

JOINT REGIONAL PLANNING PANEL (Northern Region)

JRPP No	2014NTH024
DA Number	2014/615
Local Govt Area	Ballina Shire Council
Proposed Development	Expansion of Existing Extractive Industry (Hard Rock Quarry) with a total extractable resource amount of 2.39 million m ³ (in situ) and a maximum annual extraction rate of 100,000m ³ (in situ). This equates to a total of approximately 4 million tonnes or 180,000 tonnes per annum.
Street Address	Lots 2 and 3 DP 1192234, Old Bagotville Road and Montis Road, Bagotville
Applicant/Owner	Ardill Payne and Partners (on behalf of AK, PD & CJ Monti)
Number of Submissions	Eight public submissions
Regional Development Criteria (Schedule 4A of the Act)	<p>Item 8(a) extractive industries, which meet the requirements for designated development under clause 19 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000</p> <p>The development is listed as development which Joint Regional Planning Panels may be authorised to exercise the consent authority functions of councils under Schedule 4A of the Environmental Planning & Assessment Act, 1979.</p> <p>Extractive Industries that obtain or process for sale, or reuse, more than 30,000 cubic metres of extractive material per year, or that disturb or will disturb a total surface area of more than 2 hectares are declared to be Designated Development.</p>
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • State Environmental Planning Policy No 33 – Hazardous and Offensive Development • State Environmental Planning Policy No 44 – Koala Habitat Protection • State Environmental Planning Policy No 55 – Remediation of Land • State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 • State Environmental Planning Policy (Rural Lands) 2008 • State Environmental Planning Policy (State and Regional Development) 2011 • Ballina Local Environmental Plan 2012 • Ballina Development Control Plan 2012
List all documents submitted with this report for the panel's consideration	<ul style="list-style-type: none"> • Application and Environmental Impact Statement – November 2014 (hard copy and CD provided previously) • Locality Plan (including plan demonstrating Quarries in the Locality) • Site Plan Overlaid on Pacific Highway Acquisition Plan and Aerial Photography • NSW EPA & NSW Office of Water General Terms of Approval – January and February 2015

	<ul style="list-style-type: none">• RMS Request for Refusal – April 2015• Public Submissions• Applicant’s response to RMS request for additional information and public submissions – March 2015
Recommendation	Refusal for reasons outlined within this report
Report by	Anthony Peters Senior Town Planner, Ballina Shire Council
Report date	August 2015

1. Summary

Background

Briefly, the development involves the extraction of gravel for the use in road construction. The material will be extracted via mechanical means (blasting required), stockpiled and loaded into haulage trucks for dispatch to market.

Hours of operation are proposed from 7.00am to 5.30pm Monday to Friday and 7.00am to 1.00pm Saturday.

Consent is sought to extract up to 100,000m³/annum (in situ) with a total extractable resource amount of 2.39 million m³ (in situ). Due to the likelihood that the maximum extraction rate will not be achieved every year (likely due to market fluctuations), consent is sought to operate the quarry for a maximum 25 year period or until a total of 2.39 million m³ has been removed, whichever occurs first.

These extraction amounts will be substantially more loose due to bulking density (swell) factors for rock being anywhere between 40-80%. The applicant has estimated this to equate to a total extractable amount of approximately 4 million tonnes (or 150,000 to 180,000 tonnes per annum).

Upon completion of extractive operations, the extraction areas will be allowed to fill with water (effectively becoming two fresh water lakes) with planting of appropriate native species around the periphery of these water bodies.

As outlined to the panel at the Briefing Session held on 17 June 2015, part of the extractive operations are proposed within the immediate footprint/acquisition area of the Woolgoolga to Ballina (W2B) Pacific Highway upgrade works with the eastern pit (Stages 1 & 2) comprising 517,000m³. If the current application is approved, it would result in a 20 metre deep pit within the footprint of the highway. Refer to attached acquisition plan of the W2B project in relation to the subject sites.

This section of W2B is specifically listed as Critical State Significant Infrastructure under Schedule 5 of State Environmental Planning Policy (State and Regional Development) 2011. Despite the applicant being aware of this, the applicant has specifically noted that:

“On the basis that the RMS does not own the land, the Montis are entitled to continue using their land for the operation and development of their business, without influence from the RMS in respect of the proposed Highway project.

Consequently, for the purposes of this DA/EIS, the proposed Highway upgrade has been effectively disregarded.”

Current Extractive Industry on the Site

This site has an existing valid consent approved by Council via DA 2006/718 on 22 February 2007 for an extractive industry (Quarry) involving the extraction of shale or chert gravel and overburden with a maximum extraction rate of 50,000m³ per annum and a potential operating life of 20 years, or until 700,000m³ (the estimated total resource) has been removed, whichever occurs first. The owners commenced extraction in accordance with the consent in November 2011.

The approved areas involve the quarrying of two knolls that contain chert, with the proposed result of levelling the site for sugar cane cultivation, as is presently the use of the surrounding low-lying agricultural land on the property.

The current application, if approved, would generally be in the same footprint of the approved extractive industry, however would result in two pits of approximately 20 metres deep (rather than a levelling of the knolls to the level of surrounding lands as approved via DA 2006/718).

Permissibility

The subject site is zoned RU2 – Rural Landscape 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 RU2 – Rural Landscape zone with development consent.

The proposed development comprises designated development for the purposes of Section 77A of the Environmental Planning and Assessment Act 1979 (EP&A Act) because it meets the criteria for an “extractive industry” as defined in Schedule 3 of the EP & A Regulation 2000.

The proposed development is of a type listed in Schedule 4A of the EP&A Act and thus the Northern Region Joint Regional Planning Panel (JRPP) is the consent authority, pursuant to Part 4 of State Environmental Planning Policy (State and Regional Development) 2011.

The development also comprises “integrated development” for the purposes of Section 91 of the EP&A Act. The following approvals are required in addition to development consent before any development can be carried out:

- Controlled Activity approval under Part 3, Chapter 3 of the Water Management Act 2000 issued by the Office of Water; and
- Environmental Protection Licence under the Protection of the Environment Operations Act 1997 issued by the Environment Protection Authority.

Regionally significant extractive resources are identified on the “Natural Resources and Hazards” map contained in the Far North Coast Regional Strategy 2006-31. There are no “Regionally Significant Extractive Resources” in the locality, with the closest being situated at Broadwater, South Ballina, Ballina, Alstonville and Coraki.

Consultation

The application was placed on public exhibition from 10 December 2014 to 23 January 2015. In addition to the surrounding land owners and occupants, six government agencies and the local Aboriginal Land Council were notified. Eight submissions had been received from residents in Wardell. Council has addressed all issues raised during the exhibition period within the body of this report.

Request by RMS to Refuse the Application

The RMS as part of their response to the current application have outlined in their letter of 15 April 2015 that:

“...the proposed development would significantly impact on the approved critical infrastructure project. The proposed development would, if carried out, impose a significant engineering constraint on W2B, making construction substantially more difficult and more expensive...” and

“...In this sense, the site is clearly not suitable for the proposed development...” and “Further, the public interest is not served by directly inconsistent land uses and the approval of the proposed development is likely to give rise to inconsistent land uses between the W2B Project and the proposed development.

