

Your ref: MA2024/0008
Our ref: 12547851

04 September 2024

Cherie Smith
Richmond Valley Council
Locked Bag 10
Casino NSW 2470

MA2024/0008 Bentley Quarry Modification - Response to Submissions

Dear Cherie

We provide the following in response to the letter from Richmond Valley Council (Council) dated 9 July 2024 requesting a response to the submissions in relation to MA2024/0008 Bentley Quarry Modification.

1. Proposed modification

In summary, the proposed modification is to:

- Alter the extraction sequence or staging as originally proposed to access the higher quality rock earlier.
- Remove the restriction on truck movements at peak school pick up and drop off times as per Condition 60(b)(ii).

2. Submissions

Following the public exhibition of MA2024/0008, 31 public submissions were received, with 28 objecting to and 3 supporting the proposed modification. A summary of the concerns and our response is provided in Table .

Four agency responses were also received. NSW EPA, DPI Agriculture and WaterNSW did not raise any issue with the proposed modification. Transport for NSW (TfNSW) queried if the modification was consistent with Section 2.22 (1)(b) of *State Environmental Planning Policy (Resources and Energy) 2021*. A response to this has been provided in Table .

3. Planning Panel

A briefing meeting was also held with the Northern Regional Planning Panel (the Panel) on 21 August 2024. At the meeting the Panel were interested in the actual schedule of school buses on Bentley Road and the impacts Condition 60(b)(ii) is having on Bentley Quarry operations.

3.1 School Bus Schedule

Three school bus runs operate on Bentley Road but only Sodhi Bus Service travel past Bentley Quarry. A summary of the bus service and times near Bentley Quarry are provided in Table 1 and the routes are shown on Figure 1. Table 1 and Figure 1 were developed in consultation with each bus service provider and allows for minor delays.

As indicated, only Sodhi Bus Service travels past Bentley Quarry. Casino Bus Service meets the Sodhi Bus Service at the Bentley RFS shed and travels west. The Casino Christian School Bus Service travels on Bentley Road later in the morning and earlier in the afternoon than the Sodhi and Casino Bus Service, but only travel on Bentley Road between Manifolds Road and Kyogle.

Bentley Quarry rarely has trucks or clients to the west, so the potential for interaction between school buses and quarry trucks is mainly with Sodhi Bus Service between:

- 8.00 am – 8.15 am
- 3.45 pm - 4:00 pm

In the past, Bentley Quarry and Sodhi Bus Service have been in contact with each other when there have been road works and traffic control for the recent blast. Bentley Quarry will continue to keep in contact with the bus services to ensure there are no issues.

All Government bus services are fitted with tracking, so Bentley Quarry can monitor the location of the bus services (except Casino Christian School because it's not a Government service) via the real-time online tracking system at anytrip.com.au. The Bentley Quarry Driver's Code of Conduct will be updated to ensure Bentley Quarry monitors anytrip.com.au and prevents trucks from leaving the site while buses are in the vicinity.

Table 1 School bus service summary

Company	Route	Morning	Afternoon
Casino Bus Service	Manifold Road, Bentley Road and back along Bentley Road	8.00 am – 8.15 am	3.45 pm - 4:00 pm
Sodhi Bus Services	Geneva – Kyogle - Lismore	8.00 am – 8.15 am	3.45 pm - 4:00 pm
	Kyogle – Bentley - Lismore	8.00 am – 8.15 am	3.45 pm - 4:00 pm
	Hillyards Road - Lismore	8.00 am – 8.15 am	3.45 pm - 4:00 pm
Casino Christian School Bus Service	Manifolds Road and then west to Kyogle on Bentley Road	8:30 am – 8:45 am	3:05 pm - 3.10 pm

