

DA 2013/162 – Proposed Extractive Industry (sand quarry)

File Reference	DA 2013/162
Applicant	Ardill Payne and Partners
Property	Lot 32 DP 1151612 Newrybar Swamp Road, Lennox Head
Proposal	Extractive Industry (Sand Quarry) with a total extractable resource amount of 610,000m ³ (in situ) and a maximum annual extraction rate of 80,000m ³ .
Effect of Planning Instrument	The subject land is zoned RU1 – Primary Production under the provisions of the Ballina Local Environmental Plan 2012
Locality Plan	The subject land is depicted on the locality plan attached

1. SUMMARY

Background

A development application was received by Council for the establishment of an extractive industry (sand quarry). It is proposed to extract up to a maximum 1.2 million tonnes (610,000m³ in situ) of sand at an annual maximum extraction rate of up to 160,000 tonnes (80,000m³ in situ) over a maximum life span of 15 years.

The operation will involve stripping of topsoil, constructing earthen acoustic/visual mounds, excavation of sand over an area of approximately 15ha to a maximum depth of -3.0mAHD, treating the sand to reduce the acid sulphate content, stockpiling of the treated sand and loading into haulage trucks for dispatch to market.

The sand extraction operation will generally be undertaken during the drier times of the year, being typically July to November or as weather permits.

Permissibility

The subject site is zoned RU1 - Primary Production pursuant to the provisions of the Ballina Local Environmental Plan 2012 (BLEP). For the purposes of the BLEP, the proposal is defined as an extractive industry and is permissible in the RU1- Primary Production Zone with development consent.

Consultation

The application was placed on public exhibition from 12 June 2013 to 15 July 2013. In addition to the surrounding land owners and occupants, six government agencies and the local Aboriginal Land Council were notified. At the close of the exhibition period, five submissions had been received from surrounding residents.

Council has addressed all issues raised during the exhibition period within the body of this report.

Conclusion

The application has been assessed having regard to the relevant matters for consideration prescribed by Section 79C (1) of the *Environmental Planning and Assessment Act 1979*.

The proposed development is permissible with development consent in the RU1 - Primary Production Zone. The proposal has been examined with regard to its environmental, social and economic impacts. This assessment has not raised any significant issues with regard to the impacts of the proposed development on the surrounding environment that cannot be addressed by conditions of consent. Detailed consideration has also been given to the issues raised in the public submissions. Based on the merits of the proposed development, relevant land use planning provisions and development controls, it is considered that the proposed development can be favourably determined.

Recommendation

Based on the outcomes of the assessment, it is recommended that Development Application 2013/162 be approved pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979*.

2 Site Description and Analysis

The subject land referenced as Lot 32 DP 1151612, Newrybar Swamp Road, Tintenbar, is irregular in shape with an area of 48.69ha and a 350.52m frontage to Newrybar Swamp Road. The site is located approximately 3.6Km from Lennox Head. The quarry operation is to be located in the south western portion of the site.

A locality plan, zoning plan and an aerial photograph of the development site and associated adjoining lands showing the location of those making submissions is provided as an **Attachment**.

Topography

The subject land is flat and level. The elevation of the site ranges between approximately 3m and 5m AHD. The site is defined by agricultural drains along the boundaries, and across the site.

Groundwater

A soil drilling program has confirmed that the site is underlain by a sequence of coastal dune sands and sediments which are at least 15m thick. The drilling program also determined that ground water existed on the site at an average depth of 1.0m. The groundwater recharge from rainfall events is rapid and the aquifer is unconfined.

Groundwater is acidic and very low in salinity. A comparison of the water quality with drinking water guidelines shows that groundwater at the site is near potable. Guideline values for Ph, aluminium and iron are exceeded. Arsenic concentrations may be above drinking water guideline values in some areas.

