

TWEED SHIRE COUNCIL

ENVIRONMENTAL PLANNING AND ASSESSMENT ACT, 1979

NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION
DEFERRED COMMENCEMENT

To: Elesanar Pty Ltd
C/-Jim Glazebrook & Associates Pty Ltd
PO Box 827
MURWILLUMBAH NSW 2484

Pursuant to Section 81(1)(a) of the Act, notice is hereby given of the determination by the Tweed Shire Council of Development Application No. **DA04/0162** relating to land described as:-

Lot 1 DP 578307
Lot 2 DP 578307
Lot 3 DP 808395
Lot 9 DP 1063790
Dulguigan Road
Dulguigan

to be developed in accordance with plans and details submitted for the purpose of –

EXPANSION AND AMALGAMATION OF EXISTING QUARRIES

The Development Application has been determined by the granting of a “deferred commencement” consent.

"DEFERRED COMMENCEMENT"

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within six (6) months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 67 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

SCHEDULE "A"

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 67 of the Regulations as amended.

1. A detailed quarry "Rehabilitation and Environmental Management Plan" as outlined in the Environmental Impact Statement and based on the existing Reedy Creek Quarry REMP, is to be submitted to and approved by the Director of Planning and Environment. This plan is to include, but is not limited to, the following:-
 - a. Measures proposed to address matters such as waste water management, stormwater quality and runoff management, controls, monitoring schedule to discharge objectives, erosion and sediment control, fuel storage, noise vibration and amelioration, visual amenity, dust control, site rehabilitation including landscaping, archaeological finds, topsoil stockpiling, retention of

- significant vegetation, public safety, waste disposal and a time schedule for the implementation of these matters.
- b. Details of an on-site wheel wash or similar method of avoiding mud being tracked onto Dulguigan Road.
 - c. Monitoring procedures, environmental goals and reporting procedures.
 - d. The scale, frequency and design of blasting associated with quarrying activities.
 - e. Details of notification procedures for events of a scale and nature which warrant notification to adjoining and/or affected residents.
 - f. The method of ensuring that only trucks fitted with air bag suspension and residential grade mufflers are permitted to haul material from the quarry and how the driving speed of vehicles on Dulguigan Road is to be restricted to the satisfaction of the Director of Engineering and Operations Division.
 - g. The method of ensuring that trucks do not arrive in the area prior to the commencement of operating hours.

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects prepared by Jim Glazebrook & Associates Pty Ltd (JGA) dated February 2004, further information as per the JGA letter of 30 July 2004 as later amended by their letter of 8 October 2004, and the approved "Rehabilitation and Environmental Management Plan" approved from time to time by the Director Development Services, except where varied by the following conditions.
2. The maximum annual rate of extraction in any 12 month period is 200,000m³. The maximum average rate of extraction is 195,000m³ over any 3 year period.
3. The average number of trucks departing the quarry is to be 40 vehicles per day, and all trucks are to be fitted with airbag suspension and residential grade mufflers.
4. Completion of outstanding works as shown on Council plans A1-248/11A and A1-248/13A as follows:
 - Completion of linemarking and signposting. In this regard the nominated W5-22B (truck) signs must be accompanied by W8-5B (distance plate) signs.
 - Construction of the 600mm dia pipe culvert across Dulguigan Road, including headwalls and associated works.
 - Provision of a headwall on the previously extended 450mm dia pipe culvert across Dulguigan Road.
 - You are further advised that the kerb and gutter works nominated on the above-mentioned plans are not required to be constructed.
5. The existing entries to both Pollard's and Sanderson's Quarries are to be physically closed to traffic by:
 - Removal of the existing gate and provision of earth mounding across the access driveway within the site, for both quarry entries.
 - Removal of associated signage at the entry point to Pollard's Quarry.
 - Provision of a table drain across the entry to Sanderson's Quarry, to further enforce the cessation of access.
6. Road improvement works are to be undertaken to provide an informal bus transfer area for school students at Brady Place, adjacent to Dulguigan Road. All pavement works required by this condition are to be provided with a two-coat hot bitumen flush seal, on a pavement approved by Council. All required works are to be completed within six months of the date of approval of the Rehabilitation and Environmental Management Plan. The required improvement works are:

- The western return of the intersection of Dulguigan Road and Brady Place is to be widened and sealed.
 - The eastern shoulder of Brady Place, up to the existing seal of Dulguigan Road, is to be widened and sealed.
 - The existing roadside vegetation west of Brady Place is to be trimmed back to improve sight distance, subject to an assessment of the existing vegetation to determine whether any "Threatened Species" are involved.
7. The provision of "Buses Entering" warning signs, erected approximately 200m in each direction from the above-mentioned transfer location.
 8. Provision of signs erected in the vicinity of the above-mentioned transfer location, and at other strategic points along Dulguigan Road, advising that school buses operate in the area, and their hours of operation. Prior to manufacturing the signs, the applicant is required to contact Council's signwriter regarding the actual wording for the signs.
 9. The provision of "Trucks Entering" warning signs, located either side of the access to the quarry.
 10. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.
 11. Immediately upon completion of all above-mentioned road improvement and signage works, the applicant shall submit to Council a Works as Executed Plan endorsed by a Registered Surveyor. The plan shall cover all road improvement and signage works required by this consent, as well as the previously completed pavement widening and associated works on Dulguigan Road, in the vicinity of the Reedy Creek Quarry entry, covered by Council Plans A1-248/10 to A1-248/13.
 12. The site is to be consolidated into a single allotment under a single title. The consolidation is to include the extinguishment of the "Easement for Pipeline 3m wide" that currently burdens Lot 9 DP 1063790, or alternatively address why the easement should be retained or otherwise relocated. The plan of consolidation is to be registered at Land and Property Information and a copy forwarded to Council, within six (6) months of approval of the REMP.
 13. No quarrying work or extraction is to occur below 5m AHD.
 14. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities that may be affected by the required roadworks.
 15. A traffic control plan that complies with the provisions of the RTA document "Traffic Control at Work Sites" Version 2 shall be prepared by a person who is qualified, authorised and has passed an RTA approved training course, and submitted to Council, prior to issue of the Section 138 Roads Act approval. All works are to comply with the Occupational Health and Safety Act and the RTA document and the approval particularly in respect to works on public roads. Safe public access shall be provided at all times.
 16. Erosion and Sediment Control During the Construction Phase of Development:
 - a. The Section 138 Roads Act application must include a detailed erosion and sediment control plan (ESCP) for the construction phase of development, prepared in accordance with Section D7.07 of *Tweed Shire Council Aus-Spec D7 - Stormwater Quality*.
 17. An application for works that involve any of the following:-
 - connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

