

<b>DATE OF DETERMINATION</b>	26 August 2024
<b>DATE OF PANEL DECISION</b>	23 August 2024
<b>DATE OF PANEL BRIEFING</b>	20 August 2024
<b>PANEL MEMBERS</b>	Dianne Leeson (Chair), Stephen Gow, Michael Wright, Peter Johnstone and Ian Tiley
<b>APOLOGIES</b>	None
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 7 August 2024.

#### **MATTER DETERMINED**

PPSNTH-260 – Clarence Valley – DA2023/0580 – 9720 Armidale Road, Tyringham – Extractive industry  
(Proposed continuation of use and expansion 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 development application pursuant to section 4.16 of the *Environmental Planning and Assessment Act 1979*.

The decision was unanimous.

#### **REASONS FOR THE DECISION**

The Panel determined to approve the application for the following reasons:

1. The proposed development is a continuation of an existing approved quarry operation. It is permissible within the RU1 Primary Production zone and is consistent with relevant zone objectives. It satisfies the relevant provisions of the Clarence Valley LEP and other applicable State Planning Policies
2. The site is suitable for the continued use and, together with the proposed conditions of consent, will ensure that noise, traffic, environmental and operational impacts can be adequately mitigated.
3. The Panel has imposed a condition to limit the life of the pit to 20 years or 1.8m tonnes. This will ensure that rehabilitation of the site is adequately planned and implemented.
4. The Panel is satisfied the proposal will provide quarry products for the region, provide local employment and have direct and broader socio-economic impacts.
5. For the reasons given above, the proposal is in the public interest. The Panel notes there were no public submissions made during the exhibition.

#### **CONDITIONS**

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

- Amend Condition 1 to remove 'Appendix B Existing Approved Quarry, Council report on Ellis' Pit, prepared by Nymboida Shire Council, date of document 21.2.1996 and 20.5.2008'

- Amend Condition 4 Maximum annual extraction, to delete the following:  
***Extraction** means the removal of overburden, the extraction, processing, handling of extracted material in relation to this consent.*
- Insert new Condition 6, which reads as follows and renumber the remaining conditions accordingly:  
**6. Rehabilitation, period of extraction and extraction limit**  
Extractive activities approved under this consent are to cease and rehabilitation of the extractive area is to occur 20 years from the date of consent or from when 1.8 million tonnes of extraction of material has been reached, whichever occurs first. Complete rehabilitation of the site must be undertaken in accordance with an approved Rehabilitation Management Plan (as set out in Condition 26).

**Condition reason:** To ensure that rehabilitation will occur within a reasonable time

- Amend the reasoning of former Condition 7 (now Condition 8) Costs of alterations and extensions, to read as follows:  
**Condition reason:** To ensure any damage to public or private infrastructure is rectified.
- Amend former Condition 8 (now Condition 9) Works in Road Reserve, by deleting the first sentence.
- Amend former Condition 9 (now Condition 10) Surrender of Consent, by inserting the words 'quarry operations under' after the words 'the commencement of'.
- Amend former Condition 16 (now Condition 17) Quarry access road to update the condition reference to Condition 9
- Amend former Condition 17 (now Condition 18), part e, to read as follows:  
e. Methods for protection of assets (including fuel storage) within the quarry footprint;
- Amend former Condition 21 (now Condition 22) Fauna spotter for clearing, by inserting 'to' after the words 'fauna spotter' in the first sentence
- Amend former Condition 23b) (now Condition 24b)) Annual Plan of Management, by amending the last dot point, inserting another dot point and amending the condition reason, to read as follows:
  - a staged rehabilitation plan for the life of the quarry showing rehabilitated areas and proposed rehabilitation in the next twelve (12) months
  - an updated Fire Management Plan as outlined in Condition 18

**Condition reason:** To provide an update of annual operations in accordance with the Plan of Management

- Amend former Condition 28 (now Condition 29) Aboriginal relics, by deleting the words 'Director-General of the NSW Department of Environment and Conservation' and replacing with 'Secretary of the NSW Department of Climate Change, Energy, the Environment and Water'
- Amend former Condition 30 (now Condition 31) Clearing of vegetation, by replacing 'EIS' with 'Environmental Impact Statement'

## **CONSIDERATION OF COMMUNITY VIEWS**

In coming to its decision, the Panel notes that no written submissions were made during public exhibition and therefore no issues of concern were raised.

