

COUNCIL ASSESSMENT REPORT

Panel Reference	PPS-2017STH035
DA Number	10.2017.35776.1
LGA	Albury City
Proposed Development	Extractive Industry and crushing of recycled concrete
Street Address	208 Winchester Lane Table Top NSW 2640
Applicant/Owner	AP Delany and Co c/- Habitat Planning
Date of DA lodgement	21 November 2017
Number of Submissions	Nil
Recommendation	Approval subject to conditions
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Extractive Industry (a <i>particular designated development</i> listed in Schedule 7)
List of all relevant s4.15(1)(a) matters	Any EPIs - Environmental Planning & Assessment Act 1979; - Protection of Environment Operations Act 1997; - Biodiversity Conservation Act 2016; - Mining Act 1992; - Albury Local Environmental Plan 2010 (Albury LEP 2010); - Albury Development Control Plan 2010 (Albury DCP 2010); Section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4 - Nil Coastal Zone Management Plan - N/A Relevant regulations e.g. Regs 92, 93, 94, 94A, 288 - Environmental Planning and Assessment Regulation 2000 - Protection of the Environment Operations (General) Regulation 2009; - Protection of the Environment Operations (Noise Control) Regulation 2017; - Protection of the Environment Operations (Waste) Regulation 2014; - Protection of the Environment Operations (Clean Air) Regulation 2010; - Mining Regulation 2016; State Environmental Planning Policies - State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007; - State Environmental Planning Policy (Rural Lands) 2008; - State Environmental Planning Policy (Infrastructure) 2007; - State Environmental Planning Policy (State and Regional Development) 2011; - State Environmental Planning Policy No. 33 – Hazardous and Offensive Development; - State Environmental Planning Policy No. 44 – Koala Habitat Protection; and - State Environmental Planning Policy No. 55 – Remediation of Land. Other - Commonwealth legislation: - Environment Protection and Biodiversity Conservation Act 1999; and - Native Title Act 1993.
List all documents submitted with this report for the Panel's consideration	DA Form (Amended April 2019) Cover Letter and Environmental Impact Statement (EIS) August 2019 Main Document Amended Development Plans August 2019 EIS Appendices/Specialist Reports: - Aboriginal Cultural Heritage Assessment Report (Amended March 2020) and cover letter March 2020 - Quarry Closure and Rehabilitation Plan (Amended August 2019) - Product Materials Testing Results - Groundwater Monitoring Results – Biosolid Waste (2001) - Wastewater Management Plan (Aust Newsprint Mills July 1995)

	- Hydrogeological Assessment and Borelogs (Aust Newsprint Mills 1993) - EPBC Referral and Response (March 2019) - Pink-tailed Worm Lizard Assessment - Biodiversity and Vegetation Management Plan - Air Quality Assessment - Noise Impact Assessment - Traffic Impact Assessment - EPA Licence - Previous Approvals Secretary's Environmental Impact Assessment Requirements (SEARs) - Department of Planning Advice regarding continued application of 2016 SEARs (July 2018) - SEARs Dated 5 September 2016 Referral Responses (April 2019 EIS and Amended EIS August 2019) - Biodiversity Conservation Division (Department of Planning, Infrastructure and Environment) - Rural Fire Service - Environment Protection Authority - Crown Lands - Roads and Maritime - NSW Department of Planning: Resources and Geosciences - Transgrid
Clause 4.6 requests	Nil
Summary of key submissions	No public submissions.
Report prepared by	Terri O'Brien, Senior Planner Albury City Council
Report date	26 June 2020

Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarised in the Executive Summary of the assessment report? **Yes**

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report? **Yes**
e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report? **Not Applicable**

Special Infrastructure Contributions

Does the DA require Special Infrastructure Contributions conditions (S7.24)? **Not Applicable**
Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions

Conditions

Have draft conditions been provided to the applicant for comment? **Yes**
Note: in order to reduce delays in determinations, the Panel prefer that draft conditions, notwithstanding Council's recommendation, be provided to the applicant to enable any comments to be considered as part of the assessment report

Report to Southern Region Planning Panel

DA10.2017.35776.1 (RPP Ref: PPS-2017STH035)

Extractive Industry and Crushing of Recycled Concrete at 208 Winchester Lane Table Top NSW

Executive Summary

Development Application (DA) 10.2017.35776.1 seeks approval for an *Extractive Industry* ('Rockwood Quarry') and *crushing of recycled concrete* at Lot 2 in Deposited Plan (DP) 1018401 and Lot 3 in DP 233061, 208 Winchester Lane, Table Top.

The development application seeks consent for quarrying activities to enable extraction of up to 100,000 cubic metres of material annually and the recycling of up to 20,000 tonnes of concrete waste annually for a period of 30 years.

The development is *Regionally Significant Development* under Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 and is also *designated development* under Clause 19 of Schedule 3 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)

The site is zoned part E3 *Environmental Management* and part RU2 *Rural Landscape* under Albury Local Environmental Plan 2010 (Albury LEP 2010). An extractive industry is permissible with consent in the RU2 zone, but is prohibited in the E3 zone. Clause 2.5 and Item 15 of Schedule 1 (Additional Permitted Uses) of Albury LEP 2010 permit the use of the site for an *extractive industry*, with consent, notwithstanding the provisions of the Land Use Table of the applicable zones. Crushing of recycled concrete is defined as a *resource recovery facility* (a type of *waste or resource management facility*) and is permissible in the RU2 *Rural Landscape* zoned land upon which it is located. On this basis, the development as described and assessed in the EIS is permissible with consent on this site.

The quarry is known locally as "Rockwood Quarry" and "Delaney's Quarry" and has been used for in excess of 40 years for the extraction of decomposed hill granite ("buckshot") and hard granite rock, which is broken down and crushed for use in road construction and on building construction sites.

The site has frontage and access to Winchester Lane, with a small portion of the site also having frontage to Gerogery Road. Access is predominantly derived from Winchester Lane, although some vehicular movements are provided along an unsealed access road to Pit 1 through the adjacent Crown Lands Reserve Trust land (Travelling Stock Route) adjoining the eastern boundary of the site.

Vegetation on the site comprises some scattered trees, but also some notable areas of Grassy Box Gum woodland, generally located within the E3 zoned areas of the site.

Improvements on the site include unsealed access and circulation roads, settlement ponds, stockpiles of extracted material and concrete construction waste (for recycling), dams, sheds, screening and separation machinery and staff amenities. Moveable equipment primarily comprises trucks, rock breaking plant, earthmoving and excavation vehicles and smaller screening equipment.

The application has been publicly notified in accordance with the EP&A Regulations 2000 and AlburyCity Council's adopted Public Notification Policy (Part 3 and Appendix B of Albury Development Control Plan 2010 (Albury DCP 2010)). The original EIS was publicly notified between 23 November 2017 and 22 January 2018 (extended notification period to account for Christmas and New Year break). No submissions were received.

Following receipt of the updated EIS in April 2019, the development application was publicly exhibited between 11 April 2019 and 24 May 2019. No submissions were received.

The application was referred to relevant state government agencies for assessment and comment. The revised EIS lodged in April 2019 was again referred to relevant agencies for the assessment, concurrence and conditions if required. A summary of the responses received from the relevant agencies is provided at Section 7 of this report. Further information was received in March 2020 and referred to BCD for assessment. BCD have now advised Council of their conditions of consent for the development.

This report considers the information submitted, potential environmental impacts, compliance with state and local planning policies, and requirements and considerations arising from the referral responses received from relevant state agencies.

Assessment of the application under Section 4.15 of the Environmental Planning and Assessment Act 1979 has included the relevant provisions of:

- Environmental Planning & Assessment Act 1979;
- Protection of Environment Operations Act 1997;
- Biodiversity Conservation Act 2016;
- Mining Act 1992;
- Albury Local Environmental Plan 2010 (Albury LEP 2010);
- Albury Development Control Plan 2010 (Albury DCP 2010);
- Environmental Planning and Assessment Regulation 2000
- Protection of the Environment Operations (General) Regulation 2009;
- Protection of the Environment Operations (Noise Control) Regulation 2017;
- Protection of the Environment Operations (Waste) Regulation 2014;
- Protection of the Environment Operations (Clean Air) Regulation 2010;
- Mining Regulation 2016;
- State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007;
- State Environmental Planning Policy (Rural Lands) 2008;
- State Environmental Planning Policy (Infrastructure) 2007;
- State Environmental Planning Policy (State and Regional Development) 2011;
- State Environmental Planning Policy No. 33 – Hazardous and Offensive Development;
- State Environmental Planning Policy No. 44 – Koala Habitat Protection; and
- State Environmental Planning Policy No. 55 – Remediation of Land.
- Commonwealth legislation:
 - Environment Protection and Biodiversity Conservation Act 1999; and
 - Native Title Act 1993.

The assessment concludes that the development is supportable and can be approved subject to conditions.

Granting conditional consent to the proposed development is appropriate for the following reasons:

- The development proposes to extract a valuable resource in a location proximate to its market, reducing transport distances and improving sustainability.
- The activity provides employment and economic benefit to the local area and the regional economy.
- The development proposes to offset vegetation loss and establish enhanced environmental areas and connections in the area.
- The development provides the opportunity to update site management and rehabilitation requirements to conform with current legislative requirements and current industry best practice.

- Assessment of the development under the relevant provisions of the applicable Commonwealth legislation, the Environmental Planning and Assessment Act 1979 and Regulations, other relevant NSW Legislation and Regulations, State Environmental Planning Policies, Albury Local Environmental Plan 2010 and Albury Development Control Plan 2010 concludes that the development will not have significant impacts upon surrounding land uses and residents, nor upon the environment.

1. Purpose of Report

Development Application (DA) 10.2017.35776.1 seeks approval for an *Extractive Industry* ('Rockwood Quarry') and *crushing of recycled concrete* at Lot 2 in Deposited Plan (DP) 1018401 and Lot 3 in DP 233061, 208 Winchester Lane, Table Top. The development is *Regionally Significant Development* under Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 and is also *designated development* under Clause 19 of Schedule 3 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation)

Development Application 10.2017.35776.1 (RPP Ref: PPS-2017STH035) is therefore referred to the Southern Regional Planning Panel pursuant to s2.19(1)(c) of the Environmental Planning and Assessment Act 1979 (EP&A Act) for determination.

