

## NOTICE OF DETERMINATION OF A DEVELOPMENT APPLICATION

*Approval Issued under Section 4.18(1)(a) of the Environmental Planning and Assessment Act 1979*

<b>Application No.</b>	<b>DA-78/2021</b>
<b>Applicant</b>	Ducats Earthmoving Pty Ltd
<b>Land to be developed</b>	Part Lot 13 DP 753655 & Part Lot 7015 DP 132777, Howell Road, Tingha
<b>Approved development</b>	Extractive Industry - Extraction of sand spoil mounds above natural ground level
<b>Building Code of Australia Classification</b>	Not Applicable
<b>Determination</b>	The determination is <b>consent granted subject to conditions.</b>
<b>Determination date</b>	9 August 2021
<b>Consent is to operate from</b>	9 August 2021
<b>Consent will lapse on</b>	9 August 2026
	Unless the work or use to which this consent relates has lawfully commenced on-site in accordance with Section 4.53 of Environmental Planning and Assessment Act 1979.

### CONDITIONS OF CONSENT

#### *Preliminary*

1. Inverell Shire Council issues its consent, subject to conditions stated hereunder, in accordance with Section 4.17 of the *Environmental Planning and Assessment Act 1979*.

Consent is granted for an extractive industry, being the extraction of sand spoil mounds above natural ground level.

To confirm and clarify the terms of consent, the development must be carried out in accordance with the following stamped and approved documents (unless modified by a following condition of consent):

- 'Statement of Environmental Effects for Proposed Extraction of Sand from Tingha' prepared by Consultant Geologist R. A. Robertson, dated 22 October 2020;
- 'Phase 1 Preliminary Site Investigation', prepared by GeoLINK, dated 19 February 2021;
- 'Tingha Quarry Noise Assessment', prepared by SOUNDIN, dated May 2021; and
- 'Traffic Impact Assessment', prepared by GeoLINK, dated 27 May 2021.

Any deviation will require the consent of Council.

2. All sediment and erosion control measures for the sand extraction must be designed, constructed and maintained in accordance with *Managing Urban Stormwater: Soils and construction - Volume 2E Mines and Quarries* (the 'Blue Book'), published by Department of Environment and Climate Change on 1 June 2008.
3. The applicant must comply with all relevant prescribed conditions as contained in Division 8A of the *Environmental Planning & Assessment Regulation 2000*.

### ***Prior to Commencement of Operation (Sand Extraction)***

5. Prior to commencement of operation, a current tenure/licence from the Department of Planning, Industry and Environment – Crown Lands must be obtained for the sand extraction, access and associated activities. Confirmation (or a copy) of the tenure/licence must be provided to Council.
4. Prior to commencement of operation, the crown access road from Howell Road to the site of the sand extraction must be upgraded to the following standard:
  - Bitumen sealed access crossing off Howell Road in accordance with the approved Traffic Impact Statement;
  - Upgrading of the creek crossing to allow suitable access for the increased traffic movements and vehicle type;
  - A full re-sheet 4 metres wide and 200mm compacted depth (minimum) with a suitable gravel material; and
  - Provision of three (3) passing bays along the Crown Road, between Howell Road and Lot 23 DP 753655 ('Belmont', 458 Howell Road, Tingha), which are to:
    - Be 20 metres long by 2 metres wide making a minimum trafficable width of 6m at the passing bay;
    - Have a minimum vertical clearance of 4 metres to any overhanging obstructions, including tree branches;
    - Have a maximum grade and crossfall of not more than 10 degrees.

Prior to undertaking the upgrade of the crown access road, the following is to be submitted to and approved by Council:

- Details of the proposed material and its source to be used for the re-sheeting;
- Details of the creek crossing upgrade, including plans any adjustment to pipes and headwalls; and
- Location of the passing bays, in the event that the location changes from the Statement of Environmental Effects).

*Note: Council will also refer the access upgrade details to Department of Planning, Industry and Environment – Crown Lands for comment and/or approval.*

5. Prior to commencement of operation:
  - A detailed sediment and erosion control plan prepared by a suitable qualify civil and/or hydraulic engineer must be submitted to and approved by Council. This sediment and erosion control plan must include (at minimum):
    - A diversion bank located as per the Statement of Environmental Effects;
    - A sediment retention basin at the lowest point/s of the division bank; and
    - Design/calculations demonstrating that the division bank and sediment retention basin achieve the minimum capacity required under Table 6.1 of *Managing Urban Stormwater: Soils and construction - Volume 2E Mines and Quarries*.
  - All sediment and erosion control measures are to be installed in accordance with the approved sediment and erosion control plan.
6. Prior to commencement of operation, a Traffic Management Plan is to be submitted to and approved by Council, which incorporates a Driver Code of Conduct for Haulage Operator, inclusive of the following;
  - A map of the primary haulage route highlighting critical locations;
  - An induction process for vehicle operators and regular toolbox meetings;
  - Procedures for travel through residential areas, school zones and bus routes;
  - Community consultation measures proposed for peak periods; and
  - Work, Health and safety requirements under the Work Health and Safety

Regulation 2017.

7. Prior to commencement of operation, the 'Truck Entering' sign on the western side of Tingha Sands entry is to be removed and replaced with a new 'Truck Entering' sign located 100 metres to the western side of the proposed access off Howell Road to the sand extraction site.
8. Prior to commencement of operation, the boundary of the disturbance area for the extractive industry is to be clearly marked with using pickets/posts at regular intervals. The pickets/posts must be clearly visible with the use of flagging tape or florescent spray paint on the pickets/posts.

