

JOINT REGIONAL PLANNING PANEL (Northern Region)

JRPP No	JRPP Reference Number 2014NTH010
DA Number	DA 2014/27
Local Government Area	Kyogle Council
Proposed Development	Extractive Industry (sand and sandstone quarry) with a maximum extraction of 22,500 tonnes per year for a maximum of 30 years.
Street Address	Lots 155, 156 and 361 DP 755732 Sextonville Road, Dobies Bight
Applicant/Owner	Stephen Fletcher & Associates Pty Ltd
Number of Submissions	Three
Regional Development Criteria (Schedule 4A of the Act)	<p>Schedule 4A</p> <p>Clause 8 Particular designated development</p> <p>Development for the purpose of:</p> <p style="padding-left: 40px;">a) Extractive industries, which meet the requirements for designated development under clause 19 of Schedule 3 to the <i>Environmental Planning and Assessment Regulation 2000</i>.</p>
List of All Relevant s79C(1)(a) Matters	<ul style="list-style-type: none"> • Kyogle Local Environmental Plan 2012 • Kyogle Council Development Control Plan No 2 – Development in Rural Areas • Kyogle Development Control Plan 2014 • North Coast Regional Environmental Plan • State Environmental Planning Policy No 33 – Hazardous and Offensive Development • State Environmental Planning Policy No 44 – Koala Habitat Protection (SEPP 44) • State Environmental Planning Policy No 55 – Remediation of Land • State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 • State Environmental Planning Policy (Rural Lands) 2008 • Environmental Planning and Assessment Regulation 2000
List all documents submitted with this	<ul style="list-style-type: none"> • Proposed Site Layout and Staging Plan • NSW Office of Water- General Terms of Approval

report for the panel's consideration	<ul style="list-style-type: none"> • NSW Roads and Maritime Service- comments and recommendations • NSW Crown Lands- advice • NSW Office of Environment and Heritage- comments and recommendations • Richmond Valley Council- comments and recommendations • Submissions received (3)
Recommendation	Approval with conditions
Report by	Lachlan Black Acting Executive Manager Planning and Environment

Assessment Report and Recommendation Cover Sheet

SUBJECT: DEVELOPMENT APPLICATION NO. 2014-27 (DESIGNATED DEVELOPMENT) FOR AN EXTRACTIVE INDUSTRY (SAND AND SANDSTONE QUARRY) ON LOTS 155, 156 & 361 DP 755732, SEXTONVILLE ROAD, DOBIES BIGHT

FILE NO: 2014-27

Recommendation:

1. That Development Application No. 2014-27 (Designated Development) for an extractive industry (sand and sandstone quarry) on Lots 155, 156 and 361 DP 755732 Sextonville Road, Dobies Bight, be determined pursuant to S.80 of the Environmental Planning and Assessment Act 1979 by the granting of consent subject to conditions shown in Attachment 1 to this report.

Disclosure	Disclosure of any political donation and/or gift - No
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Report by Acting Executive Manager, Planning and Environment

Reason for report	In accordance with Schedule 4A of the <i>Environmental Planning and Assessment Act 1979</i> , the application is referred to the Northern Joint Regional Planning Panel for determination, as the development is for the purpose of an extractive industry which meets the requirements for designated development under clause 19 of Schedule 3 of the <i>Environmental Planning and Assessment Regulation 2000</i> . Specifically, the extractive industry: <ul style="list-style-type: none">• Will disturb a total surface area of more than 2 hectares of land by clearing and excavating, and• Is located in or within 40 metres of a natural waterbody, wetland or an environmentally sensitive area; and• Is within 500 metres of the site of another extractive industry that has operated during the last 5 years.
Applicant	Stephen Fletcher & Associates Pty Ltd
Owner	Karie Graham
Application lodged	22 April 2014
Property address	Lots 155, 156 and 361 DP 755732 Sextonville Road, Dobies Bight

