

## Appendix 1 - General Terms of Approval



Your reference : DA 2011.0500  
Our reference : DOC11/58005; FIL11/2103  
Contact : Duncan McGregor

Notice No: 1131526

The General Manager  
Bega Valley Shire Council  
PO Box 492  
BEGA NSW 2550

Attention: Mark Fowler

Dear Mr Fowler,

**RE: Development Application 2011.0500 – Proposed Extractive Industry (Sand & Topsoil)**

I refer to the above development application, received by the Environment Protection Authority (EPA) on 19 December 2011. The EPA has reviewed the application and accompanying Environmental Impact Statement (EIS) and has determined that it is able to issue a licence for the proposal, subject to a number of conditions. The applicant will need to make a separate application to the EPA to obtain this licence.

The general terms of approval (GTAs) for this proposal are provided at Attachment A. If Bega Valley Shire Council (BVSC) grants development consent for this proposal these conditions should be incorporated into the consent. Please note in this respect that the EPA does not intend to permit pollution of waters to be undertaken by activities at the premises, and as such all activities undertaken at the premises including sewage management must be undertaken in a manner that does not cause pollution.

The GTAs relate to the development as proposed in the documents and information currently provided to the EPA. In the event that the development is modified either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, it will be necessary to consult with the EPA about the changes before the consent is issued. This will enable the EPA to determine whether its GTAs need to be modified in light of the changes.

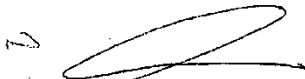
In assessing the proposal the EPA has also identified a number of environmental issues that BVSC should consider in its overall assessment of the application. These issues are discussed in Attachments B and C and include recommended conditions of consent to address the following issues:

1. The potential impacts of the proposal on Aboriginal Cultural Heritage; and
2. The potential impacts of the proposal on threatened species and endangered ecological communities.

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If you have any questions, or wish to discuss this matter further please contact Duncan McGregor on 6229 7002.

Yours sincerely



**NIGEL SARGENT**  
Manager - South East Region  
Environment Protection Authority

cc Mr Bruce Lyon  
Boydton Pastoral Pty Ltd  
PO Box 784  
CROWS NEST NSW 1585

10/2/12

## **ATTACHMENT A – General Terms of Approval**

### **ADMINISTRATIVE CONDITIONS**

#### ***A1. Information supplied to the EPA***

**A1.1** Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:

- the development application number 2011.0500 submitted to Bega Valley Shire Council on 2 December 2011; and
- the environmental impact statement *ENVIRONMENTAL IMPACT STATEMENT PROPOSED SAND EXTRACTION, BOYDTOWN GROUP OWNERSHIP, BOYDTOWN, NSW* (Garret Barry Planning Services Pty Ltd August 2011) relating to the development ("the EIS").

#### ***A2. Fit and Proper Person***

**A2.1** The applicant must, in the opinion of the EPA, be a fit and proper person to hold a licence under the Protection of the Environment Operations Act 1997, having regard to the matters in s.83 of that Act.

### **Limit conditions**

#### ***L1. Pollution of waters***

**L1.1** Except as may be expressly provided by a licence under the Protection of the Environment Operations Act 1997 in relation of the development, section 120 of the Protection of the Environment Operations Act 1997 must be complied with in and in connection with the carrying out of the development.

#### ***L2. Waste***

**L2.1** The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the Protection of the Environment Operations Act 1997.

**L2.2** This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the Protection of the Environment Operations Act 1997.

#### ***L3. Noise limits***

**L3.1** Noise generated at the premises must not exceed the noise limits presented in the table below. The locations referred to in the table below are identified on "Figure 2-2 Noise Monitoring Locations" in Appendix 8 of the EIS:

<b>Location</b>	<b>L<sub>Aeq</sub>(15 minute) Noise Limit for all times of day (dBA)</b>
Caravan Park	41
Nullica Bypass Residence	35
Barker Residence	39

**L3.2** For the purpose of Condition L3.1:

- a) all times of day includes Day, Evening and Night;
- b) Day is defined as the period from 7am to 6pm Monday to Saturday and 8am to 6pm Sunday and Public Holidays;
- c) Evening is defined as the period 6pm to 10pm; and
- d) Night is defined as the period from 10pm to 7am Monday to Saturday and 10pm to 8am Sunday and Public Holidays.

