



Planning
Engineering & Management
Environmental

Our Ref.: 1707

Your Ref: DA/0330/1617

The General Manager
Goulburn Mulwaree Council
Locked Bag 22
GOULBURN NSW 2580

**Re: Development Application 330/1617 - Proposed Argyle Quarry
Lots 1 and 2 DP 1094055
63 Curlewin Lane and 17033 Hume Highway, Boxers Creek**

Dear Sir,

Further to our letter of 24th October 2017 the proponent out of courtesy provides an assessment of the matters raised in the Council letter dated 23rd October 2017. A tabular review of matters raised is provided below. This information is submitted for the Council to enable a complete full assessment of the matter for submission to the Joint Regional Panel.

Out of courtesy the proponent would now propose to submit an appeal if the Council maintains it will refuse the application or the application should be refused or not determined by the JRPP on 6th December 2017.

ITEM	MATTER	RESPONSE
Road Matters		
1	<p>A detailed survey of the access route along Tiyces Lane is required to assess the impacts from the proposed exit driveway on Tiyces Lane to the Hume Highway including:</p> <ul style="list-style-type: none">- the design to the largest quarry truck employed against Council's DCP requirements.- Road design layout,- road reserve boundaries. Owners consent for any road widening; <p>A Road Safety Audit that reviews the condition of the proposed routes and identifies any safety issues which may be exacerbated by the development, as required by the Director General's requirements dated 20 April 2017;</p>	<p>The response provided by Councils engineer (I Aldridge) dated 22/6/2017 and included in the list of submissions forwarded 23/10/2017 advises that the intersection in Tiyces Lane is satisfactory and specifies design requirements for Tiyces lane. The engineer also advises the need for a life analysis to be carried out at a later date and pavement action taken as necessary. No request for any additional information is made at the present time.</p> <p>We would assume that the engineers requirements would be applied as conditions of consent</p> <p>We note that the DG requirements did not specify the conduct of a Road Safety Audit. The assessment of Tiyces lane in reference to safety issues and the route has been carried out in the submitted Traffic Impact Statement and has been considered by the Council engineer as advised in his email dated 23/10/2017.</p>
2	<p>The assessment does not include a current pavement condition report on the existing condition of the proposed haulage route required by Section 7.2.3 of</p>	<p>The response provided by Councils engineer (I Aldridge) dated 22/6/2017 and</p>

	the Goulburn Mulwaree Development Control Plan 2009, as the plan submitted is dated 2014;	<p>included in the list of submissions forwarded 23/10/2017 advises the need for a life analysis to be carried out at a later date and pavement action taken as necessary. No request for any additional information is made at the present time.</p> <p>We would assume that the engineers requirements would be applied as conditions of consent</p>
3	Cumulative impact of lane speed changed along the Hume Highway in the vicinity of the development site, including deceleration to Tiyces Quarry left lane, deceleration to right lane to turn at Divall's Quarry median, crossing traffic and decelerating traffic at the existing Tiyces Lane intersection, and accelerating traffic exiting from the proposed new Tiyces Lane;	<p>We note that the RMS has provided concurrence and not objected to the development application and have issued conditions of development consent to be applied. The RMS advice is contained in their letter of 14/8/2017 and makes reference also to their letter of 13/2/2017 (included in documentation lodged with the application).</p> <p>In issuing concurrence the RMS has noted in their letter of 13/2/2017 that <i>"RMS has reviewed the provided information and is generally satisfied that the proposed deceleration and acceleration lanes can be constructed to AUSTROADS standards (for light vehicles) and generally in accordance with the attached plans"</i>.</p> <p>We would think that the matter mentioned by Council has been considered by the RMS whose authority it would be to consider such matters.</p>
4	Environmental implications of clearing and construction of new Tiyces Lane/Acceleration lane with Hume Highway.	<p>It is noted that the RMS seeks to make it Council's responsibility to consider the environmental impact of the acceleration and deceleration lanes under Part IV of the Environmental Planning & Assessment Act 1979. It is not seen as possible for the RMS to abrogate their responsibility under Part V of the Environmental Planning & Assessment Act 1979 to Council for the environmental assessment.</p> <p>Council makes reference to the assessment under Part V of the Environmental Planning & Assessment Act 1979. Roadworks are identified as a development which is permitted without development consent and as such the Council cannot issue development consent and consequentially would not be responsible for an environmental assessment for road works. As Council is not the determining authority for the road works within the RMS road corridor an assessment under Part V would be carried out for submission with the formal application to RMS for the design and works.</p> <p>Assessment as suggested by the RMS under Part IV is herein not proposed but an assessment under Part V would be conducted and submitted to the RMS with an application for the road works and occupancy license.</p> <p>However it is considered that the RMS has put the Council on the spot in this situation which I would consider the Council should not acquiesce to but have in this instance requested some form of Part V assessment.</p>

