



Our reference: EF16/5546 DOC16/443083-01  
Contact: Chris Burton 02 6022 0609

The Interim General Manager  
Murray River Council  
PO Box 21  
MATHOURA NSW 2710

Attention: Chris O'Brien

Dear Ms Stork

**Re Development Application DA33/17 - Sand Mine Extension at Moama**

I refer to the development application and accompanying information received by the Environment Protection Authority (EPA) on 21 October 2016 for the extension of an existing sand mine and proposed increased rates of extraction at Lot 97 DP 75114079 Rushy Road, Moama.

We have reviewed the information provided, including a public submission, and has determined that it is able to issue a licence for the proposal, subject to a number of conditions. The applicant will need to make a separate application to EPA to obtain this licence.

The general terms of approval for this proposal are provided at Attachments A and B. If Murray River Council grants development consent for this proposal these conditions should be incorporated into the consent.

These general terms relate to the development as proposed in the documents and information currently provided to us. In the event that the development is modified either by the applicant prior to the granting of consent or as a result of the conditions proposed to be attached to the consent, it will be necessary to consult with us about the changes before the consent is issued. This will enable the EPA to determine whether its general terms need to be modified in light of the changes.

In assessing the proposal we have has also identified a number of environmental issues that Murray River Council may wish to consider in its overall assessment of the application. These issues are discussed at Attachment C and include the following.

1. Dust mitigation and control;
2. Noise management; and
3. Staged development.

If you have any further enquiries about this matter please contact Chris Burton by telephoning 02 6022 0609.

Yours sincerely

A handwritten signature in black ink, appearing to read 'B. Wild', with a stylized flourish at the end.

BRIAN WILD  
Head, Albury Unit  
Environment Protection Authority

*19 December 2016*

## **ATTACHMENT A**

### **Administrative and operating conditions**

#### **A1. Information supplied to the EPA**

A1.1 Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:

- the development application DA033/17 submitted to Murray River Council on 2 September 2016;
- any environmental impact statement Proposed Extension to Moama Sand Quarry Version 2 dated 26 July 2016 relating to the development; and
- all additional documents supplied to the EPA in relation to the development, including email dated 21 October 2016 outlining the revised extraction rate for the proposal.

#### **A2. Fit and Proper Person**

A2.1 The applicant must, in the opinion of the EPA, be a fit and proper person to hold a licence under the *Protection of the Environment Operations Act 1997*, having regard to the matters in s.83 of that Act.

### **Limit conditions**

#### **L1. Pollution of waters**

L1.1 Except as may be expressly provided by a licence under the *Protection of the Environment Operations Act 1997* in relation of the development, section 120 of the *Protection of the Environment Operations Act 1997* must be complied with in and in connection with the carrying out of the development.

#### **L5. Waste**

L5.1 The licensee must not cause, permit or allow any waste generated outside the premises to be received at the premises for storage, treatment, processing, reprocessing or disposal or any waste generated at the premises to be disposed of at the premises, except as expressly permitted by a licence under the *Protection of the Environment Operations Act 1997*.

L5.2 This condition only applies to the storage, treatment, processing, reprocessing or disposal of waste at the premises if it requires an environment protection licence under the *Protection of the Environment Operations Act 1997*.

#### **L6. Noise limits**

L6.1 Noise from the premises must not exceed an LAeq (15 minute) noise emission criterion of 45 dB(A) 7am to 6pm Monday to Friday and 8am to 1pm Saturday.

L6.2 Noise from the premises is to be measured at any sensitive receptor not associated with the development to determine compliance with this condition

### **Note: Noise measurement**

For the purpose of noise measures required for this condition, the LAeq noise level must be measured or computed at any sensitive receptor not associated with the development over a period of 15 minutes using “FAST” response on the sound level meter.

For the purpose of the noise criteria for this condition, 5dBA must be added to the measured level if the noise is substantially tonal or impulsive in character. The location or point of impact can be different for each development, for example, at the closest residential receiver or at the closest boundary of the development. Measurement locations can be:

- 1 metre from the facade of the residence for night time assessment;
- at the residential boundary;
- 30 metres from the residence (rural situations) where boundary is more than 30 metres from residence.

L6.3 The noise emission limits identified in L6.1 apply for prevailing meteorological conditions (winds up to 3m/s), except under conditions of temperature inversions. Noise impacts that may be enhanced by temperature inversions must be addressed by:

- documenting noise complaints received to identify any higher level of impacts or patterns of temperature inversions;
- where levels of noise complaints indicate a higher level of impact then actions to quantify and ameliorate any enhanced impacts under temperature inversions conditions should be developed and implemented.

### **Noise Management Plan**

L6.5 In the event of a verified noise complaint the proponent must prepare and implement a Noise Management Plan to the satisfaction of the EPA that covers all quarry extraction, processing and transport operations. The plan must include but need not be limited to the following.

