

**JOINT REGIONAL PLANNING PANEL
(NORTHERN REGION)**

JRPP No	2012NTH010
DA Number	DA0199/2012 – Approved 19 April 2012 MOD0009/2013 – Lodged 31 July 2012
Local Government Area	Tamworth Regional Council
Proposed Development	Expansion of Quarry Extraction Area (from 2 hectares to 5.84 hectares) & Increase Annual Production (from 50,000 tonnes to 150,000 tonnes) for a period of 16 years.
Proposed Modification	Amendments to Conditions 6, 22 and 22B
Street Address	Lot 103 DP 755348, 1922 Duri Winton Road, WINTON Lot 4 DP 755348, 1923 Duri Winton Road, WINTON
Applicant/Owner	Applicant: BMR Quarries Pty Ltd Owners: M & R Walters (Lot 103) G & M Pursehouse (Lot 4)
Number of Submissions	Ten
Recommendation	Approval with amendment to Conditions 6 and 22. Refusal of amendment to Condition 22B
Report by	David Koppers – Senior Development Assessment Planner Jackie Kruger – Director, Planning & Community Services
Meeting date	13 December 2012

Assessment Report and Recommendation

EXECUTIVE SUMMARY:

Reason for Consideration by Joint Regional Planning Panel:

The original Development Application was referred to the Joint Regional Planning Panel pursuant to Clause 8, Schedule 4A of the *Environmental Planning and Assessment Act 1979 (EPAA)* as the development is classified as an Extractive Industry and Designated Development pursuant to Clause 19, Schedule 3 of the *Environmental Planning and Assessment Regulation 2000 (EPAR)*.

The modification to the development consent (the subject of this report) is sought pursuant to Section 96(2) of the *EPAA*. In accordance with Clause 21 of *State Environmental Planning Policy (State and Regional Development) 2011* the determining authority is the Joint Regional Planning Panel with Tamworth Regional Council retaining the role of Consent Authority.

Description of Proposal (Modification):

Pursuant to Section 96(2) of the *EPAA*, consent is sought to modify the development consent by way of amendments to Conditions 6, 22 and 22B which are discussed in greater detail in Section 1 of the Report.

Recent Development History of the Site:

The Mount Winton Quarry has been operational periodically since the 1980s, when it was operated by Pioneer Concrete, and then during the 1990s by Asphalt Aggregates Australia.

Since this time the following four development consents for the quarry site have been issued:

1. **DA0344/2000:** Issued by the former Parry Shire Council on 16 April 2001 for a total extraction of 23,000m³. This consent was time restricted to lapse on 31 December 2001.
2. **DA0728/2005:** Issued by Tamworth Regional Council on 2 June 2005 for the re-establishment of quarry operations within the site, for the purpose of extraction and sampling of the source materials. Extraction was limited to 8,000m³ over a 6 month timeframe. Haulage of material was strictly limited to material transport for testing purposes only.
3. **DA0235/2006:** Issued by Tamworth Regional Council on 15 February 2006 for a total annual extraction rate of 50,000 tonnes per year. The Environmental Impact Statement (EIS) submitted with the Development Application stated the quarry would be operated for a period of 20 years. This would provide a lapsing date of 15 February 2026, although this was not specified within the consent. The extraction operations were limited to an area of 2 hectares.
4. **DA0199/2012:** Issued by the Joint Regional Planning Panel on 19 April 2012 to permit an increase in the total land area available for extractive operations from 2 hectares to 5.84 hectares, and increase annual extraction for the quarry from 50,000 to 150,000 tonnes per year, for a period of 16 years.

Site Description:

The subject land comprises Lot 4 and Lot 103 DP 755348. Lot 103 encompasses all of the operational quarry area and the majority of the internal access road. Lot 4 encompasses a section of the private internal access road (approximately 300 metres in length). A registered Right of Carriageway exists over Lot 4 for the benefit of Lot 103.

Lot 103 has direct frontage to Duri Winton Road at the north-eastern boundary, and it is at this point that the private haulage route joins the public road network. Lot 4 does not have direct road frontage. Both allotments will be discussed jointly throughout this report as the development site, unless otherwise specified.

The development site consists of three distinct land uses: the quarry located in the south-west portion of the site, native box woodland along the slopes of Mount Winton, which is located centrally and low intensity grazing lands around the fringe areas.

With the exception of Mount Winton, the site has become extensively disturbed over time due to agricultural and extractive industry activities that have occurred on the site. This includes that clearing of nearly all remnant vegetation, construction of pit access roads throughout the site, leveling of areas for the crushing, stockpiling, administration and storage areas.

