

**From:** jrppenquiry  
**To:** Emily Dickson  
**Date:** 10/03/2011 13:57  
**Subject:** Fwd: RE: Assessment Report JRPP Matter Number: 2011NTH004  
**Attachments:** JRPPASSMT100311.doc

>>> "John Hession" <[John.Hession@kyogle.nsw.gov.au](mailto:John.Hession@kyogle.nsw.gov.au)> 10/03/2011 11:45 am >>>

TO: THE PANEL SECRETARIAT

I enclose an Interim Assessment Report prepared by myself at today's date following contact with the applicant's Consultant, Greg Alderson, who has advised that the further consultation as requested by Kyogle Council is being formally undertaken on 14 March, 2011 following which additional details and an update on any outstanding matters will be prepared in the form of a report to be submitted to Council by end March, 2011.  
Please contact me should you require any additional information prior to the above action being completed.

**John Hession**  
**Director Planning & Environmental Services**  
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**Sent:** Thursday, 10 March 2011 1:05 AM  
**To:** John Hession  
**Subject:** Assessment Report JRPP Matter Number: 2011NTH004

**Assessment Report JRPP Matter Number: 2011NTH004**  
Council notification and lodgement with the JRPP advises the report for DA 2011.34 / 2011NTH004 will be due on 31-03-2011 .  
Please advise by return email how the assessment report for DA 2011NTH004 is progressing.  
In addition, please use the Assessment Report template for your report, and forward the completed report to the Panel Secretariat.  
The Assessment Report template is located at  
<http://jrpp.planning.nsw.gov.au/Documents/tabid/90/language/en-AU/Default.aspx>

Please send all completed documents to: [jrppenquiry@jrpp.nsw.gov.au](mailto:jrppenquiry@jrpp.nsw.gov.au)

Thank You

For all enquiries, please contact  
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<b>JRPP No:</b>	Our Reference Number 2011 NTH 004
<b>DA No:</b>	DA Number - DA2011.34
<b>PROPOSED DEVELOPMENT:</b>	Details of the proposal and address MAJOR PROJECT – EXTRACTIVE INDUSTRY at 904 Edenville Road, Cedar Point
<b>APPLICANT:</b>	Rodney John Graham and Karie Graham
<b>REPORT BY:</b>	Officer name, title (including name of council) John Hession, Director Planning & Environmental Services, Kyogle Council

## Assessment Report and Recommendation

### *Summary/Purpose*

This report aims to make an assessment of a development application for an Integrated Development, Designated Development and Major Project which has been lodged with Kyogle Council for submission to and determination by the Northern Rivers Joint Regional Planning Panel.

### *Background Information*

On 5 October, 2010 a development application for a Designated Development /Integrated Development for the Establishment and Operation of an Extractive Industry was lodged with Kyogle Council. Details of the development application are outlined as follows:-

Applicant:	Rodney John Graham and Karie Graham
Owner:	Peter Carlill and Peter and Robyn Carlill
Property:	Lot 12 on DP582916 and Lot 1 on DP366036
Property Address:	904 Edenville Road, Cedar Point
Zone:	Non Urban 1A
Locality:	Cedar Point
Proposal:	Establishment and Operation of an Extractive Industry in stages
Zoning Requirements:	Permissible with Council Consent

Upon lodgement of the development application, all Councillors were notified and an invitation was forwarded by the applicant and land owners to the elected representatives to inspect the site and discuss the proposal. This inspection was undertaken on 22 November, 2010.

### *Previous Council Consideration*

Whilst Kyogle Council had in 1996 commissioned the preparation of a draft Environmental Impact Statement to support a development application for the consent approval to establish and operate an extractive industry on the subject site in 1996, Council withdrew the development application due to the cost associated with the upgrading of the Omagh Road bridge over the Richmond River.

### *Report*

#### **ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979**

In accordance with the provisions of Section of the *EP&A Act*, details of the development application were publicly exhibited on Saturday 9 October, 2010 and adjoining and surrounding property owners were notified of receipt of the development application on 8 October, 2010.