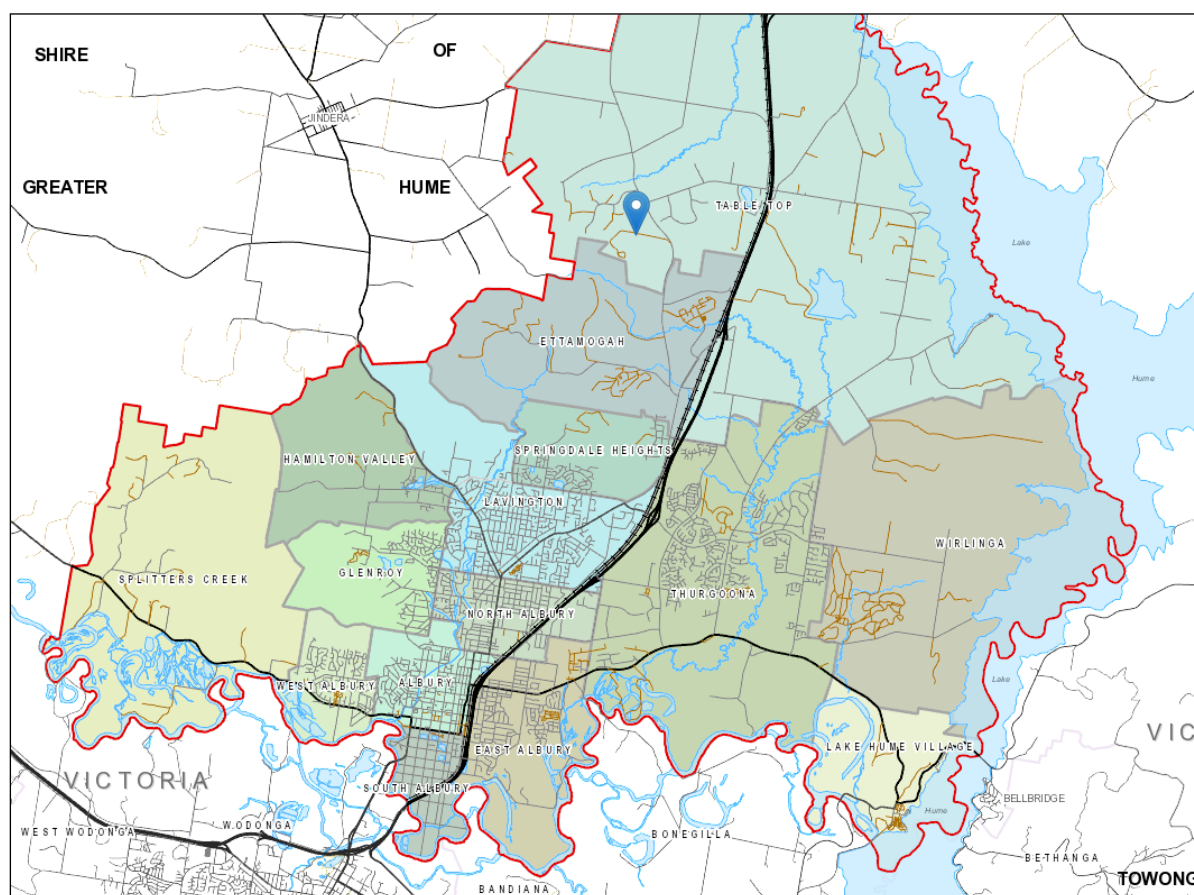


Figure 1: Location of Rockwood Quarry in Albury City

2. Introduction

Development Application No. 10.2017.35776.1 was lodged by Habitat Planning, on behalf of AP Delaney and Co, on 21 November 2017. The application as lodged in 2017 was not complete and a revised Environmental Impact Statement (EIS) was required. A revised EIS was provided in April 2019, however further amendment to

the EIS was required by the Biodiversity and Conservation Division (BCD) of the Department of Planning, Industry and Environment (formerly known as NSW Office of Environment and Heritage (OEH)).

The latest version of the EIS was submitted in August 2019 and is subject of this report to the Regional Planning Panel.

The development proposes the operation of an *Extractive Industry and crushing of recycled concrete*, incorporating the following:

- **Approval for an extractive industry within existing Pits 1 and 3 for a 30-year period**, inclusive of the following works:
 - site preparation works (including identification of in-situ materials and removal and stockpiling of topsoil, ground litter and vegetation);
 - periodic blasting of in-situ material ready for excavation;
 - excavation of materials utilising a variety of machinery and equipment such as front-end loaders, excavators, graders and the like;
 - processing and screening of materials;
 - stockpiling of materials on-site ready for transport;
 - transport and haulage of materials off-site via Winchester Lane; and
 - rehabilitation and revegetation work to ensure a self-sustaining environment when the operation of the quarry is fully completed.
- **Approval for a maximum annual extraction of crushed rock of 100,000 cubic metres** per annum to cater for the long-term needs of the quarry (Note: the prior development consent applicable to the quarry granted approval for 75,000 cubic metres);
- **Expansion of Pit 3 in a north easterly direction (12.67 hectares)** consistent with a previous approval issued for the site;
- **Crushing and recycling of an annual maximum of 20,000 tonnes of solid concrete waste** from residential, industrial and commercial sites (Pit 3 only);
- **Earth embankment/reshaping works along Gerogery Road** to improve current sight lines for vehicles exiting Winchester Lane;
- **Removal of 19 trees** with the proposed Pit 3 area,
- **Removal of 1.25 hectares of vegetation** that meets the listing criteria as the **Box Gum Woodlands threatened ecological community** and **2.4 hectares of native vegetation (grasslands)** zoned E3 Environmental Management within the proposed Pit 3 area;
- **Removal and/or pruning of several trees within the adjoining Gerogery Road**, road reserve (by the relevant road authority), which are currently obscuring views from this **intersection**; and
- **Rehabilitation, revegetation and maintenance of RU2 Rural Landscape zoned land** in accordance with the requirements of a Vegetation Management Plan to ensure that the proposed activities will not have an overall adverse environmental impact.

The development proposed is defined as an *Extractive Industry and resource recovery facility* (crushing of recycled concrete) which is a type of *waste or resource management facility*. The development is *designated development* under the provisions of Schedule 3 of the Environmental Planning and Regulation 2000 (EP&A Regulation).

The development is defined as *Regionally significant development* which must be determined by a Regional Planning Panel (RPP) under Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 (State and Regional Development SEPP).

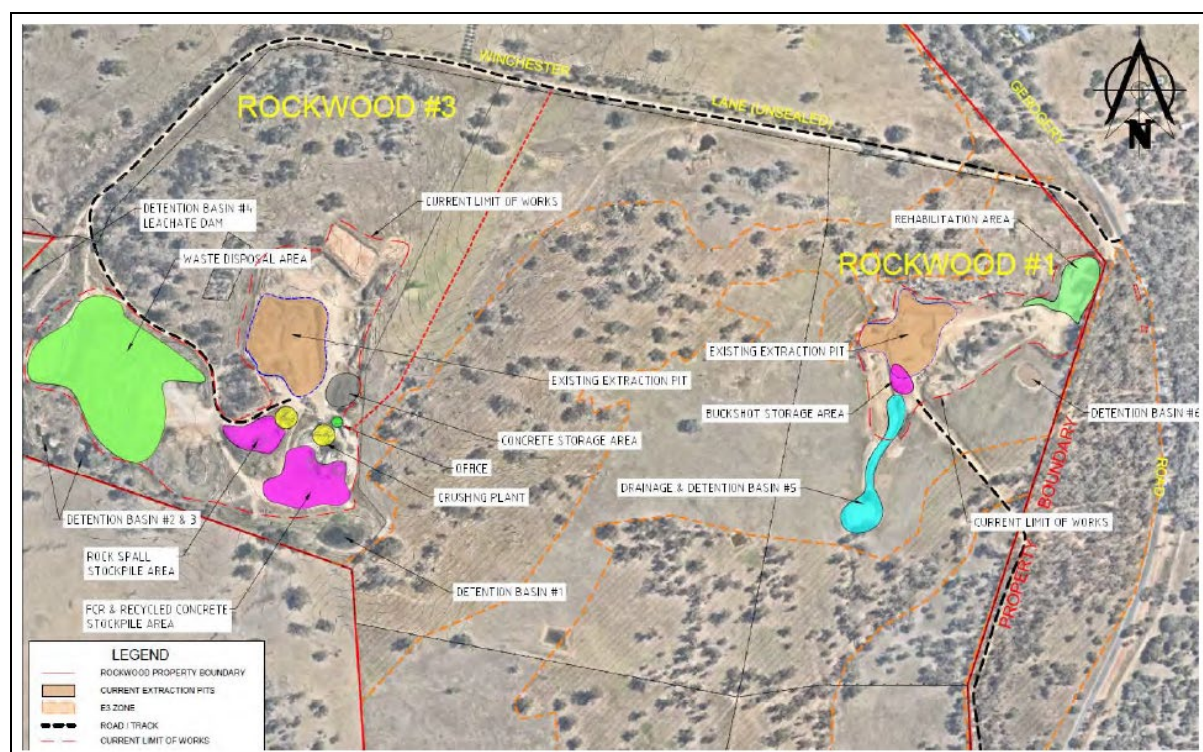


Figure 2: Existing and proposed site layout

2.1 Further approvals

As an Environment Protection Licence from NSW Environment Protection Authority (EPA) is required, the development is also defined as *integrated development* under Section 4.46 of the *Environmental Planning & Assessment (EP&A) Act 1979*.

2.2 Permissibility of development

The site is zoned part E3 *Environmental Management* and part RU2 *Rural Landscape* under Albury Local Environmental Plan 2010 (Albury LEP 2010). An extractive industry is permissible with consent in the RU2 zone, but is prohibited in the E3 zone. Clause 2.5 and Item 15 of Schedule 1 (Additional Permitted Uses) of Albury LEP 2010 permit the use of the site for an *extractive industry*, with consent, notwithstanding the provisions of the Land Use Table of the applicable zones. Crushing of recycled concrete is defined as a *resource recovery facility* (a type of *waste or resource management facility*) and is permissible in the RU2 *Rural Landscape* zoned land upon which it is located.

On this basis, the development as described and assessed in the EIS is permissible with consent on this site.

2.3 Other activities on the site

At the time of lodgement of the application in November 2017, the site was also used for the disposal of waste materials from the de-inking and wastewater treatments plants at the nearby Norske Skog Paper Mill under Development Consent No. 147/92 issued by the Minister for Planning in May 1992 (as Modified in October 1992).

The transport and disposal of this waste material was approved by a separate Development Consent and a separate EPA Licence and a Resource Recovery Order (RRO) and Exemption obtained by Norske Skog from the EPA. The disposal of this waste on-site was part of the rehabilitation of an exhausted quarry pit via both the filling and reshaping of land and its application on soils. The approval for the disposal of bio-solid waste on-site was open ended, but included the following condition:

Landfill Disposal:

11.2 *The applicant's disposal of solid waste to Delaney's Quarry landfill site shall be modified in the following manner:*

- (a) The applicant shall equip the landfill site with cutoff drains to divert rain water run-off from the landfill working area and a drainage system to collect run-off from the landfill site and divert it to a holding pond system. Water from this system shall be irrigated onto land on the landfill site.*
- (b) The applicant shall progressively rehabilitate the site and shall within one year of cessation of solid waste disposal at a landfill site restore that site, to the satisfaction of the Hume Shire Council by covering it with topsoil and planting of grass and trees.***
- (c) The applicant shall install appropriate equipment for the implementation of the monitoring program in Condition 18.*

In October 2019, Norske Skog sold the Paper Mill site to Visy Industries, with newsprint production ceasing in December 2019.

The new owners have not announced their plans for use of the Paper Mill, however the activities at the Paper Mill approved by Development Consent No. 147/92 have ceased and it is unlikely that the same processes will be undertaken by the new owners. Consequently, disposal of this material at the site is unlikely to continue and any requirements for rehabilitation or further treatment of that waste under the previously issued consent will need to be implemented by the new owner of the Mill site, in conjunction with the quarry operator.

3. Site description and locality

The subject site is legally described as Lot 2 in Deposited Plan (DP) 1018401 and Lot 3 in DP 233061 and is addressed as No 208 Winchester Lane, Table Top. The subject site has an area of approximately 190 hectares.

The quarry is known locally as "Rockwood Quarry" and "Delaney's Quarry" and has been used for in excess of 40 years for the extraction of decomposed hill granite ("buckshot") and hard granite rock, which is broken down and crushed for use in road construction and on building construction sites.

The site is located:

- approximately 12 kilometres to the north east of the Albury CBD;
- 6km to the north west of the Thurgoona Drive interchange of the Hume Freeway; and
- approximately 4km from the nearest urban residential development.

To the north west, north and north east of the site, the locality is characterised by rural lifestyle development. To the west, the landform is similar to the subject site and contains other, unrelated, quarrying activities. To the immediate south and south east, the locality comprises industrial development, including the former Norske Skog Paper Mill, Overall Forge, Nexus Industrial Estate and the Ettamogah Rail Hub.

The site has frontage and access to Winchester Lane, with a small portion of the site also having frontage to Gerogery Road. Access is predominantly derived from Winchester Lane, although some vehicular movements are provided along an unsealed access road to Pit 1 through the adjacent Crown Lands Reserve Trust land (Travelling Stock Route) adjoining the eastern boundary of the site.