Consequently, Roads and Maritime requests that the Consent Authority give consideration to refusing the development application.”

This objection is a relevant matter for consideration in the assessment and determination process. The proposal is not considered to be orderly nor economic development of the land, particularly having regard to it being specifically identified as Critical State Infrastructure under Schedule 5 of the State Environmental Planning Policy (State and Regional Development) 2011 (SEPPSRD) and therefore not within the public interest pursuant to Section 79C(1)(e) of the EP&A Act. The weight given to this issue is an important consideration for the JRPP in its determination of the application.

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 proposal has been examined with regard to its environmental, social and economic impacts. The environmental impacts of the proposed quarry on the current site and its immediate locality are not considered significant and/or that could not otherwise be appropriately conditioned. However, this assessment has raised significant issues with regard to the impacts of the proposed development on works listed as Critical State Significant Infrastructure and potential cumulative impacts on the amenity of residents of Wardell from haulage trucks that cannot be reasonably 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 should be refused.

Recommendation

Based on the outcomes of the assessment, having regard for the matters identified in Section 79C(1), it is recommended that Development Application 2014/615 be refused pursuant to Section 80(1)(b) of the EP&A Act 1979.

2. Site Description and Analysis

The subject lands are described as Lots 2 and 3 DP 1192234, Montis Road and Old Bagotville Road, Bagotville and are located approximately 4 kilometres south-west of Wardell Village.

The subject lands have been largely disturbed by existing agricultural activities (sugar cane) and partly disturbed by an existing extractive operation that was approved under the terms and conditions of DA 2006/718. The south-eastern section of the land is used for extractive operations with the remainder of the site being generally used for sugar cane cropping.

The subject lands have a total area of approximately 46.54 hectares. That part of the subject lands that is subject to the proposed expanded extractive operations comprises an existing extraction area and an area of sugar cane that is approved to be used for extractive purposes. The existing and proposed operational areas of the site have an approximate area of 20 hectares.

The proposed footprint is therefore generally in accordance with DA 2006/718, however it is intended to excavate deeper under the current application, which would result in pits of approximately 20 metres in depth (if approved).

The broader locality is characterised by significant stands of vegetation (predominantly native bushland), sugar cane production, scattered rural dwellings and associated buildings/improvements. Two dwelling houses exist within 350-550 metres of the extraction areas. A further eight dwelling houses exist within 950-1500 metres of the extraction areas.

Several other extractive industries (chert/shale quarries) exist in the immediate locality (refer to attached locality plan and Table below) and/or are proposed to be activated primarily for the W2B Highway upgrade works. They are all heavily reliant upon one haulage route that traverses partly through Wardell Village. This potential for a substantial increase in truck movements and potential cumulative impact on some residents of Wardell along the haul route will be discussed in the report and is of particular significance in the determination of the current application.

The subject land is not highly visible in the local landscape and streetscape due primarily to topography and vegetation. The two extraction sites are not readily visible from Old Bagotville Road due to the alignment of the road and intervening vegetation and topography. Upon construction of the highway through the land, the bulk of the property (including the western extraction area) will be highly visible when viewed therefrom.

A locality plan and an aerial photograph showing the proposed pits and the approved W2B Highway alignment are provided as an **Attachment**.

3. Description of the Proposal

The proposed development involves the expansion of the existing quarry that is operating under the terms and conditions of DA 2006/718, such that there is an effective doubling of the permitted annual extraction rate and a trebling of the total amount of extractable resource, over a proposed operational life of 25 years.

The proposed development involves the following:

- Maximum extraction rate of 100,000 in situ cubic metres during periods of peak operation.
- Maximum permissible extractable amount of 2.39 million in situ cubic metres or maximum extractive operational life of 25 years, whichever occurs first.
- Extraction from those areas of the site that have been subject of disturbance by prior and approved extractive operations (per DA 2006/718).
- Excavation below the approved finished ground surface levels (being the same levels as the adjoining sugar cane), creating 2 x 20m deep excavations/holes (described as the “eastern” and “western” pits).
- Extraction via a combination of mechanical means and blasting where required.
- Crushing and screening of material on the site via fixed or mobile plant.
- Final intended use of the extraction areas is to enable the holes to fill with water such that they will form two lakes, with rehabilitation planting of native endemic plants around the periphery of both lakes.

- Access to the site via the existing driveway to Montis Road and Old Bagotville Road.

Consent exists under the terms and conditions of DA 2006/718 and the approved Plan of Management (dated 1st July 2010) for:

- The removal of two “hills” and quarrying down to the level of the adjoining cane land (approximately 5-6m AHD).
- Proposed final land use being the re-spreading of topsoil and re-planting of sugar cane on the quarried sections of the land.
- Extraction of 50,000m³ per annum.
- Extraction of a total a resource of 700,000m³ or for a period of 20 years whichever occurs first.
- Extraction via a combination of mechanical means and blasting where required.
- Crushing and screening of material on the site via mobile plant.

4. Assessment – Environmental Planning and Assessment Act 1979

The application has been assessed under Section 79C of the EP&A Act.

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 both the EPA and OoW, refer to **Attachment**. These can be suitably incorporated into any consent which may be issued.

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 land uses. Under the circumstances, the JRPP 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 existing extractive operation, it is considered that the expanded operation does not constitute a potentially hazardous or offensive operation for the purposes of SEPP 33.

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

An Ecological Assessment was undertaken by Blackwood Ecological Services (2014). The land that is proposed to be subject of the expanded extractive operations is contained wholly within the two areas of extraction that were approved under DA 2006/718.

Blackwood have concluded that:

- No native canopy vegetation is located within the proposed extraction areas.
- There is no core Koala habitat on the subject land.
- There is no requirement for the preparation of a Koala habitat plan of management.

On the basis that the proposed expanded operations will be contained wholly within the footprint of the existing approved extractive operations, and there is no vegetation removal required to facilitate the expansion, there is no further assessment or reporting required or warranted.

It should be noted, however, that the ecological assessment does not assess the potential impact the haulage trucks may have on flora or fauna along the haulage route. This is considered relevant having regard for the ecological value of the vegetation communities adjacent to the haulage route.

State Environmental Planning Policy No 55 – Remediation of Land

Land contamination was considered by both the applicant and Council in relation to DA 2006/718 for the existing approval for quarrying activities at the site. An Environmental Investigation and Management Plan for the proposed quarry expansion was also prepared by Ardill Payne & Partners dated November 2014 which includes a Preliminary Contaminated Site Investigation (PSI). This report has been prepared generally in accordance with the requirements of the NSW EPA – Guidelines for Consultants Reporting on Contaminated Sites.

The PSI addresses the possibility of contamination since the previous assessment undertaken in 2006. 16 surface soil (0-150mm) samples were collected in a systematic pattern from the area of the western pit and were composited into 4 samples for analysis. The samples were analysed for contaminants relating to the existing use of cane farming i.e. metals and organo-chlorine pesticides and herbicides.

