

# PLANNING ASSESSMENT REPORT

## Section 4.15

### *Environmental Planning and Assessment Act 1979*

<b>Application Number</b>	DA 2021.080
<b>Date Lodged</b>	29 June 2021
<b>Applicant</b>	Cracker Quarry & Ag Supplies Pty Ltd
<b>Landowner</b>	Stewart Earle Bulmer and Frances Marjorie Bulmer
<b>Landowner's consent</b>	Yes
<b>Address &amp; Lot Description</b>	Pyes Creek Road, Bolivia Lot 13 DP 853518
<b>Description of development</b>	General Industry (receival, storage, processing, manufacturing and distribution of quarry) and Transport Depot
<b>Type of Development</b>	Local
<b>Estimated Cost of Works</b>	\$150,000

## INTRODUCTION

The development application seeks consent for use and development of the subject land as a "General Industry" (receival, storage, processing, manufacturing and distribution of quarry) and Transport Depot.

The application includes:

- Completed Application form
- Statement of Environmental Effects
- Site and Development Plans (Efficient Building Design Services)
- Traffic Management Plan
- Traffic Impact Assessment
- Site Management Plan
- Noise Assessment
- Drivers Code of Conduct
- Landscape Plan
- Onsite Sewage Management Design Report – Industrial Office
- Onsite Sewage Management Design Report - Workshop
- Response to Submissions

## SUBJECT LAND

The subject land is located on Pyes Creek Road. The subject land has an area of approximately 160.3 ha (development site is approximately 4 ha) and is located approximately 38km south of Tenterfield on the corner of the New England Highway and Pyes Creek Road. Access to the site is via Pyes Creek Rd.

The land title description is:

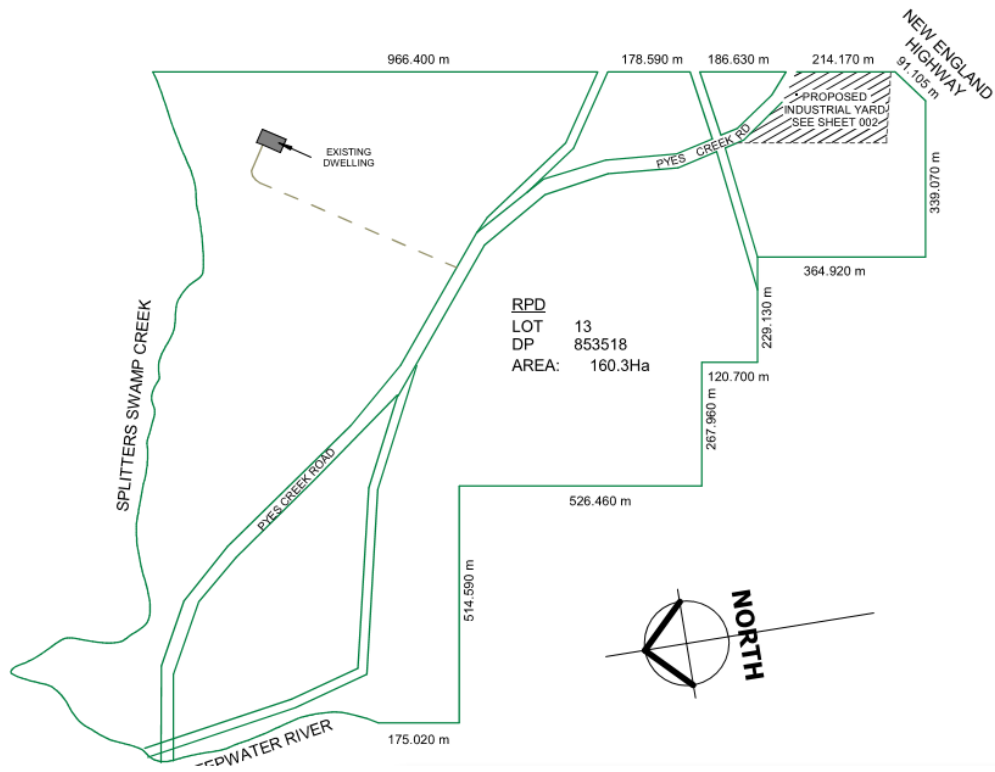
- 13/853518

The site was very recently used as a construction site office and laydown facility for the New England Highway Upgrade Project at Bolivia Hill.

## Locality Plan



# Overall Site Plan



**Aerial Photo**



**Photo: Pyes Creek Road – looking west**



**Photo: Entrance to the site**



Photo: Pyes Creek Road – looking east



## DEVELOPMENT DESCRIPTION

The proposal seeks development consent for the use and development of the site as a General Industry (Quarry and agricultural supplies – industrial and rural retail outlet) and transport depot

The applicant has provided the following overview of their proposal:

*The proposed Pyes Creek Rd Outlet & Depot is a central base for the operation and consists of a laydown area for stockpiling of quarry materials for receipt and dispatch to customers, heavy vehicle weighbridge, stationary crushing and screening plant, office building and ablution block, workshop, fuel storage and parking areas for heavy and light vehicles.*

*Activities proposed at the site will include:*

- *Receiving and stockpiling quarry products for sale, including rock, road base and aggregates*
- *Processing of quarry materials including crushing, screening, mixing, shifting stockpiles*
- *Weighing and dispatch of goods via heavy vehicle to local and regional customers*
- *Maintenance and repairs of on-site vehicles and equipment as necessary*
- *Storage of bulk quantity of diesel fuel for company use in vehicles and equipment (15,000L)*
- *Refuelling of on-site heavy vehicles, plant and equipment*
- *Administration, training, meetings*
- *Parking for light vehicles*
- *Parking for heavy vehicles (including overnight use i.e. as a transport depot)*

It is proposed to construct a workshop shed.

### Hours of Operation

The following hours of operation are proposed by the applicant for various components of the proposed development:

- Transport depot use (heavy vehicles entering, departing and/or parking): 4am-10pm, 7 days
- Industrial/rural retail outlet use (loading and unloading heavy vehicles, shifting goods): 7am to 6pm, Mon-Sat
- Crushing and screening operations (operation of processing plant): 7am-6pm, Mon-Sat

With the loading/unloading, shifting goods and operation of crushing/screening plant limited to day time hours, the impact of noise from the proposal will be managed as per the *Noise Assessment* referred to above.

Note: It is proposed to include a condition of consent that the crusher only operate between 9am and 5pm Monday to Friday for only a 12 month period.

## Staff

Personnel based on the site will include 1 administration staff and 2 plant operator/maintenance staff and 3 heavy vehicle drivers. These numbers are anticipated to increase as the business becomes more established. Estimated peak staff numbers are anticipated to be 3 administration and 6 operators/maintenance staff and up to 8 heavy vehicle drivers.