18. Prior to commencement of works all required sedimentation and siltation control measures are to be installed and operational to the satisfaction of Council.
Erosion and sediment control shall be in accordance with the *"Tweed Urban Stormwater Quality Management Plan"* (adopted by Council 19 April 2000) section 5.5.2 "Stormwater Objectives During the Construction Phase of New Development". This section requires all new development to comply with Appendix E of the Plan *"Tweed Shire Council Aus-Spec D7 - Stormwater Quality"* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".
19. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2002 (Manual for Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.
20. With regard to the roadworks in Brady Place, construction site work including the entering and leaving of vehicles is to be restricted to between 7.00 am and 7.00 pm Monday to Saturday and no work on Sundays or public holidays.
21. With regard to the roadworks in Brady Place, all reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
 - A. Short Term Period - 4 weeks.
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
 - B. Long term period - the duration.
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
22. With regard to the roadworks in Brady Place, the use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
23. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the roadworks shall be repaired to the satisfaction of the Director of Engineering and Operations Division.
24. All required roadworks are to be completed within 6 months of approval of the R.E.M.P.
25. Consent DA98/174 and DA95/441 are to be surrendered within a month of approval of the REMP
26. No work, including the construction of noise barrier, is to be undertaken beyond the boundary of the extraction area as identified in the REMP (excluding rehabilitation) The noise barrier and any bushfire retardation measures are to occur within the identified extraction area unless otherwise approved by Council, NSW Rural Fire Service and the National Parks and Wildlife Service.
27. The noise barrier is to consist of a fence constructed in accordance with the recommendations of the Noise Impact Statement by James Heddle Acoustical Consultants dated 10 January 2004 in the vicinity of the wet sclerophyll/rainforest vegetation. An earthen bund will not be accepted in this vicinity due to the disturbance to vegetation.
28. The front end loader and dozer are to be fitted with residential type low noise muffler systems.
29. Any screens and loading areas for the existing quarry are to be located to direct sound away from any affected residences and/or be located such as to maximise the effect of the ridge in separating Residences from the site.
30. Noise attenuation measures are to be in accordance with the REMP
31. Dust control measures are to be implemented as proposed in the REMP

32. Any proposal to clear native vegetation in excess of 2ha per annum is to be the subject of a separate application to the Department of Infrastructure, Planning and Natural Resources.
33. The extractive operation including proposed rehabilitation measures is to adhere to the formal Rehabilitation and Environmental Management Plan which is required to be submitted and approved.
34. Compliance with all requirements of the Department of Environment and Conservation, including the acquisition and any other necessary licences/approvals.
35. Any amendments or modification to the quarry management plan are to be approved by the Director of Development Services.
36. The hours of operation are: -
Quarrying & Hauling: 0730 hrs - 1800 hrs Monday to Friday
0730 hrs - 1200 hrs Saturday
No work on Sundays or public holidays
37. Suitable covering and protection is to be provided to ensure that no material is removed from the site by wind, causing nuisance to neighbouring properties.
38. The operators of the quarry are to carry out a review of the activities of the quarry, using the Rehabilitation and Environmental Management Plan, on an annual basis. The results of the reviews, including an assessment of the effectiveness of the dust and noise management, and the sediment erosion control system, are to be submitted to Council's Environment and Health Services for approval.
39. The burning of trees and other felled vegetation is not permitted unless carried out by a person with a separate approval to pit burn. Such burning is to be carried out in a specially constructed pit provided with an air curtain over the top.
40. The quarry and associated operations are not to cause a nuisance to residents or disruption to amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.
41. Noise levels (including blasting and hours thereof) associated with the quarry operations are to comply with the Department of Environment and Conservation planning guideline limits.
42. The proposed access tracks to comply with Planning for Bushfire Protection 2001 Section 4.3.3.
43. Advertising structures/signs to be the subject of a separate application where statutorily required.

The reasons for the imposition of conditions are to minimise any adverse impact the development may cause and to give effect to the objectives of the Environmental Planning and Assessment Act, 1979.

The application was determined on: **3 November 2004**

The consent to lapse 5 years from the date this consent becomes operative unless commenced prior to that date.

RIGHT OF APPEAL

If you are dissatisfied with this decision Section 97 of the Environmental Planning and Assessment Act, 1979 gives you to right to appeal to the Land and Environment Court within 12 months after the date on which you receive this notice.

Signed on behalf of the Tweed Shire Council

Garry Smith, Manager Development Assessment
4 November 2004