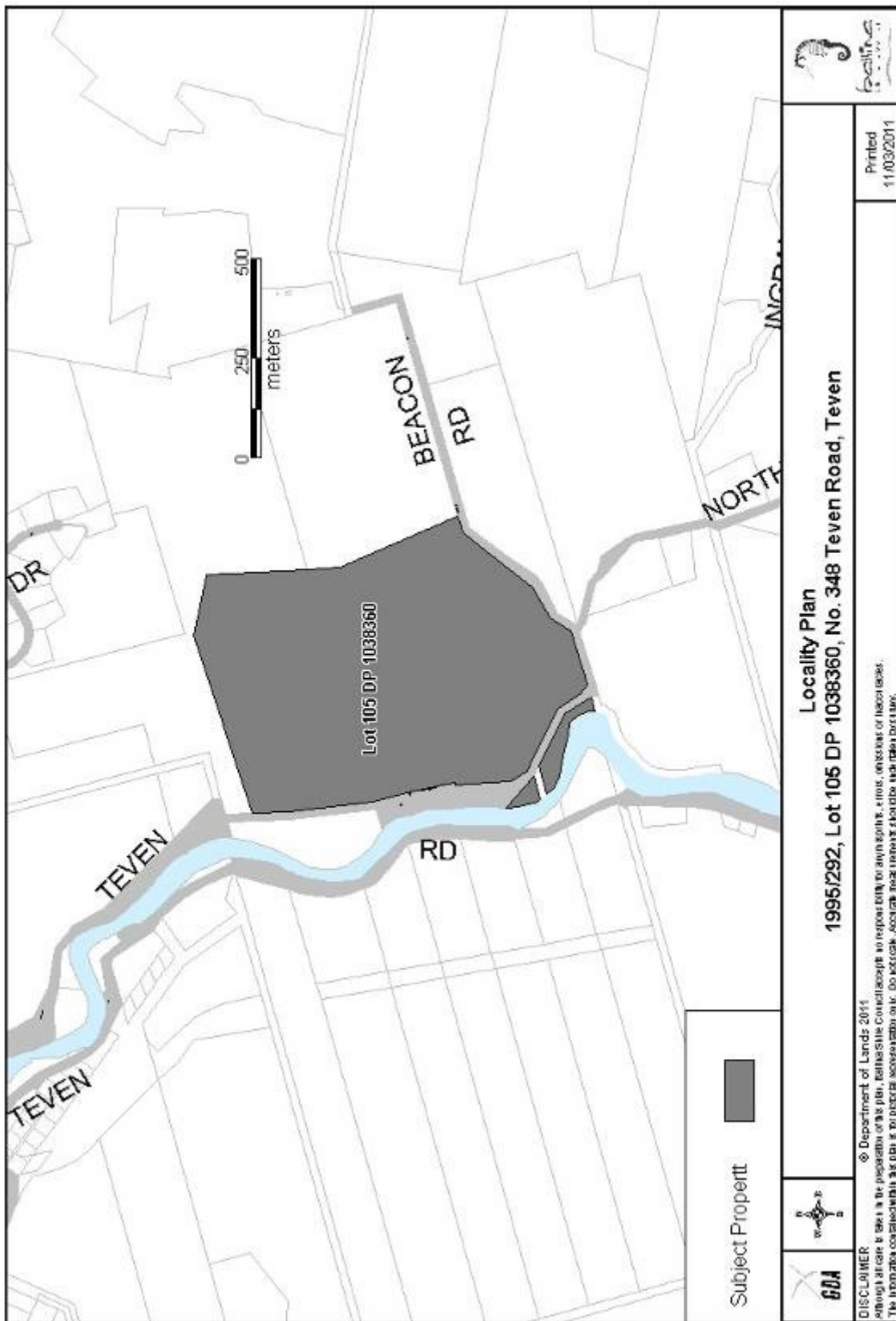


8.1 DA 1995/292 - S96AA - Boral Quarry, North Teven Road



Ballina Environment Society Inc
PO Box 166 Ballina
NSW 2478 Australia
bes166@westnet.com.au



Boral Property Group,
P.O.Box 42
Wentworthville
NSW 2145

Mr John Worden
Operations Manager
Boral Quarries (NSW country)

Dear Mr Worden,
Re: Teven Quarry S79 Application

Thank you for the opportunity for our representatives, Fiona Folan, Secretary, and Stuart Willows, Ex-President, to meet with Paul Jackson, Stakeholder Relations Manager (NSW/VIC), Boral Property Group, John Worden, Operations Manager Quarries, Boral Country Concrete and Quarries and with the manager of Teven Quarry on 10th November, 2010, regarding your Section 79 application to Ballina Shire Council, and your subsequent letter dated 5th November, 2010.