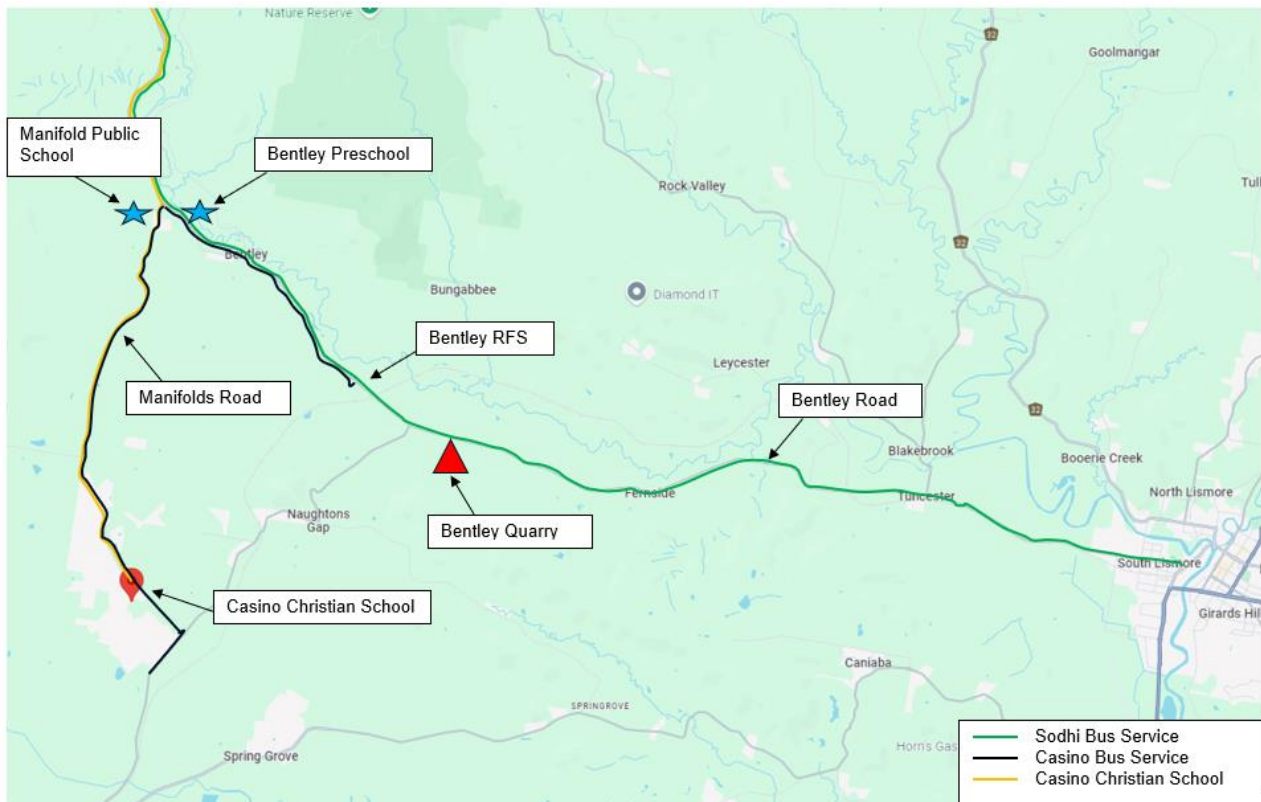


Figure 1 Bus routes

3.2 Impact of Condition 60(b)(ii)

It was explained to the Panel that Condition 60(b)(ii) was impacting Bentley Quarry because trucks were avoiding getting material from the site after 3pm because they know they will not be able to leave the site until after 4pm. This is demonstrated by the total number of trucks per hour, since the quarry started operating, as shown in Figure 2. During this period, trucks have not been able to leave the site between 8-9am and 3-4pm, as indicated in orange. Figure 2 shows a significant drop in truck numbers between 8am and 9am and then truck numbers start to decrease again between 2pm and 3pm because trucks don't want to get held at the quarry and after that truck numbers significantly reduce for the remainder of the day.

