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| DATE OF DETERMINATION | Friday, 26 October 2018 |
| PANEL MEMBERS | Garry West (Chair), Pamela Westing, Stephen Gow, Jim Simmons and Jason Kingsley |
| APOLOGIES | None |
| DECLARATIONS OF INTEREST | None |

Papers circulated electronically between 25 October 2018 and 26 October 2018

MATTER DETERMINED

2016NTH022 – Clarence Valley - MOD2016/0035 - 242 Faheys & Bulgins Road (AS DESCRIBED IN SCHEDULE 1)

PANEL CONSIDERATION AND DECISION

The Panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at meetings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel determined to approve the development application as described in Schedule 1 pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*.



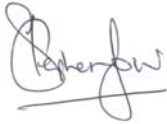


The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application for the reasons outlined in the Council assessment report.

CONDITIONS

The development application was approved subject to the conditions attached at Schedule 2

| PANEL MEMBERS | |
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| Garry West (Chair)  | Pamela Westing  |
| Stephen Gow  | Jim Simmons  |
| Jason Kingsley  | |

| SCHEDULE 1 | | |
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| 1 | PANEL REF – LGA – DA NO. | 2016NTH022 – Clarence Valley - MOD2016/0035 |
| 2 | PROPOSED DEVELOPMENT | Modification to Extractive Industry (Sheridans Hard Rock Quarry) to increase permitted daily truck movements |
| 3 | STREET ADDRESS | 242 Faheys & Bulgins Road, Bald Hills, Hernani |
| 4 | APPLICANT/OWNER | Outline Planning Consultants Pty Ltd for Matsid Pty Ltd |
| 5 | TYPE OF REGIONAL DEVELOPMENT | Modification to a regionally significant DA which was determined by the Northern Joint Regional Planning Panel |
| 6 | RELEVANT MANDATORY CONSIDERATIONS | <ul style="list-style-type: none"> • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy No. 33: Hazardous and Offensive Development • State Environmental Planning Policy No. 44: Koala Habitat Protection • State Environmental Planning Policy Mining and Petroleum and Extractive Industries 2007 • State Environmental Planning Policy (Rural Lands) 2008 • Clarence Valley Local Environmental Plan 2011 • Development Control Plan for Development in Rural Zones • Clarence Estuary Management Plan • The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality • The suitability of the site for the development • Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations • The public interest, including the principles of ecologically sustainable development |
| 7 | MATERIAL CONSIDERED BY THE PANEL | <ul style="list-style-type: none"> • Council assessment report dated 29 November 2016 • Written submissions during public exhibition: five • Verbal submissions at the panel meeting on 15 December 2016: <ul style="list-style-type: none"> ○ Object – Fenella Briscoomb, Gwen Hanna, Pauline Kidson on behalf of People with an Interest in Road Safety for Waterfall Way, Christine Moore, Robin Heath and Dr Sheila Guymer ○ On behalf of the applicant – Gary Peacock • Council supplementary assessment report dated 28 June 2018 • Verbal submissions at the panel meeting on 25 July 2018: <ul style="list-style-type: none"> ○ Support – Matthew Fanning (Deputy General Manager Operations, Bellingen Council) ○ Object – Christine Moore, Pauline Kidson (Friends of Waterfall Way), Elizabeth Hutchinson ○ On behalf of the applicant – Gary Peacock (Outline Planning Consultants) • Council supplementary assessment dated 5 October 2018 |

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| 8 | MEETINGS AND SITE INSPECTIONS BY THE PANEL | <ul style="list-style-type: none">• Site visit, route inspection and final briefing on 15 December 2016• Final briefing on 25 July 2018• Briefing by teleconference on 25 October 2018 |
| 9 | COUNCIL RECOMMENDATION | Approval |
| 10 | DRAFT CONDITIONS | As per original consent for DA2014/0098, with the amendments recommended in the Council Assessment Report and supplementary assessment |