The application apparently requires an amendment to Condition 24, which states:

"These conditions shall be re-examined by council and a final date for the termination of the consent determined within but no earlier than 1 year prior [Judge's handwritten amendment] 20 years after the date of commencement of this consent."

Our understanding is that the application is to remove the 'within but no earlier than 1 year' prior' (ie: the Judge's handwritten amendment) from the condition to allow re-examination to begin.

Following receipt of your letter, BES attempted to access information from Boral.com.au as you suggested, however, searches for Teven and Section 79 gave no results. Could you please forward to BES a copy of the application made to Council, or an appropriate link to your website?

Currently BES considers there is insufficient data to assess a re-examination. The annual reporting required under Condition 4 has not been conducted. Without this information, an amendment could be misinformed.

The original issue of siltation in Maguire's Creek remains unresolved and there is growing evidence best practice is not being observed.

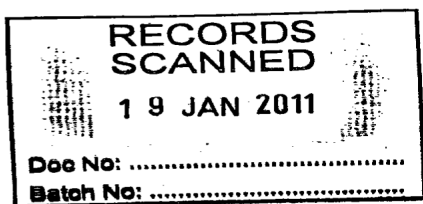
Of further concern is the failure to implement an effective Community Consultative Committee. Boral stated that other functioning Community Consultative Committees have been instigated since. BES requests further information on these committees, at your earliest opportunity.

In conclusion, BES regrets that at this point we must oppose any amendment in consent until compliance with Land and Environment Court Consent Condition 4. That is the provision of the information required in Annual Reports, including evidence of a genuine commitment to the regeneration of the site as detailed in the Plan of Management.

Yours Faithfully

Dr Lyn Walker
President.
29th Nov 2010

cc Ballina Shire Council



54 Beacon Road
TEVEN, NSW, 2478

17 January 2011

Ballina Shire Council
(Attention: Mr Anthony Peters)
P.O. Box 450
BALLINA NSW 2478

Dear Sir

Your ref: DA: 1995/292

We refer to your letter of 9 December 2010 concerning an application by Boral Resources (Country) Pty Limited ("Boral") to modify Condition No.24 of the development consent in respect of Lot 105 DP 1038360, No. 348 North Teven Road, Teven ("the Teven quarry"). The purpose of this letter is to submit our objection to the proposal in Boral's application.

Background

The stated purpose of the application – i.e., to bring forward by 5 years the re-examination process to determine the date for the termination of the development consent – is understood. Similarly, the stated reasons for Boral seeking this outcome are also understood, as is the process to be followed by Council if the application is approved.

On 1 November 2010, Mr John Worden, Operations Manager, Boral Quarries (NSW Country), wrote to us to advise of Boral's pending application to Council. The reason for the earlier re-examination date as stated in that letter was to create the ability for Boral "to better plan for the site's long-term future". Clearly, however, the over-riding reason is to gain an extension of the consent for the quarry to operate until 2028. This is made clear in the documents submitted by Boral and its advisers to Council. Therefore, an agreement to bring forward by 5 years the re-examination process is a clear signal to Boral of the Council's preparedness to also later agree to an extension of the development consent through to 2028.

In submitting our grounds of objection to Boral's application, we are mindful of the clear intent behind the application – i.e., to obtain an extension of the life of the quarry through to 2028.

Grounds of objection

Boral is now renegeing on previously given undertakings: In 2000, during our due diligence prior to completing the purchase of our property along Beacon Road adjacent to the quarry, we were given a clear assurance by Boral's then manager of the quarry that the quarry would cease operations in 15 years hence – i.e., 2015/2016. This is consistent with the existing development consent. Moreover, the quarry manager showed us the plans for rehabilitation of the entire site. We proceeded with the purchase of our property in the expectation that the quarry would therefore cease its operations in 2015/16, and given that we weren't planning on living on the property until approximately 2008, we considered it reasonable to have a quarry as an immediate neighbour through to 2015/16. We now feel aggrieved, however, that Boral is now embarking on a process to extend the life of the quarry for a further 12 years and consider that Boral is renegeing on the undertakings given to us in 2000.

