

## SUPPLEMENTARY ASSESSMENT REPORT

### WESTERN REGIONAL PLANNING PANEL

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|---|--|
| <b>PANEL REFERENCE &amp; DA NUMBER</b>    | PPS-2016WES013 – Development Application<br>10.2017.33.1 (DA033/17)  |
| <b>PROPOSAL</b>                           | Extractive Industry - Extension of area of existing sandpit and increase in extraction volume  |
| <b>ADDRESS</b>                            | Lot 97 DP 751140 – 79 Rushy Road MOAMA NSW 2731  |
| <b>APPLICANT</b>                          | EEM Group P/L  |
| <b>OWNER</b>                              | EEM Group P/L  |
| <b>DA LODGEMENT DATE</b>                  | 12/08/2016   |
| <b>APPLICATION TYPE</b>                   | Development Application<br>Integrated Development (NSW EPA)<br>Designated Development  |
| <b>REGIONALLY SIGNIFICANT CRITERIA</b>    | Clause 7, Schedule 7 of the SRD SEPP:<br>Development for the purposes of—<br>(a) extractive industries, which meet the requirements for designated development under clause 19 of Schedule 3 to the <i>Environmental Planning and Assessment Regulation 2000</i> .<br><br>(The development is identified as designated development as the disturbance area is more than 2ha) |
| <b>CIV</b>                                | \$0 (excluding GST)  |
| <b>CLAUSE 4.6 REQUESTS</b>                | Nil  |
| <b>KEY SEPP/LEP</b>                       | SEPP 55 (Remediation of Land)<br>SEPP (State and Regional Development) 2011<br>SEPP (Koala Habitat Protection) 2020<br>SEPP (Mining, Petroleum Production and Extractive Industries) 2007<br>SEPP (Primary Production and Rural Development) 2019<br>Murray Regional Environmental Plan No. 2 – Riverine Land<br>Murray LEP 2011<br>Murray DCP 2012                          |
| <b>TOTAL &amp; UNIQUE SUBMISSIONS KEY</b> | 1 public submission with 2 unique key issues   |

|  |            |  |
|--|------------|--|
| <b>ISSUES SUBMISSIONS</b>                            | <b>IN</b>  | 9 agency submissions with 1 unique key issue and recommended conditions                      |
| <b>DOCUMENTS SUBMITTED FOR CONSIDERATION</b>         | <b>FOR</b> | Environmental Impact Statement – Proposed Extension to Moama Sand Quarry (EAR ID No. 962) v2 |
| <b>SPECIAL INFRASTRUCTURE CONTRIBUTIONS (\$7.24)</b> |            | Nil  |
| <b>RECOMMENDATION</b>                                |            | Approval   |
| <b>DRAFT CONDITIONS TO APPLICANT</b>                 |            | No   |
| <b>SCHEDULED MEETING DATE</b>                        |            | 14 December 2021   |
| <b>PLAN VERSION</b>                                  |            | Environmental Impact Statement – Proposed Extension to Moama Sand Quarry (EAR ID No. 962) v2 |
| <b>PREPARED BY</b>                                   |            | Carolyn Hunt - DPIE  |
| <b>DATE OF REPORT</b>                                |            | 6 December 2021  |

## EXECUTIVE SUMMARY

The development application (DA033/17) seeks consent for the extension of area of an existing extractive industry (sand pit) and increase in extraction volume to 30,000m<sup>3</sup>/pa.

The development is proposed to be undertaken as Stage 1 only, being:

- No more than 30,000m<sup>3</sup>/pa
- 5 years of extraction only
- Extraction area is limited to –
  - Northern Area (Coarse Sand) – 0.815ha; and
  - Southern Area (Fine Sand) – 0.876ha (as per Figure 2-1 of the EIS)
- Estimated total resource – 50,800m<sup>3</sup>
  - Northern Area - 24,500m<sup>3</sup> potential coarse sand resource to a depth of 6m; and
  - Southern Area - 26,300m<sup>3</sup> potential extractable fine sand resource to a depth of 3m
- Processing and stockpiling area – to be located within the total disturbance footprint
- Total disturbance footprint will be – no more than 5ha (being Northern Area – 3ha and Southern Area – 2ha)
- Haulage route is via the existing site access onto Rushy Road and Barmah Road to the Cobb Highway
- Haulage of materials will be undertaken by haulage trucks with a 30-tonne capacity, with vehicle movements of:
  - Monday to Friday – maximum 8 load trucks (16 heavy vehicle movements)
  - Saturday – maximum 3 load trucks (6 heavy vehicle movements)
  - Sunday and Public Holidays – no heavy vehicle movements
- Hours of operation being -
  - Monday-Friday – 7.00am-6.00pm
  - Saturday – 8.00am-1.00pm
  - Sunday and Public Holidays - closed

The development site is known as 79 Rushy Road, Moama and is located 8.1km west of Barmah and 16km north east of Moama. The site is bordered by Rushy Road (also known as 11 Mile Road) to the west and north, the Murray Valley National Park to the east and freehold land to the south. The property is approximately 79.8ha, of which 5.23ha is currently being utilised for quarry operations, and the balance of which is used for either cropping or stock grazing. Existing development on the site includes a sand extraction operation and associated facilities including a demountable work shed.

The development site is zoned RU1 Primary Production under the Murray Local Environmental Plan, 2011. The proposed development is classed as an 'extractive industry' which is permitted with development consent in the RU1 zone. The development application was lodged with Murray River Council on 12 August 2016 as designated development. The application was publicly exhibited from 21 October to 28 November 2016, with one (1) submission (objection) being received. The submission raised issues relating to the impact to the natural environment and potential Aboriginal Cultural Heritage (which may exist on the site). These issues are considered further in this report.

The development has been identified as integrated development pursuant to Section 4.46 of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'), requiring a licence under the *Protection of the Environment Operations Act 1997* ('POEO Act'). The development application does not identify the requirement for approval under the *National Parks and Wildlife Act 1974* ('NPW Act').

Agency submissions were received from Environment Protection Authority, Office of Environment and Heritage (OEH – NSW Heritage and Biodiversity Conservation Division), Department of Primary Industry - Fisheries, Department of Planning & Environment - Western Office, Department Primary Industries - Agriculture, Department of Industry – Lands (Crown Lands), Department of Industry - Resources and Energy, NSW Rural Fire Service, Roads and Maritime Services and Department of Primary Industry -Water.

The principal planning controls relevant to the proposal include *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*, *State Environmental Planning Policy (Primary Production and Rural Development 2019*, *Murray Regional Environmental Plan No. 2 – Riverine Land*, *Murray Local Environmental Plan 2011* ('MLEP 2011'), *Murray Development Control Plan 2012* ('MDCP 2012'). The proposal is consistent with the various provisions of the planning controls.

The application is referred to the Western Region Planning Panel ('the Panel') as the development is '*regionally significant development*', pursuant to Clause (7) of Schedule 7 of *State Environmental Planning Policy (State and Regional Development) 2011* as the proposal is development for the purposes of an *extractive industry*, being designated development.

A briefing was held with the Panel on 22 July 2021 where key issues were discussed, including:

- Clarification of the current operations, future staging and extent of proposal
- Agency responses
- Water drainage, dust and rehabilitation
- Submission received
- Access road and proposed road and intersection works
- Calculation of haulage rate and response from internal referrals

Following a detailed assessment of the proposal, pursuant to Section 4.16(1)(b) of the *EP&A Act*, DA033/17 is recommended for approval. The draft conditions recommended by this report have been prepared for the consideration of the Panel and are contained in **Attachment A**.

## 1. THE SITE AND LOCALITY

### 1.1 The Site

The site subject to this development application is located at 79 Rushy Road, Moama (Lot: 97 DP: 751140). The property is approximately 79.8ha, of which 5.23ha is currently being utilised for quarry operations, and the balance of which is used for either cropping or stock grazing.