- (a) Ongoing assessment of feasible and reasonable noise mitigation measures to achieve the noise limits in L6.1 at all times;
- (b) A system that allows for periodic assessment of Best Management Practice (BMP) and Best Available Technology Economically Achievable (BATEA) to minimise noise impacts over the life of the proposal;
- (c) Measures to monitor noise performance and respond to complaints;
- (d) Measures for community consultation including site contact details; and
- (e) Noise monitoring, and reporting procedures.

### **Road Traffic Noise**

L6.6 In the event of a verified noise complaint the proponent must prepare and implement a Traffic Noise Management Plan (TNMP), prior to commencement of operation activities, to ensure that feasible and reasonable noise management strategies for vehicle movements associated with the quarry are identified and applied, to include but not necessarily limited to the following.

- (a) driver training to ensure that noisy practices such as the use of compression engine brakes are not unnecessarily used near sensitive receivers;
- (b) best noise practice in the selection and maintenance of vehicle fleets;
- (c) movement scheduling where practicable to reduce impacts during sensitive times of the day (eg school bus times);

- (d) communication and management strategies for vehicles not owned and operated by the licensee to ensure the provisions of the TNMP are implemented;
- (e) a system of audited management practices that identifies non-conformances, initiates and monitors corrective and preventative action (including disciplinary action for breaches of noise minimization procedures) and assesses the implementation and improvement of the TNMP;
- (f) specific procedures for drivers for minimising road traffic noise impacts; and
- (g) clauses in conditions of employment, or in contracts, of drivers that require adherence to the noise minimisation procedures and facilitate effective implementation of the disciplinary actions for breaches of the procedures.

### **Noise Compliance Monitoring**

L6.7 In the event a of verified noise complaint noise compliance assessment shall be undertaken within three months of commencement of operations at the premises. The assessment shall be prepared by a suitably qualified and experienced acoustical practitioner and shall assess compliance with noise limits presented in L6.1.

### **Hours of operation**

L6.8 All construction work at the premises must only be conducted between 7am to 6pm, Monday to Friday and 8am to 1pm Saturday and at no time on Sunday or Public Holidays.

L6.9 Activities at the premises, other than construction work, may only be carried on between 7am to 6pm Monday to Friday and 8am to 1pm Saturday and at no time on Sunday or Public Holidays.

L6.10 This condition does not apply to the delivery of material outside the hours of operation permitted by condition L6.8 or L6.9, if that delivery is required by police or other authorities for safety reasons; and/or the operation or personnel or equipment are endangered. In such circumstances, prior notification is provided to the EPA and affected residents as soon as possible, or within a reasonable period in the case of emergency.

L6.11 The hours of operation specified in conditions L6.8 and L6.9 may be varied with written consent if the EPA is satisfied that the amenity of the residents in the locality will not be adversely affected.

### **Operating conditions**

#### **O2. Dust**

O2.1 Activities occurring at the premises must be carried out in a manner that will minimise emissions of dust from the premises.

O2.2 Trucks entering and leaving the premises that are carrying loads must be covered at all times, except during loading and unloading.

These may require dust control measures for traffic areas, open stockpiles, processing and loading areas, including ceasing dust generating activities during certain meteorological conditions.)

#### **O4. Stormwater/sediment control - Operation Phase**

O4.1 A Stormwater Management Scheme must be prepared for the development and must be implemented. Implementation of the Scheme must mitigate the impacts of stormwater run-off from and within the premises following the completion of construction activities. The Scheme should be consistent with the Stormwater Management Plan for the catchment. Where a Stormwater Management Plan has not

yet been prepared the Scheme should be consistent with the guidance contained in Managing Urban Stormwater: Council Handbook (available from the EPA).

## **O5. Emergency Response - Pollution Incident Response Management Plan**

O5.1 The licensee must prepare a pollution incident response management plan. In summary,

- The plan must include the information detailed in the *Protection of the Environment Operations Act 1997* (section 153C) and be in the form required by the Protection of the Environment Operations (General) Regulation 2009 (clause 98B);
- The licensee must keep the plan at the premises to which the environment protection licence relates or, in the case of trackable waste transporters and mobile plant, where the relevant activity takes place;
- Licensees must test the plan in accordance with the requirements of the *Protection of the Environment Operations (General) Regulation 2009*; and
- If a pollution incident occurs in the course of an activity so that material harm to the environment is caused or threatened, licensees must immediately implement the plan.

**Note:** The specific requirements for pollution incident response management plans are set out in Part 5.7A of the *Protection of the Environment Operations Act 1997* and relevant clauses of the *Protection of the Environment Operations (General) Regulation 2009*.

