

DATE OF DETERMINATION	31 March 2021
PANEL MEMBERS	Penny Holloway (acting Chair), Stephen Gow, Peter Petty and Bob Rogan
APOLOGIES	None
DECLARATIONS OF INTEREST	None

Public meeting held by teleconference on 31 March 2021, opened at 3:30pm and closed at 5:30pm.

MATTER DETERMINED

PPSNTH-13 – Tenterfield – 2019.101 at Mt Lindesay Road, Tenterfield – extractive industry (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 following reasons:

1. The proposal is permissible pursuant to State Environmental Planning Policy (Mining Petroleum and Extractive Industries) 2007 and, with consent, within the zone, RU1 Primary Production, of the *Tenterfield Local Environmental Plan 2013*. The proposal is consistent with relevant provisions of Tenterfield Development Control Plan 2014.
2. As Integrated Development under Section 4.46 of the *Environmental Planning and Assessment Act 1979* the proposal was referred to the Environment Protection Authority (EPA) and their General Terms of Approval have been incorporated into the conditions of consent.
3. The site is occupied by an existing approved quarry operation and the proposed ongoing and expanded use of the land for an extractive industry provides productive and economic use of the land, creating and continuing local employment.
4. The site is considered to be sufficiently separated from neighbouring land uses and residences, has adequate visual isolation and measures to manage traffic impacts and safety considerations have been included in conditions of consent.
5. Through the *Human Health Risk Assessment (HHRA) for Respirable Crystalline Silica: Expansion of Dowe's Quarry* and the *Independent Review of the HHRA by Todoroski Air Services*, dust and air quality impacts of the proposal have been identified and recommended mitigation and management measures have been included in the conditions of consent to minimise environmental impact on the

surrounding land uses. The NSW Department of Health has confirmed that the development does not represent an unacceptable risk to the community provided that all recommended dust control measures are implemented.

CONDITIONS

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

- Condition 22 to be amended to read:

Dust Monitoring and Control

That an ongoing dust control and air monitoring program be implemented by the applicant as per the recommendations of the *Human Health Risk Assessment for Respirable Crystalline Silica: Expansion of Dowe's Quarry (Ref RWC/20/DOWR001-B)* and the *Air Quality Impact Assessment*.

The air quality monitoring program including specific dust control measures must be described in an Air Quality Management Plan that must be prepared in consultation with the EPA and Council and submitted to the EPA and Council prior to the commencement of project operations.

The Air Quality Management Plan must include all the environmental (community) mitigation measures and occupational (worker) mitigation measures as a minimum, including the use of applicable dust monitors in approved locations and controls on blasting when the 1-hour average wind speed is above 6m/s, as identified in the Independent Review of Human Health Assessment, Doves Quarry, Tenterfield prepared by Todoroski Air Services (16 March 2021 Job Number 21011234)

- Insert the following condition as Condition 24b:

A copy of the annual monitoring return on the environmental performance of the project (R1.1 in the GTA) must be provided to Council for its records and made available to the public.


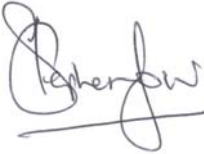

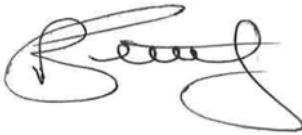
CONSIDERATION OF COMMUNITY VIEWS

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:

- Air quality
- Biodiversity
- Noise and blasting
- Consultation
- Economic effects
- Non compliance
- Planning considerations
- Health impacts
- Social impacts
- Traffic and transport
- Visibility
- Water resources

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 the Independent Review of Human Health Assessment, Doves Quarry, Tenterfield prepared by Todoroski Air Services (16 March 2021) was carried out in relation to air

quality and human health impacts and appropriate conditions have been imposed addressing dust control and air quality management and monitoring.

PANEL MEMBERS	
 Penny Holloway (Acting Chair)	 Stephen Gow
 Bob Rogan	 Peter Petty

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-13 – Tenterfield – 2019.101
2	PROPOSED DEVELOPMENT	<p>The proposal seeks to increase production from the current approved volume of 150,000 tonnes per year to 230,000 tonnes per year at the existing Dowe's Quarry within an expanded extraction area.</p> <p>Processing activities, involving the crushing and screening of materials using mobile processing plant would also be included in ongoing operations.</p>
3	STREET ADDRESS	<p>Mt Lindesay Road, Tenterfield.</p> <ul style="list-style-type: none"> • Lots 308, 309 DP 751540 • Lots 3,4 DP 42044 • Lots 239, 244, 246, 260 DP 751540 • Lots 1,2,3,4 DP 1092215
4	APPLICANT OWNER	Darryl McCarthy Constructions Pty Ltd R & M Dowe
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 No 33 – Hazardous and Offensive Development ○ State Environmental Planning Policy No 44 – Koala Habitat Protection ○ State Environmental Planning Policy No 55 – Remediation of Land ○ State Environmental Planning Policy (Mining and Petroleum and Extractive Industries) 2007 ○ Tenterfield Local Environmental Plan 2013 ○ New England North West Regional Plan 2036 ○ Tenterfield Local Strategic Planning Statement 2040 • 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	<ul style="list-style-type: none"> • Council assessment report: 1 December 2020 • Written submissions during public exhibition: 46 • Verbal submissions at the public meeting on 8 December 2020: <ul style="list-style-type: none"> ○ Christian Uhrig, Vince Sherry, Dianne Larson, Jessica Morrow, David Tumbridge, Peter Murphy, Laura Williams, Ben Morrow ○ Council assessment officer – Anthony Daintith, Tamai Davidson ○ On behalf of the applicant – Nick Warren, Nick Warren, Jackie Wright, Morgan Hamilton, Peta newton, Murray Payne, Darryl McCarthy, Rodney Dowe • Supplementary Council report: 24 March 2021

		<ul style="list-style-type: none"> • Verbal submissions at the public meeting on 31 March 2021: <ul style="list-style-type: none"> ○ Vince Sherry, Sarah Williams, Jesse Morrow on behalf of 'Tenterfield says No to silica mine', Martin I'ons, Ben Morrow, Laura Williams, Rebekah Tumbridge on behalf of David Tumbridge and Peter William Murphy ○ On behalf of the applicant – Joel Barnes and Nick Warren
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Site inspection: 2 December 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Stephen Gow and Bob Rogan ○ <u>Council assessment staff</u>: Anthony Daintith and Tamai Davidson ○ <u>Applicant</u>: Murray Payne • Final briefing to discuss council's recommendation: 8 December 2020 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Penny Holloway (acting Chair), Stephen Gow, Peter Petty and Bob Rogan ○ <u>Council assessment staff</u>: Anthony Daintith, Tamai Davidson and Kylie Smith • Final briefing to discuss council's recommendation: 31 March 2021 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Penny Holloway (acting Chair), Stephen Gow, Peter Petty and Bob Rogan ○ <u>Council assessment staff</u>: Anthony Daintith, Tamai Davidson and Paul Vella
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report