Figure 2 indicates some trucks have operated during the closure periods, which is due to them being processed on the weighbridge, but not leaving the quarry, during these periods or during school holidays, when the closure periods do not apply.

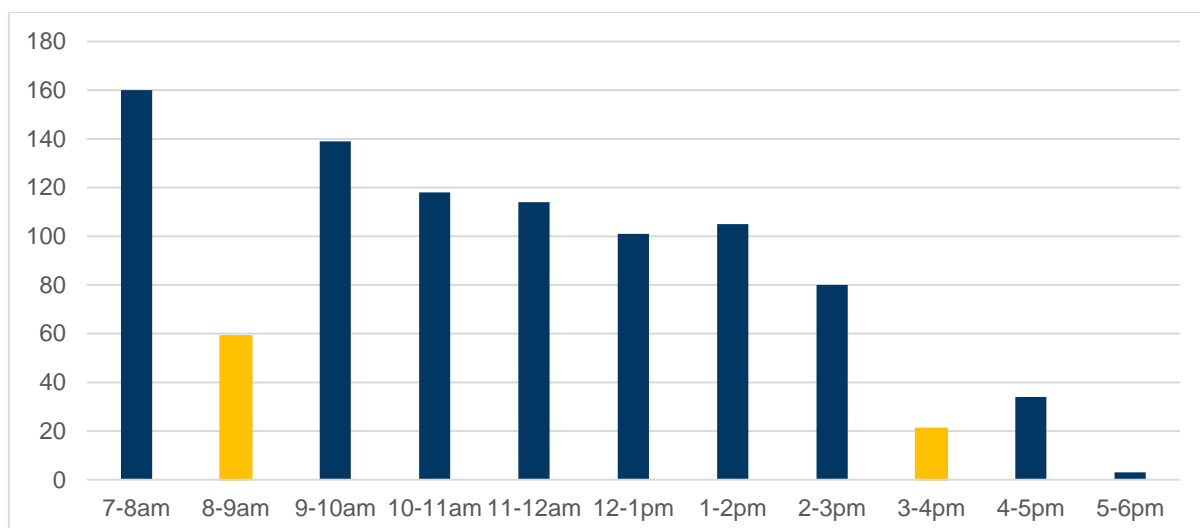


Figure 2 Total number of trucks per hour

We trust this satisfactorily responds to the submissions but if you require any further information, please contact the undersigned.

Regards

A handwritten signature in blue ink that reads "Ben".

Ben Luffman
Technical Director - Environment

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Attachment: Table A.1

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Attachments

Attachment 1

Response to Submission

Table A.1 Response to submissions

Issue	Submission	Response
Public submissions		
The quarry operator should have a greater responsibility for the control of truck movements and driver behaviour.	6	The Quarry Operator has total control of their own fleet, which includes tracking technology. All other truck drivers are required to sign the Driver's Code of Conduct (DCC) that outlines the expectations of all drivers. If the Quarry Operator is notified that the DCC has not been complied with, there are provisions for disciplinary action, including being banned from the quarry. To date, the Quarry Manager has not received any complaints regarding trucks, suggesting the DCC is effective.
The unmodified restricted haulage times are not unreasonable. There are examples of other quarries with similar restrictions.	12	We have reviewed the conditions of consent for a number of other local quarries, including those of a similar or larger scale ie Doonbah Sand Quarry and Petersons Quarry. None of the quarries include consent conditions that restrict the hours trucks can operate. Some do include measures to communicate and consider school buses in their DCC. This is considered a more appropriate way to manage truck movements together with school buses and is consistent with what Bentley Quarry proposes.
The traffic produced by the quarry on Bentley Road is not comparable to traffic from other quarries that use that road. Those quarries were approved when road traffic was less rigorous	2	We don't have the details of the traffic numbers when previous quarries were approved, but if they were approved when there was less traffic, assuming they have a similar number of truck movements as Bentley Quarry, that would mean the truck numbers would have been a larger proportion of traffic movements at the time, than Bentley Quarry. If this is the case, it could be argued that Bentley Quarry truck movements would have less impact, in relative terms, than the previous quarries.
Restricted haulage times also provide a safe period for crossing of livestock and cattle on properties on Bentley Road.	1	This is noted, however as the restriction only applies to Bentley Quarry, other trucks and vehicles would still be permitted to use Bentley Road.
Many of the conditions in section 2.2 cannot be enforced and contradict the justification of the proposed modification.	1	If the Quarry Operator is notified that the DCC has not been complied with, there are provisions for disciplinary action, including being banned from the quarry. To date, the Quarry Manager has not received any complaints regarding trucks or driver behaviour, suggesting the DCC is effective.
The claim that it is difficult to enforce condition 60(b)(ii) is inconsistent with the quarry implementing the Driver's Code of Conduct and Condition 3 e.g the requirement to install GPS trackers.	6	The DCC includes tracking technology. Once a truck has been to site, the truck driver is required to sign the DCC that outlines the expectations of all drivers. To date, the lack of complaints indicates the DCC is effective. However, it's not possible to have complete control of the trucks until they are on site.

