

VOLUNTARY PLANNING AGREEMENT

Dubbo City Council
Council

Gramardi Pty Ltd
(ACN 106 975 544)
Developer

Robert Allan Colbran
Landowner

Booth Brown Legal
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DUBBO NSW 2830
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2. PLANNING AGREEMENT

This Planning Agreement was made at Dubbo on

2014.

2.1 Parties

Dubbo City Council

ABN 77 296 185 278

of Civic Administration Building, Church Street, Dubbo, New South Wales

(Council)

and

Gramardi Pty Ltd

ACN 106 975 544

ABN 57 106 975 544

of 34 L North Burrabadine Road, Dubbo, New South Wales

(Developer)

and

Allan Robert Colbran

of 9 Colony Crescent, Dubbo, New South Wales

(Landowner)

2.2 Background

- A. On 12 April 2013, the Developer made application to the Council for Development Consent to carry out the Proposed Development on the Land (the Development Application).
- B. The Development Application was accompanied by an offer by the Developer to enter into this Planning Agreement and to make Development Contributions if that Development Consent was granted by Council.
- C. The Parties have agreed that Development Contributions associated with the Development Application will be made by the Developer in accordance with the terms and conditions set out herein.
- D. The Landowner is the registered proprietor of the Land the subject of the Development Application. The Landowner has agreed to the registration of this Planning Agreement on the Land and has further agreed to be bound by the terms and conditions applicable to the Landowner set out herein.

2.3 Operative Provisions

1. Planning Agreement under the Act

The Parties agree that this Planning Agreement is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the Act.

2. Application of this Planning Agreement

This Planning Agreement applies to:

- (a) The Land; and
- (b) The Proposed Development.

3. Operation of this Planning Agreement

The Parties agree that the terms of this Planning Agreement will commence operation and be effective from the Commencement Date of the Planning Agreement and is terminated on the date the Developer is released and discharged under, or by virtue of clause 10.

4. Definitions and Interpretation

4.1. Definitions

In this Planning Agreement, unless the context otherwise requires, the following expressions shall have the following meanings:

“Act” – means the *Environmental Planning and Assessment Act 1979* (NSW).

“Authorised Officer” – means, in the case of any Party, a director or secretary or an officer whose title contains the word “manager” or a person performing the functions of any of them or any other person appointed by that Party to act as an Authorised Officer for the purpose of this Planning Agreement.

“Authority” – means any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity and includes an accredited certifier accredited under section 109T of the Act.

“Business Day” – means any day except for Saturday or Sunday or a day which is a public holiday in New South Wales.

“Commencement Date” – means 1 July 2014.

“Contact Address” – means the relevant party’s contract address specified in this Planning Agreement.

“Costs” – includes reasonable costs, charges and expenses, including those incurred in connection with advisors.

“Council” – means Dubbo City Council.

“Dealing” – in relation to the Land, means, without limitation, selling, transferring, assigning, mortgaging, charging, encumbering or otherwise dealing with the Land.

“Developer” – means Gramardi Pty Ltd (ACN 106 975 544).

“Development” – means the extension to the Quarry on Lot 39, DP754303 and subsequent increase in maximum production level from the Quarry from 30,000 TPA to 150,000 TPA.

“Development Application” – has the same meaning as in the Act.

“Development Consent” – has the same meaning as in the Act.

“Development Contribution” – means a monetary contribution, the dedication of land free of cost or the provision of a material public benefit.

“Explanatory Note” – means the explanatory note relating to this Planning Agreement, as required by clause 25E of the Regulation, and attached as Schedule 2 to this Planning Agreement.

“GST” – has the same meaning as in the GST Law.

“GST Act” – means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

“GST Law” – has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

“Land” – means Lot 39 DP754303 at Rawsonville, in the State of New South Wales.

“Landowner” – means the registered proprietor of the Land.

“Law” – means the common law including principles of equity and the requirements of all statutes, rules, ordinances, codes, regulations, proclamations, by-laws or consents by an Authority.

“Party” – means a party to this Planning Agreement, including their successors and assigns.

“Planning Agreement” means this Voluntary Planning Agreement between Dubbo City Council, Gramardi Pty Ltd and Allan Robert Colbran.

“Proposed Development” – means the Development proposed by the Developer.