<p>Site description and Locality</p>	<p><u>Site</u></p> <p>The site is made up of three allotments; Lot 155, 156 & 361 DP 755732 with a total site area of 148 hectares (see Figure 1 below). The land gently slopes from west to north-east.</p> <p>An existing small sand quarry is currently operated within the easternmost allotment (Lot 361) of the subject site and is approved for extraction of 800m³ per annum under development consent 1995-33. This consent also applies to adjoining Lot 158 DP 755732; 600m³ per annum is permitted to be extracted from Lot 158.</p> <p>Lot 155 is fully forested and Lot 156 is predominantly forested, save for approximately 13 hectares of cleared grazing land in the north. Lot 361 is also predominantly forested, excepting the area that has been cleared for existing quarry operations. Cattle grazing currently occurs generally over the subject site.</p> <p>A small intermittent north flowing watercourse is located within the north western section of the proposed quarry (within Lot 155). The applicant has identified a small Groundwater Dependant Ecosystem adjacent to this watercourse. Groundwater occurs at depths of 1.6 – 1.9 metres in this area.</p> <p><u>Locality</u></p> <p>The site is located within the rural locality of Dobies Bight, approximately 16 km south west of Kyogle and approximately 15 km north west of Casino. The Kyogle Council boundary with Richmond Valley Council (RVC) is less than a kilometre east of the site, and approximately 5km south of the site.</p> <p>Adjoining and surrounding uses are predominately agricultural and rural lifestyle lots. Large areas of vegetation occur within the locality, in particular to the north, west and south of the site.</p> <p>Operating on the adjoining site to the east (Lot 158 DP 755732) is a small scale sand quarry that is also operated under development consent 1995-33 which applies to two lots, including Lot 361 on the subject site. The sand quarries on each of the two lots are operated by separate operators. The total extraction permitted under development consent 1995-33 is 1400m³ per annum with an assumed apportionment between the two lots being; Lot 361- 800m³ and Lot 158- 600m³.</p> <p><u>Road networks</u></p> <p>The majority of roads in the area are constructed to a sealed rural standard, however Sextonville Road in the vicinity of the site is unsealed.</p> <p>Sextonville Road is a through road connecting to Summerland Way via McDonalds Bridge Road to the east and connecting to the Bruxner Highway at Casino to the south.</p>
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	The site is currently accessed from Sextonville Road via an unformed track located on Council and Crown road reserve.
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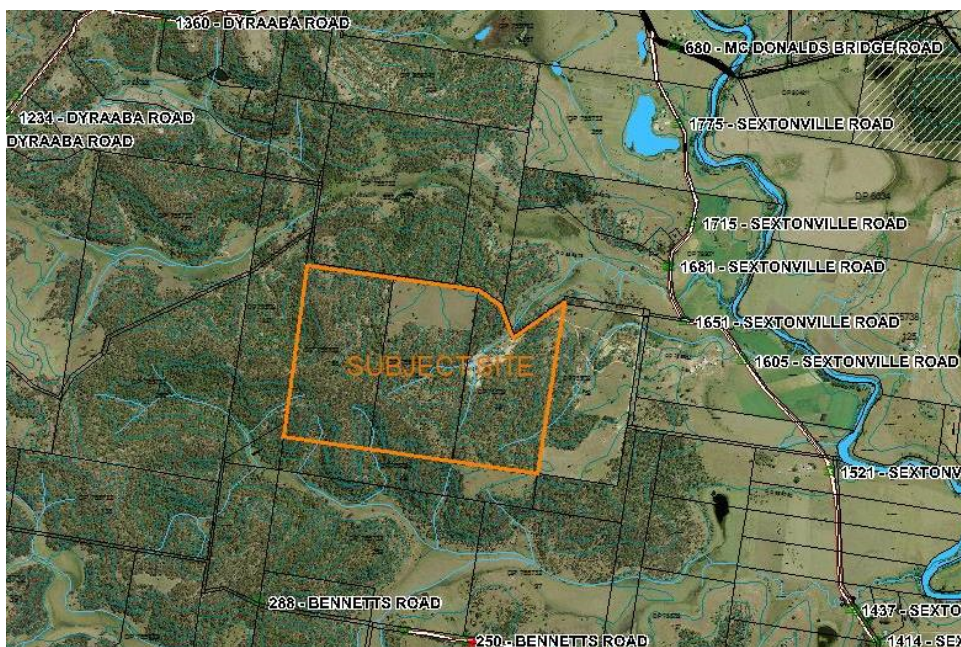


Figure 1- Development site

Proposal	<p>The proposal is for the extraction of sand and sandstone in the north of the site at a maximum rate of 22,500 tonnes per year over a 30 year period. Note: the original proposal was for 30,000 tonnes to be extracted per annum.</p> <p>The total area proposed for extraction is approximately 36 hectares based on 36 cells of approximately one hectare each. A staging plan has been prepared detailing the sequence the cells will be extracted within three separate areas. The depth of extraction is likely to average between 1.2 – 1.4 metres, with a maximum depth of 1.5 metres.</p> <p>Sand (white and red) will be extracted on Lots 155 and 156 and sandstone will be extracted from Lot 361. The sand will be used primarily for concrete manufacture while the sandstone is for road base and fill in construction projects.</p> <p>Based on the proposed extraction area, an estimated 21 hectares of native vegetation will require removal over the 30 year period. At commencement, a 20 metre wide vegetated buffer is proposed to be established on the northern property boundary, buffer planting is proposed around the groundwater dependant ecosystem and the existing quarry area on Lot 361 is proposed to be rehabilitated.</p> <p>The Environmental Impact Statement (EIS) describes the proposal as including the following process:</p>
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	<ul style="list-style-type: none"> • Removal of vegetation • Removal of sand and sandstone with a front end loader or excavator for sandstone • Screening of sand where required • Transport of material off-site with a 10 metre truck with 'dog' trailer. The total payload capacity will be up to 19m³ or 31 tonnes. • Erosion and sedimentation control works • Progressive site rehabilitation involving establishing finished levels, respreading of stockpiled overburden and revegetation. <p>At the end of the rehabilitation process (30 years) there would be a net gain of approximately 18.3 hectares of vegetation at the site.</p> <p>There will be no washing of materials on-site or blasting of material. There is to be no wholesaling or retailing of material from the site.</p> <p>The proposed operating hours are: Monday to Friday 7am – 6pm (with a proviso that work finish at dusk during the winter period), and Saturday 8am – 1pm. There will be no work on Sunday or Public Holidays.</p> <p>One to two staff will be employed full time in the quarrying operation. Additional part time employment will be associated with the proposed site rehabilitation work. The applicant proposes to deliver potable water and fuel, but not store it on site. No toilet facilities are proposed.</p> <p>The proposed Site Layout and Staging Plan is provided at Attachment 2 of this Report.</p>
Supporting documentation	<p>The application is supported by:</p> <ul style="list-style-type: none"> • Environmental Impact Statement • Traffic Impact Assessment • Cultural Heritage Impact Assessment • Noise Impact Assessment • Flora and Fauna Impact Assessment • Rehabilitation Plan • Squirrel Glider Assessment • Groundwater Impact Assessment • Site Layout and Staging Plan
Environmental Planning Instruments	<ul style="list-style-type: none"> • North Coast Regional Environmental Plan • State Environmental Planning Policy No 33 – Hazardous and Offensive Development • State Environmental Planning Policy No 44 – Koala Habitat Protection (SEPP 44) • State Environmental Planning Policy No 55 – Remediation of Land • State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

