

Agenda Item	7.1
Report No	PLS-80-22

HIGHLAND COUNCIL

Committee: South Planning Applications Committee

Date: 05 September 2022

Report Title: 22/02323/S42: Pat Munro (Alness) Ltd
Land 300M NW Of Invereen, Dalmagarry Wood, Tomatin

Report By: Area Planning Manager – South

Purpose/Executive Summary

Description: Section 42 application to vary condition 2 and 3 of planning permission 14/03270/FUL importation of inert soils for restoration purposes; amend phase 1 and 2 of the working scheme; relocate asphalt operations; recycling of inert construction and demolition wastes to produce recycled aggregates

Ward: 19 – Inverness South

Development category: Major

Reason referred to Committee: Major development

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

Recommendation

Members are asked to agree the recommendation to **GRANT** the application as set out in section 11 of the report.

1. PROPOSED DEVELOPMENT

- 1.1 This application has been submitted under Section 42 of the Town and Country Planning (Scotland) Act 1997 (As Amended) and relates to Condition 2 (Use of the site) and Condition 3 (Phasing) attached to planning permission 14/03270/FUL granted on 27 July 2015 in respect of the Dalmagarry Sand and Gravel Quarry located approximately 3km north of Tomatin and accessed from the A9(T). The original permission is attached to this report as Appendix 2.
- 1.2 The application has been submitted due to part of the site being subject to a compulsory purchase order related to the A9 dualling project. This means that the agreed phasing of the quarry, and location of the asphalt plant, requires to be revisited to accommodate the area that can no longer be utilised. Following completion of the A9 dualling project, the future access to the site will be via the Ruthven-Tomatin Link Road which connects to the A9(T).
- 1.3 The importation of material to the quarry is currently restricted. The applicant proposes to utilise the inert material which will be extracted as part of the A9 dualling project to restore the quarry. Further, the applicant has a separate planning application pending for the recycling of inert construction and demolition waste. This would allow the recycling of up to 20,000 tonnes of inert material each year. Neither the importation of inert material for restoration nor recycling of inert material would be possible under the terms of the current planning permission for the quarry.
- 1.4 The quarry is estimated to contain around 1,000,000 tonnes of sand and gravel and the original permission contained provision to extract this on a phased basis over a period of 15 years. The development of the site commenced in late 2015 and the planning permission (inclusive of restoration of the site) will expire on 31 January 2032. The quarry processes on the site comprise of the following plant / processes:
- A hydraulic excavator to extract the sand and gravel.
 - A wheel loader to load the articulated truck at quarry.
 - A second loader to load lorries at the screening plant and stockpiles.
 - An articulated truck for hauling as dug sand and gravel.
 - A mobile inclined screening plant to screen material.
 - A mobile cone crusher plant to crush large stones.
 - A closed circuit washing plant.
 - An asphalt batch mix coating plant to produce coated road-stone.
 - A small scale sprinkler system comprising tractor and bowser to suppress dust.
 - Lorries hauling material off site.
- In addition, a weighbridge, staff welfare facilities and associate infrastructure are located within the site.
- 1.5 No pre-application consultation was undertaken prior to submission of the application.
- 1.6 The application was supported by a short supporting statement outlining the reasons for the application.

1.7 There have been no variations to the application following validation of the application.

2. SITE DESCRIPTION

2.1 The site, which lies 3km north of Tomatin, extends to approximately 11 hectares. It is currently commercial woodland being the subject of a forest plan approved in January 2012. This woodland sits on a fluvio-glacial terrace, undulating at between 285 metres and 300 metres AOD, projecting eastwards from the Perth to Inverness railway line and the A9 trunk road. This terrace is about 30 metres above the River Findhorn which lies further to the south and the Funtack Burn to the north and east of the site. Some trees in the former quarry area, felled in 2004 to allow excavation / investigation, remain at an early stage of regeneration.

2.2 The local public road to Ruthven skirts the northern edge of the forest. The old quarry and current woodland is however served by a forest track access on the east side of the A9 Trunk Road. A watercourse, rising in the moorland to the west of the A9 and railway line, crosses the terrace to join the Dalmagarry Burn and Funtack Burn at the Funtack Bridge, which is a (C) Listed Building. There are no recorded archaeological features or historic buildings in the commercial forest. Two 18th century animal traps within the woodland site are to be recorded prior to development.

2.3 There is a scatter of rural housing in this area, including houses accessed from the Ruthven Road. Two nearby properties, Milton of Moy to the east and Invereen to the south, have been assessed for potential impacts, particularly noise levels from the principal operations. Background noise at these properties from both the Railway and A9(T) road is evident.

2.4 The site and its immediate environment is not designated as ecologically or historically important. Given its use as commercial woodland there are no significant conservation interests on the site, with only a little evidence of its use by red squirrels. No evidence of use by other protected species such as otter, badger or wildcat. Water quality is high within local streams Dalmagarry Burn and Funtack Burn, which the site and there are clear fishing and conservation interests within the River Findhorn catchment.

3. PLANNING HISTORY

3.1		22/02166/FUL - Proposed recycling of inert construction and demolition waste to produced recycled aggregates and sands within Dalmagarry Quarry, Tomatin	Pending Considerati on
3.2	27.05.2015	14/03270/FUL - Sand and gravel quarry (Dalmagarry Quarry)	Planning permission granted

4. PUBLIC PARTICIPATION

4.1 Advertised: Schedule 3 development and Unknown neighbour

Date Advertised: 10 June 2022

Representation deadline: 24 June 2022

Timeous representations: 0

Late representations: 0

5. CONSULTATIONS

5.1 **Strathdearn Community Council** did not respond to the consultation.

5.2 **Access Officer** does not object to the application and has no further comments to make.

5.3 **Environmental Health Officer** does not object to the application and has not further comments to make.

5.4 **Forestry Officer** does not object to the application and has no further comments to make.

5.5 **Flood Risk Management Team** do not object to the application and has no further comments to make.

