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**DA 1996/29.003 - Section 96 Amendment - Eatons Quarry - Lot 3 DP 619233**



Projection: GDA94 / MGA zone 56  
 Date: 2/03/2018

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Date: 26 April 2018  
Ref: 1941.DA1.008

Ballina Shire Council  
PO Box 450  
Ballina NSW 2478

Via email: [council@ballina.nsw.gov.au](mailto:council@ballina.nsw.gov.au)

Attention: Anthony Peters

Dear Anthony,

**Extractive industry – Lot 3 DP619233, 323 Old Bagotville Road, Wardell DA1996/29.3  
Request for review of determination pursuant to Section 96AB**

Groundwork Plus act on behalf of Quarry Solutions Pty Ltd (Quarry Solutions) regarding the requested modification application for extension of the life of the Eatons Quarry. By letter dated 29 March 2018, we received notice that development application DA1996/29.3 had been determined by Ballina Shire Council (Council) on 22 March 2018 by way of refusal because, *'insufficient information has been provided to satisfactorily address relevant statutory considerations and the environmental impacts of the proposed modifications'*.

As discussed with Council on Friday 20 April 2018, sufficient information was provided as outlined in the detailed officer report presented to the Council meeting on 22 March 2018, recommending approval subject to conditions. We confirm that Quarry Solutions would accept those proposed conditions and maintain that progressive rehabilitation could not practically occur to date because final quarry benches and levels have not been reached. Quarry Solutions also confirms the previously given commitment to not increase truck movements (averaged across the year) above the historical levels associated with extraction of 50,000t of material per annum. Therefore, pursuant to Section 96AB of the Environmental Planning and Assessment Act 1979 (the Act) we request that Council review the determination of the modification application.

Clause 258A of the Environmental Planning and Assessment Regulation 2000 (the Regulation) states that the relevant fee is \$78.75, being 50% of the modification application fee which was \$157.50. Please contact me on 07 3871 0411 to arrange payment by credit card over the telephone.

Should you have any questions in relation to this application, please feel free to contact me on 07 3871 0411 or email [jlawler@groundwork.com.au](mailto:jlawler@groundwork.com.au).

Yours faithfully,  
Groundwork Plus

  
Jim Lawler  
Project Director

Resources Environment Planning Laboratories

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Department Principal:  
Tegan Smith  
Project Contact:  
Jim Lawler

15 May 2018  
1941 DA1 009

Ballina Shire Council  
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Dear Anthony,

**Extractive industry – Lot 3 DP619233, 323 Old Bagotville Road, Wardell DA1996/29.3  
Request for review of determination pursuant to Section 96AB – Proponent Commitments**

Groundwork Plus act on behalf of Quarry Solutions Pty Ltd (Quarry Solutions) regarding the requested modification application for extension of the life of the Eatons Quarry. Further to our letter dated 26 April 2018 requesting that Council review the determination of the modification application, we provide the following information.

Quarry Solutions make the following commitments to Council and the community in relation to the re-commencement of operations at the Eatons Quarry:

1. Operations will only deliver material to the Pacific Highway Upgrade Project.
2. Progressive rehabilitation works will commence at the re-commencement of extraction.
3. Haulage will utilise the new alignment of the Pacific Highway as soon as lawfully permitted.
4. Until it is possible to haul via the new alignment of the Pacific Highway, haulage will only utilise the local road network when 'in-corridor' haulage routes are not available.
5. An incident/complaints register will be maintained by the Quarry Manager.
6. Voluntarily adopt and enforce a 40km/hr speed limit through the township of Wardell.
7. Haulage of quarry materials from the site will be limited to the approved hours of operation under the consent and the EPL.
8. Weighbridge management software will be configured in a manner which will not issue a 'docket' to a driver outside of the approved hours of operation.
9. Weighbridge records will keep accurate records of the amount of quarry materials transported by each vehicle.
10. Weighbridge management software will be configured in a manner which will not issue a 'docket' to a driver if the vehicle weight exceeds the limits prescribed by the Heavy Vehicle (Mass, Dimension and Loading) National Regulation 2013.
11. A Driver Induction Procedure will be implemented.

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12. The Driver Induction Procedure will enable the implementation and enforcement of compliance with a Driver's Code of Conduct.
13. Compliance with the Driver's Code of Conduct will be enforced by a 'Two strikes and you're out' policy administered by the Quarry Manager and reviewed by the General Manager.
14. The Driver's Code of Conduct will include but not be limited to matters such as:
  - a. All drivers will be required to comply with the legislated road rules, including driver fatigue requirements and separation distances to other vehicles.
  - b. All drivers will be required to sign on to the Electronic Daily Prestart Management System at the weighbridge each morning or on first entry into the site.
  - c. Before leaving the quarry, all laden trucks exiting the site are to have their loads covered and be cleaned of materials that may fall on the road.
15. Implementation of the 'Fleet Office IVMS' GPS tracking system for all haulage trucks managed by Quarry Solutions which monitors and manages fatigue management, speeding, harsh driving, driver identification and emergency incidents as well as school bus interaction.
16. Installation of GPS monitoring devices on haulage trucks managed by Quarry Solutions to facilitate the Fleet Office IVMS GPS tracking system. Each GPS monitoring unit is installed on the truck. A GPS 'fob' or 'key' is assigned to an individual driver as per the Driver Induction Procedure. The driver logs on to the GPS monitoring unit on the truck prior to commencing each shift. The GPS monitoring unit tracks the vehicle location, speed, exceedance of speed limits and harsh vehicle movement and braking as well as mapping the location of any potential incident or infringement to assist in future investigations. In the event of an incident or infringement (e.g. exceedance of speed limit) alerts are sent immediately by email and 'phone app' to the Quarry Manager, Operations Manager, Transport Manager and General Manager. All alerts provide detailed information including, date, time, nature of the infringement, driver name, truck registration and type and the location of the event.
17. Paying for the installation of GPS monitoring unit on all local school buses using the haulage route where permission is provided. Each GPS monitoring unit fitted to a school bus enables tracking and interaction with the GPS monitoring unit in each truck. The GPS monitoring system is configured to send an alert to a truck driver traveling in the same direction as a school bus when the truck comes within 500m of the school bus. The alert is in the form of a beep audible only to the truck driver and not the school bus driver. Being alerted of the nearby school bus the truck driver is to reduce speed and be alert and maintain a minimum 50m separation distance to the school bus. If the 50m separation distance is encroached an alert is generated and the infringement will be investigated. In the event that the school bus stops the truck is also to stop and not pass the school bus. If the truck does pass the school bus an alert is generated and the infringement will be investigated. The GPS tracking system is intelligent and also alerts a truck traveling in the opposite direction of a school bus when it is approaching the school bus, but the alert will not be triggered when the truck passes the school bus in the opposite direction.

Should you have any questions in relation to this application, please feel free to contact me on 07 3871 0411 or email [jlawler@groundwork.com.au](mailto:jlawler@groundwork.com.au).

Yours faithfully,  
**Groundwork Plus**

  
**Jim Lawler**  
**Project Director**

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8.3 DA 1996/29 - Section 96(2) - Quarry - Old Bagotville Road

8.3 DA 1996/29 - Section 96(2) - Quarry - Old Bagotville Road

<b>Applicant</b>	Quarry Solutions Pty Limited C/- Groundwork Plus (owners WO & MF McGeary)
<b>Property</b>	Lot 3 DP 619233, No. 323 Old Bagotville Road, Wardell
<b>Proposal</b>	To modify the existing consent to extend the 20 year "life" of the quarry by five years (from 20 to 25 years)
<b>Effect of Planning Instrument</b>	The land is zoned part RU2 – Rural Landscape and part 1(e) Rural (Extractive and Mineral Resources) under the provisions of the Ballina LEP 2012 and BLEP 1987 respectively
<b>Locality Plan</b>	The subject land is depicted on the locality plan in Attachment 1.

**Introduction**

This modification application seeks to extend the terms of the approval by five years (from 20 to 25 years) and set an end termination date or "life" of the consent for the quarry operations until 31 January 2023 or until cessation of the Pacific Highway upgrade (whichever is achieved first) for the supply of materials to the Pacific Highway (Woolgoolga to Ballina) upgrade only.

The approved annual peak production rate/extraction volumes, consented to reserves (which have not been reached/extracted), quarry footprint, site rehabilitation, total truck movements, monetary contributions or overall hours of operation and environmental management etc., are not proposed to be modified by the application (other than a driver code of conduct).

This modification application is being reported to Council for determination, with the key issues being:

- Whether the proposed modified development remains substantially the same development as required under Section 96 of the EP&A Act 1979.
- Whether the approval of the modification application will significantly increase the environmental impacts of the total development having regard to Section 79C of the EP&A Act and relevant regulations.
- Council is in receipt of 20 letters of objection.
- The applicant has nominated that the extension is only for the purposes of supplying material to the critical state significant infrastructure project (Pacific Highway upgrade).

This modification application does not directly relate to the "Monti's, Jali, Gibson and McGeary" quarries (some of which are being operated by the Roads and Maritime Service for the Pacific Highway upgrade) also located in close proximity on Old Bagotville Road.

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**Background**

The current Section 96(2) modification application was lodged in late October 2017 (i.e. three months prior to the expiry of the consent) to extend the life of the quarry by five years (from 20 years to 25 years) which is the subject of this report.

It is important to note that at the time of determination of the original quarry in 1996 it was not considered to constitute Designated Development.

The original quarry was approved by Council following applications in line with the provisions of *State Environmental Planning Policy No. 37 – Extractive Industries*. Deferred Commencement Consent was issued on 22 February 1996 for:

*“The continued operation and expansion of an existing Extractive Industry – extraction of shale and chert with extraction rates of 50,000 tonnes per annum (total resource of 975,000 tonnes).”*

On 23 August 1996 Council amended the Deferred Commencement Condition No. 7 by extending the completion/satisfaction of Deferred Commencement Conditions 1 to 6 from six months from the date of consent for a further 15 months until 23 November 1997.

The deferred commencement conditions related to the provision of a Plan of Management (PoM), Noise Impact Statement and road upgrades. These were satisfied and the quarry has been operating ever since.

Upon commencement of quarry operations, the consent also imposed General Condition No. 12 limiting the life of the quarry which states:

*“This consent enables a total extraction of 975,000 tonnes or permits quarrying on the site for not more than twenty (20) years, whichever is achieved first. This approval is contingent upon satisfactory re-appraisal of the Plan of Management at the five (5) year period.”*

Council’s records do not indicate that a re-appraisal of the PoM occurred within the five year stipulated timeframe. The PoM also suggested biannual review to ensure the environmental safeguards and measures were being implemented and were sufficient. Council’s records do not indicate this has been conducted/provided by the owners/operators.

Based on the lower than expected extraction rate/volume per annum and available resource, the total extraction from the quarry has not exceeded 975,000 tonnes and this means the number of years is only relevant to the “life” of the quarry in this case.

Condition No. 13 states:

*“This consent shall lapse in accordance with the above, at which time extraction shall cease and the site restored in accordance with the detailed Plan of Management. Any extension during the final nine (9) months shall be for the purposes of facilitating site restoration.”*

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As will be outlined later in this report a two staged progressive site restoration/rehabilitation of the quarry back to farmland with habitat trees planted throughout was required in accordance with the PoM. This is not evident and has not occurred over a number of years as the entire approved quarry footprint remains in a disturbed state.

The applicant, however, contends that required extraction depths have not been achieved and therefore staged rehabilitation is not yet required. As will be outlined later in the report, this position is not accepted.

Despite the clear terms of Condition No. 13, the current modification is not seeking the five year extension for the purposes of facilitating site restoration, but rather for the following reasons:

- “(a) 477,102.7 tonnes of the approved 975,000 tonnes remains in situ; and
- (b) there is an urgent demand for the material from the Pacific Highway Upgrade Project; and
- (c) being adjacent to the project alignment haulage distance is reduced compared to alternative quarry sites which is beneficial to the project, the community and the environment.”

The applicant was requested to provide documentary evidence of the contract with the RMS for the supply of product, particularly as the RMS had not taken operational control of Eaton’s quarry for the Critical State Significant Pacific Highway upgrade similar to what occurred at the surrounding Jali and Gibson quarries. This was recently provided and is at Attachment 2.

There are no changes proposed to the approved hours of operation for the extraction, loading and transporting of quarry materials or other changes in operation to address contemporary environmental performance criteria for such matters as air quality and noise.

The quarry also has a current Environment Protection Licence No. 20794 permitting extraction of up to 50,000 tonnes per annum (Attachment 3) consistent with the original consent conditions. The applicant acknowledges that this will need to be modified to align with the extended consent period (if approved) as it currently expires in 2021. It should be noted that even if the five year extension is approved by Council, this will only allow extraction of up to 250,000 tonnes of the remaining 477,102.7 tonnes.

A previous Section 96(2) Modification Application (from a different quarry operator) was submitted in 2010 to increase the permissible maximum rate of extraction from 50,000 tonnes per annum to 150,000 per annum. This created a substantial amount of public interest and was later withdrawn by the applicant in mid 2012.

Council has previously confirmed that the commencement date for the quarry was January 1998 and based on this, extraction at the quarry expired on 31 January 2018. Council has recently written to the owners and the applicant advising that the consent has expired and all quarrying activities within the site are required to cease. Council also requested that site restoration in accordance with the approved PoM and Condition No. 13 be completed.

These matters will be discussed further in the report.

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**Reportable Political Donations**

Details of known reportable political donations are as follows:

- Nil

**Public Exhibition**

The modification application was placed on public exhibition between 23 November 2017 and 14 December 2017.

Council received 20 objections (Attachment 4).

Some of the objections also refer to the other quarries in the locality, which are not directly relevant to the determination of this modification application.

More generally the objections also relate to and can be summarised as follows:

- The Quarry location is adjacent to Jali Local Aboriginal Land Council Indigenous Protected Area and approval to extend the life of the quarry by 5 years will negatively impact on endangered species (long nose potoroo), threatened species (koala) and other wildlife owing to ongoing/increased heavy vehicle traffic, dust, vibration from blasting and noise (the road exclusion fencing and recent fire is already impacting).
- The RMS Highway Upgrade is scheduled to conclude 2020 and the proposed Quarry DA modification timeframe extends further than the projected completion of the Highway Upgrade project.
- Non-compliance with existing conditions of consent (including payment of monetary contributions) and no demonstration of intention to meet current obligations. Non-enforcement by Council will lead to further non-compliance if extended and now even more difficult to monitor due to RMS separately operating quarries in the locality.
- No progressive rehabilitation has been carried out in accordance with the Plan of Management. The existing conditions should be fulfilled prior to any extension, particularly in light of the timing of completion of the Pacific Highway upgrade and as trees take between 4 to 18 years to become Koala feed trees.
- Allowing the extension is allowing the RMS to avoid due process.
- Reduced amenity from the overall extended quarry operations from impacts such as noise, air quality/dust, vibration, operating hours.
- Further heavy vehicle traffic generation and reduced vehicular and pedestrian safety along Old Bagotville Road (gravel road) and Carlisle Street (residential area). RMS traffic estimates only included the Jali and Gibson quarries.
- Old Bagotville Road needs to be upgraded and sealed, however this could also lead to greater use, faster speeds and therefore higher incidents between Koalas and motorists. Quarry vehicles should not be permitted to utilise Old Bagotville Road to the south-west.
- Environmental conditions in 2017 are more stringent than those applied in 1996 and more is now known about koalas and potoroos.



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These should now be relevant, particularly in relation to the Ballina Koala Plan of Management.

- Cumulative impact when considered with other quarries operated by the RMS and subcontractors in the locality (particularly heavy vehicle traffic and impact on wildlife). This requires the preparation of an EIS and referral as a controlled action under the EPBC Act due to clause 35 of the EP & A Regulation.
- The JRPP has previously refused an application in this locality due to the traffic impacts.
- Inconsistent with the RU2 zone objectives.
- The resource can be sourced from other quarries with less environmental sensitivities.
- Health impacts of silica dust.
- The extension is not in the public interest.

The applicant has provided a consolidated response to the submissions (Attachment 5). Council's Development and Environmental Health Group generally concurs with the responses provided by the applicant.

The responses provided by Government Agencies (NSW EPA and RMS) are contained in Attachment 6 and they generally raise no objection to the proposed modification application subject to certain considerations which will be outlined within this report.