The topography of the site varies from relatively consistent slopes in the south east of the site to steep rocky ridges located to the north west and north east of the site, which contain the majority of the material to be extracted from the site.

Natural drainage lines transect the eastern and south eastern portions of the site, with no water courses being located in the area proposed for extraction in the north and north eastern portions of the site.

Vegetation on the site comprises some scattered trees, but also some notable areas of Grassy Box Gum woodland, generally located within the E3 zoned areas of the site.

Improvements on the site include unsealed access and circulation roads, settlement ponds, stockpiles of extracted material and concrete construction waste (for recycling), dams, sheds, screening and separation machinery and staff amenities. Moveable equipment primarily comprises trucks, rock breaking plant, earthmoving and excavation vehicles and smaller screening equipment.

4. Background

A quarry has operated on the site since the 1960s and was more recently operated a conditional consent issued by Hume Shire Council in 1995 (as amended) with the last amendment to that consent being approved by AlburyCity in September 2018. The 1995 consent provided for a 20-year life and extraction of up to 75,000 cubic metres of material per annum. The consent period was extended by Modifications to the consent to enable the preparation of this new DA and associated documents. However, the consent expired in September 2019 and the quarry has not been operational since that time. The current application seeks to operate a quarry and associated activities at the site, under a new consent.

4.1 Original EIS November 2017

The application as lodged was assessed by Council and referred to the following agencies for consideration and concurrence

- Department of Primary Industries - Water (DPI)
- NSW Rural Fire Service (RFS)
- Department of Industry - Lands (Crown Lands)
- Murray Local Land Services
- Department of Planning (Major Assessments/Regional Office)
- Water NSW
- Department of Planning (Land Use Assessment Resources and Geoscience)
- Office of Environment and Heritage (OEH)
- Roads & Maritime Services (RMS) and
- Environment Protection Authority (EPA).

The 2017 EIS was considered by Council staff and relevant referral agencies to not adequately address the Secretary's Environmental Assessment Requirements (SEARs) issued by Secretary of the Department of Planning and to not adequately consider the potential impacts of the development over the life span of the

quarry as proposed at that time (40 years). The application, as originally lodged, proposed a longer life span than that identified in the SEARs, with extraction of up to 75,000 cubic metres of material per annum.

During the first consultation period with relevant state agencies in 2017, the EPA advised that they were invoking the “Stop the Clock” provisions of the EP&A Act, owing to the lack of adequate information to enable them to complete their assessment. The Department of Planning (Land Use Assessment Resources and Geoscience) also raised concerns with the adequacy of the information provided and compliance with the SEARs. NSW Roads and Maritime identified that additional roadworks at the intersection of Gerogery Road and Winchester Lane would be required to provide for safer traffic management, access and egress.

The original EIS was publicly notified between 23 November 2017 and 22 January 2018 (extended notification period to account for Christmas and New Year break). No submissions were received.

Given the inadequacy of the EIS, the applicant was requested on 13 March 2018 to lodge a fully revised EIS to address the concerns raised and to ensure that the SEARs were addressed.

It was also noted that the SEARs (issued September 2016) related to a proposal to continue an existing quarry for a 20-year period and to extract 75,000 cubic metres of material per annum, which the applicant subsequently proposed to increase to 100,000 cubic metres per annum.

Following Council’s assessment of the application, the applicant was advised that the DA needed to be prepared for approval of a new quarry, not a continuation of the existing quarry. As the applicant sought a 40-year life for the quarry, they were advised to seek clarification from the Department of Planning whether new SEARs would be required, given the differences in the time period sought to that referred to in the SEARs and the increase in annual extraction above that referenced in the SEARs.

The Department of Planning advised on 16 March 2018 that the SEARs issued in September 2016 could continue to be relied upon by the applicant for this development, provided that the application related to a shorter operational period of 30 years and a maximum of 100,000 cubic metres of material extracted per annum over that operational period.

On the basis of this advice from the Department of Planning, the applicant prepared revised documents based on a shorter operational life span for the quarry (30 years) but with increased maximum extraction (100,000 cubic metres per annum). This is the development now being reported to the RPP. At the expiration of the 30 years, further approval will be required.

4.2 Revised EIS April 2019

A fully revised EIS (including supporting specialist reports) was lodged on 10 April 2019 and the development application was again publicly exhibited between 11 April 2019 and 24 May 2019. No submissions were received in response to the notification of the revised EIS.

However, as a result of the assessment of the April 2019 EIS, further information was requested by BCD including correction of a potentially erroneously mapped item of Aboriginal Cultural Heritage. BCD also requested further discussion to be included in the EIS regarding biodiversity conservation. It is noted, however, that the *Biodiversity Conservation Act* 2016 does not apply to this development as that Act came into effect after the lodgement of the application). Notwithstanding, the applicant has provided further commentary in the

additional information provided to BCD in respect of the achievement of the objectives of that Act by the proposed development.

Following initial assessment of the April 2019 EIS, Council requested an updated and revised Quarry Closure and Rehabilitation Plan (QCRP), as the submitted Plan was not considered to adequately address the final rehabilitation of the site or the progressive rehabilitation of worked areas as they are exhausted of materials.

4.3 Updated EIS August 2019

An updated EIS was lodged with Council on 26 August 2019 (refer to Attachment 1 to this report) and included a revised Quarry Closure and Rehabilitation Plan (QCRP), amended plans and an updated Aboriginal Cultural Heritage Assessment Report (ACHAR).

The Development Application is supported by a large volume of documentation, including the following plans and reports relevant to a Development Application for *Designated Development*:

- Environmental Impact Statement (EIS) submitted in August 2019, including supporting reports and information, comprising:
 - Secretary's Environmental Assessment Requirements (SEARs) dated 5 September 2016 and correspondence received from the NSW Department of Planning & Environment;
 - Proposed Plans (updated August 2019);
 - Copy of Previously Approved Development Consents;
 - Environment Protection Licence No. 10069 – "Rockwood" Winchester Lane, Table Top;
 - Aboriginal Cultural Heritage Assessment Reports, Biosis (updated August 2019);
 - Traffic Impact Assessment, Peter Meredith Consulting;
 - Noise Impact Assessment, Ray Walsh Acoustics, Noise and Sound;
 - Air Quality Impact Assessment, GHD;
 - Biodiversity Assessment and Vegetation Management Plan, Biosis;
 - Survey & Habitat Assessment for Pink-tailed Worm-lizard, Eco-tone Wildlife & Habitat Assessments;
 - EPBC Referral and Approval;
 - Quarry Closure and Rehabilitation Plan (updated August 2019);
 - Hydro-geological Assessment & Borehole Logs, GHD;
 - Australian Newsprint Mills Waste Water Management Plan, NSW Land and Water Conservation;
 - Groundwater Monitoring Results – Biosolid Waste; Nolan-ITU;
 - Product Material Testing Results; and
 - Copy of Neighbour Notification Letter and Responses to Community Consultation.
- Cost Summary Report prepared by Habitat Planning.

Following assessment of this updated EIS, BCD again requested further information in regard to Aboriginal Cultural Heritage on the site and in the locality. That information was submitted by the applicant on 25 March 2020 and supersedes the information previously attached to the August 2019 EIS. General consent conditions were received from BCD on 21 April 2020.

4.4 Council submission on the application

Councillors considered a report at their meeting of 11 November 2019 to determine if they wished to make a submission on the application to the RPP. Council resolved at that meeting **not** to make a separate submission.

5. Consultation

The application has been publicly notified in accordance with the EP&A Regulations 2000 and AlburyCity Council's adopted Public Notification Policy (Part 3 and Appendix B of Albury Development Control Plan 2010 (Albury DCP 2010)). The original EIS was publicly notified between 23 November 2017 and 22 January 2018 (extended notification period to account for Christmas and New Year break). No submissions were received.

Following receipt of the updated EIS in April 2019, the development application was publicly exhibited between 11 April 2019 and 24 May 2019. No submissions were received.

The EIS, as updated in August 2019, has not been further notified as the amendments were technical, rather than substantive, in nature. The further information received in response to the request from BCD has not been publicly notified, owing to the information contained within relating to the location of sites of indigenous cultural heritage.

The application was referred to relevant state government agencies for assessment and comment. The revised EIS lodged in April 2019 was again referred to relevant agencies for the assessment, concurrence and conditions if required. A summary of the responses received from the relevant agencies is provided at Section 7 of this report.

As part of the consultation, BCD requested the applicant to provide more detailed mapping of an aboriginal cultural heritage item (possible scar tree) and provide further commentary relating to biodiversity conservation. The requested further information was received in March 2020 and referred to BCD for assessment. BCD have now advised Council of their conditions of consent for the development.

6. Section 4.15 Evaluation

6.1 Environmental Planning Instruments and relevant Legislation (S4.15(1)(a)(i)-(iv))

The following legislation has been addressed in the revised EIS, with consideration of the applicability, or otherwise, of their controls and requirements:

6.1.1 Commonwealth legislation

- **Environment Protection and Biodiversity Conservation Act 1999**

An assessment of the potential for impact to threatened flora and fauna and areas of federal environmental significance was undertaken in the preparation of the EIS. The Federal Minister for the Environment and Energy has determined that the proposed works are not a Controlled Action and that no further assessment and approval under the EPBC Act is required.

- **Native Title Act 1993**

The applicant consulted with Registered Aboriginal Parties (refer Section 7.4.2 of EIS) when preparing the required Aboriginal Cultural Heritage Assessment Reports (details provided within the most recent ACHAR submitted in April 2020, included in Attachment 1 to this report). In addition, a search conducted by the National Native Title Tribunal for any registered Native Title claims, unregistered claimant applications and registered indigenous land use agreements that may impact the site revealed no relevant claims or other interests for the site.

6.1.2 NSW Legislation

- **Environmental Planning & Assessment Act 1979**

Discussed throughout report.

- **Environmental Planning & Assessment Regulation 2000**

The proposed development is classified as *designated development* under Schedule 3 of the Environmental Planning & Assessment Regulation 2000 because it:

- will obtain or process for sale more than 30,000 cubic metres of extractive material per year; and
- will disturb a total surface area of more than 2 hectares of land by:
 - (i) clearing or excavating;
 - (ii) constructing dams, ponds, drains, roads or conveyors, or
 - (iii) storing or depositing overburden, extractive material or tailings.

Consequently, an EIS was required to be submitted in support of the development. Secretary's Environmental Assessment Requirements (SEARs) were issued on 6 September 2016. The validity and applicability of those SEARs is discussed in Section 4.1, above.

- **Protection of Environment Operations Act 1997 and Protection of the Environment Operations (General) Regulation 2009**

The proposed development requires an Environment Protection Licence from NSW EPA. They have indicated their support for the issue of a conditional licence and conditions for any consent issued.

- **Protection of the Environment Operations (Noise Control) Regulation 2017**

A Noise Impact Assessment was undertaken and submitted in support of the development. Noise generation impacts and mitigation are considered at Section 7.3 of the EIS and the Noise Impact Assessment at Attachment G to the EIS. Potential noise generators and impacts are discussed in Section 6.2.3, below.

- **Protection of the Environment Operations (Waste) Regulation 2014**

The disposal of biosolid waste at the site was approved under a separate consent and does not form part of this application. The current status of that activity is discussed in Section 2.3, above.

- **Protection of the Environment Operations (Clean Air) Regulation 2010**

An Air Quality Assessment was undertaken for this development and is attached to the EIS as Attachment H. The assessment concludes that the development, even when operating at the maximum requested extraction and crushing rates will operate within the prescribed limits for air quality. Conditions of consent are recommended to address any specific operational and management issues.

- **Biodiversity Conservation Act 2016**

The Biodiversity Conservation Act 2016 (BC Act) was gazetted and came into effect after the issue of the SEARs for this development. Under the savings provisions contained within the BC Act, applications made, or subject to SEARs issued prior to its gazettal, are not subject to the provisions of this Act.