5.6 **Historic Environment Team** does not object to the application. It notes that there are no sensitive archaeological issues and it does not recommend any mitigation

5.7 **Findhorn, Nairn and Lossiemouth Fisheries Trust** did not respond to the consultation

5.8 **Historic Environment Scotland** do not object to the application. It notes that the Ruthven depopulated township Scheduled Monument is in proximity of the development, but it does not have any comments to make on the proposal

5.9 **NatureScot** do not object to the application and has no further comments to make.

5.10 **Scottish Environment Protection Agency** do not object to the application and has no further comments to make.

5.11 **Transport Scotland** do not advise against granting planning permission.

6. DEVELOPMENT PLAN POLICY

The following policies are relevant to the assessment of the application

6.1 **Highland Wide Local Development Plan 2012**

28 - Sustainable Design

30 - Physical Constraints

51 - Trees and Development

52 - Principle of Development in Woodland
53 - Minerals
54 - Mineral Wastes
55 - Peat and Soils
56 - Travel
57 - Natural, Built & Cultural Heritage
58 - Protected Species
59 - Other important Species
60 - Other Importance Habitats
61 - Landscape
62 - Geodiversity
63 - Water Environment
64 - Flood Risk
66 - Surface Water Drainage
72 - Pollution
77 - Public Access

6.2 Inner Moray Firth Local Development Plan (2015)

No relevant allocations or policies.

6.3 Proposed Inner Moray Firth Local Development Plan (2022)

No relevant allocations or policies.

6.4 Highland Council Supplementary Planning Policy Guidance

Construction Environmental Management Process for Large Scale Projects
(August 2010)

Developer Contributions (March 2018)

Flood Risk and Drainage Impact Assessment (Jan 2013)

Highland Historic Environment Strategy (Jan 2013)

Highland's Statutorily Protected Species (March 2013)

Managing Waste in New Developments (March 2013)

Physical Constraints (March 2013)

Standards for Archaeological Work (March 2012)

Sustainable Design Guide (Jan 2013)

Trees, Woodlands and Development (Jan 2013)

7. OTHER MATERIAL POLICY CONSIDERATIONS

7.1 Scottish Government Planning Policy and Guidance

National Planning Framework 3 (2014)

Scottish Planning Policy (2014)

PAN 50 - Controlling the Effects of Surface Mineral Workings (1996)

PAN 51 - Planning, Environmental Protection and Regulation (2006)

PAN 60 - Planning for Natural Heritage (2000)

PAN 63 - Waste Management Planning (2002)

PAN 64 - Reclamation of Surface Mineral Workings (2002)

PAN 79 - Water and Drainage (2006)

PAN 1/2011 - Planning and Noise (2011)

8. PLANNING APPRAISAL

- 8.1 Section 25 of the Town and Country Planning (Scotland) Act 1997 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise.

Determining Issues

- 8.2 This means that the application requires to be assessed against all policies of the Development Plan relevant to the application, all national and local policy guidance and all other material considerations relevant to the application.

Planning Considerations

- 8.3 The principle of the development has been established through the previous permission. This is an application to modify conditions. In order to address the determining issues therefore, Committee must consider the extent to which the proposal continues to comply with development plan policy and take into consideration any other material considerations.

Development plan/other planning policy

- 8.4 Development Plan policy has not changed since the time of the determination of the original application for the extension to the quarry. The Highland-wide Local Development Plan (2012) remains in force. However, the Inner Moray Firth Local Development Plan (2015) has subsequently been adopted. Given the type of development, there are no implications for this development either as a result of the adoption of the Inner Moray Firth Local Development Plan nor would there be as a result of the review of the Inner Moray Firth Local Development.
- 8.5 While national planning policy has not changed since the decision of the original application, The Scottish Government has published a draft for consultation of National Planning Framework 4. This sets out draft national policy on a range of different development types including mineral developments. The draft holds limited weight in the decision making process and makes it clear that until National Planning Framework 4 is published, Scottish Planning Policy and National Planning Framework 3 remain the current national policy documents against which development should be assessed. With that said, the draft National Planning Framework indicates that the existing approach to mineral development will be maintained with workable mineral resources safeguarded, while ensuring demand for primary materials, where required, can be met in a safe and acceptable way, including through safeguards to air quality.

- 8.6 The key issue therefore is whether the amendment of the condition applied for would result in the development being incompatible with the Development Plan. The remainder of this report will consider the modifications proposed and assess the compatibility with the Development Plan.

Modification to Condition 2 (Importation of Waste)

- 8.7 The applicant's supporting statement sets out that there is limited material on site suitable for restoration of the site. It also highlights a separate application made by the quarry operator to allow for the importation of material for recycling. The applicant has stated that it will put in place processes to ensure that the materials brought into the site are inert. Given the need to restore the site and the limited topsoil on the site to allow for the restoration of the site, the importation of material to facilitate restoration is supported.
- 8.8 The importation of material into the site for recycling is broadly supported given the remote location of the site. However, the exact process and land use needs to be tested and accepted through a separate planning application. This is currently under consideration. Accepting the principle of the use would not prejudice the handling of the other application where matters of amenity and impact on the local and trunk road networks will be key determining factors. The processes associated with the recycling of inert material could be managed through the planning conditions associated with any planning permission which may separately be granted for that use. Transport Scotland has not raised any concerns related to the importation of material, nor has it raised any concerns on the application for the construction waste facility.
- 8.9 The importation of material to the site could be successfully managed through the other operational management conditions attached to the current planning permission on the site, however updated submissions would be required to be made by the applicant.

Modification to Condition 3 (Modification to Phasing of Development)

- 8.10 The A9 dualling project will take place to the west of the quarry. The land take for this will require part of the existing quarry to be compulsory purchased. This includes an area where some extraction has already taken place and where the processing area, asphalt plant and stockpiles are currently located. The applicant is proposing to modify the phasing of the quarry workings to relocate the displaced equipment and to show the extent of the forestry clearance, replanting, restoration and working of each individual phase. The extent of the workings, and the overall quantum of material to be extracted will not exceed that previously shown. The restored profile of the quarry will also remain the same, with the exception of the area that will be utilised in the A9 dualling project. Given the largely screened nature of the site, and the positioning of the equipment, it is not considered that the relocated equipment or the change in phasing will lead to a materially different visual impact from that already experienced.
- 8.11 Subject to approval of the submitted revised phasing plans, the existing conditions attached to the planning permission and associated financial guarantee for restoration of the site are considered sufficient to manage the phasing of the

development.