Reasons submitted by Boral do not support the 5-year advancement of re-examination process: The application provides no support for why it now requires a 5-year advancement period in lieu of some other shorter period. This begs the question as to why the existing development consent's 1-year re-examination period is inappropriate, particularly given that Boral has been operating the quarry for 25 years in the knowledge that it would later be subjected to a 1-year re-examination period. Boral's references to the replacement/refurbishment of plant and machinery, and determining the future employment of its quarry personnel suggest that these may be reasons for seeking a 5-year re-examination period. However, neither of these factors should necessarily require a 5-year re-examination period.

Any later extension of the development consent effectively negates Boral's commercial risk: Boral's application provides details of the "adjusted average" quantities of material dispatched from the quarry and considers that the consented reserves at the quarry would be exhausted at the end of 2028. The adjusted average quantities take into account the less than predicted quantities taken to date, and Boral's application effectively seeks to negate Boral's commercial risk related to productive capacity to which it has been exposed to date. It is submitted that it is not the role of Council to base decisions on meeting expectations with regard to an applicant's commercial risks, certainly not without similar consideration to factors that would impact other stakeholders.

The application provides no evidence of Boral's assessment of alternative sources of material in the event Teven quarry ceases operation in 2016: The application blandly pre-supposes that Ballina Council's future requirements for quarry materials would be sourced from the Teven quarry. However, if Boral sees itself as a supplier into the future of quarry materials for the Ballina Council (including associated road-works outside the Ballina Shire's boundaries), it would be appropriate for the application to have thoroughly evaluated alternative sources of materials. For example, the current works on the Ballina By-Pass are scheduled for completion within the existing consent period, and the application makes no attempt to evaluate whether the Teven quarry would be the most

appropriate source of materials for any other anticipated major works beyond the existing consent period.

Population growth creates pressure on the location of certain industries such as quarries – acceptability in the past does not imply acceptability into the future: The Teven quarry has been in operation for 50 years, including 25 years under Boral's stewardship. In that time frame, substantial growth has occurred in the Ballina Shire. Rural areas within the Shire are under pressure to absorb higher levels of population and, at the same time, provide an attractive environment for the local population and visitors to the Shire. If the Teven quarry is permitted to operate through to 2028, its presence through that anticipated higher growth period will inevitably diminish the attractiveness of the Shire's hinterland and heighten safety concerns on roads in close proximity to the quarry, particularly, North Teven Road. Therefore, advancing the re-examination period by 5 years, particularly with a view to extending the development consent through to 2028, will be detrimental to the overall development of Ballina Shire.

In summary, therefore, we urge the Council to reject Boral's application.

Yours sincerely,



Peter and Paulene Blackwood

21st January, 2011.

The General Manager
Ballina Shire Council
Tamar Street
BALLINA NSW 2478

**SUBMISSION ON BORAL SECTION 96 APPLICATION DATED 1-11-2010 TO
MODIFY A CONSENT CONDITION**

1. EXECUTIVE SUMMARY

1.1 Ballina Environment Society was the original applicant to the Land and Environment Court action 10966 of 1995. The Society does not support the current request by Boral for amendment to modify Section 24 that would bring forward the re-examination process for determining the termination date for the development consent to read "... within but no earlier than 6 years prior...".

The Society's reasons for opposing the application for modification are detailed below.

IN THE LAND AND ENVIRONMENT COURT OF NEW SOUTH WALES	
No. 10966 of 1995	THE COURT ORDERS THAT:
BALLINA ENVIRONMENTAL SOCIETY INC Applicant	1. Development Consent be granted with respect to Development Application No. 1995/292

24. These conditions shall be re-examined by Council and a final date for the termination of the consent determined <u>20 years after the date of commencement</u> of this consent. <i>within but no earlier than 1 year prior</i>

1.2 The Society also notes with disappointment that, while both Council and Boral espouse best practice in operation and consultation, Boral's application was exhibited over Christmas and New Year, when most organisations are in recess and when Council, the only other access, was closed between 25th December and 4th January.

BES was disappointed to find no copy available at libraries and the absence of any online access to the Application, given the constraints already present in the timing of the exhibition and in light of Council's record of website exhibition.

In all, we see no compelling reason why this application could not have been made more accessible to the public.