The matters directly relating to the modification application sought are considered as part of this report.

**Applicable Planning Instruments**

Section 96(2) of the EP&A Act 1979 requires Council to consider:

**(2) Other modifications**

*A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if:*

*(a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

*(b) it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*

*(c) it has notified the application in accordance with:*

*(i) the regulations, if the regulations so require, or*

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*(ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*

*(d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

*Subsections (1) and (1A) do not apply to such a modification.*

*(3) In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application.*

*(4) The modification of a development consent in accordance with this section is taken not to be the granting of development consent under this Part, but a reference in this or any other Act to a development consent includes a reference to a development consent as so modified.*

**Report**

The consent imposed a time limit on the quarrying activities and these time limits have now been reached requiring quarrying to cease at the site. However, the consent still remains in existence and can be lawfully modified/extended if the matters outlined within the following report are considered acceptable.

**Substantially the same development as first granted**

Section 96(2) of the EP&A Act 1979 requires the consent authority to be satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all).

In assessing whether a consent as modified will be substantially the same development, a quantitative and qualitative comparison between the development permitted under the original consent and the development which would be permitted if that consent was modified in the manner sought needs to occur.

The documentation provided by the applicant provides comment on the quantitative and qualitative considerations of the consent to be modified as compared to the consent as originally granted.

The 1996 consent, if modified, will still be for an extractive industry, with the same footprint, extraction rate and environmental controls for an additional period of five additional years.

Notwithstanding this, as part of preliminary discussions Council Assessment Officers raised concern that a five year extension to the originally approved 20 year consent (i.e. increase by 25%) may not satisfy the "substantially the same development" test.

The applicant sought and has provided legal advice in this regard (Attachment 7) which outlines the following:

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- (a) a “radical transformation” to the development consent will not be created as the only change is an extension of life,
- (b) the fundamental character and quality of the quarry will remain “essentially or materially” the same, including land use and form,
- (c) although a 20-year lifespan may be considered as a “critical element”, a significant amount of the approved resource remains in situ and therefore has not reached the extractive potential envisaged by the consent, and
- (d) having regard for a “before and after comparison” the modification is not materially different to that approved. The only change is quantitative – an extension of the life of the development.

Despite this advice being provided, concerns remain regarding the length of time sought in comparison to that originally granted or envisaged. On this basis the applicant has confirmed that a modified condition only permitting the extraction to occur until the completion of the Woolgoolga to Ballina project would be satisfactory.

According to the RMS website works are expected to be completed by 2020 and further recent verbal discussions with RMS/Pacific Complete Project Engineers have advised mid 2020 is the current completion timeframe. As the chert material from the quarry is utilised relatively early in the road construction process to allow for greater pavement flexibility, Pacific Complete Project Engineers have also advised that they would only need the chert material until the end of 2019.

Based on this and in order to satisfy the “substantially the same development” test, it is considered prudent to reduce the originally requested five year period to a maximum of two years and only for the supply of a material to the Pacific Highway project. This timing anomaly has also been noted by a number of public submissions received, however the applicant has clarified that the additional time is sought as:

“It is not unreasonable to anticipate that certain work will occur after that date. Potential works might, for example, include completion of maintenance access tracks or rectification of erosion and sediment control devices. On this basis and from an abundance of caution, an extension of time until 2023 is sought for extraction from the Eatons Quarry for delivery to the Pacific Highway Upgrade Project.”

However, subsequent to this written advice, recent verbal conversations with Mr Terry Woods, General Manager of Quarry Solutions has confirmed that the applicant would be accepting of a condition limiting the extraction extension until early 2020 rather than 2023.

Therefore, if Council is satisfied that the applicant has provided Council with sufficient information as is required pursuant to Section 96 of the Act it is plausible for Council to conclude that the development if modified (as proposed to be conditioned in relation to the reduced extension of time) will be substantially the same as the development as first granted, particularly as the approved annual peak extraction rate, consented to reserves, hours of operation etc. are not changing.

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As it appears that the Pacific Highway alignment will skirt along the eastern boundary of the quarry and therefore not sterilise the remaining resource, if the applicant requires further time for extraction it is also open and available for the applicant to lodge a new Designated Development Application and associated Environmental Impact Statement, for detailed assessment, under relevant statutory controls and standards applicable at the time of lodgement and assessment.

**Designated Development**

At the time of determination of the original proposal, the development did not constitute designated development under the definitions of Schedule 3 of the previous EP&A Regulation 1994 and the criteria/threshold limits contained within clause 20 of State Environmental Planning Policy No. 37 – Continued Mines and Extractive Industries at the time (now repealed).

Although this modification application does not relate to an approved designated development, clauses 35 and 36 of Schedule 3 Part 2 of the current EP&A Regulation 2000 (reproduced below), are prudent to consider for completeness.

**Part 2 Are alterations or additions designated development?**

**35 Is there a significant increase in the environmental impacts of the total development?**

Development involving alterations or additions to development (whether existing or approved) is not designated development if, in the opinion of the consent authority, the alterations or additions do not significantly increase the environmental impacts of the total development (that is the development together with the additions or alterations) compared with the existing or approved development.

**36 Factors to be taken into consideration**

In forming its opinion as to whether or not development is designated development, a consent authority is to consider:

- (a) the impact of the existing development having regard to factors including:
  - (i) previous environmental management performance, including compliance with the conditions of any consents, licences, leases or authorisations by a public authority and compliance with any relevant codes of practice, and
  - (ii) rehabilitation or restoration of any disturbed land, and
  - (iii) the number and nature of all past changes and their cumulative effects, and
- (b) the likely impact of the proposed alterations or additions having regard to factors including:
  - (i) the scale, character or nature of the proposal in relation to the development, and
  - (ii) the existing vegetation, air, noise and water quality, scenic character and special features of the land on which the development is or is to be carried out and the surrounding locality, and
  - (iii) the degree to which the potential environmental impacts can be predicted with adequate certainty, and
  - (iv) the capacity of the receiving environment to accommodate changes in environmental impacts, and

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(c) any proposals:

- (i) to mitigate the environmental impacts and manage any residual risk, and
- (ii) to facilitate compliance with relevant standards, codes of practice or guidelines published by the Department or other public authorities.

Having regard for clauses 35 and 36, the relevant matters are addressed below. It is important to note that an "extractive industry" remains permissible with consent within the RU2 Rural Landscape zone.

**Environmental Management Performance/Rehabilitation**

During the assessment of the original application in 1995/96 it appears that approximately one third (1.856 hectares) of the site had already been disturbed/worked as a result of previous quarry operations (noting the 1996 application was for the quarries continuation under the requirements of SEPP 37).

The rehabilitation plan approved as part of DA 1996/29 indicated the extent of the pre-existing quarry footprint, Stage 1 revegetation in the southern portion of the site at 30 trees per hectare and Stage 2 progressive rehabilitation across the entire quarry footprint at 10-15 trees per hectare (Attachment 8).

The subsequently approved POM (Attachment 9) required that "progressive rehabilitation shall continue throughout the life of the quarry." As the applicant has confirmed that just over half of the approved resource has been extracted, Stage 1 of the rehabilitation requiring the provision of topsoil and tree establishment program consisting of suitable Koala and Glossy Black Cockatoo food trees in the southern portion of the site should be in place and well advanced.

Further, Condition No. 24 clearly states:

"Rehabilitation and restoration of the site shall commence immediately in accordance with the approved plans and documentation and intent of the Plan of Management so as to reduce the area exposed to erosional forces at any one time".

A site inspection conducted on the 14 March 2018 indicated that no rehabilitation works had been commenced and that part of the southern Stage 1 revegetation area had been partially cleared for a basin without approval, (refer aerial photography at Attachment 10).

Consequently, if this modification application is approved, it is considered prudent to require the commencement of the progressive rehabilitation immediately at the time of recommencement of extraction and require its establishment in full prior to 30 April 2020 (i.e. three months after the extraction ceases).

An audit of the quarry was undertaken on 4 November 2008 by staff to assess compliance with the development consent conditions. Non-compliance issues were identified and conveyed to the quarry owners on 16 March 2009.

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A recent compliance inspection was also undertaken on 14 March 2018. At the time of the inspection no quarrying activities were taking place. Further, no quarry vehicles or site facilities were observed and it appeared that no recent quarrying activities had taken place which is consistent with Council's request to cease operations.

Although a full audit has not been completed it was evident that erosion and sedimentation control measures have not been provided or maintained.

There were also no observable revegetation works that have been undertaken in line with the POM.

A number of submissions have also raised non-compliance issues.

It is evident from these inspections that there have been areas of non-compliance with conditions and the approved Plan of Management over a period of almost 10 years. It is also evident that the progressive rehabilitation of the site has not occurred in accordance with the approved POM.

Despite this, it should be noted that prior non-compliances is not a relevant consideration to the "substantially the same development" test, and in the context of clauses 35 and 36 the original development, the subject of this modification application, was not designated development.

As the original approval was issued over 20 years ago it is critical to ensure that the environmental practices and controls are up to contemporary standards for noise, dust (including silica), vibration and blasting etc.

The subject quarry is a scheduled premise under the Protection of the Environment Operations Act and is therefore subject of an Environmental Protection Licence (EPL) – (refer Attachment 3). The current EPL has been reviewed and it applies contemporary standards for noise, vibration, air and water releases. The premise is regulated by the NSW EPA which is responsible for ensuring the extractive industry is operating in accordance with the EPL and complying with the standards applied.

The last annual return provided by the EPL holder to the NSW EPA was received 7 November 2017, with no non-compliances listed. The Pollution Incident Response Management Plan was last tested 24 May 2017 and the current EPL expires 29 September 2021.

The return advice from the NSW EPA (Attachment 6) has raised no objection on the basis that any concerns with the management of operations can be addressed through the Protection of the Environment Operations Act 1997 and EPL licence.

Consequently, as the environmental performance of the subject premise will be regulated by the NSW EPA in line with contemporary standards to minimise any impacts on the environment and/or nearby sensitive receivers, Staff is satisfied with a proposed extension of time from an amenity impact perspective.

8.3 DA 1996/29 - Section 96(2) - Quarry - Old Bagotville Road

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**Roads and Traffic/Cumulative Impact**

The haulage route utilised from the quarry is east via Old Bagotville Road, then north along Back Channel Road which becomes Carlisle Street in Wardell Village. Carlisle Street then intersects with the existing Pacific Highway where a directional split to either north or south occurs. Given that the purpose of the modification application is to exclusively supply a section of the Pacific Highway Upgrade Project, it is anticipated that a portion of the material may potentially be delivered straight to the project via Old Bagotville Road.

The applicant has submitted a traffic impact assessment (TIA), which includes traffic counts for the Pacific Highway/Carlisle Street intersection and the Old Bagotville Road/Back Channel Road intersection. The survey was carried out on the 22 November 2017 from 6:30am to 9:30am and from 2:30pm to 6:00 pm.

The TIA predicts the development will generate an average of 20 one-way vehicle movements per day with an expected peak of five one-way vehicle movements per hour. During an absolute peak operational scenario, traffic movements may be expected to increase to 40 one-way vehicle movements per day and 10 one-way vehicle movements per peak hour. It is understood that the movements associated with the peak operational scenario are not sustainable over an extended period given a maximum annual extraction limit of 50,000 tonnes would apply.

Based on a predicted density of 1500 kg/m<sup>3</sup> for loose/broken shale the annual extraction limit of 50,000 tonnes equates to a volume of approximately 33,333m<sup>3</sup>. If the extension of time is approved, the quarry will have approval to deliver 5.7 days per week 52 weeks per year. However, due to variations in weather, resource demand and onsite difficulties it is anticipated that extraction will not occur every day. It is assumed there may be a 10% reduction in the total number of days in which material can be extracted, this result in approximately 260 days of extraction each year.

Given the predicted 260 working days per year, then an average of 128m<sup>3</sup> would be transported from the site each day. Assuming that the haul trucks will have a capacity of 20m<sup>3</sup> then 6.4 truckloads or 12.8 one-way vehicle movements would be produced each day.

The applicant has stated that, "...We understand that the expected and peak 'hourly truck volumes' described by Traffic and Transport Plus of 40vpd and 10vph are the worst case scenario and not anticipated to occur daily or even weekly. They are anticipated to occur rarely, potentially once every few months".

The TIA has identified that Pacific Highway/Carlisle Street intersection will operate above capacity (DOS>1) for both the AM and PM peak hours. The TIA identified that a possible solution to solve the existing capacity constraint would be to signalise the intersection. However, the applicant argues that it would be unreasonable to require them to be responsible for the associated costs of such improvement works for the following reasons:

8.3 **DA 1996/29 - Section 96(2) - Quarry - Old Bagotville Road**

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- The intersection suffers from existing capacity issues and the development will have only a modest impact on its continued operation.
- A portion of the trips generated by the development will be directed to the adjacent Pacific Highway Project and will not impact upon the Pacific Highway/Carlisle Street intersection.
- After the completion of the adjacent highway upgrade project and the 'new' highway opens to traffic; there will be a significant reduction in the volume of traffic using the 'old' Pacific Highway and the existing intersection will be back within satisfactory operating parameters.
- The site will operate for a maximum duration of 5 years and not result in any long term traffic impacts.

Council has not received any complaints to date regarding the level of service of this intersection and Council is not aware of any capacity issues associated with this intersection. Given the scope and scale of the proposed development it would be considered unreasonable to require the applicant to undertake the identified upgrade works to the Carlisle Street/Pacific Highway intersection.

Furthermore, it is reasonable to expect that any capacity issues that are experienced by this intersection will be resolved once the 'new' Pacific Highway opens in 2020.

Aside from the intersection of the Pacific Highway and Carlisle Street no other capacity issues have been identified within the road network. However, there are ongoing concerns relating to the impact of heavy vehicles on residential amenity within Carlisle Street. Council has received a number of complaints to date relating to noise, vibration, dust and safety. The cumulative impact of the proposed quarry, along with other quarries and cane trucks also reliant upon this haulage route is of concern.

A number of heavy vehicle generating developments operate in the vicinity including Old Monti's, New Monti's, Jali and Gibson's quarries as well as various agricultural and sugar cane farms. In addition, it is considered that Pacific Complete and RMS construction traffic associated with the highway upgrade would also add significantly to the number of heavy vehicles generated.

Council has recently undertaken a week of traffic counts along Carlisle Street approximately 100 metres south of Bath Street commencing from Monday, 26 February 2018. The traffic counts identified that there were on average 811 vehicle movement per weekday of which 346 were heavy vehicle movements. Heavy vehicle movements accounted for approximately 42.7% of the total traffic on weekdays.

It is noted that a traffic count was also undertaken in Carlisle Street in 2010 as a response to concerns from residents reporting a large increase in heavy vehicle movements. The counts identified an average heavy vehicle movement rate of over 200 a day. Based on the recent traffic counts undertaken it is clear that the amenity of the area is under pressure from the number of heavy vehicles experienced.



**8.3 DA 1996/29 - Section 96(2) - Quarry - Old Bagotville Road**

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The subject development application is anticipated to generate a total of 20 vehicle movements per day, 14 of which will be heavy vehicle movements. This corresponds to an increase of approximately 2.5% of total vehicle movements and an increase of approximately 4% of heavy vehicle movements based upon Council's traffic counts.

The traffic generation from the existing operational quarries and the continued potential traffic generation from the proposed quarry is a potential cumulative impact that needs to be considered, due to the reliance on the same haulage route that traverses through the Wardell Village.

Notwithstanding this, the following needs to be considered:

- The peak heavy traffic figures recorded are not expected to occur long term and it is anticipated that there will be a substantial drop in the number of heavy vehicle travelling through Carlisle Street once the Pacific Highway upgrade works have been completed in 2020.
- The subject development seeks consent to supply material exclusively to Pacific Complete and will cease operating after five years or after the cessation of the contract held by Quarry Solutions for delivery of quarry material to the Pacific Highway Upgrade – Woolgoolga to Balling Project, whichever is achieved first (although this is recommended to be reduced to two years until 31 January 2020).
- The proposed development will only generate a 4% increase in the number of heavy vehicle movements experienced in Wardell.

As a means of mitigating amenity concerns for the surrounding area, the applicant has indicated that they intend to implement a Driver Code of Conduct for Eaton Quarry should approval to operate be granted.