During the initial exhibition period a submission was received from a Solicitor on behalf of an objector stating that the current requirements of the Environmental Planning and Assessment Act 1979 had not been met by the first advertisement. Upon a review of the latest provisions in the Act which relate to Designated and Integrated Developments it was established that there is a requirement to include and stipulate the additional approvals required and the relevant bodies for those approvals in respect of the proposed development.

Details of the development application were again advertised on 23 October, 2010 incorporating the additional approvals required under the Roads Act from the Roads and Traffic Authority, Water Management Act from the Department of Climate Change and Water, and the Protection of the Environment Operations Act, 1997, Scheduled Activity approval from the Department of Environment, Climate Change and Water.

Council referred the content of the development application to the Department of Planning, Department of Environment, Climate Change and Water, Industry and Investment and Roads and Traffic Authority. Responses were received from each of the above Departments and these are summarised below.

The Department of Planning referral was returned stating that it is not the Integrated Approval Authority.

The Department of Environment, Climate Change and Water responded on 25 October, 2010 stating that it had determined that it is able to issue a licence for the proposal, subject to a number of conditions also indicating particular environmental issues whereby Council may wish to further consider in its overall assessment of the application. The issues nominated were:

- Noise and blasting operations stating that the more stringent intrusiveness criterion that has been determined in the Noise Impact Assessment is to apply to the project;
- Stormwater and sediment management stating that the proponent will need to specifically identify each point that discharges to the environment from the various sumps and ponds on the quarry premise;
- Groundwater – DECCW notes that the proponent has identified 2 licensed groundwater bores on neighbouring private properties within approximately 1 kilometre of the proposed quarry operation. Ongoing monitoring of these bores should be considered in order to assess any impacts on the bores from the quarry operations.

Industry and Investment stated that it does not have a statutory role in the authorising or regulating basalt, due to the product not being prescribed under the Mining Act, 1992. The Department has no objections to the proposal, but recommends an appropriate sub-surface assessment of geology and material properties be undertaken prior to commencement of any quarrying operations. The Fisheries component recommended that ongoing protection of the wetland at the south-western end of the property be undertaken in accordance with I&I Policy for protection of key fish habitats.

The Roads and Traffic Authority provided a number of comments for the consideration of Council. These included the incorporation of widening of the junction of Summerland Way and Edenville Road, left-turn treatment for northbound traffic, turning paths for left turns in and out of Edenville Road and upgrading of Edenville Road and Omagh Road to Council's standards. In addition contributions to be made towards the local road network based on haulage rates.

The closing date for the receipt of submissions was 29 November, 2010. During the advertising period Council received a total of 85 submissions, itemised as follows:-

- Objections - Total 35, including one petition containing 177 signatures;
- Supporting - Total 50 separate submissions.

The content and grounds for **objection** are addressed as follows:-

1. All roads in all directions should be upgraded and sealed. Currently the roads are sub-standard and subject to the occurrence of accidents and there are safety concerns for school buses using the same roads as haulage traffic.

**COMMENT**

A number of objections relating to roadworks have interpreted that all local roads, i.e. Omagh Road to the north and Edenville Road to the south will be affected by haulage traffic. These roads are not proposed to be included nor would they be approved as haulage roads. However, where there are problems with safety in terms of sight distance and movement of all traffic along the haulage route, upgrading of these situations, including intersections will be imposed to address these issues.

2. The condition and load limit of the Cedar Point bridge is inadequate for haulage traffic.

**COMMENT**

The most recent structural engineering assessment undertaken on the bridge indicated a maximum load limit of 20 tonnes (including truck and load weight). Any approval to conduct haulage of materials over the bridge will be under this limit.

3. Is the surrounding area zoned rural residential or industrial?

**COMMENT**

The subject site and surrounding area are zoned Non Urban 1A, a zone in which the proposed use – Extractive Industry , is a land use which can be undertaken with consent approval.

