

ADDENDUM TO PLANNING ASSESSMENT REPORT

JOINT REGIONAL PLANNING PANEL (Southern Region)

JRPP No	2012STH001
DA Number	2011.500
Local Government Area	Bega Valley Shire Council
Proposed Development	Designated Development – Extractive Industry (Sand & Topsoil)
Street Address	Nullica Short Cut Road, Boydtown
Applicant/Owner	Bruce Lyon (Boydtown Pastoral Company Pty Ltd)
Number of Submissions	10 (including past submissions)
Recommendation	*
Report by	Mark Fowler Development Control Planner (Bega Valley Shire Council)

PRECIS

This supplementary report responds to matters raised in the minutes of the Southern Region Joint Regional Planning Panel meeting held at Bega Valley Shire Council on Thursday 6 February 2013. At the meeting the Panel resolved the following:

1. That the panel defer the application for submission of further information. This information is to include:
 - a. A comprehensive environmental management and rehabilitation plan that brings together all mitigation measures and commitments recommended in the EIS and supporting studies and with maps that illustrate the staging, timing and components of extraction and rehabilitation works. The plan is to also include details of how potential environmental impacts will be managed.
 - b. A plan showing a minimum of a 20 metre wide vegetation buffer to all boundaries of the site.
 - c. Full details of the proposed noise bund which is to include a minimum 3 cross sections. The location of the bund shall be located outside of the 20 metre vegetated buffer. The slope of the buffer shall be of an appropriate grade to accommodate vegetation. The bund wall is to remain as a landscape feature of the site.
2. That the council officers review the draft conditions to ensure that conditions to mitigate environmental impacts are specific and reference performance standards.
3. That the applicant be advised that the panel is of the view that the hours of operation, if the application is to be supported, should be restricted to 9:00am to 5:00pm Monday to Friday.
4. That on submission of the above information, a supplementary report be prepared for the panels consideration.

REPORT

In accordance with the Panel resolution, the applicant provided supplementary information including a draft environmental management and rehabilitation plan, scaled plans illustrating a minimum 20 metre wide vegetation strip around the entire site, full details including scaled plans of proposed noise bunds, and additional draft technical reports in response to the recommended draft conditions of consent reported to the Panel meeting held on 6 February 2013.

The supplementary information also included a proposed amendment to the Staging of Pit 1 and was supported by an Addendum Noise Assessment Report. The report includes recommended noise mitigation measures to reflect the proposed re-staging. The additional information provided by the applicant, including the re-staging of Pit 1, was exhibited for a period of 30 days.

Since the Panel meeting on 6 February it was identified that the original EIS had not identified all land subject of the application. The applicant has now provided details of all allotments and this information was exhibited for 30 days.

This report assesses all additional information provided by the applicant including supplementary information, proposed restaging of Pit 1 and additional submissions that were received during both exhibition periods.

The report includes a revised draft schedule of conditions to address the additional information submitted by the applicant and to ensure that conditions to mitigate potential

environmental impacts, including concerns raised in submissions received, are specific and reference performance standards.

Supplementary Information

The extent, quantities and operation otherwise described in written and graphical form in the EIS remain unchanged. The applicant has requested that the staging of Pit 1 be amended in accordance with Map 1 detailed on Page 4. The applicant detailed three main reasons for the request being:

