



# **Planning Committee Minutes**

**Linton Customer Service Centre**

**Tuesday, 10 February 2015  
1.00pm-1.39pm**

## Committee Charter

1. To oversee the effective planning of the Shire in accordance with Council's Municipal Strategic Statement, policies and provisions of the Golden Plains Planning Scheme.
2. To work with the Development Unit to identify opportunities for the development of local planning policies and provide direction in the preparation of such policies and any relevant state policies.
3. To implement the provisions of the Golden Plains Planning Scheme, including the Municipal Strategic Statement, Local Planning Policies, State Planning Policies and Victorian Planning Provisions.
4. To consider the views of written submissions from the public; relevant Government and resource bodies and the Planning Officer's report and recommendations in the assessment of planning applications which attract objection(s) or are recommended for refusal.
5. To make recommendations to Council on planning applications and other planning matters, where appropriate.
6. To take all reasonable steps to improve our knowledge of matters relevant to our planning duties.

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**1. PRESENT**

Cr Bill McArthur                                      Chairperson  
Cr Des Phelan, Mayor  
Cr Jenny Blake  
Cr Andrew Cameron  
Cr Nathan Hansford  
Cr Helena Kirby  
Cr Greg Vaughan

Rod Nicholls                                      Chief Executive Officer  
Greg Anders                                      Director Assets & Amenity  
Jillian Evans                                      Director Community Services  
Richard Trigg                                      Director Corporate Services  
Mike Barrow                                      Manager Executive Unit  
Tim Waller                                      Development Manager  
Laura Wilks                                      Planning Team Leader  
Peter O'Brien                                      Town Planner  
Kim Manley                                      Organisation Development Manager  
Charles Muir                                      Investigations Officer  
Petra Neilson (Minutes)                      Council Support Officer

**Gallery**  
Wayne Horne  
Nicholas and Alison Benyon  
Jason Kern  
Joanne Hardy

**2. APOLOGIES**

Nil

**3. DECLARATIONS OF INTEREST**

File: 02-03-007

Councillors must disclose a conflict of interest in accordance with Section 79 of the *Local Government Act 1989*.

Nil

## 4. REPORTS

### 4.1. KEY RESULT AREA: ENVIRONMENT & LAND USE PLANNING

#### 4.1.1 Planning Application P14-127 for Mineral Extraction at 70 Bandys Road, Smythesdale

Directorate	Assets & Amenity
Unit	Development
Senior Manager	Greg Anders, Director Assets & Amenity
Responsible Manager	Tim Waller, Development Manager
Responsible Team Leader	Laura Wilks, Planning Team Leader
Author	Peter O'Brien, Town Planner
File References	Planning Application P14-127
Relevant Policies & Legislative Frameworks	Golden Plains Planning Scheme
Proposal Summary	Mineral extraction
Land Address	70 Bandys Road, Smythesdale
Applicant	Wayne Horne
Zone & Overlay Summary	<ul style="list-style-type: none"> <li>• Rural Living Zone (RLZ)</li> <li>• Design &amp; Development Overlay Schedule 7 (DDO7)</li> </ul>
Attachments	<ol style="list-style-type: none"> <li>1. Copy of application and plans</li> <li>2. Locality map</li> <li>3. DSDBI letter</li> <li>4. EPA advice</li> <li>5. Amended plans</li> <li>6. Copy of objections</li> </ol>

#### *Declarations of Interest: Councillors & Officers*

Greg Anders: In providing this advice as the senior manager, I have no disclosable interests in this report.

Tim Waller: In providing this advice as the responsible manager, I have no disclosable interests in this report.

Laura Wilks: In providing this advice as the responsible team leader, I have no disclosable interests in this report.

Peter O'Brien: In providing this advice as the author, I have no disclosable interests in this report.

#### *Purpose*

This report relates to a planning permit application for mineral extraction at 70 Bandys Road, Smythesdale. The application has been referred to the Planning Committee for determination as objections to the application were received. This report provides a background to the application, a summary of the relevant planning considerations and an officer recommendation.