2. REASONS FOR OPPOSING THIS APPLICATION

BES' major contention is that while Boral is applying to modify only Section 24, we are aware that many of the other conditions of consent, having direct bearing upon Section 24, have not so far been implemented.

The particular consent conditions that appear not to have been complied with are:

- That a Community Consultative Committee should meet twice yearly
- That Annual Reporting specific to Teven Quarry be prepared.
- That an Environment Management Plan be undertaken.

2.1 COMMUNITY CONSULTATIVE COMMITTEE

The Teven Quarry Community Consultative Committee allegedly met once. Although BES files contain notes on the meeting no minutes exist. No further effort appears to have been made to reconvene the Committee. No annual report has been compiled.

<p>25. A Community Consultative Committee shall be formed with the following representation:</p> <ul style="list-style-type: none">(a) the quarry manager;(b) a senior representative of the applicant;(c) two elected residents of the local community;(d) a representative of the , Ballina Environmental Society. <p>The Committee shall meet at least twice a year.</p> <p>The Council shall have no responsibility in relation to this condition or conditions 3, 4, 22 or 26.</p>
--

At a meeting between BES and Boral on the 10th November 2010 it was acknowledged that although the Community Consultative Committee had ceased to function, one of the good things to come from the Land and Environment Court action was that other successful Community Consultative Committees now operate at various Boral sites. BES has requested further information on where and how these committees operate but no reply has been forthcoming.

Boral's correspondence to BSC, appendix to the application, states:

<p>We have given our stakeholders a commitment of ongoing communication as and when each step in the process is determined by Council. This will, of course, be complementary to Council's processes and designed to enhance the community's understanding of our goals.</p>
--

BES maintains that no amendment to conditions should be approved until Boral's commitment to the Teven Quarry Community Consultative Committee process is demonstrated.

2.2 ANNUAL REPORTING

3. Any changes or amendments to the POM shall be lodged with the Community Consultative Committee.
4. An annual report shall be prepared and submitted by the applicant to the Community Consultative Committee which will include the following:
- details of tree and regenerative plantings;
 - details of how the applicant has acted on, complied with or otherwise dealt with or responded to each condition of development consent within the period up to each annual report;
 - records of ground vibration and peak airblast overpressure from blasting.
- 2
- Results of all monitoring, as required by the EPA licence conditions or otherwise by the EPA or other regulatory authorities, of water discharges, dust emissions and noise and blasting operations;
- alterations to the Plan of Management; and
 - the applicant shall, if requested to do so in writing by the consultative committee or its authorised representative, provide to the members of the committee, reasonable access to the site for the purpose of allowing the committee to determine compliance with these conditions of consent.
- including the Department of Mineral Resources*

Boral confirmed at our meeting in November that that no specific reporting for the Teven Quarry's operation has ever been produced.

Boral also informed BES that no more than "standard monitoring" has been conducted, and that there has been no sedimentation testing in Maguires Creek.

It is important to note that the potential impacts on river health from sedimentation due to the proximity of the quarry to Maguires Creek, was a trigger for BES launching the original Land and Environment Court action. Anecdotal reports and site observation indicates creek sedimentation remains a significant, unresolved issue.

Water Management and Erosion Control
 Measures to reduce the potential for soil erosion will include minimising the area to be disturbed at any time, progressively rehabilitating disturbed areas and upgrading sediment control dams. These measures will also ensure there is no discharge of water outside of EPA guidelines, into Maguires Creek. Fuels, oils and sewerage, which can potentially cause pollution problems, are treated and stored in bunded areas and disposed of on site or removed by a registered waste disposal contractor. These measures will ensure that relevant EPA water pollution criteria are satisfied.

Teven Quarry - Environmental Impact Statement 3

BES maintains that no amendment to the re-examination date should be approved until Boral makes good their commitments to undertaking best practice sedimentation monitoring and upgrades to facilities, plant and equipment.

2.3 ENVIRONMENTAL MANAGEMENT PLAN AND SITE REGENERATION

In the Environmental Impact Statement accompanying Development Application 1995/292 Boral committed to site regeneration. Preparation of detailed site regeneration, weed control and sedimentation measures were all prescribed in Clause 2 of the Land and Environment Court ruling.