“Public Facilities” – means any public premises, infrastructure, places or facilities, including services, roads, land and water for the use, benefit or other service to the public.

“Quarry” – means the Rawsonville Quarry, located approximately 14 km northwest of Dubbo and 12km west of Brocklehurst.

“Quarry Traffic” – means traffic generated by the Quarry.

“Regulation” – means the *Environmental Planning and Assessment Regulation 2000*.

“TPA” – means tonnes per annum.

4.2. Interpretation

In the interpretation of this Planning Agreement, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Planning Agreement.
- (b) Words importing the singular include the plural and vice versa.
- (c) A reference to a Party includes a reference to the Party's successors in title and permitted assigns or as the case may be the Party's administrators and assigns.
- (d) A reference to a person or individual includes any company, trust, partnership, joint venture, associate, body corporate or unincorporated or governmental agency.
- (e) A reference to Annexures, Clauses, Items and Schedules is a reference to Annexures, Clauses, Items and Schedules of this Planning Agreement.
- (f) A reference to any Act, statute, regulation or other law includes all Acts, statutes, regulations or other laws amending, consolidating or replacing the Acts, statutes, regulations or other laws referred to.
- (g) A reference to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (h) Where a party consists of two or more persons or a term is used in this Planning Agreement to refer to more than one party:
 - (i) An obligation of those persons is joint and several; and
 - (ii) A right of those persons is held by each of them jointly and severally.
- (i) If the day on which any act, matter or thing is to be done under this Planning Agreement is not a Business Day, the act, matter or thing must be done on the next Business Day.
- (j) A reference in this Planning Agreement to dollars or \$ means Australian dollars and all amounts payable under this Planning Agreement are payable in Australian dollars.

- (k) References to the word 'include' or 'including' are to be construed without limitation.
- (l) Any schedules and attachments form part of this Planning Agreement.
- (m) If a Party is prohibited from doing anything, it is also prohibited from:
 - (i) Allowing or causing it to be done; and
 - (ii) Doing or omitting to do anything which results in it happening.

5. Development Contributions to be made

5.1. Monetary Contributions

- 5.1.1. The Developer will pay to the Council the Monetary Contributions referred to in the table below:

CALCULATION OF MONETARY CONTRIBUTIONS
\$0.60 per tonne of production dispatched from the Quarry.

- 5.1.2. The Developer must provide Council the information specified in the table below at the times specified, in order for Council to undertake an assessment of the production levels at the Quarry:

INFORMATION REQUIRED	TIME
Weighbridge Receipts/Daily Log Books for period 1 July to 31 December of the preceding calendar year	1 January each year
Weighbridge Receipts/Daily Log Books for period 1 January to 30 June of that calendar year	1 July each year

- 5.1.3. In addition to the information specified in clause 5.1.2, the Developer must supply Council with such additional material that is reasonably required by Council to determine the production levels at the Quarry from time to time.

- 5.1.4. Monetary Contributions are payable by the Developer to Council in accordance with the table set out below:

MONETARY CONTRIUTION	PAYMENT DUE
\$0.60 per tonne of production dispatched from the Quarry.	Within seven (7) days of 1 January each year, commencing on 1 January 2015.
\$0.60 per tonne of production dispatched from the Quarry.	Within seven (7) days of 1 July each year, commencing on 1 July 2015.

- 5.1.5. From 1 July 2014, the Monetary Contributions referred to in clause 5.1 will be adjusted quarterly in accordance with the Consumer Price Index (Mining and Construction) as published by the Australian Bureau of Statistics. The January payment will be based on the 3rd Quarter CPI from the previous year and the July payment will be based on the 1st Quarter CPI from that year.
- 5.1.6. Interest will be charged on Monetary Contributions which are unpaid seven (7) days after the due date at the rate of 9% per annum, calculated daily.

5.2. Contributions to Public Facilities

- 5.2.1. The Developer will, at its own cost:
- (a) Upgrade the intersection at Rawsonville Road and Burraway Road to a Basic Left/Auxillary Right arrangement, when the production level from the Quarry reaches 75,000 TPA when averaged over the three (3) previous years.
 - (b) Upgrade Rawsonville Road to a bitumen seal, if deemed necessary by an independent review of the condition of Rawsonville Road to be conducted when the production level from the Quarry reaches 90,000 TPA when averaged over the three (3) previous years.
- 5.2.2. It is acknowledged by the Parties that the exact cost, specifications and location of the works referred to in clause 5.2.1 above will be the subject of further investigation and analysis and the parties may be required to enter into a further agreement or agreements prior to the commencement of such work to further document their obligations in relation to these works.

