

JOINT REGIONAL PLANNING PANEL Western Region

JRPP No.	2016WES011
DA No.	10.2016.38.1
Local Government Area	Oberon Council
Proposed Development	Extractive industry (continued operation and extension of existing quarry) and waste management facility (processing of raw mulch, excavated natural material and treated drilling material)
Street Address	50 Sewells Creek Road, Oberon Lot 2 DP 1112479
Applicant/Owner	Applicant: Oberon Earthmoving Pty Ltd Owner: Clift Engineering (Oberon) Pty Ltd
Exhibition Period	16 June 2016 – 18 July 2016 - Five (5) public submissions, and
Number of Submissions	23 November 2017 – 22 December 2017 – Six (6) public submissions
Regional Development Criteria (Schedule 4A of the Act)	Schedule 4a to the <i>Environmental Planning and Assessment Act 1979</i> outlines development for which regional panels may be authorised to exercise consent authority functions of councils. Clause 8 of schedule 4a has identified 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> as being development suitable for a regional panel. <u>Extractive industry – designated development</u> The proposed extractive industry is classified as designated development under clause 19 of Schedule 3 to the <i>Environmental Planning and Assessment Regulation 2000</i> because it is a proposed industry that obtains or process for sale, or reuse, more than 30,000 cubic metres of extractive material per year or 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 depositing overburden, extractive material or tailings. Designated development requires an Environmental Impact Statement with the development application and requires a comprehensive assessment of the impacts of the development proposal. <u>Waste Management Facility</u> The application additionally proposes a waste management facility on the land which comprises the importation of raw mulch and the composting, screening and blending of the material before it is exported off site.
Integrated Development (Section 91 of the Act)	The development proposal is considered to be Integrated Development as defined under section 91 of the <i>Environmental Planning and Assessment Act 1979</i> (EP&A Act) as the application seeks the following approvals from the Environment

	Protection Authority (EPA) and the Roads and Maritime Services (RMS): • An Environment Protection Licence under section 43(b), 48 and 55 of the Protection of the Environment Operations Act 1997. • Consent to carry out works over a public road in accordance with section 138 of the Roads Act 1993. The NSW Environment Protection Authority (EPA) in correspondence dated 7 September 2016 granted their General Terms of Approval for the proposal noting that a separate application to the EPA is required to obtain an environment protection license, should consent be granted. The Roads & Maritime Service (RMS) in correspondence 21 July 2016 provided recommendations for Council's consideration.
List of All Relevant s79C(1)(a) Matters	• SEPP 33 Hazardous and Offensive Industry • SEPP 44 Koala Habitat Protection • SEPP 55 Remediation of Land • SEPP Mining, Petroleum and Extractive Industries 2007 • SEPP Rural Lands 2009 • SEPP Infrastructure • Oberon Local Environmental Plan 2013 • Oberon Development Control Plan 2001
List all documents submitted with this report for the panel's consideration	• Council Report with recommended conditions • Submission Report Summary • Amended Environmental Impact Statement (November 2017) • Response to submissions by R.W. Corkery & Co. Pty. Ltd (February 2018) • Rehabilitation & Landscaping Management Plan by R.W. Corkery & Co. Pty. Ltd (March 2017)
Recommendation	That the Western Region Joint Regional Planning Panel issue conditional consent.
Report by	Shane Wilson, Planning & Development Director Oberon Council
Report date	26 February 2018

1. EXECUTIVE SUMMARY

1.1 Reason for consideration

This application is submitted to the Joint Regional Planning Panel Western Region for determination in accordance with the requirements of Sections 23G and 23H *Joint Regional Planning Panels of the Environmental Planning and Assessment Act 1979*.

The proposed development is an expansion of the existing 'Middle Creek Quarry' which is classified as designated development in accordance with clause 19 of Schedule 3 to the *Environmental Planning and Assessment Regulation 2000*. The development also proposes a waste management facility on the land which comprises the importation of raw mulch and the composting, screening and blending of the material before it is exported off site.

Clause 8(a) of Schedule 4A to the *Environmental Planning and Assessment Act 1979* specifies this type of extractive industry as development for which joint regional planning panels may be authorised to exercise consent authority functions of councils.

1.2 Description of proposed development

The application is seeking consent for "Extractive industry (continued operation and extension of existing quarry) and waste management facility (processing of raw mulch, excavated natural material and treated drilling material) ". The area of the existing and proposed quarry will occupy approximately 15 hectares of the 140.2 hectare site within the land parcel identified as Lot 2 DP 1112479.

The subject land has been operating officially for quarrying activities since 2010 and is known locally as the "Middle Creek Quarry". The existing Middle Creek Quarries entrance is located off Sewells Creek Road, approximately 200 meters to the east of the intersection of Mayfield Road-Sewells Creek Road and 1km to the west of the Sewells Creek Road-Abercrombie Road intersection. The site is 3.5km south-west of the township of Oberon. The sites entrance is proposed to remain in the same location as the existing; however upgrades to the entrance have been recommended by the RMS.

The applicant for the submission is Oberon Earthmoving Pty Ltd and the owner of the land is Clift Engineering (Oberon) Pty Ltd, who has consented to the lodgment of the development application. The applicant has engaged R.W Corkey & Co Pty Ltd (the consultant) to assist with the application and preparation of the Environmental Impact Statement (EIS) as amended.

An outline of the proposal includes the following:

- A 15-hectare extraction area with a mean extraction rate of 80,000 tonnes per annum and a maximum of 150,000 tonnes per annum segregated into three (3) separate cells,
 - Cell 1 (south)– an area of approximately 5.9 hectares, inclusive of the current extraction area
 - Cell 2 (north)– an area of approximately 4.4 hectares, incorporating the most elevated northerly section of the ridge
 - Cell 3 (central)– an area of approximately 4.7 hectares, linking Cell 1 and Cell 2 along the top of the ridge
- The material will be extracted from the site and processed on site (using the mobile crushing unit in the crushing, screening and resource recovery centre) ready to be sold as 20mm or 40mm road base, rock for drainage works or uncrushed gravel for road sheeting.

- Initially the rock will be extracted by ripping (using a bulldozer), then conventional drilling and blast methods will be used to fracture the rock before ripping and extraction.
- Select fill would also be a by-product of the quarry and stockpiled for sale as a lower value commodity or re-used during the rehabilitation stage.
- The quarry is proposing to allow the importing of organic waste from local and regional industry including:
 - raw mulch and woody waste,
 - excavated natural material,
 - treated drilling mud generated by hydro-excavation methods.
- These materials, which combined would not exceed 100,000 tonnes per annum, would either be:
 - Stockpiled for future sale,
 - Blended with extracted gravel,
 - Composted,
 - Applied to the completed extraction area as part of quarry rehabilitation.
 - Blending and screening activities would produce a variety of specialty composts, mulches, soils, gravels and fill materials which are stockpiled and for sale.
- In total this could include the importation of up to 25,000 tonnes per annum of raw mulch, up to 50,000 tonnes per annum of excavated natural material and up to 60,000 tonnes per annum of treated drilling mud.
- Combined production of gravel, fill, soil and mulch for sale and transport off site is not expected to exceed a maximum of 250,000 tonnes per annum (tpa) of products.
- The majority of truck movements to and from the project site would be via Sewells Creek Road and Abercrombie Road east towards Oberon. Average production of 130,000 tpa of all products would equate to approximately 4,000 truck movements per annum. The maximum 250,000 tpa of products would equate to approximately 7,800 trucks movements per annum. Predominantly the trucks used would be truck and dog trailers (32 tonne) with some B-double and rigid trucks also used.
- The applicant has proposed 24 hour truck haulage.
- The applicant would generally restrict operations to between 7:00am to 6:00pm Monday to Friday and 8.00am to 1.00pm on Saturday.
- Based on the proposed rate of production and estimated quarry resource, the quarry is expected to have a life of at least 30 years.
- Progressive rehabilitation is planned to create a final landform suitable for future agricultural activities.
- The footprint of the proposed quarry would require the removal of approximately 3.9 hectares of vegetation.
- The waste material/composting area would be located to the southern portion of the centre located immediately adjacent to the north.

Minimal infrastructure is required for the proposed development with existing access and staging/maneuvering areas are to be utilised. All materials and equipment will be brought to the site including a demountable building/office and toilet and removed following the completion of the activity.

1.3 Development history of the site

Development application 10.2010.66.1 was approved by Oberon Council on 10th November 2010 proposing “Extractive Industry – Gravel Extraction”. The activity limited the extraction of material to less than 30,000 tonnes per annum and land disturbance to less than 2 hectares, and was determined under local development.

Development application 10.2015.14.1 had been lodged to Council 12th March 2015 proposing an activity of “Extractive Industry - Log Processing” for up to 30,000m³ of

material per annum. This application has not been determined by Council or progressed by the Applicant given pending submission of DA 10.2016.38.1 - Extractive Industry and Waste Management Facility.

It was the detail provided as part of DA 10.2015.14.1 that revealed the existing extractive industry had exceeded 2ha and was occupying a site of approximately 3ha which was operating out side of the parameters associated with 10.2010.66.1. Correspondence from Council dated 22 April 2015 advised to cease operation of the extractive industry and seek retrospective approval. It is clear that the operation has not completely ceased from the quarry and trucks are still entering and exiting the site. Road haulage charges were not a condition of 10.2010.66.1 therefore this development consent will condition the road haulage charges to be applied retrospectively back to April 2015.

Legal advice has been obtained by Council in consideration of the retrospective nature of DA 10.2016.38.1. The legal advice obtained in conjunction with information from the applicant appears to indicate that the applicant's current workings are within the original approved (DA 10.2010.66.1) site area and any further works outside the approved area have ceased. Council will continue to follow up this matter with Councils legal representatives.

1.4 Compliance with planning regulations

The subject land is within the RU1 Primary Production Zone under the *Oberon Local Environmental Plan 2013*. Development for the purposes of extractive industry is permissible with consent on land within the RU1 Zone under both the *Oberon Local Environmental Plan 2013* and in accordance with *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*. The proposed extractive industry is classified as designated development in accordance with clause 19 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.

Resource recovery and/or Waste management is not a nominated permissible use in the RU1 Primary Production zone under the *Oberon Local Environmental Plan 2013*. Waste or resource management facilities are permissible with consent on land in a prescribed zone pursuant to Division 23 of State Environmental Planning Policy (Infrastructure) 2007. Section 120 of SEPP (Infrastructure) states that the RU1 Zone is a prescribed zone and therefore a waste or resource management facility is permissible with consent.

Section 79C(a)(i) requires a consent authority to consider relevant Environmental Planning Instruments. This includes the following State Environmental Planning Policies as follows:

- SEPP (mining, petroleum production and extractive industries) 2007
- SEPP (infrastructure) 2007
- SEPP (rural lands) 2008
- SEPP No 33 (hazardous and offensive development)
- SEPP No 44 (koala habitat)
- SEPP No 55 (remediation of land)

Section 79C(a)(iii) also requires the consent authority to consider the *Oberon Development Control Plan*. The parts considered to be specifically relevant are as follows:

- Introduction Part A- Rural development- Rural 1 (a) Zone

1.5 Consultation

The development proposal has been placed on public exhibition in accordance with legislative requirements, on two separate occasions due to the need for the applicant to submit an amended Environmental Impact Statement after the reissuing of the Secretaries Environmental Assessment Requirements (SEAR's).

The exhibition periods were from:

- 16 June 2016 – 18 July 2016 - Five (5) public submissions, and
- 23 November 2017 – 22 December 2017 – Six (6) public submissions

Notification of the proposal was given to landowners adjoining the subject site as well as advertisements placed in the local newspaper (Oberon Review) and Council's website.

The major issues that were raised by the submissions included:

- Noise
- Dust
- Visual aesthetics particularly from the north and west of the proposed quarry
- Increase truck movements along public roads
- Odour from compost
- Pollution of surface and ground water from runoff
- Impact on tourism
- Hours of operation
- Impact of waste processing

It is noted, that some twenty one submission (9 in support & 12 objections) were received in July 2017 after a 2GB radio show discussed the application, these have not been included within the assessment as they were received outside of any notification period.

Notification of the proposal was also forwarded to the following authorities on each occasion:

- The Department of Primary Industries Water- recommended conditions of consent
- Environment Protection Authority (EPA)- issued general terms of approval
- Roads & Maritime Service (RMS) –provided recommendations for Council's consideration
- Office of Environment & Heritage – raised no objection

1.6 Recommendation

The proposed development has been assessed on its merits and the public interest and in accordance with the legislative and regulatory provisions. Based on the documentation submitted with the application, the proposal is **recommended for approval** subject to conditions of consent.

2. EVALUATION OF DEVELOPMENT APPLICATION

2.1 Proposed development

The development application seeks consent for an extractive industry and waste management facility on the land. The proposal will occupy an area of approximately 15 hectares of land in Lot 2 DP 1112479 at 50 Sewells Road, Oberon. The remaining 125 hectares of land within the allotment will still be available for agricultural purposes.