The site is zoned RU1 Primary Production and is mapped as Murray Regional Environmental Plan No. 2 – Riverine Land. The site is partially mapped as Bush Fire Prone Land, Wetlands, Flood Prone Land and Terrestrial Biodiversity (Native Vegetation). The site is not mapped as Key Fish Habitat (Aquatic Biodiversity), RAMSAR Wetlands, a Watercourse, Urban Release Area, or contaminated land.

The site adjoins the Murray Valley National Park (Moirra Precinct), which is also mapped as RAMSAR Wetlands. The site does not contain any non-Aboriginal items of environmental heritage significance. The site is irregular in shape and contains an existing sand pit, mapped as mining resources. Some vegetation also remains on site.

**Figure 1 – Aerial photograph of subject site. Subject site marked by black star. (Photo taken 28/12/2015)**



**(source – Council's Assessment Report – Fig. 1)**

**Figure 2 – Aerial photograph of subject site.**



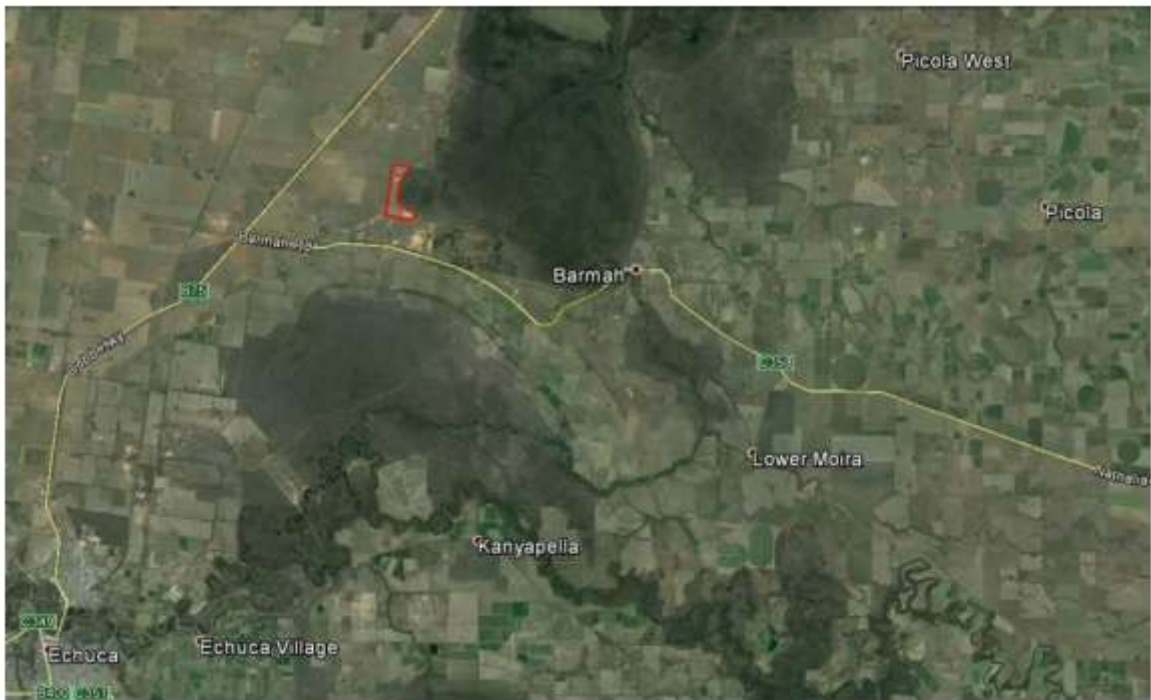
**(source – EIS – Fig. 1-2)**

## **1.2 The Locality**

The development site is within a primary production area, being located 8.1km west of Barmah and 16km north east of Moama. The Murray Valley National Park (Moirā Precinct and mapped RAMSAR wetlands) is located on the eastern boundary, Rushy Road (also known as 11 Mile Road) on the northern and western boundary and freehold land on the southern boundary.



**Figure 3 – Location Plan**



(source – EIS – Fig. 1-1)

## **2. THE PROPOSAL AND BACKGROUND**

### **2.1 The Proposal**

The development application is seeking consent for the extension of the area of an existing extractive industry (sand pit) as follows:

The development is proposed to be undertaken as Stage 1 only, being:

- No more than 30,000m<sup>3</sup>/pa
- 5 years of extraction only
- Extraction area is limited to –
  - Northern Area (Coarse Sand) – 0.815ha; and
  - Southern Area (Fine Sand) – 0.876ha (as per Figure 2-1 of the EIS)
- Estimated total resource – 50,800m<sup>3</sup>, being -
  - Northern Area - 24,500m<sup>3</sup> potential coarse sand resource to a depth of 6m;
  - Southern Area - 26,300m<sup>3</sup> potential extractable fine sand resource to a depth of 3m
- Processing and stockpiling area – to be located within the total disturbance footprint
- Total disturbance footprint will be – 5ha (being Northern Area – 3ha and Southern Area – 2ha)
- Haulage route is via the existing site access onto Rushy Road and Barmah Road to the Cobb Highway
- Haulage of materials will be undertaken by haulage trucks with a 30-tonne capacity, with vehicle movements of:
  - Monday to Friday – maximum 8 load trucks (16 heavy vehicle movements)
  - Saturday – maximum 3 load trucks (6 heavy vehicle movements)
  - Sunday and Public Holidays – no heavy vehicle movements
- Hours of operation being -

- Monday-Friday – 7.00am-6.00pm
- Saturday – 8.00am-1.00pm
- Sunday and Public Holidays - closed

It is noted that the above hours of operation differ slightly from what was provided in the EIS which were:

- Monday-Friday – 7.00am-5.00pm
- Saturday – 7.00am-12.00pm (noon)
- Sunday and Public Holidays - closed

The NSW Environment Protection Authority has issued General Terms of Approval which nominate the different finish time during the week and start/finish time on Saturday. For consistency, the EPA hours of operation have been adopted.

**Figure 4 – Proposed Development - Stage 1 - Northern and Southern Extraction Areas coloured in blue**



(source – EIS – Fig. 2-4)

## 2.2 Background

A chronology of the development application since lodgement is outlined below including the Panel's involvement with the application:

**Table 1: Chronology of the DA**

| Date                           | Event  |
|--------------------------------|--|
| 12 August 2016                 | DA lodged  |
| 21 October to 28 November 2016 | Exhibition of the application                          |
| 2 September 2016               | DA referred to external agencies                       |
| 2 September 2016               | Request for Information from Council to applicant      |
| 22 July 2021                   | Panel briefing   |
| 19 November 2021               | Determination of the application deferred by the Panel |

## 2.3 Site History

Development Application 200/06 for Levelling and Removal of Sand was granted consent by the former Murray Shire Council on 02 June 2006. The consent outlined the gravel/sand pit must not exceed the area size limit of 2 hectares or volume of 30,000m<sup>3</sup> per annum.

## 3. STATUTORY CONSIDERATIONS

When determining a development application, the consent authority must take into consideration the matters outlined in Section 4.15(1) of the *Environmental Planning and Assessment Act 1979* ('EP&A Act'). These matters as are of relevance to the development application include the following:

- (a) *the provisions of any environmental planning instrument, proposed instrument, development control plan, planning agreement and the regulations*
- (b) *the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- (c) *the suitability of the site for the development,*
- (d) *any submissions made in accordance with this Act or the regulations,*
- (e) *the public interest.*

These matters are further considered below.

It is noted that the proposal is considered to be (which are considered further in this report):

- Integrated Development (s4.46)
- Designated Development (s4.10)



### 3.1 Section 4.15(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

- *State Environmental Planning Policy No. 55 – Remediation of Land*
- *State Environmental Planning Policy (State and Regional Development) 2011*
- *State Environmental Planning Policy (Koala Habitat Protection) 2020*
- *State Environmental Planning Policy (Infrastructure) 2007*
- *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*
- *State Environmental Planning Policy (Primary Production and Rural Development) 2019*
- *Murray Regional Environmental Plan No. 2—Riverine Land*
- *Murray Local Environmental Plan 2011*

A summary of the key matters for consideration arising from these State Environmental Planning Policies are outlined in **Table 2** and considered in more detail below.