5.2.3. The works referred to in clause 5.2.1 above shall be undertaken by the Developer upon the issue of a Construction Certificate for the Development or at such other time agreed between the Parties and at the time that such works are undertaken the Council may require the Developer to provide such reasonable security as specified (including a bond or guarantee if required) to ensure completion of the works.

6. Application of Development Contributions

The Parties agree the Development Contributions may be applied as follows:

- (a) For the maintenance to the section of Rawsonville Road and Whylandra Crossing Road used by Quarry Traffic.
- (b) Maintenance of the section of Rawsonville Road and Whylandra Crossing Road used by Quarry Traffic is only to be carried out as deemed necessary by Council's Manager Civil Infrastructure in consultation with Council's Manager Works Services.
- (c) Any unused Development Contributions may be utilised to undertake the sealing or partial sealing of Rawsonville Road and/or Whylandra Crossing Road at the agreement of both Parties.

7. Application of s94, s94A and s 94EF of the Act to the Development

This Planning Agreement excludes the application of sections 94, 94A and 94EF of the Act to the Development.

8. Registration of this Planning Agreement

The Developer and Landowner will, at their own expense, procure the registration of this Planning Agreement under the Real Property Act 1900 in the relevant folio of the Register as contemplated by Section 93H of the Act.

9. Review of Planning Agreement

During the life of this Planning Agreement, the Parties agree to review and amend the Planning Agreement if:

- (a) Ownership of the Developer or Development change; and
- (b) A new Development Application or modification to the original Development Consent is required for the Development.

In addition to the above, the Parties may agree to review and modify this Planning Agreement in the circumstances and manner as agreed between the Parties.

10. Release and Discharge

The Council agrees to release and discharge the Developer from this Planning Agreement when the following events (a), (b) or (c) have occurred:

- (a) Rawsonville Road has been sealed with bitumen to the satisfaction of Council;
- (b) Whylandra Crossing Road has been sealed with bitumen to the satisfaction of Council;
- (c) Construction of the intersection at Burraway Road and Rawsonville Road has been completed to the satisfaction of Council; or
- (d) The Quarry ceases to operate due to the exhaustion of raw materials.

11. Dispute Resolution

11.1. Not Commence

A Party may not commence any court proceedings relating to a dispute of any matter under this Planning Agreement (a Dispute) unless it complies with this clause 11.

11.2. Written Notice of Dispute

A Party claiming that a Dispute has arisen under or in relation to this Planning Agreement must give notice to the other Party specifying the nature of the Dispute.

11.3. Attempt to Resolve

On receipt of a notice under clause 11, the Parties must endeavour in good faith to resolve the Dispute expeditiously using informal dispute resolution techniques such as mediation, expert evaluation or other techniques agreed by them.

11.4. Mediation

If the Parties do not agree within seven days of receipt of a notice under clause 11 (or any further period agreed in writing by them) as to:

- (a) The dispute resolution technique and procedures to be adopted;
- (b) The timetable for all steps in those procedures; and
- (c) The selection and compensation of the independent person required for such a technique,

the Parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales (or any replacement). The Parties must request the President of the Law Society of New South Wales or the President's nominee to select the mediator and determine the mediator's remuneration.

11.5. Costs

Each Party to a dispute must pay its own costs of complying with this clause 11. The Parties to the Dispute must equally pay the costs of the Mediation including, without limitation, the fees of any mediator and the cost of room hire.

11.6. Court Proceedings

If the Dispute is not resolved within 42 days after notice is given under clause 11, then any Party which has complied with the provisions of this clause 11 may in writing terminate any dispute resolution process undertaken pursuant to this clause 11 and may then commence court proceedings in relation to the Dispute.

11.7. Not Use Information

The Parties acknowledge the purpose of any exchange of information or documents or the making of any offer of settlement pursuant to this clause 11 is to attempt to settle the Dispute. No Party may use any information or documents obtained through any dispute resolution process undertaken pursuant to this clause 11 for any purpose other than in an attempt to settle the Dispute.