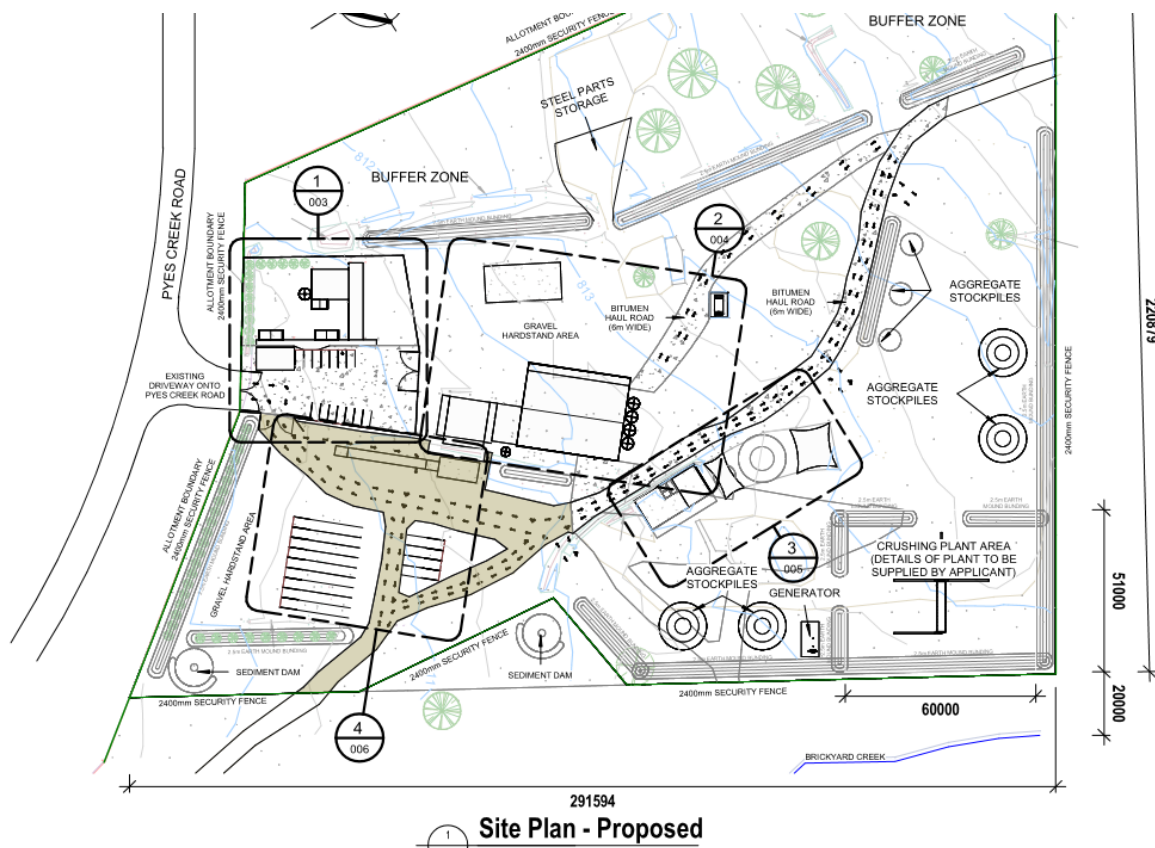
## Fuel Storage

Diesel fuel will be stored in a 15,000L capacity tank. The concrete bunding will be 110% of the tank capacity. The tank is also fitted with an anti-spill valve and correct breathers.

Dispensing of the fuel will be via an electric hi-flow pump which can be shut off independently of the hose/nozzle. The tank will also be fitted with a gauge to enable monitoring of levels.

A maximum of 100 litres of unleaded fuel will be stored at the workshop in purpose designed, clearly marked containers and in a dedicated, ventilated area.

## Proposed Site Plan



Nature, volume and origin of incoming material and nature, volume and destination of end products



Defined Origin	Source/Incoming Materials		End Products/Outgoing Materials		Likely Destination
	Nature	Volume (per annum)	Nature	Volume (per annum)	
<i>Bungulla Quarry</i> 322 Quarry Rd Tenterfield	Rock & Screened Rock – Granite derivative	15,000t	Road base  Aggregate	13,500t  1,500t	Various locations in Tenterfield & surrounding shires for civil and agricultural clients for use on roads, pads, crossings etc.
<i>Rockdale Quarry</i> 530 Rockdale Rd Deepwater	Rock & Screened Rock – Basalt derivative	14,000t	Road base  Aggregates – various	2,800t  11,200t	

## **ASSESSMENT UNDER SECTION 4.15 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979**

In determining a development application, a consent authority is to take into consideration such of the matters as are of relevance to the development in accordance with Section 4.15 of the *Environmental Planning and Assessment Act 1979*. The following section provides an evaluation of the relevant Section 4.15 Matters for consideration for DA 2020-114.

### **Designated Development**

The proposed development is not designated development.

### **Integrated Development**

The proposed development is not integrated development.

### **[s4.15(1)(a)] The provisions of any EPI, draft EPI; DCP; and the regulations**

## **STATE ENVIRONMENTAL PLANNING POLICIES**

### **State Environmental Planning Policy No. 55 Remediation of Land (SEPP 55)**

Under SEPP 55 a consent authority must not consent to the carrying out of any development on land unless:

- (a) *it has considered whether the land is contaminated, and*
- (b) *if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out, and*
- (c) *if the land requires remediation to be made suitable for the purpose for which the development is proposed to be carried out, it is satisfied that the land will be remediated before the land is used for that purpose*

### **Comments**

A review of the NSW Environmental Protection Agency (EPA) Contaminated Land Record under s 58 of the *Contaminated Land Management Act 1997* (CLM Act) and the list of NSW contaminated sites notified to the EPA under section 60 of CLM Act did not reveal any registered contaminated land sites within or surrounding the Site.

Pursuant to clause 7 of SEPP 55 there is no apparent reason to consider that land to be impacted by the Proposed Development.

### **State Environmental Planning Policy (Infrastructure)**

Under the Infrastructure SEPP (Schedule 3) there is no requirement to refer the proposed development to Transport for NSW in this instance. Accordingly, it is considered that the proposal not to be a major development, but rather a minor scale proposal.

The development is not located on a “classified road”. The existing access off Pyes Creek Road is located further than 90m from the intersection of the New England Highway.

Regardless, the application was referred to TfNSW for comment – refer to comments under Public Submissions section of this report.

### **REGIONAL ENVIRONMENTAL PLAN**

#### **New England North West Regional Plan**

The proposed development is consistent with the intent of the NENW Regional Plan which aims to support growing regional economies and associated services required for the communities across the region.

### **LOCAL ENVIRONMENTAL PLANS**

#### **Tenterfield Local Environmental Plan 2013**

The applicable LEP is the *Tenterfield Local Environmental Plan 2013*, and the relevant provisions of the LEP are discussed as follows.

The subject land is zoned RU1 Primary Production under the provisions of the LEP. The proposal is permitted in the zone with development consent (General Industry and transport depot).

Tenterfield LEP defines the use as:

**general industry** means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.

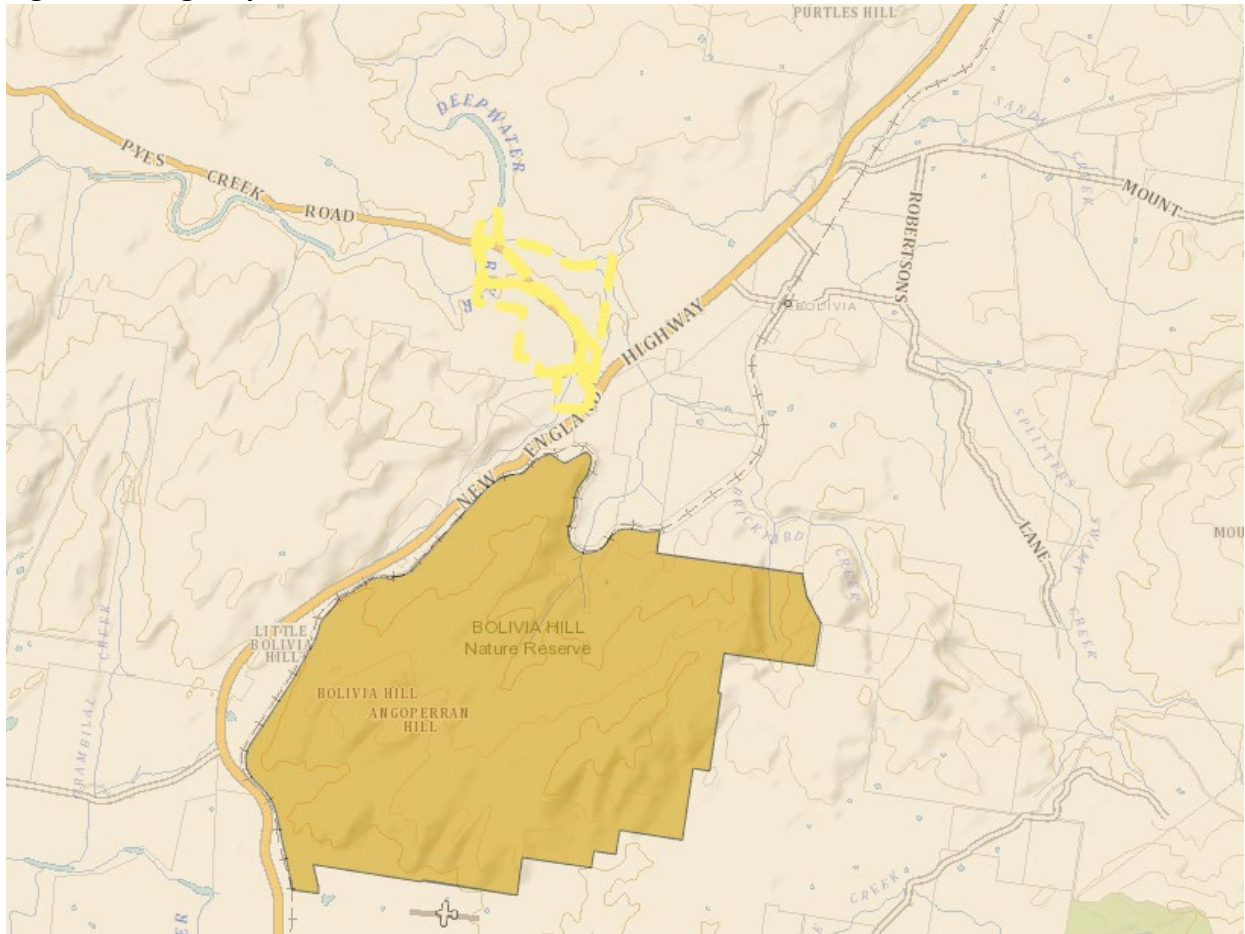
*Note—*

*General industries are a type of industry—see the definition of that term in this Dictionary.*

**transport depot** means a building or place used for the parking or servicing of motor powered or motor drawn vehicles used in connection with a business, industry, shop or passenger or freight transport undertaking.