The Driver Code of Conduct will include requirements such as the voluntary adoption of a reduced speed limit of 40 kph along Carlisle Street within Wardell and will also include the following components:

- A Driver Induction Procedure.
- Compliance with the Driver's Code of Conduct will be enforced by a 'Two strikes and you're out' policy administered by the Quarry Manager and reviewed by the General Manager of Quarry Solutions.
- Installation of forward and driver facing cameras on haulage trucks managed by Quarry Solutions.
- Installation of GPS monitoring devices on haulage trucks managed by Quarry Solutions. Each GPS monitoring unit is installed on the truck. A GPS 'fob' or 'key' is assigned to an individual driver as per the Driver Induction Procedure. The driver logs on to the GPS monitoring unit on the truck prior to commencing each shift. The GPS monitoring unit tracks the vehicle location, speed, exceedance of speed limits and harsh vehicle movement and braking as well as mapping the location of any potential incident or infringement to assist in future investigations. In the event of an incident or infringement (e.g. exceedance of speed limit) alerts are sent immediately by email and 'phone app' to the Quarry Manager, Operations Manager, Transport Manager and General Manager. All alerts provide detailed information including, date, time, nature of the infringement, driver name, truck registration and type and the location of the event.

8.3 **DA 1996/29 - Section 96(2) - Quarry - Old Bagotville Road**

- The installation of GPS monitoring unit on all local school buses using the haulage route where permission is provided. Each GPS monitoring unit fitted to a school bus enables tracking and interaction with the GPS monitoring unit in each truck. The GPS monitoring system is configured to send an alert to a truck driver traveling in the same direction as a school bus when the truck comes within 500 metres of the school bus. The alert is in the form of a beep audible only to the truck driver and not the school bus driver. Being alerted of the nearby school bus the truck driver is to reduce speed and be alert and maintain a minimum 50 metre separation distance to the school bus. If the 50 metre separation distance is encroached an alert is generated and the infringement will be investigated. In the event that the school bus stops the truck is also to stop and not pass the school bus. If the truck does pass the school bus an alert is generated and the infringement will be investigated. The GPS tracking system is intelligent and also alerts a truck traveling in the opposite direction of a school bus when it is approaching the school bus, but the alert will not be triggered when the truck passes the school bus in the opposite direction.

It should also be noted that the proposed 40 kph speed reduction will also assist in reducing any potential vibration impact on residents/dwellings.

The modification application was referred to the Ballina Local Development Traffic Committee (LDTC) on the 14 February 2018 for comment, in particular in relation to the adequacy of the Pacific Highway/Carlisle Street intersection and local amenity concerns raised in a number of public submissions.

The LDTC recommended that if the application is approved conditions be placed on any amended consent with the effect of:

1. Prior to commencement of operations for the extended period, a Transport Management Plan must be submitted to and approved by Council.
2. The Transport Management Plan must provide a binding code of conduct for the operation of haulage vehicles carting material from the quarry to external locations and shall include:
  - Measures to ensure haulage vehicles are operated in a professional manner that minimises impacts on road users and adjoining properties and residents.
  - Provisions for the limiting the speed of haulage vehicles to 70 kph on Old Bagotville Road and 40 kph in the Wardell town area.
  - Covering of all loads.
  - Procedures to ensure vehicles exiting the site do not convey sediment, debris or other material onto the external road network.
  - Monitoring haulage vehicles through an In Vehicle Monitoring Systems (IVMS) to ensure professional driver standards are being met, or alternative monitoring arrangements satisfactory.

The proposed development was also referred to the RMS in accordance with Clause 16 of the SEPP (Mining, Petroleum and Extractive Industries) 2007.

**8.3 DA 1996/29 - Section 96(2) - Quarry - Old Bagotville Road**

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The RMS response is provided at Attachment 6.

As these are considered to be positive measures to reduce amenity/safety concerns, additional conditions will be imposed if the modification application is approved.

For clarity, the public's suggestion that the Joint Regional Planning Panel refused a previous Development Application 2014/615 (expansion of Monti's Quarry) based on unacceptable traffic impact on residents within Carlisle Street is not entirely correct. Although this formed part of several reasons for refusal, this was on the basis of the applicant not adequately addressing the cumulative impact at peak capacity. The primary reason for refusal was the expansions impact on the critical state significant infrastructure project (Pacific Highway upgrade).

**Impact of Wildlife**

As outlined in the Roads and Traffic section of this report, there has been a substantial increase in heavy vehicle traffic from the locality along Old Bagotville Road, Back Channel Road and Carlisle Street since the commencement of the Pacific Highway Upgrade works.

Council's Civil Services Group have been in separate on-going discussions with the RMS (Pacific Complete) regarding the possible upgrade (sealing) of Old Bagotville Road due to the increased heavy vehicle traffic.

Such sealing would also negate some of the dust issues raised in relation to impact on Koala feed tree leaves and general disturbance to the local Koala population raised by a number of public submissions, however it could also have a negative impact due to Koala mortality on the road (i.e. motorists would generally travel at greater speeds on sealed roads and would not need to be concentrating as hard on the carriageway and subsequently any Koala's that may venture within the carriageway/exclusion fencing).

The minimal proportional increase in heavy traffic if the extension of time is approved when compared to the current RMS operations conducted under State legislation where Council has minimal input/authority is not considered to be significant in the circumstances.

Consequently, due to current RMS operations quantifying the direct impact on Koala's or any other wildlife is difficult for the purposes of this modification application.

**Options**

Based on the content of this report, the Council has the following three options:

**Option One**

To refuse the modification application on the basis of insufficient information to satisfactorily address relevant statutory considerations and the environmental impacts of the proposed modification. This is not the recommended option due to the content of this report.

8.3 **DA 1996/29 - Section 96(2) - Quarry - Old Bagotville Road**

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**Option Two**

To approve the modification application for the requested five year extension until 2023 subject to the existing conditions imposed in 1996 with the inclusion of amended conditions relating to only supplying the Pacific Highway upgrade works and the Transport Management Plan incorporating the Driver Code of Conduct.

This is not the recommended option due to the lengthy amount of time sought and on the basis that it is not considered to be substantially the same development for the purpose of the EP&A Act.

**Option Three**

To approve the modification application subject to:

- (a) A maximum of two years (until 31 January 2020) and only for the supply of material to the Pacific Highway upgrade.
- (b) Amended/additional conditions relating to the commencement of the progressive rehabilitation immediately at the time of recommencement of extraction and review of its establishment in full prior to 30 April 2020 and the implementation of the Transport Management Plan incorporating the Driver Code of Conduct.

This is the recommended option.

**Conclusion**

As outlined in this report, modification application to DA 1996/29 the subject of this report, although for the same purpose (i.e. extension of life), has three distinctly different aspects to DA 1995/259 for Newrybar Swamp Road recently considered and refused by Council. This is due to the following:

- (a) The original application for DA 1996/29 was not considered to trigger designated development. This has significant assessment implications for the current modification application.
- (b) The applicant has agreed to conditions restricting the supply of material only to the State significant critical infrastructure project and only whilst the project is under construction.
- (c) The applicant has proposed additional mitigation measures for traffic impact/safety and provided a Traffic Impact Assessment that incorporates Transport Management and Driver Code of Conduct.

The approval of this current modification application (when limited for just under two years until January 2020 rather than the intended five years), is considered to be substantially the same development, reasonable having regard for 79C of the EP& A Act 1979 and in the interest of the wider public as it is solely for the supply of the critical state significant infrastructure specifically listed in Schedule 5 of the State Environmental Planning Policy (State and Regional Development) 2011.

**8.3 DA 1996/29 - Section 96(2) - Quarry - Old Bagotville Road**

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Although the assessment of the modification application has found that the progressive rehabilitation has not been commenced on the site, the approval of the modification application will allow this aspect to be tightened via additional conditions. If this is commenced immediately at the extension period and plantings conducted in full at the end of the extension period there are no valid technical reasons as to why the quarry should not be permitted to extract for a further two year period within current extraction limitations.

The conditional approval of the modification application will provide operational certainty for the supply of chert for the Pacific Highway upgrade, albeit only for up to 100,000 tonnes (i.e. 50,000 tonnes per annum) and certainty for local residents in that the extraction is only permitted for an additional two year period (i.e. whilst impacts from the RMS construction operations would still be experienced if the modification application was refused).

**RECOMMENDATION**

That the modification application to DA 1996/29 for the Eaton's Quarry be **APPROVED** via the amendment to conditions as outlined within this report, namely:

1. A reduction in the requested extension of time for extraction from five years down to two years (until 31 January 2020 and maximum of 100,000 tonnes) and only for the provision of chert material for the Pacific Highway upgrade works.
2. The commencement of the progressive rehabilitation immediately at the time of recommencement of extraction and review of its establishment in full prior to 30 April 2020).
3. The implementation of the Transport Management Plan and Driver Code of Conduct.

**Attachment(s)**

1. Locality Plan - s96 Amendment - Eatons Quarry - Lot 3 DP 619233
2. Contract with RMS
3. EPA Issued Environmental Protection Licence
4. Submissions of Objection
5. Applicant's Response to Submissions
6. Government Agencies Responses
7. Applicant's Legal Advice
8. Rehabilitation Plan
9. Approved Plan of Management
10. Aerial Photograph

MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS  
40 CHERRY STREET BALLINA,  
ON 22/03/18 AT 9.00 AM

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220318/8      **RESOLVED**

(Cr Phillip Meehan/Cr Keith Williams)

That Council staff work with the Bagot Park Landcare Group to identify suitable low impact low resource use vegetation management methodologies that should not require natural resources being diverted to the waste centre.

FOR VOTE - All Councillors voted unanimously.  
ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

8.3 **DA 1996/29 - Section 96(2) - Quarry - Old Bagotville Road**

A **Motion** was moved by Cr Phillip Meehan and seconded by Cr Sharon Parry

That the modification application to DA 1996/29 for the Eaton's Quarry be **APPROVED** via the amendment to conditions as outlined within this report, namely:

1. A reduction in the requested extension of time for extraction from five years down to two years (until 31 January 2020 and maximum of 100,000 tonnes) and only for the provision of chert material for the Pacific Highway upgrade works.
2. The commencement of the progressive rehabilitation immediately at the time of recommencement of extraction and review of its establishment in full prior to 30 April 2020).
3. The implementation of the Transport Management Plan and Driver Code of Conduct.

The **Motion** was **LOST**.

FOR VOTE - Cr Phillip Meehan  
AGAINST VOTE - Cr David Wright, Cr Sharon Parry, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis, Cr Keith Williams and Cr Ben Smith  
ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

220318/9      **RESOLVED**

(Cr Keith Williams/Cr Eoin Johnston)

1. That the modification application to DA 1996/29 for the Eaton's Quarry be **REFUSED** on the basis of insufficient information to satisfactorily address relevant statutory considerations and the environmental impacts of the proposed modification.
2. That Council write to the RMS expressing on-going concerns around noise, and the dust and traffic impacts on residents and the local roads.

MINUTES OF THE ORDINARY MEETING OF BALLINA SHIRE COUNCIL  
HELD IN THE BALLINA SHIRE COUNCIL CHAMBERS  
40 CHERRY STREET BALLINA,  
ON 22/03/18 AT 9.00 AM

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FOR VOTE - Cr David Wright, Cr Sharon Parry, Cr Jeff Johnson, Cr Eoin Johnston, Cr Stephen McCarthy, Cr Nathan Willis, Cr Keith Williams and Cr Ben Smith

AGAINST VOTE - Cr Phillip Meehan

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

7. **Mayoral Minutes**

7.1 **Mayoral Minute - Ballina Country Music Festival**

A **Motion** was moved by Cr David Wright

That Council supports the annual payment of \$30,000 from Council's Festivals and Events funding program, to the Ballina Country Music Festival, for the three year period from 2018/19, 2019/20 and 2020/21.

An **Amendment** was moved by Cr Ben Smith and seconded by Cr Sharon Parry

1. That Council supports the payment of \$35,000 to the Ballina Country Music Festival, with the additional funds to be sourced from the previous allocation to the Prawn Festival, for 2018/19.
2. That Council encourages both parties (The Ballina Country Music Festival and Ballina Chamber of Commerce) to work together for a combined festival.

Cr Willis declared a non significant, non pecuniary interest in this matter– he is a member of the Cherry Street Bowls Club.

The **Amendment** was **CARRIED**.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

The **Amendment** then became the **Motion** and was **CARRIED**.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

**220318/10 RESOLVED**

(Cr Ben Smith/Cr Sharon Parry)

1. That Council supports the payment of \$35,000 to the Ballina Country Music Festival, with the additional funds to be sourced from the previous allocation to the Prawn Festival, for 2018/19.
2. That Council encourages both parties (Ballina Country Music Festival and Ballina Chamber of Commerce) to work together for a combined festival.

FOR VOTE - All Councillors voted unanimously.

ABSENT. DID NOT VOTE - Cr Sharon Cadwallader

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Page 7 of 14 of the Minutes of the Ordinary Meeting of Ballina Shire Council – 22/03/18

..... MAYOR

enquiries refer  
**Anthony Peters**  
in reply please quote  
DA 1996/29.3

Quarry Solutions Pty Ltd  
C/- Groundwork Plus  
PO Box 1779  
MILTON BC QLD 4064



**NOTICE TO APPLICANT OF DETERMINATION OF APPLICATION  
TO AMEND DEVELOPMENT CONSENT  
(Issued under Clause 122(1) of the Environmental Planning and  
Assessment Regulation 2000)**

**Development Application No:** DA 1996/29

**Applicant:** Quarry Solutions Pty Limited C/- Groundwork Plus

**Subject Land:** Lot 3 DP 619233, No. 323 Old Bagotville Road, Wardell

**Development Proposal:** Section 96(2) Amendment to 1996/29 to extend the operational life of the quarry by five years (from 20 to 25 years)

**Determination:** The development application has been determined by Ballina Shire Council on 22 March 2018 by way of **refusal for the following reasons:**

1 Insufficient information has been provided to satisfactorily address relevant statutory considerations and the environmental impacts of the proposed modification.

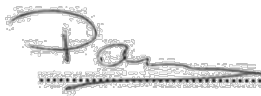
40 chery street, po box 450, ballina nsw 2478  
t 1300 864 444 • e council@ballina.nsw.gov.au • w ballina.nsw.gov.au • abn 539 29 887 369



Section 96 Amendment to DA No. 1996/29 – Amendment No. 2  
Page 2  
29 March 2018

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Signed:



29 March 2018

Paul Hickey  
General Manager  
On behalf of Ballina Shire Council

Please note that the right of appeal and review of determination provisions of the EP&A Act 1979 that are applicable to Amendment No. 2 are as follows:

**Right of Appeal:** In accordance with Section 97AA of the Environmental Planning and Assessment Act 1979, an applicant who is dissatisfied with the determination of a consent authority with respect to the applicant's modification application under section 96 or 96AA (including a determination on a review under section 96AB) may appeal to the Court within 6 months after:

- (a) the date on which the applicant received notice, given in accordance with the regulations, of the determination of that application or, if an application for review under section 96AB has been decided, the date on which the applicant received notice, in accordance with the regulations, of the decision, or
- (b) the date on which the applicant's application is taken to have been determined in accordance with regulations made under section 82C (3), 96 (6) or 96AA (3).

**Review of Determination:** Section 96AB of the Environmental Planning and Assessment Act 1979 gives you, the applicant, the right to request the Council to review the determination of your modification application (made under Sections 96 and 96AA only). This request must be made within the time prescribed by Clause 123I of the EP&A Regulation 2000, being no later than 28 days after the date on which the modification application was determined, and be accompanied by the fee prescribed by Clause 258A of the EP&A Regulation 2000. Review provisions do not apply to:

- (a) a determination of an application to modify a complying development certificate,
- (b) a determination in respect of designated development,
- (c) a determination in respect of integrated development,
- (d) a determination made by the council under section 89A in respect of an application by the Crown,
- (e) a determination that is taken to have been made because the council has failed to determine an application; and
- (f) a determination made by a Joint Regional Planning Panel.

18/37843

To Ballina Shire Council  
In Regard to DA 1996/29

To Whom It May Concern

30/6/18

Further to my objection on the above DA on December 14<sup>th</sup> 2017, I wish to object again on the REVIEW of Determination Of Council's Refusal of a Section 96(2) Modification Application to DA 1996/29 (Eatons Quarry) to extend the operational life of the quarry for five additional years (to January 2023) for the Pacific Highway upgrade.

