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WR:JG
DA 40/95
A712/4

**NOTICE TO APPLICANT OF DETERMINATION OF A
DEVELOPMENT APPLICATION**

**Environmental Planning and Assessment Act, 1979,
Local Government Act, 1993.**

To: Mr M Withrington

of: 1 Mahogany Street DORRIGO NSW 2453

being the applicant in respect of Development Application
No 40/95.

Pursuant to Section 92 of the Act notice is hereby given of the
determination by the above Council of the Development
Application No 40/95 relating to the land described as
follows: Lot 31 DP 752826 Parish Hyland County Fitzroy being
for Extractive Industry - Mr R L Shaw (on behalf of Mr M
Withrington).

The Development Application has been determined by granting of
Consent subject to the conditions specified in this notice.

The conditions of Consent are set out as follows:

1. The development to take place in accordance with the
Development Application and Environmental Impact
Statement lodged in respect of this application, except
where amended by any of the following conditions.

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- 2.a) The control of erosion and the prevention of silt discharge into drainage systems and waterways to be effective at all times, and to be carried out in accordance with accepted engineering practices, and to the full satisfaction of Council.
- b) Provision of detailed engineering design plans showing the full drainage and runoff details, together with sediment control structures and erosion arrestment measures to be approved by Council.

Plans to be provided, to Council's satisfaction, within 6 months of date of consent, and all works to be completed within 6 months following any approval by Council.

- c) If at any time pondage or drainage measures are found to be ineffective or deficient in operation to the satisfaction of Council, such measures shall be immediately rectified, at applicant's expense, to a satisfactory working level.
3. Blasting to be monitored to ensure compliance with EPA guidelines.
4. All equipment used on site is to be maintained in good working order at all times, and noise attenuation measures to comply with registration and WorkCover Authority guidelines.
5. Progressive rehabilitation to be carried out during the life of operation of the quarry. All worked areas, benching and batters to be levelled or shaped and spread with available topsoil reclaimed from the site. All areas to be revegetated to the full satisfaction of Council.
6. The provision to Council of a detailed site plan of management which clearly sets out all relevant conditions, requirements and operational aspects, including staging, progressive use, drainage, total site landscaping and rehabilitation of whole extract area, over the projected life of the quarry. Such plan to be submitted to Council for consideration and approval within 6 months of the date of consent.

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7. The provision of a written annual report by the operator and the review of Plan of Management operations, describing compliance with the terms and conditions of such plan over the preceding year, and any requirements of licences and approvals of relevant State Government Departments. (NB: There will be an annual inspection of the quarry by Council, for which a fee will be charged. The current fee for this service is \$60).
8. Hours of operation to be restricted to 6.00 am to 7.00 pm Mondays to Fridays, 6.00 am to noon Saturdays, with no work on Sundays or Public Holidays. (NB. The crusher may operate to 9.00 pm Mondays to Fridays, as required).
9. A contribution of \$0.30 per m3 of material extracted from the site be paid to the Council on a quarterly basis towards the maintenance of Main Road 74. This contribution to be used on the sections of road which are presently scheduled in Council's maintenance policy and program. This rate of contribution as calculated at the date of this consent will be subject to C.P.I. adjustment for each six (6) month period prior to the payment of the contribution to Council.
10. Internal roadways and operational areas are to be watered if required in order to minimize any dust nuisance.
11. The access road off Mr 74 to be sealed for the first 50 metres. The shoulders of MR 74 to be sealed for 50 metres each side of the internal access roadway intersection, and on both sides of MR 74 for the length of this section. Shoulder sealing to be 2.0 metres wide in each case. (NB As a similar condition has been placed on an adjoining quarry (Ellis' Pit) which shares the same road intersection, a cost share may be arranged by the applicant with the operator of Ellis' Pit, Nymboida Shire Council).
12. Any necessary licences from any other Government Authority in relation to the operation being also obtained, and relevant conditions adhered to.
13. No wastes are to be disposed of on site without the written consent of Council having first been obtained.
14. Any fuel to be stored on the site is to be contained within a bunded area, the bund wall of which is designed to contain 110% of the volume of fuel to be stored. Such bund walling to be constructed concurrent with the storage of any fuel.

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15. Effective measures are to be taken to minimise any nuisance being caused by noise, vibration, smell, fumes, dust, smoke, waste water products and the like, at all times. Adequate dust suppression measures are to be applied at all times that the crusher is operating.
16. Should the operations uncover evidence of past aboriginal use of the area, or the presence of any endangered flora or fauna, all work is to cease immediately and the National Parks and Wildlife Services are to be contacted. No work is to recommence until the National Parks and Wildlife Service permit such works to continue.
17. Any further development of the site, not being part of the current application, to be the subject of a separate development application to Council.
18. Strict adherence to all conditions of consent during the life of operation of the quarry.

