</th></tr><tr><td>^c Deposited dust</td><td>Annual</td><td>^b 2 g/m²/month</td><td>^a 4 g/m²/month</td></tr></table> <p>Notes to Tables:</p> <ul style="list-style-type: none"><i>a Total impact (ie incremental increase in concentrations due to the project plus background concentrations due to all other sources);</i><i>b Incremental impact (ie incremental increase in concentrations due to the project on its own);</i><i>c Deposited dust is to be assessed as insoluble solids as defined by Standards Australia, AS/NZS 3580.10.1:2003: Methods for Sampling and Analysis of Ambient Air – Determination of Particulate Matter – Deposited Matter – Gravimetric Method.</i><i>d Excludes extraordinary events such as bushfires, prescribed burning, dust storms, sea fog, fire incidents, illegal activities or any other activity agreed by the Secretary in consultation with EPA.</i> <p><i>e “Reasonable and feasible avoidance measures” includes, but is not limited to, the operational requirements in conditions 10, 11 and 12 to develop and implement an air quality management system that ensures operational responses to the risks of exceedance of the criteria.</i></p>			Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level	^c Deposited dust	Annual	^b 2 g/m ² /month	^a 4 g/m ² /month	
Pollutant	Averaging period	Maximum increase in deposited dust level	Maximum total deposited dust level									
^c Deposited dust	Annual	^b 2 g/m ² /month	^a 4 g/m ² /month									
Operating Conditions												
3/10	The Proponent must:											
	a) implement best management practice to minimise the dust emissions of the project;	Not Applicable	No activities requiring specific dust management occurred during the reporting period.	A								
	b) regularly assess air quality monitoring data and relocate, modify, and/or stop operations on site to ensure compliance with the relevant conditions of this approval,	Compliant	Deposited dust monitoring data complies with nominated criteria	D								
	c) minimise the air quality impacts of the project during adverse meteorological conditions and extraordinary events (see Note d under Table 5 above);	Not Yet Applicable	No adverse conditions have yet occurred during periods of activity.	A								
	d) minimise any visible off-site air pollution; and	Compliant	Activities during the reporting period did not generate visible dust.	A								
	e) minimise the surface disturbance of the site generated by the project.	Compliant	Disturbances to date have been limited and confined to the approved disturbance areas.	A								
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS (Cont'd)				
AIR QUALITY (Cont'd)				
Air Quality Management Plan				
3/11	<p>The Proponent must prepare an Air Quality Management Plan for the project to the satisfaction of the Secretary. This plan must:</p> <ul style="list-style-type: none"> a) be prepared in consultation with the EPA, and submitted to the Secretary for approval prior to the construction of the Visibility Barriers b) describes the measures that would be implemented to ensure: <ul style="list-style-type: none"> • best management practice is employed; • the air quality impacts of the project are minimised during adverse meteorological conditions and extraordinary events; and • compliance with the relevant conditions of this approval; c) describes the proposed air quality management system; and d) includes an air quality monitoring program that: <ul style="list-style-type: none"> • is capable of evaluating the performance of the project; • includes a protocol for determining any exceedances of the relevant conditions of approval; • adequately supports the air quality management system; and • evaluates and reports of the adequacy of the air quality management system. <p>The Proponent must implement the approved management plan as approved from time to time by the Secretary.</p>	Administrative Non-Compliance	<p>The Plan was submitted to the Secretary on 18 March 2016 and approved on 13 May 2016. The Plan was updated during the reporting period and submitted for approval (approval expected early 2018).</p> <p>However, the plan was not strictly implemented with deposited dust bottles were not changed over on a monthly cycle between January and April 2017. Monitoring between May and December 2017 was completed on a monthly cycle.</p>	D
METEOROLOGICAL MONITORING				
3/12	<p>During the life of the project, the Proponent must ensure that there is a suitable meteorological station in the vicinity of the site that complies with the requirements in the "Approved Methods for Sampling and Analysis of Air Pollutants in New South Wales" guideline.</p>	Compliant	A station was established on site on 19 September 2016.	D, O
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS (Cont'd)				
SOIL AND WATER				
	<i>Note: The Proponent is required to obtain the necessary water licences for the project under the Water Act 1912 and/or Water Management Act 2000.</i>	Not Yet Applicable	No water licences currently required.	D
Riparian Buffer Distance				
3/13	The Proponent must maintain a minimum buffer distance of 515 metres (measured from the top of bank) between extraction area and Wingecarribee River.	Compliant	No Quarry activities occurred within the nominated buffer during the reporting period.	D, A
Surface Water Discharging				
3/14	The Proponent must ensure that all surface water discharges from the site comply with section 120 of the POEO Act or, if an EPL has been issued regulating water discharges from the site, the discharge limits (both volume and quality) set for the project in the EPL.	Not Yet Applicable	As operational activities have not commenced there have been no 'discharges'.	A
Surface Water Supply				
3/15	The Proponent must ensure it has sufficient water for all stages of the project, and if necessary, adjust the scale of quarrying operations on site to match its available supply.	Not Yet Applicable	Barrier construction and extraction operations yet to commence. Existing dams on-site will provide initial water supply.	D, A
On-Site Sewerage Management				
3/16	The Proponent must manage on-site sewage to the satisfaction of Council and EPA.	Not Yet Applicable	Toilet facilities/amenities not yet established on site.	A
Storage of Chemicals & Petroleum Products				
3/17	The Proponent must ensure all chemicals and/or petroleum products on site are stored in accordance with Australian Standard AS1940-2004, The Storage and Handling of Flammable and Combustible Liquids, and in appropriately bunded areas with impervious flooring and of sufficient capacity to contain 110% of the largest container stored within the bund. The flooring and bund(s) must be designed in accordance with: <ul style="list-style-type: none"> the requirements of relevant Australian Standards; and DECC's Storing and Handling Liquids: Environmental Protection – Participants Manual. 	Not Yet Applicable	No chemicals or petroleum products were stored on site during the reporting period	A
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Table A1-1 (Cont'd)
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS (Cont'd)				
SOIL AND WATER (Cont'd)				
Water Management Plan				
3/18	<p>The Proponent must prepare a Water Management Plan for the project to the satisfaction of the Secretary. This plan must be prepared in consultation with the EPA, WaterNSW and DPI – Water by suitably qualified and experienced persons whose appointment has been approved by the Secretary, and be submitted to the Secretary for approval prior to the construction the Visibility Barriers on site.</p> <p>In addition to the standard requirements for management plans (see condition 3 of schedule 5), this plan must include a:</p> <p>a) Site Water Balance that:</p> <ul style="list-style-type: none"> includes details of: <ul style="list-style-type: none"> sources and security of water supply, including contingency planning for future reporting periods; water use on site; water management on site; reporting procedures, including comparisons of the site water balance each calendar year; and describes the measures that would be implemented to minimise clean water use on site; <p>b) Surface Water Management Plan, that includes:</p> <ul style="list-style-type: none"> detailed baseline data on surface water flows and quality in the water-bodies that could be affected by the project; a detailed description of the surface water management system on site, including the: <ul style="list-style-type: none"> clean water diversion systems; erosion and sediment controls; and water storages. a plan for identifying, extracting, handling, and the long-term storage of potentially acid forming material on site; 	Administrative Non-Compliance	<p>The Plan was submitted to the Secretary on 18 March 2016 and approved on 9 June 2016. The Plan was updated during the reporting period and submitted for approval (approval expected early 2018).</p> <p>However, water monitoring did not commence in July 2016 as nominated in the Plan. Monitoring was commenced in May 2017 and has been undertaken monthly since that time. Given the delay in site establishment, no issues have arisen from this delay.</p>	D
<p>* = Basis for assessment of compliance</p> <p>D = Documentation Sighted A = Advised by Austral Employee O = Observation</p>				



