

9th February 2022

Attention:

Jessie Evans,
Director– Resource Assessment Planning and Assessment

Dear Jessie,

REQUEST FOR EXTENSION – CLAUSE 3 CONDITION 19,20 & 22
Bringelly Brickworks Quarry Extension – SSD-5684
Greendale Rd, Bringelly

As per our communications and discussions with Carl Dumbleton on 8 February 2022, PGH Bricks and Pavers Pty Ltd (**PGH**) wishes to request an extension of 6 months, until August 2022, for Condition 19, 20 & 22, Schedule 3 of SSD 5684. The conditions read:

BIODIVERSITY

Biodiversity Offset Strategy

19. The Applicant **must** implement the Biodiversity Offset Strategy described in the EIS, as summarised in Table 7 and shown conceptually in Appendix 4, to the satisfaction of the Secretary.

Table 7: Summary of the Biodiversity Offsets

Area	Offset Criteria	Size (Ha)
On-site offset	Existing vegetation to be enhanced to establish an area of native woodland comprising species associated with Cumberland Plain Woodland.	1.93

Security of Offsets

20. Within 2 years of **notifying the Department of commencement of development (see condition 8 of Schedule 2)**, unless otherwise agreed with the Secretary, the Applicant **must** make suitable arrangements to provide appropriate long-term security for the offset area, to the satisfaction of the Secretary.

Note: Mechanisms to provide appropriate long term security to the land within the Biodiversity Offset Strategy include a Biobanking Agreement, Voluntary Conservation Agreement or an alternative mechanism that provides for a similar conservation outcome. Any mechanism must remain in force in perpetuity.

Conservation Bond

22. Within 6 months of the approval of the Biodiversity Management Plan, the Applicant **must** lodge a conservation bond with the Department to ensure that the biodiversity offset strategy is implemented in accordance with the performance and completion criteria of the Biodiversity Management Plan.

The sum of the bond **must** be determined by:

- calculating the full cost of implementing the biodiversity offset strategy (other than land acquisition costs); and
- employing a suitably qualified quantity surveyor to verify the calculated costs,
- to the satisfaction of the Secretary.

The calculation of the conservation bond must be submitted to the Department for approval at least 1 month prior to lodgement of the final bond.

If the offset strategy is completed generally in accordance with the completion criteria in the Biodiversity Management Plan to the satisfaction of the Secretary, the Secretary will release the bond.

If the offset strategy is not completed generally in accordance with the completion criteria in the Biodiversity Management Plan, the Secretary will call in all, or part of, the conservation bond, and arrange for the satisfactory completion of the relevant works.

Notes:

- Alternative funding arrangements for long term management of the biodiversity offset strategy, such as provision of capital and management funding as agreed by OEH as part of a Biobanking Agreement or transfer to conservation reserve estate (or any other mechanism agreed with OEH) can be used to reduce the liability of the conservation bond.
- The sum of the bond may be reviewed in conjunction with any revision to the biodiversity offset strategy or the completion of major milestones within the approved plan.

The purpose for this request is that the terms of condition, outlined above, cannot be complied with based on the investigation by PGH to date which is summarised in Table 1 below. The legislation and mechanisms for biodiversity offsets and bonds have changed and no longer appear to apply in the circumstances of SSD 5684. Approval of this extension request will allow further review by Biodiversity Conservation Trust (BCT) to potentially provide a path forward.

If this does not provide an avenue for enacting these conditions, PGH will need to submit a request for a change of conditions to something that can be met, or follow other directions provided by DPIE. Further to this, PGH will be proposing an amendment to the condition through a MOD 2 application, to be submitted in the first half of 2022.

Below (Table 1) is a summary demonstrating the key activities PGH has undertaken to try and comply and find a path forward in these matters.

Table 1

#	Actions
1	PGH (Tony Hunt, WHSE Advisor) spoke by phone with Robert Corby (Natural Resources Officer) and Carmel Hamilton (Team Leader Sustainability) at Camden Council. They advised that Council could not put a conservation covenant on a land title unless the property was transferred to Council. They were not interested in this approach, particularly for small land parcels and parts of lots. (Oct 2021)

