

# Development Application Representation Letter

Attachment 5 - 337 Gundagai Road, Bagor  
Representations (Pages = 38)

18-Fmx-018 - Version 21/11/2012

Development Application Number

D.A. 0074/2015

Address of Development

[Redacted Address]

Details of Represantor

Title [Redacted] Given Name/s [Redacted]

Surname [Redacted]

Unit/Street No [Redacted] Street [Redacted]

Suburb [Redacted] State [Redacted] Postcode [Redacted]

Phone H [Redacted] B [Redacted] M [Redacted]

Email [Redacted]

Reason for Representing

AGAINST INCREASE OF QUOTA TO 200,000 CUMMERS  
VOLUME WILL CREATE EXCESSIVE NO. OF TRUCKS  
IN ANY ONE DAY  
POOR ALIGNMENT OF PARKING TRACK CORNER  
SOAKING OF ROADS HAS NOT IMPROVED  
NOISE PROBLEM AS TRUCKS NOW TRAVEL  
FASTER

FILE No.	DA0074/2015		
EO	OD	<input checked="" type="checkbox"/>	Box <input checked="" type="checkbox"/>
RCVD		04 JUN 2015	LCC
Doc No.			
Acting Officer	Noted	Replied	
C.WRANKMORE			
E COPY TO: J ALLEN			

Represantor's Signature

*[Handwritten Signature]*

Date 3/6/2015



Town Hall St John Street Launceston Tasmania  
PO Box 396 Launceston Tasmania 7250

T 03 6323 3000 F 03 6323 3001 TTY 03 6323 3003  
E council@launceston.tas.gov.au www.launceston.tas.gov.au

Phone:

Your Ref: [REDACTED]

Our File:

FILE No.	DA0074/2015		
EO	OD	Box	
		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
RCVD		22 MAY 2015	LCC
Doc No.			
Action Officer	Noted	Replied	
C.WRANKMORE			



General Manager  
 Launceston City Council  
 PO Box 396  
 Launceston TAS 7250

E-COPY J. ALLEN

20<sup>th</sup> May 2015

**Re: DTK Logging Pty Ltd, Gundagi Quarry, Bangor**

Dear Mr Dobrzynski,

I wish to make representation concerning the Permit Application and DPMP submitted to the Launceston City Council by DTK Logging Pty Ltd, for the expansion of the Gundagi Quarry.

FT do not oppose the proposed increase in production from the Gundagi Quarry, however we wish to highlight a concern that relates to road ownership information provided in *Appendix D: Traffic Impact Assessment (Midson Traffic Pty Ltd)*, of the DPMP.

*Section 2.1.4 South Retreat Rd* states, "South Retreat Road is owned and maintained by Forestry Tasmania". I wish to clarify that Forestry Tasmania (FT) only owns the section of South Retreat Rd that occurs on Permanent Timber Production Zone Land (PTPZL), and does not have any ownership, obligation, or responsibility for the portion of South Retreat Rd from the boundary of PTPZL through to the intersection with Bacala Rd and Tunnel Rd.

We understand that the Launceston City Council is the responsible authority for South Retreat Rd from a point beginning at 500m from the PTPZL boundary through to Bacala Rd. We do not know who the responsible authority is for the road for the first 500m section beyond the PTPZL boundary, but it is on a Crown Road Reserve and classed as private.

*Appendix D, Section 4.3.5 Colgraves Road/ Quarry Access Junction*, states that "The access to Bardenhagen Quarry is a gravel road that connects to Colgraves Road at a wide T-junction". This is incorrect as the access road actually connects with South Retreat Road 6, which then connects to South Retreat Rd on PTPZL.



[REDACTED]



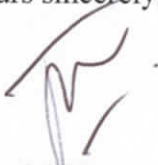
By agreement with FT, DTK Logging Pty Ltd and the adjacent benefiting landowner share equal responsibility for the maintenance of the quarry access road, including a portion of South Retreat Road 6, that is covered by Easement No 14091. The remaining section of South Retreat Road 6, and the last section of South Retreat Rd that is on PTPZL is also maintained by DTK Logging Pty Ltd.

Whilst the Traffic Impact Assessment indicated a lack of information available for FT roads to determine the actual impact of additional heavy vehicle movements on the road pavements, some added impact is expected. FT requires DTK Logging Pty Ltd to ensure maintenance of the relevant sections of road accommodates the increased impact of heavy traffic on the road pavement to maintain the road condition at a satisfactory standard approved by FT.

We note and endorse the dust and weed control measures outlined in the DPEMP.

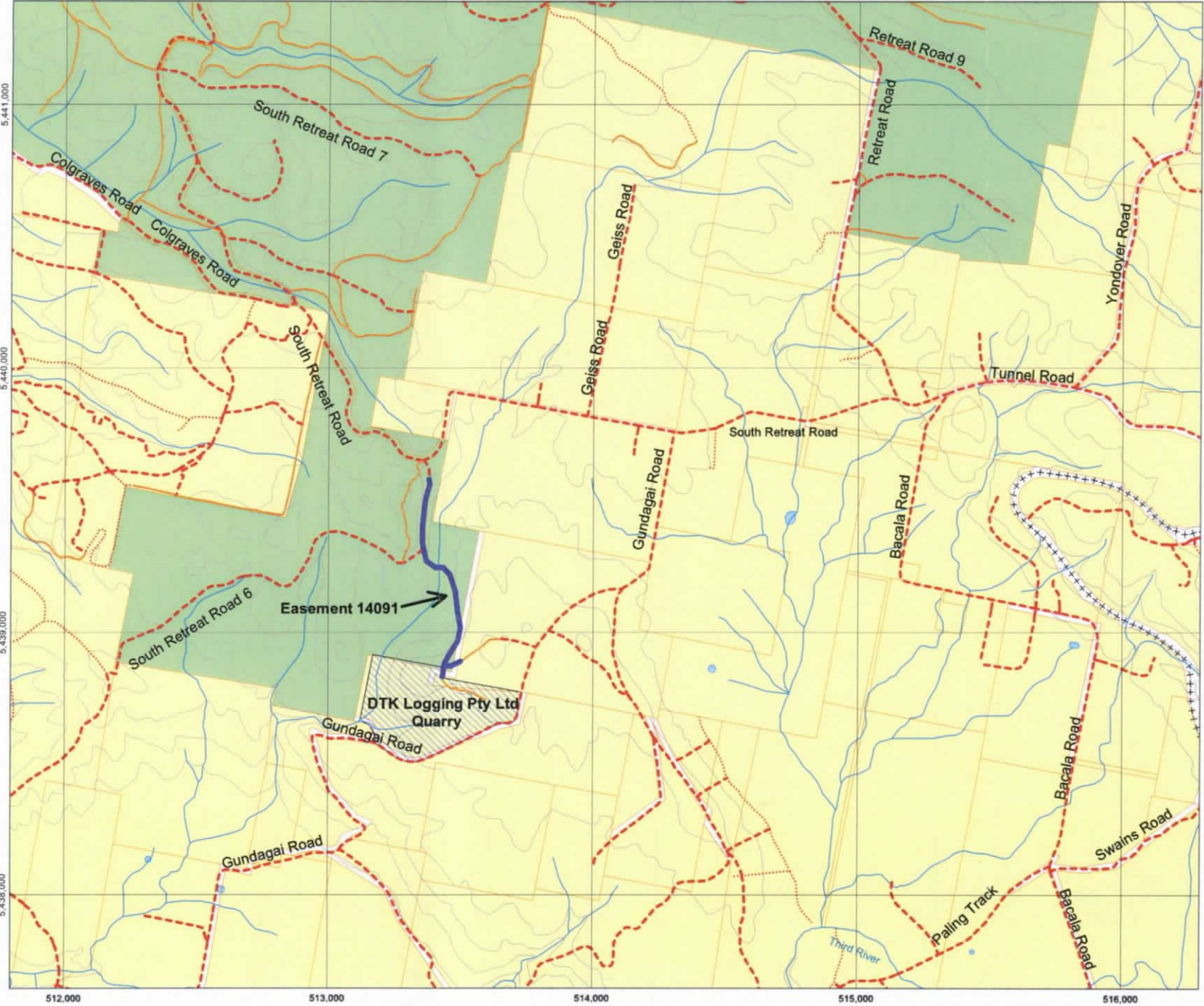
Please ensure the correct ownership and responsible authority for maintenance of South Retreat Rd is referenced to in any further documentation or decisions regarding the Permit Application.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John McNamara', written over a light blue horizontal line.