The site is approximately 3.5km south-west of the township of Oberon. The subject site has been used for quarrying operations since 2010 under development consent DA10.2010.66.1 which limits disturbance to less than 2ha and production to less than 30,000m³. The site is identified on the locality map in Figure 1.

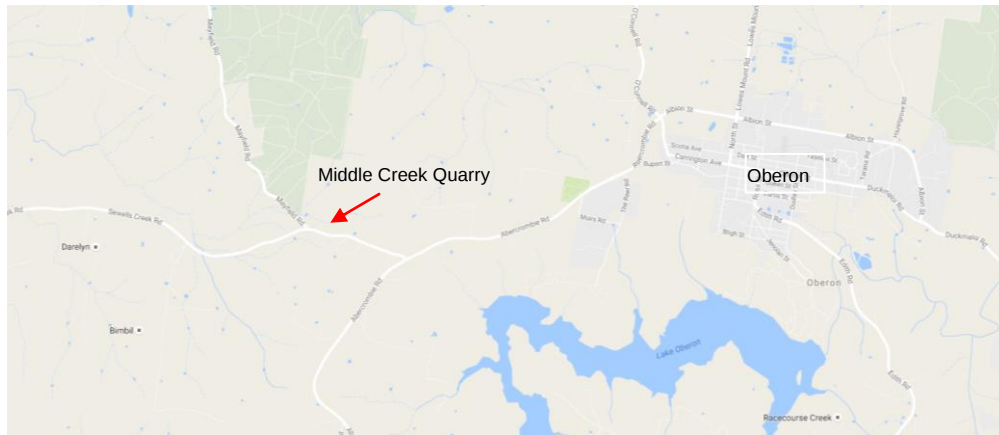


Figure 1 – Locality map showing location of site

The site layout of the proposed quarrying operation, including details of the existing quarry, access and the ultimate footprint of the proposed operation is shown in Figure 2.

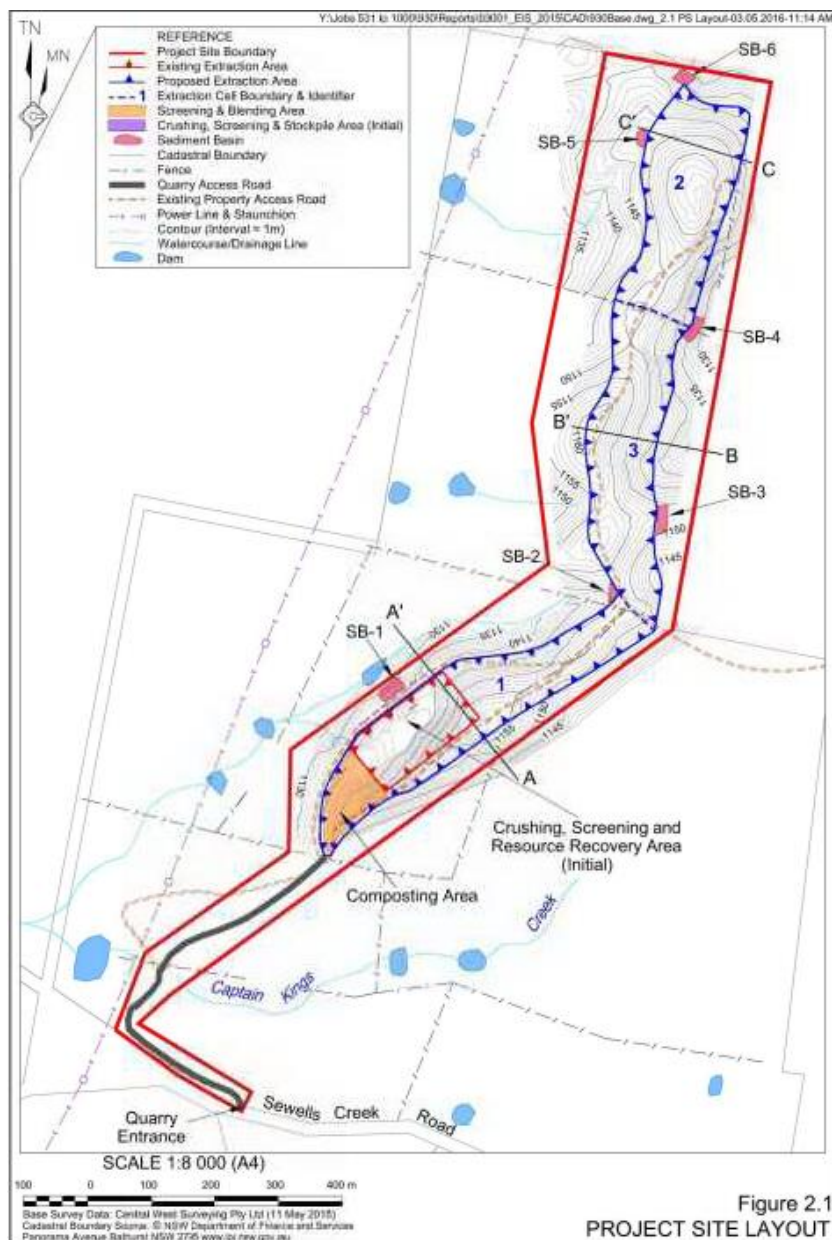


Figure 2 – Site layout, proposed footprint of quarry

The proposed extraction area has been identified as having a potential resource of a maximum of 150,000 tonnes per annum (tpa) with an expected average of 80,000tpa. The material removed will be extracted in three (3) cells, with the footprint of these three cells expected to be 15 hectares. Cell 1 (south) and 2 (north) are proposed to be extracted concurrently until cell 1 resources are exhausted. Cell 2 and 3 (centre) are then to be extracted from a single location only, to minimize the visual impacts.

The plan is to sell the limited volume of overburden from the extraction area and proposes a final landform with steep extraction faces on the eastern perimeter of extraction cell 1 and steep extraction faces on all sides of cells 2 and 3. The areas would be stabilized with soil applied to benches and revegetated using native trees and shrub species.

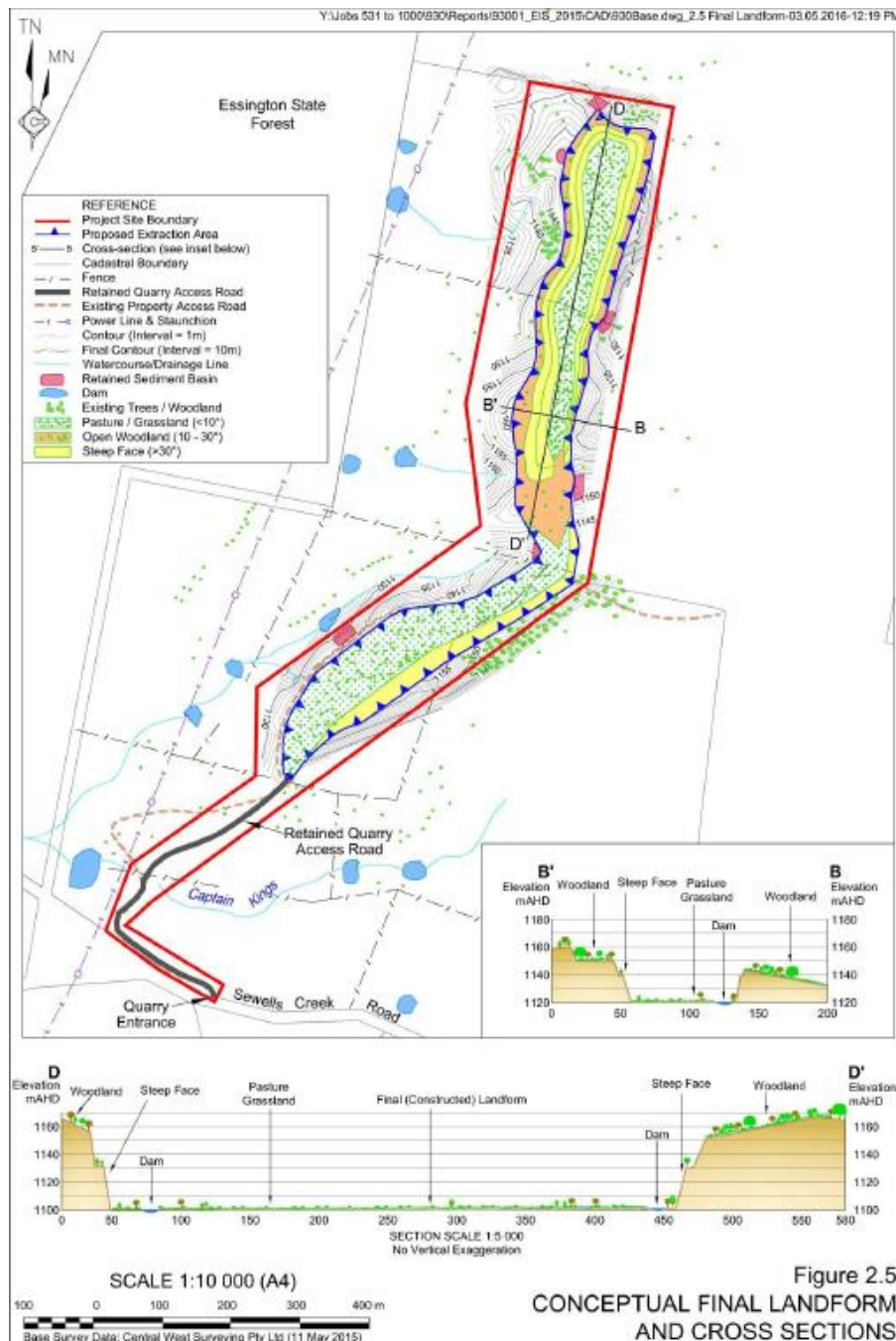


Figure 3 – Final landform cells 2 and 3

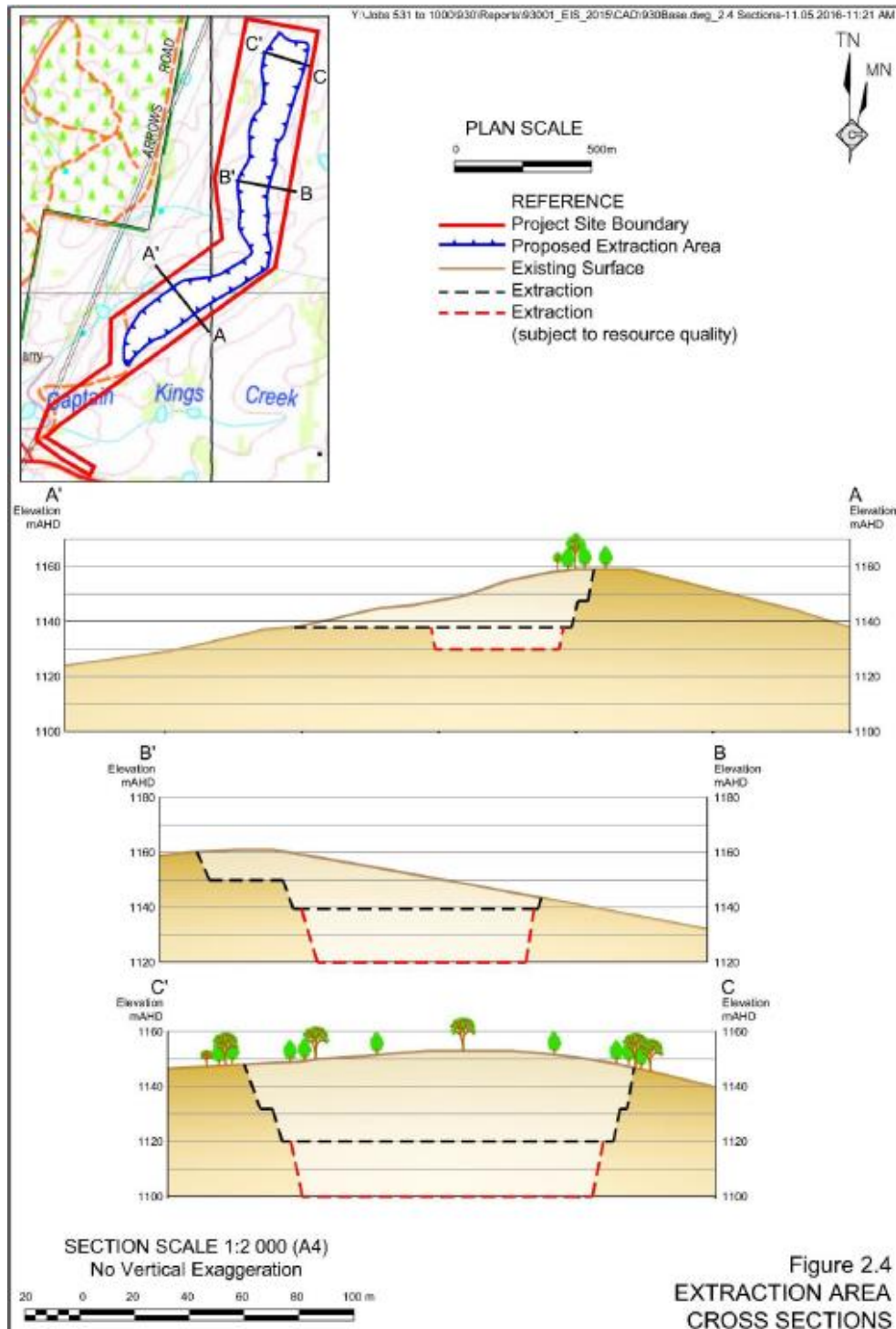


Figure 4 – Extraction areas 1, 2 and 3

Given the location of the proposed quarry which is surrounded by a dozen properties with dwellings and a significant regional tourism attraction to the north-west being Mayfield Garden the final landform and rehabilitation of the site is crucial. The final landform as can be seen in figures 3 and 4 above are showing steep extraction faces on every elevation. This is a suitable final treatment when the quarry is removing hard fresh rock however the Environmental Impact Statement at section 2.3.2 states there is a likely weathered zone between 1120m and 1140m AHD and the hard rock resource likely found between 1100m and 1120m AHD.

