

DATE OF DETERMINATION	Friday, 8 November 2019
PANEL MEMBERS	Gordon Kirkby (Chair), Mark Grayson and Ruth Fagan
APOLOGIES	David Somerville and Scott Ferguson
DECLARATIONS OF INTEREST	Heather Nicolls: Non-Pecuniary conflict of interest, a Cabonne Council work team is a signatory on a letter of objection to the DA.

Public meeting held at Blayney Shire Community Centre – 41 Church Street, Blayney on 8 November 2019, opened at 1pm and closed at 3:30pm.

MATTER DETERMINED

2018WES019 – Blayney Shire Council – DA85/2018 at 12 Greghamstown Road, Blayney – Blayney 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.

Development application

The panel determined to approve the development application pursuant to section 4.16 (previously section 80) 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 RU2 Rural Landscape Zone under Blayney Local Environmental Plan 2012
- The proposed development, subject to the recommended conditions of consent is able to be managed to comply with relevant criteria. In this regard the Panel notes:
 - The Environment Protection Authority has provided general Terms of Approval; and,
 - Council engaged independent technical experts who advised that noise, air quality and blasting impacts were able to be managed or mitigated.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following amendments:

- **Condition 4 – Dust Management Plan:**
 - amend the third dot point in sub-section (b) to read:

(b) compliance with the criteria in Condition 49
 - add a new subsection (d) to ensure the plan addresses dust associated with the access road:

(d) includes air quality monitoring of the access road to the development
- **Condition 5 – Amenity Bund / Visual Screen Plan**

- Add dot point to require the detailed plans to include:

- *Short term stabilisation of the amenity bund through hydro-mulch or other methods until vegetation is established*

- **Condition 6 – Blasting Agreement**

- Amend the condition to state:

Prior to the issue of a Construction Certificate, the operator of the quarry is to enter into an agreement with Nestle Purina, APA Group, Cadia Holdings Pty Ltd, Jemena Gas Networks (NSW) Ltd and Central Tablelands Water to identify a method to determine appropriate criteria for sensitive equipment and infrastructure and appropriate criteria for blast overpressure and ground vibration prior to blasting commencing. A copy of the agreement must be provided to the Blayney Shire Council,

- **Condition 16 – Access Road Lease**

- Amend to remove words “short term”

- **Condition 24 – Hours for Construction Work**

- Amend to be consistent with the hours of operation specified in the EPA General Terms of Approval. Delete the words “6:00 pm” and replace with “5:00pm”.

- **Condition 26 – Naturally Occurring Asbestos**

- Amend condition wording to require the Asbestos Management Plan to be prepared prior to commencement of extraction of quarry product for sale:

26 Naturally Occurring Asbestos

A site-specific asbestos management plan is to be prepared in accordance with the Work, Health and Safety Regulations 2017 (as amended) and the Model Asbestos Policy for NSW Councils (2015) (as amended).

Re-number the Condition to be included in the “Prior to commencement of Extraction of Quarry Product for Sale” section.

- **Condition 52 – Amenity Bund / Visual Screen Plan**




- Re-number the Condition to be included in the “Prior to commencement of Extraction of Quarry Product for Sale” section.

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 impact
- Noise
- Air quality
- Potential naturally occurring asbestos

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, Council engaged independent expert technical advice on air quality, noise and blasting modelling from Wilkinson Murray consultants. Appropriate conditions have been imposed addressing on-going management of impacts.

PANEL MEMBERS	
 Gordon Kirkby (Chair)	 Mark Grayson
 Ruth Fagan	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2018WES019 – Blyanney Shire Council – DA85/2018
2	PROPOSED DEVELOPMENT	Quarry
3	STREET ADDRESS	12 Grehamstown Road, Blayney, being Lot 2 DP847740. The proposed development would also affect an unnamed road reserve and the western portion of Marshalls Lane.
4	APPLICANT/OWNER	Ben Volkofsky
5	TYPE OF REGIONAL DEVELOPMENT	Designated development - extractive industry
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> Blayney Local Environmental Plan 2012 State Environmental Planning Policy 55 – Remediation of Land; State Environmental Planning Policy 33 – Hazardous and Offensive Development State Environmental Planning Policy (Infrastructure) 2007; State Environmental Planning Policy (Mining, Petroleum and Extractive Industries) 2007; State Environmental Planning Policy No. 44 Koala Habitat Protection Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Blayney Development Control Plan 2018 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	<ul style="list-style-type: none"> Council assessment report: 6 September 2019 List any clause 4.6 variation requests here: Nil Written submissions during public exhibition: 167 Verbal submissions at the public meeting:

		<ul style="list-style-type: none"> ○ In objection – Belinda Newstead, Margaret Paton, Karl Herzig, Wayne Newstead and Herman Wieland ○ Council assessment officer – Daniel Drum ○ On behalf of the applicant – Mitchell Bland ○ On behalf of the elected council – Councillor Scott Ferguson <p>Written material was provided to the Panel from Chelsea Henry who was unable to attend the meeting and objects to the development.</p>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection: Friday, 8 November 2019 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Gordon Kirkby (Chair), Mark Grayson and Ruth Fagan ○ <u>Council assessment staff</u>: Daniel Drum • Final briefing to discuss council's recommendation Friday, 8 November 2019, 12:00pm. Attendees: <ul style="list-style-type: none"> ○ <u>Panel members</u>: Gordon Kirkby (Chair), Mark Grayson and Ruth Fagan ○ <u>Council assessment staff</u>: Daniel Drum
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report as amended by the Panel