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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS (Cont'd)				
SOIL AND WATER (Cont'd)				
Water Management Plan (Cont'd)				
3/18 (Cont'd)	<ul style="list-style-type: none"> detailed plans, including design objectives and performance criteria, for: <ul style="list-style-type: none"> the water storage dams; and reinstatement of drainage lines on the rehabilitated areas of the site; control of water pollution from rehabilitated areas of the site; performance criteria for surface water quality attributes relevant to water quality impacts on biological diversity and aquatic ecological integrity, including salinity, heavy metals, sediment load, pH, hardness and biological oxygen demand; a program to monitor: <ul style="list-style-type: none"> the effectiveness of the water management system; surface water flows and quality in local water ways; and ecosystem health of local water ways; a plan to respond to any exceedances of the performance criteria, and mitigate and/or offset any adverse surface water impacts of the project; and <p>c) Groundwater Management Plan, which includes:</p> <ul style="list-style-type: none"> detailed baseline data on groundwater levels, yield and quality in the area, that could be affected by the project; groundwater assessment criteria, including trigger levels for investigating any potentially adverse groundwater impacts; a program to monitor: <ul style="list-style-type: none"> groundwater inflows to the quarrying operations; the impacts of the project on: <ul style="list-style-type: none"> local alluvial aquifers; 			
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS (Cont'd)				
SOIL AND WATER (Cont'd)				
Water Management Plan (Cont'd)				
3/18 (Cont'd)	<ul style="list-style-type: none"> any groundwater bores on privately-owned land that could be affected by the project; the seepage/leachate from water storages or backfilled voids on site; and groundwater dependent ecosystems; a plan to respond to any exceedances of the groundwater assessment criteria; <p>The Proponent must implement the approved management plan as approved from time to time by the Secretary.</p>			
Groundwater Monitoring				
3/18A	The Proponent must install 3 pairs of nested piezometers prior to the quarry pit floor reaching 660m AHD, in consultation with DPI – Water and to the satisfaction of the Secretary.	Not Yet Applicable	Extraction operations have not yet commenced (and therefore the 660m AHD level has not yet been reached).	D
VISUAL				
Establishment of Effective Vegetative Screens				
3/19	The Proponent must vegetate (with grasses, shrubs and trees) the Visibility Barriers as soon as practicable after the completion of the construction of the bunds, to the satisfaction of the Secretary.	Not Yet Applicable	Barriers not yet constructed.	D, A
3/19A	Prior to transporting any product from the site, the Proponent must establish a 0.68 ha tree screen adjacent to the Northern Visibility Barrier, as shown on Figure 1 in Appendix A. The screen must include native plant species from the <i>Southern Highlands Shale Woodland Endangered Ecological Community</i> .	Not Yet Applicable	No product transportation has occurred to date.	A
Advertising				
3/20	<p>The Proponent must not erect or display any advertising structure(s) or signs on the site without the written approval of the Secretary.</p> <p><i>Note: This condition does not require approval for any business identification, traffic management, and/or safety or environmental signs.</i></p>	Not Yet Applicable	No advertising structures are required or have been erected for the quarry.	D, A
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS (Cont'd)				
VISUAL (Cont'd)				
Operating Conditions				
3/21	The Proponent must: a) implement all reasonable and feasible measures to minimise the visual impacts and any off-site lighting impacts of the project; and b) maintain and improve the effectiveness of the bunds and vegetative screens over the life of the project.	Not Yet Applicable	No lighting was required to be used on-site during the reporting period.	A
		Not Yet Applicable	Barriers not yet constructed	D, A
3/22	Deleted			
TRANSPORT				
Road Upgrades (Local Roads)				
3/23	Prior to transporting any extractive material from the site, the Proponent must: a) construct the junction of the site access road with Berrima Road to Basic Right Turn and Basic Left Turn Treatment standard for a 19m semi-trailer; b) construct a raised concrete median in Berrima Road on the south bound approach to its junction with MR372; c) provide appropriate traffic signage and line-marking, in accordance with AUSTROADS <i>Guide to Road Design</i> and to the satisfaction of the Council.	Not Yet Applicable	No product transportation has occurred to date.	A
		Not Yet Applicable	Construction has not yet commenced.	A
		Not Yet Applicable	Construction has not yet commenced.	A
		Not Yet Applicable	Construction has not yet commenced.	A
Road Upgrades (Main Roads)				
3/24	Prior to transporting any extractive material from the site, the Proponent must: a) construct the Berrima Road/Taylor Avenue junction to give priority to MR372 incorporating Rural BA Left and Right turn treatments for a 19m semi-trailer; b) provide appropriate traffic signage and line-marking, in accordance with AUSTROADS <i>Guide to Road Design</i> and to the satisfaction of the Council and the RMS.	Note Yet Applicable	No product transportation has occurred to date. Notwithstanding, Council proposes to construct a roundabout at the road junction – Austral will submit funds once construction is completed.	A
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS (Cont'd)				
TRANSPORT (Cont'd)				
Road Upgrades (Main Roads) (Cont'd)				
3/24 (Cont'd)	If the Council undertakes or proposes to undertake a superior treatment of this intersection upgrade, then this condition may be fulfilled by the Proponent paying a monetary contribution to the Council equivalent to the cost of the upgrades specified under this condition, as assessed by a qualified independent valuer or quantity surveyor appointed by the Secretary. The costs of the valuation are to be paid by the Proponent. Any dispute over the interpretation of this condition or a satisfactory valuation can be referred by any party to the Secretary for resolution. The decision of the Secretary in any such dispute shall be final.			
Transport Route				
3/25	The Proponent must ensure heavy vehicles associated with the Project travel along haulage routes specified in the EA and the haulage route diagram in Figure 3 of APPENDIX A to this approval to the satisfaction of the Secretary.	Not Yet Applicable	Despatch of clay/shale has not yet commenced.	A
Road Maintenance Contribution				
3/26	The Proponent must pay to Council an annual contribution of 91.2 cents per cubic metre of extractive material exported from the site (indexed annually to Consumer Price Index) for the life of the Project. The volume of extractive material exported from the site must be established by way of a volumetric survey of the site carried out by a registered surveyor. Each annual volumetric survey must be provided to Council to allow verification of the contribution amount. The first annual payment falls due 12 months from the commencement of operation. <i>Note: The Proponent must provide a base-line survey of the site to the Council prior to the commencement of operations.</i>	Not Yet Applicable	Despatch of clay/shale has not yet commenced.	A
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS (Cont'd)				
TRANSPORT (Cont'd)				
Parking				
3/27	The Proponent must provide sufficient parking for all project-related traffic, in accordance with Council's parking code.	Not Yet Applicable	Operations have not yet commenced, however, dedicated parking areas are planned on site.	A
Operating Conditions				
3/28	The Proponent must ensure that:			
	a) vehicles on site do not exceed a speed limit of 30 kilometres per hour;	Compliant	Company policy nominates a speed limit of 30kph on site.	A
	b) all loaded vehicles entering or leaving the site have their loads covered; and	Not Yet Applicable	Despatch of clay/shale has not yet commenced.	A
	c) all loaded vehicles leaving the site are cleaned of sand and other materials before they leave the site so they do not track dirt onto the public roads.	Not Yet Applicable	Despatch of clay/shale has not yet commenced.	A
Transport Management Plan				
3/29	The Proponent must prepare a Transport Management Plan for the project to the Secretary. This plan must:	Compliant	The Plan was submitted to the Secretary on 18 March 2016 and approved on 13 May 2016. The Plan was updated during the reporting period and submitted for approval (approval expected early 2018).	D
	a) be submitted prepared in consultation with the RMS and Council, and submitted to the Secretary for approval prior to carrying out any quarrying operations on site;			
	b) include a drivers' code of conduct for the project;			
	c) describe the measures that would be implemented to ensure:			
	• establishing a CB radio communication protocol with the local bus companies, to improve driver awareness of quarry truck and school bus locations along haulage routes;			
	• the drivers of project-related vehicles comply with the drivers' code of conduct for the project; and			
	• compliance with the relevant conditions of this approval; and			
	d) include a program to monitor the effectiveness of the implementation of these measures.			
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS (Cont'd)				
TRANSPORT (Cont'd)				
Transport Management Plan (Cont'd)				
3/29 (Cont'd)	The Proponent must implement the approved management plan as approved from time to time by the Secretary.			
3/30	Should the Traffic Management Plan (TMP) for the proposed works require a reduction of the speed limit on Berrima Road and/or Taylor Avenue, a Speed Zone Authorisation must be obtained from RMS Traffic Operations Unit (TOU) prior to commencing work within the road reserve.	Not Yet Applicable	Authorisation not currently required.	A
WASTE				
3/31	The Proponent must: a) monitor the amount of waste generated by the project; b) investigate ways to minimise waste generated by the project; c) implement reasonable and feasible measures to minimise waste generated by the project; d) ensure that all waste generated by the project is lawfully disposed of to an appropriate facility; and e) report on waste management and minimisation in the annual review, to the satisfaction of the Secretary.	Not Yet Applicable Compliant Compliant Compliant Compliant	No substantial quantities of waste yet generated on site. All contractors are required to remove their own waste from site. All contractors are required to remove their own waste from site. All contractors are required to dispose of all wastes lawfully. See Section 6.5 of this document.	A A A A D
ABORIGINAL HERITAGE				
Aboriginal Heritage Management Plan				
3/32	The Proponent must prepare an Aboriginal Heritage Management Plan for the project to the satisfaction of the Secretary. This plan must: a) be prepared in consultation with OEH and the relevant Local Aboriginal Land Council; b) be submitted to the Secretary for approval prior to any ground disturbance; and c) include a: • protocol for the engagement of an Aboriginal Site Officer for any necessary ground disturbance monitoring;	Compliant	The Plan was submitted to the Secretary on 18 March 2016 and approved on 13 May 2016. The Plan was updated during the reporting period and submitted for approval (approval expected early 2018). Activities during the reportion period were compliant with the Plan.	D
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS (Cont'd)				
ABORIGINAL HERITAGE (Cont'd)				
Aboriginal Heritage Management Plan (Cont'd)				
3/32 (Cont'd)	<ul style="list-style-type: none"> program for the recording, notifying, salvage and surface collection of any Aboriginal objects/sites that may be encountered within the project area; description of the measures that would be implemented if any Aboriginal skeletal remains are discovered during the project; and protocol for the ongoing consultation and involvement of the Aboriginal community in the conservation and management of the Aboriginal heritage of the objects/sites. <p>The Proponent must implement the approved management plan as approved from time to time by the Secretary.</p>			
3/32A	<p>If any item or object of potential Aboriginal heritage significance is identified during works associated with the project, the Proponent must ensure that:</p> <ol style="list-style-type: none"> all work in the immediate vicinity of the potential Aboriginal item or object ceases immediately; a 10m buffer area around the potential item or object is cordoned off; and the OEH is contacted immediately. <p>Work in the immediate vicinity of the Aboriginal item or object may only recommence in accordance with the provisions of Part 6 of the <i>National Parks and Wildlife Act 1974</i>.</p>	Compliant	An isolated stone artefact was identified during heritage monitoring. No works were occurring at that time. All necessary reporting, artefact recovery and reburial was completed by a Senior Archaeologist from Biosis in consultation with OEH and the registered Aboriginal parties (see Section 6.4 of this report).	D
LANDSCAPE				
Rehabilitation Objectives				
3/33	The Proponent must rehabilitate the site to the satisfaction of the DRG. This rehabilitation must be consistent with the proposed rehabilitation strategy in the EA (MOD 1), and comply with the objectives in Table 6.	Not Yet Applicable	Activities requiring rehabilitation have not yet commenced.	D, A
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS (Cont'd)				
LANDSCAPE (Cont'd)				
Rehabilitation Objectives (Cont'd)				
3/33 (Cont'd)	Table 6 – Rehabilitation Objectives			
	Feature	Objective		
	Site (as a whole)	Safe, stable & non-polluting		
	Surface Infrastructure	To be decommissioned and removed, unless the DRG agrees otherwise		
	Quarry Walls	Final slopes of 1:3 (vertical : horizontal), except the southwestern wall of Bench 1 Vegetated with native endemic flora species to be consistent with surrounding landscape and to minimise visual impacts		
	Quarry Pit Floor	Suitable for grazing or other agricultural activities		
	Other Land affected by the project	Restore ecosystem function, including maintaining or establishing self-sustaining eco-systems comprised of: <ul style="list-style-type: none">local native species; anda landform consistent with the surrounding environment		
Progressive Rehabilitation				
3/34	The Proponent must rehabilitate the site progressively, that is, as soon as reasonably practicable following disturbance. All reasonable and feasible measures must be taken to minimise the total area exposed for dust generation at any time. Interim rehabilitation strategies must be employed when areas prone to dust generation cannot yet be permanently rehabilitated.	Non-Compliant	The soil stockpiles created during Physical Commencement in 2016 were not seeded with pasture species within a reasonable timeframe, and therefore resulting in non-compliance for minimising the total area exposed for dust generation. See Section 11 for further discussion.	D, A
Landscape Management Plan				
3/35	The Proponent must prepare a Landscape Management Plan for the project to the satisfaction of the Secretary. This plan must: a) be prepared in consultation with OEH and Council, and submitted to the Secretary for approval prior to carrying out any development on site under this approval; b) describe the short, medium and long term measures that would be implemented to: <ul style="list-style-type: none">manage the remnant vegetation and habitat on site;rehabilitate the riparian land adjacent to the Wingecarribee River on site; andensure compliance with the rehabilitation objectives and progressive rehabilitation obligations in this approval;	Non-Compliant	The Plan was submitted to the Secretary on 18 March 2016 and approved on 13 May 2016. The Plan was updated during the reporting period and submitted for approval (approval expected early 2018). However, the soil stockpiles created during Physical Commencement in 2016 were not seeded with pasture species within a reasonable timeframe, which is not in strict compliance with the Landscape Management Plan management measures. See Section 11 for further discussion.	D
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 3: ENVIRONMENTAL PERFORMANCE CONDITIONS (Cont'd)				
LANDSCAPE (Cont'd)				
Landscape Management Plan (Cont'd)				
3/35 (Cont'd)	<p>c) include detailed performance and completion criteria for evaluating the performance of the rehabilitation of the site, including triggering remedial action (if necessary);</p> <p>d) include a detailed description of the measures that would be implemented over the next 3 years, including the procedures to be implemented for:</p> <ul style="list-style-type: none"> ensuring compliance with the rehabilitation objectives and progressive rehabilitation obligations in this approval; enhancing the quality of existing vegetation and fauna habitat; restoring native endemic vegetation and fauna habitat within the biodiversity areas and rehabilitation area; maximising the salvage of resources within the approved disturbance area – including vegetative and soil resources – for beneficial reuse in the enhancement of the biodiversity areas or rehabilitation area; collecting and propagating seed; minimising the impacts on fauna on site, including undertaking pre-clearance surveys; controlling weeds and feral pests; controlling erosion; managing grazing and agriculture on site; controlling access; and bushfire management; <p>e) a program to monitor the effectiveness of these measures, and progress against the performance and completion criteria;</p>			
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 4: ADDITIONAL PROCEDURES (Cont'd)				
INDEPENDENT REVIEW (Cont'd)				
4/2 (Cont'd)	<p>If the Secretary is satisfied that an independent review is warranted, then within 2 months of the Secretary's decision the Proponent must:</p> <ul style="list-style-type: none"> a) commission a suitably qualified, experienced and independent expert, whose appointment has been approved by the Secretary, to: <ul style="list-style-type: none"> • consult with the landowner to determine his/her concerns; • conduct monitoring to determine whether the project is complying with the relevant criteria in schedule 3; and • if the project is not complying with these criteria, then identify the measures that could be implemented to ensure compliance with the relevant criteria; b) give the Secretary and landowner a copy of the independent review; and c) comply with any written requests made by the Secretary to implement any findings of the review. 			
4/3	<p>If the independent review determines that the project is complying with the relevant criteria in Schedule 3, then the Proponent may discontinue the independent review with the approval of the Secretary.</p> <p>If the independent review determines that the project is not complying with the relevant criteria in schedule 3, then the Proponent must:</p> <ul style="list-style-type: none"> a) implement all reasonable and feasible mitigation measures, in consultation with the landowner and appointed independent expert, and conduct further monitoring until the project complies with the relevant criteria; or b) secure a written agreement with the landowner to allow exceedances of the relevant criteria, <p>to the satisfaction of the Secretary.</p>	Not Applicable	No requests for an independent review are known to have been submitted to date.	A
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 5: ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING AND REPORTING				
ENVIRONMENTAL MANAGEMENT				
Environmental Management Strategy				
5/1	<p>The Proponent must prepare and an Environmental Management Strategy for the project to the satisfaction of the Secretary. The strategy must:</p> <ul style="list-style-type: none"> a) be submitted for approval to the Secretary prior to the commencement of construction activities; b) provide the strategic framework for environmental management of the project; c) identify the statutory approvals that apply to the project; d) describe the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the project; e) describe the procedures that would be implemented to: <ul style="list-style-type: none"> • keep the local community and relevant agencies informed about the operation and environmental performance of the project; • receive, handle, respond to, and record complaints; • resolve any disputes that may arise during the course of the project; • respond to any non-compliance; and • respond to emergencies; and f) include: <ul style="list-style-type: none"> • copies of the various strategies, plans and programs that are required under the conditions of this approval once they have been approved; and • a clear plan depicting all the monitoring to be carried out in relation to the project. <p>The Proponent must implement the approved strategy as approved from time to time by the Secretary.</p>	Compliant	The Plan was submitted to the Secretary on 18 March 2016 and approved on 13 May 2016. The Strategy was updated during the reporting period and submitted for approval (approval expected early 2018).	D
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 5: ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING AND REPORTING (Cont'd)				
ENVIRONMENTAL MANAGEMENT (Cont'd)				
Adaptive Management				
5/2	The Proponent must assess and manage project-related risks to ensure that there are no exceedances of the criteria and/or performance measures in schedule 3. Any exceedance of these criteria and/or performance measures constitutes a breach of this approval and may be subject to penalty or offence provisions under the EP&A Act or EP&A Regulation.	Not Yet Applicable	No exceedances of criteria have occurred to date.	A
	Where any exceedance of these criteria and/or performance measures has occurred, the Proponent must, at the earliest opportunity:			
	a) take all reasonable and feasible measures to ensure that the exceedance ceases and does not recur;	Not Yet Applicable	No exceedances of criteria have occurred to date.	A
	b) consider all reasonable and feasible options for remediation (where relevant) and submit a report to the Department describing those options and any preferred remediation measures or other course of action; and	Not Yet Applicable	No exceedances of criteria have occurred to date.	A
	c) implement remediation measures as directed by the Secretary, to the satisfaction of the Secretary.	Not Yet Applicable	No directions received from the Secretary during the reporting period.	D
Management Plan Requirements				
5/3	The Proponent must ensure that the Management Plans required under this approval are prepared in accordance with any relevant guidelines, and include: a) detailed baseline data; b) a description of: • the relevant statutory requirements (including any relevant approval, licence or lease conditions); • any relevant limits or performance measures/criteria; and • the specific performance indicators that are proposed to be used to judge the performance of, or guide the implementation of, the project or any management measures;	Compliant	All management plans were prepared as required by the Project Approval and approved by the Secretary. The updated management plans submitted also address these matters, as applicable.	D
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 5: ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING AND REPORTING (Cont'd)				
ENVIRONMENTAL MANAGEMENT (Cont'd)				
Management Plan Requirements (Cont'd)				
5/3 (Cont'd)	<p>c) a description of the measures that would be implemented to comply with the relevant statutory requirements, limits, or performance measures/criteria;</p> <p>d) a program to monitor and report on the:</p> <ul style="list-style-type: none"> impacts and environmental performance of the project; and effectiveness of any management measures (see (c) above); <p>e) a contingency plan to manage any unpredicted impacts and their consequences;</p> <p>f) a program to investigate and implement ways to improve the environmental performance of the project over time;</p> <p>g) a protocol for managing and reporting any:</p> <ul style="list-style-type: none"> incidents; complaints; non-compliances with statutory requirements; and exceedances of the impact assessment criteria and/or performance criteria; and <p>h) a protocol for periodic review of the plan.</p> <p><i>Note: The Secretary may waive some of these requirements if they are unnecessary or unwarranted for particular management plans.</i></p>			
Annual Review				
5/4	<p>By the end of December 2016, and annually thereafter, the Proponent must review the environmental performance of the project to the satisfaction of the Secretary. This review must:</p> <p>a) describe the development (including rehabilitation) that was carried out in the previous calendar year, and the works that are proposed to be carried out over the next year;</p>	Compliant	The first Annual Review was prepared for 2016 and the report updated as directed by the Secretary. This Annual Review for 2017 has been prepared in accordance with this condition.	D
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 5: ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING AND REPORTING (Cont'd)				
ENVIRONMENTAL MANAGEMENT (Cont'd)				
Annual Review (Cont'd)				
5/4 (Cont'd)	b) include a comprehensive review of the monitoring results and complaints records of the project over the past year, which includes a comparison of these results against: <ul style="list-style-type: none"> the relevant statutory requirements, limits or performance measures/criteria; the monitoring results of previous years; and the relevant predictions in the documents listed in condition 2 of Schedule 2; c) identify any non-compliance over the last year, and describe what actions were (or are being) taken to ensure compliance;			
	d) identify any trends in the monitoring data over the life of the project;			
	e) identify any discrepancies between the predicted and actual impacts of the project, and analyse the potential cause of any significant discrepancies; and			
	f) describe what measures will be implemented over the next year to improve the environmental performance of the project.			
Revision of Strategies, Plans and Programs				
5/5	Within 3 months of the submission of an: <ul style="list-style-type: none"> a) annual review under condition 4 above; b) incident report under condition 7 below; c) audit report under condition 9 below; and d) any modifications to this approval, the Proponent must review, and if necessary revise, the strategies, plans, and programs required under this approval to the satisfaction of the Secretary. 	Compliant	All management plans have been reviewed following the 2016 Annual Review, MOD2 approval and Independent Environmental Audit. Extensions to the 3 month timeframes were granted by the Department given the multiple factors triggering review.	D, A
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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 5: ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING AND REPORTING (Cont'd)				
ENVIRONMENTAL MANAGEMENT (Cont'd)				
Revision of Strategies, Plans and Programs (Cont'd)				
	<p>Within 4 weeks of conducting any such review, the Proponent must advise the Secretary of the outcomes of the review, and provide any revised documents to the Secretary for review and approval.</p> <p><i>Note: This is to ensure the strategies, plans and programs are updated on a regular basis, and incorporate any recommended measures to improve the environmental performance of the project.</i></p>			
Community Consultative Committee				
5/6	<p>The Proponent must establish and operate a CCC for the project to the satisfaction of the Secretary. This CCC must be operated in general accordance with the Department's <i>Community Consultative Committee (CCC) Guidelines for State Significant Projects</i> (November 2016, or its latest version), and be operating prior to any development being carried out on site under this approval.</p> <p><i>Notes:</i></p> <ul style="list-style-type: none"> <i>The CCC is an advisory committee. The Department and other relevant agencies are responsible for ensuring that the Proponent complies with this approval.</i> <i>In accordance with the guideline, the Committee should comprise an independent chair and appropriate representation from the Proponent, Council, recognised environmental groups and the local community.</i> 	Compliant	The first meeting of the CCC was held on 7 September 2016. The CCC has been operated in accordance with the guidelines and as directed by the committee.	D
REPORTING				
Incident Reporting				
5/7	<p>The Proponent must notify, at the earliest opportunity, the Secretary and any other relevant agencies of any incident that has caused, or threatens to cause, material harm to the environment. For any other incident associated with the project, the Proponent must notify the Secretary and any other relevant agencies as soon as practicable after the Proponent becomes aware of the incident. Within 7 days of the date of the incident, the Proponent must provide the Secretary and any relevant agencies with a detailed report on the incident, and such further reports as may be requested.</p>	Not Yet Applicable	No reportable incidents occurred during the reporting period.	A
<p>* = Basis for assessment of compliance</p> <p>D = Documentation Sighted A = Advised by Austral Employee O = Observation</p>				



