

## COUNCIL ASSESSMENT REPORT

### NORTHERN REGIONAL PLANNING PANEL

<b>PANEL REFERENCE &amp; DA NUMBER</b>	PPSNTH-141 – DA2022/0107
<b>PROPOSAL</b>	Proposed Designated Development and Integrated Development for an extractive industry with an intended extraction capacity of up to 300,000 tonnes per annum (as described in section 2 of this report).
<b>ADDRESS</b>	Lot 2 DP 1196757, 1465 Bentley Road, Bentley NSW 2480
<b>APPLICANT</b>	R & S Contracting
<b>OWNER</b>	R & S Contracting
<b>DA LODGEMENT DATE</b>	23/11/2021
<b>APPLICATION TYPE</b>	Development Application (Designated/Integrated)
<b>REGIONALLY SIGNIFICANT CRITERIA</b>	Clause 7(a), Schedule 7 of the State and Regional Development SEPP: Development for the purposes of extractive industries, which meet the requirements for designated development under clause 19 of Schedule 3 of the <i>Environmental Planning and Assessment Regulation 2000</i> .
<b>CIV</b>	\$988,582.10 (excluding GST)
<b>CLAUSE 4.6 REQUESTS</b>	N/A
<b>KEY SEPP/LEP</b>	<ul style="list-style-type: none"> <li>• <i>State Environmental Planning Policy No. 55 – Remediation of Land</i>;</li> <li>• <i>State Environmental Planning Policy (State and Regional Development) 2011</i>;</li> <li>• <i>State Environmental Planning Policy (Mining, Petroleum and Extractive Industries) 2007</i>;</li> <li>• <i>State Environmental Planning Policy No. 33 (Hazardous and Offensive Development)</i>;</li> <li>• <i>State Environmental Planning Policy (Koala Habitat Projection) 2020</i>;</li> <li>• <i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i>;</li> <li>• <i>Draft Remediation of Land State Environmental Planning Policy</i>;</li> <li>• <i>Draft State Environmental Planning Policy (Environment)</i>;</li> <li>• <i>Richmond Valley Local Environmental Plan 2012</i>;</li> <li>• <i>Richmond Valley Development Control Plan 2021</i>.</li> </ul> <p>It is noted that the development application was prepared and submitted prior to commencement of the <i>Environmental Planning</i></p>

	<i>and Assessment Regulation 2021</i> and consolidation of State Environmental Planning Policies which came into effect on 1 March 2022.
<b>TOTAL &amp; UNIQUE SUBMISSIONS KEY ISSUES IN SUBMISSIONS</b>	227 (216 objections, 3 neutral and 8 in support) Key issues raised in the submissions largely relate to traffic and road condition, socio-economic impact, visual and rural amenity, land use conflict, noise and air quality impacts.
<b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>	<ul style="list-style-type: none"> <li>• Bentley Quarry Environmental Impact Statement (GHD, 11 November 2021)</li> <li>• Submissions</li> <li>• RFI No.1 Letter (11 March 2022)</li> <li>• RFI No.1 Response (GHD, 24 May 2022)</li> <li>• RFI No.2 Letter (28 April 2022))</li> <li>• RFI No. 2 Response (3 May 2022)</li> <li>• EPA General Terms of Approval (24 December 2021)</li> </ul>
<b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)</b>	N/A
<b>RECOMMENDATION</b>	Approval
<b>DRAFT CONDITIONS TO APPLICANT</b>	YES
<b>SCHEDULED MEETING DATE</b>	24 August 2022
<b>PREPARED BY</b>	Rachel Heath, Planit Consulting (Independent Planning Consultant)
<b>DATE OF REPORT</b>	16 August 2022

## EXECUTIVE SUMMARY

Richmond Valley Council is in receipt of a Development Application (DA 2022/0107) seeking consent for the establishment and operation of a hard rock quarry and ancillary facilities at Lot 2 DP 1196757, No. 1465 Bentley Road, Bentley NSW 2480.

Approval is being sought for an extraction capacity of up to 300,000 tonnes per annum. The proposed annual extraction volumes meet the requirements for Designated Development under Clause 19 of Schedule 3 of the *Environmental Planning and Assessment Regulation 2000*. Consequently, the application is accompanied by an Environment Impact Statement (EIS) prepared in accordance with the requirements of the Secretary's Environmental Impact Assessment Requirements (SEARs).

In accordance with Clause 4.46 of the *Environmental Planning and Assessment Act 1979*, the proposed development is also Integrated Development, requiring an Environmental Protection Licence (EPL) from the NSW Environmental Protection Authority (EPA) under Section 53 of the *Protection of the Environment Operations Act 1997*. The development application was referred to the EPA for detailed assessment. The EPA has since issued General Terms of Approval for the development.

In addition to the EPA, the development application has been referred to the Department of Primary Industries, Water NSW and Transport for NSW for consultation. There are no outstanding issues arising from this consultation, subject to the recommended conditions of consent being imposed.

The proposal was notified in accordance with the Richmond Valley Council's *Community Participation Plan 2020* from 13 December 2021 until 1 February 2022. A total of 227 unique submissions were received, comprising 216 objections, 3 neutral and 8 submissions in favour of the proposal. The issues raised in the submissions largely relate to traffic and road condition, socio-economic impact, visual and rural amenity, land use conflict, noise and air quality impacts. The submissions are considered in Section 5 of this report.

Potential impacts arising from the proposed development include traffic, noise and vibration, dust, surface and groundwater, biodiversity, heritage, visual amenity and hazards. The proposal is supported by a number of technical studies including (but not limited to) a Land Use Conflict Risk Assessment, Water Resource Assessment, Noise Impact Assessment, Air Quality Impact Assessment, Biodiversity Assessment, Traffic Impact Assessment and Contamination Assessment. An assessment of the potential impacts associated with the proposed development is provided within the body of this report.

There are also a number of planning legislation requirements that the consent authority must consider. A detailed assessment has been undertaken against all relevant legislation, including State Environmental Planning Policies, the *Richmond Valley Local Environmental Plan 2012* and the *Richmond Valley Development Control Plan 2021*. A detailed assessment of the relevant clauses is provided within the body of this report.

The subject site is approximately 134.7 hectares and is characterised by low undulating slopes. The site contains a residential dwelling, with garage and inground swimming pool, a farm shed, several farm dams and an existing hard rock quarry pit. The quarry pit is approximately 1.2ha in size. These existing quarry operations date back to the early 1970s. In recent times the quarry has been operating under existing use rights. The proposed development will not change the existing land uses on the site.

The subject site is largely unconstrained, relatively clear of vegetation and in a rural area where extractive industries are permissible. In particular, the development area is not mapped as possessing biodiversity value, bushfire prone, flood prone or landslide risk. No Aboriginal objects were uncovered

during assessment by the Casino Bolangle Local Aboriginal Land Council and there are no recorded Aboriginal sites located in the vicinity.

The closest occupied residence is located approximately 1.25km east of the proposed development. The unoccupied historical Disputed Plains Homestead, a yet to be constructed dwelling house and nominated dwelling site are located less than 1km from the development. Management strategies are proposed to ensure amenity criteria are achieved at these sensitive receivers.

The local topographic variation, remnant vegetation, proposed perimeter bunding and nature of the quarry development (extending below the topography rather than cutting into the side) provide effective visual shielding of the development from neighbouring properties and from Bentley Road.

A land use conflict assessment has been undertaken, along with environmental assessments including noise, vibration and air quality which demonstrate that acceptable levels can be met at both existing and proposed sensitive receivers.

The proposed development will provide a long-term supply of construction materials with access provided for up to 1.266 million tonnes, facilitating public and private development in both Richmond Valley and adjoining local government areas. Furthermore, the quarry maximises resource recovery associated with the existing quarry disturbance footprint, limiting the potential environmental impacts.

The proposed development will provide employment for 5 full time staff, provide direct economic benefit in the form of an initial \$988,582 capital investment plus expenditure associated with operations and wages, as well as generating the need for goods and services, creating flow-on opportunities for business development in the region.

Council's Engineering, Environmental Health and Building units have assessed the Development Application with regard to potential impacts arising from the proposed development. No objections were raised by Council officers, subject to the imposition of relevant conditions of consent, including General Terms of Approval from the EPA.

In summary, the Development Application has been assessed in detail against the relevant matters for consideration pursuant to Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The proposed development is considered satisfactory, subject to the imposition of suitable conditions of consent to address and mitigate potential impacts arising from the proposed development.

As such, it is recommended that the proposed development be approved, subject to conditions documented in the recommended Draft Schedule of Conditions in **Attachment A** of this report.

## 1. THE SITE AND LOCALITY

### 1.1 The Locality

The subject site is in the suburb of Bentley, within the Richmond Valley Local Government Area (LGA) (refer to **Figure 1**), approximately 12km northeast of Casino, 14km west of Lismore, and 22km southeast of Kyogle.

Surrounding land uses are associated with agricultural activity, predominately grazing, with some cropping on the lower river flats. Agri-tourism ventures are also located throughout the area, including new proposals for farm stay glamping units (DA2022/0191) and the proposed Northern Rivers Rail Trail along the old North Coast Railway.

The closest sensitive receivers, as shown on **Figure 2**, include:

- A residence (A) on the subject property, approximately 360m south of the proposed quarry. This residence is owned and occupied by the applicant.
- An approved but yet to be built residence (B), located approximately 400m northeast of the quarry.
- The Disputed Plains Homestead (C) approximately 650m north of the quarry. The homestead is of local heritage significance and currently unoccupied.
- A dwelling (D) approximately 1.25km to the east of the quarry.
- An existing dwelling (E) approximately 1.4km west and two nominated dwelling sites. The two dwelling sites were nominated as part of a Development Application (DA2022/0015) seeking a Torrens Tile Subdivision to create 3 lots. The nominated dwellings sites are located approximately 600m (F) west and about 1.5km (G) west of the proposed quarry respectively. DA2022/0015 was approved by Richmond Valley Council (Council) on 12/05/2022.
- A commercial farm shed (H), approximately 750m east of the proposed quarry.
- A bed and breakfast tourism accommodation, approximately 1.65km east of the proposed quarry.
- The proposed Northern Rivers Rail Trail approximately 1.25km north of the proposed quarry.

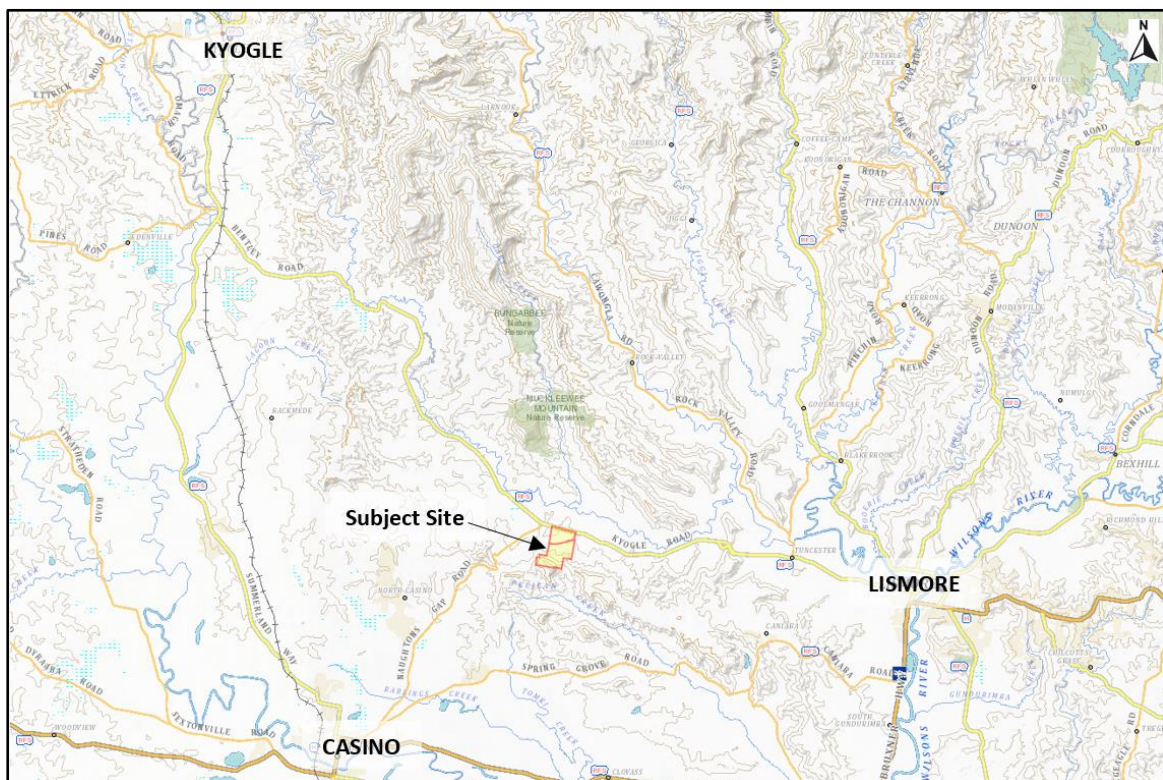


Figure 1 – Locality Plan



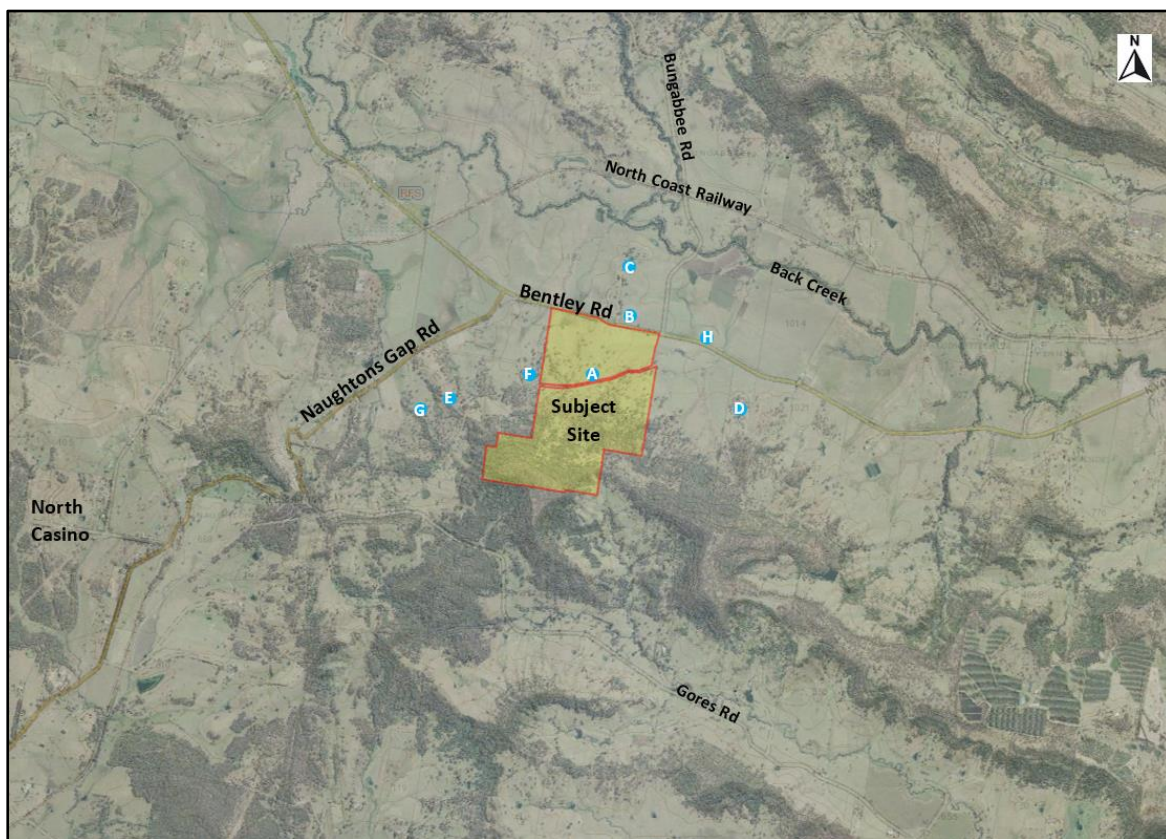


Figure 2 – Subject Site and Surrounds

## 1.2 The Site

The land subject to this application is known as No. 1465 Bentley Road, Bentley and is legally described as Lot 2 DP 1196757 (refer to **Figure 3**).

The site is approximately 134.7 hectares and is characterised by low undulating slopes ranging in elevation from approximately 63m AHD in the north, up towards a 256m AHD ridge in the south of the site.

The site contains a residential dwelling, with garage and inground swimming pool, a farm shed, several farm dams and an existing hard rock quarry pit. The quarry pit is approximately 1.2ha in size (refer to **Figure 3**). These existing quarry operations date back to the early 1970s. In recent times the quarry has been operating under existing use rights. Further information regarding the site history is provided in Section 2.3 of this report.

The lower northern slopes of the site have been extensively cleared due to historical agricultural land uses and previous quarry operations, with scattered paddock trees remaining. Native vegetation occurs on the upper southern slopes, which increases in coverage towards and along the ridge line in the site's south.

The site is zoned RU1 Primary Production under the *Richmond Valley Local Environmental Plan 2021*. The site is mapped as comprising (refer to **Figures 4 to 9**):

- Bushfire prone land;
- Landslide risk;

- Terrestrial biodiversity;
- High biodiversity value;
- Ephemeral drainage lines;
- Biophysical strategic agricultural land;
- Regionally significant farmland; and
- Adjacent to a classified (regional) road.