SCHEDULE 2

A. Modify Condition 1 as follows:

1. The development being completed in conformity with the Environmental Planning & Assessment Act 1979, the Regulations thereunder, the Building Code of Australia and being generally in accordance with the following documents and plans:
 - 'Hard Rock Quarry: Statement of Environmental Effects', dated March 2014, prepared by Outline Planning Consultants Pty. Limited; including
 - Flora & Fauna Assessment by BushfireSafe (Australia) Pty Ltd, February 2014
 - Noise Impact Assessment by Vicpac Engineers & Scientists, dated 18 February 2014
 - Aboriginal Objects Due Diligence Assessment Report, BushfireSafe (Australia) Pty Ltd, dated February 2014
 - Traffic & Transport Assessment by RoadNet, dated March 2014
 - ~~Erosion and Sediment Management Plan prepared by RoadNet, dated 8 October 2010,~~
 - The report entitled Statement of Environmental Effects accompanying a s4.55 Application to Clarence Valley Council Sheridan's Hard Rock Quarry Pty Ltd Pt. Lot 62 & 63 in Deposited Plan 752807 No. 242 Faheys & Bulgins Road Hernani, NSW, prepared by Outline Planning Consultants Pty Ltd and dated June 2016; with attachments:
 - Acoustic advice from consultants V IPAC dated 11 May 2016 Ref : 29N-12-0122-GCO-473113-0;
 - Dust advice from consultants VIPAC dated 23 June 2016 Ref: 29N-12-0122-GCO-399163-0;
 - Advice from traffic consultants Streetwise Pty Ltd to Clarence valley Council dated 22 June 2016;
 - Traffic Impact Assessment report prepared by traffic consultants Streetwise Pty Ltd dated 15 June 2016.
 - The applicant's submission dated 9 June 2017,

or where modified by any conditions of this consent.

Insert new conditions of consent as follows:

- 13B. A maximum of 66 loaded quarry trucks within the approved hours of operation Monday - Friday and a maximum of 36 loaded quarry trucks within the approved hours of operation on Saturdays are permitted to travel along the approved haul route.

- 13C The quarry operator is to consult with Bellingen Shire Council by 31 July annually regarding dates and traffic management planning for the proposed major events in Bellingen for the following twelve (12) months.

The applicant is to provide evidence that this requirement has been met in the Annual Update of the plan of Management.

36. Pursuant to section 4.16 of the Environmental Planning and Assessment Act 1979 (EP&A Act), the applicant is to execute and deliver to the Council the Planning Agreement, in accordance with Subdivision 2, Division 6 of Part 4 of the EP&A Act, which the applicant has offered to enter into following the resolution Clarence Valley Council Item 14.048/18 on 15 May 2018.
37. The quarry is to operate in accordance with the Sheridan's Hard Rock Quarry Driver Code of Conduct and Traffic Management Plan dated February 2018. The Code of Conduct is to be regularly reviewed with the submission of the annual updated Plan of Management required under this consent.
38. The quarry is to have and maintain on-board weighing systems installed on all front end loaders, excavators and all other loading machinery in order to keep accurate records of extraction rates annual. The stored weighing data is to be provided to Council every three (3) months from approval of the application to modify the consent under MOD2016/0035.
- 38A. Monitoring equipment is to be installed and maintained at the quarry gate / property exit point on Faheys and Bulgins Road to monitor truck movements on a daily basis.

Details of proposed truck monitoring equipment is to be submitted to Council for approval prior to its installation.

The monitoring equipment is to be installed prior to commencement of quarry operations as amended under the application to modify the consent under MOD2016/0035.

Traffic count data from the monitoring equipment is to be provided to Council every three (3) months from approval of the application to modify the consent under MOD2016/0035.

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 Council with the annual update of the Plan of Management.

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.

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 any periodic maintenance works certification of the works from the supervising professional must be submitted to Council.