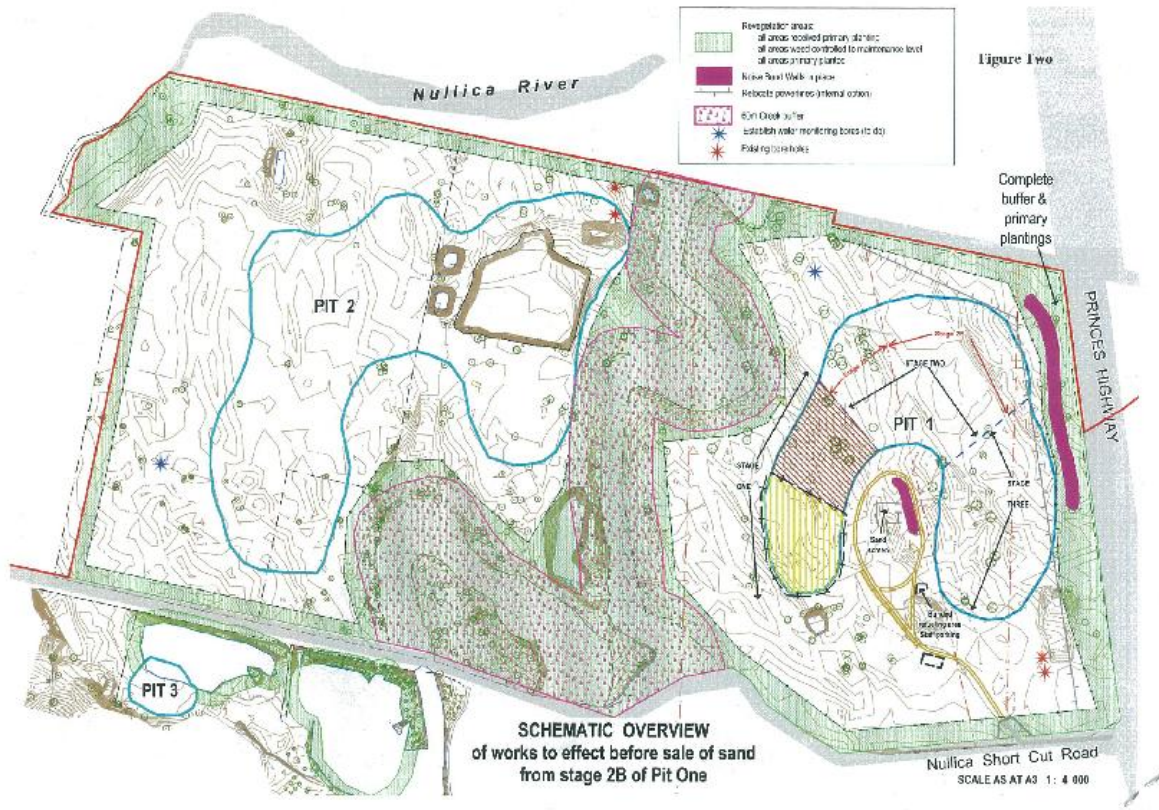
- "1. The original Stage 1 and 2 each contain a power line that will require relocation. Recent indications from Essential Energy are that this may take considerably more time than originally envisaged. This would have the potential to delay the commencement of extraction by up to a year longer than otherwise possible.*
- 2. Commencing extraction in the west of Pit 1 will have noise mitigation benefits for the Caravan Park due to increase distance.... This will allow also the beneficial, second bund and for a phased construction of the main entrance of the main eastern bund near the property boundary.*
- 3. The South-west half of what is now proposed to be Stage 1 contains no trees and therefore will not incur the additional process for tree removal required for the protection of fauna which can take 12 months to complete. Commencing in this south-west section generates up to 2 years supply which allows time for both tree removal in accordance with the required fauna protection strategy and for power line relocation."*

The applicant provided an Addendum Noise Assessment report from Wilkinson Murray dated 10 May 2013. To address any potential additional impacts on Twofold Bay Caravan Park occupants as a result in the amendment to the proposed staging of Pit 1, the Addendum report recommended the following;

- Construction of a new 70 metre 4 metre high bund between the centrally located screening plant and the caravan park. A new screening plant is proposed.
- Extraction of sand from Stage 1 area of Pit 1.
- Extract sand from the western side of Stage 2 up to 20 metre from the power line.
- Prior to extraction on the eastern side of the Power line in Stage 2 of Pit 1, finalise construction of a 3 metre high eastern noise bund to be 300 metres long.
- Extract sand from west to east in the remainder of Stage 2.
- Extract sand from Stage 3

Further, during the entire extraction period for Pit 1, the recommended 70 metre long noise bund between the Caravan Park and the sand screen is to be maintained. The report concludes that based on revised excavation methodology and noise control measures being implemented as outlined above, the proposal would meet the established noise criterion of $L_{Aeq}(15 \text{ minutes})$ 41 dBA. The staging of Pit 1 including the inclusion of the addition 70 metre bund wall is detailed below in Map 1.