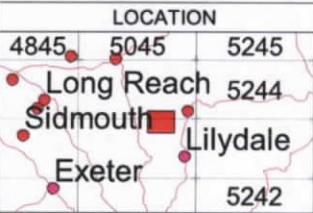
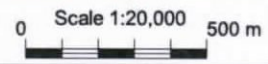
John McNamara  
District Forest Manager  
Bass District

# DTK Logging Pty Ltd Quarry access



- DTK Logging quarry
- Single lane all weather minor road
- Single lane minor road
- Vehicular access track
- Cadastral of Tasmania (DPIPWE)
- Railway Lines
- Mining Leases (Areas)
- Water
- Casement
- Permanent Timber Production Zone Land
- Private Freehold

NOTE: Co-ordinates on this map are based on GDA94. Data is captured at differing scales & boundaries may not always co-incide. Any topographic data on this map has been supplied by DPIWE.



Date: Wednesday, May 20, 2015

Prepared for:

Prepared by: ejb

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General Manager  
Launceston City Council  
PO Box 396  
LAUNCESTON TAS 7250

3 June 2015

Dear Sir,

**Representation - Planning Application, DA 0074/2015, Extractive Industry – quarrying activity; expansion to existing quarrying activity from 50,000m<sup>3</sup> to 200,000m<sup>3</sup> (existing level 2 activity), 337 Gundagai Road, Bangor**

I act on behalf of [REDACTED], and provide objection to the currently advertised planning application DA 0074/2015 closing 6 June 2015.

My client owns three properties within the vicinity of the subject land:

[REDACTED]  
[REDACTED]  
[REDACTED]

We raise concerns in relation to the extension of the quarry in the effect that this will in turn increase the buffer zone further over the above-mentioned properties and will become a further burden on the land owner for future uses which may be considered within the Use Table of the Rural Resource zone of the *Launceston Interim Planning Scheme 2015*.

The buffer zone will also affect at least 7 other dwellings that are closer to the quarry than [REDACTED] will change from being 1000m to the current quarry operations to being within 930m to the proposed quarry extension.

The current and future buffer zone severely restricts my client's ability to consider sensitive uses on his land including the option of "visitor accommodation" which is a discretionary use within the Rural Resource zone, but a project which has been worked on over a period of time.

The requirement will be for [REDACTED] to ensure that the potential for environmental harm or environmental nuisance to a sensitive use if proposed would need to be considered. The responsibility for such consideration will be placed on [REDACTED] for the reason of a use and development (quarry) on nearby land, creating a further impediment and burden to [REDACTED]. The application of the Environmental Impacts and Attenuation Code (E11.0 of the *Launceston Interim Planning Scheme 2015*) would apply to more land area owned by [REDACTED] [REDACTED] should the quarry extension be granted approval and therefore require a Site Specific Study for any development to be in the expanded buffer zone. This would be

contrary to Part 1(b) of the Objectives of the Resource Management and Planning System of Tasmania which provides for the fair, orderly and sustainable use and development of air, land and water.

As the proposal involves both blasting and crushing, both attenuation zones are to be expanded. The proposal not only burdens more of [REDACTED] within the 1000m attenuation zone, but also places more land within the 300-750m distance which is the SRAD for crushing (750m).

Any future planning application for use and/or development of [REDACTED] properties will become more onerous if the proposal is approved, hence increasing the buffer zone.

Although maybe not a consideration of planning, it should also be noted that this current and future burden of an increased buffer zone, if granted approval, will reduce the retail value of the land owned by [REDACTED] considerably.

We request that the EPA consider the reduction of the attenuation zones (SRAD's) for this particular existing and future quarrying activity. We note that SRAD's are a guideline, and are not intended to be used as automatic prohibition zones, but note that [REDACTED] will be unfairly compromised to undertake further assessment and consideration of the impact of the proposed quarry extension to any future uses he may wish to apply for on his land. We also note that the 1000m SRAD for blasting is very onerous and not considered the most up to date attenuation figure, where Tasmania is still reliant on an outdated Quarry Code of Practice. Tasmania should consider updating the Quarry Code of Practice particularly in regards to the SRAD's to be more in line with the rest of Australia. Victoria EPA has produced an updated *Recommended Separation Distances for Industrial Residual Air Emissions* (Publication number 1518 March 2013). This document recommends the separation distance for a Quarry (with blasting) of 500 metres. This is half the distance currently considered in Tasmania!

We ask that Council and the EPA consider the information above when making any decision in relation to the proposed quarry extension.

Kind Regards,



Rebecca Green

B. Env. Des., B. Arch., G.Dip. UrbRegPlan.  
Senior Planning Consultant & Accredited Bushfire Hazard Assessor

[REDACTED]

[REDACTED]

Your Reference:

[REDACTED]  
[REDACTED]  
[REDACTED]

RAE & PARTNERS

incorporating Levis Stace & Cooper  
Will Edwards Lawyers

5 June 2015

The Manager, Planning/Development  
Launceston City Council  
PO Box 396  
LAUNCESTON TAS 7250

Attention Ms Julia Allen

DIRECTORS  
Phillip Lebski  
Ross Hart  
Scott Chellis  
Nicholas Reaburn  
Melanie Kerrison

CONSULTANTS  
Will Edwards  
Leon Wootton  
Peter Swan  
Matthew Pawson

By email only [council@launceston.tas.gov.au](mailto:council@launceston.tas.gov.au)

Dear Ms Allen

**RE: DA 0074/2015 – 337 GUNDAGI ROAD BANGOR**

We act on behalf of [REDACTED] who is the registered proprietor of land situate [REDACTED]. That property is comprised within Certificate of [REDACTED]

We also have instructions from [REDACTED] registered proprietor of [REDACTED] comprised in [REDACTED]

[REDACTED] registered with [REDACTED] with respect to the property at [REDACTED] comprised in Certificate of Title Volume [REDACTED]

The location of the subject properties is marked on the attached LIST map.

The proposed development is the subject of DA 0074/2015 which is described as “Extractive Industry – Quarrying Activity: Expansion to Existing Quarrying Activity from 50,000 cubic metres to 200,000 cubic metres”.

The property is zoned “Rural Resource”. The purpose of the zone is:

1. To provide for sustainable use and development of resources for agricultural, aquaculture, forestry, mining and other primary industries, including opportunities for resource processing.

o:\Docs\115949\1054182.doc

RAE & PARTNERS PTY ABN 39 109 423 645

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Rae & Partners offices also at  
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2. To provide for other use or development that does not constrain or conflict with resource development uses.
3. To provide for uses that add value to primary industries.
4. To provide for uses that support or service rural communities.

The determination of the development application is discretionary.

### **Background**

Whilst there is an existing permit in place with respect to the activities, which are sought to be intensified, there is material, not apparent from the development proposal and environmental management plan lodged in connection with the development application, which should be taken into account in assessing the application.

In particular the initial application for approval under the former planning scheme was refused on 15 September 1998. In particular the grounds for refusal were “the use and development is incompatible with adjoining and surrounding land uses”.

A copy of the planning refusal of 15 September 1998 is enclosed.

It is significant to note that the initial disposition of the proponent’s application for development approval with respect to the quarry was the subject of decision J4/99, which is attached. Reference is had to paragraph 28 of the decision at page 6, in particular the last sentence.

“The Tribunal finds that those conditions are appropriate conditions to ensure the operation of the subject quarry does not unreasonably affect the amenity of the nearby residents. In addition the Tribunal found it inappropriate to use Gundagi Road as an access road for the quarry and the access should occur along a road to be constructed over the Forestry Tasmania land to the north west consistently with the agreements previously referred to in this decision. The residential amenity of the properties owned by Rawnsley and Chugg adjoining Tunnel and Colgraves Road should be properly protected by a requirement that those roads been sealed for an appropriate distance near to those residences.”