The transport depot is used for the parking and servicing of trucks in connection to the proposed general industry on the subject land.

**Figure: Zoning Map**



**Zone RU1 Primary Production**

**1 Objectives of zone**

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

**2 Permitted without consent**

*Building identification signs; Environmental protection works; Extensive agriculture; Farm buildings; Forestry; Home-based child care; Home businesses; Home occupations; Home occupations (sex services); Intensive plant agriculture; Roads; Water supply systems*

**3 Permitted with consent**

*Aquaculture; Dwelling houses; Extractive industries; Intensive livestock agriculture; Open cut mining; Roadside stalls; **Any other development not specified in item 2 or 4***

**4 Prohibited**

*Nil*

Following is an assessment of the objectives of the zone:

Objective	Comments
<ul style="list-style-type: none"> <li><i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</i></li> </ul>	<p>The proposed development will only take up a small proportion of the subject land on the existing works depot site for the Bolivia Hill upgrade project. The remainder of the property will continue to be used for primary production purposes.</p>
<ul style="list-style-type: none"> <li><i>To encourage diversity in primary industry enterprises and systems appropriate for the area.</i></li> </ul>	<p>The proposal is not inconsistent with this objective. It is noted that the proposal provides products for the local agricultural and quarry businesses.</p>
<ul style="list-style-type: none"> <li><i>To minimise the fragmentation and alienation of resource lands.</i></li> </ul>	<p>The proposal will not lead to further fragmentation and alienation of resource lands. The development site only takes up a small proportion of the subject land that has not been used for agricultural purposes (previous use of a works depot).</p>
<ul style="list-style-type: none"> <li><i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i></li> </ul>	<p>Whilst there are no adjoining urban zones that may be impacted upon, there is the potential for land use conflict with neighbouring land uses.</p> <p>It is considered that the measures proposed by the applicant in the response to submissions and revised application documents, that any potential conflicts will be minimised. The main changes to the proposal (from the original application) to minimise potential conflict includes:</p> <ul style="list-style-type: none"> <li>The applicant is no longer seeking to store feedlot manure, fodder, or grain on site.</li> <li>Restriction of hours of operation.</li> <li>Construction of an earth bund.</li> </ul>

#### 6.4 Essential services

*Development consent must not be granted to development unless the consent authority is satisfied that any of the following services that are essential for the development are available or that adequate arrangements have been made to make them available when required—*

(a) *the supply of water,*

(b) *the supply of electricity,*

(c) *the disposal and management of sewage,*

(d) *stormwater drainage or on-site conservation,*

*(e) suitable vehicular access.*

## Comments

### **Water**

Water for business use will be sourced from rainwater captured on the roofs of the buildings, stored in a 22,500L capacity poly tanks and reticulated via pressure pump or gravity feed. When rainwater is depleted, water will be purchased from the town supply, trucked to site and pumped in to refill the tanks.

Water for use at the ablution block and office will be stored in poly tanks next to those buildings and reticulated via pressure pumps.

There are rainwater tanks which are accessible for firefighting equipment. Water storage is approximately 40,000L.

### **Electricity**

Is already connect to the site. The proposed building works are relatively minor, and no upgrading works considered necessary.

### **Disposal and management of sewage**

There are two onsite septic systems proposed. Refer to site plans OSSM Report Workshop & OSSM Report Industrial Office.

### **Stormwater**

Refer to the submitted plans for specific stormwater controls over the site in the Stormwater Management Plan.

### **Access**

It is proposed to utilise the existing access location with necessary upgrades to be considered under a Section 138 approval application.

## **DEVELOPMENT CONTROL PLAN**

### **Tenterfield Development Control Plan 2014**

Tenterfield Development Control Plan 2014 (DCP) applies to the subject land and development proposal, with the following sections of relevance;

#### Chapter 2 - Notification Procedures

In accordance with the DCP, Council provided written notice of the proposed development to those persons owning adjoining and neighbouring land (on 2 occasions due to an update to the proposed development).

One submission was received during the initial notification period and two submissions during the second notification period. These are considered in the submissions section of this report.

Otherwise, the Tenterfield Development Control Plan 2014 does not contain specific controls that are applicable to the proposed use of the land for a “General industry and Transport Depot” in this instance.

***Environmental Planning and Assessment Regulation 2021***

<b>CLAUSE</b>	<b>COMMENT</b>
61 Additional matters that consent authority must consider	No demolition is proposed.  No subdivision orders are applicable.  Dark Sky Planning Guideline does not need to be addressed for this proposal.  The proposal does not include a manor house or multi dwelling housing (terraces),
62 Consideration of fire safety	The proposal does not propose a change of building use for an existing building.
63 Considerations for erection of temporary structures	The proposal does not include a temporary structure.
64 Consent authority may require upgrade of buildings	The proposal does not involve the rebuilding or alteration of an existing building.
65 Consideration of conservation plan for development at Sydney Opera House	Not applicable.
66 Contributions plans for certain areas in Sydney—the Act, s 4.16(1)	Not applicable.
67 Modification or surrender of development consent or existing use right—the Act, s 4.17(5)	There is no proposal to modify or surrender a development consent or existing use right.
68 Voluntary surrender of development consent—the Act, s 4.63	There is no proposal to voluntarily surrender a development consent.

## [s4.15(1)(b)] Impacts of the Development

### Context & Setting

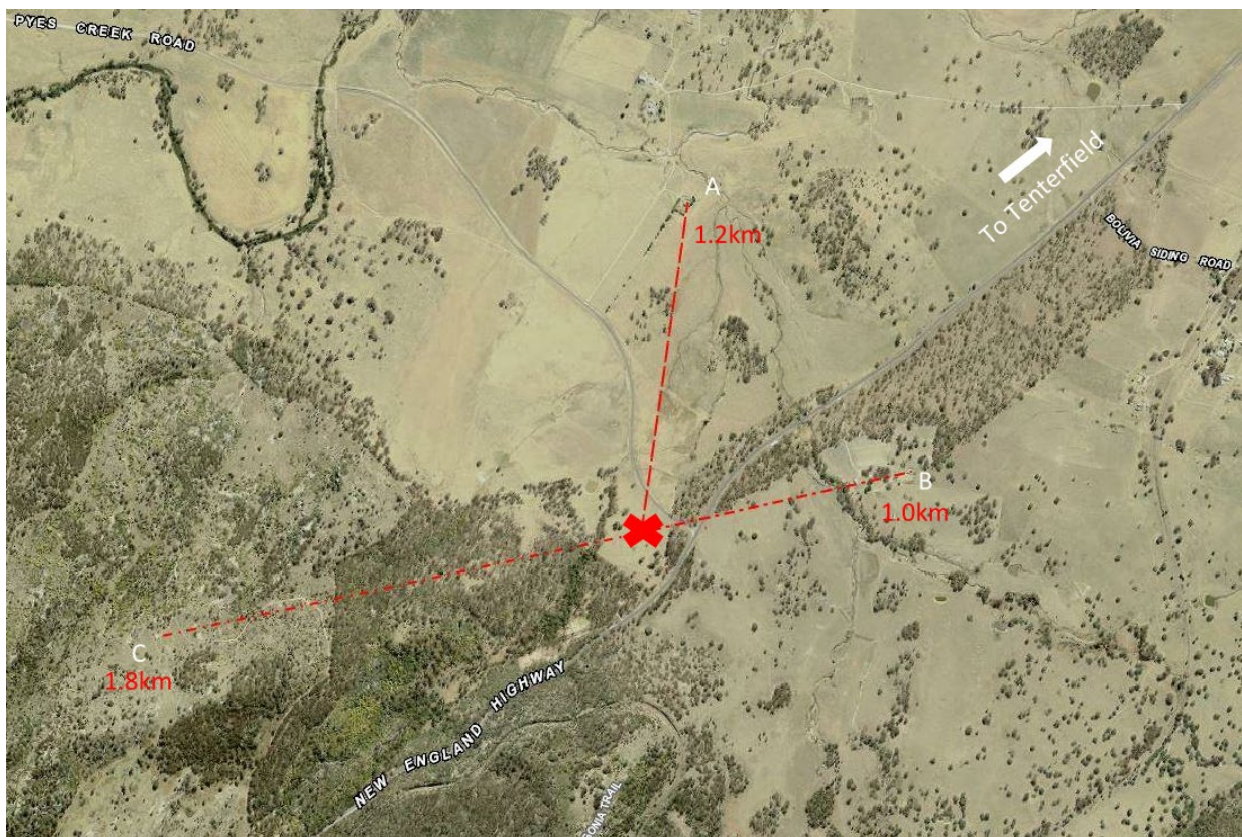
The site has recently been used as a depot as part of the Bolivia Hill road upgrade.