The pickets/posts are to be maintained in place for the duration of operation.

**During Operation**

9. A Section 7.11 (formerly Section 94) contribution is to be paid to Council for road maintenance at a rate of \$0.97 per tonne of product or extracted material (to be indexed to CPI increases annually). A report of material extracted is to be submitted to Council at the end of each financial year.
10. The crown access road from Howell Road to the site of the sand extraction must be maintained by the operator of the extractive industry to ensure that all-weather access is maintained to the dwelling on Lot 23 DP 753655 ('Belmont', 458 Howell Road, Tingha). This include the following maintenance requirements:
  - No wheel tracks/ruts are to be more than 100mm deep;
  - Washouts are to be gravel patched and maintained; and
  - Drainage structures are to be maintained and kept free of silt build up.

*Note: Inverell Shire Council is not responsible for and will not undertake maintenance on the crown access road.*

11. The maximum excavation depth must not exceed 2.5 metres measured from existing ground/sand spoil level at the date of this consent, unless a report prepared in accordance with the *State Environmental Planning Policy No. 55 – Remediation of Land* and associated guidelines is submitted to Council confirming that sand material greater than 2.5 metres deep is suitable for transport and use off-site.
12. The total area of the extractive industry, inclusive of excavation, dams, ponds, drains, material storage/stockpile, overburden storage/stockpile and buildings/amenities, must not exceed 2 hectares.
13. The approved hours of operation for the extractive industry are Monday to Saturday - 7am to 6pm, and Sunday and Public Holidays – 8am to 6pm.
14. Noise from the extractive industry must not exceed 40dBA when measured at the dwelling located on Lot 23 DP 753655 ('Belmont', 458 Howell Road, Tingha).
15. The maximum amount of material extracted per annum must not exceed 30,000 tonnes.
16. The extractive industry is to comply with the approved Traffic Management Plan and Driver Code of Conduct.
17. Should any aboriginal artefacts or places be discovered during mining, all works are to cease immediately. Heritage NSW are to be contacted immediately and any direction or requirements complied with.
18. In the event that any relics, being any deposit, artefact, object or material evidence that:

- (a) relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and
- (b) is of State or local heritage significance,

are identified on the site during development, the applicant/developer shall notify Heritage NSW as required under s.146 of the *Heritage Act 1977*, as well as the Inverell Shire Council, of the find and await further advice before proceeding with the development.

- 19. No extraction (or site disturbance associated with the extraction activity) may occur within 40 metres of Copes Creek.
- 20. Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.
- 21. All erosion and sediment control measures are to be maintained in accordance with the approved sediment and erosion control plan.
- 22. The extractive industry must operate in accordance with any requirements of NSW Department of Industry.

#### ***Upon Completion of Extraction***

- 23. At the completion of the extraction process, the site shall be rehabilitated in accordance with the approved Statement of Environmental Effects. Rehabilitation works are to be completed within one calendar year after cessation of extraction activities. The operator of the sand mine is to notify Council of the cessation date of extraction activities and the commencement date of rehabilitation works.
- 24. Waste associated with the rehabilitation of the site is to be disposed of at a premise licensed to receive such waste in accordance with the *Protection of the Environment Operations Act 1997*.
- 25. Any soil contamination is to be remediated in accordance with *State Environmental Planning Policy No. 55 – Remediation of Land* and the *Contaminated Land Management Act 1997*.

#### **REASONS FOR CONDITIONS**

The above conditions have been imposed:

- 1. To ensure compliance with the terms of the applicable environmental planning instruments.
- 2. Having regard to Council's duties of consideration under Section 4.15 of the *Environmental Planning and Assessment Act 1979*, as well as Section 4.17 which authorizes the imposing of the consent conditions.
- 3. Having regard to the circumstances of the case and the public interest.

#### **REASONS FOR APPROVAL**

- 1. An extractive industry is permissible within the RU1 Primary Production and consistent with aims and objectives of the *Guyra Local Environmental Plan 2012*.
- 2. The development is not 'Designated Development' or 'Integrated Development' under the *Environmental Planning and Assessment Act 1979* or regulation.
- 3. A Traffic Impact Assessment was submitted and DA-78/2021 referred to Transport for NSW. Subject to conditions of consent, it is considered that the development will not have an adverse impact on access, transport or traffic.

4. A Preliminary Site Investigation was submitted in accordance with State Environmental Planning Policy No. 55 and suitable conditions of consent have been imposed in relation to contamination.
5. An acoustic assessment was submitted with DA-78/2021 and subject to conditions of consent, the development is not considered to have a significant adverse noise impact.

#### **COMMUNITY CONSULTATION**

Neighbour notification was undertaken in accordance with the Inverell Community Participation Plan. No formal submissions were received.

#### **RIGHT OF APPEAL**

If you are dissatisfied with this decision, Division 8.3 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice. You are also advised that Division 8.2 of the *Environmental Planning and Assessment Act 1979* provides that you may apply to Council for a review of this decision subject to the limitations contained in that section and payment of the prescribed fee.

On behalf of Inverell Shire Council



**CHRIS FALEY**  
**DEVELOPMENT SERVICES COORDINATOR**