4. The proposal will impact on the biodiversity of the area. Four Endangered species are located in the area, for which impacts of the land use have not been assessed. A seven part test is therefore required to be undertaken. There also may be koala habitat, for which a thorough assessment has not been submitted. The removal of 240 trees from the site will cause subsequent erosion and will impact on avian, aboreal and ground dwelling life forms.

**COMMENT**

All of the Departmental requirements of both the Department of Environment, Climate Change and Water and the Department of Planning, in addition to the requirements and criteria stated by Kyogle Council have been adequately addressed concerning the above matters within Appendix C of the Environmental Impact Statement.

5. The proposed hours of operation are excessive and there should be no operation of the proposal on weekends.

**COMMENT**

The proposed hours of operation are consistent with other extractive industries being conducted throughout the Kyogle Local Government Area.

6. There are more suitable alternative extractive industries being operated in the Region.

**COMMENT**

The subject site has been identified in the Far North Coast Regional Strategy as a Regionally Significant Extractive Resource. The basalt product available at the site is of extremely high quality and the quantity is also extensive. There is no other resource of this quality or magnitude available in the Local Government Area.

7. A number of health issues will be affected by the land use, including impacts of dust and pollution of drinking water for humans and on water and pasture for cattle production.

**COMMENT**

It is usual for any approval of this form of land use to impose conditions on the mitigation and suppression of dust by means of watering those areas in which haulage, crushing or other movement and machinery causes a dust emission. This element would also be required to be addressed in an ongoing Plan of Management for the site.

8. The use of diesel for plant and haulage traffic will cause particulate emissions, which when combined with dust particulates could cause problems to those with allergies.

**COMMENT**

The objection is speculative particularly in comparison to a similar situation such as the conduct of a major extractive industry at Clovass in the adjoining Richmond Valley LGA which does not generate such problems or in a Town situation where residents are exposed to many times more traffic/diesel fumes etc.

9. The noise impacts from crushing, construction, blasting and production in addition to haulage traffic movement will impact on surrounding properties.

**COMMENT**

From an assessment of the Environmental Impact Statement, in particular the Noise Impact Assessment (Appendix E), there may be a need for a greater level of mitigation to be implemented in respect to one or more of the nearby receptors. This aspect will be addressed in the form of further consultation and investigation to be undertaken by the applicant.

10. The environment and ecosystems such as the wetland in the northern part of the site is in danger due to the impacts of dust, runoff from cleared areas and removal of vegetation.

**COMMENT**

As stated in Appendix C of the EIS, a Construction Environment Management Plan will be prepared in order to provide and implement erosion and sediment controls in order to minimise impacts from dust and other elements on wetlands and other surfaces.

11. The visual amenity of the surrounding area will be affected due to scarring of the landscape.

**COMMENT**

The topographical relief and contouring of the subject site, in particular the level at which the extraction is proposed, the planned provision of landscape buffering around each of the

extraction cells, including that which has already been implemented will ensure that any visual opportunity to ascertain the scarring and excavations on the site from adjoining properties or roads will be predominantly limited or eliminated.

12. The water quality of the Richmond River and other watercourses, downstream drinking and stock water will be impacted on by the proposal due to dust and stormwater runoff from the site.

#### **COMMENT**

The proposal includes the implementation of mounding and directional flows of runoff into sedimentation ponds in order to prevent the runoff of any contaminated water from the site and onto downstream watercourses or surrounding properties.

13. The proposed scale of the operation is over and above what is required, i.e. local use only.

#### **COMMENT**

The proposal is in accordance with the established evidence of the level of resources available on site, the designation by the State Government of the subject site as a Regionally Significant Extractive Resource in the Far North Coast Regional Strategy and therefore its capability of providing sufficient quality and quantity of resource materials for the whole of the Northern Rivers Region.