The final landform of the weathered rock (1120 and 1140m AHD) should therefore have a more moderate slope of up to 45 degrees that ensure the final landform is functional and appropriate to the surrounds. This landform will need topsoil and permanent erosion controls and revegetation of the slopes. This is particularly relevant to Cell 1 which is proposed to be within the 1120m and 1140m AHD parameters. With the eventual removal of the plantation at the Essington State Forest this excavation face may be visible to some of the elevated areas to the north and west of the quarry and almost certainly the profile will be seen from the south-west which is near the Sewells Creek Road and Mayfield Road intersection.

Cells 2 and 3 proposed final landforms could also better respect the surrounding topography. It is understood that where hard rock is present steep battering and benches will be required. The benches should be a width where they can adequately cater for an excellent covering of native trees and shrubs. Again where there is more weathered rock the rehabilitation plan should show better intent and prevent harsh and steep extraction faces being a dominant feature of the landscape. The surrounding topography is very much rolling hills, pine plantations and native vegetation adjacent to the roads so views to the final landform of cells 2 and 3 will be unlikely.

A revised rehabilitation and landscape management plan is being requested as a condition of this consent recommendation to the JRPP. Any revised rehabilitation plan needs to be mindful about not increasing the amount of native vegetation to be removed but ensure that the final landform is appropriate to the surrounds and has a low visual impact from elevated surrounding positions. As stated this is particularly relevant of the steep extraction faces of cell 1 that may be visible from the north and west of the proposed quarry and the profile visible from the south-west near the intersection of Sewells Creek Road and Mayfield Road.

The staging of the extraction is a concern as it proposes to remove rock from cell 1 and 2 concurrently and then cell 2 and 3 whilst rehabilitating cell 1. Minimising the disturbed area to a single cell at a time is generally considered best practice. In this instance as cell 2 is considered to potentially have a higher value product than cell 1 then excavating them concurrently would be allowed however cell 1 must be rehabilitated as outlined in the revised rehabilitation and landscape management plan prior to excavation in cell 3.

Access to the quarry site is from an existing internal road which comes off Sewells Creek Road. Roads & Maritime Service has identified vehicle access upgrades with a basic right turn treatment in accordance with *Austroads Guide to Road Design*. There are also recommendations to ensure the sight distances are adequate to the east and west of the site. The intersection of Abercrombie Road and Sewell Creek Road has been considered as satisfactory. Potentially a basic right (BAR) and basic left (BAL) turn treatment upgrade could improve the intersection however it has been considered unreasonable to allocate the full cost of this upgrade to the applicant.

The majority of truck movements from the project site would be to and from the east, via Sewells Creek Road and Abercrombie Road towards Oberon and beyond. The transportation of quarry products would predominantly be undertaken using truck and dog trailers (50m³/32t) although larger vehicles B-double arrangements and rigid trucks could be used. The applicant has proposed a truck code of conduct for any vehicles delivering or picking up product from the quarry.

Of particular importance to be included within this code of conduct is prohibiting trucks from use of Mayfield Road unless delivering to locations on Mayfield Road. The truck movements from the site are estimated to be an average of 4,000 per annum with a maximum of 7,800 per annum.

The EPA General Terms of Approval does not accept the 24/7 operational hours for trucks and restricts delivery and pick up of product between 7.00am to 6.00pm Monday to Saturday and no times on Sunday's and Public Holidays. The measures outlined will alleviate some of the concerns expressed in the public submissions in relation to truck movements, noise and safety.

The quarry is expected to require the removal of approximately 3.9 hectares of native vegetation. The vegetation is considered to be part of the Montane Sheltered narrow-leaved Peppermint Forest vegetation community which is not endangered or vulnerable under the *Threatened Species Conservation Act 1995*. As there are no significant impacts to a threatened species or ecological community there is no condition in relation to the offsetting of this destroyed vegetation. The Biodiversity Impact Assessment submitted by the proponent recommends offsetting the remnant vegetation lost, however this can not be statutorily enforced unless it is outlined within the revised rehabilitation plan.

The proposal was for 24 hours per day 7 days per week operations for truck haulage. Other hours for the extraction of rock were between 7:00am to 6.00pm Monday to Friday and extended to 10.00pm on occasions. Saturday hours were proposed from 8.00am to 1.00pm. Minor earthworks and rehabilitation activities are proposed to be undertaken Saturday and Sunday from 8.00 am to 6.00 pm.

In terms of context existing Development Application No 10.2010.66.1 approved operating hours are:-

Monday to Friday	7.00 am to 6.00 pm
Saturday	8.00 am to 1.00 pm
Sunday / Public Holidays	No Work

The proposed hours of operation are considered a significant departure from the existing approved hours of operation and not supported.

The NSW Environmental Protection Authority has provided it's General Terms of Approval restricting the hours of operation and operational activities to the following:

Construction Activities

Monday to Friday	7.00 am to 6.00 pm
Saturday	8.00 am to 1.00 pm
Sunday / Public Holidays	No Work

Operational Activities

Monday to Saturday	7.00 am to 6.00 pm
Sunday / Public Holidays	No Work

The importing and acceptance of any waste materials will be administered by a 'chain of custody procedure' that would require (prior to the acceptance of any material) the supplier to identify the source and volume of the material along with confirmation that it conforms with the relevant resource recovery order (issued under Clause 93 of Part 9 (Waste Reg) and does not classify as a trackable waste (as defined by Schedule 1 of the POEO (Waste) Reg. An inability to confirm this would prevent the applicant from accepting this material. Conditions of the acceptance of waste materials will be detailed in the conditions of an Environmental Protection License.

2.2 Land ownership and tenure

The subject land (Lot 2 DP 1112479) is owned by Clift Engineering (Oberon) Pty Ltd who has consented to the lodgement of the application and is supportive of the use of the land for quarrying purposes.

2.3 Site description

The site of the quarry is on a southern steep sloping spur. The site and surrounds are characterized by rolling hills, exposed granite outcrops, scattered woodland vegetation and open grazing country. The predominant land uses are agricultural, grazing, cropping, tourism and forestry. To the west is the Essington state forest / pine tree plantation. See figure 5.

Prominent on the site is an exposed granite outcrop and the existing quarry and ancillary earthworks. This includes the residual quarry face, stockpiles of topsoil and overburden, runoff detention ponds and the access track and manoeuvring/staging area. The site is actively used as a quarry and is also utilized for the grazing of stock.

In the vicinity of the quarry site are approximately fourteen (14) dwellings located upon primary production or large lot residential properties, all within 2km form the activity. Figure 6 shows the location of the residential properties in the context of the proposed quarry site. 2 residential properties are less than 1km from the extraction area (ref 13 and ref 16 of figure 6).

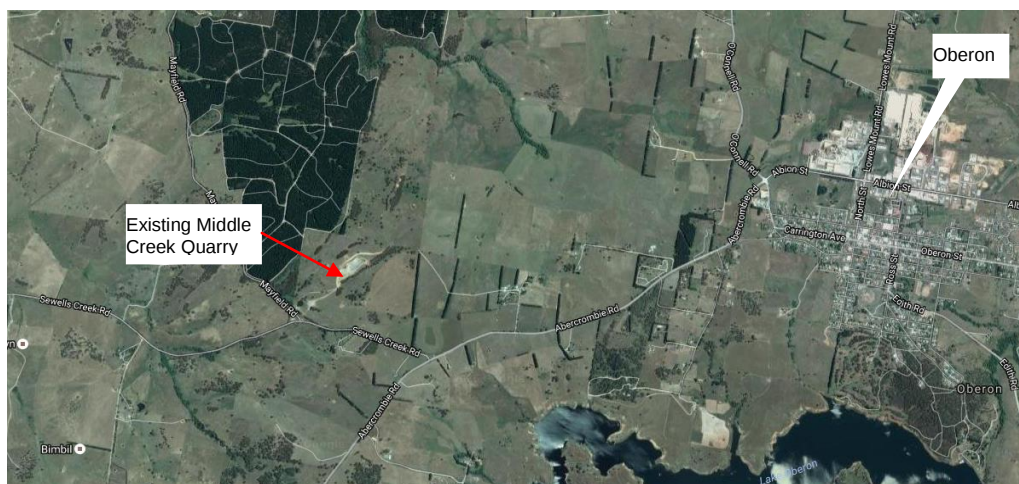


Figure 5 – Subject site adjacent State Forest and surrounded by rural properties

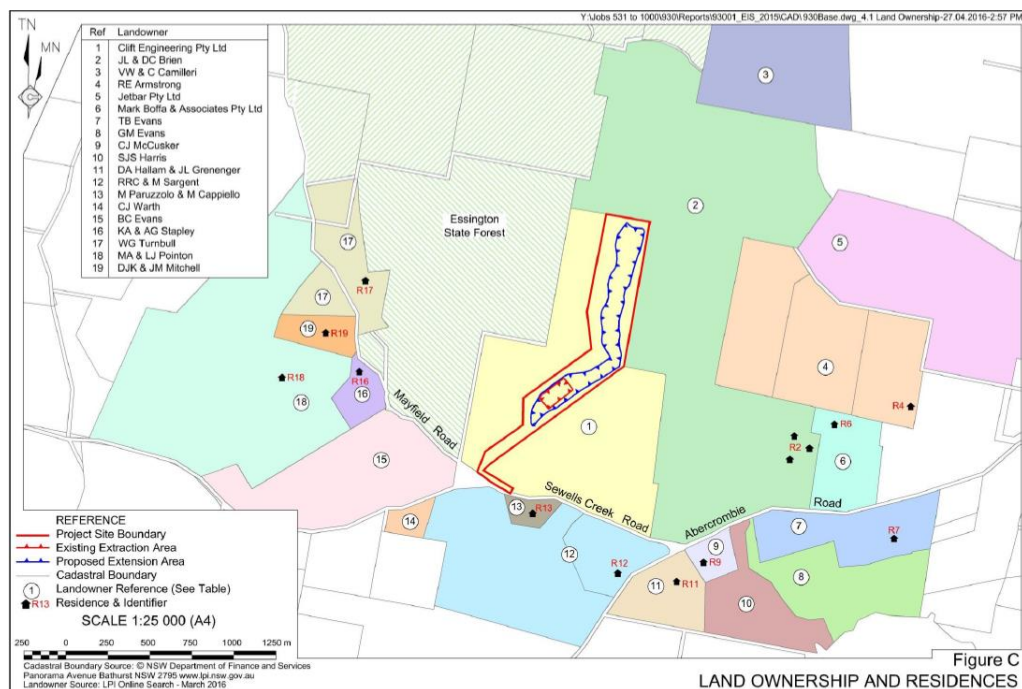


Figure 6 – Surrounding residential properties in context of proposed quarry

2.4 Statutory Assessment Requirements

The proposed development is for the expansion of the Middle Creek Quarry and given the level of proposed expansion will be classified as designated development in accordance with clause 19 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000. The development also proposes waste management facilities on the land comprising the importation of raw mulch and composting, screening and blending of the imported and extracted material.

Clause 8(a) of Schedule 4A to the *Environmental Planning and Assessment Act 1979* specifies this type of extractive industry as development for which joint regional planning panels may be authorised to exercise consent authority functions of councils.

In accordance with Section 91 of the *Environmental Planning and Assessment Act 1979* the proposal is integrated development as the application seeks the following approvals from the Environment Protection Authority (EPA) and the Roads and Maritime Services (RMS):

- An Environment Protection Licence under section 43(b), 48 and 55 of the Protection of the Environment Operations Act 1997.
- Consent to carry out works over a public road in accordance with section 138 of the Roads Act 1993.