Other Material Considerations

- 8.12 The Management of Extractive Waste (Scotland) Regulations 2010 require all quarries to produce a Waste Management Plan. The applicant has previously submitted, and had approved, a Waste Management Plan for the site. Given there is no change to the works being undertaken within the site, there is no need for the developer to revise this plan. Insert text
- 8.13 It is worth highlighting that an application submitted under S42 of the Planning Act provides the Planning Authority with an opportunity, as part of the process in considering the proposed variation, to amend any, or each of the original conditions previously applied which it considers necessary to regulate the development proposed. Following consideration of the conditions attached to the extant planning permission, it is considered that the conditions applied to the permission granted in 2015 remain appropriate to manage the development however those conditions which have been discharged can be removed from the permission.

Matters to be secured by Section 75 Agreement

- 8.14 Restoration of the quarry is being undertaken on a phase by phase basis. However, to ensure that the restoration is completed to the satisfaction of the Planning Authority and in a timeous manner, a financial guarantee will continue to be required. There is an existing legal agreement for the site which secures a financial guarantee. This comprises full details of a bond or other financial provision to be put in place to cover all of the decommissioning and site restoration measures outlined in the Decommissioning and Restoration Plan approved under Condition 3 of the permission. It also requires the quarry operator to ensure that the bond or other financial provision is maintained throughout the duration of this permission; and pay for the bond or other financial provision to be subject to a review five years after the commencement of development and every five years thereafter until such time as the quarry is decommissioned and the site is fully restored.
- 8.15 To ensure the existing legal agreement is linked to this application. The existing legal agreement requires to be modified. This will be carried out over the course of the coming months with the quarry operator if Members are minded to grant this application for non-compliance with conditions.
- 8.16 The applicant has four months from the date that the Council's solicitor writes to the Applicant/Applicant's solicitor indicating the terms of the modified legal agreement, to deliver to the Council a signed modified legal agreement. Should an agreement not be delivered within four months, the application may be refused under delegated powers.

9. CONCLUSION

- 9.1 The Development Plan is supportive of mineral extraction which comprises the extension of an existing quarry. Support can also be given where the working of a resource can be effectively managed and where potential concerns can be

controlled with appropriate mitigation and by planning conditions. The extension of working hours for the quarry and increase in output from the quarry is acceptable and will provide a resource for the delivery of construction schemes across Highland. Subject to the application of appropriate conditions, the development is unlikely to have a significant adverse impact on the environment.

- 9.2 All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

10. IMPLICATIONS

- 10.1 Resource: Not applicable
- 10.2 Legal: Not applicable
- 10.3 Community (Equality, Poverty and Rural): Not applicable
- 10.4 Climate Change/Carbon Clever: Not applicable
- 10.5 Risk: Not applicable
- 10.6 Gaelic: Not applicable

11. RECOMMENDATION

Action required before decision issued

Conclusion of Section 75 Obligation Y

Subject to the above actions, it is recommended to **GRANT** the application subject to the following conditions and reasons:

1. The permission hereby granted shall endure until 31 January 2032 by which time all workings shall have ceased, all plant and equipment removed and the site restored to commercial forestry with a mixed woodland edge to the satisfaction of the Council. In the event that working ceases for a period of more than 24 months prior to the expiry of this permission then the site shall be restored to the satisfaction of the Council within 36 months from the cessation of working, or in any case before the expiry of this permission.

Reason: to clarify the terms of the permission and ensure the site is fully restored to forestry use.

2. The development shall be undertaken entirely in accordance with the submitted application, the mitigation highlighted within the supporting Environmental Statement, and the approved plans as amended by the specific conditions attached to this planning permission or by the prior written approval of the Planning Authority. For the avoidance of doubt: -

1. The maximum output of the quarry shall not exceed 100,000 tonnes in any

- calendar year;
2. Extraction of sand and gravel shall be limited to the dry working of the resource with reference to the predicted on site water table and the extraction limit of 280m AOD as indicated on the approved plans;
 3. No additional sand and gravel material is to be imported to the site in order to maintain production of the Asphalt plant;
 4. The importation of inert soil is permitted to facilitate the restoration of the quarry in line with the approved profiling and restoration phasing; and
 5. Up to 20,000 tonnes of inert construction and demolition waste may be imported into the site in each calendar year to be processed for recycling. Once processed, all recycled inert construction and demolition waste materials shall be exported from the site no later than 6 months after first importation of the material.

Reason: to ensure the production capacity of this quarry does not exceed levels approved by the Planning Authority in the interests of road safety.

3. The development shall be progressed in two distinct phases as set out in approved Phase 1 Figure 09A dated May 2022 and Phase 2 Figure 10B dated May 2022. Prior to the extraction of material from the Phase 2 area, final drawings shall be submitted for approval highlighting: -
 1. Full details for the diversion of the un-named watercourse and its 10m buffers. This shall include additional flood elevation / settlement ponds.
 2. Final details of the haul road and bridging structure over the diverted watercourse.
 3. Final details of site restoration programme currently as indicated within Drawing Figure 10(b) dated May 2022 to be undertaken in tandem with the continued working of the resource and ensuring early completion of the restoration of areas to be restored within Phase 1.

Phase 2 must then proceed in compliance with the above noted approved plans.

Reason: to ensure the final designs comply with the requirements of the relevant water authorities to safeguard downstream hydrological interests and manage flood risk to a 1 in 200 year flood event standard plus 20% allowance for climate change.

4. Unless as amended by the specific conditions attached to this planning permission or by the prior written approval of the Planning Authority the development shall be undertaken in full compliance with the submitted: -
 1. Site Environmental Management Plan (2014) (Draft)
 2. Waste Management Plan (2014)Woodland Retention for Visual Screening (Crosscut Forestry) Report (28 April 2014)

Reason: to ensure the range of environmental interests within and surrounding this site are sustained or enhanced.

