

Memorandum

To: Joint Regional Planning Panel - Northern

From: Pat Ridgway, Senior Development Planner, Clarence Valley Council

Date: 25 July 2018

Subject: 2016NTH022 Modification to Sheridan's Hard Rock Quarry, Hernani. Comments to submission on draft conditions of consent

File: Council reference MOD2016/0035 (DA2014/0098)

The following comments are in regard to Gary Peacocks of Outline Planning Consultants Pty Ltd submission to the Panel and a revision of the comments and proposed conditions in the Report and Recommendation.

In regard to proposed condition 39 the VPA wording, under part 4.1.1 iv states '*Periodic Inspection : An annual independent audit of the Haulage Route is to be undertaken by a suitably qualified consultant, agreed to by both parties, and paid for by the developer*'. There is no wording the VPA provision as to the report being submitted to Council and timeframe. It is Council's position that the condition should remain and amended as follows:

39. An annual independent road audit of the road condition of the haul route is to be undertaken by a suitably qualified consultant, agreed to by both the quarry operator and Council, at full cost to the quarry operator. **The independent road audit report is to be submitted to both Council with the annual update of the Plan of Management.**

In regard to condition 40 and in regard to Gary's comments Council questions the relevance of the authority provided by Gary Peacock to support his argument. The relevant issue in the decision is as to whether the Court has jurisdiction to exercise the function of a Council, as roads authority, (not that a formal s138 approval is not required). In the decision the court finds that it can grant an approval under the Roads Act and a Roads Act Approval is granted as required by the consent. The requirement of a Roads Act Approval works should be a condition of consent as there is no in the draft VPA of a Roads Act approval.

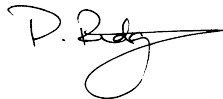
The following amended condition is recommended:

40. Approval pursuant to Section 138 of the Roads Act 1993 to carry out works required by the development consent on or within the public road reserve is to be obtained from Clarence Valley Council.

A Section 138 Roads Act application must be accompanied with a traffic management plan and erosion and sediment control plan.

In regard to Conditions 41 & 42 Council does not find these conditions to be unreasonable in regard to Council being notified of works and for a record of the certified works. It is a general requirement of any applicant/developer doing works on Council infrastructure and in Council's and the public interest to know when the works are proposed and that the works are suitably supervised and documented. One minor change is proposed to condition 42 to include the words 'periodic maintenance' to clarify that certification is not required for routine or on-demand maintenance (as defined in the draft VPA).

41. Prior to the commencement of works inside the road reserve the applicant is required to submit the following to Council
- Notice of Commencement, 48 hours before commencement.
 - Notification to the residents affected by the works, one (1) week before commencement.
42. Upon the completion of the **periodic maintenance** works certification of the works from the supervising professional must be submitted to Council.



Pat Ridgway
Senior Development Planner