



Birthplace of Our Nation

11 December 2023
Our Ref: IN21/CD48C94

Cracker Quarry & Ag Supplies Pty Ltd
162 Sandy Flat Road
SANDY FLAT 2372

Dear Ms Bulmer,

**Re: Development Application No. 2021.080
Lot 13, DP 853518, 6133 New England Highway, Bolivia**

Please find attached Council's formal development approval for the construction of a 'General Industry (receival, storage, processing, manufacturing and distribution of quarry products) and Transport Depot' at the abovementioned property.

Your attention is drawn to your rights of appeal should you be dissatisfied with Council's determination of your application.

Please be advised that although approval has been granted, construction work must not commence until Council has received an application for a Construction Certificate via the NSW Planning Portal and a S68 Approval to Operate for On Site Sewage Management System has been issued.

Should you require any further information please do not hesitate to contact Council's Planning & Development Services Department on (02) 6736 6002.

Yours Sincerely,

Glenn Wilcox
General Manager
Encl.

All correspondence should be addressed to:

Chief Executive Tenterfield Shire Council

247 Rouse Street (PO Box 214) TENTERFIELD NSW 2372

Telephone: (02) 6736 6000 email: council@tenterfield.nsw.gov.au website: www.tenterfield.nsw.gov.au

ABN: 85 010 810 083



Tenterfield Shire Council

PO Box 214
TENTERFIELD NSW 2372

Ph: (02) 6736 6000

e-mail: council@tenterfield.nsw.gov.au

Notice of Determination

of a Development Application

issued under Section 4.16 of the *Environmental Planning and Assessment Act 1979*

**Development Application
Number**

2021.080

Development Application

Applicant Name: Tina Bulmer

Applicant Address: 6133 New England Highway
Bolivia NSW 2372

Owner of the Land: Bulmer, Stewart & Frances

Land to be Developed: Lot 13, DP 853518

Property Address: 6133 New England Highway
Bolivia NSW 2372
**General Industry (receival, storage, processing,
manufacturing and distribution of quarry products) &
Transport Depot.**

Determination

made on (date): 11 December 2023

Determination: ~~Consent granted unconditionally~~
Consent granted subject to conditions described below
~~Application refused~~

Consent to Operate from (date) 11 December 2023

Consent to Lapse on (date) 11 December 2028

Conditions:

Please read the conditions carefully as failure to comply with the conditions could result in Orders being served upon you.

Other Approvals:

List Local Government Act 1993

RIGHTS OF REVIEW AND APPEAL

Under Section 8.2, 8.3, 8.4 & 8.5 of the Environmental Planning and Assessment Act 1979, **any applicant** who is dissatisfied with Council's determination of their application may request the Council to **review** its determination; such a request can be made within 6 months or after an appeal to the Land and Environment Court has been lodged, but before it has been disposed of in the Land & Environment Court. A review cannot be made on designated or integrated development.

If the applicant is dissatisfied with this decision, Section 8.7 & 8.10 of the *Environmental Planning and Assessment Act 1979* gives the applicant the right to appeal to the Land and Environment Court within 6 months after the date on which the applicant received the 'Notice of Determination' under Section 4.19 of the *Environmental Planning and Assessment Act 1979*.

If the applicant appeals, Section 8.7 & 8.10 of the *Environmental Planning and Assessment Act 1979* gives any person who made a submission in relation to designated development the right to be given notice of the appeal, and to be heard at the hearing of the appeal (you need to apply to the court within 28 days of the notice of the appeal).

If you are an objector to designated development, and are dissatisfied with a decision to grant consent (either unconditionally or subject to conditions), Section 8.8 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within 28 days of the date of the notice of determination.

Your appeal may be made by lodging an application to the Court in accordance with the Rules of Court.

PERIOD OF APPROVAL

This approval remains valid for a period of 5 years from the date of this notice, or as otherwise identified in the consent.

(Under Section 4.53 of the Environmental Planning and Assessment Act 1979 and Section 103 of the Local Government Act 1993, the approval does not lapse if building, engineering or construction work on the land to which the approval relates is physically commenced before the date on which this approval would otherwise lapse).

DEFERRED COMMENCEMENT

In the case of an approval which is granted subject to a condition that the approval cannot operate until the applicant satisfies the Council as to any matter specified in the condition (a "deferred commencement"), the date from which the approval operates will not be endorsed on this notice. A separate notice will be issued in the event that the Council is satisfied that the applicant has satisfied such conditions.

COUNCIL OR PRIVATE ACCREDITED CERTIFIER

On obtaining **Development Consent** you then have a choice of obtaining a construction certification from **Council or a Private Accredited Certifier**. On appointing a certifier, you **cannot** change the certifier for another person until the project has been completed, unless you seek to change through a legislative process.

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
- The crushing, grinding works must not exceed 150 tonnes per day, or 30,000 tonnes per year

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.

8. 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.

9. 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

10. 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

11. 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.

12. 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.

13. 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.

14. 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*.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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

20. 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.

21. 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.

22. 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.

23. 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

24. 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.

25. Internal roads and parking

The applicant must ensure:

- The internal road 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.

26. Traffic Movements

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

27. Visual Landscape Screen

The applicant must ensure the on-going monitoring of the health and performance of the visual plant 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.

28. 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.

29. 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.

30. 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.

31. 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.

32. 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.

33. 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.

Signed on behalf of the consent authority

Glenn Wilcox
General Manager

11 December 2023
Date

Note *This approval does not guarantee compliance with any Act, Regulation or Standard (other than the Environmental Planning and Assessment Act, 1979, as amended) and builders/developers should make their own enquiry as to their legal responsibilities in this regard. Without limiting the generality of the above, approval does not guarantee compliance with the Disability Discrimination Act 1992 to which builders/developers are specifically referred.*