2.5 Environmental Planning and Assessment Act 1979

Section 79C of the *Environmental Planning and Assessment Act 1979* requires a consent authority to assess the impacts of development and to take into account certain matters as are relevant to a development the subject of a development application.

An evaluation of the development proposal against the relevant heads of consideration in section 79C of the Environmental Planning and Assessment Act 1979 is contained in Table 1 below.

Table 1 – Assessment under s79C Environmental Planning & Assessment Act 1979

s79C(1)(a)(i) Any environmental planning instrument
State Environmental Planning Policy No. 33 – Hazardous and Offensive Development The SEPP requires the proper control of development that is hazardous or offensive that without mitigation measures would pose a risk. <u>Hazardous Development</u> – The proposed development is not considered to be a potentially hazardous industry. The proposal would comprise the use of diesel fuels and minor amounts of lubricating oils and liquids, with the applicant noting that diesel would not be stored onsite. Similarly no explosives would be stored onsite. The nature of the proposal and the intended operations are expected to sufficiently mitigate this risk. This aspect of the development is addressed in section 3.4.5 of the EIS. <u>Offensive Development</u> – The proposed development is considered a <i>potentially offensive industry</i> by potential odour from the proposed composting activities. The applicant has noted that the principle management measures for the reduction or elimination of odours from the project site revolve around: • Preventing the acceptance of materials likely to generate odour, either as raw feedstock, during or following composting, and

- Maintenance of an aerobic composting process.

Clause 13 Matters for consideration by consent authorities require the consent authority to consider:

- (a) current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development, and*
- (b) whether any public authority should be consulted concerning any environmental and land use safety requirements with which the development should comply, and*
- (c) in the case of development for the purpose of a potentially hazardous industry—a preliminary hazard analysis prepared by or on behalf of the applicant, and*
- (d) any feasible alternatives to the carrying out of the development and the reasons for choosing the development the subject of the application (including any feasible alternatives for the location of the development and the reasons for choosing the location the subject of the application), and*
- (e) any likely future use of the land surrounding the development.*

This aspect of the development is addressed in section 4.5.4.3 of the EIS which has been assessed by the EPA. General Terms of Approval by the EPA will require the applicant to prepare an air quality management plan (including impacts and controls for dust and odour).

State Environmental Planning Policy (Infrastructure) 2007

The infrastructure SEPP is relevant to the proposal as it allows development (with consent) for the purpose of waste or resource management facilities to be carried out on land where the local environmental planning instrument may not permit this. Clause 121 of Division 23 states:

Development for the purpose of waste or resource management facilities, other than development referred to in subclause (2) may be carried out by any person with consent on land in a prescribed zone.

Clause 120 of Division 23 defines the prescribed land as including land zoned as RU1 Primary production.

State Environmental Planning Policy No. 44 – Koala Habitat

This SEPP requires a consent authority to satisfy itself whether or not the land is a potential koala habitat or core koala habitat. Schedule 1 of the SEPP identifies Oberon LGA as an area that could provide Koala habitats.

A Biodiversity Impact Statement of the site was undertaken by the applicant as part of the threatened species and biodiversity assessment for the proposal. It identifies the mix of vegetation species on the site as being potential koala habitat but concludes that it is unlikely to be considered core koala habitat. In accordance with clause 9 of SEPP 44, because the site is not identified as containing core koala habitat, a consent authority is not prevented from granting consent to the development application under the requirements of the SEPP.

State Environmental Planning Policy No. 55 – Remediation of Land

This SEPP requires the consideration of the potential contamination of land and its remediation as part of the development application process.

The subject land has been used for low scale quarrying activity in the past under a previous approval. When it was not being utilized for quarrying, the subject site was used

for broad scale grazing. Agricultural activities are listed in Table 1 of the *Managing Land Contamination Planning Guidelines*, however as the land is not being proposed for residential, educational, recreational or child care purposes or for the purposes of a hospital then further investigation is not required. As a result of this there are no identified contamination issues and thus no remediation works are necessary.

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

The proposed extractive industry is permissible with consent in accordance with clause 7(3) of this SEPP. The applicant has addressed the requirements of this SEPP in section 3.4.2 of the EIS submitted in support of the application.

Clause 12 of this SEPP requires consideration of compatibility of the proposed extractive industry with other land uses (existing and approved) in the vicinity of the development. The immediate surrounds of the proposed quarry site are currently used for grazing of livestock, residential purposes and also includes a regional tourism facility. Considering the scale and nature of the proposed quarry and the surrounding land uses, there may be some impacts on the surrounding uses including:

- Odour- air quality management plan required
- Noise – hours of operation and construction restricted, blast management plan required and noise from site regulated by an environmental protection license required from the EPA.
- Visual impact – rehabilitation plan provided.

Clause 13 of this SEPP requires a consent authority to consider whether or not the development is likely to have a significant impact on current or future extraction in the vicinity. Having regard for the proposed scale, nature and frequency of the proposed extractive industry, it is not expected to negatively impact on the current or future quarrying activities in the vicinity.

Clause 14 of this SEPP requires consideration of natural resource management and environmental management. It requires a consent authority to consider environmental responsibility and include conditions in relation to:

- Impacts on water resources- EPA General Terms of Approval require a surface water and sediment management plan
- Threatened species and biodiversity- A Biodiversity Impact Assessment did not identify any significant impacts on a threatened species
- Minimisation of greenhouse gas emissions.

Clause 15 of this SEPP requires a consent authority to consider the efficiency of the development in terms of resource recovery and recycling of material. Given the scale and nature of the proposal, significant waste generation is not expected. Top soils and overburden materials from the site will be utilized in the restoration and rehabilitation of the site. Due to the impermanence of works on the site, all materials and equipment will be brought in and later removed from the site as part of each extraction campaign.

Clause 16 of this SEPP relates to the transport needs of the proposed development and requires a consent authority to have regard for the impacts on public roads. The EPA within their General Terms of Approval has limited the truck movements by restricting the operational hours to 7am to 6pm Monday to Saturday.

The conditions of this recommendation to the JRPP will also require the preparation of a code of conduct relating to the transport of materials. Roads and Maritime Services have provided recommendations for the consent which included conditions relating to safety,

signage and vehicle access.

Clause 17 of this SEPP relates to the rehabilitation of the land affected by the extractive industry proposal. The applicant has provided details of the proposed rehabilitation means and methods to be applied during and post extraction of the quarry. Conditions of the consent will be imposed that the applicant provides a revised rehabilitation plan.

Clause 10 of this SEPP exempts business identification signs if there is minimal environmental impact and is on land that is the site of an approved extractive industry.

State Environmental Planning Policy (Rural Lands) 2008

This SEPP contains rural planning principles applicable to the use and development of rural land. These principles include protecting productive activities, recognition of the significance of rural land to the community and identification of natural resources.

The proposed extractive industry is considered to be consistent with these principles.

The proposal will provide for the sustainable, economic use of a natural resource (rock) and includes operational measures that will result in the rehabilitation and restoration of the site for agricultural purposes following completion of the extraction activity. Agricultural activities can be undertaken concurrently within extractive industry on other parts of the subject site. The proposal would not be incompatible with continued agricultural land use surrounding the project site.

Oberon Local Environmental Plan 2013

The subject land is within the RU1 Primary Production Zone under the provisions of the *Oberon Local Environmental Plan 2013* (LEP). The proposed development is defined as an “extractive industry” for the purposes of the LEP and is permissible with consent in the zone. SEPP (Infrastructure) 2007 allows waste or resource management facilities to be permissible with consent.

extractive industry means the winning or removal of extractive materials (otherwise than from a mine) by methods such as excavating, 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.

Waste or resource transfer stations are a type of waste or resource management facility.

waste or resource transfer station means a building or place used for the collection and transfer of waste material or resources, including the receipt, sorting, compacting, temporary storage and distribution of waste or resources and the loading or unloading of waste or resources onto or from road or rail transport.

The objectives of the RU1 Primary Production Zone are:

- 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 enable other forms of development associated with primary production activities, which may require an isolated location or which support tourism or recreational activities.

Extractive industry is consistent with the objectives of the RU1 as the land will be enhancing the natural resource base and the products from the extractive industry are associated with primary production activities. The proposal given its scale and nature will not result in the fragmentation or alienation of rural lands. The subject land will be rehabilitated and restored following quarrying works enabling much of the site to return to grazing and/or rural woodland country. Grazing of the land will also occur in symbiosis with the quarry activities.

The proposed extractive industry is of a use, scale and location that with appropriate management plans will minimize impacts to adjoining properties.

s79C(1)(a)(ii) Any proposed instrument that is or has been placed on exhibition

There are no draft environmental planning instruments applicable to the proposal.

s79C(1)(a)(iii) Any development control plan

The *Oberon Development Control Plan 2001* (DCP) applies to the subject land and outlines Council's policy with regard to development of land. Part A of the DCP applies to rural development and refers to land in the "Rural 1(a) Zone".

Since the publication of the DCP, land zoning regime in the Oberon Council area has changed following the gazettal of the *Oberon Local Environmental Plan 2013* (LEP). For the purposes of this assessment a reference to the "Rural 1(a) Zone" in the DCP is taken to be equivalent to the RU1 Primary Production Zone in the LEP.

Section A.2.1 of the DCP contains Council's general policy for rural development and provides that non-agricultural development should be located on land that is not prime crop or pasture land. It requires that non-agricultural development should be carried out in a way that minimises adverse effects on normal farming and forestry practices.

The proposed development is to expand on an existing operation quarry. It proposes to extract gravel material on the land and will utilise existing access areas. During and following completion of the extractive works, the site will be rehabilitated with native vegetation and agricultural pasture species over the flatter extraction area to facilitate a transition back to agricultural land uses. It is expected, following completion of the works and during times when the quarry is not in active operation, the land will remain available to broad scale grazing of livestock. Through various conditional management plans for e.g. surface water and sediment management plan, air quality management plan, blast management plan, waste handling and compost management plan, the proposed quarry will minimise adverse impacts on adjoining rural land. For the reasons above, it is considered that the proposed extractive industry complies with the requirements of this section of the DCP.

Section A.2.6(d) of the DCP contains specific principles for land degradation. Specific to these principles are that stripped topsoil is to be stockpiled for re-spreading and sediment and erosion control structures such as sediment or retarding basins are required to prevent possible land degradation.

The proposed development will result in alterations to the land through the extraction of rock materials with appropriate sediment basins planned around the perimeter of the extraction area. The proposal also includes details of the applicant's commitment to manage, restore and rehabilitate the site following the completion of the proposed extractive works. This includes the planting of vegetation on final benches and the flatter extraction floor landform.

The DCP specifies a buffer distance of 500 metres between residents and extractive industry to minimize land use conflicts and avoid undue interference. There is one dwelling approximately 500 metres from the southern part of the proposed quarry (which is also the location of the existing quarry activities).

The expansion of the quarry is to the north (away from this residential dwelling) and will be

no closure than 900m from the boundary of the large lot residential development to the east, therefore the buffer distances between the residential dwelling or potential residential development areas to the quarry is generally acceptable.

s79C(1)(a)(iiia) Any planning agreement

There are no planning agreements applicable to the subject site or to this development application.

s79C(1)(a)(iv) The regulations (to the extent that they prescribe matters for the purpose of this paragraph)

There are no applicable regulations to this development application.

s79C(1)(a)(v) Any coastal zone management plan (within the meaning of the Coastal Zone Management Act 1979 that apply to the land to which the development application relates

No coastal zone management plans apply to the subject land.

s79C(1)(b) The likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Access, transport and traffic

The land is located off Sewells Creek Road with access obtained from an all weather formed track approximately 200m long from existing quarrying activities on the site.

The proposal is for an expansion of the existing quarry activities including 24 hour haulage operation. The activity is expected to result in a significant increase in truck movements. The EPA has recommended a six day week and 7am to 6pm operational hours.

An average movement of 130,000tpa of material it is expected to result in 4,000 truck movement per year using 50m³ truck and dog trailers, b-doubles and rigid vehicles. The maximum movement of 250,000tpa would result in 7,800 truck movements per year.

Further to the previous request from the Western JRPP, a *Supplementary Traffic Assessment (STA)* was provided and it essentially reinforces what the EIS states that on average 60 traffic movements was expected per day with a maximum of 100 per day during high volume campaigns. This equates to 14 heavy vehicle movements during the estimated hour of peak quarry traffic which coincides with initial despatch and return of trucks and is likely to be between 7.00am - 8.00am and 6.00pm - 7.00pm.

The STA states that the current peak time for Abercrombie Road near Sewell's Creek Road is 8.00am - 9.00am and between 3.00pm - 4.00pm and therefore the peak quarry traffic hour is likely to be outside the current peak times for Abercrombie and Sewell's Creek Road and the ultimate impacts on the roads and intersections will be manageable. This is reflected in the response by Roads and Marine Services (RMS) who have determined that they are comfortable with the traffic volumes, however if the traffic movements increase to 100 per hour then RMS would require an upgrade of the access/egress to the subject land.