#### *Proposal*

The application proposes the use and development of the land for mineral extraction (refer to Attachment 1 for a copy of the application and plans). The proposed mining activities involve the excavation and exploration of a 5 hectare area for gold. The method of working consists of using earthmoving equipment to scrape layers of soil and gravel so that the exposed ground can be scanned for gold using hand held metal detectors. Topsoil and overburden will be removed and stockpiled and the area progressively worked in small sections to limit the amount

of open ground. The excavation will occur to a depth of 15 metres. The site will be progressively rehabilitated by backfilling and levelling of each completed section and sowing to pasture.

The application states that operations on the site will occur within the hours of 6am and 7pm daily however the applicant has indicated to Council during the course of this application that he is willing to accept reduced operating hours of 8am to 5pm Monday to Friday. Plant and equipment will be confined to an excavator, bulldozer, grader and tractor. The operations will employ a maximum of two persons. The applicant envisages that the operations are likely to have a maximum timespan of three years.

### *Site Description*

The subject land is situated at 70 Bandys Road, Smythesdale and is formally described as Crown Allotments 1 and 1A Section 100 Parish of Smythesdale. The site is located in a rural living area on the south-western edge of the Smythesdale township (refer to Attachment 2 for the locality map). The site has an area of approximately 8.9 hectares and contains a dwelling and outbuildings near to the Bandys Road (western) boundary. A driveway at the end of Taylor Street provides vehicle access to the site. The site is generally flat and cleared except for exotic trees surrounding the dwelling and a small patch of native trees in the south-east corner. Whilst there are many dwellings in the wider surrounding area, there are only two dwellings located on the adjoining properties to the south which are within close proximity of the subject land (approximately 75 metres). There are no restrictive covenants applying to the land.

### *History*

The application was received by Council on 2 May 2014 and a preliminary assessment of the application was undertaken. Under Clause 52.08-2 of the planning scheme an application for mineral extraction is not required to be referred to referral authorities as the work plan was referred to the relevant authorities by the Department of State Development, Business and Innovation (DSDBI) prior to the application being lodged. The application was internally referred to Council's Works Engineer who had no objection to the issue of a permit.

On 10 November 2014 it was brought to Council's attention by DSDBI that the work plan approved by DSDBI did not incorporate the EPA's recommended separation distances between industrial and sensitive land uses (refer to Attachment 3 for the DSDBI letter). In accordance with EPA Publication 1518 *Recommended separation distances for industrial residual air emissions* (March 2013) a separation distance of 250m is applicable to the proposal. The original work plan had the closest sensitive use (neighbouring dwelling) located approximately 100m from the work area and six other dwellings located in the range of 180-250m from the work area. The applicant was made aware by Council that the EPA guidelines recommended a 250m separation distance to neighbouring dwellings unless a request was made for a variation of the recommended separation distance and the written consent of affected landowners was obtained. At this time Council also sought and obtained advice from the EPA in regard to the control of noise and dust emissions and the application of EPA's recommended separation distances (refer to Attachment 4 for the EPA advice).

On 27 January 2015, the applicant submitted amended plans showing a 250m separation distance to neighbouring dwellings, together with a request to vary the separation distance to three neighbouring dwellings and the written consent of the respective landowners. A copy of the amended plans and documents relating to the variation of the separation distance is provided in Attachment 5.

### *Communications*

Notice of the application was given in accordance with Section 52 (1)(a) and (d) of the *Planning and Environment Act 1987* (the Act). Notice was provided by mail to adjoining and neighbouring owners and occupiers within a 500m radius of the site. Notice was also carried out by placing a sign on the site and by publishing a notice in the Ballarat Courier newspaper.

### *Summary of Objections*

As a result of the public notice seven objections were received. A copy of the objections is provided at Attachment 6. The main grounds of objection are summarised as follows.

1. Dust: Objectors are concerned that the proposed mining activities will cause a dust nuisance to the surrounding area, particularly during the summer months.
2. Noise: There are concerns regarding noise impacts from the activities and the effect of this on people's enjoyment of their properties and on their animals.
3. Visual impact: Some of the objectors are concerned regarding the visual impact of the activities particularly due to the openness of the site.

Other concerns that are held include that the proposal is contrary to planning policies and will inhibit future development of Smythesdale, erosion and sediment control, chemical storage, traffic and road damage and property devaluation.