2. Within six (6) months from the date of this consent the applicant shall prepare and submit to Council for approval an environmental management plan ("EMP") for the quarry which is not inconsistent with the POM and which provides information with respect to the following:
- (a) a detailed staged rehabilitation strategy for the site;
 - (b) measures outlined in the acoustical report prepared by JW Cotterill to reduce impact of adverse noise to adjacent residences and the impact of haul vehicles on public roads in proximity of the site;
 - (c) details of measures for dust suppression within the quarry;
 - (d) details for control and treatment of surface run-off, erosion and sedimentation measures within and adjacent to the site; and
 - (e) a detailed hazard analysis and management plan.
- The applicant shall demonstrate that the environmental management plan has been formulated in consultation with and to the satisfaction of relevant public authorities which have a licensing or regulatory role over the operations of the quarry.
- To the extent of any inconsistency between the EMP and the POM, the EMP shall prevail.

Despite the Environment Management Plan, we understand that little site regeneration has ever been implemented. This has resulted in evident infestations of Camphor Laurel and Privet in designated regeneration areas for the past fourteen years.

The failure of the Community Consultative Committee should not have prevented effective site regeneration, nor can it excuse non-compliance with the Environment Management Plan.

Clause 19 delegates the primary responsibility for consent compliance to Boral:

19. A person or persons employed by the applicant shall be appointed to accept responsibility for compliance with the consent conditions.

Note that Condition 25 only exempts Council from responsibility for Condition 25, 3, 4, 22 and 26.

BES finds no evidence for the purported Environment Management Plan compliance as claimed in Boral's online 'Factsheet':

http://www.boral.com.au/images/common/acm/teven_quarry/cpfs/teven_faq_v1.pdf

Since then we have worked hard to comply with our obligations and to minimise the quarry's impacts on the surrounding environment, developing a sound relationship with our neighbours as a result.

However, the now 14-year-old consent contains aspects we now need to amend. We are doing this in order to determine the long-term future of the site.



Section 96 Application



What happens next?

Council will stage a period of public exhibition for our application and we encourage all interested parties to have their say during this period.

Council will take any submissions into account as part of the re-examination of our current consent. Pending the outcome, Boral will seek to extend the term of the development consent for the quarry.

Q. I am concerned about our local environment. How will this be protected?

A. We have a number of plans and systems in place to minimise effects on the surrounding environment. The proximity of the creek means we must adhere to strict water quality guidelines, while our environmental management plans have been written to the highest Governmental requirements. The quarry is subject to regular monitoring by the relevant authorities.

BES contends the present application to amend the termination conditions should be rejected, until Boral makes good all Environment Management Plan and site regeneration obligations that were clearly stipulated by the Land and Environment Court in 1995.

This opinion is reflected in the advice of Boral solicitors.

Given the above, it is our view that condition 24 of the Teven Consent requires Council to re-examine the conditions of the Teven Consent and to rely on the results of the examination of the conditions to determine 'a final date for the termination of the consent'. In doing this we note the following:

- condition 24 of the Teven Consent does not provide Council with the power to be able to change the conditions of the Teven Consent, the only power it provides Council is for them to be able to determine 'a final date for the termination of the consent'; and

3. SUMMARY AND CONCLUSIONS

3.1 BES requests that our objection to the exhibition of this application over the Christmas and New Year period and the lack of library and online access be noted by Council.

3.2 Council, as the authority granting consent, is obligated to ensure that Boral complies with Land and Environment Court requirements. BES finds no evidence that Council has due processes in place to monitor Boral's compliance. Neither has Boral put in place the processes required to ensure compliance. BES believes that overall compliance monitoring must be in place prior to this amendment of a date in a Condition being approved.

3.3 BES believes that quality community consultation, together with best practice reporting and thoroughgoing site regeneration are all essential if Boral is to be held properly responsible in its extraction of our Shire's resources.

3.4 BES believes that the Company has an ongoing obligation to upgrade machinery and to review its operating procedures so as to ensuring compliance with the Land and Environment Court's consent conditions, and that this compliance must be demonstrated before any re-examination of a particular consent condition can be made.

3.5 BES finds it perplexing that while Boral aspires to demonstrate best practice; the Society's requests for further information on how Community Consultative Committees are operating elsewhere has not been forthcoming

3.6 BES finds it unsatisfactory that the Annual Reporting required by the Land & Environment Court ruling has likewise not been forthcoming.