However, those activities were very minor in scale, in particular when considered against the subsequent background.

The proponent made a further application in DA 0523/2009 which was approved initially by Launceston City Council, subject to conditions, on 21 March 2011. Representations were made at that time with respect to whether the further application was “the start of



further increases in production and if so had the impact surveys to the area been carried out as to the effects to the environment and existing residents”.

The Council response supplied at that time was “Any development application is presented as the proponent expects they require for their particular operation. No additional expansion of the quarry operations are planned by the proponent”. Nevertheless, what has occurred can be described as creeping development rather than a proper exercise of planning controls.

Conditions were imposed with respect to the use of Gundagi Road, the sealing of Tunnel Road, as required by the EPA and the upgrade and maintenance of public roads.

### **Intensification of Use**

The present application constitutes a significant intensification of the use of the subject property. The assessment and submissions made by the proponent in connection with this application is silent as to the question of past compliance with the permits issued with respect to the operation of the subject quarry and the effect of the use, pursuant to the permit on the amenity of the surrounding properties.

### **Past Compliance**

It is curious to note that whilst the assessment refers to the existence of a complaints register (page 92), there is no material before Council, in connection with the application which addresses the present level of compliance with the permit conditions and, in particular, whether there have been complaints with respect to existing non-compliance.

From the representor [REDACTED] perspective, this is significant. He instructs us that he has made multiple complaints each week with respect to noise and dust emissions over an extended period of time.

Further, if there is any suggestion as to recent invention with respect to the representations made by our clients, there is significant material on our file in connection with the existing permit conditions whereby this firm on behalf of the representors brought to Council’s attention apparent non-compliance with permit conditions.

Copies of the relevant correspondence is enclosed. That correspondence, together with Council’s records of any complaints with respect to noise and dust are relevant matters to be considered in exercise of Council’s discretion with respect to the proposed intensification of the existing use, particularly in that the complaints of [REDACTED] [REDACTED] relate to the compliance with a permit which related to 50,000 cubic metres, as opposed to a quantity which is four times that previously permitted.

**Present Compliance –Extracted tonnage**

Further, in the absence of positive material as to compliance with the existing permit conditions Council should not exercise its discretion to approve the proposed use particularly in that there is no material before Council evidencing the current tonnage or cubic metreage of material being extracted from the quarry.

The representors believe that the current use of the quarry may well be in breach of the conditions previously imposed, in particular as to volume. The representors submit that in those circumstances Council should act with extreme caution in approving an increased level of production if the proponent has already breached the existing permit.

**Other matters requiring clarification**

There are other inconsistencies within the application and supporting material which require clarification. The application assumes that the storage of fuel on site will be limited to 200 litres. The storage of such a small amount of fuel on site is inconsistent with the likely uses of diesel fuel by the heavy machinery currently utilised by the proponent. The representors seek further clarification as to the likely fuel use and fuel storage requirements on site, by reference to the machinery to be used on site and the likely hourly consumption by those machines.

**Traffic impacts and safety**

The representors also have concerns with respect to the methodology employed with respect to the traffic assessment. The proponent submit that the likely traffic intensity is or should be assessed by reference to the peak number of movements when the quarry is in its most intensive production phase, but on the basis that this will not amount in any additional traffic movements.. The methodology which underpins this assumption must be questioned and tested. Surely, unless the production quarry material is completely divorced from the delivery of material from the site, an increase in production, without any proposal to stockpile, must result in additional activity. The proponent's own material (page 14 of Annexure D does, however concede that there will be more frequent peak activity. This does not however, explain why the number of movements will simply peak, and not exceed the estimated peak..

Further, the Tunnel road access is extremely narrow; traffic on that road is required effectively to travel in single file. Trucks servicing the quarry have been observed to wait on the intersecting road, again queued in single file waiting to enter the quarry access via Tunnel Road. As there are no toilet facilities drivers have been observed urinating at the roadside.

**Noise impacts on amenity- Traffic**

Further there is no reference within the material to the fact that whilst the sealing of roads under the previous permit has been designed to ameliorate problems with dust, trucks on the sealed road generate more noise due to higher speed.

The representor [REDACTED] states that under the existing permit conditions he is no longer able to load cattle due to truck traffic and noise has also substantially interfered with his cattle breeding program. The intensification of the use as proposed within the application demonstrates an incompatibility with the use of the property for primary production purposes.

Yours faithfully

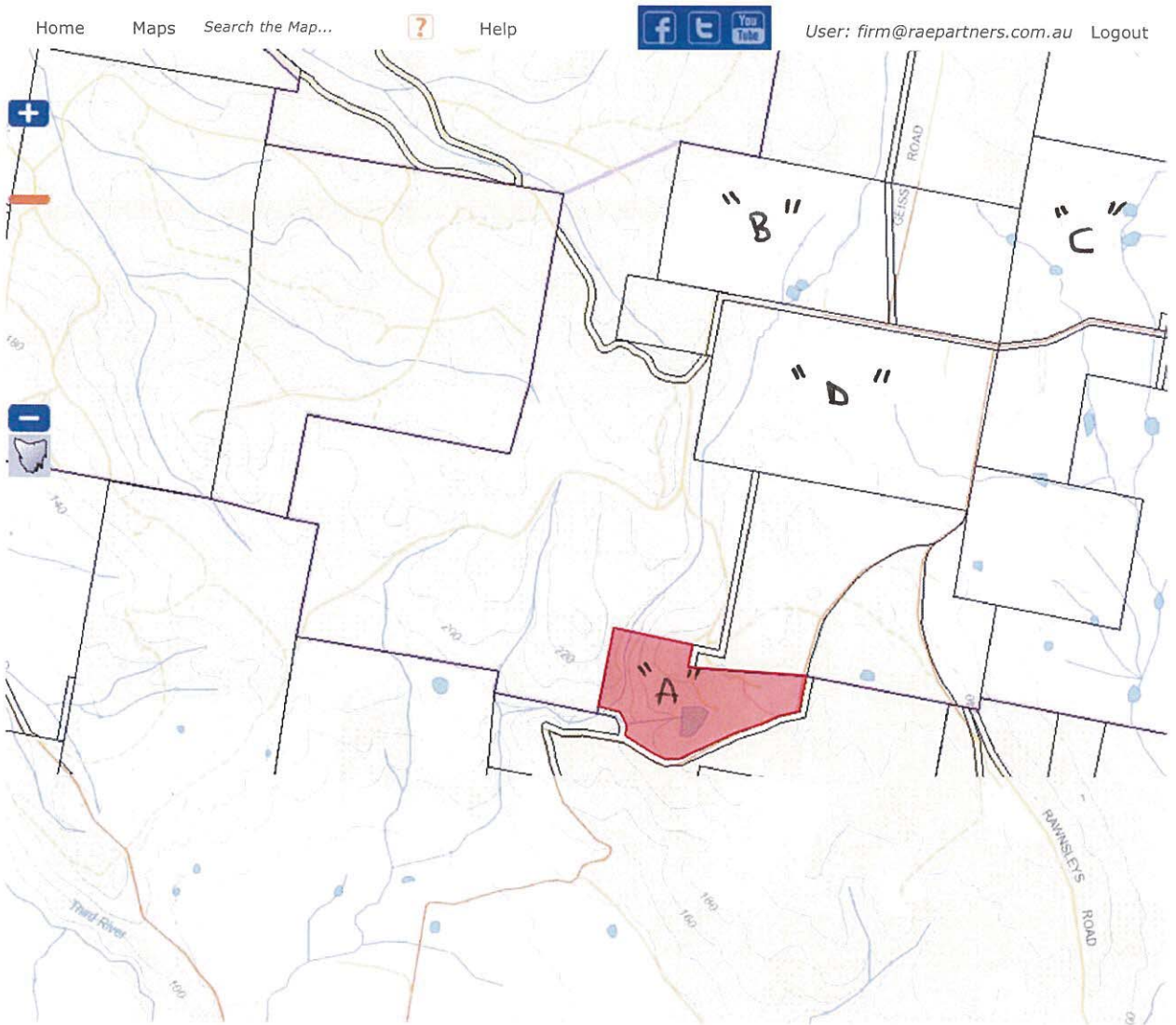
**RAE & PARTNERS LAWYERS**



**R A HART**

Director

Enc LIST map  
Decision J4/99  
Correspondence to LCC



- "A" - SUBJECT PROPERTY - DTK
- "B" - GL RAWNSLEY
- "C" - GL & WD RAWNSLEY
- "D" - NS RAWNSLEY

500 m  
GDA94 MGA55 : 513007E, 5440274N 1:13,542



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# Resource Management and Planning Appeal Tribunal of Tasmania