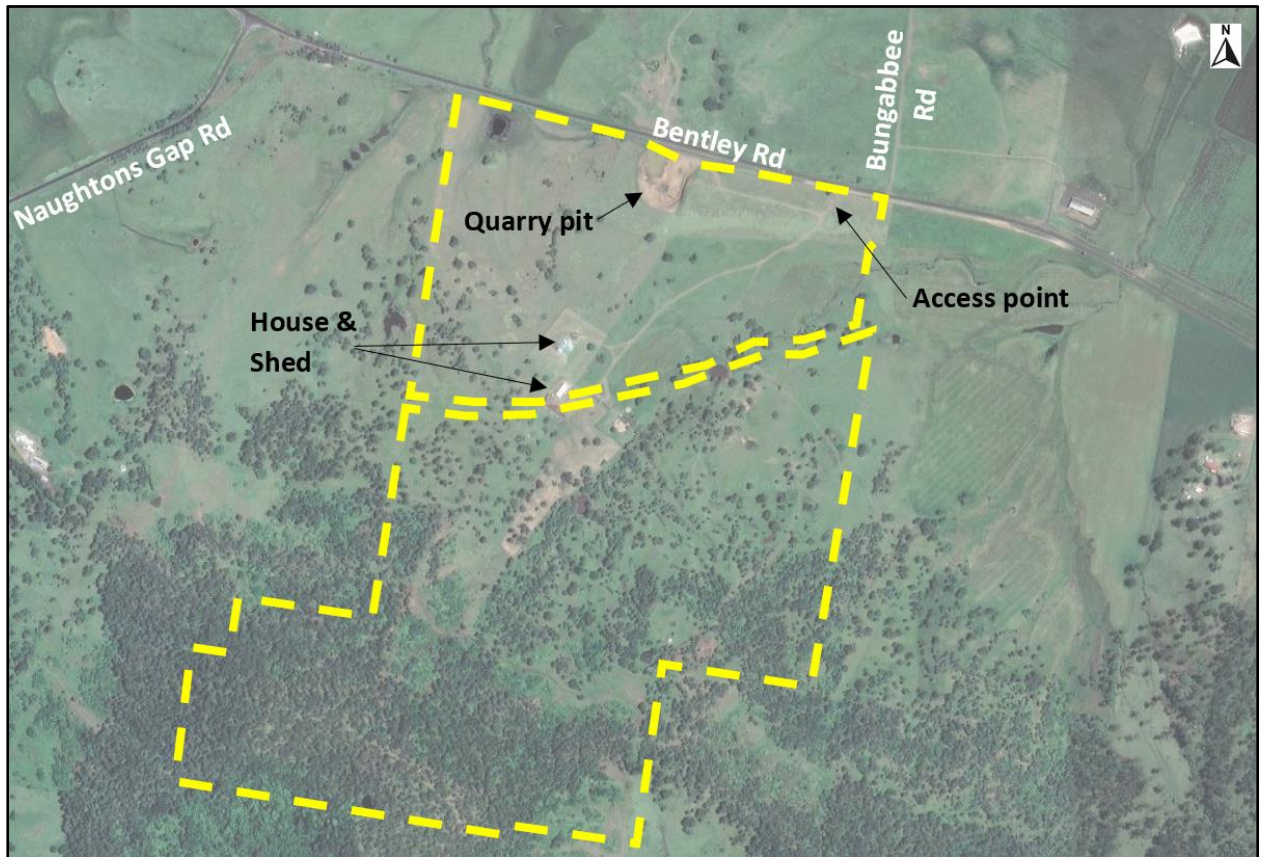
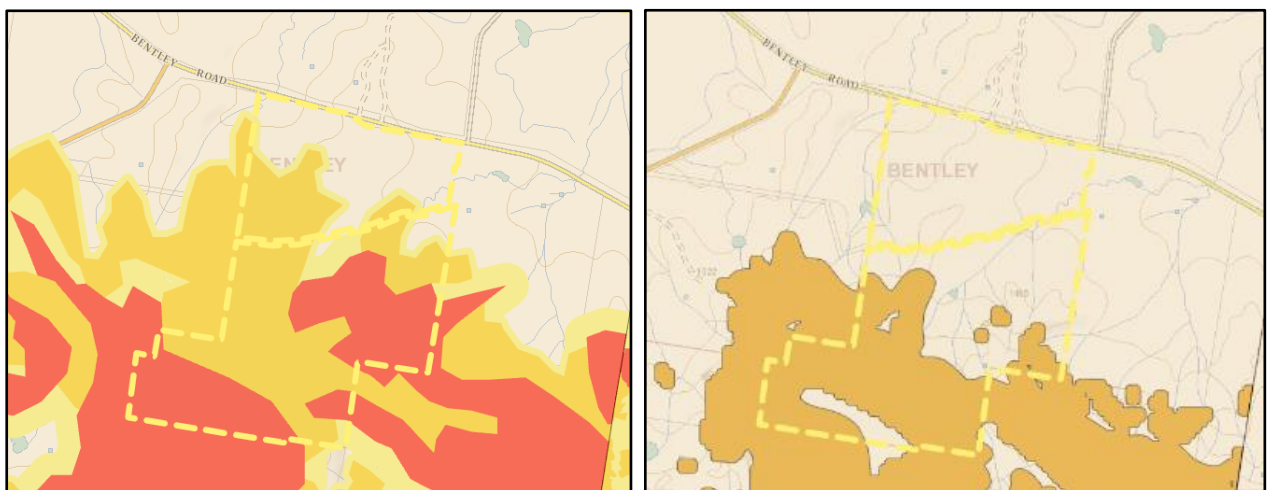


Figure 3 – Site Plan

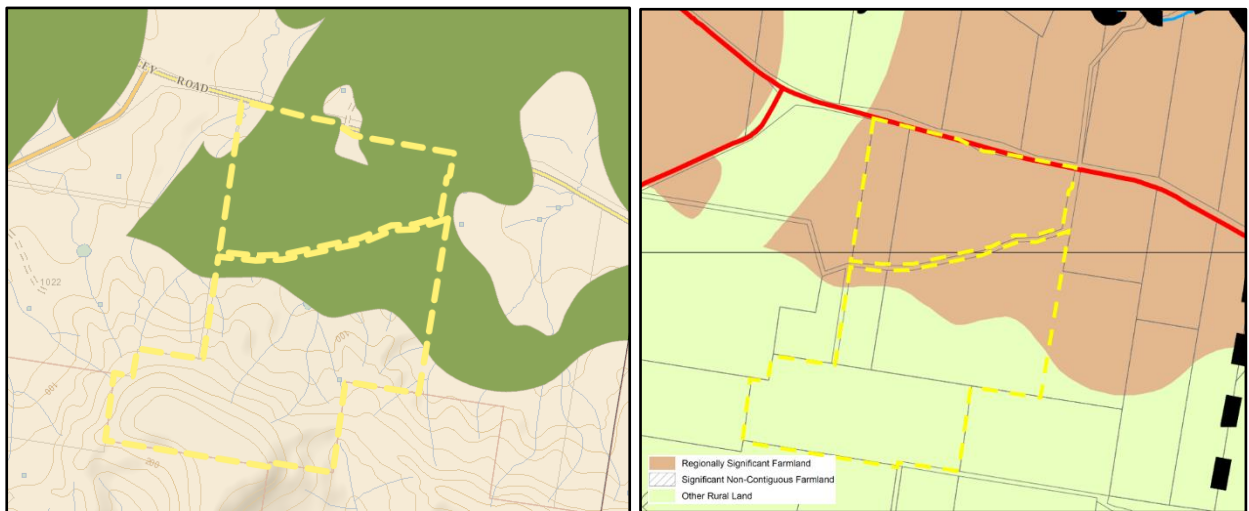


Figures 4 & 5 – Left to right – Bushfire Prone Land and Landslide Risk





Figures 6 to 7 – Left to right – Terrestrial Biodiversity and Biodiversity Values



Figures 8 and 9 – Left to right – Biophysical Strategic Agricultural Land and Regionally Significant Farmland

### 1.3 Site History

The subject site has been impacted by previous quarry operations dating back to the early 1970. In recent times the quarry has been operating under existing use rights, which allowed an extraction rate of 3,000m<sup>3</sup> per annum and an extraction area of approximately 1 hectare.

Based on historic google imagery, the current extent of the quarry, including the northern face, was developed in late 2020 or early 2021.

A Development Application (DA2017/0139) for a farm shed and amenities building at the site was approved by Council on 19/01/2017. A subsequent Development Application (DA2017/0171) was approved by Council on 18/05/2017 for a residential dwelling at the site, with a garage and inground swimming pool. This 2017 development consent has been subject to two modifications approved on 05/12/2017 and 25/05/2018. Both approved developments have since been constructed on the site.

A further Development Application (DA2020/0187) seeking approval for remediation of an area accidentally excavated within the Bentley Road reserve immediately adjacent the subject site was approved by Council on 02/06/2022.



## 2. THE PROPOSAL AND BACKGROUND

### 2.1 The Proposal

The proposal seeks consent for the establishment and operation of a hard rock quarry and ancillary facilities on the subject site. The application is standalone and does not rely on the existing quarry operation.

Specifically, the proposal involves:

- Site Establishment
  - Progressive installation of environmental controls, including visual bunding, sediment and erosion controls and offset planting.
- Construction
  - Delineation of the site and stockpiling areas,
  - Construction of perimeter and site fencing,
  - Construction of the access road and intersection utilising stockpiled material within the existing quarry,
  - Construction of the access road and intersection with Bentley Road, including signage,
  - Construction of a site office, weighbridge and car parking area, and
  - Importation of clean soil for construction of visual bunding.
- Operation
  - Vegetation clearance, soil stripping and stockpiling,
  - Blasting, crushing, screening and stockpiling of basalt material,
  - Importation of materials for blending,
  - Blending and precoating aggregate materials, and
  - Loading and haulage of aggregate materials.
- Site Closure
  - Closure and rehabilitation of the site.

The key development data is provided in **Table 1**.

**Table 1: Key Development Data**

Aspect	Proposal
Site area	137.4ha
Total disturbance area	6.5ha
Total extraction area	3.65ha
Extraction depth	RL49m
Max. annual extraction rate	300,000t
Max. daily extraction rate	2,000t
Resource	Basalt (90%) and Clay (10%)
Blasting	20,000-30,000 tonne shots

	Max. 1 blast per month
Max. annual importation rate (VENM, ENM and waste concrete)	50,000t (included as part of the proposed max. 300,000t rate)
Max. daily truck loads/movements	70/140
Max. hourly truck loads/movements	7/14
Hours of operation	Monday to Friday – 7am to 6pm Saturday – 7am to 2pm No work on Sundays or Public Holidays  Blasting Monday to Friday – 10am to 3pm
Workforce	Up to 5 staff at any time
Quarry life	30 years

The applicant expects the demand for materials will be on average 100,000 tonnes per annum, however, approval is being sought for a maximum 300,000 tonnes per annum. This will allow flexibility for material to be supplied during periods of high demand, such as following flood events or supplying large construction projects in the local area.

The quarry pit would be developed in four stages (refer to Figures 11 and 12). Stage 1 would encompass the footprint of the existing quarry and expand to a depth of RL63m until the northern half of the proposed quarry footprint is exhausted. Stage 2 would continue at RL63m to the southern extent of the proposed quarry footprint. Stage 3 would involve lowering the northern half of the proposed quarry footprint to its final depth of RL49m, including construction of a drainage pipe through the western wall of the quarry to the discharge location. Stage 4 would involve continuing at a depth of RL49m to the southern extent of the proposed quarry.

It is proposed that the volume of material extracted from the quarry would be recorded using a loader with scales until the quarry is selling 100,000 tonnes of material per annum. Once the quarry reaches a sales volume of 100,000 per annum, it is proposed to install a weighbridge. Once installed, it is proposed to provide the weighbridge as a public weighbridge for private vehicle use.

Blasting would be undertaken by a suitably qualified blasting contractor, who would bring explosives to site, as required. No explosives would be stored on the site.

Contractors would be engaged to crush and screen the blasted material using a mobile crushing and screening plant, transported to the site for use on a campaign basis. No permanent processing plant is proposed as part of the application.

Extracted and screened material would be stockpiled in designated areas within the pit. Some imported materials may be stockpiled to the east of the pit, between the proposed screening bund and quarry face (refer to **Figure 11**). This importation of material is discussed further below.

Overburden is expected to be minimal, if any. Accordingly, the applicant proposes to import clean fill such as excavated natural material (ENM) and virgin excavated natural material (VENM) to construct the bunds as shown on **Figure 11**. Topsoil from Stage 1 would be stripped and used to assist stabilisation and vegetation of the bunds to the east and west of Stage 1. Prior to commencing Stage

2, topsoil from this area would then be stripped and used to stabilise and vegetate the remainder of the bunds. All bunds will be constructed prior to commencement of Stage 2.

Concrete waste and additional VENM is also proposed to be imported for blending with aggregate material.

The total volume of imported material is not expected to exceed 50,000 tonnes per annum. The volume of imported material would be included in the proposed maximum 300,000 tonne extraction rate and maximum daily truck movements.