The surrounding area is generally characterised by rural development and ancillary dwellings. The following setbacks distances apply from the subject land to neighbouring dwellings (approximate):

98 Pyes Creek Road – 1.2km

5968 New England Highway – 1.0km

5685 New England Highway – 1.8km



The proposal is considered compatible with the surrounding area and will have (acceptable impact as outlined in this report (and imposition of appropriate conditions of consent) in regard to:

- Impacts on adjacent properties and land uses; and
- Interruptions of important views and vistas

The proposal is considered within the context of the locality and Council's current planning provisions.

Following review of the document "Living and working in rural Areas" prepared by NSW DPI, there are no identified buffer zone requirements applicable to the proposed general industry. It is considered that the setbacks to neighbouring dwellings are acceptable from the proposal.

Through the mitigation measures proposed by the applicant and conditions of consent, impacts can be appropriately managed.

## **Access and Traffic**

There is an existing access that was used by Transport for NSW and the Principal Contractor into its Bolivia Hill Upgrade site compound. It is proposed to use this existing access into the site. Sight distances in both directions are adequate, with relatively straight alignments and no crests or hills (See Photos 3 and 4). The access is proposed to be modelled on Austroads Rural Basic Left Turn treatment (BAL) (Refer to Figure 2). Construction will include a 450mm pipe culvert with headwalls and sealing with a 2 coat bitumen seal to the standard existing on Pyes Creek Rd.

### 6 Conclusion and Recommendations

*SMK Consultants were commissioned by Cracker Quarry and Ag Supplies to prepare a Traffic Impact Assessment to be lodged as part of a development application for their proposal to use an existing TfNSW Contractor's depot for sales of quarry and agricultural product on Pyes Creek Road in the Bolivia Hill area. The existing facility has been in place for 3-years or more. It is now subject to removal of some infrastructure but will retain the existing buildings.*

*This assessment has identified that Pyes Creek Road is a quiet rural road with minimal local traffic other than traffic generated from several farms. The level of existing traffic is minor and therefore no traffic conflict is expected.*

*The facility is proposing to upgrade the intersection from Pyes Creek Road into the site with a BAL. Such an intersection is being proposed as there will rarely be any traffic entering the site from the west. Pyes Creek Road to the west of the site is not suitable for through traffic generated from this facility, other than the occasional delivery of minor materials to a local farm.*

*The intersection of Pyes Creek Road onto the New England Highway had been constructed with a CHR during the Bolivia Hill upgrade project. The CHR was lined marked. This line marking was recently removed but the bitumen seal remains in place. Based on this assessment, the intersection still requires a BAR. Line marking was undertaken by TfNSW and based on measurements available, the right-hand turn lane conforms to the requirements of a BAR for a rural road.*

*In relation to vehicles turning left from the New England Highway into Pyes Creek Road, the TfNSW project installed a BAL on the road shoulder. This included bitumen sealing of a section of the road shoulder and construction of a sealed curve of 15m in radius or more. Based on calculations using available measurements and Austroad Guidelines for a Rural BAL, the left turn lane conforms to requirements.*

*The New England Highway and Pyes Creek Road intersection compliance was verbally confirmed by TfNSW at site meetings.*

Any works within the road reserve will require a Section 138 approval under the *Roads Act 1993*.

### Traffic Generation

The following information has been provided by the applicant relating to traffic generation from the development:



**Table 1:** Average and peak number of vehicles entering and leaving the site including origin and destination

Type of Vehicle	Average number entering (per day)	Peak number entering (per day)	Average number leaving (per day)	Peak number leaving (per day)	Origin & Route	Likely destination & Route
Light - including employees/workers, service vehicles, suppliers	5	10	5	10	Residences at Tenterfield, Bolivia, Deepwater, Glen Innes, Sandy Flat, Wallangarra and others.  Local suppliers from Tenterfield, Lismore, Kyogle, Glen Innes and Inverell.	Residences at Tenterfield, Bolivia, Deepwater, Glen Innes, Sandy Flat, Wallangarra and others.  Local suppliers from Tenterfield, Lismore, Kyogle, Glen Innes and Inverell. All departing via New England Hwy.
					All entering via New England Hwy.	
Heavy – including truck & dogs, prime mover & float, semi-trailers	40	60	40	60	Riverton, Rangers Valley, Tenterfield, Deepwater, Sandy Flat and other localities across New England & North West with entry via New England Hwy	Construction sites, roads and farms in Tenterfield and surrounding LGAs via exit to New England Hwy

### Car Parking

It is proposed to provide:

<b>Light Vehicle Parking</b>	12 carparking space 1 accessible car parking space
<b>Truck Parking Area</b>	9 truck parks 4 trailer parks

It is considered that the proposed parking arrangements are acceptable.

### Public Domain

It is considered that the development will have a negligible impact on the public domain in terms of:

- Public recreational opportunities in the locality;
- Amount, location, design, use and management of public spaces in and around the development; and

- Pedestrian linkages and access between the development and public areas (as per the proposal for right of carriageways over the driveways and carparking areas).

## **Utilities & Services**

### Water

Rainwater tanks to be installed as shown on the site plan.

### Electricity

Is already connect to the site. The proposed building works are relatively minor, and no upgrading works considered necessary.

### Sewage management

There are two onsite septic systems proposed. Refer to site plans OSSM Report Workshop & OSSM Report Industrial Office.

Section 68 approval will be required for the septic tanks.

### Stormwater

Refer to the submitted stormwater management plan for details. The proposed onsite measures are considered acceptable.

## **Waste Management**

Waste disposal is to be in accordance with the *Protection of the Environment Operations Act 1997* and the *Waste Avoidance and Resource Recovery Act 2001*. Wastes that are unable to be reused or recycled will be disposed of offsite to an EPA approved waste management facility following classification.

Waste oil will be stored in a purpose-built tank, then disposed of by an independent qualified service provider. The tank and surrounds will be inspected on a regular basis to check condition and capacity.

Paints, grease and other environmentally sensitive containers and substances will be disposed of as directed by manufacturer's instructions.

General rubbish will be stored in a 2m skip bin, to be regularly serviced by qualified contractor, New England Waste.

## **Visual Impacts**

The existing vegetation that is providing screening of the site will be retained. This is in the form of stands of bushland in the land adjoining on the southern, western, and eastern ends.

Landscaping (vegetation screening) will be used to create an effective barrier to screen the visual impact of the site.

For further information please see the Landscaping Plan.

The proposed 2.5m earthen bunding on the site boundary will act as a screen to visual impact.

## **Heritage**

There are no listed heritage items under the LEP on the subject land.

## **Air and microclimate**

In terms of dust management, the applicant has provided significant mitigation measures as part of the revised proposal post responding to the submissions made.

*Stockpiling and processing of material may have an impact on local air quality through dust generation. To eliminate dust all feed conveyors will be fitted with a boomless nozzle and sprinkler system. Stockpiles could be covered if not in use or regularly wet down on dry and windy days to prevent excess dust generation. During processing activities, the use of a water cart will assist in controlling excess dust. A water cart will also be used to wet down raw materials and roads as required.*

*AB Contracting (NSW) is investigating the use of a Polo Citrus dust suppression system for the crushing plant. This environmentally friendly dust suppression system is incredibly effective in suppressing and airborne dust whilst lowering the water usage of the plant significantly. Information on this system can be found here.*

*<https://www.polocitrus.com.au/products/dust-suppression/>*

*Water will be injected into the top of both the cone and the jaw crusher to effectively wet primary raw feed through jaw and then will wet down the re circulating load through the plant. By injecting into these locations this ensures all product is wet down evenly and minimises the amount of water required to effectively suppress dust.*

## **Soils**

Appropriate erosion and sediment controls to be implemented prior to and during the period of construction of the proposed buildings and site works.

## **Flora and Fauna**

The proposal is not expected to create any adverse impacts on flora and fauna in the locality.

There are no known threatened species or critical habitat on the site of the proposed development.

No vegetation removal is required.

The site is already hardstand as a result of the previous use of the site as a works compound.

## **Noise and Vibration**

Matrix Acoustics have prepared a Noise Assessment for the proposed development. The report provides the following conclusions:

### *5 CONCLUSION*

*The noise assessment for the proposed material storage, processing and dispatch business at Lot DP: 13/853518 shows that the noise emitted from the proposed facility is predicted to comply with the project noise trigger levels.*

*The assessment used a conservative approach that assumed that all equipment and plant items on the site constantly were operating at full duty. This is however unlikely to occur very often if at all. It is therefore expected that the noise levels at the surrounding receptors will be less than predicted in this assessment.*

*This assessment recommends that the noisiest equipment (screening plant and crushing plant) be strategically placed to provide noise screening from sheds, buildings and earth mounds towards the closest noise sensitive receptors.*

It is proposed that the hours of operation of the crusher be between 9am to 5pm Monday to Friday with a 12 month limit.