Any breach of any of these conditions will mean that the Development Application is suspended immediately until the breach is rectified. In the event of any breach that (as determined by Council) seriously affects the ecology of the area, knowingly disturbs or destroys endangered flora and/or fauna and knowingly disturbs or destroys aboriginal relics, action will be taken by Council through the Land and Environment Court.

The reasons for the imposition of the conditions are set out as follows:-

1.) Provisions of the Environmental Planning and
2.) Assessment Act, 1979, Nymboida Local Environmental
3.) Plan, 1986, Development Control Plan No 1, and
-) Council's Codes and Policies.

Endorsement of date of Consent: 21 February 1996

On behalf of the above Council
A/General Manager

Date: 28 February 1996

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NOTES:

- 1) To ascertain the date upon which the Consent becomes effective refer to Section 93 of the Act.
- 2) To ascertain the extent to which the Consent is liable to lapse refer to Section 99 of the Act.
- 3) Section 97 of the Act confers on an applicant who is dissatisfied with the determination of a Consent authority a right of appeal to the Land and Environment Court exercisable within 12 months after receipt of this notice.
- 4) The Consent is valid for a period of three (3) years from the date of notification to the applicant. (As per Council's Policy adopted 18/2/94 Development Consent Policy - Period of Validity)

ORDINARY MEETING**20 MAY 2008**

Committee:	CIVIL & CORPORATE	13 May 2008
Section:	Operations	DWS No
Item: 09.068/08	EXPANSION OF ELLIS QUARRY, TYRINGHAM	

ATTACHMENT**REPORT SUMMARY**

Clarence Valley Council operates a quarry on private land (Lot 1 DP 752826), known as Ellis Quarry, for the supply of gravel material in the Tyringham/Hernani area of Council. This quarry is located on the boundary with the adjoining lot (Lot 31 DP 752826), owned by Mr J. Fahey and State Forest. In 2007 Council became aware that quarry operations had extended from Lot 1 DP 752826 into Lot 31 DP 752826 and the State Forest.

OFFICER'S RECOMMENDATION

That:

1. Council pay Mr J. Fahey \$27,324 (GST inclusive) as compensation for gravel removed from his property in the operation of the quarry plus legal fees (\$385.00); and
2. Council sign and affix Council's seal to a deed of agreement finalising this matter and any future claim to compensation.

COMMITTEE RECOMMENDATION

Morgan/Tiley

That the Officer's Recommendation be adopted.

COUNCIL RESOLUTION
(Flanagan/Adams)

09.068/08 That:

1. Council pay Mr J. Fahey \$27,324 (GST inclusive) as compensation for gravel removed from his property in the operation of the quarry plus legal fees (\$385.00); and
2. Council sign and affix Council's seal to a deed of agreement finalising this matter and any future claim to compensation.

BACKGROUND

Council operates a quarry on private land (Lot 1 DP 752826), known as Ellis Quarry, for the supply of gravel material in the Tyringham/Hernani area of Council. This quarry is located on the boundary with the adjoining lot (Lot 31 DP 752826), owned by Mr J. Fahey, and State Forest.

In early 2007 Council became aware of an issue whereby extraction of material had extended from Lot 1 DP 752826 to lot 31 DP 752826 and the State Forest. This had apparently been occurring for a significant length of time (since the time of Nymboida Shire Council). This issue was identified when Council had a boundary survey prepared

ORDINARY MEETING

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as part of the management of the quarry. Part of the issue has arisen due to "boundary" fences being located some distance from the actual boundary. Council has also altered its operations to ensure future extraction of material is retained within Lot 1 DP 752826.

As a result Council has contacted both Mr Fahey and NSW State Forests. Mr Fahey is seeking compensation for the material removed (Mr Fahey has Development Application approval for a quarry on his property) while State Forests wish to take no further action.

ISSUES

To progress the matter Council had a detailed survey of the quarry completed to assess the amount of gravel that had been removed from Lot 31 DP 752826. This survey determined that 9,200 cubic metres of material had been removed from Lot 31 DP 752826. A plan of the site is provided for information. This material is valued at \$24,288 (GST inclusive) based on current royalty rates for this quarry. Council also has an allowance for rehabilitation (\$0.30 per cubic metre), giving a value of \$3,036 (GST inclusive). The total value for the material removed is therefore \$27,324 (GST inclusive).

Council has also had a Deed of Agreement prepared indicating the payment of \$27,324 is full and final compensation for the material removed. This agreement requires Council's seal to be affixed.