My original objections related to the performance of operator & owner and the inability for the receiving environment to absorb the additional haulage vehicles. In addition the local community and in particular Carlisle street in the village of Wardell, having to accept yet more damage to our homes, village amenity and illegal truck driver behaviour, who show no regard for the safety of the residents.

It has further come to light that Ballina Shire Council has been threatened by Bob Higgins of the RMS himself who related to council that if the DA was not approved, even more traffic would befall Carlisle Street in Wardell as the material would have to come from the Gold Coast. This is documented in the Wardell Progress Associations Meeting minutes (attached). In addition, this actually makes no sense whatsoever as the material coming from Wardell is shale & chert which is being used at Coolgardie. If the material had to come from the Gold Coast, it would never come through Wardell as Coolgardie is North of Wardell. It has nothing to do with this DA. This was confirmed by Matt Wilkinson of Pacific Complete at the Community Information Meeting held May 2<sup>nd</sup> 2018.

It is clear to me that Bob Higgins is being neither transparent nor truthful and once again the residents of Wardell are being asked to be punished daily with the prospects of another 5 years of haulage of material which I might add, is 3 years more than the completion date of our section of the Pacific Highway.

**I believe Ballina Shire Council made in good faith the correct decision to refuse DA 1996/29 and I appeal to them to uphold this decision and protect the village & residents of Wardell as is their responsibility.**

Thanking you  
Cheryl Morton & Bonita Avery  
85 Carlisle Street  
Wardell NSW

**Wardell and District Progress Association  
General Meeting Wednesday 19<sup>th</sup> April 2018**

**Meeting opened at 7.02 pm**

**Present:** Mayor David Wright, Cr Ben Smith, Cr Eoin Johnston, Jock Borrowman, Janice Wickenden, Gloria Craik, Ken Threlfo, Fiona Grant, Paola Rickard, Rhonda Barnes, Sue Steel, Mike Rushby, Christopher Beck, Alan Drury, Anne Wilson, Sue Wardrobe, John P. Scroope, Nathan Lee, Katie Power, Nicola Fletcher, Jordan Greenfield, Jo Heber, Bonni – Rose Heber, Russell Krampe, Lydia Krampe, Bec Heywood, Pat Carney (President), Kerry Turpin (Secretary) (28)

**Apologies:** Ronda Thomas, Cr Sharon Parry, Jeannee Spears, John Jarzynski, Jeanette Henwood, Graeme and Narelle Antonioli, Noel Wilson. (8)

**Welcome**

Pat welcomed everyone to the meeting, commenting on the wonderful large crowd, both new and regulars. He also welcomed Mayor Wright and Crs. Eoin Johnston and Ben Smith who are regular attendees.

The Minutes of the General Meeting October 18<sup>th</sup> 2017 have been emailed to everyone.

Paola moved that these minutes are a true and accurate account of the meeting. Seconded: Janice Wickenden.

**Correspondence**

5/03/18 – Email from Paola to BSC Councillors with details of all WPA communication with Govt Departments re Patches Beach concerns.

5/03/18 – Email to Paul Hickey, Paul Busmanis and Ward C Councillors for Boardwalk opening - tentative date 25<sup>th</sup> March.

5/03/18 – Email from Sarah Norris (Pacific Complete) thanking WPA for their invitation to attend the February meeting and provide answers to concerns raised at the meeting. – ( letter attached)

12/03/18 – Invitations to Mayor, Councillors and Council staff to Boardwalk Opening – 25<sup>th</sup> March.

14/3/18 – Email from Mike Rushby, Public Officer, to lotteries inquiries at the NSW Justice seeking legal clarification on the status of our organization running raffles to raise money.

17/3/18 – email boardwalk Opening Invitation flyer to Wardell, Empire Vale and Cabbage Tree Island Public Schools and Jenny Ellenbrock (Paradise FM)

19/3/18 – Reply from Paradise FM – happy to promote the event

19/3/18 – email from Pat to GM Paul Hickey requesting a clean up before the weekend.

26/3/18 – emails expressing gratitude to Mayor, GM, Chief Engineer and BSC Councillors for their attendance and support of the Boardwalk opening.

16/4/18 – Email to Chief Inspector Bill McKenna, Ballina Police requesting attendance at our next progress Meeting and to consider the operational status of Wardell Police Station.

16/4/18 – Reply email from Bill McKenna – due to late notice – unable to attend but interested in future meetings.

17/4/17 – Email from Debbie Brown – Pacific Complete – advising another community information meeting in Pimlico (Wed 2<sup>nd</sup> May) re heavy vehicles and material haulage.

16/4/18 – rang Multitask HRF Ltd for a quote for printing 300 copies of the Bugle in both B/W and colour.

Kerry moved that the correspondence be accepted. Seconded: Paola

Correspondence accepted.

**Treasurer's Report- Ronda Thomas.  
Report attached**

**Closing balance - \$2759.60**

Pat moved that this is an accurate and correct account of the WPA's finances. Seconded: Sue Steel  
Treasurer's Report received

### **Hall Committee Report \$12,903**

1. Figure boosted by the Federal Govt. grant of \$7,740 received through the Stronger Communities Program.
2. Hall interior to be painted in May by Mal Sly Painting.
3. RMS booked Hall 7<sup>th</sup> June – community meeting

### **Matters Arising from Last Meeting.**

#### **Opening the Boardwalk**

This was declared a huge success. We were grateful to the staff and Mayor and Councillors from Ballina Shire Council who attended. Mayor David Wright commented that we were very fortunate to have the General Manager, Paul Hickey attend.

Pat thanked the Rural Fire Brigade for the sausage sizzle and Kerry and Selina for the organization of the day. Kerry has sent letters of thanks to those that contributed to the day.

Ken Threlfo suggested that we organize a plaque to commemorate Louis Cook declaring the Boardwalk open. Agreed on unanimously – Pat will organize this.

David Wright commented that Louis had so many stories – wondered if we could record them.

Mike Rushby said that he was hoping to do a story on Louis for the Bugle.

Lots of photos have been uploaded on the facebook page – Wardell community connect

### **New Business**

1. Pat moved that we send a letter of appreciation and \$200 for fuel to Warren Barnes for his contribution to the community with mowing the grounds surrounding the Wardell & District War Memorial Hall. Seconded Ken Threlfo. Motion passed unanimously.

2. David Wright - Wardell Bridge will be retained by RMS – they will be responsible for maintenance.

3. Tuesday 22<sup>nd</sup> May 2018– BSC Draft Delivery Program presentation will be held in Wardell Hall. Pat said that that often money was directed to Ballina/ Alstonville/ Lennox. The Million Dollars Wardell received for upgrades, finalized with the completion of the Boardwalk, was actually in arrears. We need to attend the meeting and put our case forward for future expenditure. Some suggestions from the meeting include :-

- We should get some money for town beautification – suggestions for covers over the seats – fully supported by Cr Eoin after a very hot day at the Boardwalk opening. He said that there was no shade.
- Cr. Ben said we need to make a list – it is easier for Council.
- Pat said Richmond St between Hall and Hotel needs upgrading.
- Parking in town is a priority – in front of Catholic Church – drainage is bad – would be good to clear the weeds and put some asphalt down for parking.
- Accessible Toilet in Fitzroy Park – David said it is in the delivery program but not this year. Paola said that it was in the Strategic Plan – Need to resubmit our plan from December.
- Swimming pool was suggested.
  - East Wardell – cover and seating near the pontoon.
- Jock suggested that parking outside the shops needs to be line marked – WPA has already tried – needing support of the building Owners – not consented to.
- Fiona Grant said that her workers felt that there was nothing to do in Wardell for the older children – wants the upgrade of play equipment. David said that it had been upgraded about 6 years ago – will again in 10 years.
  - Jock asked about an accessible swing for in the park.

4. Lydia Krampe met the Mayor before she headed off home. Russell said that she was a budding SRC candidate for her school and maybe she will represent us at Council later in life!! (Students' Representative Council.)

5. Russell warned about the rottweiler in Bridge Drive - house next to old Post Office. His family was attacked while out bike riding. – He has referred to the matter to the Ranger and is warning residents.

6. Application for membership from new members

- Two new applications – Robbie Commens and Christopher Beck approved. We welcome them both to the WPA.
- New membership – \$10

7. Sue Steel said that Mike had written a tribute to Rose Leeson who passed away before Christmas.

Excellent layout. Sue said that it will be framed and hung in the Hall – Paola suggested A3. David said that we make it more permanent. Ace printing was suggested.

Paola suggested that we follow this up – Pat will do.

8. **Promotional Raffles Enquiry** Mike Rushby – reply from Justice Department re his inquiry about the legalities of running raffles in the Hotel to raise money for WPA. He received a reply that in essence was no reply! (12 pages of errors, servers and host addresses.)

Pat expressed his disappointment that due to the small patronage at the hotel, it is hard to raise any funds!

9. **Patches Beach.** – Council commented that the beach is Crown land. It was suggested that we Lobby Ben Franklin (Kerry has already sent 2 emails – no reply). Not Council responsibility. Rebecca suggested a one-day permit for 4WD's. Suggested permits for visitors. David said that there are permits for 7 mile beach. More patrols are needed.

It was discussed that we need somewhere to issues licenses. Council hasn't control of the land. Perhaps we should follow up with Matt Wood and find out who has responsibility. Paola will follow up.

10. **Risk assessment on Rural Dwellings**

David said that Council has heard nothing yet. It has been sent to the assessors.

11. Pat commented that he had asked the Council worker doing mowing in Wardell if he could mow an extra strip. He was told that it couldn't be done, that he could only mow the GPS coordinates given to him. Pat asked David Wright about the possibility of extending the area. David said that it can't be changed that we would need to send a request to John Truman re extending the mowing. (Kerry to action)

12. David Wright said that the Traffic Committee had met today. PAMP was on the agenda. (Ballina Shire Council Pedestrian and Mobility Plan).

It has not been finalized yet but they have received more submissions. Paola said that she hopes they don't knock off the Wardell Paths that have been planned.

12. **Blackwall Bugle**

Should we keep producing a hard copy of the Bugle – it is very expensive, but mainly the wastage issue is a problem. Decided that Kerry should send accounts to sponsors – continue program for this year. Keep looking at other publishing options.

Kerry has followed this up with a letter to businesses in Wardell. Will contact previous sponsors.

13. Allan Drury questioned the increase in rates. Approval will not be until May. Queried CPI increases also.

#### **Mayor Report to the Meeting**

**David Wright**

- Last council meeting – Council refused the RMS request to extend the extraction from Heaton's quarry – didn't want more heavy vehicles along Carlisle St – They noted that no rehabilitation has occurred on the Quarry to date. RMS (Bob Higgins) responded that if their request was denied, then they would transport the material from QLD instead, it would be transported along on Carlisle St. Council decided to reverse the decision, as it would have less impact on local roads – can move the extracted material along the new highway's corridor.

• Upgrade for Wardell water supply planned – huge expenditure by Council.

- Pool. Allan Drury asked about this. Council will take action against a company that claimed that the pool was to have been opened earlier. Unexpected things had come up. The new pool will be operating for 2-3 weeks without people to check how it goes. Late July/ August to the public.

• Grant for shared path approved.– new roundabout at Skennars and thru the rainforest along the boardwalk to Pat Mortons. Pat commented that there are now 3 footpaths along the Coast Road. David said that there is enough money to complete the Coastal walkway. Ben felt that it was duplication as did Pat. Ben commented that the State Govt wanted a shared pathway along the coast.

8.13pm –Mayor David left the meeting. He commented about the numbers that attend our meetings. He said that it was outstanding for the Shire.

14. Mike said that Bonita Parker, a visitor to the Blackwall Historical Society Room, found \$22.15 in the history papers. We will put towards Rose's plaque.

15. Jock said the Wardell Bridge had a loose joint causing a lot of noise. He contacted the RMS and the bridge has been fixed. Great work Jock!

16. Ken said that the road conditions along Wardell Rd were an absolute mess. Pat said that we will have the opportunity to raise our concerns when the RMS holds a public meeting in Wardell. (7<sup>th</sup> June)

17. Jan thanked the members of the WPA for the flowers we sent.

18. Increase in Criminal Activities in Wardell.

Several members expressed their concern over the recent increase in B&E, thefts and stolen and burnt out vehicles. Residents are disheartened as they feel that the culprits are known but nothing is done. Kerry has requested future police representation at our meetings. We have received acknowledgement that this will occur with prior notice. Eoin, once a criminal lawyer, couldn't emphasise enough the importance of reporting all crimes and suspicious activities. – He suggested that you record times and the person you speak to at the police station when you report. The police cannot build a case without our help. It was suggested that the police take a look at Lumleys Lane – many spoils of crime are located there! Kerry will send a letter to the Police from the Progress association expressing our concern. It was also suggested to use the facebook page to get the message out there.

Next Meeting – Wednesday 20<sup>th</sup> June – 7.00pm

Pat thanked Ben and Eoin again for their commonsense approach and expressed our gratitude in having them as our representatives on Council.

Meeting Closed at 8.31pm

#### Dates for the Diary

##### Community information session

The project team will be hosting a community information session to provide an update on progress and heavy vehicle movements and material hauling. Community members are welcome to attend. If you are unable to attend and have questions, please contact the team by phone or email.

**Date: Wednesday 2 May 2018**

**Time: 6pm – 7pm**

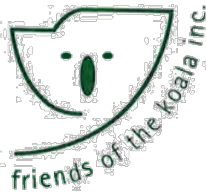
**Where: Meeting Room, McAndrews Lane project site compound, Pimlico**

**Wardell Meeting – Thursday 7<sup>th</sup> June 9.00am – 1.00pm in the Wardell & District War Memorial Hall**

**Tuesday 22<sup>nd</sup> May – 7.00pm Ballina Shire Council's General Manager, Paul Hickey will present the Draft Delivery Program for the next few years at Wardell & District War Memorial Hall.**

**Wednesday 20<sup>th</sup> June – 7.00pm – Next Progress Meeting in the Wardell Hall.**

18/38105



General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

23 Rifle Range Road  
PO Box 5034  
EAST LISMORE NSW 2480  
info@friendsofthekoala.org  
www.friendsofthekoala.org  
24 Hr Rescue Hotline: 6622 1233  
FOK Office: 6621 4664

Dear Paul Hickey,

RE: DA 1996/29.3 Eaton's Quarry, Lot 3 DP 619233 Old Bagotville Road, Wardell

I refer to the above development application and wish to lodge my objection to the S96(2) proposed modification to extend the operational life of the quarry for five additional years (to 31 January 2023) for the Pacific Highway Upgrade only.

FOK understands that Ballina Shire Council (Council) refused this development application earlier in the year, and that following a request from the RMS, Council is now reconsidering this application. The reasons for this objection are based on FOK's previous submission (dated 8 January 2018) to this development application as follows:

- Ballina's koala population is considered a nationally significant population, making it a matter of national significance. Despite a number of conditions with the approval of the Pacific Highway Upgrade for koalas, FOK has witnessed firsthand the impact on koalas from the current construction works and operation of the borrow sites near Eaton's Quarry.
- FOK is aware of a number of koalas that live in this area. The ongoing impact during construction of the Highway will undoubtedly put more koalas at risk. This is particularly so when considering the added effects of the Wardell heathland fire over 350 ha and the barrier fencing on Old Bagotville Road, although we acknowledge that there is some koala movement around the eastern end of the fauna exclusion fence.

FOK is concerned that the cumulative effects of allowing the extension of Eatons Quarry while all the other activities are also going on will be too much for the koalas living in that area to tolerate. Any increased number of vehicles will increase the likelihood of a koala being hit, of noise and dust related health issues, and the associated immune deficient and stress response diseases. All efforts should be made by Council to ensure Ballina's koala population remains viable and healthy.

In addition, FOK understands that the decision to reconsider the proposal was based on the advice from the RMS that if Eaton's Quarry were not reconsidered and approved, material for Sections 10 and 11 of the Pacific Highway upgrade would be sourced from the Gold Coast and result in increased traffic through Wardell on Carlisle Street and Wardell Road. While FOK appreciates Council's consideration of additional impacts to residents, it has been brought to FOK's attention that Matt Wilkinson, Pacific Complete Project Manager for Section 10, advised local residents at a Community Information Session (2/5/18) that:

- the material at Eaton's Quarry had limited use and Pacific Complete had not yet decided whether it wanted or needed to use material from there, and
- the material from Eaton's Quarry is only suitable for pavement development on the northern parts of Sections 10 and 11.

