

Recommendation and Assessment Report

Recommendation

That the Western Regional Joint Regional Planning Panel grant consent to Development Application 2014/0155 for:

- 1. EXTENSION TO EXISTING EXTRACTIVE INDUSTRY AND ASSOCIATED PROCESSING AND STOCKPILING AREA**
- 2. INSTALLATION OF A WEIGH BRIDGE**
- 3. ADVERTISING SIGNAGE – PYLON SIGN**

Subject to conditions included in the Draft Notice of Determination (see **attachment 1**) with any further conditions or amendments as determined by the Director Environmental Planning & Building Services pursuant to Section 80 (A) of the Environmental planning and Assessment Act 1979, as amended.

Executive Summary

Development Application 2014/0155 (2014WES009) for an extractive industry was lodged with Council on the 23 April 2014.

The subject site is lot 80 DP 566081, 1088 Mid Western Highway, Evans Plains and Lot 7475 DP 1121891, 90 Stewart Street, Evans Plains. The site currently contains an extractive industry and the proposed development represents an expansion of this existing quarry. The proposal is defined as an extractive industry under the Bathurst Regional (Interim) Local Environmental Plan 2005 and is permissible with consent.

The applicant is Alchemy Pastoral Pty Ltd. The owner of the subject site is Mr CW Townsend.

The proposal includes a total project site area of 49.9 hectares which incorporates an additional 17.1 hectares of extraction area, internal access road, the existing screening and stockpiling areas, office and weighbridge.

The proposal will increase the output (weathered granite, gravel and sand) of the quarry from current levels of approximately 25,000 tonnes per annum (tpa) to a maximum of 100,000 tpa.

The proposed development is Designated Development under 'Clause 19 Extractive Industries of Schedule 3 of the Environmental Planning and Assessment Regulation 2000'. Pursuant to Schedule 4A of the Environmental Planning and Assessment Act 1979 the consent authority is the Joint Regional Planning Panel.

The proposed development is also Integrated Development under S91 of the Environmental Planning and Assessment Act 1979 in that an Environmental Protection Licence will be required under the Protection of the Environment Operations Act from the Environment Protection Authority. The Environment Protection Authority has provided 'General Terms of Approval', attached as Appendix 2.

The Development Application has also been referred to a number of Government Authorities including the Roads and Maritime Authority and NSW Office of Water. These Departments did not raise any significant issues that would preclude approval.

The Development Application was advertised in accordance with the requirements for Designated Development, from the 12th May 2014 to the 12th June 2014. Council received eleven (11) submissions, attached as appendix 3. An internal Council Discussion Forum was held between Council officers, the applicants and those persons who lodged submissions. The minutes of that Discussion Forum are attached at appendix 4.

Proposed Development

The proposal involves extraction of granite and coarse sand from an area of some 17.1 hectares. The extractive area is divided into 2 distinct areas bisected by an existing drainage line.

The EIS is predicated on dividing the extractive areas into smaller areas or cells of approximately 2.5 hectares in size. This enables the site to be developed in a manner that limits the visual impact of exposed areas and enables progressive rehabilitation to occur throughout the site.

It is proposed that the western cell (cell 1a, 1b and 1c) would see a continuation of the current extraction area towards the south west to form a “gently sloping landform to the east”. Cell 1c will be retained to act as a visual screen to views from the south and east.

The eastern area (cells 2-6) would be developed in a series of 3 terraced extraction cells of between 80m and 150m wide at vertical intervals of between 10m and 15m.

It is proposed that operations will occur within one extraction cell at a time with the cells being progressively rehabilitated. Although it is proposed that operations may alternate between the western and eastern cells it is not proposed to operate in 2 cells simultaneously. Progression to the next cell is proposed to occur on the basis of approval of a rehabilitation plan for the current active cell such that there is a progression through the site.

The proposal involves the following:

- Screening the extracted granite to produce a sub-base product;
- Washing of excavated material to produce a decorative granite, coarse sand and other specialist sand and soil products;
- Progressive backfilling and profiling of the extraction area to provide for future agricultural activities. Through rehabilitation of the site into a final landform that has been profiled to create slopes of no greater than 1:3 (V:H);
- Stockpiling of extracted material ;
- Modification of the internal access road to the quarry, by widening the access road to 6 metres and realign the road to the west of the quarry office. The internal access road shall be bitumen seal as conditioned in the Draft Notice of Determination;
- Installation of a weighbridge; and
- Installation of a Pole or Pylon sign at the entrance of the site identifying the business.

The site is estimated to have a total resource of the order of 2.5 million tonnes. Based upon the maximum extraction levels of 100,000 tonnes per annum the proposed development would have a life span exceeding 25 years. The life span of the development based on current extraction levels (25,000 tonnes per annum) would be 100 years.

It is noted that the Response to the Submissions includes revisions to the project site layout to include some refinements to the external boundary of the site, inclusion of a third cell 1c to act as visual buffer. It is not proposed to landscape cell 1c.

Also of note the applicant also proposes to reduce the areas of each cell to 1.5 ha or less. Progression to each new cell is conditional upon the preparation and approval of an Extraction and Rehabilitation Plan (ERP) aimed at identifying the specific sequence of extraction and rehabilitation, over a nominated time or specified extraction areas, and illustrate how rehabilitation would be undertaken to maintain the 1.5 limit on active extraction. The ERP would also nominate various rehabilitation objectives, performance indicators and completion criteria for rehabilitation.

It is also proposed to rehabilitate the existing disturbed areas to the north east of the site as part of the development.

Existing Development

Evans DA 1997/0148

Approval for the existing quarry was originally given in 1998 from Evans Shire Council.

This approval was conditioned on the basis that the average annual extraction rate shall not exceed on 6,500 tonnes. As noted above the current extraction levels exceed this amount.

It is also noted that the current areas of extraction (1.3ha) extends beyond the area approved under the 1998 approval of 0.95ha. The comparison between the approved area and overall areas of disturbance is illustrated on page A3-33 of the EIS.

It is also noted that there are significant areas of disturbance to the north east and north west of the current extraction areas equivalent to a further 4.3 ha.

The stockpile and processing area represents a further 1.1ha of disturbed area.

Currently the total area of disturbance is therefore in the order of 6.7 ha.

