



5 October 2016

**NOTICE TO APPLICANT OF DETERMINATION  
OF A DEVELOPMENT APPLICATION**

Mrs N Rowling  
c/- 233 College Road  
SOUTH BATHURST NSW 2795

being the applicant in respect of **Development Application No 2016/202**.

Pursuant to section 81(1)(a) of the Environmental Planning and Assessment Act 1979, as amended, notice is hereby given of the determination by Council of Development Application No 2016/202, relating to the land described as follows:

**LOT: 8 DP: 575940, 233 COLLEGE ROAD SOUTH BATHURST**

The Development Application has been determined by GRANTING consent to the following development:

**EXTRACTIVE INDUSTRY**

Building Code of Australia building classification **n/a**.

**IMPORTANT NOTICE TO APPLICANT**

If this consent relates to a subdivision or to the erection of a building, one of the conditions listed below will require you to obtain a construction certificate prior to carrying out any work. **YOU MUST NOT COMMENCE WORK UNTIL YOU HAVE RECEIVED THE CONSTRUCTION CERTIFICATE**, even if you made an application for a construction certificate at the same time as you lodged this development application. Due to changes in the law relating to planning and building approvals, Council is unable to issue the construction certificate with the development consent. If there are no conditions in this development consent which need to be met before Council issues the construction certificate, and if your plans comply fully with the Building Code of Australia, the construction certificate will be forwarded to you shortly.

This consent is issued subject to the following conditions and reasons:

**PRIOR TO ANY WORK ON SITE**

1. **Prior to any work the applicant is to submit to Council for approval an Operational Management Plan that includes the following components:**

- a) **A detailed rehabilitation plan submitted within three months of the date of this consent;**

Reference: LCLI:JM:DA/2016/202

Enquiries: Ms C L Clifton 02 6333 6215

Mrs N Rowling, ~ Lot 8 DP 575940, 233 College Road SOUTH BATHURST, subject to conditions.DOC

- b) A detailed erosion and sediment control plan (including dust management and mitigation to prevent sediment laden water from entering the unnamed watercourse north of the extraction area);**
- c) A complaints management procedure;**
- d) A road transport code of conduct that includes but not limited to:**
  - i. Details of transportation hours pursuant to the approval of the development application.**
  - ii. Procedure for transport of hazardous materials.**
  - iii. Details of local school bus routes, operating hours and pick-up and drop-off points along the transportation routes. Haulage operations on school bus routes during student pickup/drop-off times are prohibited.**
  - iv. Requirement for drivers to operate in a safe and courteous manner.**
  - v. Maintenance of Safe Intersection Sight Distances.**
- e) Protocols for dealing with any fuel spills or leaks.**

REASON: To ensure the impact of the work on the environment and surrounding properties is considered and appropriately mitigated. Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, as amended.

- 2. The applicant is to submit results of a targeted seasonal survey for Duramana Fingers (Caladenia attenuate) within the recommended survey period of October to November. Should Duramana Fingers (Caladenia attenuate) have potential to occur, an Assessment of Significance (Seven-Part Test) is to be undertaken and documented in the EIS.**

REASON: Because it is in the public interest that environmental impacts be identified and effects mitigated. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

- 3. Screen plantings of box-gum woodland tree species are to be planted along the eastern (340m) and southern (400m) boundaries of the property. Trees are to be spaced no more than 3m apart and in at least two rows, sufficient to screen the development. Plantings are to be completed within 12 months of approval, and maintained (watered, weeded, replaced) to ensure at least 85% survival of trees for the life of the development. Species include Eucalyptus Albens, E. Melliodora and E. Blakelyi.**

REASON: To ensure that landscaping and screening will be provided on the subject land. Section 79C (1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

4. **Except where modified by the condition imposed upon this consent the development is to be carried out in accordance with the Environmental Impact Statement prepared by RW Corkery & Co Pty Ltd dated June 2016.**

REASON: Because it is in the public interest that work be carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

#### USE OF THE SITE

5. **Noise generated from the quarry must not exceed 43 dB(A)  $L_{Aeq}(15 \text{ minutes})$  at any time at any neighbouring residential property. To determine compliance, noise must be measured:**

- a) **Approximately on the property boundary, where any dwelling is situated 30 metres or less from the property boundary closest to the premises; or**
- b) **Within 30 metres of a dwelling façade, but not closer than 30 metres from the property boundary closest to the premises.**

REASON: So that the amenity does not reduce the amenity of the area. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

6. **The developer is to relocate, if necessary, at the developer's cost any utility services.**

REASON: Because the circumstances are such that the services be relocated. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

7. **Compliance with any requirements of the NSW Department of Primary Industries Water, NSW Department of Industries Lands, Office of Environment and Heritage, Division of Resources and Energy, Environment Protection Authority, Road and Maritime Services.**

REASON: Because of representations to that effect made by that body (those bodies). Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979, as amended.