The topography of the site is generally undulating in nature, with gentle to moderate slopes extending from both Mount Winton and the quarry site, which form a high point in the landscape. The site also includes a number of intermittent watercourses, two of which border the northern and southern perimeter of the quarry site.



Diagram 1 – Locality Plan



Diagram 2 – Quarry Site (Aerial Image)

Referrals:

The modification was referred to the NSW Environment Protection Authority (EPA) on 03 August 2012 as the agency was an integrated approval authority for DA0199/2012. EPA responded to Council on 06 August 2012 with no objection to the proposed amendment to Condition 6 and does not require amendment to the General Terms of Approval issued under DA0199/2012. It should be noted that EPA does not perform a role in the determination of Conditions 22 and 22B.

The development application was also referred internally to Council's Infrastructure Planning Manager (in relation to Council's road infrastructure), who has provided comments which are discussed in Section 1 of this Report.

Consultation:

The modification was exhibited and notified in accordance with the relevant provisions of the *Environmental Planning and Assessment Regulations 2000* for designated development applications and ten submissions of objection were received by Council. Copies of the submissions are contained within Annexure 1 and are discussed in greater detail later in the report.

Recommendation:

It is recommended that Modification of Development Consent No. MOD0009/2013 to Development Application DA0199/2012 be approved subject to the conditions of consent contained in Annexure 2. Approval applies only to Conditions 6 and 22 only, the modification to Condition 22B to be refused. The recommendation is discussed in more detail in Section 1 of this report.

Annexures:

Annexure 1	Submissions (Confidential).
Annexure 2	Draft Conditions of Consent.
Annexure 3	Haulage Route Map

EVALUATION OF DEVELOPMENT APPLICATION

1 Proposal

The applicant is seeking the modification of three conditions of consent which were applied to the approval of DA0199/2012. Condition 6 relates to the overall operational period and extraction rates for the quarry, whilst Conditions 22 and 22B related to upgrade requirements to the local road network.

The modification relates to these conditions in the following manner:

Original Condition 6:

To confirm and clarify the terms of approval, consent is granted for an increase in extractive material extraction to 150,000 tonnes per annum for a period not exceeding 16 years from the commencement of operations under this consent. The quarry operator is required to inform Council of the commencement date of operations approved under this consent. Council will then provide written confirmation of the lapsing date for quarry operations under this development consent.

Applicant requests Condition 6 to Read:

To confirm and clarify the terms of approval, consent is granted for an increase in extractive material extraction to a maximum of 150,000 tonnes per annum for a period not exceeding 24 years or for the period it takes to extract and process 2.4 million tonnes of andesite material, whichever comes first, from the commencement of operations under this consent. The quarry operator is required to inform Council of the commencement date of operations approved under this consent. Council will then provide written confirmation of the lapsing date for quarrying operations under this development consent.

Council in consultation with the Environment Protection Authority has no fundamental issue with the extension of extractive operations occurring for a 24 year period provided that the annual extraction rate as proposed does not exceed 150,000 tonnes per annum and that the total amount of andesite material extracted does not exceed 2.4 million tonnes within the 24 year period.

This variation to the condition permits flexibility in the overall operation of the quarry to allow for changes in market demand for the extracted material. The overall impact on the locality will not exceed that which has already been assessed during the original application. The applicant's proposed condition does include some ambiguity regarding the total time period of extraction which could potentially be read as longer than the 24 year period. To ensure clarity, Condition 6 will be amended to read:

Amended Condition 6 to Read:

To confirm and clarify the terms of approval, consent is granted for an increase in extractive material extraction to a maximum of 150,000 tonnes per annum for a period not exceeding 24 years. The total amount permitted to be extracted and processed under this consent is not to exceed 2.4 million tonnes of andesite material. The quarry operator is required to inform Council of the commencement date of operations approved under this consent. Council will then provide written confirmation of the lapsing date for quarrying operations under this development consent.

Original Condition 22:

New Winton Road between the bridge over Tangaratta Creek (Tangaratta Creek Bridge) and the bridge over Mountain Creek (Ridds Bridge) shall be widened to a 9 metre formation with an 8 metre 20/10 bitumen seal applied over the entire width of the road. The widening on either side of the road shall be keyed into the existing pavement with a minimum 500mm overlap at each layer. The widening of the pavement shall ensure the longitudinal joints along the road are in the middle of each travel lane. The travel lanes shall each be 3.5 metres wide and delineated with line marking and guideposts in accordance with AS1742.2

A pavement design for the widening shall be prepared in accordance with Council's Engineering Design Guidelines for Subdivisions and Developments and submitted to Council for approval prior to works commencing.

This work must be completed before any increase in operations as approved by this development consent.

