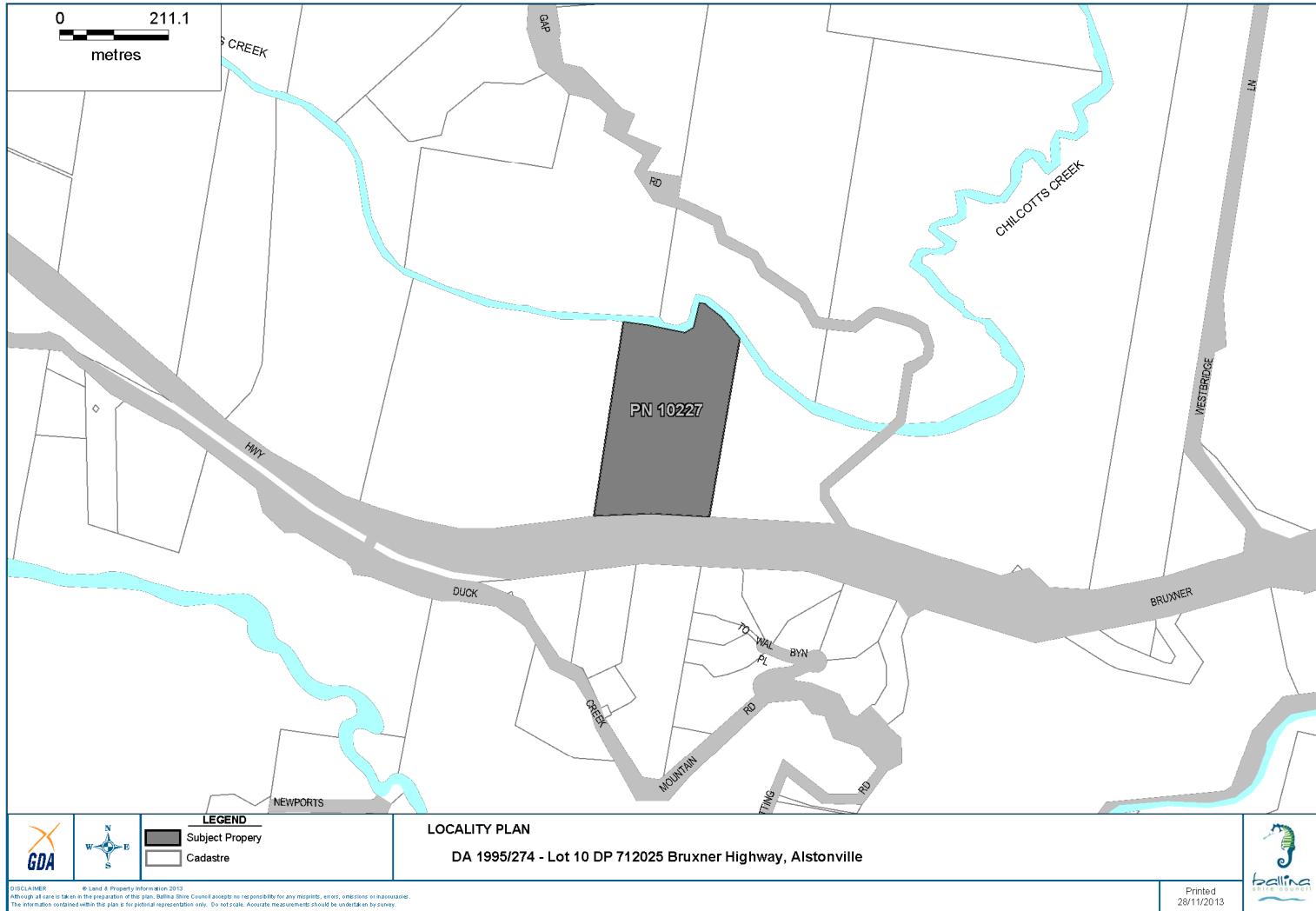


8.2 **DA 1995/274 - Section 96 Application - Stoker's Quarry.DOC**



**BAKER MANNERING & HART**  
**SOLICITORS & ATTORNEYS**



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Professional Standards Legislation

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15 October 2013

Mr Craig Bradridge  
Ballina Shire Council  
Cherry Street  
BALLINA NSW 2478

**RECORDS  
SCANNED**  
21 OCT 2013  
Doc No.....  
Batch No.....

Dear Sir,

**RE: DEVELOPMENT APPLICATION NO. 1995/274-  
STOKERS QUARRY GAP ROAD, ALSTONVILLE.**

We act for the following objectors to the above development application:

1. The Gap Road Action Group Incorporated.
2. A Reardon & K Kirkby – 31 Gap Road, Alstonville;
3. R & S Lill – 55 Gap Road, Alstonville;
4. A & E Mannering – 165 Gap Road, Alstonville;
5. J & C Thomson 167 Gap Road Alstonville.
6. P & K Sanders – 175 Gap Road, Alstonville;
7. J Norton & R Vinten – 178 Gap Road, Alstonville;
8. RG & C Shume 314 Duck creek Road Alstonville
9. D Shume 102 Duck creek Road Alstonville

Our clients object to the proposed Section 96 Application, on the following grounds.

