

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	2018WES003
<b>DA Number</b>	2017/43
<b>LGA</b>	Murray River Council
<b>Proposed Development</b>	Extension of an existing Sand Quarry to extract and process a maximum of 11,000 cubic metres of sand per year over a 25-year period, equating to approximately 275,000 cubic meters and across an area of approximately 14Ha.
<b>Street Address</b>	60 La Rose Lane, Noorong
<b>Applicant/Owner</b>	Evan Wilson
<b>Date of DA lodgement</b>	25 July 2017
<b>Number of Submissions</b>	0 submissions objecting to the proposal
<b>Recommendation</b>	Approve with conditions
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	Particular designated development for the purposes of extractive industries
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>• Environmental Planning and Assessment Regulation 2000</li> <li>• Environmental Planning and Assessment Act 1979</li> <li>• State Environmental Planning Policy (State and Regional Development) 2011</li> <li>• State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007</li> <li>• State Environmental Planning Policy No 44—Koala Habitat Protection</li> <li>• State Environmental Planning Policy No. 55 - Remediation of Land</li> <li>• State Environmental Planning Policy No. 33 Hazardous and Offensive Development</li> <li>• Murray Regional Environmental Plan No 2 – Riverine Land</li> <li>• Wakool Local Environmental Plan 2013 (LEP)</li> <li>• Wakool Development Control Plan 2013 (DCP)</li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>• Assessment report</li> <li>• Draft Conditions</li> <li>• Environmental Impact Statement</li> </ul>
<b>Report prepared by</b>	Jeremy Swan, Town Planning Consultant, Hawes and Swan Planning
<b>Report date</b>	3 May 2018

### Summary of s4.15 matters

Have all recommendations in relation to relevant s4.15 matters been summarized 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*

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**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**

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**Special Infrastructure Contributions**

Does the DA require Special Infrastructure Contributions conditions (S7.24)?

*Note: Certain DAs in the Western Sydney Growth Areas Special Contributions Area may require specific Special Infrastructure Contributions (SIC) conditions*

**Not  
Applicable**

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**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*

## **PURPOSE OF REPORT**

The purpose of this report is to seek the Joint Regional Planning Panel's (the Panel) determination of a development application (DA) for the extension of an existing Sand Quarry to extract and process a maximum of 11,000 cubic metres of sand per year, over a 25-year period across an area of approximately 14Ha at 60 La Rose Lane, Noorong.

The Panel is the determining authority for this DA as this DA meets the requirements for designated development under *clause 19* of Schedule 3 to the *Environmental Planning and Assessment Regulation 2000*.

## **SUMMARY OF RECOMMENDATION**

That the panel determine Development Application 43/2017 for the extension of an existing Sand Quarry to extract and process a maximum of 11,000 cubic metres of sand per year over a 25-year period, equating to approximately 275,000 cubic meters and across an area of approximately 14Ha at 60 La Rose Lane, Noorong pursuant to Section 4.16 of the *Environmental Planning and Assessment Act 1979* by granting a Consent subject to the conditions contained in this report.

## **EXECUTIVE SUMMARY**

Council is in receipt of a DA for the extension of an existing Sand Quarry to extract and process a maximum of 11,000 cubic metres of sand per year over a 25-year period, equating to approximately 275,000 cubic meters and across an area of approximately 14Ha at 60 La Rose Lane, Noorong.

This DA is classed as Designated Development as the proposal meets the requirements for designated development under clause 19 of Schedule 3 to the *Environmental Planning and Assessment Regulation 2000*. Particular designated development for the purposes of extractive industries is regionally significant development pursuant to Part 4, cl. 20 & Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011*, and in turn the Western Joint Regional Planning Panel is the determining Authority, pursuant to Division 2.4, cl. 2.15(a) Functions of Sydney district and regional planning panels.

The application is supported by an Environmental Impact Statement (EIS) prepared by NGH Environmental on behalf of the applicant, in the form prescribed by the regulations.

Secretary's Environmental Assessment Requirements (SEARs) was issued on 26 October 2016. Key issues raised in the SEARs included an assessment of water, air, noise, biodiversity, heritage, transport, land, waste, public safety, visual, social and economic and rehabilitation of the site post exhaustion.

An EIS has been prepared by NGH Environmental on behalf of the applicant and submitted under DA 43/2017 on 25 July 2017. The EIS has adequately addressed the key issues raised in the SEARs and concludes the proposed extension of an existing Sand Quarry will not adversely impact on matters of National Environmental Significance.

