



QUARRY DEVELOPMENT BULLETIN

Allandale Blue Metal Court case shows potential for some quarry approvals to be worthless



The NSW Court of Appeal has highlighted the risks in relying on open-ended consents for quarries in the matter of Allandale Blue Metal Pty Ltd v Roads and Maritime Services [2013] NSWCA. Justice Sheahan reviewed the ambit of a development consent granted in 1979 for the conduct of quarry operations on the land owned by Allandale.

The issue was as to whether the development consent permitted quarrying operations in respect of:

❑ An indeterminate area over the whole of the land (400ha) as per the original consent granted (as the quarry operator contended)

or

❑ Only over a smaller area identified by a circle on a plan enclosed with the original development application (as the respondent contended).

The Court of appeal found for the respondent.

The Court of Appeal decision upheld an earlier decision by Justice Sheahan of the NSW Land & Environment Court. The original consent was silent on the size or location of the approved quarry or quarry volumes.

Justice Sheahan found that the information required to give the consent any meaning was by reference a letter accompanying the DA and a concept plan showing where quarrying was proposed on the land.

The Judge referred to one Court of Appeal judgement that found that without a plan a consent was 'meaningless'.

The Court therefore found that quarrying was only permitted in the 40ha area on the Plan circled and labelled 'proposed quarrying area' and not to the 400ha property.

....The message from this Court judgement is **CHECK YOUR QUARRY CONSENT & CALL US.**

QUARRY TIP:

Did you know that, subject to obtaining consent, quarry operators can co-locate other related commercial activities within their quarry regardless of the zoning of their quarry?

Quarry owners working existing lawful quarries can co-locate within their quarries uses including:

❑ Processing of **construction and demolition waste** or of other material that is to be used as substitute for extractive material.

❑ Facilities for the processing or **transport** of extractive material.

❑ **Concrete works** that produce pre-mix concrete or bitumen pre-mix or hot-mix.

...even if local council planning controls prohibit either quarrying or the above uses.

◆ **Call us to find out how.**

OUR CONTACT INFORMATION:

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