All objectors and the applicant were invited to a consultation meeting which was held on 28 August 2014. An on-site meeting was also held earlier in the day with Allison & Nick Benyon, the objectors that live nearest to the site. Whilst there was no resolution or agreement reached at these meetings the applicant did agree to exclude mining activities from an area along the Benyon's property boundary and to construct a 2 metre high bund wall at the southern extent of works to reduce the visual impact. It is noted that this offer was subsequently withdrawn by the applicant due to the application of a 250m separation distance between the proposal and the Benyon's residence. Draft conditions were circulated to the objectors following the consultation meetings.

### *Golden Plains Planning Scheme*

#### **State Planning Policy Framework (SPPF)**

##### Clause 13.04-1 Noise abatement

This policy aims to assist the control of noise effects on sensitive land uses and ensure that community amenity is not reduced by using land use separation techniques as appropriate to the land use functions and character of the area.

##### Clause 13.04-2 Air quality

The objective of this policy is to assist the protection and improvement of air quality. The policy seeks to ensure, wherever possible, that there is suitable separation between land uses that reduce amenity and sensitive land uses. Planning must consider the *Recommended Buffer Distances for Industrial Residual Air Emissions* (EPA 1990) in assessing the separation between land uses that reduce amenity and sensitive land uses. This publication has since been replaced by *Recommended separation distances for industrial residual air emissions* (March 2013). These guidelines provide advice on recommended separation distances between industrial uses that emit odour or dust, and sensitive land uses (i.e. dwellings). In accordance with these guidelines, a separation distance of 250m is applicable to the proposal.

##### Clause 14.02-1 Catchment planning and management

This policy seeks to assist the protection of catchments, waterways and groundwater and is to be implemented by requiring the use of appropriate measures to restrict sediment discharges.

##### Clause 14.03-1 Mineral resources and mining

The objective of the State policy for mineral resources and mining is to protect identified mineral resources, to encourage mineral exploration and mining in accordance with acceptable environmental standards and to provide a consistent planning approval process. The policy seeks to protect the opportunity for mining where this is consistent with overall planning considerations and recognise the possible need to provide mining infrastructure in urban areas with mineral deposits.

## Local Planning Policy Framework (LPPF)

### Clause 21.04-4 Natural Environment

This policy recognises the need to reduce water pollution, the protection of water catchments and to encourage the protection of soil resources from erosion, contamination and other forms of degradation.

### Clause 21.06 Smythesdale

This policy sets out the direction for future development and land use in the Smythesdale township. The Smythesdale Strategic Framework Plan shows the subject land located just inside the Smythesdale town boundary and in an area designated as the 'core township area'. The policy defines the boundary of the township expansion and ensures that there is adequate residential land available for controlled future growth in line with the plan. The policy does not contain any specific references to the subject land or contain any policies specific to an application of this type.

## Zone & Overlay Provisions

The land is located in the Rural Living Zone (RLZ). Land surrounding the site is similarly zoned except for land to the north which is in a Township Zone (TZ). The purpose of the Rural Living Zone is, among other things, to provide for residential use in a rural environment, to protect and enhance the natural resources, biodiversity and landscape and heritage values of the area, and to encourage use and development of land based on sustainable land management practices. Mineral extraction is a Section 2 – permit required use in the RLZ. The decision guidelines of the RLZ require Council to consider, among other things:

- Whether the site is suitable for the use and development and whether the proposal is compatible with adjoining and nearby land uses.
- The impact on the natural physical features and resources of the area and in particular any impact caused by the proposal on soil and water quality and by the emission of noise, dust and odours.

The land is affected by a Design and Development Overlay Schedule 7 (DDO7) which relates to the appearance and amenity impacts of outbuildings and sheds. A permit is not required for the proposal under the provisions of the DDO7.

## Particular Provisions

### Clause 52.08 Earth and energy resources industry

The purpose of this clause is to encourage land to be used and developed for exploration and extraction of earth and energy resources in accordance with acceptable environmental standards, to ensure that mineral extraction and other uses are not prohibited land uses and to ensure that planning controls are consistent with other legislation governing these land uses. An application for mineral extraction must be accompanied by a work plan that has received statutory endorsement by the Department of State Development, Business and Innovation, the written notice of statutory endorsement and any conditions that have been specified. As stated previously the application does not require referral as the work plan was previously referred to the relevant referral authorities by the Department.