The application was placed on notification pursuant to Part 6, Division 5 Public participation—designated development of *Environmental Planning and Assessment Regulation 2000* and no submissions were received during this period.

DA 43/2017 was referred to the relevant external agencies on the 28 August 2017 with all agencies providing concurrence, subject to condition to the proposed designed development, rising no substantial issues.

Draft conditions were provided to the applicant to review and provide comment. Following discussions with the applicant, minor changes to the wording occurred and the applicant has provided a letter stating they have no objections to the draft conditions.

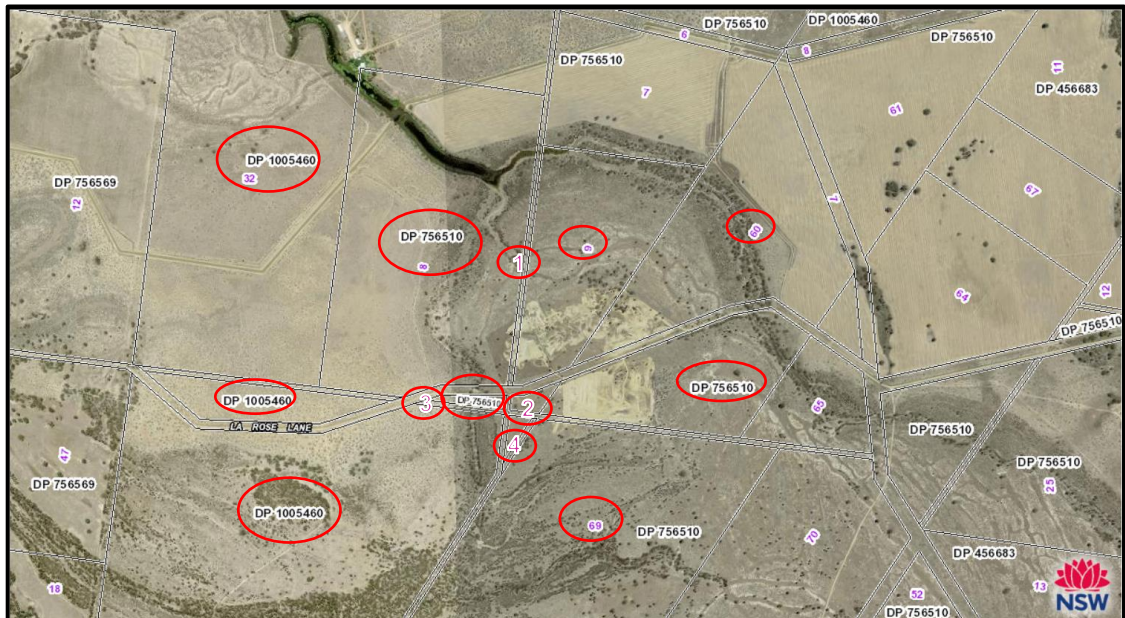
Based on this assessment, it is recommended that the DA be approved subject to the conditions contained within the report.

