

Held at: Brisbane

Between:	GRAEME ASHLEY HOFFMANN AND CHUDA KAEWMONGKHON ATF HOFFMANN DRILLING PTY LTD SUPERANNUATION FUND 716 001 453	Appellant
And:	GOLD COAST CITY COUNCIL	Respondent
And:	CATHERINE CERIS ASH	First Co-Respondent by Election
And:	AUSTRALIAN RAINFOREST CONSERVATION SOCIETY INC	Second Co- Respondent by Election
And:	GECKO ENVIRONMENT COUNCIL ASSOCIATION INC	Third Co-Respondent by Election
And:	BERNIE WINTER	Fourth Co- Respondent by Election
And:	CHARLES COLIN ALEX ORSINI	Sixth Co-Respondent by Election

RESPONDENT'S LIST OF MATTERS

The Respondent lists the following matters as reasons for refusal:

- 1 **Groundwater**
 - a. Suitable geological characterisation, groundwater testing and modelling investigations have not been undertaken for the site and surrounding areas to demonstrate that the proposed use is acceptable;
 - b. It has not been demonstrated that the proposed extraction will not cause unacceptable environmental impacts, including when considering the cumulative impacts of the proposed extraction with other groundwater extraction operations and climate change.
- 2 **Ecology**
 - a. It has not been demonstrated that the proposed development will not have unacceptable impacts on matters of National, State and Local environmental significance that are known to occur within the site and surrounding locality, including:
 - i. impacts associated with the transportation of extracted groundwater upon the safe movement of native fauna and vegetation which will need to be cleared;

3443-8137-5248v1

LIST OF MATTERS
Filed by the Respondent

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- ii. impacts associated with the reduction in the availability of groundwater resources;
- b. The proposed development is not consistent with the purpose of the *Planning Act 2016* in that it has not been demonstrated that it would result in the achievement of ecological sustainability.

3 Traffic

The proposed development:

- a. has not demonstrated that the offsite transportation of groundwater can occur safely, including demonstrating that two vehicles can pass each other in the opposite direction safely;
- b. has not demonstrated the suitability of proposed vehicle movements on Repeater Station Road and Springbrook Road, which do not satisfy Austroads design guidelines for rural roads;
- c. has not demonstrated that safe site access is achievable, having regard to sight distances and on-site gradients.

4 Character and Amenity

The proposed development:

- a. will detract from the character of the Springbrook plateau due to the nature of the use and the increased heavy vehicle movements;
- b. will detract from the attractive rural scenic amenity and character of Springbrook as a whole due to the increase in heavy vehicle movements on the surrounding roads, including Repeater Station Road and Springbrook Road.

6 Other Relevant matters

The following are relevant matters that support refusal of the proposed development:

- a. there is no need for the proposed development;
- b. there are no matters of public interest that warrant approval of this proposal;
- c. there is no evidence that the local community will be disadvantaged by the absence of the proposed development; and
- d. the Moratorium Notice dated 6 March 2020 which demonstrates there are concerns from the State generally about the extraction of water in the Springbrook locality.

To advance those reasons for refusal, the Council will rely on the following provisions of the Planning Scheme (City Plan Version 6):

e. Strategic Framework:

- (i) Strategic Outcome 3.5.1(9), and Specific Outcome 3.5.5.1(1) as there is insufficient information to ensure that the resource is able to be sustainably managed;
- (ii) Specific Outcome 3.5.4.1(1) as the haulage activities proposed is incompatible with the tourist nature of the roads and surrounding transport system servicing Springbrook;
- (iii) Strategic Outcome 3.6.1(7) as the haulage activities do not allow for the safe and efficient use of the road network;

- (iv) Specific Outcome 3.6.3.1(4) and Specific Outcomes 3.6.4.1(8), (11) and (12) due to the safety concerns associated with the haulage activities;
- (v) Strategic Outcome 3.7.1(2) as matters of environmental significance are not being protected;
- (vi) Strategic Outcome 3.7.1(4) as matters of environmental significance are not being protected in situ;
- (vii) Strategic Outcome 3.7.1(9) as there is insufficient information to ensure that water quality is maintained and that future options for water harvesting are maintained;
- (viii) Specific Outcome 3.7.4.1(1) as matters of environmental significance are not being properly conserved, protected, enhanced and managed; and
- (ix) Specific Outcome 3.7.4.1(3) as matters of environmental significance are not being protected in situ.