3.7 BES is dissatisfied that the site regeneration as prefigured in the Environment Impact Statement and specified in the Plan of Management and detailed in the Environment Management Plan has not been followed

3.8 BES is deeply concerned that the issue of the progressive siltation of Maguire's Creek still remains unattended to and unaccounted for.

3.9 BES is of the view that this current Boral application, by its negligence in attending to basic consent requirements, can be reasonably accused of appearing to treat the Court, the Council and the community with contempt

3.10 BES recommends Council, in concurrence with Boral's legal advisers, included in the application, require Boral to demonstrate full and adequate compliance with all consent conditions before contemplating modification of the decision of the Land and Environment Court.

While BES recognises the millions of dollars potential from this application, we expect Council to ensure the company entrusted to the extraction of this multimillion dollar resource behaves in accordance with the law and the best interests of our environment.

293 North Teven Road
Teven 2478
20th January 2011



Mr Paul Hickey
General Manager
Ballina Shire Council

Re: BORAL DA No: 1995/292 Application to Modify Consent.

Dear Sir

In view of this latest request, many things have come to mind in the community. One of these being why would an amendment be necessary to "address outcomes"? Surely this can be done by the appropriate employees and consultants without any need for change of consent conditions. Maybe the answer to this is "ulterior motive" which has caused quite a bit of consternation to many local residents, some of whom are newer to the area and unsure of how it will affect them.

Having lived adjacent to the Quarry for 35 years, we have seen many changes and tolerated a lot of environmental events, only making a complaint when things became unbearable. Events such as road flooding from water leaving premises and excessive dust and noise.

For the following reasons, we oppose the modification of operational conditions on the grounds many of the conditions imposed by the Land and Environment Court in 1996 still have not been fulfilled.

Environmentally:

There has been much mud and dirty water escaping the premises. The drain under the fence beside the main gate was permitted to disperse clean water from the settlement pond behind the office. This in rain events poured silty mud all over the road and straight into the creek.

The water outlet to the creek from the main settlement ponds is nearly always white. Inadequate water storage for settlement?

Monitoring of blasts and noise in the past have been done behind bund walls and fence posts.

Permission was denied for an extension of the car park and stockpiles on the creek bank but both have occurred over the years.

Ordered to obtain water licence for spring which was a large feeder of clean water to Maguires Creek. Do they have it?

Ordered to clear weeds—privet abounds along roadside bund walls.

Other licencing conditions not fulfilled:

Ordered to plant fast-growing screening trees along Colourbond fence east of main gate and not done. Palms were planted which have no screening value. Consequently we still have full view of quarry floor and operations.

Old argillite quarry (Perkins) to be closed off to the road. Done but soon re-opened resulting in flooding of road with rubble needing excavator clearance. Still open.

Bus shelter at Ballina end of North Teven Road promised but did not eventuate.

Rehabilitation of southern benches to be well underway by 2001—still not started

Consultation with elected residents soon abandoned.

Obligation on operators to provide all information that they know to the consent authority to form a register of continued operation to be available for public inspection during office hours of the consent authority. Is there one?

Statements in Fact Sheet Nov.2010:

“Pending the outcome, Boral will seek to extend the term of the development consent for the quarry”.
and,
“We will seek to extend the term of our consent, pending a favourable outcome”.
These statements show the obvious intention to try to evade a new DA in 2016.

Considering all the above, maybe modification of condition 26 could go ahead once all previous consent conditions have been fulfilled. They have obviously paid no heed in fourteen years to the operating conditions applied by the Land and Environment Court. Why should they be granted favours now?

As far as developing good relationships with the neighbours—they refused to clean all the dust out of our water tank so my husband could have clean water for his haemodialysis machine. We then paid for it to be done ourselves. Since then the Health Department has had to supply us with special sand and carbon filters for clean water.

Finally, the general feeling is that an early review is just a means of avoiding having to do a new DA and EIS come 2016 by applying for a continuance later.

To give continuance without requiring a full DA and EIS would be a crime against the environment, the amenity and the future of the Valley and it's inhabitants. Maguires Creek is a major contributor to the health and future of the Richmond River and our fisheries.

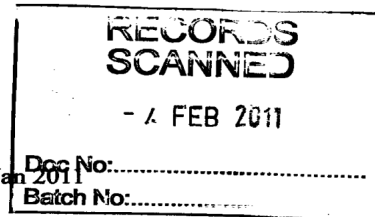
Yours faithfully



Geoff and Pam Dunn.