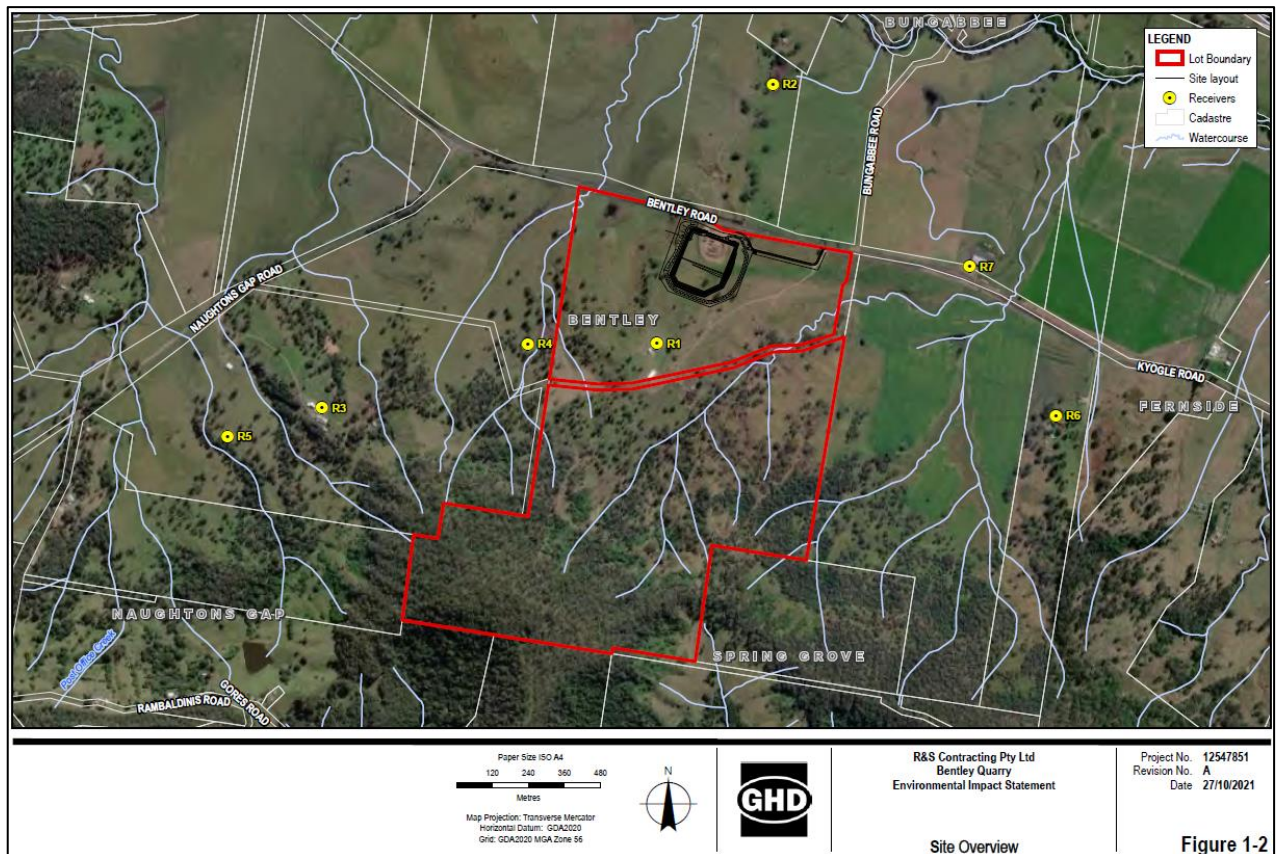
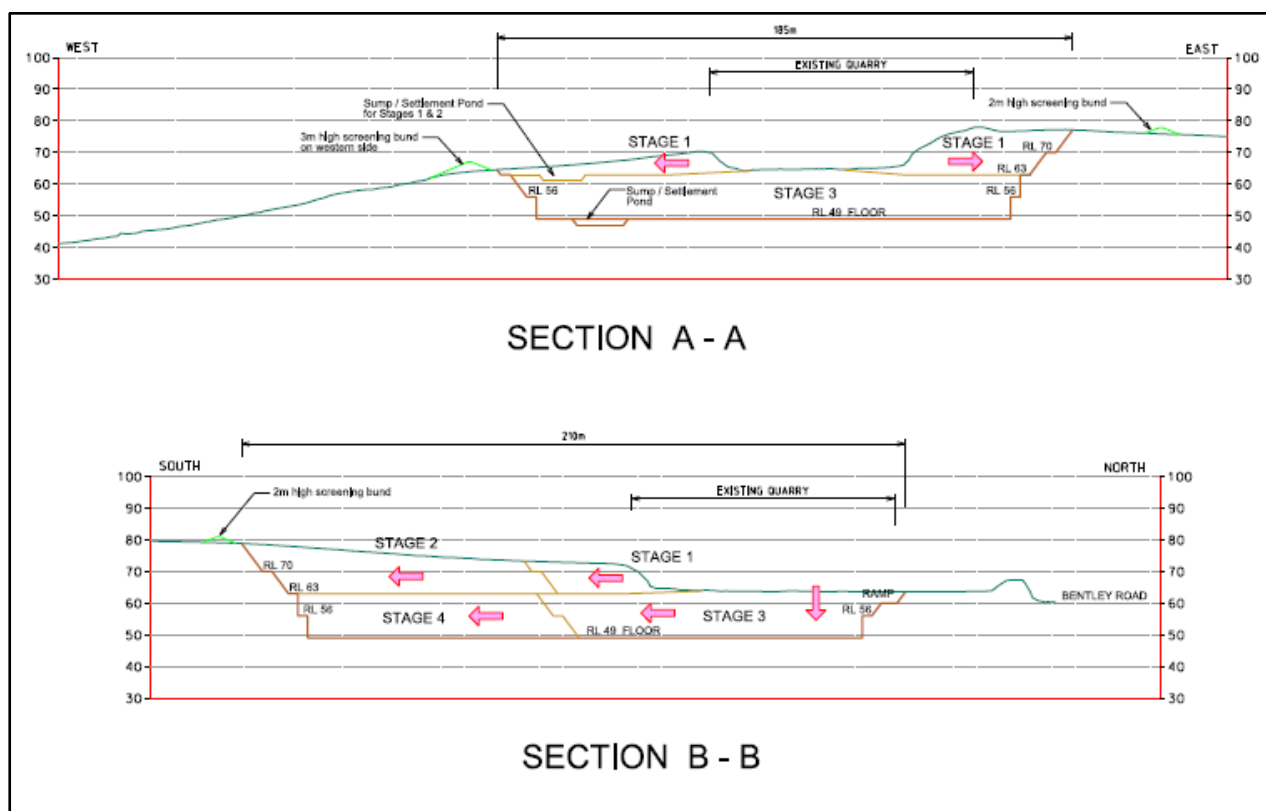
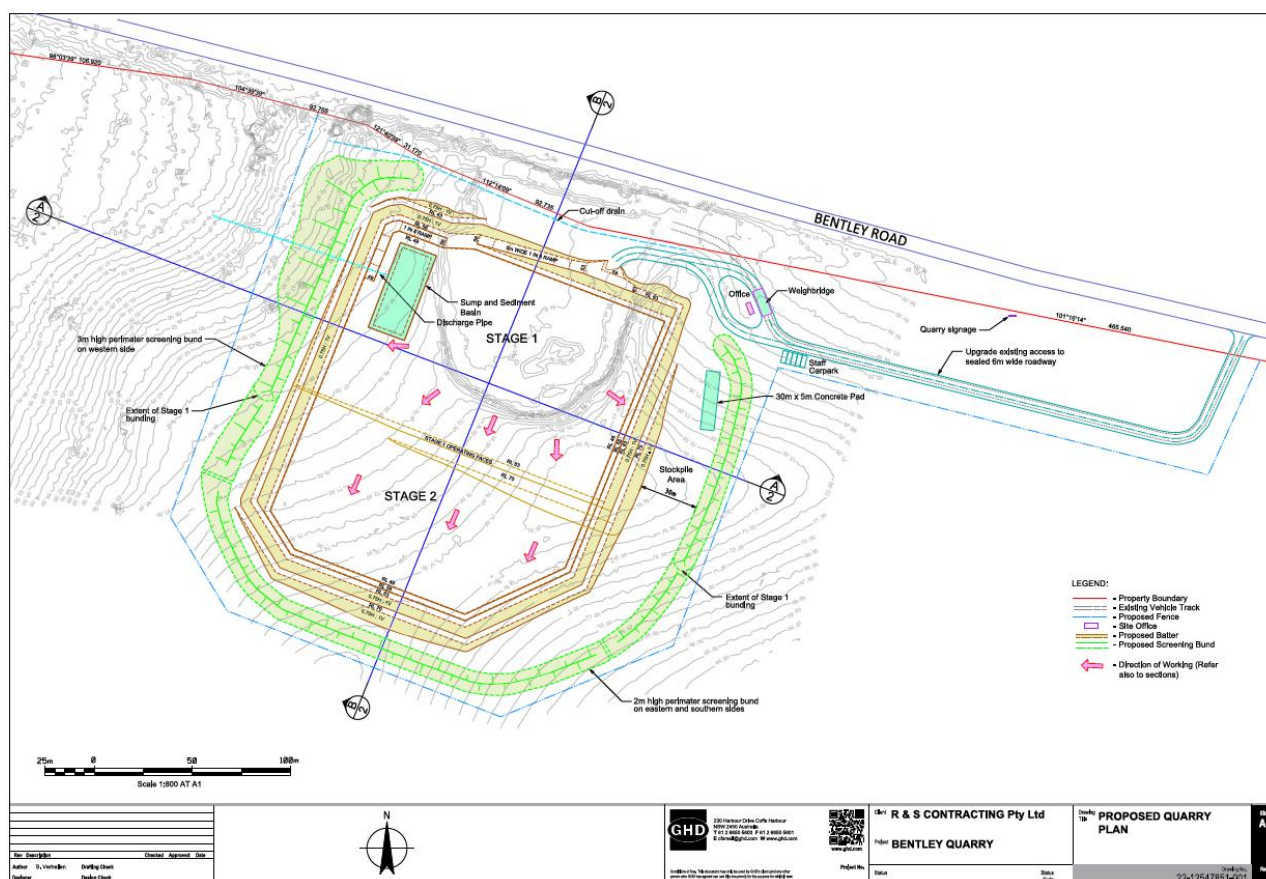


Figure 10 – Site Overview





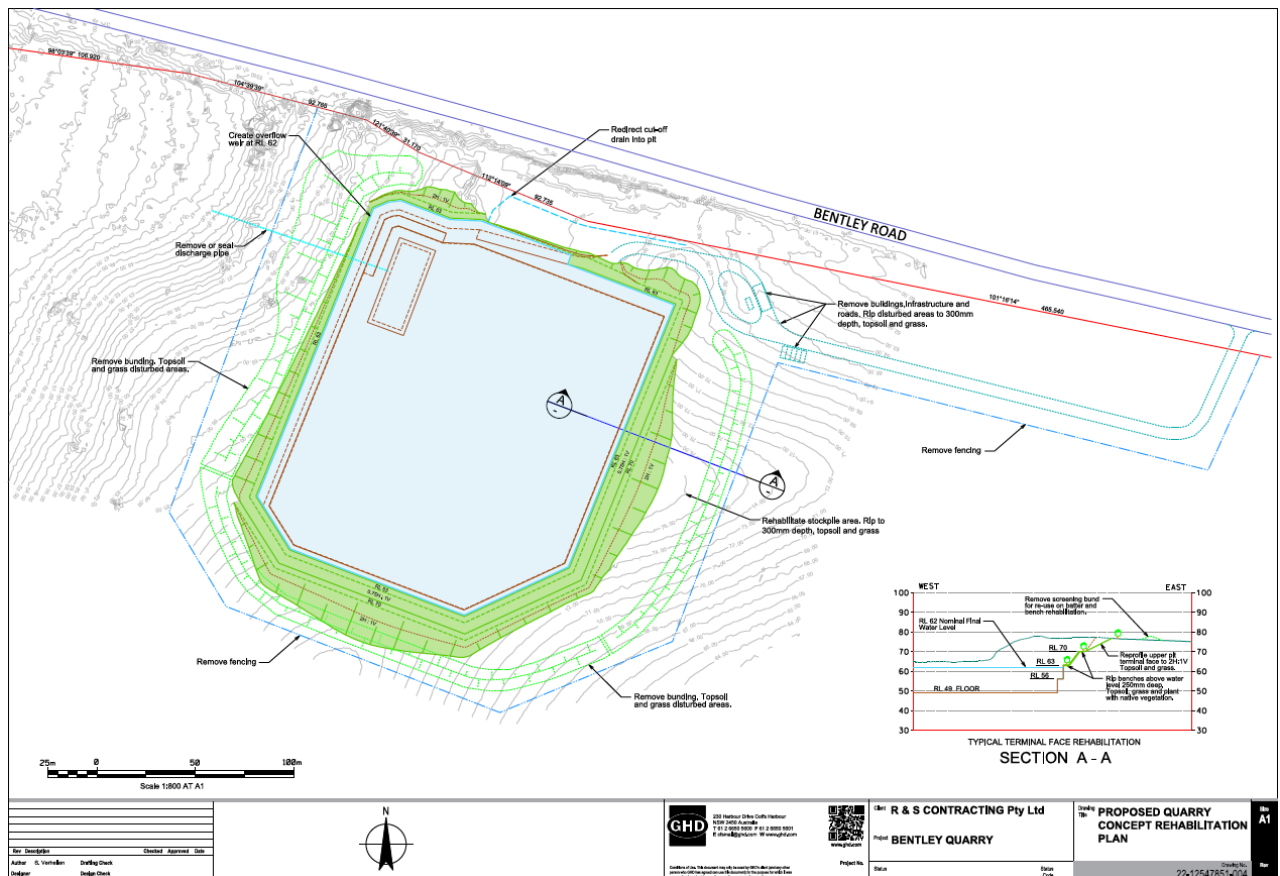


Figure 13 – Proposed Conceptual Rehabilitation Plan

## 2.2 Background

Two pre-lodgement meetings were held between the applicant and Richmond Valley Council technical staff on 18 March 2021 and 28 October 2021. A summary of the advice provided and how matters have been addressed under the proposal is outlined below. It was noted that:

- Referral to the EPA, TfNSW, Water NSW, DPI, Lismore City Council and Kyogle Council, was anticipated.
  - The application was subsequently referred to the listed parties on 2 December 2021.
- Heavy haulage contributions were likely to be imposed in accordance with Council's Heavy Haulage Contributions Plan 2013.
  - The EIS includes a proposed mitigation measure for the applicant to pay contributions in line with Council's Heavy Haulage Contributions Plan 2013.
- A Traffic Impact Assessment was required to support the application. Council also noted that an upgrade to the existing Bentley Road/site access intersection may be required and a Section 138 permit would be required for any proposed works within the road reserve.
  - The EIS was accompanied by a Traffic Impact Assessment, including a proposed Bentley Road/site access intersection upgrade design.
- Any proposed clearing of vegetation would require assessment under the *Biodiversity Conservation Act 2016*.
  - The EIS was accompanied by a Biodiversity Assessment Report examining the proposal against relevant statutory requirements including the *Biodiversity Conservation Act 2016* and *Environmental Protection and Biodiversity Conservation Act 1999*.

- A further Biodiversity Assessment Report addendum was provided in response to community submissions.
- Noise, blasting and air quality impacts would require detailed assessment.
  - The EIS was accompanied by a Noise Impact Assessment and Air Quality Impact Assessment providing consideration of noise, blasting and air quality impacts.
  - Addendum Noise and Air Quality Impact Assessments were submitted, providing consideration of noise, blasting and air quality impacts on an additional sensitive residential receiver at Lot 10 DP 1065523, which was approved by way of complying development certificate following lodgement of the EIS (shown as residence B on **Figure 2**).
- The impact on regionally significant farmland would need to be considered in the EIS
  - The EIS includes consideration of the impact on regionally significant farmland.
- A visual impact analysis should be undertaken and screening vegetation along Bentley Road considered to assist in reducing visual amenity impacts
  - The EIS includes consideration of visual amenity, including views from Bentley Road.
- The development application must detail all proposed onsite facilities such as a weighbridge, amenities, office, crushing plant etc.
  - The EIS includes detail on all proposed onsite facilities.

The Development Application was lodged on 19 November 2021. A chronology of the development application since lodgement is outlined below including the Panel's involvement (briefings etc) with the application:

**Table 2: Chronology of the DA**

Date	Event
<b>20 July 2021</b>	Planning Secretary's Environmental Assessment Requirements Issued
<b>19 November 2021</b>	DA lodged
<b>2 December 2021</b>	DA referred to external agencies
<b>13 December 2021</b>	Exhibition of the application (start)
<b>1 February 2022</b>	Exhibition of the application (finish)
<b>11 March 2022</b>	Request for Information (RFI) No.1 from Council to Applicant
<b>20 April 2022</b>	Panel briefing
<b>28 April 2022</b>	RFI No.2 from Council to applicant, on behalf of Water NSW
<b>3 May 2022</b>	Response to RFI No.2 submitted to Council and provided to Water NSW
<b>25 May 2022</b>	<p>Response to the RFI No.1 submitted and accepted by Council under CI 55 of the Regulation on 7 June 2022.</p> <p>The RFI response included:</p> <ul style="list-style-type: none"> <li>• Response to submissions</li> </ul>

	<ul style="list-style-type: none"> <li>• Updated reports: <ul style="list-style-type: none"> <li>○ Noise Impact Assessment</li> <li>○ Air Impact Assessment</li> <li>○ LUCRA</li> <li>○ Visual Images</li> <li>○ Biodiversity Assessment</li> </ul> </li> <li>• New reports: <ul style="list-style-type: none"> <li>○ Bushfire Assessment</li> <li>○ Contamination Assessment</li> <li>○ Wastewater Assessment</li> </ul> </li> </ul> <p>Proposed amendments include:</p> <ul style="list-style-type: none"> <li>• A noise wall at the site entrance, if sensitive receiver 'B' is constructed (refer to <b>Figure 3</b>);</li> <li>• A noise wall and visual screen on the northern side of the quarry, if sensitive receiver 'C' is occupied (refer to <b>Figure 3</b>);</li> <li>• Relocation of the proposed offset area;</li> <li>• Providing a variety of nest box sizes for bat and arboreal mammals;</li> <li>• Restricting traffic speeds within the quarry to 50km/hr; and</li> <li>• Inclusion of a toilet in the site office and onsite effluent management system.</li> </ul>
<b>29 July 2022</b>	Draft conditions provided to the Applicant

### 3. STATUTORY CONSIDERATIONS

When determining a Development Application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the Environmental Planning and Assessment Act 1979 ('EP&A Act'). The matters of relevance to the Development Application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is considered to be (which are considered further in this report):

- Integrated Development (s4.46)
- Designated Development (s4.10)
- Requiring concurrence/referral (s4.13)

Pursuant to Clause 3 in Schedule 6 of the *Environmental Planning and Assessment Regulation 2021* (EP&A Regulation 2021), the *Environmental Planning and Assessment Regulation 2000* (EP&A

Regulation 2000) continues to apply instead of the EP&A Regulation 2021 to Development Applications submitted but not finally determined before 1 March 2022. Consequently, the Development Application has been assessed against the relevant legislation at the time of lodgement.

### 3.1 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

As noted earlier, the Development Application was prepared and submitted prior to commencement the consolidation of State Environmental Planning Policies which came into effect on 1 March 2022. For consistency with the EIS, this assessment refers to the former SEPPs.

The following Environmental Planning Instruments are relevant to this application:

- State Environmental Planning Policy (State and Regional Development) 2011;
- State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008;
- State Environmental Planning Policy No. 33 – Hazardous and Offensive Development;
- State Environmental Planning Policy No. 55 – Remediation of Land;
- State Environmental Planning Policy (Koala Habitat Protection) 2020;
- Draft State Environmental Planning Policy (Remediation);
- Draft State Environmental Planning Policy (Environment); and
- Richmond Valley Local Environmental Plan 2012.

A summary of the key matters for consideration arising from these Environmental Planning Policies are outlined in **Table 3** and considered in more detail below.