5. The operator of Dalmagarry Quarry shall submit an annual statement and illustrative drawings to the Planning Authority by 28 February each year following the commencement of this permission. The annual statement will present an audit of the workings undertaken in the preceding calendar year, illustrating: -
1. The rates of extraction against the projected operations,
 2. Areas of final restoration delivered on site, and
 3. The results of monitoring from the mitigation actions as presented in the application, the Site Environmental Management Plan and or in compliance with the conditions attached to this planning permission.

The results of ongoing groundwater monitoring to sufficiently demonstrate a seasonably high ground water level.

Reason: In order to ensure the planning authority can monitor the workings undertaken and retain effective control over the dry quarry operations.

6. Prior to any further development commencing the full details of the layout of the Asphalt Plant and its surrounding production / processing area which are not part of the mobile operations associated with extraction activities shall be submitted for the approval of the Planning Authority. The layout shall then be implemented as approved.

Reason: In order to ensure the planning authority can retain effective control over the final design and siting of the principal production and storage areas of the quarry.

7. Prior to any further site excavation or groundworks, all retained trees are to be protected against construction damage using fencing located no less than 5m from retained trees. Such fencing is to remain in place throughout the quarrying period and must not be moved or removed without the prior written approval of the Planning Authority.

Reason: In order to ensure the full provision of protection of retained trees throughout the quarrying period.

8. Prior to the replanting of woodland areas as set out in Figure EMP 02 Forestry Felling and Replanting dated August 2014 further details of restock planting must be submitted for approval of the planning authority. Details to be provided include planting species, species sizes, planting times and future maintenance provisions. All approved restock planting details are then to be implemented in full unless otherwise agreed in writing by the planning authority.

Reason: In the interests of woodland management of this forest holding.

9. Prior to the commencement of any further development an access management statement shall be submitted for approval of the planning authority. The access arrangements shall then be implemented as approved.

Reason: to sustain existing public access connections across this site, away from quarry activities.

10. Except in emergencies or with the prior written agreement of the planning authority, site operations (other than water management, servicing maintenance and testing of plant) shall be undertaken only during the following times:

1. 7:00 to 18:00 Monday to Friday; and
2. 8:00 to 13:00 Saturday.

Reason: To protect residential amenity of nearby properties in line with Council standards.

11. The noise levels at the nearest noise sensitive receptors at the time of the commencement of this planning permission, Invereen and Milton of Moy, shall not exceed 45dB LAeq,1h, where 1h means any one hour period during the defined working day. Noise monitoring must be carried out at the start of each new phase of workings and a report of the monitoring thereafter to be submitted to the Planning Authority. Monitoring to be undertaken during typical normal working hours and should avoid meal breaks and periods of plant breakdown. All noise monitoring is to be carried out by a competent person. Monitoring to be carried out in accordance with BS4142:1997. In the event of a valid complaint in relation to noise, the operator shall at his own expense carry out an investigation into the complaint, including undertaking noise monitoring to assess compliance with the permitted noise levels detailed above, and where necessary cease the operations giving rise to the complaint until such time as appropriate mitigation measures have been implemented.

Reason: To ensure the operations cause no adverse impact on amenity of nearby residents.

12. The Site Management protocols and the Dust Mitigation Measures detailed in Dust Management Plan (dated August 2014) shall be implemented in full and maintained during course of the operations of the site. The operator must also notify the Planning Authority in writing of site personnel who will oversee the implementation and adherence to the dust management plan, and in the event of a valid complaint in relation to dust emissions, the operator shall at his own expense carry out an investigation into the complaint, including undertaking a scheme of dust monitoring and where necessary cease the operation giving rise to the complaint until such time appropriate mitigation measures have been implemented.

Reason: To ensure the operations cause no adverse impact on amenity of nearby residents, road users and other activities in the surrounding area.

13. From the date of any commencement of this development until completion of the final restoration, a copy of this planning permission, all approved plans and associated documentation together with any approved amendments shall be made available for inspection at the site offices during approved working hours.

Reason: To ensure the site operator and visiting officials are aware of the details of the planning permission and any approved amendments.

REASON FOR DECISION

All relevant matters have been taken into account when appraising this application. It is considered that the proposal accords with the principles and policies contained within the Development Plan and is acceptable in terms of all other applicable material considerations.

INFORMATIVES

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (paragraph 259), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks & Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Local Roads Authority Consent

In addition to planning permission, you may require one or more separate consents (such as road construction consent, dropped kerb consent, a road openings permit, occupation of the road permit etc.) from the Area Roads Team prior to work commencing. These consents may require additional work and/or introduce additional specifications and you are therefore advised to contact your local Area

Roads office for further guidance at the earliest opportunity.

Failure to comply with access, parking and drainage infrastructure requirements may endanger road users, affect the safety and free-flow of traffic and is likely to result in enforcement action being taken against you under both the Town and Country Planning (Scotland) Act 1997 and the Roads (Scotland) Act 1984.

Further information on the Council's roads standards can be found at:

<http://www.highland.gov.uk/yourenvironment/roadsandtransport>

Application forms and guidance notes for access-related consents can be downloaded from:

http://www.highland.gov.uk/info/20005/roads_and_pavements/101/permits_for_working_on_public_roads/2

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Construction Hours and Noise-Generating Activities: You are advised that construction work associated with the approved development (incl. the loading/unloading of delivery vehicles, plant or other machinery), for which noise is audible at the boundary of the application site, should not normally take place outwith the hours of 08:00 and 19:00 Monday to Friday, 08:00 and 13:00 on Saturdays or at any time on a Sunday or Bank Holiday in Scotland, as prescribed in Schedule 1 of the Banking and Financial Dealings Act 1971 (as amended).

Work falling outwith these hours which gives rise to amenity concerns, or noise at any time which exceeds acceptable levels, may result in the service of a notice under Section 60 of the Control of Pollution Act 1974 (as amended). Breaching a Section 60 notice constitutes an offence and is likely to result in court action.

If you wish formal consent to work at specific times or on specific days, you may apply to the Council's Environmental Health Officer under Section 61 of the 1974 Act. Any such application should be submitted after you have obtained your Building Warrant, if required, and will be considered on its merits. Any decision taken will reflect the nature of the development, the site's location and the proximity of noise sensitive premises. Please contact env.health@highland.gov.uk for more information.

