

DATE OF DETERMINATION	4 July 2023
DATE OF PANEL DECISION	4 July 2023
PANEL MEMBERS	Dianne Leeson (Chair), Stephen Gow and Michael Wright
APOLOGIES	None
DECLARATIONS OF INTEREST	<p>Peter Jeuken declared a conflict of interests as he is an employee of Lismore City Council, which has made a submission in relation to this development application.</p> <p>Robert Hayes and Sam Cornish declared conflicts of interest as they are Councilors of Richmond Valley Council, which is the owner of the site of the proposed development.</p>

Papers circulated electronically on 21 June 2023.

MATTER DETERMINED

PPSNTH-167 – Richmond Valley – DA2022/0250 at 15 Petersons Quarry Road, Coraki – Proposed extractive industry being an expansion of Petersons 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, subject to conditions, for the reasons outlined in the council assessment report.

The panel agrees the development proposal is permissible in the RU1 zone and consistent with the objectives of that zone. The panel also agrees the proposal does not displace any existing agricultural activity on the site or adversely impact the use of adjoining land for existing or future agricultural land uses.

The principal impacts of the proposed development are noise, traffic and road safety, dust, blasting, stormwater and rehabilitation. These can be satisfactorily mitigated through conditions imposed.

The extension of the quarry will provide a long term supply of construction materials in the region and provide employment opportunities and contribute to economic development in Richmond Valley and neighbouring LGAs.

The panel notes that a peer review of the Council assessment report undertaken by Planit Consulting (June 2023) concluded Council’s assessment was adequate. The peer review recommended re-wording of two conditions, which the panel has accepted and imposed (see below).

CONDITIONS

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

- Amend Condition 5 to read as follows:
 5. The extractive industry is to be operated by a single entity and under a single Environmental Protection Licence, which is to be held and maintained for the site until any rehabilitation conditions are achieved.

- Amend Condition 6 to read as follows:
 6. The lots comprising each separate ownership must be consolidated so that only two separate parcels exist prior to commencement of operations. Easements shall be created as required at the time of consolidation to the satisfaction of Council.

- Amend Condition 11(f) – to correct the typing error to ‘35,000’ tonnes
- Amend Condition 12(b) – amend by deleting the words in the second sentence ‘provided to Council’ and replace with ‘sighted by the operator who must maintain a record of the sighting’
- Condition 26 – remove ‘/blasting’ in the first sentence

- Amend Condition 35 to add the following after the first sentence:

Prior to commencing operations, the Operator shall provide copies to Council and the EPA of any such written agreements with all relevant landowners, where these owners are prepared to accept environmental noise levels generated by approved quarry operations which are in excess of the noise criteria under this consent, and under what conditions or limitations, if any. The maximum exceedance (LAeq,15min), accepted by the relevant landowners is as follows

 - R2 48dBA
 - R3 46dBA
 - R7 45dBA

- Amend Condition 47 to read as follows:
 47. Within 3 months of commencing operations, the Operator must engage a suitably qualified engineer to prepare a dilapidation report detailing the structural condition of existing buildings and structures located within 1km of the maximum approved quarry pit footprint, if requested by the landowner, and subject to safe access being provided by the landowner. Copies of such reports are to be provided to the landowner and Council.

The Operator must write to the owners within 1km of the maximum approved quarry pit footprint to make them aware of this condition.




- Delete Conditions 62-68 and include these conditions as notes following the listed prescribed conditions of consent
- Amend Condition 76 to correct the spelling of ‘NSW’
- Amend Condition 80(c) to replace the word ‘maintained’ with ‘maintain’
- Amend Condition 95 to include the following:
 - g. provide documentary evidence of the continued application of any landowner agreements relating to environmental noise including any new or amended agreement(s) consistent with the agreement terms outlined in Condition 35.

CONSIDERATION OF COMMUNITY VIEWS

In coming to its decision, the panel considered written submissions made during public exhibition. The panel notes that issues of concern included:

- Noise and Blasting
- Preserving resource for local requirements
- Waterways impacts including flooding
- Traffic and noise

The panel considers that concerns raised by the community have been adequately addressed in the assessment report. The panel notes that in addressing these issues, appropriate conditions have been imposed.

PANEL MEMBERS	
Dianne Leeson (Chair) 	Stephen Gow 
Michael Wright 	

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-167 – Richmond Valley – DA 2022/0250
2	PROPOSED DEVELOPMENT	Proposed Designated Development and Integrated Development for an extractive industry with an intended capacity of up to 350,000 tonnes per annum
3	STREET ADDRESS	44 Seelems Road, Coraki Lot 401 DP 633427 and Lot1 DP1225621 Petersons Quarry Road, Coraki Lot 402 & 403 DP 802985, Lot 408 DP 1166287 and Lot 1 DP 1165893, Spring Hill Road, Coraki Lot A DP 397946, Lot A DP 389418, Lot 3 DP 701197, Lot 2 DP 954593, Lot 1 DP 954592 and Lot 1 DP 310756
4	APPLICANT/OWNER	KIS Quarries Pty Ltd C/- Groundwork Plus 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 and Energy) 2021 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ State Environmental Planning Policy (Resilience and Hazards 2021 ○ State Environmental Planning Policy (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Primary Production) 2021 ○ Draft State Environmental Planning Policy (Remediation) ○ Richmond Valley Local Environmental Plan 2012 • Draft environmental planning instruments: Nil • Development control plans: <ul style="list-style-type: none"> ○ Richmond Valley Development Control Plan 2021 • Planning agreements: Nil • Provisions of the <i>Environmental Planning and Assessment Regulation 2000</i> • 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"> • Environmental Impact Statement titled <i>Petersons Quarry Environmental Impact Statement (Groundwork Plus March 2022)</i> and supporting documents • Council assessment report: 14 June 2023 • Addendum report received: 21 June 2023 • Written submissions during public exhibition: Two (2)
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 23 November 2022 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Paul Mitchell (Chair), Penny Holloway and Stephen Gow ○ <u>Council assessment staff</u>: Cherie Smith, Andy Edwards and Pooja Chugh ○ <u>Department Staff</u>: Carolyn Hunt

		<ul style="list-style-type: none"> • Site inspection: 16 June 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow and Michael Wright ○ <u>Council assessment staff</u>: Cherie Smith, Travis Eggins, Chad Borgeest and Andy Edwards ○ <u>Applicant</u>: Angus McDougall • Final briefing to discuss council’s recommendation: 28 June 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow and Michael Wright ○ <u>Council assessment staff</u>: Cherie Smith, Andy Edwards, Chad Borgeest, Travis Eggins and Jessica Ind ○ <u>Council’s Peer Review Consultant</u>: Rachel Heath ○ <u>Department staff</u>: Carolyn Hunt and Louisa Agyare • Applicant Briefing: 28 June 2023 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow and Michael Wright ○ <u>Council assessment staff</u>: Cherie Smith, Andy Edwards, Chad Borgeest, Travis Eggins and Jessica Ind ○ <u>Council’s Peer Review Consultant</u>: Rachel Heath ○ <u>Department staff</u>: Carolyn Hunt and Louisa Agyare ○ <u>Applicant representatives</u>: Jim Lawler, Peter Roberts, Brian Turner and Sally Engel <p><u>Note</u>: Applicant briefing was requested to respond to the recommendation in the council assessment report</p>
9	COUNCIL RECOMMENDATION	Approval
10	DRAFT CONDITIONS	Attached to the council assessment report