Table A1-1 (Cont'd)
Compliance Review of PA 08_0212
for New Berrima Clay/Shale Quarry for the 2017 Reporting Period

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Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 5: ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING AND REPORTING (Cont'd)				
ENVIRONMENTAL MANAGEMENT (Cont'd)				
Regular Reporting (Cont'd)				
5/8	The Proponent must provide regular reporting on the environmental performance of the project on its website, in accordance with the reporting arrangements in any plans or programs approved under the conditions of this approval.	Compliant	Any relevant information is posted on the Austral website.	D, A
INDEPENDENT ENVIRONMENTAL AUDIT				
5/9	<p>Within a year of the commencement of development on site under this approval, and every 3 years thereafter, unless the Secretary directs otherwise, the Proponent must commission, commence and pay the full cost of an Independent Environmental Audit of the project. This audit must:</p> <ul style="list-style-type: none"> a) be conducted by suitably qualified, experienced and independent team of experts whose appointment has been endorsed by the Secretary; b) include consultation with the relevant agencies; c) assess the environmental performance of the project and whether it is complying with the relevant requirements in this approval and any relevant EPL and/or Water License (including any assessment, plan or program required under these approvals); d) review the adequacy of any approved strategy, plan or program required under the these approvals; e) recommend measures or actions to improve the environmental performance of the project, and/or any assessment, plan or program required under these approvals; and f) be conducted and reported to the satisfaction of the Secretary. <p><i>Note: This audit team must be led by a suitably qualified auditor and include experts in any fields specified by the Secretary.</i></p>	Compliant	The initial independent audit was undertaken in August 2017 (i.e. within 1 year following physical commencement). The audit was conducted by Trevor Brown & Associates whom were approved by the Secretary. The audit addressed all relevant matters.	D
<p>* = Basis for assessment of compliance</p> <p>D = Documentation Sighted A = Advised by Austral Employee O = Observation</p>				

Table A1-1 (Cont'd)
Compliance Review of PA 08_0212
for New Berrima Clay/Shale Quarry for the 2017 Reporting Period

Page 29 of 29

Condition No.	Requirement	Compliance	Comment	Basis*
SCHEDULE 5: ENVIRONMENTAL MANAGEMENT, MONITORING, AUDITING AND REPORTING (Cont'd)				
INDEPENDENT ENVIRONMENTAL AUDIT (Cont'd)				
5/9A	Within 12 weeks of commencing each audit, unless the Secretary agrees otherwise, the Proponent must submit a copy of the audit report to the Secretary, together with its response to any recommendations contained in the audit report, and a timetable for the implementation of any measures proposed to address the recommendations.	Compliant	The audit was submitted 30 October 2017 with the response action plan.	D
5/10	Within 3 months of commissioning this audit, or as otherwise agreed by the Secretary, the Proponent must submit a copy of the audit report to the Secretary, together with its response to any recommendations contained in the audit report.	Compliant	The audit was submitted 30 October 2017 with the response action plan.	A
ACCESS TO INFORMATION				
5/11	<p>Following the commencement of development on site under this approval, the Proponent must:</p> <p>a) make the following information publicly available on its website:</p> <ul style="list-style-type: none"> the documents listed in condition 2 of Schedule 2; current statutory approvals for the project; approved strategies, plans or programs; a summary of the monitoring results of the project, which have been reported in accordance with the various plans and programs approved under the conditions of this approval; a complaints register, updated on a quarterly basis; minutes of CCC meetings; copies of any annual reviews (over the last 5 years); any independent environmental audit, and the Proponent's response to the recommendations in any audit; and any other matter required by the Secretary; and <p>b) keep this information up-to-date, to the satisfaction of the Secretary.</p>	Compliant	The required documentation is maintained on the Austral website and appears up to date.	D
<p>* = Basis for assessment of compliance</p> <p>D = Documentation Sighted A = Advised by Austral Employee O = Observation</p>				



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Appendix 2

Compliance Review of Environment Protection Licence 20377

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Page 1 of 8

Table A2-2 (Cont'd)
Compliance for Environment Protection Licence (EPL) 20377

Page 2 of 8

Cond No.	Subject	Compliance	Comment	Basis*																
2. Discharges to Air and Water and Applications to Land (Cont'd)																				
P1 Location of monitoring/discharge points and areas (Cont'd)																				
P1.2	The following utilisation areas referred to in the table below are identified in this licence for the purposes of the monitoring and/or the setting of limits for any application of solids or liquids to the utilisation area.	Noted	-	-																
P1.3	The following points referred to in the table are identified in this licence for the purposes of the monitoring and/or the setting of limits for discharges of pollutants to water from the point. <div><table><tr><th colspan="4">Water and land</th></tr><tr><th>EPA Identification no.</th><th>Type of Monitoring Point</th><th>Type of Discharge Point</th><th>Location Description</th></tr><tr><td>4</td><td>Discharge to waters Water quality monitoring</td><td>Discharge to waters Water quality monitoring</td><td>North west of the quarry void and labelled W1 on map titled "Environmental Monitoring Locations" dated 20 November 2015 (DOC16/206245).</td></tr><tr><td>5</td><td>Discharge to waters Water quality monitoring</td><td>Discharge to waters Water quality monitoring</td><td>South west of the quarry void and labelled W2 on map titled "Environmental Monitoring Locations" dated 20 November 2015 (DOC16/206245).</td></tr></table></div>	Water and land				EPA Identification no.	Type of Monitoring Point	Type of Discharge Point	Location Description	4	Discharge to waters Water quality monitoring	Discharge to waters Water quality monitoring	North west of the quarry void and labelled W1 on map titled "Environmental Monitoring Locations" dated 20 November 2015 (DOC16/206245).	5	Discharge to waters Water quality monitoring	Discharge to waters Water quality monitoring	South west of the quarry void and labelled W2 on map titled "Environmental Monitoring Locations" dated 20 November 2015 (DOC16/206245).	Noted	Licenced discharge locations are marked in the locations nominated.	A, D
Water and land																				
EPA Identification no.	Type of Monitoring Point	Type of Discharge Point	Location Description																	
4	Discharge to waters Water quality monitoring	Discharge to waters Water quality monitoring	North west of the quarry void and labelled W1 on map titled "Environmental Monitoring Locations" dated 20 November 2015 (DOC16/206245).																	
5	Discharge to waters Water quality monitoring	Discharge to waters Water quality monitoring	South west of the quarry void and labelled W2 on map titled "Environmental Monitoring Locations" dated 20 November 2015 (DOC16/206245).																	
3. Limit Conditions																				
L1 Pollution of waters																				
L1.1	Except as provided in any other condition of this licence, the licensee must comply with section 120 of the <i>Protection of the Environment Operations Act 1997</i> .	Not Yet Applicable	All samples collected to date are 'baseline' monitoring.	A, D																
L2 Noise Limits																				
L2.1	Noise from the premises must not exceed the noise limits in the table below: <div><table><tr><th>Identification Point</th><th>Noise Limit at any time - dB(A) LAeq(15 minute)</th><th>Location</th></tr><tr><td>N1</td><td>42</td><td>North of the quarry void and labelled N1 on map titled "Environmental Monitoring Locations" dated 20 November 2015 (DOC16/206245).</td></tr><tr><td>N2</td><td>49</td><td>East of the quarry void and labelled N2 on map titled "Environmental Monitoring Locations" dated 20 November 2015 (DOC16/206245).</td></tr><tr><td>N3</td><td>44</td><td>South east of the quarry void and labelled N3 on map titled "Environmental Monitoring Locations" dated 20 November 2015 (DOC16/206245).</td></tr></table></div>	Identification Point	Noise Limit at any time - dB(A) LAeq(15 minute)	Location	N1	42	North of the quarry void and labelled N1 on map titled "Environmental Monitoring Locations" dated 20 November 2015 (DOC16/206245).	N2	49	East of the quarry void and labelled N2 on map titled "Environmental Monitoring Locations" dated 20 November 2015 (DOC16/206245).	N3	44	South east of the quarry void and labelled N3 on map titled "Environmental Monitoring Locations" dated 20 November 2015 (DOC16/206245).	Compliant	Compliance considered likely given that no operational activities occurred during the reporting period and no complaints were received. Monitoring to commence during construction of the visibility barriers.	A, D				
Identification Point	Noise Limit at any time - dB(A) LAeq(15 minute)	Location																		
N1	42	North of the quarry void and labelled N1 on map titled "Environmental Monitoring Locations" dated 20 November 2015 (DOC16/206245).																		
N2	49	East of the quarry void and labelled N2 on map titled "Environmental Monitoring Locations" dated 20 November 2015 (DOC16/206245).																		
N3	44	South east of the quarry void and labelled N3 on map titled "Environmental Monitoring Locations" dated 20 November 2015 (DOC16/206245).																		
4. Operating Conditions																				
O1 Activities must be carried out in a competent manner																				
O1.1	Licensed activities must be carried out in a competent manner. This includes: a) the processing, handling, movement and storage of materials and substances used to carry out the activity; and b) the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.	Compliant	There were no incidents and no complaints during the reporting period. Except for the replacement of the bridge across Stony Creek (for which the existing bridge span was lifted off and transported to Dunsteel for recycling), no other waste generating activities occurred.	A, D																
* D = Documentation sighted A = Advised by Company O = On-site Observation																				

Table A2-2 (Cont'd)
Compliance for Environment Protection Licence (EPL) 20377

Page 3 of 8

Cond No.	Subject	Compliance	Comment	Basis*																
4. Operating Conditions (Cont'd)																				
O2 Maintenance of plant and equipment																				
O2.1	All plant and equipment installed or used in connection with the licensed activity: a) must be maintained in a proper and efficient condition; and b) must be operated in a proper and efficient manner.	Compliant	The equipment (crane and trucks) used to replace the bridge across Stony Creek were appropriately maintained and operated.	A																
5. Monitoring and Recording Conditions																				
M1 Monitoring records																				
M1.1	The results of any monitoring required to be conducted by this licence or a load calculation protocol must be recorded and retained as set out in this condition.	Compliant	All air quality data is retained in accordance with these requirements.	D																
M1.2	All records required to be kept by this licence must be: a) in a legible form, or in a form that can readily be reduced to a legible form;	Compliant	All results are legible.	D																
	b) kept for at least 4 years after the monitoring or event to which they relate took place; and	Compliant	All results kept at Horsley Park and the Company network drive.	D																
	c) produced in a legible form to any authorised officer of the EPA who asks to see them.	Not Yet Applicable	Not yet requested.	D																
M1.3	The following records must be kept in respect of any samples required to be collected for the purposes of this licence: a) the date(s) on which the sample was taken; b) the time(s) at which the sample was collected; c) the point at which the sample was taken; and d) the name of the person who collected the sample.	Compliant	Documentation – all relevant information collected and retained on record sheets and lab certificates.	D																
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 licensee must monitor (by sampling and obtaining results by analysis) the concentration of each pollutant specified in Column 1. The licensee must use the sampling method, units of measure, and sample at the frequency, specified opposite in the other columns:	Noted	-	-																
M2.2	Air Monitoring Requirements. POINT 1,2,3	Administrative Non-compliance	Between January and April 2017, samples were not collected on a monthly basis. As of May 2017, processes were put in place to ensure monthly collection.	D																
	<table><tr><th>Pollutant</th><th>Units of measure</th><th>Frequency</th><th>Sampling Method</th></tr><tr><td>Ash</td><td>grams per square metre per month</td><td>Monthly</td><td>Australian Standard 3580.10.1-2003</td></tr><tr><td>Insoluble solids</td><td>grams per square metre per month</td><td>Monthly</td><td>Australian Standard 3580.10.1-2003</td></tr></table>				Pollutant	Units of measure	Frequency	Sampling Method	Ash	grams per square metre per month	Monthly	Australian Standard 3580.10.1-2003	Insoluble solids	grams per square metre per month	Monthly	Australian Standard 3580.10.1-2003				
	Pollutant				Units of measure	Frequency	Sampling Method													
Ash	grams per square metre per month	Monthly	Australian Standard 3580.10.1-2003																	
Insoluble solids	grams per square metre per month	Monthly	Australian Standard 3580.10.1-2003																	
M2.3	Water and/or Land Monitoring Requirements. POINT 4,5	Not Yet Applicable	As operational activities have not commenced there have been no 'discharges'. However, monthly baseline samples have been collected since May 2017.	D																
	<table><tr><th>Pollutant</th><th>Units of measure</th><th>Frequency</th><th>Sampling Method</th></tr><tr><td>Oil and Grease</td><td>Visible</td><td>Daily during any discharge</td><td>Inspection</td></tr><tr><td>pH</td><td>pH</td><td>Daily during any discharge</td><td>Grab sample</td></tr><tr><td>Total suspended solids</td><td>milligrams per litre</td><td>Daily during any discharge</td><td>Grab sample</td></tr></table>				Pollutant	Units of measure	Frequency	Sampling Method	Oil and Grease	Visible	Daily during any discharge	Inspection	pH	pH	Daily during any discharge	Grab sample	Total suspended solids	milligrams per litre	Daily during any discharge	Grab sample
	Pollutant				Units of measure	Frequency	Sampling Method													
Oil and Grease	Visible	Daily during any discharge	Inspection																	
pH	pH	Daily during any discharge	Grab sample																	
Total suspended solids	milligrams per litre	Daily during any discharge	Grab sample																	
* D = Documentation sighted A = Advised by Company O = On-site Observation																				