11.8. No Prejudice

This clause 11 does not prejudice the right of a Party to institute court proceedings for urgent injunctive or declaratory relief in relation to any matter arising out of or relating to this Planning Agreement.

12. Enforcement

- (a) This Planning Agreement may be enforced by either Party in any court of competent jurisdiction.
- (b) For the avoidance of doubt, nothing in this Planning Agreement prevents:
 - (i) A Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this Planning Agreement or any matter to which this Planning Agreement relates; or
 - (ii) The Council from exercising any function under this Act or any other Act or Law relating to the enforcement of any aspect of this Planning Agreement or any matter to which this Planning Agreement relates.

13. Notices

13.1. Form

Any notice, consent, information, application or request that must or may be given or made to a Party under this Planning Agreement is only given or made if it is in writing and sent in one of the following ways:

- (a) Delivered or posted to that Party at its address set out below.
- (b) Faxed to that Party at its fax number set out below.
- (c) E-mailed to that Party at its e-mail address set out below.

Council

Address:	PO Box 81 Church Street DUBBO NSW 2830
Telephone:	(02) 6801 4000
Fax:	(02) 6801 4259
Email:	dcc@dubbo.nsw.gov.au
Attention	Director Environmental Services

Developer

Address: PO Box 6176
34 L North Burrabadine Road
DUBBO NSW 2830

Telephone: (02) 6885 2264

Fax: (02) 6885 0654

Email: gramardi@bigpond.com

Attention: Mardi Colbran

13.2. Change of Address

If a Party gives another Party three (3) Business Days' notice of a change of its address or fax number, any notice, consent, information, application, or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.

13.3. Receipt

Any notice, consent, information, application or request is to be treated as given or made at the following time:

- (a) If it is delivered, when it is left at the relevant address.
- (b) If it is sent by post, two (2) Business Days after it is posted.
- (c) If it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.
- (d) If it sent by e-mail, upon receipt of a read-receipt for the e-mail sent to the correct e-mail address.

14. Approvals and Consent

Except as otherwise set out in this Planning Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Planning Agreement in that Party's absolute discretion and subject to any conditions determined by the Party. A Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

15. Assignment and Dealings

15.1. Sale, Transfer, Lease, Licence, Deal or Disposal by the Developer

The Developer or Landowner must not sell, transfer, lease, licence or otherwise deal with or dispose of the whole or any part of the Land or Development to a third party unless, before it sells, transfers, leases, licences, otherwise deals or disposes of any such part of the Land or Development:

- (a) It satisfies the Council that the proposed third party is respectable and financially capable of complying with such of the Developer's obligations under this Planning Agreement (including, without limitation, by providing financial statements) as the Council reasonably requires the proposed third party to adopt;
- (b) The rights of the Council under this Planning Agreement are not diminished or fettered in any way;
- (c) The proposed third party signs an Planning Agreement in a form and substance acceptable to the Council containing provisions under which the proposed third party agrees to comply with the obligations of the Developer (including obligations which arose before the transfer or assignment) with respect to the land being sold, transferred, leased, licenced, otherwise dealt with or disposed of;
- (d) Any default by the Developer has been remedied by the Developer or waived by the Council; and
- (e) The Developer and proposed third party pay the Council's reasonable Costs in relation to that sale, transfer, lease, licence, other dealing or disposal.

15.2. Release

If the Developer or Landowner sells, transfers, leases, licences, otherwise deals with or disposes of the whole or any part of the Land or Development and fully satisfies the requirements under clause 15 of this Planning Agreement, the Developer or Landowner will be released from its obligations under this Planning Agreement with respect to the Land or Development being sold, transferred, leased, licenced, otherwise dealt with or disposed of.

15.3. Council's Right to Assign

The Council may assign its rights under this Planning Agreement without the Developer's consent.

16. Costs

The Developer agrees to pay the Council's reasonable costs, not exceeding \$10,000 (to be adjusted annually in accordance with the Consumer Price Index (Mining and Construction) as published by the Australian Bureau of Statistics) of preparing, negotiating, executing, amending and stamping of any amendment to this Planning Agreement and any document related to this Planning Agreement.