**PANEL MEMBERS**



Dianne Leeson (Chair)



Stephen Gow



Michael Wright



Peter Johnstone



Ian Tiley

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-260 – Clarence Valley – DA2023/0580
2	PROPOSED DEVELOPMENT	Extractive Industry (proposed continuation of use and expansion of existing quarry)
3	STREET ADDRESS	9720 Armidale Road, Tyringham
4	APPLICANT/OWNER	Gary Peacock Abby Lee Richards and Toby John Sheridan
5	TYPE OF REGIONAL DEVELOPMENT	Designated development - extractive industry
6	RELEVANT MANDATORY CONSIDERATIONS	<ul style="list-style-type: none"> <li>Environmental planning instruments: <ul style="list-style-type: none"> <li>Environmental Planning and Assessment Act, 1979</li> <li>Environmental Planning and Assessment Regulation, 2021</li> <li>Local Government Act 1993</li> <li>Protection of the Environment Operations Act 1997</li> <li>Biodiversity Conservation Act 2016</li> <li>Water Management Act 2000 • Fisheries Management Act</li> <li>Rural Fires Act 1997</li> <li>State Environmental Planning Policy (Biodiversity and Conservation) 2021</li> <li>State Environmental Planning Policy (Planning Systems) 2021</li> <li>State Environmental Planning Policy (Transport and Infrastructure) 2021</li> <li>State Environmental Planning Policy (Resilience and Hazards) 2021</li> <li>State Environmental Planning Policy (Resources and Energy) 2021</li> <li>Clarence Valley Council Local Environmental Plan 2011</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Clarence Valley Council Rural Zone Development Control Plan 2011</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</i></li> <li>Coastal zone management plan: Nil</li> <li>The likely impacts of the development, including environmental impacts on the natural and built environment and social and economic impacts in the locality</li> <li>The suitability of the site for the development</li> <li>Any submissions made in accordance with the <i>Environmental Planning and Assessment Act 1979</i> or regulations</li> <li>The public interest, including the principles of ecologically sustainable development</li> </ul>
7	MATERIAL CONSIDERED BY THE PANEL	<ul style="list-style-type: none"> <li>Council Assessment Report: 6 August 2024</li> <li>Addendum to Council Assessment Report received: 19 August 2024</li> <li>Written submissions during public exhibition: 0</li> <li>Total number of unique submissions received by way of objection: 0</li> </ul>
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Briefing: 20 February 2024 <ul style="list-style-type: none"> <li><u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Peter Johnstone and Peter Johnstone</li> <li><u>Council assessment staff</u>: Patrick Ridgway, Murray Lane and James Hamilton</li> <li><u>Department staff</u>: Carolyn Hunt and Lisa Ellis</li> </ul> </li> <li>Site inspection: 10 July 2024</li> </ul>

		<ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Dianne Leeson (Chair) and Stephen Gow</li> <li>○ <u>Council assessment staff</u>: Patrick Ridgway</li> </ul> <ul style="list-style-type: none"> <li>● Applicant Briefing: 20 August 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Peter Johnstone and Peter Johnstone</li> <li>○ <u>Applicant representatives</u>: Graham Sheridan, Abbey Richards</li> <li>○ <u>Council assessment staff</u>: Patrick Ridgway, Murray Lane and Adam Cameron</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis</li> </ul> </li> <li>● Final briefing to discuss Council's recommendation: 20 August 2024 <ul style="list-style-type: none"> <li>○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Peter Johnstone and Peter Johnstone</li> <li>○ <u>Council assessment staff</u>: Patrick Ridgway, Murray Lane and Adam Cameron</li> <li>○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis</li> </ul> </li> </ul>
<b>9</b>	<b>COUNCIL RECOMMENDATION</b>	Approval
<b>10</b>	<b>DRAFT CONDITIONS</b>	Attached to the Council Assessment Report and Addendum Report