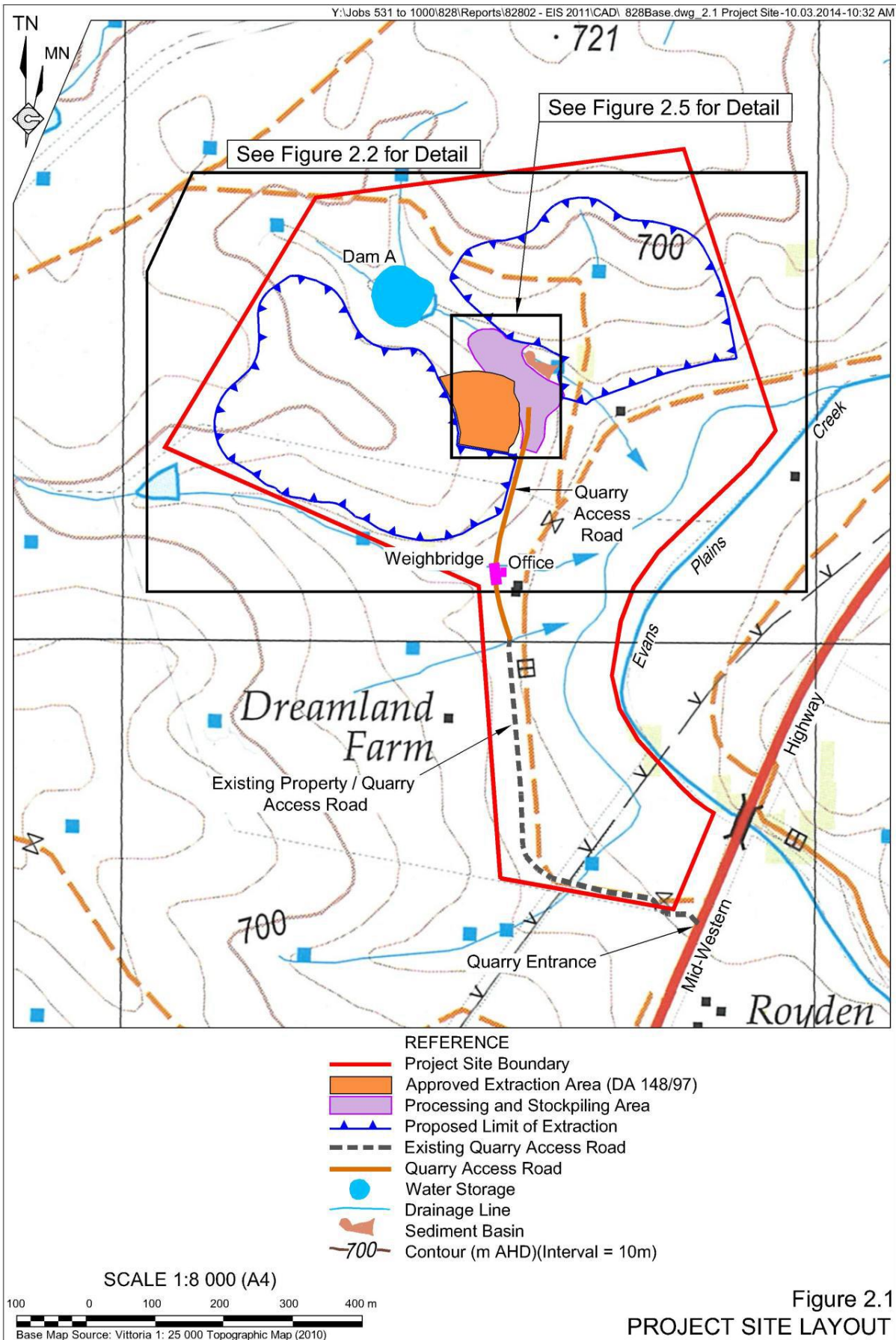


Figure 1

Source: R.W Corkery & Co. Pty. Limited 2014, 2-4.

Evans DA 1998/0029

Evans Development Application 1998/0029 granted consent to stabilisation and flood plain reclamation project for the Evans Plains creek bank on subject land.

The intention of these works is to abate the continued degradation of the creek system and to reclaim the agricultural value of the creek flats. This development was approved on the 2 of July 1998. This consent had a 15 year time restriction and consent lapsed on the 2 of July 2013.

The subject land

The subject land comprises two allotments know as Lot 80 in DP 566081 and Lot 7475 in DP 1121891. The allotment is known as 1088 Mid Western Highway and 90 Stewart Street, Evans Plains.

The property currently has access to the Mid Western Highway and Stewart Street although access for vehicles used in conjunction with the extractive industry will be via the existing bitumen entrance to the Mid Western Highway.

The two allotments collectively comprise an area of 183.46 hectares.

Currently the project site contains the following existing infrastructure:

- Office;
- Internal access road;
- Entrance to the site from the Mid Western Highway constructed in accordance with requirements of the previous DA to the RMS standards;
- A water storage dam;
- Sediment basin; and
- Processing and stockpiling area.

The subject site is bounded by to the east by the Mid-Western Highway and the Evans Plain Creek. The primary land use surrounding the project site has been categorised as:

- Agricultural;
- Rural-residential;
- Residential ; and
- Extractive industries (immediately east of the project site).

The nearest non-associated dwellings to the subject site are (note: Rx represents the residence of non-related dwellings and where they are located in relation to the project site as shown is figure 2):

Address	Dwelling Identifying symbol	Current Operations		Quarry Extension		Processing Activities	
		Distance	Direction	Distance	Direction	Distance	Direction
150 Stewart Street	R2	1,110	NNE	900	N	1,110	NNE
124 Stewart Street	R3	1,150	NNE	940	N	1,150	NNE
927 Mid Western Highway	R6a	1,220	E	1,000	E	1,220	E
947 Mid Western Highway	R6b	1,110	ENE	900	E	1,110	ENE
1022 Mid Western Highway	R7	400	E	390	E	400	SE
985 Mid Western Highway	R8	890	E	660	E	890	E
1041 Mid Western Highway	R10	750	SE	700	SE	750	SE
1099 Mid Western Highway	R11	870	SSE	730	SSE	870	SSE
1071 Mid Western Highway	R12	1,100	SE	990	SE	1,100	SE
280 Hen & Chicken Lane	R13	1,800	S	1,580	S	1,830	S
94 Stewart Street	R24	1,330	NNE	570	NE	1,350	NNE