### AERIAL PHOTO

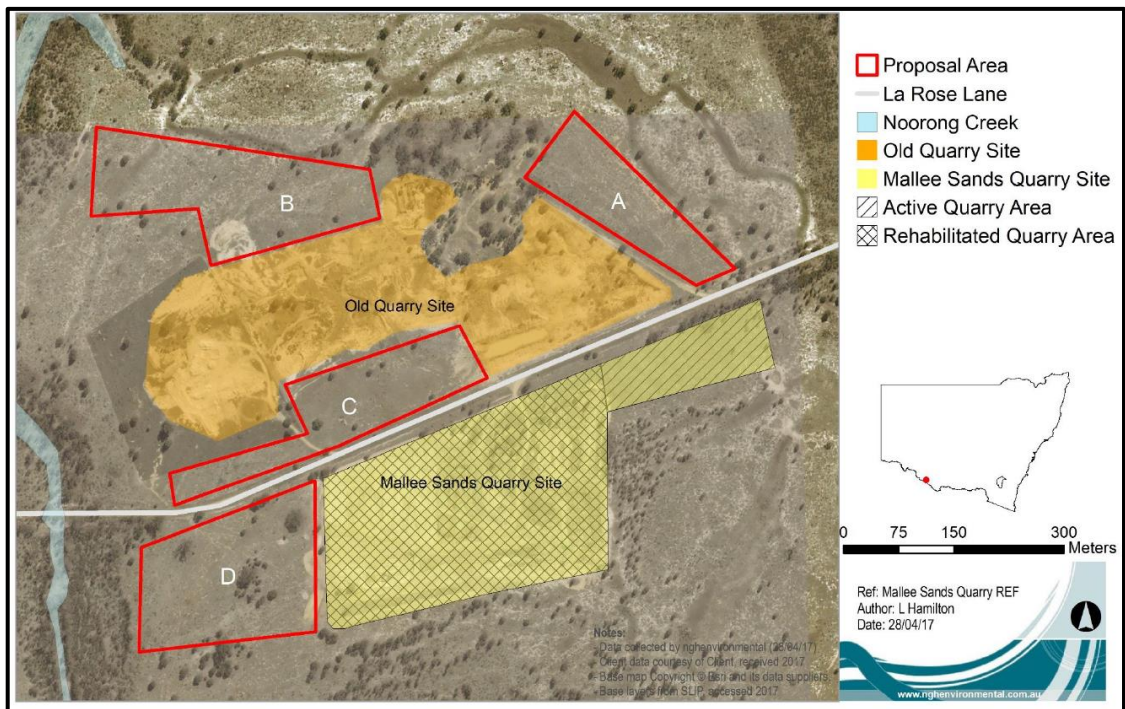


**Figure 1:** Location Map. Location of Mallee Sands and Swan Hill Noted (Source: NGH environmental (Applicant))





**Figure 2:** Aerial Image. Affected lots subject to this DA circled in red (Source: Six Maps).



**Figure 3:** Aerial image indicating proposed extension areas of the Mallee Sands quarry (Source: NGH environmental (Applicant)).

## THE SITE

The proposal for the extension of an existing Sand Quarry is located across 8 allotments. Those allotments are legally described as lot 60 DP756510, Lot 8 -9 DP756510, Lot 1-4 DP456621, Lot 69 DP756510 and Lot 32 DP1005460. The site contains an existing Sand Quarry trading as 'Mallee Sands' and this proposal seeks to expend that sand quarry. The site also contains an old Quarry site that has been exhausted for approximately 20 years.

Parts of the 'Mallee Sands' quarry site, see area colour yellow in figure 3 above, has undergone rehabilitation to which involves the returning of overburden yearly to areas

that have been decommissioned. This results in reducing the probability of further erosion and increased probability of vegetation recovery to the decommissioned areas. Scattered vegetation and ground cover is predominant located across this section of the site.

In comparison, lands located in the old Quarry site have been rehabilitated (refer to area coloured orange in figure 3 above) contain vegetation with limited regrowth and ground cover. Evidence of erosion occurring on the unbattered banks is present across this portion of the site.

Figures 4 and 5 below compare the site conditions across these two rehabilitated sites areas.



**Figure 4:** Mallee Sands rehabilitation area looking east from extension Area A (Source: NGH environmental (applicant)).



**Figure 5:** Image of old quarry pit looking south east from extension area. (Source: NGH environmental (applicant)).

The area subject to this proposal is described as relatively flat riverine lands that are not dissimilar to that of the greater Riverina in the central part of the Murray Basin. The site contains soils within the proposal area that are dominated by sand and are likely to be saline with salt tolerant flora dominating the landscape. The applicant has undertaken soil samples within 3km of the proposal area with finding concluding a strong evidence of salt on the surface.

The surrounding lands to the site has previously been used as a sand and gravel extraction site (old quarry Pit) which was exhausted over 20 years ago with Mallee Sands quarry currently operating with consent from the land owner. It is likely the sites land use prior to quarry operations was land used for livestock grazing. Livestock grazing still occurs on portions of the site.



The site is surrounded by identified watercourses being Noorong Creek located to the sites north, Armstrong Creek and Bundarra Creek are located to the sites south and Wakool River located at least 5km south of the proposal area.

## **HISTORY**

The current Mallee Sands quarry was established in 2002 and has been operating for 15 years under an agreement with the landholder. Prior to the quarry operations the land was used for livestock grazing.

## **NOTIFICATION**

The application was lodged on 25 July 2017 and was notified to surrounding properties. The DA was also placed on public notification on two separate occasions appearing across 2 columns in the display section of the Swan Hill Guardian on 30 August & 6 September 2017 for a 30-day period, closing on 29 September 2017.

The notification was advertised pursuant to Part 6, Division 5 Public participation—designated development of *Environmental Planning and Assessment Regulation 2000* and at the close of the exhibition period, no submissions were received.