Protected Species – Halting of Work

You are advised that work on site must stop immediately, and NatureScot must be contacted, if evidence of any protected species or nesting/breeding sites, not previously detected during the course of the application and provided for in this permission, are found on site. For the avoidance of doubt, it is an offence to deliberately or recklessly kill, injure or disturb protected species or to damage or destroy the breeding site of a protected species. These sites are protected even if the animal is not there at the time of discovery. Further information regarding protected species and developer responsibilities is available from NatureScot:

<https://www.nature.scot/professional-advice/protected-areas-and-species/protected-species>

Signature: David Mudie
Designation: Area Planning Manager South
Author: Simon Hindson, Strategic Projects Team Leader
Background Papers: Documents referred to in report and in case file.
Relevant Plans: Plan 1 – Location Plan
Plan 2 – Phase 1 Site Layout
Plan 3 – Phase 2 Site Layout

Appendix 2 – Original Decision Notice

To:
Pat Munro (Alness) Ltd
Caplich Quarry
Caplich Quarry
Alness
IV17 0XU

Per:
Brindley Consulting
Howard Brindley
26 Holm Park
Inverness
IV2 4XT

Town & Country Planning (Scotland) Act 1997 as amended by the Planning Etc. (Scotland) 2006 Act

DECISION NOTICE

Sand and gravel quarry (Dalmagarry Quarry) Land 300M NW Of Invereen, Dalmagarry Wood, Tomatin

The Highland Council in exercise of its powers under the above Acts **grants planning permission** for the above development in accordance with the particulars given in the application and the following plans/drawings:

Type of Plan	Plan Number	Version No.	Date Plan Received
Location Plan	01		26.08.2014
Location Plan	02		26.08.2014
Site Level Plan	11		26.08.2014
Supporting Information	10	A	03.12.2014
Supporting Information	09		26.08.2014
Supporting Information	DUSTMANAGEMENT		26.08.2014

This permission is granted subject to the following conditions: -

- (1.) The permission hereby granted shall endure until 31 January 2032 by which time all workings shall have ceased, all plant and equipment removed and the site restored to commercial forestry with a mixed woodland edge to the satisfaction of the Council. In the event that working ceases for a period of more than 24 months prior to the expiry of this permission then the site shall be restored to the satisfaction of the Council within 36 months from the cessation of working, or in any case before the expiry of this permission.

Reason : To clarify the terms of the permission and ensure the site is fully restored to forestry use.

- (2.) The development shall to be undertaken entirely in accordance with the submitted application, the mitigation highlighted within the supporting Environmental Statement, and the approved plans as amended by the specific conditions attached to this planning permission or by the prior written approval of the Planning Authority. For the avoidance of doubt: -
1. The maximum output of the quarry shall not exceed 100,000 tonnes in any calendar year.
 2. Extraction of sand and gravel shall be limited to the dry working of the resource with reference to the predicted on site water table and the extraction limit of 280m AOD as indicated on the approved plans.
 3. No additional sand and gravel material is to be imported to the site in order to

maintain production of the Asphalt plant.

Reason : To ensure the production capacity of this quarry does not exceed levels approved by the Planning Authority in the interests of road safety.

- (3.) The development shall be progressed in two distinct phases as set out in approved Phase 1 Figure 9 dated August 2014 and Phase 2 Figure 10(a) dated December 2014. Prior to the commencement of Phase 2, final drawings shall be submitted for approval highlighting: -
1. Full details for the diversion of the un-named watercourse and its 10m buffers. This may include additional flood elevation / settlement ponds.
 2. Final details of the haul road and bridging structure over the diverted water course.
 3. Final details of site restoration programme currently as indicated within Drawing Figure 10(a) dated December 2014 to be undertaken in tandem with the continued working of the resource and ensuring early completion of the restoration of areas to be restored within Phase 1. Phase 2 must then proceed in compliance with the above noted approved plans.

Reason : To ensure the final designs comply with the requirements of the relevant water authorities to safeguard downstream hydrological interests and manage flood risk to a 1 in 200 year flood event standard plus 20% allowance for climate change.

- (4.) Unless as amended by the specific conditions attached to this planning permission or by the prior written approval of the Planning Authority the development shall be undertaken in full compliance with the submitted: -
1. Site Environmental Management Plan (2014) (Draft)
 2. Waste Management Plan (2014)
 3. Woodland Retention for Visual Screening (Crosscut Forestry) Report (28 April 2014).

Reason : To ensure the range of environmental interests within and surrounding this site are sustained or enhanced.

- (5.) The operator of Dalmagarry Quarry shall submit an annual statement and illustrative drawings to the Planning Authority by 28 February each year following the commencement of this permission. The annual statement will present an audit of the workings undertaken in the preceding calendar year, illustrating: -
1. The rates of extraction against the projected operations,
 2. Areas of final restoration delivered on site, and
 3. The results of monitoring from the mitigation actions as presented in the application, the Site Environmental Management Plan and or in compliance with the conditions attached to this planning permission.
 4. The results of ongoing groundwater monitoring to sufficiently demonstrate a seasonably high ground water level.

Reason: To ensure the planning authority can monitor the workings undertaken and retain effective control over the dry quarry operations.

- (6.) Prior to any development commencing the full details of the layout of the Asphalt Plant and its surrounding production / processing area which are not part of the mobile operations associated with extraction activities shall be submitted for the approval of the Planning Authority. The layout shall then be implemented as approved.

Reason: To ensure the planning authority can retain effective control over the final design and siting of the principal production and storage areas of the quarry.

- (7.) Prior to any development taking place, detailed drawings of the proposed alterations to the site access and turning areas shall be submitted and approved by the Planning Authority, after consultation with Transport Scotland, as Trunk Road Authority. These detailed drawings shall include the layout, construction detail and any temporary traffic management required for their construction. The layout shall then be implemented as approved.

Reason: To ensure that the standard of access layout complies with the current standards and that the safety of the traffic on the trunk road is not diminished.

- (8.) Prior to any site excavation or groundworks, all retained trees are to be protected against construction damage using fencing located no less than 5m from retained trees. Such fencing is to remain in place throughout the quarrying period and must not be moved or removed without the prior written approval of the Planning Authority.