The proponent has also committed to extended sight distances and an acceleration lane to be included on Sewell's Creek Road. The RMS and the proponent's STA are in relation to safety, performance and efficiency of the roads in which case the conditions by RMS are considered satisfactory.

There is a single School Bus that services the quarry area and has raised no concerns

about the expansion, as they already communicate with trucks using the road UHF radio. The operator requested that radio protocols be included within the Truck Drives Code of Conduct to avoid any inappropriate radio use occur during the school bus operating hours.

SMK Consultants within their submissions have claimed that the greater quarry traffic numbers will have a direct impact on the financial viability of Mayfield Garden. They are not satisfied with the restriction of trucks travelling north along Mayfield Road and think the presence of any quarry traffic will hurt the tourism economy. SMK Consultants have not provided any evidence that quarry traffic will hurt the tourism economy stating that the onus of proof is with the applicant and this should have been provided within a Socio-Economic Impact assessment.

The EIS did provide a Socio-Economic Assessment which identified all of the potential negative impacts however there was no assessment of the impacts that quarry traffic will have on the tourism economy. To assert that additional quarry traffic around Oberon is the cause of a decrease of visitation to Mayfield Garden has no appreciation for the dynamic use of rural roads which cater for heavy rural service and resource vehicles like those used in timber and stock transportation, grain and other harvested products and gravel based products many of which use roads closer to Mayfield Garden than the proposed quarry. Tourists are subject to heavy vehicles from the moment they leave their residence within and outside cities and it would be highly unlikely that SMK Consultants could isolate and prove the additional quarry traffic was the primary cause for a tourism reduction to Mayfield Garden.

In response to calls for an alternative entry of the quarry from Abercrombie Road, RMS did not have a preference provided safe intersection stopping distances are met. The proponent states that alternative entry on Abercrombie Road may reduce slightly the interaction between quarry traffic and Mayfield Garden tourist traffic but would not remove quarry traffic from the primary travel route between Oberon and Mayfield Garden. The minor benefit will be outweighed by having the quarry entry much closer to other landowners and residents. It is accepted that the original quarry entrance is to be preferred and an alternative entry is unlikely to have any measurable positive impact on the tourism economy.

Conditions applied to the consent will include an upgraded access from Sewells Creek Road into the site. The Sewells Creek Road – Abercrombie Road intersection and the Sewells Creek- Mayfield Road intersection are considered to be satisfactory for the type of trucks utilizing the quarry. The majority of trucks will exit the quarry and travel to the east. Oberon Council will be able to enforce a haulage charge based on the tonnes of product carried between the quarry entrance and Abercrombie Road (State controlled road) which can pay for the upgrades to this and other local roads when required.

Public domain

The additional truck movements are expected to have a minor but manageable impact on the public domain. While any visual impact will only be viewed from potentially private land and roadways, with are both considered acceptable.

There is expected to be little to no impact on any public domain as a result of this application.

Utilities

The nature of the proposal means no permanent utility services are needed for the activity. All materials and equipment needed for the extraction works and composting will be

brought to the site and removed following completion of works.

Any future required amenities or alike, will be subject to separate consent and assessment at that time.

Heritage

The impacts of the proposed extractive industry have been assessed with regard to both European and Aboriginal heritage. An Aboriginal Heritage Due Diligence Assessment for the proposal was undertaken by Environmental Assessments Pty Ltd (EAPT) in consultation with Pejar Local Aboriginal Council. The field survey was undertaken on 11 March 2016, with no Aboriginal artefacts or places identified as present within the footprint of the extractive area. Two Aboriginal sites were identified outside the footprint of the extractive industry including one lithic scatter and one isolated find near the Sewells Creek Road boundary. The Office of Environment and Heritage supported the recommendation by EAPT to prevent vehicles entering the site of the lithic scatter.

Recommended conditions of consent will also be imposed requiring the applicant to undertake further action should evidence of Aboriginal relics be uncovered during the proposed activity.

No historic heritage is located on the site.

Other land resources

The proposed activity is not expected to result in significant or unreasonable impacts on land resources.

Waste

General solid, recyclables, putrescible waste and batteries, tyres and waste oils will be stored and disposed of appropriately.

The area of management for raw mulch and composting activities would be operated as a nil discharge area. A low bund wall and containment sump would be adequate to capture any runoff after a rainfall event.

The Environmental Protection License by the EPA regulates the acceptance of waste received at the premises.

The EPA has requested that a condition be added to the consent which prohibits the receipt of engineered wood products, including particle board and fibreboard. This has been included within the draft conditions.

Visual amenity

There are two issues with the visual amenity of the quarry.

First is the processing of extractive industry on 2 fronts concurrently rather than confining the extraction to one area at a time. Due to cell 2 potentially having a more valuable resource at a greater depth than cell 1, for economic reasons these two cells can operate concurrently. Cell 1 will need to be rehabilitated prior to work commencing on cell 3. The crushing, screening and resource recovery area will need to move to cell 2 when cell 1 is being rehabilitated. Cell 3 and 2 can then operate concurrently until cell 2 resource is extinguished and rehabilitation must occur on cell 2.

The second issue is the steep cuts that are proposed in the final landform with narrow benches. Particularly cell 1 this will endure a visible excavation face to the north and west from an elevated view and to the south-west. The final footprint of the quarry is finely balanced because if the slopes are flatter and more in keeping with the natural landscape the footprint potentially becomes larger (for the same amount of extracted materials)

which in turn may result in the loss of additional native vegetation. The applicant has also stated that there is a limited amount of topsoil to use for rehabilitation.

A condition has been included in this recommendation to the JRPP for a revised rehabilitation and landscape management plan with the intent on improving the final landform particularly for cell 1 from elevated views to the north and west and from the south-west without removing any further native vegetation.

Council engaged Spatial Services to provide some view shed analysis from Mayfield Garden to the proposed quarry location in order for Council and the JRPP to better understand the impacts. Spatial Services used LiDAR data captured on 6 July 2017 to provide a view shed analysis of the visual impact of the proposed extraction area from the Mayfield Garden Chapel.

This view shed analysis by Spatial Services resulted in three clear conclusions being:

1. If the Essington State Forest is not harvested, then there are no views from the Chapel Precinct of Mayfield Garden to the extraction area (see figure 1).
2. Once the Essington State Forest is harvested there will be views from the Chapel Precinct of Mayfield Garden to cells 2 and 3 of the extraction area (see figure 2).
3. If a row of forestry plantation was retained along the eastern boundary of the Essington State Forest then there are no views from the Chapel Precinct of Mayfield Garden to the extraction area (see figure 3).

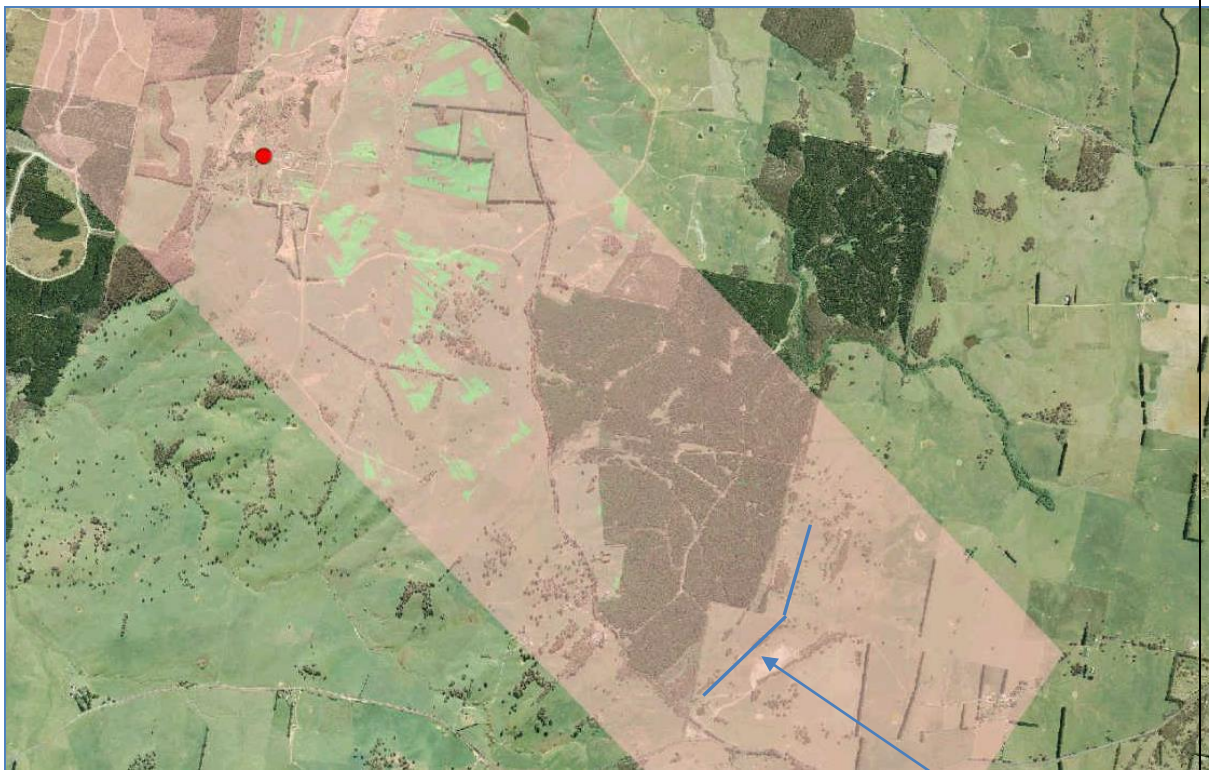


Figure 1: Digital terrain model used (all vegetation and buildings left in model used for analysis). Green shaded areas denote regions that can be seen from the view location (red dot).

Western edge of
extraction area

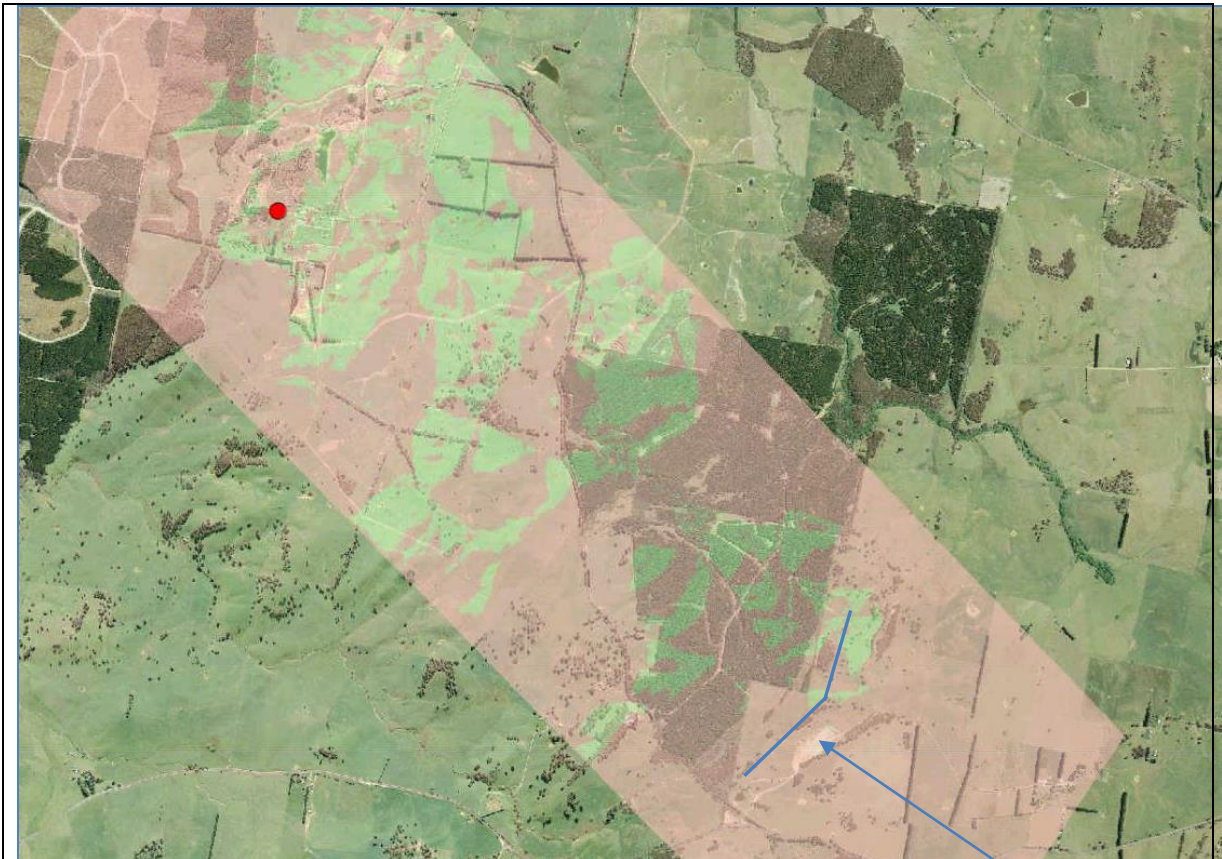


Figure 2: Bare Earth Digital Surface model used (all vegetation and buildings removed from the model used for analysis). Green shaded areas denote regions that can be seen from the view location (red dot).