**Table 2: Summary of Applicable State Environmental Planning Policies**  
(Preconditions in **bold**)

| EPI   | Matters for Consideration   | Comply (Y/N) |
|---|---|--------------|
| SEPP 55   | <ul style="list-style-type: none"> <li>• <b>Clause 7</b> - Contamination and remediation has been considered in the Contamination Report and the proposal is satisfactory subject to conditions.</li> </ul>   | Y            |
| State & Regional Development SEPP                         | <ul style="list-style-type: none"> <li>• <b>Clause 20(1)</b> declares the proposal as regionally significant development pursuant to Clause 7(a) of Schedule 7.</li> </ul>  | Y            |
| Koala Habitat Protection SEPP                             | <ul style="list-style-type: none"> <li>• Clause 6 – Land to which Policy applies</li> <li>• Clause 11 – Development Assessment Process</li> </ul>   | Y            |
| Mining, Petroleum Production & Extractive Industries SEPP | <ul style="list-style-type: none"> <li>• Clause 12 – Compatibility of proposed mine, petroleum production or extractive industry with other land uses</li> <li>• Clause 13 - Compatibility of proposed mine, petroleum production or extractive industry</li> <li>• Clause 14 Natural resource management and environmental management</li> <li>• Clause 15 – Resource Recovery</li> <li>• Clause 16 – Transport</li> <li>• Clause 17 – Rehabilitation</li> </ul> | Y            |
| Primary Production & Rural Development SEPP               | <ul style="list-style-type: none"> <li>• Clause 11 – State significant agricultural land</li> </ul>   | Y            |
| Murray REP No. 2—Riverine Land                            | <ul style="list-style-type: none"> <li>• Clause 9 – General Principles</li> <li>• Clause 10 – Specific Principles</li> </ul>  | Y            |

|                 |   |   |
|-----------------|---|---|
|                 | <ul style="list-style-type: none"> <li>• Clause 14(2) – Building Setbacks – special provisions</li> </ul>   |   |
| Murray LEP 2011 | <ul style="list-style-type: none"> <li>• Clause 5.10 – Heritage</li> <li>• Clause 5.21 Flood Planning</li> <li>• Clause 7.1 – Essential Services</li> <li>• Clause 7.2 – Earthworks</li> <li>• Clause 7.3 – Biodiversity Protection</li> <li>• Clause – 7.7 - Wetlands</li> </ul> | Y |

#### State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of *State Environmental Planning Policy 55 - Remediation of Land* ('SEPP 55') have been considered in the assessment of the development application. Clause 7(1) of SEPP 55 requires consent authorities to consider whether the land is contaminated, and if the land is contaminated, it is satisfied that the land is suitable in its contaminated state (or will be suitable, after remediation) for the purpose for which the development is proposed to be carried out.

The subject land is not considered to be contaminated or likely to be contaminated. In addition, the site is not listed on Council's Contaminated Land Register. The site is currently being utilised for sand extraction and primary production. The proposed development is seeking approval for the continuation of these existing operations. In accordance with Clause 7 of SEPP 55, the land is considered to be suitable in its current state for the purpose for which the development is proposed to be carried out.

#### State Environmental Planning Policy (State and Regional Development) 2011

*State Environmental Planning Policy (State and Regional Development) 2011* ('SRD SEPP') applies to the proposal as it identifies if development is regionally significant development. In this case, pursuant to Clause 20(1) of SRD SEPP, the proposal is a regionally significant development as it satisfies the criteria in Clause 7(a) of Schedule 7 of the SRD SEPP as the proposal is development for an *extractive industry which meets the requirements for designated development under Clause 19 of Schedule 3 of the Environmental Planning and Assessment Regulation 2000*. Accordingly, the Western Regional Planning Panel is the consent authority for the application. The proposal is consistent with this Policy.

#### State Environmental Planning Policy Koala Habitat Protection 2020

State Environmental Planning Policy Koala Habitat Protection 2020 ('Koala Habitat Protection SEPP') applies to the subject land, as Murray River Council is listed in Schedule 1 of Koala SEPP 2021 as being subject to the Koala Habitat Protection SEPP 2020 as the land is zoned RU1 Primary Production, is more than 1 hectare and is subject to a development application.

A Flora and Fauna Biodiversity Report (prepared by Hamilton Environmental Services in 2016) that there are no rare or threatened species under the *Threatened Species Conservation Act 1995* observed at the site. The report noted that it is highly likely that significant sections of the property were a combination of EECs Inland *Grey Box Woodland in the Riverina* and/or *Sandhill Pine Woodland in the Riverina* (with Yellow Box – *Eucalyptus melliodora*) as the likely dominant species. However, these communities have been heavily modified on the property, with no effective indigenous shrub or ground layer, only scattered mature remnant trees.

A search of the likelihood of the presence of all NSW recorded species within a 20km radius of the site has been considered. The Flora and Fauna Biodiversity Report did not identify the koala as being include the search results.

Council has considered that the subject land is not potential or core koala habitat.

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

This SEPP outlines (in Part 3) specific matters to be considered in relation to development applications for extractive industries. These include:

**12 Compatibility of proposed mine, petroleum production or extractive industry with other land uses**

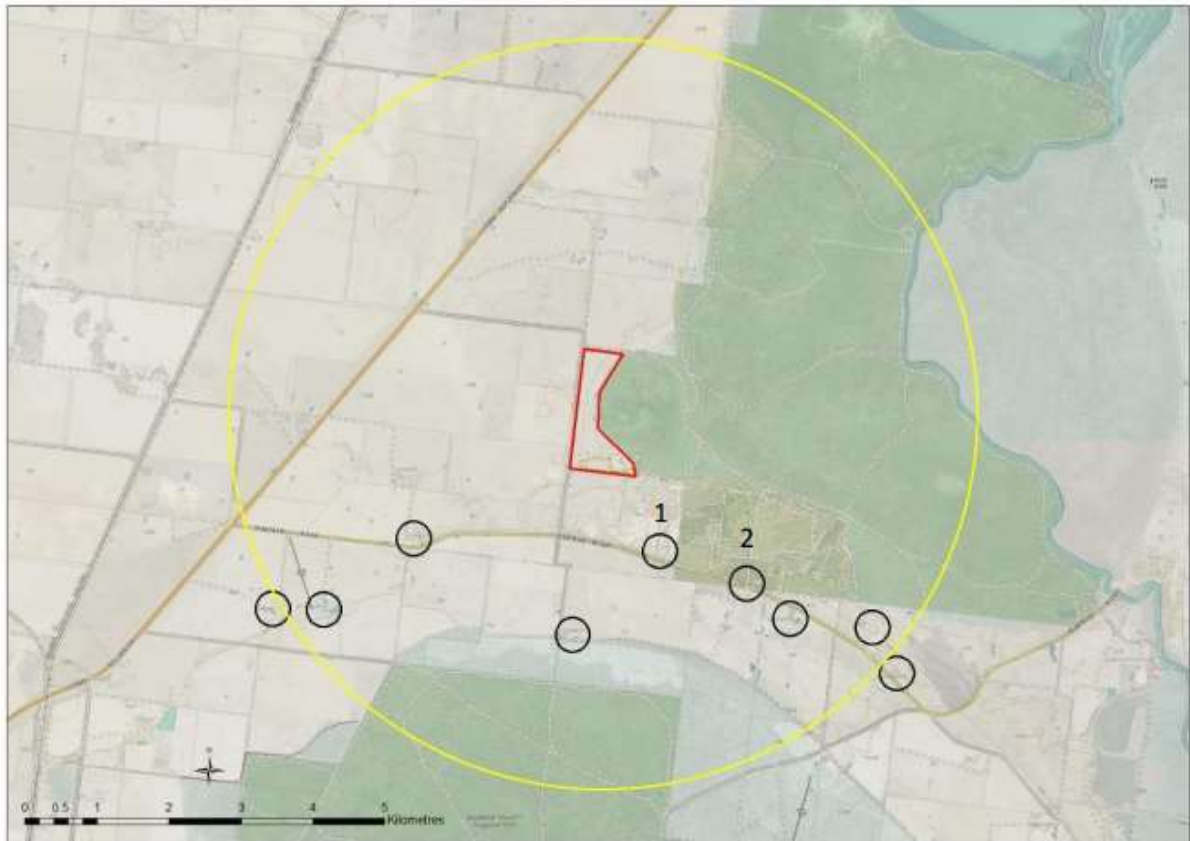
*Before determining an application for consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must—*