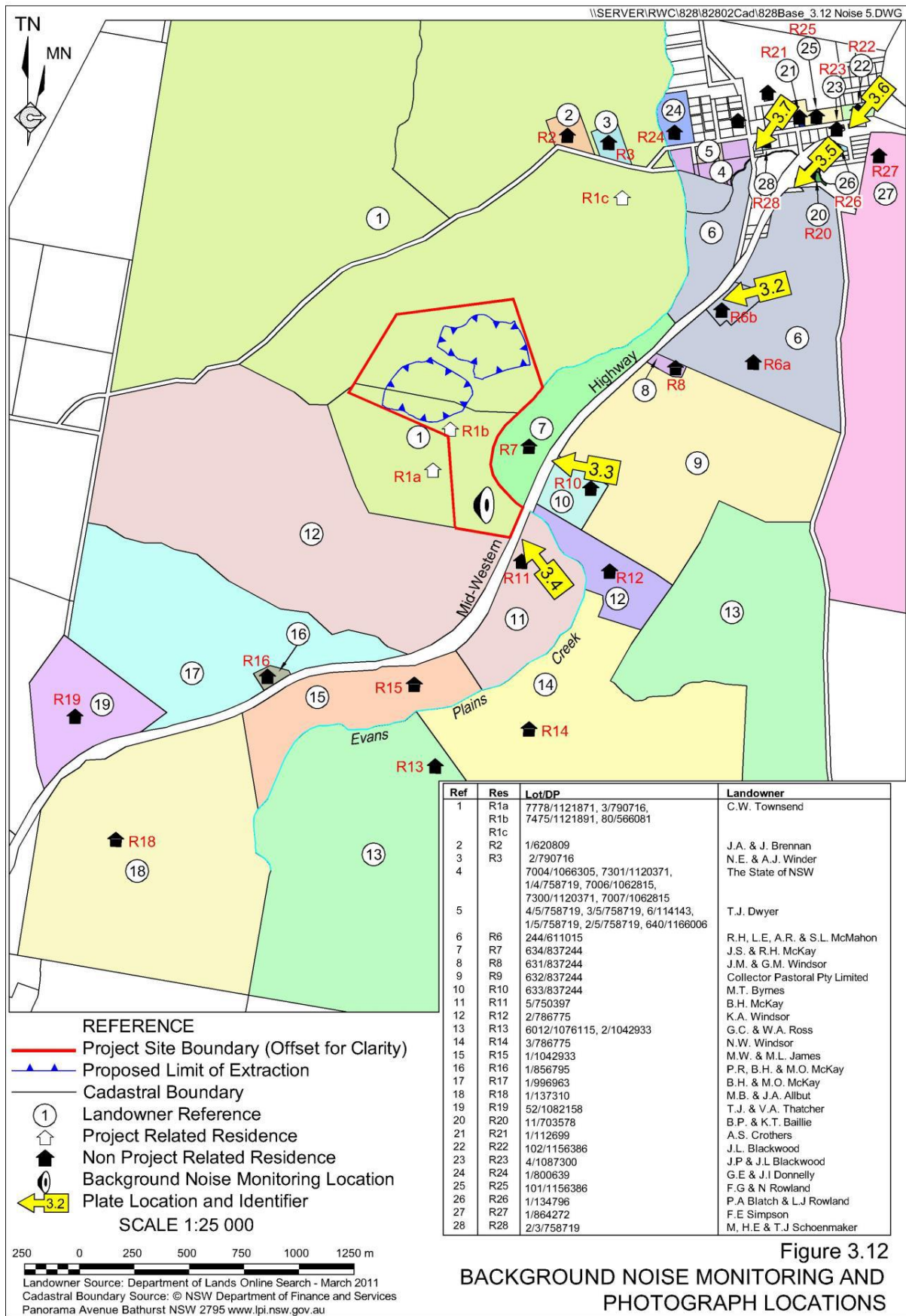


Figure 2

Source: R.W Corkery & Co. Pty. Limited 2014, 3-39

Legislative Requirements

(i) Joint Regional Planning Panel (JRPP)

The Joint Regional Planning Panel is the consent authority for the determination of the subject Development Application, by virtue Schedule 4A of the Environmental Planning and Assessment Act 1979.

(ii) Designated Development

Environmental Planning and Assessment Regulation 2000

“4 What is Designated Development?

- (1) Development described in Part 1 of Schedule 3 is declared to be designated development for the purposes of the Act unless it is declared not to be Designated development by provision of Part 2 or 3 of that Schedule.”*

“Schedule 3 Designated Development

Part 1 What is Designated Development?

19 Extractive Industries

- (1) Extractive industries (being industries that obtain extractive materials by methods including excavating... or quarrying or that store, stockpile or process extractive materials by methods including washing, crushing, sawing or separating):*
- a. The obtain or process for sale, or reuse, more than 30,000 cubic metres of extractive material per year, or*
 - b. That disturb or will disturb a total surface area of more than 2 hectares of land by:*
 - i. Clearing or excavating, or*
 - ii. Constructing dams, ponds, drains, roads or conveyors, or*
 - iii. Storing or deposition overburden, extractive material or tailings, or*
 - c. That are located:*
 - i. In or within 40 metres of a natural waterbody...”*

The development is Designated Development and has been dealt with accordingly.

(iii) Integrated Development

The proposed development is Integrated Development under s91 of the Environmental Planning and Assessment Act 1979, with regard to an Environment Protection Licence – for the regulation of pollution from the quarry. The licence would be issued by the Environment Protection Authority (EPA) under the Protection of the Environment Operations Act 1997.

The EPA has provided Council with General Terms of Approval (GTA) in correspondence dated 11 June 2014. The GTAs have been included in the Draft Notice of Determination included as Appendix 1.

(iv)S79C Assessment

79C(1)(a)(i) Environmental planning instruments (State Environmental Planning Policies and Local Environmental Planning Policies)

SEPP (State and Regional Development) 2011

The proposed development is listed under schedule 4A of the Environmental Planning and Assessment Act 1979 and accordingly the Joint Regional Planning Panel is the consent authority, having functions of a consent authority under SEPP (State and Regional Development) 2011.

SEPP (Mining, Petroleum Production and Extractive Industries) 2007

The proposed development is permissible with consent in accordance with clause 7(3)(a) of SEPP (M,PP&EI) on the basis that development for the purposes of agriculture may be carried out on the land.

It is noted that clause 7(4)(a) of the SEPP enables the processing of extractive material and (c) facilities for the processing or transport of extractive material is to be carried out with consent with development consent on the land.

It is further noted that clause 7(4)(b) enables the processing of construction and demolition waste to be carried out as part of the extractive industry. Whilst some of the documentation refers to the possibility of recycling of demolition waste on site the applicants response to the submissions makes it abundantly clear that this has been expressly excluded from the development by the applicant and forms no part of the consideration or the consent.

Clause 12 of the SEPP requires consideration of the existing and approved uses in the vicinity, whether there is any significant impact upon that uses and future uses and whether the development may be incompatible with those uses. The Clause also requires a comparison of the public benefit of the development and the landuses and an evaluation of the measure proposed to avoid or minimise any incompatibility.

The site currently contains an existing extractive industry. The proposed development represents a significant extension to an existing extractive industry. Immediately to the south east is another extractive industries operated by other parties.

Additional uses surrounding the site are rural residential and agricultural.