Map 1 – Proposed amended Staging of Pit 1



As previously outlined, the original exhibited EIS did not include all allotments subject to the proposed development. All allotments subject to the proposed development are listed below;

LOT			DP
1	to	131	12883
133	to	147	12883
157	to	178	12883
382			12883
383			12883
386	to	391	12883
4	and	5	239401
21	to	37	239404
1			879786
1			572983
1	and	2	127299
2			750223

Previous resolution of JRPP - Section 79C(1)(a),(b),(c),(e)

In accordance with the Panel resolution, the applicant provided supplementary information including a draft environmental management and rehabilitation plan, scaled plans providing for a minimum 20 metre wide vegetation strip around the entire site, scaled plans detailing vegetation buffers and noise bunds, and additional draft technical reports in response to the recommended draft conditions of consent reported to the meeting on 6 February 2013. The additional information provided is assessed below.

Environmental Management and Rehabilitation Plan

The applicant provided a detailed draft Environmental Management and Rehabilitation Plan (EMRP) accompanied with scaled plans. The applicant provided several further studies in the preparation of the draft EMRP including;

- Reviewed Noise Impact Assessment prepared by Wilkinson Murray,
- Review of Sand Extraction Proposal – Addendum report prepared by Royal HaskoningDHV,
- Aboriginal Heritage Management Plan prepared by NSW Archaeology Pty Limited,
- Soil and Water Management Plan prepared by Royal HaskoningDHV,
- Vegetation Management Plan prepared by Kleinfelder, and
- Transport Management Plan prepared by Garret Barry Planning Services Pty Ltd.

A review of the draft EMRP and all supportive documents submitted by the applicant provides a more concise and consolidated document that brings together all mitigation measures and commitments recommended in the EIS and supporting studies. The information will make ongoing monitoring and milestone accountability more transparent and robust for Council and other relevant regulatory authorities.

It is considered that the additional information addresses the resolution of the Panel for a comprehensive environmental management and rehabilitation plan that brings together all mitigation measures and commitments recommended in the EIS and supporting studies and with maps that illustrate the staging, timing and components of extraction and rehabilitation works. It is considered that the draft EMRP has been adequately addressed by the applicant.

Vegetation Strip

The applicant provided additional details including;

- scaled plans providing for a minimum 20 metre wide vegetation strip around the site; the extent of the 60 metre wide buffer along Reedy Creek;
- vegetation planting diagrams including the perimeter and noise bund walls; and,
- details on the rehabilitation plans including Management Zones to identify areas for ongoing monitoring.

The plan identifying the 20 metre wide vegetation strip is included in the draft EMRP – Volume 2:A3 Scale Plans. It is considered that all areas of vegetation management for the site, including the 20 metre wide vegetation strip around the entire site, has been adequately addressed by the applicant.

Noise Bunding

The applicant provided scaled plans detailing the proposed earthen noise bunding, including their proposed landscaping. The information provided by the applicant includes a revised Noise Assessment Report due to the applicants request to revise the Staging of Pit 1 as shown in Map 1 above.

The revised Noise Assessment proposes the following methodology and includes;

- an additional 70 metre long, 4 metre high noise bund between the centrally located screening plant and the Caravan Park. A new screening plant is proposed.
- Extraction of sand from Stage 1 area of Pit 1.
- Extract sand from the western side of Stage 2 up to 20 metres from the power line.
- Prior to the extraction on the eastern side of the Power lines in Stage 2 of Pit 1 finalise construction of a 3 metre high earthen noise bund to be 300 metres long.
- Extract sand from the west to east in the remainder of Stage 2 of Pit 1.
- Extract Sand from Stage 3 of Pit 1.
- During the entire extraction of Pit 1 the 70 metre noise between the caravan park and the screen is to be maintained.