**L3.2** The noise limits set out in Condition L3.1 apply under all meteorological conditions except for the following:

- a) Wind speeds greater than 3 metres/second at 10 metres above ground level; or
- b) Stability category F temperature inversion conditions and wind speeds greater than 2 metres/second at 10 metres above ground level; or

- c) Stability category G temperature inversion conditions.

**L3.3** For the purposes of determining the noise generated at the premises a Class 1 or 2 noise monitoring equipment as defined by AS IEC61672.1-2004 and AS IEC61672.2-2004, or other noise monitoring equipment accepted by the EPA in writing must be used.

#### **L3.4 Determining Compliance**

To determine compliance:

- a) with the  $L_{Aeq(15 \text{ minute})}$  noise limits in the Noise Limits table, the noise measurement equipment must be located:
  - i) approximately on the property boundary, where any dwelling is situated 30 metres or less from the property boundary closest to the premises; or
  - ii) within 30 metres of a dwelling façade, but not closer than 3m, where any dwelling on the property is situated more than 30 metres from the property boundary closest to the premises; or, where applicable
  - iii) within approximately 50 metres of the boundary of a National Park or a Nature Reserve.
- b) with the  $L_{Amax}$  noise limits in the Noise Limits table, the noise measurement equipment must be located within 1 metre of a dwelling façade.
- c) with the noise limits in the Noise Limits table, the noise measurement equipment must be located:
  - i) at the most affected point at a location where there is no dwelling at the location; or
  - ii) at the most affected point within an area at a location prescribed by part (a) or part (b) of this condition.

**L3.5** A breach of this licence will still occur where noise generated from the premises in excess of the appropriate limit is measured:

- i) at a location other than an area prescribed in part (a) and part (b); and/or
- ii) at a point other than the most affected point at a location.

**L3.6** For the purposes of determining the noise generated at the premises the modification factors in Section 4 of the NSW Industrial Noise Policy (EPA 2000) must be applied, as appropriate, to the noise levels measured by the noise monitoring equipment.

#### **Hours of operation**

**L3.7** Activities at the premises may only be carried on between 7:00am to 7:00pm Monday to Friday and 8:00am to 1:00pm on Saturdays.

**L3.8** This condition does not apply to the delivery of material outside the hours of operation permitted by condition L3.9 if that delivery is required by police or other authorities for safety reasons; and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification must be provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of emergency.

**L3.9** The hours of operation specified in condition L3.9 may be varied with written consent if the EPA is satisfied that the amenity of the residents in the locality will not be adversely affected.

#### **Operating conditions**

##### **01. Dust**

**O1.1** Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

**O1.2** Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.

##### **02. Stormwater/sediment control**

**O2.1** A Soil and Water Management Plan (SWMP) must be prepared and implemented. The plan must describe the measures that will be employed to minimise soil erosion and the discharge of sediment and other pollutants to lands and/or waters during construction activities. The SWMP must be consistent with the requirements of *Managing Urban Stormwater: Soils and Construction* (Landcom 2004) and *Managing Urban Stormwater: Soils and Construction – Volume 2E: Mines and Quarries* (DECC 2008).

**M1 Monitoring records**

**M1.1** The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the Protection of the Environment Operations Act 1997, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained as set out in conditions M1.2 and M1.3.

**M1.2** All records required to be kept by the licence must be:

- a) in a legible form, or in a form that can readily be reduced to a legible form;
- b) kept for at least 4 years after the monitoring or event to which they relate took place; and
- c) produced in a legible form to any authorised officer of the EPA who asks to see them.

**M1.3** The following records must be kept in respect of any samples required to be collected:

- a) the date(s) on which the sample was taken;
- b) the time(s) at which the sample was collected;
- c) the point at which the sample was taken; and
- d) the name of the person who collected the sample.

**Reporting conditions**

**R1.1** The applicant must provide an annual return to the EPA in relation to the development as required by any licence under the Protection of the Environment Operations Act 1997 in relation to the development. In the return the applicant must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of licence fees (administrative fees and, where relevant, load based fees) that are payable. If load based fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.

**Special Conditions**

**U1.1** The applicant must prepare and implement a Groundwater Monitoring Plan (GMP) within six months of consent. The GMP must establish groundwater monitoring points, analytes and sampling frequencies adequate to detect any impact to ground water by the activities proposed at the premises, and must be developed in accordance with the *Groundwater Sampling and Analysis – A Field Guide* (Geoscience Australia 2009).