**Table 3: Summary of Applicable State Environmental Planning Policies**

EPI	Matters for Consideration	Comply (Y/N)
State and Regional Development SEPP	<ul style="list-style-type: none"> <li>• <b>Clause 20(1)</b> declares the proposal as regionally significant development pursuant to Clause 7 of Schedule 7, being development for the purpose of extractive industries, which meets the requirements for Designated Development under Clause 19 of Schedule 3 of the EP&amp;A Regulation 2000.</li> </ul>	Y
Mining, Petroleum Production & Extractive Industries SEPP	<ul style="list-style-type: none"> <li>• Extractive industries are permitted with consent on land on which development for the purposes of agriculture or industry may be carried out (with or without development consent).</li> <li>• The site is zoned as RU1 Primary Production. Agriculture is permissible with or without consent in this zone. Extractive industries are also explicitly listed as being permitted with consent in the zone.</li> <li>• <b>Part 3</b> - requires consideration of a range of matters including: <ul style="list-style-type: none"> <li>○ Compatibility with other land uses,</li> <li>○ Natural resource management and environmental management,</li> <li>○ Resource recovery,</li> <li>○ Transport, and</li> </ul> </li> </ul>	Y



	<ul style="list-style-type: none"> <li>○ Rehabilitation.</li> <li>• These matters have been considered in the EIS. The assessment concludes that the site is suitable, the project responds to a recognised need for resources, it has direct access to the regional road network and potential impacts can be appropriately mitigated.</li> </ul>	
Infrastructure SEPP	<ul style="list-style-type: none"> <li>• The site has direct access to Bentley Road, a classified regional road (MR544).</li> <li>• <b>Clause 101</b> - The consent authority must not grant consent to development on land that has frontage to a classified road unless it is satisfied regarding the safety, efficiency and ongoing operation of the classified road.</li> <li>• A Traffic Impact Assessment prepared by GHD was submitted as part of the development application (refer to Appendix K of the EIS).</li> <li>• The assessment concludes that the proposed operations are expected to have minimal impact on the capacity, safety and traffic on the local road network.</li> <li>• <b>Clause 104(3)</b> - requires referral to the Road and Maritime Services for traffic generating development specified in Schedule 3.</li> <li>• Extractive Industries are not listed as traffic generating development under the SEPP; however, the application was referred to the Roads and Maritime Services pursuant to <i>State Environmental Planning Policy (Mining, Petroleum and Extractive Industries) 2007</i>.</li> <li>• Transport for NSW recommends that Council give consideration to requiring the operator to prepare and implement a Traffic Management Plan.</li> </ul>	Y
SEPP 33	<ul style="list-style-type: none"> <li>• SEPP 33 requires the consent authority to consider whether an industrial proposal is a potentially hazardous industry or a potentially offensive industry.</li> <li>• The proposed development is not considered to be hazardous or offensive development and appropriate site management controls would be implemented to mitigate risks.</li> </ul>	Y
SEPP 55	<ul style="list-style-type: none"> <li>• <b>Clause 7</b> - Contamination and remediation is to be considered in determining the Development Application.</li> <li>• Community submissions identified that the site was formerly used over a period of about 2 decades for a commercial crop-dusting operation, including an air depot and aviation fuelling.</li> <li>• A Detailed Site Investigation ('DSI') has been prepared for the site in response to community submissions.</li> <li>• The assessment concluded that the site is considered suitable from a contamination perspective for its intended use as a quarry.</li> </ul>	Y
Koala SEPP 2020	<p><b>Clause 7:</b> Step 1 - Is the land potential koala habitat?</p> <ul style="list-style-type: none"> <li>• Satisfactory evidence has been provided to determine that the land is potential koala habitat.</li> </ul> <p><b>Clause 8:</b> Step 2 - Is the land core koala habitat?</p>	Y

	<ul style="list-style-type: none"> <li>Satisfactory evidence has been provided to determine that the land is not core koala habitat. As such, a site-specific Koala Plan of Management is not required to be prepared.</li> </ul>	
Draft Remediation SEPP	<ul style="list-style-type: none"> <li>As outlined above, community submissions identified that the site was formerly used over a period of about 2 decades for a commercial crop-dusting operation, including an air depot, aviation fuelling.</li> <li>This former potentially contaminating land use was not identified in the assessment undertaken in the EIS.</li> <li>The applicant has prepared a Detailed Site Investigation ('DSI') in response to community submissions, which concluded the site is considered suitable for its intended use as a quarry.</li> </ul>	Y
Draft Environment SEPP	<ul style="list-style-type: none"> <li>The proposed development is not relevant to the existing SEPPs to be repealed and replaced by this draft SEPP and is not located in an area of critical or potential habitat according to the draft mapping.</li> <li>Therefore, the proposed development is compliant with the draft provisions of the proposed Environment SEPP.</li> </ul>	Y
Richmond Valley LEP 2012	<ul style="list-style-type: none"> <li>The site is zoned as RU1 Primary Production. Extractive industries are permissible with consent in this zone.</li> <li>Relevant provisions of the Richmond Valley LEP include the following: <ul style="list-style-type: none"> <li>Clause 5.21 Flood Planning</li> <li>Clause 6.2 Essential Services</li> <li>Clause 6.3 Earthworks</li> <li>Clause 6.6 Terrestrial Biodiversity</li> <li>Clause 6.7 Landslide Risk</li> </ul> </li> </ul>	Y

*State Environmental Planning Policy (State and Regional Development) 2011*

*State Environmental Planning Policy (State and Regional Development) 2011* (SRD SEPP) identifies what development is classified as regionally significant development. Pursuant to Clause 20(1) of SRD SEPP, the proposal is a regionally significant development as it satisfies the criteria listed in Clause 7(a) of Schedule 7 of the SRD SEPP, given:

- the proposal is development for extractive industries; and
- is classified Designated Development under clause 19 of Schedule 3 to the *Environmental Planning and Assessment Regulation 2000*.

The proposed development meets the requirements for Designated Development under clause 19 of Schedule 3, being an extractive industry that:

- obtains or processes for sale, or reuse, more than 30,000m<sup>3</sup> of extractive material per year; and
- will disturb a total surface area of more than 2 ha of land by clearing or excavating.

Accordingly, the Northern Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

*State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*

In recognition of the importance to NSW of extractive industries, the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007* provides a suite of provisions aimed to ensure the proper management and development of mineral, petroleum and extractive materials resources. This policy aims to manage and sustainably develop these resources for the social and economic benefit of the community.

Under Clause 7 of this policy, development for the purpose of extractive industry is permissible with development consent on land on which development for the purposes of agriculture or industry may be carried out (with or without development consent). Agriculture is permissible within the RU1 Primary Production zone (in accordance with the *Richmond Valley Local Environmental Plan 2012*), meaning extractive industry is permissible with development consent under this policy.

It is noted that the site is not identified in Schedule 1 of this policy, which specifies land on which extractive industries are prohibited.

Clause 12 of this policy provides specific heads of consideration relating to compatibility of proposed extractive industry with other land uses, requiring the consent authority consider the compatibility of the proposed extractive industry with the surrounding land uses – both existing land uses and likely future preferred uses.

As described in Section 1.1 of this report, the existing surrounding land uses are generally limited to rural industries, predominately grazing with some cropping on the lower river flats and agri-tourism ventures.

The nearest off-site residential dwelling (currently constructed) is the Disputed Plains Homestead about 650m north of the quarry. The homestead is of local heritage significance and currently unoccupied. A new proposed residence recently approved by way of complying development certificate is located about 400m northeast of the quarry. This residence is yet to be constructed. A further nominated dwelling site approved as part of development application DA2022/0015 is located about 600m west of the proposed quarry. A commercial farm shed is also located about 750m east of the proposed quarry.

The subject site and surrounding land is zoned RU1, with a minimum lot size of 40ha, indicating that any significant intensification is unlikely to occur in the near future. Environmental assessment through the EIS included modelling of noise, blasting and dust impacts on nearby receptors. The modelling determined that the quarry could operate without causing significant amenity impacts to these nearest residences.

The local topographic variation, remnant vegetation, proposed perimeter bunding and nature of the quarry development (extending below the topography rather than cutting into the side) provide effective shielding of the development from neighbouring properties and Bentley Road. Furthermore, traffic generated by the project is expected to have minimal impact on the capacity, safety and traffic on the local network.

Accordingly, the proposed development is considered to be compatible with existing and likely future surrounding land uses.

Clause 14 of this policy provides specific heads of consideration relating to natural resource management and environmental management.

The Water Resource Assessment and Biodiversity Assessment Report submitted with the EIS demonstrate that the proposed development would be undertaken in an environmentally responsible manner that would ensure impacts on water resources, threatened species and biodiversity are minimised to be greatest extent practicable. The EIS and supporting studies include environmental management measures that are generally supported by Council staff and external referral agencies that will ensure minimal impacts.

Assessment of greenhouse gas emissions associated with the construction and operation of the proposal was also undertaken as part of the EIS. Greenhouse gas emissions will be limited to the emissions from fuel consumption of plant and vehicles, as well as vegetation removal. The extraction process is not considered a greenhouse gas emitting activity. Given the scale of the proposed operation, it is considered that there will be no significant impact with regard to greenhouse gas emissions.

Clause 15 of this policy provides specific heads of consideration relating to resource recovery requiring the consent authority to consider the efficiency or otherwise of the development in terms of resource recovery.

The proposed quarry will extract the hard rock resource, comprising 90% basalt and 10% clay, in an orderly and efficient manner over a period of 30 years, taking into account site environmental constraints. The site is relatively clear of vegetation and is located in a rural area where extractive industries are permissible, adjacent to a regional classified road, reducing the potential disturbance to sensitive receivers.

Clause 16 of this policy provides specific heads of consideration relating to transport as well as requiring consultation with Transport for NSW and the local road authority (Richmond Valley Council).

The extractive materials will be removed from the site via truck haulage. The capacity of Bentley Road has been assessed as being capable to accommodate the increase by Transport for NSW and Council's traffic engineers. There is no viable alternative to remove the extractive material from the site other than via truck haulage.

The application was referred to Transport for NSW who provided commentary in relation to the subject proposal on 18 January 2022, raising no objection and advising:

- support of the Traffic Impact Assessment recommendation to install Austroads channelised right turn; and
- recommending a condition requiring the applicant prepare and implement a Traffic Management Plan supported by a Driver Code of Conduct.

A condition of consent has been recommended in accordance with the recommendation from Transport for NSW.

Clause 17 of this policy provides specific heads of consideration requiring the consent authority to consider the imposition of conditions relating to rehabilitation.

As outlined in the EIS, it is unknown if the quarry would be fully exhausted as proposed at this stage, so the final landform is also unknown. However, it is expected that if the quarry progresses below a depth of RL63 m, the pit will fill with water over time. A list of objectives for any rehabilitation is provided in the EIS and rehabilitation works are proposed to be undertaken in accordance with the Proposed Quarry Concept Rehabilitation Plan prepared by GHD.



To ensure rehabilitation is completed, the applicant has also proposed in the EIS, establishment of a rehabilitation account, where \$0.05 per tonne of material sold will be deposited and dedicated for rehabilitation purposes.

Conditions of consent are proposed requiring the submission of a Quarry Closure Strategy at least 5 years prior to cessation of quarry operations and establishment of the rehabilitation account.

*State Environmental Planning Policy (Infrastructure) 2007:*

The aim of the *State Environmental Planning Policy (Infrastructure) 2007* (Infrastructure SEPP) is to facilitate the effective delivery of infrastructure across NSW by identifying matters to be considered in the assessment of development adjacent to particular types of infrastructure development. The SEPP also outlines consultation requirements with relevant public authorities for certain proposed works.

In accordance with Clause 101 of the Infrastructure SEPP, a consent authority must not grant consent to development on land that has a frontage to a classified road unless it is satisfied regarding the safety, efficiency and ongoing operation of the classified road.

Furthermore, Clause 104(3) of the Infrastructure SEPP requires referral to the Road and Maritime Services for traffic generating development specified in Schedule 3. While extractive Industries are not listed as traffic generating development under Schedule 3 of the SEPP, the application was referred to the Roads and Maritime Services pursuant to *State Environmental Planning Policy (Mining, Petroleum and Extractive Industries) 2007*.

The project site is located on and has direct access to Bentley Road, a 2-way, line marked and sealed road with a speed limit of 100 km/h in the vicinity of the site. Bentley Road is a classified regional road (MR544) for which Richmond Valley Council is the Roads Authority pursuant to Section 7 of the *Roads Act 1993*.

A Traffic Impact Assessment prepared by GHD was submitted as part of the Development Application. The assessment concluded that traffic generated by the project is expected to have minimal impact on the capacity, safety and traffic on the local network. Nevertheless, turn treatments at the site access road are required.

The assessment proposes intersection upgrade works involving construction of a channelised right turn treatments for the right turn from Bentley Road to the site access road and an auxiliary left-turn short lane.

Transport for NSW reviewed the application and advised that it supports the Traffic Impact Assessment recommendation to install Austroads channelised right turn and auxiliary left turn treatments at the quarry access. These treatments should be designed to accommodate the deceleration and storage length for relevant design vehicles.

Transport for NSW further recommended a condition be applied, requiring the applicant prepare and implement a Traffic Management Plan, supported by a Driver Code of Conduct and including procedures for travel through residential areas, school zones and/or bus routes. A condition of consent has been recommended in accordance with the recommendation from Transport for NSW.

It is noted that the concurrence of Transport for NSW is required prior to Council's approval of works on regional roads under Section 138(2) of the *Roads Act 1993*. Accordingly, a recommended condition

has been included within the draft schedule to provide transparency regarding the need for concurrence (refer to **Attachment A**).

*State Environmental Planning Policy No. 33 – Hazardous and Offensive Development:*

In accordance with *State Environmental Planning Policy No. 33 – Hazardous and Offensive Development* (SEPP 33), Council must consider whether a development is a potentially hazardous or offensive development. The aim of this policy is to link the permissibility of a proposal to its safety and pollution control performance.

Extractive industries have the potential to be hazardous or offensive development by the nature of their operations.

An industry is potentially hazardous industry based on the quantity of dangerous goods involved in the proposal and the distance of these materials from the site boundary. If a project proposes to store quantities of hazardous goods below relevant thresholds it can be assumed there is unlikely to be a significant off-site risk and the proposal is therefore not classified as 'potentially hazardous industry'.

Small quantities of hazardous materials are likely to be held or used onsite during operations including fuel, other hydrocarbons, along with lubricating oils and greases. The proposed development does not propose storage of any explosives onsite. A suitably qualified blasting contractor would bring explosives to site as required. Likewise, no fuel would be stored onsite. Mobile plant refuelling would take place on site from a portable fuel truck with a capacity of up to 10,000 litres, as required.

A condition of consent is recommended that such materials be stored, handled and transported in accordance with the relevant Australian Standards, particularly AS 1940 and AS 1596, and the Dangerous Goods Code. It is considered that the development is not a 'potentially hazardous' industry requiring a preliminary hazard analysis to be provided to support the application.

The proposed operations will require an Environment Protection Licence (EPL) as extractive industries are listed in Schedule 1 of the POEO Act and as such the development is considered to be 'potentially offensive development'. However, it is recognised that if an EPL can be obtained for a development, the development is not considered to be an 'offensive industry'

Subject to approval being granted, the applicant will apply to the NSW Environment Protection Authority (EPA) for an EPL for the proposed operations. The proposed operations are consistent with other extractive industry operations in the region, and as such, it is considered that an EPL will be granted for the proposed operations. Furthermore, the EPA has reviewed the application and has determined that it is able to issue a licence for the proposal, subject to a number of conditions. Therefore, the proposed operations are not an offensive industry and SEPP 33 does not apply.

*State Environmental Planning Policy No. 55 – Remediation of Land:*

The provisions of *State Environmental Planning Policy 55 - Remediation of Land* (SEPP 55) have been considered in the assessment of the Development Application. Clause 7(1) of SEPP 55 requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, whether the land is suitable for the purpose for which the development is proposed to be carried out, with or without remediation.

During the exhibition process, some public submissions indicated part of the proposed quarry site was historically used as a crop-dusting airstrip. Planes were reportedly refuelled and loaded with chemicals on the site. To consider this, a Detailed Site Investigation ('DSI') has been prepared for the site.

A selection of historical aerial photographs was examined to assess past activities and land uses at the site. Photographs were examined from the years 1958, 1971, 1979, 1987, 1991, 1997, 2009, 2016 and 2021 with a 150m buffer around the site. The photographs showed the site was cleared prior to 1958 and primarily appears to have been used for grazing since this time. A quarry was established along the northern boundary and on the northern side of Bentley Road prior to 1971. The concrete pad, reportedly associated with the airstrip was evident in the 1987 photograph. The airstrip itself is not clear in any of the historical aerial photographs but based on anecdotal evidence and a slightly different colour in the grass, it is assumed the airstrip ran in an easterly direction from the concrete pad.

Potential sources of contamination associated with historical activities at the site include:

- Historical fuel and chemical storage and dispensing, associated with the former airfield;
- Pesticide and/or herbicides use from agricultural activities; and
- Hydrocarbon impacts from spills and leaks associated with quarry and farm machinery.

Soil samples were taken and analysed from 30 locations targeting the former air strip, quarry and surrounding area.

No staining or odours were detected nor was any asbestos observed during a site inspection and laboratory results showed no exceedances of the adapted assessment criteria.

The assessment concluded that based on this investigation, the site is considered suitable without remediation for its intended use as a quarry.

#### *State Environmental Planning Policy (Koala Habitat Protection) 2020:*

The aim of *State Environmental Planning Policy (Koala Habitat Protection) 2020* (Koala SEPP) is to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

A Biodiversity Assessment Report prepared by GHD was submitted as part of the development application. The assessment indicates that a Schedule 2 tree species, the *Eucalyptus tereticornis* (Forest Red Gum) occurs in the study area and constitutes at least 15% of the total number of trees in the upper or lower strata. On this basis, potential Koala habitat does occur within the proposed disturbance area.

Despite targeted surveys, including SAT surveys and nocturnal surveys, no Koalas were identified within the impact area. The Biodiversity Assessment Report concludes:

- Koala's may occur within the locality and there is possibility that individuals may intermittently occur within the impact area in order to move and access greater quality habitat in the locality, though it is unlikely that the impact area is 'core habitat' for Koalas;
- it is unlikely that the proposed disturbance area contains 'critical Koala habitat' which would be important to the recovery objectives for the species within the locality; and
- the proposal does not contain 'core Koala habitat' and in accordance with Circular B35, the Koala SEPP requires no further consideration.