M & D Latham
505 North Teven Road
PO Box 567
Ballina 2478

Ph: 66878587 email: baltev@telstra.com 21st Jan 2011



The General Manager
Ballina Shire Council
PO Box 450
Ballina 2478

Dear Sir ref DA 1995/292 Boral Resources (Country) P/L, Lot 105, DP1038360,
348 North Teven Road, Teven

We wish to lodge a provisional objection to this DA.

The grounds for objection are only for imposition and enforcement of conditions in regard to:

1. Dust and Noise,
2. Water run-off,
3. Protection of wildlife,
4. Traffic problems and Safety of pedestrians,

While it appears innocent enough, amendment to this DA it leaves the way open for Council alone, perhaps even Council staff to decide on the future operation of the quarry on North Teven Road, perhaps without further public scrutiny or input.

Judging by the haste that recent road improvements were completed just before Christmas, relocation of the high voltage power lines, etc, one might believe that the projected extension has already been given the nod. If granted without further consultation, we are going to be saddled with whatever is decided for a further 18plus years.

Many conditions were attached to the original consent in 1995. Not all of these conditions have been complied with or enforced. Other unexpected side effects have become apparent since the enhanced operations commenced. Some predictions of objectors have proved to be well founded. At the end of the original list of conditions 6 reasons were given to explain their imposition. Two of these reasons were "3. to protect the existing and likely future amenity of the locality. 4. to ensure traffic efficiency and safety....."

The operation of the quarry has diminished the amenity and quality of life of the nearby residents and displaced much local wildlife. We would like to see that addressed satisfactorily before an extension is granted that prolongs the life of the quarry.

Dust.& Noise.

Quarry workers are protected by Health and Safety rules regarding dust. Neighbours of the quarry are not. Clouds of dust are regularly seen above the quarry and carried by the wind severely affect local residences. Noise from quarry operations are also loud enough to annoy residents in what was once a quiet area.

Water run-off.

Boral impressed Council and residents in 1995 by showing their settling ponds and pumping system. Only about half of the water is dealt with in this way. Rain collecting in the crushing and storage area is not directed to the settling ponds but drains into a drain beside the gate. During heavy rain sediment-laden run-off drains through the gate, across the road and into the creek

The original application claimed that there was never more than 75mm of rainfall to deal with. This has proved to be untrue and the figure of 75mm has been exceeded on numerous occasions. As recently as 7th January 2011 the Ballina automatic rain gauges recorded over 200mm in two days.

Road widening, straightening. Crash barriers. Speed limits. Use of road as bypass.

Following the initial approval in 1995 the gravel road was straightened and bitumen surfaced. This attracted faster traffic. Little by little the rest of the road has been widened and straightened until now it is in better condition for traffic than many major roads in the area.

The unfortunate effects of this have been the higher speeds, greater traffic noise and greatly increased danger to pedestrians and wildlife. The road has also attracted hoons and illegal dumping of rubbish. Rather than employ a rubbish collector Council chooses to pulverise the rubbish with a slasher. Heavy rain more easily washes the small pieces into the drains and into the creek.

Southbound travellers try to avoid Ballina by leaving the Pacific Highway at Tintenbar. North Teven Road being in such good condition is a popular route and adds to the danger, noise and roadkill and has introduced security concerns we didn't have before

Council has recently reduced the speed limit from 100 to 80kmh, but every driver knows that no action is taken against drivers until their speed is checked at 16kmh or more over the speed limit. Therefore drivers are quite comfortable doing 95kmh but seem unaware of the discomfort and danger they cause to pedestrians and wildlife.

Most of the regular truck operators seem to recognise this and most seem to travel about 70kmh. Unfortunately work on the Ballina Bypass has attracted a few "cowboys" who drive their trucks like a racing car.

A 60kmh limit would not be unreasonable and would provide greater safety for pedestrians and wildlife.

Wildlife

The higher traffic speeds have had a bad effect on local wildlife. Reducing the speed limit to 80kmh didn't change their situation much. Animals and reptiles must cross the road to get to the creek.

Reptiles accept the bitumen road as a warm place to rest and recuperate. The bitumen stays warm until past 9PM in the warmer months. There used to be large River Dragon lizards and Lace monitors basking in the area. Now it is rare to see one over 500mm. Just this week I saw two River Dragons and a Lace Monitor, all about 500mm, squashed by traffic on the road. Last month some kindly person skinned a Wallaby and left the carcass on the road. Birds have also suffered from traffic moving at highway speeds on this rural road.