## **MANDATORY CONDITIONS FOR ALL EPA LICENCES**

### **ADMINISTRATIVE CONDITIONS**

#### **Other activities**

This licence applies to all other activities carried on at the premises.

### **OPERATING CONDITIONS**

#### **Activities must be carried out in a competent manner**

Licensed activities must be carried out in a competent manner.

- This includes:
  - the processing, handling, movement and storage of materials and substances used to carry out the activity; and
  - the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

#### **Maintenance of plant and equipment**

- All plant and equipment installed at the premises or used in connection with the licensed activity:
  - must be maintained in a proper and efficient condition; and
  - must be operated in a proper and efficient manner.

### **MONITORING AND RECORDING CONDITIONS**

#### **Recording of pollution complaints**

The licensee must keep a legible record of all complaints made to the licensee or any employee or agent of the licensee in relation to pollution arising from any activity to which this licence applies.

- The record must include details of the following:
  - a. the date and time of the complaint;
  - b. the method by which the complaint was made;
  - c. any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
  - d. the nature of the complaint;
  - e. the action taken by the licensee in relation to the complaint, including any follow-up contact with the complainant; and
  - f. if no action was taken by the licensee, the reasons why no action was taken.

The record of a complaint must be kept for at least 4 years after the complaint was made. The record must be produced to any authorised officer of the EPA who asks to see them.

#### **Telephone complaints line**

The licensee must operate during its operating hours a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises or by the vehicle or mobile plant, unless otherwise specified in the licence.

The licensee must notify the public of the complaints line telephone number and the fact that it is a complaints line so that the impacted community knows how to make a complaint.

This condition does not apply until 3 months after this condition takes effect.

## REPORTING CONDITIONS

### Annual Return documents

#### *What documents must an Annual Return contain?*

- The licensee must complete and supply to the EPA an Annual Return in the approved form comprising:
  - g. a Statement of Compliance; and
  - h. a Monitoring and Complaints Summary.

A copy of the form in which the Annual Return must be supplied to the EPA accompanies this licence. Before the end of each reporting period, the EPA will provide to the licensee a copy of the form that must be completed and returned to the EPA.

#### *Period covered by Annual Return*

An Annual Return must be prepared in respect of each reporting, except as provided below

Note: The term "reporting period" is defined in the dictionary at the end of this licence. Do not complete the Annual Return until after the end of the reporting period.

- Where this licence is transferred from the licensee to a new licensee,
  - i. the transferring licensee must prepare an annual return for the period commencing on the first day of the reporting period and ending on the date the application for the transfer of the licence to the new licensee is granted; and
  - j. the new licensee must prepare an annual return for the period commencing on the date the application for the transfer of the licence is granted and ending on the last day of the reporting period.

Note: An application to transfer a licence must be made in the approved form for this purpose.

- Where this licence is surrendered by the licensee or revoked by the EPA or Minister, the licensee must prepare an annual return in respect of the period commencing on the first day of the reporting period and ending on
  - k. in relation to the surrender of a licence - the date when notice in writing of approval of the surrender is given; or
  - l. in relation to the revocation of the licence -- the date from which notice revoking the licence operates.

#### *Deadline for Annual Return*

The Annual Return for the reporting period must be supplied to the EPA by registered post not later than 60 days after the end of each reporting period or in the case of a transferring licence not later than 60 days after the date the transfer was granted (the 'due date').

#### *Licensee must retain copy of Annual Return*

The licensee must retain a copy of the annual return supplied to the EPA for a period of at least 4 years after the annual return was due to be supplied to the EPA.

#### *Certifying of Statement of Compliance and Signing of Monitoring and Complaints Summary*

Within the Annual Return, the Statement of Compliance must be certified and the Monitoring and Complaints Summary must be signed by:

- (a) the licence holder; or
- (b) by a person approved in writing by the EPA to sign on behalf of the licence holder.

A person who has been given written approval to certify a Statement of Compliance under a licence issued under the Pollution Control Act 1970 is taken to be approved for the purpose of this condition until the date of first review this licence.

#### **Notification of environmental harm**

Note: The licensee or its employees must notify the EPA of incidents causing or threatening material harm to the environment as soon as practicable after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the Act

Notifications must be made by telephoning the EPA's Pollution Line service on 131 555.

The licensee must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.