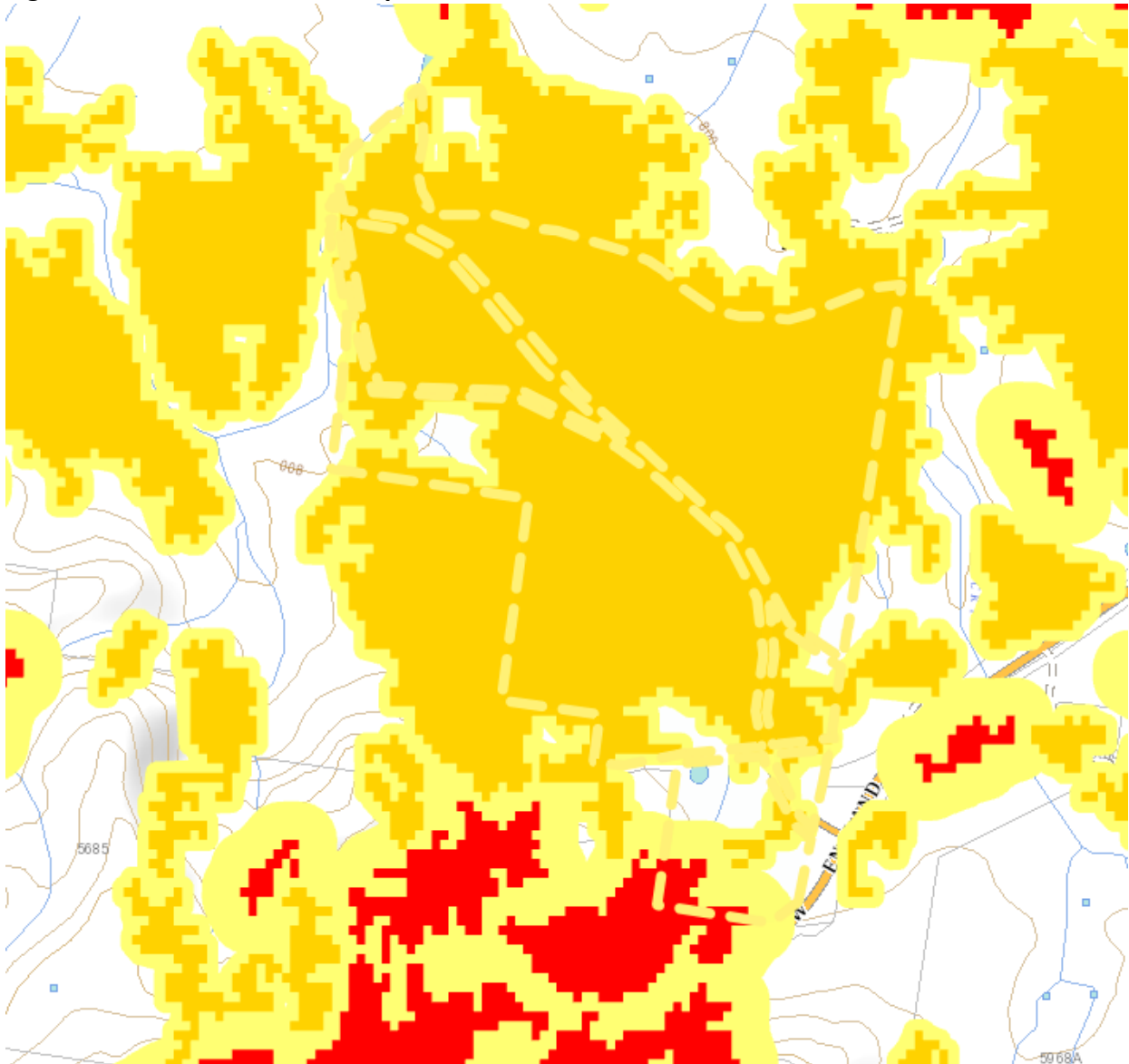
## **Natural Hazards**

The subject land is mapped as bushfire prone land.

The following measures are proposed by the applicant to reduce the risk of bushfire:

- *maintenance of cleared area and gravel pads around the site to eliminate fire fuel load,*
- *workshops to be equipped with two 4.5kg ABE fire extinguishers and two large fire blankets at all times,*
- *water stored in a poly tank with pressure pump for use in firefighting, connected to 20m long, high pressure fire hose with reel and high pressure nozzle,*
- *water stored in four tanks on southern side of the workshop*
- *correct storage of flammable substances and educating staff on use of flammable substances,*
- *training of staff in use of firefighting equipment,*
- *control of regrowth and understory grasses along the boundary fencing, through spraying, if necessary,*
- *removal of fallen limbs and dead trees around the site,*
- *bushfire preparedness and action plan in place,*
- *on-site water cart.*

**Figure: Bushfire Prone Land Map**



**Safety, Security and Crime Prevention**

No additional measures are considered necessary as part of the proposal.

**Social and Economic Impacts in the Locality**

It is considered through the imposition of appropriate conditions of consent (and mitigation measures proposed by the applicant) that the likely social and economic impacts of the development within the locality are acceptable.

It is noted that the business employees approximately 17 staff members.

## **Construction**

The proposal includes building and civil works as indicated on the development plans.

Any construction work will be undertaken in accordance with National Construction Code, Councils standard engineering guidelines and Councils conditions of consent.

Construction impacts are not anticipated to have an adverse impact on the locality. Works would occur during daytime hours, thus not impacting on the local amenity. The site would have temporary containment fencing erected and signage to warn and exclude the public from entering the site during the construction phase.

Erosion and sedimentation control measures would be developed and implemented during construction to minimise any erosion and sedimentation at the site. All disturbed areas rehabilitated as soon as practical

All waste generated during construction would be taken and disposed of at Council's Waste Disposal Facility.

All construction machinery would be fitted with appropriate muffling devices to limit noise generation during construction. The construction period would be for a limited period, and thus any impacts would be limited to that time frame.

## **Cumulative Impacts**

The potential for additional traffic, noise, dust and visual impacts has been discussed elsewhere in this report. The proposal is not expected to generate any unsatisfactory ongoing negative cumulative impacts as outlined in the submitted application documents and plans and by the imposition of appropriate conditions of consent.

### **[S4.15(1)(c)] Suitability of the Site**

#### Does the proposal fit in the locality?

- There are no constraints posed by surrounding development to render the proposal prohibitive;
- The proposal as outlined is complimentary to the surrounding land use pattern and zoning;
- It is considered that the proposal will not create any unmanageable access or transport concerns in the locality;
- No impact on public spaces will eventuate as a result of the proposal proceeding;
- The site is already connected to available services available to the site;
- Issues in relation to air quality and microclimate can be controlled by the imposition of conditions of consent; and
- There are no identified surrounding hazardous land uses or activities.

## Are the site attributes conducive to development?

It is considered that the site is conducive to the proposal based on the following:

- The site is not affected by any natural hazards other than bushfire which has been addressed;
- There are no known heritage issues affecting the site;
- There is no known soil characteristics that would render the proposal prohibitive; and
- There are no flora and fauna considerations that will have an impact on the proposal.

### **[S4.15(1)(d)] Submissions**

The development application was notified the adjoining and near owners and also made available on the Council website on two occasions:

15 October 2021 and 1 November 2021 (extended to 5 November 2021) with 1 submission received.

26 September 2023 and 23 October with 2 submissions received.

The points made in the submission is summarised below.

### **RESPONSES TO SUBMISSION (1<sup>st</sup> round)**

#### **Submission 1**

##### Designated Development

*Concerned that the proposal may be designated development.*

##### **Response**

The information provided by the applicant in the submitted documentation indicates that the proposed development will not exceed the designated development thresholds.

##### Noise

*The noise from this development will be heard by guests at our tourist facility.*

*The Development Application states that ambient noise levels for the area were sourced from the noise assessment conducted prior to the commencement of the Bolivia Hill road works in 2015.*

##### *Proximity*

*According to image 1-1 (p.5), the northeast corner of our property, which is used for passive recreation, is approximately 650m from the proposed development, making it the nearest receptor point to the site.*

*There is no indication in the Statement of Environmental Effects that any of the recommended noise mitigation measures will be implemented.*

*With noise mitigation measures, the potential for highly intrusive noise will remain.*

## **Response**

Refer to the updated Noise Impact Assessment which has predicted that noise levels from the proposed development are within acceptable limits.