	<ul style="list-style-type: none"> • State Environmental Planning Policy (Rural Lands) 2008 • Kyogle Local Environmental Plan 2012
Development Control Plans	<ul style="list-style-type: none"> • Kyogle Council Development Control Plan No 2 – Development in Rural Areas (in force at time of lodgement of application) • Kyogle Development Control Plan 2014 (commenced 1 June 2014, following lodgement of application)
Notification	<p>Consultation was undertaken in accordance with the requirements of the <i>Environmental Planning and Assessment Regulation 2000</i> for Designated Development, specifically:</p> <ul style="list-style-type: none"> • A sign notice for the application was displayed on the site; • The application was advertised for a period of 30 days from 1 May 2014 to 30 May 2014: notices were published in the Richmond River Express Examiner on 30 April 2014 and 14 May 2014; and • Owners of properties adjoining and nearby the subject site and located along both originally proposed haulage routes (including those in the Richmond Valley Council local government area) were notified of the application.
Submissions	<p>A total of three (3) submissions were received in response to the public exhibition process. The issues raised in the submissions are summarised below and have been addressed in detail within Section 9.1 of this report:</p> <ol style="list-style-type: none"> a) Sextonville Road, Stratheden Road, and McDonalds Bridge Road are narrow in parts and dangerous for road users. An increase in heavy vehicles using these roads will create more dangerous conditions. The roads should be upgraded. b) An increase in trucks using McDonalds Bridge Road will further deteriorate the road. Who will pay for this upkeep? c) McDonalds Bridge Road has no line markings. This should be upgraded. d) Roads accessing onto McDonalds Bridge Road do not have acceptable signage such as 'give way' or 'stop' signs, especially coming from Stratheden Road turning onto McDonalds Bridge Road. Safety signage should be provided. e) The speed limit on McDonalds Bridge Road is 100km/h. Will this be reviewed especially during school hours as there are a number of bus pickup points along the road? Parents parking on the side of the road further create safety problems. f) Concern over potential impacts from dirt, dust and noise from the sand quarry. <p>It is relevant to note that one of the submissions that raised concerns about impacts on Sextonville Road was made by residents of a property located on Sextonville Road to the south of the quarry site. Since the submission was made the</p>

	application was amended to remove any heavy haulage on this part of Sextonville Road. It is expected that this would alleviate the concerns raised by this submitter.
Evaluation	The application has been assessed in accordance with Section 79C (Evaluation) of the <i>Environmental Planning and Assessment Act 1979 (as amended)</i> ("the Act"). A commentary on the assessment of the development against the Section 79C evaluation matters has been detailed in Sections 2-9 of this report for consideration of the consent authority.
Issues	<p>The following assessment issues are further detailed in the report:</p> <ul style="list-style-type: none"> a) Integrated Development b) State Environmental Planning Policies c) Kyogle Local Environmental Plan 2012 d) Kyogle Development Control Plans e) Traffic f) Ecology g) Water h) Noise / Amenity / Land Use Conflict i) Suitability of the site and Public Interest j) Submissions
Referrals (External and Internal)	<p>The application was referred to the following external agencies:</p> <ul style="list-style-type: none"> • Office of Water (Integrated Development) • Office of Environment & Heritage • Roads & Maritime Service • Richmond Valley Council • Crown Lands <p>The application was also referred to the following specialists within Council:</p> <ul style="list-style-type: none"> • Infrastructure Works Engineer • Environmental Health Officer

Environmental Planning and Assessment Act 1979

1.0 Section 91A Development that is integrated development

Section 91A(2) states that:

Before granting development consent to an application for consent to carry out the development, the consent authority must, in accordance with the regulations, obtain from each relevant approval body the general terms of any approval proposed to be granted by the approval body in relation to the development.

A Controlled Activity Approval is required under the *Water Management Act 2000* as the works will be within 40 metres of a watercourse. Accordingly, the application is classed as Integrated Development, requiring the General Terms of Approval (GTA) from the NSW Office of Water (OW). The GTA was issued by the OW on 14 May 2014 and the conditions will be incorporated into any consent issued.

2.0 Section 79C(1)(a)(i) Environmental Planning Instruments

2.1 North Coast Regional Environmental Plan

The *North Coast Regional Environmental Plan* (NCREP) is a deemed State Environmental Planning Policy and applies to all land within the Kyogle LGA. The plan serves to establish regional objectives for the future planning and development of land within the North Coast, and specifies regional policies for the control of development within the region.

Of particular relevance to the proposal are the provisions of Division 1 and 2 of Part 2 relating to Agricultural Resources and Catchment Management, clause 18 in relation to extractive industries, and Division 1 of Part 3 in relation to the natural environment.

The development is consistent with the aims, objectives, and relevant provisions within the NCREP. The following general comments are made in relation to the NCREP:

- Part of the site is already used as a quarry for sand extraction, as well as the neighbouring site to the east, minimising potential for new impacts to the area.
- There is not expected to be any adverse impacts upon the continued agricultural production of lands within the locality.
- Conservation and Environmental matters have been addressed in the professionally prepared reports, such as Flora and Fauna, Rehabilitation, Squirrel Glider, and Groundwater Impact Assessment. These reports have been assessed by the Office of Environment and Heritage (OEH) and the OW, with suitable conditions provided to ensure significant environmental impacts are ameliorated.
- Sediment and erosion controls are to be conditioned.
- A rehabilitation plan has been prepared and appropriate conditions are recommended.

2.2 State Environmental Planning Policy No 33 – Hazardous and Offensive Development

The *State Environmental Planning Policy No 33 – Hazardous and Offensive Development* applies primarily to industries and contains definitions for potentially hazardous and / or offensive land uses.

The development is not considered to constitute a potentially hazardous or offensive industry having regard to how the use will operate, its location, and adjoining land uses (such as an existing sand quarry).

2.3 State Environmental Planning Policy No 44 – Koala Habitat Protection (SEPP 44)

The flora and fauna report identifies that Koala scat was found on the site. The flora and fauna report includes a *State Environmental Planning Policy No 44 – Koala Habitat Protection* assessment. The assessment identifies that one Koala feed tree species listed in Schedule 2 of SEPP 44 occurs at the site (Forest Red Gum) however the species occurs only sparingly throughout the site and does not constitute over 15% of the total number of trees in the upper strata. Accordingly, the assessment identifies that the land is not potential Koala habitat per the Policy definition, and therefore the Policy requires no further consideration.

