

DETERMINATION AND STATEMENT OF REASONS

NORTHERN REGIONAL PLANNING PANEL

DATE OF DETERMINATION	10 August 2023
DATE OF PANEL DECISION	9 August 2023
DATE OF BRIEFING	2 August 2023
PANEL MEMBERS	Dianne Leeson (Chair), Stephen Gow, Penny Holloway, and Robert Crouch
APOLOGIES	Michael Wright
DECLARATIONS OF INTEREST	Kate Jessup had a Conflict of Duties as she is the Uralla Shire Council General Manager, with one of her staff members undertaking the assessment of the development application.

Papers circulated electronically on 21 July 2023.

MATTER DETERMINED

PPSNTH-193 – Uralla – DA-4-2023 - 1033 KINGSTOWN ROAD BALALA 2358 - Expand Size and Increase Production of Existing Quarry (as described in Schedule 1).

PANEL CONSIDERATION AND DECISION

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

Development application

The Panel determined to approve the application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve the application, subject to conditions, for the reasons outlined in the Assessment Report.

The Panel agrees the principal issues associated with the development are run off and sediment control, road safety, heavy haulage impacts on Kingstown Road, and site rehabilitation.

The Panel sought to impose a condition requiring the payment of a bond to ensure the rehabilitation works are carried out at end of quarry life. However, Council advised such a condition would create an administrative burden for the life of the quarry that Council does not want. Accordingly, no condition was imposed.

The development will provide a public benefit by supporting other development in the Uralla Shire and neighbouring areas and through local employment.

The Panel is satisfied the impacts of the quarry activity can be mitigated by imposition of conditions as recommended by Council and as amended by the Panel.

CONDITIONS

The Development Application was approved subject to the conditions in the Council Assessment Report with the following amendments:

- Amend Condition 2 (a) and (g) to read as follows:
 - a. Extraction of material from the quarry shall not exceed 120,000m³ (216,000 tonnes) during any consecutive financial year.
 - g. The applicant shall maintain a record of each load from the premises to enable production to be calculated for any consecutive financial year by multiplying the number of loads for each vehicle type by the known capacity of each vehicle.

- Amend former condition 4 (now condition 3) to read as follows:

A developer contribution is to be paid to Council towards the provision of local road maintenance and upgrades (as per Uralla Shire Council Section 7.11 Development Contributions Plan 2021).

Each payment is due before the end of each financial year and is calculated based on the total sum of all loads of quarry products transported from the site. Contribution calculations will be based on the submission to Council of returns from weighbridge or other suitable records (as approved by Council) for the year. Annual returns must be lodged to Council two (2) months **before** the end of the financial year.

Section 7.11 contributions will be ongoing throughout the operational period of the project, and calculated and invoiced by Council on an annual basis.

ADVISING: The current Plan is Uralla Shire Council Section 7.11 Development Contributions Plan – Heavy Vehicles. Contribution rates are indexed annually at the beginning of each new financial year. ADVISING: The last two (2) months before the end of the financial year are estimated based on an average monthly return.

- Amend Condition 4 to read as follows:

Prior to any earthworks, an Environmental Management Plan (EMP) must be prepared and shall be submitted to Council for approval. This plan must provide the following (at a minimum):-

- a. Provide the strategic framework for environmental management of the project;
- b. Identify the statutory approvals that apply to the project;
- c. Set out the role, responsibility, authority and accountability of all key personnel involved in the environmental management of the project;
- d. Set out the procedures to be implemented to:
 - i. keep the local community and relevant agencies informed about the operation and environmental performance of the project;
 - ii. receive, record and respond to complaints;
 - iii. resolve any disputes that may arise during the course of the project;
 - iv. respond to any non-compliance and any incident; and
 - v. respond to emergencies.
- e. A protocol for periodic review of the plan if required;
- f. Include plans for the management and monitoring to ensure the operations comply with the relevant criteria and conditions of this approval for the following:
 - i. Noise
 - ii. Blasting
 - iii. Air quality
 - iv. Surface water and Groundwater
 - v. Traffic
 - vi. Aboriginal cultural heritage
 - vii. Biodiversity
 - viii. Bushfire
 - ix. Waste
- g. A summary of any environmental monitoring to be carried out under the conditions of this approval and EPL.

- h. Describe the procedures that would be implemented for health and safety at the site, including a detailed emergency plan, developed in consultation with local emergency services.

ADVISING: The current Environmental Management Plan (EMP) is to be available at the Site at all times.