Western edge of extraction area

This information from Spatial Services supports the *Rehabilitation and Landscape Management Plan* which proposes to include tree planting and vegetated bunds to limit any views to the extraction area from eastern and western points. As shown in figure 1 by Spatial Services, the extraction area is not visible whilst Essington State Forest is standing. Correspondence from Forestry Corporation dated 5 May 2017, explain that the forest plantation is likely to be harvested within 1-5 years which gives this amount of time for the tree planting and vegetated bunds to mature and provide adequate screening of the quarry extraction area.

The *Rehabilitation and Landscape Management Plan* has a special commitment (sheet 7) that if event activities at the quarry are visible from Mayfield Garden the work will cease and a review will be undertaken with proposed measures to screen this activity. This is to ensure that any view impacts that have been missed as part of the initial screening are resolved.

The cross-sections by the proponent, the screening of extraction areas with 3m high vegetated bunds and tree planting, the existing coverage by the Essington State Forest, the view shed analysis by Spatial Services and the additional "Special Commitment" within the *Rehabilitation and Landscape Management Plan* are reasonable responses to the concerns held by the JRPP regarding visual impact.

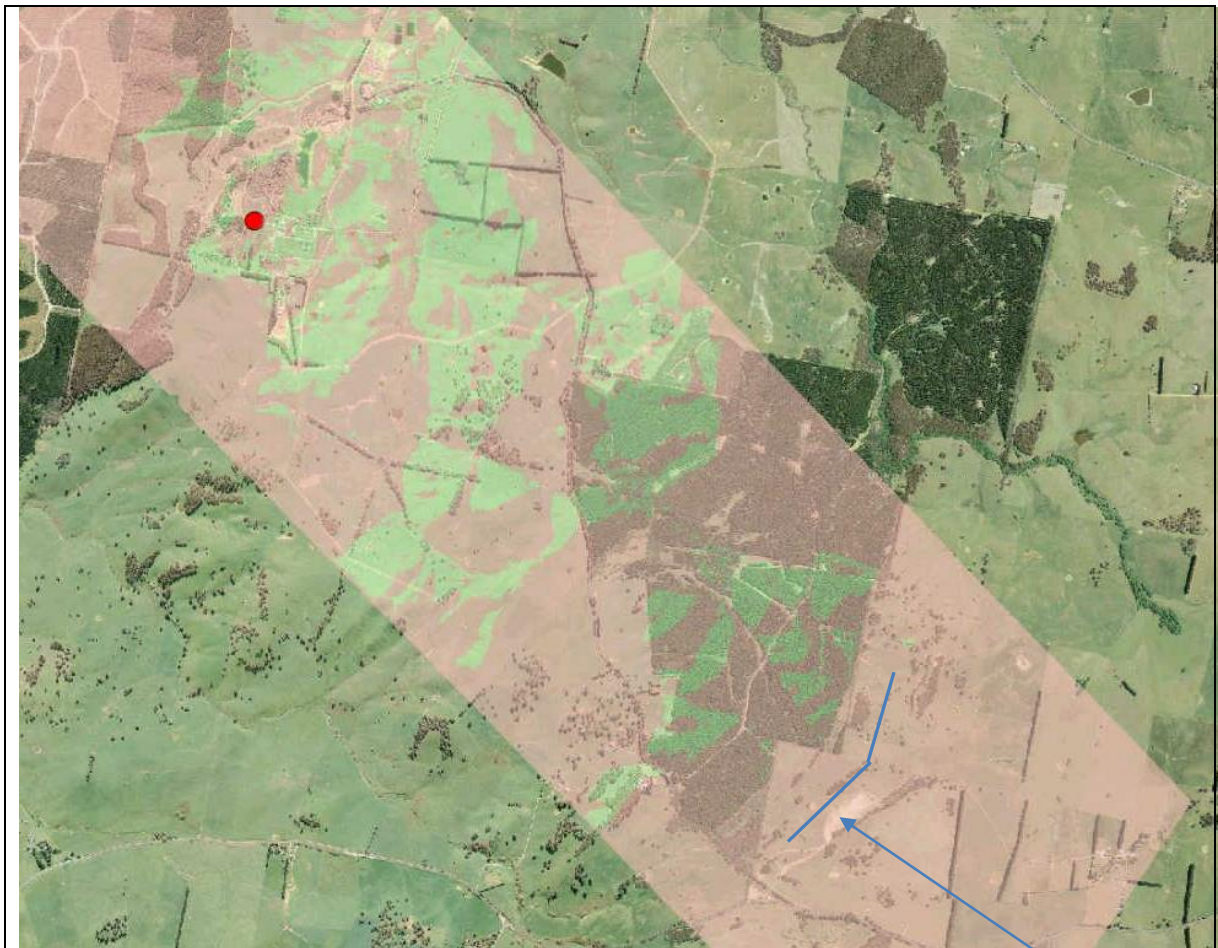


Figure 3: Bare Earth Digital Surface model used with a row of Forestry Plantation trees left in the model along the eastern boundary of the Pine forest area (all other buildings and trees removed from the model). Green shaded areas denote regions that can be seen from the view location (red dot).

Western edge of extraction area

SMK and Gilbert and Tobin are refuting the *Rehabilitation and Landscape Management Plan* because it does not recognise that there may be multiple view points from Mayfield Garden to the proposed extended quarry and the EIS implies that the Essington State Forest will screen quarry activities. The EIS does state *the extraction operations of the Quarry are currently shielded from vantage points to the east and south by Project Site topography and to the west and north by the vegetation of Essington State Forest. Extraction operations in Cells 1 and 2 would continue to rely on these features to prevent these from being visible from public and private vantage points.*

The EIS was drafted in May 2016 however the *Rehabilitation and Landscape Management Plan* is an update to this initial analysis. The *Rehabilitation and Landscape Management Plan* is clear that the Essington State Forest is not being relied on to prevent visibility and other implementation measures such as screening will be used. SMK Consultants also claim that there are multiple view points from Mayfield Garden to the quarry. Oberon Council do not dispute that there are more than 2 view points from Mayfield where the quarry may be seen. The analysis by Spatial Services identifies that views will be sporadic.

The measures detailed in the *Rehabilitation and Landscape Management Plan*, if undertaken is assessed by Council to provide adequate screening of the quarry from Mayfield Garden, especially given the fact that any view would be greater than 4km from any location within the Garden to the quarry site.

Water

The Department of Primary Industries –Water has reviewed the EIS on groundwater and surface water and is satisfied that groundwater is unlikely to be intercepted as a result of the proposed activity. They are also satisfied that the total dam capacity will not exceed the maximum harvestable right dam capacity allowed under the Harvestable Right Order dated 31/3/06.

A series of sediment basins would be constructed to accept drainage from disturbed areas of the progressively developed extraction area. Sediment fencing would also be constructed downslope of stockpiles or erodible material, temporary disturbance areas or areas of rehabilitation prior to the establishment of ground cover. It is recommended a water management plan be developed to address the following:

- Erosion and sediment control issues during construction and operations
- Clean and dirty water separation and management
- Water balance and water supply infrastructure.
-

A surface water and sediment management plan is a draft condition of this recommended consent which is included as part of the EPA General Terms of Approval and will cover the issues of concern from the Department of Primary Industries- Water.

Soils

The proposal seeks to retain and utilise existing topsoil and overburden stockpiles on the site. Any additional overburden and waste rock material generated as a result of the proposed extractive industry will be stockpiled on site and utilised as part of the proposed rehabilitation and restoration of the site. There is no evidence of contamination of the site.

Noise and vibration

The proposed development is expected to generate some levels of noise and vibration pollution by nature of the activity proposed. These impacts are expected to result from the drilling, blasting, and vehicle movements as essential parts of the extractive industry activity.

The applicant has addressed these issues within the EIS. In relation to crushing, drilling and blasting, Muller Acoustic Consulting concluded that the worst case operational noise levels comply with the relevant industrial noise policy criteria for all assessment periods during calm and prevailing meteorological conditions.

Off site road noise emissions from product transport are also predicted to satisfy relevant day and night road noise criteria as per the Road Noise Policy of the Department of Environment, Climate Change and Water NSW.

The vibration from blasting is predicted to satisfy the Australian and New Zealand Environment Conservation Council (ANZECC) criteria for the nearest residential receivers when a MIC of up to 30kg is used. Notwithstanding the proposed MIC blast pattern should be designed specifically to meet the relevant ANZECC guidelines at all surrounding receivers.

The EPA has requested a Blast Management Plan as part of the General Terms of Approval. Noise generated by the operational activities of the site is also regulated as part of the Environmental Protection License.

Flora and fauna

The applicant's assessment concludes that there is no significant impact on any threatened fauna species present on the site and that the proposed clearing of vegetation

required as part of the proposal will not result in significant impacts on the habitat of threatened fauna species.

The proposal will involve the clearing of approximately 3.9 hectares of vegetation over the life of the quarry to enable access to the resource.

It is also noted that the application documents and EIS do not reference the requirements of the *Native Vegetation Act 2003*. This Act requires consent for the clearing of native vegetation on rural land in many circumstances. Because the proposed development constitutes “designated development” for the purposes of the *Environmental Planning and Assessment Act 1979* it is specifically exempt from the consent requirements under section 25(f) of the *Native Vegetation Act 2003*.

OEH has reviewed the application and are satisfied that the native vegetation does not represent an Ecologically Endangered Community. They also recommend offsetting where impacts to any native vegetation cannot be avoided using prevention and mitigation measures. Council has considered applying the offsetting, however given the fact the all screening an revegetation is to be undertaken with native vegetation, there are no further requirements needed.

Dust

The EPA has conditioned that an air quality management plan (including impacts and controls for dust and odour) are required as part of its General Terms of Approval. The Environmental Protection License also requires that activities occurring in or on the site must be carried out in a manner that will minimize the generation or emission of dust from the premises.

A condition will also include that trucks carrying loads of dust generating materials must have their loads covered at all times.

Odour

The EPA has conditioned that an air quality management plan (including impacts and controls for dust and odour) are required as part of its General Terms of Approval. Odour is a possibility to be emitted from the site due to the compost activities. Daily inspections and monitoring of odour are proposed to be completed and if odour is detected from 20m it would require quarry personnel to undertake an assessment of odour at the boundaries of the site and trigger the contingency of odour management measures.

The EPA did not identify a potentially offensive odour for the purposes of section 129 of the Protection of the Environment Operations Act 1997 (PEOA). The PEOA provides that licensee must not cause or permit the emission of any offensive odour from the premises but provides that there are some defences of emissions if identified in the relevant environment protection license as a potentially offensive odour.

Energy

The nature of the proposed extractive industry and waste facility will require minimal energy requirements. All plant and equipment is to be brought in to the site during the quarrying activities and removed upon completion of each extraction campaign. No permanent infrastructure or fixed energy supply will be connected to the site.

Natural hazards

There are no natural hazards expected to impact on the proposed development nor is the development expected to increase the risk of natural hazards in the locality.

Social impacts in the locality

The main social impacts as a result of the quarry would be on the local amenity in terms of visual, noise, air quality, visibility and transportation which have all been appropriately discussed within this report.

The regionally significant tourism site 'Mayfield' is located 6km to the north-west along Mayfield Road. As discussed trucks will be prohibited from traveling up Mayfield Road. There are understandable reservations from 'Mayfield' about this expansion to the quarry however many other quarries exist in the Oberon Council area and are not identified as having significant impacts on tourism. It has been identified that any potential offsite impacts from the quarry can be appropriately managed or mitigated with existing regulation and control. The rehabilitation and landscape management plan should lessen the visual impact of the quarry on Mayfair.

Economic impact in the locality

The quarry will supply the road sheeting, building, landscaping and construction material to many local industries and increase the full time equivalent employees on site. There may also be some flow-on benefits to the economy.

SMK Consultants on behalf of Pegela Pty Ltd stated in correspondence dated 20 April 2017 and 22 December 2017 that the proposed quarry will *result in unacceptable adverse social and economic impacts in the locality associated with the likely closure of Mayfield Garden that provides existing tourism, employment, social and educational services to the local and regional area*. The form of analysis to come up with this conclusion has not been identified by SMK Consultants or by Gilbert + Tobin who provided a legal response in support of the SMK Consultant submission.