## **Odour**

*The applicant's Statement of Environmental Effects does not even address the potential for malodorous emissions from "receiving and stockpiling . . . bulk agricultural products including feedlot manure".*

*Section 5 (c) of the Statement tells us that a raised pad measuring 30m x 30m will be constructed to accommodate loading/unloading and stockpiling of feedlot manure. No mention is made of the height to which the stockpile/s will be established. It is impossible therefore to calculate the intended volume of feedlot manure to be received, stored, processed, sold, loaded and unloaded within 650m of where our guests will be engaging in passive recreation'*

*Nowhere in the Statement of Environmental Effects does the applicant indicate an intent to implement any of the above measures to reduce (but not eliminate) odours from the Stockpile of Stench 2417.*

*The application gives no indication of any intent to undertake an odour assessment or to implement any measures to reduce the stench from stockpiles of feedlot manure.*

*Odours from stockpiles of feedlot manure will drift considerable distances with the prevailing winds*

## **Response**

The revised proposal removes the proposal for bulk agricultural products including feedlot manure.

## **Objectives of the zone**

*"to minimise conflict between land uses within the zone and land uses with adjoining zones".*

*The proposal will lead to a major conflict with our tourism business which was given previous consent to proceed within this zone*

## **Response**

It is considered that the proposed development is acceptable with respect to the objectives of the zone and the measures proposed by the applicant to mitigate any potential negative impacts.

## **Alternative Sites available**

*We propose that there are alternative sites on Pye's Creek Road which would allow the development to occur where there is no or little conflict, and no cost to Council.*

*Bolivia Station is comprised of over 50 land titles, one of which is Lot 13, DP 853518. Bolivia Station has approximately 6km of frontage to Pye's Creek Road. There is the potential to locate these proposed General industry operations on another site further to the west along Pye's Creek Road where it will not cause a conflict of land uses, nor have a detrimental effect on the local amenity.*



## **Response**

The application seeks approval for the proposed use on the site of the previous works depot – the proposal has been assessed to be suitable for the subject land.

### Visual Impacts

*SOEE - The Development is out of character within the area and will be visually prominent within the existing landscape*

## **Response**

The revised development has been amended to address and improve the visual impact of the proposal including an earth wall and additional landscaping as per the submitted landscaping plan.

### Storage of agricultural products

*Stored fodder (grain, hay) is a serious fire hazard. In a bushfire-prone area this increases the potential for fire to spread to our property.*

*importing fodder can often import weed seeds. These have the potential to grow and spread to our property.*

*Feedlot manure will contain a certain proportion of undigested grain and other edible matter; there will be inevitable spillage of some of this material; this will be attractive to feral pigs in the district.*

## **Response**

This element has been removed from the original proposal.

### Operating hours

*A heavy vehicle transport depot operating for 18 hours per day on 365 days of the year is the stuff of nightmares in any location other than a designated industrial zone. As stated previously, the noise from this proposed development will be highly intrusive for our guests at any time of day.*

*At the very maximum, operating hours may be tolerable between 10am and 2pm, Monday to Friday. A heavy vehicle transport depot could operate between 8am and 8pm, Monday to Friday.*

## **Response**

The following hours of operation are proposed by the applicant for various components of the proposed development:

- Transport depot use (heavy vehicles entering, departing and/or parking): 4am-10pm, 7 days
- Industrial/rural retail outlet use (loading and unloading heavy vehicles, shifting goods): 7am to 6pm, Mon-Sat
- Crushing and screening operations (operation of processing plant): 7am-6pm, Mon-Sat

Note: It is proposed to amend the hours of operation for the crushing and screening to 9am to 5pm Monday to Friday and limited this part of the operation for 12 months.

With the loading/unloading, shifting goods and operation of crushing/screening plant limited to day time hours, the impact of noise from the proposal will be managed as per the *Noise Assessment* referred to above.

#### Local Amenity

*The Development is out Of character within the area and will be visually prominent within the existing landscape.*

#### **Response**

The revised development has been amended to address and improve the visual impact of the proposal including an earth wall and additional landscaping as per the submitted landscaping plan.

#### Potential inconsistencies in planning approvals

*In late 2015, Council approved our Development Application DA 2015/032 to operate a Short term Tourist Accommodation Facility on our property, Grassfrees. We welcomed our first guest on 23 February 2016. Since that time, we have developed and implemented our marketing strategy on the theme of 'coming home to nature'. We promote our passive recreation opportunities as 'the perfect eco-antidote to technology burnout and busy lives'.*

*Development Application DA no.2021.080 seeks permission to operate General industry (receiving, storage, processing, manufacturing and distribution of quarry and bulk agricultural products). The map which follows below illustrates the proximity of our tourism business to the proposed industrial operation.*

Note: Bulk agricultural products have been removed from the proposal.

#### **Response**

The application includes a number of documents that sets out controls proposed by the applicant to ensure that the impacts of the proposed development are acceptable. The applicant has included a number of changes from the initial proposal to further reduce potential impacts.

Note: It is proposed to amend the hours of operation for the crushing and screening to 9am to 5pm Monday to Friday and limited this part of the operation for 12 months.

### **RESPONSES TO SUBMISSIONS (2<sup>nd</sup> round)**

#### **Submission 1**

##### Manure

There will be no manure freighted, mixed, or stockpiled on site, or other agricultural product supply, storage or distribution such as grain, as we have decided to withdraw this aspect of the

proposal. The revised submission of planning documents for DA2021.80 detailed this, as per your concerns at point 1, 2, 4 and 5

### Septic Tanks

The OSSM Reports have been professionally prepared and submitted to council with the revised application. The proposed septic tanks will be considered as part of a Section 68 application.

### Concerns with existing mature vegetation on the site

The applicant has provided the following comments:

*We respect and share your consideration of the remnant Whitebox woodland. The preservation and care of native trees on the project site and surrounding areas has been considered in the planning of the project. The 44 Leightons Greens conifers proposed to be planted on the project site in the Landscaping Plan are a fast growing screening tree that will allow for natural regeneration of the Whitebox woodland preserved on site and surrounding areas, point 7.*

### The intersection of the New England Highway is not appropriate

The applicant has provided the following comments:

*Concerns regarding traffic planning requirements and safety have been duly considered, and TfNSW will be providing recommendations on the requirements for the intersection onto New England Highway, point 8.*

The applicant will be required to upgrade the intersection to a BAR/BAL standard.

## **Submission 2**

### Designated Development

Under the Tenterfield LEP 2013, proposed use of the site has been defined as General Industry (receiving, storage, processing, manufacturing and distribution of quarry products).

The capacity of the crushing, grinding or separating works within the development proposal is not only governed by the possible truck movement calculations, but by the actual capacity of the equipment used to undertake the tasks. The truck movements will include trucks with no product or loads as DA2021.080 includes a Transport Depot.

Crushing will be done on a campaign basis, this may mean that the crushing/screening plant is active for a week or two at a time, then inactive for a month or more.

The applicant proposes to process up to 30,000t of quarry product per year. The table below shows a total of 29,000t of rock product incoming and 29,000t outgoing as road base and aggregates. These volumes may vary according to demand, but the overall the crushing, grinding or separating works at Pyes Creek Rd will not exceed 30,000t per annum.

Table 2: Nature, volume and origin of incoming material and nature, volume and destination of end products

Defined Origin	Source/Incoming Materials		End Products/Outgoing Materials		Likely Destination
	Nature	Volume (per annum)	Nature	Volume (per annum)	
<i>Bungulla Quarry</i> 322 Quarry Rd <u>Tenterfield</u>	Rock & Screened Rock – Granite derivative	15,000t	Road base  Aggregate	13,500t  1,500t	Various locations in <u>Tenterfield &amp; surrounding shires</u> for civil and agricultural clients for use on roads, pads, crossings etc.
<i>Rockdale Quarry</i> 530 Rockdale Rd Deepwater	Rock & Screened Rock – Basalt derivative	14,000t	Road base  Aggregates – various	2,800t  11,200t	

There is no limit in NSW to how much quarry product may be stockpiled at a site. Processed quarry product from external processing plants may be stockpiled at the project site. The surplus products not required on site at Pyes Creek Road from each respective quarry will be held in quarry stockpiles and can be trucked to customers directly, similarly to a warehousing operation.

Referrals to TfNSW

DA 2021.80 has been referred to Transport for NSW. Comments included in the assessment of the report.

Noise impact concerns

The noise assessment has been prepared by a suitably qualified acoustic engineer and demonstrates that the proposal can achieve the required compliance levels.

Note: It is proposed to amend the hours of operation for the crushing and screening to 9am to 5pm Monday to Friday and limited this part of the operation for 12 months.