The noise report concluded that based on the above methodology and noise control measures being implemented, the proposed development would meet the noise criterion level of $L_{Aeq}(15minutes)$ 41 dBA. This is consistent with the previous noise assessment report submitted with the original EIS.

It is considered that the additional information submitted by the applicant adequately addresses the Panel resolution. The additional information includes full details of the proposed noise bund, including 3 cross sections (1 cross section detailing landscaping of eastern noise bund, 1 typical cross section detailing proposed new inner noise bund and one typical cross section of the outer eastern noise bund), noise bunding generally outside of the 20 metre vegetated buffer, slope are of an appropriate grade to accommodate vegetation for the outer eastern noise bund and the outer bund wall to remain as a landscape feature of the site. The plans do provide a small section of the bund located adjacent to the Princes Highway as being within the 20 metre vegetation buffer to the boundary. To be consistent with the Panels resolution, a draft condition has been included requiring the bund to be setback a minimum of 20 metres from the eastern boundary.

The applicant did not provide any details of the landscaping of the proposed new inner 70 metre long, 4 metre high noise bund. This new bund wall would be located approximately 250 metres from the eastern boundary with the Princes Highway. As this bund wall is not proposed to be landscaped, it would be visually prominent in the rural landscape when viewed from the Princes Highway and Nullica Short Cut Road for the first several years until such time as the perimeter landscaping becomes established. It is considered that the eastern frontage of this bund wall should be treated with grass to mitigate visual appearance when viewed from the Princes Highway until such time as the perimeter vegetation strip becomes established.

Hours of Operation

In accordance with the Panel resolution the applicant was advised that if the application is to be supported, the hours of operation should be restricted to 9:00am to 5:00pm Monday to Friday. The applicant responded with additional information requesting the Panel reconsider the hours of operation.

The applicant cited 3 main reasons for the requested hours of operation, being;

1. The EPA and Council officers have assessed the proposal against the relevant standards including the NSW Industrial Noise Codes and found the requested hours are acceptable.

2. Observations of traffic flows on the highway indicate highway noise and traffic volumes appear to continue at similar levels between 5pm and 7pm in those parts of the year when this time is in daylight.
3. The nature of the sand industry and likely patterns of extraction at the proposed sand mine are such that flexibility is required....occasional periods of intensive extraction when there are large contracts to be met and conversely periods of many days with no activity at all. Many deliveries take place...early morning and the flexibility is needed to ensure when there are large orders to fill, the haulage impacts run over fewer days...

The applicant has suggested in their submission by way of compromise that the hours of operation be:

- 7am to 7pm Monday to Friday and 8am to 1 pm Saturdays during the daylight saving period (October to end of March).
- 7am to 5pm Monday to Fridays and 8am to 1pm Saturdays at other times.

The compromise submitted by the applicant would provide an additional 4 hours per day during the 6 months of daylight saving each year and an additional 2 hours per day for the remaining times of the year. The additional 4 hours per day during the daylight saving hours would overlap the generally higher tourist season. The concerns over noise including the overlap of the additional hours during the higher tourist season and the impact this would have on nearby tourist operations were raised in submissions.

The Noise Impact Assessment accompanying the EIS and Addendum report, provided that the operation of the quarry could be undertaken in accordance with the NSW EPA Industrial Noise Guideline with suitable noise control measures. Provided the recommended noise control measures are adopted, the extractive industry could be conducted without adversely affecting the acoustic amenity of surrounding residential receivers and this includes the Twofold Beach Caravan Park.

To mitigate the concerns raised in submissions and to also address the panels resolution, it is proposed that noise limits be amended as follows;

- The quarry is to be operated between the following hours: 9:00am to 5:00pm, Monday to Friday and 8.00am to 1.00pm on Saturdays. No work is to be carried out on Sundays or public holidays.
- The haulage of materials from the site is to be operated between the following hours: 9.00am to 5.00pm, Monday to Friday and 8.00am to 1.00pm on Saturdays. No haulage shall take place on Sundays or public holidays. Council may consider an extension to the haulage of materials from the site for one off major development during daylight hours from 9.00am to 7.00pm Monday to Friday subject to a written request by the proponent justifying the need for the variation.