The western pit has an area of 6.29 hectares the number of samples collected are only indicative samples and do not comply with the minimal number of samples suggested by the NSW EPA 'Sampling Design Guidelines'. However, this is acceptable in this situation as the assessment is a PSI and the samples were collected and analysed to determine if any contamination is likely on site. If any contamination was detected a detailed assessment with compliant number of samples would be required. In this case it has also been considered that a good site history is available, since the last assessment in 2006, and if any contamination was present it would be fairly homogeneous.

The existing eastern pit area was not assessed as no potentially contaminating uses have occurred here since the previous assessment.

The results of analysis show that all results were below HIL-A residential levels and HIL-D commercial/industrial levels. All pesticide/herbicide results were below detection levels. The material from this quarry is only used for commercial/industrial uses.

Based on the findings of the assessment, it was concluded that further investigation is not required and that the site is suitable for the proposed use in this regard.

State Environmental Planning Policy No. 71 – Coastal Protection

The subject land is not within the “Coastal Zone” as defined in the Coastal Protection Act 1979 and as mapped on Ballina Council’s Coastal Zone Map.

Under the circumstances SEPP 71 does not apply to the proposed development.

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

The proposed development is permissible pursuant to Clause 7(3) on the basis that agriculture is a permissible use within the zone.

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 other extractive industries and agricultural production, being sugar cane, with a scattering of rural dwellings.

It is considered that the proposed extractive operation will not be incompatible with these immediately surrounding land uses; however it will be incompatible with the approved W2B Highway upgrade alignment (road infrastructure).

Therefore, the proposed extractive industry is considered to be in direct conflict with clause 12.

Clauses 12AA and AB are not applicable due to the fact that the proposed development does not relate to an application for the purpose of mining.

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

There is currently an existing extractive industry on the site. This operation is currently owned and operated by the proponents of the proposed operation. The proposed operation, if approved, cannot commence until the extraction approved via DA 2006/718 is completed.

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

The proposed operation, if approved, would continue the extraction of 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 two freshwater lakes. The lakes 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/or surrounding the site will be retained as they are not within the proposed extraction operations.

Clause 15 – Resource Recovery

Past experience by the operators has identified extraction by mechanical means (with blasting where required) as the most efficient means of resource recovery.

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

Clause 16 – Transport

In regards to the need to limit some or all of the transport of material on public roads, road transport is the only option available to the quarry site. Old Bagotville Road is the only road traffic from the quarry can utilise.

The main haulage road traverses part of the residential area of Wardell. The cumulative impact of the proposed quarry, along with other quarries and cane trucks also reliant upon this haulage route is of particular concern.

The applicant is proposing a code of conduct for haulage drivers and the imposition of a limit of 9 laden trucks/hour from the site (or 18 movements to/from the site) to reduce the impact of truck movements on the dwellings along Carlisle Street and the vehicles using the local road network. This is considered difficult to enforce and would be of minimal benefit having regard for the other existing quarry approvals – refer to the Cumulative Impact section of this report for further discussion.

Clause 17 – Rehabilitation

Rehabilitation will involve the removal of all improvements/structures relating to extraction, allowing the extraction areas (holes) to fill with water and the subsequent planting of native endemic vegetation around the periphery of the holes/pits creating vegetated lakes.

State Environmental Planning Policy (Rural Lands) 2008

This SEPP applies to the subject site as a consequence of its existing RU2 – Rural Landscape Zone under BLEP 2012.

The land upon which the proposed extractive industry will be located has limited agricultural productive potential. Notwithstanding this, the proposed use of the site as an extractive industry, having regard for the W2B Highway upgrade, means the proposed extractive industry does not comprise a productive and sustainable economic activity in the proposed location and will not result in positive economic benefits to the local economy and will have adverse impacts on the proper management and development of these lands. Consequently this is considered at odds with the aims of the Rural Lands SEPP.

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 immediate rural local community (this does not include some residents closer and within Wardell Village along the haulage route).

State Environmental Planning Policy (Major Development) 2005

The proposed development is not of a type and is not within a “State significant site” listed in Schedule 3 of the SEPP and is thus not Major Development pursuant to Part 2.

State Environmental Planning Policy (Infrastructure) 2007

Council has sought advice as to whether clause 100 is relevant to the current situation (i.e. whether the lands identified for the W2B Highway alignment are reserved for a “classified road”) and therefore requires the concurrence of the RMS. This appears not to be a relevant consideration at this time.

The proposed development is not of a type listed in Schedule 3 and thus the proposed development application is not required to be formally referred to the RMS pursuant to clause 104.

Notwithstanding this, the proposal was referred to the RMS for comment as a relevant Government Agency.

State Environmental Planning Policy (State and Regional Development) 2011

The applicant has outlined that the proposed extractive industry component does not meet the extractive industry related thresholds listed in Schedule 1 and is not an “identified site” listed in Schedule 2 of SEPP and is thus not State significant development pursuant to Part 2.

Notwithstanding this, the EIS is silent in relation to Schedule 5 of this policy which specifically lists this section of the W2B Highway upgrade works as being critical State significant infrastructure. As outlined previously in this report, the “eastern” pit is in the direct alignment of the W2B Highway upgrade and if approved will be a significant impediment to the construction of the W2B Highway upgrade.

The RMS by way of letter 15 April 2015 have noted that based on these infrastructure works the site is not suitable for the proposed development having regard for the public interest and inconsistent land uses between the W2B Highway upgrade and the proposed development.

This is considered to be of significant relevance in the overall merit assessment of the application. The RMS have requested that the JRPP refuse the application.

The State and Regional Development SEPP is a relevant consideration for the JRPP. The aims of this SEPP are as follows:

- (a) to identify development that is State significant development,*
- (b) to identify development that is State significant infrastructure and critical State significant infrastructure,*
- (c) to confer functions on joint regional planning panels to determine development applications.*

The EP&A Act makes provision for critical State infrastructure and provides relevant considerations for the JRPP in making its determination. The power of the Minister to declare State significant infrastructure critical State significant infrastructure is provided in Section 115V of the Act as follows:

Any State significant infrastructure may also be declared to be critical State significant infrastructure if it is of a category that, in the opinion of the Minister, is essential for the State for economic, environmental or social reasons. Any such declaration may be made by the instrument that declared the development to be State significant infrastructure or by a subsequent such instrument

The objects of the EP&A Act, as set out in Section 5, are also relevant considerations. Section 5(a) provides in part:

a) *to encourage:*

(ii) the promotion and co-ordination of the orderly and economic use and development of land

(iii) ...

(iv) the provision of land for public purposes

The State and Regional Development SEPP, which specifically identifies the site as critical State significant infrastructure, is a very relevant consideration in the assessment and determination process. It is a matter for the JRPP as to what weight it wishes to place upon the RMS objection and for it to decide whether, having regard for the circumstances of the case, the proposed development will promote the orderly and economic use and development of the land.