#### **Written report**

Where an authorised officer of the EPA suspects on reasonable grounds that:

- (a) where this licence applies to premises, an event has occurred at the premises; or
- (b) where this licence applies to vehicles or mobile plant, an event has occurred in connection with the carrying out of the activities authorised by this licence,

and the event has caused, is causing or is likely to cause material harm to the environment (whether the harm occurs on or off premises to which the licence applies), the authorised officer may request a written report of the event.

The licensee must make all reasonable inquiries in relation to the event and supply the report to the EPA within such time as may be specified in the request.

- The request may require a report which includes any or all of the following information:
  - m. the cause, time and duration of the event;
  - n. the type, volume and concentration of every pollutant discharged as a result of the event;
  - o. the name, address and business hours telephone number of employees or agents of the licensee, or a specified class of them, who witnessed the event; and
  - p. the name, address and business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event, unless the licensee has been unable to obtain that information after making reasonable effort;
  - q. action taken by the licensee in relation to the event, including any follow-up contact with any complainants;
  - r. details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event;
  - s. any other relevant matters.

The EPA may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the EPA within the time specified in the request.

#### **GENERAL CONDITIONS**

##### **Copy of licence kept at the premises or on the vehicle or mobile plant**

A copy of this licence must be kept at the premises or on the vehicle or mobile plant to which the licence applies.

The licence must be produced to any authorised officer of the EPA who asks to see it.

The licence must be available for inspection by any employee or agent of the licensee working at the premises or operating the vehicle or mobile plant.



## **ATTACHMENT B – Aboriginal Cultural Heritage**

Following are some comments on the final archaeological report by Julie Dibden titled "Proposed Sand Extraction, Boydtown near Eden, NSW: Aboriginal Cultural Heritage Assessment Report" dated July 2011 and the EIS prepared by Garret Barry dated August 2011:

### **Comments on the Aboriginal Cultural Heritage Assessment Report (ACHAR):**

Based on a consideration of the archaeological survey assessment, whereby no Aboriginal objects or areas of archaeological potential were located during the investigation, the recommendations in the final ACHAR are appropriate given the survey coverage, previous disturbance levels and consideration of the potential for burials to occur in sand bodies on the south coast.

The formulation of the Aboriginal Heritage Management Plan (AHMP) in order to manage the potential for burials within the sand body, as proposed in sections 7 and 8 of the ACHAR, should be undertaken prior to the commencement of any construction or associated ancillary activities on the site. The AHMP must be developed by a qualified archaeologist, in conjunction with Aboriginal stakeholders and the NSW Office of Environment and Heritage as required, and approved by BVSC prior to commencement of any development activities on the site.

### **Comments on the Environmental Impact Statement (EIS):**

There are a large number of other ancillary activities occurring on the site in relation to the project described in the EIS and associated appendices such as; the establishment or upgrade of haul roads, temporary stockpile placement, site facilities, noise barriers, any proposed erosion and sediment controls, creek and drainage rehabilitation along Reedy Creek and all future landscaping/ rehabilitation activities etc. As such, the AHMP should also include a strategy to monitor all ground disturbing works in all sand deposits across the site, where relevant, not just within the proposed areas for sand extraction activities.

Given the 28 year duration proposed for the extraction activities, as outlined in the EIS (page 42), there must be a firm commitment for the AHMP procedures to be implemented and adhered to over the operational life of the project.

The Environmental Management and Rehabilitation Plan, described within the EIS (page 156), should include the requirement for auditing compliance of the AHMP procedures over the operational life of the project.

### **Development Consent:**

**BVSC should consider including the following conditions for the protection of Aboriginal Heritage values in the development consent:**

- 1. An Aboriginal Heritage Management Plan (AHMP) must be developed by a qualified archaeologist, in conjunction with Aboriginal stakeholders and the NSW Office of Environment and Heritage as required, and approved by BVSC prior to commencement of any development activities on the site.**

**The AHMP must include, but not be limited to:**

- (a) detail of the process to be followed for monitoring and assessing topsoil removal prior the establishment of each stage of pit construction;**
- (b) consideration of monitoring and assessment for all ground disturbing activities related to any ancillary works such as; the establishment or upgrade of haul roads,**

temporary stockpile placement, site facilities, noise barriers, any proposed erosion and sediment controls, and any future landscaping/ rehabilitation activities;

(c) detail on the procedures to be followed if Aboriginal objects are found at any stage during the life of the development works and allow for the formulation of appropriate measures to manage any unforeseen impacts to Aboriginal heritage values;

(d) specifically detailing the procedures to be followed if any Aboriginal skeletal material is uncovered during the development works and allow for the development of appropriate measures to manage this material;

(e) outlining the process that will be followed for continuing consultation with the Aboriginal stakeholders and NSW Office of Environment and Heritage, where required; and

(f) outlining the process for how the AHMP procedures will be managed and adhered to during the operational life of the project.

