



DATE OF DETERMINATION	21 November 2024
DATE OF PANEL DECISION	21 November 2024
DATE OF PANEL MEETING	19 November 2024
PANEL MEMBERS	Dianne Leeson (Chair), Stephen Gow, Michael Wright and Robert Hayes
APOLOGIES	None
DECLARATIONS OF INTEREST	<p>Eber Butron declared a conflict of interest as he approved a staff report whilst employed at Lismore City Council, which resulted in a submission being prepared by Lismore City Council in relation to the original development application. He did not participate in the meeting.</p> <p>Brendan Logan declared a conflict of interest as he is accountable for the Council owned quarries in the Lismore City Council local government area in his role but has a non-pecuniary not significant interest in this application as it is located in the Richmond Valley Council area. He did not participate in the meeting.</p>

Public meeting held by teleconference on 19 November 2024, opened at 2.36pm and closed at 3.24pm.

MATTER DETERMINED

PPSNTH-299 – Richmond Valley – MA2024/0008 – 1465 Bentley Road, Bentley - Modification to an Extractive Industry –

- a) Amend the staging of extraction to a two-stage approach with Stage 1 encompassing the clearing and lowering of the northern half of the quarry, and Stage 2 the progression of extraction to the southern extent of the quarry
- b) Amending of condition 60(b)(ii) to reduce the current truck restriction relating to the hours of trucks entering or exiting the quarry. Currently the restriction operates for one hour at peak school pick up and one hour at peak school drop off times. It is proposed to reduce this to 15 minutes during each of the peak AM and PM time periods.

(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 listed at item 8 in Schedule 1.

Application for modification of consent

The Panel is satisfied that the application is substantially the same development and the reasons for the original approval have been taken into consideration for this determination.

The Panel determined to approve part of the modification application pursuant to section 4.55 of the *Environmental Planning and Assessment Act 1979*. The amendment to the staging of extraction to a two-stage approach, with Stage 1 encompassing the clearing and lowering of the northern half of the quarry, and Stage 2 the progression of extraction to the southern extent of the quarry, was approved.

However, the amendment to condition 60(b)(ii) to reduce the current truck restriction relating to the hours of trucks entering or exiting the quarry, was not approved.

The decision was unanimous.

REASONS FOR THE DECISION

The Panel determined to approve part of the modification application in relation to the staging for the reasons outlined below:

- The impacts in relation to land use compatibility, natural resources, resource recovery and rehabilitation remain consistent with the original application
- The final pit area, depth and quantity of material to be extracted would remain unchanged

The Panel determined to refuse that part of the application seeking to amend Condition 60(b)(ii) for the reasons outlined below:

- The Panel was not satisfied that the proposed amendment would maintain appropriate road safety measures nor that it would achieve acceptable outcomes for road users, particularly school children.
- The Panel is not satisfied that the proposed amendment to Condition 60 would be appropriate, having regard to the requirements of Section 2.22(1)(b) of the SEPP (Resources and Energy) 2021.

In considering the Application and public submissions, the Panel noted community concerns with the current speed limits through Bentley in proximity to the Bentley Preschool. The Panel recommends Council consider reviewing the speed limit as part of a broader road safety review.

CONDITIONS


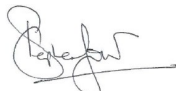


The Modification Application was approved subject to the amendment to Condition 2 outlined in the attachment to the Council Assessment Report. The proposed amendment to Condition 60 is not approved.

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:

- Traffic safety
- Interaction of haulage trucks with school buses
- Road conditions
- Compliance (effectiveness of deferred commencement condition, enforcement, Council response)
- Effectiveness of community consultation measures
- Justification for proposed modification
- Consultation with bus companies
- Restricted truck activity times also provide a safe period for livestock crossing
- Adequacy of application to revise EIS reports and impacts
- Operational noise disturbance

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, an amendment to Condition 2 has been imposed.

PANEL MEMBERS	
 Dianne Leeson (Chair)	 Stephen Gow
 Michael Wright	 Robert Hayes

SCHEDULE 1		
1	PANEL REF – LGA – DA NO.	PPSNTH-299 – Richmond Valley – MA2024/0008
2	PROPOSED DEVELOPMENT	<p>Modification to an Extractive Industry –</p> <p>a) Amend the staging of extraction to a two-stage approach with Stage 1 encompassing the clearing and lowering of the northern half of the quarry, and Stage 2 the progression of extraction to the southern extent of the quarry</p> <p>b) Amending of condition 60(b)(ii) to reduce the current truck restriction relating to the hours of trucks entering or exiting the quarry. Currently the restriction operates for one hour at peak school pick up and one hour at peak school drop off times. It is proposed to reduce this to 15 minutes during each of the peak AM and PM time periods.</p>
3	STREET ADDRESS	1465 Bentley Road, Bentley
4	APPLICANT OWNER	Ben Luffman on behalf of R & S Contracting R & S McKenzie
5	TYPE OF REGIONAL DEVELOPMENT	Section 4.55(2) Modification Application
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 (Biodiversity and Conservation) 2021 ○ State Environmental Planning Policy (Resilience and Hazards) 2021 ○ State Environmental Planning Policy (Transport and Infrastructure) 2021 ○ 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 • Relevant provisions of the <i>Environmental Planning and Assessment Regulation 2021</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"> • Council Assessment Report: 5 November 2024 • Written submissions during public exhibition: 32 • Verbal submissions at the public meeting: <ul style="list-style-type: none"> ○ Wendy Harris, Craig Armstrong, Charles Wilkinson, Charmaine Kerle and Peter Kerle ○ On behalf of the applicant – Ben Luffman • Total number of unique submissions received by way of objection: 32
8	MEETINGS, BRIEFINGS AND SITE INSPECTIONS BY THE PANEL	<ul style="list-style-type: none"> • Briefing: 21 August 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright, Robert Hayes and Brendan Logan

		<ul style="list-style-type: none"> ○ <u>Council assessment staff</u>: Cherie Smith, Travis Eggins and Andy Edwards ○ <u>Applicant representative</u>: Ben Luffman ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis <ul style="list-style-type: none"> ● Final briefing to discuss council's recommendation: 19 November 2024 <ul style="list-style-type: none"> ○ <u>Panel members</u>: Dianne Leeson (Chair), Stephen Gow, Michael Wright and Robert Hayes ○ <u>Council assessment staff</u>: Cherie Smith, Travis Eggins and Andy Edwards ○ <u>Department staff</u>: Carolyn Hunt and Lisa Ellis
9	COUNCIL RECOMMENDATION	Referred to Panel for determination
10	DRAFT CONDITIONS	Attached to the Council Assessment Report (modified condition 2 only was accepted)