17. Entire Planning Agreement

This Planning Agreement contains everything to which the Parties have agreed in relation to the matters it deals with. No Party can rely on an earlier document, anything said or done by another Party, or by an Authorised Officer, agent or employee of that Party, before this Planning Agreement was executed, except as permitted by Law.

18. Further Acts

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Planning Agreement and all transactions incidental to it.

19. Governing Law and Jurisdiction

This Planning Agreement is governed by and interpreted in accordance with the laws in force from time to time in New South Wales. The Parties submit to the non-exclusive jurisdiction of the Courts and Courts of Appeal of that State in respect of any proceedings in connection with this Planning Agreement. The Parties will not object to the exercise of jurisdiction by those Courts on any basis.

20. Joint and Individual Liability and Benefits

Except as otherwise set out in this Planning Agreement, any Agreement, covenant, representation or warranty under this Planning Agreement by two (2) or more persons binds them jointly and each of them individually, and any benefit in favour of two (2) or more persons is for the benefit of them jointly and each of them individually.

21. No fetter

Nothing in this Planning Agreement shall be construed as requiring the Council to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

22. Representations and Warranties

The Parties represent and warrant that they have the power to enter into this Planning Agreement and comply with their obligations under the Planning Agreement and that entry into this Planning Agreement will not result in the breach of any law.

23. Severability

If a clause or part of a clause of this Planning Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Planning Agreement, but the rest of this Planning Agreement is not affected.

24. Modification/Amendment

No modification or amendment of this Planning Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Planning Agreement.

25. No Waiver

- (a) The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Planning Agreement does not amount to a waiver of any obligation of, or a breach of obligation by, another Party.
- (b) A waiver by a Party is only effective if it is in writing.
- (c) A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

26. GST

26.1. Consideration does not include GST

Any consideration expressed in this Planning Agreement is, unless otherwise specified, GST exclusive and does not include any amount for, or on account of, GST.

26.2. GST Payable

If any supply under or in connection with this Planning Agreement constitutes a taxable supply made for GST exclusive consideration, the supplier may, subject to issuing a tax invoice, recover from the recipient of the supply, an amount on account of the GST payable in respect of that taxable supply ("GST Amount").

The GST Amount is:

- (a) Equal to the value of the supply calculated in accordance with the GST Act multiplied by the applicable GST rate; and
- (b) Payable at the same time and in the same manner as any monetary consideration for the supply concerned but no later than the end of the tax period to which the GST payable on the relevant taxable supply is attributable under the GST Act.

The supplier of a taxable supply made under or in connection with this Planning Agreement must issue a tax invoice for the supply in accordance with the GST Act to the recipient of the supply.

26.3. Reimbursement

Despite any other provision of this Planning Agreement, any amount payable under or in connection with this Planning Agreement, which is calculated by reference to a cost, expense or amount paid or incurred by a Party, will be reduced by an amount equal to any input tax credit to which that party, or the representative of a member of a GST Group of which the party is a member, is entitled in respect of that cost, expense or amount.

26.4. Defined GST Terms

Words and expressions used in this clause 26 have the meaning given to them in the GST Act.

27. Counterparts

This document may be executed in any number of counterparts. All counterparts together make one instrument.

28. Confidentiality

The Parties agree that the terms of this Planning Agreement are not confidential and this Planning Agreement may be treated as a public Planning Agreement and exhibited or reported without restriction by any Party.

29. Release and Indemnity

- (a) The Developer agrees that the Development Contributions, the Proposed Development and all property in the Land are at the risk of the Developer. The Developer releases the Council from any liability or loss arising from, and the Costs incurred in connection with any matter or thing contemplated by this Planning Agreement, including the Development Contributions and the Proposed Development on the Land.
- (b) The Developer indemnifies the Council and the Council's employees, agents, officers, contractors and assigns against all costs and expenses paid or payable by the Council or any liability or loss arising from, and any Costs (including legal costs and expenses on a full indemnity basis or a solicitor and own client basis, whichever is the higher) incurred in connection with any matter or thing contemplated by this Planning Agreement including the Development Contributions and the Proposed Development on the Land.
- (c) The indemnity in clause 29 is a continuing obligation, independent of the Developer's other obligations under this Planning Agreement and continues after this Planning Agreement ends. It is not necessary for the Council to incur expense or make payment before enforcing a right of indemnity under this Planning Agreement.