2.4 State Environmental Planning Policy No 55 – Remediation of Land

As the proposal involves the excavation and removal of sand it is important that there is no contamination present on site that could be transported to other sites. The EIS identifies that the site is currently used for quarrying and cattle grazing, and previously, for beef farming and forestry. A review of Council's GIS mapping indicates that the site is not identified as contaminated, and it does not include a cattle tick dip. There is no evidence to suggest the site or any surrounding sites have ever conducted contaminating uses. Therefore, testing is not considered warranted and the site is suitable for the proposed use.

2.5 State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007

Part 3 (clauses 12-17) of the SEPP deals with matters for consideration for extractive industries and is further detailed below.

Clause 12 – Compatibility of proposed extractive industry with other land uses.

The surrounding area is used mainly for agricultural purposes and rural lifestyle lots, as well as large areas of land used for forestry. Part of the subject site operates as a sand quarry, as does the site adjoining it to the east.

It is considered that the proposed extractive operation will not be incompatible with the surrounding land uses.

Clause 13 – Compatibility of proposed development with extractive industry.

Part of the subject site (Lot 361 DP 755732) supports an existing sand quarry approved under development consent 1995-33. This consent (and quarry operation) also applies on an adjoining allotment; Lot 158 DP 755732. As the proposed development will encompass the current sand quarry on the site it is proposed to include a condition of consent that requires the modification of development consent 1995-33 under Section 80A (1)(b) of the Act to remove its application to Lot 361. The modified consent will continue to apply to Lot 158 DP 755732. Once development consent 1995-33 is thus modified, there is not expected to be any conflict or incompatibility concern with the adjacent sand quarry.

Clause 14 – Natural Resource Management and Environmental Management

The application is supported by various environmental reports such as a flora and fauna report, groundwater assessment, and rehabilitation assessment report. Environmental assessment has been undertaken by the OEH, the OW, and Council's Environmental Health Officer. These environmental matters are discussed in more detail below under Section 7.1.2.

In regards to greenhouse gas emissions, it is noted that the sand quarry will service local demands, reducing the need to source sand from longer distances away.

Clause 15 – Resource Recovery

There is no concern raised or measures considered necessary in regards to the developments efficiency in recovering sand.

Clause 16 – Transport

Transport of product by road is the only available option. Road upgrades, a prescribed haulage route, and preparation of a code of conduct are matters identified to form conditions of consent. Traffic and transport issues are further discussed below under Section 7.1.1.

Clause 17 – Rehabilitation

The site will be progressively rehabilitated throughout the 30 year lifespan of the mine in accordance with the Rehabilitation Assessment report. The net gain of vegetation on the site is expected to be approximately 18.3 hectares following rehabilitation.

2.6 State Environmental Planning Policy (Rural Lands) 2008

The existing uses within the locality are agricultural, forestry, extractive industry and rural residential. The proposal is not expected to adversely affect any agricultural or other uses in the locality. Council mapping shows the subject land as Class 4 agricultural land and is not mapped as Regionally or State Significant Agricultural Land. Therefore, the site is considered to have limited agricultural potential and the proposal to carry out an extractive industry on the land will not significantly reduce the agricultural potential of the land. The proposal will not fragment Regionally or State Significant Farmland. The proposed sand quarry will comprise a productive activity that will benefit the local economy. The proposed development is not considered to conflict with the Rural Planning Principles in Clause 7 of the SEPP.

2.7 Kyogle Local Environmental Plan 2012

The proposed development has been assessed against the provisions of the Kyogle Local Environmental Plan 2012 (LEP 2012) with significant points identified and discussed below.

Clause	Standard	Comment
CI 1.2	Aims of the Plan The particular aims of this Plan are as follows: a) To provide for the fair, orderly and sustainable use of development of air, land and water, b) To promote the sustainable management, development and conservation of natural, social, economic, built and cultural resources and to ensure that choices and opportunities in relation to those resources remain for future generations.	The proposal is considered to be consistent with these aims. The operation will provide for sustainable access to a sand resource, and will incorporate measures to minimise potential for adverse environmental impact. Extraction of the mineral resource will have positive economic impacts on the region.
	Land Use Table Zone RU1 Primary Production	
	Objectives of Zone • To encourage sustainable primary industry production by maintaining and	The proposal is considered to comply with the zone objectives. The sand quarry will provide a

	<p>enhancing the natural resource base.</p> <ul style="list-style-type: none"> • To encourage diversity in primary industry enterprises and systems appropriate for the area. • To minimise the fragmentation and alienation of resource lands. • To minimise conflict between land uses within this zone and land uses within adjoining zones. • To ensure that the productive capacity of agricultural land is appropriately recognised and managed. 	<p>valuable resource to the region while having negligible impact on the surrounding agricultural and rural land uses. Council mapping shows the subject land being mapped as Class 4 agricultural land and is largely vegetated. Therefore, the proposal to carry out an extractive industry on the land will not significantly reduce the agricultural productive capacity of the land. The site will have appropriate environmental management measures in place and will be progressively rehabilitated throughout the 30 year lifespan of the development, resulting in a net gain of 18.3 hectares of vegetation. Part of the site and the adjoining site already operate as a sand quarry.</p>
	Permitted with Consent	<p>An extractive industry is a land use permissible with consent in the RU1 zone.</p>
6.1	Earthworks	<p>The environmental impacts (natural and social) are considered further below, including appropriate measures to minimise impacts from the development, and its suitability.</p>

3.0 Section 79C(1)(a)(ii) Proposed Instruments

There are no draft environmental planning instruments that apply to the subject site.

4.0 Section 79C(1)(a)(iii) Development Control Plans

4.1 Kyogle Council Development Control Plan No 2 – Development in Rural Areas

Development Control Plan No 2 – Development in Rural Areas (DCP 2) was in force at the time the application was lodged and has since been repealed. Although there are no specific requirements for extractive industries within DCP 2, the application has been assessed giving consideration to the Plan Objectives, and found to be compliant. Relevant objectives such as reducing the potential for conflict between different land uses are considered elsewhere in this report, such as Section 7.1.5.