Ballina Local Environmental Plan 2012 (BLEP 2012)

The particular aims of the BLEP 2012 are as follows:

- (a) to provide for a sustainable Ballina that recognises and supports community, environmental and economic values through the establishment and maintenance of the following:*
 - (i) a built environment that contributes to health and wellbeing,*
 - (ii) a diverse and prosperous economy,*
 - (iii) a healthy natural environment,*
 - (iv) diverse and balanced land uses,*
 - (v) healthy, resilient and adaptable communities,*
 - (vi) responsible and efficient use of resources,*
- (b) to provide for development that is consistent with Council's established strategic planning framework for Ballina,*
- (c) to achieve the objectives of the land use zones set out in Part 2 of this Plan,*
- (d) to promote the orderly and efficient use of land having regard to the social and environmental characteristics of the land,*
- (e) to provide for the development of public services and infrastructure.*

Having regard for the W2B Highway upgrade alignment through the proposed footprint of the "eastern" pit, it is considered that the aims of the BLEP 2012, particularly (d) and (e) would not be achieved. The development, if approved, would not promote the orderly and efficient use of the land as the "eastern" pit would need to be filled in to allow the construction of the W2B Highway. This would significantly impact on the provision of public infrastructure of state significance.

Unlike when the previous DA 2006/718 was considered and approved, the W2B Highway construction process in this locality is now imminent as evidenced by the acquisition of lands by the RMS in the immediate locality. This particular route alignment has been in place for approximately the past decade.

The subject lands are zoned RU2 – Rural Landscape under the provisions of the BLEP 2012. The objectives of the RU2 zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*

- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *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 enable small-scale tourist-orientated development that is compatible with the rural nature of the land.*
- *To encourage development that involves restoration or enhancement (or both) of the natural environment if consistent with the production and landscape character of the land.*
- *To enable development that does not adversely impact on the natural environment, including habitat and waterways.*
- *To ensure that there is not unreasonable or uneconomic demands (or both) for the provision of public infrastructure.*

The proposed development is defined under Clause 4.1 as follows:

*“**extractive industry**” means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of the extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.’*

*“**extractive material**” means sand, soil, gravel, rock or similar substances that are not minerals within the meaning of the Mining Act 1992.”*

An “extractive industry” is a permitted use with consent within the RU2 zone and is generally considered consistent with the zone objectives.

Clause 7.1 - Acid sulfate soils (ASS)

An Environmental Investigation and Management Plan has been prepared by the applicant dated November 2014 and includes an ASS Assessment and Management Plan for the site.

An assessment of the existing ASS situation at the site was conducted and minimal oxidisable sulphur was detected, however some ASS and Potential ASS was found in the samples to 1 metre below ground level. The proposal involves the removal of the top soil to allow the underlying rock to be removed, therefore any ASS is likely to be disturbed in the topsoil removal process and the underlying rock is not likely to contain ASS. The proposal is to monitor the removed material and if suspect material is disturbed carry out field and lab tests and isolate and test any ASS. Stormwater ponds will also be monitored to ensure the pH of any water released is between 6.5 and 8.5. If required the stormwater will be treated with lime to correct pH prior to discharge.

The submitted ASS is in line with the existing approved ASS Management Plan for the site. The submitted plan, if implemented, is considered adequate to address the risks associated with disturbance of ASS at the site.

Clause 7.2 – Earthworks

“Earthworks” are defined as “*excavation or filling*” and provides that prior to granting consent for such, the consent authority must consider the following:

- (a) *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality,*

- (b) *the effect of the proposed 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 proposed 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 any relics,*
- (g) *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

As outlined previously in this report, the creation of two, 20 metre deep pits, one of which is proposed in the direct footprint/acquisition area of the W2B Highway upgrade project is in direct conflict with subclause (b). Apart from this, the proposed quarry is generally consistent with these provisions.

Clause 7.7 – Essential Services

The JRPP must be satisfied when determining whether to grant consent, that adequate and appropriate services exist for water supply, electricity supply, telecommunications services, removal or disposal of sewage, drainage services and suitable road access or that satisfactory arrangements have been made with the relevant service provider.

If approved, the extractive industry can be provided with adequate infrastructure servicing.

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 and relevant to this proposed development.

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 recommends a minimum buffer distance of 500 metres between an extractive industry (not involving blasting) and a rural dwelling house and urban residential areas. When blasting is proposed a minimum of 1000 metres is recommended.

The applicant has submitted a Land use Conflict Risk Assessment (LUCRA) which identifies that immediately surrounding the site are a number of existing uses which comprise sugar cane and grazing, forestry/scrub and a rural dwelling located to the west. The dwelling to the west is within this buffer distance and has been highlighted as the greatest potential for the occurrence of land use conflict (dust and noise from the quarry). The closest components of this development are approximately 300 metres from the dwelling (currently owned by the quarry operators) and 550 metres which is a caretaker dwelling associated with the Gibson quarry located to the south-east (acquired by the RMS).

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 (similar to previously approved DA 2006/718).

It is considered that the proposed ameliorative measures to be put in place will reduce the potential land use conflict to an acceptable level for the on-site quarry operations; however, the potential impact/conflict of haulage trucks on the residential area of Wardell needs to be specifically considered.

Clause 3.3 - Natural Areas and Habitat

Clause 3.3 applies to land shown on the Natural Areas and Habitat Map. A strip of land along the eastern boundary of the subject land is mapped as being “50m buffer”. The proposed eastern edge of the “eastern” pit is setback approximately 35-40 metres from the western edge of the adjoining vegetation.

In addition, the land upon which the expanded extractive operation is to be undertaken is contained wholly within the footprint of the extractive operations approved under DA 2006/718.

Clause 3.4 - Potentially Contaminated Land

Comments in respect of contamination are provided in SEPP 55 section of this report.

Clause 3.7 - Waste Management

Comments in respect of waste management are provided throughout this report. Minimal waste is generated by the proposed operations.

Clause 3.9 - Stormwater Management

An Environmental Investigation and Management Plan has been submitted dated November 2014 and contains the Stormwater Management Plan for the site that is generally reliant upon the stormwater plan approved under DA 2006/718 for an excavation footprint of approximately 18 hectares. The current proposal is for 9.5 hectares in the same locations but with a deeper excavation. Stormwater will collect at the bottom of the pits and is to be pumped to the sedimentation ponds for treatment and then used for dust suppression or discharge.

The quarry is licensed by the EPA based on the ANZECC guidelines and reported annually and these existing stormwater arrangements are considered sufficient for the proposed development.

Clause 3.10 - Sediment and Erosion Control

An Erosion and Sediment Control Plan which details the proposed Erosion and Sediment Controls for the site has been provided.

Two sediment basins are proposed, one for each extraction pit. As the pits are created it is proposed that all “dirty” water will be channelled into the pits and then into the basins prior to discharge. Clean water will be diverted around the quarry working area and erosion control measures will be fully implemented to minimise the generation and subsequent need to control sediment.

Dust is proposed to be controlled through wetting down, limiting speed on haul roads and covering loads. No dust monitoring equipment is proposed. These measures are considered acceptable.

Clause 3.11 - Provision of Services

The site has existing services due to the operation of the quarry approved via DA 2006/718. These services are suitable for the proposed quarry expansion.

Clause 3.12 - Heritage

The subject land is not within or adjoining any site identified as being of heritage significance under the BLEP 2012 or the State or National Heritage Registers.