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A2-6

Table A2-2 (Cont'd)
Compliance for Environment Protection Licence (EPL) 20377

Page 5 of 8

Cond No.	Subject	Compliance	Comment	Basis*
5. Monitoring and Recording Conditions (Cont'd)				
M5 Recording of pollution complaints (Cont'd)				
M5.2	The record must include details of the following: a) the date and time of the complaint; b) the method by which the complaint was made; c) any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect; d) the nature of the complaint; e) the action taken by the licensee in relation to the complaint, including any follow-up contact with the complainant; and f) if no action was taken by the licensee, the reasons why no action was taken.	Not Yet Applicable	No complaints received to date.	D, A
M5.3	The record of a complaint must be kept for at least 4 years after the complaint was made.	Not Yet Applicable	No complaints received to date.	D, A
M5.4	The record must be produced to any authorised officer of the EPA who asks to see them.	Not Yet Applicable	Not yet requested.	D, A
M6 Telephone complaints line				
M6.1	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.	Compliant	Austral operates with a telephone complaints number (1800 635 620)	D
M6.2	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.	Compliant	The complaints number is advertised online through White Pages.	D
M6.3	The preceding two conditions do not apply until 3 months after the date of the issue of this licence.	No Longer Applicable	The initial three month period has lapsed.	D
6. Reporting Conditions				
R1 Annual return documents				
R1.1	The licensee must complete and supply to the EPA an Annual Return in the approved form comprising: 1. a Statement of Compliance; 2. a Monitoring and Complaints Summary; 3. a Statement of Compliance – Licence Conditions; 4. a Statement of Compliance – Load based Fee; 5. a Statement of Compliance – Requirement to Prepare Pollution Incident Response Management Plan; 6. a Statement of Compliance – Requirement to Publish Pollution Monitoring Data; and 7. a Statement of Compliance – Environmental Management Systems and Practices. At the end of each reporting period, the EPA will provide to the licensee a copy of the form that must be completed and returned to the EPA.	Compliant	The first Annual Return was submitted and received by EPA on 29 September 2017. All relevant aspects were completed.	D
* D = Documentation sighted A = Advised by Company O = On-site Observation				

Table A2-2 (Cont'd)
Compliance for Environment Protection Licence (EPL) 20377

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Cond No.	Subject	Compliance	Comment	Basis*
6. Reporting Conditions (Cont'd)				
R1 Annual return documents (Cont'd)				
R1.2	An Annual Return must be prepared in respect of each reporting period, except as provided below. <i>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.</i>	Compliant	The first Annual Return addressed the reporting period as specified by EPA (1 August to 31 July).	D
R1.3	Where this licence is transferred from the licensee to a new licensee: a) the transferring licensee must prepare an Annual Return for the period commencing on the first day of the reporting period and ending on the date the application for the transfer of the licence to the new licensee is granted; and b) the new licensee must prepare an Annual Return for the period commencing on the date the application for the transfer of the licence is granted and ending on the last day of the reporting period. <i>Note: An application to transfer a licence must be made in the approved form for this purpose.</i>	Not Applicable	The licence has not been transferred.	D
R1.4	Where this licence is surrendered by the licensee or revoked by the EPA or Minister, the licensee must prepare an Annual Return in respect of the period commencing on the first day of the reporting period and ending on: a) in relation to the surrender of a licence - the date when notice in writing of approval of the surrender is given; or b) in relation to the revocation of the licence - the date from which notice revoking the licence operates.	Not Applicable	The licence has not been surrendered or revoked.	D
R1.5	The Annual Return for the reporting period must be supplied to the EPA via eConnect EPA or by registered post not later than 60 days after the end of each reporting period or in the case of a transferring licence not later than 60 days after the date the transfer was granted (the 'due date').	Compliant	The first Annual Return was submitted and received by EPA on 29 September 2017. All relevant aspects were completed.	D
R1.6	The licensee must retain a copy of the Annual Return supplied to the EPA for a period of at least 4 years after the Annual Return was due to be supplied to the EPA.	Compliant	The first Annual Return has been retained at Horsley Park and on the Company network drive.	A
R1.7	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.	Compliant	The Annual Return was signed by the licence holder.	D
R2 Notification of environmental harm				
R2.1	Notifications must be made by telephoning the Environment Line service on 131 555. <i>Note: The licensee or its employees must notify all relevant authorities of incidents causing or threatening material harm to the environment immediately after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the Act.</i>	Not Applicable	No incidents causing environmental harm have occurred to date.	A
* D = Documentation sighted A = Advised by Company O = On-site Observation				

Table A2-2 (Cont'd)
Compliance for Environment Protection Licence (EPL) 20377

Page 7 of 8

Cond No.	Subject	Compliance	Comment	Basis*
6. Reporting Conditions (Cont'd)				
R2 Notification of environmental harm (Cont'd)				
R2.2	The licensee must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.	Not Applicable	No incidents causing environmental harm have occurred to date.	A
R3 Written report				
R3.1	Where an authorised officer of the EPA suspects on reasonable grounds that: a) where this licence applies to premises, an event has occurred at the premises; or b) where this licence applies to vehicles or mobile plant, an event has occurred in connection with the carrying out of the activities authorised by this licence, and the event has caused, is causing or is likely to cause material harm to the environment (whether the harm occurs on or off premises to which the licence applies), the authorised officer may request a written report of the event.	Not Yet Applicable	No written report has been requested.	A
R3.2	The licensee must make all reasonable inquiries in relation to the event and supply the report to the EPA within such time as may be specified in the request.	Not Yet Applicable	No written report has been requested.	A
R3.3	The request may require a report which includes any or all of the following information: a) the cause, time and duration of the event; b) the type, volume and concentration of every pollutant discharged as a result of the event; c) the name, address, business hours telephone number of employees or agents of the licensee who witnessed the event; d) the name, address, business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event, unless the licensee has been unable to obtain that information after making reasonable effort; e) action taken by the licensee in relation to the event, including any follow-up contact with any complainants; f) details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event; and g) any other relevant matters.	Not Yet Applicable	No written report has been requested.	A
R3.4	The EPA may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the EPA within the time specified in the request.	Not Yet Applicable	No written report has been requested.	A
7 General Conditions				
G1 Copy of licence kept at the premises or plant				
G1.1	A copy of this licence must be kept at the premises to which the licence applies.	Compliant	A copy of the licence is retained on site in a water proof tube.	A, O
* D = Documentation sighted A = Advised by Company O = On-site Observation				



Table A2-2 (Cont'd)
Compliance for Environment Protection Licence (EPL) 20377

Page 8 of 8

Cond No.	Subject	Compliance	Comment	Basis*
7 General Conditions (Cont'd)				
G1 Copy of licence kept at the premises or plant (Cont'd)				
G1.2	The licence must be produced to any authorised officer of the EPA who asks to see it.	Not Yet Applicable	No Office of the EPA has requested to see a copy of the licence.	A
G1.3	The licence must be available for inspection by any employee or agent of the licensee working at the premises.	Compliant	A copy of the licence is retained on site in a water proof tube and would be available for review by any employee or contractor.	A, O
* D = Documentation sighted A = Advised by Company O = On-site Observation				

Appendix 3

Compliance Review M(MOL)6

(Total No. of pages including blank pages = 6)



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Table A
Compliance Review – M(MO)L 6

Page 1 of 4

Cond. No.	Conditional Requirement	Compliance	Comments	Basis*
General Conditions				
1. Rehabilitation				
	Any disturbance resulting from the activities carried out under this mining lease must be rehabilitated to the satisfaction of the Minister.	Not Yet Applicable	No areas have become available for final rehabilitation.	D, A
2. Mining Operations Plan				
(a)	The leaseholder must comply with an approved Mining Operations Plan (MOP) in carrying out any significant surface disturbing activities, including mining operations, mining purposes and prospecting. The leaseholder must apply to the Minister for approval of a MOP. An approved MOP must be in place prior to commencing any significant surface disturbing activities, including mining operations, mining purposes and prospecting.	Not Yet Applicable	No significant surface disturbing activities have commenced to date.	D, A
(b)	The MOP must identify the post mining land use and set out a detailed rehabilitation strategy which: i) Identifies areas that will be disturbed; ii) Details the staging of specific mining operations, mining purposes and prospecting; iii) Identifies how the mine will be managed and rehabilitated to achieve the post mining land use; iv) Identifies how mining operations, mining purposes and prospecting will be carried out in order to prevent and or minimise harm to the environment; and v) Reflects the conditions of approval under: – the <i>Environmental Planning and Assessment Act 1979</i> ; – the <i>Protection of the Environment Operations Act 1997</i> ; and – any other approvals relevant to the development including the conditions of this mining lease.	Not Yet Applicable	A MOP has not yet been prepared and approved date.	D, A
(c)	The MOP must be prepared in accordance with the <i>ESG3: Mining Operations Plan (MOP) Guidelines</i> .	Not Yet Applicable	A MOP has not yet been prepared and approved date.	D, A
(d)	The leaseholder may apply to the Minister to amend an approved MOP at any time.	Not Yet Applicable	No MOP amendments have been requested to date.	D, A
<p>Yes# No# - Complied / not complied with. Compliance no longer required to be assessed</p> <p>* = Basis for assessment of compliance</p> <p>D = Documentation sighted</p> <p>A = Advised by Company Employee</p> <p>O = Observation during inspection</p>				



Table A (Cont'd)
Compliance Review – M(MO)L 6

Page 2 of 4

Cond. No.	Conditional Requirement	Compliance	Comments	Basis*
General Conditions (Cont'd)				
3. Annual Rehabilitation Report				
(a)	<p>The leaseholder must submit an Annual Rehabilitation Report which includes, but is not limited to the following:</p> <ul style="list-style-type: none"> i) A plan, or plans, which identifies the location (including coordinates) of all disturbance areas that are the subject of previous, current or future rehabilitation activities. ii) A brief description of all surface disturbing activities carried out during the report period. The location and size (in hectares) of each of the disturbance areas is to be identified on a plan. iii) A brief description of rehabilitation undertaken during the reporting period (for example, area reshaped and seeded for pasture). The location and size (in hectares) of the rehabilitation areas are to be identified on a plan. iv) A description of rehabilitation monitoring programs and analysis of results of rehabilitation monitoring programs, including a summary of whether rehabilitation is trending towards meeting the objectives and completion criteria. v) A brief description of the rehabilitation care and maintenance works to be undertaken over the next 12 months to address the outcomes of the monitoring program. vi) A brief description of the rehabilitation forecast for the next 12 months. The location and size (in hectares) of the proposed rehabilitation areas are to be identified on a plan. vii) Photographs of each disturbance area including those areas where rehabilitation activities have been conducted. 	Not Yet Applicable	The first Annual Rehabilitation Report is not yet due [M(MO)L 6 was granted 27 June 2017].	D
(b)	The Annual Rehabilitation Report must be submitted within 90 days of the grant anniversary date, unless otherwise approved by the Secretary.	Not Yet Applicable	The first Annual Rehabilitation Report is not yet due [M(MO)L 6 was granted 27 June 2017].	D
<p>Yes# No# - Complied / not complied with. Compliance no longer required to be assessed * = Basis for assessment of compliance D = Documentation sighted</p> <p style="text-align: right;">A = Advised by Company Employee O = Observation during inspection</p>				

Table A (Cont'd)
Compliance Review – M(MO)L 6

Page 3 of 4

Cond. No.	Conditional Requirement	Compliance	Comments	Basis*
General Conditions (Cont'd)				
4. Non-compliance and Incident Reporting				
(a)	The leaseholder must notify the Department immediately after becoming aware of any of the following: i) Any breaches of the conditions of this mining lease or breaches of the Act or Regulation. ii) Any breaches of environment protection legislation causing or threatening material harm to the environment, arising in connection with significant surface disturbing activities, including mining operations, mining purposes and prospecting operations, under this mining lease. iii) Any notification made under section 148 of the <i>Protection of the Environment Operations Act 1997</i> arising in connection with significant surface disturbing activities including mining operations, mining purposes and prospecting operations, under this mining lease.	Not Applicable	No breaches of this lease or breaches causing or threatening environmental harm and no notifications under S148 of the POEO Act occurred during the reporting period.	D, A
(b)	Notifications must be provided through the Department's website.	Not Applicable	As above.	D, A
5. Environmental Incident Report				
(a)	The leaseholder must submit an Environmental Incident Report to the Department within seven (7) days of: i) All breaches referred to in condition 4(a)(i) that caused or threatened material harm to the environment; ii) All breaches referred to in condition 4(a)(ii).	Not Applicable	As above.	D, A
(b)	The Environmental Incident Reporting must include the following: i) The details of the mining lease; ii) Contact details for the leaseholder; iii) A map identifying the location of the incident and where material harm to the environment has or is likely to occur; iv) A description of the nature of the incident or breach, likely causes and consequences; v) A timetable showing actions taken or planned to address the incident and to prevent future incidents or breaches referred to in condition 5(a);	Not Applicable	As above.	D, A
<p>Yes# No# - Complied / not complied with. Compliance no longer required to be assessed</p> <p>* = Basis for assessment of compliance</p> <p>D = Documentation sighted</p> <p>A = Advised by Company Employee</p> <p>O = Observation during inspection</p>				