14. The Environmental Impact Statement is flawed as it is based on foreign studies of little relevance and contains outdated reports and information. There are anomalies with the projected number of traffic movements and the EIS is not sufficiently specific in order to be able to analyse much of the assessment in terms of issues such as:-
  - effects and impact of noise;
  - effect of noise generated by vehicles moving within the quarry;
  - water management and stormwater runoff;
  - effect of groundwater upon bores in the vicinity;
  - lack of objectivity in the archeological report and the geological report prepared for Kyogle Council.

#### **COMMENT**

The objection has merit and this aspect will be addressed in the form of further consultation and investigation / preparation and submission of additional details to be undertaken by the applicant.

15. The heritage values of the bridge must be considered. It is near the end of its economic if not structural life. A new bridge is the only feasible long term solution to provide for the proposed haulage of extracted materials.

#### **COMMENT**

Although the objection has some merit, the capability of the existing bridge at Cedar Point over the Richmond River has been assessed and considered by all parties. The current outcome is that if an approval for the extractive industry is granted, a limitation of truck type and maximum weight of the material/load is to be imposed. There has been no nomination on any Heritage Register for the Bridge to be listed as a Heritage candidate.

16. Land and property valuations for surrounding properties will be impacted and reduced due to the proposed change in land use for the subject site.

**COMMENT**

This objection is speculative and not substantiated. The subject site is currently used for pasture improvement and cattle production, both of which are proposed to be continued. It is considered that the land uses currently conducted on surrounding properties will also be able to be continued and that no major changes in land values should occur.

17. The proposed use is at odds with Kyogle Council Development Control Plan No. 2, whereby the protection of visual amenity will not be possible and that land uses in the rural area are to be in harmony with the environment.

**COMMENT**

As previously stated, it is not considered that the proposal will impact on visual amenity due to the topography and elevated location of the land use as proposed. As with the conduct of any extractive industry, conditions and a Plan of Management would be imposed in order to eliminate or minimise any detrimental impacts on the surrounding environment.

18. The Draft Kyogle LEP states that land identified in this or any other environmental planning instrument as being high aboriginal cultural significance or high biodiversity significance must be considered by Council in its determination of this type of application.

**COMMENT**

Whilst the above issues are required to be considered, the subject site is neither identified as a Place of Aboriginal Significance or as containing High biodiversity significance. The Local Aboriginal Land Council was contacted by Council which arranged for members of Guggin Guddaba to inspect the site. The applicant has taken these matters into consideration and they have been assessed in the EIS.

19. The upgrading of roads fronting the subject property will cause landslip between Edenville Road and the hill on the site and also between Omagh Road and the Richmond River.

**COMMENT**

The objection is not substantiated and such considerations would be assessed in the design and construction of any future road widening.

20. The tests associated with the blasting which was undertaken on site in 1995/6 are obsolete.

**COMMENT**

The testing and results undertaken at that time were in fact comprehensive and are far more valuable in the assessment of the current development application than not having any knowledge of the likely impacts of blasting the resource on site for procurement.

21. There will be impacts on groundwater from the vibration of the operation and seepages flowing south into Ellems Road Valley and spring fed dams.



## **COMMENT**

Council has specifically requested the Department of Environment, Climate Change and Water to assess and advise on all issues relevant under the provisions of the Water Management Act 2000.

22. The procedures in the receipt of notification to surrounding landholders on 5 October, 2010 to 28 October, 2010 is failure to adhere to reasonable standards of performance and due diligence.

## **COMMENT**

As stated earlier in this report, upon a review of the latest provisions in the Act which relate to Designated and Integrated Developments it was established that there is a requirement to include and stipulate the additional approvals required and the relevant bodies for those approvals in respect of the proposed development. As a consequence details of the development application were again advertised on 23 October, 2010 incorporating the additional approvals required under the Roads Act from the Roads and Traffic Authority, Water Management Act from the Department of Climate Change and Water, and the Protection of the Environment Operations Act, 1997, Scheduled Activity approval from the Department of Environment, Climate Change and Water. This gave further opportunity to the public, including surrounding landholders to review the details of the development application and to make submissions up to the closing date of receipt of submissions being 29 November, 2010.