Clause 3.19 - Car Parking and Access

The following requirements apply:

Council Requirement		Proposed Employee numbers	Required Number of Parking Spaces
Use	Rate		
Employees	1 spaces per 2 Employees	4 employees	2
		Total required	2

The applicant has indicated on site layout plans that there is ample informal car parking areas on-site to adequately accommodate site employees. No formal car parking is required for the operations.

Clause 3.20 - Vibration

As the proposal involves blasting and as there are a number of residences located within 1km of the quarry site, an assessment in relation to the potential vibration impacts has been completed.

The report concludes that blasting will be able to occur on-site in compliance with the requirements of the ANZECC guidelines of 1990, however not enough site specific data is held to exactly determine blast sizes and techniques. The reports instead suggest conditioning any consent to comply with the ANZECC guidelines and to use early data to determine a site specific blast procedure.

The NSW EPA have also issued General Terms of Approval in this regard and have placed requirements in relation to noise and vibration on the licence for the premise. These would also be incorporated as conditions of consent (if approved). No vibration reporting has been provided for the impact of heavy vehicles traversing along the haulage route – refer to further comment in this report.

Clause 3.21 Bushfire

Part of the subject land is mapped as being bushfire prone.

The submitted Bushfire Certifier's report has identified that the proposed quarry expansion is capable of complying with the acceptable solutions of Planning for Bush Fire Protection, subject to the implementation a number of recommendations to mitigate bushfire hazard/risk, which are summarised below:

1. At the commencement of operations, a 10m APZ surrounding the quarry operations is to be maintained as an Inner Protection Area and managed and maintained in accordance with the requirements of Standards for APZs (RFS 2005).
2. An emergency evacuation procedure (EEP) and detailed plans of all Emergency Assembly Areas (on and off the site) is to be prepared in accordance with RFS Guidelines for the Preparation of Emergency/Evacuation Plan and AS 3745-2002. The applicant is to provide a copy of the above document to the local Bush Fire Management Committee for their information.

3. The quarry is not to undertake activities involving the risk of ignition on days when a total fire ban is in force.
4. A 20,000 litre water supply and RFS connection to a non-combustible water tank is to be installed.
5. All fuels and flammable liquids kept on site are to be stored in a non-combustible shed at least 20m from unmanaged vegetation.
6. The local Rural Fire Service centre is to be notified of any work that may cause accidental ignition of surrounding vegetation.

These would also be incorporated as conditions of consent (if approved).

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 on-site 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, (this does not include the urban Wardell Village).

Clause 3.8 Roads, Vehicular Access and Parking

The main haulage route from the site is east via Montis Road, north-east along Old Bagotville Road, north along Backchannel Road which becomes Carlisle Street in Wardell Village which intersects with the Pacific Highway (where a directional split either north or south occurs).

Old Bagotville Road and Montis Road are gravel and in generally good condition, whilst Backchannel Road and Carlisle Street are bitumen sealed and in generally good condition.

The applicant has submitted a traffic impact statement (TIS) and road safety audit. The TIS includes existing traffic counts and proposed counts for this proposal only and not all approved quarries within the locality. The applicant contends that the increase in average vehicle movements due to the development is three vehicles per hour with a peak vehicle increase of 18 vehicles per hour. The applicant contends that the increases in vehicle movements do not alter the existing level of service over the main haulage route.

The road safety audit identified a number of hazards along the haulage route. The two high risk ratings involved hazards in the clear zone and the variability of the road surface due being gravel. Neither of the hazards are readily rectified and are considered beyond the responsibility of the proposed development. There were a number medium risk hazards with remedial recommendations that can be simply applied and can be conditioned in the consent (if approved).

They include:

- The intersection of Monti's Road and Old Bagotville Road will require minor works to ensure priority of traffic is made clear.
- Signage and linemarking will be added to the intersection of Old Bagotville and Back Channel Road to ensure priority of traffic is made clear.

- Reflective guide posts shall be installed as required to concealed headwalls located within the clear zone of the Old Bagotville Road and Back Channel Road portions of the haulage route.

The RMS via letter of 23 December 2014 raised the following concerns:

1. *There is insufficient information to accurately determine the traffic impacts of the proposal.*
2. *The traffic study relies on historical traffic data. There are currently several quarries accessing Old Bagotville Road in this area. Current traffic volumes including the cumulative haulage impacts of other quarry operations should have been used to more accurately determine the impact of increased extraction on the local road network.*
3. *The safety audit states that no work is required at the Carlisle Street intersection with the Pacific Highway or the Carlisle Street / Bath Street intersection however there is no traffic analysis supporting this recommendation. It is suggested that current peak hour turning vehicle counts be undertaken and that 10 year traffic growth projections be applied to determine appropriate intersection treatments based on Austroads warrants.*
4. *Hinged truck turning signs should be provided on Old Bagotville Road in advance of the quarry access. These signs should be displayed when quarry haulage is taking place.*
5. *The road safety audit of haulage routes recommends delineation and signposting improvements along Old Bagotville Road. These improvements should be carried out prior to increasing haulage rates.*
6. *A Drivers Code of Conduct could be prepared to address, but not be limited to, the following:*
 - *A map of primary haulage routes highlighting critical locations;*
 - *Safety initiatives for trucks travelling along school bus routes and through residential areas and school zones;*
 - *An induction process for vehicle operators;*
 - *Format of regular toolbox meetings;*
 - *A complaints resolution and disciplinary procedure; and*
 - *Any community consultation measures to address peak haulage periods.*

The JRPP should note that although the applicant provided a response to these concerns via letter of 3 March 2015, refer **Attachment**, the RMS has not responded further to the additional information based on the RMS letter of 15 April 2015 that requests the application to be refused due to the W2B Highway upgrade alignment.

Notwithstanding this, Council Officers have also highlighted concerns regarding the potential cumulative haulage impacts on the local road network (particularly residential amenity). Refer to comments throughout this report.

Section 79C(1)(a)(iia) 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

Key Issues

Cumulative Traffic Impacts

The following comments are provided by Council's Civil Services Group.

Since 1996 there have been four approved quarries that contribute to heavy vehicle loadings along the haulage route, being Old Bagotville Road, Back Channel Road and Carlisle Street, Wardell. The four approved quarries are Old Montis (DA 1996/30), Eatons (DA 1996/29), Gibsons (DA 1999/537) and New Montis (DA 2006/718). There are three possible future sources of additional heavy vehicle loadings relevant to the traffic study being the proposed DA 2014/615 (New Montis Hard Rock Quarry– the current application), DA 2015/180 (New Montis's Sand Quarry – pending assessment) and Jali's Quarry (DGRs obtained and EIS being prepared). One of the approved quarries, Gibson's Quarry (DA 1999/537), expired in 2012 and the RMS has recently acquired this site, which is also impacted by the W2B Highway upgrade and the Eaton's Quarry (DA 1996/29) that expires next year.

There is historical data available for heavy vehicle traffic movements out of the quarries via traffic classifier counts and submitted returns for contribution amounts. Neither data set is a complete account of traffic movements as the classifiers only cover a limited time frame and the submitted haul rates from the quarry operators are not based on a weighbridge or similar records and has come under scrutiny in recent years. However, they do give some indications of heavy vehicle movements on Back Channel Road and Carlisle Street.