If this is the case, then transporting the material from the Gold Coast to the alignment north of Coolgardie Road would not require additional truck movements through Wardell or, if required further south, could be moved along the alignment as is occurring now with most of the material. If this proposal is approved, then trucks would be moving through Wardell to get the material to the northern parts of the alignment. FOK requests that Council further investigate the need for the material, where it would be used, what the alternatives are, and the preparation of a revised traffic impact statement on both residents and koalas addressing all scenarios.

Licensed by the Office of Environment & Heritage (NSW) to rescue, rehabilitate and release koalas in the Northern Rivers  
Licence No. MML000100225 ABN 69322819171 Fundraising Authority CFN 17840

Several koalas live in the habitat adjacent to Carlisle Street, Wardell Road, Back Channel Road and Old Bagotville Road, and regularly cross these roads at any time of day. On one occasion, a koala was crossing on Back Channel Road just out of Wardell near the Bingal Creek crossing, and one of the Ngunya Jargoong rangers had to stop a double bogey from running it over, or at least having to brake quickly to avoid it. Any additional truck movements on local roads increases the risk of a koala being hit, particularly when considering the cumulative increase in traffic as a result of RMS, Pacific Complete and their contractors on these roads.

It is also of note that the RMS and Pacific Complete have a deadline of 2020 to complete the Pacific Highway Upgrade, yet the application is to extend the operational life of the quarry for the Pacific Highway Upgrade only to January 2023. It would therefore appear that this is an error, as there should be no need for the Pacific Highway to use quarry materials after 2020. If approved, koalas living in that area are going to be exposed to another 2-3 years of Highway construction noise and dust disturbances, and possibly up to 5 years. FOK urges Council to request further information regarding the operational timeframe of the development application.

If Council intends to approve this development, FOK recommends that a condition of the approval include a Koala Monitoring and Management Plan to be prepared to examine the effects of noise and dust on the movement and health of the koalas living and travelling through the Eaton's Quarry and surrounding lands, including their response to blasting.

I am prepared to provide further information and expand on the comments in this submission.

Yours sincerely,



**Dr Roslyn Irwin  
President**

**31 May 2018**



18/38205

**Sue Wade**

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**From:** Nancy McAndrew <quambys@tpg.com.au>  
**Sent:** Wednesday, 30 May 2018 5:32 PM  
**To:** Nadelene Smith  
**Subject:** RE: DA 1996/29 Submitters Notification for Review of Determination

Ref DA 1996/29 Eatons Quarry review.

At a recent meeting held at the Pacific Highway Upgrade Office at Pimlico, all those in attendance were told by Matt Wilkinson (Pacific Complete) that if materials were sourced from the Gold Coast, instead of Eatons Quarry, they would not need to be transported as far south as Carlisle St, Wardell. This is due to the fact that Eatons Quarry contains materials very much different to other Quarries in the area, and this material can only be used for the construction of "low noise pavement" which is to be built around Coolgardie and not further south.



This therefore proves that the threats made to Council by Bob Higgins are nothing more than an inaccurate bluff. The original application stated that materials are to supply the Highway Upgrade until 2023 ONLY. The Highway is scheduled to be completed 2020. Do you know something we residents don't?

We trust our Council will consider the rate paying residents over the incorrect information provided to you in this important matter.

Col & Nancy McAndrew  
1247 Wardell Rd  
Meerschaum Vale 2477  
66 834429  
31/05/18

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**From:** Nadelene Smith <Nadelene.Smith@ballina.nsw.gov.au>  
**Sent:** Friday, 11 May 2018 11:26 AM  
**To:** quambys@tpg.com.au  
**Subject:** DA 1996/29 Submitters Notification for Review of Determination

enquiries refer  
**Anthony Peters**  
in reply please quote  
DA 1996/29

11 May 2018

**Col & Nancy McAndrew**  
[quambys@tpg.com.au](mailto:quambys@tpg.com.au)

Dear Sir/Madam

I wish to advise that the following review of determination application under Division 8.2 of the Environmental Planning and Assessment Act 1979 has been submitted for Council's consideration:

**DA NO:** DA 1996/29  
**APPLICANT:** Groundwork Plus on behalf of Quarry Solutions  
**PROPERTY:** Lot: 3 DP: 619233, Old Bagotville Road WARDELL  
**PROPOSAL:** Review of Determination of Council's Refusal of a Section 96(2) Modification Application to DA 1996/29 (Eatons Quarry) to extend the operational life of the quarry for five additional years (to 31 January 2023) for the Pacific Highway upgrade only

Closing date for submission is **31 May 2018**.

The subject application and associated documents may be viewed by visiting Council's DAs (Développement Applications) Online website [da.ballina.nsw.gov.au](http://da.ballina.nsw.gov.au), and clicking on **Applications On Exhibition** under the Applications menu. Computer access is also available at Council's Customer Service Centre, 40 Cherry Street Ballina between 8.15am and 4.30pm Monday to Friday (excluding public holidays).

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- All reportable political donations made to any local Councillor of that Council; and
- All gifts made to any local Councillor or employee of that Council.

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DA 1996/29 - Notification of Review of Determination Application  
11 May 2018

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Should you have any general enquiries regarding this application please contact Council's Development and Environmental Health Group on 6686 1254.

Yours faithfully



Matthew Wood  
Group Manager  
Development and Environmental Health

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18/38207

**Sue Wade**

**From:** tbcatherding@gmail.com on behalf of Tony Browne <info@tonybrowne.net>  
**Sent:** Wednesday, 30 May 2018 10:05 PM  
**To:** Nadelene Smith  
**Cc:** David Wright; Councillor Keith Williams; Mia Cassidy; Cheryl and Bonnie; Rhonda Sly; Nancy McAndrew; compliance@planning.nsw.gov.au  
**Subject:** Re: Objection to the 5 year extension to DA 1996/29

Folks,

Further to my original objection, I haven't seen any real movement by Pacific Complete in addressing my original concerns:

After a meeting with the Pacific Complete team in the first week of May with residents of Wardell, the project has not moved it's position regarding our concerns.

**1. Speed -**

No willingness to have their vehicles slow down to 40km/h through Wardell as they are "required and promised to do" but apparently not compelled to do under previous approvals.

**2. Scope -**

The project team stated at the meeting that they are making their "best efforts" to use the construction corridor where possible but they could not provide a full estimate of ALL heavy vehicle movements for the rest of this project. i.e. not just haulage trucks, but concrete trucks and other heavy haulage vehicles involved in the project.

We have no clear understanding of estimated traffic volumes through to project completion.

**3. Damage to our homes.**

Due to points 1 and 2 above, we are deeply concerned about further damage to our homes.

We have received an email from a claims assessor on 1st May saying they would be in contact but have heard nothing further.

We want a written guarantee from the project that they will fix any damage to our homes caused by this project.

A guarantee has still not been forthcoming.

It seems the project is still doing its best to gloss over our concerns and muddy the waters (i.e. Bob Higgins claims about increased haulage due to Eatons being unavailable) while trying to obtain the required approvals. Treating meetings such as the latest one as "community consultation" while still not addressing the main issues we have with the project is a waste of time for all parties involved.

I am failing to understand what is so difficult with addressing the 3 points above before any further approvals are granted.

I'd also like to thank council for their support and consideration of the issues we've been raising over the past 6 months.

Best Regards,  
Tony Browne  
0413 644 522

On 16 December 2017 at 10:34, Tony Browne <info@tonybrowne.net> wrote:  
To whom it may concern,

I object to the 5 year extension to DA 1996/29 for the following reasons:

1. Past performance of the operator and owner.
  - The applicant Quarry Solutions is a subsidiary of SEE Civil.
  - SEE ran the quarries 1996/29 and 1996/30 from 2010. At this time there was an application to increase extraction amounts from both quarries, this was later withdrawn; only after gross over extraction (triple the allowed amount for both quarries).
  - The applicant was unable to control driver behaviour, this resulted in speeding trucks and loss of safety and amenity to residents along the haulage route.
  - The applicant showed little to no regard for residents, operational guidelines or EPA licensing.
  - We note that the applicant was fined for these breaches, however the \$16 000 is not an amount that would bare significance for a contract such as the highway.

As this underpins activities undertaken as part of the Pacific Complete project, my experience with this project so far has seen:

- Pacific Complete management lying about "no haulage through Wardell, and that it will all be down the new highway corridor"
- The project providing no clear scope, duration, load traffic for the whole project end to end. We have only been informed for parts of work being completed, not the whole project.
- Promises broken in regards to trucks adhering to 40kmh speed limits, no GPS tracking, no enforcement of speed limits which is part of their DA obligations.
- No written guarantees to repair any damage caused to our properties.

I appreciate the value this project will bring to our village and the safety to human life it will provide once complete. I understand you will probably just approve this application anyway due to its significance.

What I want to see is pacific complete and it's partners and providers stick to their word. As part of this for Council to ensure that:

- Speed enforcement for ALL heavy vehicles involved in this project is maintained at the promised 40km/h limit. (If they do 40km/h, our house does not shake anywhere near as much and your road will probably be better off for it)
- We receive a written guarantee from the project to repair any damages caused to our house from these activities. (Our back security screen door no longer shuts properly or locks since haulage commenced).
- Pacific complete provide a complete project scope for haulage numbers and duration which covers all activity which will use our small suburban street. (i.e. they have provided figures for the new corridor up to Ballina, however they are also hauling through our street down to Broadwater and there has been no figures or consultation for this work.)

The project has continually stated that they are working with "local authorities" to control speeding down our street. I'd like to see Council stand up for its residents to ensure our safety and the livability of our street.

Warm regards,

Tony Browne  
95 Carlisle St, Wardell  
0413 644 522

18/38240

**Sue Wade**

**From:** Nancy McAndrew <quambys@tpg.com.au>  
**Sent:** Wednesday, 30 May 2018 5:32 PM  
**To:** Nadelene Smith  
**Subject:** RE: DA 1996/29 Submitters Notification for Review of Determination

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1247 Wardell Rd  
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DA 1996/29 - Notification of Review of Determination Application  
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Matthew Wood  
Group Manager  
Development and Environmental Health

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18/38241

**Sue Wade**

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**Sent:** Wednesday, 30 May 2018 10:05 PM  
**To:** Nadelene Smith  
**Cc:** David Wright; Councillor Keith Williams; Mia Cassidy; Cheryl and Bonnie; Rhonda Sly; Nancy McAndrew; compliance@planning.nsw.gov.au  
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Due to points 1 and 2 above, we are deeply concerned about further damage to our homes.

We have received an email from a claims assessor on 1st May saying they would be in contact but have heard nothing further.

We want a written guarantee from the project that they will fix any damage to our homes caused by this project.

A guarantee has still not been forthcoming.

It seems the project is still doing its best to gloss over our concerns and muddy the waters (i.e. Bob Higgins claims about increased haulage due to Eatons being unavailable) while trying to obtain the required approvals. Treating meetings such as the latest one as "community consultation" while still not addressing the main issues we have with the project is a waste of time for all parties involved.

I am failing to understand what is so difficult with addressing the 3 points above before any further approvals are granted.

I'd also like to thank council for their support and consideration of the issues we've been raising over the past 6 months.

Best Regards,  
Tony Browne  
0413 644 522

On 16 December 2017 at 10:34, Tony Browne <[info@tonybrowne.net](mailto:info@tonybrowne.net)> wrote:  
To whom It may concern,

I object to the 5 year extension to DA 1996/29 for the following reasons:

1. Past performance of the operator and owner.
  - The applicant Quarry Solutions is a subsidiary of SEE Civil.
  - SEE ran the quarries 1996/29 and 1996/30 from 2010. At this time there was an application to increase extraction amounts from both quarries, this was later withdrawn; only after gross over extraction (triple the allowed amount for both quarries).
  - The applicant was unable to control driver behaviour, this resulted in speeding trucks and loss of safety and amenity to residents along the haulage route.
  - The applicant showed little to no regard for residents, operational guidelines or EPA licensing.
  - We note that the applicant was fined for these breaches, however the \$16 000 is not an amount that would bare significance for a contract such as the highway.

As this underpins activities undertaken as part of the Pacific Complete project, my experience with this project so far has seen:

- Pacific Complete management lying about "no haulage through Wardell, and that it will all be down the new highway corridor"
- The project providing no clear scope, duration, load traffic for the whole project end to end. We have only been informed for parts of work being completed, not the whole project.
- Promises broken in regards to trucks adhering to 40kmh speed limits, no GPS tracking, no enforcement of speed limits which is part of their DA obligations.
- No written guarantees to repair any damage caused to our properties.

I appreciate the value this project will bring to our village and the safety to human life it will provide once complete. I understand you will probably just approve this application anyway due to its significance.

What I want to see is pacific complete and it's partners and providers stick to their word. As part of this for Council to ensure that:

- Speed enforcement for ALL heavy vehicles involved in this project is maintained at the promised 40km/h limit. (If they do 40km/h, our house does not shake anywhere near as much and your road will probably be better off for it)
- We receive a written guarantee from the project to repair any damages caused to our house from these activities. (Our back security screen door no longer shuts properly or locks since haulage commenced).
- Pacific complete provide a complete project scope for haulage numbers and duration which covers all activity which will use our small suburban street. (i.e. they have provided figures for the new corridor up to Ballina, however they are also hauling through our street down to Broadwater and there has been no figures or consultation for this work.)

The project has continually stated that they are working with "local authorities" to control speeding down our street. I'd like to see Council stand up for its residents to ensure our safety and the livability of our street.

Warm regards,

Tony Browne  
95 Carlisle St, Wardell  
0413 644 522

1.8 / 35280

Ballina Shire Council  
DA:1996/29

31 May 2018

To Whom it May Concern

I am writing to once again ask you to consider my objections to the proposal to extend the operation of Eatons Quarry to 31 January 2023.

Council originally rejected this proposal for two main reasons, firstly that our roads were already overloaded with trucks and secondly that the owners have demonstrated poor practice in making no attempt to rehabilitate the site which was a condition of their operating approval. Neither of these two objections has changed.

The only reason that it appears that it is to be reconsidered is because of a comment by Bob Higgins (I refer to Mayor David Wright's report to the Wardell Progress Association meeting April minutes). Mr. Higgins said that if the material were sourced from somewhere further north then it would mean more traffic on the local roads, which is so obviously untrue. The corridor to which Mr. Higgins refers actually starts at Coolgardie north of the Wardell Village so truck movements would have no reason to go through the Village. If the extraction was to take place before the corridor's completion it could hardly mean more trucks as it would still be the same number of trucks to haul the same amount of material. Also at the Pacific Complete Community Information Meeting on 2 May 2018 we were advised by Matt Wilkinson that the material they use from Eatons quarry is needed for an area further north of Wardell, so even on that count there would not be additional trucks coming through Wardell in fact quite the opposite.

This is typical of the contempt that Mr. Higgins and Pacific Complete have continued to show us residents and it now seems that the same attitude is being extended to Ballina Council.

We were promised before this upgrade work started that the internal haulage route would be completed, however it was not even commenced. Then it was only supposed to be for a six month period however they are now in the process of preparing an application to extend this by a further six months again with little regard for the local residents.

Meanwhile the noise, the dust and the damage to my home continues unabated and allowing an extension to the operating license of Eatons quarry will only exaggerate the impact.

Although many of the truck drivers are considerate of the village many are not. I have often seen drivers on their mobile phones and despite many pleas to Pacific Complete to ask the drivers to slow down through the village there is still a high number of trucks that need their compression brakes when approaching the

Bath and Carlisle Street intersection only adding to the noise and dust from these vehicles.

Finally in respect to this application I query why the request is for a five year extension to the operation of the quarry when the highway upgrade is to be completed in 2020.

The residents of this village have enough to contend with, please consider us and reaffirm the original decision to refuse the application.

Rhonda Sly  
17 Bath Street (cnr Carlisle St)  
Wardell NSW

Sue Wade

18/38316

**From:** Heather Dunn <heatherdunn@hotmail.com.au>  
**Sent:** Thursday, 31 May 2018 10:17 PM  
**To:** Ballina Shire Council  
**Subject:** Fwd: Eaton's Quarry DA

Nothing has changed since council made its decision to refuse this DA. I hope that you will do what is right and refuse it again!