	 	<p>It is not considered appropriate for the submission of a Part V assessment to Council as the Council is not the determining authority for the portion of development involving the acceleration and deceleration lanes.</p> <p>It is noted that the assessment of the development in terms of flora and fauna is not required under the Biodiversity Conservation Act 2017. Under the Biodiversity Conservation (Savings and Transitional) Regulation 2017 the application is identified as a “<i>pending or interim planning application</i>” being “<i>an application for planning approval (or for the modification of a planning approval) made before the commencement of the new Act but not finally determined immediately before that commencement.</i>”</p> <p>As such an assessment of the acceleration and deceleration lanes is conducted under the former planning provisions, and out of courtesy to Council and the Joint Regional Planning Panel, and in deference to the request made by the RMS to Council, an assessment is provided for consideration by Council and the Joint Regional Planning Panel, but not for determination of the matter in relation to the works proposed. As such we would note that this assessment is not formally part of the development application for which development consent is sought, but the assessment of flora and fauna would be submitted to Council prior to the end of November 2017.</p> <p>In relation to the other matters mentioned in the Council letter for assessment it is now advised:</p> <ol style="list-style-type: none"> 1. That a Controlled Activity Approval is not required from WaterNSW as the waterway shown across the acceleration lane near the entry to the highway is not a formed bed or bank, and there is no waterway across the deceleration lane. 2. Drainage works would be determined following detailed survey and engineering design as has been required by RMS in their concurrence letter. 3. The potential for Aboriginal Cultural Heritage item is not considered high as the acceleration lane follows an existing track which is shown by photograph opposite and is in a location which has been significantly disturbed from track construction and use and highway construction, noting that the acceleration lane would be a 4m sealed lane with 1m sealed verges (approximately as wide as the existing track). We have also conducted a new AHIMS search in relation to the sites which has not identified any sites or places of Aboriginal Cultural Heritage. <p>A full assessment of all matters would be conducted and documented for submission to the RMS in an REF for their Part V</p>
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		<p>Assessment.</p> <p>As such it is also considered that the assessment of this matter would not result or cause any delay in the determination of the development application as this matter is not part of the development which Council is able to determine, or be responsible for assessment of.</p>
Quarry Design and Environmental Assessments		
5	<p>Insufficient information has been provided in relation to the pit cross section to confirm sufficient area for operation including storage of gained material, benching, stormwater, machinery, ramps and access and manoeuvring within the pit;</p>	<p>The information was available on the plan originally provided but is more described on the plan opposite a copy of which is attached.</p>
6	<p>The EIS does not identify trees to be removed or assess hollows of the existing trees or proposed trees to be removed as required by the SEARs;</p>	<p>The flora and fauna assessment considered the presence of hollow bearing trees and did not identify any within the area of impact of the quarry and associated infrastructure.</p> <p>This situation is confirmed in a letter from the author of the flora and fauna assessment that will be submitted along with information pertaining to item 4 above.</p>
7	<p>The EIS does not address the OEH current guidelines:</p> <ol style="list-style-type: none"> Code of Practice for Archaeological Investigation of Aboriginal Objects in New South Wales (DECCW 2010b) (the Code); Aboriginal cultural heritage consultation requirements for proponents (DECCW 2010a) (consultation requirements); Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales (DECCW 2010c). <p>The Study provided is greater than 5 years old, legislative changes have occurred since 2009 and an updated assessment for Aboriginal Cultural Heritage was required by the SEARs advice by OEH and dated 27/3/17.</p>	<p>As advised by Council the original study was conducted in March 2009 by Stedinger. The nature of the land has remained unchanged since that study so a further assessment was requested by Pejar Local Aboriginal Land Council (site officers Jessica Plumb and Chris McAlister) which identified no Aboriginal sites. The normal precautionary provision remains that items may remain underground. But no items have been exposed and visible since the original study and assessment in 2009.</p> <p>This was considered a suitable and satisfactory further assessment relevant to the proposed use and development of the site.</p> <p>It is noted that The Office of Heritage &</p>