Visual context

The visual character of the locality is dominated by sugar cane production, stands of bushland and scattered rural buildings. The site is not highly visible from adjacent/adjoining properties, Ross Lane or Newrybar Swamp Road due to the stands of sugar cane and the

flat nature of the locality. However, the site is visible from the Pacific Highway and the Newrybar escarpment some 1.3Km to the west of the subject site.

Flora and Fauna

Flora and Fauna studies have indicated that the site has been significantly disturbed with much of the native vegetation and habitat removed or modified. The report established that eight threatened fauna species could be found on the site with potential for several other threatened species to occur on an opportunistic/seasonal basis.

Cultural heritage

A cultural heritage assessment of Aboriginal and non-indigenous cultural heritage concluded that no Aboriginal objects, places of cultural significance or items of historic heritage significance, were identified within the project area.

Contamination

A stage 1 Preliminary Contaminated Site Investigation was undertaken which concluded that none of the soil samples submitted for testing had levels reaching or exceeding the relevant assessment criteria and were consistent with background levels.

Flooding

Flooding information for the area shows a 1 in 100 year flood minimum fill level of 2.4m to 2.6m AHD and as the level of the site ranges from 3m to 5m AHD the site is not subject to inundation by the 1:100 year flood event.

Noise

The potential sources of noise associated with the proposed extractive operation are the use of machines and equipment at the site and the movement of haulage trucks along the road network.

Agricultural Suitability

The surrounding area is used mainly for agricultural production, cattle grazing, sugar cane and macadamia production.

The NSW Department of Agriculture, Agricultural Land Class Map classifies the extraction area as Class 3 and 5 agricultural land.

Class 3 and 5 agricultural land is defined as follows:

Class 3: Grazing land or land well suited to pasture improvement. It may be cultivated or cropped in rotation with sown pasture. The overall production level is moderate because of edaphic factors or environmental constraints. Erosion hazard, soil structure breakdown or other factors including climate may limit the capacity for cultivation, and soil conservation or drainage works may be required.

Class 5: Land unsuitable for agriculture or at best suited only to light grazing. Agricultural production is very low to zero as a result of severe constraints, including economic factors which prevent land improvements.

Adjoining and surrounding land uses

The locality is dominated by sugar cane, macadamias and cattle grazing, scattered rural dwellings and associated outbuildings.

There are three other sand quarries in the vicinity. A quarry exists on an adjoining property which is reaching the end of its approval. It is intended that the proposed quarry will replace this quarry and will not commence until the existing quarry ceases to operate. The two other quarries are located further north along Newrybar Swamp Road and are reaching the term of their approvals and will likely cease operations in the next couple of years, depending on market demand.

3 Details of the Proposal

The proposed operation involves the extraction of up to a maximum 1.2 million tonnes (610,000m³ in situ) of sand at an annual maximum extraction rate of up to 160,000 tonnes (80,000m³ in situ) over a maximum life span of 15 years.

At the proposed maximum annual extraction rate of 80,000m³, the quarry would have a life span of 7.6 years, however, due to previously experienced fluctuations in demand in the market place which has indicated an anticipated average annual extraction rate of 40,000m³, an operation life of 15 years has been requested.

The operation will involve stripping of topsoil, excavation of sand by excavators to a maximum depth of -3.0mAHD, the sand is treated with lime to reduce the acid sulphate content before being stockpiled and loaded into haulage trucks for dispatch to market. The operation area will occupy approximately 15ha of the site.

The sand extraction operation will generally be undertaken during the drier times of the year, typically being July to November or as weather permits.

The proposal involves the following construction work:

- The construction of a site access from Newrybar Swamp Road, comprising a bitumen seal, from the edge of the existing bitumen for a distance of 75m to a proposed shake down grid, with gravel and earthen formation from that point;
- Planting of a wind break screen along that section of the roadway and also along the western boundary of the stockpile area;
- Construction of a 2.5m and 3.5m high earthen mound along the southern and south eastern boundary of the extraction area;
- Construction of office, weighbridge, chemical toilet, storage container and non-potable water tank;
- Construction of visitor and plant car parking area; and
- Installation of sediment basin and emergency spill-way.