## **Monitoring and recording conditions**

### **M1 Monitoring records**

M1.1 The results of any monitoring required to be conducted by the EPA's general terms of approval, or a licence under the *Protection of the Environment Operations Act 1997*, in relation to the development or in order to comply with the load calculation protocol must be recorded and retained as set out in conditions M1.2 and M1.3.

M1.2 All records required to be kept by the licence must be:

- in a legible form, or in a form that can readily be reduced to a legible form;
- kept for at least 4 years after the monitoring or event to which they relate took place; and produced in a legible form to any authorised officer of the EPA who asks to see them.

M1.3 The following records must be kept in respect of any samples required to be collected: the date(s) on which the sample was taken;

- the time(s) at which the sample was collected;
- the point at which the sample was taken; and
- the name of the person who collected the sample.

## **Reporting conditions**

R1.1 The applicant must provide an annual return to the EPA in relation to the development as required by any licence under the *Protection of the Environment Operations Act 1997* in relation to the development. In the return the applicant must report on the annual monitoring undertaken (where the activity results in pollutant discharges), provide a summary of complaints relating to the development, report on compliance with licence conditions and provide a calculation of licence fees (administrative fees and, where relevant, load based fees) that are payable. If load based fees apply to the activity the applicant will be required to submit load-based fee calculation worksheets with the return.

## **General Conditions**

### **G1. Community liaison**

G1.1 In the event of verified noise or dust complaints the applicant must establish a community environment liaison committee, comprising representatives of the community and the applicant that will meet at least annually. Discussion at the meetings must include implementation of the development consent and other statutory approvals, and provide adequate time for the community to raise matters of concern associated with the environmental impact of the development, with a view to achieving mutually satisfactory solutions.

## **ATTACHMENT B**

### **Mandatory Conditions for all EPA licences**

#### **Activities must be carried out in a competent manner**

Licensed activities must be carried out in a competent manner. This includes:

- a) the processing, handling, movement and storage of materials and substances used to carry out the activity; and
- b) the treatment, storage, processing, reprocessing, transport and disposal of waste generated by the activity.

#### **Maintenance of plant and equipment**

All plant and equipment installed at the premises or used in connection with the licensed activity:

- a) must be maintained in a proper and efficient condition; and
- b) must be operated in a proper and efficient manner.

### **Monitoring and recording conditions**

#### **Recording of pollution complaints**

The licensee must keep a legible record of all complaints made to the licensee or any employee or agent of the licensee in relation to pollution arising from any activity to which this licence applies.

The record must include details of the following:

- the date and time of the complaint;
- the method by which the complaint was made;
- any personal details of the complainant which were provided by the complainant or, if no such details were provided, a note to that effect;
- the nature of the complaint;
- the action taken by the licensee in relation to the complaint, including any follow-up contact with the complainant; and
- if no action was taken by the licensee, the reasons why no action was taken.

The record of a complaint must be kept for at least 4 years after the complaint was made. The record must be produced to any authorised officer of the EPA who asks to see them.

#### **Telephone complaints line**

The licensee must operate during its operating hours a telephone complaints line for the purpose of receiving any complaints from members of the public in relation to activities conducted at the premises or by the vehicle or mobile plant, unless otherwise specified in the licence.

The licensee must notify the public of the complaints line telephone number and the fact that it is a complaints line so that the impacted community knows how to make a complaint.

This condition does not apply until 3 months after this condition takes effect.



## **Reporting conditions**

### **Annual Return documents**

What documents must an Annual Return contain?

The licensee must complete and supply to the EPA an Annual Return in the approved form comprising:

- Statement of Compliance; and
- Monitoring and Complaints Summary.

A copy of the form in which the Annual Return must be supplied to the EPA accompanies this licence. Before the end of each reporting period, the EPA will provide to the licensee a copy of the form that must be completed and returned to the EPA.

### **Period covered by Annual Return**

An Annual Return must be prepared in respect of each reporting, except as provided below

**Note:** The term “reporting period” is defined in the dictionary at the end of this licence. Do not complete the Annual Return until after the end of the reporting period.

Where this licence is transferred from the licensee to a new licensee,

- the transferring licensee must prepare an annual return for the period commencing on the first day of the reporting period and ending on the date the application for the transfer of the licence to the new licensee is granted; and
- the new licensee must prepare an annual return for the period commencing on the date the application for the transfer of the licence is granted and ending on the last day of the reporting period.

**Note:** An application to transfer a licence must be made in the approved form for this purpose.

Where this licence is surrendered by the licensee or revoked by the EPA or Minister, the licensee must prepare an annual return in respect of the period commencing on the first day of the reporting period and ending on:

- a) in relation to the surrender of a licence - the date when notice in writing of approval of the surrender is given; or
- b) in relation to the revocation of the licence – the date from which notice revoking the licence operates.