Social and economic impacts are required to be considered in the assessment undertaken under section 79C of the Environmental Planning and Assessment Act. The economic impact of a proposed development is as a wider and more general consideration of the economic impact in the locality rather than the economic impact of a proposed development upon private individual traders. (Architectural Property Services Pty Ltd v Rockdale City Council [1999] NSWLEC 83)

The economic consideration is whether the development puts in jeopardy facilities enjoyed by the community and that resulting detriment would not be made good by the development itself. (Kentucky Fried Chicken Pty Ltd v Gantidis (1979) 140 CLR 675)

Plainly enough, if the impact of the subject development was to jeopardise the facility of Mayfield Garden being a tourist facility enjoyed by the community, the detriment would not be made good by the quarry which is the subject of the application.

SMK Consultants assert that visual, traffic, noise and dust impacts would give rise to an unacceptable social impact upon the locality. Further, such it is asserted that unacceptable impacts will have *"a material adverse impact on the amenity of visitors to Mayfield Garden"*.

SMK rely upon economic analysis, the modelling tool for which is undisclosed. Such sophisticated models as Input/Output (IO) analysis and benefit cost analysis have been used in cases heard by the Land and Environment Court.

In the Warkworth Mine case to which Gilbert + Tobin refer (*Bulga Milbrodale Progress Association Inc v Minister for Planning and Infrastructure and Warkworth Mining Limited [2013] NSWLEC 48*), the Court held *"the conclusions the IO analysis reaches on the economic benefits of approving the project, evaluated for the reliability and given*

appropriate weight need to be balanced against all other environmental, social and economic benefits and costs” (paragraph 463).

Mr Justice Preston also said:-

“I am of the view that the results of those analysis’ are of limited value in deciding whether I can reach a state of satisfaction as to the nature and extent of impacts in considering each and all of the relevant matters, the weight I should assign to each matter and the balancing of the matters, to determine whether the Project should be approved or disapproved”. (Warkworth Paragraph 496)

and

“The final task of the Court, exercising the power to determine the application for approval of the Project, after fact finding and assigning weight to the relevant matters, is to balance the matters to determine whether the preferable decision is to approve or disapprove of the carrying out of the Project”. (Warkworth Paragraph 497)”

The proponent admits in the EIS that *impacts on local noise, air quality and traffic would each have some minor impact on the neighbouring properties of the Project Site and users of Sewells Creek and Abercrombie Road*. Noise is unlikely to be an issue for Mayfair Garden as they are over 4.5km away from the quarry and noise will be monitored as an EPA Specific License Condition.

Road noise emissions are also expected to satisfy relevant day and night road noise criteria as per the Road Noise Policy of the Department of Environment, Climate Change and Water NSW.

Council accepts that in the absence of the impact of factors such as noise, dust, traffic or visibility, the question of a socio-economic impact does not arise. In *New Century Developments Pty Ltd v Baulkham Hills Shire Council (2003) 127 LGERA 303*, the Court held that a fear or concern without rational or justified foundation was not a matter which by itself could be considered as an amenity or social impact pursuant to section 79C(1) (paragraph 62).

An Air Quality Management Plan (including impacts and controls for dust and odour) is required as part of the Environmental Protection Authority General Terms of Approval and the Environmental Protection License requires that activities occurring in or on the site must be carried out in a manner that will minimize the generation or emission of dust from the premises and must not cause or permit the emission of any offensive odour from the premises. The EPA General Terms of Approval also require a surface water and sediment management plan to ensure the quarry will not have an impact on water quality.

The visual impacts have been discussed earlier in this report and can be mitigated with appropriate treatments. Also stated earlier was that the traffic assessment focused on safety, performance and efficiency of the roads rather than on the impact that additional traffic would have on the economic viability of Mayfield Garden or the tourism economy in general.

Construction

The proposal takes place in and around an existing operational quarry; there are no significant construction requirements to establish the proposed activity. Improvements are proposed to the intersection to the site to ensure it meets road safety standards. The initial expansion operations of the quarry will utilise the existing quarry face and gradually expand over a number of years.

Cumulative impacts

The proposal is not expected to result in any negative cumulative impacts.

s79C(1)(c) The suitability of the site for the development

Does the proposal fit in the locality?

The proposal is in a rural environment with 1 residential property within 500 metres of the proposed quarry and 13 residential properties between 1km and 2km from the quarry. The proposed quarry site is approximately 3.5km from Oberon.

The proposed land use is considered to be an appropriate use in the locality, subject to appropriate impact mitigation measures and conditions of consent. The proposal seeks to expand on an existing quarrying activity with an upgrade to the intersection with the public road. For these reasons the site is considered to be conducive to the development as proposed.

s79C(1)(d) Any submissions made in accordance with the Act or Regulations

Public submissions

The development proposal has been placed on public exhibition in accordance with legislative requirements, on two separate occasions due to the need for the applicant to submit an amended Environmental Impact Statement after the reissuing of the Secretaries Environmental Assessment Requirements (SEAR's).

The exhibition periods were from:

- 16 June 2016 – 18 July 2016 - Five (5) public submissions (objections), and
- 23 November 2017 – 22 December 2017 – Six (6) public submissions (objections).

It is noted that some twenty one submission (9 in support & 12 objections) were received in July 2010⁷ after a 2GB radio show discussed the application, this have been included as an attachment to the submissions report.

The following list is the major issues that were raised by the submissions. All of these issues have been discussed within the body of the report.

- Noise.
- Dust.
- Visual aesthetics particularly from the west of the proposed quarry.
- Increase truck movements.
- Odour from waste processing
- Pollution of water from runoff.
- Impact on tourism.
- Hours of operation.

Submissions from public authorities

Notification of the proposal was provided to the following government agencies inline with each of the exhibition periods, Environmental Protection Authority, Office of Environment and Heritage, Department of Primary Industries- Water NSW and Roads and Maritime Services.

A submission was received from Roads and Maritime Services who are also an integrated authority, providing recommendations for council's consideration. These recommendations relate to improvements to the access to the site from Sewells Creek Road and requirements relating to use and impacts on the road network. These recommendations have been incorporated into draft conditions of this recommended consent.

A submission was received from the Department of Primary Industries- Water and the Office of Environment and Heritage. Where appropriate their recommendations have been included as draft conditions.

A submission was received from the Environmental Protection Authority (also a integrated authority) who provided conditions as part of the General Terms of Approval, as part of the original referral and reissued the GTA's without change for the second exhibition period. The conditions relate to a reduced construction and operational hours, management plans (surface water and sediment; air quality; waste handling and compost; blast) the need to apply for an environment protection license, and weighbridge conditions. These recommendations have been incorporated into draft conditions of consent.

s79C(1)(e) The public interest

All submissions made in response to the proposal have been acknowledged and addressed. The interests of the public have been considered in relation to the proposal and it is considered, on its merits and subject to appropriate conditions of approval, the proposal is not contrary to the public interest.

Development contributions

The development will not be subject to contributions levied under section 94 of the *Environmental Planning and Assessment Act 1979* and the Oberon Development Contributions and Water Management Works Plan (Amendment) 2004. This is due to the existing development consent 10.2010.66.1 for Extractive Industry – Gravel Extraction having already paid section 94 contributions.

The Oberon Development Contributions and Water Management Works Plan (Amendment) 2004 allows for the levying of a per tonne per kilometer rate for extractive industry towards recurrent annual expenditure on roads within the locality. The contributions plan specifies a rate of 15 cents per kilometer per tonne being levied on the net weight of raw materials exported from the site. Development consent 10.2010.66.1 did not apply a recurrent annual levy therefore it is recommended that a recurrent annual levy be applied as a condition to this consent.

3. CONCLUSION

The application is seeking consent for an Extractive Industry and Waste Management Facility. The area of the existing and proposed quarry will occupy approximately 15 hectares of the 140 hectare site within the land parcel identified as Lot 2 DP 1112479.

The application is classified as designated development in accordance with clause 19 of Schedule 3 to the *Environmental Planning and Assessment Regulation 2000*. As designated development, the development application is submitted to the Joint Regional Planning Panel Western Region for determination in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

The applicant has addressed the relevant environmental impacts of the proposal in the Environmental Impact Statement submitted in support of the proposal. Having been assessed in accordance with the matters for consideration in section 79C of the *Environmental Planning and Assessment Act 1979* as detailed in this report, the proposal is recommended for approval subject to the draft conditions attached.

4. DRAFT CONDITIONS OF CONSENT

Proposal: Extractive Industry and Waste Management Facility

Address: 50 Sewells Creek Road, Oberon (Lot 2 DP 1112479)

Western Region JRPP (2016WES011)

Oberon Council (DA 10.2016.38.1)

GENERAL

1. General terms of approval

The development shall be carried out in accordance with the approved stamped plans and supporting documents set out in the table below, except where modified by any conditions of this consent.

In the event of any inconsistency between conditions of this development consent and the approved plans and supporting documents, the conditions of this development consent prevail. If there is any inconsistency between the plans and documentation referred to in the table, the most recent document shall prevail to the extent of the inconsistency.

Document	Author	Date
Environmental Impact Statement	R.W.Corkery & CO.PTY.LTD	May 2016
Biodiversity Impact Assessment Supplementary Report	Danny O'Brien Environmental Assessments Pty Ltd	October 2016
Rehabilitation & Landscaping Management Plan	R.W. Corkery & Co. Pty. Ltd	March 2017

Reason: To confirm and clarify the terms of Council's approval.

2. Extraction limits

The total amount of material extracted from the site in accordance with this consent shall not exceed 5,000,000 tonnes. The total annual extraction from the site shall not exceed 150,000 tonnes (measured from the date of commencement of this consent). The combined production of all products will not exceed 250,000 tonnes per annum.

Reason: To ensure compliance with the application and approved plans and to confirm and clarify the terms of Council's approval.

3. Haulage Route

The haul route for trucks accessing the quarry and transporting extracted aggregate material shall be in accordance with the approved truck code of conduct.

Reason: To confirm and clarify the terms of Council's approval.

4. Code of conduct

Prior to the commencement of the extractive industry the applicant is to prepare and submit to Council a code of conduct that will be applied to the transport of materials from the site.

The code of conduct is to be applied to all heavy vehicle operators that access the development, including haulage and delivery vehicles. All drivers shall be required to sign a register (or similar) acknowledging and accepting the code of conduct. The code of conduct is to include:

- (a) A map detailing the approved haulage route highlighting critical locations and prohibiting use of Mayfield Road (with the exception of deliveries on Mayfield Road), safety issues and other relevant traffic/transport issues,
- (b) Procedures and/or safety initiatives for trucks travelling through residential precincts, school zones and roads where school bus pick up/set down areas are located,
- (c) Procedures to minimise noise and dust emissions,
- (d) Procedures to ensure all loads are covered prior to leaving the quarry and that all extractive material is swept/removed from external truck/trailer components, and
- (e) Procedure for complaints resolution and disciplinary action.

Reason: To ensure the environmental impacts of heavy haulage of adequately managed.

5. Protection of amenity

The development is to be conducted in a manner that will not interfere with the amenity of the locality by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, by causing interference to television or radio reception or otherwise.

Reason: To ensure the development does not unreasonably impact on the amenity of the surrounding area.

6. Business identification signage

A business identification sign is to be erected adjacent to the entrance gate of the subject site containing the name of the quarry operator and the phone number, postal address and email address of the permanent site contact so that complaints or any other issues relating to operation of the quarry can be received and addressed in a timely manner. The erection or installation of any other advertising signage is prohibited.

Reason: To provide relevant contact details to the public and restricts advertising.

PRIOR TO COMMENCEMENT OF OPERATIONS UNDER THIS CONSENT

7. Access improvements

Prior to the commencement of the extraction and transportation of materials, the applicant must obtain approval for the undertaking of road safety improvement works in Sewells Creek Road at the entrance to the quarry site.

The applicant shall obtain a construction certificate from the principal certifying authority for the proposed improvements and undertake the necessary upgrade works as approved prior to the commencement of the extractive industry.

An application for construction certificate and approval under section 138 of the *Roads Act 1993* is to be submitted to Council supported by the following:

- a) Vehicle access servicing the development must be upgraded and maintained in accordance with Austroads Guide to Road Design: Part 4 Figure 7 standard rural property access. The design of the vehicle access needs to ensure that vehicles exiting the site approach Sewells Creek Road at or very near to perpendicular.
- b) A Basic Right (BAR) turn treatment constructed in accordance with Austroads Guide to Road Design: Part 4 Figure 7 Type BAR must be provided adjoining the westbound travel lane in Sewells Creek Road opposite the proposed vehicle access.