Table A (Cont'd)
Compliance Review – M(MO)L 6

Page 4 of 4

Cond. No.	Conditional Requirement	Compliance	Comments	Basis*
General Conditions (Cont'd)				
5. Environmental Incident Report (Cont'd)				
(b) (Cont'd)	vi) Summary of all previous incidents or breaches which have occurred in the previous 12 months relating to significant surface disturbing activities, including mining operations; and vii) Mining purposes and prospecting operations under this mining lease.			
6. Security				
	The leaseholder is required to provide and maintain a security deposit to secure funding for the fulfilment of obligations of all or any kind under the mining lease, including obligations of all or any kind under the mining lease that may arise in the future.	Compliant	Bond paid on 11 April 2017.	A
(a)	Amount: \$10,000.			
(b)	Licence holder's entitlement to interest: none.			
Yes# No# - Complied / not complied with. Compliance no longer required to be assessed * = Basis for assessment of compliance D = Documentation sighted				
			A = Advised by Company Employee O = Observation during inspection	

Appendix 4

Meteorological Data Recorded during 2017

(Total No. of pages including blank pages = 4)



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Table A4-1
2017 Rainfall Records

Date	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
1	0.8	0.6	1.6	0.2	0.2	NR	0.0	0.0	0.0	0.0	0.0	0.2
2	0.2	0.2	0.4	0.0	0.0	NR	0.0	0.2	0.4	0.0	0.0	14.4
3	1.0	0.0	18.6	2.4	0.0	NR	0.0	7.2	0.0	0.0	0.0	0.0
4	0.0	0.0	3.4	3.0	0.0	NR	0.0	0.0	0.0	0.0	3.6	5.2
5	1.0	3.0	3.8	0.4	0.0	NR	0.0	0.0	0.0	0.0	0.6	0.0
6	0.4	0.6	0.0	0.2	0.2	NR	0.0	0.0	0.0	0.0	25.4	2.4
7	0.0	37.8	3.6	0.0	0.0	NR	0.0	1.2	0.0	0.0	0.0	0.0
8	0.0	14.2	2.4	0.2	0.0	2.2	0.0	0.0	0.0	0.0	0.0	0.0
9	15.6	0.4	1.4	11.8	0.0	6.0	0.0	0.0	0.0	3.8	0.0	0.0
10	0.4	0.0	0.0	4.6	0.2	7.8	0.0	0.0	0.0	0.0	0.2	0.0
11	0.0	2.4	0.0	0.0	0.2	0.4	0.0	0.0	0.0	0.2	0.0	0.0
12	0.2	0.2	0.0	0.0	0.2	0.4	0.4	0.0	0.0	1.2	0.0	0.0
13	0.2	0.0	1.2	0.0	0.0	0.4	0.2	0.0	0.0	0.0	0.0	0.0
14	0.0	0.0	21.0	0.0	0.0	0.2	0.0	0.0	0.0	0.0	0.0	3.6
15	0.0	0.0	15.4	0.4	0.0	0.2	0.0	0.0	0.0	0.0	0.0	2.0
16	0.2	0.0	36.0	0.2	0.2	0.4	0.0	5.4	0.2	0.0	0.0	0.0
17	0.0	3.0	2.2	0.0	0.0	0.0	0.0	0.0	0.0	0.0	15.2	0.0
18	0.2	9.0	10.0	0.0	0.2	0.2	0.0	0.6	0.0	0.0	6.0	0.0
19	0.8	0.0	12.0	NR	4.8	0.2	0.0	0.0	0.0	0.0	0.0	0.0
20	11.4	0.0	0.6	NR	12.6	0.2	0.0	0.0	0.0	9.0	16.2	0.0
21	0.2	0.0	9.8	NR	0.2	0.2	0.0	0.0	0.0	0.2	0.0	0.0
22	0.0	0.0	11.6	NR	0.4	0.2	0.0	0.0	0.0	3.2	0.0	0.2
23	0.0	0.0	8.8	NR	0.2	0.2	0.0	0.0	0.0	0.4	17.0	0.0
24	0.6	0.0	1.2	NR	4.6	0.0	0.0	0.0	0.0	0.0	0.6	0.0
25	0.6	1.0	1.4	NR	0.2	0.0	0.0	0.0	0.0	0.0	0.2	0.4
26	0.0	1.2	0.6	NR	0.0	0.0	0.2	0.2	0.0	14.2	0.8	0.8
27	0.0	5.6	0.0	NR	0.2	0.0	0.0	2.8	0.2	7.4	2.4	0.6
28	0.0	1.6	0.0	NR	1.0	0.0	0.4	0.0	1.2	0.0	0.2	0.0
29	0.0		0.2	NR	0.0	0.2	0.0	0.0	0.0	0.0	0.0	0.0
30	0.8		13.4	NR	0.0	0.0	0.0	0.0	0.0	0.0	0.0	3.8
31	0.2		0.0		-0.6		18.2	0.0		0.0		0.0

NR = No Result

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Appendix 5

DPE Compliance Action Documents

(Total No. of pages including blank pages = 34)

- Show Cause Notice – DPE 19 May 2017
- Response to Show Cause Notice – Austral Bricks 14 June 2017
- Official Cautions (x3) 30 June 2017
- Show Cause Notice – DPE 08 December 2017
- Response to Show Cause Notice – 19 January 2018
- DPE Correspondence 07 February 2018

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Contact: Georgia Dragicevic
Phone: 4224 9477
Fax: 4224 9470
Email: Georgia.Dragicevic@planning.nsw.gov.au

Mr Peter Young Whitford
Quarry Manager
The Austral Brick Company Pty Limited
PO Box 6550
WATHERILL PARK NSW 1851

Dear Mr Young Whitford

New Berrima Shale Quarry (MP 08_0212) – Show Cause

The Department is investigating whether The Austral Brick Company Pty Limited (Austral) has complied with the conditions of project approval MP 08_0212 (the approval) dated 6 July 2012, as modified, for the New Berrima Shale Quarry (the project).

The Department is investigating whether there is a breach of:

- Condition 8 of Schedule 3 Noise Management Plan;
- Condition 18 of Schedule 3 Water Management Plan; and
- Condition 32 of Schedule 3 Aboriginal Heritage Management Plan.

Condition 8 of Schedule 3 Noise Management Plan states:

"Noise Management Plan

8. *The Proponent shall prepare a Noise Management Plan for the project to the satisfaction of the Secretary. This plan must:*
- (a) be prepared in consultation with the EPA, and submitted to the Secretary for approval prior to the construction of the Visibility Barriers;*
 - (b) ...;*
 - (c) ...; and*
 - (d) include a monitoring program that:*
 - that is capable of evaluating the performance of the project;*
 - includes a protocol for determining exceedances of the relevant conditions in this approval; and*
 - evaluates and reports on the effectiveness of the noise management system on site.*

The Proponent shall implement the approved management plan to the satisfaction of the Secretary."

The Noise Management Plan, approved by the Secretary's nominee on 13 May 2016, Section 10.3.4 Methodology states:

"Attended noise monitoring will be undertaken quarterly during the construction period..."

The Annual Review for the reporting period from 1 January to 31 December 2016 for the project, submitted for the Secretary's consideration, as required under condition 4 of Schedule 5 of the approval (the Annual Review), Table 5 Relevant Environmental Performance Aspects states:



*"Noise (Barrier construction)
Noise Monitoring Planned."*

The Department considers that soil stripping activities in relation to the construction of the visibility barrier are considered to be construction activities for the purposes of the approval.

I have formed the view that there are reasonable grounds to believe that The Austral Brick Company Pty Limited (Austral), has failed to comply with condition 8 of Schedule 3 of the approval by failing to implement the noise monitoring requirements outlined in the approved Noise Management Plan.

Condition 18 of Schedule 3 Water Management Plan states:

"Water Management Plan

18. *The Proponent shall prepare a Water Management Plan for the project to the satisfaction of the Secretary. This plan must be prepared in consultation with the EPA, WaterNSW and DPI – Water by suitably qualified and experienced persons whose appointment has been approved by the Secretary, and be submitted to the Secretary for approval prior to the construction the Visibility Barriers on site.*

In addition to the standard requirements for management plans (see condition 3 of schedule 5), this plan must include a:

- (a) ...;*
- (b) Surface Water Management Plan, that includes:*
 - ...;*
 - a program to monitor*
 - o the effectiveness of the water management system;*
 - o surface water flows and quality in local water ways; and*
 - o ecosystem health of local water ways;*
 - ...; and*
- (c) ...;*

The Proponent shall implement the approved management plan to the satisfaction of the Secretary."

The Water Management Plan, approved by the secretary's nominee on 9 June 2016, Section 11.3.1.1 Baseline Monitoring states:

"...subject to flowing water being present, Austral will undertake sampling of water at monthly intervals from sites WS1, WS2, W3, W4, W5 and W8 from July 2016 until site establishment activities commence."

The Annual Review, Section 1 Statement of Compliance states:

"The baseline water monitoring that was proposed to occur during the reporting period did not occur."

I have formed the view that there are reasonable grounds to believe that Austral, has failed to comply with condition 18 of Schedule 3 of the approval by failing to implement the water monitoring requirements outlined in the approved Water Management Plan.

Condition 32 of Schedule 3 Aboriginal Heritage Management Plan states:

"Aboriginal Heritage Management Plan

32. *The Proponent shall prepare an Aboriginal Heritage Management Plan for the project to the satisfaction of the Secretary. This plan must:*

- (a) be prepared in consultation with OEH and the relevant Local Aboriginal Land Council;*
- (b) be submitted to the Secretary for approval prior to any ground disturbance; and*
- (c) include a:*
 - protocol for the engagement of an Aboriginal Site Officer for any necessary ground disturbance monitoring;*
 - ...*

The Proponent shall implement the approved management plan to the satisfaction of the Secretary."

Aboriginal Heritage Management Plan, approved by the secretary's nominee on 13 May 2016, Section 9.3 Site Disturbance Monitoring states:

"For each ground disturbance campaign, a site monitor from the Illawarra Local Aboriginal Land Council will be commissioned to inspect the areas to be disturbed and during initial stripping operations."

The Annual Review, Section 1 Statement of Compliance states:

"The planned monitoring by a representative of the Illawarra Local Aboriginal Land Council (ILALC) did not occur before the physical commencement activities commenced."

I have formed the view that there are reasonable grounds to believe that Austral, has failed to comply with condition 32 of Schedule 3 of the approval by failing to implement the aboriginal heritage site disturbance monitoring requirements outlined in the approved Aboriginal Heritage Management Plan.

The purpose of this letter is to give Austral the opportunity to show cause as to why the Department should not take formal action in relation to the non-compliance with:

- Condition 8 of Schedule 3 Noise Management Plan;
- Condition 18 of Schedule 3 Water Management Plan; and
- Condition 32 of Schedule 3 Aboriginal Heritage Management Plan.

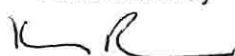
Representations should be received no later than **5 June 2017**.

After consideration of any representations made by you, the Department will take the appropriate enforcement action in accordance with the Department's Compliance Policy.

For your information, the Department's Compliance Policy and associated guidelines are available at <http://www.planning.nsw.gov.au/~media/Files/DPE/Plans-and-policies/compliance-and-enforcement-compliance-policy-2010-09-29.ashx>.

Should you need to discuss the above, please contact Georgia Dragicevic, Senior Compliance Officer, on (02) 4224 9477 or by email to Georgia.Dragicevic@planning.nsw.gov.au

Yours sincerely



Kirsty Ruddock 19/5/17

Director, Compliance and Investigations

Department of Planning & Environment

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14 June 2016

Secretary

Department of Planning and Environment
L2, 84 Crown Street
Wollongong, NSW. 2500

Attention: Georgia Dragicovic

Dear Madam

Re: New Berrima Clay / Shale Quarry (MP 08_2012) - Show Cause

I am writing to formally respond to the Department's Show Cause correspondence dated 19 May 2017. In doing so, I have attached a copy of the re-issued Annual Review as requested by the Department also on 19 May 2017, principally, to provide cross-references to information relevant to the response to the Show Cause correspondence and which should be considered in conjunction with the response provided in this letter.

At the outset, it is noted that Austral has acted at all times in good faith and attempted to meet all conditional requirements of Project Approval 08_0212 in an open and transparent manner. In doing so, focus was placed on implementing the conditional requirements relating to physically commencing the Project. Prior to the commencement of physical commencement activities, Austral assembled a comprehensive checklist drawing upon the actions included in Appendix 2 of the Environmental Management Strategy entitled 'Actions Required to Achieve Physical Commencement to Operate the New Berrima Quarry' prepared through R.W. Corkery & Co Pty Limited (see copy attached). Due to reliance upon this checklist, which only included actions required for compliance with the conditions of PA08_0212, we acknowledge that two actions within the approved management plans were not undertaken. The failure to undertake these actions within the approved management plans was completely unintentional and clearly an oversight.

I have set out below a brief response to each of the suggested non-compliances being investigated.

Condition 8 of Schedule 3 – Noise Management Plan

Austral considers that there has not been any non-compliance with this Condition as the monitoring nominated in the Noise Management Plan refers to attended noise monitoring being undertaken quarterly during the construction stage. Given the activities undertaken during the physical commencement program were of a short duration, small scale, and involved limited items of equipment which were substantially smaller (and hence with much lower sound power levels) than equipment that will be utilised during barrier construction, it was considered inappropriate to undertake noise monitoring at that time. It is a standard expectation that noise monitoring is undertaken when typical or worst case activities are underway. Had Austral undertaken the monitoring during the physical commencement activities, they could have easily been challenged with undertaking the monitoring during an unrepresentative period.

Proudly Supports





Section 11.3 of the Annual Review provides detailed discussion regarding the sound power levels of the equipment utilised during the period of the physical commencement activities (between 106 and 108dB(A) at ground level) compared to those of the equipment modelled for construction activities (116 to 118dB(A) at approximately 12 metres above ground level). Given the predicted compliant theoretical (and conservative) predictions of noise levels, and the absence of complaints, it remains Austral's intention to undertake the monitoring once the barrier construction is underway, i.e. during activities representative of the construction phase and consistent with the intent of the monitoring outlined within the Noise Management Plan.