Method of operation

It is intended that extraction will commence generally along the full eastern side of the pit and will proceed in a long wall fashion to the west. The pit will be excavated to the finished

level of -3.0mAHD. The pit will be 6 metres deep with two work benches on the western side of the excavation.

Sand will be initially excavated and stockpiled on the lower bench, where it will be treated with fine agricultural lime with a neutralising value of 100 at the required rate. The lime will be thoroughly mixed with the extracted sand as it is lifted to the next bench where validation is undertaken, and additional lime added if necessary before being lifted to the final stockpile before being loaded into the trucks.

Hours of operation

The proposed hours of extractive operations (including haulage) will be 7.00am to 6.00pm Monday to Friday and 8.00am to 1.00pm Saturday with no work on Sundays or Public Holidays.

Equipment and personnel

It is anticipated that two people will be employed on site with up to four people employed during periods of peak demand.

Equipment to be used on the site will comprise two excavators, one seven tonne front-end loader, water truck, site vehicles, mobile pumping equipment/generators and contract haulage trucks.

Transportation

Sand will be loaded from the stockpile onto haulage trucks with a carrying capacity of 8m³ to 20m³. Trucks will generally travel in a southerly direction along Newrybar Swap Road to the intersection with Ross Lane, where they will split to travel east to the Coast Road or west to the Pacific Highway, upon reaching these roads trucks will again be split so as to travel North and South.

Fuel

All fuel and possible contaminants will be contained on site within a bunded area. The excavators, front end loaders and generator, will be fuelled on site from the back of a trailer or utility or a skid mounted tank. No haulage trucks will be refuelled on site.

Rehabilitation and final use of the land

The quarrying operation when completed will result in the establishment of a small water body. The periphery of the water body will be landscaped with native endemic flora species, which it is hoped will provide improved habitat value for flora and fauna particularly aquatic birds.

It is expected that a dwelling house will be constructed on the site at some time in the future.

4 Assessment - Environmental Planning and Assessment Act 1979

The application has been assessed under Section 79C of the Environmental Planning and Assessment Act 1979.

Section 91A Development that is integrated development

Section 91A(2) states that *Before granting development consent to an application for consent to carry out the development, the consent authority must, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development.*

In this instance the application required the concurrence of the Environmental Protection Authority (EPA) and the Office of Water (OoW).

Council received General Terms of approval from the EPA which will be incorporated into any consent which may be issued.

Section 91A(5) provides that *if the approval body fails to inform the consent authority, in accordance with the regulations, whether or not it will grant the approval, or the general terms of its approval*

(a) The consent authority may determine the development application.

The matter was referred to the OoW on 3 June, 2013. On 11 February 2014 Council further requested OoW comments and general terms of approval by 21 February, 2014. At the time of writing this report their comments had still not been received.

Section 79C(1)(a)(i) provisions of any environmental planning instrument

State Environmental Planning Policy No 33 – Hazardous and Offensive Development (SEPP 33)

Extractive Industries, are by their nature and the operations involved, potentially hazardous and/or offensive landuses. Under the circumstances, Council must have regard to the heads of consideration contained in Clause 13.

Having regard to the size, location, nature of operations and taking into account the adjoining operation which is almost identical, it is considered that the operation does not constitute a potentially hazardous or offensive operation.

State Environmental Planning Policy No 44 – Koala Habitat Protection (SEPP 44)

The subject site has been assessed for Koalas which concluded that:

- Two Koala food tree species listed in Schedule 2 of SEPP 44 occur on the site and form the primary species within naturally occurring patches of sclerophyll forest (being Scribbly Gum and Swamp Mahogany);
- The Koala survey on the site recorded no signs of use and no recent records occur in the locality; and
- Core Koala habitat does not occur on the site.