- (a) consider—*
  - (i) the existing uses and approved uses of land in the vicinity of the development, and*
  - (ii) whether or not the development is likely to have a significant impact on the uses that, in the opinion of the consent authority having regard to land use trends, are likely to be the preferred uses of land in the vicinity of the development, and*
  - (iii) any ways in which the development may be incompatible with any of those existing, approved or likely preferred uses, and*
- (b) evaluate and compare the respective public benefits of the development and the land uses referred to in paragraph (a)(i) and (ii), and*
- (c) evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a)(iii).*

Comment: The subject land is located within the RU1 Primary Production zone and adjoins existing farming properties and the Murray Valley National Park (Moirra Precinct). It is considered that the land use will continue to be zoned and utilised for agricultural purposes.

The applicant has provided a map (Figure 5 below) showing nine (9) dwellings on outlining properties within a 5km radius of the subject site. Subject to conditions being implemented, relating to noise and dust, the development is considered to be compatible with existing and future land use in this area.

**Figure 5 – Location of dwellings within 5km radius of the development site.**



(source – EIS – Fig. 1-3)

### **13 Compatibility of proposed development with mining, petroleum production or extractive industry**

- (1) *This clause applies to an application for consent for development on land that is, immediately before the application is determined—*
  - (a) *in the vicinity of an existing mine, petroleum production facility or extractive industry, or*
- (2) *Before determining an application to which this clause applies, the consent authority must—*
  - (a) *consider—*
    - (i) *the existing uses and approved uses of land in the vicinity of the development, and*
    - (ii) *whether or not the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials (including by limiting access to, or impeding assessment of, those resources), and*
    - (iii) *any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery, and*
  - (b) *evaluate and compare the respective public benefits of the development and the uses, extraction and recovery referred to in paragraph (a)(i) and (ii), and*
  - (c) *evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a)(iii)*



Comment: The subject site contains an existing extractive industry. However, the proposal is for the expansion of such development and therefore there are no inconsistencies with the requirements of this clause.

#### **14 Natural resource management and environmental management**

- (1) *Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring that the development is undertaken in an environmentally responsible manner, including conditions to ensure the following—*
- (a) that impacts on significant water resources, including surface and groundwater resources, are avoided, or are minimised to the greatest extent practicable,*
  - (b) that impacts on threatened species and biodiversity, are avoided, or are minimised to the greatest extent practicable,*
  - (c) that greenhouse gas emissions are minimised to the greatest extent practicable.*
- (2) *Without limiting subclause (1), in determining a development application for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider an assessment of the greenhouse gas emissions (including downstream emissions) of the development and must do so having regard to any applicable State or national policies, programs or guidelines concerning greenhouse gas emissions.*
- (3) *Without limiting subclause (1), in determining a development application for development for the purposes of mining, the consent authority must consider any certification by the Chief Executive of the Office of Environment and Heritage or the Director-General of the Department of Primary Industries that measures to mitigate or offset the biodiversity impact of the proposed development will be adequate.*

Comment: The extractive industry will be subject to conditions that address water resources and biodiversity. A greenhouse gas emissions assessment has been submitted with the application. The main direct stationary and mobile combustion point sources of greenhouse gas emissions (Scope 1 – Department of Environment, 2014a) relate to the diesel oil consumption for energy, which are:

- Excavation of sand and overburden
- Stockpiling of sand and overburden
- Loading of sand into the mobile sieve plant
- Operation of the mobile sieve plant
- Movement of highway trucks from the site to the Echuca base loaded and return trips unloaded
- Movement of overburden to decommissioned quarries for rehabilitation purposes and smoothing of rehabilitation area surface, and
- Occasional maintenance of internal roads with material and grading.

The following table (extracted from the EIS) identifies the Scope 1 CO<sub>2</sub> emissions for the proposed operation of 437 tCO<sub>2</sub>e/annum. The operation of the wheel loader on-site and transportation of materials have been identified as the major contributor to CO<sub>2</sub> emissions through diesel oil consumption.

| <b>Table 3-3      Estimated Scope 1 Greenhouse Gas Emissions (CO<sub>2</sub> only) from current/proposed operations estimated using Method 1 (from Department of the Environment 2014b).</b> |                                   |                            |                                     |   |
|--|-----------------------------------|----------------------------|-------------------------------------|---|
| <b>Activity</b>  | <b>Estimated unit of activity</b> | <b>Unit of consumption</b> | <b>Estimated annual consumption</b> | <b>Estimated total emissions (tCO<sub>2</sub>e/annum)<sup>1</sup></b> |
| Diesel oil consumption for wheel loader excavation and loading on-site (post-2004 vehicle)   | 20 hours/week                     | 80 L diesel oil/hour       | 80 kL diesel oil                    | 214   |
| Diesel oil consumption for stationary mobile sieve   | 18 hours/week                     | 15 L diesel oil/hour       | 13.5 kL diesel oil                  | 36  |
| Diesel oil consumption 30 tonne highway truck (post-2004 vehicle)  | 40 return trips/week @ 52 km/trip | 62.5 L diesel oil/100 km   | 70 kL diesel oil                    | 187   |
| <b>Total</b>   |                                   |                            | <b>163.5 kL diesel oil</b>          | <b>437</b>  |
| 1. CH <sub>4</sub> and N <sub>2</sub> O losses were not calculated, as they were likely to be negligible.  |                                   |                            |                                     |   |

The assessment also notes that there are no greenhouse gas emission arising from the generation of electricity as it is not connected (indirect emission factors or Scope 2 emissions).

An estimate of the proposed operations (Scope 3 emissions) included:

- Employees commuting to the site
- Additional processing of the extracted and sieved material off-site, and
- The distribution of the material by truck to the end user.

It was noted that the quarry operations will be undertaken primarily by one person (limiting the commute energy requirement and minimal emission) and the delivery of products from Echuca will only occur once (and within the greater Echuca district only). Hence, it was considered that Scope 3 emissions would be significantly less than the estimated Scope 1 emissions. The cumulative emissions would be expected to be less than 700 tCO<sub>2</sub>e/annum.

It is noted that there are no alternatives to the proposed methods of extraction, processing and transport which would reduce greenhouse gas emissions. The site is proposed to be rehabilitated with pasture species, which has the potential to store carbon.

The application also notes that the proposed development has been located to avoid any native vegetation loss, either through the extraction areas or vehicle accesses. Conditions of consent have been proposed accordingly.

## **15 Resource recovery**

- (1) Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider the efficiency or otherwise of the development in terms of resource recovery.*
- (2) Before granting consent for the development, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at optimising the efficiency of resource recovery and the reuse or recycling of material.*
- (3) The consent authority may refuse to grant consent to development if it is not satisfied that the development will be carried out in such a way as to optimise the efficiency of recovery of minerals, petroleum or extractive materials and to minimise the creation of*

*waste in association with the extraction, recovery or processing of minerals, petroleum or extractive materials.*

**Comment:** The proposed extractive industry is sufficient to supply 50,800m<sup>3</sup> of sand to the local community. The extracted material is a necessity to the construction industry, which is an important economic driver of the local community. The proposed development has considered the efficient recovery of extractive materials and minimisation of waste in association with the extraction of extractive materials.