Note: Maintenance activities may occur at any time provided they are inaudible at privately-owned residences or tourist accommodation premises.

Reason: To avoid potential conflict with adjoining residential and tourist land uses.

Review of draft conditions

The applicant requested a review of draft conditions 6, 44 and 54 following the Panel meeting.

Condition 6 which relate to the hours of operation is discussed above.

The remaining two conditions are requested for deletion by the applicant. They include Condition 44 requiring the provision of a Man Proof fence and Condition 54 requiring the intersection of Pit 3 road entrance be upgraded. The request for review of condition 44 and 54 are discussed below.

In support for the deletion of both conditions the applicant provided the following information.

Condition 44 – man proof fence

“No substantive reason for its imposition to exist. The site has sound, stock proof fencing around the perimeters that is challenging for an adult to cross let alone children. The site will also have a further fence around the regeneration areas which will present as a second barrier to cross if attempting to access the pits. Management controls will ensure no unauthorised access. The proposed 1.8 metres cyclone style fence would be an effective barrier to most wildlife and run contrary to the intent to the lakes becoming a positive environmental feature.”

The condition was applied to ensure that the extraction areas of the site are protected. The fencing would prohibit not only unauthorised people to the site, but also limit stock and wildlife accessing the operational areas for their protection and to minimise the impact these would have on operational and rehabilitation areas of the quarry.

The proposed fencing is to apply for the duration of extraction of each pit. Therefore, fencing would only be required around Pit 1 when it is in operation. It can be removed when extraction and rehabilitation measures have been completed and works commence at Pit 2. Once the fencing is removed, there would be no barrier to wildlife and would not run contrary to the intent to the final landform of extracted areas as water bodies.

Council recommends that this condition be maintained.

Condition 54 – Pit 3 road entrance

“The existing entrance has good sight distance and has been used for quarry purposes for 25 years without incident. The proposed Pit 3 is a small continuation of extraction which is likely to be exhausted in under 5 years – after which access through this point would become limited to occasional access for agricultural and rehabilitation purposes.”

Council recommends that this condition be maintained as it would mitigate traffic impacts proposed by Pit 3 on Nullica Short Cut Road. The upgrading works ensure that the entrance to the Pit is in accordance with Council’s current standards to ensure safe entrance and exit to the site from turning trucks.

Based on the additional information provided by the applicant and concerns raised by the Panel at its meeting on the 6 February 2013, an amended draft schedule of conditions is attached to this report as Attachment 4.

Implications on Section 79C assessment by revised Staging of Pit 1

The previous report considered by the Panel at its meeting on 6 February 2013 included a Section 79C assessment in accordance with the Environmental Planning and Assessment Act 1979 (copy of report available for all Panel members). The extent, quantities and operation otherwise described in written and graphical form in the original EIS remains unchanged except for the request by the applicant for re-staging Pit 1. It is considered that all environmental impacts have been suitably assessed in accordance with relevant provisions of the previous Section 79C assessment and that the re-staging of Pit 1 impacts under Section 79C are considered in this Addendum report.

The additional information provided by the applicant was placed on exhibitions in accordance with the provisions of the EP & A Act 1979. Further submissions were received and are discussed below.

Additional submissions - Section 79C(1)(d)

The additional information including the re-staging of Pit 1 was placed on exhibition for 30 days between the 5 June 2013 and 5 July 2013. Two submissions were received and are included as Attachment 1. Both submissions were submitted by parties who previously lodged submissions objecting to the development and both relied on the issues in the previous submissions.

The revised allotment details was placed on exhibition for 30 days between the 28 August 2013 and 26 September 2013 with one submission received and is included in Attachment 1. This submission was submitted by a party who previously lodged a submission objecting to the development.

The following additional issues were raised in the three submissions. The applicant has received and provided a response to the issues raised in the submissions. The applicants response is included as Attachment 2.