Dust impacts

The applicant has provided the following with respect to dust generation:

*As per the Site Management Plan:*

*Stockpiling and processing of material may have an impact on local air quality through dust generation. To eliminate dust all feed conveyors will be fitted with a boomless nozzle and sprinkler system. Stockpiles could be covered if not in use or regularly wet down on dry and windy days to prevent excess dust generation. During processing activities, the use of a water cart will assist in controlling excess dust. A water cart will also be used to wet down raw materials and roads as required.*

*Cracker Quarry & Ag Supplies will be using Coarse mechanical fracturing to process quarry materials at the Industrial Yard Compound, minimising the production of fine silica particles in the processing cycle. Coarse mechanical fracturing quarry product crushing relates to the production of aggregates from rocks by using mechanical methods. Aggregates are granular materials that are used in construction, such as sand, gravel, crushed stone, and recycled*

concrete. Coarse mechanical fracturing is the process of creating cracks in a material by applying a tensile stress that exceeds its fracture strength.

One of the applications of coarse mechanical fracturing quarry product crushing is to produce various coarser fractions of aggregates, such as base coarse, sub-base coarse, and coarse aggregate, for different purposes. For example, base coarse is used as the foundation layer for roads and pavements, sub-base coarse is used as the intermediate layer between the base coarse and the surface layer, and coarse aggregate is used as the main component of concrete.

As per the Site Management Plan:

Cracker Quarry & AG Supplies is investigating the use of a Polo Citrus dust suppression system for the crushing plant. This environmentally friendly dust suppression system is incredibly effective in suppressing and airborne dust whilst lowering the water usage of the plant significantly. Information on this system can be found here.

<https://www.polocitrus.com.au/products/dust-suppression/>

Water will be injected into the top of both the cone and the jaw crusher to effectively wet primary raw feed through jaw and then will wet down the re circulating load through the plant. By injecting into these locations this ensures all product is wet down evenly and minimises the amount of water required to effectively suppress dust.

We therefore disagree “that given the potential threat to human life from silica dust” is problematic to the DA proposal and find this statement to be unfounded. All mitigation measures to minimise and control threat to human life have been considered and implemented in the planning phase of the processing of quarry materials.

### Amenity Impacts

The application includes a number of documents that sets out controls proposed by the applicant to ensure that the impacts of the proposed development are acceptable. The applicant has included a number of changes from the initial proposal to further reduce potential impacts.

### Internal Referrals

#### **Engineering**

The Development Engineer has advised that a Section 138 approval under the Roads Act 1993 will be required for the upgrade of the access to the site.

### External Referrals

#### **Transport for NSW**

The application was referred to Transport for NSW and they have provided the following information:

TfNSW have reviewed the additional information provided and has no further comment to those

previously provided in TfNSW letter, dated 18 November 2021.

*TfNSW has reviewed the Traffic Impact Assessment (TIA) and the following comments are provided to assist Council in a determination;*

- 1 The TIA identifies that the development will generate an increase in daily and peak hourly demands at the New England Highway and Pyes Creek Road intersection. The minimum intersection treatment is the Austroads basic right turn (BAR) and basic left-turn (BAL) treatments. The intersection was recently modified and provides the minimum treatments, however the BAL was designed for temporary construction activities and may not provide acceptable pavement for proposed development traffic. The identified demands are within the warrants for the minimum intersection treatments.*

*TfNSW recommends the Developer be required to demonstrate that the pavement within the BAL is acceptable for the ongoing needs of the development. Where a geotechnical assessment identifies the need for pavement improvements, then such works need to be implemented prior to the commencement of operational traffic. See further advice below regarding the process for approval of road works.*

- 2 It is understood that an Operational Traffic Management Plan (OTMP) is proposed. The TMP may include temporary measures such a Traffic Guidance Scheme (TGS) prepared and implemented by suitably qualified persons in accordance with Australian Standard 1742.3 and the Work Health and Safety Regulation 2017. It is recommended that the OTMP include a Driver Code of Conduct and procedures to inform heavy vehicle operators. This should emphasise the National Heavy Vehicle Regulator's Chain of Responsibility*

### Comments

Conditions of consent can be imposed accordingly.

### **[S4.15(1)(e)] The Public Interest**

The proposed development has been considered in terms of the context and setting of the locality in previous sections to this report and has been notified to adjoining land owners. The proposed development (as modified following the notification period) and with the imposition of appropriate conditions of consent, is considered to have an acceptable impact on the locality.

There are no known policy statements from either Federal or State Government that are relevant to this proposal, nor any planning studies or strategies. There is no particularly relevant management plan, planning guideline or advisory document that is applicable to a development of this nature. Also, there are no covenants, easements, or agreements that affect the proposal.

### **Conclusion and Recommendation**

It is considered that all relevant matters have been addressed, and/or conditions imposed to ensure that any potential impacts are minimised. It is considered that this report adequately addresses the impacts of the development in terms of suitability of the site, services and utilities, traffic, and the other areas identified above.

The development application has been assessed in accordance with the matters for consideration under section 4.15 of the *Environmental Planning & Assessment Act 1979*, and all relevant environmental planning instruments and Council policies, and is considered to comply with all relevant items. It is recommended that the development application be approved, subject to appropriate standard conditions and those otherwise identified in the assessment.

The development application proposes the use of the site and building works at the proposed general industry and transport depot at Lot 13 DP 853518, Pyes Creek Road, Bolivia.

The application was supported by a Statement of Environmental Effects (and other supporting documents) and development plans prepared by the applicant which provide sufficient information to allow assessment of the proposal.

The proposed development has been assessed to be permissible under the RU1 Primary Production zone under the *Tenterfield Local Environmental Plan 2013*.

The development application was notified to adjoining land owners in accordance with the provisions of the DCP. There was 1 submission received during the initial notification period and two submissions during the second notification period.

Having considered the documentation supplied by the applicant (including the revised plans and documents following the notification period), the findings of a site inspection, it is assessed that the impacts of the proposal and the likely environmental interactions between the proposed development and the environment are such that Council should not refuse the development application. Accordingly, it is recommended that Development Application be approved subject to the following conditions.

Prepared by:

Anthony Daintith  
Principal  
Anthony Daintith Town Planning

DATE: 8/12/2023

## **PROPOSED CONDITIONS OF CONSENT**

### **GENERAL CONDITIONS**

#### **1. General**

The development shall be carried out in accordance with the details set out in the following documents and plans, except where modified by any conditions of development consent:

- Completed Application form
- Statement of Environmental Effects
- Site and Development Plans (Efficient Building Design Services)
- Traffic Management Plan
- Traffic Impact Assessment
- Site Management Plan
- Noise Assessment
- Drivers Code of Conduct
- Landscape Plan
- Onsite Sewage Management Design Report – Industrial Office
- Onsite Sewage Management Design Report - Workshop
- Response to Submissions

#### **2. Inconsistency between documents**

In the event of any inconsistency between the conditions of this consent and the drawings/documents referred to in Condition 1, the conditions of this consent shall prevail to the extent of the inconsistency.

#### **3. National Construction Code - Site Buildings**

The building work must be carried out in accordance with the requirements of the National Construction Code. A reference to the National Construction Code is a reference to that Code as in force on the date the application for the Construction Certificate is made.

#### **4. Erection of Signs**

The applicant is to provide a clearly visible sign at the entrance to the site during construction stating:

- a) Unauthorised entry to the worksite is prohibited;
- b) Street number or lot number;
- c) Principal contractor's name and licence number;
- d) Principal contractor's contact telephone number/after-hours number;
- e) Identification of Principal Certifier, together with name, address & telephone number.

Advisory Note: Any such sign is to be maintained while the building work is being carried out.



## **PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE**

### **5. Construction Certificate**

The applicant is to apply to Council or a Principal Certifier for a Construction Certificate prior to the carrying out of any relevant building works in accordance with this consent.

Reason: To ensure compliance with the *Environmental Planning and Assessment Act 1979*.

### **6. Section 68 Local Government Act 1993 Approval**

Approval is required from Council for any of the following activities pursuant to Section 68 of the *Local Government Act 1993*:

- Installation, alteration, or operation of an on-site waste water management system

Section 68 Approval must be obtained prior to the issue of a Construction Certificate for the development.

### **7. Section 138 Roads Act 1993 Approval**

Where works are proposed within the road reserve, the applicant must obtain approval from Council (as the Roads Authority and/or as required under Section 138 of the *Roads Act 1993*) prior to the issue of the Construction Certificate.

The following details must be submitted to Council in order to obtain the Section 138 approval:

A copy of approved design plans related to the development and proposed works to be undertaken.