Based on these findings it appears evident that a Koala Plan of Management is not necessary in this instance.

#### Richmond Valley Local Environmental Plan 2012

The relevant local environmental plan applying to the site is the *Richmond Valley Local Environmental Plan 2012* (the LEP). The LEP aims to encourage the proper management, development and conservation of natural and man-made resources and to ensure that suitable land for beneficial and appropriate uses is made available as required.

The proposal is consistent with these aims as the proposal provides for the efficient, appropriate and reasonable extraction of the basalt and clay resource.

#### *Zoning and Permissibility (Part 2)*

The site is located within the RU1 Primary Production zone pursuant to Clause 2.2 of the LEP Land Zoning Map - Sheet LZN\_005 (refer to **Figure 14**).

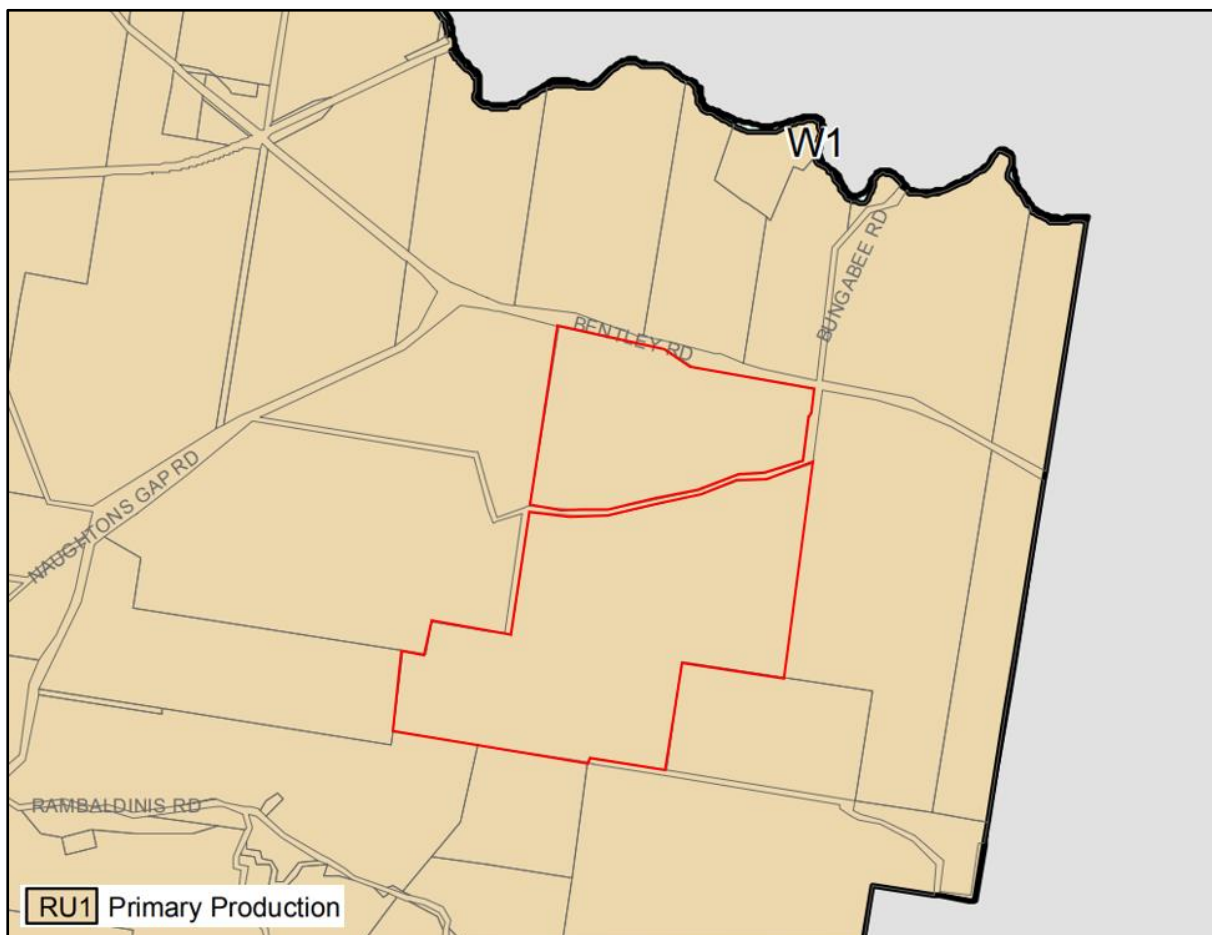


Figure 14 – Exert from Land Zoning Map - Sheet LZN\_005

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of extractive industry which is a permissible use with consent in the RU1 Land Use Table.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To ensure that development does not unreasonably increase the demand for public services or public facilities.

The proposal is considered to be consistent with these zone objectives for the following reasons:

- It does not impede sustainable primary production on the site or neighbouring properties;
- It provides diversity in suitable primary industry enterprises on the site and within the local area;
- It does not cause fragmentation or alienation of resource lands;
- It incorporates mitigation measures to minimise potential conflict between land uses; and
- It does not increase demand for public services or public facilities.

#### *General Controls and Development Standards (Part 2, 4, 5 and 6)*

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in Table 4 below.

**Table 4: Consideration of the LEP Controls**

Control	Requirement	Proposal	Comply
Flood Planning (CI 5.21)	Development within the flood planning area must be compatible with the flood function and behaviour on the land, not adversely affect flood behaviour, affect the safe occupation and efficient evacuation of people etc.	The property is not affected by flood. The proposed development is not considered to have any impacts on flood behaviour and characteristics, evacuation routes or the environment during flood events.	Yes
Essential Services (CI 6.2)	Essential services for the proposed development must be available or adequate arrangements in place to make them available when required, including — <ul style="list-style-type: none"> <li>• the supply of water,</li> <li>• the supply of electricity,</li> <li>• the disposal and management of sewage,</li> <li>• stormwater management,</li> <li>• suitable road access.</li> </ul>	<ul style="list-style-type: none"> <li>• <b>Water</b> – No changes to the existing water supply is proposed.</li> <li>• <b>Electricity</b> – The proposal states that power is not required to operate the quarry initially including the site office, however, power will be extended within the site if the quarry is processing 100,000m<sup>3</sup> per annum and when an installation of a weighbridge is therefore warranted.</li> <li>• <b>Sewage</b> – The EIS proposed that toilet facilities for the proposed quarry development be provided by an existing farm shed, approved as part of</li> </ul>	Yes



		<p>DA2017/0139. This option is not supported by Council.</p> <ul style="list-style-type: none"> <li>• In response, an Onsite Sewage Management Design Report for dedicated worker amenities in the weighbridge office was submitted by the applicant as part of the Submissions Report.</li> <li>• <b>Stormwater</b> – A clean water management system is proposed, consisting of perimeter screening bunds to divert clean water runoff generated within the undisturbed areas upslope of the disturbance area.</li> <li>• <b>Access</b> – An upgrade of the existing intersection of the site access way and Bentley Road is proposed, with a channelised right-turn and auxiliary left-turn treatment. The site access way is proposed to be sealed to provide a stable trafficable surface and to minimise dirt being tracked onto Bentley Road.</li> </ul>	
Earthworks (CI 6.3)	Before granting development consent for earthworks, the consent authority must consider likely impacts and appropriate measures to avoid, minimise and mitigate impacts of the development.	<p>Proposed earthworks are considered ancillary to the primary use being extractive industry. Nevertheless, the impact of the proposed extraction works on drainage pattern, soils, amenity, relics and future use of the site has been undertaken. Runoff from disturbed areas will generally be contained within the void. Furthermore, perimeter bunds will be vegetated and divert upslope surface water flows around disturbed areas.</p> <p>The proposed quarry footprint is small (3.65ha), representing 2.5% of the lot (137.4ha) and provides a logical extension of the area already disturbed by previous quarrying activities (1ha in area).</p>	Yes

Terrestrial Biodiversity (CI 6.6)	Development within the terrestrial biodiversity area must consider any adverse impact on the condition, ecological value and significance of flora and fauna and consent must not be granted unless the development is designed and sited to avoid any significant adverse environmental impacts.	<p>The property includes areas mapped as terrestrial biodiversity (refer to <b>Figure 4</b>). These areas are outside the footprint of the proposed development.</p> <p>The proposed development area has been extensively cleared due to historical agricultural land uses and previous quarry operations.</p> <p>The development will require the removal of approximately 0.23 ha of native vegetation. About 5.72 ha of highly disturbed areas with no or limited native vegetation would also be impacted.</p> <p>The proposal is unlikely to lead to a significant impact on any threatened species and/or their habitat.</p> <p>Compensatory / offset planting of native trees species and replacement of hollows with nest boxes is proposed.</p>	Yes
Landslide Risk (CI 6.7)	Development within the landslide risk area must be compatible with the risk of landslide and consent must not be granted unless the development is designed and sited to avoid or mitigate that risk.	The property includes areas mapped as landslide risk (refer to <b>Figure 3</b> ). The proposed development is outside of the mapped landslide risk areas.	Yes
Riparian land and watercourses (CI 6.8)	Development on land identified as key fish habitat on the Riparian Land and Waterways Map must be compatible with the watercourses and consent must not be granted unless the development is designed and sited to avoid or mitigate that risk.	<p>No key fish habitat is identified on the land, however, it is mapped on adjoining land about 900m north and east of the development.</p> <p>The extraction area is only a little over 2.5% of the total lot (137.4ha) and is not considered to result in a significant impact on the flow regimes of downstream watercourses.</p> <p>The applicant will require an Environmental Protection Licence (EPL) for any discharge of water from the pit to Black</p>	

		Creek. The EPL will impose concentration limits to ensure offsite water quality is not adversely impacted.	
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### 3.2 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are several proposed instruments which have been the subject of public consultation under the EP&A Act, and which may be relevant to the proposal, including the following:

- Draft Remediation of Land SEPP; and
- Draft SEPP (Environment).

These proposed instruments are considered below:

#### Draft Remediation of Land SEPP

The Draft Remediation of Land SEPP was exhibited between 31 January and 13 April 2018. The draft Remediation of Land SEPP seeks to repeal and replace SEPP55 in relation to the management and approval pathways of contaminated land. It is proposed the new land remediation SEPP will:

- provide a state-wide planning framework for the remediation of land;
- maintain the objectives and reinforce those aspects of the existing framework that have worked well;
- require planning authorities to consider the potential for land to be contaminated when determining development applications and rezoning land;
- clearly list the remediation works that require development consent; and
- introduce certification and operational requirements for remediation works that can be undertaken without development consent.

The proposed development has been assessed against the provisions of SEPP55 through preparation of a Detailed Site Investigation, including soil sampling. The investigation concluded that the site is considered suitable, from a contamination perspective, for its intended use as a quarry. The proposal is satisfactory with regard for the provisions of draft Remediation of Land SEPP.

#### Draft SEPP (Environment)

The Draft Environment SEPP was exhibited between 31 October 2017 and 31 January 2018. Changes proposed include consolidating the following seven existing SEPPs:

- State Environmental Planning Policy No. 19 – Bushland in Urban Areas;
- State Environmental Planning Policy (Sydney Drinking Water Catchment) 2011;
- State Environmental Planning Policy No. 50 – Canal Estate Development;
- Greater Metropolitan Regional Environmental Plan No. 2 – Georges River Catchment;
- Sydney Regional Environmental Plan No. 20 – Hawkesbury-Nepean River (No.2-1997);
- Sydney Regional Environmental Plan (Sydney Harbour Catchment) 2005; and
- Willandra Lakes Regional Environmental Plan No. 1 – World Heritage Property.

This consolidated SEPP proposes to simplify the planning rules for a number of water catchments, waterways, urban bushland, and Willandra Lakes World Heritage Property.

The proposed development is not relevant to the SEPP chapters listed above and is not located in an area of critical or potential habitat according to the draft mapping. Therefore, the proposed development is compliant with the draft provisions of the proposed Environment SEPP.

### **3.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan**

The following Development Control Plan is relevant to this application:

- Richmond Valley Development Control Plan 2021 (the DCP).

The applicable DCP provisions are listed below:

- Part I-2 Development In, On, Over or Under a Public Road
  - All works and structures to be carried out or erected within a public road require approval under section 138 of the Roads Act 1993.
  - A condition of consent is proposed to ensure the necessary approvals are obtained prior to commencement of construction works in the road reserve.
- Part I-7 Noise Impact Assessment
  - A Noise and Vibration Impact Assessment prepared by GHD was submitted as part of the development application (refer to Appendix H of the EIS). The assessment indicates that noise levels due to operation of the quarry are expected to exceed criteria at 2 residential receivers (shown as A & C on Figure 9), by up to 2dB and 3dB respectively, during stage 1.
  - These exceedances are considered low risk as residential receiver 'A' is the quarry owner and residential receiver 'C' is the Disputed Plains homestead which is uninhabited. Furthermore, the applicant has a written agreement with the owner of Receiver 'C' to generate higher noise levels, a copy of which has been provided in the Response to Submissions documentation.
  - An updated Noise and Vibration Impact Assessment was submitted as part of the Submissions Report to address noise impacts upon a new approved but yet to be built residence located about 400m northeast of the quarry.
  - An exceedance of 4dB is indicated at the approved residence during all stages.
  - The amended Noise and Vibration Impact Assessment proposes a northern bund and eastern bund to mitigate noise impacts at receivers 'C' and 'B', to ensure compliance with the relevant criteria.
- Part I-11 Land Use Conflict Risk Assessment
  - A Land Use Conflict Risk Assessment (LUCRA) prepared by GHD was submitted as part of the Development Application (refer to Appendix E of the EIS).
  - The assessment determined that with appropriate mitigation measures in place, the risk of land use conflict with rural dwellings, agriculture and Bentley Road were considered acceptable and a low risk of conflict.
  - Potential conflict with the new residence shown as B on Figure 9 was not assessed as part of the EIS.
  - An updated assessment was submitted as part of the Submissions Report to assess the approved but not yet built residence.
  - The assessment found that provided the mitigation measures recommended are implemented it is anticipated the quarry will assimilate into the area with impacts consistent with the surrounding rural land use. It concluded that the risk of land use conflict is limited and acceptable.

The following contributions plan is relevant pursuant to Section 7.18 of the EP&A Act and has been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- *Richmond Valley Council Section 94 Heavy Haulage Contributions Plan 2013*

This Contributions Plan has been considered and included the recommended draft consent conditions. The Plan enables Council to levy development contributions under Section 7.11 (formerly Section 94) where the anticipated development, will or is likely to, generate additional heavy haulage vehicle movements, such as from extractive industries. Monies collected will fund pavement rehabilitation works within the nominated haulage distance of the development. Such monies are levied based on haulage weight, and are collected by Council annually.

### **3.4 Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act**

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

### **3.5 Section 4.15(1)(a)(iv) - Provisions of Regulations**

The Development Application was made in accordance with Clause 50 of the Regulations and was accompanied by the information and documents that are specified in Part 1 of Schedule 1. Furthermore, the EIS has been prepared in accordance with the form and content as specified in Part 2 of Schedule 2.

In accordance with Clause 56B of the Regulations the Development Application was publicly notified. General Terms of Approval have been sought from the relevant approval bodies in accordance with Clause 66 of the Regulation and are contained within the Draft Schedule of Conditions (refer to **Attachment A**).

Clause 92(1) of the Regulation contains matters that must be taken into consideration by a consent authority in determining a development application. Consideration of these matters is included below:

- Provisions of AS 2601 in the case of a development application for the demolition of a building;
  - No demolition works are proposed as part of the development application.
- Any subdivision order under Schedule 7, provisions of that order and any development plan;
  - No subdivision order made under Schedule 7 of the EP&A Act or development plan are applicable to the subject site or proposed development.
- The Dark Sky Planning Guideline;
  - The proposed development is not located in on land within the local government area of Coonamble, City of Dubbo, Gilgandra or Warrumbungle Shire or on land located less than 200 kilometres from the Siding Spring Observatory.
- The *Low Rise Housing Diversity Design Guide for Development Applications* (July 2020) for manor house or multi dwelling housing (terraces).
  - The proposed development is not for the purposes of manor house or multi dwelling housing (terraces) and does not rely upon the Medium Density Housing Code.

### **3.6 Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard,



potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and in the section below.

The consideration of impacts on the natural and built environments includes the following:

- Noise and vibration

Long term unattended monitoring was undertaken to determine the Rating Background Levels (RBLs) in accordance with the *Noise Policy for Industry*. The monitoring determined existing noise levels in the area surrounding the site are low and typical of a rural environment.

The updated Noise Impact Assessment prepared for the project indicates that noise levels generated from worst case quarry operations are predicted to exceed criteria at sensitive receivers 'A' and 'C' (refer to **Figure 2**) by 2 and 3 dB respectively. These exceedances are considered low risk as residence 'A' is owned and occupied by the quarry owner and 'C' is the locally heritage listed and uninhabited Disputed Plains homestead. Additionally, the NPI considers an exceedance of 2 dB to be negligible and does not warrant receiver-based treatments or controls. Nevertheless, mitigation measures to alleviate noise impacts during Stage 1 at 'C' have been proposed by the applicant. This includes construction of a northern bund wall during Stage 1, should sensitive receiver 'C' be occupied. Modelling indicates that the relevant noise criteria can be met, will construction of the bund (refer to **Figure 15**).