The most recent Urban and Rural Strategies do not identify this area as undergoing any significant changes to zoning or landuse. It is noted that one of the public submissions referred to long expansion of the City in this area although this is not supported by any of the adopted strategies of the Council.

There are a number of dwellings located within the vicinity of the quarry. All dwelling locations are shown in Figure 2. Issues raised in the submission included noise, dust, hours of operation, monitoring and auditing, erosion and sediment control. These issues are proposed to be dealt with through conditions of consent and through EPA licensing process as noted in the GTS's(appendix 2x). This issues will be discussed further in S79(c)(1)(b) Environmental (natural and built), social and economic impacts section of the report.

The expansion of the Dreamland Quarry (extractive industry) will enable continued extraction of gravel and sand on-site resulting in efficient resource recovery.

Clause 14 of the SEPP requires consideration of whether conditions should be imposed to ensure that the development is undertaken in an environmentally responsible manner in relation to surface and groundwater, threatened species and greenhouse gas emissions. The development application has been referred to a number of Government authorities including the EPA and NSW Office of Water. The Government departments have raised no significant issues relating to the granting of consent. Where appropriate any concerns have been included within draft consent conditions.

Clause 16 of the SEPP requires consideration of the transport routes and whether it would be appropriate to implement a code of conduct for transport of material. The proposed development has been referred to the Roads and Maritime Service (RMS). The comments provided by the RMS on 5 June 2014 do not require the upgrading of the intersection of the internal road and the Mid Western Highway, as RMS have advised that the intersection is sufficient for the proposed development. A condition of consent in the Draft Notice of Determination has been proposed to restrict the transportation of extracted material from the site to the existing entrance from the Mid Western Highway. It is also noted that the applicant has proposed to implement a Driver Code of Conduct to deal with issues such as movements near school buses

Clause 17 requires consideration of whether conditions should be imposed relating to rehabilitation of the site. It is proposed by the applicant) that the subject land will be progressively rehabilitated in accordance with an Extraction and Rehabilitation Plan. Progression to each new cell is conditional upon the preparation and approval of an Extraction and Rehabilitation Plan (ERP) aimed at identifying the specific sequence of extraction and rehabilitation, over a nominated time or specified extraction areas, and illustrate how rehabilitation would be undertaken to maintain the 1.5 limit on active extraction. The ERP would also nominate various rehabilitation objectives, performance indicators and completion criteria for rehabilitation.

It is also proposed to rehabilitate the existing disturbed areas to the north east of the site as part of the development.

SEPP 33 - Hazardous and Offensive Developments

The Director-General's requirements dated the 24 May 2014 required that SEPP 33 – Hazardous and Offensive Development be addressed.

The EIS has stated that "... the only hazardous materials that would be used or stored within the project site would be diesel fuel and lubricating oils, both classified as Combustible Liquids (C1). As no other flammable materials would be used or stored on the project site, Combustible Liquids (C1) are not considered to be potentially hazardous."

The development would not be classified as being a hazardous or offensive industry or a potential hazardous or offensive industry.

SEPP 55 - Remediation of Land

The Director-General's requirements dated 24 May 2013 required that SEPP 55 – Remediation of Land be addressed.

The EIS has stated that “given the history of the Project Site is agricultural , which is unlikely to result in contaminated of the land , The Applicant is satisfied that no contaminated land occurs on the project site.” R.W Corkery, 2014, 1-13.

Council concurs that there are no known significant contaminating activities that would warrant further investigation and/or remediation.

SEPP 64 – Advertising and signage

The EIS proposes the erection of an advertising signage near the entrance to the property and has provided generally parameters governing its size which are in accordance with Council's adopted Development Control Plan.

In accordance with clause 8 of the SEPP the signage must satisfy the assessment criteria in Schedule 1 which is considered below.

1 Character of the area

- Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?

The proposed signage complies with Council's maximum size criteria and the relatively small scale of the proposal makes it appropriate for the rural locality.

- Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?

The proposed signage will be consistent with the design and scale of existing advertising signage in this rural locality.

2 Special areas

- Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?

The proposed sign is relatively small scale and does not visually dominate the rural landscape.

3 Views and vistas

- Does the proposal obscure or compromise important views?

The proposed signage will be located on the lowest part of the subject site and therefore it is unlikely to affect the views from the highway.

The proposal signage will be visible from the adjoining dwellings. The maximum area of the proposed signage will not exceed 5m². Restricting the size of the sign will reduce and mitigate the impact on adjoining dwellings.

- Does the proposal dominate the skyline and reduce the quality of vistas?

The proposed signage will not visually dominate the skyline.

- Does the proposal respect the viewing rights of other advertisers?

There are no other advertising signs in the immediate vicinity of the subject site.

4 Streetscape, setting or landscape

- Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?

The proposed signage does not visually dominate the rural landscape.

- Does the proposal contribute to the visual interest of the streetscape, setting or landscape?

While the proposed signage does not contribute to the visual interest of the landscape, it does not necessarily detract from it.

- Does the proposal reduce clutter by rationalising and simplifying existing advertising?

There is no existing signage on the subject site and there is no existing signage in the immediate vicinity of the subject site.

- Does the proposal screen unsightliness?

Not relevant to the proposal.

- Does the proposal protrude above buildings, structures or tree canopies in the area or locality?

The proposed signage will not extend above existing buildings or trees on the subject site.

- Does the proposal require ongoing vegetation management?

No, the proposed signage will be positioned on a cleared area.

5 Site and building

- Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?

The design and scale of the proposed signage is considered to be appropriate for the rural setting in which it will be located.

- Does the proposal respect important features of the site or building, or both?

The proposed signage will be located approximately 100 metres from the adjacent watercourse (Evans Plain Creek) so as not to impact on the stability of its banks or on the flow of flood waters.

- Does the proposal show innovation and imagination in its relationship to the site or building, or both?

The proposed signage, while not necessarily innovative or imaginative, is consistent with the design and scale of existing signage in other rural localities.

6 Associated devices and logos with advertisements and advertising structures

- Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?

Not relevant to the proposal.

7 Illumination

- Would illumination result in unacceptable glare?

The proposed signage will not be illuminated.

- Would illumination affect safety for pedestrians, vehicles or aircraft?

The proposed signage will not be illuminated.

- Would illumination detract from the amenity of any residence or other form of accommodation?

The proposed signage will not be illuminated.

- Can the intensity of the illumination be adjusted, if necessary?

The proposed signage will not be illuminated.

- Is the illumination subject to a curfew?

The proposed signage will not be illuminated.

8 Safety

- Would the proposal reduce the safety for any public road?

The signage structure itself will be located within the boundary of the subject site and will therefore not have a direct impact on road safety.