		Environment has not made any comment on the development proposal referred to the Office with relevant studies and assessments that might warrant any further assessment is necessary.
8	Justification for and variation obtained from Goulburn Mulwaree Council to s88B to permit vehicular access from the Hume Highway.	<p>The original proposal for the quarry in 2018 resulted in substantial objection to the proposal based upon the use of Tiyces Lane and public objection to the use of the lane for quarry traffic entering and leaving the quarry.</p> <p>The further proposal for the quarry in 2013 through to 2017 provided for an alternate ingress and egress to the Hume Highway to avoid the use of Tiyces Lane; however it was subsequently established that the egress to the Hume Highway could not meet AUSTROAD standards and a subsequent proposal for the egress only along Tiyces Lane resulted in too many delays for the court to consider within a reasonable time frame and a request was made that a new development application be prepared and lodged.</p> <p>As such Council is aware that all measures possible have been made to avoid the use of Tiyces Lane and that this involved the use of a direct access to the Hume Highway. A further application was subsequently prepared and lodged and is now the subject of these considerations. This new application has retained what is possible to achieve in the reduction of traffic in Tiyces Lane by the retention of the ingress to the quarry from the Hume Highway and the provision of egress only along Tiyces Lane, with the provision of an additional acceleration lane onto the Hume Highway.</p> <p>In Council's awareness of this situation it might be considered that there is reasonable justification for the variation of the s88B restriction to reduce the traffic using Tiyces Lane, providing a reasonable response to a public concern.</p>
9	The construction of the acceleration lanes, deceleration lanes, new Tiyces Lane and Hume Highway intersection works (straightening works) and northern Tiyces Lane road widening are critical aspects of the application and Part V assessment under the Environmental Planning And Assessment Act 1979, assessing environmental impacts including flora, fauna and biodiversity, potential for Aboriginal Cultural Heritage, drainage line works (any Controlled Activity Approvals and stormwater assessment) etc.	<p>See item 4 above for discussion of the aspect of assessment.</p> <p>We note here that the existing intersection of Tiyces lane with the Hume Highway is not required for any quarry truck traffic and as such the straightening of Tiyces Lane has not been proposed. However the proponent has provided without necessity for the development, and without prejudice, for the improvement of the current tight curves in Tiyces lane that might better accommodate existing resident traffic using Tiyces Lane.</p>
10	Matters raised in Council's SEARs letter dated 27 March 2017.	<p>The Council has not been specific in relation to any aspect of the Council's SEARS letter dated 27 March 2017. We note however that Appendix 2 of the Environmental Impact Assessment identified all the Council's SEARS requirements and indicated where each matter had been addressed or provided a response.</p> <p>If the Council's referral to the Council's</p>

