

2 February 2015

Our reference: 1436-054

The Secretary  
Department of Planning and Environment  
GPO Box 39  
SYDNEY NSW 2000

Dear Madam

**RE: SSD14\_6422 - Teven Quarry Project, Stokers Lane, Teven, Shire of Ballina.**

Holcim Australia operates the Teven Quarry. This quarry is an existing hard rock quarry located in Stokers Lane, Teven. Approval has been sought to increase production from the existing quarry from 265,000 tonnes per annum (TPA) to 500,000 TPA. In addition, approval is sought to provide for a mobile crushing, pugmill and asphalt plant facilities. Further, consent is sought for the recycling of concrete products and to extend the hours of production. PLANNERS NORTH acts for Mr Brandon Saul and family. The Saul family own and reside at Lot 3, DP 703181 known as 108 Stoker Lane, Tuckombil. As illustrated in the diagram below the Saul family farm immediately adjoins the Teven Quarry.



Locality Plan showing the location of the Saul family farm and Teven Quarry.

The Saul family have no objection to the continued operation of the Teven Quarry in a fashion which accords with all the relevant environmental and amenity controls applicable. That said, PLANNERS NORTH have been instructed to submit an objection to this application for the following reasons:

**1. The demand analysis in the EIS does not support the extent of increase in capacity sought by the subject application.**

The EIS opines that *"based on these population projections, annual demand for hard rock within the supply region of the Teven Quarry is anticipated to increase from 1.24 million tonnes per annum (TPA in 2013) to at least 1.57 million tonnes (TPA in 2036)".* A 26 percent increase in demand over 20 years is not consistent with a proposal to expand the existing quarry by some 89 percent.

**2. Authorisation of development application.**

Section 2.1 of the EIS discloses that the land is in the ownership of MJ and PE Fox as well as Holcim Australia. The Development Application form does not appear to be signed by MJ Fox. Further, a Director of Holcim Australia has not authorised the application.

The application refers to Lots 1, 2 & 3 in DP 732288. However, it appears that an access track located within Lot 1 DP 607332 is used from time to time for quarry operations. The owners of Lot 1, DP 607332 have not endorsed the Development Application form.

Figure 7.5 suggests that drainage work is intended to be carried out on land external to the Lots 2 & 3. The owner's consent is not attached to the Development Application form for this activity.

**3. Compliance with Development Consent 1995/263**

Section 3.1 indicates that the development is being carried out in accordance with the relevant development approval. Figure 7.9 in the EIS illustrates the "disturbed area of the site". This quarry usage of the site is well outside the approved pit limit pursuant to DA 1995/263.

**4. Increase production to a maximum of 500,000 TPA**

Section 4.1 makes it clear that the approval is to increase the maximum production from the Teven Quarry to 500,000 TPA.

**5. Non-compliance with Schedule 1, Item 7 in State and Regional Development SEPP.**

Section 5.2.1.1 indicates that the application is lodged pursuant to the State and Regional Development SEPP. By triggering this clause it exempts the development from the need to be the subject of local review by Ballina Shire Council and passes the administration of the application to the Minister for Planning. The Minister has delegated her functions to the Planning and Assessment Commission. However, in order to achieve this approval pathway development for the purposes of extractive industry must be more than 500,000 TPA. The application does not seek to extract more than 500,000 tonnes per annum and accordingly is inconsistent with Schedule 1 of the State and Regional Development SEPP.

It is respectfully submitted that the processing of this application should halt and the matter should be referred to Ballina Shire Council for processing and assessment.

**6. Permissibility**

Section 5.2.1.2 discusses the permissibility of the subject development. It is agreed that "extractive industry" is a permissible use over the site. In our view the EIS is correct when at page 28 it defines the meaning of extractive industry applicable to the Ballina LEP 2012. However, we believe the EIS is wrong when it says that there is no definition of extractive industry in the Ballina Local Environmental Plan 1987. Extractive industry is defined in the Model Provisions adopted pursuant to Clause 6 of the 1987 LEP. That definition only permits the winning of extractive material and that definition does not facilitate the further uses for which development consent is sought including the reprocessing of spent concrete and asphalt production.

## 7. Residential amenity impacts.

Generally the current operation at the quarry “finishes up” at around 4pm. The concept of the quarry operating until 10pm is very much at odds with the rural and rural residential amenity of the locality. This aspect is particularly abhorrent to the Saul family. Such concerns become even more elevated when Holcim Australia refused a request from Mr Saul to install check data loggers at the site and Holcim Australia noise modelling is based upon sampling of short duration only. Consultants and lay persons in the Northern Rivers Region know that there is significant variation to the background noise level at throughout the year (see MP09\_0028). Accordingly, the concept of the quarry satisfactorily operating on a “background plus” noise standard until 10pm particularly during the winter evenings seems incredulous.

## 8. Consultation with the Saul family

Section 6 of the EIS provides a cursory discussion of project consultation with Section 6.2 speaking of community engagement. That Section omits discussion about the detailed discussions that have been held with representatives of the Saul family and a number of proposals have been put to the proponent with two important proposals rejected by Holcim Australia. The rejected proposals were:

- a) A request from Mr Saul for the opportunity to install loggers at the site to permit the independent assessment of dust, noise, odour and traffic; and
- b) The rejection of the proposal by the Saul family for the quarry to acquire that part of the Saul family farm which is effectively a “buffer zone” for the quarry but held by the Saul family.

Over the years the Saul family has experienced a difficulty with the operator of the quarry complying with the relevant terms of development consent. For example, it is in large part due to noise problems with the Saul family that the Noise Mitigation Program referred to in Section 3.7 of the EIS occurred.