Condition 18 of Schedule 3 – Water Management Plan

It is acknowledged that baseline water monitoring at monthly intervals at the six water sampling sites was not undertaken from July 2016 as nominated in the Water Management Plan. The monitoring did not occur due to the Company's focus upon compliance with specific conditional requirements relating to physical commencement activities. The fact that the water monitoring was not undertaken was indeed unintentional. It is noteworthy that no environmental harm is considered to have occurred due to the minor nature of the physical commencement works and the appropriate installation of sediment controls. The commencement of monthly water monitoring in May 2017 will provide sufficient data prior the substantial commencement of the construction of the visibility barriers. Further discussion regarding this matter is presented in Section 11.2 of the re-issued 2016 Annual Review.

Condition 32 of Schedule 3 – Aboriginal Heritage Management Plan

It is acknowledged that the planned monitoring by a representative of the Illawarra Local Aboriginal Land Council (ILALC) did not occur before the physical activities commenced. As for the baseline water monitoring, focus was placed upon satisfying specific conditional requirements to enable physical commencement.

Following the identification of this non-compliance, the ILALC was subsequently invited and undertook an inspection of the stripped areas and stockpiled soil on 6 June 2017. The inspection was undertaken in conjunction with a Principal Archaeologist from Biosis Pty Ltd. It is noted that neither Project Approval o8_o212 nor the 2010 Cultural Heritage Assessment required or recommend site monitoring during soil stripping. The monitoring was included within the Aboriginal Heritage Management Plan as an additional due diligence measure given the ILALC had requested the monitoring in their letter report following their 2008 site inspection. Further discussion regarding this matter is presented in Section 11.2 of the re-issued 2016 Annual Review.

It is noteworthy that, following the site inspection on 6 June 2017, the Cultural Heritage and Environmental Officer from the ILALC confirmed that the presence of an indigenous representative during future soil stripping works would not be required, i.e. consistent with the approach presented in the 2010 Cultural Heritage Assessment. In light of the documentation included with the re-issued Annual Review, it is concluded that, whilst the monitoring was not compliant with the Aboriginal Heritage Management Plan, no harm has occurred and the outcomes are no different than if monitoring had been undertaken during soil stripping.





In summary, Austral considers that compliance has been achieved with the relevant noise components of the Project Approval and Noise Management Plan but accepts that the Water Management Plan and Aboriginal Heritage Management Plan were not fully implemented as reported in the Annual Review dated March 2017.

Notwithstanding the occurrence of the two non-compliances, it is recognised that no environmental harm occurred during the reporting period as a result of these non-compliances and the potential risk of impact to both the environment and community was indeed negligible. This is supported by the fact that no complaints were received and that DPE did not observe any harm or potential for harm during their site inspection on 20 October 2016.

Following Austral's self-identification of the two non-compliances as part of the 2016 Annual Review (dated March 2017), we have undertaken appropriate actions to rectify and bring these matters back into compliance and ensure that that future non-compliances do not occur. Prior to undertaking any further site establishment or operational activities on site, we will undertake a comprehensive review of all conditional requirements and commitments in the various approved management plans to ensure all relevant tasks are fully implemented throughout the ongoing operation of the Quarry. We intend to ensure all requirements and tasks are captured in our internal monthly check which form part of Austral's overall Environmental Management System. I would be pleased to forward a copy of our monthly check system for your information once it is completed.

I trust the explanations provided and the re-issued Annual Review satisfy the Department with regard to the unintentional omissions and lack of environmental harm.

We look forward to continuing an open relationship with DPE and would be pleased to further discuss any relevant matter.

Yours sincerely,

Peter Young-Whitford
Mining and Raw Materials Manager

Appendix 2

Actions Required to Achieve Physical Commencement to Operate the New Berrima Quarry

(Total No. of pages including blank pages = 8)



THE AUSTRAL BRICK COMPANY PTY LIMITED
New Berrima Clay/Shale Quarry – PA08_0212

APPROVED ENVIRONMENTAL MANAGEMENT STRATEGY
Report No. 744/06 – Approved 13 May 2016
Appendix 2

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Table A2.1
New Berrima Quarry: Project Approval Conditions –
Actions Required to Achieve Physical Commencement and to Operate the New Berrima Quarry

Schedule/Condition	Condition Requirement	Action Required	Documentation	Who	Timing
Actions Required to Achieve Physical Commencement of the New Berrima Quarry					
3(1)	Mark out extraction area boundary	a) Engage a surveyor to mark out approved limit of extraction b) Submit survey plan	Survey plan	QM	April 2016
3(3 & 3A)	Construct visibility barriers	Construct visibility barriers to specified dimensions prior to carrying out quarrying operations	Plan continues location and dimensions.	QM	Commence August 2016
3(8)	Noise Management Plan	Prepare Noise Management Plan, submit to DPE prior to construction of visibility barriers	Noise Management Plan	RWC	February 2016
3(9)	Air Quality criteria	Install dust deposition gauges in accordance with AQMP/Australian Standards	Monitoring Procedures Manual	EO	June 2016
3(11)	Air Quality Management Plan	Prepare Air Quality Management Plan, submit to DPE prior to construction of visibility barriers	AQMP	RWC	March 2016
3(12)	Meteorological monitoring	Establish an on-site meteorological station that complies with Approved Methods for Sampling of Air Pollutants in New South Wales	Photograph of installed station and Record from supplier	EO	March 2016
3(8)	Water Management Plan	Prepare Water quality plan, submit to DPE prior to construction of visibility barriers	Water Management Plan	RWC/SEEC	March 2016
3(29)	Transport Management Plan	Prepare Transport Management Plan, submit to DPE prior to carrying out quarrying operations	Transport Management Plan	RWC	March 2016
3(5)	Landscape Management Plan	Prepare Landscape Management Plan, submit to DPE prior to carrying out any development	Landscape Management Plan	RWC	March 2016
5(1)	Environmental Management Strategy	Prepare Environmental Management Strategy, submit to DPE prior to commencement of construction activities	Environmental Management Strategy	RWC	March 2016
3(32)	Aboriginal Heritage Management Plan	Prepare Aboriginal Heritage Management Plan, submit to DPE prior to ground disturbance	Aboriginal Heritage Management Plan	RWC	March 2016

QM = Quarry Manager

QS = Quarry Supervisor

EO = Environmental Officer

Issue Date: 18 March 2016
Approval Date: 13 May 2016
Review Date: in accordance with Section 16

A2-3

Table A2.1 (Cont'd)
New Berrima Quarry: Project Approval Conditions –
Actions Required to Achieve Physical Commencement and to Operate the New Berrima Quarry

Page 2 of 4

Schedule/ Condition	Condition Requirement	Action Required	Documentation	Who	Timing
Actions Required to Achieve Physical Commencement of the New Berrima Quarry (Cont'd)					
5(6)	Community Consultative Committee	Establish and operate OCC prior to development	Correspondence	EO	July 2016
5(11)	Access to information	Make available EA, approvals, plans, monitoring results, complaints register, CCC meeting minutes, annual reviews, independent environmental audits on website	Website	EO	Establish prior to CCC Formation
Actions Required to Operate New Berrima Quarry					
3(6)	Operating hours	Comply with Operating hours at all times.	Daily Record Sheet	QM	Ongoing
2(15a)	Provide annual production data	Use standard form to provide annual production data to DRE	DRE annual production form	QM	After 30 June each year
2(15b)	Provide annual production data	Include annual production data in Annual Review	Annual Review	EO	Annually
3(4,5)	Noise criteria	Carry out noise monitoring	Monitoring Report	EO	Quarterly (until clay/shale transport commences) – thereafter annually
3(7c)	Maintain noise suppression equipment	Ensure mid frequency band reversing alarms fitted to all mobile equipment	Monthly checklist	QM	Ongoing
		Ensure maintenance of equipment to ensure noise attenuation e.g. mufflers	Monthly checklist	QM	Ongoing
3(7d)	Assess noise monitoring data	Ensure noise monitoring data demonstrates compliance with criteria	Internal compliance audit report	EO	Following Survey
3(10)	Minimise dust emissions	Implement dust control measures in accordance with AQMP	Monthly checklist	QM	Ongoing
3(14)	Water discharges	Ensure compliance with EPL	Discharge Records	EO	Ongoing

QM = Quarry Manager QS = Quarry Supervisor EO = Environmental Officer

Issue Date: 18 March 2016
Approval Date: 13 May 2016
Review Date: in accordance with Section 16

A2-4

Table A2.1 (Cont'd)
New Berrima Quarry: Project Approval Conditions –
Actions Required to Achieve Physical Commencement and to Operate the New Berrima Quarry

Page 3 of 4

Schedule/ Condition	Condition Requirement	Action Required	Documentation	Who	Timing
2(8)		Ensure hourly trucks leaving Quarry < 8. Ensure daily trucks leaving Quarry < 68.	Daily Truck Records	QM	Ongoing
3(note)	Obtain necessary water licences	Determine if water licences required and obtain if necessary	Not required	EO	Ongoing
3(15)		Ensure sufficient water available for on-site use.	Monthly checklist (with Dam Capacities)	QM	Ongoing
3(17)	Storage of Chemicals & Hydrocarbons	Ensure chemicals/hydrocarbons stored/ bundled in accordance with standards	Monthly Checklist	QM	Ongoing
3(18A)	Groundwater Monitoring	Install 3 pairs of nested piezometers prior to quarry floor reaching 660m AHD	Record of piezometer construction	EO	Before extraction is below 660m AHD
3(19)	Vegetate visibility barriers	Vegetate visibility barriers after construction	Record of revegetation and photographs	EO	Following Revegetation
3(19A)	Native tree screen	Establish native tree screen adjacent to planned location of northern visibility barrier prior to transporting any product from site	Record of plantings and photographs	EO	Dec 2016
3(23)	Road upgrades (local roads)	Prior to transporting any extractive material: Construct site access road junction with Berrima Road. Construct raised concrete median in Berrima Road on south bound approach to MR372. Provide appropriate traffic signage and line marking.	Design and construction Plans and works as completed drawings.	QM	Dec. 2016
3 (24)	Road upgrades (main roads)	Pay to Council cost of upgrade of Berrima Road/Taylor Avenue junction	Correspondence from Council and record of payments.	QM	When Council commences upgrade
3(25)	Haulage Route and Bowral Plan	Ensure all truck drivers <u>always</u> comply with this requirement.	Daily Road Sheets	Truck drivers	Ongoing

QM = Quarry Manager

QS = Quarry Supervisor

EO = Environmental Officer

Issue Date: 18 March 2016
Approval Date: 13 May 2016
Review Date: in accordance with Section 16

A2-5

Table A2.1 (Cont'd)
New Berrima Quarry: Project Approval Conditions –
Actions Required to Achieve Physical Commencement and to Operate the New Berrima Quarry

Page 4 of 4

Schedule/ Condition	Condition Requirement	Action Required	Documentation	Who	Timing
3(27)	Parking	Provide sufficient parking for all project-related traffic	Photograph	QM	Ongoing
3(28)	Transport conditions	Erect signs to ensure speed limit of 30km/h, ensure loads covered, reduce tracking of dirt onto public roads	Monthly checklist	QM	Ongoing
3 (31a, 31d, 31e)	Waste management	Monitor waste generated by the Quarry	Monthly Waste Record Sheet	QS	Ongoing
		Lawfully dispose of waste	Monthly Waste Record Sheet	QS	Ongoing
		Report waste management and minimisation in Annual Review	Annual Review	EO	Annually
3(34)	Progressive rehabilitation	Rehabilitate progressively as soon as reasonably practicable following disturbance	Rehabilitation Records and Photographs	EO	Ongoing
5(4)	Annual Review	Review environmental performance annually	Annual Review	EO	Annually
5(8)	Environmental reporting	Provide regular environmental performance reporting on website	Website	EO	Ongoing
5(9)	Independent Environmental Audit	Commission independent environment 1 year after extraction commences and then every 3 years	Correspondence	EO	Ongoing

QM = Quarry Manager
QS = Quarry Supervisor
EO = Environmental Officer

Issue Date: 18 March 2016
Approval Date: 13 May 2016
Review Date: in accordance with Section 16

A2-6

Table A2.2
New Berrima Quarry: Project Approval Statement of Commitments –
Actions Required to Achieve Physical Commencement and to Operate the New Berrima Quarry

Page 1 of 1

Commitment	Commitment Description	Actions Required	Documentation Required	Who	Timing
Actions Required to Achieve Physical Commencement of the New Berrima Quarry					
2.2	Complaints line	Institute a complaints phone line – already available	Available on website	-	Completed
Actions Required to Operate New Berrima Quarry					
2.3	Complaints register	Maintain a complaints register	Complaints register	EO	Ongoing
3.1	Seal part Quarry Access Road	Seal 400m of Quarry Access Road from entrance to the Quarry during construction period	Plans and Photographs	QM	Dec. 2016
3.3	Drivers Code of Conduct	Ensure drivers sign/adhere to Code of Conduct	Checklist Monthly		
4.3	Sediment fencing	Install sediment control fencing around visibility barriers and other exposed soil until vegetation established	Plan of fencing installed and photographs	QS	Ongoing
4.5	Armour scour points	Armour potential scour points e.g. channel inlets/outlets and bends with rock during construction period	Plan of works and photographs	QS	
4.6	Inspect water diversion structures	Inspect diversion structures monthly and within 24 hours following rain that generates flow	Monthly Checklist	QM	Ongoing
6.2	Spray weeds	Spray weeds with an authorised herbicide as required	Plan of spraying	EO	Ongoing
7.1	Plant tree screen	Plant tree screen at eastern side of surplus overburden stockpile area during construction	Record of planting and photographs	QS	April 2017
9.1, 9.2	Strip topsoil	Strip topsoil to 0.15m depth, place directly on visibility barriers or areas awaiting rehabilitation if possible	Plan of Stockpiles	QS	Ongoing
9.3, 9.4	Topsoil stockpiles	Stockpile topsoil around surface overburden storage area if necessary, limit height to 2m, broadcast pasture seed mix if stockpiles likely to remain for extended periods	Plan of Stockpiles and Photographs	QA	Ongoing
9.8	Refuelling and maintenance	Restrict refuelling and vehicle maintenance to designated area	Photograph and Plan	QS	Ongoing
10.1	Aboriginal heritage	Instruct all staff to cease work immediately if bone, stone artefacts or any object of cultural association is unearthed	Site Induction Notes	QM	Ongoing

EO = Environmental Officer

QS = Quarry Supervisor

QM = Quarry Manager

Note: Commitments that duplicate a Project Approval condition have not been included in table.