- Amend Condition 6 (now condition 5) to read as follows:

Stormwater/sediment control – Future Quarrying

Prior to any earthworks, a Soil and Water Management Plan (SWMP) and accompanying specifications must be prepared and shall be submitted to Council for approval.

The plan must describe the measures that will be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and waters during construction activities and be prepared in accordance with the guidance in Managing Urban Stormwater: Soils and Construction (available at [Managing Urban Stormwater: Soils and Construction Volume 1 Fourth edition \(landcom.com.au\)](http://landcom.com.au))

- Amend Condition 7 to read as follows:

Prior to operations an Erosion and Sediment Control Plan (ESCP) must be prepared and shall be submitted to Council for approval. For the avoidance of doubt, quarrying operations refers to the extraction, processing and transportation of extractive materials and the associated removal of vegetation, topsoil and overburden.

The ESCP must describe the measures that will be used to minimise soil erosion and the discharge of sediment and other pollutants to lands and water for the life of the project, and be prepared in accordance with the guidance in Managing Urban Stormwater: Soils and Construction, particularly Volume 2E: Mines and quarries

The approved ESCP controls shall be implemented, inspected and approved prior to the commencement of any extraction activities associated with this approval and must be maintained for the life of the project or until revegetation measures have taken effect.

ADVISING: Failure to take effective action may render the developer liable to prosecution under the NSW Protection of the Environment Operations Act.

- Amend Condition 9 to read as follows:

Prior to operations the installation of advance warning signage is required, and must be designed to meet the current Australian Standard. Road signage must be installed 250 metres in advance of the intersection of Kingstown Road to ensure advanced warning of the entrance to the quarry.

ADVISING: Signage installation may have site specific requirements to be included in the approval pursuant to s138 Roads Act.

- Amend Condition 10 to read as follows:

Prior to operations a Traffic Management Plan (TMP) must be prepared and submitted to Council for approval. The TMP must describe the processes in place for the management of trucks entering and exiting the site. Any TMP must also include a Driver Code of Conduct to incorporate the following:-

- a. Identification of the haulage route and speed limits;
- b. A map of the vehicle movement plan highlighting critical locations;
- c. An induction process for vehicle operators and regular toolbox meetings;
- d. Procedures for travel through residential areas, school zones and bus routes;
- e. Obligations to minimise dust at all times, including no overloading of vehicles & all loads leaving the extraction area to be covered;
- f. A complaint register and resolution/disciplinary procedure;
- g. Obligations to ensure the entrance gate is locked when the quarry is not in operation;
- h. Community consultation measures proposed for peak extraction periods; &
- i. Obligations under the Work Health and Safety Regulation 2017 (or equivalent).

ADVISING: It is the responsibility of the applicant to induct all drivers to the site and provide them with a copy of the Driver Code of Conduct to ensure they are aware of their obligations under this approval.

- Amend Condition 11 to read as follows:

Prior to operations the access from Kingstown Road is to be upgraded to the following requirements:-

- The surface of the haulage access route from Kingstown Road to the existing cattle grid to be bitumen sealed. The access route is to meet the current relevant standard as per Council's Engineering Design Codes.
- Construction of sealed BAL/BAR turn treatments on Kingstown Road. The works are to be designed in accordance with the current version of Austroads Guide to Road Design and relevant Australian Standards (with Transport for NSW supplements) to the satisfaction of Council.

For any construction work on Council road reserves, the Applicant is to submit an application to Council as the roads authority pursuant to s138 of the Roads Act 1993 and obtain approvals for all such proposed work.

This application must be approved prior to any such works commencing, to ensure that pedestrian and vehicular safety during construction has been addressed and that the work meets Council's design standards for work in road reserves.

ADVISING: Where a proposal involves work/activity over public land, the activity is to be protected by public liability insurance with a minimum cover of \$20 million.

- Amend Condition 12 to read as follows:

Prior to operation, a Rehabilitation and Closure Plan must be prepared and submitted to Council for approval. At a minimum, a rehabilitation plan must:-

- a. outline the final land use and landform options considered, and justification of the preferred option;
- b. detail any rehabilitation methods to be implemented for both planned and unplanned closure of the site, including the testing of imported material to confirm it is suitable for rehabilitation;
- c. list suitable completion criteria;
- d. include a risk assessment to demonstrate any post-closure hazards associated with the proposed final landform and land use are acceptable; and

- e. provide an estimate of the closure costs prepared in accordance with the current industry recognised guidelines.