Reason: To ensure the full provision of protection of retained trees throughout the quarrying period.

- (9.) Prior to the replanting of woodland areas as set out in Figure EMP 02 Forestry Felling and Replanting dated August 2014 further details of restock planting must be submitted for approval of the planning authority. Details to be provided include planting species, species sizes, planting times and future maintenance provisions. All approved restock planting details are then to be implemented in full unless otherwise agreed in writing by the planning authority.

Reason: In the interests of woodland management of this forest holding.

- (10.) Prior to the commencement of development, a programme of work for the evaluation, preservation and recording of any archaeological and historic features affected by the proposed development, including a timetable for investigation, all in accordance with the attached specification, shall be submitted to and agreed in writing by the Planning Authority. The agreed proposals shall be implemented in accordance with the agreed timetable for investigation.

Reason: In order to protect the historic interest of the site.

- (11.) Prior to the commencement of development an access management statement shall be submitted for approval of the planning authority. The access arrangements shall then be implemented as approved.

Reason : To sustain existing public access connections across this site, away from quarry activities.

- (12.) Except in emergencies or with the prior written agreement of the planning authority, site operations (other than water management, servicing maintenance and testing of plant) shall be undertaken only during the following times:

1. 7:00 to 18:00 Monday to Friday; and
2. 8:00 to 13:00 Saturday.

Reason: To protect residential amenity of nearby properties in line with Council standards.

- (13.) The noise levels at the nearest noise sensitive receptors at the time of the commencement of this planning permission, Invereen and Milton of Moy, shall not exceed 45dB LAeq,1h, where 1h means any one hour period during the defined working day. Noise monitoring must be carried out at the start of each new phase of workings and a report of the monitoring thereafter to be submitted to the Planning Authority. Monitoring to be

undertaken during typical normal working hours and should avoid meal breaks and periods of plant breakdown. All noise monitoring is to be carried out by a competent person. Monitoring to be carried out in accordance with BS4142:1997. In the event of a valid complaint in relation to noise, the operator shall at his own expense carry out an investigation into the complaint, including undertaking noise monitoring to assess compliance with the permitted noise levels detailed above, and where necessary cease the operations giving rise to the complaint until such time as appropriate mitigation measures have been implemented.

Reason : To ensure the operations cause no adverse impact on amenity of nearby residents.

- (14.) The Site Management protocols and the Dust Mitigation Measures detailed in Dust Management Plan (dated August 2014) shall be implemented in full and maintained during course of the operations of the site. The operator must also notify the Planning Authority in writing of site personnel who will oversee the implementation and adherence to the dust management plan, and in the event of a valid complaint in relation to dust emissions, the operator shall at his own expense carry out an investigation into the complaint, including undertaking a scheme of dust monitoring and where necessary cease the operation giving rise to the complaint until such time appropriate mitigation measures have been implemented.

Reason : To ensure the operations cause no adverse impact on amenity of nearby residents, road users and other activities in the surrounding area.

- (15.) From the date of any commencement of this development until completion of the final restoration, a copy of this planning permission, all approved plans and associated documentation together with any approved amendments shall be made available for inspection at the site offices during approved working hours.

Reason: To ensure the site operator and visiting officials are aware of the details of the planning permission and any approved amendments.

REASON FOR DECISION

The proposals accord with the provisions of the Development Plan and there are no material considerations which would warrant refusal of the application.

FOOTNOTE TO APPLICANT

Initiation and Completion Notices

The Town and Country Planning (Scotland) Act 1997 (as amended) requires all developers to submit notices to the Planning Authority prior to, and upon completion of, development. These are in addition to any other similar requirements (such as Building Warrant completion notices) and failure to comply represents a breach of planning control and may result in formal enforcement action.

1. The developer must submit a Notice of Initiation of Development in accordance with Section 27A of the Act to the Planning Authority prior to work commencing on site.
2. On completion of the development, the developer must submit a Notice of Completion in accordance with Section 27B of the Act to the Planning Authority.
3. A notice must be displayed on or near the site while work is being carried out. (See section 27C of the Town and Country Planning Scotland) Act 1997 Act (as amended) and Schedule 7 to the Town and Country Planning Development

Management Procedure) (Scotland) Regulations 2008. The planning authority can provide more information about the form of that notice and where to display it.

Copies of the notices referred to are attached to this decision notice for your convenience.

Accordance with Approved Plans & Conditions

You are advised that development must progress in accordance with the plans approved under, and any conditions attached to, this permission. You must not deviate from this permission without consent from the Planning Authority (irrespective of any changes that may separately be requested at the Building Warrant stage or by any other Statutory Authority). Any pre-conditions (those requiring certain works, submissions etc. prior to commencement of development) must be fulfilled prior to work starting on site. Failure to adhere to this permission and meet the requirements of all conditions may invalidate your permission or result in formal enforcement action.

Flood Risk

It is important to note that the granting of planning permission does not imply there is an unconditional absence of flood risk relating to (or emanating from) the application site. As per Scottish Planning Policy (p.198), planning permission does not remove the liability position of developers or owners in relation to flood risk.

Scottish Water

You are advised that a supply and connection to Scottish Water infrastructure is dependent on sufficient spare capacity at the time of the application for connection to Scottish Water. The granting of planning permission does not guarantee a connection. Any enquiries with regards to sewerage connection and/or water supply should be directed to Scottish Water on 0845 601 8855.

Septic Tanks & Soakaways

Where a private foul drainage solution is proposed, you will require separate consent from the Scottish Environment Protection Agency (SEPA). Planning permission does not guarantee that approval will be given by SEPA and as such you are advised to contact them direct to discuss the matter (01349 862021).

Mud & Debris on Road

Please note that it is an offence under Section 95 of the Roads (Scotland) Act 1984 to allow mud or any other material to be deposited, and thereafter remain, on a public road from any vehicle or development site. You must, therefore, put in place a strategy for dealing with any material deposited on the public road network and maintain this until development is complete.

Environmental Impact Assessment

The development granted permission with this development has been assessed under the provisions of the Environmental Impact assessment (Scotland) Regulations 2011. Changes to the approved scheme may require further assessment against key parameters and acknowledged mitigation.