Classifier data sets

Classifiers placed on both Back Channel Road and Carlisle Street are summarised in the following table

<i>Date Range</i>	<i>Number of days</i>	<i>Location</i>	<i>Average Daily Heavy Vehicle Count (trips)</i>	<i>% of overall traffic</i>
<i>15/4/1997-29/4/1997</i>	<i>14</i>	<i>Back Channel Road</i>	<i>35</i>	<i>9.27</i>
<i>20/7/2010-3/8/2010</i>	<i>14</i>	<i>Carlisle Street</i>	<i>197</i>	<i>25.22</i>
<i>29/9/2010-15/11/2010</i>	<i>14</i>	<i>Carlisle Street</i>	<i>218</i>	<i>39.13</i>
<i>11/9/2012-21/9/2012</i>	<i>7</i>	<i>Back Channel Road</i>	<i>85</i>	<i>16.53</i>

The classifiers were placed in Carlisle Street during 2010 as a response to concerns from residents reporting a large increase in heavy vehicle movements. 200 trips per day equates to an approximate extraction rate of 2,000m³ per day using single trucks or up to 4,000m³ per day for truck and dog combinations. An annual extraction of 208,000m³ (the total for all approved quarries) could be achieved in as little as 50 days at this rate.

The classifiers tabulate the type of vehicles through counting, but cannot distinguish what purpose the vehicle was being used for. There are trucks operating for general agricultural purposes and there are seasonal peaks when cane haulage is undertaken. The quarry operations tend to be sporadic and have peaks and troughs depending on demand.

The week commencing 8 November 2010 experienced the maximum daily total vehicle counts averaging 632 vehicles per day, 291 of which were heavy vehicles.

It should be noted that 200 truck movements per day is the maximum rate the current application has applied for which is consistent with their current approval under DA 2006/718. At this rate the quarry would reach its proposed annual extraction limit of 100,000m³ in approximately 50 working days.

Quarterly contribution reports data set

Council has a Section 94 Heavy Vehicle Haulage Contribution Plan to collect contributions based on extracted quantities.

This data set was compiled from the quarterly returns provided to Council by the quarries for the purpose of Section 94 heavy haulage contributions using the following assumptions:

One truck = 20m³ of material or 32 tonnes (truck & dog or semi combination).

Since 2010 extraction reports from DA 1996/29 & DA 1996/30 have been sporadic. In 2014 both these quarries were taken over by a new operator and Council began to receive regular reports. Both pits have each since averaged 4 truckloads per day or 8 trips per day.

DA 2006/718 (New Montis Quarry) has sent in regular reports since 2011 and has averaged 2.8 truckloads or 6 trips per day.

Maximum approved extraction rates.

Up to four quarries have previously been approved to be operating at any one time equating to an annual extraction of 208,000m³. Available data during this time suggests a daily average has been as high as 218 trips per day with a maximum daily count of 291 Heavy Vehicles. On the contrary, some periods have maximum daily counts of only a few heavy vehicles.

Maximum future extraction projections

To calculate the potential maximum future extraction projection an assumption that the future quarries in the locality will have the same operating conditions as DA 2014/615 and Eatons Quarry (DA 1996/29) will have ceased production have been made.

The approved operational quarry (DA 1996/30) and possible future Quarry DAs (DAs currently lodged but undetermined or are known to be in the process of preparation of a DA) along the haulage route are as follows:

<i>Quarry</i>	<i>DA number and Status</i>	<i>Maximum DailyTrips</i>	<i>Annual extraction approval, m³</i>
<i>Old Montis</i>	<i>1996/30 (operational)</i>	<i>Assuming 200</i>	<i>50,000</i>
<i>Proposed Montis (Hard rock)</i>	<i>2014/615 (current DA the subject of this report)</i>	<i>200</i>	<i>100,000</i>
<i>Proposed Montis (sand)</i>	<i>2015/180 (current DA being assessed and yet to be reported)</i>	<i>Included in 2014/615 daily total</i>	<i>30,000</i>
<i>Jali</i>	<i>NA (EIS being prepared)</i>	<i>200</i>	<i>100,000</i>

Please note that the New Montis (DA 2006/718) has not been included as this consent cannot operate independently from the current DA 2014/615 (i.e. they are within the same footprints and the resource approved under DA 2006/718 needs to be removed prior to the resource proposed under current DA 2014/615 being available for removal). Also, the Eaton’s Quarry (DA 1996/29) has not been included as it is due to expire in 2016.

This table shows that up to 600 maximum daily trips is possible if all quarries were operating at their maximum production. As with all businesses, their customer demands and ability to operate at full production is independent of other similar businesses.

If all quarries were operating at full extraction capacity, there would be a significant increase in heavy vehicle movements through Wardell.

Summary

Recent quarterly averages suggest that average daily trips from the three currently approved quarries are less than 30 trips per day.

Additionally Montis proposed sand extraction DA 2015/180 proposes an average of 14 trips per day. The current DA 2014/615 proposes an average daily trip rate of 24 trips per day. If this is extrapolated across all possible quarries in the future the average daily trip rate would be 86 trips per day i.e. $3 \times 24 + 14$.

Previously, when four quarries were in operation and possibly extracting at greater than the approved rates, average heavy vehicle trips during peak periods exceeded 200 trips per day with a maximum total daily trip count of 632 vehicles per day or 63 veh/peak hour. This value of 63 veh/peak hour is well within level of service B (an acceptable level of service) for the road network.

The current DA 2014/615 has proposed a maximum daily haul rate of 200 trips per day which is consistent with their current approval DA 2006/718. If all three quarries had a maximum daily haul rate of 200 trips per day then there could be up to 600 heavy vehicle trips operating along Back Channel Road and Carlisle Street on any given day.

This would be an unacceptable situation for residents along the haulage route given heavy vehicle rates of over 200 in 2010/11 caused concerns for the residents. The amenity of the area would clearly be affected. It should, however, be noted that the road network has the capacity to cope and there are no suitable alternate routes to bypass Wardell Village.

Consequently, if all four current and future locations were operating, a likely average daily trip rate could be 86 trips per day. Council has data that suggests that greater than 200 heavy vehicles trips per day can be accommodated by the road network and still comfortably achieve acceptable levels of service.

However, when 200 heavy vehicles per day were operating along Carlisle Street a number of residents complained of amenity issues.

Therefore the issue is not a network capacity issue but rather an amenity issue along Carlisle Street. A maximum average daily trip rate of 86 trips per day would appear reasonable assuming the identified quarries were approved and operational, however maximum peak daily trip rates would potentially be of concern and need additional monitoring and regulation.

Cumulative Impact of Current Proposal

The extractive operations on the subject land have been conducted thereon for some three years under the terms and conditions of DA 2006/718. Consent exists for a maximum extraction of 50,000m³ (in situ) per annum with a total extractable resource of 700,000m³ (in situ) or extraction for 20 years, whichever occurs first.

The proposed expanded development involves a doubling of the annual maximum extraction to 100,000m³ (in situ) and an effective trebling of the total amount of extractable resource to 2.39 million m³ (in situ) with extraction for 25 years, whichever occurs first.