Sub	Issue	Council comments
1.	<i>Pit 1 should not be mined until the other pits are exhausted – if at all.</i>	<p>These comments are noted as the matter was considered at the last Panel meeting. The applicant has identified reasonable sand resources at the site of Pit 1 and it is concluded that reasonable measures can be adopted to mitigate identified impacts for nearby tourist and residential land uses.</p> <p>The applicant has also detailed reasons for the sequence and staging that relate to improving the environmental outcomes for neighbours and associated construction costs.</p>
	<i>Hours of Operation - All site operations should cease at 5 pm on weekdays with no weekday or holiday operations being allowed.</i>	<p>This issue was raised at the last Panel meeting and the applicant has requested amended hours to what the Panel recommended. A review of the hours of operation is discussed in this report.</p> <p>It is recommended that the hours of operation be amended as proposed in the revised draft conditions of consent.</p>
	<i>Proposed staging – The revised staging of Pit 1 would make little difference from the perspective of noise impacts for the caravan park and nearby residential receivers</i>	<p>The applicant provided additional comment from Wilkinson Murray on the impact of noise for Pit 1 due to the proposed changes in staging. The report concludes that if all mitigation works are undertaken then the compliance with noise limits would be met and that the Caravan Park would not be adversely impacted upon by intrusive noise and its amenity would be maintained.</p>
2.	<p>Revised Noise assessments</p> <p><i>Information submitted with the revised noise assessment is inadequate and contains errors and non-compliance with the NSW Industry Noise Policy</i></p> <p><i>Revised noise assessment confirms that guests at the resort will suffer noise impacts that exceed the noise impact criteria prescribed at the Resort</i></p>	<p>The amended noise report addresses Council's previous concerns regarding acoustic impact on the nearby caravan park from the operation of Pit 1 and the required treatments to on-site plant and screener. The revised pit sequencing, pit layout and inclusion of an inner bund wall is supported.</p> <p>Figures 1 and 2 in the revised noise assessment detail that the yellow noise limits on the Caravan Park site fall within the range of 40 to 41dBA, not above the 45dBA</p>

<p><i>by more than 4dBA during the day and 8dBA during the evening, even under calm wind conditions</i></p> <p><i>... the report then refers to the noise contour plots in Figures 1 and 2 which clearly show, in Figure 1, as area where the noise levels are above 45dBA (yellow) and a large area where the noise levels are between 40 and 45dBA (dark green) and similarly in Figure 2, an area where the noise levels are above 45dBA (yellow) and even larger area where the noise levels are between 40 and 45 dBA.</i></p> <p><i>...it is critical that close consideration is given to the context in which noise impacts will occur. The impacts will be experienced by guests at a holiday resort...any perceptible industrial noise is likely to significantly impact on our business by dissuading return visits by guests negatively affected by noise from the quarry.</i></p>	<p>range detailed in the submission.</p> <p>The amended information was reviewed by the NSW Environmental Protection Authority who maintain their General Terms of Approval issued on the 10 February 2012. Those GTA's provide noise limits in accordance with the Noise Assessment Report limiting noise at Twofold Bay Caravan Park to 41dBA. The NSW Environmental Protection Authority have required that an additional condition be applied to ensure that the noise limits are verified once works commence on-site to ensure predicted noise limits are met. A copy of their response is provided as Attachment 3.</p> <p>It is considered that all documents pertaining to Noise Assessment have been carried out in accordance with the NSW Industrial Noise Guidelines and if all works are undertaken to comply with the noise limits, then the Caravan Park will not be impacted upon by intrusive noise and its amenity would be maintained.</p>
<p>Air quality</p> <p><i>The air quality modelling undertaken by the applicant is deficient for the following reasons;</i></p> <ol style="list-style-type: none"> <i>1. The assessment has not considered peak events being maximum daily activity of truck haulage from the site.</i> <i>2. The adequacy of the wind inputs should have been checked against nearby or onsite observation to ensure these are reflective of the local conditions.</i> <i>3. The dispersion model adopted by the applicant is not the approved dispersion model for use in simple, near field applications in NSW.</i> <i>4. There are assumption errors in assessing wind speed.</i> 	<p>The Air Quality assessment undertaken by NH2 Dispersion Sciences detailed that it was undertaken following standard methods outlined in the Approved methods and Guidance For the Modelling and Assessment of Air Pollutants in NSW (DECCW 2005).</p> <p>The applicant provided a response by NH2 Dispersion Science to the concerns raised in the submission over Air Quality. A copy of the response is included within Attachment 2.</p> <p>NH2 Dispersion Science stated that the assessment undertaken for the project was undertaken in accordance with the relevant guidelines and adopted assessment criteria in NSW.</p> <p>The NSW Environmental Protection Authority also reviewed the concerns raised over air quality in the submission and advised that the EPA considers condition O1.1 in the GTA sufficient to minimise the air emissions from the premises.</p> <p>It is considered that the EIS has identified all applicable air emission issues associated with the development and proposed mitigation measures would maintain the amenity of the area and the health and safety of adjoining land users.</p>
<p>Health Impacts of Crystalline Silica and Fine Particulate</p>	<p>The applicant provided a response by NH2 Dispersion Science to the concerns raised in the submission over Air Quality, including health impacts of crystalline silica</p>