Building Regulations

Please note that Building Regulations and/or a Building Warrant may be applicable to some or all of the works described in this decision notice. You must check with the Council's Building Standards service prior to work commencing to establish what compliance or approval is necessary. If a warrant is required, you must not commence work until one has been applied for and issued. For more information, please contact Building Standards at Building.Standards@highland.gov.uk or on 01349 886608.

NOTIFICATION TO APPLICANT

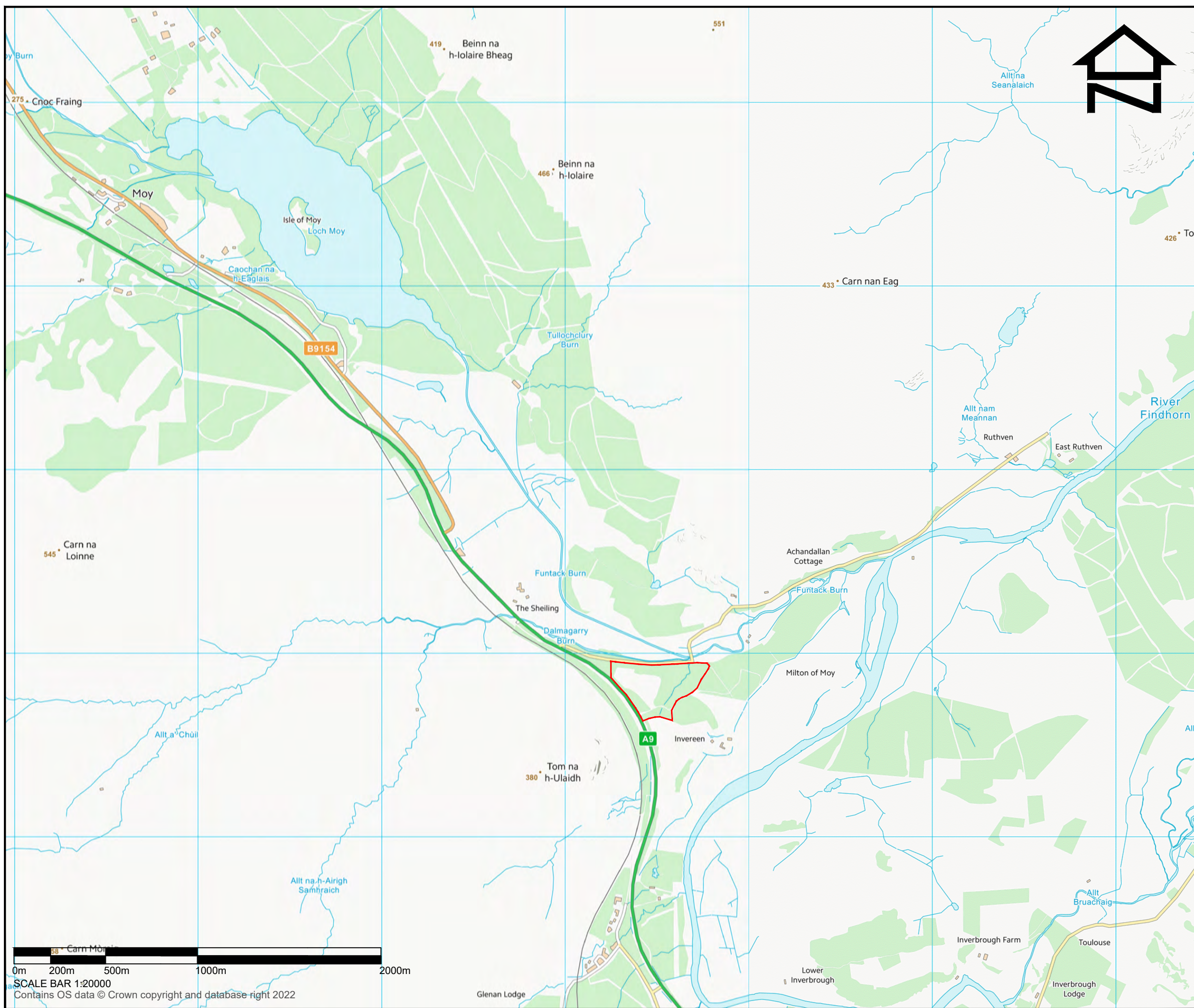
1. If the applicant is aggrieved by the decision of the planning authority –
 - a. to refuse planning permission for the proposed development;
 - b. to refuse approval, consent or agreement required by a condition imposed on a grant of planning permission;
 - c. to grant planning permission or any approval, consent or agreement subject to conditions;

the applicant may appeal to the Scottish Ministers under Section 47 of the Town and Country Planning (Scotland) Act 1997 (as amended) within three months beginning with the date of this notice. The notice of appeal should be addressed to:

Directorate for Planning and Environmental Appeals
4 The Courtyard
Callendar Business Park
Callendar Road
Falkirk
FK1 1XR

Appeals can also be lodged online via the ePlanning Portal at
<https://eplanning.scotland.gov.uk/WAM/>

2. If permission to develop land is refused or granted subject to conditions, whether by the planning authority or by the Scottish Ministers, and the owner of the land claims that the land has become incapable of reasonably beneficial use in its existing state and cannot be rendered capable of reasonably beneficial use by carrying out of any development which has been or would be permitted, the owner of the land may serve on the planning authority a purchase notice requiring the purchase of the owner of the land's interest in the land in accordance with Part 5 of the Town and Country Planning (Scotland) Act 1997 (as amended).



NOTES

— SITE BOUNDARY

DATE	REVISION	No.