- Would the proposal reduce the safety for pedestrians or bicyclists?

The proposed signage will not be located in an area frequented by pedestrians or cyclists.

- Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?

The proposed signage will not obscure sightlines from public areas.

Bathurst Regional (Interim) Local Environmental Plan 2005

The following clauses of Bathurst Regional (Interim) Local Environmental Plan 2005 have been assessed as being relevant and matters for consideration in assessment of the Development Application.

Clause 2 Aims of this plan

The proposal is not contrary to the relevant aims of the Plan.

Clause 6 Zoning Control Table

The subject site is zoned 1(e) Outer Rural. The objectives of the zone are as follows;

- (a) to support and maintain the continued viability of agricultural development in rural lands located in the outer rural areas of the local government area of Bathurst Regional,
- (b) to enable the carrying out of development that is appropriate for broad acre productive land used for grazing and cropping,
- (c) to protect and conserve the scenic environment by controlling the location of buildings and materials used, particularly in respect of development adjacent to a major road or located within a scenic protection area or within an identified remnant bush land area,
- (d) to protect and conserve valuable deposits of minerals, coal, petroleum and extractive materials by controlling the location of development to enable the efficient extraction of those deposits.

The proposal is not inconsistent with the objectives of the zone.

The proposed development is visible from the Mid Western Highway. Conditions have been imposed in the Draft Notice of Determination requiring the establishment of visible barriers to be planted and established, to adequately screen the site from the Mid Western Highway prior to excavation occurring in east of the site(cells 2-6). The area of quarry that is active will be limited to an area of 1.5 hectares. A combination of the restricted quarry size and the vegetation screen will reduce the visual impact of the extractive industry from the Mid Western Highway.

The proposal is defined as an extractive industry, the definition of which is:

- (a) Development involving the winning or removing of extractive material from the land, or
- (b) An industry or undertaking (other than a mine) that depends for its operating on the winning or removing of extractive material from the land on which it is carried out.

Extractive industries are permissible with consent in the 1(e) Outer Rural Zone.

S79C(1)(a)(ii) Draft environmental planning instruments

Draft Bathurst Regional Local Environmental Plan 2014

Draft Bathurst Regional Local Environmental Plan 2014 was adopted by Council at its meeting held on 16 December 2013. The Draft Plan is currently with Parliamentary Counsel undergoing consideration prior to gazettal.

Clause 1.4 Definitions

The proposed development is an extractive industry defined as follows:

The winning or removal of extractive materials (otherwise than from a mine) methods such as extracting, dredging, tunnelling or quarrying, including the storing, stockpiling or processing of extractive materials by methods such as recycling, washing, crushing, sawing or separating, but does not include turf farming.

Clause 2.2 Zoning of land to which Plan applies

The subject site is zoned RU1 Primary Production.

An extractive industry is permissible with consent in the RU1 Primary Production zone.

Clause 2.3 Zone objectives and land use table

The objectives of the RU1 Primary Production zone are as follows

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- 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 maintain the rural and scenic character of the land.
- To provide for a range of compatible land uses that are in keeping with the rural character of the locality, do not unnecessarily convert rural land resources to non-agricultural land uses, minimise impacts on the environmental qualities of the land and avoid land use conflicts.

Extractive industries are permitted with consent in the RU1 Primary Production Zone.

The development is not inconsistent with the objectives of the zone.

Development control plans

Chapter 9 Environmental Considerations

9.3 Riparian land and waterways

The Evans Plains Creek is identified as a Sensitive Waterway under Council's DCP. A Sensitive Waterways includes land 40 metres either side of a waterway identified. The proposed extractive industry is not within 40 metres of the Evans Plains Creek. There is the potential for runoff from the development to impact upon water quality although it is proposed that this be managed by way of erosion and sedimentation controls to be implemented through the ERP. .

9.4 Biodiversity

Evans Plains Creek is identified as an area of high biodiversity sensitivity. There will be minimal disturbance to these identified areas.

9.5 Groundwater

The whole of the site is identified being of high and moderately high groundwater vulnerability. Extractive industries are not listed in the types of development that require specific consideration under Chapter 9.5 of the DCP.

9.8 Flora and Fauna Surveys

The EIS includes an Assessment of Fauna and Flora prepared by Aquila Ecological Surveys. The Assessment included field surveys over the project site for flora and fauna completed in September and October 2013. The major findings of the Assessment are as follows:

- Much of the property site has been cleared for the existing quarry or cropping activities on the project site.
- There are three vegetation communities present on the site:
 - Introduced grassland – predominately cleared and cultivated for pasture and dominated by introduced grass species.
 - Yellow Box Woodland – two small remnants of this community have been identified. Located within the perimeter of cell 1(a) a 700m² area have been identified including yellow box to 15 metres with Snow Grass groundcover. To the immediate East of the project site several Yellow Box 15m tall and a single Ribbon Gum are present. The groundcover is dominated by Snow Grass covering an area of approximately 1,000m².
 - Sedgeland/Rushland – located in seepage areas below and at the margins of the dams of the project site vegetation is dominated by grass-like plants to one metre tall adapted to boggy conditions.

Box gum woodland is an endangered ecological community under the Threatened Species Conservation Act.

The remnant patch of Yellow Box located with the perimeter of cell 1(a) will be removed during the process of extraction. The remnant patch to the east of cell 4 is to be protected by way of fencing.

The EIS has stated that due to the “minimum remnant size criterion (0.1Ha) of the Environment Protection and Biodiversity Conservation Act 1999, the remnant is not considered an example of this Critical Endangered Ecological Community.”

Twenty four species of fauna (including 21 birds and 3 frogs) were identified on the project site. No fauna species of conservation significance were identified, although the Little Eagle is considered as likely to utilise some of the habitat features of the project site occasionally.

Chapter 12 Signage and Colour Schemes

12.2.1 Definitions

Pole or Pylon Sign is defined as

“Means an advertising panel erected on top of a pole or pylon which is independent of any building or other structure.”

12.2.3 Locational requirements

This section applies to the erection of advertisements within the Bathurst Local Government Area.

It is noted that the DCP contains locational requirements where the erection of certain types of advertisements is generally not appropriate. For the purposes of pylon signs such as that proposed these requirements are as follows:

Pylon Signs - Pylon signs where visible from a State Highway or major road and another blade or pylon sign/projecting wall sign is already located on the land and is visible from a State Highway or major road.

Whilst the sign is visible from the Mid Western Highway there are no other existing blade or pylon/projecting wall signs already located on the land visible from the Mid Western Highway. Accordingly the sign is not inconsistent with the locational requirements.