## General Provisions

The decision guidelines contained in Clause 65 of the planning scheme require Council to consider the following matters, as appropriate:

- The matters set out in Section 60 of the Act.
- The State Planning Policy Framework and the Local Planning Policy Framework, including the Municipal Strategic Statement and local planning policies.
- The purpose of the zone, overlay or other provision.



- Any matter required to be considered in the zone, overlay or other provision.
- The orderly planning of the area.
- The effect on the amenity of the area.
- The proximity of the land to any public land.
- Factors likely to cause or contribute to land degradation, salinity or reduce water quality.
- Whether the proposed development is designed to maintain or improve the quality of stormwater within and exiting the site.
- The extent and character of native vegetation and the likelihood of its destruction.
- Whether native vegetation is to be or can be protected, planted or allowed to regenerate.
- The degree of flood, erosion or fire hazard associated with the location of the land and the use, development or management of the land so as to minimise any such hazard.

### *Discussion*

#### **Planning Scheme**

The application is considered to satisfy the provisions of the State Planning Policy Framework, the Local Planning Policy Framework, Rural Living Zone, Clause 52.08, and Clause 65 of the Victoria Planning Provisions. State policies and planning provisions encourage the use and development of land for mining in accordance with acceptable environmental standards and where this is consistent with overall planning considerations. State planning policies also seek to ensure that community amenity is not reduced by noise and to protect air quality and water catchments. The proposal satisfies the EPA's *Recommended separation distances for industrial residual air emissions* which applies a buffer distance of 250m between the proposed mining activities and neighbouring dwellings. The application proposes to vary the recommended separation distance to three neighbouring dwellings however the consent of each landowner has been obtained. In accordance with the EPA's guidelines a variation to the recommended separation distance is considered appropriate due in particular to the short timeframe of the activities, restricted hours and type and size of plant.

The use and development of land for mining is a permissible use in all areas including the Rural Living Zone. The application of adequate separation distances together with strict permit conditions will ensure that appropriate environmental standards are met and that the proposal is compatible with adjoining uses. The plans have been amended to ensure there is adequate separation between the proposed use and development and neighbouring dwellings and conditions will control the hours of operation, dust, noise and drainage. Whilst the Smythesdale Structure Plan identifies the land for future residential development the proposal will not inhibit future growth of the township due to the limited life of the use and development – an end date of 5 years is proposed.

#### **Issues Raised by Objectors**

The concerns raised by objectors to the application are addressed as follows:

1. Dust: Conditions will be placed on the permit to ensure that the use and development meets appropriate environmental standards in relation to air quality and adequate separation distances have been applied. In the event that dust causes an unacceptable nuisance to surrounding properties the operator will be required to cease work and implement dust control measures immediately. Existing vegetation will also assist to reduce any off-site affects from dust.
2. Noise: As the site is located in a rural residential area it is considered appropriate that the operating hours of the proposed use and development be restricted to normal weekday working hours only. Permit conditions will also control noise levels to ensure that the amenity of neighbouring residents is not reduced. It is also noted that the proposal does not involve the blasting or breaking up of rock by explosives or other means.
3. Visual impact: It is not possible to completely screen the development from adjoining properties however the topography of the area together with existing vegetation will assist in reducing the visual impact on the surrounding area. Fixing an end date of five years on the proposal together with the rehabilitation of the site in accordance with Department guidelines will ensure there are no long-term visual impacts.

4. Other concerns of objectors included that the proposal is contrary to planning policies and will inhibit future development of Smythesdale, erosion and sediment control, chemical storage, traffic and road damage and property devaluation. As stated earlier, the fixing of an end date of five years will ensure that the proposal does not inhibit the future growth of the Smythesdale township. Conditions will be placed on the permit relating specifically to drainage, catchment protection, and chemical storage. In regard to concerns about traffic and road damage, traffic will consist only of employees' vehicles. There will be no truck traffic as no material will be removed from the site except for small quantities of gold. Property devaluation is not a material planning consideration and has been consistently dismissed by VCAT as a valid ground of refusal. Council can only consider matters that may affect property values such as loss of amenity.

#### ***Financial & Risk Management Implications***

It is considered that there are no financial or risk management implications.

#### ***Economic, Social & Environmental Implications***

It is considered that there are no economic, social or environmental implications.