4.2 Kyogle Development Control Plan 2014

The Kyogle Development Control Plan 2014 (DCP 2014) was on public exhibition at the time the application was lodged, and has since been adopted. It is therefore appropriate to assess the application against DCP 2014.

Although no specific requirements for an extractive industry are included within DCP 2014, Part 4 (Other Development) of Chapter 1 (Non-Residential Development in Rural Zones RU1, RU2, RU3 and RU4) applies to the development. The development, as conditioned, is consistent with the objectives and development guidelines, as summarised below:

- The development is consistent with the objectives of the RU1 zone.
- The development complements the agricultural nature of the rural area and allows additional economic opportunities.
- The development does not fragment or reduce Regionally Significant Farmland.
- The development does not result in unacceptable harm to the environment.
- The development does not create unacceptable potential for land use conflict.
- Public Infrastructure, such as roads, are to be upgraded in places, to allow safer passage of heavy haulage vehicles associated with the development. This matter is discussed in further detail under Section 7.1.1.
- The site and surrounding land are not expected to be contaminated.
- The development is well located and screened so that it will not adversely impact the landscape character of the rural area.
- No cultural heritage is expected to exist on the site. Measures will be in place if cultural heritage is discovered.
- The OW issued a General Terms of Approval including the requirement of a Controlled Activity Approval in relation to the watercourse on the site.
- Vehicular access arrangements within the site are required to be upgraded via suitable conditions of consent.

These matters are further discussed under Section 7 (Likely Impacts).

5.0 Section 79C(1)(a)(iii)(a) Planning Agreement

There are no planning agreements that apply to the proposed development or the subject site.

6.0 Section 79C(1)(a)(iv) The Regulations

The *Environmental Planning and Assessment Regulation 2000* (the Regulation) provides controls and regulations that relate to the management of the proposed development. These requirements are inherent in the assessment processes undertaken for the proposal.

The assessment and processing of the application has been carried out in accordance with the requirements of the Regulation, including the requirements of Division 5 Public Participation- Designated Development.

7.0 Section 79C(1)(b) Likely Impacts

7.1 Natural and Built Environment

7.1.1 Traffic

The application was supported by a Traffic Impact Assessment report. The following are considered key operational details related to traffic:

- The maximum extraction rate is 22,500 tonnes per year, which amounts to an estimated 726 heavy vehicle trips per year.
- All extracted material will be transported from the site in a 10 metre truck with a 'dog' trailer, with a total payload capacity of 19m³ or 31 tonnes.
- Plant equipment will typically remain on site. Some servicing will be done on site. It is estimated that there will be an average of 5 heavy vehicle trips per year for plant maintenance.
- The quarry will operate for 300 days of the year, and thus the daily average of heavy vehicle trips is 4.9 including the return trip.

The issues raised during the notification period revolved primarily around traffic generation and road safety. Specifically, concern was raised that the roads are too narrow to facilitate an increase in heavy vehicles and that the development will impose extra burden on Council's road maintenance. The traffic report acknowledges that the roads do not meet the Austroad design guidelines for road widths in some places, but purports that the proposed development will generate only a relatively small increase in traffic, and therefore not significantly worsen the existing situation.

Richmond Valley Council

Although the site is within the Kyogle Council local government area, the application was referred to Richmond Valley Council (RVC) as the application originally proposed haulage routes along McDonalds Bridge Road to Summerland Way and south along Sextonville Road to Casino. Both of these routes are in the RVC local government area. Specifically, from the site north along Sextonville Road to the intersection with McDonalds Bridge Road, and approximately 500 metres west from Eden Creek is within Kyogle Council. East of this, the remaining 6.5km of McDonalds Bridge Road and the intersection with Summerland Way is within the RVC local government area, as is Stratheden Road.

The advice from RVC Council was that McDonalds Bridge Road is considered the most appropriate and safest route and therefore it be required that all heavy vehicles are restricted to using McDonalds Bridge only. RVC advised that Sextonville (south of the site, within the RVC area) and Stratheden Road routes are not considered suitable for heavy haulage vehicles. The application was amended by the applicant in response to these concerns; the proposal now is for haulage to be restricted to Sextonville Road (north of the subject site) and McDonalds Bridge Road only. Restricting the heavy haulage route also addresses concerns raised during the notification period about heavy haulage traffic on Sextonville Road south of the subject site.

Roads and Maritime Services

In accordance with Clause 77 of the *Environmental Planning and Assessment Regulation 2000* and Clause 16(3) of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*, the application was referred to the Roads and Maritime Services (RMS) for comment. Most notably, RMS raised concern about the safe operation of Summerland Way, particularly in relation to right turns from Summerland Way into McDonalds Bridge Road. RMS therefore recommended that the intersection with McDonalds Bridge Road and Summerland Way be upgraded to an Austroads Guide to Road

Design rural BAR right turn treatment as a minimum. RMS stated that the BAR intersection treatment will need to consider the existing bus stop on the Summerland Way opposite McDonalds Bridge Road. RVC supported the RMS requirement to upgrade this intersection.

Infrastructure Works Engineer

The recommendations from RVC to prescribe the haulage route and other recommendations made by RMS are proposed to be incorporated into conditions of consent.

Council's Infrastructure Works Engineer has assessed the proposal and identified a number of required upgrades to the Kyogle Council controlled roads which are proposed to be imposed as conditions of consent. The road upgrades are considered necessary to address impacts of traffic generation and road safety concerns. The road system, in particular the narrow and unsealed Sextonville Road, is currently not of a suitable standard to facilitate heavy vehicle usage and the proposed development will result in a marked intensification of heavy vehicle traffic on this road.