**Inappropriate Application of S96**

The use of a section 96(2) modification application is misconceived.

The application does not satisfy the criteria of s96(2). Extending the operational life of the quarry by 10 years is not substantially the same development as the development for which consent was originally granted, because the modification seeks to extend the operation of the quarry by 10 years or 50%.

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Further the quarry has already been operating under the current consent for some 18 years. The application has not been notified correctly in accordance with S 96(2)(c)

A new Environmental Impact Statement should be undertaken, to assess the current impact of the quarry against environmental and statutory control changes that have occurred during the past 18 years, especially having regard to the fact that the Council is both the landowner and consent authority and the initial consent was based on studies and data now 18 years old.

Further because the Council is both the landowner and consent authority, before any consideration of the application to extend the operation of the quarry by a further 10 years, an independent compliance audit should be undertaken to assess the compliance of the operation of the quarry with the current consent conditions. It is noted the last audit undertaken by Council was in 2008, notwithstanding that Council is the current operator of the quarry.

The new Environmental Impact Statement should also address the following issues.

**Site Access and Security.**

The quarry site is not fenced and access to the quarry site is not adequately regulated or prevented. It often accessed and used by walkers, children, motor bike riders and mountain bike riders on many occasions creating noise nuisance for impacted residences.

Those person often use the quarry to access and trespass on impacted residence private land creating disturbance, damage and security issues.

The lack of adequate security of the quarry creates a legal liability safety issue for the operator and Ballina Council the landowner.

The quarry entrance gate is often left unlocked allowing trespassers to gain access to private property and endanger the safety of residents.

**Bush Fire Prone Land.**

The land on which the quarry is situated and the surrounding land is highly susceptible to bush fire, which would rapid spread up the valley to impact on residences and threaten life. bush quarry site. Quarry operation can generate that spark to start such a fire. Bushfire prevention and safety has not been addressed.

**Cumulative Impact**

The Application is deficient in that it has not assessed the cumulative impact of the development proposal with the potential concurrent operation of the extractive operation of the nearby Westbridge Lane quarry, approved pursuant to development Application 2008/377.

The stated life of the Westbridge Lane quarry is 20 years, causing a cumulative overlap of operation of the two quarries of in excess of 10 years.

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The cumulative impact on the impacted residences, of the two quarries operating concurrently, will create an unreasonable and unacceptable loss of amenity.

#### **Air Quality**

The application has not adequately addressed the continuing and unacceptable adverse air quality impacts resulting from dust and particulate emissions from the development site and from the haul road.

The development site is otherwise in a rural setting well covered by pastoral grasses and vegetation that generates negligible 'natural' dust.

The proposed development will significantly extend the adverse impact on the impacted residences, in three ways: point air quality impact, fugitive air quality impacts, and loading, transport and exhaust impact.

Adverse fugitive air quality impacts will be generated during blasting with associated escape of flyrock hazard, drilling, ripping, loading of product.

The potential sources of dust emission from the proposed development can be identified from the exposed quarry faces and cleaned areas, dry extraction of material using bulldozer, excavators and rippers, loading out of materials with front-end loaders, stockpile of quarry and stored products, vehicle movements along the haulage and access road resulting in dust and particulate exhaust emissions.

Both the Lill and Norton/Vinten residences are occupied by persons with asthmatic sensitivities, providing greater adverse impact of dust emissions.

The dust generated by the development is driven to the impacted residences by the prevailing North Easterly, Southerly and Westerly winds.

There has been no attempt at dust control by watering or covering.

#### **Noise and Vibration**

The development will continue to have an unacceptable noise impact on the locality and the impacted residences.

Historically the development has generated unacceptable noise from blasting, excavator extraction, loading and haulage.

The original consent conditions do not offer (because there is no feasible method) any noise abatement methods for the impacted residences from the impact of the noise generated by the development.

The quarry operations of blasting, extraction, loading and hauling, especially along the right of carriage way continue to create unacceptable levels of vibration for the impacted residents,

#### **Surface and Ground Water/Waste Management (Blasting/Hazard flyrock)**

Chilcotts Creek is a perennial freshwater creek which flows via Emigrant Creek into the Richmond River.