## **16 Transport**

- (1) Before granting consent for development for the purposes of mining or extractive industry that involves the transport of materials, the consent authority must consider whether or not the consent should be issued subject to conditions that do any one or more of the following—*
  - (a) require that some or all of the transport of materials in connection with the development is not to be by public road,*
  - (b) limit or preclude truck movements, in connection with the development, that occur on roads in residential areas or on roads near to schools,*
  - (c) require the preparation and implementation, in relation to the development, of a code of conduct relating to the transport of materials on public roads.*
- (2) If the consent authority considers that the development involves the transport of materials on a public road, the consent authority must, within 7 days after receiving the development application, provide a copy of the application to—*
  - (a) each roads authority for the road, and*
  - (b) the Roads and Traffic Authority (if it is not a roads authority for the road).*

**Note.** Section 7 of the Roads Act 1993 specifies who the roads authority is for different types of roads. Some roads have more than one road's authority.

- (3) The consent authority—*
  - (a) must not determine the application until it has taken into consideration any submissions that it receives in response from any roads authority or the Roads and Traffic Authority within 21 days after they were provided with a copy of the application, and*
  - (b) must provide them with a copy of the determination.*
- (4) In circumstances where the consent authority is a roads authority for a public road to which subclause (2) applies, the references in subclauses (2) and (3) to a roads authority for that road do not include the consent authority.*

**Comment:** The proposal is based on the operation utilising an internal access road to Rushy Road, then Barmah Road to the Cobb Highway. A condition will be imposed to ensure that the road construction standard is adequate for the proposed development. A traffic management plan (requested by NSW RMS) and driver code of conduct will be required as a condition of consent.

The application was referred to Council's Engineering Department and Transport for NSW – Roads (formally RMS), both of which did not object to permitting transport of materials by public road.

## **17 Rehabilitation**

- (1) Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider whether or not the*

*consent should be issued subject to conditions aimed at ensuring the rehabilitation of land that will be affected by the development.*

- (2) *In particular, the consent authority must consider whether conditions of the consent should—*
- (a) require the preparation of a plan that identifies the proposed end use and landform of the land once rehabilitated, or*
  - (b) require waste generated by the development or the rehabilitation to be dealt with appropriately, or*
  - (c) require any soil contaminated as a result of the development to be remediated in accordance with relevant guidelines (including guidelines under clause 3 of Schedule 6 to the Act and the Contaminated Land Management Act 1997), or*
  - (d) require steps to be taken to ensure that the state of the land, while being rehabilitated and at the completion of the rehabilitation, does not jeopardize public safety.*

Comment: The proposed conditions note that the consent does not involve the removal of any native vegetation and limit the areas of extraction and processing on site. The development site will be rehabilitated at the cessation of the development, with a detailed rehabilitation plan to be provided within 12 months from the commencement of Stage 1. Site contamination is not anticipated from this site. Site waste will be minimal as all overburden will be reused on site and general waste will be disposed of at a licensed facility as required.

#### State Environmental Planning Policy (Primary Production and Rural Development) 2019

The aim of this Policy is to facilitate the orderly economic use and development of lands for primary production and to reduce land use conflict and sterilisation of rural land.

The subject site is not identified as State significant agriculture land as per Schedule 1.

It is noted that the proposal will only occupy a portion of the overall subject land and that remainder of the subject land will maintain its existing use for agricultural purposes. The proposal will provide a diversity in land use in the area and provide public benefit given that it will be producing sand materials to support the local construction industry.

The proposal also has a limited lifetime and is expected to be rehabilitated at the conclusion of the operation and will enable the land to return to agricultural production.

#### Murray Regional Environmental Plan No. 2—Riverine Land

The subject site is mapped as Murray Regional Environmental Plan 2 – Riverine Land.

### **2 Aims of the plan**

*The aims of this plan are to conserve and enhance the riverine environment of the River Murray for the benefit of all users.*

### **3 Objectives of the plan**

*The objectives of this plan are—*

- (a) to ensure that appropriate consideration is given to development with the potential to adversely affect the riverine environment of the River Murray, and*
- (b) to establish a consistent and coordinated approach to environmental planning and assessment along the River Murray, and*
- (c) to conserve and promote the better management of the natural and cultural heritage values of the riverine environment of the River Murray.*

*Note—*



*Further information about the objectives of this plan and how it operates may be obtained from information included with the copy of this plan published by the Department of Planning.*

## **9 General principles**

*When this Part applies, the following must be taken into account—*

- (a) the aims, objectives and planning principles of this plan,*
- (b) any relevant River Management Plan,*
- (c) any likely effect of the proposed plan or development on adjacent and downstream local government areas,*
- (d) the cumulative impact of the proposed development on the River Murray.*

Comment: The proposed development is consistent with the aims, objectives and planning principles of the plan. The Murray Valley National Park is located between the site and the River Murray. It is considered that the proposed development will not significantly adversely affect the River Murray, given the distance (in excess of 1.5km) between the development site and the River Murray.

## **10 Specific principles**

*When this Part applies, the following must be taken into account—*

### **Access**

- The waterway and much of the foreshore of the River Murray is a public resource. Alienation or obstruction of this resource by or for private purposes should not be supported.*
- Development along the main channel of the River Murray should be for public purposes. Moorings in the main channel should be for the purposes of short stay occupation only.*
- Human and stock access to the River Murray should be managed to minimise the adverse impacts of uncontrolled access on the stability of the bank and vegetation growth.*

### **Bank disturbance**

- Disturbance to the shape of the bank and riparian vegetation should be kept to a minimum in any development of riverfront land.*

### **Flooding**

- Where land is subject to inundation by floodwater—*
  - (a) the benefits to riverine ecosystems of periodic flooding,*
  - (b) the hazard risks involved in developing that land,*
  - (c) the redistributive effect of the proposed development on floodwater,*
  - (d) the availability of other suitable land in the locality not liable to flooding,*
  - (e) the availability of flood free access for essential facilities and services,*
  - (f) the pollution threat represented by any development in the event of a flood,*
  - (g) the cumulative effect of the proposed development on the behaviour of floodwater, and*
  - (h) the cost of providing emergency services and replacing infrastructure in the event of a flood.*

- *Flood mitigation works constructed to protect new urban development should be designed and maintained to meet the technical specifications of the Department of Water Resources.*

### **Land degradation**

- *Development should seek to avoid land degradation processes such as erosion, native vegetation decline, pollution of ground or surface water, groundwater accession, salination and soil acidity, and adverse effects on the quality of terrestrial and aquatic habitats.*

### **Landscape**

- *Measures should be taken to protect and enhance the riverine landscape by maintaining native vegetation along the riverbank and adjacent land, rehabilitating degraded sites and stabilising and revegetating riverbanks with appropriate species.*

### **River related uses**

- *Only development which has a demonstrated, essential relationship with the river Murray should be located in or on land adjacent to the River Murray. Other development should be set well back from the bank of the River Murray.*
- *Development which would intensify the use of riverside land should provide public access to the foreshore.*

### **Settlement**

- *New or expanding settlements (including rural-residential subdivision, tourism and recreational development) should be located—*
  - (a) on flood free land,*
  - (b) close to existing services and facilities, and*
  - (c) on land that does not compromise the potential of prime crop and pasture land to produce food or fibre.*

### **Water quality**

- *All decisions affecting the use or management of riverine land should seek to reduce pollution caused by salts and nutrients entering the River Murray and otherwise improve the quality of water in the River Murray.*

### **Wetlands**

- *Wetlands are a natural resource which have ecological, recreational, economic, flood storage and nutrient and pollutant filtering values. Land use and management decisions affecting wetlands should—*
  - (a) provide for a hydrological regime appropriate for the maintenance or restoration of the productive capacity of the wetland,*
  - (b) consider the potential impact of surrounding land uses and incorporate measures such as a vegetated buffer which mitigate against any adverse effects,*
  - (c) control human and animal access, and*
  - (d) conserve native plants and animals.*

### **Note—**

*The above principles will also be relevant for determining authorities when they carry out their environmental assessment functions under Part 5 of the Act for activities which may impact on the River Murray.*

Comment: The proposed development is consistent with the specific principles of the plan. As noted above, it is considered that the proposed development will not significantly adversely affect the River Murray, given the distance (in excess of 1.5km) between the development site and the River Murray.