State Environmental Planning Policy No 55 – Remediation of Land

In this instance the operation is the removal of the soil, it is important therefore, that if any contamination is present it is not transported to other sites.

A stage 1 preliminary site investigation was undertaken which revealed two potential contaminants of concern resulting from prior and existing agricultural uses (being sugar cane and cattle grazing). As a result of this investigation soil sampling and testing was undertaken. None of the samples submitted resulted in levels reaching or exceeding the

relevant assessment criteria (HIL A and HIL F) and were consistent with natural background levels.

Based on the findings of the assessment, it is agreed that *“further investigation is not required and that the site is suitable for the proposed use.”*

State Environmental Planning Policy No 71 – Coastal Protection

The subject site is not within the “Coastal Zone” as defined in the Coastal Protection Act 1979.

SEPP 71 is therefore not applicable to the site.

State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

Clauses 12-17 of the SEPP are of particular relevance to this application.

Clause 12 – Compatibility of proposed extractive industry with other land uses.

The surrounding area is used mainly for agricultural production, being cattle grazing, sugar cane and macadamia growing, with a scattering of rural dwellings. Interspersed with this agricultural production are three sand mining operations.

It is considered that the proposed extractive operation will not be incompatible with the surrounding land uses.

Clause 13 – compatibility of proposed development with mining, petroleum production or extractive industry.

There is currently an existing extractive industry (Sand Quarry) on the adjoining property. This operation is currently owned and operated by the proponents of the proposed operation. The proposed operation will not commence until the operation on the adjoining property ceases operation.

None of the existing extractive operations are listed as being a State or Regional significant resource of material.

The proposed operation will continue the extraction of a high quality fill sand resource from this area.

Clause 14 – *Natural Resource Management and Environmental Management*

It is considered that the proposed operation will have minimal impact on the water cycle in the locality. At the cessation of operations, the area will form a freshwater lake. The lake will be fed by ground water and runoff, the peripheral areas of the extraction area will be planted with a variety of local flora which will provide additional habitat.

The operational areas comprise formerly disturbed farming land, with no areas of native vegetation requiring removal or disturbance. The extraction area is generally of low value to threatened species. The higher quality habitats and vegetation on the site will be retained as they are not within the proposed extraction operations.

Clause 15 – Resource Recovery

Past experience has identified extraction by mechanical means as the most efficient means of resource recovery.

The proposed operators are the same operators of the adjacent quarry. They are of the opinion they have refined their operation to the point of optimal efficiency for the extraction and haulage of sand.

Clause 16 – Transport

All traffic to and from the site must enter and leave via Newrybar Swamp Road. Newrybar Swamp Road is currently of a sufficient standard to accommodate the traffic that will be generated by the proposed development.

It should also be noted that this quarry will not commence operation until the existing operation ceases, thus there will be no cumulative increase in vehicle movements on the local road network from the proposed development.

The main haulage roads do not traverse any residential areas or pass any schools.

Clause 17 – Rehabilitation

Rehabilitation of the site will involve the removal of all improvements/structures relating to the existing operation, the subsequent planting of native vegetation around the periphery of the old extraction area and the filling of the extraction area with water by natural means.

State Environmental Planning Policy (Rural Lands) 2008

This SEPP applies to the subject site as a consequence of its existing RU1 – Primary Production Zone under BLEP 2012.

The land upon which the proposed extractive industry will be located has limited agricultural productive potential. Whereas, the proposed use of the site as an extractive industry is considered to be such that will comprise a productive and sustainable economic activity.

The proposed development will result in positive economic benefits to the local economy and is not such that will have significant adverse social impacts.

The locality is characterised by scattered dwelling houses and it is considered that the proposed development will not adversely impact on the rural lifestyles, social or economic welfare of the local community.

Ballina Local Environmental Plan 2012 (BLEP 2012)

Under the provisions of BLEP 2012 the land is zoned RU1 – Primary Production.

