

DATE OF DETERMINATION	8 December 2023
DATE OF PANEL DECISION	7 December 2023
DATE OF PANEL MEETING	7 December 2023
PANEL MEMBERS	Abigail Goldberg (Chair), David Ryan, Brian Kirk, Megan Munari, Jarrod Murphy
APOLOGIES	Steve Murray
DECLARATIONS OF INTEREST	None

Public meeting held by videoconference on 7 December 2023, opened at 11:00am and closed at 11:34am.

MATTER DETERMINED

PPSSCC-395 – The Hills Shire – 544/2023/JP – 125 Smallwood Road, Glenorie - Continuation of extractive industry for a sandstone quarry for two (2) years, rehabilitation for four (4) to six (6) years, relocation of the materials storage area, increase in truck movements and the construction of acoustic barriers.

PANEL CONSIDERATION AND DECISION

The panel considered: the matters listed at item 6, the material listed at item 7 and the material presented at briefings and the matters 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 reasons outlined in the council assessment report, noting that:

- All quarrying activities are proposed to continue within the existing footprint for a further period of two (2) years only.
- The proposal includes the construction of a materials storage area to the west of the quarry pit and the installation of acoustic measures.
- Following the cessation of quarrying activities, rehabilitation activities will commence and continue for a period of up to six (6) years.
- A rehabilitation bond is required to be lodged with council within three (3 months) from the endorsed date of the consent.

CONDITIONS

The development application was approved subject to the conditions in the council assessment report with the following amendments.

1. Condition 9 be deleted.
2. Condition 18 be amended.

18. Amendment to the Rehabilitation Management Plan

The *Rehabilitation Management Plan*, prepared by Umwelt Report no. 22267/R01, dated November 2023 shall be amended to comprise the following:

- (a) must consider direct and indirect impacts on bushland areas and biodiversity values, surrounding the approved development footprint, located within the property, and located on surrounding properties. The amended plan must also identify all measures to avoid and mitigate impacts on surrounding biodiversity.
- (b) must identify areas of land to be retained and protected and areas of land to be restored.
- (c) is to provide the following plans as an Appendix of the Amended Rehabilitation Management Plan:
 - (i) a **Vegetation Management Plan** ('VMP') is to be strictly in accordance with Council's *Vegetation Management Plan Guideline* (available on Council's website www.thehills.nsw.gov.au). The VMP must provide details of the rehabilitation of the quarry as well as the management and maintenance of areas containing existing vegetation, within the property required to be retained and protected:
 - Annual reduction targets for priority weeds to achieve less than 2% cover at the end of the secondary weeding phase and annual reduction targets for environmental weeds to achieve less than 4% cover at the end of 5 years.
 - The percentage survival rate for plantings (where the survival rate is below the target replacement plants will be required)
 - Performance criteria throughout the establishment and implementation performance periods (1 year establishment and 5 years implementation).
 - Plant species richness and cover abundance of native vegetation zones for each structural layer. The Hills Shire Council's Environment Team may request that planting densities be increased to further mitigate risks associated with rehabilitation works.
 - A Gantt chart, or similar, to reflect staging of all VMP works required during the establishment and implementation periods.
 - Native species richness and cover abundance for groundcovers, shrubs and canopy species and weed cover abundance can be measured quantitatively within quadrats. Quadrat data collected prior to works commencing forms the baseline for monitoring performance criteria. Data collected is to include native species richness and cover abundance and weed distribution and cover abundance.
 - The VMP is to define all responsibilities and identify risks and risk mitigation measures, annual reporting requirements and costings associated with establishment and implementation of the Vegetation Management Plan for the duration of the six (6) year performance period.
 - In perpetuity performance criteria.
 - (ii) A preliminary **Stormwater & Erosion Management Plan** is required to be prepared to support the Rehabilitation Management Plan. The Stormwater Management Plan must detail the proposed location of any dams, overflow, swales, silt traps, fencing, and drainage infrastructure. The plan must be designed to avoid impacts on native vegetation required to be retained and protected by this consent. The Stormwater & Erosion Management Plan should include measures for ongoing monitoring of stormwater quality as well as maintenance of structures such as drains, silt traps and fencing. The Stormwater & Erosion Management Plan must aim to preserve downstream water quality. The Stormwater and Erosion Management Plan may require revisions prior to the final landform establishment.

A final version of the Stormwater and Erosion Management Plan must be submitted to Council's Manager Environment and Health for endorsement prior to rehabilitation works commencing on site.
 - (iii) A **Dam Decommissioning Plan** if any works are proposed to the existing dam.

(iv) An **Earthworks Plan** – identifying cross sections and levels of final landform.

- (d) Describe how the rehabilitation site would achieve objectives and be integrated with the measures identified in the required Vegetation Management Plan (to be provided as an appendix to the Amended Rehabilitation Management Plan).
- (e) Provide amended rehabilitation cost estimates that accurately considers the required establishment and implementation of the Vegetation Management Plan. Cost estimates must identify risks associated with implementation of the Amended Rehabilitation Management Plan and must identify costs of the identified mitigation measures required to address the risks of rehabilitation works.
- (f) Describe the measures to be implemented to ensure compliance with the relevant conditions of this consent, and address all aspects of rehabilitation including closure, final landform, final land use/s and water management in the final landform.

The Plan must be prepared by a suitably qualified and experienced person/s and submitted to The Hills Shire Council's Manager – Environment and Health for approval and must be provided prior to the issue of the Construction certificate.