Issue Date: 18 March 2016

Approval Date: 13 May 2016

Review Date: in accordance with Section 16

A2-7

THE AUSTRAL BRICK COMPANY PTY LIMITED
New Berrima Clay/Shale Quarry – PA08_0212

APPROVED ENVIRONMENTAL MANAGEMENT STRATEGY
Report No. 744/06 – Approved 13 May 2016
Appendix 2

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A2-8

Issue Date: 18 March 2016
Approval Date: 13 May 2016
Review Date: in accordance with Section 16

A5-16



R.W. CORKERY & CO. PTY. LIMITED



Contact:: Georgia Dragicevic
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Email: Georgia.Dragicevic@planning.nsw.gov.au

The Austral Brick Co Pty Ltd
Group Administration Office
738-780 Wallgrove Road
HORSLEY PARK NSW 2175

Attention: Mr Peter Young Whitford, Quarry Manager

Dear Mr Whitford,

**Official Caution
New Berrima Shale Quarry – Project Approval 08_0212**

This Official Caution relates to a breach of condition 8 of Schedule 3 of Project Approval 08_0212 (the Approval) for the New Berrima Shale Quarry (the Project), operated by The Austral Brick Co Pty Ltd (The Austral), as follows:

- Following the Department's investigation, I have concluded that The Austral has failed to comply with condition 8 of Schedule 3 of the Approval by failing to undertake attended noise monitoring during soil stripping activities in relation to the construction of the visibility barrier, in accordance with the approved Noise Management Plan.

Condition 8 of Schedule 3 of the Approval states:

"Noise Management Plan

8. *The Proponent shall prepare a Noise Management Plan for the project to the satisfaction of the Secretary. This plan must:*
 - (a) be prepared in consultation with the EPA, and submitted to the Secretary for approval prior to the construction of the Visibility Barriers;*
 - (b) ...;*
 - (c) ...; and*
 - (d) include a monitoring program that:*
 - *that is capable of evaluating the performance of the project;*
 - *includes a protocol for determining exceedances of the relevant conditions in this approval; and*
 - *evaluates and reports on the effectiveness of the noise management system on site.*

The Proponent shall implement the approved management plan to the satisfaction of the Secretary."

The Noise Management Plan, approved by the Secretary's nominee on 13 May 2016, Section 10.3.4 Methodology states:

"Attended noise monitoring will be undertaken quarterly during the construction period..."

2

It is an offence under the former section 75D(2) and section 125, of the *Environmental Planning and Assessment Act 1979* (the Act) for a person not to comply with the conditions of approval for a Part 3A project. This offence carries a maximum penalty of \$5 million for a tier 1 offence and \$2 million for a tier 2 offence for a corporation.

The Department may prosecute a corporation for committing this offence. Alternatively, the Department may issue a penalty notice which carries a fine of \$15,000 on each occasion.

The significance of the breach has been evaluated against the Department's Compliance Policy in order to determine the appropriate compliance action.

In deciding to issue an Official Caution the Department notes that the alleged offence has not resulted in risks to public safety, known harm to the environment or damage to property. The Department also notes that construction activities were in relation to physical commencement activities to enact the Approval that were short and minor in nature.

In the circumstances and having regard to the *Attorney General's Caution Guidelines* under the *Fines Act 1996* (and reasons outlined above), I consider it appropriate to issue The Austral with an Official Caution for the alleged offence.

Please note that the Department will retain a copy of this Official Caution on file. The Department may take this into consideration when determining the most appropriate enforcement action for any future offences. Such action may involve the issue of a penalty notice of the commencement of prosecution proceedings.

The issuing of this Official Caution does not preclude the Department from taking alternative enforcement action for the alleged offence, if it becomes apparent that an alternative response is more appropriate.

To avoid an ongoing breach with the Approval, The Austral is required to comply with the Noise Management Plan, approved by the Secretary's nominee on 13 May 2016 until such time as the Plan is modified and subsequently approved by the Secretary.

Should you need to discuss the above, please contact Georgia Dragicevic as per the details provided above.

Yours sincerely,



Kirsty Ruddock 30/6/17
Director - Compliance and Investigations



Contact: Georgia Dragicevic
Phone: 4224 9477
Fax: 4224 9470
Email: Georgia.Dragicevic@planning.nsw.gov.au

The Austral Brick Co Pty Ltd
Group Administration Office
738-780 Wallgrove Road
HORSLEY PARK NSW 2175

Attention: Mr Peter Young Whitford, Quarry Manager

Dear Mr Whitford,

**Official Caution
New Berrima Shale Quarry – Project Approval 08_0212**

This Official Caution relates to a breach of condition 18 of Schedule 3 of Project Approval 08_0212 (the Approval) for the New Berrima Shale Quarry (the Project), operated by The Austral Brick Co Pty Ltd (The Austral), as follows:

- Following the Department's investigation, I have concluded that The Austral has failed to comply with condition 18 of Schedule 3 of the Approval by failing to undertake water monitoring from July 2016, in accordance with the approved Water Management Plan.

Condition 18 of Schedule 3 of the Approval states:

"Water Management Plan

18. *The Proponent shall prepare a Water Management Plan for the project to the satisfaction of the Secretary. This plan must be prepared in consultation with the EPA, Water NSW and DPI – Water by suitably qualified and experienced persons whose appointment has been approved by the Secretary, and be submitted to the Secretary for approval prior to the construction the Visibility Barriers on site.*

In addition to the standard requirements for management plans (see condition 3 of schedule 5), this plan must include a:

- (a) ...;
- (b) *Surface Water Management Plan, that includes:*
- ...;
 - *a program to monitor*
 - o *the effectiveness of the water management system;*
 - o *surface water flows and quality in local water ways; and*
 - o *ecosystem health of local water ways;*
 - ...; and
- (c) ...;

The Proponent shall implement the approved management plan to the satisfaction of the Secretary."



The Water Management Plan, Section 11.3.1.1 Baseline Monitoring, approved by the Secretary's nominee on 9 June 2016, states:

"...subject to flowing water being present, Austral will undertake sampling of water at monthly intervals from sites WS1, WS2, W3, W4, W5 and W8 from July 2016 until site establishment activities commence."

It is an offence under the former section 75D(2) and section 125, of the *Environmental Planning and Assessment Act 1979* (the Act) for a person not to comply with the conditions of approval for a Part 3A project. This offence carries a maximum penalty of \$5 million for a tier 1 offence and \$2 million for a tier 2 offence for a corporation.

The Department may prosecute a corporation for committing this offence. Alternatively, the Department may issue a penalty notice which carries a fine of \$15,000 on each occasion.

The significance of the breach has been evaluated against the Department's Compliance Policy in order to determine the appropriate compliance action.

In deciding to issue an Official Caution the Department notes that the alleged offence has not resulted in risks to public safety, known harm to the environment or damage to property. The Department also notes that water monitoring has commenced in May 2017.

In the circumstances and having regard to the *Attorney General's Caution Guidelines* under the *Fines Act 1996* (and reasons outlined above), I consider it appropriate to issue The Austral with an Official Caution for the alleged offence.

Please note that the Department will retain a copy of this Official Caution on file. The Department may take this into consideration when determining the most appropriate enforcement action for any future offences. Such action may involve the issue of a penalty notice of the commencement of prosecution proceedings.

The issuing of this Official Caution does not preclude the Department from taking alternative enforcement action for the alleged offence, if it becomes apparent that an alternative response is more appropriate.

To avoid an ongoing breach with the Approval, The Austral is required to:

- comply with the Water Management Plan, approved by the Secretary's nominee on 9 June 2016 until such time as the Plan is modified and subsequently approved by the Secretary; and
- review and if necessary revise the Water Management Plan, approved by the Secretary's nominee on 9 June 2016, and submit for the Secretary's approval within three weeks from the date of this letter.

Should you need to discuss the above, please contact Georgia Dragicevic as per the details provided above.

Yours sincerely,



Kirsty Ruddock 30/6/17

Director - Compliance and Investigations



Contact: Georgia Dragicevic
Phone: 4224 9477
Fax: 4224 9470
Email: Georgia.Dragicevic@planning.nsw.gov.au

The Austral Brick Co Pty Ltd
Group Administration Office
738-780 Wallgrove Road
HORSLEY PARK NSW 2175

Attention: Mr Peter Young Whitford, Quarry Manager

Dear Mr Whitford,

**Official Caution
New Berrima Shale Quarry – Project Approval 08_0212**

This Official Caution relates to a breach of condition 32 of Schedule 3 of Project Approval 08_0212 (the Approval) for the New Berrima Shale Quarry (the Project), operated by The Austral Brick Co Pty Ltd (The Austral), as follows:

- Following the Department's investigation, I have concluded that The Austral has failed to comply with condition 32 of Schedule 3 of the Approval by failing to commission a site monitor from the Local Aboriginal Land Council to inspect the areas prior to disturbance, in accordance with the approved Aboriginal Heritage Management Plan.

Condition 32 of Schedule 3 of the Approval states:

Aboriginal Heritage Management Plan

32. *The Proponent shall prepare an Aboriginal Heritage Management Plan for the project to the satisfaction of the Secretary. This plan must:*
- (a) *be prepared in consultation with OEH and the relevant Local Aboriginal Land Council;*
 - (b) *be submitted to the Secretary for approval prior to any ground disturbance; and*
 - (c) *include a:*
 - *protocol for the engagement of an Aboriginal Site Officer for any necessary ground disturbance monitoring;*
 - *...*

The Proponent shall implement the approved management plan to the satisfaction of the Secretary."

Aboriginal Heritage Management Plan, Section 9.3 Site Disturbance Monitoring, approved by the Secretary's nominee on 13 May 2016, states:

"For each ground disturbance campaign, a site monitor from the Illawarra Local Aboriginal Land Council will be commissioned to inspect the areas to be disturbed and during initial stripping operations."

It is an offence under the former section 75D(2) and section 125, of the *Environmental Planning and Assessment Act 1979* (the Act) for a person not to comply with the conditions of approval for a Part 3A project. This offence carries a maximum penalty of \$5 million for a tier 1 offence and \$2 million for a tier 2 offence for a corporation.

The Department may prosecute a corporation for committing this offence. Alternatively, the Department may issue a penalty notice which carries a fine of \$15,000 on each occasion.

The significance of the breach has been evaluated against the Department's Compliance Policy in order to determine the appropriate compliance action.

In deciding to issue an Official Caution the Department notes that the alleged offence has not resulted in known harm to the aboriginal cultural heritage.

In the circumstances and having regard to the *Attorney General's Caution Guidelines* under the *Fines Act 1996* (and reasons outlined above), I consider it appropriate to issue The Austral with an Official Caution for the alleged offence.

Please note that the Department will retain a copy of this Official Caution on file. The Department may take this into consideration when determining the most appropriate enforcement action for any future offences. Such action may involve the issue of a penalty notice of the commencement of prosecution proceedings.

The issuing of this Official Caution does not preclude the Department from taking alternative enforcement action for the alleged offence, if it becomes apparent that an alternative response is more appropriate.

To avoid an ongoing breach with the Approval, The Austral is required to:

- comply with the Aboriginal Heritage Management Plan, approved by the Secretary's nominee on 13 May 2016, and
- review and if necessary revise the Aboriginal Heritage Management Plan, approved by the Secretary's nominee on 13 May 2016, and submit for the Secretary's approval within three weeks from the date of this letter.

Should you need to discuss the above, please contact Georgia Dragicevic as per the details provided above.

Yours sincerely,



Kirsty Ruddock 30/6/17.

Director - Compliance and Investigations



Planning &
Environment

Contact: Georgia Dragicevic
Phone: 4224 9477
Fax: 4224 9470
Email: Georgia.Dragicevic@planning.nsw.gov.au

The Austral Brick Co Pty Ltd
Group Administration Office
738-780 Wallgrove Road
HORSLEY PARK NSW 2175

Attention: Mr Peter Young Whitford, Quarry Manager

Dear Mr Young Whitford

New Berrima Shale Quarry (MP 08_0212) – Show Cause

After reviewing the Independent Environmental Audit Report dated August 2017, for the project, submitted for the Secretary's consideration, as required under Schedule 5 condition 9 of the approval (the Audit Report), the Department is investigating whether The Austral Brick Co Pty Ltd (The Austral) has complied with the conditions of project approval MP 08_0212 (the approval) dated 6 July 2012, as modified, for the New Berrima Shale Quarry (the project).

The Department is investigating whether there is a breach of:

- Schedule 2 condition 2A Terms of Approval, Schedule 3 conditions 34 and 35 Progressive Rehabilitation and Landscape Management Plan (page 3 of this letter); and
- Schedule 3 condition 11 Air Quality Management Plan (page 4 of this letter).

The Audit Report identified a number of non-compliances which are contained within Table 6.1.3 titled Management Plans – Compliance Status August 2017 and states:

"The topsoil stockpiles in the area of the Central Visibility Barrier have not been revegetated in accordance with Project Approval 08_0212 Schedule 3 condition 34 ... and the Landscape Management Plan section 9.1. Progressive rehabilitation had not been implemented on the topsoil stockpiles in the area of the Central Visibility Barrier at the date of this audit..."

and:

"Between September 2016 and May 2017, the dust deposition bottles were not collected monthly."

I have formed the view that there are reasonable grounds to believe that Austral, has failed to comply with Schedule 2 condition 2A and Schedule 3 conditions 34 and 35 of the approval by failing to implement the rehabilitation requirements outlined in the Statement of Commitments and the approved Landscape Management Plan and with Schedule 3 condition 11 of the approval by failing to implement the air quality monitoring requirements outlined in the approved Air Quality Management Plan.

The purpose of this letter is to give The Austral the opportunity to show cause as to why the Department should not take formal action in relation to the non-compliance with:

- Schedule 2 condition 2A Terms of Approval, Schedule 3 conditions 34 and 35 Progressive Rehabilitation and Landscape Management Plan; and
- Schedule 3 condition 11 Air Quality Management Plan.

Representations should be received no later than **20 December 2017**.

Department of Planning & Environment

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1



In addition, it is requested that The Austral advises:


1. the air quality results for the period between September 2016 and May 2017;
2. the methodology used to calculate the air quality results for the period between September 2016 and May 2017, given that samples were not collected on monthly bases during this period; and
3. controls employed to manage any dust issues associated with the exposed topsoil stockpiles in the area of the Central Visibility Barrier.

After consideration of any representations made by you, the Department will take the appropriate enforcement action in accordance with the Department's Compliance Policy.

For your information, the Department's Compliance Policy and associated guidelines are available at <http://www.planning.nsw.gov.au/~media/Files/DPE/Plans-and-policies/compliance-and-enforcement-compliance-policy-2010-09-29.ashx>.

Should you need to discuss the above, please contact Georgia Dragicevic, Senior Compliance Officer, on (02) 4224 9477 or by email to Georgia.Dragicevic@planning.nsw.gov.au

Yours sincerely



Kirsty Ruddock
Director Compliance and Investigations 8/12/17



New Berrima Shale Quarry (MP 08_0212)

Schedule 2 condition 2A and Schedule 3 conditions 34 and 35 state:

Terms of Approval

- 2A. The Proponent must carry out the project in accordance with the Project Plans, statement of commitments, and the conditions of this consent.