The applicant contends that the proposed expansion will not actually increase the peak daily or hourly truck movements to/from the site due to the fact that DA 2006/718 was approved based on the same peak traffic generation as that proposed by the current application, being a maximum of 204 vehicle movements/day (approximately 20 vehicles/hour) along the same haulage routes.

The resultant difference between the existing consent and the proposed expansion would be that under peak extractive conditions, the existing quarry could operate for a maximum of 25 days in any year and the proposed expansion could operate for a maximum of 50 days in any year.

There is a strong probability that extractive material from the Bagotville quarries will be used in the W2B section of the Pacific Highway upgrade. If this is the case, there is the potential for the project to be designed and constructed such that material is hauled along the Highway corridor, which would reduce haulage distances (saving time and money) and reduce impacts on the public road system (removing the need for trucks to travel through Wardell). This, however, is uncertain and may not be possible due to construction staging/requirements/restrictions and it is likely that the public road system will need to be relied upon for haulage.

Based on the above, the applicant argues that there are no actual changes in noise and traffic generation between the existing and proposed peak operations; the only cumulative impact is that peak operations can be undertaken for more days in the year. However, the cumulative impact of heavy vehicle traffic movements arising from the other approved existing Old Monti's Quarry (DA 1996/30) and the identified proposed quarries (and cane trucks) reliant upon this haulage route should also be considered.

It should also be noted that although the noise criteria of the NSW Road Noise Policy may be complied with, the impact of quarry vehicles moving along the haul routes could result in amenity impacts for residents located nearby. Impacts can vary from dust, vibration, fumes, noise and pedestrian and vehicles safety issues. The residents of Wardell, particularly Carlisle Street, have at times complained about the impacts of quarry trucks on their residential amenity and the cumulative impact of approved quarries should be considered, particularly as they are all reliant upon the same haulage route.

The status of the quarries in the Bagotville locality are as follows:

Existing Quarries

Quarry	Address	DA No.	Approval Date	Duration of Consent	Approved Development and Extraction Rates	Expiry Date
Old Montis	Lot 1 DP 787102 Old Bagotville Road	1996/30	22 Feb 1996	27 years or total resource of 1.5 million tonnes whichever is achieved first (Cond 11)	The continued operation and expansion of an extractive industry – extraction of shale and chert with extraction rates at 56,000 tonnes per annum (total resource estimated to be 1.5 million tonnes)	22 Feb 2023
Eatons	Lot 3 DP	1996/29	22 Feb	20 years or total	The continued operation	22 Feb

	618233 Old Bagotville Road		1996	resource of 975,000 tonnes whichever is achieved first (Cond 12)	and expansion of an extractive industry – extraction of shale and chert with extraction rates at 50,000 tonnes per annum (total resource estimated to be 975,000 tonnes)	2016 – EXPIRES NEXT YEAR
Gibsons (now acquired by RMS)	Lot 2 DP 585377 Old Bagotville Road	1999/537	27 May 1999	13 years or total resource of 250,000 tonnes whichever is achieved first (Cond 5)	The continued operation and expansion of an extractive industry – extraction of shale and chert with extraction rates of between 20,000 and 50,000 tonnes per annum (total resource of 250,000 tonnes)	27 May 2012 - EXPIRED
Jali	Lot 244 DP 755691 Old Bagotville Road	NIL	N/A	N/A	N/A	NO CONSENT TO OPERATE
Ballina Council	Lot 5 DP 843369 Old Bagotville Road	1995/89	19 January 1995	20 years from 19 January 1995	The continued extraction (shale quarry) with maximum annual rate of 37,000m ³	EXPIRED 19 Jan 1997 - Consent not commenced
New Montis	Lots 2 & 3 DP 1192234 Montis Road and Old Bagotville Road	2006/718	22 Feb 2007	20 years or total resource of 700,000m ³ whichever is achieved first (Description of Development)	Extractive industry (shale quarry) with maximum extraction rates of 50,000m ³ per annum and an operating life of 20 years or until 700,000m ³ is extracted, whichever occurs first	22 Feb 2027

Proposed Quarries

Quarry	Address	DA Status	Proposed Duration	Proposed Development and Extraction Rates
Jali	Lot 244 DP 755691 Old Bagotville Road	Have obtained Director General Requirements – currently preparing EIS	20-25 years or total resource of 1 million tonnes whichever is achieved first	The continued operation and expansion of an extractive industry – extraction of meta-argillite or greywacke with extraction rates at 250,000 to 450,000 tonnes per annum (total resource estimated to be 1 million tonne)
Monti's Sandpit	Lots 2 & 3 DP 1192234 Montis Road and Old Bagotville Road	DA 2015/180 – currently being assessed	25 years or total resource of 400,000m ³ whichever is achieved first	Extractive Industry – Sandpit 30,000m ³ per annum (in situ) with a total extractable resource amount of 400,000m ³ (in situ)
Monti's Hard Rock (subject of this report)	Lots 2 & 3 DP 1192234 Montis Road and Old Bagotville Road	DA 2014/615 – currently being assessed	25 years or total resource of 4 million tonnes whichever is achieved first	Extractive Industry – Hard Rock 150,000 to 180,000 tonnes per annum with a total extractable resource amount of 4 million tonnes.

As outlined in the above Tables, there are three quarries in the locality currently operating, being Old Monti's, Eatons and New Monti's. In addition to these, there are three proposed

quarries, being the current DA 2014/615 for Monti's (the subject of this report), DA 2015/180 for Monti's and proposed Jali.

The traffic generation over a number of years from the existing operational quarries and the continued potential traffic generation from the proposed quarries (and at peak extraction rates due to the W2B Highway upgrades works) is a potential cumulative impact that needs to be carefully considered, due to the reliance on the same haulage route that traverses through the Wardell Village.

As outlined previously, the maximum potential vehicle haulage movements associated with the extraction rates of both the approved quarries and the proposed quarries (if approved) is significant in relation to the amenity of residents living adjacent to haulage routes through Wardell including the noise and vibration impacts on residents from haulage trucks.

Noise Impacts

A Noise & Vibration Impact Assessment has been provided and the recommendations made generally comply with the Industrial Noise Policy, Road Noise Policy and requirements of the POEO Act and associated regulations.

Long term assessment was undertaken by logging noise levels at a nearby property to determine a rating background level for each period i.e. day, evening and night. This was then used to determine the project specific noise criteria (PSNC) which in this case was determined by the intrusive criteria to be 35 dB(A) for the day period, 37 dB(A) for the evening period and 38 dB(A) for the night period. Only the day time period is relevant as the operating hours of the quarry will be restricted to within day time hours i.e. 7am – 5.30pm Mondays to Friday and 7am to 1pm Saturdays.

The noise sources at the quarry were then modelled to determine compliance with the PSNC at nearby sensitive receivers and to determine what level and type of attenuation may be required.

The report concludes that the two most impacted residential receivers will be caretaker residences associated with the subject quarry and the RMS quarry respectively. The report comments that due to their association with quarry activities the residents are unlikely to be sensitive to the noise generated.