Issue	Submission	Response
Elements of the Drivers Code of Conduct create additional traffic hazards e.g. 40 kph enforcement will motivate other drivers to try and pass the truck.	1	Reducing the truck speed while passing school kids waiting on the road is considered a measure that would increase safety for the kids. However, Bentley Quarry can not control the actions of other drivers. If reducing the speed of the trucks is a concern, this measure can be removed from the DCC.
Incidents of unsafe driving by truck drivers have occurred.	2	To date, the Quarry Manager has not received any complaints regarding trucks or driver behaviour, suggesting the DCC is working effectively.
There is a concern that the drivers code of conduct can not be verified or enforced.	1	The DCC is considered to be effective as no complaints have been received to date regarding trucks or driver behaviour.
Monitoring in the drivers code of conduct is insufficient for communicating hazards along the haul route such as the presence of school buses	1	If the proposed modification is approved, communication protocols will be added to the DCC to ensure all truck drivers are aware of when school buses are on the road based on the live tracking at anytrip.com.au.
Movements of quarry trucks have occurred during time restrictions.	3	Bentley Quarry have advised that no trucks have departed the quarry during the periods truck movements are restricted. However some trucks have departed the site during the restricted hours, in school holiday periods, when the restrictions do not apply.
Improper traffic control has held up traffic unnecessarily.	3	Professional traffic control companies have been engaged to manage traffic. During construction there was a hold up due to faulty light, which caused a delay of 15 minutes. The only traffic control since then has been for a blast, which was undertaken without incident.
Additional truck movements would disturb residential streets.	1	It is not proposed to increase the number of truck movements.
It is not "potentially a greater hazard having seven trucks waiting for an hour and then all leaving the site at the one time" because the TMP states that heavy vehicles will be 200m apart on haulage routes.	4	It is required to have a 200m separation between trucks, but without the restriction during school bus periods, trucks are spaced about 10 minutes apart, which completely avoids the potential issue of convoying.
The peak daily traffic justification of 3% is only an assumption and is irrelevant to school drop off and pick up times.	3	The 3% is based on the latest traffic data and the associated estimates in the Traffic Impact Assessment (GHD 2022) prepared for the EIS. This indicates that the trucks from Bentley Quarry, on Bentley Road, during peak periods would be a relatively small proportion of the total volume of traffic.
School buses may travel outside of the proposed hours due to delays or varied timetabling	5	Based on advice from Sodhi Bus Service, minor delays do occur but they indicated that all bus services would be within 15 minutes of their allocated time, allowing for delays. Sodhi Bus Service was in contact when there were issues with the traffic lights during construction of the access, to let Bentley Quarry know they had to keep the bus on time, which Bentley Quarry accommodated.