#### **14 Building setbacks—special provisions**

*(2) Building setback All buildings outside land zoned for urban purposes under a local environmental plan should be set well back from the bank of the River Murray. The only exceptions are buildings dependent on a location adjacent to the River Murray.*

Comment: The proposed development is set well back from the Murray River (in excess of 1.5km) which is considered an acceptable outcome.

#### **Murray Local Environmental Plan 2011**

The relevant local environmental plan applying to the site is the *Murray Local Environmental Plan 2011* ('the LEP'). The aims of the LEP include the following:

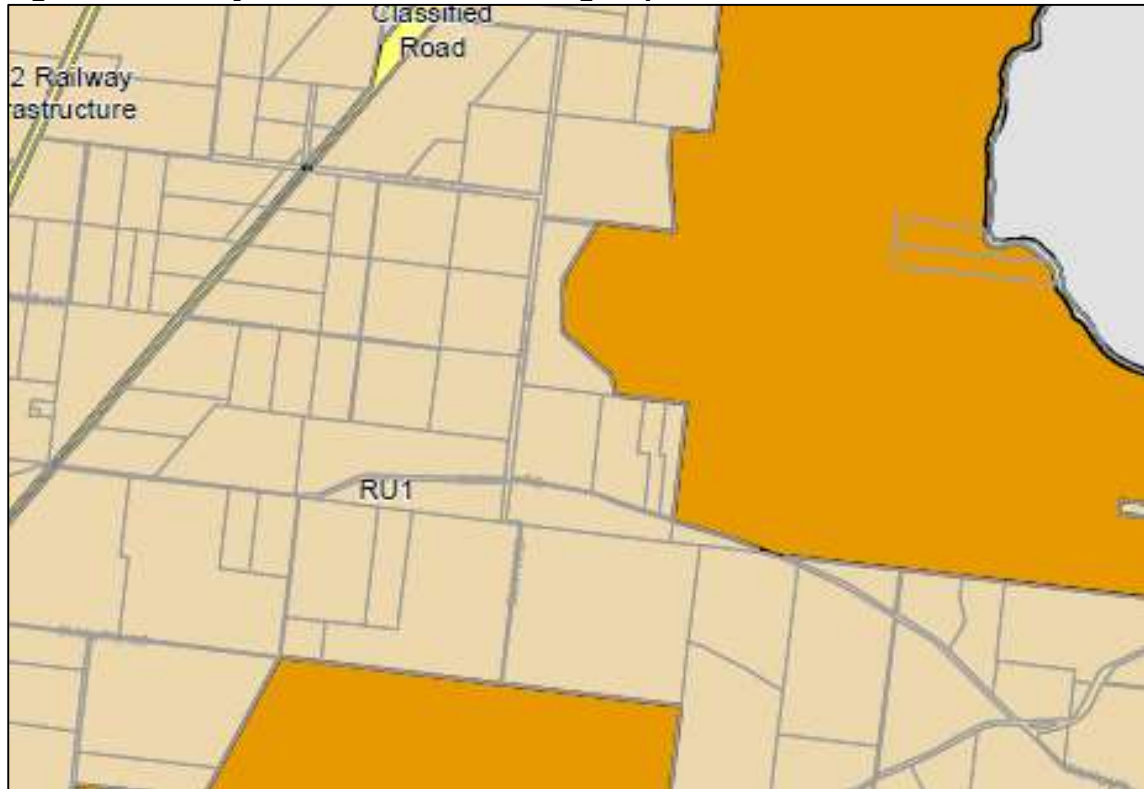
- (aa) to protect and promote the use and development of land for arts and cultural activity, including music and other performance arts,*
- (a) to encourage sustainable economic growth and development within Murray,*
- (b) to encourage the retention of productive rural land in agriculture,*
- (c) to identify, protect, conserve and enhance Murray's natural assets,*
- (d) to identify and protect Murray's built and cultural heritage assets for future generations,*
- (e) to allow for the equitable provision of social services and facilities for the community,*
- (f) to encourage and focus growth in the Moama and Mathoura townships,*
- (g) to provide for future tourist and visitor accommodation in a sustainable manner that is compatible with, and will not compromise, the natural resource and heritage values of the surrounding area.*

The proposal is consistent with these aims as the proposal supports sustainable economic growth through the provision of sand material to the local construction industry.

#### ***Zoning and Permissibility (Part 2)***

The site is located within the RU1 Primary Production Zone pursuant to Clause 2.2 of the LEP.

**Figure 6 – Murray LEP 2011 – Land Zoning Map 006 Extract**



(source – [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au))

According to the definitions in Clause 4 (contained in the Dictionary), the proposal satisfies the definition of extractive industry which is a permissible use with consent in the Land Use Table in Clause 2.3.

The zone objectives include the following (pursuant to the Land Use Table in Clause 2.3):

- *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.*

The proposal is considered to be consistent with these zone objectives for the following reasons:

- The proposed development is encouraging sustainable primary production by utilising a natural resource base in conjunction with primary production.
- The size of the operation is also minimising any potential conflict within the locality.

#### *General Controls and Development Standards (Part 2, 4, 5 and 6)*

The LEP also contains controls relating to development standards, miscellaneous provisions and local provisions. The controls relevant to the proposal are considered in **Table 3** below.



**Table 3: Consideration of the LEP Controls**

| Control                        | Requirement   | Proposal  | Comply |
|--------------------------------|---|---|--------|
| Heritage<br>(CI 5.10)          | Development consent is required for the demolition/moving, altering, disturbing/excavating, erecting a building or subdividing the land.                            | The site does not contain any mapped items of Environmental Heritage Significance within the Murray LEP 2011. Aboriginal Cultural Heritage Assessment has been prepared. However, the application has not been submitted as 'integrated development'. Hence, appropriate conditions have been proposed for unexpected finds and the requirement to obtain the necessary approvals, if required. | Yes    |
| Flood planning<br>(CI 5.21)    | Compatibility with flood function/behaviour, no adverse effect on flood behaviour, safe occupation/evacuation, risk management, no adverse environmental impacts    | The site is partially mapped as flood prone land as illustrated by Figure 7 below. However, the proposed development is not considered to adversely affect flood function or behaviour or the environment. The development will not require safe site occupation or evacuation.   | Yes    |
| Essential Services<br>(CI 7.1) | Provision of essential services that are required for the development.  | Water supply will be provided via water tankers, electricity is available to the site, no additional on-site sewerage management systems are required, no stormwater drainage is required, and the site has existing access.  | Yes    |
| Earthworks<br>(CI. 7.2)        | No detrimental impact from earthworks, development consent is obtained where required, effect of earthworks, source and quality of fill, potential impact on relics | Development consent is required for the proposed development. The proposal is unlikely to adversely impact upon existing drainage patterns and soil stability in the locality. The proposal is suitable for the site and is unlikely to significantly adversely   | Yes    |

|                                   |   |   |     |
|-----------------------------------|---|---|-----|
|                                   |   | impact upon the amenity of adjoining properties. Conditions have been proposed to protect any relics and the amenity of the area.   |     |
| Biodiversity Protection (Cl. 7.3) | Consideration of any adverse impact on ecological value and significance of fauna and flora on the land, vegetation, potential fragmentation or disturbance, adverse impact on habitat elements | A small portion of the subject site is mapped as Terrestrial Biodiversity (Native Vegetation) as illustrated by Figure 8 below. The proposed excavation areas are located clear of the mapped Terrestrial Biodiversity. | Yes |
| Wetlands (Cl. 7.7)                | Consideration of adverse impacts from the proposed development  | Part of the subject site is mapped as a Wetland (as illustrated in Figure 9 below). The proposed excavation areas are located clear of the mapped wetland area.   | Yes |

**Figure 7 – Flood Planning Map**



(source – [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au) - MLEP)

**Figure 8 – Terrestrial Biodiversity (Native Vegetation) mapping. Subject site marked by black star.**



(source – Council assessment report)

**Figure 9 – Wetland Map**



(source – [www.planningportal.nsw.gov.au](http://www.planningportal.nsw.gov.au) - MLEP)

The proposal is considered to be generally consistent with the LEP.