Specific advice was sought by Council from the NSW Department of Planning in relation to the continued use of SEARs issued in 2016 and the need to address biodiversity in a manner which was consistent with the later legislation. The Department confirmed that the BC Act does not apply to this development, but agreed that consideration of the objects of that Act and a summary of the biodiversity conservation measures proposed for the development would enable the applicant to demonstrate that the development was consistent with the general objectives of the BC Act 2016.

- **Threatened Species Conservation Act 1995**

As the development is not subject to the provisions of the BC Act 2016, as discussed above, it is subject to the provisions of the (repealed) Threatened Species Conservation Act 1995 and the Biocertification Order gazetted with Albury LEP 2010. Development on biodiversity certified land *is taken to be development that is not likely to significantly affect any threatened species, populations or ecological communities or its habitat*.

Under the revised 2017 Biocertification Order applicable to Albury LEP 2010, land which is now within any zone other than a Business, Industrial or Residential zone is excluded from the Biocertification Order. However, at the time of the issue of the SEARs and the lodgement of the application, the site was biocertified land, and did not require a Test of Significance to be conducted under the Threatened Species Conservation Act 1995.

Council considered that the potential impacts from tree removal and the activities on the site required assessment under the provisions of Section 4.15(b) of the Environmental Planning and Assessment Act and Clause 5.9 of Albury LEP 2010. Attachments I and J to the EIS provide Biodiversity Assessment and detail the offset scheme for the proposed development.

The EIS has addressed the objectives of the Threatened Species Conservation Act 1995 and has provided commentary regarding compliance with the objectives of the Biodiversity Conservation Act 2016. The assessments undertaken and the recommendations for protecting biodiversity on the site are satisfactory and the recommended conditions from BCD will provide for establishment and maintenance of the offset area, as well as biodiversity management on the site for other noted threatened, vulnerable or valuable flora and fauna species.

- **Mining Act 1992 and Mining Regulation 2016**

Not applicable to this extracted material, which is not a mineral prescribed by the Act and associated Regulations.

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

Part 3 of this SEPP outlines the Matters for Consideration when assessing an application for an extractive industry, and requires the consent authority to consider

- the compatibility of proposed mine, petroleum or extractive industry with other land uses in the vicinity;
- whether the development is likely to have a significant impact on uses that are likely to be the preferred land uses in the vicinity of the development;
- the public benefit of the development and the land uses in the vicinity;
- mitigation measures proposed for the development to address any impacts;
- whether the application should be subject to conditions aimed at ensuring the development is undertaken in an environmentally responsible manner (particularly in regard to impacts to significant water resources; impacts on threatened species and biodiversity; and reduction of greenhouse gases);
- Specific aspects of the development relating to resource recovery; transport and rehabilitation.

The development proposes to recommence quarrying on a site used for that purpose since the early 1970's. The surrounding area has a mixed character, with rural lifestyle development to the north and north west, industrial to the south and south east and broad acre grazing land surrounding those two diverse uses.

The topography of the area limits visibility of this site from the surrounding rural lifestyle area and the orientation of the pits toward the south assists to buffer any noise generated from the site. The site does not operate on a full time basis and blasting is limited to a few occasions per year.

The material extracted is of a suitable quality for use in road construction and on construction sites. The quarry contributes positively to the local economy and provides employment for local residents. The extraction of material in the local area reduces the need to source materials from outside the region and reduces transport distances between the source of the material and construction sites.

A Quarry Closure and Rehabilitation Plan has been provided for the development, and sequential rehabilitation is proposed for the site as each area of extraction is exhausted. "Hold points" are included in the rehabilitation to enable the worked sites to be rehabilitated before future stages require rehabilitation, reducing the scope of the rehabilitation undertaken at any one time to manageable and cost effective stages. Assessment of specific aspects and potential impacts of the proposal is contained in Section 6.2, below.

- **State Environmental Planning Policy (Rural Lands) 2008**

This SEPP applies to rural lands and generally provides considerations and objectives for the development of rural land through subdivision and residential occupation. The development does not propose subdivision or residential development.

The Principles of the Rural Lands SEPP include:

- promotion and protection of opportunities for current and potential productive and sustainable activities in rural areas;
- balance the social, economic and environmental interests of the community; and
- identification and protection of natural resources, having regard to maintaining biodiversity, the protection of native vegetation, the importance of water resources and avoiding constrained land.

The EIS has assessed the potential impacts of noise, dust generation and transport upon the surrounding land uses and the sustainability of the activity for the life of the proposed development. Biodiversity has been assessed and the conclusions of the reports and assessment is that the development will not have an overall detrimental impact upon biodiversity in the region. Offset plantings and rehabilitation of the site will return it to a state suitable for future use as grazing land and environment protection areas.

- **State Environmental Planning Policy (Infrastructure) 2007**

The proposed development requires consideration as a potential traffic generating development and also required referral to the relevant electricity authority under this SEPP owing to an electricity easement being located on the site. NSW Roads and Maritime has assessed the proposal and provided support to the proposed road works and intersection improvements, but does not agree that a speed zone restriction is appropriate on Gerogery Road. Council's Traffic and Transport Team concurs with this position. Transgrid has advised that the development will have no impact upon their easement or assets. As the development includes relocation of Transgrid power lines in future stages, further clarification was sought from the operator regarding any discussions or negotiations with Transgrid. The operator of the quarry has advised that he *confirmed that a 20 metre wide electrical easement traverses the property and stops at the southern boundary of Lot 2, where from there the power runs underground to service the crushing plant. It is confirmed that this easement and underground line are located within stages 4-6 of the proposed works and the need to realign this infrastructure is some 15-20 years away (closer to 20). [He] confirmed that discussions had previously been had with the electrical provider and they advised that the line would need to be realigned in accordance with their guidelines.*

- **State Environmental Planning Policy (State and Regional Development) 2011**

As an *extractive industry*, the development is defined as *Regionally significant development* and is also listed as a *particular designated development* under Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011 (State and Regional Development SEPP) which must be determined by a Regional Planning Panel (RPP).

- **State Environmental Planning Policy No. 33 – Hazardous and Offensive Development**

The proposed extractive industry is not classified as a 'hazardous' or 'potentially hazardous industry' as it involves the extraction of in-situ materials and does not involve the use or processing (apart from some crushing and screening) of those materials. No hazardous materials or chemicals are stored or processed on the site. Recycling of waste concrete by crushing and separating is not a hazardous or potentially hazardous industry.

- **State Environmental Planning Policy No. 44 – Koala Habitat Protection**

This SEPP applied to the former Hume Shire LGA, within which this site was located until a boundary adjustment with Albury City in 2004. This SEPP has now been repealed and was replaced by State Environmental Planning Policy (Koala Habitat Protection) 2019, which commenced on 20 March 2020. This SEPP does not apply to the Albury LGA. Notwithstanding, the proposed development is located within an area which, at the time of lodgement, required an assessment under the provisions of SEPP 44. It is noted that the area does not generally support tree species which are feed or habitat trees for koalas and that the removal of 19 trees as part of the development is unlikely to have any impacts upon koala populations, or koala habitat.

- **State Environmental Planning Policy No. 55 – Remediation of Land**

This State Environmental Planning Policy (SEPP) aims to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health or any other aspect of the environment:

- by specifying when consent is required, and when it is not required, for remediation work, and
- by specifying certain considerations that are relevant in rezoning land and in determining development applications in general and development applications for consent to carry out remediation work in particular, and
- by requiring that a remediation work meet certain standards and notification requirements.

In determining development applications on potentially contaminated sites, consent authorities are required to consider whether previous uses on the site may have resulted in contamination and whether the site is suitable for the development proposed.

The site is not registered as a contaminated or potentially contaminated site in Council's Land Use Register. No Orders have been issued in regard to any potential contamination or in respect of any activities on the site. Storage of fuels and oil in above ground tanks (for machinery and equipment used on the site) is undertaken, however the location and management of these tanks does not give rise to concerns regarding potential contamination of the site. The site is suitable for the proposed development and previous and proposed activities on the site do not present a risk of harm to persons or the environment arising from site contamination or potentially contaminating activities.

6.1.3 Council Plans and Council Policies

The following Council Policies are relevant to the application:

- **Albury Local Environmental Plan 2010 (Albury LEP 2010)**

The site is zoned part E3 *Environmental Management* and part RU2 *Rural Landscape* under Albury Local Environmental Plan 2010 (Albury LEP 2010). An extractive industry is permissible with consent in the RU2 zone, but is prohibited in the E3 zone. Clause 2.5 and Item 15 of Schedule 1 (Additional Permitted Uses) of Albury LEP 2010 permit the use of the site for an *extractive industry*, with consent, notwithstanding the provisions of the Land Use Table of the applicable zones. Crushing of recycled concrete is defined as a *resource recovery facility* (a type of *waste or resource management facility*) which is permissible in the RU2 *Rural Landscape* zoned land upon which it is located. On this basis, the development as described and assessed in the EIS is permissible with consent on this site.

The objectives of the RU2 *Rural Landscape* zone are:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*

The development is considered to be consistent with the objectives of the RU2 zone as the site will be returned to a conditions suitable for extensive agriculture when rehabilitated. The extraction of natural resources on RU2 zoned land is supported by other SEPPs and is permissible under the land use table to the RU2 zone. Crushing of concrete is an ancillary and related activity to a quarry which produces resources for used in road construction and on building construction sites. The return of recycled concrete to the construction sector is consistent with sustainability principles and provides a suitable alternate use for this waste product.

The topography of the site limits views over the subject site from the surrounding area, with a ridge line along the northern portion of the site preventing views into the quarry and quarrying activities from rural

residential land to the north, and the development does not detract from the surrounding rural landscape. Retention of the vegetated E3 zoned portions of the site and the establishment of a vegetation offset area will enhance the rural character of the site.

The objectives of the E3 *Environmental Management* zone are:

- *To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values.*
- *To provide for a limited range of development that does not have an adverse effect on those values.*
- *To ensure the long term viability of populations of threatened species, populations and ecological communities by protecting and improving the condition of wildlife habitats and wildlife corridors.*
- *To allow appropriate land uses in close proximity to the Landfill Buffer Area.*

The development is considered to be consistent with the objectives of the E3 zone in that it seeks limit quarrying activities within the E3 zone, and a 15ha vegetation offset area will be established and maintained on the site. The location of this offset area enhances connections with reserved Crown land and provides for habitat and movement corridors for local birds and fauna.

Clause 5.9 (now repealed but applicable at the time of lodgement, and therefore applicable to this development) required approval for the removal of specified vegetation and also required consideration of the potential impacts of tree removal. As discussed in regard to the TSCA 1995, above, the proposed tree removal on what was biocertified land is supportable, as the proposal includes the provision of a vegetation offset area.

The trees to be removed are scattered paddock trees and do not form a connected network of forage or habitat trees. Retention of the vegetation proposed for removal whilst extracting the natural resource from the site is not possible. The development has adequately provided for replacement of vegetation and for the establishment of valuable connections to existing vegetation in the surrounding area for visual improvement, foraging and movement corridors.

Clause 5.10 provides for the protection and conservation of items of European and indigenous cultural heritage. The site does not contain any items of European heritage and the ACHAR submitted in March 2020 has addressed the potential for impact upon any indigenous cultural heritage on the site. Conditions recommended for fencing of a listed scar tree site are included in the Draft Determination.