8. **The operation shall be carried out only between 7.00 am and 5.00 pm on weekdays and 8.00 am and 5.00 pm on Saturdays. No excavation or work is permitted on Sundays or public holidays.**

REASON: So that building works do not have adverse effect on the amenity of the area. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

9. **Rehabilitation is to be staged and commenced within 12 months of cessation of use of the particular area of the quarry and undertaken in accordance with the EIS requirements.**

REASON: Because it is in the public interest that work be carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

10. **The payment to Council of an annual contribution for the maintenance of roads in the vicinity of the proposed development in accordance with Council's Section 94 Contributions Plan "Bathurst Regional Traffic Generating Development". The contribution will be calculated using the following formula:**

**Contribution = \$0.022 x [loose tonnes hauled] x [typical ESA] x [haul route length]**

<b>Loose tonnes hauled</b>	<b>Total annual extraction volume (in cubic metres) divided by 30%</b>
<b>Typical ESA</b>	<b>Equivalence Standard Axle multiplier (as per Austroads classification)</b>
<b>Haul route length</b>	<b>Distance from a classified road to the property boundary (in this case 2.5 kilometres from Vale Road to property boundary)</b>

**The Section 94 contribution will be calculated from true certified copies of weighbridge docketts, log books, diary entries and/or other returns or records that show the true quantities of extracted and/or processed material transported from the extraction site.**

**The applicant is to supply to Council on or before the fourteenth day of September annually for the duration of the development consent for the development's operation, the records of the transported material, certified by a Company Officer.**

**Council, upon receipt of such records will, as soon as it can conveniently do so, issue to the applicant an invoice for the Section 94 contribution amount to be paid to Council. Council has, by this condition of consent, the right to inspect and audit the original records relating to the transport of material to or from the development.**

**NOTE 1: Copies of all Council's Section 94 Contribution Plans may be inspected at Council's offices.**

**NOTE 2: All monetary conditions are reviewed annually, and may change as of 1 July each year.**

REASON: Because, having considered the matter in accordance with Section 94 of the Environmental Planning and Assessment Act 1979, as amended, the Council is satisfied that the development will require the provision of, or increase the demand for, these public amenities or services within the area. Section 80A(1)(h) of the Environmental Planning and Assessment Act 1979, as amended.

11. **Annual extraction is not to exceed 30,000 cubic metres.**

REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

12. **The applicant is to submit to Council on or before the 31st of August annually an Annual Report that includes (but is not limited to) to the following:**

- a) **Total extraction volume for the preceding year;**
- b) **A record of any complaints received inclusive of the time and date of the complaint, details of the complainant and complaint and any action taken to rectify the complaint; and**
- c) **Progress photos.**

REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(c) of the Environmental Planning and Assessment Act 1979, as amended.

13. **The site shall be managed so that:**

- a) **No additional filling shall be placed on the land which may impede the flow of the flood waters;**
- b) **Any clearing or drainage activities shall not alter the drainage patterns across the site;**
- c) **No landscaping or similar type structures shall be installed which will inhibit the flow of flood waters;**
- d) **Any plant or goods stored upon the site shall be stored in a manner which will not allow pollution of the flood waters;**
- e) **All actions shall be taken upon the site which will minimise the effect of the property on the flood waters.**

REASON: The allotment is within a recognised flood zone. Development is to reduce adverse environmental impacts. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

**14. Clearing of native vegetation is prohibited unless it is in accordance with the provisions of the Native Vegetation Act 1993, as amended.**

REASON: To ensure that the impact of the proposed development on identified and potential threatened species is minimal or negligible. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

**15. Harvesting of firewood for commercial purposes and removal of bush rock is not permitted.**

REASON: To minimise the impacts of the proposal on the environment. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

**16. During the carrying out of the proposed works, if any archaeological remains are discovered, the developer is to stop works immediately and notify the Heritage Division, NSW Office of Environment & Heritage. Any such find is to be dealt with appropriately and in accordance with the Heritage Act 1977, recorded, and details given to Council prior to the continuing of works.**

**NOTE 1: A Section 140 Permit will need to be obtained to disturb archaeological relics. This permit is to be obtained from the Heritage Division, NSW Office of Environment & Heritage, prior to the disturbance of the archaeological relics.**

REASON: To record and preserve historic details of previous uses of the site. Section 79(C)(1)(b) and (e) of the Environmental Planning and Assessment Act 1979.

**17. The development is to cease at, or before, midnight, fifteen (15) years from the date of this consent.**

REASON: Because Council is of the opinion that this consent should be so limited. Section 80(A)(1)(d) of the Environmental Planning and Assessment Act 1979, as amended.

