

## NORTHERN JOINT REGIONAL PLANNING PANEL

### **STATEMENT OF REASONS** **for decision under the *Environmental Planning and Assessment Act 1979*** **(NSW)**

The Northern Joint Regional Planning Panel (JRPP) provides the following Statement of Reasons for its decision under section 80 of the *Environmental Planning and Assessment Act 1979* (NSW)(the Act) to:

Grant consent to the development application subject to conditions

for:

Proposed Extractive Industry (Sand Quarry) Newrybar Swamp Road, Lennox Head

Council Ref: DA 2013/162 - JRPP Ref: 2013NTH007

made by:

Ardill Payne & Partners

Type of regional development:

The development is referred to the JRPP under Schedule 4A clause 8 *particular designated development* of the Act. The proposal is classified as extractive industries:

*Extractive industries, which meet the requirements for designated development under clause 19 of Schedule 3 to the Environmental Planning and Assessment Regulations 2000.*

The development constitutes an integrated development pursuant to Section 91 of the EP&A Act 1979. The required approvals are:

A Controlled Activity approval under Part 3, Chapter 3 of the Water Management Act 2000 - issued by the Office of Water

An Environmental Protection Licence under the Protection of the Environment Operations Act 1997 – issued by the Environment Protection Authority.

## **A. Background**

### *1. JRPP meeting*

Northern Joint Regional Planning Panel meeting held:

Date: Wednesday 19 March 2014

Time: 11.30am

Location: Ballina Shire Council, Cherry Street, Ballina

Members present:

Garry West – chair

Pamela Westing – panel member

John Griffin – panel member

David Wright – panel member

Steve Barnier – panel member

Council staff in attendance:

Bob Thornton

Rachael Jenner

Barbara Stewart

Andrew Smith

Richard Jerome

Apologies:

Nil

Declarations of Interest:

No declaration of interest, however, Steve Barnier indicated, he had previously worked with a representative of the applicant but it did not influence his decision making of the DA.

### *2. JRPP as consent authority*

Pursuant to s 23G(1) of the Act, the Northern Joint Planning Panel (the Panel), which covers the Ballina Shire Council area, was constituted by the Minister.

The functions of the Panel include any of a council's functions as a consent authority as are conferred upon it by an environmental planning instrument [s23G(2)(a) of the Act], which in this case is the *State Environment Planning Policy (State and Regional Development) 2011*.

Schedule 4A of the Act sets out development for which joint regional planning panels may be authorised to exercise consent authority functions of councils.

### 3. *Procedural background*

A site visit and final briefing was undertaken by Garry West, Pamela Westing, John Griffin, David Wright and Steve Barnier on 19 March 2014. The site inspection included council staff and the applicant/owner.

#### **B. Evidence or other material on which findings are based**

In making the decision, the Panel considered the following:

#### ***Environmental Planning and Assessment Act, 1979***

s.79C (1) Matters for consideration—general

(a) *the provisions of the following environmental planning instruments:*

- Ballina Local Environmental Plan 2012
- Ballina Development Control Plan 2012
- State Environmental Planning Policy 33 - Hazardous and Offensive Development (SEPP 33)
- SEPP 44 - Koala Habitat Protection
- SEPP 55 – Remediation of Land
- SEPP (Mining, Petroleum Production and Extractive Industries) 2007.
- SEPP (Rural Lands) 2008
- Ballina Development Control Plan 2012 (DCP 2012)

The Panel was provided with five written submissions relating to the proposal made in accordance with the Act or the regulations. In making the decision, the Panel considered all of those submissions.

In making the decision, the Panel also considered the following material:

1. Council's Assessment Report on the application received on 7 March 2014
2. Environmental Impact Statement, dated May 2013, prepared by Ardill Payne Pty Ltd
3. Acid Sulfate Management Plan, dated May 2013, prepared by Ardill Payne Pty Ltd
4. Greenhouse Emissions Assessment, dated May 2013, prepared by Ardill Payne Pty Ltd
5. Particle Size Distribution Report, dated May 2013, prepared by Ardill Payne Pty Ltd

6. Groundwater Assessment, dated May 2013, prepared by Ardill Payne Pty Ltd
7. Cultural Heritage Assessment, dated May 2013, prepared by Ardill Payne Pty Ltd
8. Land Contamination Assessment Stage 1 - Prelim Assessment, dated May 2013, prepared by Ardill Payne Pty Ltd
9. Traffic Impact Study, dated May 2013, prepared by Ardill Payne Pty Ltd
10. Noise Impact Assessment, dated May 2013, prepared by Ardill Payne Pty Ltd
11. Soil & Water Management Plan, dated May 2013, prepared by Ardill Payne Pty Ltd
12. Site, Extraction & Rehabilitation Plans, dated May 2013, prepared by Ardill Payne Pty Ltd

In making the decision, the Panel also considered the following oral submissions made at the meeting of the Panel on 19 March 2014:

1. Submissions addressing the Panel:
  1. Felix Holmer
  2. Violet Bakos
  3. James Footer (from Ardill Payne & Partners)
  4. Robert Watson (owner)

### **C. Findings on material questions of fact**

The Panel has carefully considered all of the material referred to in Section B.

**(a) Environmental planning instruments.** The Panel has noted each of the environmental planning instruments referred to in Section B and Council's assessment of those instruments.

The Panel agrees with and adopts the analysis in Council's Assessment Report in relation to each of the environmental planning instruments referred to in Section B.

**(b) Development control plan.** The Panel has noted the Ballina Development Control Plan 2012 (DCP 2012) referred to in Section B and Council's assessment of the DA under this DCP.

The Panel agrees with and adopts the analysis in Council's Assessment Report in relation to the Development Control Plan.

**(c) Likely environmental impacts on the natural environment.** In relation to the likely environmental impacts of the development on the natural environment, the Panel's findings are as follows:

The Panel agrees with and adopts the analysis in relation to the likely environmental impacts of the development on the natural environment in Council's Assessment Report received 7 March 2014.

**(d) Likely environmental impacts of the development on the built environment.** In relation to the likely environmental impacts of the development on the built environment, the Panel's findings are as follows:

The Panel agrees with and adopts the analysis in relation to the likely environmental impacts of the development on the built environment in Council's Assessment Report received 7 March 2014.

**(e) Likely social and economic impacts.** In relation to the likely social and economic impacts of the development in the locality, the Panel's findings are as follows:

The Panel agrees with and adopts the analysis in relation to the likely social and economic impacts of the development in Council's Assessment Report received 7 March 2014.

**(f) Suitability of site.** Based on a consideration of all of the material set out in Section B above and given the Panel's findings in this Section C, the Panel's finding is that the site is suitable for the proposed development.

**(g) Public Interest.** Based on a consideration of all of the material set out in Section B above and given the Panel's findings in this Section C, the Panel's finding is that granting consent to the development application is in the public interest.

#### **D. Why the decision was made**

- In light of the Panel's findings in Section C, the Panel decided to grant consent to the development application, subject to the amended conditions submitted by Council at the Panel meeting.
- The amended conditions address the concerns raised by the public with the exception of the visual amenity. After consideration of the submissions, the panel felt that the visual amenity did not require any further action.



JRPP member (chair)



JRPP member



JRPP member



JRPP member



JRPP member