The recommended upgrades are:

1. The new proposed site access road (across Crown and Council road reserve) must be constructed from the intersection with Sextonville Road to the site boundary and is to meet the standards for a minor no through road up to 150 AADT i.e. 6m seal with 0.5m shoulders. This road is to be dedicated to Council. It is noted that Crown Lands required the part of the access that is Crown road be transferred to Council control pursuant to Section 151 of the *Roads Act 1993*. It is therefore in Council's and the community's interest to ensure the new road is built to a suitable standard.
2. The intersection of the new proposed road and Sextonville Road must be upgraded to meet the requirements of a BAR basic right turn treatment.
3. Sextonville Road must be upgraded from 150m south of the intersection with the proposed new site access road to the intersection with McDonalds Bridge Road to meet the requirements of a minor road up to 1000 AADT, i.e. 6m seal with 1m shoulders.
4. The intersection of the Sextonville Road and McDonalds Bridge Road must be upgraded to meet the requirements of a BAL basic left turn treatment.

The Transport and Access requirements from Part 4 of Chapter 1 of DCP 2014 are of particular relevance in this case. Without upgrades to the road network as conditioned the following provisions cannot be met:

Objective f) To ensure development is adequately serviced and does not impose unreasonable demand on public infrastructure.

Performance Criteria P12 The development must have vehicular access suitable for the intended use and vehicular movements must not have a detrimental impact on amenity of adjoining properties.

Acceptable Solution A12.1 The development is connected to a public road that is of appropriate standard to accommodate the nature of traffic generated by the development.

In regard to heavy vehicle usage of the portion of Sextonville Road north of the site to McDonalds Bridge Road, the traffic report estimates that 9.9 heavy vehicles use this route per day and that the proposal will increase this number to 14.8 (i.e. 4.9 heavy vehicle trips per day associated with the development). The data used to estimate heavy vehicle usage of Sextonville Road was based on a study undertaken in 2007 with data collected approximately 7 kilometres south of the site in the RVC area.

The Mondoro piggery is situated at 1274 Sextonville Road to the south of the subject site. It is understood that heavy vehicles associated with the piggery only travel south to the Bruxner Highway via Sextonville Road, not via the haulage route for the proposed quarry. The traffic data collected in 2007 is likely to have included heavy vehicles accessing the piggery on the southern portion of Sextonville Road. The existing sand quarry on Lots 361 and 158 DP 755732 generates heavy haulage traffic on Sextonville Road, however the total annual extraction permitted for this quarry is 1400m³ per annum, or approximately 2338 tonnes, which is approximately 10.4% of the amount proposed by this application.

In light of the above, it is considered that current heavy vehicular usage of Sextonville Road north of the site to McDonalds Bridge Road is likely to be considerably less than the report estimates and consequently the proposal will result in a significant increase in heavy vehicle use of this route.

Section 94 contributions

Both Kyogle Council and RVC have Section 94 contributions plans that require contributions for road maintenance stemming from the use of roads by heavy haulage vehicles. Section 94 contributions for road maintenance are payable both to Kyogle Council and RVC in accordance with Section 94C (Cross boundary issues) of the Act. Following RVC's recommendation that Section 94 contributions be applied, legal advice was sought. The advice received confirmed that Kyogle Council is able to impose a condition requiring s94 contributions be paid to RVC. Considering most of the heavy haulage route to Summerland Way from the site falls within the RVC local government area it is considered reasonable that the developer pay contribution to RVC to pay for the continued maintenance of roads in their local government area. This also addresses the issue raised by a submitter concerning additional cost of maintenance of roads used by heavy haulage vehicles associated with the quarry.

7.1.2 Ecology

The application was supported by a Flora and Fauna Impact Assessment report. In response to issues raised following assessment of the Flora and Fauna report the applicant prepared and submitted a Rehabilitation Plan and a Squirrel Glider Assessment report. These reports were referred to the OEH for their assessment, particularly in relation to biodiversity (including threatened species, populations, ecological communities, or their habitats) and Aboriginal cultural heritage.

Flora

OEH provided the following observations and recommendations in regards to flora:

"Although no threatened flora species were detected, OEH notes that two Endangered Ecological Communities (EECs) were identified occurring within the subject site:

- *Subtropical Coastal Floodplain Forest (SCFF); and*
- *Swamp Sclerophyll Forest on Coastal Floodplains (SSF).*

Although there are to be no direct impacts on the SCFF, a maximum of 0.25 hectares of SSF is proposed for removal. OEH notes that the Flora and Fauna Assessment outlines the intent of the applicant is to rehabilitate an area of approximately 4.2 hectares to form an offset to the proposed loss of 0.25 hectares of SSF. OEH is supportive of the proposed SSF rehabilitation efforts to counterbalance specific impacts of development on biodiversity."

OEH recommended conditions be applied and these will form part of any consent issued.

Fauna

Seven threatened fauna species were confirmed to occur on the proposed quarry site, including:

- Eastern Bent-wing Bat
- Eastern Tube-nosed Bat
- Grey Headed Flying Fox
- Koala
- Little Bent-wing Bat
- Little Lorikeet
- Squirrel Glider

Two additional bat species (Eastern Freetail Bat and Eastern Cave Bat) are unconfirmed records from the site, obtained by Anabat detection during the fauna survey. The OEH also noted that the Barking Owl and Grey-crowned Babbler are two additional species likely to occur at the subject site.

The OEH generally supported the findings within the report, such as the initial clearing surveys and secondary fauna inspections. However, the OEH did raise concern of the potential impacts on the Squirrel Glider population from the operation. Consequently, the applicant was requested to provide further information. The Rehabilitation Plan and Squirrel Glider Assessment (including a '7 Part Test'- Assessment of Significance) prepared in response to the information request were referred to the OEH for assessment. The information was deemed by the OEH to be satisfactory, and OEH recommended conditions of consent are to be applied. The conditions relate to matters such as:

- retaining and protecting hollow bearing trees during the operation;
- an ecologist to be on site during clearing works to ensure any injured or displaced fauna are appropriately cared for;
- topsoil retained and re-spread once quarrying of cell is completed to assist revegetation;
- retained native vegetation to be fenced off;
- limit clearing to a maximum three extraction cells per annum and in a staggered fashion;
- the placement of nest boxes for the squirrel gliders; and,
- rehabilitation to be undertaken in accordance with the Rehabilitation Plan.