The report concludes that noise mitigation will be required and the proposal is to use re-locatable barriers similar to shipping containers to ensure compliance with the day time criteria.

The report also concludes that despite the increase in traffic associated with the development, the day time road criteria of 55 LAeq 1hr of the Road Noise Policy will be complied with at residences located along the haul route. It does not, however, consider the cumulative impact of all the quarries that utilise this haul route.

Vibration Impacts

The proposal involves blasting and as there are a number of residences located within 1km of the quarry site an assessment has been done in relation to the potential vibration impacts.

The report concludes that blasting will be able to occur on site in compliance with the requirements of the ANZECC guidelines of 1990 however not enough site specific data is held to exactly determine blast sizes and techniques. The reports instead suggest conditioning any consent to comply with the ANZECC guidelines and to use early data to determine a site specific blast procedure.

The NSW EPA will also place requirements in relation to noise and vibration on the licence for the premise these should also be incorporated as conditions of consent.

The potential vibration impact of haulage trucks on residents has not been considered by the Noise & Vibration Impact Assessment and needed to be due to the potential impacts of haulage trucks not only by this current proposal but cumulatively.

Consequently, a vibration measurement and prediction of the intermittent vibration of haulage trucks in accordance with the Environmental Noise Management Assessing Vibration guidelines is unknown.

Previous Compliance Action

A brief outline of actions taken by Council in relation to the operation of the Eatons and Old Montis is outlined as follows.

An initial audit of all quarries on Old Bagotville Road, Wardell was undertaken in November 2008 to ascertain the level of compliance at all quarries. At that time, it was ascertained that there were areas of non-compliance. These areas were identified and a written warning was issued for the outstanding matters. Council continued with action to recoup outstanding Section 94 contributions owed for road maintenance.

In June 2009, Council became aware of a new operator (SEE Civil Pty Ltd) taking over operations of the Old Monti's Quarry and Eaton's Quarry and that extraction had been increased to meet the demands of State significant infrastructure works for the Ballina Bypass and Alstonville Bypass works. Compliance action was commenced and two modification applications under the provisions of Section 96 of the EP&A Act were subsequently lodged with Council for assessment and determination.

Following the withdrawal of these Section 96 applications, the identified breaches of the annual extraction rates were reported to Council as a Confidential Item where a number of options for regulatory action were considered. Council resolved that Penalty Infringement Notices to the value of \$18,000.00 would be issued for these breaches. These Infringements were issued on 29 July 2012 and subsequently paid by SEE Civil Pty Ltd.

There has been no compliance action required at this site relating to DA 2006/718 (new Monti's) to date.

Council continues to undertake regular audits of quarrying operations on all quarries within the Ballina Shire for compliance with development consents as issued.

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 and/or other quarries. The site is remote from any existing urban zoned land.

The site is accessed via a rural gravel road. This road connects with the main road system to provide access to the bulk of possible markets; however this road passes the residential area of Wardell.

The site is not highly visible from adjacent/adjoining properties; however, mid-range views of the site are possible from surrounding elevated lands.

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

Part of the site has been nominated for the W2B Highway upgrade for a substantial number of years. Prior to the preparation and lodgement of the current DA 2014/615, the RMS

notified the owner(s) that the land will be acquired for road purposes. It is considered that due to the proposed W2B Highway upgrade affecting part of the site, and particularly the footprint of the “eastern” pit, and the imminence of the W2B Highway that the site is unsuitable for the proposed development.

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

The application was publicly notified from 10 December 2014 to 23 January 2015.

Eight submissions were received from local residents, inclusive of one from a formed residents group (refer **Attachment**). The submissions generally covered the following matters:

- The applicant has not considered the direct and indirect cumulative impacts of the existing quarries, i.e. traffic generation impact/counts along the haulage route, traffic efficiency and pedestrian safety (refer to Cumulative Traffic Impact Section of this report).
- Carlisle Street is the principal haulage route and significant damage and disturbance is being caused by continual heavy vehicle usage (refer to Cumulative Traffic Impact Section of this report).
- Noise and vibration impacts on residents from truck movements. Reports utilised prediction models for the haulage route which are inaccurate (refer to Noise and Vibration Impact Sections of this report).
- Failure of existing quarries to comply with consent conditions, particularly in relation to trucks movements and driver conduct (refer to Previous Compliance Action Section of this report).
- The ecological assessment does not consider the impact of additional haulage trucks on flora and fauna along the haulage route (refer to various sections in this report).

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

The public benefit in this proposed quarry is the potential supply of a 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.

Notwithstanding this, there are a number of approved quarries in the Ballina Shire (not within the W2B Highway upgrade corridor) that can service this demand for extractive materials, inclusive of that required for the W2B project.

The creation of a 20 metre deep pit within the footprint of a state significant road project, that would be required to be refilled for the construction of the road (which appears to be imminent) is not within the public interest.

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.

Although the proposed development is permissible with development consent in the RU2 – Rural Landscape Zone, after having regard to its environmental, social and economic impacts, this quarry as proposed has raised significant issues with regard to:

- identified and imminent critical state significant infrastructure; and
- the potential cumulative impacts of the proposed development on the surrounding environment (particularly residents' amenity along the haulage route).

These issues have not been adequately addressed by the application and cannot be reasonably addressed by conditions of consent.

Detailed consideration has also been given to the comments provided within public submissions. The impact of quarry vehicles moving along the haul routes at peak times will likely result in amenity impacts for residents located nearby. Impacts can vary from dust, vibration, fumes, noise and pedestrian and vehicles safety issues. The residents of Wardell, particularly Carlisle Street, have at times, complained about the impacts of quarry trucks on their residential amenity. Having regard for the potential quantities/volumes to be extracted, potentially at a considerable peak during the construction of the W2B Highway upgrade, the cumulative impact raised in the submissions is considered a valid and real concern.

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 request by the RMS to refuse the application should have significant weight and therefore the proposed development cannot be favourably recommended.

5. Recommendation

That the Northern Region JRPP refuse the proposal for the following reasons:

1. The proposal is not considered to be the orderly and economic development of the land and would restrict the provision for the development of public services and infrastructure. This is inconsistent with the aims of the Environmental Planning and Assessment Act and the Ballina Local Environmental Plan 2012.
2. The application is not in the public interest as it significantly impacts on Critical State Significant Infrastructure specifically listed in Schedule 5 of State Environmental Planning Policy (State and Regional Development) 2011.
3. The application does not have the support of the NSW Transport Roads and Maritime Services as it is proposed within the direct alignment of the Woolgoolga to Ballina Pacific Highway Upgrade Project.
4. The landowners have been advised by the NSW Transport Roads and Maritime Services intention to acquire the affected land prior to the preparation and lodgement of the application. Therefore the road infrastructure is considered imminent and the site is not suitable for the proposed development.
5. The proposal is incompatible with clause 12 of State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.
6. The potential adverse cumulative impact of heavy vehicle haulage trucks operating under peak capacity on the amenity of residents along the haulage route.
7. The application has not demonstrated that the vibration from heavy vehicle haulage trucks will not unreasonably impact on residents, particularly those along Carlisle Street, Wardell.