12.2.4 General Development Standards

- The height of the sign must not exceed the roof of the building to which it relates. There are no buildings within close proximity of the proposed sign. The EIS states that height of the proposed sign would not exceed 4 metres from the ground surface.
- The size of the proposed sign must not exceed 5m²; this will be a condition in the Draft Notice of Determination (appendix 1).
- The sign will be constructed so that it is structurally adequate to withstand the dead and live (wind) loads that may impose on it.

S79(c)(1)(b) Environmental (natural and built), social and economic impacts

Scenic quality

The proposed extractive area and associated facilities will be facing predominately the east. Cells 1a and 1b slope towards the north-east and extractive cells 2-6 slope towards the south-east.

The site is visible from the Mid Western Highway and those dwellings located to the east of the site.

The issue of the visual appearance of the proposed extractive industry was consistently raised in many of the public submissions received regarding the development.

The current operations on site include an active extraction area of 1.3 hectares, a processing area of 1.1 hectares and other disturbed areas of 4.3 ha.

The applicant originally proposed dividing the extraction area into individual cells of up to 2.5ha. Council officers were of the opinion that cells of this size were too large in terms of managing the visual impacts associated with the development and would have left large areas of the site unrehabilitated for long periods given the anticipated extraction rates.

Following on from discussions the applicant has proposed a number of amendments to the proposal and a number of management controls to address these concerns. These amendments include:

- Reducing the area of the cells to a maximum of 1.5ha
- Clearly defining the site boundaries by way of readily identifiable survey markers within 3 months of the consent
- Clearly defining the area of each extraction cell by way of readily identifiable survey markers
- Undertaking rehabilitation of those areas outside of the current approved area.
- Landscaping of the batter slope to the south of the eastern extraction area.

- Limiting the stockpile and processing area to a maximum of 1.1 hectares.
- Preparation of an Extraction and Rehabilitation Plan to clearly identify the next extraction cell and remediation objectives for the recently completed cell.

It is noted that the maximum extraction area of 1.5 hectares of active extraction represents a marginal increase on the current 1.3ha active extraction area. The existing stockpiling and processing areas will not increase; it will maintain the existing operation with an area of 1.1Ha.

Whilst there will be a marginal increase in the extraction area under this regime it is noted that the proposal includes rehabilitation of the areas to the south of cells 2-6 and the planting of a vegetation screen on the batter slope to the south of the initial terrace extraction within 3 months of the date of this consent. This vegetation screen is to include fast growing trees. This will provide a visual barrier between the proposed extraction cells 2-6 and the dwellings to the east and north east of the site. This will reduce the visual impacts of the active extractive area from the Mid Western Highway and the surrounding dwellings.

Traffic Generation

The site currently has accesses to the Mid Western Highway and Stewart Street. Access to the quarry is proposed to be from the Mid Western Highway only.

The existing access to the site from the Mid Western Highway was significantly upgraded under the existing consent in 2006 in accordance with conditions imposed upon that consent. The current intersection provides for a BAR/BAL type intersection sufficient to accommodate heavy vehicles.

Based upon the maximum quarry output of 100,000 tonnes per annum the truck movements would be in the order of 60 movements per day or 10,000 per annum.

The current access is sealed for a distance of 60m from the Mid Western Highway.

The Development Application was referred to the Roads and Maritime Authority for comments in accordance with SEPP (M,PP & EI). The RMS did not require any further upgrading to the intersection.

Pollution

Odour

The proposed development is not anticipated to generate any offensive odours.

Noise

The EIS was accompanied by a Noise Impact Assessment prepared by Spectrum Acoustics.

The Noise Assessment included establishing background noise assessment on the project site between the 29 August 2011 and the 8 September 2011. The monitoring location was setback from the Mid Western Highway by approximately 100 metres (equivalent to the setback of several dwellings to the Mid Western Highway).

Noise generating components identified by Spectrum Acoustics for the proposed development include:

- A small increase in the time over which each piece of equipment is operating to account for the proposed increase in production, material blending and stockpile management.
- As the quarry extends, first to the west and later to the east, the equipment used to extract the weathered granite would move closer to a number of residential receivers, most notably those within the Evans Plains Village.
- The number of trucks entering and exiting the quarry via the Mid Western Highway would increase to account for the increased production.

The EIS states that the expected noise level generated by Dreamland Quarry would not increase significantly as a result of this proposal. Notably, as there would be no change to the equipment currently being used for extraction, stockpile management and processing at the quarry, the $L_{AEQ(15 \text{ Minute})}$ noise levels generated by these are unlikely to change.

The development will generate two distinct types of noise generated by the proposal, namely generated on the project site (operational noise) and noise generated by traffic travelling to and from project site (travelling noise).

Operational Noise

The proposed operational safeguard controls and management measures outlined in Section 4.6.3 of the EIS include:

1. All mobile equipment would be fitted with standard muffling apparatus;
2. Stockpiles would be constructed and maintained within the processing areas such that they provide an acoustic barrier to the noise generating activities understanding within the processing area, i.e. operation of the front-end loader, loading of the feed hopper, loading and unloading of trucks; and
3. Internal roads will be well maintained to minimise body noise from empty trucks.

Additional operational safeguards to be adopted by the applicant would include:

1. Restricting noise-generating activities to the nominated hours of operation;
2. Regular maintenance of all equipment; and
3. Maintenance of dialogue with neighbours to ensure any concerns over operational noise are addressed.

The above safeguards and controls have been incorporated into the noise model developed by Spectrum Acoustics to assess the likely changes to local noise levels.

The assessment of operational noise was conducted using RTA Technologies Environmental Noise Model (ENM) v3.06, using source power level spectra for each of the Project Site noise source from Spectrum Acoustics database of measure quarry noise sources. All noise sources were assumed to be operating for the full 15 minutes assessment period simultaneously. The operating scenarios includes extraction from cell 2, transport of the extracted material back to the processing and stockpiling area and operation of all screening and washing equipment within the processing and stockpiling and processing area.

The following table shows the modelling under meteorological conditions considered to be features of the local setting (in accordance with the INP classification for meteorological features) for each scenario as follows:

- Neutral (calm) conditions – 20°C, 70% Relative Humidity (neutral); and
- South-southeast wind (3m/s) - 20°C, 70% Relative Humidity.

Table 1: Predicted $L_{Aeq(15 \text{ min})}$ Noise levels.

Residential Receiver	Meteorological Condition		Criterion
	Neutral	South-southeast Wind (3m/s)	
2	<20	<20	35
3	<20	<20	35
6a	28	25	35
6b	30	25	35
7	35	30	35
8	33	30	35
10	33	30	35
11	28	25	35
12	27	23	35
13	<20	<20	35
14	21	20	35
15	<20	<20	35
16	<20	<20	35
24	<20	<20	35
Source: Modified after Spectrum (2014) – Table 6			

Table 1 shows the estimated noise level shown under two different meteorological conditions the maximum noise level at the most impacted residence 7 is 35 dB(A). This is within the acceptable criterion for the project.

