

DATE OF DETERMINATION	Friday, 25 September 2020
PANEL MEMBERS	Gordon Kirkby (Chair), Renata Brooks, Tim Fletcher and David Thurley
APOLOGIES	Henk van der Ven
DECLARATIONS OF INTEREST	None

Papers circulated electronically on 11 August 2020.

MATTER DETERMINED

2019STH002 – Albury City – DA10.2018.36584.1 at 253 Shaw Street, Springdale Heights – Extractive Industry - Extension of existing Clay Mine - Andersons Clay Mine (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.

Development application

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 panel determined to approve the application for the reasons outlined in the council assessment report.

REASONS FOR THE DECISION

- The proposed development is permissible under Albury Local Environmental Plan 2010 by way of the use being listed in Schedule 1 – Additional Permitted Uses.
- Subject to the conditions of consent, the proposed development can be operated to comply with relevant environmental criteria. In this regard the panel notes that the Environment Protection Authority has provided General Terms of Approval;
- The Panel was satisfied that traffic impact and road safety and dust can be appropriately managed by way of a condition of consent requiring the sealing of Shaw Street between the site entrance and 75 Shaw Street.
- Biodiversity impacts able to be mitigated / offset through additional tree plantings at the ratio of 10 tree plantings for every tree removed. The planting will be undertaken on-site and in the adjoining Council reserve.
- The Panel was satisfied that rehabilitation of the site would be adequately managed through the Mining Lease process

CONDITIONS

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

- Condition (A2) Compliance with Previous Development Consent
Amend Condition to state the following:

This consent prevails over any condition or requirement in Interim Development Order (N72 79/627) to the extent that the that approval applies to the operations approved under this consent.

- Condition (A4) Maintain Shaw Street Road
Delete condition and replace with the following:

Sealing of Shaw Street

The applicant is to provide a minimum 6.0m wide seal to the existing Shaw street pavement in accordance with Councils Engineering guidelines, the seal is to commence from the end of the existing seal just east of the entrance to 75 Shaw street and extend to the entrance to the development site.

- Condition (A6) Closure and Rehabilitation Plan
Add the following words at the end of the condition:

The plan shall be generally consistent with any rehabilitation plan prepared in accordance with Mining Lease 1229.

- Condition (A8) Bank Guarantee for rehabilitation works
Delete condition and replace with the following:

Security bond for rehabilitation works

Documentary evidence shall be provided to Council with every updated Mine Operations Plan outlining the estimated value of the rehabilitation works to be completed and secured by an appropriate Security Bond held for the relevant Mine Lease.

- Condition (B3) Offset Planning Deed of Agreement
Amend condition to state the following:

Offset Planting Deed of Agreement

The applicant and Council shall enter into a Deed of Agreement to satisfy the replacement of the trees to be removed as a result of the development. The Deed of Agreement shall provide for a survey of the number of trees to be removed (at the applicant's cost) and replanting and maintenance of trees in lieu of replanting the trees at a ratio of 10:1 at the direction of Council, which may include the establishment of habitat poles to connect existing areas of habitat.

- Condition (B8) Site Access via dedicated road
Delete Condition

- Condition (C8) Security Fences
Amend condition to state the following:

Security Fences

Appropriate stock proof perimeter fences shall be constructed to improve security against trespassing and to restrict invasion of livestock, in a rural post and wire style so as to minimise visual impact. The perimeter fencing shall be of a standard to exclude all stock, including sheep, goats, cattle, horses etc. from the operational area. As a minimum standard the fence shall consist of posts with plain wires running along the top, middle and bottom of the fence (barbed wire or electric fencing will not be accepted). Post spacings shall be a maximum of 5 metres apart. The erection of the fencing must be completed as part of the conditions of consent and cannot be bonded.

- Insert new condition (D4):

(D4) Noise control

Noise levels at the boundary of the site area shall not be offensive, as defined by the Protection of the Environment Operations Act 1997, at any time so as to ensure that noise levels associated with the development do not disturb people in surrounding areas.

- Condition (D5) Dams on-site
Amend condition to state the following

Dams on-site

The dams on-site shall be properly maintained to prevent loss by soakage of any water contained therein.

- Condition (D7) Rural Amenity
Amend condition to state the following:

Rural Amenity

The site area shall be managed in a sustainable manner, landscaped to enhance native habitats and maintained to control weeds, reflectivity, minimise bushfire risk, prevent unsightly conditions, prevent the transport of soil, sediment, pollutants and the like off the site and offset potential adverse effects on other land and waterways.

- Renumber Conditions (D4)-(D9) to (D5)-(D10)

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered the written submission made during public exhibition from an adjoining landowner. The submission largely raise issues associated with the southern extension of the quarry which was approved under *Interim Development Order (N72 79/627)* and does not form part of this development application. Notwithstanding this, the Panel was satisfied that cumulative impacts associated with air quality, noise and visual impact have been addressed.

Panel notes the issues raised in the objection from the elected Councillors of Albury City Council.

The panel considers that concerns raised by the community and Councillors have been adequately addressed in the assessment report and amended conditions of consent and that no new issues requiring assessment were raised during the public meeting.

PANEL MEMBERS	
 Gordon Kirkby (Chair)	 Renata Brooks
 Tim Fletcher	 David Thurley

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	2019STH002 – Albury City – DA10.2018.36584.1
2	PROPOSED DEVELOPMENT	Extension of existing Extractive Industry
3	STREET ADDRESS	253 Shaw Street, Springdale Heights NSW 2640
4	APPLICANT/OWNER	PGH Bricks and Pavers Pty Ltd c/- VGT Environmental Compliance Solutions Pty Ltd
5	TYPE OF REGIONAL DEVELOPMENT	Designated development - extractive industry
6	RELEVANT MANDATORY CONSIDERATIONS	- Environmental planning instruments: - State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 - State Environmental Planning Policy (Infrastructure) 2007 - State Environmental Planning Policy (State and Regional Development) 2011 - State Environmental Planning Policy No.33 – Hazardous and Offensive Development and - State Environmental Planning Policy No. 55 – Remediation of Land - Environmental Planning & Assessment Act 1979 - Albury Local Environmental Plan 2010 (Albury LEP 2010) - Draft environmental planning instruments: Nil - Development control plans: - Albury Development Control Plan 2010 (Albury DCP 2010) - 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: 7 August 2020 - Written submissions during public exhibition: 1
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	- Briefing: Friday, 14 August 2020 <u>Panel members</u>: Gordon Kirkby (Chair), Renata Brooks, Tim Fletcher and David Thurley <u>Council assessment staff</u> David Christy, Marius Shepherd and Matthew Wilson - Site inspection: Thursday, 13 August 2020 <u>Panel member</u>: David Thurley
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report