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Chilcotts Creek has significant average water flows and large volume flows during periods of heavy rainfall. Chilcotts Creek mostly flows over a rocky bed and normally has low sediment and turbidity levels even during periods of heavy rainfall.

The creek is used by some of the impacted residences as a domestic water source.

The development has had an unacceptable sedimentation impact on Chilcotts Creek: The consent conditions for sedimentation contamination prevention of Chilcotts Creek have been inadequate, and have not prevented the pollution of Chilcotts Creek especially in times of high rainfall.

The amenities and sewerage disposal for quarry workers is inadequate.

### **Traffic and Transport**

The development proposal is to continue to transport a stated annual production rate of 14,000 cubic metres of product (with a 2% uplift) from the quarry via Gap Road and the Bruxner Highway.

Stokers Quarry, generates an average 18 truck movements a day with a peak 60 truck movements per day.

The haul road from the quarry along the right of carriage way to its intersection with Gap Road will continue to create unacceptable levels of dust, noise and vibrations for the Lill and Reardon residences on Gap Road.

The quarry haul trucks enter and exit Gap Road on a sharp bend with poor visibility caused by both inadequate site distances and tree shading.

There is a history of haul trucks exiting the quarry right of carriage way onto Gap Road at speed to get a 'run up' for the Gap Road incline, resulting in many near miss traffic collisions between haul trucks and other road users.

A previous request for stop signs on the quarry exit onto Gap Road in the interest of public safety was ignored by Ballina Council.

The use of 'flap signs' supposedly to be displayed when the quarry is in use, is ineffective and rarely displayed correctly.

Gap Road from the quarry entrance to the Bruxner Highway is a narrow road with poorly maintained bitumen sealing unsuitable for large haul trucks and dogs.

Gap Road is a picturesque small country lane predominantly servicing the residents who live on Gap Road.

Because of its scenic appeal, Gap Road is used daily by pedestrians (walkers and joggers) and bicycle riders.

Gap Road is also used by pedestrian school children to access the Bruxner Highway bus routes.

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The vehicles using the lower end of Gap Road onto the Bruxner Highway are mainly cars and the haul trucks Stokers Quarry.

The peak traffic flows from and to Gap Road onto the Bruxner Highway occur between 7am and 9am and 3pm to 6pm.

The peak traffic flow on the Bruxner Highway past the Gap Road intersection occurs both eastbound and westbound between 7am and 10am and 4pm to 6pm carrying traffic travelling to and from work commitments to Ballina, Alstonville and Lismore.

The Bruxner Highway is a major arterial highway with 100kph speed limit at the Gap Road intersection with dual lanes to the west and a single lane to the east. It is a major arterial single road. The intersection of Gap Road and the Bruxner Highway is already problematic with a very short merging lane onto the highway to the east and no merging lane to the west.

During peak traffic times on the Bruxner Highway past the Gap Road intersection both westbound lanes are fully utilised as is the single eastbound lane.

The entry and exit of between 18 to 60 heavy truck movements per day some at peak traffic times from a standing start into a 100kph traffic stream with an inadequate east bound merging lane and no merging lane westbound to and from the Bruxner Highway from Gap Road, will continue to cause unacceptable traffic disruption to the Bruxner motorway and poses an unacceptable risk of a major traffic accident.

Westbound, the laden quarry trucks will be turning from a standing start across the 100kph eastbound traffic stream to attempt to merge with two lanes of 100kph westbound traffic stream with no merging lane.

The sighting distance to the north on the Bruxner Highway from the Gap Road intersection is only 500 metres which at the traffic stream speed of 100kph gives only an 18 second window for a heavy vehicle laden with 20 cubic metres of product to merge (uphill westbound) into a 100kph traffic stream at peak traffic flows.

The licence of the quarry to Lismore council causes most of the haul trucks to mainly turn Westbound from Gap Road onto the Bruxner Highway. The development company is a commercial enterprise in private hands and thus presumably profit driven. Whilst initially the quarry product may be utilised in the Ballina bypass it may also be utilised in the Alstonville bypass.

The proposal is to continue merge between 18 to 60 heavy trucks per day onto Gap Road at a point with inadequate sight distances, for another 10 years, based on traffic data now some 18 years old. Traffic volume has increased substantially since the granting of the initial consent. Austroads standards provide sight distances as absolute minimums.

The haul trucks using the right of carriage way do not comply with the 5 kph speed limit. This road and Gap road is broken and patched adding to the noise and vibration. Request for the repair of this road have gone unheeded.