Applicant requests Condition 22 to Read:

New Winton Road between the bridge over Tangaratta Creek (Tangaratta Creek Bridge) and the bridge over Mountain Creek (Ridds Bridge) shall be widened to a 9 metre formation with a 10mm bitumen seal applied over the widened shoulders only with a 200mm bitumen overlap onto the existing bitumen seal of the road. The widening of either side of the road shall be keyed into the existing pavement with a minimum 300mm overlap at each layer.

The widening of the pavement shall ensure the longitudinal joints along the road are clear of the outer wheel paths of heavy vehicles. The travel lanes shall each be 3.5 metres wide and delineated with line marking in accordance with AS 1742.2.

A pavement design for the widening shall be prepared in accordance with Council's Engineering Design Guidelines for Subdivisions and Developments and submitted to Council prior to the works commencing.

A works program detailing staged shoulder widening works shall be submitted and approved by Council before any increase in operations as approved by this development consent. All works associated with this condition are to be completed within 24 months of notification from Council of the approved program.

The proposed amendment to Condition 22 involves the following changes:

- a) The location of the longitudinal joint for road widening from the centre of the travel lanes to the edge of the existing seal;
- b) The width of overlap for each layer of the pavement at the longitudinal joint for the road widening from 500mm to 300mm;

- c) The extent of the bitumen sealing required to be undertaken between Ridds Bridge and Tangaratta Creek Bridge from a full width reseal to sealing the widened shoulders only;
- d) Removal of the requirement to replace existing guideposts at the completion of the works program;
- e) Implement a staged construction timeframe for the works to be completed within 24 months from the commencement of the consent rather than before the commencement of the consent.

The following comments are provided with regard to the abovementioned points:

- a) The location of the longitudinal joint being at any other location other than in the middle of each travel lane is not supported. The width of the existing bitumen seal along this section of road is on average 5 metres wide, and the existing centre line of the road will be maintained following widening. The location of the joint for widening would be approximately 2.5 metres off the centre line of the road which coincides with the outer wheel path of vehicles.

The quality of existing pavement in the unsealed shoulder outside of this alignment is unknown and therefore to join the pavement widening to the existing road in the shoulder zone and apply a bitumen seal that just laps onto the existing seal is not good road building practice. Having the longitudinal joint in the centre of the travel lane as conditioned is good engineering practice.

- b) There is no objection to the change in overlap width from 500mm to 300mm as requested.
- c) The requirement for the longitudinal joint to remain in the centre of each travel lane will result in approximately 2.9m of existing bitumen seal which will remain in the middle of the road. Bitumen resealing is classified as a capital renewal item and not a maintenance item as stipulated by the applicant, and therefore the assertion that

Council's Section 94 Contribution funds can be utilised for the bitumen reseal works is not accurate.

Based on Council's 2011/2012 bitumen sealing contract rates the estimate cost to provide an 8 metre wide two coat 20/10 bitumen seal for 7km is \$270,000; \$170,000 of this is contributable to the widening works and \$100,000 towards the renewal of the remaining seal.

- d) Guideposts currently exist along this section of road. The requirement for road widening will result in the existing guideposts being removed as part of the construction process. The installation of new guideposts in accordance with the appropriate Australian Standards is not considered unreasonable.
- e) The staging of works over a 24 month period on commencement of the development consent is not supported for the following reasons:
 - i. The intention of the condition is to ensure that the Haulage Route (Annexure 3) is of a suitable standard in terms of design and condition to achieve an appropriate level of safety for all users of the local road network.

- ii. The proposed development will result in a significant increase in heavy vehicle movements along the haulage route, which, in places, is not of adequate design or condition for anticipated movements.
- iii. To permit the operation of the quarry under this current consent without first requiring the upgrades to have occurred is not appropriate from a road safety perspective.

Amended Condition 22 to Read:

New Winton Road between the bridge over Tangaratta Creek (Tangaratta Creek Bridge) and the bridge over Mountain Creek (Ridds Bridge) shall be widened to a 9 metre formation with an 8 metre 20/10 bitumen seal applied over the entire width of the road. The widening on either side of the road shall be keyed into the existing pavement with a minimum 300mm overlap at each layer. The widening of the pavement shall ensure the longitudinal joints along the road are in the middle of each travel lane. The travel lanes shall each be 3.5 metres wide and delineated with line marking and guideposts in accordance with AS1742.2

A pavement design for the widening shall be prepared in accordance with Council's Engineering Design Guidelines for Subdivisions and Developments and submitted to Council for approval prior to works commencing.

This work must be completed before any increase in operations as approved by this development consent.