Of note, the Rehabilitation Plan identifies that once rehabilitation of the site is complete the site will receive an overall net gain of approximately 18 hectares of vegetation. This is due to the existing cleared areas on the site which will be rehabilitated.

7.1.3 Aboriginal Cultural Heritage

An Aboriginal and cultural heritage assessment was submitted with the application. No evidence of Aboriginal cultural heritage was located and the report notes that the proposed development activities are unlikely to impact on Aboriginal heritage. However, the report notes that it is not possible to conclusively rule out the existence of in situ archaeological deposits and lists five recommendations which are summarised as follows:

- 1) A Cultural Induction be provided to all plant operators by a representative of the Casino Boolangle LALC.

- 2) If it is suspected that Aboriginal material has been uncovered, work stops, the area is fenced off, a consultant engaged to identify the material, and if it is of Aboriginal origin, the Aboriginal community is to be consulted.
- 3) Any Aboriginal materials discovered must be registered with OEH.
- 4) If Aboriginal remains are discovered work must cease and the Police, Casino Boolangle LALC and OEH must be notified and agreements made on how to proceed.
- 5) All efforts be made to avoid any impact on Aboriginal Cultural Heritage. If impacts are unavoidable, mitigation measure must be negotiated between the Proponent OEH and the Aboriginal Community.

OEH assessed the report and support the recommendations detailed in the Aboriginal Cultural Heritage Assessment report. As per the request of OEH, it is proposed to incorporate the recommendations of the report into conditions of consent, including an additional component for recommendation (2) that OEH are notified of uncovering of any suspected Aboriginal material.

7.1.4 Water

Watercourse

A small intermittent north flowing watercourse is located within the north western section of the proposed quarry area. A small Groundwater Dependant Ecosystem has been identified adjacent to the watercourse and the vegetation community is to be retained.

A Controlled Activity Approval is required under the *Water Management Act 2000* as the works will be within 40 metres of the watercourse. Accordingly, the application is Integrated Development requiring the General Terms of Approval (GTA) from the OW which have been issued. The GTA includes a range of conditions such as: requiring a Controlled Activity Approval; rehabilitation and maintenance, drainage and stormwater; erosion controls; and requirements for maintaining the river.

Water quality

A Groundwater Impact Assessment (GIA) was prepared and assessed by Council's Environmental Health Officer. The GIA states that its aim is to provide a preliminary investigation into groundwater behaviour in the vicinity of a groundwater dependant ecosystem, a swamp sclerophyll forest. The Groundwater Impact Assessment includes a number of recommendations to mitigate risks to the groundwater dependant ecosystem; these recommendations are intended to be applied as conditions of consent.

The additional information and the EIS state that a detailed soil and water management plan will be prepared post-consent. The EIS states that the soil and water management plan will address stormwater diversion, establishment of buffer zones, retention of existing dams, extraction area diversion, internal access maintenance, extracted cell rehabilitation and work cessation.

The proposed extraction operations are not expected to have a significant adverse impact on surface or ground water quality. A condition is proposed requiring the preparation and lodgement to Council of a detailed soil and water management plan for the site prior to the commencement of quarry operations.

Water Supply and Wastewater Management

The EIS advises that potable water for drinking will be brought to the site daily. The application does not propose provision of toilet or hand washing facilities. The EIS states that

there will be one or two full-time employees at the site, as well as part-time employees to carry out rehabilitation work.

Employers must provide appropriate toilets, potable water and amenities for their employees, in accordance with the Model Code of Practice – Managing the Work Environment and Facilities, which is an approved code of practice under Section 274 of the *Work Health and Safety Act*. Considering the life of the development is 30 years it is recommended a condition of consent be included requiring toilet and hand washing facilities and a potable water supply be provided on the site in accordance with NSW WorkCover requirements.

7.1.5 Amenity / Noise / Land Use Conflict

The application was supported by a Noise Impact Assessment. The Noise Impact Assessment states that material will be excavated with a front end loader and an excavator, and some material will be screened with a mobile sand screener. The material will be hauled from the site by a truck with dog trailer. There will be no blasting. All vehicles will be fitted with manufacturer approved mufflers. The Noise Impact Assessment states that defined hours of operation and use of management measures will ensure compliance with the NSW Industrial Noise Policy and the NSW Road Noise Policy.

The proposed hours of operation are 7:00 am to 6:00 pm Monday to Friday inclusive (work to finish at dusk during winter), and 8:00 am to 1:00 pm Saturday. There will be no work on Sunday or on public holidays. These are standard operating hours for an industry and no concern is raised.

The EIS includes a section relating to land use conflict and the document 'Living and Working in Rural Areas – A Handbook for Managing Land Use Conflict Issues on the NSW North Coast' (the Handbook). The Handbook includes recommended buffer distances between various land uses. If an extractive industry does not include blasting, a minimum 500 metre buffer distance is recommended between the extractive industry and rural dwellings. The development significantly exceeds this requirement, with the nearest dwelling house being approximately one kilometre away. It is noted that the existing quarry adjoining the site to the east is closer to residential dwellings. The development area is generally well screened from nearby properties.

Council's Environmental Health Officer assessed the application and found the development was unlikely to create unacceptable noise and air quality impacts. Council's Environmental Health Officer has recommended conditions to ensure the development does not result in unreasonable noise and amenity impacts (such as dust) on neighbouring and nearby properties.

7.2 Social Impacts

There are no expected adverse social impacts from the development. Noise and other amenity issues are discussed above under Section 7.1.5.

7.3 Economic Impacts

The proposed quarry will generate employment for the region and will benefit the community by providing an essential source of sand to the concrete and building industry, which is particularly important considering the population within the North Coast Region continues to expand.

8.0 Section 79C(1)(c) Suitability of the Site

Land use in the locality comprises agriculture, forestry, extractive industries and rural residential uses. Given that part of the site already operates as a quarry, the potential for introducing new environmental impacts to the area is significantly reduced.