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Drainage of the right of carriage way is inadequate leading to siltation and inconvenience for the affected residence, who often have to remove the silt at their own expense.

#### **Flora and Fauna**

The quarry land contains many significant and rare trees, ferns, epiphytes and shrubs, including:-

Red fruited lily pilli, Weeping lily pilli, Plum pine, small and large leaf Sandpaper figs, most species of koala feed trees, Stag and Elkhorns, Birdnest ferns, and cycads.

The quarry site is located in an area of high conservation value: The subject land and surrounding lands contain a virtual zoo of native fauna.

The quarry site supports viable colonies of the following species:;

platypus, pretty faced wallabies, bandicoots, potoroo, giant barred frog, Stephens banded snake, pythons, red belly black snakes, water dragons, goanna, lace monitors, white-eared monarch, rose-crowned fruit dove, swamp pheasant, bush hen, brush turkeys powerful owl, masked owl, little bent-wing bat, common bent-wing bat, greater broad-nosed bat, northern long-eared bat, hoary bat, yellow-bellied sheath-tail bat, eastern free-tail bat, Queensland blossom bat, red-legged pademelon.

The quarry site provides ridgeline corridors of mature canopy trees with protective groundcover for threatened fauna especially the koala. The subject land has significant stands of koala food trees.

The quarry site and the adjoining land, are core koala habitat with an abundance of koala food trees. Accordingly a Koala Management Plan must be prepared pursuant to SEPP44, before consideration and determination of the application by Council.

Chilcotts Creek supports colonies of platypus, bass, fresh water mussels and the endangered blue orange crayfish.

The extraction and haul road vehicle traffic will disrupt and disturb fauna and destroy habitat.

#### **Visual**

Not many people like to look out of their home on to a quarry.

The extraction site is located in a quiet rural area and has been settled by many of the objectors for this reason.

The proposed development will continue to have the following adverse visual impacts.

1. A direct and unacceptable visual impact on 55 Gap Road, the home of Rod and Shannon Lill.

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2. A direct and unacceptable visual impact on 31 Gap Road, the home of A Reardon & K Kirkby. This home will receive the full visual impact of the quarry and of the right of carriage way haul road.
3. A direct and unacceptable visual impact on the Mannering residence at 165 Gap Road.

It is not possible to screen the quarry or to effectively screen the haul road.

#### **Social and Economic Considerations and Loss of Amenity**

1. The proposed development will continue to have adverse and irreversible impacts on the neighbouring residences and their amenity from the adverse impact of dust, noise, exhaust emissions and severe increase of traffic flow by heavy trucks.
2. The cumulative effect of continued operation of Stokers Quarry with the proposed Westbridge Lane quarry, will irreversibly destroy the amenity of the surrounding rural setting and give no respite to the nearby residences.
3. The extractive operation of the existing Stokers Quarry, with an average yearly production of 21,000 cubic metres, already has detrimental impacts on its adjoining residences. These residences were purchased with knowledge of the existence of Stokers Quarry and knowledge of its permitted remaining length of operation.

The Westbridge Lane quarry approval with a stated yearly output of 195,000 cubic metres of product over a 20 year life cycle represents an unexpected and unacceptable impost on the adjoining residences.

4. The economic impact of the development not proceeding past its current consent is negligible to the wider community. There is ample product of the quality and type to be extracted within the immediate vicinity of Ballina from established quarries with proven transport routes and far less potential for adverse impacts on the environment.
5. The fact that the quarry has not extracted its potential, and is presently leased to Lismore Council, indicates a lack of demand for its product in Ballina Shire.
6. The application has not addressed the actual economic value to the Ballina Council of continued operation of the quarry.
7. However it is submitted that after the cost of the Ballina councils licensing compliance obligations, its insurance obligations and road maintenance costs, the economic return to the council does not warrant the disruption to the amenity of the impacted residences who are Ballina Shire rate payers, particularly when the product is exported to another council area.
8. It is particularly galling to those residents impacted by the quarry to know that their amenity is destroyed for a disproportionate economic value to the shire, whilst another local government area gets the benefit of the quarry product, at a more than reasonable price, without the physical burden of the quarry.

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9. The development has negligible employment opportunities.

The adverse impact of the development far outweighs its economic value.

**Conclusion**

The objectors, object to the proposed development on the grounds stated herein.

The objectors submit that the development should not proceed in its present form or at all.

The impacted residents were given every indication from council that the quarry operation would cease at the end of the current consent and have made plans based on those representation and expectation.

Yours faithfully,

**BAKER MANNERING & HART**



Per:

**ANTHONY J. MANNERING**

Encl

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**Baker Mannering & Hart**