Issue	Submission	Response
Increased traffic hazards, especially related to school drop offs and pick ups.	10	As suggested in the modification application, the total number of trucks from Bentley Quarry is relatively small compared to the total number of vehicles using Bentley Road. The other provisions in the DCC would further reduce any risk.
Permanent speed limits need to be adjusted, especially in proximity to Bentley Pre school.	7	This is a matter for the road authority.
Speed limits need to be enforced, especially in residential areas.	3	This is a matter for the road authority.
Measures need to be put in place to lower additional dust pollution from trucks.	1	It is not proposed to increase truck numbers and the Bentley Environmental Management Strategy already includes measures to control dust, such as reducing the speed of trucks and use of a water cart on internal haulage routes.
Re-opening of Naughtons Gap Road will create a dangerous intersection.	6	This is a matter for the road authority.
Manifold public school being on a hill crest and at a T intersection makes it a position vulnerable to consistent heavy vehicle movement at these exclusion times.	3	This is a matter for the road authority.
Heavy vehicle movement exacerbates the already dilapidated state of Bentley Road e.g heavy vehicles swerving potholes creating a dangerous situation for when school buses and quarry trucks (especially if a truck and trailer combination) are negotiating the road at the same time.	7	It is not proposed to increase truck numbers and Bentley Quarry is required to pay a contribution based on the volume of material transported from the site for the maintenance of the local roads.
Manifold Road is in very poor condition due to increased car and heavy vehicle movements.	1	Bentley Quarry has very few trucks travelling on Manifold Road and the modification does not propose to increase truck numbers. Bentley Quarry is required to pay a contribution based on the volume of material transported from the site for the maintenance of the local roads.
The consultation with the bus companies lacks credibility. There is evidence that shows they are opposed to this modification.	7	The bus company has been consulted during the preparation of the DCC and Modification. They have not objected to the proposal. The bus company has contacted Bentley Quarry during construction of the intersection and operation, when traffic control is in place, to ensure the buses are not delayed, which Bentley Quarry has accommodated.
No revision of impact reports with consideration of the modification. Effects on the water table, water flow, erosion, visual amenity, crushing regime, noise, dust, and truck movements.	5	The volume, depth or area of the quarry are not proposed to change from what was originally assessed in the EIS. The impacts are therefore considered to be consistent, with a possible reduction in noise and dust impacts earlier than originally proposed due to the screening effect of the larger walls of the quarry in Stage 1, rather than Stage 3. As such no amendments are considered necessary to the original EIS or specialist reports.

Issue	Submission	Response
Stage 1 is much closer to Bentley Road so it is a concern for residents, including for visual amenity.	3	The location of Stage 1 is consistent with the approved quarry footprint, so there should be no additional impacts from the approved operation.
Conditions of the original DA have not been complied with.	1	The conditions of the approved development have been complied with and are monitored by Bentley Quarry and RVC. To date, no non-compliances have been identified. Due to the contentious nature of the approved quarry, Bentley Quarry are diligent in implementing all conditions, so the impacts on the community and environment are minimised.
Operational noise is a disturbance to neighbouring properties.	1	Compliance noise monitoring has recently been completed, which indicates the noise levels are within the relevant criteria and conditions of consent. It is expected that noise levels are likely to be reduced as a result of the modified staging, due to the larger screens/quarry walls.
Buffering trees planted along the front fence line to mitigate noise have been planted much too far apart to be effective.	2	The trees have been planted to improve the visual amenity of the site and not to mitigate noise. Vegetation is generally ineffective at reducing noise.
The quarry operator has not provided appropriate signage for warning of a blast and road closure. A member of the public raised this with Council who said they were unaware of it.	2	Bentley Quarry installed two VHS boards on Bentley Road a week before the blast, as required by the Section 138 permit. Information about the blast was also provided on the Bentley Quarry sign along Bentley Road and all adjacent property owners were notified a week prior to the blast.
The farm shed is unlawfully used as heavy transport depot. There has never been a DA approved for this and its use is in conflict with SEPP. This also should be investigated as having an impact on Condition 60(b)(ii).	2	This comment is not considered relevant to the proposed modification.
There doesn't appear to be any additional vegetation planted to hide the current works.	1	The visual bunds constructed to the east and west of the current operations have been planted with native tube stock. This comment is not considered relevant to the proposed modification.
Visual pollution is not being mitigated as per the EIS.	1	Visual bunds have been constructed to the east and west of the current operations, as per the approved plans, and have been planted with native tube stock. This comment is not considered relevant to the proposed modification.
Why was the quarry permitted to commence operations before the site access road intersection with Bentley Road was constructed, to the satisfaction of Council? E.g. the turn off lane was not finished before trading started.	2	The quarry did not commence operation until the intersection with Bentley Road was complete, to the satisfaction of Council. This comment is not considered relevant to the proposed modification.