Clause 7.1 the consent authority must have regard to the following prior to granting consent to earthworks

- *the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality*
- *the effect of the proposed development on the likely future use or redevelopment of the land*
- *the quality of the fill or the soil to be excavated, or both*
- *the effect of the proposed development on the existing and likely amenity of adjoining properties*
- *the source of any fill material and the destination of any excavated material*
- *the likelihood of disturbing relics*
- *the proximity to and potential for adverse impacts on any watercourse, drinking water catchment or environmentally sensitive area.*

The development is considered to be satisfactory under the considerations above as it will not impact natural water courses and drainage is managed through appropriate erosion and sediment control on the site. The site is underlain by rock to a significant depth and there have been no incidences of soil instability on the site or in the vicinity. The future use of the land is provided for in the rehabilitation of the site and will be suitable for extensive agriculture (grazing) in the future.

The extraction of granite from the site provides materials for local road and construction projects and its quality is appropriate for those projects. The fill required to rehabilitate the site will comprise a mixture of

vegetative matter and virgin excavated natural materials (sourced elsewhere) together with the return of topsoil removed from working areas of the site and stockpiled for this purpose.

Potential for disturbance of relics has been discussed previously in this report. The amenity of adjoining land is discussed in this report in relation to potential impacts from dust, noise and traffic from quarrying activities.

Clause 7.6 requires the consent authority to be satisfied that all required essential services are available or provided to the site. In this regard, the site is provided with electricity, vehicular access, and water. Sewage is disposed on site through a septic system. Drainage is managed through settlement ponds, retarding basins and dame, together with earth berms and appropriate silt collection fencing.

- **Albury Development Control Plan 2010 (Albury DCP 2010)**

The following parts of Albury DCP 2010 are relevant to the current application:

- Part 3 – Development Notification Policy
- Part 5 – Tree Preservation
- Part 6 – Planning for Hazards
- Part 8 – Development in the Environmental Zones
- Part 9 – Development in the Rural Zones.

However, it is noted that the provisions of the EP&A Act, EP&A Regulation 2000, other Acts and Regulations and SEPPs prevail to the extent of any inconsistency between those EPIs and the DCP.

Public notification procedures for *designated development* are prescribed by the EP&A Regulations 2000. In this regard, both the 2017 EIS and the April 2019 EIS were notified in accordance with the Regulations and no public submissions were received on the development.

It is noted that although parts of the site are identified as bushfire prone land, the proposed development is not a *special fire protection purpose* requiring concurrence of the NSW Rural Fire Service. Advice received from RFS is that the development *raises no concerns or issues in relation to bush fire*. A general condition requiring operation of the site to comply with the objectives of the NSW RFS publication *Planning for Bushfire Protection 2019* is recommended to safeguard neighbouring lands from any potential activities which may increase the risk of bushfire in the area.

The provisions of the DCP in regard to tree preservation, contamination and development of rural and environmental lands do not provide any additional matters for consideration to those addressed under the relevant Acts, Regulations, SEPPs and the SEARs issued for the development. Consequently, a detailed assessment of the DCP provisions would not raise any further matters for consideration that are not more appropriately addressed under the relevant EPIs and discussed elsewhere in this report.

- **Albury Infrastructure Contributions Plan 2014 (Albury ICP 2014)**

Albury Infrastructure Contributions Plan 2014 provides the policy framework and methodology for levying of contributions for developments with Albury. The site is located within an area where Section 7.12 (formerly Section 94A) Contributions are levied at the rate of 1% of the estimated cost for developments with an estimated cost exceeding \$200K. A Cost Summary Report lodged with the application indicates that the estimated cost of the development is \$495K and therefore Section 7.12 Contributions of \$4,950.00 are payable and a condition of consent has been recommended.

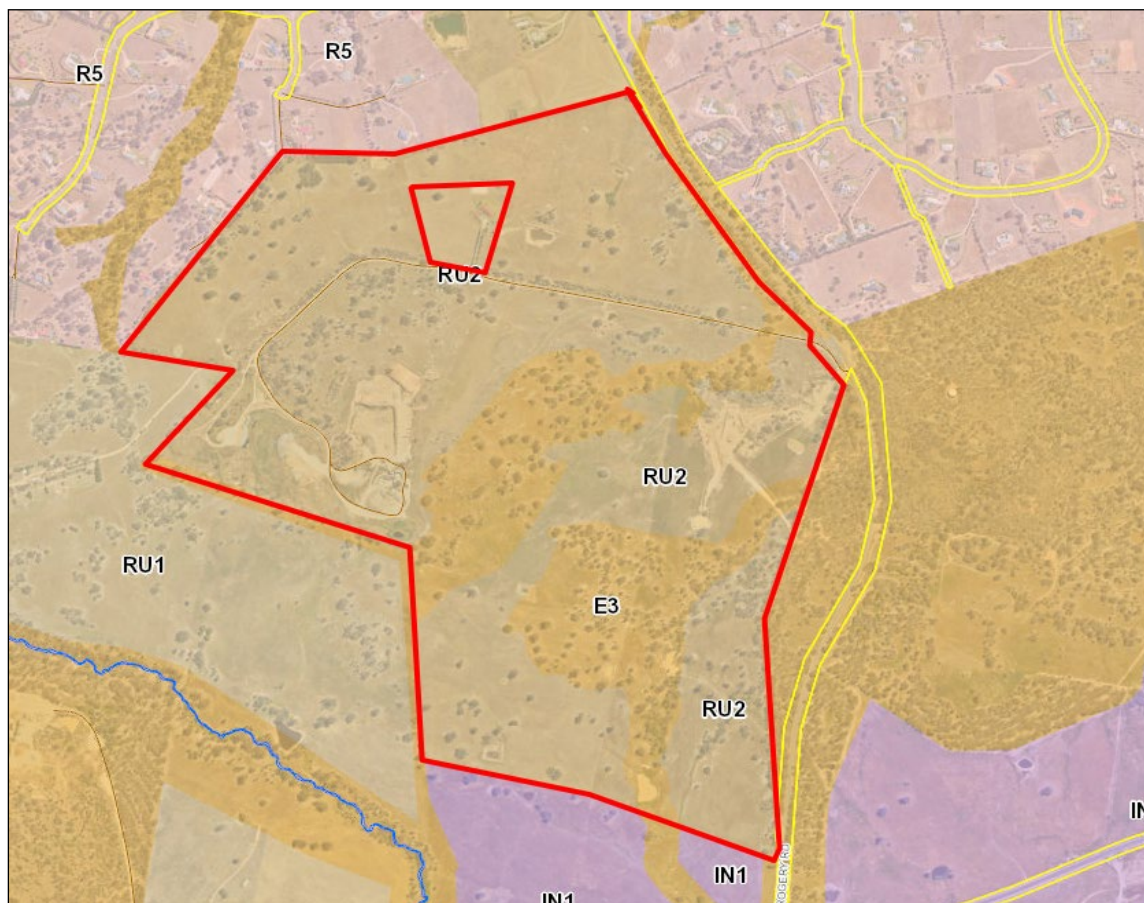


Figure 3: Albury LEP 2010 Land Zoning Map extract

- **Draft EPIs**

There are no Draft Environmental Planning Instruments that affect this development or this site.

6.2 Impacts of the development (S4.15(1)(b))

This report considers the information submitted, potential environmental impacts, compliance with state and local planning policies, and requirements and considerations arising from the referral responses received from relevant state agencies. The assessment has determined that support for the quarry is appropriate and consent should be granted subject to conditions. The previously outstanding issue regarding the referral from BCD has been resolved and it is appropriate to finalise the application to enable activities to recommence at the site.

Development Application 10.2017.35776.1 proposes the extraction of up to 100,000 cubic metres of material per annum from the site for 30 years and the crushing and recycling of up to 20,000 cubic metres of concrete per annum.

It is noted that a quarry has operated on the site since the 1960s and has more recently been operated under the conditions imposed by a consent issued by Hume Shire Council in 1995, as amended, with the last amendment being approved by AlburyCity in September 2018. The 1995 consent provided for a 20-year life and extraction of up to 75,000 cubic metres of material per annum. The consent period was extended by Modifications to the consent to enable the preparation of this new DA and associated documents. However, the consent expired in September 2019 and the current application seeks to continue to operate a quarry at the site, under a new consent.

The crushing of recycled concrete was approved via a 1999 Modification to the 1995 consent and is permissible in the RU2 *Rural Landscape* zoned land upon which it is located.

Other activities on the site, including the disposal of liquid wastes and biosolids generated from the deinking and recycling of paper products at the Norske Skog mill, were approved via a consent issued to Australian Newsprint Mills in 1992 by the Minister of Planning and the activities approved under that consent are not included in this DA. Following the recent sale of that site by Norske Skog, cessation of that activity following the sale of the mill has the potential to impact this proposed development, owing to the assumption of continued access to approximately 135,000 cubic metres of biosolid waste as part of the rehabilitation of the site.

Current consents and the EPA Licence include the following hours and days of operation:

- extraction – 7am to 6pm Monday to Saturday;
- loading – 7am to 6pm Monday to Saturday; and
- no haulage of product away from the quarry site is permitted on Sundays or Public Holidays.

EPA have advised of their General Terms of Approval (as an *integrated development*) and their required conditions stipulate the hours of operation for this site under this current proposal.

The quarrying activities undertaken in accordance with the expired consent did not operate on a continuous full-time basis. Based on the applicants' stated historical maximum extraction rates (750 cubic metres of material extracted per day), the quarry operated on average around three days per month (or approximately 30 days per year) to extract that volume of material. Increase in the volume of material extracted may see an increase in days of operations at peak periods, however the Licence conditions and consent conditions of EPA regulate the noise generation and operational hours, which will offset any impacts from increased operation.

Construction hours for the required road and intersection works have been recommended to ensure these activities do not create impacts for neighbouring residential development.

6.2.1 Biodiversity

The development will require the removal of 19 trees overall and some grasses within the site. A number of these trees are located within the working area of Pit 3 (see Figure 4 below). An assessment of the loss of those trees was prepared by Biosis and has been subsequently amended in accordance with BCD (OEH) requests for further information.



Figure 4: Tree removal Pit 3

The Federal Department of Environment and Energy advised the applicant (copy provided in EIS) that that the vegetation removal is not a “controlled action” under Federal legislation (the Environment Protection and Biodiversity Conservation Act 1999 (EPBC)) and does not require further approval from that Department.

It is noted that the Savings Provisions of the Biodiversity Conservation Act 2016 result in that Act not being applicable to this site nor to this development, and the site is therefore subject to the Biodiversity Certification (granted at the time of gazettal of Albury LEP 2010 in August 2010) under the (repealed) Threatened Species Conservation (TSC) Act 1995.

The biodiversity report concluded that the proposed works will not have a long term adverse environmental impact at either the local or state level subject to the establishment and maintenance of an approximately 15-hectare vegetation offset area on-site. The further information requested by BCD provides details regarding how this offset area will be secured and a Biodiversity Offset Management Plan for this area.

Two parcels of land totalling approximately 15 hectares are proposed to be revegetated on-site in order to connect existing areas of E3 vegetation and adjacent Crown land forming part of a corridor extending

eastwards. Offset planting would comprise 250 trees and 1400 shrubs/groundcover species and would aim to increase habitat complexity for woodland species of birds. Plant species selection, planting methods and management protocols would follow guidelines set out in the Vegetation Management Plan prepared by Biosis (see Attachment I to the EIS).

The submitted Biosis report also requires that any works conducted on site shall be in accordance with the requirements of a Vegetation Management Plan and Quarry Closure and Rehabilitation Plan prepared for the site.

The EIS has addressed the requirements of the applicable Threatened Species Conservation Act 1995 and has provided commentary regarding compliance with the objectives of the Biodiversity Conservation Act 2016 (which, owing to the savings provisions of that Act, does not apply to this development). The assessments undertaken and the recommendations provided for protecting biodiversity on the site are satisfactory and the recommended conditions from BCD will provide for establishment and maintenance of an offset area, as well as biodiversity management on the site for other noted threatened, vulnerable or valuable flora and fauna species.