2	PGH (Tony Hunt, WHSE Advisor) spoke with Peter Ridgeway (Senior Land Services Officer – Biodiversity) at Greater Sydney Local Land Services. Peter is an expert on Cumberland Plain Woodland (CPW) conservation. Peter confirmed that since the introduction of the <i>Biodiversity Conservation Act 2016</i> , all powers to establish conservation agreements on land titles have been centralised to the Biodiversity Conservation Trust (BCT, https://www.bct.nsw.gov.au/) and LLS can no longer set these up. However, he advised that it might still be possible to set up an agreement with the Federal Government and offered to look into this via his contacts. (Oct 2021)
3	Peter Ridgeway (Senior Land Services Officer – Biodiversity) at Greater Sydney Local Land Services researched Federal options and subsequently forwarded an email to Tony Hunt from his colleague Zac Neulinger (Senior Officer, Post Approvals Section, Environment Approvals Division, DAWE) who advised that this was unlikely to be possible as DAWE was moving away from the use of such agreements. (Nov 2021)
4	The conclusion from the above (1,2,3) was that there were only two options available: enter into a Voluntary Conservation Agreement (VCA) or a Biodiversity Stewardship Agreement (BSA) through the BCT. PGH (Tony Hunt, WHSE Advisor) contacted BCT and in the first instance submitted a draft EOI for a VCA to the BCT for their review and consideration. They quickly responded by email that a VCA was not appropriate and that we would have to apply for a BSA. (Nov 2021)
5	Tony Hunt was referred to Jennie Powell (Principal Project Officer - BSA Co-ordination Team) and spoke with her about the prospects for setting up a BSA. She advised that prospects were not promising, due to the small size of the site (1.93 ha vs the minimum size for a BSA offset of 20 ha) and the long narrow shape of the site, which exaggerates edge effects and minimises conservation value. She also noted that it is not high quality, old growth CPW (Cumberland Plain Woodland) but regrowth with significant African Olive (weed) infestation. She advised that in these circumstances the likely preferred pathway for BCT would be to assess the number of offset credits the offset area is worth and then have CSR pay the corresponding value into the BCT conservation fund, where it could be used to better effect to manage other offset areas that have real conservation value. DPIE would need to agree with this variation to the consent, of course. She has arranged to visit the site next week (2/12/2021) to view the offset area and confirm her impressions.
6	A site visit was held on 2/12/2021. Jennie Powell (Principal Project Officer - BSA Co-ordination Team) attended with PGH representatives (Ben King, Tony Hunt and Michael Travers). The proposed biodiversity area was reviewed on foot and Jennie gained a good understanding. The size and biological value of the area was not seen as a high by Jennie and she advised she would be reporting back to BSA on this. Jennie advised there would potentially be some argument on this, but ultimately we would get a decision. This would not be forthcoming until early 2022. A letter would be provided by BCT outlining the process(Refer appendix 1).
7	BCT were contacted by PGH (4 Feb 2022) re progress and status of the review. PGH were advised that any advice would come post February 2022(Refer appendix 2).

Contained in appendix 1 below, is the latest letter from BCT outlining their position, and an email in appendix 2, confirming the most recent status. In summary, the BCT are unable to

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guide PGH, but are reviewing further possible options for resolving the biodiversity offset at the Bringelly Brickworks site.

We are requesting an extension, condition 19,20 and 22 Schedule 3 as this review will not be completed prior to the consent condition date for completion of 24 February 2022.

PGH is requesting an extension of 6 months (until August 2022), by which time a resolution should be reached in BCT and PGH could make arrangements for implementing this, or if required, PGH would request a modification. Further to this, PGH is submitting a modification request for an upgrade to the facility in early 2022 and the matter of biodiversity offsets will be covered in this request.

We look forward to your response in this matter and please contact us should you require further information.

Yours Sincerely

A handwritten signature in dark ink, appearing to read 'Michael Travers', with a stylized flourish at the end.

Michael Travers
Senior Project Manager - **CSR Limited – Masonry & Insulation**
t +61 419 474 717 | e mtravers@csr.com.au
Level 5, Triniti 3, 39 Delhi Road, North Ryde NSW 2113

Appendix 1



**Biodiversity
Conservation
Trust**

16 December 2021

Our ref: DOC21/961820-2

Michael Travers
Senior Project Manager
CSR Masonry & Insulation
Bradford, Monier, PGH
69-77 Cecil Road
CECIL PARK NSW 2178
mtravers@csr.com.au

Dear Michael,

Thank-you for the site visit on 2nd December 2021 with Jennie Powell of the BCT to inspect the approximately 1.93 ha of remnant Cumberland Plain Woodland in Lot 100 in DP 1203966. The purpose of the visit was to determine the suitability of the site as a biodiversity offset area to be protected under an agreement with long-term security in accordance with item 20 of the development consent for SSD_5684.

At this stage the BCT is not confident that a Biodiversity Stewardship Agreement is the most suitable mechanism due to concerns relating to the long-term ecological viability of the site relating to factors such as:

- Small patch size
- Current degraded condition in terms of weed infestation, tree health and presence of ponded water resulting in tree death
- Fragmentation – limited ecological connectivity with larger native vegetation patches with long-term conservation security.

The BCT will consider any alternative biodiversity conservation options and contact you to discuss this matter early in the new year 2022. Jennie Powell's contact email is jennie.powell@bct.nsw.gov.au

Yours sincerely,



Alison Osborne
Regional Manager, Sydney-Hunter Region

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Appendix 2

Email of 2 Feb 2022 – BCT still reviewing options as per letter.

RE: Site visit to review offset options for condition of consent

 Jennie Powell <Jennie.Powell@bct.nsw.gov.au>
To:  Travers, Michael
Cc:  Robyn Provost

 Reply  Reply All  Forward  

Wed 2/02/2022 12:36 PM

 You forwarded this message on 2/02/2022 12:47 PM.

Enterprise Vault

 Get more add-ins

Thanks Michael,

Things have been very busy for me since I returned to work this year.

Unfortunately I have not been able to progress a final BCT decision on this issue as yet. It is unlikely we will have a final decision by the end of February. If you were able to proceed with an extension on your consent date for the mod that would be helpful – hopefully the letter from the BCT will be sufficient to support the application?

Jennie

Jennie Powell
Principal Project Officer BSA Co-ordination Team
NSW Biodiversity Conservation Trust
T 02 8275 1668 | M 0419 621 855 | W www.bct.nsw.gov.au | [Who is the BCT?](#)
Four Parramatta Square (4PSQ) Level 7, 12 Darcy Street, Parramatta NSW 2150



**Biodiversity
Conservation
Trust**

The NSW Biodiversity Conservation Trust acknowledges the Traditional Custodians of Country throughout NSW and recognises their ongoing connection to land, waters and culture. We pay our respects to their Elders past, present and emerging and seek to genuinely and collaboratively engage with Aboriginal people in the delivery of our private land conservation programs.