Given the rejection of the buffer zone acquisition offer, Mr Saul is presently in the course of obtaining consent for a meditation studio in the location shown in the diagrams below.

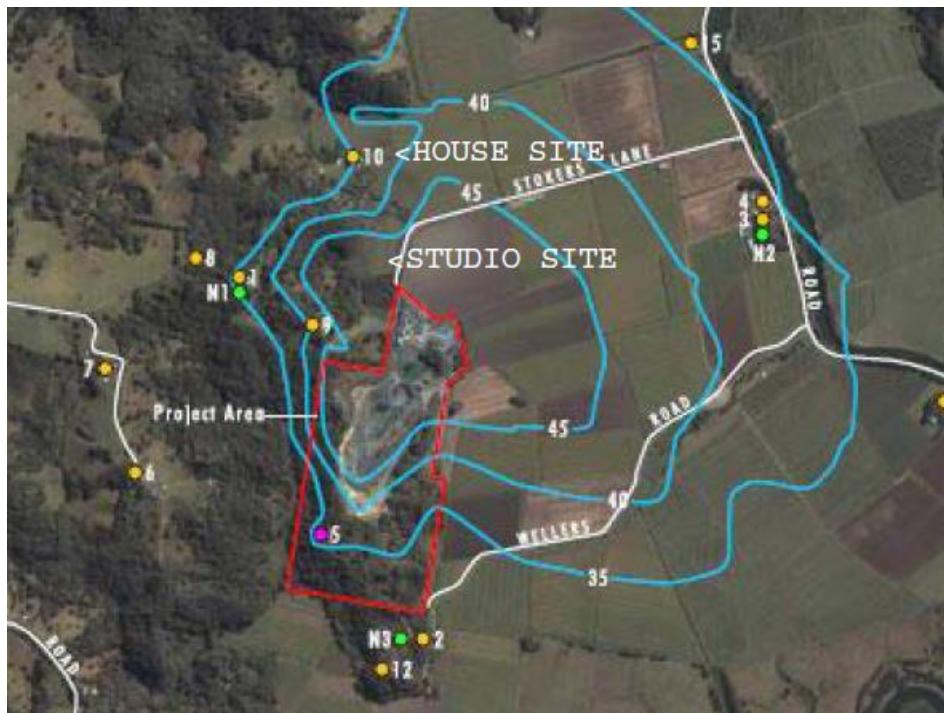


Diagram illustrating location of noise contours

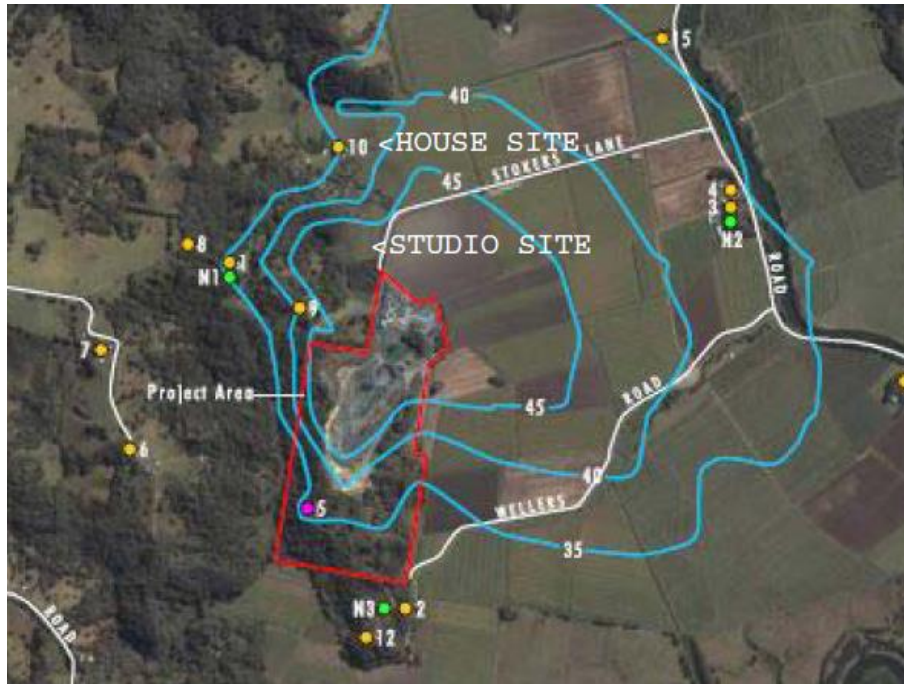


Diagram illustrating location of dust contours

### Conclusion

Having regard to the above observations we respectfully submit that:

- The proposed development is not a State Significant Development and should be referred to Ballina Shire Council for determination;
- The recycling and processing of concrete and the production of asphalt is inconsistent with the definition of extractive industry over part of the land and accordingly the application should be recast to have appropriate consideration of the Statutory Planning situation;
- The demand calculations relevant to the locality are suggestive on an expansion of up to 27%. It is recommended that the application be scaled back to this quantum; and
- The application should be amended to be respectful of the Saul family property which immediately abuts the project site, particularly with respect to adverse impacts likely as a consequence of dust and noise concerning that part of the property.

Should the Department require additional information in which to clarify any matter raised by the above submission, please feel free to contact the writer at any time.

Yours faithfully,

**PLANNERS NORTH**

**Stephen Connelly FPIA CPP**

PARTNERSHIP PRINCIPAL

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Cc Ballina Shire Council