	<p><i>...it is imperative these smaller Particulates known as respirable crystalline silica are modelled to understand their potential impacts on the surrounding sensitive land uses...no details as to these predictions have been provided yet it appears the applicant has undertaken some level of assessment to determine their impacts. It is standard practice to explicitly evaluate PM2.5 impacts from extractive industry projects in NSW and to not include such an evaluation is concerning.</i></p>	<p>and fine particles. A copy of the response is included within Attachment 2.</p> <p>NH2 Dispersion Science have advised that the assessment for the project was undertaken in accordance with the relevant guidelines and adopted assessment criteria in NSW and that no adverse health effects would be expected even if 100% of the particle where crystalline silica, which is very unlikely.</p> <p>It is considered that the Air Quality Assessment submitted with the EIS has adequately addressed all air quality issues associated with the proposed development including smaller particulate matter.</p>
	<p>Draft EMRP</p> <p><i>The Environmental Management Plan does not reflect best practice considering the number of sensitive land uses surrounding the quarry.</i></p>	<p>The draft EMRP was prepared in accordance with the "Guidelines for preparation of Environmental Management Plans" published by the Department of Infrastructure, Planning and Natural Resources 2004. It is considered that the draft EMRP satisfies the concerns raised by the Panel at its meeting on the 6 February 2013 by bringing together all mitigation measures and commitments recommended in the EIS and includes supporting studies and scaled maps that illustrate the staging, timing and components of commencement, operation, extraction and rehabilitation works for the site.</p> <p>Concerns raised in the submission of the adequacy and use of best practice for the site have been considered. It is considered that the draft annual EMRP reviews all identified impacts and comments on how the mitigation measures are performing to ensure that best practice is considered into the future.</p>
	<p>Zoning</p> <p><i>The uncertainty as to the land use planning for Boydtown does not allow for a proper and adequate consideration of the compatibility of the proposed development with land uses in the vicinity as mandated under the SEPP (Mining, Petroleum Production and Extractive Industry) 2007. How does Council intends to address Clause 12, which specifically refers to the need to consider the "compatibility of proposed...extractive industry with other land uses" in circumstances where the "likely preferred uses of land in the vicinity of the development" are presently unknown given Council's resolution at its meeting on 12 June 2012 to defer determination for that</i></p>	<p>As the land is deemed as a "deferred matter" the land is currently zoned 1(a) Rural General under BVLEP 2002. The land was exhibited as E3 Environmental Management under the draft Bega Valley LEP. Prior to the gazettal of the draft Plan, the applicant provided a revised master Plan for all lands owned and as such the land was provided with a deferred matter. Extractive industries are identified as permitted use in Rural 1(a) and prohibited in the E3 zone. Since the gazettal of the BVLEP 2013, Council and the Dept of Planning maintain that the land immediately surrounding the proposed quarry is to remain as a rural/environmental zone.</p> <p>The EIS and subsequent reports provided by the applicant have identified all potential impacts that could occur for adjoining and surrounding land uses, in particular, impacts associated with noise, dust, traffic and visual. It is considered that the land included as the deferred matter would not be impacted upon by the proposed extractive industry.</p>