6.2.2 Water quality

No watercourses are present within the working area of the site. Appropriate stormwater diversion; water settlement and management works and erosion and sediment controls are provided at the site and will be required to be maintained by proposed conditions of consent.

The cessation of disposal of biosolid waste at the site under a separate consent may require the decommissioning, treatment and rehabilitation of the settlement ponds provided for that activity. These requirements are addressed within the conditions of approval for the biosolid waste disposal and are noted only to identify concurrent activities that may be carried out on the site once it is operational.

Erosion and sediment control on a site with unsealed access roads, open quarry faces and stockpiles is critical to ensuring that watercourses and downstream lands are not adversely impacted by the development and the transportation of sediment off site. The EIS proposes the following management and mitigation measures to address this issue:

- Erosion and sediment controls to be maintained and periodically reviewed until an area has been rehabilitated back to its natural state;
- Stage works on-site to minimise the area of disturbance. Where works have been completed within an area undertake rehabilitation works;
- Sediment traps or filters to be located and placed near all disturbed areas where potential water run-off may occur. Install hay bales along run-off areas or rock beaching at outfall pipes to help filter storm-water run-off;
- Locate silt fences at strategic positions (downslope) to trap sediments;
- Provide stockpiles with adequate batters to prevent sediment transportation;
- Regularly maintain and monitor all erosion and sediment control measures (such as cleaning out silt fencing) to ensure they are effectively functioning;
- Before excavation, the works areas are to be protected from surface water flow by soil berms constructed on the perimeter of the pits and diversion banks that divert surface flow around the excavation site;
- Ensure that areas of disturbance are minimised and rehabilitated as soon as works are finished;

- Topsoil (biomass) shall be stockpiled for use elsewhere on-site or as part of future rehabilitation works and diversion banks constructed around the piles;
- Ongoing maintenance and cleaning of sediment collection dams;
- Following completion of rehabilitation works, ensure that livestock access to the quarry and re-vegetated areas is prevented as vegetation can be trampled on and soil exposed.

These measures are consistent with Council's adopted *Erosion and Sediment Control for Building Sites* and the NSW Blue Book recommendations. The above measures will be included in the recommended conditions, and will be complemented by additional specific conditions considered warranted by Council.

6.2.3 Noise

Blasting is a fundamental element for extraction of material from the site and has been conducted at the site for more than 40 years. It is noted that the blasting occurs only several times per year, rather than frequently, and that Council has no record of receiving complaints in regard to blasting from nearby rural residential areas in recent years. Other noise sources occur on the site, including the breaking up of the blasted materials; the crushing of extracted materials and the recycled concrete; traffic generation; and sorting machinery.

A Noise Impact Assessment lodged with the application outlines that the proposal, in the worst-case scenario (including previous activities associated with disposal of waste from Norske Skog), will operate within the noise limits set via the EPA licence conditions and in accordance with the NSW EPA's *Road Noise Policy 2011*, NSW *Industrial Noise Policy 2000*, *Noise Policy for Industry 2017* and the ANZECC *Technical Basis for Guidelines to Minimise Annoyance Due to Blasting Overpressure and Ground Vibration 1990*.

EPA conditions as provided in their referral response are recommended for imposition on the development to ensure that any development consent is consistent with the licencing requirements of the authority responsible for managing any noise impacts from the development.

6.2.4 Land resources

The quarry predominantly extracts granite materials (specifically buckshot and diorite) which are used for a number of purposes, including road construction. The quarry produces valuable resources for use in the local area and contributes to the economic development of the city and surrounding region.

Based on the maximum extraction rate of 100,000 cubic metres per annum for the proposed 30-year life span, development at the maximum extraction rate over that period would result in a maximum of 3,000,000 cubic metres of material being extracted from the site. It is noted that, historically, the quarry does not extract the maximum volume requested and to assist in the assessment of this report, a Resource Assessment was undertaken to quantify the volume of material which could, potentially, be extracted from the site.

The Resource Assessment (refer Section 7.6 and Attachment M of the August 2019 EIS) identifies that boring and analysis of the core samples taken indicate that the site is generally underlain by granite to a depth of 130m and that the available resources on the site exceed the maximum extraction proposed under this development application.

The quality of the material produced is also assessed in the EIS (refer Section 7.6 of the EIS and Attachment P to the EIS). Specifically, the EIS details that:

the existing quarry produces road base materials used in the construction of roads that meets Vicroads Class 2 and Class 3 specification for road making materials. The material also achieves NSW RTA classifications for Fine Crushed Rock.

The existing properties of this material including grainsize and weathering make it ideal for road construction purposes. At present, the existing quarry produces roadbase material from naturally occurring materials, as well as via recycled materials, namely concrete.

Recycling of concrete construction waste to reuse for road construction and site works on various construction sites assists to offset the demand for excavated natural resources on construction sites.

Consequently, the quantity and quality of the excavated natural resource will be sustainable over the life of this proposed development.

6.2.5 Dust and air quality

The principal sources of dust associated with the proposal are blasting, excavation and crushing of the materials; from the activities of machinery associated with clearing, stockpiling topsoil and fill, loading trucks with crushed materials; and general movement of vehicles to and from the site. An Air Quality Impact report was prepared for the development, which concludes that subject the imposition of appropriate mitigation and operational management requirements (including appropriate timing of works relative to climatic conditions; maintenance and treatment of unsealed surfaces to reduce dust generation; and retention of landscape screening around the perimeter of the area) that the proposed development will operate within applicable air quality thresholds.

The EPA Licence conditions also require monitoring and management of dust from the site. Dust issues have not raised by the local community, notwithstanding the proximity of a number of rural lifestyle properties to the north and north east of the site. The topography of the subject site, coupled with prevailing wind direction, contains the dust generated to the worked areas of the site.

Dust management conditions for the proposed intersection and road works have been recommended to ensure that these activities do not generate nuisance in the area.

6.2.6 Heritage and archaeology

There are no known European cultural heritage items or sites within the area of, or in the vicinity of, the proposed development.

The applicant consulted with the Aboriginal community in regard to potential Aboriginal Cultural Heritage items or sites within the subject site, or within the area proposed for associated works (including the road reserves adjacent to the site). The review of the Aboriginal Heritage Information Management System (AHIMS) conducted by the applicant in preparation of the revised EIS did not reveal any registered objects or artefacts on the site. However, following a further assessment of the site, two potential areas were identified and subsequently ten 50cm x 50cm pits were excavated to determine if any artefacts were present on the site.

Notwithstanding this, BCD required that the applicant demonstrate that *AHIMS Site 55-6-0064 [a possible scar tree] has been mapped using the correct projection and correspondingly ground-truthed correctly.*

Following the provision of further additional information in March 2020, BCD have advised that

.. further survey of the subject site has been carried out in order to ground-truth the existence of AHIMS site 55-6-0064 (Mungabareena-mm1) which had been previously identified as 'destroyed' by the proponent. Accordingly, the site has been identified through additional assessment in consultation with Registered Aboriginal Parties and ground-truthing confirms this site does occur and was not destroyed.

An update has been provided to the AHIMS Registrar to restore the sites validity within the AHIMS database and the ACHAR amended accordingly.

No harm to this site (55-6-0064 Mungabareena-mm1) is anticipated as it occurs outside the development impact zone and support Recommendation 1 that a clearly defined buffer (fence) of no less than 10m around the tree to protect the root zone to mitigate any potential harm.

The proposed road works, quarrying activity, site works and associated activities will have no impact upon the listed scar tree or any other items of indigenous cultural heritage. The recommendation to fence the scar tree site to prevent accidental impact is supported and included in the list of conditions recommended to be imposed upon the development.

6.2.7 Waste

The quarrying activities do not generate wastes, with the exception of vegetation removed for the extraction of the materials on site. The vegetation waste will be reused on site as part of rehabilitation works. Recycling of crushed concrete generates some waste, comprising inert soft and hard plastics and some metal embedded in the concrete (such as reinforcing mesh). A small amount of waste is also generated by employees who bring meals and drinks to the site.

The waste generated by crushing activities and staff activities will be disposed of through existing waste disposal services provided by Council. Effluent from the amenities provided for staff (toilets and lunchroom) is disposed through an existing septic system on the site. A condition requiring the provision of separate waste receptacles within a dedicated area of the site are recommended to enable sorting of the waste streams, especially to permit further recycling of any products recovered through the concrete crushing operations.

Appropriate septic management conditions have been recommended to ensure that the site can appropriately manage generated waste and any system installed does not create any potential pollution to the site or to downstream properties.

Biosolid wastes from Norske Skog disposed of on the site is managed through the consent issued by the Minister for Planning in 1992 and specific environmental protection measures provided to those disposal areas. The EPA licence for the biosolid waste disposal includes requirements for annual monitoring and environmental audits. It is also noted that part of the Quarry Closure and Rehabilitation Plan (QCRP) for this application includes the rehabilitation of the biosolid waste disposal area and states:

The intention is to backfill this area and reshape it consistent with the existing topography of the land in accordance with a proposed cross section provided at Figure 16. In order to achieve this finished landform, this will require the importation of 150,000m³ of biosolid and backfill (soil) material.

Rehabilitation of the biosolid disposal area is required within 12 months of the cessation of the activity under the conditions imposed by Development Consent 147/92. Given the matters discussed at Section 2.3 of this report, above, rehabilitation of the biosolid waste disposal area will be undertaken within a shorter time period than contained in the QCRP. Compliance with the conditions imposed by Development Consent 147/92 is separate to this proposed development, however amendment of the QCRP to account for the cessation of biosolid waste disposal will be required.

6.2.8 Traffic, transport and access

Access to the site is provided via Winchester Lane, which intersects with Gerogery Road. Intersection improvement works are proposed, to improve sight distance and road conditions to cater for the increased vehicular activity over the life of this development.

Gerogery Road forms the eastern boundary of the site. It runs north from Wagga Road to the township of Gerogery and provides access for local traffic from farms, large lot rural residential development and the Nexus Industrial Complex. Gerogery Road is classified as a local road and is under the management of AlburyCity however, it is also an RMS heavy vehicle incident management bypass route for the Hume Highway. This road currently has a posted speed limit of 100km/h.

Winchester Lane forms the northern boundary of Pit 3. Winchester Lane connects to Gerogery Road as a T-junction intersection and allows two-way access from Gerogery Road. This road is classified as a property access road and provides access to the Rockwood Quarry, the Albury Wodonga Clay Target Gun Club and the residence at 96 Winchester Lane and is under the management of the property owners who have access. This road has a speed limit of 60km/h. The section of Winchester Lane between its intersection with Gerogery Road and the property access gate to the quarry (approximately 130m) is located within a Council road reserve and is a public road.

RMS have reviewed the application and are generally satisfied with the proposed works. Council's Transport and Traffic Team has provided advice regarding the design of the proposed road improvement works. Council's Development Engineer has recommended that sealing of Winchester Lane be extended to the gate of the property (approximately 130m).

A Traffic Impact Assessment (TIA) undertaken in regard to the development concludes that the proposed traffic generation from the site would not detrimentally impact upon the operation and efficiency of Winchester Lane or Gerogery Road. The anticipated traffic volumes are low, however the existing road conditions are not considered to be optimal.

Works to upgrade the intersection and improve sight distances are recommended by the TIA and EIS. Council has considered the works proposed and considers that a speed reduction on Gerogery Road is not supportable; but that the intersection upgrades are generally supported. In addition, Winchester Lane also requires upgrading from the intersection with Gerogery Road to the access to the site to improve the road conditions between Gerogery Road and the site. Conditions are recommended for the proposed and further required road works in the attached Draft Determination.

The EIS outlines that the Travelling Stock Reserve (TSR) on the eastern side of the property is used for access to Pit 1. Continued use of the TSR for access has not been included or assessed in the submitted TIA and unrestricted access is not supported by Council. The applicant advises that the majority of vehicular

movements within the TSR are from, and to, the north via the intersection of Winchester Lane and Gerogery Road. It is noted that Local Land Services (LLS) did not raise this access as an issue when their referral comments were sought on the 2017 EIS.