Sent from my iPhone

Begin forwarded message:

**From:** [heatherdunn@hotmail.com.au](mailto:heatherdunn@hotmail.com.au)  
**Date:** 8 January 2018 at 12:41:20 am AEDT  
**To:** [council@ballina.nsw.gov.au](mailto:council@ballina.nsw.gov.au)  
**Subject:** Eaton's Quarry DA

Sent from my iPhone  
Ballina Council.  
Via email: [council@ballina.nsw.gov.au](mailto:council@ballina.nsw.gov.au)

Dear Sir/Madam,

As a concerned resident and in reference to the DA listed below, I object to Quarry Solutions request to extend the operational life of Eatons Quarry for a further five years.

**DA NO:** 1996/29.003  
**APPLICANT:** Quarry Solutions  
**PROPERTY:** Lot 3 DP 619233, Old Bagotville Road, Wardell  
**AMENDED PROPOSAL:** Section 96 (2) Amendment to DA 1996/29 (Eatons Quarry) to extend the operational life of the quarry for five additional years (to 31 January 2023) for the Pacific Highway upgrade only.

Noting clause 37 of the SEPP Mining Petroleum Production and Extractive Industries 2007, I believe that the cumulative impacts of the extension have not been properly considered or addressed. Given that the extension is for the sole purpose of providing fill for the Pacific Highway Upgrade, it is important that Council addresses the fact that the RMS has advised that they have not taken into account in their estimates of the traffic flow along Old Bagotville Road any traffic from Eatons Quarry or other quarries that are using this road.

Already the noise and dust levels from Gibsons and Jali Quarries are extremely high. There has been no effective or immediate mitigation of the dust clouds which coat the remaining feed trees from which koalas and other forest fauna rely on.

I note that there are no provisions that deal with the impacts of noise on wildlife in spite of a considerable amount of published research demonstrating the impacts which cause stress, inhibit mating, reproduction and communication. Any additional noise will further exacerbate the risks for the koala and potoroo populations which are struggling to survive.

Given the wildfire which burned 320 h.a. of habitat, not only has a major section of koala habitat been burnt out, but access for any surviving animals is extremely limited as a result of the exclusion fencing along a major section of the road. No evaluation of the impacts of this fire have been undertaken by the RMS .

Ballina Council as the approval authority for this extension request should, therefore, engage an independent qualified scientist to evaluate the status of the koala and potoroo populations along Old Bagotville Road before any consent is considered.

It is also important to consider that the Federal and State approvals for s. 10 have required passage for koalas once traffic on local roads exceeds 100 vehicles a day. This condition has been ignored by the RMS to the detriment of wildlife.

Given the extension proposal, I believe that there will be, sadly, no wildlife remaining in the area as a result of the traffic, dust, noise and blasting creating unacceptable cumulative impacts should the extension be approved.

I also note that the submission for an extension fails to deal with impacts on koalas and potoroos, two listed vulnerable species.

The submission simply cannot ignore the impacts of five more years of dust, noise and traffic on a road which is entirely inappropriate for this level of quarry traffic.

Any approval of an extension also creates a legally complex situation in terms of any monitoring given that the RMS is one consent authority for the Gibsons and Jali quarries and the Ballina Council the authority for any extension of Eatons Quarry.

What arrangements, if any, have been made to streamline monitoring ? Who monitors ?  
How will Council determine if there have been violations of consent conditions ?

*The section 10 upgrade has been a disaster for the environment exacerbated by the fire which burned a major portion of koala habitat.*

*Non compliance has been identified on a number of occasions with a complete failure by the relevant authorities to deal with the evidence.*

*In granting any extension, the Council is allowing the RMS to subvert the legal process, albeit given that the Council is the consent authority for any extension of this quarry.*

*In summary, the development is not in the public interest, it is certainly not in the interests of the environment, koalas, potoroos and many other species of wildlife.*

*Without addressing the cumulative impacts on an already highly degraded important habitat, and the failure of the RMS to adequately deal with the extent of quarry traffic, Council is requested to deny approval.*

*Yours sincerely,*

*Heather Dunn*

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18/38510

816 Bagotville Road  
BAGOTVILLE NSW 2477

31 May 2018

The General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Dear Mr Hickey,

**RE: DA 1996/29.3 Eatons Quarry, Lot 3 DP 619233 Old Bagotville Road, Wardell – Reconsideration of proposed development application based on recession motion**

I refer to the above development application and wish to lodge my objection to the S96(2) proposed modification to extend the operational life of the quarry for five additional years (to 31 January 2023) for the Pacific Highway Upgrade only. This submission provides the reasons for my objection and are based on submission made on the 8 January 2018.

Firstly, the RMS and Pacific Complete have a deadline of 2020 to complete the Pacific Highway Upgrade and as far as they are advising the local community, they are on track to meet this deadline. Therefore, there should be no need for the Pacific Highway to use quarry materials after 2020. Do they know something that we don't know? Are we the local residents and wildlife (including koalas) going to be exposed to another 2 years of Highway construction noise and dust disturbances above the 3 years of planned construction?

It should be noted that without access to the approved Plan of Management (POM) for the site, it is difficult to make specific comments. I note that the Statement of Environmental Effects (SEE) states the site has been "developed generally in accordance with the approved Plan of Management, retaining the necessary vegetation buffers to site boundaries" and that the RMS are likely to remove some of this buffer. In what ways has the site been developed that is not in accordance with the approved POM, and what are the implications of that to and for wildlife?

The following comments are in relation to the SEE, and include some key considerations if Council should make the unfortunate decision to approve this development application. However, it is noted that Council made the determination that it was of the opinion that this proposed modification is not of minimal environmental impact.

Page 6 Point 25

"The proposed modification application seeks to increase the annual extraction volume and extend the life of the quarry for five (5) years till 2023 to supply materials to the Pacific Highway Upgrade Project. This would not fully exhaust the resource but would align rehabilitation works with construction of the Pacific Highway Upgrade Project which would otherwise sterilise the resource...No change is proposed to the annual extraction volumes, hours of



operation, extent of disturbance, total extraction volume, total truck movements, road impact contributions, rehabilitation outcomes, noise, dust or water release criteria."

This paragraph is somewhat confusing. They don't want to sterilise the resource but they aren't going to exhaust it. They have had years to extract this material, and even in the last 18 months since the Federal Government's final approval, they have not been operating anywhere near the capacity they should have. Approving this proposed modification will only seek to reward bad behaviour and poor planning.

Additionally, they want to align the revegetation with the Highway Upgrade. Surely, for the koalas and other wildlife, the revegetation works should start in February 2018 when the current approval lapses. This will at least provide the wildlife with some habitat by the time the Highway opens in 2020. The cumulative impacts from the construction to the local koala population is already being observed and any additional disturbances to them and their habitat is unacceptable. This is discussed further in points below.

**Page 7 Point 29**

"The operation will continue to be managed to ensure compliance with the dust, noise, vibration, water-release criteria, rehabilitation outcomes and other environmental criteria as set out in the EPL and conditions of consent. As compliance with the existing environmental criteria will be maintained, the proposed modification is of minimal environmental impact but from an abundance of caution this application is made pursuant to s96(2) rather than s96(1A) of the Act."

Over the last 18 months I have observed poor dust management, particularly on local roads, irresponsible driver behaviour (speed and crossing onto the wrong side of road on dangerous corners) from Quarry Solutions double bogeys and light vehicles. On every occasion, I have contacted Pacific Complete who have investigated the report, only to respond it is vehicles from Eatons Quarry. Photos can be provided if necessary. Other members of the community have sent me copies of their complaints to Pacific Complete, RMS, EPA and relevant Ministers and MPs for management of dust, noise, vibration and blasting issues associated with the Highway Upgrade. There seems to be no way to control this.

There are several koalas that live in the habitat on Back Channel Road and Old Bagotville Road whose lives are placed at risk every time vehicles from Eatons Quarries are on these roads. The only time I have seen them go from driving irresponsibly to responsibly was when I was rescuing a sick koala from Back Channel Road, that had been first observed by a Pacific Complete contractor. With cages, flagging poles, nets and rescue vehicle by the side of the road, it appeared to slow down drivers for a while.

On one occasion, the day of the first Gibsons Quarry blast, I pulled off onto the side of the road to photograph a mother koala with her joey, when a truck from Eatons Quarry came flying around the corner, dust everywhere. It was a hot dry day and these koalas had dust in their faces (getting in their eyes, breathing it in) for over 40 seconds. I can provide photographs if required.

On another occasion, one of the Ngunya Jargoona rangers saw a koala crossing on Back Channel Road, just out of Wardell, and had to stop a double bogey from running it over, or at least having to brake quickly to avoid it. The truck driver apparently said words to the effect "Well I'll be blown, never thought I'd see a koala here". Despite all the drumming into contractors the importance of

Ballina's koalas and for them to drive safely and koala aware, it seems that if they don't see them then they aren't there. That is a complacency that Ballina's koalas cannot afford.

As the approval was granted in 1996, it would seem prudent that if approving a new Plan of Management be required that is in line with current day expectations, and with additional consideration to the Ballina Comprehensive Koala Plan of Management, and particularly to the koala and long-nosed potoroo populations.

Page 7 Point 30

The proposed extension of time for the operation would not increase the number of truck movements per day and the number of truck movements in total would not increase as the total approved extraction volume of 975,000t is not changing. The haul routes and vehicular access will also remain the same. Accordingly, there will be no additional impact on the road network than what is already approved to occur. Payments under the conditions of consent will continue to compensate Council for any pavement impacts to the local road network.

There is much more information available on the local area since the development and POM were approved, particularly in relation to the koalas and potoroos. All local roads are used (either walking along or crossing) by koalas to move between feed trees. While the RMS and Pacific Complete have implemented measures that will reduce but not avoid impacts to koalas and potoroos on Old Bagotville Road north east of the quarries, they have not implemented measures to the south west of the quarries. Rather than costly measures they have increased koala signage along this section of Old Bagotville Road and informed staff and contractors that Old Bagotville Road to the south west of the quarries is not to be used unless necessary. This is to reduce the risk of koala mortality. Since this position has been in place (about 12 months), very few Highway Upgrade related vehicles are seen on this section.

However, trucks accessing Eatons Quarry do use the south west section of Old Bagotville Road, and again dust etc. To reiterate, on one occasion, I was photographing a mother and baby in a favourite tree, when a truck came bellowing around the corner, coating mother and baby in dust for over 40 seconds. Photos can be provided. If approving this, then a condition must be that all vehicles (staff, contractors, anyone accessing the site), must only use Back Channel Road and the north east of Old Bagotville Road.

It should be noted that koalas (or a koala – more than one sighting) have been observed on Old Bagotville Road within the fenced area, presumably doing what they did before the fence, walking along the road to get to next feed trees. There is certainly evidence (fresh scats –koala poo) of koala use in those areas when I have followed up on the reports.

Also, had the approved development operated consistently (more or less) over the approval period, the number of truck movements per day would be minimal or at least in short bursts. If approved residents and wildlife, particularly birds and koalas, will be faced with more constant vehicle movements for the duration. The cumulative impact of the Eatons Quarry vehicles with those of all the RMS, Pacific Complete, Lendlease and other contractors vehicles, must be considered as part of Council's deliberations.

Page 7 Point 31

"Impacts on flora and fauna will be unchanged. The extent of disturbance will not increase to facilitate extraction of the remaining approved resource. All buffer zones will be retained in their current extents. The rehabilitation outcome will

remain the same as authorised in the approved POM with the establishment of pasture grasses and Koala food trees..."

While it is acknowledged that there is no change to the existing approved footprint of the quarry and no additional loss of vegetation (other than what the RMS may remove), there is no assessment to justify this statement. There was no consideration to the fact that the Ballina Koala Population in this area is now considered as nationally significant or that there is a significant long-nosed potoroo population at risk. We know there are several koalas that live within 1 km of Eatons quarry. The effects of noise, blasting, vibration and dust can have huge effects, far too much to go into in this submission, on koalas exposed to such aspects of quarrying. One only has to look at the koala monitoring reports from Lismore City Council's quarry at Blakebrook to see what can happen. Briefly, loud noises can impact on koalas during breeding season as male koalas grunt their communication to other male koalas and to attract a female. Noise can interfere with this and could have long term effects. The ongoing noise of vehicles and blasting, scraping etc can cause stress to individuals, and ongoing stress leads to raised cortisol levels which leads to a weakened immune system and disease (Retrovirus and/or Chlamydia). Sudden loud noises such as scraping or reversing beeps, startles koalas and wakes them from their sleep. Koalas need to sleep through the day so they can digest the nutrients in and toxins from the gum leaves, as well as feed on moist new growth at night. Disturbance to their sleep affects their ability to digest and therefore affects their health and results in sick koalas. Noise must be kept to a minimum.

Vibration can start male koalas grunting. In nature, when the thunder starts to vibrate, the alpha male koala near my house starts to grunt, a different grunt to the I am here grunt, come here ladies bellow. It is possibly a warning grunt. What effect the vibration from blasting will have on the koalas is unknown, but must be considered, particularly for those koalas in close proximity to the quarry.

Breathing in dust particles from vehicles is potentially similar to asbestosis for the koalas continually exposed. While koalas are known to lick dirt, presumably to get trace elements, eating dust on leaves is a totally different thing. Firstly, dust coated leaves soak up evening moisture, which is where koalas get much of their water requirements. Secondly, chewing leaves coated in dust wears the koalas teeth down quicker, often resulting in koalas starving to death at an earlier age.

This does not mean that I would like to see Old Bagotville Road tarred. I do not. Tarring the road would only make it more driver friendly and increase both the number of vehicles using the road as well as the speed at which they drive... increasing risk of koalas getting hit.

Furthermore, the fire to the east of the quarry and the quarry operational is likely to impact on the koalas ability to access food trees sufficient to sustain life.

If approving, then baseline information on the health of each koala likely to be impacted must be undertaken, and a blasting monitoring that locates each koala prior to blasting, has an observer quietly watching and videoing the behaviour of the koala for an hour before the blasting, and then records visually and on video the response of the koala to the blasting, with followup observations for 30 mins following blasting. This will provide an insight to which koalas are being disturbed and will need to be watched for the development of disease, and rescuing as necessary.

Additionally, the planting of koala food trees will take 4-18 years, depending on the species, before koalas will eat their leaves, due to the high level of toxins in leaves of young trees. The planting of pasture grasses is not recommended, unless they are low growing. Taller grasses only impede the koalas access to feed trees. It is assumed that the area won't be maintained in perpetuity.

Also if approving, there really needs to be an updated report and Plan of Management to address the issues of impacts to flora and fauna, and improved revegetation outcomes, as well as a Koala Monitoring and Management Plan that addresses the effects of vehicle noise, dust, and blasting on the rest, movement and health of the koalas living and travelling through the Eaton's Quarry and surrounding lands.

**Page 7 Point 33**

"It is noted that the Pacific Highway Upgrade Project may impact the buffering vegetation along the north eastern boundary of the site. Therefore, it is preferable to complete the full extraction of the approved resource so that rehabilitation works can be well progressed prior to the opening of that section of the project."

One would think that if they started the rehabilitation works at the beginning of February 2018, in line with the existing approval, then the rehabilitation would be well progressed by 2020.

**Page 7 Point 34**

"It is assumed that the 20 year period of the consent was imposed by Council as it was uncertain what the land use and visual amenity context of the surrounding area would be beyond that 20 year timeframe...With the impending construction of the Pacific Highway Upgrade Project certainty is now held that there will be significant change in the next five (5) years. Aligning the cessation of the quarry with the anticipated completion of the Pacific Highway Upgrade Project would provide certainty to the public of the future land use and visual amenity context of the site."

The author of the SEE is assuming Council imposed a 20 year consent for certain reasons. Irrespective of the reasons, the Ballina Koala Population is now recognised as nationally significant. The approval of this proposed modification in conjunction with impacts from the Highway construction and blasting and quarrying at Gibsons and Jali borrow sites, would almost certainly require a referral as a controlled action under the EPBC Act to the Federal Minister for the Environment.

Again, there is reference to the anticipated completion of the Highway by 2023. This is 2 years past the anticipated completion date and therefore have to question why it is necessary to seek approval for this duration.