#### ***Conclusion***

The application satisfies the provisions of the State and Local Planning Policy Frameworks, EPA's *Recommended separation distances for industrial residual air emissions*, the Rural Living Zone, Clause 52.08 (Earth and energy resources industry) and the decision guidelines of the Planning Scheme (Clause 65). The proposal is consistent with State planning policies which encourage the use and development of land for mining in accordance with acceptable environmental standards. The application of adequate separation distances together with the placement of strict permit conditions controlling the use and development will ensure that the proposal is compatible with the surrounding area and does not cause material detriment to any person.

#### ***Recommendation***

***That the Planning Committee resolves to issue a Notice of Decision to Grant a Permit for the use and development of the land for mineral extraction at 70 Bandys Road, Smythesdale subject to the follow conditions:***

#### ***Commencement***

1. ***The use and development must not commence until the Work Authority is granted in accordance with the requirements of the Mineral Resources (Sustainable Development) Act 1990.***

#### ***Endorsed Plans***

2. ***The use and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority. Before any changes are made to the approved Work Plan, issued pursuant to the Mineral Resources (Sustainable Development) Act 1990, the endorsed plans must be amended and be approved by the responsible authority.***

#### ***Hours of Operation***

3. ***The use hereby permitted must only operate between the hours of 8:00am to 5:00pm Monday to Friday.***

#### ***General***

4. ***A 250m minimum separation distance must be maintained at all times between the proposed mining activities and sensitive land uses (dwellings), except those dwellings where the consent of the landowner has been obtained, to the satisfaction of the responsible authority.***

5. ***The use and development must at all times be in accordance with the Work Authority, including the approved Work Plan, issued pursuant to the Mineral Resources (Sustainable Development) Act 1990.***
6. ***No environmental weeds as defined by the Department of Environment & Primary Industries may be planted on or allowed to invade the site through the transport and/or replacement of soil as a result of the mineral extraction to the satisfaction of the responsible authority.***
7. ***All external lighting must be fitted with suitable baffles or otherwise directed to prevent the emission of light outside the perimeter of the subject land to the satisfaction of the responsible authority.***
8. ***Areas of the subject land occupied by the use and development must be maintained in a clean and tidy manner to the satisfaction of the responsible authority.***
9. ***No advertising signs are permitted to be erected, painted, or displayed on the subject land without the written consent of the responsible authority.***
10. ***Any fuel and chemicals required for the use and development must be stored in a safe and secure location to the satisfaction of the responsible authority.***
11. ***The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:***
  - (a) ***Transport of materials, goods or commodities to or from the land;***
  - (b) ***Appearance of any building, works or materials;***
  - (c) ***Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or***
  - (d) ***Presence of vermin and use of chemicals to eradicate pest animals and plants.***

#### **Dust**

12. ***Nuisance dust must not be discharged beyond the boundaries of the premises.***
13. ***The use and development must at all times comply with the standards of the State Environment Protection Policy (Air Quality Management). Any failure to meet the standards must be brought to the attention of the Environment Protection Authority and actions specified by that Authority to bring the use into compliance must be carried out to the satisfaction of the responsible authority.***
14. ***Dust control measures must be implemented to the satisfaction of the responsible authority to avoid dust nuisance to residential properties in the surrounding area. If in the opinion of the responsible authority dust resulting from the use and development is causing an unacceptable nuisance to adjoining properties the operator must immediately cease work and implement appropriate dust control measures to the satisfaction of the responsible authority.***

#### **Drainage, Catchment Protection and Erosion Control**

15. ***The use and development hereby permitted must not cause any nuisance or loss of amenity in any adjacent or nearby land by reason of the discharge of drainage.***
16. ***No polluted and/or sediment laden run-off is to be discharged directly or indirectly into any drains or watercourses.***
17. ***A contaminants spill kit is to be made available on-site at all times to the satisfaction of the responsible authority to ensure that the approved use does not impact upon the groundwater table as a result of accidental fuel spillage.***
18. ***All works must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to prevent soil erosion, to the satisfaction of the responsible authority.***