		SEARS requirements was in reference to the matters listed above in the letter of 23/10/2017 then these matters have been referred to above.
Attachment 1 – 15 Submissions		Submissions from residents were considered in our response letter dated 21/7/2017. Council would seem to want a response to each and every individual submission matter which is provided below.
11	Permissibility of the development, lack of resource significance and justification to permit development under Mining SEPP;	This is addressed in the EIS on pages 10, 62-64 and 140-141. The significance of the resource in terms of the SEPP (Mining, Petroleum Production and Extractive Industries) is addressed in the EIS on page 141 and in overall terms in section 21 (pages 161-162).
12	Alternate basalt resources provide safe access to Hume Highway and no need to permit application with inadequate road safety matters;	This is addressed in the EIS on pages 66-67 and in overall terms in section 21 (pages 161-162).
13	Inaccurate estimate of project cost given the deceleration lane and acceleration lanes proposed and operational machinery listed (in excavator, backhoe, articulated dump truck, front end loader and bulldozer);	The estimates for the application were determined by item costs and/or an engineer making an assessment of works.
14	Previous projects and reputation;	Not a valid consideration.
15	Non-compliance with 1000m buffer distance in DCP;	This is addressed in the EIS on pages 129-131, 159
16	Inconsistencies in development application documentation: <ul style="list-style-type: none"> View assessment taken from driveway rather than within property site lines. Objector omitted from p129 of EIS which may give false indication of acceptance to development by the neighbour. Any further omissions? Requested Noise Assessment at residence and no response. 	The use of gateways for photographic purposes was chosen when access to a property did not seem possible (locked gates) and the property was a long distance from the proposed quarry site. Not every submitter was shown on the plan on page 129, only those closest to the proposed quarry. Noise readings were determined by the Noise Engineer to provide a good determination of the noise environment. As such no every residence was considered necessary.
17	(vii) Inadequate information or assessment: <ul style="list-style-type: none"> Submitted examples of local/regional quarries that require secondary methods of extraction i.e. drilling and blasting; Noise impacts (blasting unlikely and needs to be guaranteed will not be used); Accuracy of noise and air quality assessment (using Goulburn airport data); Concern of insufficient assessment for the need/use of a Rock Breaker for road construction in the Noise Assessment and identified as “unlikely that a rock breaker will be required” (p31 5.2); Believe rock breaker equipment and blasting will be required to operate/extract from the quarry and assessment of noise and air quality not representative of actual noise and air quality impacts; Inadequate resource survey information (no new core testing just retesting of previous samples (2), 2 samples not representative only taken from 1 side of source). Suggest 4 drill holes necessary to define north, south, east and west extent of quarry; Different data sets used for wind velocity and direction for modelling and assessment; Limited core and test site information; Rippability Assessment cannot definitively rule out the need for 	Within the EIS the flowing is referred: The site itself and local features has been studied. Advised that blasting is not proposed and is not part of application. The relevant assessors use only available data. Additional assessment provided and submitted as advised on page 84 of the EIS. Assessments advise blasting is not necessary. Assessments carried out accordingly. Three (3) core drill holes were conducted and used in assessments by geologists, and established as sufficient in assessments. The relevant assessors use only available data. Three (3) core drill holes were conducted. Assessment confirms no blasting. Blasting is not proposed. Rippability only is

	<p>secondary extraction methods (a semi-quantitative relative indication);</p> <ul style="list-style-type: none"> • Magnetic Field Survey assessment identifies the resource indicates a lack of uniformity and submitter questions need for further extraction methods; • Lack of additional information to confirm extraction can occur without blasting and rock breaking; • Lack of detail on pit area; • Lack of consideration of the impact of dust from the proposed development; 	<p>proposed and can only be carried out.</p> <p>Assessment was carried out and used for the assessment of the Rippability of the material along with all assessments by GEOS Mining.</p> <p>Assessments carried out to establish with reasonable certainty that blasting is not necessary.</p> <p>The pit area is located by plan and survey</p> <p>This addressed in the EIS in the whole of Section 8 (pages 102-110).</p> <p>The main concern relates to any need for blasting. Assessments have been made using available information and studies and established with reasonable certainty that blasting is not necessary, and that there have been sufficient bore holes relevant to the size of the quarry proposed.</p>
18	Proximity of the development to existing surrounding dwellings (40 residential blocks on Tiyces Lane and side streets) ;	This is addressed in the EIS for assessments in relation to noise (Section 7), air quality (section 8), Traffic (Section 9), and views (Section 11) with all assessments establishing that the facility can operate within safe environmental guidelines and without a significant visual impact.
19	5km from Hume Highway and can hear road traffic. Expect properties near the quarry will be similarly impacted;	This is addressed in the EIS in the whole of Section 7 for Noise and it is established that the proposed quarry can operate within acceptable noise levels.
20	Dust impacts;	This is addressed in the EIS in the whole of Section 8 for Air Quality and it is established that the proposed quarry can operate within safe levels.
21	Impacts on air quality;	This is addressed in the EIS in the whole of Section 8 for Air Quality and it is established that the proposed quarry can operate within safe levels.
22	Development hampered by increase in residential related development of the area;	The residential development of rural areas does hinder other development such as quarries and the like however the proposed development has been assessed in relation to existing residential development nearby and shown that it can operate within normally acceptable levels of safety and standards.
23	Reduction in value of property;	This is not generally accepted as a valid objection as property values.
24	Not in the public interest;	It is submitted that the development has been assessed in all aspects and can operation safely and within standards in the locality. The need for resources is always present and it is in the public interest to have those resources protected and available.
25	Potential for future staging and expansion.	This is a matter for future assessment and determination and not relevant to the application to be determined.
Attachment 1 – Traffic Safety Issues		
	<p>Road width:</p> <ul style="list-style-type: none"> • Tiyces Lane non-compliance with Australian Road Design Standards – unacceptable risk to residents and traffic to Tiyces Lane (NB DCP has greater standards than Australian Road Design Standards for heavy vehicle haulage development routes); • Use of larger vehicles by local residential land holders i.e. stock crates, horse floats. Concern with passing traffic to quarry trucks; • Tiyces Lane road upgrade (to benefit applicant and not road safety); • Issue of poor safety with passing traffic and inadequate road lane width; • Increasing residential traffic along Tiyces Lane; 	<p>The response provided by Councils engineer (I Aldridge) dated 22/6/2017 and included in the list of submissions forwarded 23/10/2017 specifies design requirements for Tiyces lane. The engineer also advises the need for a life analysis to be carried out at a later date and pavement action taken as necessary. No request for any additional information is made at the present time.</p>