It is noted that there was some criticism of the approach to the noise assessment raised in the public submissions in relation to changes to machinery and when operations occur further up the slope. As noted by the applicant the changes in operations will not change the overall operational criterion of 35 dBA. That is the noise criterion will remain the same notwithstanding changes in machinery or location.

It is further noted that the EPA have included in their GTA's a condition to the effect that noise from the premises must not exceed 35 dB(A) $LA_{eq(15 \text{ minutes})}$ at any time at any neighbouring residential property. To determine this compliance with the 35 dB(A) $LA_{eq(15 \text{ minutes})}$ noise limit, noise must be measured:

- Approximately on the property boundary, where any dwelling is situated 30 metres or less from the property boundary closest to the premises; or
- Within 30 metres of a dwelling façade, but not closer than 3 metres where any dwelling on the property is situated more than 30 metres from the property boundary closest to the premises.

The noise limit does not apply at properties where the proponent has a written agreement with the landowner to exceed the noise limit. The EPAs, GTA's are attached in appendix 2.

Traffic Noise

The EIS states that during peak demand periods for the quarries products predicted vehicle movements will be equal to 280 movements per week (equal to 60 truck movements per day). Under these conditions, it is predicted that a $LA_{eq(15 \text{ hour})}$ traffic noise level of 49.6 dB(A) at a receiver 20 metres from the road. This is considerably less than the day time criterion of 55 dB(A).

Waste

The applicant has proposed the following types of bins that will emptied regularly at an appropriate waste disposal facility in the local government area:

- General solid waste (putrescible);
- General solid waste (recyclables);
- General solid waste (non -putrescible); and
- Waste oils and greases.

The EIS states that the proposed controls and safeguards that required on site would be minimal for waste management issues.

The EPA have conditioned in its GTA's that the applicant must not cause, permit or allow any waste to be received at the premises. Please see appendix 2 for the extended condition.

Air Quality - Dust

The air quality of the environs surrounding the Project Site is typical of a semi-rural setting with airborne contaminants generated by existing land uses.

There are three major changes to the dust and other particulate matter generating activities as a result of the quarry extension.

- i) The area of disturbance would be increased as the quarry is progressively extended first to the southwest (cell 1) and then to the northwest (cells 2-6).
- ii) With an increase in the rate of extraction and production, there would be an increase use of mobile plant and an associated increase in dust and particulate matter generation.
- iii) The increased production would require an increase in the (annual) number of vehicles travelling to and from the quarry (via the Mid Western Highway and the internal quarry access road), which would have the potential to generate additional dust levels.

The EIS states that "given the minimal influence the existing quarry operations appear to have on local air quality, the fact that the proposed quarry extension would not require any additional operating equipment or change to operating methods on the project site, and the proposed progressive rehabilitation of disturbance, increases in dust generated by the proposed extraction and screening operations is unlikely to constrain the Proposal." R.W Corkery, 2014, 3-38.

The applicant has proposed operational controls and safeguards and management procedures that would be adopted:

- Water would be used during screening activities to reduce the potential generation of dust;
- The exhaust of all earthmoving equipment would be diverted away from the ground surface so as not to generate dust;
- Disturbance would be limited to the area required for 6 to 12 months operations and soil stockpiles retain for periods greater than 3 months would be sown with a sterile cover crop;
- Activities such as stripping of soil and ripping if the weathered granite would not be carried out during times of higher than normal potential for dust generation such as periods of high winds and dry weather;
- Progressive rehabilitation over the life of the quarry would reduce exposed areas generating dust; and
- All product trucks would be required to have their loads covered.

The applicant had originally proposed dust monitoring at a number of dwellings surrounding the project site and within the site itself to demonstrate emission levels attributable to quarry related activities comply with the nominated criteria.

It is noted in the Response to Submissions that the applicant now proposes to install dust deposition gauges at the southern and south western boundary of the property in lieu of those locations initially identified in the EIS. The gauges would be monitored monthly.

The requirement for dust monitoring has been included as a condition of consent in the Draft Notice of Determination. The monitoring will be carried out on the applicant's property boundary between the activities and the nearest residential receivers. In the event that elevated levels are detected, the operator is to advise the EPA, Council and the affect landowners.

The EPA have included a more generalised condition in their GTA's a condition in relation to air quality, attached in appendix 2.

It has been conditioned that the internal access road within the Project Site has to be a bitumen seal. This will reduce the dust emission of the project site.

Water Management

It is proposed that water collected on the site will be used for processing of materials and dust suppression activities.

The EIS includes an assessment of the predicted available water resources which indicates that sufficient water would be available from runoff to supply the needs of the quarry.

It is noted that the applicant also holds a water irrigation licence for 99ML from the Evans Plains Creek although it would require a change to the terms of that licence to enable it to be used as part of the quarry operations.

It is proposed that as part of the Extraction and Rehabilitation Plan the applicant will be required to prepare an erosion and sedimentation plan for each cell prior to commencement of work.

Economic Impacts

The beneficial social and economic impacts resulting from the proposed development is the continued extraction of gravel and sand from the quarry, resulting in continued employment and base materials for the construction local industry.

Threatened Species

A Flora and Fauna Assessment and field survey of the project site was completed by Aquila Ecological Survey. Two areas of Yellow Box Woodland were identified. Box gum woodland is identified as an Endangered Ecological Community under Threatened Species Conservation Act.

One of these areas is located within the extraction cell 1(a) and has an area of 700m². This vegetation will be cleared as part of the extraction area. The EIS has stated that due to the “minimum remnant size criterion (0.1Ha) of the Environment Protection and Biodiversity Conservation Act 1999, the remnant is not considered an example of this Critical Endangered Ecological Community.” The other area of Yellow Box Woodland located within the project boundaries is to be protected and fenced throughout the life of the proposal as noted in Draft Notice of Determination (appendix 1).

The small remnants of Yellow Box Woodland located within the project site that is to be cleared, this may potentially provide habitat likely to be used by one species of threatened fauna (Little Eagle).

The applicant has proposed to fence the remaining area of box gum woodland in stock proof fencing in order to protect it from potential damage. This is to occur within 3 months of the date of consent

S79C(1)(c) Suitability of the site

The proposed development represents an extension to an existing extractive industry the majority of the infrastructure required such as; access to the site, internal road, office, process and stockpiling areas and water storage facilities already exist.

As the site is located within close proximity of non-associated dwellings, the development will have the potential to impact on the surrounding residents. If the major issues raised in the submissions by the adjoining properties can be mitigated the proposed development site is suitable.