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## **DTK Logging Pty Ltd v Launceston City Council & S Rush v Launceston City Council & DTK Logging Pty Ltd v Launceston City Council & A Cordell Launceston City Council v S Rush [1999] TASRMPAT 4 (27 January 1999)**

**DTK Logging Pty Ltd v Launceston City Council & S Rush v Launceston City Council &  
DTK Logging Pty Ltd v Launceston City Council & A Cordell Launceston City Council v S  
Rush [\[1999\] TASRMPAT 4](#) (27 January 1999)**

**193, 196 & 198/98 P & A 44/98**

**J 4/99**

**337, 350 & 441 Gundagai Road, Tunnel - Quarries - Residential Amenity - Dust, Vibration  
& Noise**

BETWEEN

DTK Logging Pty Ltd Appellant

AND

Launceston City Council Respondent

BETWEEN

S Rush Appellant

AND

Launceston City Council Respondent

BETWEEN

DTK Logging Pty Ltd Appellant

AND

Launceston City Council & A Cordell Respondents

BETWEEN

Launceston City Council Applicant

AND

S Rush Respondent

This was the hearing of appeals against Council's approval of two quarries, and a residence; and of an application pursuant to [Section 64](#) of the [Land Use Planning and Approvals Act 1993](#) for an order restraining operation of a quarry.

The appeals and application were heard Launceston on the 21st of December 1998.

A Hamilton of Counsel appeared on behalf of the appellant DTK Logging Pty Ltd.

D Grey of Counsel appeared on behalf of the appellant S Rush.

B Doolan and W Burke appeared on behalf of the Department of Primary Industry Water and Environment.

G Rawnsley appeared for a party joined L Rawnsley.

W McMillan of Counsel appeared on behalf of the parties joined Leersen and Soccol.

S McElwaine of Counsel appeared on behalf of Council.

L Mathews appeared on behalf of the Mineral Resources

**DECISION**

1. S Rush made application for a permit to operate a quarry at 441 Gundagai Road. DTK Logging Pty Ltd made application for a permit to operate a quarry at 337 Gundagai Road. A Cordell applied for a permit to construct a residence at 350 Gundagai Road.
2. Representations were made to Council opposing each of the quarries upon the grounds that their operation would adversely affect the amenity of nearby residences by way of noise, dust and vibration emanating from the site; and by way of noise and dust from vehicles travelling along roads near those residences. Representations were made opposing the construction of the single residence on 350 Gundagai Road, upon the grounds that such a residence would suffer from noise, vibration and dust from the quarries.
3. Council refused a permit for each of the quarries upon the grounds of the likely adverse effect upon nearby residences, of noise, dust and vibration produced by the quarries; and the unsuitability of Gundagai Road for traffic from the quarries. Council granted planning approval for the residence on No. 350 Gundagai Road.
4. DTK Logging Pty Ltd appealed against Council's refusal of a permit for a quarry (appeal 193/98P). S Rush appealed against Council's refusal of a permit for the quarry (196/98P); and against Council's approval of the dwelling on No. 350 (appeal 198/98P). Council also applied for an order pursuant to [Section 64](#) of the [Land Use Planning and Approvals Act 1993](#) for an order that S Rush be restrained from operating the quarry without planning approval (A 44/98). Local residents, Messrs Leersen, Soccol and Rawnsley were joined as parties to the appeals because they were likely to be affected by the outcome.
5. Evidence was given, and not contested, that the parties Rush, DTK Logging Pty Ltd, and

Cordell, had agreed that those parties would purchase No. 350 Gundagai Road with the object of preventing any dwelling being constructed on that site. The Tribunal finds accordingly.

6. Both of the proposed quarries lie to the north west of Gundagai Road. Gundagai Road in the vicinity runs generally south west to north east past the quarries, to a junction with Rawnsleys Road; and then approximately north to a junction with a road running generally east to west, known as Tunnel Road and Colgraves Road. On the evidence, which was effectively uncontested, the Tribunal finds that Gundagai Road is a relatively narrow road unsuitable for heavy vehicular traffic to pass other traffic, in the section between the proposed quarries and the junction of Gundagai and Rawnsleys Road. Thereafter the evidence was and the Tribunal finds that Gundagai Road would be marginally suitable for such traffic, although would probably need widening. On the evidence Tunnel Road and Colgraves Road is a road maintained by Forestry Tasmania, and of adequate width for heavy vehicles such as prime movers and semi trailers and log trucks, to pass. All of the roads are gravel surfaced.

7. The southern most of the quarries is DTK Logging Pty Ltd, on 337 Gundagai Road. It is located within 100 metres of that road. The quarry operated by S Rush is on 441 Gundagai Road and is located about 100 metres to the west of Gundagai Road, and about 200 metres to the north of the DTK quarry. The nearest residences to the DTK quarry are that of the parties Soccol approximately 630 metres to the south east, and Leersen approximately 620 metres to the north east. The nearest dwellings to the Rush quarry are the Leersen dwelling to the north east, 550 metres distant, and the dwelling owned by Soccol, 800 metres to the south east. There is also a dwelling owned by the party Rush, 540 metres to the north east.

8. The Board of Environmental Management and Pollution Control, having the matters referred to it pursuant to Part 25 of the Environmental Management Pollution Control Act 1994, recommended approval of each of the quarries subject to conditions.

9. The relevant area is all subject to the provisions of the Launceston Planning Scheme 1996, and is in the Rural zone. To the north west, approximately 150 metres from the quarry owned by Rush, the zoning is Forest Practices, extending from the area of the quarries further than is presently relevant.

10. In the Rural zone a quarry is a discretionary use, and a single dwelling is generally a prohibited use.

11. The Intent of the Rural zone is stated by the Scheme as:

"1. This zone is intended to:

(i) facilitate genuine agricultural activity;

(ii) protect the agricultural capacity and viability of the rural land by discouraging fragmentation of rural holdings; and

(iii) avoid the encroachment of land uses, particularly residential uses, that may be detrimental to, or lead to the sterilisation of, the agricultural, forestry, mineral, scenic or water resource values of the land or surrounding area; and

...".

12. Clause 4.5 of the Scheme relates to rural development, and relevantly includes;

"Objective 4.5.1:

Encourage the use of rural areas predominantly for primary production and to protect these areas

from undue encroachment from non-agricultural uses.

Principles:

...

(d) Establish a balance of uses in rural areas having regard to the separate demands and impacts of agricultural production, forestry, residential use exploitation of rural resources, environment and scenic protection, and industrial uses unsuitable in densely settled areas.

...

(h) Achieve high levels of amenity in rural areas with respect to density of development, quietness, air quality, water quality and the conservation of rural landscapes, both natural and modified."

13. Clause 6 of the Scheme requires that in making a decision a comprehensive range of planning criteria be taken into account.

14. For the DTK quarry at 337 Gundagai Road the proposal was for a permit for 10,000 cubic metres per annum of extracted material. The quarry would be worked 6 weeks per annum. Four trucks would be involved, with an expected capacity of 18 to 20 cubic metres for a truck trailer combination. That would entail 500 - 600 trips, or 1,000 to 1,200 vehicle movements, per annum. The working of the quarry would require two blasts per annum to produce the 10,000 cubic metres. Additional blasts would on the evidence be very unusual and would only be required for safety or to deal with misfires. Other equipment in the quarry would include an excavator and from time to time a crusher. The material would be crushed in part by rolling beneath the tracks of bulldozers, and in part by the operation of a mobile crusher periodically brought to the site. Approximately 2 weeks per annum of crushing would be required to deal with the amount of material produced. The material produced would be used, most probably, by DTK Logging and by Forestry Tasmania, on forestry tracks. Access from the DTK quarry would be, upon the basis that Gundagai Road was found to be unsuitable, across the forestry land to the north west, to join Tunnel and Colgraves Roads. The evidence was and the Tribunal finds that DTK and Forestry Tasmania have agreed in principle and are likely to reach a binding agreement, that access across the Forestry Tasmania land from the DTK quarry to Tunnel Road, will be permitted.

