

TASMANIA**QUARRIES – EFFECT ON RESIDENCES – BALANCE OF INTERESTS – CONDITIONS IMPOSED******DTK Logging Pty Ltd v Launceston City Council***

(Resource Management and Planning Appeal Tribunal, Tasmania, 27 January 1999)

The appellant logging companies made two applications to open quarries within the boundaries of the City of Launceston. The respondent Council rejected the applications, and appeals were made to the Resource Management and Planning Appeal Tribunal. The two quarries were adjacent to each other, the applications had been made almost contemporaneously and were rejected on similar grounds, thus it was convenient that the two appeals be joined by the Tribunal.

The quarries were intended to operate for short periods during the year, to provide material for road building. The operators were logging companies who required road building material periodically as new areas were opened up to logging. The larger quarry would only require crushing of material for two weeks a year, and blasting twice a year. The smaller quarry would require no blasting, and operate a crusher for just one week each year. The road on which both quarry sites were located was narrow and unsuited to heavy vehicles, but a nearby road was of sufficient size to allow access by large heavily-laden trucks. The Council rejected the applications on the basis that nearby residences would suffer unduly from dust, noise and vibration if the quarries were to open. The nearest existing residences were over 500 metres from the quarry site, but the Council had approved a permit to construct a new residence almost opposite one of the quarries.

The Tribunal first considered the potential new residence. It was common ground that a residence so close to the quarries would suffer from noise, dust and vibration. The appellants indicated that they would purchase the land on which the residence was to be built, thereby preventing its construction. This was not disputed in evidence, and effectively dealt with one ground of the Council's rejection of the application.

The Tribunal then considered the impact of the quarries on the wider area. It noted that the Quarry Code of Practice set distances that regular blasting and crushing should be conducted from residential areas, but also noted that in this instance the use of the quarries would be relatively infrequent. The Tribunal accepted that the quarries would diminish the natural beauty and quiet of the area, thereby diminishing the amenity of nearby residents, but it also noted the need to balance that amenity and the interests of the applicants. To minimise the effects of dust, the applicants were obliged to seal, for the life of the quarries, the large access road that would be used by the trucks. Restrictions were placed upon blasting after significant rain, to minimise the likelihood of the quarries causing neighbouring land to subside. The Tribunal found that further provisions which automatically applied to the operation of quarries in Tasmania would, together with these measures, provide sufficient protection. The appeal was allowed.

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