Johnson Poole & Bloomer
Consultants
GEO-ENVIRONMENTAL & MINERALS

CLIENT



PROJECT TITLE

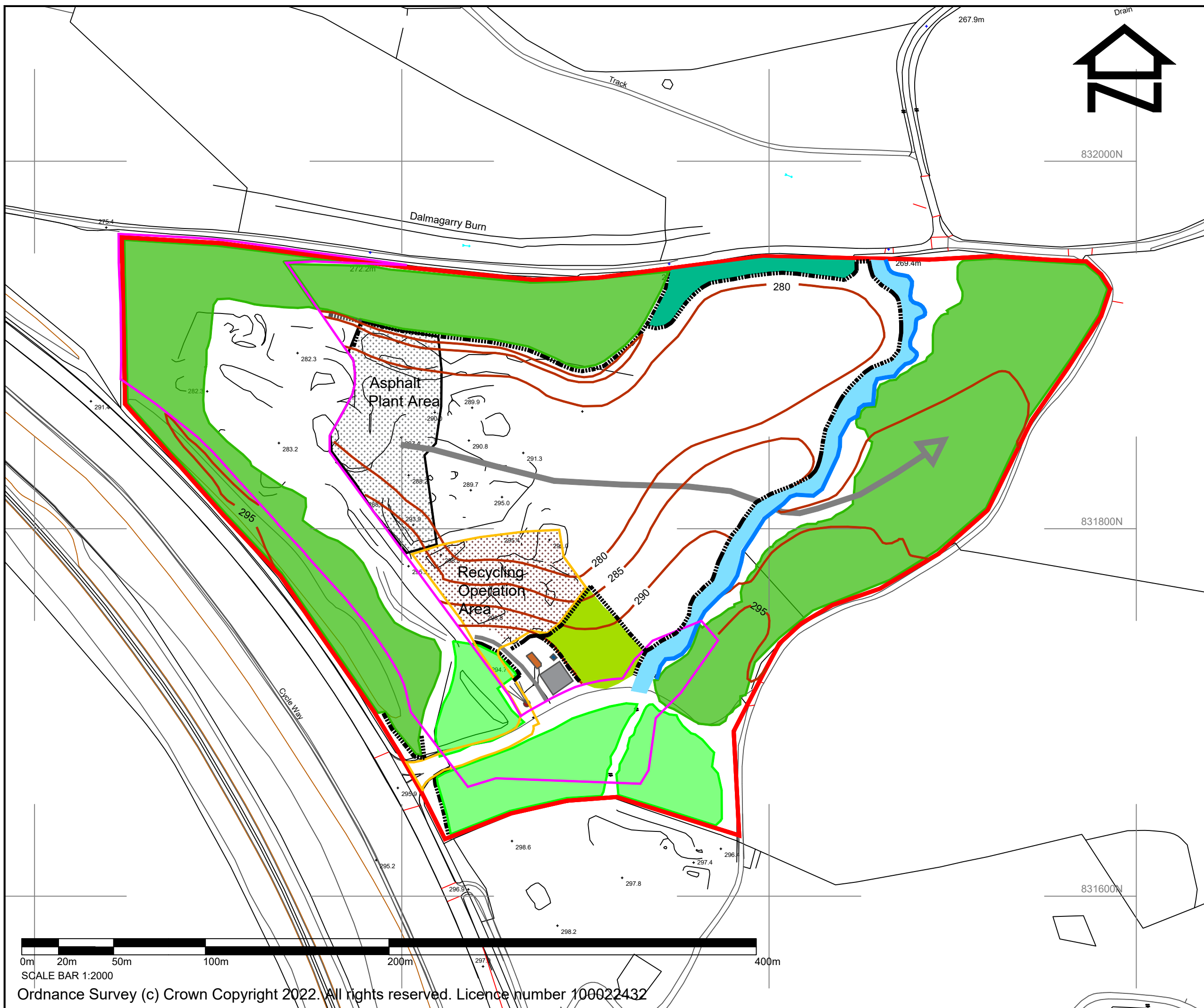
DALMAGARRY QUARRY

DRAWING TITLE

SITE LOCATION PLAN

DRAWN BY CC	APPROVED BY TL
SCALES 1:20000	ORIGINAL DRAWING SIZE A3
DATE MAY 2022	DRAWING No. WG652/PA02/F/01

0m 200m 500m 1000m 2000m
SCALE BAR 1:20000
Contains OS data © Crown copyright and database right 2022



- NOTES**
- Site Boundary
 - Recycling Area Boundary
 - - - Existing Fence
 - Unnamed Water Course
 - CPO Area
 - Track
 - Contours at Completion of Phase 1
 - Existing Commercial Forest Edge Retained and Protected
 - Commercial Forest Edge Felled and Replanted Year 1 and Protected
 - Commercial Forest Edge Felled and Replanted Year 7 and Protected
 - Commercial Forest Felled Year 1 Replanted Year 10 and Protected
 - Recycling Operation
 - Asphalt Plant

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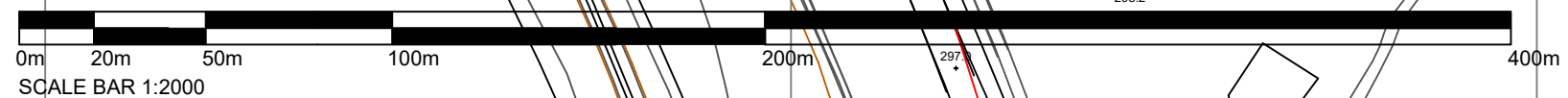
PROJECT TITLE

DALMAGARRY QUARRY

DRAWING TITLE

PHASE 1 FIGURE 09A

DRAWN BY CC	APPROVED BY TL
SCALES 1:2000	ORIGINAL DRAWING SIZE A3
DATE MAY 2022	DRAWING No. WG652/PA02/F/03





- NOTES**
- Site Boundary
 - Temporary Protective Fence
 - CPO Area
 - Settlement Pond
 - Track
 - Contours at Completion of Phase 2
 - Unnamed Water Course
 - Mature Forestry and Phase 1 Woodland Planting and Protected
 - Commercial Forest Edge Felled, Replanted Year 11 and Protected
 - Commercial Forest Replanted Year 7
 - Recycling Operation
 - Asphalt Plant

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CLIENT



PROJECT TITLE

**DALMAGARRY
QUARRY**

DRAWING TITLE

PHASE 2 FIGURE 10A

DRAWN BY CC	APPROVED BY TL
SCALES 1:2000	ORIGINAL DRAWING SIZE A3
DATE MAY 2022	DRAWING No. WG652/PA02/F/04