### 3.2 Section 4.15 (1)(a)(ii) - Provisions of any Proposed Instruments

There are several proposed instruments which have been the subject of public consultation under the EP&A Act, and which may be relevant to the proposal, including the following:

- *Draft Remediation of Land SEPP*

These proposed instruments are considered below:

The Draft LEP was exhibited between 31 January and 13 April 2018. The Department is in the process of identifying and considering the issues identified in the submissions received. The Department will shortly identify the next steps in the consultation and plan making process which will include further consultation with stakeholders. The Draft SEPP will retain provisions relating to potentially contaminating activities, permissibility of remediation work and the consent authority for this work and consideration if the proposed development will be of greater risk.

The proposal is generally consistent with these proposed instruments.

| EXISTING EPI  | PROPOSED EPI                   | PROPOSED CHANGES  | PROPOSAL  | CONSISTENT (Y/N) |
|---|--------------------------------|---|---|------------------|
| <b>State Environmental Planning Policy No 55— Remediation of Land</b> ('SEPP 55') | Draft Remediation of Land SEPP | The proposed changes will deliver the following improvements: <ul style="list-style-type: none"><li>• reduce the risks associated with remediation projects</li><li>• encourage proponents to better consider and plan remediation work</li><li>• better protect the community from unnecessary risks, disturbance and inconvenience</li><li>• ensure there is consistent regulation of contaminated land and facilitate enforcement of long-term environmental management plans.</li></ul> | The subject land is not considered to be contaminated or likely to be contaminated, noting that the site is not listed in Council's register for contaminated land. The proposed development is a continuation of the existing operations on the site and is not considered to be any greater risk than the current operations. | <b>Y</b>         |

### 3.3 Section 4.15(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

- *Murray Development Control Plan 2012: Amendment 5 dated 2/2/2016*

#### **Chapter 6 Strategic Land Use Plan**



Comment: The development site is not located within the mapped areas of the Strategic Land Use Plan – Structure Plans.

#### **Chapter 9 Vegetation Removal**

Comment: The proposed development does not involve the removal of any vegetation.

#### **Chapter 10 Watercourses & Riparian Land**

Comment: The development site is not mapped as riparian land or waterways on the Watercourse Map.

#### **Chapter 11 Flood Prone Land**

Comment: The development site is identified as being partially mapped as flood prone land. The site contains an existing extractive industry operation and the proposed development is not considered to increase the existing flood risk associated with the site.

#### **Chapter 12 Notification Policy**

Comment: The application was notified to adjoining property owners in accordance with Council's notification policy and other legislative requirements.

The following contributions plans are relevant pursuant to Section 7.18 of the EP&A Act and have been considered in the recommended conditions (notwithstanding Contributions plans are not DCPs they are required to be considered):

- Murray Shire Council Section 94 (S.7.11) Development Contributions Plan 2011
- Murray Shire Council Section 94A (S.7.12) Levy Development Contributions Plan 2011

The Section 94 (S.7.11) Contributions Plan has been considered and included in the recommended draft consent conditions. The Section 94A (S.7.12) has not been included as only one plan is able to be applied and the development cost was \$0.

### **3.4 Section 4.15(1)(a)(iia) – Planning agreements under Section 7.4 of the EP&A Act**

There have been no planning agreements entered into and there are no draft planning agreements being proposed for the site.

### **3.5 Section 4.15(1)(a)(iv) - Provisions of Regulations**

Clause 92(1) of the Regulation contains matters that must be taken into consideration by a consent authority in determining a development application. These provisions have been considered and addressed in the draft conditions (where necessary).

### **3.6 Section 4.15(1)(b) - Likely Impacts of Development**

The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality must be considered. In this regard, potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls outlined above and the Key Issues section below.

The consideration of impacts on the natural and built environments includes the following:

- Context and setting – The proposal is considered to be generally consistent with the context of the site, in that the proposed extractive industry is a continuation of an existing operation. The majority of the site will continue to be utilised for primary production, with the quarry areas being located an adequate distance from site boundaries. Conditions have been imposed to ensure that the development is undertaken in accordance with the submitted documentation and the extraction boundaries are clearly identified.
- Access and traffic – The EIS notes the continuation of the existing traffic movements as detailed below:
  - Haulage of materials will be undertaken by haulage trucks with a 30-tonne capacity, with vehicle movements of:
    - Monday to Friday – maximum 8 load trucks (16 heavy vehicle movements)
    - Saturday – maximum 3 load trucks (6 heavy vehicle movements)
    - Sunday and Public Holidays – no heavy vehicle movements
  - Haulage route is via the existing site access onto Rushy Road and Barmah Road to the Cobb Highway

It is considered that there is adequate area on site for parking. However, the RMS have advised that the following works be undertaken:

- Prepare and implement a Transport Management Plan
- Construction of the intersection of Rushy Road (as known as Eleven Mile Road) with Barmah Road
- Construction of Rushy Road (as known as Eleven Mile Road) to provide for 2 lanes at its intersection with Barmah Road.
- No dust and loose surface road material generated by traffic activities to cause a nuisance or hazard to traffic on the public road network.
- Maintenance of accurate records of the extraction quantities and traffic movement to and from the subject site.
- Utilities – as noted previously in this report, water supply will be provided via water tankers, electricity is available to the site and no additional on-site sewerage management systems are required.
- Heritage – the site does not contain any identified heritage items. An Aboriginal Cultural Heritage Assessment identified three scattered stone artefacts outside of the excavation areas. It is recommended that conditions be imposed to ensure that any unexpected finds are identified and the appropriate approvals sort before work is continued in the location of the item.
- Other land resources – The application is for an extractive industry on land zoned Primary Production. The majority of the subject site will continue to be utilised for extensive agricultural purposes and is considered appropriate subject to conditions of consent.
- Water/air/soils impacts – The site is not identified as being contaminated, with no significant ephemeral drainage lines. There is no dedicated water storage or water management proposed as part of the operation, including no wash down facilities on the site. Surface water runoff and stormwater drainage has been considered in the EIS as being of no impact for the development, with minimal risk of erosion. The NSW EPA have included conditions relating to dust, water and stormwater management in their General Terms of Approval and subsequent licence requirements.
- Flora and fauna impacts – the development site has been reduced in comparison to what was originally proposed to avoid any impact on the existing native vegetation on

the site. A Flora and Fauna Assessment Report has been undertaken for the site and discussed previously in this report.

- **Natural environment –**  
The proposal will alter the contours of the subject site. However, it is noted the proposal is permitted with development consent and can be appropriately conditioned to protect the natural environment. Site rehabilitation is also proposed as part of the development.
- **Noise and vibration –** the proposed development will operate during daytime hours only with conditions proposed to ensure compliance with the submitted documentation. The EIS notes the noise level at the closest occupied dwelling (1.7km separation distance) as 46dBA. This does not include the potential further noise reduction due to existing vegetation and sand hills. The NSW EPA have included conditions relating to noise in their General Terms of Approval and subsequent licence requirements.
- **Natural hazards –** the site is identified as being partially impacted by flooding and has been considered previously in this report. The site is also noted as being partly bushfire prone land – Vegetation Category 1, 2 and Vegetation Buffer. The EIS has noted that the development of a Fire Hazard Reduction Policy, including a policy for the operations on site on days of extreme fire hazard, fire-fighting equipment, water supply for fire-fighting purposes and the preparation of an emergency and evacuation management plan is proposed. Relevant conditions are proposed.
- **Social and Economic impact –** the proposed development will contribute to the local construction industry, which is noted as an economic driver for the local community. The development also provides employment opportunities for plant operators and truck drivers. The proposed development will also ensure the continued viability of the existing business and sand extraction operation.
- **Site design and internal design –** the extraction area is located an adequate distance from the property boundaries. The final extraction areas have been determined to minimise any potential impact on existing vegetation and neighbouring dwellings. Conditions have been imposed for a landscaped screen to be implemented.
- **Construction –** no building works are proposed as part of the proposed development.
- **Cumulative impacts –** as there are no other similar developments within close proximity to the development site, it is considered that there will be minimum cumulative impact resulting from the proposed development.