It is noted that the owners at 'C' were contacted by the applicant to explain the predicted exceedance and the owners noted no objection to the predicted exceedance.

Model results also indicate a 4 dB exceedance at the newly approved residence at 'B' (refer to **Figure 2**) during all stages. The noise impact at this receiver is dominated by truck movements entering and exiting the quarry via the access road, and is not impacted by major changes to operations within the pit. Mitigation measures have been proposed to alleviate noise impacts, including the construction of an eastern bund, adjacent the site access road, should sensitive receiver 'B' be constructed (refer to **Figure 15**).

Noise levels are predicted to comply with the NPI daytime noise criteria at all other residential and non-residential receptors.

The predicted growth in quarry traffic along local roads due to peak production operations was investigated using the United States EPA's Intermittent Traffic Noise guidelines. This model indicated road noise along the local roads would comply with the Road Noise Policy (RNP) criteria at all assessed sensitive receivers.

A general assessment of blasting was undertaken to determine the maximum instantaneous charge (MIC) allowed to ensure compliance with the blasting criteria at the closest receptor. The assessment indicates blasting would be restricted by the air blast overpressure rather than the ground vibration levels. The EPAs recommended human comfort criteria can be met at all sensitive receivers, nevertheless, a condition has been recommended to prepare dilapidation surveys of the closest receptors, including the Disputed Plains homestead.

Bentley Road is approximately 60 m from the current stage 1 starting point. It is proposed to temporarily close Bentley Road to traffic when blasting is occurring within 500 m of the road. This is common practice for mines and quarries located close to any public roads.

It is noted that the proposed development seeks consent to operate from 7am to 2pm on Saturdays, outside of the EPA's standard construction hours for Saturdays being 8am to 1pm. No justification is provided in the EIS or supporting Noise Impact Assessment for the extended hours. Given the proposed development is modelled to be on the limit of 40dB at sensitive receiver 'B' (refer to **Figure 2**) during all stages, operations outside the standard construction hours are not supported. Furthermore, The EPA's GTAs include a condition restricting hours of operation to the standard construction hours.

Recommended conditions are contained within the Draft Schedule of Conditions to ensure noise impacts are effectively managed, including standard hours of operation, noise criteria, blasting criteria, operating conditions, noise attenuation and the preparation/implementation of a Noise and Blast Management Plans (refer to **Attachment A**).

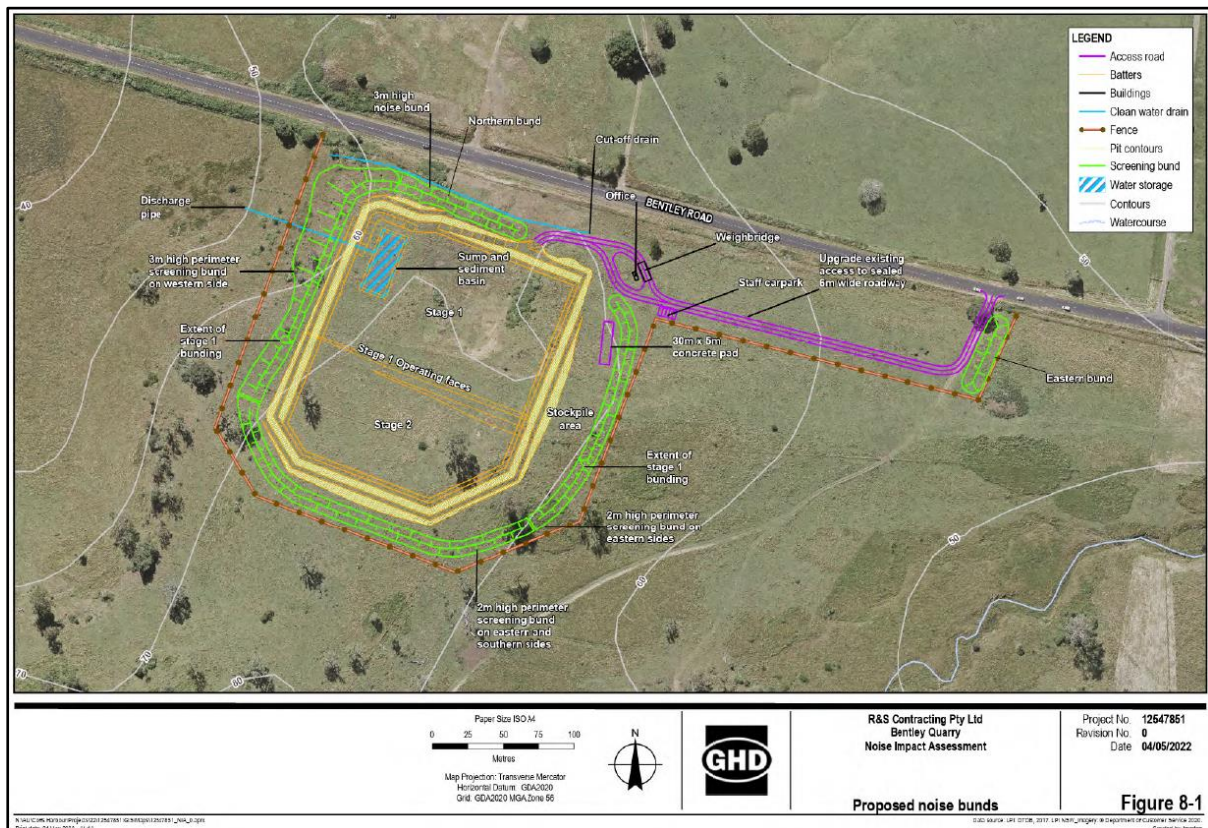


Figure 15 – Proposed Noise Bunds

- Air quality

The updated Air Quality Impact Assessment, prepared in accordance with the *NSW Approved Methods for the Modelling and Assessment of Air Pollutants* (EPA, 2016) (Approved Methods), determined that dust and particulate matter would be the primary emission to air from the proposed quarry development with potential for off-site impact.

The subject site is located in a rural farming area with little industrial activity. Consequently, the ambient dust levels in the area are moderate to low.

The assessment of dust impacts on surrounding residential receptors showed that no incremental impacts are predicted for TSP, PM10 or PM2.5 and the potential for cumulative impacts to occur is low.

In addition to the EPA's GTAs, Council has recommended conditions contained within the Draft Schedule of Conditions to ensure air quality impacts are effectively managed, including air quality criteria, operating conditions and the preparation/implementation of an Air Quality Management Plans (refer to **Attachment A**).

- Traffic and transport

The proposed development will generate up to 14 heavy vehicle truck movements per hour and up to 140 heavy vehicle truck movements per day inclusive of both incoming and outgoing trucks along the haul route.

The haulage route is via Bentley Road, connecting with Summerland Way in the north-west and Kyogle Road in the south-east. Bentley Road is a regional arterial road managed by Richmond Valley Council, and forms part of the east-west route between Lismore and Kyogle. Bentley Road is a 2-way line marked, sealed road with a speed limit of 100 km/h in the vicinity of the site.

The Traffic Impact Assessment submitted with the application identified that traffic generated by the project is expected to have minimal impact on the capacity, safety and traffic on the local network. However, turn treatments at the access road will be required. Specifically, the right turn from Bentley Road to the site access road requires a channelised right-turn (CHR(S)), and for the left turn, an auxiliary left-turn (short lane) (AUL(S)) is required.

Council's Traffic Engineer has reviewed the proposal and indicated that proposed Safe Intersection Sight Distances and Approach Sight Distances are considered adequate. The Traffic Engineer raised no objections to the proposed heavy haulage arrangements.

Transport for NSW also reviewed the proposal, indicating support for the Traffic Impact Assessment recommendation to install Austroads channelised right turn and auxiliary left turn treatments at the quarry access.

Transport for NSW also recommended that Council consider requiring the operator to prepare and implement a Traffic Management Plan (TMP) supported by a Driver Code of Conduct, including procedures for travel through residential areas, school zones and/or bus route/s.

The applicant notes that the increase in traffic at the maximum rate of production proposed would be 3% and that a 3% increase in heavy vehicle numbers is not expected to cause a noticeable deterioration of the roads. Nevertheless, the applicant notes that the operations would need to pay a contribution to Richmond Valley Council, for ongoing maintenance of the road.

Richmond Valley Council has a Heavy Haulage Contributions Plan 2013, which enables Council to levy development contributions under Section 7.11 of the EP&A Act where a development will generate additional heavy haulage vehicle movements.

Recommended conditions from Transport for NSW and Council's Traffic Engineer are contained within the Draft Schedule of Conditions to ensure traffic impacts are effectively managed, including road upgrades, road haulage, product transport monitoring and the preparation/implementation of a Traffic Management Plans supported by a Driver Code of Conduct (refer to **Attachment A**).

Due to the extraction area being close to and extending below the level of Bentley Road, a Geotechnical Assessment was also submitted as part of the EIS assessing the potential impacts of the proposed quarry on the stability of the Bentley Road cutting. The quarry pit adopts a benched wall design and 15m setback between the quarry crest and the road reserve boundary in response to the findings of the geotechnical report to ensure the stability risk to Bentley Road is mitigated.

Recommended conditions from Council's Traffic Engineer are contained within the Draft Schedule of Conditions to ensure any damage caused to public infrastructure is repaired to the satisfaction of Council (refer to **Attachment A**).

- Water resources

The proposed development has the potential to impact on flow regimes in watercourses due to changes to surface water runoff and baseflow contributions. Specifically, the proposed development will divert upslope surface water catchment runoff around the quarry. Rainwater within the disturbance areas and any groundwater inflows to the pit will be collected in an input sump. Collected water will be used onsite for dust suppression, with excess water discharged via a licenced discharge point in accordance with EPA licencing limits.

The extraction area is only a little over 2.5% of the lot (137.4ha) and is not considered to result in a significant impact on the flow regimes of downstream watercourses.

Groundwater interception is expected during Stages 3 and 4, however, assessment in accordance with the NSW Aquifer Interference Policy determined minimal groundwater inflow and drawdown is predicted. The assessment has been reviewed by Water NSW who advised that the development is exempt from requiring a groundwater access licence. Notwithstanding, the applicant is responsible to ensure all aspects of the *Water Management Act 2000* and Regulations are met.

A site water balance model was developed as part of the Water Resource Assessment submitted with the application, to quantify the potential impacts under a range of rainfall conditions. The model found that the average total water deficit for dust suppression demands is approximately 1 ML/year. Consequently, a condition of consent is recommended to be imposed requiring the applicant adjust the scale of quarrying operations on site to match its available water supply and licensed water entitlements, if necessary.

Further recommended conditions are contained within the Draft Schedule of Conditions to ensure water impacts are effectively managed, including water discharges, groundwater monitoring and the preparation/implementation of a Soil and Water Management Plan (refer to **Attachment A**).

- Heritage

The proposed development area has been cleared due to historical agricultural land uses and further impacted by previous quarry operations dating back to the early 1970's, altering the topography.

No Aboriginal objects were uncovered during assessment by the Casino Bolangle Local Aboriginal Land Council and there are no sites recorded on the AHIMS within 50m of the site. Nevertheless, an unexpected finds procedure is proposed during topsoil removal works.

It is noted that there is a Native Title Claim on adjacent Crown Land. This claim has no bearing on the application.

Furthermore, the property does not contain any heritage items listed in the NSW State Heritage Inventory or Schedule 5 of the Richmond Valley LEP 2012.

The heritage listed Disputed Plains Homestead is 650 m north of the project. The homestead has been vacant since the 1990's, is severely dilapidated and is currently used to store hay.

The proposal has been assessed against relevant amenity criteria for noise, vibration, dust etc and is expected to comply subject to implementation of proposed mitigation measures. As such, adverse impacts on the historical Disputed Plains Homestead are not anticipated

Recommended conditions are contained within the Draft Schedule of Conditions to ensure heritage impacts are effectively managed, including monitoring of topsoil removal by a representative of the Local Aboriginal Land Council, and unexpected finds procedure (refer to **Attachment A**).

- Visual amenity

The proposed development is located in a predominantly rural setting, comprising of predominately cleared hillsides to allow for grazing activities to the north, east and west with pockets of scattered vegetation remaining particularly along watercourses. The relatively higher land to the south, is more heavily vegetated.

Due to favourable landform, topography, scattered vegetation and nature of the quarry development (extending below the topography rather than cutting into the side) views of the proposed development are largely shielded from view. Nevertheless, perimeter vegetated screening bunds are proposed to shield views of the upper benches and stockpile area, further limiting the potential for visual impacts (refer to **Figure 15**).

With the proposed perimeter screening bunds, it is considered that there will be minimal impact on visual amenity from sensitive visual receivers, when compared to the existing situation.

Upon closure the quarry would leave a final void at the site. It is expected that the pit will fill with water over time and exposed benches would be revegetated. The remainder of the site would be returned to pasture.

Recommended conditions are contained within the Draft Schedule of Conditions to ensure visual impacts are effectively managed, including establishment of the perimeter bunds prior to commencement of the relevant stage of operations (refer to **Attachment A**).

- Land resources

The site and surrounding land is mapped as 'regionally significant farmland' under the Northern Rivers Farmland Protection Project and is also mapped as Biophysical Strategic Agricultural land (BSAL). This land is considered to contain high quality soil and water resources capable of sustaining high levels of productivity. Such resources are limited in NSW.

The primary agricultural industry surrounding the site is grazing, with some cropping on the lower river flats.

The proposed development will alter the topography of the site creating an excavation 3.65 ha in area and a maximum of 30 m deep. The void would only impact a little more than 2.5% of the lot (137.4ha) and is an extension of the area already disturbed by previous quarry activities, so is not expected to impact the ability to use the project site for agricultural activities in the future.

The NSW Department of Primary Industries (DPI) has reviewed the Development Application and its potential impact on agricultural land, noting that the site is highly favourable for quarrying activity, given:

- extractive industries are permitted with consent in the RU1 Primary Production zone;
- the adjacency of transport infrastructure; and
- the quality of the rock resource.

DPI has raised no objections to the proposed development or concerns regarding the Land Use Conflict Risk Assessment submitted with the Development Application.

Consequently, the proposed development is considered to be generally consistent with the context of the site and largely compatible with the surrounding agricultural land uses in the locality.

- Hazards and risks

The proposed development will result in small quantities of hazardous materials being held or used onsite during operations including fuel, other hydrocarbons, along with lubricating oils and greases. The proposed development does not propose storage of any explosives onsite. A suitably qualified blasting contractor would bring explosives to site as required. Likewise, no fuel would be stored onsite. Mobile plant refuelling would take place on site from a portable fuel truck with a capacity of up to 10,000 litres, as required.

The Project is not considered to be a potentially hazardous development with respect to the storage, use or transportation of hazardous substances. Nor is the proposed potentially offensive development.

A condition of consent is recommended that such materials be stored, handled and transported in accordance with the relevant Australian Standards, particularly AS 1940 and AS 1596, and the Dangerous Goods Code (refer to **Attachment A**).



- Waste

The proposed development has the potential to generate waste from quarry activities and general site use however the types of waste generated are not expected to be in significant quantities.

In addition, it is proposed to import up to 50,000t per annum of concrete waste, Excavated Natural Material (ENM) and Virgin Excavated Natural Material (VENM) for use in constructing the perimeter bunds, rehabilitation and blending with aggregate material.

All waste would be managed in accordance with the requirements of the *Waste Avoidance and Resource Recovery Act 2001*, the POEO Act, and the *Waste Classification Guidelines* (NSW EPA, 2014) and the principles of the waste management hierarchy.

The NSW Environment Protection Authority (EPA) has reviewed the Development Application and advised that prior to an Environmental Protection Licence (EPL) being issued the applicant will be required to submit information to demonstrate how compliance will be achieved with the relevant resource recovery orders/exemptions for both incoming and outgoing products. The EPA also noted that an EPL will need to include waste processing (non-thermal treatment) and waste storage to any EPL if the waste proposed to be imported does not meet a current resource recovery order and exemption issued by the EPA.

In addition to the EPA's General Terms of Approval, conditions of consent have been recommended including a requirement for the applicant to obtain a resource recovery exemption prior to importing any waste materials to the site and to prepare a waste management plan (refer to **Attachment A**).

- Social and Economic

As detailed in the EIS, a Petrographic Inspection Report prepared for the existing quarry reported that the resource is 90% basalt and 10% clay. The report indicated that the resource is predicted to be suitable as fine aggregate in concrete, asphalt and unbound pavement materials.

The proposed development will provide a long-term supply of construction materials, facilitating public and private development in both Richmond Valley and adjoining local government areas. The proposed development is positioned away from major population centres and incompatible land uses. It also benefits from good topographic shielding. Furthermore, the quarry has convenient access to the regional road network with direct access to Bentley Road and maximises resource recovery associated with the existing quarry disturbance footprint, limiting the potential environmental impacts.

The proposed development will provide employment for about 5 full time staff and generate the needs for goods and services, creating flow on opportunities for business development in the region.

There is a long history of quarrying on both sides of Bentley Road in the location, so it is not unreasonable to expect an extractive industry to be pursued. An assessment of environmental impacts demonstrate that compliance can be achieved with the established relevant criteria.