3. Condition 48 be amended.

48. Life of Consent

Consent for the purposes of extraction of material is limited to a period of two (2) years from the endorsed date of this consent. A further six (6) year period after cessation of the extraction period is permitted for completion of the rehabilitation works. Written advice is required to be provided to Council of the date of which extraction on the site has ceased and the expected date of the commencement of rehabilitation works.

4. The addition of Condition 71a.

71a. Sampling Required for Disposal of Soil

Should there be a requirement to dispose of any soils from the site as waste during the operations of the quarry (including any potential Virgin Extracted Natural Material (VENM) and any stockpiled materials), these must be sampled and laboratory analysed for waste classification purposes in accordance with the EPA (2014) *Waste Classification Guidelines*. Any such waste materials should then be disposed only to appropriately licensed waste facilities.

5. Condition 72 be amended.

72. Rehabilitation Management Plan Implementation

The site must be rehabilitated in accordance with the amended Rehabilitation Management Plan required by Condition 18 at the cessation of the two (2) year extraction period in accordance with the date provided under Condition 48. This includes all stages of the amended Rehabilitation Management Plan and Vegetation Management Plan with all rehabilitation to be completed within six years of the date of cessation of quarrying provided in accordance with Condition 48.

An Annual Progress Report throughout the rehabilitation phase must be submitted to the Council (Manager – Environment and Health) at the completion of each performance year (i.e., first 12 months, end of 24 months, end of 36 months, end of 48 months, end of 60 months, end of 72 months). A statement certifying such compliance must be provided by the author of the amended Rehabilitation Management Plan or an equally qualified and experienced person. Site rehabilitation is to be carried out in accordance with the conditions of this consent.

The operator shall retain receipts of all material received and provide documentation on a six monthly basis confirming the volume and nature of material that has been received. Only Virgin Excavated Natural Material ('VENM') or Excavated Natural Material ('ENM') is to be used to return the land to the natural landform as outlined in the *Rehabilitation Management Plan*. The rock saws shall be removed from the site at the cessation of quarrying.

6. The addition of Condition 79a.

79a. Targeted Soil Investigation






A targeted soil investigation involving soil sampling and laboratory analysis for metals, organochlorine and organophosphate pesticides within the building footprint areas and vehicle parking areas is to occur prior to the commencement of rehabilitation of the site in accordance with the recommendations of the *Preliminary Site Investigation* prepared by EI Australia Pty Ltd (Ref: E24668.E01_Rev0) dated 24 August 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:

- Acoustic impacts and inadequacies of acoustic report
- Truck movements
- Safety concerns including in relation to trucks driving dangerously
- Road damage and sedimentation on road
- No valid consent for current operations
- Existing and historical non-compliances
- Inadequate Rehabilitation Plan and inappropriate bond
- Lack of owner's consent for rectification to encroachments
- EIS inconsistent with SEARs (planning controls and community consultation)
- Dust impacts
- Environmental/ecological and waterway impacts
- Inadequate information
- Lack of assessment of alternatives
- Concerns with material being brought to site (processing stone from other sites and fill)
- Potential for increased residential density in the future around the site
- Landscape screening along frontage
- Social impacts.

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 several conditions have been imposed related to safety, amenity and the environment and that an EPA licence is now also required for the site.

PANEL MEMBERS	
Abigail Goldberg (Chair) 	David Ryan 
Brian Kirk 	Megan Munari 
Jarrold Murphy 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSCC-395 – The Hills Shire – 544/2023/JP
2	PROPOSED DEVELOPMENT	Continuation of extractive industry for a sandstone quarry for two (2) years, rehabilitation for four (4) to six (6) years, relocation of the materials storage area, increase in truck movements and the construction of acoustic barriers.
3	STREET ADDRESS	125 Smallwood Road, Glenorie
4	APPLICANT/OWNER	Applicant: EA Quarry's Pty Ltd/PGH Environmental Planning Owner: EA Quarry's Pty Ltd
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 (Planning Systems) 2021 State Environmental Planning Policy (Resources & Energy) 2021 State Environmental Planning Policy (Biodiversity & Conservation) 2021 State Environmental Planning Policy (Resilience & Hazards) 2021 State Environmental Planning Policy (Transport & Infrastructure) 2021 The Hills Local Environmental Plan 2019 Draft environmental planning instruments: Nil Development control plans: <ul style="list-style-type: none"> The Hills Development Control Plan 2012 Planning agreements: Nil Provisions of the <i>Environmental Planning and Assessment Regulation 2021</i>: Nil 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: 9 November 2023 Written submissions during public exhibition: 30 Verbal submissions at the public meeting: <ul style="list-style-type: none"> Sarah Fox Council manager and assessment officer – Paul Osborne, Kristine McKenzie On behalf of the applicant – Patrick Hurley, Adam Williams Total number of unique submissions received by way of objection: 30
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> Kick Off Briefing: 10 November 2022 <ul style="list-style-type: none"> <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Megan Munari, Robert Buckham <u>Council assessment staff</u>: Kristine McKenzie, Paul Osborne, Cameron McKenzie <u>Applicant representatives</u>: Patrick Hurley, Alex Irwin, James Colla, Dean Brodie Final briefing to discuss council's recommendation: 7 December 2023 <ul style="list-style-type: none"> <u>Panel members</u>: Abigail Goldberg (Chair), David Ryan, Brian Kirk, Megan Munari, Jarrod Murphy

		<ul style="list-style-type: none">○ <u>Council assessment staff</u>: Kim Johnson (consultant planner), Kristine McKenzie, Paul Osborne
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report