**Page 7 Point 36**

"Clause 3 of s96 of the Act states that, "In determining an application for modification of a consent under this section, the consent authority must take into consideration such of the matters referred to in section 79C (1) as are of relevance to the development the subject of the application." This section of the Statement of Environmental Effects considers the proposal assessed against the relevant provisions identified in section 79C (1)(a) of the Act."

Discussed below under relevant sections

Page 8 Local Environmental Plan Point 41

Under Ballina Local Environmental Plan 2012, the site is located within the RU2 land zone. Of relevance is the objectives of the RU2 zone;

- To encourage development that involves restoration or enhancement (or both) of the natural environment if consistent with the production and landscape character of the land.
- To enable development that does not adversely impact on the natural environment, including habitat and waterways.

As stated in the above points, the proposed modified development is not consistent with these provisions.

Page 9 Point 42

"As the proposed modification does not change the land use or increase the associated impacts to the community, it remains consistent with the aims of the LEP and the objectives of the RU2 zone."

As stated in the above points, the proposed modified development is not consistent with these provisions.

In relation to the assessment under Section 79C(1) of the EPA Act, the consideration given in the SEE is simply to provide statements with no explanation or justification provided, and in some cases is misleading. For example,

**Clause 35 – Is there a significant increase in the environmental impacts of the total development?**

Page 9 Point 45. "The proposed modification would not significantly increase the environmental impacts of the total development as the proposal does not seek to change the existing land use or quarry footprint. The quarry will continue to operate in accordance with the conditions of the EPL. Accordingly, it is unlikely that the proposed modification would have any additional environmental impacts above and beyond that already contemplated by the original development."

The proposal will have additional environmental impacts and to make a statement without doing the work to substantiate it is not adequate or appropriate, particularly in the context of Ballina's koala population.

**Assessment – 'Clause 79C(1)(b) of the EP& A Act 1979'**

Page 10 Point 50 "Clause 79C (1)(b) of the Act states that in determining a development application, a consent authority is to take into consideration the *"likely impacts of that development, including impacts on both the natural and built environments, and social and economic impacts in the locality"*. The proposal would not significantly increase the impact of the development on the natural and built environment and social and economic impacts in the locality. The continued operation of the quarry will supply to the Pacific Highway Upgrade Project which is a State Significant Project with beneficial economic and social impacts for the locality."

Again, this is simply a statement without foundation. Why should wildlife and residents be subjected to any additional loss of peace in our quiet landscape and the impacts as identified above, because of poor planning and management on the part of SEE and Quarry Solutions.

Additional Points

The EPL allows approval for maximum of 50000 t/yr which over 5 years is 250000t, far short of the 477000+ t they appear to want to take.

Under condition O3 Dust of the EPL, O3.1 states "Activities occurring in or on the premises must be carried out in a manner that will minimise the generation, or emission from the premises, of wind-blown or traffic generated dust." The EPA has come a long way in dust management over the last 20 years. As discussed above, dust management on local roads by Quarry Solutions is not part of their dust management. This is not acceptable.

**Additional Comments**

Ballina's koala population is considered a nationally significant population, making it a matter of national significance. This proposal should be referred to the Federal Government for consideration as a controlled action under the Environment Protection and Biodiversity Conservation Act.

There were rumours that the decision to reconsider the proposal was based on the advice from the RMS that if Eaton's Quarry was not reconsidered and approved, material for Section 10 and 11 of the Pacific Highway Upgrade would be sought from the Gold Coast and result in increased traffic through Wardell on Carlisle Street and Wardell Road. This was apparently confirmed by the Mayor to one of the local residents. However, at a Community Information Session (2/5/18), Matt Wilkinson, Pacific Complete Project Manager for Section 10, advised local residents that the material at Eaton's Quarry was different than that at Gibson's Quarry, had limited use, not suitable for fill, Pacific Complete had not yet decided whether it wanted or needed to use material from there or not, and that the material from Eaton's Quarry is only suitable for pavement development on the northern parts of Section 10 and Section 11.

If this is correct, then transporting the material from the Gold Coast to the alignment north of Coolgardie Road would not require additional truck movements through Wardell as the material is not required or suitable further south. If required further south in Section 10, it could be moved along the alignment as is occurring now with most of the material, or if required for other Sections further south, it could be transported along the existing Highway. If this proposal is approved, then trucks would be moving through Wardell to get the material to the northern parts of the alignment, causing further issues for local residents on Carlisle Street and Wardell Road (both of which have resident koalas). Prior to making a decision Council should further investigate and receive adequate evidence of the need for the material; the suitability of the material, where it would be used, what the alternatives are, and the preparation of a revised traffic impact statement on both residents and koalas addressing all scenarios.

I am prepared to provide any additional information required, to undertake a site inspection, and to expand on these comments if necessary. I look forward to Council in its review of the development application, making the right decision and refusing the proposed modification.

Yours faithfully  
Maria Matthes

18/38745

**Sue Wade**

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**From:** suzanne arnold <suearnold25@icloud.com>  
**Sent:** Monday, 4 June 2018 11:38 AM  
**To:** Ballina Shire Council  
**Subject:** DA 1996/29 Review of Determination - Section 96AB (Eatons Quarry)

Sir/Madam,

Australians for Animals NSW Inc.(AFA) provided a submission of objection to the original approval submission dated January 2, 2018. We note that the charity was not advised of the request for a Review of Determination and only ascertained that there was a Review request from a local in a casual conversation.

AFA has been in constant contact with the RMS in relation to breaches of conditions of approval and the lack of connectivity structures on Wardell and Old Bagotville Road as required under the Federal, NSW, PVA, Ballina Plan and Koala Plan of Management for s. 1-11. We arranged for compliance teams from the Federal government and the Department of Planning & Energy to visit the sites in March.

An email sent to AFA on 25 May, 2018 from Katrina O'Reilly, Manager at Department of Environment and Planning, a member of the compliance teams who visited in March is pasted below

It is clear from this email that the determination by Council to refuse the application must remain and that any Review of the Determination would fail to address the required reviews and report by the Department. It would therefore be ultra vires for the Council to agree to a Review of the Determination.

Please confirm receipt of this submission as AFA is concerned by the failure of Council to advise the charity of the Request for a Review.

Sue Arnold  
Co ordinator  
Australians for Animals Inc.  
Brunswick Heads. NSW  
Ph: 66803674  
Old Baggotville Road

The approval to the Koala Management Plan required the provision of temporary fencing along Old Baggotville Road through Wardell Heath to the east of the alignment, should project related construction vehicle movements increase exiting traffic volumes on Old Baggotville road to more than 100 vehicles per day. This condition was required due to concerns about potential impact on Koala. This fence as you are aware was installed in May 2017. The Department in approving the Gibsons and Jali Borrow Site Management Plans required RMS to undertake and submit to the Department a review of the performance of the fauna connectivity measures within the fenced section of Old Baggotville Road, six months after the start of truck haulage. The approval limited truck haulage on Old Baggotville Road to a six month period. As truck haulage started on 8 January 2018 the connectivity review is required to be submitted to the Department in July 2018. The review will include the outcomes of investigations and discussions with the NSW EPA on any recommended additional connectivity measures for the Potoroo and Koalas. As part of the review, RMS' project ecologist undertook a review of connectivity measures for the Potoroo. The Department is awaiting the final report. Once this report is finalised the Department will be able to provide further information. The final report is also required to be uploaded on the RMS website. Should RMS seek to continue truck haulage after July 2018, the approval of the Department is required.

18/39421

**Sue Wade**

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**From:** Kerry Kelly <kezkel@hotmail.com>  
**Sent:** Tuesday, 5 June 2018 2:45 PM  
**To:** Ballina Shire Council  
**Subject:** Att Anthony Peters

Re: DA 1996/29

Please except my sincere and heartfelt objection to the proposal to extend the extraction life of Eatons Quarry on Old Bagotville Rd, to 31 January 2023.  
Five extra years!

That is an extra 5 years of:

- \* Blasting and dust
- \* Laden and unladen trucks rumbling through a small community
- \* Damage to roads, homes and other infustructure
- \* Community angst and sickness due to road safety, mental and respiratory health.
- \* More wildlife death.

The shocking environmental and community impact of the construction of this highway has done enough damage. Finish with us and let us begin healing. Please!

Kind Regards

Kerry Kelly & Danny Tandy  
705 Bagotville Rd  
Bagotville, 2477

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18/39506

**Sue Wade**

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**From:** Susie Hearder.<doggonoz@gmail.com>  
**Sent:** Tuesday, 5 June 2018 6:39 PM  
**To:** Development and Environmental Health Group Support Staff  
**Subject:** Submission re Eatons Quarry

Submission re Eatons Quarry

I support ALL the community in regards to Eatons Quarry and do not want an extension to Eatons Quarry License.

The local residents including the wildlife are severely impacted and deserve some peace. Please NO extension to Eatons Quarry.

Susie Hearder  
122 Boormans Road  
Limpinwood NSW 2484

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18/39511

**Sue Wade**

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**From:** Cassie Warman <everybodyluvscass@hotmail.com>  
**Sent:** Tuesday, 5 June 2018 11:39 PM  
**To:** Development and Environmental Health Group Support Staff  
**Subject:** Eaton Quarry - Objection to Extension of Eatons Quarry Licence - Review of Determination

To Whom It May Concern

I wish to advise that the following review of determination application under Division 8.2 of the Environmental Planning and Assessment Act 1979 has been submitted for Council's consideration:

**DA NO:** DA 1996/29  
**APPLICANT:** Groundwork Plus on behalf of Quarry Solutions  
**PROPERTY:** Lot: 3 DP: 619233, Old Bagotville Road WARDELL  
**PROPOSAL:** Review of Determination of Council's Refusal of a Section 96(2) Modification Application to DA 1996/29 (Eatons Quarry) to extend the operational life of the quarry for five additional years (to 31 January 2023) for the Pacific Highway upgrade only

I object to the Five year extension for the Eatons Quarry. As an onlooker since the NEW highway has started to now witnessing the change of Wardell, I have felt nothing but sadness.

Haven't the residents been through enough stress and trauma for you to now extend the time even further? The wildlife are struggling to find a home and survive on nothing and now you are making it even more impossible for humans and animals to live in the mess that you have left it in! How could you even think of making them suffer even more then what they already have? The residents ( including the wildlife ) have had absolutely no support from anyone in the Ballina Council ( except Jeff Johnson ).

No one has given up their time to help/support the demolition that the RMS have created. How are they expected to live when everything around them is crumbling?

Not to mention the health risk that you are putting the residents through, such a hazard for all living things.

I am concerned about the silica dust that will be created with that and the dust from the other quarries and concrete batching plants - and extra traffic on our local roads it is to much for all residents - including the remaining wildlife - flora and fauna.

Given that the extension is for the purpose of providing fill for the Pacific Highway, it is important that Council addresses the fact that the Eatons Quarry or other quarries that are using the local roads.

Already cause extreme noise and dust levels, there has been no effective or immediate mitigation of the dust clouds which coat the remaining feed trees which koalas and other forest fauna rely on. There is no provisions that deal with the impacts of noise on residents and wildlife. Any additional noise will further exacerbate the risks for koala and potoroo populations struggling to survive and domestic animals

Given the fire which burned 320 h.a. of habitat, not only has a major section of koala habitat been burned out, but access for any surviving animals is extremely limited as a result of the exclusion fencing along a major section of the road. Ballina Council as the approval authority for this extension request should consider the effect of more trucks dust and noise and blasting on the remaining Koala populations living along Old Bagotville Road before any consent is considered.

It is also important to consider that the Federal and State approvals for section. 10 have required passage for koalas once traffic on local roads exceeds 100 vehicles a day. This condition has been ignored by the RMS to the detriment of wildlife. The submission simply cannot ignore the impacts of five more years of dust, noise and traffic on a road which is entirely inappropriate for this level of quarry traffic.'

I object to any extension

Cassandra Warman  
53 Midway Avenue  
Wollongbar 2477

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18/39514

**Sue Wade**

**From:** Alstonville Studio <alstonvilledancestudio@hotmail.com>  
**Sent:** Tuesday, 5 June 2018 4:02 PM  
**To:** Development and Environmental Health Group Support Staff; Ballina Shire Council  
**Subject:** CM - Eaton Quarry - Objection to extension - Ballinas Starving Koalas - Photos on Thurgates Lane and Wardell Road sent in original submission - not resent  
**Attachments:** 26195907\_2091954094372108\_1754890611857825367\_n.jpg; DSC\_0021.JPG; DSC\_0023.JPG; safe\_image.jpg  
**Record Number:** 2018/0039514

To Whom It May Concern

I wish to advise that I object to the following review of determination application under Division 8.2 of the Environmental Planning and Assessment Act 1979 has been submitted for Council's consideration:

**DA NO:** DA 1996/29  
**APPLICANT:** Groundwork Plus on behalf of Quarry Solutions  
**PROPERTY:** Lot: 3 DP: 619233, Old Bagotville Road WARDELL  
**PROPOSAL:** Review of Determination of Council's Refusal of a Section 96(2) Modification Application to DA 1996/29 (Eatons Quarry) to extend the operational life of the quarry for five additional years (to 31 January 2023) for the Pacific Highway upgrade only

In reference to the DA listed above, I Suzanne Whiteman as a Ballina Shire resident and land owner object to any consent of Quarry Solutions request to extend the operational life of Eatons Quarry

I object to the Extension of the licence to Eatons Quarry for all the reasons in my first submission - which is below and for the new issue to be considered in the paragraphs below

Residents have been exposed to airborne crystalline silica (silica dust) and other hazardous substances during destruction for/construction of The Pacific Highways which are unjustifiable (by ethical means). (Silica dust is the sole cause of the incurable lung disease silicosis and is also a Group 1 carcinogen.) Residents and wildlife are currently being subjected to this potentially deadly substance blasted up for the northern section of the Woolgoolga to Ballina route.

The proposal is for the Pacific Highway Upgrade only, which is to be finished by end of 2020 yet the application is for operation until 2023. This IS what I do not understand and am questioning ?

Matt Wilkinson (Ex Manager of Section Ten from Pacific InComplete) advised that the material from Eatons

Quarry is only good for the northern part of Section 10 and they (RMS) have not decided whether they need it or not yet. If this is the case then it makes sense to take material from the Gold Coast down the Highway and use in the northern part, not needing to go through Wardell at all. The day after Matt told the community this he left his position at Incomplete and is not contactable - This has happened to us all again + again + again. This is the working ethics of the RMS

Eatons Quarry is owned by a private company, leased to another, and they have RMS lobbying on their behalf.

People's homes have been damaged by blasting and other vibrations caused by the RMS and their contractors - and RMS denies responsibility and the Council is not interested

with neither repair nor recompense for owners. Last Monday 21/5/18 there were two huge blasts - again with no warning in which my computer fell from the table and is now cracked - and needs repair.

This is another expense for the residents to bare - I rang the Council they told me to ring the 1300 NUMBER ? rang them a second time - ring Debbie Brown. Yes you ring and email Debbie she tell you to ring and email Cindy who tells you to ring and email Lara ? - so again no resolution - the RMS gets away with non compliance again

I asked in my original submission "If non compliance is identified during that five years what relevant authorities will we deal with ?" Section Ten - full of examples of non compliance from the RMS - AND THEY CAN GET AWAY WITH IT - eight days after the blast still no reply from RMS ? RE the blasting and devastation it has caused

**NOT SURE if everything is true in this article but - please pass these pictures of these Koalas to Councillor Phillip Meehan**

**LINK TO article - "Phillip Meehan who supported the application, said koala habitats near the quarry had been sufficiently protected"**

<https://m.northernstar.com.au/news/end-in-sight-for-living-hell-as-quarry-extension-r/3369369/>

old SUBMISSION - from January 2018

I have been closely watching - since Pre Construction started last year - during this time there has been little support from the Council Staff, Councillors (except one Jeff Johnson) nor the Mayor. I know it is a "critical road in fa-structure project" but the impacts of the pre construction are overwhelming, and any issues raised so far have not been properly considered or addressed. There have been repeated requests from residents for assistance from the Council and little attempt to address these issues and therefore no results and no support or assistance as we try to deal with the RMS

I object to the Five year extension for the reasons below and I am concerned about the silica dust that will be created with that and the dust from the other quarries and concrete batching plants - and extra traffic on our local roads it is to much for all residents - including the remaining wildlife - flora and fauna

I feel that there is a lack of understanding of what is happening south of Ballina from the Council in general - leading to further concerns to the extension of the Quarry and what will happen and who will deal with the effects that this five year extension will create

I feel there will be little support if things go wrong -

If non compliance is identified during that five years what relevant authorities will we deal with ?