#### **Noise**

19. ***Noise emitted from the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011).***
20. ***Noise generated by the use and development must not exceed 45 dB(A) measured at the closest adjoining sensitive land use to the satisfaction of the responsible authority.***
21. ***All vehicles and mobile equipment operating on-site must be fitted with broadband smart beepers that adjust beeper levels in accordance with the ambient noise environment.***

**22. No broadcast or loudspeaker system, telephone ringer or other external alarm may operate on the site without the written consent of the responsible authority.**

**Expiry**

**23. This permit will expire:**

- (a) If the use and development has not commenced within two (2) years of the date of this permit;**
- (b) Five (5) years from the date of this permit;**
- (c) If the Work Authority for the use issued under the provisions of the Mineral Resources (Sustainable Development) Act 1990 is cancelled in accordance with Section 770 of the Act.**

**The responsible authority may extend the periods referred to if a request is made in writing before the permit expires, or within six months afterwards.**

***Moved Crs Hansford/Cameron***

**That Council suspend Standing Orders to hear submissions.**

***Carried***

It is recorded that Council suspended Standing Orders at 1.13 pm.

It is recorded that Jason Kern (representative for Mr Horne) and Nicholas Benyon addressed Council between 1.13pm and 1.24pm

***Moved Crs Blake/Hansford***

**That Council resume Standing Orders.**

***Carried***

It is recorded that Council resumed Standing Orders at 1.24pm.

***Moved Crs Phelan/Cameron***

**That the Planning Committee resolves to issue a Notice of Decision to Grant a Permit for the use and development of the land for mineral extraction at 70 Bandys Road, Smythesdale subject to the follow conditions:**

**Commencement**

- 1. The use and development must not commence until the Work Authority is granted in accordance with the requirements of the Mineral Resources (Sustainable Development) Act 1990.**

**Endorsed Plans**

- 2. The use and development as shown on the endorsed plans must not be altered without the written consent of the responsible authority. Before any changes are made to the approved Work Plan, issued pursuant to the Mineral Resources (Sustainable Development) Act 1990, the endorsed plans must be amended and be approved by the responsible authority.**

**Hours of Operation**

- 3. The use hereby permitted must only operate between the hours of 8:00am to 5:00pm Monday to Friday.**

**General**

4. **A 250m minimum separation distance must be maintained at all times between the proposed mining activities and sensitive land uses (dwellings), except those dwellings where the consent of the landowner has been obtained, to the satisfaction of the responsible authority.**
5. **The use and development must at all times be in accordance with the Work Authority, including the approved Work Plan, issued pursuant to the Mineral Resources (Sustainable Development) Act 1990.**
6. **No environmental weeds as defined by the Department of Environment & Primary Industries may be planted on or allowed to invade the site through the transport and/or replacement of soil as a result of the mineral extraction to the satisfaction of the responsible authority.**
7. **All external lighting must be fitted with suitable baffles or otherwise directed to prevent the emission of light outside the perimeter of the subject land to the satisfaction of the responsible authority.**
8. **Areas of the subject land occupied by the use and development must be maintained in a clean and tidy manner to the satisfaction of the responsible authority.**
9. **No advertising signs are permitted to be erected, painted, or displayed on the subject land without the written consent of the responsible authority.**
10. **Any fuel and chemicals required for the use and development must be stored in a safe and secure location to the satisfaction of the responsible authority.**
11. **The use and development must be managed so that the amenity of the area is not detrimentally affected, through the:**
  - (e) **Transport of materials, goods or commodities to or from the land;**
  - (f) **Appearance of any building, works or materials;**
  - (g) **Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil; or**
  - (h) **Presence of vermin and use of chemicals to eradicate pest animals and plants.**

**Dust**

12. **Nuisance dust must not be discharged beyond the boundaries of the premises.**
13. **The use and development must at all times comply with the standards of the State Environment Protection Policy (Air Quality Management). Any failure to meet the standards must be brought to the attention of the Environment Protection Authority and actions specified by that Authority to bring the use into compliance must be carried out to the satisfaction of the responsible authority.**
14. **Dust control measures must be implemented to the satisfaction of the responsible authority to avoid dust nuisance to residential properties in the surrounding area. If in the opinion of the responsible authority dust resulting from the use and development is causing an unacceptable nuisance to adjoining properties the operator must immediately cease work and implement appropriate dust control measures to the satisfaction of the responsible authority.**