At its southernmost extent, the informal access track intersects with Gerogery Road at an uncontrolled and acute angled intersection without adequate sight distance to the north and would not be considered suitable as a regular or highly trafficked access to the site.

NSW Crown Lands response to the referral of the application states they have not endorsed the use of the TSR for access and this is not permitted without a further approval from Crown Lands. The applicant has been liaising with LLS and Crown Lands regarding the permit approval process prior to determination of this application. LLS have provided advice that they were aware of the use of the TSR for access as a haul road from Pit 1 for many years.

Conditions are recommended to ensure that all access to the site is provided via the intersection of Winchester Lane and Gerogery Road only, unless and until a separate approval is provided by NSW Crown Lands for the use of the TSR. Until an approval for use of the TSR for access is granted by Crown Lands, use of the TSR by haulage vehicles or other vehicles associated with this development would constitute a breach of consent which can be actioned by Council under its powers of enforcement.

If approval is not granted by NSW Crown Lands for access through the TSR, alternative access Pit 1 will be required, and would need to be considered as a Modification to this development. An alternate access within the site, at the north eastern corner of the Pit 1 area, appears to be the most logical location as the area has been cleared of vegetation and has been previously disturbed. The applicant was requested to provide a plan detailing any possible alternate access location within the site prior to the determination of this development. The following image was provided on 16 July 2020 showing the possible location of alternate access to Pit 1.



In addition, the applicant conferred with Local Land Services (LLS) regarding the TSR and advised that:

[LLS] confirmed that whilst the area of land straddled between Gerogery Road and Pit 1 of Rockwood Quarry is an identified TSR ... LLS had no objection to its use and are aware that it has been used ongoing by the quarry. At present, their files identify this land as 'quarry haul road'.

In addition, [LLS] also advised that this strip of land was not preferred as a stock route for the following reasons:

- *The area is not fenced, which would allow cattle to wander all over the road and cause traffic safety issues;*
- *The land on the opposite side of Gerogery Road (eastern side) is the preferred stock route as this area is fenced. This side of the road is also preferred as it connects to the properties north and south and provides a continuance link unlike the western side adjoining the site.*

It is anticipated that email correspondence from LLS to confirm the above advice will be available prior to the determination of this application and it will be provided to the Panel members for consideration.

As part of their assessment of any application for access, LLS will determine (in consultation with Council) whether bollards or other barriers are required to manage uncontrolled public access along the length of the track within the TSR.

The applicant has sought, but has not been able to obtain, further comments from Crown Lands in regard to the use of the TSR. If further advice from Crown Lands is received prior to the determination of this development, it will be provided to the Panel members for their consideration.

6.2.9 Rehabilitation

Although the previous consents issued for the site provide for rehabilitation of the quarry at the cessation of quarrying activities, those requirements are dated and are no longer consistent with current legislative requirements or best practice standards.

The cessation of the quarrying operations on the site in September 2019 occurred owing to the expiry of a valid consent and this current application seeks to continue the use of the quarry activities, under a new consent consistent with updated legislative requirements. Therefore, the previously required rehabilitation works will not be required unless this development is not approved. Given the dated requirements for rehabilitation, and the relatively low level of specific detailed requirements under previous consents, it is considered beneficial that rehabilitation be provided for in a new development consent for the site.

As part of the requested information for the updated EIS, the applicant was required to prepare and submit a Quarry Closure and Rehabilitation Plan to outline the measures to be taken and the timing of rehabilitation works on the site. The plan was further amended at Council's request, following independent specialist advice being provided to Council on the submitted plan.

The Quarry Closure and Rehabilitation Plan has now been amended to address previous concerns raised by Council and is now generally acceptable.

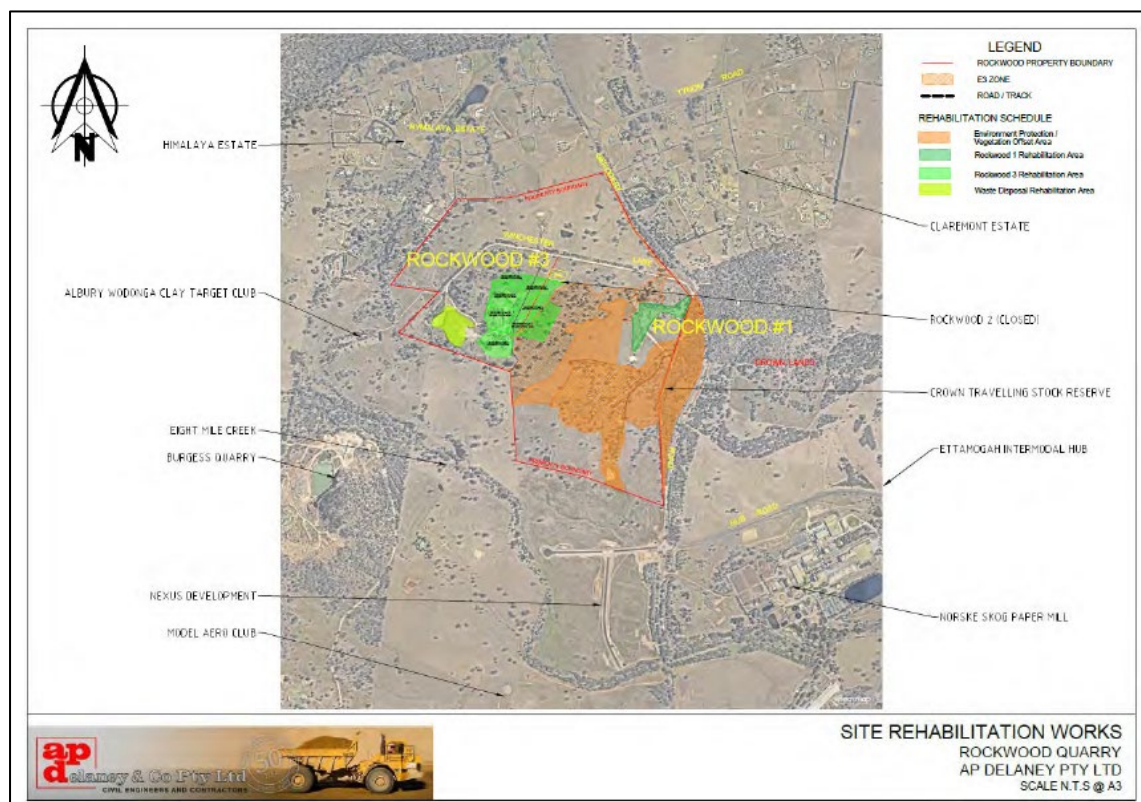


Figure 5: Rehabilitation site plan (including vegetation offset area)

However, as biosolid waste disposal activities are unlikely to continue at the site (as discussed in Section 2.3, above), the QCRP needs revision to provide for an alternative source of proposed vegetative material to offset the loss of up to 135,000 cubic metres of material anticipated to be available through the biosolid waste disposal activity.

As the sale of the Paper Mill and the cessation of waste disposal could not have been anticipated, and as there is no recent indication of the proposed use and potential alternative waste disposal activities required by the new landowner, it was not feasible to review the QCRP prior to the listing of this application for consideration by the RPP. It is also noted that the works required under the QCRP will not become operative for some years, until the staged and successive rehabilitation of exhausted quarrying areas are undertaken.

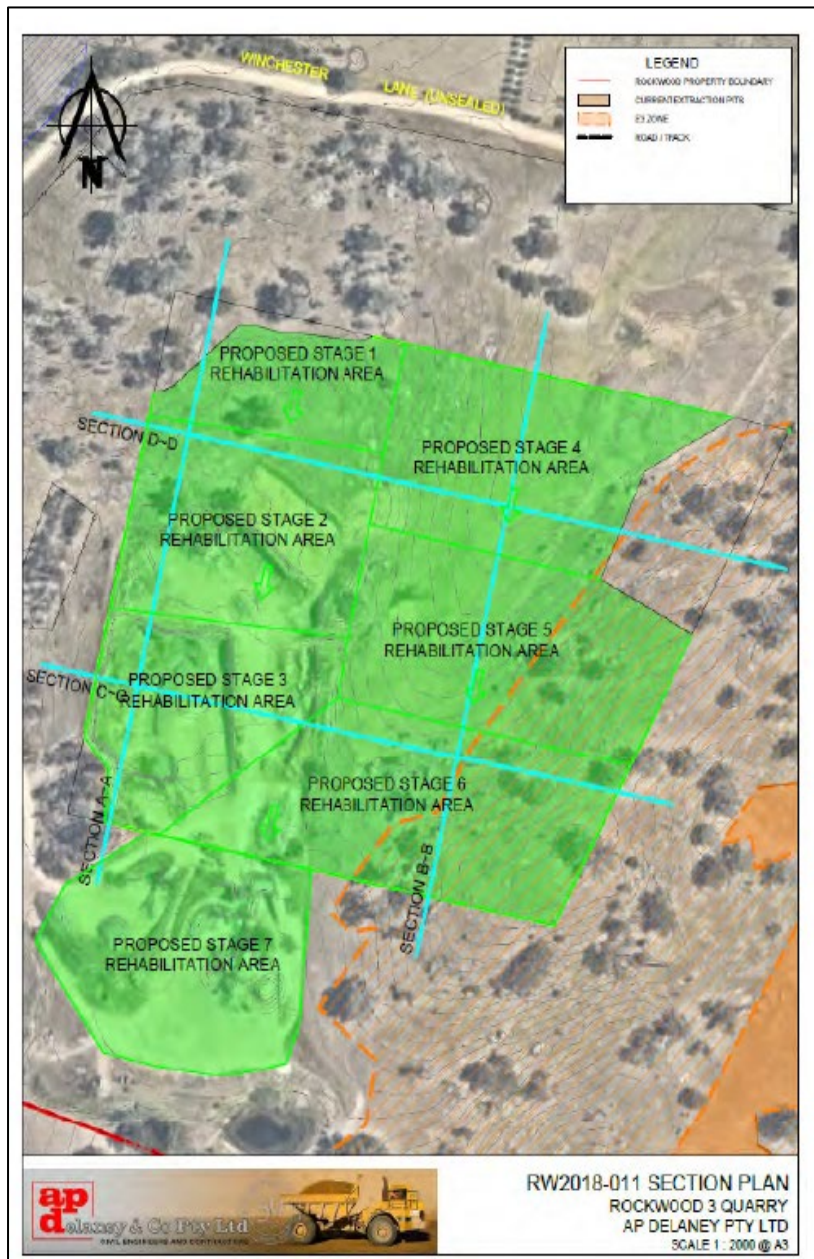


Figure 6: Rehabilitation Staging Plan Pit 3

For this reason, a condition is recommended requiring a revised QCRP to be prepared within 12 months of the issue of any consent for this development, to enable the operator to research and assess alternative sources of material to offset the loss of the biosolid waste in the composition of the material to be imported to the site for rehabilitation purposes.

6.3 Suitability of the site (S4.15(1)(c))

The site has operated for in excess of 40 years as a quarry extracting a natural resource (buckshot and granite (diorite)) from the site. Owing to this resource being located on the site, extraction and processing of that resource is appropriate and the site is physically suited to such activities. The operation of the quarry predates rural lifestyle development and industrial development in the area and given its topography and orientation, is considered suitable for this site and locality, notwithstanding the development of those land uses in the vicinity.

6.4 Submissions (S4.15(1)(d))

The original EIS was publicly notified between 23 November 2017 and 22 January 2018 (extended notification period to account for Christmas and New Year break). No submissions were received.

A fully revised EIS (including supporting specialist reports) was lodged on 10 April 2019 and the development application was again publicly exhibited between 11 April 2019 and 24 May 2019. No submissions were received in response to the notification of the revised EIS.

