

<b>DATE OF DETERMINATION</b>	Friday, 20 May 2022
<b>DATE OF PANEL DECISION</b>	Thursday, 19 May 2022
<b>DATE OF PANEL MEETING</b>	Friday, 6 May 2022
<b>PANEL MEMBERS</b>	Brian Kirk (Acting Chair), Susan Budd and Jan Murrell
<b>APOLOGIES</b>	Paul Culhane
<b>DECLARATIONS OF INTEREST</b>	None

Papers circulated electronically on 12 April 2022.

The Panel conducted a site inspection on 13 December 2021 and requested that the applicant provide additional information in relation to environmental management including the progressive rehabilitation and revegetation of the site following the cessation of quarrying activities. The Panel was briefed by Council on 26 April 2022 following the provision of the additional information with the Panel's discussion centred on the draft conditions of consent. Determination of the application was adjourned to 6 May to allow Council time to revise the draft conditions and to obtain a response on all conditions from the Applicant.

Council's revised draft conditions were provided to the Applicant and the Applicant's town planner provided a response on 29 April in relation draft Conditions 12 and 16.

#### **MATTER DETERMINED**

PPSSTH-94 – Upper Lachlan – DA103/2021 at Wollongorang Road Wollongorang for an extension to an approved 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 generally agreed with the assessment and balance of considerations in Council's Assessment Report and the reasons for approval provided in the Assessment Report.

The Panel agreed that the proposed development had been appropriately assessed with respect to the objects and relevant sections of the Environmental Planning and Assessment Act 1979 as well as the objectives, development standards and prescriptive controls of various state environmental planning policies, the Upper Lachlan Local Environmental Plan 2010, and the Upper Lachlan Development Control Plan 2010 and that environmental impacts would be appropriately managed through the amended conditions of consent.

The Panel is satisfied the application is worthy of approval subject to the amended conditions that provide greater certainty and timeframes for rehabilitation and revegetation of the site.

The Panel noted that Council's notification of the proposed development did not attract any submissions.

## **CONDITIONS**

The Panel noted that the revised draft conditions of consent included a number of duplicated conditions or contained inconsistencies. The Panel considered the submission by the Applicant's town planner in relation to revised draft Conditions 12 and 16.

In summary, the Panel considered the following matters in relation to the revised draft conditions:

- The submitted Operational Environmental Management Plan (OEMP) is to be finalised to the satisfaction of the Council prior to the commencement of operations.
- Further and better details for the rehabilitation and revegetation of the quarry are to be submitted to the Council for approval prior to the commencement of operations; and these details are to be updated periodically (i.e., every five years).
- Detailed cost information is to be provided to the Council prior to the rehabilitation of each stage of the operation for the purpose of calculating a bank guarantee or performance bond value.
- The timing of the surrender of the existing development consent is to better consider the transition from the existing to proposed quarry operations.
- Ongoing operations of the quarry are to be periodically subject to an independent environmental audit to ensure accordance with the conditions of consent. This is to include a review of the OEMP, however, changes to the OEMP may be submitted to the Council for approval at anytime prior to implementation.

The Development Application was approved subject to the revised draft conditions provided by Council with the following further amendments by the Panel:

- **New Condition 7 - Operational Environmental Management Plan**

Prior to the commencement of operations under this consent an Operational Environmental Management Plan (OEMP) shall be submitted with and approved by the Upper Lachlan Shire Council. The Operational Environmental Management Plan shall be the mechanism which incorporates all applicable documentation, reports and associated recommendations that are required to be adhered to for the life of the project. A review of the OEMP shall be conducted as part of the Independent Environmental Audit required by Condition 41 but changes may be proposed and submitted to the Council for approval at anytime. Any changes must be approved by the Council prior to implementation.

*Reason: To provide operational arrangements required to minimise environmental impacts.*

- **Delete Condition 9**

*Reason: The requirements of the draft condition are incorporated in new Condition 7.*

- **Revised Condition 10 - Vegetation and Rehabilitation Plan**

Prior to the commencement of operations under this consent and every subsequent five years for the duration of the operation of the quarry a 'Vegetation and Rehabilitation Plan' shall be submitted to and approved by the Upper Lachlan Shire Council for the quarry that provides long-term stability to the quarry site, the access road and immediate surrounds after the completion of operational phase.

The Vegetation and Rehabilitation Plan shall:

- provide an initial final concept depicting the proposed final landform including contours;
- provide for progressive rehabilitation of the site;
- provide for the delivery of the site following the completion of quarrying activities in a state that is compatible with likely future environmental or agricultural uses in accordance with the site's zoning;
- incorporate the existing quarry site;
- detail plant species, location, method of planting and ongoing maintenance program. The plan shall include trees, shrub/bushes and grass species that are endemic to the region in which the quarry is situated; and
- detail the location of all plantings with the final outcome being to suitably screen the existing and proposed operations from adjoining boundaries including the Federal Highway.

The actions contained within the plans shall:

- be implemented progressively during the operation of the site;
- be monitored, maintained and managed as per the Plan; and
- all vegetation shall be maintained in perpetuity of the project and plants which die within the first three years of planting shall be replaced within 6 months.

*Reason: To stabilise the site and manage potentially adverse water quality impacts in the post-operational phase of the development, to ensure a neutral or beneficial impact on water quality over the longer term.*

- **New Condition 11 – Rehabilitation costs**

Prior to the commencement of operations under this consent for the quarry extension, a cost report to rehabilitate the quarry shall be provided to the Upper Lachlan Shire Council by a suitably qualified and registered quantity surveyor and be in accordance with the approved Vegetation and Rehabilitation Plan.

