

DATE OF DETERMINATION	Thursday, 23 May 2019
PANEL MEMBERS	Gordon Kirkby, Mark Grayson, Ruth Fagan, Graeme Hanger OAM and David Sherley
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held at Bathurst Regional Council, 158 Russell Street, Bathurst on 23 May 2019, opened at 1.00pm and closed at 2.00pm.

MATTER DETERMINED

2018WES012 – Bathurst Regional Council – DA2018/115 at 1329 Mid-Western Highway Evans Plains – The Swan Ponds Quarry (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 briefings and the matters observed at site inspections listed at item 8 in Schedule 1.

The Panel adjourned during the meeting to deliberate on the matter and formulate a resolution.

The Panel determined to approve the development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

- The proposed development is permissible with consent in the RU1 Primary Production Zone under *Bathurst Local Environmental Plan 2014*.
- The Panel was satisfied that the proposed development is consistent with the objectives of the RU1 Zone.
- The Panel was satisfied that the proposed development could be managed to minimise environmental impacts.
- The Panel was satisfied that the visual impact of the development when viewed from adjoining properties could be mitigated subject to a revised condition requiring the Rehabilitation Management Plan (recommended Condition 8) to include consultation with adjoining landowners and include measures to minimise the visual impact of the processing plant environs.
- The Panel was satisfied that surface and groundwater impacts could be appropriately managed.
- The Panel was satisfied that traffic impact and road safety can be appropriately managed through the proposed intersection upgrade at the site entry at the Mid-Western Highway.
- The Panel notes that General Terms of Approval have been provided by the Environment Protection Authority and Office of Environment and Heritage for the proposed development.

CONDITIONS

The development application was approved subject to the conditions in the Council Assessment Report with the following amendments:

- Condition 5 be amended to require roadworks associated with the Mid Western Highway intersection to be undertaken within 6 months of the date of consent. This amendment has been

imposed to ensure that required intersection upgrades are undertaken within a reasonable timeframe.

- A new Condition be included requiring advance truck warning signs to be installed on the Mid Western Highway approaches to the site within 1 month of the date of consent to improve existing safety issues.
- Condition 8 be amended to require the Rehabilitation Management Plan to include:
 - plans showing the proposed areas of extraction and rehabilitation in 3 year intervals for the life of the quarry; and
 - measures to address the visual impact of the development from adjoining property owners particularly the plant area and disturbed areas to the immediate south of the plant area. The Applicant shall consult with adjoining landowners in the preparation of the Rehabilitation Management Plan;

Condition 9 be expanded to reflect the objectives of the Plans as described in the applicant's further response to submissions dated 4 March 2019.

- Condition 19 be amended to require the Applicant to undertake groundwater monitoring to identify any impacts on groundwater quality for the adjoining property at 1316 Mid-Western Highway. The Condition is also requires annual reporting of groundwater monitoring results.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the panel. The Panel notes that issues of concern included:

- Visual impacts of the development from adjoining residences, particularly the processing plant and environs.
- Potential impacts on groundwater quality associated with proposed irrigation of quarry water.
- Safety concerns associated with the intersection of the site's road access with the Mid Western Highway.

The Panel considers that concerns raised by the community have been adequately addressed in the assessment report and that no new issues requiring assessment were raised during the public meeting. The Panel notes that in addressing these issues appropriate conditions have been imposed.

PANEL MEMBERS	
 Gordon Kirkby (Chair)	 Mark Grayson
 Ruth Fagan	 David Sherley
 Graeme Hanger	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018WES012 – Bathurst Regional Council – DA2018/115
2	PROPOSED DEVELOPMENT	Continued and Expanded operation of an extractive industry
3	STREET ADDRESS	1329 Mid Western Highway, Evan Plains
4	APPLICANT/OWNER	The Yarragrove Family Trust
5	TYPE OF REGIONAL DEVELOPMENT	Designated Development
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - Environmental Planning and Assessment Act 1979 – as amended - Bathurst Regional Local Environmental Plan 2014 - SEPP (State and Regional Development) 2011 - SEPP (Mining, Petroleum and Extractive Industries) 2007 - SEPP 33 Hazardous and offensive Developments - SEPP 55 Remediation of Land - SEPP (Infrastructure) 2007 - Bathurst Regional Development Control Plan 2014 - Environmental Planning and Assessment Regulation 2000 - Draft environmental planning instruments: Nil - Development control plans: Nil - Planning agreements: Nil - Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i>: Nil - Coastal zone management plan: Nil - 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	- Council assessment report dated April 2019. - List any clause 4.6 variation requests here: Nil - Written submissions during public exhibition: 1 - Verbal submissions at the public meeting: - In support – Nil - In objection – Thomas J Thatcher - Council assessment officer – Richard Denyer - On behalf of the applicant – Mitchell Bland
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	- Site inspection: Thursday, 23 May 2019 - Briefing: Nil - Final briefing to discuss council's recommendation, Thursday, 23 May 2019 at 12pm. Attendees: <u>Panel members</u>: Gordon Kirkby (Chair), Mark Grayson, Ruth Fagan Graeme Hanger and David Sherley <u>Council assessment staff</u>: Wayne McDonald, Rachael Young, Richard Denyer
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report