For example

After addressing the Alstonville Wollongbar Chamber of Commerce last year on the plight of all the residents re the new highway I was approached by C Ward Councillor Ian Johnston who said "the RMS has done alot for you Sue they have built you a fence for 6 to 8 koalas" David Wright the Mayor standing in the room - said nothing - to spite the fact that they he had recently been to my place where he had seen 15 Koalas.

In February 2017 Mr Wright has stood in front of the affected community and said that Bob Higgins (head of the project) is a friend of his of thirty years and we should trust Bob ? But we can not trust Bob Higgins, in recent dusty times on calling the Council and then the mayor asking for him to get some water trucks on site - or demand that the RMS act upon this he told me there is nothing he can do ? we can not live in a dust bowl and the extension of this quarry will be detrimental to all residents.

Given that the extension is for the sole purpose of providing fill for the Pacific Highway, it is important that Council addresses the fact that the RMS has advised that they have not taken into account in their estimates of the traffic flow along Old Bagotville Road any traffic from Eatons Quarry or other quarries that are using this road which means from my recent thirteen year experience with the RMS that NOTHING will be done and ask will there be support from the council or will your answer as it has often been will be "critical road in infrastructure and there is nothing we can do" ? this has been a disappointing and some what dismissive answer from a council who prides itself with the values of accessible ?, respectful ? and safe ?

Already the noise and dust levels from Gibsons and Jali Quarries are extremely high, there has been no effective or immediate mitigation of the dust clouds which coat the remaining feed trees which koalas and other forest fauna rely on. There is no provisions that deal with the impacts of noise on wildlife in spite of a considerable amount of published research demonstrating the impacts which cause stress, inhibit mating, reproduction and communication. Any additional noise will further exacerbate the risks for koala and potoroo populations struggling to survive and domestic animals

Given the fire which burned 320 h.a. of habitat, not only has a major section of koala habitat been burned out, but access for any surviving animals is extremely limited as a result of the exclusion fencing along a major section of the road. No evaluation of the impacts of this fire have been undertaken by the RMS . Ballina Council as the approval authority for this extension request should, therefore, engage an independent qualified scientist to evaluate the status of the koala and potoroo populations along Old Bagotville Road before any consent is considered.

It is also important to consider that the Federal and State approvals for section. 10 have required passage for koalas once traffic on local roads exceeds 100 vehicles a day. This condition has been ignored by the RMS to the detriment of wildlife.

As a resident I am concerned there will be no wildlife left in the area as a result of the traffic, dust, noise, blasting creating unacceptable cumulative impacts if the extension is approved.I also note that the submission for an extension fails to deal with impacts on koalas and potoroos, two listed vulnerable species. The submission simply cannot

ignore the impacts of five more years of dust, noise and traffic on a road which is entirely inappropriate for this level of quarry traffic.

*Please note that sand mining is conducted at Eaton's Quarry and that this is in addition to mining for silica-bearing rock-types (chert and shale). Mining for said materials produces airborne crystalline silica (silica dust). In N.S.W., silica dust is a listed Hazardous Substance. In addition to other illnesses, silica dust causes the terminal lung disease silicosis. It is also a Group 1 (human) carcinogen. Silica dust is a 'take home' potential killer which can be transported on vehicles, clothing etc.. The World Health Organization has stated: 'Respirable silica dust may be invisible to the naked eye and is so light that it can remain airborne for a long time. It can thus travel long distances in the air and so affect populations not otherwise considered to be at risk'*

The section . 10 upgrade has been a disaster for the environment exacerbated by the fire which burned a major portion of koala habitat and stressful for residents

I will be writing to inform you of my dealings with RMS and all the extra expenses incurred to survive just during pre construction.

Non compliance has been identified on a number of occasions with a complete failure by the relevant authorities to deal with the evidence.

I object to any extension

Suzanne Whiteman  
Lot 9 Bagotville Road  
Meerchaum Vale  
2477

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To whom It may concern,

Please accept this letter as our continued objection to the 5 year extension to DA 1996/29.

As stated in our previous submission we object for the following reasons:

1. Past performance of the operator and owner.

The applicant Quarry Solutions is a subsidiary of SEE Civil.

SEE ran the quarries 1996/29 and 1996/30 from 2010. At this time there was an application to increase extraction amounts from both quarries, this was later withdrawn; only after gross over extraction (triple the allowed amount for both quarries).

The applicant was unable to control driver behaviour, this resulted in speeding trucks and loss of safety and amenity to residents along the haulage route.

The applicant showed little to no regard for residents, operational guidelines or EPA licensing.

We note that the applicant was fined for these breaches, however the \$16 000 is not an amount that would bare significance for a contract such as the highway.

The quarry owner was not forthcoming with road tariff monies

2. Inability for the receiving environment to absorb the additional haulage vehicles

The RMS is currently running 2 quarries in the immediate vicinity of DA1996/29 the only haulage route is Carlisle Street. The RMS indicate they will run 300 truck and dogs per day up and down our street plus 100 service vehicles.

Previously DAs have been rejected by the JRPP based on the inability for the receiving environment to absorb the additional haulage vehicles

3. An extension of the lifespan of the quarry by 25% is not substantially the same development and should trigger a new DA.

In relation to the new information provided by the proponent (Groundworks letters dated 28 April and 15 May). I was disappointed to read that the information provided in the 28 April letter was little more than to state that refusal was because '...insuficent information had been provided...as discussed with council.... Sufficient information was provided'. Furthermore the letter dated 15 May outlines how the company, if operation were approved, would have their vehicles abide by the road rules and operating conditions, hardly earth shattering reading. It does however point to the fact that unless pushed the company would not pay so much attention to the safety and welfare of other road users, surrounding land holders or indeed operational licence conditions.

Again, it is proposed that a form of monitoring would be via community complaints, again we would like to state that this form of monitoring is unworkable, unfair and does little to bolster community confidence or alleviate any of our concerns. As it stands complaints about safety and amenity issues are too commonly met with: write another email, make another phone call, moving goal posts of which numbers need to be recorded from the vehicle, or simply 'it wasn't us it was them'.

I would like to convey our shock and disappointment when we heard that the previous rejection of this extension had been overturned. The minutes of the Wardell Progress Association meeting on 19 April, state:

'Mayor Report to the Meeting

David Wright

• Last council meeting – Council refused the RMS request to extend the extraction from Heaton's quarry – didn't want more heavy vehicles along Carlisle St – They noted that no rehabilitation has occurred on the Quarry to date. RMS (Bob Higgins) responded that if their request was denied, then they would transport the material from QLD instead, it would be transported along on Carlisle St. Council decided to reverse the decision, as it would have less impact on local roads – can move the extracted material along the new highway's corridor.'

At the community information meeting held by Pacific Complete on May 2 comments were made about the use of the material from the Gibson and Jali Borrow sites (these sites are immediately to the east and south of Eaton's Quarry and produce the same materials; shale and chert). It was stated that the material extracted from these borrow sites would be used NORTH of Wardell i.e. Coolgaride, as the pavement material close to the Wardell end of the alignment is concrete and not granular pavement. The materials from the Baggotville quarries: Gibson and Jali Borrow sites and indeed Eatons Quarry, are only suitable for use under a granular pavement.

Comments to the geographical use of the material, NORTH of Wardell, make the statement (threat?) that if this extension is denied and the material is shipped from the Gold Coast it will be transported through Carlisle Street a moot point. It beggars belief that the RMS would indeed ship material further than necessary to make a point. However, a small amount of misinformation to gain a desired result has not been uncommon.

The March business paper states: This modification application does not directly relate to the "Monti's, Jali, Gibson and McGearry" quarries also located in close proximity on Old Bagotville Road. However as per section 79C of the EP and A act it must be considered cumulatively with the impacts of those operations and the ability of the receiving environment to absorb the cumulative effects of such.

Councils own data shows daily average heavy vehicle movements in our residential streets is 346. The report states that it is clear the amenity of the area is under pressure from the number of heavy vehicles experienced.

We understand that the extraction limit of 50 000t /annum would still apply to the quarry should this amendment be approved. However, the statements around peak periods of 40 vehicles per day and 10 vehicles per hour are quite frankly rubbish. There is no workable scenario where the number of trucks per hour or day, can or will, be monitored. Using these figures, the paper states that the proposed development will only add 4% to the heavy vehicle movements experienced in Wardell. This is indicative in itself that the receiving environment is at capacity.

The peak periods of extraction will coincide with peak periods for the highway construction, if the predicted truck volumes are combined with current truck volumes, we're looking at 400+ trucks and dogs per day in our residential street. Remember, the impacts of this application must be considered cumulatively with existing local operations.

The noise and vibration caused by the trucks stomping through the residential area is amplified by both truck speed and the condition of Carlisle Street.

The receiving environment is stretched thin, our homes are cracking, our amenity has been lost. Adding additional haulage volumes will be devastating. Just because there is unextracted material, doesn't mean approval must be granted. The receiving environment today is very different to that of 1996 when the original DA was approved.

We respectfully request that the council upholds their decision to reject the application based on the condition that a 25% increase in lifespan is not substantially the same as the lapsed DA. Consideration of the cumulative impacts of the development with the current land uses in the vicinity; and the effects that extended periods of large volumes of truck and dog traffic have on the health, amenity and safety of those who live along or use the haulage route.

Please remember that whilst we understand the highway is state significant infrastructure; we live here, with our family.

Regards,

Luke and Mia Cassidy

93 Carlisle Street, Wardell

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**From:** SMITH Liz A [<mailto:Liz.SMITH@rms.nsw.gov.au>]  
**Sent:** Tuesday, 5 June 2018 12:17 PM  
**To:** Anthony Peters  
**Subject:** CM - 180605 - DA 1996/29 Eatons Quarry - RMS response

Dear Anthony,

Further to your discussion with Roads and Maritime Services Development Assessment Officer, and subsequent review of the Applicants' Traffic Management Commitments statement, Roads and Maritime advises that those issues raised in our response dated 19 December 2017 (attached) remain current.

Not to detract from other issues raised in our previous response, it is re-iterated that no direct access will be permitted to the Pacific Highway during, or post, construction.

Should you wish to discuss this matter further please do not hesitate to contact me on the number below.

Best regards,

Liz Smith  
Manager Land Use Assessment  
Network and Safety Management  
Northern Region | Regional and Freight  
T 02 6640 1345

[www.rms.nsw.gov.au](http://www.rms.nsw.gov.au)

**Every journey matters**

**Roads and Maritime Services**  
Level 1 76 Victoria St Grafton NSW 2460

*I work flexibly. I send emails at times that suit me and unless it's urgent, I don't expect you to read my email or reply until normal business hours.*

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**From:** Anthony Peters [<mailto:Anthony.Peters@ballina.nsw.gov.au>]  
**Sent:** Tuesday, 29 May 2018 9:45 AM  
**To:** PITT Phillip  
**Cc:** Development Northern  
**Subject:** DA 1996/29 Eatons Quarry

Dear Phillip

1

Further to our discussion, please find attached the additional information provided by the applicant in relation to the review of determination (thus far).

Regards

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Transport  
**Roads & Maritime  
Services**

File No: NTH10/00135/02  
Your Ref: 1996/29.003

The General Manager  
Ballina Shire Council  
PO Box 450  
BALLINA NSW 2478

Attention: Anthony Peters

Dear Sir / Madam,

**Section 96 (2) Modification of Development Consent No. 1996/29.003 - Eaton's Quarry  
Lot 3 DP 619233, Old Bagotville Road, Wardell**

I refer to your letter of 28 November 2017 requesting comment from Roads and Maritime Services in relation to the abovementioned development application.

**Roles and Responsibilities**

The key interests for Roads and Maritime are the safety and efficiency of the road network, traffic management, the integrity of infrastructure and the integration of land use and transport.

Ballina Shire Council is the roads authority for all public roads (other than freeways or Crown roads) in the local government area pursuant to Section 7 of the *Roads Act 1993* (Roads Act). Roads and Maritime is the roads authority for freeways and can exercise roads authority functions for classified roads in accordance with the Roads Act. Council is responsible for setting standards, determining priorities and carrying out works on Local and Regional roads however Roads and Maritime's concurrence is required prior to Council's approval of works on classified (Regional) roads under Section 138 of the *Roads Act 1993*.

In accordance with Clause 16 of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*, Roads and Maritime is given the opportunity to review and provide comment on the subject development application.

**Roads and Maritime Response**

Roads and Maritime has reviewed the referred information and provides the following comments to assist the Consent Authority in making a determination;

- It is understood that the proposed modification will extend the life of the quarry operation and associated transport impacts within the existing scope of the approved development.
- Council should be satisfied that existing and proposed traffic impacts of the quarry operation remain within the scope of those previously assessed. Council may wish to identify the maximum daily and peak hourly truck movements generated along the designated haulage route.
- Consideration should be given to any road infrastructure improvements required to address the extended period over which the approved quarry will operate.
- The subject site adjoins the Woolgoolga to Ballina Pacific Highway Upgrade Project and will have frontage to the future Pacific Highway alignment. No vehicular access will be permitted to the future Pacific Highway.

rms.nsw.gov.au



- Council may wish to consider requiring the Quarry Operator to adopt a Driver a Code of Conduct for haulage operators, this could include, but not be limited to the following;
  - A map of the primary haulage routes highlighting critical locations.
  - Safety initiatives for haulage through residential areas, school zones and/or along school bus routes.
  - An induction process for vehicle operators & regular toolbox meetings.
  - A complaint resolution and disciplinary procedure.
  - A community consultation plan for peak haulage periods.

Upon determination of the application it would be appreciated if Council could forward a copy of the amended consent for our records. If you have any further enquiries regarding the above comments please contact Matt Adams, A/Manager Land Use Assessment on (02) 6640 1362 or via email at: [development.northern@rms.nsw.gov.au](mailto:development.northern@rms.nsw.gov.au)

Yours faithfully



For Liz Smith  
A/Network & Safety Manager, Northern Region  
Date: 19 December 2017



Your ref: 1996/29.003

12/06/2018

The General Manager  
Ballina Shire Council  
PO Box 450  
Ballina NSW 2478

Attention: Anthony Peters

Via email: [Anthony.Peters@ballina.nsw.gov.au](mailto:Anthony.Peters@ballina.nsw.gov.au)

Dear Anthony

**Section 96(2) Modification of Development Consent No 1996/29.003 – Eatons Quarry  
Response to comments made by Roads & Maritime Services**

Quarry Solutions Pty Ltd (Quarry Solutions) write in response to comments made by Liz Smith, Manager Land Use Assessment, Northern Region, Roads & Maritime Services (RMS), by email dated 5 June 2018 about the request for review of the determination of the Eatons Quarry modification application.

In the email dated 5 June 2018, Liz Smith advised that, *'not to detract from other issues raised in our previous response, it is re-iterated that no direct access will be permitted to the Pacific Highway during, or post construction'*.

Pacific Complete is the appointed contractor for the project. Pacific Complete have entered into a contract with Quarry Solutions for supply of construction materials for the project. On that basis, Pacific Complete is our client. On a day to day basis Quarry Solutions works directly with Pacific Complete to deliver construction materials to the project. Delivery routes and access to the construction zones of the project are controlled by Pacific Complete and communicated to Quarry Solutions.

Quarry Solutions have previously discussed delivery arrangements with Pacific Complete and understand that access to the alignment during construction will be available from Old Bagotville Road or directly from Eatons Quarry itself.

If you require any further information in relation to this matter, please do not hesitate to contact me.

Kind regards

A handwritten signature in blue ink, appearing to read 'T. Woods'.

Terry Woods  
General Manager – Quarry Operations  
Quarry Solutions Pty Ltd

24a Ozone Street Chinderah NSW 2487  
P. 02 6671 2300 F. 02 6671 2350 ABN 13 133 700 848  
E. [qs2@quarrysolutions.com.au](mailto:qs2@quarrysolutions.com.au) [www.quarrysolutions.com.au](http://www.quarrysolutions.com.au)