30. Explanatory Note

Pursuant to clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note in Schedule 2 is not to be used to assist in interpreting this Planning Agreement.

3. EXECUTION

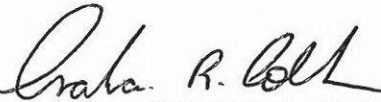
Executed as an Planning Agreement

SIGNED for and on behalf of)
DUBBO CITY COUNCIL by the)
General Manager in the presence of:)

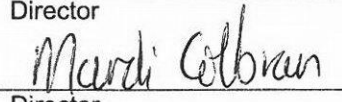
Witness

General Manager

Executed by GRAMARDI PTY LTD)
(ACN 106 975 544) pursuant to s127)
of the Corporations Act:)



Director



Director

Executed by Allan Robert Colbran in)
the presence of:)

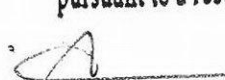


Witness



Allan Robert Colbran

The Common Seal of the Council of the City of Dubbo
was hereunto affixed this 6th day of August 2014
pursuant to a resolution of Council dated 23 JUNE 2014.


.....
Mayor


.....
General Manager

SCHEDULE 1

Section 93F Requirements

The Parties acknowledge and agree that the table set out below provides for certain terms, conditions and procedures for the purpose of this Planning Agreement complying with Division 6 of Part 4 of the Act.

REQUIREMENT UNDER THE ACT	THIS PLANNING AGREEMENT
<p>Planning instrument and/or development application (Section 93F(1))</p> <p>The Developer has:</p> <p>(a) Sought a change to an environmental planning instrument.</p> <p>(b) Made, or proposes to make, a Development Application.</p> <p>(c) Entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.</p>	<p>(a) No</p> <p>(b) Yes</p> <p>(c) Yes</p>
<p>Planning instrument and/or development application (Section 93F(1))</p> <p>For the purpose of being used or applied towards a public purpose, the Developer is required to:</p> <p>(a) Dedicate land free of cost.</p> <p>(b) Pay a monetary contribution.</p> <p>(c) Provide any other material public benefit.</p>	<p>(a) No</p> <p>(b) Yes</p> <p>(c) No</p>
<p>Description of the land to which the Planning Agreement Applies (Section 93F(3)(a))</p>	<p>The whole of the Land being Lot 39, DP754303</p>
<p>Description of the Development to which this Planning Agreement applies (Section 93F(3)(b)(ii))</p>	<p>See clause 2</p>

The scope, timing, manner and delivery of contributions required by the Planning Agreement (Section 93F(3)(c))	See clause 5
Applicability of Section 94 of the Act (Section 93F(3)(d))	See clause 7 (excluded)
Mechanism for Dispute Resolution (Section 93F(3)(f))	See clause 11
Enforcement of the Planning Agreement (Section 93F(3)(g))	See clause 12
Registration of the Planning Agreement (Section 93F(3)(g))	See clause 8

SCHEDULE 2

Explanatory Note

The purpose of this Explanatory Notes is to provide a plain English summary to support the notification of a draft Planning Agreement, under Section 93F of the *Environmental Planning and Assessment Act 1979* ("Act") for a Development Application made to Dubbo City Council by Dubbo Sands.

This Explanatory Note has been prepared jointly with the Parties as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000*.

1. Parties to the Planning Agreement

Gramardi Pty Ltd (ACN 106 975 544) ("Developer") made an offer to Dubbo City Council to enter into a Voluntary Planning Agreement, in connection with a Development Application made by the Developer on 12 April 2013 in relation to land owned by Robert Allan Colbran.

2. Description of the Subject Land

The subject land to which this Planning Agreement applies is Lot 39, DP754303, at Rawsonville, NSW.

3. Description of Development Application

The Development Application seeks to expand the Rawsonville Quarry ("Quarry") by 11 hectares and increase production from 30,000 tonnes per annum to 150,000 tonnes per annum.

4. Summary of Objectives, Nature and Effect of this Planning Agreement

The objective of this Planning Agreement is to ensure the recoupment of the cost of infrastructure, generated by the increased traffic resulting from the extension and increased production at the Quarry.