- Traffic Control Plan (TCP) to provide protection for those within and adjacent to the work site, including the travelling and pedestrian public. The TCP must comply with the Roads and Traffic Authority's manual "Traffic Control at Work Sites". Warning and protective devices shall comply with the provisions of AS17 42.3 - 2002 Traffic Control Devices for Works on Roads. The plan must be prepared and certified by a person holding the appropriate Roads and Traffic Authority accreditation, a copy of which is to be submitted with the plan.
- Insurance details - Public Liability Insurance to an amount of \$20 million, to be held by applicant I contractor undertaking the works.
- Approved works to be completed in accordance with the approval prior to the commencement of operations.
- A Review of Environmental Factors for the proposed road works is to be prepared by a suitably qualified person for submission with the application.

## **8. Engineering Plans – Road works**

All Engineering works to be designed by a professional Engineer and carried out in accordance with Council's "Road Network Management Plan" and "Construction and Maintenance of Property Access from Councils Roads Policy", unless otherwise indicated in this consent, to ensure that these works are of a sustainable and safe standard.

## **9. Archaeology**

If Aboriginal cultural objects are uncovered due to the development activities, all works must stop in the immediate area to prevent any further impacts to the object(s). A suitably qualified archaeologist and Aboriginal community representatives must be contacted to determine the significance of the object(s). The site is to be registered in the AHIMS (managed by NSW Office of Environment & Heritage) and the management outcome for the site included in the information provided to the AHIMS.

If human remains are located during the project, all works must halt in the immediate area to prevent any further impact to the remains. The NSW Police, the Aboriginal community and NSW OE&H are to be notified. If the remains are found to be of Aboriginal origin and the police consider the site not an investigation site for criminal activities, OE&H should be contacted and notified of the situation and works are not to resume in the designated area until approval in writing is provided by NSW OE&H. In the event that a criminal investigation ensues, works are not to resume in the designated area until approval in writing has been received from the NSW Police and NSW OE&H.

## **10. Erosion and Sediment Control Plan**

The preparation of a detailed Erosion and Sediment Control Plan (ESCP) and accompanying specifications for both the construction phase of the work shall be submitted to and approved by the relevant certifying authority before the issue of a Construction Certificate for the development.

The approved ESCP controls shall be implemented, inspected and approved by the Certifier prior to the commencement of any site works and maintained for the life of the construction phase and until revegetation measures have taken hold.

Advisory Note: Failure to take effective action may render the applicant liable to prosecution under the NSW Protection of the Environment Operations Act.

## **PRIOR TO THE COMMENCEMENT OF CONSTRUCTION**

### **11. Commencement of Work & Appointment of Principal Certifier**

The applicant is to submit to Council, at least two (2) days prior to the commencement of any works, a notice of commencement of building works and Appointment of Principal Certifier (PC).

## **DURING CONSTRUCTION**

### **12. Approved Plans to be available on site**

Approved plans, specifications, documentation and the consent shall be made available on site at all time during construction.

### **13. Hours of Construction Work**

The hours of all construction work for the development are to be restricted to between 7.00am and 6.00pm on Monday to Friday and 8.00am to 1pm on Saturday, to maintain the amenity of the locality.

Any proposed building work to be undertaken outside these hours or on Public Holidays must be the subject of prior written agreement from Council - consideration may be given to special circumstances and non-audible work if applicable.

Advisory Note: Breaches of this condition may result in the issuing of a Penalty Infringement Notice or prosecution.

### **14. Erosion and Sediment Control Plan Compliance**

All site works shall be carried out in accordance with the approved Erosion and Sediment Control Plan. Implementation of the Erosion and Sediment Control Plan shall be supervised by personnel with appropriate qualification and experience in erosion and sediment control.

### **15. Dust Control**

Effective dust control measures are to be maintained during the construction phase of the development to maintain public safety/amenity and prevent nuisance dust emissions from associated with construction traffic.

Advisory Note: Failure to take effective action may render the applicant liable to prosecution under the NSW *Protection of the Environment Operations Act 1997*.

### **16. Materials**

Materials and their finishes/colours of any proposed site buildings related to the development are to be selected to blend with the surrounding landscape and are not to be reflective in nature, to ensure that they visually integrated with the surrounding environment.

### **17. Storage of building materials**

No storage of building materials, soil or equipment is to occur on Council's property or roads. No unfenced, potentially dangerous activity or material to be located in close proximity to the road boundary adjoining the site. No unsupervised transit of plant, equipment or vehicles across public areas or other obstruction of those areas is permitted.

## **18. Placement of Fill**

Any fill which is placed on the site shall be free of any contaminants and placed in accordance with the requirements of AS 3798 (current edition) Guidelines on Earthworks for Commercial and Residential Developments. A suitably qualified consultant shall identify the source of the fill and certify that it is free from contamination.

## **19. Toilet Facilities**

Toilet facilities are to be provided at, or in the vicinity of the work site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site. Each toilet provided must be connected to an accredited sewage management facility approved by the council or some other sewage management facility approved by the Council.

## **20. Retention of Trees**

Existing trees on the site are to be retained and protected from damage during work on the site to maintain the visual amenity of the locality.

### **PRIOR TO THE ISSUE OF THE OCCUPATION CERTIFICATE**

## **21. Occupation Certificate**

Prior to the occupation or use of the site or any building, an Occupation Certificate is to be obtained, and where Council is not the Principal Certifier (PC), a copy is to be submitted to Council.

## **22. Section 68 Local Government Final**

The applicant is to ensure that all works associated with the Section 68 Approval for this development are completed and inspected by Council prior to the issue of the Occupation Certificate.

## **23. Section 138 Roads Act Final**

The applicant is to ensure that all works (access upgrade) associated with the Section 138 Approval for this development are completed and inspected by Council prior to the issue of the Occupation Certificate.

## **24. Landscape Planting**

Within 3 months of the date of this consent, the planting associated with the landscape screen must be undertaken in accordance with the approved plan, unless otherwise varied and agreed to by Council where drought conditions may inhibit this from occurring.

## **OPERATIONAL CONDITIONS**

### **25. Amenity**

The approved use on the site shall be conducted in such a manner so as not to interfere with the amenity of the neighbourhood by reason of noise, smoke, smell, vibration, gases, vapours, dust, particulate matter or other impurities from the premises.

### **26. Internal roads and parking**

The applicant must ensure:

- The internal roads are constructed as all-weather standard with dust suppressant properties;
- There is sufficient parking on site for all vehicles, and no parking occurs on the public road network in the vicinity of the site;
- All vehicles are loaded and unloaded on site, and enter and leave the site in a forward direction; and
- Vehicles leaving the site are in a clean condition and do not result in dirt being tracked onto the public road network.

### **27. Traffic Movements**

Heavy vehicle movements to and from the subject land are restricted to sixteen (16) per day.

### **28. Visual Landscape Screen**

The applicant must ensure the on-going monitoring of the health and performance of the visual landscape screen during the life operation of the development. Plant stock must be replaced, whenever necessary, to ensure the screen continues to act as an effective visual barrier.

### **29. Outdoor Lighting**

Any lighting used on site in connection with the development is to comply with AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

### **30. Harm to the environment**

The applicant must implement all reasonable and feasible measures to prevent and/or minimise any material harm to the environment that may result from the development, including weed control.

### **31. Hazardous Materials**

The applicant must:

- a) Store and handle all dangerous or hazardous materials on site in accordance with AS1940-2004: The storage and handling of flammable and combustible liquids, or its latest version; and

- b) Minimise any spills of hazardous materials or hydrocarbons and clean up any spills as soon as possible after they occur.

### **32. Complaints Register**

The developer shall nominate a contact person and telephone number for the benefit of adjoining neighbours and establish a complaint's register that includes records of nature, time and date of complaint, and the action taken to address complaint. The register shall be made available to Council upon request.

The developer shall notify all residents within a 2.0 kilometre distance of the boundary of the development site of the contact details and associated information.

### **33. Hours of Operation**

The hours of operation are limited to the following:

- Transport depot use (heavy vehicles entering, departing and/or parking): 4am-10pm, 7 days
- Industrial/rural retail outlet use (loading and unloading heavy vehicles, shifting goods): 7am to 6pm, Monday to Saturday
- Crushing and screening operations (operation of processing plant): 9am-5pm Monday to Friday (no operation of Saturday, Sunday or Public Holidays)

The crushing and screening operations are limited to 12 months from the date of the consent.

### **34. Transport for NSW Conditions**

Prior to the commencement of operations, the applicant is to upgrade the intersection of the New England Highway and Pyes Creek Road to the Austroads basic right turn (BAR) and basic left-turn (BAL) treatments. The applicant is to obtain the necessary approvals from Transport for NSW. A suitable Operational Traffic Management Plan and any necessary Traffic Guidance Scheme prepared and implemented by suitably qualified persons in accordance with Australian Standard 1742.3 and the Work Health and Safety Regulation 2017. It is recommended that the OTMP include a Driver Code of Conduct and procedures to inform heavy vehicle operators. This should emphasise the National Heavy Vehicle Regulator's Chain of Responsibility.