The recent expensive addition of crash barriers says a lot for the skill of drivers Council is expecting to use the road. The larger animals seem confused by the barriers on their journey to the creek. Add a quickly moving motor vehicle and the result is often fatal. These barriers also prevent human pedestrians from moving quickly to safety off the road.

If the Company is given leave to have the review, and subsequent approval is given for another 18plus years of operation it should be conditional on

1. A reduction of the speed limit on North Teven Road to 60kmh.
2. Separate provision of a clearly defined pedestrian zone along the full length of North Teven Road extending across the bridges over Houghlahans Creek and Maguires Creek at the Tintenbar Road. Reduction of the speed limit across the bridges at the Tintenbar Road.
3. "Wildlife crossing" signs to be erected at each end of North Teven Road and near the quarry exits.
4. Further dust and noise reduction measures to be installed to prevent the escape of dust and further minimise the noise
5. Better control of run-off from the crushing and storage area
6. A better way must be found for dealing with roadside rubbish.



Michael and Denise Latham
Teven

21.1.11.

3 March 2011

Anthony Peters
Town Planner
Ballina Shire Council
PO Box 450
Ballina NSW 2478

Re: | Boral's Teven Quarry – Response to Submissions

Dear Anthony,

Following Council's public exhibition of Boral's application to modify the development consent (DA 1995/292) for Teven Quarry from 9 December 2010 to 21 January 2011, five submissions were received by Council, including three submissions from local residents in Teven, one submission from a resident of Ballina and one submission from the Ballina Environment Society.

As you are aware, the purpose of the proposed modification is to modify condition 24 of the consent for the quarry to bring forward the re-examination process for the determination of the date for the termination of the development consent. It does not seek Council's determination of the date for the termination of the consent, only the period in which this review can be undertaken.

To assist Council in the assessment of the proposed modification, the application provided information on the likely review process required to be undertaken in accordance with condition 24 of the development consent (as per legal advice provided by Minter Ellison). The legal advice stated that to lawfully comply with condition 24 of the development consent, Council should follow the following process:

- upon receiving a request from Boral re-examine the conditions of the Teven Consent. In doing this Council should request that Boral provide a submission to it outlining compliance with the conditions and demonstrating how the conditions are adequate to ensure that the impacts of the development are appropriately managed.
- from this re-examination determine 'a final date for the termination of the consent'.
- inform the proponent of the final termination date for the Teven Consent.

Based on our meeting in August 2010, information was provided in the application on a potential final termination date for the quarry. This was based on an assessment of the consented reserves remaining at the quarry and the average annual extraction rates. This information was provided to Council as a guide only.

The majority of the matters raised in the five submissions received by Council on the proposed modification relate to concerns around operational aspects of the quarry and Boral's compliance with conditions of the development consent. As per Minter Ellison's advice, these matters will be required to be addressed as part of Boral's formal request for Council to re-examine the conditions of the consent and determining a date for the termination of the development consent; that is, demonstrating Boral's compliance with all conditions of the development consent and how the conditions of the development consent are adequate

to ensure that the impacts of the development are appropriately managed. They are not matters that should be addressed as part of the proposed modification to bring forward that review process.

Notwithstanding the above, Boral recognises the concerns raised in the submissions relating to the environmental performance of the quarry, particularly those raised in the submissions from the three local residents. All concerns raised in those submissions will be considered and addressed as part of the request from Boral for Council to formally re-examine the conditions of the development consent.

Prior to the application to modify the development consent was lodged with Council, Boral met with residents surrounding the quarry and the Ballina Environmental Society. Prior to the request being lodged with Council to formally re-examine the conditions of the development consent and provide a date for the termination of the development consent, Boral proposes to meet with the those stakeholders again. These meetings will provide an opportunity for Boral to discuss one-on-one the concerns raised around operational aspects of the quarry and concerns around alleged non-compliances with the conditions of the development consent.

Should Council approve the application to modify the development consent it is envisaged that the request for Council to determine the date for the termination of the development consent would be submitted to Council within the next few months.

Please do not hesitate to contact the undersigned or Duncan Peake on 02 9493 9500 should you have any queries regarding this letter.

Yours sincerely



Brett McLennan
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