ADVISING: The rehabilitation and closure plan must be prepared in accordance with any applicable legislation and the principles of the Strategic Framework for Mine Closure produced by the Australian and New Zealand Minerals and Energy Council and Minerals Council of Australia (ANZMEC, 2000).

- Amend Condition 18 to read as follows:
Effective dust control measures to be maintained at all times during the construction and operational phases of the project as per Air Quality Assessment by Zephyr Environmental, dated August 2022.

Trucks entering and existing the premises that are carrying loads must be covered at all times and unsealed access roads are to be watered to prevent the emission of nuisance dust.

When undertaking crushing of extracted material, wet suppression must be applied to prevent the emission of dust.

ADVISING: Failure to take effective action may render the developer liable to prosecution under the NSW Protection of the Environment Operations Act.

- Insert new Condition 21 which reads as follows and renumber accordingly:
The approved Rehabilitation and Closure Plan must be implemented within 12 months after cessation of quarry operations

- Insert Condition 22 which reads as follows and renumber accordingly:

Fuel & Chemical Storage

For the avoidance of doubt, this consent does not include the storage of fuels or chemicals associated with the quarry.

- Amend Condition 21 (now condition 23) to read as follows:
Attachment A:
General terms of approval (Notice No. 1629679) for the NSW Environment Protection Authority (EPA) issued pursuant to section 4.46 of the Environmental Planning and Assessment Act 1979.

Attachment B:

Quarry Site Layout, Onward Consulting, October 2022.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the Panel considered written submissions made during public exhibition and heard from all those wishing to address the Panel. The Panel notes that issues of concern included:

- **Sediments**
- **Landuse Conflict Risk Assessment**
- **Biodiversity Assessment**
- **Riparian works downstream**
- **Traffic**
- **Road Damage**

The Panel considers that concerns raised by the community have been adequately addressed in the Assessment Report and that no new issues requiring assessment were raised during the public meeting. The Panel notes that in addressing these issues appropriate conditions have been imposed.

PANEL MEMBERS



Dianne Leeson (Chair)



Stephen Gow



Penny Holloway



Robert Crouch

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-193 – URALLA – DA-4-2023
2	PROPOSED DEVELOPMENT	Expand size and increase production of existing quarry with an intended extraction capacity of up to 216,000 tonnes per annum.
3	STREET ADDRESS	Lot 3 DP 834359, 1033 Kingstown Road, Balala NSW 2358
4	APPLICANT/OWNER	Mr David Carlon
5	TYPE OF REGIONAL DEVELOPMENT	Designated development - extractive industry
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> Environmental planning instruments: <ul style="list-style-type: none"> State Environmental Planning Policy (Biodiversity and Conservation) 2021 State Environmental Planning Policy (Industry and Employment) 2021 State Environmental Planning Policy (Planning Systems) 2021 State Environmental Planning Policy (Primary Production) 2021 State Environmental Planning Policy (Resilience and Hazards) 2021 State Environmental Planning Policy (Resources and Energy) 2021 State Environmental Planning Policy (Transport and Infrastructure) 2021 Uralla Local Environmental Plan 2012 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> Uralla Development Control Plan 2011 Planning agreements: Nil Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i> Coastal zone management plan: Nil The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality The suitability of the site for the development Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations The public interest, including the principles of ecologically sustainable development
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> Council Assessment Report: 20 July 2023 Written submissions during public exhibition: Two (2) Total number of unique submissions received by way of objection: Two (2)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Briefing: 24 May 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Dianne Leeson (Chair), Michael Wright, Bob Crouch, and Kate Jessup <u>Council assessment staff</u>: Matt Clarkson <u>Department staff</u>: Carolyn Hunt, Louisa Agyare, and Lisa Foley Site inspection: 18 July 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, and Bob Crouch <u>Council assessment staff</u>: Kate Blackwood Applicant Briefing: 2 August 2023

		<ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Penny Holloway, and Bob Crouch ○ <u>Applicant representatives</u>: Mark Vile ○ <u>Council assessment staff</u>: Kate Blackwood ○ <u>Department staff</u>: Carolyn Hunt, Louisa Agyare, and Lisa Ellis <ul style="list-style-type: none"> ● Final briefing to discuss council's recommendation: 2 August 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Penny Holloway, and Bob Crouch ○ <u>Council assessment staff</u>: Kate Blackwood ○ <u>Department staff</u>: Louisa Agyare, and Lisa Ellis
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the Council Assessment Report