To this end, the offer made by the Developer is based on the needs identified by:

- An Environmental Impact Statement prepared by R W Corkery & Co Pty Limited;
- A Safe Intersection Sight Distance completed by Geolyse Pty Ltd; and
- In consultation with Dubbo City Council.

In addition, the Developer has also offered contributions towards facilities that otherwise would not normally have been provided under Dubbo City Council's Development Contribution Plan. The intent of the offer is to ensure infrastructure, in particular, roads, are not adversely affected by the Development Application.

The offer made by the Developer is set out in the following Table:

Development Contribution	Intended Use
<p>\$0.60 per tonne of production despatched from the Quarry.</p>	<p>Maintenance and upgrade to the section of Rawsonville Road and Whylandra Crossing Road used by Quarry Traffic, as deemed necessary by the Parties.</p>
<p>Upgrade of the intersection at Rawsonville Road and Burraway Road to a Basic Left/Auxillary Right arrangement, when the production level at the Quarry reaches 75,000 tonnes per annum on average over the previous three (3) years.</p>	
<p>Upgrade Rawsonville Road to a bitumen seal, if deemed necessary by an independent review of the condition of Rawsonville Road to be conducted when the production level from the Quarry reaches 90,000 tonnes per annum on average over the previous three (3) year period.</p>	
<p>Upgrade Whylandra Crossing Road to a bitumen seal, if deemed necessary by an independent review of the condition of Whylandra Crossing Road to be conducted when the production level from the Quarry reaches 90,000 tonnes per annum on average over the previous three (3) year period.</p>	

5. **Assessment of the Merits of this Planning Agreement**

The Planning Purposes Served by this Planning Agreement

In accordance with Section 93F(2) of the Act, this Planning Agreement promotes the following public purposes:

- *The recoupment of the cost of public infrastructure;*
- *The funding of recurrent expenditure relating to the provision of public infrastructure; and*
- *The monitoring of the planning impacts of development.*

How this Planning Agreement Promotes the Objects of the Environmental Planning and Assessment Act 1979

In accordance with the objectives of the EPA Act, this Planning Agreement promotes its intent to:

- (i) *encourage the proper management, development and conservation of agricultural land, minerals and water for the purpose of promoting the social and economic welfare of the community and a better environment;*
- (ii) *encourage the promotion and co-ordination of the orderly and economic use and development of land; and*
- (vii) *encourage ecologically sustainable development.*

The Planning Agreement achieves these objectives by requiring the Developer to make the monetary and other contributions set out in the Table above which will enable roads and infrastructure utilised by the Quarry traffic to be maintained and upgraded.

By improving the road and infrastructure systems associated with the proposed expansion of the Quarry, the Planning Agreement will result in:

- *Promotion and co-ordination of the orderly and economic use and development of land.*

How this Planning Agreement Promotes the Public Interest

This Planning Agreement's intent is to promote the Public Interest through the recoupment and provision of the cost of maintaining and upgrading infrastructure and services to offset the impact of increased traffic on relevant roads and infrastructure as a result of the extension to the Quarry.

How this Planning Agreement Promotes the Elements of the Council's Charter

This Planning Agreement promotes the elements of Dubbo City Council's Charter by:

- *Providing equitable and appropriate services and facilities for the community;*
- *Engaging in long-term strategic planning on behalf of the local community;*
- *Exercising its functions in a manner that is consistent with and promotes social justice principles of equity, access, participation and rights;*
- *Having regard for the long term and cumulative effects of its decisions;*
- *Effectively accounting for and managing the assets for which it is responsible;*
- *Raising funds for local purposes by way of rates, charges and fees; and*
- *Keeping the local community informed about its activities.*

In addition to the above, the Planning Agreement will assist addressing infrastructure as a priority in the Dubbo Community in accordance with the Dubbo 2036 Plan.

The Impact of this Planning Agreement on the Public or any Section of the Public

The increased traffic and associated impact on the section of Rawsonville Road utilised by Quarry traffic will generate the need for increased repair, maintenance and upgrade. This Planning Agreement aims to deliver the necessary infrastructure and services which will result in a positive impact on the public in general and, in particular, the section of public which utilises this infrastructure on a regular basis.

6. Capital Works Program

This Planning Agreement does not conform with Council's capital works program.