Notes:

- a) The Project Plans are shown in APPENDIX A; and
b) The statement of commitments is reproduced in APPENDIX B.

Appendix B: Statement of Commitments, 9. Sols, Land Capability and Agricultural Sustainability

- 9.4 Broadcast a pasture seed mix to assist with temporary stabilisation if topsoil stockpiles are likely to remain for extended periods.

"Progressive Rehabilitation

34. The Proponent must rehabilitate the site progressively, that is, as soon as reasonably practicable following disturbance. All reasonable and feasible measures must be taken to minimise the total area exposed for dust generation at any time. Interim rehabilitation strategies must be employed when areas prone to dust generation cannot yet be permanently rehabilitated.

Landscape Management Plan

35. The Proponent must prepare a Landscape Management Plan for the project to the satisfaction of the Secretary. This plan must:
- (a) be prepared in consultation with OEH and Council, and submitted to the Secretary for approval prior to carrying out any development on site under this approval;
 - (b) describe the short, medium and long term measures that would be implemented to:
 - manage the remnant vegetation and habitat on site;
 - rehabilitate the riparian land adjacent to the Wingecarribee River on site; and
 - ensure compliance with the rehabilitation objectives and progressive rehabilitation obligations in this approval;
 - (c) include detailed performance and completion criteria for evaluating the performance of the rehabilitation of the site, including triggering remedial action (if necessary);
 - (d) include a detailed description of the measures that would be implemented over the next 3 years, including the procedures to be implemented for:
 - ensuring compliance with the rehabilitation objectives and progressive rehabilitation obligations in this approval;
 - enhancing the quality of existing vegetation and fauna habitat;
 - restoring native endemic vegetation and fauna habitat within the biodiversity areas and rehabilitation area;
 - maximising the salvage of resources within the approved disturbance area – including vegetative and soil resources – for beneficial reuse in the enhancement of the biodiversity areas or rehabilitation area;
 - collecting and propagating seed;
 - minimising the impacts on fauna on site, including undertaking pre-clearance surveys;
 - controlling weeds and feral pests;
 - controlling erosion;

- managing grazing and agriculture on site;
- controlling access; and
- bushfire management;
- (e) a program to monitor the effectiveness of these measures, and progress against the performance and completion criteria;
- (f) identify the potential risks to successful implementation of the rehabilitation of the site, and include a description of the contingency measures that would be implemented to mitigate against these risks; and
- (g) include details of who would be responsible for monitoring, reviewing, and implementing the plan.

The Proponent must implement the approved management plan as approved from time to time by the Secretary."

The Landscape Management Plan, approved by the secretary's nominee on 13 May 2016, Section 9.1 Preparatory Activities and Soil Management states:

"A pasture of seed mix will be broadcast to assist with temporary stabilisation if topsoil stockpiles are likely to remain for extended periods."

Schedule 3 condition 11 Air Quality Management Plan states:

"Air Quality Management Plan

11. The Proponent must prepare an Air Quality Management Plan for the project to the satisfaction of the Secretary. This plan must:

- (a) *be prepared in consultation with the EPA, and submitted to the Secretary for approval prior to the construction of the Visibility Barriers;*
- (b) *describes the measures that would be implemented to ensure:*
 - *best management practice is employed;*
 - *the air quality impacts of the project are minimised during adverse meteorological conditions and extraordinary events; and*
 - *compliance with the relevant conditions of this approval;*
- (c) *describes the proposed air quality management system; and*
- (d) *includes an air quality monitoring program that:*
 - *is capable of evaluating the performance of the project;*
 - *includes a protocol for determining any exceedances of the relevant conditions of approval;*
 - *adequately supports the air quality management system; and*
 - *evaluates and reports of the adequacy of the air quality management system.*

The Proponent must implement the approved management plan as approved from time to time by the Secretary."

The Air Quality Management Plan, approved by the Secretary's nominee on 13 May 2016, Section 11.6 Monitoring Frequency states:

"Dust deposition gauges will be sampled monthly in accordance with AS/NZS 3580.10.1:2003, i.e. samples will be collected/changed over within 2 days of the first day of each month."



19 January 2018

Secretary
Department of Planning & Environment
L2, 84 Crown Street
WOLLONGONG, NSW 2500

Attention: Georgia Dragicevic

Dear Madam

Re: New Berrima Clay / Shale Quarry (MP 08_2012) - Show Cause December 2017

I am writing to formally respond to the Department's Show Cause Notice dated 8 December 2017. It is noted that both suggested non-compliances were identified through the mandatory Independent Environmental Audit and that an Action Response Plan was submitted with the audit report. Whilst the audit has been approved, no response or comment has been received in relation to the action plan. The Show Cause Notice also does not refer to the Action Response Plan. It is assumed that the Action Response Plan has been considered by the Department to be inadequate resulting in the issue of a Show Cause Notice. Therefore, please see below further detail and response to each of the suggested non-compliances being investigated.

PROGRESSIVE REHABILITATION

(Condition 2A of Schedule 2, Conditions 34 and 35 of Schedule 3 and the Landscape Management Plan)

To restate the point of concern / non-compliance that has been raised, Section 6.10.3 of the 2017 Independent Audit states the following.

"The stockpiled topsoil in the area of the Central Visibility Barrier have not been revegetated in accordance with Statement of Commitment 9.4 ("Broadcast a pasture seed mix to assist temporary stabilisation if topsoil stockpiles are likely to remain for extended periods") and the Landscape Management Plan section 9.1, to reduce the potential of dust generation and the visual impact of the clearance."

It is useful at this point to clarify that the intent, in both the Statement of Commitments and in the Landscape Management Plan, of sowing a pasture seed mix on topsoil stockpiles which are to be retained for an extended period is in fact to conserve and maintain the viability of the soil resource. This is noted in the 'Desired Outcome' column for Statement of Commitment 9.4 "Conservation of topsoil resources". Notwithstanding this, it is acknowledged that vegetating soil stockpiles can also reduce potential dust generation and visual impacts, however, not vegetating soil stockpiles does not necessarily result in actual air quality or visual impacts. More broadly, Condition 3(34) of Project Approval 08_0212 requires progressive rehabilitation to minimise the total area exposed for dust generation at any time and requires **that "Interim rehabilitation strategies must be employed when areas prone to dust generation cannot yet be permanently rehabilitated"**.

Austral contends that, in this circumstance, the topsoil stockpiles are not "prone to dust generation" nor pose any significant impact on visual amenity. This is further discussed as follows.

The soil stockpiles in question were created during physical commencement activities in September 2016, cover an area of approximately 0.26ha and range up to 1.4m high. There has not been any soil added to or removed from these soil stockpiles since their creation nor other dust generating activities (e.g. vehicle

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movements across the stockpiles). The closest non-project related residence is approximately 1km to the north-northwest of the closest point of the stockpiles.

Plates 1 to 4 provide photographs of the bunding as of the Department's compliance inspection on 20 October 2016, the Independent Audit inspection on 1 August 2017, and taken by Austral on 18 December 2017.



Plate 1: View South of the Topsoil Stockpiles (20 October 2016)

Source: DPE Compliance Report



Plate 2: View North-northeast of the Topsoil Stockpiles (1 August 2017)

Source: Trevor Brown & Associates



Plate 3: View North-northeast of the Topsoil Stockpiles (1 August 2017) *Source: Trevor Brown & Associates*



Plate 4: View North-northeast of the Topsoil Stockpiles (18 December 2017) *Source: Austral Bricks*

Whilst Austral was strictly non-compliant with the Landscape Management Plan and Statement of Commitment 9.4 in not sowing pasture species on the soil stockpiles within a reasonable timeframe of their creation (generally industry practice is within 3 months if a suitable groundcover has not already established), the principal issue was in fact the grazing of cattle which did not enable grass to establish. Following the identification of this issue during the audit inspection on 1 August 2017, the cattle were subsequently removed and vegetation began to establish. As a result, and **as noted within Austral's** response to the audit recommendations dated 30 October 2017), no action was considered necessary as groundcover was establishing (as can be seen in **Plate 4**)

Notably, at the time of stockpile creation, substantial rainfall had been received and only topsoil material containing a substantial amount of grass was stripped. Therefore, it was expected that the topsoil would generate a suitable grass cover without further action (again a common industry practice for topsoil stripped from pasture areas). As a result, the commitment to sow pasture grass was unintentionally overlooked. Whilst not attempting to diminish this, given that the reason grass cover did not adequately establish was due to grazing cattle, even had pasture cover been sown, it is expected that, without removal of the cattle, adequate grass cover would still not have established.

In relation to concerns regarding potential air quality or visual issues, since the creation of the topsoil stockpiles, there have been no complaints or issues raised. There were also no concerns raised during the **Department's compliance inspection on 20 October 2016**. Deposited dust monitoring results have also not recorded any exceedances of criteria.



This is not a surprise given that the generally limited extent of the disturbance, particularly in comparison to surrounding agricultural activities. Furthermore, the soil stockpiles **have not been 'worked' and there have been no construction or operational activities since creation of the stockpiles. Hence, the stockpiles have not been 'prone' to dust generation.**

Given the above, the failure to sow pasture grass is considered not to have resulted in either environmental harm nor had the potential to result in environmental harm. Notwithstanding, upon identification of this issue, Austral undertook action immediately (through removal of the cattle) and the issue has been rectified.

In light of the fact that:

1. this matter was identified through the existing compliance review system (auditing) and action response plan;
2. actions were taken prior to the receipt of a Show Cause Notice (and even prior to finalisation of the audit);
3. neither actual nor potential environmental harm occurred;
4. there have been no exceedances in air quality monitoring and no complaints or concerns raised by the community;

it is considered that there are more than reasonable grounds for the Department to take no further action in relation to this matter.

AIR QUALITY MONITORING

(Condition 11 of Schedule 3 – Air Quality Management Plan)

The Independent Audit states that “Between September 2016 and May 2017, the dust deposition bottles were not collected monthly”. It is acknowledged that the bottles for deposited dust monitoring were not changed monthly. This was partly due to miscommunication with the laboratory resulting in incorrect bottles, funnels and plugs being supplied to Austral and a focus of meeting requirements for physical commencement.

However, **similar to improvements in water monitoring practices as identified in Austral’s response to the Department’s May 2017 Show Cause Notice, improvements in air quality monitoring practices were similarly implemented in May 2017** which has resulted in compliance with monitoring frequencies since that time. Therefore, it is contended that this matter has already been adequately addressed as part of the **Department’s Official Caution** issued 30 June 2017 and is one and the same issue relating to ensuring that monitoring is undertaken in accordance with the relevant management plans.

As requested, please see attached the results of air quality monitoring undertaken to date. Where bottles **were ‘exposed’ for periods of greater than 1 month**, the deposition rate was calculated by converting the total deposited dust collected over the total exposure period in days and multiplied to a monthly average. The principal issue of leaving deposited dust bottles exposed for periods of greater than 1 month is that **any short-term ‘spike’ in deposited dust will be averaged over a greater period of time, effectively ‘smoothing the graph line’**. Despite this, it is noted that the relevant criterion is in fact the average annual monthly deposited dust. As can be seen from the attached results, the monitoring has recorded an annual average well below the relevant criteria.

Austral wishes to confirm that we take our compliance obligations very seriously and, notwithstanding the actions already taken, are continuing to work on improving our procedures and management documentation to minimise the risk of any future non-compliance. We will also continue to work with relevant government agencies to achieve continual improvement in our practices. We trust that the above provides adequate information such that the Department considers no further action is required.



We look forward to continuing an open relationship with DPE and would be pleased to further discuss any relevant matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Young-Whitford'.

Peter Young-Whitford
Raw Materials & Mining Manager

Attached: Air Quality Monitoring Results



6 February 2018

Contact: Georgia Dragicevic
Phone: 4224 9477
Email: Georgia.Dragicevic@planning.nsw.gov.au

The Austral Brick Co Pty Ltd
Group Administration Office
738-780 Wallgrove Road
HORSLEY PARK NSW 2175

Attention: Mr Peter Young Whitford

Dear Mr Whitford

New Berrima Shale Quarry – Project Approval 08_0212

As you are aware, the Department has been investigating whether The Austral Brick Co Pty Ltd (The Austral) has complied with:

- Schedule 2 condition 2A Terms of Approval, Schedule 3 conditions 34 and 35 Progressive Rehabilitation and Landscape Management Plan; and
 - Schedule 3 condition 11 Air Quality Management Plan,
- of project approval MP 08_0212 (the approval) dated 6 July 2012, as modified, for the New Berrima Shale Quarry (the project). The Department has now finalised this investigation and for the reasons expanded on below, has formed the view that whilst The Austral has technically breached the conditions of the approval, no further enforcement actions will be taken at this time.

Decision

The Department notes that whilst The Austral has technically breached the conditions of approval by failing to:

- implement the rehabilitation requirements outlined in the Statement of Commitments and the approved Landscape Management Plan, by failing to undertake progressive rehabilitation of the topsoil stockpiles in the area of the Central Visibility Barrier; and
- implement the air quality monitoring requirements outlined in the approved Air Quality Management Plan by failing to collect the dust deposition bottles on monthly basis between September 2016 and May 2017,

those breaches have not resulted in risks to public safety, known harm to the environment or damage to property.

The Department notes The Austral has cooperated with this investigation and has voluntarily assisted the Department with its inquiries. The Department also notes The Austral has since rectified those non-compliances, whereby the dust deposition bottles have been collected on monthly basis since May 2017 and as at December 2017, topsoil stockpiles in the area of the Central Visibility Barrier have been rehabilitated.

Notwithstanding, the Department may decide to undertake further enforcement action(s) should similar non-compliances be identified in the future.

Department of Planning and Environment

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It is an offence under the former section 75D(2) and section 125, of the *Environmental Planning and Assessment Act 1979* (the Act) for a person not to comply with the conditions of approval for a Part 3A project. This offence carries a maximum penalty of \$5 million for a tier 1 offence and \$2 million for a tier 2 offence for a corporation.

The Department may prosecute a corporation for committing this offence. Alternatively, the Department may issue a penalty notice which carries a fine of \$15,000 on each occasion.

Should you need to discuss the above, please contact Georgia Dragicevic, Senior Compliance Officer on (02) 4224 9477 or email to Georgia.Dragicevic@planning.nsw.gov.au

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Katrina O'Reilly', with the date '7/12/18' written next to it.

Katrina O'Reilly
Team Leader Compliance

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