

Wednesday, 5 August 2020

Mr Marius Shepherd,
Senior Town Planner,
Albury City Council,
553 Kiewa Street
Albury NSW 2640.

Dear Marius,

RE: PGH Andersons Quarry, 253 Shaw Street Springdale Heights- Response to Draft Conditions of Consent and Council Objections to Development

On behalf of PGH Bricks and Pavers Pty Ltd (PGH), we wish to thank Council for providing the Draft Conditions of Consent (Approval No 10.2018.36584.1) via email on 23rd July 2020.

DRAFT CONDITIONS OF CONSENT (APPROVAL NO 10.2018.36584.1)

We have reviewed the draft consent and wish to provide the following comments for consideration.

Point 1

‘(A1) Approved plans

The development must be carried out in accordance with the attached approved plans and the particulars and statements submitted with the Development Application receipted on 17/12/2018 as amended by the supporting documents lodged on 23/09/2019 and 7/11/2019 and subject to the following conditions.

For the purposes of clarity and to remove any doubt, in the event of any inconsistencies or discrepancies between the information shown on or described in the above mentioned plans and documents and the detailed requirements of the following conditions of this Development Consent, the requirements of the following conditions will prevail to the extent of any inconsistency. All plans and documents which are subsequently prepared and lodged for further approvals or certification are to be consistent with, and include the requirements of, these conditions where necessary. ‘

Please name and list all documents for clarity.

Point 2

‘(A3) Approval conditions of other authorities

NSW Department of Planning, Industry & Environment: Biodiversity and Conservation Division (DPIE: BCD)

Aboriginal cultural heritage

No human remains in, on or under the land may be harmed. If any human remains are discovered and/or harmed in, on or under the land, the proponent or AHIP holder must: o not further harm these remains ‘

Typographical error in the above highlighted in red.

Point 3

'2. NSW Environment Protection Authority (EPA)

.....The dust management plan must be provided to the EPA by electronic mail to riverina.farwest@epa.nsw.gov.au for review and approval prior to the commencement of works associated with the expansion approval **granted under development application 10.2018.36584.1.**

.....The noise management plan must be provided to the EPA by electronic mail to riverina.farwest@epa.nsw.gov.au for review and approval prior to the commencement of works associated with the expansion approval **granted under Development Application 10.2018.36584.1.**

.....The vibration management plan must be provided to the EPA by electronic mail to riverina.farwest@epa.nsw.gov.au for review and approval prior to the commencement of works associated with the expansion approval **granted under development application 10.2018.36584.1.'**

It is not relevant to include the development Application number in the EPA's recommended conditions of consent.

Point 4

'(A4) Maintain Shaw Street Road

Shaw Street unsealed road shall be maintained to a safe standard by the applicant as directed by AlburyCity. This shall be at the applicant's expense.'

PGH is concerned with the requirement to maintain a publicly owned road as they are not in the business of road construction or maintenance. Public liability for issues that arise from the maintenance of the road to a 'safe standard' are unclear. It is suggested that Council negotiate an annual levy for road maintenance with PGH, with works to be conducted by Council or approved contractors as required by Council.

Point 5

(A6) Closure and Rehabilitation Plan

Within 12 months of the issue of this consent, a Closure and Rehabilitation Plan shall be submitted to, and approved by, Council.

The site is operated under Mine Lease 1229 and regulated by the Resources Regulator, and as such must provide the Department of Mining, Exploration and Geoscience (MEG) with a Mine Operation Plan (MOP). A MOP describes the mine rehabilitation and closure and must be approved by MEG prior to operations commencing. A new Mine Lease will be sought over the extension area and the MOP for the site will be updated to include the operations and rehabilitation of the extension area. It is unnecessary to duplicate reports and PGH propose to provide Council a copy of any MOP's once approved by MEG.