	<ul style="list-style-type: none"> • Road safety and the impact of trucks on Tiyces Lane; • Owners consent for road widening; • Traffic speed on Tiyces Lane (NB current speed limit is 100km/hr); 	<p>We would assume that the engineer's requirements would be applied as conditions of consent that would ensure that Tiyces Lane would be maintained for all traffic from any affect from quarry operations.</p>
	<p>Intersection safety at Tiyces Lane and Hume Highway:</p> <ul style="list-style-type: none"> • for school bus stop; • Traffic speed on Hume Highway; • Increased waiting times to cross Hume Highway as traffic numbers increased over time; • Traffic safety impacts at intersection to Hume Highway and objection to closing existing median at Tiyces Lane intersection. Additional 40 min travel time to head north; • Travel time implications if median closed to Hume Highway for Tiyces Lane residents (NB no proposed change to median by applicant); • Concern Plan of Management insufficient means to avoid unlawful U-turns to shorted distance to quarry entrance; • Safety of access to and from the Hume Highway Poor efficiency increased cost of travel with u-turn at southern Goulburn interchange for north bound traffic leaving the quarry and a u-turn at the interchange south of Marulan for traffic travelling to the site from the south; • Safety impacts on school bus stop at Tiyces Lane. 	<p>The Traffic Impact Assessment has advised and it is confirmed in the Council's Engineer email that the quarry cannot use quarry trucks during school bus times.</p> <p>The quarry trucks would enter the quarry site direct from the Hume Highway and would re-enter the Hume Highway via a new acceleration lane. As such the existing Tiyces Lane intersection with the Hume Highway would be unaffected by the development.</p> <p>The acceleration and deceleration lanes have been located and designed to allow for compliance with AUSTROADS having regard to separation with other slip lanes and exiting and entering vehicle speeds.</p> <p>Both the RMS and Council engineer have applied controls that ensure that improper actions are not carried out by truck drivers using the Hume Highway.</p>
	<p>Road damage:</p> <ul style="list-style-type: none"> • Potential road damage from haulage vehicles; • Estimated contributions to road damage (approx.. \$5,660) will not meet maintenance costs; • Regular road maintenance required with current traffic numbers 	<p>The response provided by Councils engineer (I Aldridge) dated 22/6/2017 and included in the list of submissions forwarded 23/10/2017 specifies design requirements for Tiyces lane. The engineer also advises the need for a life analysis to be carried out at a later date and pavement action taken as necessary. No request for any additional information is made at the present time.</p> <p>A recent traffic study was undertaken by the proponent to determine traffic impacts and has been provided with the application to Council.</p> <p>The Council engineer has also determined s94 contributions rates for the operation of the quarry.</p> <p>We would assume that the engineer's requirements would be applied as conditions of consent that would ensure that Tiyces Lane would be maintained for all traffic from any affect from quarry operations.</p>

Yours faithfully,



Keith Allen

Laterals Planning

2nd November 2017