SUSTAINABILITY ASSESSMENT

Summary Statement:

The payment of compensation for the material removed, the signing of the Deed of Agreement and alteration to Council operations within the quarry will finalise the matter with regard to over-extraction and will ensure that Council operates the quarry correctly into the future.

Ecology:

Not applicable.

Economic:

Council enters into agreements to pay royalties to landowners with approved quarries to extract material for road making purposes.

Social & Cultural:

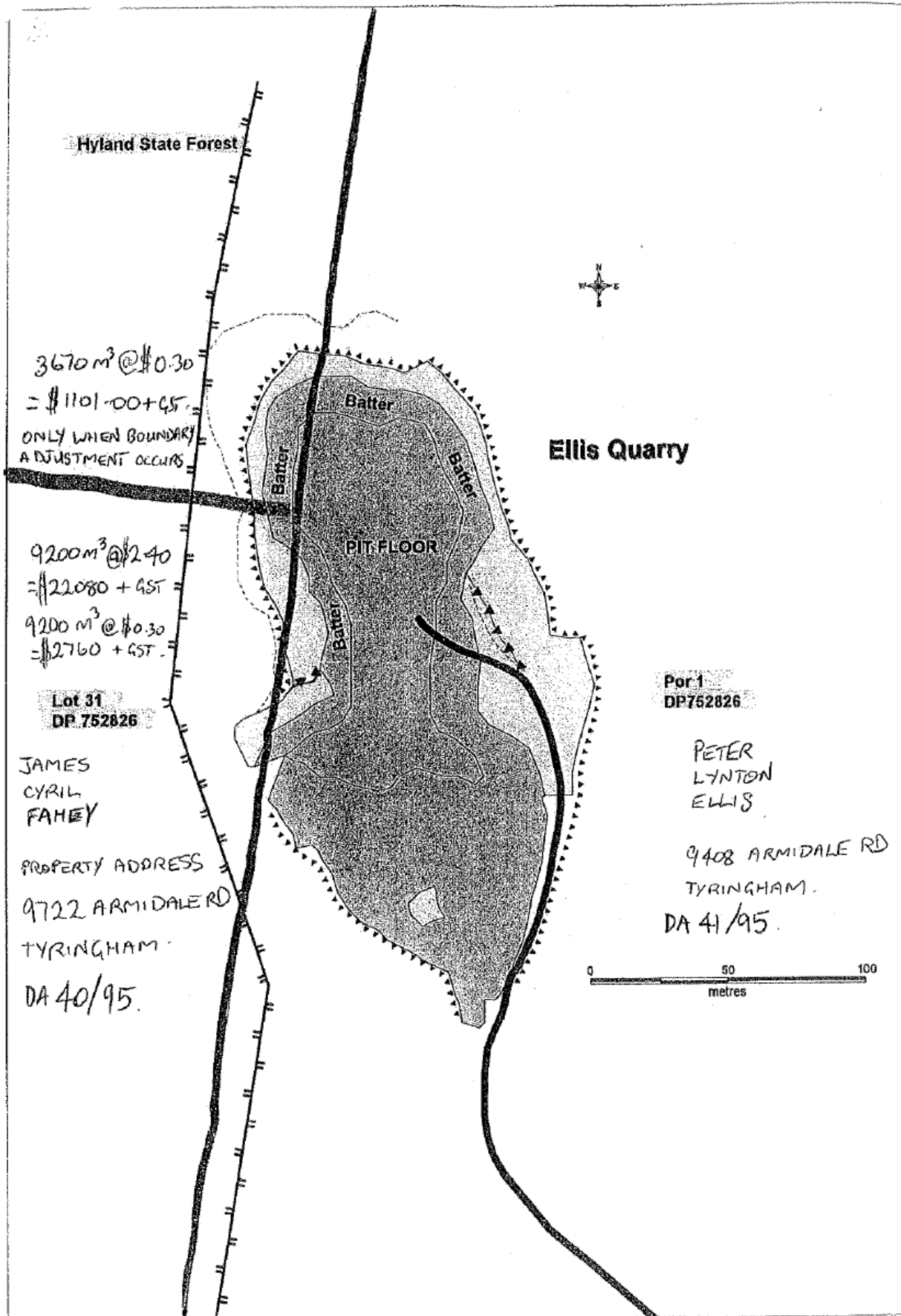
Not applicable.

Human Habitat & Infrastructure:

Council requires continued access to quarries and gravel supplies to maintain and construct roads within the Council area.

Governance:

The payment of compensation for the material removed, the signing of the Deed of Agreement and alteration to Council operations within the quarry will finalise the matter with regard to over-extraction and will ensure that Council operates the quarry correctly into the future.



SURVEY PLAN ACCOMPANYING COUNCIL REPORT 20 MAY 2008