- Biodiversity

The proposed development will require the removal of approximately 0.23 ha of native vegetation most closely aligned to the plant community type, *Forest Red Gum grassy open forest of the coastal ranges of the NSW North Coast Bioregion* and result in the loss of 8 hollow-bearing trees. Approximately 5.72 ha of highly disturbed areas with no or limited native vegetation would also be impacted.

The site does not contain any areas of land mapped as being of Biodiversity Value and the removal of about 0.23ha of native vegetation does not exceed the clearing threshold of 1 ha. Therefore, the

Biodiversity Offsets Scheme (BOS) is not triggered, and a Biodiversity Development Assessment Report (BDAR) is not required.

The study area is not within any mapped wildlife corridors and due to the lack of remnant vegetation and isolation from larger intact vegetation patches the site does not provide any significant connectivity value to the surrounding landscape. Additionally, the proposal would not result in severing or fragmenting any local corridors or large habitat patches.

No threatened flora species or threatened ecological communities were recorded at the site. Three threatened fauna species were recorded utilising the site being the Little Bent-winged Bat, Large Bent-winged Bat and Yellow-bellied Sheath-tail Bat.

Tests of significance were completed for the species recorded or assessed as having a moderate or higher likelihood of occurrence within the study area, which found that the project is unlikely to result in a significant impact to the species within the locality.

A Koala Habitat Assessment was undertaken under the *Environment Protection and Biodiversity Conservation Act 1999*, which found that the vegetation in the proposed disturbance area is not likely to constitute habitat critical to the survival of the species.

The proposed development is considered to present limited opportunity for significant impacts on biodiversity values given historic clearing, the disturbed nature of the site and limited clearing of native vegetation.

The ongoing management of the ecological values on the site will be addressed by the implementation of mitigation measures including compensatory / offset planting of native trees species and installation of nest boxes.

Recommended conditions are contained within the Draft Schedule of Conditions to ensure biodiversity impacts are effectively managed, including vegetation removal, offset planting and nest box installation and the preparation/implementation of a Vegetation and Rehabilitation Management Plan (refer to **Attachment A**).

- Rehabilitation and closure

Upon closure the quarry would leave a final void at the site. It is expected that the pit will fill with water over time and exposed benches would be revegetated. The remainder of the site would be returned to pasture.

It is unknown if the quarry would be fully exhausted as proposed at this stage, so the final landform is also unknown. However, it is expected that if the quarry progresses below a depth of RL63 m, the pit will fill with water over time. A list of objectives for any rehabilitation is provided in the EIS and rehabilitation works are proposed to be undertaken in accordance with the Proposed Quarry Concept Rehabilitation Plan prepared by GHD.

To ensure rehabilitation is completed, the applicant has also proposed in the EIS, establishment of a rehabilitation account, where \$0.05 per tonne of material sold will be deposited and dedicated for rehabilitation purposes.

Recommended conditions are contained within the Draft Schedule of Conditions to ensure quarry closure impacts are effectively managed, including preparation of a Quarry Closure Strategy at least 5 years prior to cessation of quarry operations (refer to **Attachment A**).

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

- Cumulative impacts

The proposed development has the potential to result in cumulative impacts, principally through increase ground disturbance leading to dust emissions, operation of plant and equipment leading to noise emissions and increased traffic.

The technical impact assessments for air quality, noise and traffic considered cumulative impacts through assessment against existing background air quality, noise and traffic levels.

The EIS also included a review of the NSW Department of Planning and Infrastructure's major projects register and Richmond Valley Council DA tracker to identify projects in the area with the potential to impact on air quality, noise and traffic levels in the area. No projects of concern were identified.

### **3.7 Section 4.15(1)(c) - Suitability of the site**

The subject site is relatively unconstrained. In particular, the development area is not mapped as biodiversity value, bushfire prone, flood prone or landslide risk. There are no recorded Aboriginal sites located in the vicinity and potential impacts on the historical Disputed Plains Homestead have been assessed and are not anticipated.

The local topographic variation, remnant vegetation, proposed perimeter bunding and nature of the quarry development (extending below the topography rather than cutting into the side) provide effective shielding of the development from neighbouring properties and Bentley Road.

The site has direct access to Bentley Road, a regional connector road providing access to the local and regional market.

The closest occupied residence is located about 1.25km east of the proposed development. The unoccupied Disputed Plains Homestead, yet to be constructed dwelling house and a nominated dwelling site are located within 1km of the development. A land use conflict assessment has been undertaken, along with environmental assessments including noise, vibration and air quality which demonstrate that acceptable levels can be met to ensure amenity is achieved at these locations.

Furthermore, the quarry maximises resource recovery associated with the existing quarry disturbance footprint, limiting the potential environmental impacts.

Consequently, the subject site is considered to be suitable in its current state for the purposes of the proposed development and given the history of quarrying at this location. The proposed development will not change the existing land uses on the site.

### **3.8 Section 4.15(1)(d) - Public Submissions**

Council received a total of 227 unique submissions following notification of the proposed development in accordance with Richmond Valley Council's Community Participation Plan 2020. These submissions are considered in Section 5 of this report.

### **3.9 Section 4.15(1)(e) - Public interest**

The proposal complies with the relevant legislation, is consistent with the zone objectives of the Richmond Valley Council LEP 2012 and the development standards for the site. In addition, the

aggregate materials provide essential building resources benefiting the wider community by supporting growth and construction within Richmond Valley and surrounding local government areas.

The development will provide employment for about 5 full time staff and generate the needs for goods and services, creating flow on opportunities for business development in the region.

While there have been numerous submissions made in relation to the proposed development, it is considered that the issues raised do not warrant refusal of the application.

Through the imposition of the conditions contained within the Draft Schedule of Conditions, it is considered that potential impacts from the development can be mitigated such that the development can proceed and public interest issues are balanced.

Consequently, the development is considered to promote the orderly and economic use and development of the land, ensuring that the public interest is maintained. The proposal is therefore deemed to be in the public interest.

## 4. REFERRALS AND SUBMISSIONS

### 4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in Table 5.

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended Draft Schedule of Conditions being imposed.

**Table 5: Concurrence and Referrals to agencies**

Agency	Concurrence/ referral trigger	Comments (Issue, resolution, conditions)	Resolved
<b>Concurrence Requirements (s4.13 of EP&amp;A Act)</b>			
N/A	N/A	N/A	N/A
<b>Referral/Consultation Agencies</b>			
Water NSW	s89, 90 and 91 – <i>Water Management Act 2000</i> for a work approval or licence.	Water NSW reviewed the original information submitted with the DA for the purposes of advice only and found it did not adequately address how the proposed works are exempt from requiring Work Approvals or Licences.  Further information was requested and provided by the applicant.  Water NSW subsequently advised the development is exempt from requiring a groundwater access licence. Notwithstanding, the applicant is	N

		responsible to ensure all aspects of the <i>Water Management Act 2000</i> and Regulations are met.	
Transport for NSW	s16 – State Environmental Planning Policy (Mining, Petroleum and Extractive Industries) 2007	<p>Bentley Road is a classified (Regional) road (MR544) and Richmond Valley Council is the Roads Authority for all public roads in the local government area pursuant to S.7 of the Roads Act 1993.</p> <p>Concurrence from Transport for NSW is not required.</p> <p>TfNSW supports the TIA recommendation to install Austroads channelised right turn and auxiliary left turn treatments at the quarry access.</p> <p>TfNSW notes that the Development Application has not directly responded to Clause 16 of the SEPP with respect to the transport of extracted materials on public roads. Further consideration should be given to transport vehicles travelling through residential areas, near schools or along school bus routes.</p> <p>TfNSW recommends that Council consider requiring the operator to prepare and implement a Traffic Management Plan (TMP) addressing the construction, operation and decommission phases of the proposed development.</p> <p>TfNSW further recommends that the TMP be supported by a Driver Code of Conduct, including but not necessarily limited to, the following;</p> <ul style="list-style-type: none"> <li>• A map of the primary haulage route/s highlighting critical locations.</li> <li>• An induction process for vehicle operators and regular toolbox meetings.</li> <li>• Procedures for travel through residential areas, school zones and/or bus route/s.</li> </ul>	N



		<ul style="list-style-type: none"> <li>• Evidence of consultation with relevant bus service providers where applicable.</li> <li>• A complaint resolution and disciplinary procedure.</li> <li>• Community consultation measures proposed for peak extraction periods.</li> <li>• Work, health and safety requirements under the <i>Work Health and Safety Regulation 2017</i>.</li> </ul> <p>These recommendations have been incorporated into the recommended Draft Schedule of Conditions (<b>Attachment A</b>).</p> <p>Any roadwork on classified road should be designed and constructed in accordance with the current Austroads Guidelines, Australian Standards and TfNSW Supplements.</p>	
Department of Primary Industries (Agriculture)		<p>The area is mapped as 'regionally significant farmland' under the Northern Rivers Farmland Protection Project and is also mapped as Biophysical Strategic Agricultural land (BSAL). This land is considered to contain high quality soil and water resources capable of sustaining high levels of productivity. Such resources are limited in NSW.</p> <p>However, NSW DPI notes that the area for the extension of the quarry is small (3.65ha), representing 2.5% of the property and is simply an extension of the area already disturbed by previous quarrying activities (1ha in area).</p> <p>NSW DPI notes that extractive industries are permitted with consent in the RU1 Primary Production zone and the adjacency of transport infrastructure and the quality of the rock resource also means that the site is highly favourable for quarrying activity.</p>	Y

		NSW DPI therefore has no objections to the proposed development.	
<b>Integrated Development (S 4.46 of the EP&amp;A Act)</b>			
NSW Environment Protection Authority (EPA)	s53 – <i>Protection of the Environment Operations Act 1997</i> for an Environment Protection Licence	<p>The EPA reviewed the DA and has determined that it is able to issue a licence for the proposal, subject to conditions.</p> <p>The applicant will need to make a separate application to EPA to obtain this licence.</p> <p>The EPA issued its GTAs for the proposal on 24 December 2021.</p> <p>The EPA response letter also identified a number of environmental issues for Council to consider in its overall assessment of the application (see below).</p>	Y

As noted above, in assessing the proposal the EPA identified a number of environmental issues it recommended Richmond Valley Council may wish to consider in its assessment of the application, as reproduced below.

#### 1. Waste

*The EPA notes that the proposal involves the importation of waste material for processing and reuse. The information provided by the applicant does not contain sufficient detail on the proposed processing and reuse of waste for the EPA to be able to assess potential impacts. Prior to an Environment Protection Licence (EPL) being issued, the following information will be required to be submitted to the EPA:*

- How compliance will be achieved with the relevant resource recovery orders/resource recovery exemptions (e.g. recovered aggregate) for both incoming and outgoing products;*
- Interim management procedures for lawful disposal locations identified for contaminated waste (e.g. waste contaminated with asbestos);*
- Quality control processes in place to ensure the waste products being received at the premises do not contain any hazardous or special wastes (e.g. asbestos, acid sulfate soils etc). This can be achieved by development of management practices in line with the Waste Classification Guidelines;*
- How and where the waste material is intended to be stored. This will need to include appropriately designed storage locations and mitigation measures for stormwater, leachate, dust, odour and prevention of ground and surface water contamination; and,*
- How incoming wastes will be processed (e.g. crushing, screening or sorting) and what air, noise and water quality impacts will this cause and how will these impacts be managed.*

*Note that any Environment Protection Licence will need to include waste processing (non-thermal treatment) and waste storage to any EPL if the waste proposed to be imported to the premises does not meet a current resource recovery order and exemption issued by the EPA.*

## 2. Soil and Water Management Plan

*A Soil and Water Management Plan was not included with the Environmental Impact Statement for the proposal. Prior to extractive activities taking place on the premises, the applicant must engage a qualified consultant to develop a Soil and Water Management Plan (SWMP). The SWMP must be submitted to, and approved by, the EPA prior to extractive activities taking place. The SWMP must be prepared in accordance with Managing Urban Stormwater Soils and Construction, Volume 1 and Volume 2E. Mines and Quarries.*

## 3. Environment Management Plan

*Prior to commencement of operations at the premises, the applicant must prepare and implement an Environmental Management Plan (EMP). The EMP must take into account any management and mitigation measures identified in the Environmental Impact Statement titled Bentley Quarry Environmental Impact Statement (GHD 11 November 2021), and any development consent conditions that may be included as part of the proposal approval.*

## 4. Blasting Management Protocol

*Prior to commencement of operations at the premises, the applicant must prepare and implement a Blasting Management Protocol (BMP). The BMP must take into account any management or mitigation measures identified in the Environmental Impact Statement titled Bentley Quarry Environmental Impact Statement (GHD 11 November 2021), and any development consent conditions that may be included as part of the proposal approval.*

These considerations have been addressed through the inclusion of recommended Draft Schedule of Conditions (refer to **Attachment A**).

## 4.2 Council Referrals

The development application has been referred to various Council officers within Richmond Valley Council for technical review as outlined Table 6.

**Table 6: Consideration of Council Referrals**

Officer	Comments	Resolved
Engineering	<ul style="list-style-type: none"><li>• All erosion and sedimentation controls are to be designed and implemented in accordance with the NSW Soils and Construction – Managing Urban Stormwater (Landcom, 2004), known as the “blue book”. This will be required to be conditioned in consent.</li><li>• Approval to do works on Bentley Road requires a Section 138 Roads Act application that will be forwarded to TfNSW for concurrence or approval as the road is classified.</li><li>• The Annual Average Daily Traffic presumed increase of 4.58% on Bentley Road is conservative as the typical assumed increase for future traffic is 3%.</li><li>• The proposed Safe Intersection Sight Distances and Approach Sight Distances are considered adequate.</li></ul>	Y

	<ul style="list-style-type: none"> <li>These considerations have been addressed through the inclusion of recommended Draft Schedule of Conditions (<b>Attachment A</b>).</li> </ul>	
Environmental Health	<ul style="list-style-type: none"> <li>The original proposal outlined that toilet facilities for the proposed quarry development would be provided by an existing farm shed, approved as part of DA2017/0139. This is not supported.</li> <li>Based on a preliminary review, a minimum 3,000 litre septic tank is considered necessary.</li> <li>The Onsite Sewage Management Design Report provided as part of the Submissions Report provides details for a new onsite effluent management system for amenities within the weighbridge office with based on an effluent loading of 3 equivalent persons, with a 3,000 litre capacity tank, consistent with Council's requirements.</li> <li>Onsite sewage management considerations have been addressed through the inclusion of recommended Draft Schedule of Conditions (<b>Attachment A</b>).</li> </ul>	Y
Building Unit	<ul style="list-style-type: none"> <li>Consideration of waste, hours of operation, demolition, plumbing, drainage and stormwater works have been addressed through the inclusion of recommended Draft Schedule of Conditions (<b>Attachment A</b>).</li> </ul>	Y

Due to the proximity of the site to neighbouring councils, the development application was also referred to Kyogle Council and Lismore City Council, seeking their input into the development.

Kyogle Council requested the applicant provide an independent traffic impact study for impacts on Bentley Road with a swept path analysis and options report on possible capital upgrades to the road on the two curves immediately east of Alcocks Bridge.

The request is considered unwarranted given:

- Alcocks Bridge is 12.5 km west of the quarry; and
- It is estimated that the proposed quarry would result in an additional 0.3% of traffic using the bridge, during peak production;

Lismore City Council raised concerns with the impact of the generated traffic movements and possible amenity impact upon residents within proximity and along the traffic routes of the proposed development. The Council also requested that it receive 55% of all contributions collected from the operations to be used to maintain the roads in the Lismore LGA.

It is noted that the Traffic Impact Assessment addresses the impact including trip generation and trip distribution on the road network irrespective of the LGA. The assessment found the proposed development is anticipated to have minimal impact on the capacity, safety, functionality of the road hierarchy and traffic on the local network.

In relation to heavy haulage contributions, Richmond Valley Council has a *Heavy Haulage Contributions Plan 2013*, which enables Council to levy development contributions under Section 7.11 of the EP&A

Act where a development will generate additional heavy haulage vehicle movements. The contribution plan does not include a mechanism to share contributions with adjoining councils and Council does not support Lismore City Council's request to provide it with 55% of the contributions collected.

### 4.3 Community Consultation

The proposal was notified in accordance with the Richmond Valley Council's Community Participation Plan 2020 from 13 December 2021 until 1 February 2022. The notification included the following:

- A sign placed on the site;
- Notification letters sent to 49 adjoining and adjacent properties;
- Notification on the Council's website;
- Social media post.

The Council received a total of 227 unique submissions, comprising 216 objections, 3 neutral and 8 submissions in favour of the proposal. The issues raised in these submissions are considered in **Table 7**.