Accordingly, it is considered that the proposal will not result in any significant adverse impacts in the locality as outlined above.

### **3.7 Section 4.15(1)(c) - Suitability of the site**

The subject site is considered suitable for the proposed development and is a continuation of an existing development. There is existing access to the site, which is not impacted by any natural hazards. Consequently, the site attributes are conducive to the development.

### **3.8 Section 4.15(1)(d) - Public Submissions**

These submissions are considered in Section 5 of this report.

### 3.9 Section 4.15(1)(e) - Public interest

The public's interest has been taken into consideration in the assessment of this development application. It is considered the proposed development will have a net community benefit.

## 4. REFERRALS AND SUBMISSIONS

### 4.1 Agency Referrals and Concurrence

The development application has been referred to various agencies for comment/concurrence/referral as required by the EP&A Act and outlined below in **Table 4**.

**Table 4: Concurrence and Referrals to agencies**

| Agency   | Concurrence/<br>referral trigger                          | Comments<br>(Issue, resolution, conditions)   | Resolved |
|--|---|---|----------|
| <b>Concurrence Requirements (s4.13 of EP&amp;A Act) – N/A</b>  |   |   |          |
| <b>Referral/Consultation Agencies</b>  |   |   |          |
| Department of Planning, Industry and Environment - Biodiversity and Conservation Division (Formally OEH) | Biodiversity and Aboriginal heritage referral for comment | It is noted that the application has not been submitted as 'integrated development'. An Aboriginal Cultural Heritage Assessment Report has been submitted as part of the application, which did not identify the items of heritage significance, being located within the development footprint. Conditions are proposed to ensure that should any unexpected finds be discovered that the appropriate approvals are sort.<br>The application also notes that no native vegetation is proposed to be removed. | Y        |
| DPI Water  | Referral for comment                                      | No objections subject to conditions.  | Y        |
| DPI Agriculture  | Referral for comment                                      | Comments received.  | Y        |
| NSW Crown Lands  | Referral for comment                                      | No objections as Crown Road has been transferred to Council.  | Y        |
| RMS (Roads)  | Referral for comment                                      | No objections subject to conditions.  | Y        |
| Geological Survey of NSW   | Referral for comment                                      | No objections, comments received.   | Y        |

|  |   |   |   |
|--|---|---|---|
| NSW RFS  | S4.14 – EP&A Act<br>Development on bushfire prone<br>land   | No objections subject to conditions.  | Y |
| DPIE<br>Planning<br>Services<br>Western<br>Division        | Referral for comment  | No objections.  | Y |
| DPI Fisheries  | Referral for comment  | No objections.  | Y |
| MDBA   | Referral for comment  | No response received.   | Y |
| Murray LLS   | Referral for comment  | No response received.   | Y |
| NPWS   | Referral for comment  | No response received.   | Y |
| <b>Integrated Development (S 4.46 of the EP&amp;A Act)</b> |   |   |   |
| EPA  | S.43(b), 48 & 55 – POEO Act<br>1997 - Environment protection<br>licence to authorise carrying out<br>of scheduled activities at any<br>premises | General Terms of Approval have<br>been issues and will be<br>incorporated into the draft<br>conditions. | Y |

There are no outstanding issues arising from these concurrence and referral requirements subject to the imposition of the recommended conditions of consent being imposed.

## 4.2 Council Referrals

The development application has been referred to various Council officers for technical review as outlined in **Table 5**.

**Table 5: Consideration of Council Referrals**

| Officer     | Comments  | Resolved |
|-------------|---|----------|
| Engineering | Council's Engineering Officer reviewed application documentation and considered that there were no objections subject to conditions. A condition has been imposed regarding payment of Contributions. | Y        |
| Building    | Council's Building Officer reviewed application documentation and considered that there were no objections.   | Y        |

There are no outstanding issues raised by Council officers and recommended conditions of consent have been incorporated in the draft conditions.

## 4.3 Community Consultation

The proposal was notified in accordance with the DCP from 21 October 2016 until 28

November 2016. The notification included the following:

- An advertisement in the local newspapers the Riverine Herald and Pastoral Times;
- A sign placed on the site;
- Notification letters sent to adjoining and adjacent properties (23 letters sent);
- Notification on the Council's website.

The Council received a total of 1 unique submission, comprising 1 objection against the proposal. The issues raised in this submission are considered in **Table 6**.

**Table 6: Community Submissions**

| Issue                                       | Council Comments  |
|---|---|
| Impact to natural environment               | The submission maker's comments are noted. The Application seeks permission to expand an existing sand quarry on the subject site. Extractive industries are permitted within consent in the RU1 Primary Production zone. The applicant has provided a detailed Environmental Impact Statement which is considered suitable and has addressed the relevant criteria under the Act. The application was referred to numerous authorities who did not object subject to conditions of consent where applicable. Appropriate conditions have been proposed to ensure that the development proposal complies with the information submitted and assessed as part of the development assessment process. |
| Impact to potential Aboriginal burial sites | Regarding Aboriginal Cultural Heritage, the Applicant has been working with Heritage NSW to ensure compliance with relevant requirements. Appropriate conditions of consent have been proposed to ensure that the development does not impact on any Aboriginal heritage. Should there be any unexpected finds, the developer will be required undertake the appropriate level of investigation and obtain all the necessary approvals.   |

## 5. KEY ISSUES

The following key issues are relevant to the assessment of this application having considered the relevant planning controls and the proposal in detail:

### 5.1 **Issue:** Road and intersection requirements

**Perspectives:** The development proposes a continuation of an existing extractive industry. The comments received from the RMS recommends road and intersection upgrades to the existing haulage route.

**Resolution:** Draft condition has been imposed to require the road and intersection upgrades to be undertaken.

### 5.2 **Issue:** Aboriginal Cultural Heritage assessment

**Perspectives:** The application has not been submitted as 'integrated development'. The accompanying Flora and Fauna Assessment Report notes that the Aboriginal relics have been located on the site. However, these are located clear of the excavation areas.



**Resolution:** Draft condition has been imposed to ensure that if any unexpected finds are discovered, then the appropriate approvals are obtained.

### 5.3 Issue: Clarification of Propose Development

**Perspectives:** The application documentation and following discussions between Council and the applicant have included differing extraction rates. The EIS refers to the continuation of existing operations, which differs from discussion information.

**Resolution:** Draft condition has been imposed to ensure that the development is undertaken with the information in the EIS, with clear conditions proposed to provide clarity of the development parameters.

## 6. CONCLUSION

This development application has been considered in accordance with the requirements of the EP&A Act and the Regulations as outlined in this report. Following a thorough assessment of the relevant planning controls, issues raised in submissions and the key issues identified in this report, it is considered the application can be supported.

It is considered the key issues as outlined in Section 6 have been resolved satisfactorily through the recommended draft conditions at **Attachment A**.

## 7. RECOMMENDATION

That the Development Application DA No 10.201.33.1 for an Extractive Industry - Extension of area of existing sandpit and increase in extraction volume at 79 Rushy Road MOAMA be APPROVED pursuant to Section 4.16(1)(a) of the *Environmental Planning and Assessment Act 1979* subject to the draft conditions of consent attached to this report at Attachment A.

The following attachments are provided:

- Attachment A: Draft Conditions of consent