The development has acceptable separation distance to residences. The nearest dwelling is located approximately one kilometre away.

Impacts to the environment, such as the flora and fauna and groundwater have been addressed with suitable measures proposed or conditioned.

Proposed extraction areas are generally set back from the boundaries of the site and screened from its surroundings by existing vegetation. In the one location where extraction is proposed near the property boundary a 20 metre wide vegetation buffer is proposed to be implemented. The land immediately surrounding the site is also generally well vegetated and will further assist in screening the site.

Noise and other amenity impacts are not expected to be unreasonable and conditions of consent will ensure any impacts are suitably managed.

The haulage route is to be restricted, and road and intersection upgrades required, ensuring impacts of traffic generation and road safety are not an issue.

In conclusion, it is considered the site is suitable for the proposed development.

9.0 Section 79C(1)(d - e) Submissions and Public Interest

9.1 Submissions

As identified in the 'Notification' section of this report, three submissions were received during the notification period. The issues raised are summarised and discussed below.

In considering the submissions, it is important to note that one of the three submissions is from residents living south of the site along Sextonville Road. Following receipt of this submission, the application was amended to revise that haulage route so that no haulage occurs south along Sextonville Road. Therefore, traffic from the quarry will no longer pass the submitter's property.

- a) Sextonville Road, Stratheden Road, and McDonalds Bridge Road are narrow in parts and dangerous for road users. There are already heavy haulage trucks using the road system. An increase will create more dangerous conditions. The roads should be upgraded.

Comment: Based on Council's assessment and the advice of RVC, it is considered the most appropriate route for trucks is via McDonalds Bridge Road and Summerland Way. This matter will be conditioned so no trucks use Sextonville Road south of the site (except for local deliveries to properties accessed by this road). Stratheden Road is not proposed to be used for haulage.

Upgrades to the road network are recommended to improve safety, including, upgrading the intersection of McDonalds Bridge Road and Summerland Way, the section of Sextonville Road from the site to McDonalds Bridge road, as well as the intersection of McDonalds Bridge Road and Sextonville Road.

- b) An increase in trucks using McDonalds Bridge Road will further deteriorate the road. Who will pay for this upkeep?

Comment: The proposal will result in an average of approximately five trucks movements per day. Both Kyogle Council and RVC will be paid s94 developer contributions which will provide funding for the maintenance of the road.

- c) McDonalds Bridge Road has no line markings. This should be upgraded.

Comment: Several road upgrades are proposed to form conditions of consent to improve road safety. Line marking for McDonalds Bridge Road was not an upgrade recommended by RVC or Kyogle Council's Infrastructure Works Engineer.

- d) Roads accessing onto McDonalds Bridge Road do not have acceptable signage such as 'give way' or 'stop' signs, especially coming from Stratheden Road turning onto McDonalds Bridge Road. Safety signage should be provided.

Comment: Road signage will be required as part of the upgrades to the intersection of Sextonville Road / McDonalds Bridge Road and Summerland Way / McDonalds Bridge Road. Additional signage was not recommended by RVC or Kyogle Council's Infrastructure Works Engineer. Note: Stratheden Road will not be an approved route associated with the quarry.

- e) The speed limit on McDonalds Bridge is 100km/h. Will this be reviewed especially during school hours as there are a number of bus pickup points along the road? Parents parking on the side of the road further create safety problems.

Comment: Altering the speed limit on McDonalds Bridge Road was not recommended by RVC or Kyogle Council's Infrastructure Works Engineer.

However, to address safety concerns, a condition will be included requiring a Drivers Code of Conduct, which will address points such as: safety initiatives for trucks travelling through residential areas and school zones; an induction process for vehicle operators; and, any community consultation measures to address peak haulage periods.

- f) Concern over potential impacts from dirt, dust and noise from the sand quarry.

Comment: The development is not expected to generate unreasonable levels of dirt, dust and noise.

There will be no blasting as part of the excavation. A Noise Impact Assessment report was submitted with the application. The report states that the defined hours of operation and use of management measures will ensure compliance with the NSW Industrial Noise Policy and the NSW Road Noise Policy. It is noted that the closest residence is approximately one kilometre away.

The EIS states that dust suppression and water spraying will be carried out if necessary on internal access roads and that quarrying activity will cease during periods of strong winds.

Council's Environmental Health Officer assessed the application and provided suitable conditions addressing noise, dust and other amenity matters. These amenity issues are further discussed under Section 7.1.5.

9.2 Public Interest

The extraction of an important resource for the construction industry will help support the growing population and housing demand in the North Coast Region.

The development will be operated and managed with appropriate measures in place to ensure environmental impacts are negligible.

The issues raised in submissions received relate primarily around traffic impacts and road safety concerns from heavy haulage vehicles associated with the development. Conditions are proposed (based in part on consultation with the RMS and RVC) to restrict the haulage route, require upgrade of specific intersections and roads, and apply Section 94 contributions for heavy haulage.

Accordingly, it is considered that the development is in the public interest.

Conclusion

The application has been assessed against the relevant matters for consideration under Section 79C (1) of the *Environmental Planning and Assessment Act 1979*.

The extractive industry (sand and sandstone quarry) is a land use that is permissible with consent in Zone RU1 – Primary Production under the *Kyogle Local Environmental Plan 2012*.

The proposal has been assessed in regards to its potential environmental, social and economic impacts and no issues have been identified that cannot be addressed with suitable conditions of consent. Recommendations and General Terms of Approval have been received from relevant government authorities in support of the application.

In conclusion, the proposal is considered to be a suitable development of the site and is recommended for approval, subject to conditions.

AUTHOR:

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DATE:

31 March 2015

ATTACHMENTS

1	Conditions of consent
2	Site Layout and Staging Plan
3	Office of Water- General Terms of Approval
4	Office of Environment and Heritage- comments and recommendations
5	Richmond Valley Council- comments and recommendations
6	Roads and Maritime Services- comments and recommendations
7	Crown Lands- advice
8	Submissions (3)