Issue	Submission	Response
Dust is prevalent during operations. This has not been mitigated as the EIS stated it would.	1	The Bentley Quarry Environmental Management Strategy includes measures to control dust, such as reducing the speed of trucks and use of a water cart on internal haulage routes. It is expected that dust levels may be reduced as a result of the modified staging, due to the larger screens/quarry walls. This is not considered relevant to the modification.
The local community is ignored from the community consultation group	5	The Community Consultative Committee (CCC) has been established and have held their first meeting, where the proposed modification was explained. Due to the abusive responses from some representatives of the community, the CCC is considered a more effective and constructive forum to inform the community of the quarry operations and for the community to inform the quarry about any issues.
RVC has not responded to requests of who the independent chair and community members are, regarding condition 107	1	This is a matter for RVC but is not considered relevant to the proposed modification.
Complaints process with council is inadequate	1	This is a matter for RVC but is not considered relevant to the proposed modification.
Proper community feedback was not sought during the DA process	2	The community were consulted prior to submission of the original EIS, during the exhibition period and two public hearings were held during the assessment. During the preparation of the modification application, due to the abusive responses from some representatives of the community, liaison with the CCC was considered a more effective and constructive forum to inform the community of the proposed modification.
Condition 66 was not implemented prior to commencement of operations.	1	The operations did not commence at the quarry until the intersection with Bentley Road was complete, to the satisfaction of Council. This comment is not considered relevant to the proposed modification.
EIS is flawed, dismissive, and inaccurate.	1	The EIS was prepared to applicable standards and addressed relevant legislation. This comment is not considered relevant to the proposed modification.

Issue	Submission	Response
Agency submissions		
<p><i>TfNSW has reviewed the provided information and it appears the proposed removal of condition 60 (b)(ii) of the development consent may result in the development being inconsistent with section 2.22 (1)(b) of State Environmental Planning Policy (Resources and Energy) 2021. Council should be satisfied that the development maintains appropriate road safety measures and will not result in unacceptable impacts to road users.</i></p>	1	<p>Clause 2.22 states: (1) <i>Before granting consent for development for the purposes of mining or extractive industry that involves the transport of materials, the consent authority must consider whether or not the consent should be issued subject to conditions that do any one or more of the following—</i></p> <p>(b) <i>limit or preclude truck movements, in connection with the development, that occur on roads in residential areas or on roads near to schools,</i></p> <p>This provision requires Council to consider if the consent should be issued with conditions to limit or preclude truck movements on roads near to schools, it is not a requirement to include limits and is in relation to ‘roads near to schools’. The existing condition is not in relation to limits on truck movements on roads near to schools, so the proposed removal of the condition is not considered to be inconsistent with the SEPP. The modification proposes to remove the condition restricting truck movements for two hours, while school buses are operating but it is still proposed to have measures in place to manage the interaction of school buses and quarry trucks. A school exists on Manifold Road but very limited trucks from Bentley Quarry travel on Manifold Road.</p>