*Reason: In accordance with clause 8.5 of the Upper Lachlan Development Control Plan 2010.*

- **Revised Condition 12 – Detailed rehabilitation costs for each stage**

The cost report to rehabilitate the quarry, shall be reviewed and updated, to the satisfaction of the Council, prior to the rehabilitation of each individual stage of the operation.

Prior to commencing the rehabilitation works associated with each stage of the development, a bank guarantee or performance bond, to the value of the rehabilitation works, shall be lodged in favour of Upper Lachlan Shire Council. The guarantee / bond shall be refunded upon the satisfactory completion of all works associated with the rehabilitation of each individual stage of the development.

*Reason: In accordance with clause 8.5 of the Upper Lachlan Development Control Plan 2010.*

- **Revised Condition 13 – Surrender existing consent**

Within 12 months of the date of commencement of development to which this consent applies, or within another timeframe agreed by the Council, the Applicant must surrender the existing development consent dated 6 September 2007 for a 'Quarry' [Development Approval No: 2002/0156/DA] in accordance with the EP&A Regulation. Upon the commencement of development to which this consent applies, and before the surrender of the existing development consent the conditions of this consent prevail to the extent of any inconsistency with the conditions of those consents or approvals.

*Reason: To ensure clear delineation between the existing and proposed uses of the site.*

- **Delete Condition 14**

*Reason: The requirements of the draft condition are incorporated in revised Condition 12.*

- **Delete Condition 16**

*Reason: The requirements of the draft condition are incorporated in revised Condition 10.*

- **Delete Condition 17**

*Reason: The requirements of the draft condition are incorporated in revised Condition 13.*

- **New Condition 41 - Independent Environmental Audit**

Within one year of the commencement of any development under this consent, and every three years after, the Applicant must commission and pay the full cost of an Independent Environmental Audit (Audit) of the development.

The Audit must:

- be led and conducted by a suitably qualified, experienced and independent team of experts whose appointment has been endorsed by Council;
- assess the environmental performance of the development and whether it is complying with the relevant requirements in this consent;
- review the adequacy of any approved strategy, plan or program required under this consent;
- recommend appropriate measures or actions to improve the environmental performance of the development and any assessment, strategy, plan or program required under the abovementioned consent; and
- be conducted and reported to the satisfaction of Council.

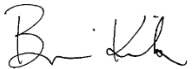


Within three months of commencing an Audit the Applicant must submit a copy of the audit report to the Council, and any other NSW agency that requests it, together with its response to any recommendations contained the audit report, and a timetable for the implementation of the recommendations. The recommendations must be implemented to the satisfaction of Council.

*Reason: To ensure compliance with the submitted documentation and with legislative requirements.*

**NOTE:** Council must ensure the final conditions are appropriately renumbered and referenced, particularly if they are referenced in other parts of conditions in the consent

#### **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	
 Brian Kirk (Acting Chair)	 Jan Murrell
 Susan Budd	

CHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSSTH-94 – Upper Lachlan – DA103/2021
2	PROPOSED DEVELOPMENT	Development application for the extension to an existing approved quarry operation.
3	STREET ADDRESS	Lot/Sec/DP: Lot: 5 DP: 255133, Wollogorang Road WOLLOGORANG
4	APPLICANT/OWNER	Laterals Planning / MHPF Watson Park Land Pty Ltd
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>State Environmental Planning Policy (State and Regional Development) 2011</li> <li>State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</li> <li>State Environmental Planning Policy (Infrastructure) 2007</li> <li>State Environmental Planning Policy No 33 – Hazardous and Offensive Development</li> <li>State Environmental Planning Policy No 55 – Remediation of Land</li> <li>Upper Lachlan Shire Local Environmental Plan 2010</li> </ul> </li> <li>Draft environmental planning instruments: Nil</li> <li>Development control plans: <ul style="list-style-type: none"> <li>Upper Lachlan Development Control Plan 2010</li> </ul> </li> <li>Planning agreements: Nil</li> <li>Provisions of the Environmental Planning and Assessment Regulation 2000: Nil</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 Environmental Planning and Assessment Act 1979 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>Draft conditions of consent received: 28 April 2022</li> <li>Additional information received: 26 April 2022</li> <li>Supplementary assessment report received: 11 April 2022</li> <li>Council assessment report: 26 November 2021</li> <li>Written submissions during public exhibition: Nil</li> </ul>
8	MEETINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> <li>Site inspection: 13 December 2021 <ul style="list-style-type: none"> <li>Panel members: Brian Kirk (Acting Chair), Jan Murrell, Susan Budd</li> <li>Council assessment staff: Simon Arkinstall, Karinne Granger</li> </ul> </li> </ul>

		<ul style="list-style-type: none"> <li>○ Applicant representatives: Robert Mowle, Tina Dodson, Andrew Byryant, Cassio Carpegiane Costa, Tracy Fry</li> <li>• Final briefing to discuss council's recommendation: 13 December 2021 <ul style="list-style-type: none"> <li>○ Panel members: Brian Kirk (Acting Chair), Jan Murrell, Susan Budd</li> <li>○ Council assessment staff: Simon Arkinstall, Karinne Granger</li> <li>○ Applicant representatives: Robert Mowle, Tina Dodson, Andrew Byryant, Cassio Carpegiane Costa, Tracy Fry</li> </ul> </li> <li>• Final briefing to discuss council's recommendation: Adjourned from Tuesday, 26 April 2022 and resumed on 6 May 2022 <ul style="list-style-type: none"> <li>○ Panel members: Brian Kirk (Acting Chair), Jan Murrell and Susan Budd</li> <li>○ Council assessment staff: Simon Arkinstall</li> <li>○ Department staff: Sung Pak</li> </ul> </li> </ul>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report