The applicant has responded to all the issues raised in the submissions, attached in appendix XX.

S79C(1)(d) Submissions

The development Application was advertised twice in the local newspaper for a period of in excess of 28 days from the 12 May 2014 to the 12 June 2014.

Adjoining property owners were also notified in writing of the proposed development.

The Development Application and accompanying documentation (Environmental Impact Statement) was made available to the public during the exhibition period at the Bathurst Regional Council office, the Department of Planning and Environment and the Joint Regional Planning Panel head office.

Council received eleven (11) submissions (attached as appendix 3) during the notification period.

On the 10 July 2014 an internal discussion forum was held between the applicant, those persons who lodged submissions and Council officers. The applicant and all objectors to the proposed development were invited to attend. The minutes of the meeting are attached in appendix 4. The applicant has provided a detailed response to all the issues raised in the submissions (appendix 5).

S79C(1)(e) Public interest.

Past Environmental Performance

Many of the public submissions noted issues in relation to performance of the activities under the current consent.

As noted above the current operations have exceeded the limitations on volume in the existing consent and has occurred in areas outside of the approved areas. These facts have been acknowledged within the EIS.

The approach taken under this consent is to more accurately define the extraction areas and implement a clear process for extraction and rehabilitation through the Extraction and Rehabilitation Plan which do not exist under the current consent.

It is also proposed to include an annual reporting process to detail compliance with the consent and the Extraction and Rehabilitation Plan. As part of this process the applicant will be obliged to consult with the adjoining property holders to ascertain whether there are any issues associated with management of the quarry. A copy of the annual report will also be provided, on request, to any adjoining property owner.

It is also proposed to implement a complaint management process including written responses to any complaints.

Referrals

The Development Application was referred to a number of Government Authorities including the Roads and Maritime Authority, Office of Environment and Heritage, Environment Protection Authority and NSW Fisheries and Department of Primary Industries.

Responses were received from some but not all authorities.

Roads and Maritime Services

The Development Application was referred to Roads and Maritime Services (RMS) under the State Environmental Planning Policy (Mining, Petroleum Products and Extractive Industries) 2007 as the proposal is accessed off a classified road.

RMS provided comment on the proposed development to the effect that it would not object to the proposal on the basis that the conditions imposed on the preceding consent are complied with. The RMS has previously satisfied itself in relation to the intersection treatment and accordingly no further works are required. Comments are attached in Appendix 6.

Environmental Protection Authority

The Development Application is Integrated Development in that approval is required under the Protection of Environment Operation Act 1997. The referral was sent to the Environmental Protection Authority (EPA) on the 7th May 2014.

Council has received the EPA's GTA's on the 11 June 2014 as in appendix 2.

Department of Primary Industries – Fisheries Aquaculture, & Aquatic Environment Branch

The development Application was referred to the NSW Department of Primary Industries – Fisheries Aquaculture, & Aquatic Environment (Fisheries NSW) Branch on the 12th May 2014.

Fisheries NSW responded on the 11 June 2014. Fisheries NSW have recommended a fifty (50) metre wide riparian buffer zone from the Evans Plain Creek. Whilst the project boundary originally extended to within 50 metres of Evans Plains Creek, the proposed limit of extraction does not encroach within 50 metres of the Evans Plains Creek. The riparian buffer zone adjacent to Evans Plain Creek should be managed to avoid disturbance and potential degradation, and therefore the department has no objection to the proposed development. The response from Fisheries NSW is attached in Appendix 7.

Department of Primary Industries – Office of Water

The development Application was referred to the Department of Primary Industries – Office of Water on the 12th May 2014.

The Office of Water responded on the 13 June 2014. Office of Water highlighted the provisions of the applicants existing water licence and approval. A condition of consent is included in the Draft Notice of Determination that states the compliance with the requirements of the NSW Government – Department of Primary Industries- Office of Water (Appendix 1). The response of the Office of Water is attached in Appendix 8.

Trade & Investment – Resources & Energy

The development Application was referred to the Department of Trade and Investment – Resources & Energy on the 12th May 2014.

The Department of Trade & investment – Mineral Resources Branch (MRB) responded on the 26 May 2014. The information required for the MRB to assess the application is provided in the EIS, and it adequately addresses the requirements. No Objection was raised. A Copy of the MRB response is attached in Appendix 9.

Office of Environment & Heritage

The development Application was referred to the Office of Environment & Heritage (OEH) on the 12th May 2014.

The OEH responded on the 12 June 2014. The OEH noted that two artefacts associated with previously recorded site EP-IF01 were unable to be located during the field surveys of the project site. However a third artefact (basalt flake) was found approximately 150m northwest of the previous recorded site. An Aboriginal Heritage Permit (AHP) is required for the salvage and relocation of the third artefact, under the National Parks and Wildlife Act 1974 (NP&W Act). It is the responsibility of each individual proposing to conduct ground disturbance works to ensure

that they have conducted a due diligence assessment to avoid harming Aboriginal Objects by the proposed activity. The OEH administers Part 6 of the NP&W Act with regard to determination of AHIP applications.

Attached to EOH referral is the OEH due diligence code of practice for the protection of Aboriginal Objects in NSW, and guide to Aboriginal Heritage Impact Permit Processes and Decision-Making and the application form for an Aboriginal Heritage Impact Permit. These forms will be provided to the applicant with the Notice of Determination. The OEH comments are attached in appendix 10.

Other external referrals

The proposed development was also referred to the other external government agencies, they are as follows:

- Department of Primary Industries – agriculture;
- Essential Energy; and
- Central Tableland Local Land Services.

No correspondence was received from these agencies. It is therefore assumed that they have no objection to the proposed development.

Internal Referrals

The proposed development was referred internal within Council to the following officers:

- Development Assessment Engineer;
- Environmental Officer; and
- Development Assessment Planner.

Conditions have been recommended by the following officers, which have been included within the Draft Notice of Determination attached in Appendix 1.

SUMMARY

The Development Application proposed the extraction of up to 2.5million tonnes of granite from a total area in the order of 17.1 ha. The quarry will operate in 2 separate areas.

In order to address issues associated with the visual impact of the development and to ensure that rehabilitation occurs in a timely fashion it is proposed to divide the site into a number of cells. These cells have been reduced in size from 2.5ha to 1.5ha as part of the assessment process.

Progression throughout the site will be managed through an Extraction and Rehabilitation Plan to be prepared prior to commencing work within the next extraction cell. The Plan will also deal with rehabilitation of the recently completed cell.

Annual reporting requirements, including the requirement to consult with the adjoining residents, has also been proposed.

It is considered that the development warrants conditional development consent.

