

DATE OF DEFERRAL	29 April 2024
DATE OF PANEL BRIEFING	17 April 2024
PANEL MEMBERS	Alison McCabe (Chair), Tony McNamara, Roberta Ryan, Maurice Collison
APOLOGIES	Greg McDonald
DECLARATIONS OF INTEREST	Nil

Papers circulated electronically on 9 April 2024.

MATTER DETERMINED

PPSHCC-203 – Upper Hunter – DA 10.2023.42.1 at 4458 Golden Highway, Merriwa 2329 – Extension of Quarry Life by 15 years & Increase Production to 330,000 tpa (as described in Schedule 1)

REASONS FOR DEFERRAL

The Panel considered the matters listed at item 6, the material listed at item 7 and the material presented at the meetings observed at the site inspection listed at item 8 in Schedule 1.

The Panel has had a number of briefings from the applicant and Council including a detailed site inspection. The application has been amended since lodgement and the Biodiversity Development Assessment Report (BDAR) amended to reflect additional survey information and to meet statutory requirements.

The Council report identifies some areas of deficiencies in the soil and water management documents provided. The report also identifies three (3) areas where the application does not meet the SEARs being:

- Requirement for proposed water management system, water monitoring program and other measures to mitigate surface and groundwater impacts.
- Detailed description of proposed measures to maintain and improve biodiversity values on site in the medium to long term as relevant.
- Estimates of the quantity and nature of waste streams.

The applicant provided additional information to the Panel at the briefing that:

- Proposed additional rehabilitation measures.
- Sought the deletion of the s7.11 contributions.
- Sought amendment to condition B25 to allow the continuation of the removal of 1000 tonnes per day without upgrade of the intersection consistent with the existing development consent.

This additional information requires further consideration by the Panel and Council.

The Panel in its deliberation is not satisfied that the rehabilitation strategy is acceptable. Best practice is to require progressive rehabilitation and benching of the evacuated area. The Panel notes that the existing facility has operated for some 40 years and has not undertaken any progressive rehabilitation.

The Panel is also concerned with the noncompliance with SEARs requirements. The Panel does not agree that these matters are conditional as the conditions lack a degree of certainty. It is understood that stormwater management requires upgrading and perhaps double the size of the existing sediment basin. A

concept plan demonstrating that this can be achieved, the extent of works involved, and the identification of the potential impacts of these works is required for the Panel to properly consider this matter.

The Panel also has concerns in respect to the drafting of some conditions, particularly those referring to “prior to the commencement of the consent”. These conditions need to be reworded and structured to require particular works to occur prior to specified elements of the development.

The Panel also queried the hours of operation at condition A11. The Panel understands that the existing consent is proposed to be surrendered by condition and requires further information regarding the terms of that consent to ensure all existing and proposed conditions are addressed.

The Panel understands that there is further updated survey data that has been finalised and would require amendment to the BDAR.

Based on the information before the Panel, the Panel is not satisfied that:

- i. The proposed water management system, monitoring program and mitigation of impacts are sufficiently detailed or properly considered in the BDAR.
- ii. The extent of measures to maintain and improve biodiversity values on the site are adequate.
- iii. Estimates of the quantity and nature of waste streams have been provided.
- iv. The rehabilitation strategy is appropriate.
- v. The BDAR has specifically considered the impact if any of the requirements for APZ.

The Panel requires:

- a. Additional information to satisfy the SEARs requirements and address point (i) to (v).
- b. A rehabilitation strategy that includes progressive rehabilitation.
- c. Updated BDAR that includes latest survey data and consideration of APZ and any works required to upgrade the water management system
- d. Details of the existing consent.
- e. Councils position regarding applicants’ request regarding 7.11 contributions.

On receipt of this information, proposed conditions will need to be reviewed and restructured.

The Panel agreed to defer the determination of the matter to provide the information.

The decision to defer the matter was unanimous.





ACTIONS

The Development Application be deferred for:

1. The applicant to provide the following information and amendments:
 - i. A proposed water management system, monitoring program and mitigation of impacts sufficiently detailed and properly considered in the BDAR.
 - ii. Additional measures to maintain and improve biodiversity values on the site.
 - iii. Estimates of the quantity and nature of waste streams.
 - iv. A revised rehabilitation strategy that includes progressive rehabilitation.
 - v. An updated BDAR that includes latest survey data and consideration of APZ and any works required to upgraded the water management system.
2. A formal written request to amend the application is required to be uploaded to Planning Portal by the applicant within four (4) weeks outlining:

- a. Particulars sufficient to indicate the nature of the change of the development, as required under section 37 of the Environmental Planning and Assessment Regulation 2021
 - b. updated technical reports relied on in the amended application.
3. Council is requested to provide an addendum assessment report responding to the matters above, which is to be uploaded to the Planning Portal within four (4) weeks of the upload of the applicant's required information to the Planning Portal.
4. When the updated assessment report is received the Panel will determine the application by way of an electronic determination.

The applicant is requested to advise Council withing 7 days of this deferral if the amended documentation will be provided. If the applicant indicates that the information /amendments will not be provided, the Panel will determine the DA based on the information currently lodged with the application.

PANEL MEMBERS	
 Alison McCabe (Chair)	 Tony McNamara
 Roberta Ryan	 Maurice Collison

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSHCC-203 – Upper Hunter – DA 10.2023. 42.1
2	PROPOSED DEVELOPMENT	Extension of Quarry Life by 15 years & Increase Production to 330,000 tpa
3	STREET ADDRESS	4458 Golden Highway, Merriwa 2329
4	APPLICANT /OWNER	Thomas Shannon Mopoke Portfolio Pty Limited
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"> State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Resources and Energy) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Upper Hunter Local Environmental Plan 2013 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Upper Hunter Development Control Plan 2023 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: 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: 16 January 2024 <ul style="list-style-type: none"> Written submissions during public exhibition: 0 Total number of unique submissions received by way of objection:0
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Preliminary Briefing: 2 August 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Greg McDonald, Maurice Collison <u>Council assessment staff</u>: Paul Smith <u>Applicant Representative</u>: Thomas Shannon, Bret Jenkins <u>Department</u>: Leanne Harris, Lisa Foley, Holly McCann Site inspection: 27 October 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Greg McDonald, Maurice Collison <u>Council assessment staff</u>: Paul Smith <u>Applicant Representatives</u>: Thomas Shannon, Bret Jenkins Final briefing to discuss council's recommendation: 17 April 2024 <ul style="list-style-type: none"> <u>Panel members</u>: Alison McCabe (Chair), Roberta Ryan, Tony McNamara, Maurice Collison <u>Council assessment staff</u>: Paul Smith <u>Applicant representatives</u>: Thomas Shannon, Bret Jenkins <u>Department</u>: Leanne Harris
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report