15. The Rush quarry on 441 Gundagai Road was stated to be for the production of 5,000 tonnes of material per annum. It was not envisaged that there would be any need for blasting, but the possibility could not be excluded. The quarry has been operated at a lower production level for approximately 50 years. Again, a mobile crusher would be operated if required, for a maximum of approximately 1 week per annum. The vehicles used in extracting the material would be various, depending upon the identity of the user involved. They would vary from large truck trailer combinations down to individual trailers. It is therefore not possible to accurately estimate the number of vehicle trips per annum.

16. As with the DTK quarry, evidence was given and the Tribunal finds that agreement in principle had been reached with Forestry Tasmania, and final agreement was likely to be reached, that access from the S Rush quarry to Tunnel and Colgraves Roads, would be allowed across the Forestry Tasmania land to the north west of the site. That would obviate using the narrow section of Gundagai Road running to the north east.

17. Expert evidence was given with respect to the effects of blasting. B Doolan gave evidence of the likely production of noise; W Burke gave evidence as to vibration, noise, fly rock and dust; L Mathews, the Chief Geologist with Mineral Resources gave evidence as to the production of vibrations and air blast effects; O Ingles gave evidence with respect to the likely effect of blast



vibration upon soil stability at the property owned by the parties Leersen. General reference was made to the Forestry Code of Practice. That Code relevantly provides, in substance, that:

"New quarries should not be located close to existing residences or other sensitive uses. Similarly, proposals to locate new residences adjacent to existing quarries should be discouraged, if possible, to reduce potential for environmental nuisance. It is suggested that planning authorities seek to maintain the following separation distances:

Where no blasting, crushing or screening occurs 300 metres.

Where vibrating screens are utilised 500 metres

Where material is crushed 750 metres

Where regular blasting takes place 1000 metres

(Measured from the planned maximum extent of quarry operations to any sensitive uses)."

18. The evidence from the expert witnesses was that "regular" blasting as referred to in the above Code was significantly in excess of up to 2 blasts per annum. Similarly they regarded the crushing of material as relating to more frequent and extensive crushing than over approximately 2 weeks per annum.

19. The evidence of the expert witnesses was substantially in agreement, save for that with respect to the stability of the land in the vicinity of the residence owned by the parties Leersen. Other than as to that matter, the expert evidence was that it was unlikely that the noise dust or vibrations emanating from the quarry sites would have any significant adverse effect upon any nearby residents. The effect of blast would however be felt at nearby residences; (this opinion was consistent with evidence given by the parties Leersen that they had experienced appreciable sound and vibration from the occurrence of a blast at one of the quarries). While it is ultimately a matter for the Tribunal, the expert witnesses were in agreement that with respect to the production of vibration, sound and dust, while in the case of the Leersen property the distance was marginally under that required by the Quarry Code of Practice, and in the case of the Soccol residence marginally over that distance, the relative infrequency of the blasting, crushing and other operations on the quarry sites would not produce a result inconsistent with the objectives of the restrictions in the Quarry Code of Practice.

20. Evidence was given on behalf of the parties Leersen that they had chosen their property as a residence because of the relatively peaceful nature of the area. While logging could reasonably be expected in the area zoned Forest Practices, immediately to the west of the Rush quarry, that had not to date been experienced by the Leersens. The graveled surfaced Gundagai Road passes within 100 metres to the north of the Leersen property, and trucks from the quarries travelling along that road could be expected to produce significant quantities of dust on that property.

21. The Soccol property to the south east of the quarries has been developed by the Soccol family into an area of natural beauty and a haven for native flora and fauna. It is on the evidence frequently visited by parties from outside Tasmania and overseas, to experience those features. The concern of the Soccol family was that operation of the quarries would produce dust, vibration and noise which would detrimentally affect both the human experience and in the case of dust may detrimentally affect the flora on the property. There was however no evidence produced which satisfies the Tribunal that in the case of flora on the property there is any basis for finding a potential adverse effect from operation of the quarries. The human experience on the properties would during operation of the quarries be potentially adversely affected by noise and vibration from operation of the quarries, during their limited periods of operation.

22. It was common ground between all parties that the passage of trucks along the gravel surfaced Tunnel Road would potentially give rise to a dust nuisance to the properties adjoining that road. The only properties from which concern was expressed, was those belonging L Rawnsley and one Chugg. The evidence was further that sealing the surface of Tunnel and Colgraves Road for a sufficient distance on either side of those residences would adequately obviate the potential dust nuisance. Each of the appellants Rush and DTK indicated that they were prepared to abide by a condition requiring such sealing.

23. The possibility of the quarry workings expanding south easterly in the direction of the property owned by the parties Soccol is not significant, as the DTK quarry on No. 337 has only a short distance between it and the road, and could only to expand towards the west or north. The quarry operated by Rush is further away from the Soccol residence. The evidence was and the Tribunal accepts that the Rush quarry is planned to expand not to the east towards the Leersen property, but rather to the west. That could be ensured by an appropriate condition.

24. The issue with respect to ground stability on the Leersen property was the subject of evidence of Dr O Ingles, an expert in rock and soil qualities. His evidence was that there would be a 1 in 5 to a 1 in 10 chance of damage to the Leersen house by reason of the effect of vibration from blasting, if the soil was in a particular state of saturation. He recommended that there be no blast within 14 days of a rain event of at least 30 millimetres rainfall in a 24 hour period. He conceded that that was a conservative estimate, but adhered to it. There was no more expert evidence of greater weight, to the contrary. The Tribunal finds according to Dr Ingles opinion in this respect.

25. It was contended for the parties Soccol and Leersen that if conditions were necessary to make a development or use appropriate, then it was necessary to consider whether the use or development should be allowed at all, and to consider the enforceability of conditions. Here the Tribunal is satisfied that an industry such as a quarry, which is ordinarily subject to numerous environmental and other conditions, is appropriately controlled by conditions and that the need for conditions does not mean that the development is inappropriate. Further, the Tribunal is satisfied that the conditions imposed are reasonably enforceable.

26. It was also contended for the parties Soccol and Leersen that the subjective concept of amenity held by the parties Soccol and Leersen was an important factor. This was relevant because those parties expressed a particular appreciation of the peace and quiet and natural qualities of the area. While such a factor must be taken into consideration, it must be taken into account together with the other purposes of the Rural zone, including, as set out in the Planning Scheme, agriculture and primary industry and the winning of mineral resources. All of those latter activities may be expected to produce noise and disturbance to residential use.

27. Having regard to all of the evidence and particularly to the relatively infrequent blasting and short period of crusher operation, the Tribunal finds that the operation of the quarries is not likely to interfere unreasonably with the residential amenity of the properties owned by the parties Leersen or Soccol, or with that of any other party. That is, so long as the operation of the quarries is in the manner described above, and subject to appropriate conditions.

28. The Departmental Environmental Officer responsible for the assessment and regulation of all aspects of mining and quarrying in Tasmania, Mr Burke, gave evidence of conditions which he would suggest be imposed upon the operation of the quarries. None of those conditions was substantially contested. The Tribunal finds that those conditions are appropriate conditions to ensure that the operation of the subject quarries does not unreasonably affect the amenity of the nearby residents. In addition, the Tribunal finds that it is inappropriate to use Gundagai Road as an access road for the quarries, and that access should occur along a road to be constructed over the Forestry Tasmania land to the North West, consistently with the agreements previously referred to in this decision. The residential amenity of the properties owned by Rawnsley and Chugg, adjoining Tunnel and Colgraves Road, should be properly protected by a requirement that those

roads be sealed for an appropriate distance near to those residences.