f. **Rural Zone Code:**

- (i) Overall Outcome 6.2.20.2(1)(a),(b) and (c) as the proposed development is not compatible with matters of environmental significance, does not protect or manage significant natural resources through the proposed groundwater extraction and does not identify the short and long term impacts associated with the extraction;
- (ii) Overall Outcome 6.2.20.2(3)(a) and (b) as the proposed development does not identify or address the nature, significance and acceptability of potential short and long term environmental impacts of the proposed groundwater extraction on matters of environmental significance;
- (iii) Overall Outcome 6.2.20.2(2)(v) as the proposed use does not directly relate to rural production and the proposed truck movements are considered to conflict with the existing rural amenity of the area; and
- (iv) Performance Outcome 5 as the proposed development will result in the clearing of vegetated areas and impacts on matters of environmental significance.

g. **Extractive Industry Development Code:**

- (i) Overall Outcome 9.3.8(2)(a) because the visual and noise impacts are unacceptable;
- (ii) Overall Outcome 9.3.8(2)(b) as the impacts of traffic are not appropriately minimised;
- (iii) Overall Outcome 9.3.8(2)(c) as the nature of the proposed use will not protect the visual character and amenity of the surrounding area; and
- (iv) Performance Outcome 1 as the potential short and long term impacts of the proposed use on matters of environmental significance have not been established.

h. **Environmental Significant Overlay Code:**

- (i) 8.2.6.2(1) as the proposed development does not identify and protect matters of environmental significance;
- (ii) 8.2.6.2(2)(a)(i) and (ii) as the proposed development does not protect and maintain in situ flora and fauna within the Hinterland core habitat systems and Hinterland to Coast critical corridors;

- (iii) 8.2.6.2(2)(c) as high priority vegetation is not protected in situ;
- (iv) Performance Outcome 1 as all matters of environmental significance on and adjacent to the development site are not identified and protected;
- (v) Performance Outcome 2 as the nature, duration and significance of any potential adverse impacts on adjacent Protected Areas have not been accurately established;
- (vi) Performance Outcomes 3 and 4 as the potential adverse impacts on the Hinterland to Coast Critical Habitat Corridors and Hinterland Core Habitat Systems have not been accurately established;
- (vii) Performance Outcome 5 as the effectiveness of proposed buffers to wetlands and waterway in ensuring the protection of associated matters of environmental significance has not been accurately established;
- (viii) Performance Outcomes 6, 7 and 12 as the nature, duration and significance of any potential adverse impacts on environmental matters associated with areas of regulated vegetation have not been accurately established;
- (ix) Performance Outcome 9 as the nature, duration and significance of any potential adverse impacts on "general priority" vegetation have not been accurately established;
- (x) Performance Outcomes 13, 17 and 19 as the short and long term environmental impacts of the proposed groundwater extraction on adjacent habitat for koala and other species of State or Local significance have not been accurately established;
- (xi) Performance Outcome 21 as the short and long term environmental impacts of the increase of vehicle movements, particularly the movement of heavy vehicles on Repeater Station Rd, upon the safe movement of native fauna have not been accurately established.

i. **Water Resource Catchment Overlay Code:**

- (i) Performance Outcome 5 as the potential impacts on environmental features and natural processes, including riparian vegetation have not been adequately demonstrated.

j. **Transport Code:**


- (i) 9.4.13.2(2)(a)(i) as the proposed development does not result in a safe environment as compliant sight distances have not been demonstrated;
- (ii) 9.4.13.2(2)(e)(i) as the proposed development does not ensure the road network can be safely shared by all road users;
- (iii) 9.4.13.2(2)(f)(i) as the haulage routes to be utilised by the proposed development are heavily utilised for tourism and recreational uses and will not allow for safe and efficient operation;
- (iv) Performance Outcome 5 as the proposed development does not accommodate for the required design service vehicle;
- (v) Performance Outcome 7 as the haulage vehicle routes will have significant impacts on the safety and amenity of residents using those routes; and

(vi) Performance Outcome 20(b) as appropriate measures have not been taken to ensure that the function and capacity of the road network is not compromised.

k. **General Development Provisions Code:**

- (i) Overall Outcome 9.4.4.2(2)(a) as the proposed increased in noise as a result of the truck movements will not maintain the expected level of amenity of the surrounding rural area; and
- (ii) Performance Outcome 1(c) and Performance Outcome 2(c) for safety issues with the haulage activities proposed.

Signed:


Corrs Chambers Westgarth
Lawyers on behalf of the Respondent