**Drainage, Catchment Protection and Erosion Control**

15. **The use and development hereby permitted must not cause any nuisance or loss of amenity in any adjacent or nearby land by reason of the discharge of drainage.**
16. **No polluted and/or sediment laden run-off is to be discharged directly or indirectly into any drains or watercourses.**
17. **A contaminants spill kit is to be made available on-site at all times to the satisfaction of the responsible authority to ensure that the approved use does not impact upon the groundwater table as a result of accidental fuel spillage.**
18. **All works must be undertaken in a manner that minimises soil erosion, and any exposed areas of soil must be stabilised to prevent soil erosion, to the satisfaction of the responsible authority.**

**Noise**

- 19. Noise emitted from the premises must not exceed the recommended levels as set out in Noise from Industry in Regional Victoria (NIRV; EPA Publication 1411, 2011).**
- 20. Noise generated by the use and development must not exceed 45 dB(A) measured at the closest adjoining sensitive land use to the satisfaction of the responsible authority.**
- 21. All vehicles and mobile equipment operating on-site must be fitted with broadband smart beepers that adjust beeper levels in accordance with the ambient noise environment.**
- 22. No broadcast or loudspeaker system, telephone ringer or other external alarm may operate on the site without the written consent of the responsible authority.**

**Expiry**

- 23. This permit will expire:**
- (a) If the use and development has not commenced within two (2) years of the date of this permit;**
  - (b) Two (2) years from the date of commencement;**
  - (c) If the Work Authority for the use issued under the provisions of the Mineral Resources (Sustainable Development) Act 1990 is cancelled in accordance with Section 770 of the Act.**

***Carried***

#### 4.1.2 Compliance Audit Report: Planning Permit P853A Lethbridge Quarry

Directorate	Assets & Amenity
Unit	Development
Senior Manager	Greg Anders, Director Assets & Amenity
Responsible Manager	Tim Waller, Development Manager
Responsible Team Leader	Laura Wilks, Planning Team Leader
Author	Charles Muir , Investigations Officer
File References	Planning Permit P853A Property Number 33000020
Relevant Policies & Legislative Frameworks	Golden Plains Planning Scheme Planning and Environment Act 1987
Proposal Summary	Briefing in relation to compliance with Planning Permit P853A particularly stockpile height
Land Address	180 Lower Plains Road, Lethbridge
Applicant	Narb Quarries P/L, Paul Galea
Zone & Overlay Summary	Farming Zone
Attachments	7. Planning Permit P853A

#### *Declarations of Interest: Councillors & Officers*

Greg Anders: In providing this advice as the senior manager, I have no disclosable interests in this report.

Tim Waller: In providing this advice as the responsible manager, I have no disclosable interests in this report.

Laura Wilks: In providing this advice as the responsible team leader, I have no disclosable interests in this report.

Charles Muir: In providing this advice as the author, I have no disclosable interests in this report.

#### *Purpose*

The purpose of this report is to inform Council of actions taken in relation to achieving compliance with planning permit P853A for the quarry operation at 180 Lower Plains Road Lethbridge.

#### *Site Description*

The site is located on the northern side of Lower Plains Road, adjacent to the Geelong-Ballarat railway line approximately 3.4 kilometres north of the Lethbridge town centre. The surrounding land is located in the Farming Zone and has been cleared for the purposes of agriculture.

The site has a total land area of approximately 43 hectares in two (2) existing titles. Lot 1 has a total land area of approximately 31 hectares and is bisected by the Geelong-Ballarat railway line. Lot 2 has an area of approximately 11.4 hectares.

The site is relatively flat with an area of extraction and a number of stockpiles located centrally within the site. Extensive tree planting along Lower Plains Road provides a vegetated screen from the road. Access to the site is via Lower Plains Road opposite Laird Road. Lower Plains Road is a sealed bitumen road with gravel shoulders and open table drains on both sides.

### *History*

Planning Permit P-853 was issued for the establishment of a quarry on the subject land in 1993. The permit has a number of conditions that relate to obtaining an Extractive Industries Licence, road construction, entering a Section 173 Agreement, landscaping and the height of the gravel stockpiles. The current operation had been running without complaint for several years. In late 2012 Council received complaints in relation to the height of the stockpiles and the amount of dust being generated from the site.