Point 6

'(A8) Bank Guarantee for rehabilitation works

*To ensure that rehabilitation works are completed in accordance with the approved Closure and Rehabilitation Plan (as approved under Condition (A6)), a bank guarantee to the value of the works (as outlined in the Closure and Rehabilitation Plan) is to be submitted to AlburyCity Council **prior to the commencement of any activities approved by this consent.** The bank guarantee is to be unconditional and from an institution and in a form approved by Council.*

*The value of the Bank Guarantee must be **reviewed every five (5) years** to account for changes in cost of materials, labour, availability of resources, etc; any rehabilitation and revegetation works undertaken in the previous five (5) years under a staged rehabilitation plan; and*

any change to the operation of the quarry (such as reduced extraction) which may delay the estimated completion of any stage of the rehabilitation works.

Documentary evidence shall be provided to Council by 31 July 2025 (and by 31 July every 5 years thereafter for the life of this consent) outlining the estimated value of the rehabilitation works remaining to be completed (excluding any completed staged rehabilitation and revegetation as documented in accordance with Condition (D9)) and outlining any changes to the cost of the materials, labour, etc. to enable a recalculation of the value of the Bank Guarantee.

All costs associated with the establishment and maintenance of the Bank Guarantee shall be borne by the applicant, PGH Bricks and Pavers Pty Ltd, or any successors in title to that company; or any future owner of the quarry. ‘

Under the conditions of ML1229, PGH is required to provide a Security Bond to the NSW Resource Regulator for the rehabilitation of the site and is updated regularly. This is to ensure that the people of NSW do not incur a financial liability as a result of mineral exploration and mining operations, as it the case with this proposal. A Security Bond will be required as part of the conditions of the new mine lease that will be sought over the extension area and duplication of this security with Council is unnecessary.

Point 7

‘Staged Completion of rehabilitation works

When any stage of the rehabilitation works outlined in the (amended and approved) Quarry Closure and Rehabilitation Plan has been completed, Council shall be notified in writing and provided with detailed documentary evidence of the works undertaken in that stage of the rehabilitation works and a site survey confirming the finished surface levels of that stage.

Council will not accept completion of the works until it has undertaken inspections to confirm completion of the works and the satisfactory establishment of groundcovers and vegetation on those areas. Council may require payment of bonds or the like for the maintenance of any vegetated areas for a period of 24 months after it has accepted that the relevant stage of the rehabilitation works has been completed.’

It is the responsibility of the NSW Resource Regulator to accept Closure Criteria as described in the MOP and recommend a site for Relinquishment under the Mining Act. Council will be provided a copy of the Relinquishment Report required by the Regulator when approved.

Point 8

‘(B1) Operational Management Plan

Prior to the commencement of any quarrying activities approved by this consent, an Operational Management Plan shall be prepared, submitted to and approved by Council.

The Plan shall, as a minimum, incorporate:

- *groundwater monitoring locations and frequency of monitoring; ‘*

There is no evidence that the proposal will encroach upon the groundwater table, therefore no groundwater monitoring is required.

Point 9

‘(B1) Operational Management Plan

The Plan shall be reviewed every two (2) years and shall be provided to Council in conjunction with the Annual Report (required by Condition (D8)) submitted for that year.’

PGH proposes that the Council be provided with a copy of the Resources Regulator approved MOP which operates effectively as an Operational Management Plan. Review of this plan should be consistent with the Resources Regulator requirements for a MOP review at a minimum of every seven years. The Resources Regulator requires that an Annual Rehabilitation Report (ARR) is submitted for approval each year describing the operations undertaken on the site, including rehabilitation. PGH proposes that Council be provided, as occurs currently, a copy of the approved ARR each year.

Provision to Council of the MOP and ARR's will remove duplication of reporting requirements.

Point 10

(B4) Notice prior to commencement of Works

Two days before any site works, the applicant must:

- (h) *Follow any other conditions prescribed in the Environmental Planning and Assessment Regulation 2000.*

PGH suggest that the condition be amended to include only **relevant** conditions in the Environmental Planning and Assessment Regulation 2000.