23. The proposed development will disrupt lifestyle, increase local traffic and its conduct will affect quality of life.

## **COMMENT**

Whilst the objection is of a general type, it is of particular pertinence to those properties which are located within a 1000 metre buffer from the areas of proposed extraction. This aspect will be addressed in the form of further consultation and investigation to be undertaken by the applicant, particularly with regard to the premises in this proximity.

24. The movement of haulage traffic on the southern end of Edenville Road will be incompatible with moving of dairy cattle along this part of the road

## **COMMENT**

This objection incorrectly assumes that Edenville Road to the south, through Richmond Valley LGA, will be an approved haulage route. This will not be the case.

25. The movement of haulage traffic will interfere with the movement of school buses and Ettrick residents.

## **COMMENT**

Submissions in favour of the proposed development proceeding were received by Council, with one such submission stating that due to the capability of communications on two way radio between the buses and trucks, any disruption to movement of this traffic will be

minimised. Upgrading of the haulage route to cater for local traffic and haulage traffic will also minimise disruption.

The content and points raised in **support** of the rezoning application are outlined as follows:-

1. The site contains a high quality resource which will have enormous benefit for the local community and Kyogle Council.

**COMMENT**

Noted

2. The proposed quarry will provide additional employment in the locality.

**COMMENT**

Noted

3. There is currently no quarry in the Kyogle LGA with hard rock aggregate of this quality.

**COMMENT**

Noted

4. The development will facilitate a reduction in freight costs to Council which will also result in savings to ratepayers, and local building and construction businesses.

**COMMENT**

Noted.

5. The development will provide long term employment and flow-on to the community.

**COMMENT**

Noted

6. The longevity of the resource will provide a sound investment for the Town of Kyogle.

**COMMENT**

Noted

7. The development will assist in improving major road intersections and routes.

**COMMENT**

Noted

8. The development will provide improvements to bus routes in the area.

**COMMENT**

Noted.

9. The site represents an excellent location for the conduct of the proposed quarry.

**COMMENT**

Noted.

10. The development will be of major benefit to the whole of the Northern Rivers Region.

**COMMENT**

Noted

11. The proposal represents good management of the operation and also the surrounding environment.

**COMMENT**

Noted.

12. The proposal will result in significantly reduced road haulage.

**COMMENT**

13. The proposal will ensure the availability of a good product locally.

**COMMENT**

Noted.

14. The proposal represents an investment in the area's future.

**COMMENT**

Noted.

15. The development will ensure that significant scar trees will be preserved.

**COMMENT**

Noted.

16. The planting of screen trees on buffers has commenced.

**COMMENT**

Noted.

17. The recording of previous drilling on the site has substantiated the proposal.

**COMMENT**

Noted.

## **Conclusion**

The Development Management Panel has reviewed the submissions, the result of which is that the applicant has been requested to provide additional information relating to a number of anomalies within elements of the Environmental Impact Statement lodged with the submission and also to consult with the three adjoining landholders who are located within the 1000 metre buffer of the subject site, in accordance with the Director General's (Department of Planning) under the provisions of Section 79 of the Environmental Planning and Assessment Act.

The applicant's Consultant has advised that further formal consultation with the three property owners located within the 1000 metre buffer has been arranged to be conducted on 14 March, 2011 following which any outstanding matters will be assessed and incorporated into a report to be provided to Kyogle Council, which is expected to be submitted by end March, 2011.

## ***Recommendation***

1. That Council awaits the outcome of further consultation to be undertaken by the applicant on 14 March, 2011.
  2. That Council awaits the submission of further details by the applicant.
  3. That upon receipt by Council of the above outcomes, Kyogle Council Development Management Panel further assess the development application and prepare a final report for submission to the Joint Regional Planning Panel.
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