A subsequent inspection revealed that the stockpile height was approximately twice as high (10 metres) as what was allowed by the permit (5 metres). No dust suppression measures were evident on the day of the inspection however no dust was being created due to wet conditions. The manager/ operator (Paul Galea) stated that due to wet conditions the stockpile height was greater than normal and that it would reduce over summer. The operator was given a verbal warning in relation to the stockpile height and the dust. The stockpile height reduced over the following dry period (summer 2012-13), however it then increased again over the winter (2013).

In early August 2013 a roadside inspection was conducted and the stockpile height was observed to be well in excess of the 5 metres permitted and dust was being carried from the site across Lower Plains Road. At this time Narb Quarries P/L were issued with a Planning Infringement Notice in relation to the non-compliance issues. After receiving the infringement the operator informed Council officers that he intended to apply for an amendment to the permit to increase the height of the stockpiles. The operator also demonstrated to Council officers the new water lines that had been fitted to crushing equipment to suppress dust. The stockpiles were allowed to remain while the application to amend the permit was considered. The application to amend the permit was lodged on 11 September 2013 and was approved by Council on 8 October 2014. The amended permit included an increase to the height of the stockpiles from 5 metres to 8 metres and added a condition requiring the applicant to submit a dust management plan.

### *Communications*

A formal consultation process was not required.

### *Discussion*

In mid-October 2014, it was observed that the stockpile height did not comply with the recently approved permit. Subsequent inspections revealed that the stockpile height was approximately 10 metres. On 7 November 2014, Narb Quarries P/L were issued with a Notice to Comply in relation to lowering the stockpile height to no more than 8 metres. This action was to be completed by 8 December 2014. The operator negotiated an extension of time to comply and on 13 January 2015 an inspection was conducted which demonstrated that the stockpile height had been reduced to under 8 metres as required by the planning permit.

The operator is still to submit a dust management plan as per condition 16 of the permit. The operator has informed Council that a consultant has been engaged to draft the dust management plan. Dust suppression continues to be an ongoing issue. On 16 December 2014 large amounts of dust were observed blowing from the quarry site towards the Midland Highway. A roadside inspection revealed that crushing and delivery operations continued on the site despite extreme heat and wind. As a result, Narb Quarries have been issued with a Planning Infringement Notice.

### *Financial & Risk Management Implications*

It is considered there are no financial or risk management implications.

### *Economic, Social & Environmental Implications*

It is considered that there are no economic social or environmental implications.



***Conclusion***

It is considered that the quarry operating at 180 Lower Plains Road Lethbridge is generally compliant with permit P-853A. Council officers expect that the dust management plan will be submitted before the end of February. Council officers will continue to respond to complaints about the operation of the quarry and monitor the site to ensure compliance is achieved and maintained.

***Moved Crs Hansford/Cameron***

***That the Planning Committee notes the findings of the compliance audit report for Planning Permit P853A Lethbridge Quarry.***

***Carried***

**5. OTHER BUSINESS**

Tim Waller, Development Manager, will investigate and provide a response to the committee on a query from Cr Blake regarding the stock pile of dirt along the south side of the Midland Highway on a property west of Gheringhap. It was noted that the opposite side of the highway also has the same treatment.

**6. ATTACHMENTS**

Attachment 1	Item 4.1.1	Copy of application and plans
Attachment 2	Item 4.1.1	Locality map
Attachment 3	Item 4.1.1	DSDBI letter
Attachment 4	Item 4.1.1	EPA advice
Attachment 5	Item 4.1.1	Amended plans
Attachment 6	Item 4.1.1	Copy of objections
Attachment 7	Item 4.1.2	P853A planning permit

**7. DATE OF NEXT MEETING**

To be advised.

**8. CLOSE OF MEETING**

The meeting closed at 1.39 pm.

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**Confirmed, Chairperson, Cr Bill McArthur**

**Date**

Agendas (total printed) ..... 8  
 Councillors..... 7  
 Gallery..... 0  
 Minutes..... 1  
 Soft copy (portal, intranet, box) ..... 1  
 Attachments (total printed) ..... 10  
 Councillors..... 7  
 Minutes..... 1  
 CSO (meeting day)..... 2  
 Soft copy (portal, intranet, box) ..... 1