### **Deadline for Annual Return**

The Annual Return for the reporting period must be supplied to the EPA by registered post not later than 60 days after the end of each reporting period or in the case of a transferring licence not later than 60 days after the date the transfer was granted (the ‘due date’).

### **Notification where actual load cannot be calculated**

Where the licensee is unable to complete a part of the Annual Return by the due date because the licensee was unable to calculate the actual load of a pollutant due to circumstances beyond the licensee’s control, the licensee must notify the EPA in writing as soon as practicable, and in any event not later than the due date.

The notification must specify:

- a) the assessable pollutants for which the actual load could not be calculated; and
- b) the relevant circumstances that were beyond the control of the licensee.

### **Licensee must retain copy of Annual Return**

The licensee must retain a copy of the annual return supplied to the EPA for a period of at least 4 years after the annual return was due to be supplied to the EPA.

### **Certifying of Statement of Compliance and Signing of Monitoring and Complaints Summary**

Within the Annual Return, the Statement of Compliance must be certified and the Monitoring and Complaints Summary must be signed by the licence holder; or by a person approved in writing by the EPA to sign on behalf of the licence holder.

A person who has been given written approval to certify a Statement of Compliance under a licence issued under the *Pollution Control Act 1970* is taken to be approved for the purpose of this condition until the date of first review this licence.

### **Notification of environmental harm**

Note: The licensee or its employees must notify the EPA of incidents causing or threatening material harm to the environment immediately after the person becomes aware of the incident in accordance with the requirements of Part 5.7 of the Act

Notifications must be made by telephoning the EPA's Pollution Line service on 131 555.

The licensee must provide written details of the notification to the EPA within 7 days of the date on which the incident occurred.

### **Written report**

Where an authorised officer of the EPA suspects on reasonable grounds that:

- a) where this licence applies to premises, an event has occurred at the premises; or
- b) where this licence applies to vehicles or mobile plant, an event has occurred in connection with the carrying out of the activities authorised by this licence,

and the event has caused, is causing or is likely to cause material harm to the environment (whether the harm occurs on or off premises to which the licence applies), the authorised officer may request a written report of the event.

The licensee must make all reasonable inquiries in relation to the event and supply the report to the EPA within such time as may be specified in the request.

The request may require a report which includes any or all of the following information:

- a) the cause, time and duration of the event;
- b) the type, volume and concentration of every pollutant discharged as a result of the event;
- c) the name, address and business hours telephone number of employees or agents of the licensee, or a specified class of them, who witnessed the event; and

- d) the name, address and business hours telephone number of every other person (of whom the licensee is aware) who witnessed the event, unless the licensee has been unable to obtain that information after making reasonable effort;
- e) action taken by the licensee in relation to the event, including any follow-up contact with any complainants;
- f) details of any measure taken or proposed to be taken to prevent or mitigate against a recurrence of such an event;
- g) any other relevant matters.

The EPA may make a written request for further details in relation to any of the above matters if it is not satisfied with the report provided by the licensee. The licensee must provide such further details to the EPA within the time specified in the request.

### **General conditions**

#### **Copy of licence kept at the premises or on the vehicle or mobile plant**

A copy of this licence must be kept at the premises or on the vehicle or mobile plant to which the licence applies. The licence must be produced to any authorised officer of the EPA who asks to see it.

The licence must be available for inspection by any employee or agent of the licensee working at the premises or operating the vehicle or mobile plant.

## **ATTACHMENT C**

### **Noise**

Noise from the activity has not been assessed in accordance with the NSW Industrial Noise Policy. There has been no assessment or prediction of the project specific noise criteria for the project. The EPA has considered the location of the activity and the separation distance to sensitive receptors in its assessment. Whilst there appears to be sufficient separation to sensitive receptors, the proponent will need to adopt low noise generating equipment to ensure compliance with the noise limit for activity. The hours of operation have been limited to between 7 am and 6 pm Monday to Friday and 8 am to 1 pm Saturday with no work permitted on a Sunday or public holidays to minimise noise impacts from the activity.

### **Dust**

The assessment of dust generation from the activities at the premises has not been undertaken in accordance with the assessment guidelines. Prior to commencing operations, details of how dust emissions will be controlled must be provided to the EPA. Given the number of truck movements and the proposal to dry screen this may require additional mitigation measures such as water application to screening plant and unsealed roads, reduced speed limits on access roads and other management options to ensure dust emissions are minimised and not cause off-site impacts.

### **Staged development**

The EPA recommends that Council give consideration to staged development approval for the project to ensure that noise and dust limits can be achieved. Staged development will also ensure that progressive rehabilitation is achieved and that exposed areas that generate dust are addressed prior to moving to the next stage.

### **Annual report certifying extraction limits and area**

An annual report should be provided to Council outlining the quantities of material extracted and detailing the area that has been disturbed.