**Table 7: Community Submissions**

Issue	No of submissions	Council Comments
Road condition  Submissions raised concern the increased truck movements would result in deteriorating the road condition.	184	<p>The applicant notes that the increase in traffic at the maximum rate of production proposed would be 3% and that a 3% increase in heavy vehicle numbers is not expected to cause a noticeable deterioration of the roads. Nevertheless, the applicant notes that the operations would need to pay a contribution to Richmond Valley Council, for ongoing maintenance of the road.</p> <p>Council's Traffic Engineer has reviewed the proposal and indicated that the Annual Average Daily Traffic presumed increase presumed increase on Bentley Road is conservative. The Traffic Engineer raised no objections to the proposed heavy haulage arrangements.</p> <p>Richmond Valley Council has a Heavy Haulage Contributions Plan 2013, which enables Council to levy development contributions under Section 7.11 of the EP&amp;A Act where a development will generate additional heavy haulage vehicle movements.</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed subject to the imposition of relevant recommended Draft Schedule of Conditions (<b>Attachment A</b>).</p>
Traffic safety  Submissions raised concern the increased truck movements on Bentley Road would	169	<p>As outlined above, the applicant notes that the increase in traffic at the maximum rate of production proposed would be 3% and during periods of "typical" extraction, expected to be 100,000 tonnes per year or a third of the maximum extraction rate, the increase would be closer to 1%.</p> <p>Council's Traffic Engineer has reviewed the proposal and indicated that proposed Safe Intersection Sight Distances</p>

<p>create safety issues, especially for school buses, cyclists, pedestrians etc</p>		<p>and Approach Sight Distances are considered adequate. The Traffic Engineer raised no objections to the proposed heavy haulage arrangements.</p> <p>Transport for NSW also reviewed the proposal, indicating support for the Traffic Impact Assessment recommendation to install Austroads channelised right turn and auxiliary left turn treatments at the quarry access.</p> <p>Transport for NSW also recommended that Council consider requiring the operator to prepare and implement a Traffic Management Plan (TMP) supported by a Driver Code of Conduct, including procedures for travel through residential areas, school zones and/or bus route/s. The TMP s to include a complaint resolution and disciplinary procedure to compel compliance.</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed subject to the imposition of relevant recommended Draft Schedule of Conditions (<b>Attachment A</b>).</p>
<p>Socio economic impact</p> <p>Submissions raised concern the development will have a range of social impacts and limited local socio-economic benefit.</p>	161	<p>The proposed development will provide aggregate materials for road construction and other infrastructure projects, employment for up to 5 locals and community sponsorship and donations etc.</p> <p>There is a long history of quarrying on both sides of Bentley Road in the location, so it is not unreasonable to expect an extractive industry to be pursued. An assessment of environmental impacts demonstrate that compliance can be achieved with the established relevant criteria.</p> <p>Furthermore, the NSW EPA has assessed the proposal and issued its General Terms of Approval (GTAs) for an Environmental Protection Licence (EPL) indicating pollution impacts can be managed to an acceptable level, and so as to not cause unreasonable impacts on the nearest sensitive receptors.</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed subject to the imposition of relevant recommended Draft Schedule of Conditions (<b>Attachment A</b>).</p>
<p>Visual &amp; rural amenity</p> <p>Submissions raised concern the development would alter the landscape and rural character of the area.</p>	159	<p>The EIS has considered the visual impacts and additional visual montage images provided in the Submissions Report.</p> <p>Views of the proposed development are limited due to the undulating topography, vegetation and nature of the quarry development (extending below the topography rather than cutting into the side).</p> <p>Perimeter vegetated screening bunds are proposed to shield views of the upper benches and stockpile area, further limiting the potential for visual impacts.</p>



		<p>Upon closure the quarry would leave a final void at the site. It is expected that the pit will fill with water over time and exposed benches would be revegetated. The remainder of the site would be returned to pasture.</p> <p>Consequently, it is considered that there would be minimal impact on the visual or rural amenity of the area.</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed subject to the imposition of relevant recommended Draft Schedule of Conditions (<b>Attachment A</b>).</p>
<p>Land use conflict</p> <p>Submissions raised concern the development would conflict with neighbouring land uses, particularly agri-tourism and regenerative farming in the area.</p>	150	<p>A LUCRA is required to be prepared for development applications that are within a certain buffer distance to a conflicting land use. The buffer distance for quarries that include blasting is 1000 m from rural dwellings.</p> <p>The closest occupied dwelling, not owned by the applicant, is over 1000m from the proposed quarry. Within the buffer zone is the applicant's dwelling about 360m south of the proposed quarry and the Disputed Plains Homestead, which has been vacant since the 1990s. It is noted that the applicant has written agreement from the owner of the Disputed Plains Homestead for a 2.6dB exceedance at the dwelling.</p> <p>A further nominated dwelling site is located about 600m west of the proposed quarry and a complying development certificate approved dwelling (yet to be constructed) and associated tourist accommodation is located about 400m northeast of the quarry. Management strategies are proposed to ensure amenity criteria are achieved at these future sensitive receivers.</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed subject to the imposition of relevant recommended Draft Schedule of Conditions (<b>Attachment A</b>).</p>
<p>Noise impacts</p> <p>Submissions raised concern about the adequacy of the noise impact assessment, which did not include assessment of the recently approved dwelling at Lot 10 DP 1065523 or impacts of noise on livestock and impact on landowners on their land (i.e. external to their dwellings)</p>	116	<p>An updated Noise Impact Assessment was submitted as part of the Response to Submissions, including assessment of the recently approved dwelling at Lot 10 DP 1065523 (yet to be constructed). The assessment indicates a 4 dB exceedance at the residence during all stages. The assessment further indicates that construction of an earth bund would effectively reduce the noise impact to 40 dB, which is compliant with the project specific noise goals.</p> <p>The applicant notes that there is no standard method or criteria to calculate or estimate noise impacts on open spaces such as paddocks as these areas are not considered sensitive receivers, or livestock and fauna.</p> <p>It is noted that noise can affect animal behaviour, however, the impacts from noise and vibrations are predominately localised to the proposal area and surrounding 300-500m</p>

		<p>radius. Within these impacted areas, little remnant vegetation persists.</p> <p>The NSW EPA has undertaken a detailed review of the proposed development in terms of noise impacts and issued GTAs for an EPL indicating noise impacts can be managed to an acceptable level, and so as to not cause unreasonable impacts on the nearest sensitive receptors.</p> <p>As noted within the body of this report, appropriate conditions of consent have been applied in order to minimise and mitigate potential noise impacts, so as to maintain the rural amenity for neighbouring properties.</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed subject to the imposition of relevant recommended Draft Schedule of Conditions (<b>Attachment A</b>).</p>
<p>Air quality impacts</p> <p>Submissions raised concern about the adequacy of the air quality impact assessment, which did not include assessment of the recently approved dwelling at Lot 10 DP 1065523 or impacts of noise on livestock and impact on landowners on their land (i.e. external to their dwellings)</p>	107	<p>An updated Air Quality Impact Assessment was submitted as part of the Response to Submissions, including assessment of the recently approved dwelling at Lot 10 DP 1065523 (yet to be constructed). The assessment indicates no predicted incremental exceedances of the assessment criteria and a low potential for cumulative impacts.</p> <p>The NSW EPA has assessed the proposal and issued its GTAs for an EPL indicating air quality impacts can be managed to an acceptable level, and so as to not cause unreasonable impacts on the nearest sensitive receptors.</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed subject to the imposition of relevant recommended Draft Schedule of Conditions (<b>Attachment A</b>).</p>
<p>Blasting impacts</p> <p>Submissions raised concern about the vibration assessment, including assessment of the recently approved dwelling at Lot 10 DP 1065523, need for structural assessment, impact on Bentley Road and risk of flyrock.</p>	88	<p>The revised vibration assessment included as part of the updated Noise Impact Assessment indicated that ground vibration and air blast criteria can be achieved at the approved dwelling subject to the recommended MIC quantities. The report concluded that structural damage is highly unlikely given human comfort criteria can be achieved.</p> <p>If blasting is required during stage 1, the assessment indicated reduced MIC quantities to not exceed the maximum building damage criteria at the Bentley Road.</p> <p>Furthermore, Bentley Road will be temporarily closed during blasting to manage the risk of flyrock and ensure public safety.</p>

		<p>The NSW EPA has assessed the proposal and issued its GTAs for an EPL indicating vibration impacts can be managed to an acceptable level, and so as to not cause unreasonable impacts on the nearest sensitive receptors.</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed subject to the imposition of relevant recommended Draft Schedule of Conditions (<b>Attachment A</b>).</p>
<p>Water impacts</p> <p>Submissions raised concern the development will impact water quality and groundwater in the area.</p>	80	<p>The EIS submitted by the applicant was accompanied by a Water Resources Assessment assessing the impact of the proposed development on surface and groundwater resources.</p> <p>Perimeter screening bunds are proposed to divert clean upslope surface water flows around the proposed development. The applicant will require an Environmental Protection Licence (EPL) for any discharge of water from the pit to Black Creek. The EPL will impose concentration limits to ensure offsite water quality is not adversely impacted.</p> <p>Groundwater interception is expected during Stages 3 and 4, however, assessment in accordance with the NSW Aquifer Interference Policy determined minimal groundwater inflow and drawdown is predicted.</p> <p>The assessment has been assessed by Water NSW who advised that the development is exempt from requiring a groundwater access licence. Notwithstanding, the applicant is responsible to ensure all aspects of the Water Management Act 2000 and Regulations are met.</p> <p>Furthermore, in the event of water shortage, a condition of consent has been proposed requiring adjustment of the scale of quarrying operations on site to match its available water supply and licensed water entitlements.</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed subject to the imposition of relevant recommended Draft Schedule of Conditions (<b>Attachment A</b>).</p>
<p>Health impacts</p> <p>Submissions raised concern the development would impact on the health and wellbeing of the community.</p>	78	<p>The applicant notes that the criteria used in the various specialist assessments, including noise, vibration and air quality, are conservatively based on health impacts. In addition the proposed development will largely be shielded from view by vegetated perimeter bunds. The access road intersection will be upgraded to improve safe access and egress for heavy vehicles and Bentley Road has been assessed as having capacity to accommodate the additional traffic loads. As such if the proposed impacts are within the relative assessment criteria, the health impacts are expected to be minimal.</p>

		<p>The NSW EPA has assessed the proposal as an Integrated Development and has issued its General Terms of Approval (GTAs) for an Environmental Protection Licence (EPL). Given that the EPA has issued its GTAs, it is reasonable to conclude that any pollution (i.e. noise, vibration, dust, water) generated by the development can be managed to an acceptable level, and so as to not cause unreasonable impacts on the nearest sensitive receptors.</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed subject to the imposition of relevant recommended Draft Schedule of Conditions (<b>Attachment A</b>).</p>
<p>Property values</p> <p>Submissions raised concern the development would reduce neighbouring property values.</p>	68	<p>Impacts on property values is not identified as a matter for consideration under the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Nevertheless, the applicant noted that there is a history of quarrying on both sides of Bentley Road in this location, so it is not unreasonable to expect an extractive industry to continue and expand at this location. Consequently, it is assumed this possibility would already be reflected in the property prices.</p> <p>Essentially, extractive industries are a permissible use in the RU1 zone, so when living adjacent to an RU1 zoned property there is always the possibility of a rural industry including extractive industry or any other form of permissible use being established.</p> <p><b>Outcome:</b> This issue is not considered to warrant refusal of the proposed development.</p>
<p>Biodiversity impacts</p> <p>Submissions raised concern regarding indirect impacts, biosecurity and adequacy of surveys.</p>	67	<p>The EIS submitted by the applicant was accompanied by a Biodiversity Assessment Report examining the proposal against relevant statutory requirements including the <i>Biodiversity Conservation Act 2016</i> and <i>Environmental Protection and Biodiversity Conservation Act 1999</i>.</p> <p>A further Biodiversity Assessment Report addendum was provided in response to community submissions.</p> <p>The proposed development will require the removal of approximately 0.23 ha of native vegetation. About 5.72 ha of highly disturbed areas with no or limited native vegetation would also be impacted.</p> <p>The proposal is unlikely to lead to a significant impact on any threatened species and/or their habitat.</p> <p>Compensatory / offset planting of native trees species and replacement of hollows with nest boxes is proposed.</p>

		<p><b>Outcome:</b> This issue has been satisfactorily addressed subject to the imposition of relevant recommended Draft Schedule of Conditions (<b>Attachment A</b>).</p>
<p>Heritage impact</p> <p>Submissions raised concern regarding that heritage impacts were not adequately considered.</p>	37	<p>The EIS has considered both Aboriginal and non-Aboriginal heritage impacts. A further response to heritage matters was provided in the Response to Submissions.</p> <p>No Aboriginal objects were uncovered during assessment by the Casino Bolangle Local Aboriginal Land Council and there are no sites recorded on the AHIMS within 50m of the site. Nevertheless, an unexpected finds procedure is proposed during topsoil removal works.</p> <p>It is noted that there is a Native Title Claim on adjacent Crown Land. This claim has no bearing on the application.</p> <p>The proposal has been assessed against relevant amenity criteria for noise, vibration, dust etc and is expected to comply subject to implementation of proposed mitigation measures. As such, adverse impacts on the historical Disputed Plains Homestead and Blue Fattoria Farm Stay are not anticipated.</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed subject to the imposition of relevant recommended Draft Schedule of Conditions (<b>Attachment A</b>).</p>
<p>Compliance issues</p> <p>Submissions raised concern regarding lapses in compliance performance of the Applicant under its existing quarry operation.</p>	32	<p>Community concerns regarding the existing operations and need to ensure public confidence in the planning system are acknowledged.</p> <p>It is noted however, that the development application is a standalone application, not reliant on the existing quarry operations. Nevertheless, in response to community concerns regarding oversight and compliance, conditions of consent are proposed requiring a regular Independent Environmental Audit, preparation of an Annual Review and provision of access to information.</p> <p><b>Outcome:</b> This issue is not considered to warrant refusal of the proposed development.</p>
<p>Climate change &amp; emissions</p> <p>Submissions raised concern regarding that climate change impacts were not considered.</p>	23	<p>Assessment of greenhouse gas emissions was undertaken as part of the EIS. Greenhouse gas emissions will be limited to the emissions from fuel consumption of plant and vehicles, as well as vegetation removal. The extraction process is not considered a greenhouse gas emitting activity.</p> <p>The proposed development is unlikely to be significantly affected by extreme weather events such as bushfire, given the quarry pit provides an effective fire break, or flooding,</p>

		<p>given the surrounding topography, proximity to waterways and permitter bunds diverting surface water flows.</p> <p>In the event of drought, a condition of consent has been proposed requiring adjustment of the scale of quarrying operations on site to match its available water supply and licensed water entitlements.</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed subject to the imposition of relevant recommended Draft Schedule of Conditions (<b>Attachment A</b>).</p>
<p>Rehabilitation</p> <p>Submissions raised concern regarding the level of detail provided regarding rehabilitation and quarry closure plans.</p>	16	<p>As outlined in Section 3.1 of this report, it is unknown if the quarry would be fully exhausted as proposed at this stage, so the final landform is also unknown. However, it is expected that if the quarry progresses below a depth of RL63 m, the pit will fill with water over time. A list of objectives for any rehabilitation is provided in the EIS and rehabilitation works are proposed to be undertaken in accordance with the Proposed Quarry Concept Rehabilitation Plan prepared by GHD.</p> <p>To ensure rehabilitation is completed, the applicant has also proposed in the EIS, establishment of a rehabilitation account, where \$0.05 per tonne of material sold will be deposited and dedicated for rehabilitation purposes.</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed subject to the imposition of relevant recommended Draft Schedule of Conditions requiring the submission of a Quarry Closure Strategy at least 5 years prior to cessation of quarry operations and establishment the rehabilitation account (<b>Attachment A</b>).</p>
<p>Land contamination</p> <p>Submissions raised concern regarding historic use of the site as a crop dusting airstrip.</p>	14	<p>As outlined in Section 3.1 of this report, during the exhibition process, some public submissions indicated part of the proposed quarry site was historically used as a crop-dusting airstrip.</p> <p>A Detailed Site Investigation ('DSI') has been prepared for the site in response to community submissions.</p> <p>The assessment concluded that based on this investigation, the site is considered suitable from a contamination perspective for its intended use as a quarry.</p> <p><b>Outcome:</b> This issue has been satisfactorily addressed through preparation of the DSI including soil sampling, testing and analysis against the relevant assessment criteria.</p>



## 5. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered that the application warrants support.

The proposed development will not change the existing land uses on the site. Furthermore, the subject site is relatively unconstrained and sited on land which has been heavily modified by past land clearing and agricultural activities. The local topographic variation, remnant vegetation, proposed perimeter bunding and nature of the quarry development (extending below the topography rather than cutting into the side) provide effective shielding of the development from neighbouring properties.

The proposed development is positioned away from major population centres and has convenient access to the regional road network with direct access to Bentley Road.

The proposed development will provide a long-term supply of construction materials with access provided for up to 1.266 million tonnes, facilitating public and private development in both Richmond Valley and adjoining local government areas. Furthermore, the quarry maximises resource recovery associated with the existing quarry disturbance footprint, limiting the potential environmental impacts.

The proposed development will provide employment for about 5 full time staff, provide direct economic benefit in the form of an initial \$988,582 capital investment plus expenditure associated with operations and wages, as well as generating the need for goods and services, creating flow on opportunities for business development in the region

Consequently, the subject site is considered to be suitable in its current state for the purposes of the proposed development and given the history of quarrying at this location.

It is considered that the likely impacts as outlined in Section 3.6 have been resolved satisfactorily through the recommended Draft Schedule of Conditions at **Attachment A**.

## 6. RECOMMENDATION

That the Development Application DA No 2022/0107 for an extractive industry with an intended capacity of up to 300,000 tonnes per annum at 1465 Bentley Road Bentley (Lot 2 DP 1196757 be APPROVED pursuant to Section 4.16(1)(a) of the Environmental Planning and Assessment Act 1979 subject to the Draft Schedule of Conditions attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Schedule of Conditions