Extractive industry is a permitted use with consent within the RU1 zone and is a use consistent with the objectives of the zone.

The application complies with the following relevant aims of Ballina Local Environmental Plan 2012.

2(a) *to provide for a sustainable Ballina that recognises and supports community, environmental and economic values through the establishment and maintenance of the following:*

(ii) *a diverse and prosperous economy,*

The proposed development will facilitate the use of a valuable finite resource, required for use in the ongoing building industry of the region.

(iii) *a healthy natural environment*

Appropriate operational procedures and environmental safeguards have been proposed that will ensure the development does not cause significant adverse impacts on the environment.

(iv) *diverse and balanced land uses,*

The proposed use is permissible within the zone for the subject land.

(vi) *responsible and efficient use of resources,*

The proposed development will result in the efficient use of a finite source required in the building industry for the North Coast area.

(b) *to provide for development that is consistent with Council's established strategic planning framework for Ballina,*

Council's strategic planning framework provides for continuing sustainable development of the shire. The materials to be extracted from this site will form an important source of fill for this ongoing development.

(c) To achieve the objectives of the land use zones set out in Part 2 of this Plan

Zone RU1 Primary Production

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To maintain the rural, cultural and landscape character of the locality.
- To enable development that is compatible with the rural and environmental nature of the land.
- To ensure that there is not unreasonable or uneconomic demands for the provision of public infrastructure.

The proposed development is for the extraction of a primary resource in a manner which will maintain the rural, cultural and landscape character of the locality, whilst not placing any unreasonable or uneconomic demands for the provision of public infrastructure or generate any conflict between the proposed use and other land uses in the locality. The proposed development is considered to comply with the objectives of the zone.

Clause 7.1 Acid Sulfate soils requires, Council *to ensure that development does not disturb expose or drain acid sulphate soils and cause environmental damage.*

This matter has been adequately addressed by the applicant, conditions of consent and the EPA's GTA's.

Clause 7.2 Earthworks requires Council to ensure that earthworks *will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.*

- (3) *Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:*
- (a) the likely disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development,*
 - (b) the effect of the development on the likely future use or redevelopment of the land,*
 - (c) the quality of the fill or the soil to be excavated, or both,*
 - (d) the effect of the development on the existing and likely amenity of adjoining properties,*
 - (e) the source of any fill material and the destination of any excavated material,*
 - (f) the likelihood of disturbing relics,*
 - (g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
 - (h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.*

The proposed quarry will provide an important supply of good quality fill material for the area. At the completion of the excavation the area will be left to form a water hole with edges vegetated in a manner, which it is hoped will generate a flora and fauna habitat.

Clause 7.3

- (2) This clause applies to:
- (a) land identified as “Flood planning area” on the Flood Planning Map, and
 - (b) other land at or below the flood planning level.
- (3) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development:
- (a) is compatible with the flood hazard of the land, and
 - (b) will not significantly adversely affect flood behaviour resulting in detrimental increases in the potential flood affectation of other development or properties, and
 - (c) incorporates appropriate measures to manage risk to life from flood, and
 - (d) will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and
 - (e) is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.

The proposed site is shown as being flood affected on Council's 1 in 100 year flood event map, however, the actual RL of the site above that shown on the flood mapping and therefore is not flood affected.

Section 79C(1)(a)(ii) provisions of any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Director-General has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved)

Council is not aware of any proposed instrument that is or has been the subject of public consultation under this Act.

Section 79C(1)(a)(iii) provisions of any development control plan

Ballina Development Control Plan 2012 (DCP 2012)

Chapter 2 General and Environmental Considerations - Clause 3.1 - Land Use Conflict

Clause 3.1 recommends a minimum buffer distance of 500m between an extractive industry (not involving blasting) and a rural dwelling house and urban residential areas. There are three dwellings within this buffer distance, and each of these are closer to the proposed operation than the existing operation. Council is in the process of developing a new residential precinct (Cumbalum B) in the locality. The closest components of this development is approximately 500m from the proposed quarry.