- c) Safe Intersection Sight Distances (SISD) requirements outlined in the Austroads Guide to Road Design: Part 4A must be provided at the vehicle access to the development from Sewells Creek Road.
- d) Council must be consulted with and approve for the installation of “Trucks Turning” signs (W5-205) on Sewells Creek Road at each approach to the extractive industry/waste management facility vehicle access. The signs must be within 230 – 280 metres either side of the access and removed upon closure of the development.
- e) To provide for suitable storage capacity for the largest class of vehicle accessing the extractive industry/waste management industry, any gate, grid or similar structure installed in the access must be setback appropriately, 20 metre for rigid truck and dog trailer off Sewells Creek Road.
- f) A Traffic Management Plan prepared by a suitably qualified person in accordance with Australian Standard 1742 and the RTA Traffic Control at Work Sites Manual 2010,

Note: The requirements of the Roads and Traffic Authority are to be incorporated in the existing design.

Reason: To ensure compliance with the requirements of Section 81A of the Environmental Planning and Assessment Act 1979 and to provide sufficient safe access to the site without impacting on road safety or traffic movements in accordance with Roads & Maritime Services (RMS) Guidelines

9. Entrance gate setback

Prior to the commencement of the extractive industry, the existing entrance gate is to be setback sufficiently to allow storage capacity from the carriageway for the largest articulated vehicle required to access the site.

Reason: *To provide sufficient safe access to the site without impacting on road safety or traffic movements.*

10. Notification of commencement

The applicant is to provide written notification to Council of the intended date of commencement of extractive operations under this consent no less than two (2) weeks prior to commencement.

Reason: *To inform Council of commencement of operations.*

11. Hours of Operation

The hours of operation of the extractive industry are limited to the hours specified in the following table.

Days	Hours
Construction activities	
Monday to Friday	7.00am to 6.00pm
Saturday	8.00am to 1.00pm
Sunday & Public Holiday	No works permitted
Operational activities	
Monday to Saturday	7.00am to 6.00pm
Sunday & Public Holiday	No works permitted

Reason: To ensure the operations of the development are consistent with the application and approved plans.

12. Importing and accepting waste materials

Prior to the commencement of the extractive industry the applicant is to prepare and submit to Council a chain of custody procedure which documents the importing and acceptance of any waste materials. It must ensure the supplier can identify the source and volume of the material along with confirmation that it conforms to the relevant resource recovery order (issued under Clause 93 of Part 9 (Waste Reg) and does not classify as a trackable waste (as defined by Schedule 1 of the POEO (Waste) Reg).

The maximum importation of waste for stockpiling and sale will be raw mulch (up to 25,000 tonnes per annum), treated drilling mud (up to 60,000 tonnes per annum) and excavated natural material (up to 50,000 tonnes per annum).

13. Waste

Composting activities must be undertaken in accordance with the EPA guideline document "Environmental Guidelines: Composting and Related Organics Processing Facilities (DEC, July 2004)

14. Prohibited Waste

Engineered wood products including particle board and fibre board are prohibited from being received as waste material to the site. These products are waste types which are specifically excluded from the resource recover orders that the applicant has identified as operating under in the preparation of compost and mulches.

15. EPA General Terms of Approval

- a) Except as expressly provided by these General terms of Approval (GTAs) or by any conditions of consent granted by Oberon Council or the conditions of an in-force environment protection licence issued by the Environmental Protection Authority, works and activities must be carried out in accordance with the proposal contained in:
 - Development Application 10.2016.38.1 submitted to Oberon Council, and Any other additional information provided to council.
- b) Should any conflict exist between the above mentioned documents, the most recent document or revision supersedes the conflict, except where superseded by any conditions of approval issued by Council or the conditions of an in-force environment protection licence issued by the Environmental Protection Authority.
- c) The proponent must apply for and hold an in-force environment protection licence issued by the Environmental Protection Authority prior to the proponent carrying out any scheduled activities under the Protection of the Environment Operations Act 1997 as proposed.
- d) The following management plans must be prepared and implemented within 3 months of development consent being granted and prior to commencement of any surface disturbance:
 - Surface water and sediment management plan. This plan must be prepared in accordance with the requirements for such plans outlined in the document "Managing Urban Stormwater: Soils and Construction (Landcom, 2004) and "Managing Urban Stormwater: Soils and Construction – Volume 2E Mines and Quarries (DECC, 2008):
 - Air Quality management plan (including impacts and controls for dust and odour)
 - Waste handling and compost management plan (incorporating all requirements contained within the EPA document – " Environmental Guidelines: Composting and Related Organics Processing Facilities (DEC, July 2004)") and

- Blast Management Plan
- e) Construction activities related to the proposal must only be undertaken during the following hours:
- 7am to 6pm, Monday to Friday
 - 8am to 1pm, Saturday; and
 - At no time on Sunday's or Public Holidays.

Except where superseded by the condition above, construction activities must be undertaken in accordance with the 'Interim Construction Noise Guidelines' (DECC, 2009) or any revision.

- f) Operational activities related to the proposal may only be undertaken during the following hours:
- 7.00am to 6.00pm, Monday to Saturday; and
 - At no time on Sunday or Public Holiday's
- g) The proponent must have in place and operate a calibrated weighbridge to record the volume of all waste brought on to the premises
- h) Trucks entering and leaving the premises that are carrying loads must be covered at all time, except during loading and unloading
- i) The internal quarry access/haulage road must be maintained in a condition that prevents or minimises the emission into the air of air pollutants (which includes dust).
- j) All trucks and mobile plant operating within the premises must be fitted (where there is a requirement for such devices to be fitted under the Work Health and Safety legislation) with broad-spectrum reversing alarms.
- k) All waste storage and composting areas must be isolated from the balance of the quarry premises to prevent both run-on and run –off of surface water.

16. Notification of commencement

The applicant is to provide written notification to Council of the intended date of commencement of the expanded extractive operations and commencement of the waste management facility under this consent no less than two (2) weeks prior to commencement.

Reason: To inform Council of commencement of operations.

17. Sediment and erosion control

Prior to the commencement of extractive operations, appropriate sediment and erosion controls are to be implemented and functional. The sediment and erosion control measures must remain in place and be functional during the life of the activity.

Reason: To protect the surrounding environment.

18. Revised Rehabilitation plan

Prepare and submit to Council a revised rehabilitation and landscape management plan for the quarry which improves the final landform of cell 1 so that it is more appropriate to the surrounds and has a low visual impact to the west, north-west and southwest of the quarry site. The revised rehabilitation and landscape management plan should not propose the removal of additional native vegetation and should be appropriately staged so that cell 1 is rehabilitated prior to material being excavated from cell 3.

At the exhaustion of each cell, the owner is to provide a survey plan of the quarry in accordance with the proposed extraction area detailed in the Environmental Impact Statement May 2016 or as otherwise updated. Once each cell has been rehabilitated, the owner is to provide a plan of the quarry in accordance with the final landform and cross sections as approved in the revised rehabilitation and landscape management plan.

Reason: To ensure the site is rehabilitated and implemented in accordance with the approved plans and documentation.

19. Annual return – Road Maintenance Levy

The operator of the extractive industry approved in this consent is to submit to Council an annual return within two (2) weeks of twelve (12) months following the commencement of quarrying works approved under this consent. The annual return will be applied retrospectively from 22 August 2015 as quarry works did not cease.

The annual return is to quantify the amount of material (tonnes) removed from the site and is to be submitted with payment in arrears of recurrent contributions towards road maintenance levied in accordance with the Oberon Development Contributions and Water Management Works Plan (Amendment) 2004.

The annual recurrent levy is to be calculated based on an amount of 15 cents (indexed annually on 1 July) per tonne of extracted material multiplied by 1 (the length in kilometres of the haulage route from the quarry entrance to the State controlled Abercrombie Road). The recurrent levy paid annually is to be reconciled with the amount of extracted material removed from the site as reported in the annual return.

Reason: To ensure compliance with the approved plans, documentation and extraction amount and to enable the payment of a recurrent road maintenance levy in accordance with Council's contributions plan.

20. Annual return – waste reporting

The operator is to report to Council on an annual return within two (2) weeks of twelve (12) months following the commencement of site operations approved under this consent. The return will include, the tonnages of material received, processed and dispatched from the site over the previous twelve month period.

Reason: To ensure compliance with the consent and waste requirements.

21. Operation of plant and equipment

The applicant is to ensure that all plant and equipment used on site is maintained in a proper and efficient condition, in a safe and working order; and operated in a proper and efficient manner.

Reason: To protect and minimise impacts on the surrounding environment.

22. Aboriginal Heritage

That the areas containing the lithic scatter (see Aboriginal Heritage Due Diligence Assessment by Environmental Assessments Pty Ltd) be fenced (12m x 7m) to prevent vehicles from entering this area to protect the stone artefacts present within that area. Appropriate signage should be placed on the fence stating 'conservation area-keep put'. No mention should be made to the presence of any Aboriginal sites or relics at the lithic scatter site.

Reason: To ensure cultural heritage is understood and protected.

23. Cultural heritage awareness

The applicant is to provide all plant operators that undertake initial ground disturbance within the site, with a cultural heritage induction to cover legislative requirements regarding Aboriginal cultural heritage, the importance of Aboriginal cultural heritage, the location of and protection measures applying to the site within the quarry, an introduction on how to identify Aboriginal objects and the procedure to be followed in the event that suspected Aboriginal material is uncovered within the site.

Reason: To ensure cultural heritage is understood and protected.

24. Cultural heritage management

If Aboriginal cultural objects or human remains are uncovered during extractive works, all works must cease in the immediate vicinity to prevent any further impacts on the object(s) or remains. Notification is to be made to the NSW Police, the Aboriginal community and the Office of Environment and Heritage as appropriate. Works are not to resume until written authorisation from the NSW Police and/or Office of Environment and Heritage is received.

Reason: To ensure appropriate action is taken upon discovery of Aboriginal cultural heritage items and/or human remains.

25. Groundwater

Should groundwater be intercepted at any time during the operational works of the extractive industry, all works are to cease immediately and Council and the Department of Primary Industries – Water notified. Works are not to resume until written authorisation is received from DPI-Water.

Reason: To protect and minimise impacts on the surrounding environment.

26. Complaints register

During the operational phases of the extractive and waste management facility activity, the applicant is to record details of all complaints received in a Complaints Register. The Register shall record, but not necessarily be limited to:

- (a) The date and time of the complaint;
- (b) The means by which the complaint was made (telephone, mail or email);
- (c) Any personal details of the complainant that were provided, or if no details were provided, a note to that effect;
- (d) The nature of the complaint;
- (e) Any action(s) taken by the Applicant in relation to the complaint, including any follow up contact with the complainant; and
- (f) If no action was taken by the Applicant in relation to the complaint, the reason(s) for no action being taken.

The Complaints Register shall be made available for inspection by the Council upon request.

Reason: To ensure complaints in relation to the proposed development are appropriately addressed.

27. Limit of clearing and quarry operations

No works, activities or vegetation clearing shall occur outside of the project site boundary identified within the approved Environmental Impact Statement.

Reason: To ensure the development is contained within the approved area of operations.

28. Toilet facilities

Toilet facilities are to be provided at the work site at all times at the rate of one closet for every 20 persons employed at the site. If temporary closet accommodation is proposed, each closet must:

- (a) be at least 1050 mm wide, 1350 mm long and 2100 mm high (measured internally),
- (b) have a hinged door capable of being fastened from both inside and outside,
- (c) have sufficient walls and a roof to ensure privacy, each constructed of material that is weatherproof,
- (d) have a floor constructed of a material that is rigid and impervious,
- (e) be provided with a suitable receptacle for, and an adequate supply of, deodorising or fly-repelling fluid, and
- (f) comply with any relevant requirements of the Building Code of Australia.

Reason: To ensure adequate facilities are provided for workers.

29. Documentation

A copy of the approved documents and plans relating to this consent are to be kept by the quarry and waste management facility operator at all times and shall be made available for inspection upon request by Council or an authorised government agency.

Reason: To ensure the relevant approval documents are available for inspection.

30. Protection of flora and fauna

Vegetation clearing and removal shall be minimised and limited to the proposed project site boundary and no damage should occur to retained vegetation. Exclusion tape and signage should be installed on site to ensure that machinery does not enter the vegetated areas to be retained that may otherwise damage the remaining vegetation not intended for clearing.

During any authorised clearing works, appropriate protection procedures are to be implemented including (but not limited to):

- (a) Engagement of a suitably qualified and experienced spotter-catcher to undertake an initial assessment of the area to be cleared for threatened species and to guide and inspect the felling of any hollow bearing trees,
- (b) Checking all trees for the presence of nesting or roosting fauna immediately before felling or removal.
- (c) The appropriate care taken during the removal of any identified hollow bearing trees to enable animals to vacate,
- (d) Avoid leaving felled trees on the ground unmanaged for more than two weeks to prevent creation of habitat for hollow dependent species, and
- (e) Salvage tree trunks, major limbs and minor branches as appropriate for use in the rehabilitation of disturbed areas and the biodiversity offset area.

Reason: To minimise and mitigate impacts on the natural environment during vegetation clearing works.

-END -