6.5 Public interest (S4.15(1)(e))

The quarry has provided materials used in construction of roads and on building sites by private companies and public authorities for many years. The quality of the material makes it suitable to a range of projects and applications. The owner and operator of the site is a local company employing local residents in various aspects of construction and quarrying operations and the quarrying activities contribute to the local and regional economy.

Support for the development is consistent with the public interest as:

- The development proposes to extract a valuable resource in a location proximate to its market, reducing transport distances and improving sustainability.
- The activity provides employment and economic benefit to the local area and the regional economy.
- The development proposes to offset vegetation loss and establish enhanced environmental areas and connections in the area.
- The operation of the quarry has not resulted in complaints from nearby residents and the proposed mitigation measures for the potential impacts of the development will assist to reduce those impacts over the life of the quarry.
- The development provides the opportunity to update site management and rehabilitation requirements to conform with current legislative requirements and current industry best practice.

6.6 Compliance with non-discretionary development standards (S4.15(2) and (3))

Not applicable.

6.7 Imposition of and flexibility in applying Development Control Plan provisions (S4.15(3A))

Not applicable.

7. Referral Agency responses

7.1 Agencies consulted in the preparation of SEARs for the development

The applicant and the NSW Department of Planning sought advice from the following agencies and organisations for their requirements for the Secretary's Environmental Assessment Requirements (SEARs) in 2016:

- Department of Industry – Resources & Energy
- Environment Protection Authority
- NSW Office of Environment and Heritage
- NSW Rural Fire Service
- NSW Roads and Maritime Service
- Water NSW Department of Industry – Lands (Crown Lands)
- Murray Local Land Services (LLS)
- AlburyCity Council.

Requirements of each of those agencies and organisations were included in the SEARs (No 1075) issued by the (then) Department of Planning and Environment on 5 September 2016.

7.2 Referral of original EIS

The DA lodged in November 2017 was accompanied by an EIS which Council staff and relevant referral agencies considered did not adequately address the Secretary's Environmental Assessment Requirements (SEARs) and did not adequately consider the potential impacts of the development over the life span of the quarry proposed at that time (40 years). The application, as originally lodged, proposed a longer life span than that identified in the SEARs, with extraction of up to 75,000 cubic metres of material per annum.

The following issues were identified:

- EPA advised that the EIS lacked adequate information to enable them to complete their assessment.
- The Department of Planning (Land Use Assessment Resources and Geoscience) raised concerns with the adequacy of the information provided and compliance with the SEARs.
- NSW Roads and Maritime identified that additional roadworks at the intersection of Gerogery Road and Winchester Lane would be required to provide for safer traffic management, access and egress.
- AlburyCity noted that the SEARs (issued September 2016) related to a proposal to continue an existing quarry for a 20-year period and to extract 75,000 cubic metres of material per annum and that the development as lodged was not consistent with development referenced in the SEARs.

Murray Local Land Services (LLS) advised that

State Environmental Planning Policy (Vegetation in Non-Rural Areas) 2017 (Vegetation SEPP) commenced on 25 August 2017 and applies to clearing of native vegetation that exceeds the offset thresholds in urban areas and environmental conservation zones. The 'grey area' shown attached is E3 and is exempt from consideration under the LLS Act. It is a local council matter.

Accordingly as the EIS gives consideration for clearing in RU2, and the E3 is excluded land for the purposes of the LLS Act, Local Land Services is not required to provide any additional consent as an agency.

7.3 2016 SEARs and the current DA

Following Council's initial assessment of the application, the applicant was advised that the DA needed to be prepared for approval of a new quarry, not a continuation of the existing quarry. As the applicant sought a 40-year life for the quarry, they were also advised to seek clarification from the Department of Planning whether new SEARs would be required, given the differences in the time period sought to that referred to in the SEARs.

The applicant sought to increase the time period from that referred to in the SEARs, and to extract more material than referred to in those requirements. The Department of Planning advised on 16 March 2018 that the September 2016 SEARs could continue to be relied upon by the applicant for this development, provided that the application related to a shorter operational period of 30 years and a maximum of 100,000 cubic metres of material extracted per annum over that operational period.

On the basis of this advice from the Department of Planning, the applicant prepared revised documents based on a shorter operational life span for the quarry (30 years) but with increased maximum extraction (100,000

cubic metres per annum). This is the development now being reported to the RPP. At the expiration of the 30 years, further approval will be required.

7.4 April 2019 EIS and August 2019 Referral

The following table details the referral agencies and their responses following the submission of the fully revised April 2019 EIS and, in the case of BCD, the revised August 2019 and subsequent amendments and updated ACHAR. Copies of referral responses are provided at Attachment 3 to this report.

Agency/organisation	Response	Required actions
Roads and Maritime (RMS)	Given that the development proposal is for an expansion of the extraction rate for the quarry with a proposed lifespan of an additional 40 years it would be appropriate for road safety reasons for the consent authority to consider the need for the access to the site from Gerogery Road to a sealed standard and for improvements to the intersection to comply with the geometric and sight distance requirements as per the Austroads Guide to Road Design. From the current cadastre it appears that the former road reserve of Winchester Lane has been consolidated with adjoining land to Lot 2 DP 1018401. This allotment forms part of the current Development Application. This allotment has a large frontage to the road reserve of Gerogery Road. From initial investigation it appears that the internal access road could be redirected to a new intersection with Gerogery Road at a location that provides for the required sight distance and constructions standards as per the Austroads Guide to Road Design to provide for a safe intersection treatment within the current 100 kmh speed zone. Roads and Maritime is interested in the characteristics of the traffic generated by the development and in the impact of the development on the safety and efficiency of the classified road network. On the basis of the development proposal as outlined in the submitted application Roads and Maritime Services advises that it would have no objection to the development proposal in relation to the classified road network. The issues outlined above are provided for the consideration of the Council in relation to the local road network.	Noted. Council requirements for road improvements to be imposed. (NB: Application is for a 30 year period, not 40 years as referred to by RMS)
Department of Environment and Heritage (OEH) (Now Department of Infrastructure, Planning and Environment – Biodiversity and Conservation Division)	We note that in accordance with our previous advice, further survey of the subject site has been carried out in order to ground-truth the existence of AHIMS site 55-6-0064 (Mungabareena-mm1) which had been previously identified as 'destroyed' by the proponent. Accordingly, the site has been identified through additional assessment in consultation with Registered Aboriginal Parties	Requested conditions to be imposed.

	and ground-truthing confirms this site does occur and was not destroyed. We also note that an update has been provided to the AHIMS Registrar to restore the sites validity within the AHIMS database and the ACHAR amended accordingly. We note that no harm to this site (55-6-0064 Mungabareena-mm1) is anticipated as it occurs outside the development impact zone and support Recommendation 1 that a clearly defined buffer (fence) of no less than 10m around the tree to protect the root zone to mitigate any potential harm. Provided Recommendation 1 is implemented we have no further advice in relation to this development application.	
Rural Fire Service (RFS)	NSW Rural Fire Service has reviewed the plans and documents received for the proposal and subsequently raises no concerns or issues in relation to bush fire.	No action required.
Department of Primary Industries (Division of Resources and Geoscience)	The EIS has adequately described the size and quality of the resource and has demonstrated that both have been adequately assessed; and has documented the methods used to assess the resource and its suitability for the intended applications. In order to assist in the collection of construction material production data, the proponent should be required to provide annual production data for the subject site to the NSW Division of Resources and Geoscience as a condition of any new or amended development consent.	Requested condition to be imposed.
Environment Protection Agency (EPA)	EPA have reviewed the development application and accompanying information and we have determined that we are able to modify the existing Environmental Protection Licence (EPL No 10069) for activities at the site, subject to the additional conditions outlined in Attachment A (to their correspondence)	Integrated Development conditions must be imposed.
Department of Planning & Environment Resource Assessments/Planning Services	No response received.	No action required.
Department of Primary Industries (Water)	No response received.	No action required.
Natural Resource Access Regulator	No response received.	No action required.
Department of Industry, Crown Lands and Water	Department of Industry, Crown Lands and Water Division (the Department) has reviewed the letter, together with the submitted application and plans and offers no objections to the proposed development providing no	Requested conditions to be imposed.

	impacts or development on Crown Lands and conditions are imposed on the consent in respect of Crown Lands in the area.	
Transgrid	After reviewing the proposal, TransGrid has no objections to the proposed development as it does not affect TransGrid's infrastructure.	No action required.

(NOTE: Agency names at the date of referral are used notwithstanding that some of those agency names have subsequently been changed)

7.5 Council Considerations and conditions

The application was referred to the following Council departments for consideration and recommended conditions:

Department	Response	Required actions
Traffic and Transport	Operational performance of the Winchester Lane/Gerogery Road intersection is acceptable Proposal to reduce speed limit to 80kmph does not meet the NSW Speed Zoning Guidelines and will not be considered Works to reduce the embankment and improve sight distance at the intersection are the sole responsibility of the developer, and council will not contribute funds. Intersection of Winchester Lane/Gerogery Rd is to be constructed and sealed in accordance with AlburyCity's Engineering Guidelines.	Conditions recommended.
Development Engineering	Conditions requested regarding: • reconstruction of Gerogery Road and Winchester Lane intersections. • Winchester Lane upgrade between Gerogery Road and property boundary. • Site safety and management. • Noise and dust control. • Erosion and sediment control. • Civil works construction certificate required.	Conditions recommended.
Infrastructure Contributions Planner	Section 7.12 - Calculated at 1% of the proposed cost of development as per the submitted cost summary report. Section 64 - Not applicable as the subject land is not in a Sewer or Water area.	Condition recommended.
Building Surveying	No building related component of the application. No conditions required.	No action required.

8. Conclusion and reason for decision

Development Application No. 10.2017.35776.1 was lodged by Habitat Planning, on behalf of AP Delaney and Co, on 21 November 2017 (as amended by a revised EIS lodged in August 2019 and further information submitted 25 March 2020).

The development proposes the operation of an *Extractive Industry and crushing of recycled concrete* at Lot 2 in Deposited Plan (DP) 1018401 and Lot 3 in DP 233061 No 208 Winchester Lane, Table Top.

An assessment of the application has been undertaken under Section 4.15 of the Environmental Planning and Assessment Act which concludes that the application is consistent with the provisions of the applicable Commonwealth and NSW legislation and relevant Albury LEP 2010 and Albury DCP 2010 provisions and is recommended for approval.

The development is supportable for the following reasons:

- The development is permissible on the site and, subject to conditions to address site-specific considerations, complies with the applicable legislation.
- The development proposes to extract a valuable resource in a location proximate to its market, reducing transport distances and improving sustainability.
- The activity provides employment and economic benefit to the local area and the regional economy.
- The development proposes to offset vegetation loss and establish enhanced environmental areas and connections in the area.
- The operation of the quarry has not resulted in complaints from nearby residents and the proposed mitigation measures for the potential impacts of the development will assist to reduce those impacts over the life of the quarry.
- The development provides the opportunity to update site management and rehabilitation requirements to conform with current legislative requirements and current industry best practice.

9. Recommendation

That the Southern Regional Planning Panel:

- a. Receive and note the report;
- b. Grant consent to Development Application (DA) 10.2017.35776.1 for an *Extractive Industry ('Rockwood Quarry') and crushing of recycled concrete* at Lot 2 in Deposited Plan (DP) 1018401 and Lot 3 in DP 233061, 208 Winchester Lane, Table Top, subject to the conditions contained in the Draft Determination (attachment 4); and
- c. Advise all relevant concurrence and referral agencies of the above decision and provide them with a copy of the Determination Notice and Conditions.

Attachments

1. August 2019 Environmental Impact Statement, specialist reports and plans
2. SEARs issued by Department of Planning & Environment 5 September 2016
3. Referral responses received from referral agencies/organisations
4. Draft Determination