2. No Aboriginal objects may be harmed unless an Aboriginal Heritage Impact Permit (AHIP) has been issued by the NSW Office of Environment and Heritage.
3. If any Aboriginal objects (such as stone artefacts or shell material) are unearthed during the development activity all work must cease immediately and the NSW Office of Environment and Heritage must be contacted for advice before any work re-commences.
4. If any Aboriginal skeletal remains, or potential burials, are unearthed during the development activity all work must cease immediately and the NSW Police and NSW Office of Environment and Heritage must be contacted for advice before any work re-commences.
5. All site workers and contractors must be provided with induction training on the identification of Aboriginal objects, Aboriginal cultural awareness and the AHMP procedures that must be followed during the operational life of the project and in the event of discovery of unknown Aboriginal objects.
6. The Environmental Management and Rehabilitation Plan (EMRP) should include the requirement for auditing compliance of the AHMP procedures during the operational life of the project.

#### **ATTACHMENT C – Threatened Species and EEC**

The EPA has reviewed the Ecological Assessment and Vegetation Management Plan prepared by Eco Biological for the proposed sand extraction. The EPA notes the mitigation measures outlined in Section 5 of the Ecological Assessment and the supporting Assessment of Significance which indicates this development will not significantly impact on threatened species or Endangered ecological communities (EEC) known to occur onsite.

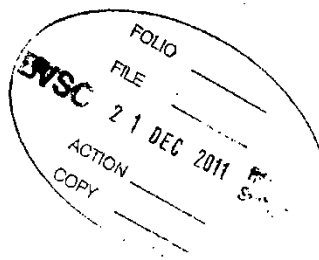
The EPA has the following comments on the reports:

- The EPA supports the majority of the mitigation measures, however notes most of these measures are concentrated on the protection and improvement of riparian habitats, whereas the development will remove hollow bearing trees and roosting resources for fauna both protected and threatened from across the site. The EPA recommended council considers the relocation of the large hollow bearing trees to alternative locations across the site to retain the hollow bearing resource, if there is no other alternative available to protect the trees.
- The EPA notes the impacts of the development on the Endangered Ecological community (Bangalay Sand Forest) known to occur onsite. The development in its current form will result in the removal of 27 ha of what is described as low condition EEC. Although it is in low condition the removal of this vegetation has not been offset by the replanting of the riparian area, council may therefore wish to consider increasing the area of rehabilitation of this EEC into the residual land remaining onsite.
- The EPA has identified an issue with the use of barbed wire in fencing of the areas designated for rehabilitation. Barbed wire is not recommended due to mortality risk to bats, birds and Yellow Bellied Gliders using the site. The EPA recommends all reference to barbed wire should be removed from the Vegetation Management Plan and council should apply conditions to ensure barbed wire is not used for fencing the rehabilitation areas.

Our Ref: STH09/02493/03  
Contact: Tim Webster 4221 2769  
Your Ref: DA 2011.500



Transport  
Roads & Maritime  
Services



20 DEC 2011

The General Manager  
Bega Valley Shire Council  
PO Box 492  
Bega NSW 2550

Attention: Mark Fowler

**BEGA VALLEY SHIRE COUNCIL – DA 2011.500 – LOT 1 DP 572983, HW1, PRINCES HIGHWAY/NULLICA SHORT CUT ROAD, BOYDTOWN – PROPOSED SAND EXTRACTION**

Dear Sir

Reference is made to your letter dated 12 December 2011 regarding the subject development application forwarded to Roads and Maritime Services (RMS) for comment.

RMS have reviewed the submitted information and do not object to the development application in principle as the existing junction of Princes Highway/Nullica Short Cut Road is considered adequate to cater for the traffic generation associated with the subject application.

Yours faithfully

A handwritten signature in black ink, appearing to read "Brian Lefoe".

Brian Lefoe  
Manager, Road Safety and Traffic Management  
Southern Operations and Engineering Services

Roads & Maritime Services

Level 4, Southern Regional Office, 90 Crown Street, Wollongong NSW 2500 | PO Box 477 Wollongong East NSW 2520