29. The solicitor acting for the party A Cordell indicated that Mr Cordell was content to abide by the Tribunal's decision in relation to the appeals in so far as they related to him, and he was not represented at the hearing. It is therefore appropriate to uphold the appeal by DTK against Council's permit for a dwelling on 350 Gundagai Road. It is also appropriate to require that the parties Rush and DTK enter an agreement with Council pursuant to [Part 5](#) of the [Land Use Planning and Approvals Act 1993](#), that no residence be erected upon 350 Gundagai Road.

30. It being appropriate to allow the operation of the Rush quarry, application A 44/98, pursuant to [Section 64](#) of the [Land Use Planning and Approvals Act 1993](#), should be dismissed.

31. The decision of the Tribunal is as follows.

1. Application A 44/98 is dismissed.

2. Appeal 198/98 P by DTK against the Council and A Cordell, is allowed and Council's permit for a dwelling on 350 Gundagai Road is set aside and replaced with a refusal.

3. Appeal 193/98 P by DTK Logging Pty Ltd is allowed, and Council's refusal of a permit is replaced by a permit to carry on an extractive industry on 337 Gundagai Road, subject to the following conditions.

1. The conditions set out in "Appendix C" pages 1 to 8 inclusive, annexed to this decision.

2. The appellant is to seal and maintain until use of the site for an extractive industry is abandoned, the surface of Tunnel Road for a distance of 100 metres on either side of the residence occupied by LE Rawnsley, 480 Tunnel Road.

3. No blasting is to occur within 14 days after a rainfall event of at least 30 millimetres rainfall within a single 24 hour period.

4. There is to be no access to or from the sites for the purposes of or connected with an extractive industry, directly from Gundagai Road.

5. The appellant is to enter into an agreement pursuant to [Part 5](#) of the [Land Use Planning and Approvals Act 1993](#), with the Launceston City Council, not to use 350 Gundagai Road for residential purposes.

4. The appeal by S Rush, 196/98 P is allowed and Council's refusal of a permit is replaced by a permit upon the following conditions.

1. The conditions set out in "Appendix G", pages 1 to 7 inclusive, annexed to this decision.

2. No blasting is to occur within 14 days after a rainfall event of at least 30 millimetres rainfall within a single 24 hour period.

3. The appellant S Rush is to seal and maintain until use of the site for an extractive industry is abandoned, Colgraves Road for a distance of 100 metres on either side of the residence occupied by Chugg at 441 Colgraves Road.

4. There is to be no access to or from the site for the purposes of or connected with an extractive industry, directly from Gundagai Road.

5. The appellant is to enter into an agreement pursuant to [Part 5](#) of the [Land Use Planning and Approvals Act 1993](#), with the Launceston City Council, not to use 350 Gundagai Road for

residential purposes.

6. The quarry is not to expand towards the east.

32. The Tribunal will entertain any application for an order for costs in this appeal, if made to the Tribunal in writing with supporting submissions within the next fourteen days. If requested the Tribunal will reconvene to hear any evidence in respect of any matter bearing on an order for costs.

33. In the absence of any such application for an order for costs the order of the Tribunal is that each party bear its own costs.

Dated the 27<sup>th</sup> day of January 1999

**REJ Cannell KAM Pitt QC CG Pryor**  
**Chairman**

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Your Reference: DA0523/2009

Our Reference: RGC:HR 115949

Direct E-Mail: [marker-Email]

Direct Line: [marker-DirectLine]

COPY

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Scott Chellis

Nicholas Reaburn

Melanie Kerrison

Matthew Pawson

10 January 2012

Harjinder Singh, Manager Planning  
Launceston City Council  
PO Box 396  
Launceston TAS 7250

Dear Sir

**RE: EXTRACTIVE INDUSTRY, 337 GUNDAGAI ROAD, BANGOR**

We are instructed to act for Gilbert Rawnsley in relation to the extractive industry being undertaken by DTK Logging Pty Ltd at 337 Gundagai Road, Bangor, in Tasmania (the "Quarry").

On 27 January 1999, the Resource Management and Planning Appeal Tribunal (the "Tribunal") required Launceston City Council ("Council") to issue a permit for the construction of the Quarry. The permit was to include the following relevant conditions:

2. *The appellant is to seal and maintain until use of the site for an extractive industry is abandoned, the surface of Tunnel Road for a distance of 100 metres on either side of the residence occupied by L E Rawnsley, 480 Tunnel Road.*
4. *There is to be no access to or from the sites for the purposes of or connected with an extractive industry, directly from Gundagai Road (rather, access was to be gained via Forestry Tasmania land to the north-west of the quarries, to join Tunnel and Colgraves Roads).*

By way of further direction dated 24 February 1999, the Tribunal specified in detail the standard of road works for the sealed sections of Tunnel Road. Our client has instructed that the road works to seal Tunnel Road in the vicinity of 480 Tunnel Road have never been carried out, in breach of the Tribunal's order.

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Council approved an application to expand the production limit of the Quarry from 10,000 to 50,000 cubic metres per annum on 21 March 2011. The permit included the following relevant conditions:

4. *Sealing of Tunnel Road:*

*This permit is not effective until the quarry access route has been sealed from the corner... through to the entrance of residence G... The road shall be upgraded and have a sealed width of 6.0 metres comprising of 2 x 3.09 metre lanes, with 1.0 metre wide gravel shoulders. That section of road falling outside the existing extent of Tunnel Road which is presently maintained by the Council shall be maintained by the operator of the quarry for the duration of the quarry operation... and must be maintained to the satisfaction of the Director Infrastructure Services to ensure that the seal remains intact...*

5. *Upgrade and maintenance of public roads*

*Prior to the increase in production, Tunnel Road shall be upgraded to a sealed width of 6.0 metres being comprised of 2 x 3.0 metre lanes with 1.0 metre wide shoulders.*

(i) *The extent of the upgrade shall be from the intersection with Gundagai Road west for a distance of 630 metres, representing the existing extent of the western most edge of the dust seal associated with the dwelling at 480 Tunnel Road.*

(ii) *The section of Tunnel Road between Gundagai Road and Bacala Road shall be reconstructed to a width of 8.0m – this consists of 2 x 3.0 metre trafficable lanes and 1.0 metre wide shoulders. The reconstruction shall be suitable to allow Council to immediately seal the pavement.*

We seek Council's advice (including provision of relevant documents) as to:

1. the current status of the Quarry, including its historical and current production levels;
2. the current status of the road works required pursuant to conditions 4 and 5 of the 2011 expansion permit; and
3. any proposal to acquire land from the owner of 480 Tunnel Road for the purposes of road widening; and
4. any steps taken by Council to enforce compliance with the conditions of the 1999 permit and the 2011 expansion permit.

We look forward to your response. Should you wish to discuss the matter further, please do not hesitate to call.

Yours faithfully  
**RAE & PARTNERS LAWYERS**



**REBECCA CRAWFORD**  
ASSOCIATE

File No: DA0523/2009  
SML

Your Ref: 337 Gundagai Road

08 FEB 2012

6 February 2012

Ms Rebecca Crawford  
PO Box 1257  
**LAUNCESTON TAS 7250**

Dear Ms Crawford

**Extractive Industry - 337 Gundagai Road**

Further to our brief conversation regarding your letter dated 10 January 2012, please find attached some of the information which you requested.

I have spoken with the quarry owner and he is compiling the information regarding the production levels of the quarry. As soon as that information is made available to Council, we will advise you.

The following comments were made by Council's Infrastructure Department:

1. Re: Status of the quarry - This is not known as such information is reported to the Department of Primary Industries, Parks, Water and Environment as the site is a Level 2 facility
2. Re: Status of the roadworks (2011 permit) - There has been no progress to our knowledge to date. The road upgrade was only required when the owner wished to exceed the 10,000 cubic metre pa production limits.
3. Re: Land acquisition - The Road Reservation width seems more than sufficient to cater for the 8m road pavement, as required in the permit conditions.
4. Re: Compliance with 1999 conditions - Records indicate that Tunnel Road is sealed in the order of 100m on either side of the residence. (Note if measured from the actual residence then the road is sealed approximately 140m but if measured from the entrance drive then it is 100m). The quarry appears to use Tunnel Road access exclusively, hence appears to be compliant with the permit conditions.