Integral to the proposed development is a range of ameliorative measures designed to minimise adverse land use conflicts arising from noise, dust, stormwater and traffic impacts between the quarry and the adjoining land uses. Should the application be approved, these measures will be included in the conditions of consent.

It is considered that the proposed ameliorative measures to be put in place will reduce the potential land use conflict to an acceptable level,

Chapter 7 Rural Living and Activity – Clause 3.6 – Mining and Extractive Industry

Clause 3.6 requires Council to be *“satisfied that the mitigation measures proposed are adequate to address potential impacts on amenity environmental attributes and values, infrastructure and agricultural activity.”*

It is considered that the ameliorative measures to be implemented are of a standard to facilitate the operation of the extractive industry in a manner which will not unreasonably impact on the adjoining rural dwelling houses and uses and the proposed future residential area.

Some of the ameliorative measures to be introduced are:

- Construction of earthen mounds and planting with appropriate plant species around the periphery of the operational areas;
- Stockpiling only within designated areas;
- Planting of strategic windbreaks on the site;
- Provision of a water cart on the site – to be used to water down roads, stockpiles and dust generating areas;
- Restriction of speed on unsealed roads on the site;
- Securely covering all loads prior to leaving the site;
- Acoustic screens ranging from 2.5-3.5m high are to be located around noisy components on site;
- No alarm bells or paging systems will be used – cordless/mobile phones will be used at all times;
- Vehicles have a modified beeper installed (commonly termed a croaker); and
- Provide neighbours with a contact number should problems arise.

Section 79C(1)(a)(iiia) provisions of any planning agreement that has been entered into under section 93F, or any draft planning agreement that a developer has offered to enter into under section 93F

The subject site is not the subject of any planning agreement that has been entered into under section 93F, or any draft planning agreement that has been agreed to enter into under section 93F

Section 79C(1)(a)(iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph)

There are no prescribed matters contained within the regulations for the subject development.

Section 79C(1)(a)(v) provisions of any coastal zone management plan (within the meaning of the Coastal Protection Act 1979)

The subject site is not subject to the provisions of any coastal zone management plan

Section 79C(1)(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Amenity Noise

Council's Environmental Health Officers have assessed the application and concur with the comments and GTA's imposed by the EPA.

An Environmental Noise Impact Assessment has been prepared for the operation by CRG Acoustical Consultants. The assessment has recommended a number of measures to be imposed which will mitigate noise activities from impacting surrounding noise sensitive properties. Should the application be approved the measures will be incorporated into the conditions of consent.

Consideration was given to the impact of the proposed operation on the future development of the Cumbalum B precinct, to be developed on the southern side of Ross Lane. The proposed development is approximately 500m from the nearest residents of the proposed development area. With this separation and the creation of the noise mounds along the southern boundary of the operational area, it is considered that the impact of this development on these future residents will be minimal.

Flora and Fauna

The application has been assessed pursuant to the provisions of Section 5A of the EP&A Act. Council's Environmental Scientist generally concurs with the assessment submitted with the application subject to conditions which concluded that:

"Assessments of Significance were completed for the EEC 'swamp sclerophyll forest on floodplain', Hairy Joint Grass, Southern Swamp Orchid and 18 threatened fauna species recorded at the block or considered as having potential to occur.

The assessment of Significance concluded that the proposed works would not result in significant impacts to any threatened species, population or community and hence a Species Impact Statement would not be required."

Water Quality and Fisheries Habitat

The application was referred to NSW DPI –Fisheries for comment. The assessment concluded that:

"None of the threatened species populations or ecological communities and their habitats occur.

The proposal does not involve alterations of a stream or waterbody, bank or bed.

The proposal does not involve installations of a structure that will affect natural flow regimes."