	<i>part of the BVLEP.</i>	
3	<i>There should also be a reduction of operation hours to prevent placing children in unnecessary risk of trucks with poor vision of children's unpredictable movements.</i>	These comments are noted as the matter was considered in the last report to the Panel. The NSW Roads and Maritime Service require the upgrading of the intersection of Nullica Short Cut Road and the Princes Highway. The development of a Transport Management Plan and Code of Conduct would provide suitable measure to mitigate any impact associated with children or school bus routes.
	<i>In the current operation the bund wall is insufficient and lucky to make one meter in places. The three to four meter bund would be insufficient in reducing noise as most of the machinery would be higher than the wall and as the pit becomes deeper sound will eco/bounce off the walls creating disastrous effects on locals and holiday makers.</i>	The proposed bund walls are to minimise noise impacts for adjoining and nearby sensitive land uses from the operation of the quarry. The proposed additional condition from the NSW EPA would ensure that suitable noise monitoring does occur to ensure that identified noise limits are met and complied with.
	<i>Yellow-bellied Glider (Petaurus australis) found next to pit site three live in small family groups of two - six individuals and are nocturnal... These gliders frequent my place near on nightly as we are adjacent to this site and are possibly part of their range, along with pit site one and two. Some of their threats are loss and fragmentation of habitat, loss of hollow baring trees and loss of feeder trees. This proposal shows a clear threat to the current resident Petaurus australis with substantial disturbances to site three and one.</i>	These comments are noted as the matter of impacts on flora and fauna were considered in the last report to the Panel. The proposed additional vegetation buffers around the site, the provision of Reedy Creek Riparian Zone and proposed rehabilitation measures of quarry pits would mitigate impacts on all identified Threatened Flora and Fauna.
	<i>The Powerful Owl Ninox strenua has the potential to be impacted from all proposed sandmining sites should their food sources be dispersed... Should the requested operations hours be approved these birds are at risk of becoming road kill from haulage vehicles when operating during the winter period, in the dark when the birds are still actively hunting. The powerful owl can be extremely sensitive to disturbance around the nest site, particularly during pre-laying, laying and downy chick stages. Disturbance during the breeding period may affect breeding success. We can ill afford to loose any breeding pairs of this vulnerable species.</i>	These comments are noted as the matter of impacts on flora and fauna were considered in the last report to the Panel. The proposed additional vegetation buffers around the site, the provision of Reedy Creek Riparian Zone and proposed rehabilitation measures of quarry pits would mitigate impacts on all identified Threatened Flora and Fauna.

Conclusion

Following the resolution of the Panel on 6 February 2013, the applicant has responded by providing additional information. The information provided has identified that the proposed development is consistent with key objectives of the State, Regional and Local strategies and environmental instruments.

Council is satisfied that the proposed development and the additional information submitted by the applicant satisfactorily responds to the Panel's recommendation on the 6 February 2013 and recommends that the application for the proposed Extractive Industry (Sand and Topsoil) be approved subject to the attached draft conditions of consent. It is considered that the recommended conditions of consent will ensure that construction and future operation will maintain the environmental attributes of the area and maintain the surrounding residential and tourist amenity located in the immediate area.

Recommendation

That DA2011.500 for Extractive Industry (Sand and Topsoil) on Lots 1- 131, 133-147, 157-178, 382, 383 and 386-391 DP12883, Lots 4 and 5 DP239401, Lots 21-37 DP239404, Lot 1 DP879786, Lot 1 DP572983, Lots 1 and 2 DP127299 and Lot 2 DP750223, Nullica Short Cut Road, Boydtown, be approved, subject to the conditions in Attachment 4.

Attachment 1 – Copy of additional submissions

Attachment 2 – Copy of response from applicant responding to additional submissions.

Attachment 3 – Copy of NSW EPA further comments

Attachment 4 – Revised draft conditions of consent