Please note I will be on leave from 6 February however Harjinder Singh is aware of the request and will forward the information we receive from the quarry operators once it is received. In my absence please refer any queries to Harjinder.

Yours sincerely

pp 

**Sarah McLaughlin**  
**DEVELOPMENT PLANNER**





Your Reference:

Our Reference: RAH:TMS 115949

Direct E-Mail: ross.hart@raepartners.com.au

Direct Line: 03 6337 5555

# RAE & PARTNERS

incorporating Levis Stace & Cooper  
Will Edwards Lawyers

8 March 2013

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**COPY**

CONSULTANTS

Will Edwards

Leon Wootton

Peter Swan

Matthew Pawson

The Manager, Planning  
Launceston City Council  
PO Box 396  
LAUNCESTON TAS 7250

Dear Sirs

**RE: DA0523/2009 – OUR CLIENT GILBERT, WENDY & NATHAN  
RAWNSLEY – 337 GUNDAGAI ROAD BANGOR – LEVEL 2 ACTIVITY –  
EXTRACTIVE INDUSTRY – INCREASE PRODUCTION LIMITS OF  
EXISTING QUARRY**

We refer to this matter. A permit was issue on 21 March 2011. Our clients have sought advice as to whether the proponent has in fact increased the production at the subject quarry, noting that on our instructions, the permit conditions with respect to the increase in production with respect to the sealing and construction of the roadway have not yet been complied with.

Has Council determined:

- a. whether production has been increased to the level contemplated as the threshold in the permit; and if so
- b. whether the terms of the permit have been complied with.

Could you please advise as soon as possible. Our clients are concerned that the second anniversary of the permit is shortly to arrive. There will be questions, therefore, as to whether the permit is still effective and, from our clients' perspective whether our clients should commence proceedings under Section 64 in the event that the proponent has commenced production without complying with the terms of the permit.

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Devonport (Levis Stace & Cooper), Scottsdale, Exeter, Deloraine, St Marys, St Helens & Flinders Island

Are you able to revert to us no later than the close of business on 15 March so that we can seek instructions from our client as to the matter generally?

Yours faithfully  
**RAE & PARTNERS LAWYERS**

**R A HART**  
Director

File No: DA0523/2009  
Your Ref: DA0523/2009

04/07/2013

05 JUL 2013

Ross Hart  
Rae and Partners  
PO Box 1257  
LAUNCESTON TAS 7250

Dear Mr Hart

**DA0523/2009 - Quarry at 337 Gundagai Road, Bangor**

I refer to your letter dated 8<sup>th</sup> March 2013, regarding the concerns of your client Mr. Rawnsley about the enactment of planning permit DA0523/2009. Firstly, Council regrets the delay that has occurred in replying to your inquiry. The planning officer originally managing the compliance of this planning permit, Sarah McLaughlin, has ceased working with Council. It has only recently come to Council's attention that your inquiry had not been addressed.

On the 15<sup>th</sup> of March 2013, Ms McLaughlin sent an email to Rae and Partners advising that Mr Bardenhagen, the owner of 337 Gundagai Road, had constructed most of the road as required by DA0523/2009. I have included a copy of this email for your records.

Council's Infrastructure Department had previously signed off on the road construction as being in compliance with Conditions 4, 5, 6 and 8 of the Planning Permit. As such Mr Bardenhagen began operating the quarry in accordance with DA0523/2009.

Due to an error on Council's part, a small section of the road which was required to be made and sealed was not. Council takes full responsibility for this and will complete the section of road as soon as possible.

It is Council's position that Mr Bardenhagen has acted in good faith on advice from Council that Conditions 4, 5, 6 and 8 of DA0523/2009 have been complied with and his permit has been enacted.

If you have any further queries please contact the Planning Department on 6323 3398.

Yours sincerely



**Andrew Newton**  
**PLANNING COMPLIANCE OFFICER**



**From:** Sarah McLaughlin  
**Sent:** Friday, 15 March 2013 10:16 AM  
**To:** 'ross.hart@raypartners.com.au'  
**Cc:** Richard Jamieson  
**Subject:** 337 Gundagai Road

Mr Hart,

Further to your letter dated March 8<sup>th</sup>, I have spoken with Mr Bardenhagen the owner of 337 Gundagai Road and he has informed me that the road works required to enact DA0523/2009 have been carried out and signed off by Council. He also informed me that the appropriate documentation has been provided to him by the EPA to begin operating the quarry under the conditions of Planning Permit DA0523/2009. On this advice I believe that planning permit DA0523/2009 has been enacted.

My understanding is that Mr Gilbert believes that the road has not been constructed properly. This is an Infrastructure Department issue and I cannot comment apart from saying that it is my understanding that Peter Stacey, Infrastructure Services LCC has signed off on the works and as such they should meet the permit requirements.

As Peter Stacey is the officer who has dealt with the matter I suggest that you deal with him directly. He is on leave for the next 4 weeks however will be happy to clarify things once he is back if you contact him.

Best regards,

**Sarah McLaughlin** | Development Planner | Launceston City Council  
T 03 6323 3356 | F 6323 3385 | [www.launceston.tas.gov.au](http://www.launceston.tas.gov.au)

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This disclaimer has been automatically added.

23 July 2013

Gilbert Rawnsley  
19 Bronzewing Avenue  
**NEWNHAM TAS 7248**

Dear Sir

**Vehicle Crossings off Tunnel Road (Bacala Road to South Retreat Road)**

With reference to our on-site meeting Monday, 15 July I note your concerns and clarify the following:

- Council favours the elimination of culvert pipes and headwalls where overland water flows have small catchment areas. The intent is to minimise construction costs and ongoing maintenance concerns with underground minor piped networks.
- The vehicular entrance as shown on the attached plan marked driveway A meets this criteria and is performing to expectations.
- The vehicular entrance as marked driveway B has not been constructed satisfactorily and is not currently meeting expectations.
- Employees of Bardenhagen Quarries were carrying out corrective maintenance on Monday 15 July and after your discussions with them, the work ceased.

I will therefore be instructing the contractor to recommence the additional work, including scour protection of the road side drain. This will ensure the driveway crossing meets the required construction standard.

Your objection to the elimination of a piped culvert is noted.

Yours sincerely



**Peter Stacey**  
**ROAD ASSETS MANAGER**

**Attachments:**

- 1 Locations of concerned driveways



Locations of concerned driveways



Driveway A



Driveway B



Your Reference:

Our Reference: RAH:TMS 115949

Direct E-Mail: ross.hart@raepartners.com.au

Direct Line: 03 6337 5555

# RAE & PARTNERS

incorporating Levis Stace & Cooper  
Will Edwards Lawyers

9 January 2014

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The Manager, Planning  
Launceston City Council  
PO Box 396  
LAUNCESTON TAS 7250

Dear Sir

**RE: DTK LOGGING PTY LTD**

We write again with respect to the permit issued in favour of DTK Logging by virtue of DA0523/2009.

The permit requires the developer to refrain from using the section of Tunnel Road between Bacala Road and Golconda Road for the carriage of quarry material.

We are instructed by our client that the permit holder is presently carting quarry material to Scottsdale via that section of roadway.

We are instructed to enquire of Council on behalf of our client Gilbert Rawnsley as to what steps Council proposes to take as to:

- a. confirm whether the permit is being breached;
- b. enforce the terms of the permit.

Yours faithfully  
**RAE & PARTNERS LAWYERS**

**R A HART**  
Director

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RAE & PARTNERS PTY ABN 39 109 423 645

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Your Ref:

20 February 2014

Mr Gilbert Rawnsley  
19 Bronzewing Avenue  
**NEWNHAM TAS 7248**

Dear Mr Rawnsley

### **HEAVY VEHICLES - TUNNEL AND BACALA ROADS**

I write to advise of the outcomes from the on-site meeting on Wednesday 5 February 2014, between ourselves and Harry Galea to discuss issues concerning trucks utilising Tunnel and Bacala Roads.