Point 11

Use of Site Area

(D1) Environment and amenity

*The approved development must not adversely affect the amenity and environment of the neighbourhood **in any way** including:*

- (a) *The appearance of any buildings, works or materials used.*
- (b) *The parking or moving of motor vehicles.*
- (c) *The transporting of materials or goods to or from the site.*
- (d) *The hours of operation.*
- (e) *Noise, air and water discharges from the site.*
- (f) *Electrical interference.*
- (g) *The storage and handling of garbage, fuels, chemicals, pesticides, gasses, waste products or other materials.*
- (h) *Emissions or discharges into the surrounding environment including, from waste water, sediment, dust, vibration, odours or other harmful products.*

Reference to '*the approved development must not adversely affect the amenity and environment of the neighbourhood in any way*' does not define measurable and targeted goals. PGH suggest the condition be amended to include measurable and targeted goals as discussed below,

- a) Specific needs regarding the building, works or materials used that has not already been included in other conditions should be described;
- b) The parking or moving of vehicles is included in conditions D2;
- c) Specific needs regarding the transportation of materials or goods that has not already been included in other conditions, e.g. B8, should be described;
- d) The proponent will comply with the hours of operation described in condition A1;
- e) Noise air and water management will be described in the relevant management plans and operations will be implemented;

- f) The activities proposed on the site are not likely to provide electrical interference, this requirement is not relevant;
- g) The Waste Management Plan (bullet point 5, B1) will be implemented; and
- h) The proponent will comply with the POEOA.

Point 12

‘(D8) Annual Report on Activities

Prior to 31 July each year for the life of this consent, the proponent shall submit an Annual Report to Council which documents:’

PGH suggest that the report period be specified i.e. year ending 30th of June, in line with the ARR reporting period, and the approved ARR to be provided to council within 1 month of the Resources Regulator approval date.

MAYOR LETTER TO SOUTHERN REGIONAL PLANNING PANEL

Point 1 of Mayor Letter

Although correspondence provided by the Mayor has formed the opinion that the expansion of the mine is not appropriate, this contradicts the intent and provision of its own LEP.

It is evident that intent of the LEP under Schedule 1 is to give primacy for the existing mine and its use in perpetuity. This provision applied to the subject land and does not restrict activities to a particular portion within that subject allotment. Additionally, the standing consent applicable to the mining activities does not stipulate a ‘Sunset Clause’.

Schedule 1 Additional permitted uses, states:

‘6 Use of certain land at 253 Shaw Street, Lavington

(1) This clause applies to land at 253 Shaw Street, Lavington, being Lot 2, DP 856969.

(2) Development for the purpose of open cut mining or extractive industries is permitted with consent.’

Note, the clause applies to the whole of Lot 2, DP856969. The proposed designated development is permissible with the consent of Council under clause 2.5 of the Albury LEP 2010 as an Additional Permitted Use.

At completion of extraction, rehabilitation of the site will be completed and will restore the area to a landform that is consistent with the goals of land zoned E3 Environmental Management.

Point 2 of Mayor Letter

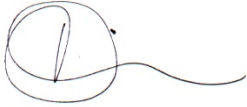
Amenity concerns have been addressed within the EIS and supplementary information supplied to Council.

Further, the expansion of the quarry is directed away from adjoining residents thus reducing any dust and noise impacts. There are no changes proposed with regards to heavy vehicle movements to and from the site.

In summary, we hope this response provides Council with sufficient information regarding the Draft Consent Conditions and also providing feedback to the Southern Regional Planning Panel.

If you require further clarification or further information, please do not hesitate to contact us.

Yours sincerely
For VGT

A handwritten signature in black ink, consisting of a large, stylized 'T' followed by a horizontal line that curves upwards and to the right.

Tara O'Brien