NSW Fisheries raised no objection subject to the imposition of a water quality monitoring regime conditions.

Economic considerations

The proposal is employment generating for the Shire and is beneficial to the community by providing an essential source of fill sand to the building industry. The North Coast Urban Planning Strategy acknowledges that the North Coast Region contains many of the fastest growing urban areas in NSW and the demand for extractive materials will increase with continued population growth. The NCUPS states *"All these resources need to be protected from encroachment by incompatible land uses and not unnecessarily sterilised for future generations."*

Section 79C(1)(c) the suitability of the site for the development

The site is within a rural locality containing a scattering of rural dwellings and used mainly for agricultural purposes. The site is remote from any existing urban zoned land and approximately 500 metres from a proposed future urban release area. Three other sand quarries exist in the immediate locality.

The site is accessed via a well maintained rural road with bitumen seal. This road connects with the main road system to provide access to the bulk of possible markets without travelling through residential areas or passed schools.

The site is not highly visible from adjacent/adjoining properties, Newrybar Swamp Road or Ross Lane due to the stands of sugar cane and the flat nature of the locality. However, mid range views of the site are possible from the Pacific Highway and the Newrybar escarpment 1.3Km to the west of the subject site.

The site has been significantly disturbed with much of the native vegetation and habitat removed or modified.

The site has been identified as having a layer of Pleistocene/Holocene dune sand and coastal deposit to a thickness of at least 15m. The North Coast Urban Planning Strategy

1995 recognised the North Coast Region as one of the fastest growing urban areas in NSW with a corresponding increase in the demand for this form of extractive materials.

The proposed site is shown as being flood affected on Council's 1 in 100 year flood event map, however, the actual RL of the site above that shown on the flood mapping and therefore is not flood affected.

Section 79C(1)(d) any submissions made in accordance with this Act or the regulations,

The application was publicly notified from 5 June 2013 to 8 July 2013.

Five submissions were received from local residents. The submissions covered the following matters:

- View being dominated by the quarry
Comment
It is not considered that this quarry of approximately 15ha would dominate the view of a residence some 1.3Km away and 80m higher which has commanding views over a vast stretch of the lowlands and coastline.
- Working and security lights
Comment
There is no intention of having security lights on the site as the operation will cease operating at 6.00pm except in the middle of winter when the operation will cease earlier.
- Noise from pumps or machinery
Comment
To overcome the impact of the noise of the pump and generator, a range of amelioration measures (mentioned above) have been proposed and will be imposed on the development by way of conditions of consent, should the application be approved. A condition is to be imposed requiring the pump to be treated in the same manner as stated in the Environmental Noise Impact Assessment prepared by CRG Acoustical Consultants for the onsite generator.
- Dust emissions
Comment
It is acknowledged there could be an adverse dust impact on adjoining land owners. To overcome this potentially adverse impact a range of dust control measures will be imposed on the development by way of conditions of consent, should the application be approved. The list of some of the amelioration measures to be undertaken have been listed above.
- Traffic impacting on peak traffic flow
Comment
There will be two people working at the quarry most of the time, with four working during peak periods. In addition to these traffic movements, there will be the haulage trucks which will be discussed below. It is not considered that this operation is going to impact on peak traffic flow in the area. Traffic from this development will not result in any increase in traffic flow, as traffic from this quarry will replace the traffic from the existing quarry. Traffic flows will be well within the capacity of the road system.

- Impact on the natural beauty of the Newrybar Escarpment

Comment

Due to the level nature of the locality, the proposed surrounding landscaped mounding and the distance of the subject site from the escarpment, it is not considered that the proposed operation will have any significant detrimental impact on the natural beauty of the Newrybar Escarpment.

- Exposing acid sulphate soils

Comment

Appropriate acid sulphate soil management is proposed

- Trucks using Martins Lane

Comment

There should be no trucks using Martins Lane. Should the application be approved, conditions of consent will be imposed requiring all haulage trucks to exit the site via Newrybar Swamp Road and Ross Lane.