Original Condition 22B:

The quarry operator shall be responsible for the widening of the culvert and associated road works located adjacent to the intersection of Duri Wallamore Road and New Winton Road. All works are to be in accordance with Council's Engineering Guidelines for Subdivisions and Developments.

This work must be completed before any increase in operations as approved by this development consent.

Applicant requests Condition 22B to Read:

The quarry operator shall be responsible for the provision of Class B advanced warning signs on the approach to the culvert located approximately 200 metres east of the New Winton Road and Duri-Wallamore Road intersection. These signs shall match and replace the existing advanced warning signs for the culvert and shall be duplicated on both sides of the carriageway.

In addition, the quarry operator shall be responsible for the provision of edge line marking to delineate a single 4 metre wide lane over the culvert. All works are to be in accordance with Council's Engineering Guidelines for Subdivisions and Developments.

The work must be completed before and increase in operations as approved by this development consent.

The applicant is seeking to remove the requirement for the widening of the culvert structure and instead provide replacement warning signage at both approaches to the structure. The culvert is a major structure and is considered to be a 'bridge structure' which requires the width requirements of Australian Standard 5100 – Bridge Design to be applied.

AS 5100 recommends that where daily traffic volumes exceed 150 vehicles per day then structures such as the bridge should allow for two-way traffic flows. Traffic count figures collected by Council indicate that average daily movements along this section of New Winton Road exceed 150 movements per day. AS 5100 also specifies that travel lane widths provided on the bridge shall not be less than the widths provided on the approach roadway plus 600mm edge clearance from the edge of the traffic lane to the face on the safety barrier on each side of the bridge.

The approaches to the bridge are 7.6m wide which provides two x 3.5m wide traffic lanes. The total width between guard rails should therefore be 8.2m, however the existing width between the guard rails is 6m.

It is recommended that this condition be retained without amendment.

S79C(1)(d) *Any Submissions Made in Accordance with the Act or Regulations*

The modification was advertised and notified in accordance with the *Environmental Planning and Assessment Regulation 2000*. Those who made submissions during the original applications notification process were also notified in writing.

Ten submissions were received during the notification period. Of these ten submissions, five objected to the proposed modification in full, stating that no changes to the consent conditions should be permitted. The remaining five submissions did not object to the proposed change to Condition 6 which permitted the quarry life to extend from 16 to 24 years. There was however no support from these remaining five submissions for the variations to Conditions 22 and 22B

2 *Conclusion*

The development application seeks to modify Conditions 6, 22 and 22B of development consent no. DA0199/2012 which was determined by the Joint Regional Planning Panel on 19 April 2012. The content of the proposed modification have been discussed in detail previously in the Report.

The application has been assessed pursuant to the requirements of the *Environmental Planning and Assessment Act 1979* and *Environmental Planning and Assessment Regulation 2000*.

On this basis it is recommended that the Joint Regional Planning Panel determine the modification by amendment to Conditions 6 and 22 and refusal of the proposed amendment to Condition 22B.

3 *Recommendation*

It is recommended that in relation to the application to modify Development Consent No. DA0199/2012 (MOD0009/2013) for amendments to Conditions 6, 22 and 22B, that the Joint Regional Planning Panel approve the modification of consent with amendments to the conditions of consent as follows:

Amended Condition 6:

To confirm and clarify the terms of approval, consent is granted for an increase in extractive material extraction to a maximum of 150,000 tonnes per annum for a period not exceeding 24 years. The total amount permitted to be extracted and processed under this consent is not to exceed 2.4 million tonnes of andesite material. The quarry operator is required to inform Council of the commencement date of operations approved under this consent. Council will then provide written confirmation of the lapsing date for quarrying operations under this development consent.

Amended Condition 22 to Read:

New Winton Road between the bridge over Tangaratta Creek (Tangaratta Creek Bridge) and the bridge over Mountain Creek (Ridds Bridge) shall be widened to a 9 metre formation with an 8 metre 20/10 bitumen seal applied over the entire width of the road. The widening on either side of the road shall be keyed into the existing pavement with a minimum 300mm overlap at each layer. The widening of the pavement shall ensure the longitudinal joints along the road are in the middle of each travel lane. The travel lanes shall each be 3.5 metres wide and delineated with line marking and guideposts in accordance with AS1742.2

A pavement design for the widening shall be prepared in accordance with Councils Engineering Design Guidelines for Subdivisions and Developments and submitted to Council for approval prior to works commencing.

This work must be completed before any increase in operations as approved by this development consent.

Refusal of proposed amendment to Condition 22B on the grounds the removal of this requirement will compromise the road safety of New Winton Road.



David Koppers
Senior Development Assessment Planner



Jackie Kruger
Director, Planning and Community Services