## PRESCRIBED CONDITIONS

*The following conditions are known as "Prescribed Conditions" and are required to be imposed as part of any development consent whether or not they are relevant to the development approved under this consent. Please do not hesitate to contact staff in Council's Planning and Development Department who will be happy to advise you as to whether or not the conditions are relevant.*

18. **All building work must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant Construction Certificate or complying development certificate was made).**

REASON: So that the development complies with the requirements imposed under Clause 98 of the Environmental Planning and Assessment Regulations 2000, as amended. Section 80A(11) of the Environmental Planning and Assessment Act 1979, as amended.

19. **Building work (within the meaning of the Home Building Act 1989) must not be carried out unless the principal certifying authority for the development:**

a) **in the case of work done by a licensee under the Act:**

- i) **has been informed in writing of the licensee's name and contractor license number, and**
- ii) **is satisfied that the licensee has complied with the requirements of Part 6 of that Act, OR**

b) **in the case of work to be done by any other person:**

- i) **has been informed in writing of the person's name and owner-builder permit number, or**
- ii) **has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in section 29 of the Act,**

**and is given appropriate information and declarations under paragraphs a) and b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either a) or b).**

**NOTE 1: A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that the person is the holder of an insurance policy is sufficient evidence to satisfy this condition.**

REASON: So that the development complies with the requirements of clause 98 of the Environmental Planning and Assessment Act Regulations 2000. Section 80A(11) of the Environmental Planning and Assessment Act 1979, as amended.

20. **For development that involves any building work, subdivision work or demolition works:**
- a) **A sign must be erected in a prominent position:**
    - i) **showing the name, address and telephone number of the principal certifying authority for the work, and**
    - ii) **showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and**
    - iii) **stating that unauthorised entry to the work site is prohibited.**
  - b) **Any such sign is to be maintained while the work is being carried out, but must be removed when the work has been completed.**
  - c) **This condition does not apply in relation to work that is carried out inside an existing building that does not affect the external walls of the building.**
  - d) **This condition does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.**

REASON: Because it is in the public interest that the persons responsible for the site can be contacted. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

21. **The commitments listed in any relevant BASIX Certificate for this development are to be fulfilled in accordance with the BASIX Certificate Report, Development Consent and the approved plans and specifications.**

REASON: So that the development complies with the requirements imposed under Clause 97A of the Environmental Planning and Assessment Regulations 2000, as amended. Section 80A (11) of the Environmental Planning and Assessment Act 1979, as amended.

22. **If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any**

**structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:**

- a) **protect and support the building, structure or work from possible damage from the excavation; and**
- b) **where necessary, underpin the building, structure or work to prevent any such damage.**

**The condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.**

REASON: Because it is in the public interest that all building elements are able to withstand the combination of loads and other actions to which it may be subjected. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

**Endorsement date of determination and operative date:** 5 October 2016

**NOTES:**

1. **Lapsing of consent.** Unless a shorter period is specified in this notice, this consent will lapse if the development is not substantially commenced within five years of the date endorsed on this notice.
2. **Right of Review:** If you are dissatisfied with this determination, section 82A of the Environmental Planning and Assessment Act 1979, as amended, gives you the right to request the Council to review its determination. Such a request must be accompanied by the fee prescribed in Council's Revenue Policy.

For Development Applications lodged prior to 28 February 2011 the review must be undertaken within 12 months of the date endorsed on this notice.

For Development Applications lodged after 28 February 2011 the review must be undertaken within 6 months of the date endorsed on this notice.

3. **Right of appeal:** If you are dissatisfied with this determination, section 97 of the Environmental Planning and Assessment Act 1979, as amended, gives you the right of appeal to the Land and Environment Court.

For Development Applications lodged prior to 28 February 2011 the appeal must be lodged within 12 months of the date endorsed on this notice.

For Development Applications lodged after 28 February 2011 the appeal must be lodged within 6 months of the date endorsed on this notice.

Mrs N Rowling  
5 October 2016

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4. See **attached** sheet for explanatory notes.
5. All monetary conditions are reviewed annually, and may change as of 1 July each year.

J E Bingham  
**ACTING DIRECTOR**  
**ENVIRONMENTAL, PLANNING & BUILDING SERVICES**



**DETERMINATION OF A DEVELOPMENT APPLICATION**

**EXPLANATORY NOTES**

1. Should further explanation of the terms or conditions of the approval be required, please contact Council's Environmental Planning and Building Services Department.
2. Unless otherwise stated in a particular condition, it is the developer's responsibility to obtain any additional permits, approvals, consents, easements, or permission to enter necessary for the satisfaction of any conditions or for the completion of any works to be carried out in connection with the development.
3. Application for modification of this consent must be made on the prescribed form and be accompanied by the prescribed fee.
4. If amended building plans are submitted they must be accompanied by the fee set out in Council's Revenue Policy.