- Traffic concerns for Newrybar Swamp Road and Ross Lane

Comment

Ross Lane is classified as a regional road and as such has the capacity to handle all the traffic generated by the proposed operation. The application and accompanying traffic study has been referred to the Roads and Maritime Services who have expressed no concerns relating to the proposed traffic and impact on the road network.

- Number of truck movements

Comment

The number of truck movements will depend on the demand for material, as is the situation with the existing operation, which is to be replaced by the proposed quarry.

Based on the existing operation it is envisaged that an average daily truck movement of 12 loads or 24 truck movements per day (3 truck movements per hour) during the operating time of the quarry (7.00am to 6.00pm Monday to Friday and 8.00am to 1.00pm Saturday) can be expected.

During peak periods however, 100 loads or 200 truck movements may be generated.

- Impact on ground water

Comment

As is currently the situation with the existing quarry on the adjoining property, the quarry will be licenced by the EPA to ensure that the quality and quantity of the ground water is not adversely impacted upon.

- 10year limit on consent to be more compatible with the developing social community

Comment

The suggestion that the quarry be limited to a life of 10 years so as to be more compatible with a developing social community in the locality, is not considered warranted, as the area is located in a rural flood affected area which is going to see limited growth.

The Cumbalum B precinct is approximately 500 metres from the proposed development at its closest point. However, as has been mentioned previously, it

is considered that the proposed development will have minimal impact on this development.

- Leaving quarry filled with water is a drowning hazard

Comment

The final land use of the quarry on completion of the extractive operation is considered to be a good use, in an area with a high water table. Upon completion of the extractive process, the periphery of the pond is to be landscaped.

Referring to the concern of people drowning in the pond, it should be remembered that the pond will be on private property, remote from urban land.

- Sand on Newrybar Swamp Road

Comment

Sand on Newrybar Swamp Road is not considered acceptable. A shake-down grid located at the commencement of a 75m sealed road prior to entering Newrybar Swamp Road should ensure that all material will be dislodged from the trucks prior to their entering Newrybar Swamp Road.

Should the application be approved, conditions will be imposed, requiring any sand which may fall on Newrybar Swamp Road to be swept and collected from the road reserve and not washed from the road reserve.

- Protection of stockpiles

Comment

Whilst it is proposed that mounding be placed around the site to prevent wind blown soil from leaving the site, should the application be approved, a condition will be imposed requiring any sand which will be stockpiled for in excess of one week to be protected. It is also intended that a water cart be available on site for the watering down of the stockpiles during extended windy periods.

- Water on adjoining property

Comment

Should the application be approved, a condition will be imposed requiring the operation to be responsible for ensuring adequate water flow in the canal between the site and Ross Lane

Section 79C(1)(e) the public interest.

The public benefit in this proposed quarry is the supply of a much needed finite resource. The North Coast Urban Planning Strategy strategy acknowledges the North Coast Region contains many of the fastest growing urban areas in NSW and the demand for extractive materials will increase with continued population growth.

Conclusion

The application has been assessed having regard to the relevant matters for consideration prescribed by Section 79C (1) of the *Environmental Planning and Assessment Act 1979*.

The proposed development is permissible with development consent in the RU1 - Primary Production Zone. The proposal has been examined with regard to its environmental, social and economic impacts. This assessment has not raised any significant issues with regard to

the impacts of the proposed development on the surrounding environment that cannot be addressed by conditions of consent. Detailed consideration has also been given to the comments provided within public submissions. Based on the merits of the proposed development, relevant land use planning provisions and development controls, assessment comments from the various government agencies, it is considered that the proposed development can be favourably determined.

Recommendation

That the Northern Region Joint Planning Panel approve the proposal subject to the conditions detailed in the schedule attached to the report.



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