### **TUNNEL ROAD RECTIFICATION WORKS**

In respect to the section of Tunnel Road inspected, the Council will undertake the following:

**The scoured embankment at location of culvert (east side at bottom of dip approximately 700m north of Bacala Road intersection) - the culvert will be extended both sides to prevent further erosion and to make safe and guide posts will be added as necessary. Minor erosion control work and minor drainage works will also be carried out adjacent to the culvert extension**

**The large pot hole forming in middle of road approximately 500-600m from Bacala Road, - Potholing will be carried out in Tunnel Road and Bacala Road while some minor shoulder work will also be completed along Bacala Road.**

**Stormwater on the low side of your driveway (west side about 700-800m north of Bacala Road) which, you allege, frequently diverts through your paddock causing boggy conditions in winter. An additional driveway culvert will not be provided at this stage. The Council will monitor the situation and undertake remedial action if a problem is observed in the future.**

### **HEAVY VEHICLE USE OF GRAVEL SECTION OF TUNNEL ROAD**

In respect to the use of the gravel section of Tunnel Road (Bacala-Golconda Road) by quarry transport vehicles, I advise as follows:

Some 3-4 years ago Council, after consulting with residents along Tunnel and Bacala Roads and the quarry operator, decided to reconstruct and fully seal Bacala Road to be the primary access for residents and access to the quarry. These works were finalised and as a whole used since that time in accordance with the intended purpose.





In recent months both yourself and other Tunnel Road residents have raised significant concern given that frequently 50 quarry trucks or more are travelling along the gravel section of Tunnel Road each day. Council appreciates that these vehicles are travelling into the north-east and the Tunnel Road route is 4km shorter, but the frequency of vehicles is a serious compromise to the local amenity. Use of Tunnel Road is considered unreasonable particularly given that Bacala Road was specifically constructed to provide for this rural industry.

As a result of Council's investigations, an application has been forwarded to the Department of Infrastructure, Energy & Resources (DIER) seeking that a 12 tonne load limit be applied along Tunnel Road (between Bacala and Golconda Roads). We expect the application process and, if approved, the installation of signs will take 4-6 weeks.

Once the signs are erected then all vehicles over 12 tonne will be prohibited unless specific exemption permits are issued. The load restriction will be enforced by the State Government Traffic Enforcement Branch and Police.

### **NOISE FROM HEAVY VEHICLES**

It is noted that you own the farming property 480 Tunnel Road, Tunnel

The Council has investigated your allegations that noise from the heavy vehicles using Tunnel Road is causing you a noise nuisance and have concluded that noise emanating from the legal use of the road by trucks does not constitute an environmental nuisance under the *Environmental Management & Pollution Control Act 1994* (EMPCA).

Under EMPCA, **environmental nuisance** means –

*(a) the emission, discharge, depositing or disturbance of a pollutant that unreasonably interferes with, or is likely to unreasonably interfere with, a person's enjoyment of the environment; and*

*(b) any emission, discharge, depositing or disturbance specified in an environment protection policy to be an environmental nuisance;*

However, in order for an environmental nuisance offence to occur s.53 of the Act states that a person must **wilfully** and/or **unlawfully** cause an environmental nuisance.

In assessing this matter against these 'tests', the following view has been formed:

Under the first test, a person must **wilfully** cause an environmental nuisance. I do not consider that an argument could be made that the trucks using the road, are wilfully causing an environmental nuisance.

Under the second test, a person must **unlawfully** cause an environmental nuisance, which means "not conforming to, permitted by, or recognised by law or rules". Trucks using the roadway is a lawful use.

Following the above-mentioned rationale, we are not of the view that an environmental nuisance offence can be proven for the use of the roadway by trucks.

Accordingly, no further action will be committed to the further investigation of this matter. As such, I would like to draw to your attention Section 48 of the EMPCA which provides for you to initiate civil enforcement proceedings through the Resource Management and Planning Appeals Tribunal should you disagree with the Council's conclusion.

Yours sincerely



**Michael Stretton**  
**DIRECTOR DEVELOPMENT SERVICES**

22 September 2014

GL Rawnsley  
19 Bronzewing Avenue  
NEWNHAM TAS 7248

Dear Mr Rawnsley

**Tunnel Road - Heavy Vehicles**

Earlier this year the City of Launceston received complaints about the dust and noise generated by heavy vehicles along Tunnel Road between Golconda Road and Bacala Road.

I wrote to you advising that we had been investigating how Tunnel Road (Bacala to Golconda Road) was used by quarry transport vehicles. I also advised you of the outcome of that investigation.

I wrote to you again advising that an Application had been made to the Magistrates Court where the applicant sought to have the decision to impose a 12 tonne load limit on Tunnel Road reviewed and that we had received an Order to attend the Hearing.

The purpose of this letter is to advise you that the matter was heard on 2 May and 17 June with no resolution made. The Magistrate was not willing to make an order to refuse erection of the load limit given that the Court may not have jurisdiction over the matter.

As the summer months are quickly approaching and the problem of noise and dust from heavy vehicles using Tunnel Road will most likely be of concern again, I consider it reasonable to install the load limit signage during the first week of November 2014.

If, in time the Court finds in favour of the Application, we will receive an Order to remove the load limit. I will write to you at that time and advise the Court's decision.





# LAUNCESTON CITY COUNCIL

*A Leader in Community & Government*

## PLANNING REFUSAL

APPLICATION NO: **DA.00.98.229**

PLANNING SCHEME: **LAUNCESTON PLANNING SCHEME 1996**

ADDRESS OF THE LAND:  
**337 GUNDAGAI ROAD, TUNNEL**

USE APPLIED FOR:  
**EXTRACTIVE INDUSTRY (QUARRY)**

### GROUND(S) FOR REFUSAL:

---

1. The use and development is incompatible with adjoining and surrounding land uses.

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St John Street  
Launceston  
Tasmania 7250  
Australia  
PO Box 396  
AusDoc DX 70127  
Launceston  
Phone 0363371318  
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SIGNATURE FOR THE COUNCIL

  
**T. DOMENEY**  
Planning &  
Development Manager

APPLICATION NO: **DA.00.98.229**  
DATE ISSUED: **15 SEPTEMBER 1998**  
PAGE 1 OF 1

Your Reference:

[REDACTED]  
[REDACTED]  
[REDACTED]

**RAE & PARTNERS**

*incorporating* Levis Stace & Cooper  
Will Edwards Lawyers

10 August 2015

The Manager, Planning/Development  
Launceston City Council  
PO Box 396  
LAUNCESTON TAS 7250

Attention Ms Julia Allen

**DIRECTORS**  
Phillip Lebski  
Ross Hart  
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Nicholas Reaburn  
Melanie Kerrison  
**CONSULTANTS**  
Will Edwards  
Leon Wootton  
Peter Swan  
Matthew Pawson

By email only [council@launceston.tas.gov.au](mailto:council@launceston.tas.gov.au)

Dear Ms Allen

**RE: DA 0074/2015 – 337 GUNDAGI ROAD BANGOR**

Thank you for the further material supplied in connection with this application for development approval.

We are instructed as follows with respect to the further material.

1. Trucks of varying size already access the quarry 6 days per week most weeks per year creating noise and dust problems as reported in complaints. It follows that if increased truck movements are contemplated under the DPEMP, any issues with respect to amenity, that is with noise and dust will exacerbate the present situation.
2. The single lane access to the quarry is unsafe. Adding extra volume of trucks will make the present situation worse. We are instructed the present access is unable to be widened. Other access is available and, if available, should be used and should be made a condition of the approval.
3. The application and DPEMP Supplement indicate the truck movements per day will not increase. There is no contemporaneous or recent material as to measurement of truck movements per day, particularly addressing the frequency of truck movements versus the number of hours worked. The material supplied thus far does not give a realistic indication of the effect of traffic movements by simply expressing either peak movements or the average number of movements. Comprehensive data might involve the graphing of movements along a time log so

[REDACTED]  
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as to properly reference the number of movements against the hours worked.

Yours faithfully

**RAE & PARTNERS LAWYERS**



**R A HART**

Director