## **THE PROPOSAL**

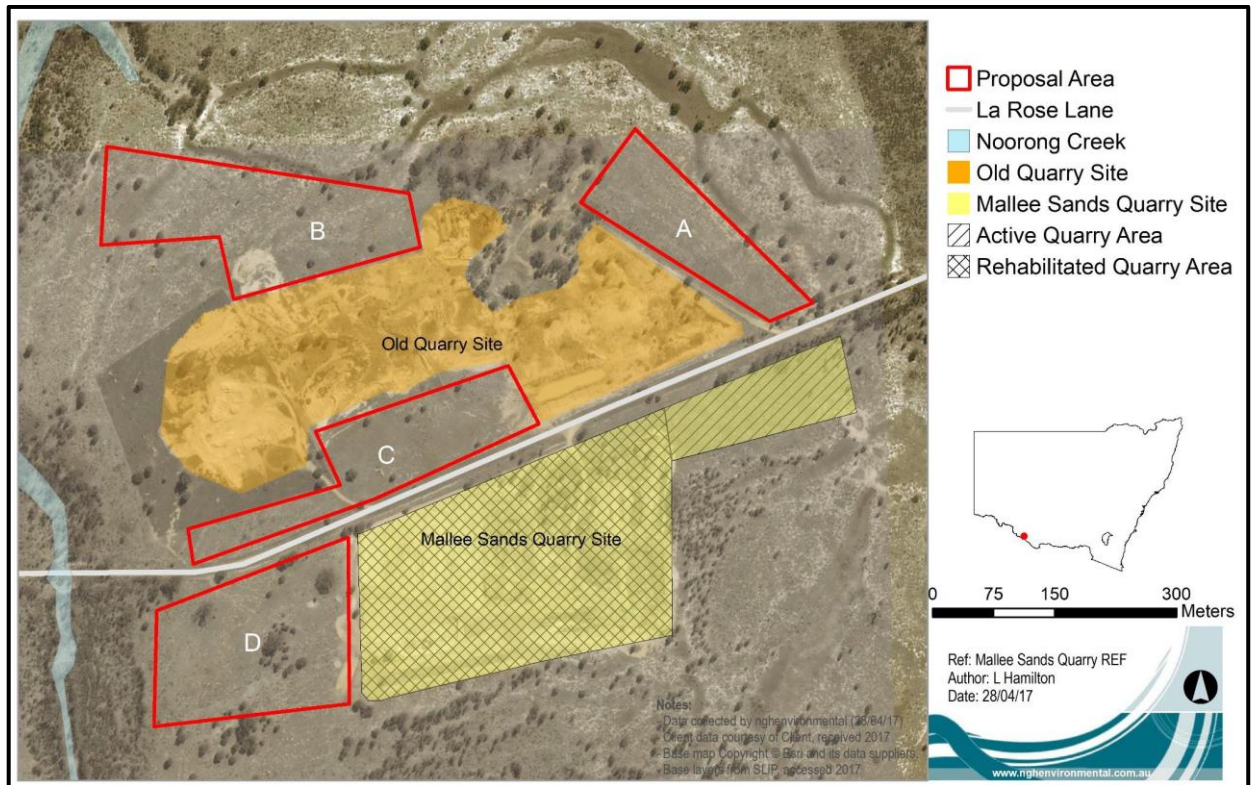
DA 43/17 seeks approval for the extension of an existing Sand Quarry to extract and process a maximum of 11,000 cubic metres of sand per year over a 25-year period, equating to approximately 275,000 cubic meters and across an area of approximately 14Ha.

Specifically, the proposed development comprises:

- Extension of an existing Sand Quarry to areas noted as A, B, C & D in figure 6 below, across an area of approximately 14Ha. Specifically:
  - Staged extraction of quarry areas to be carried out in alphabetic order commencing with Area A; and
  - Quarry Areas to be extracted to a maximum depth of 4m;
- Anticipated truck movements to remain as per existing operations with a maximum of 12 loads (or 24 truck movements) per day;
- Hours of operation:
  - Monday – Friday 7:00am to 6:00pm
  - Saturday - 8:00am to 1:00pm
  - Sunday and Public Holiday - No work.
- Removal of scattered vegetation across Areas A, B, C & D as a result of sand extraction;
- Employment of up to 3 full time staff and 2 casuals when operating plus additional contracting work as required;
- Proposed rehabilitation post extraction once Quarry areas have been exhausted; and
- Access to the quarry is proposed via the Swan Hill – Barham Road and La Rose lane.

The capital investment value of the works is \$7 million.

## **THE PROPOSED SITE PLAN**



**Figure 6:** Proposed extension areas of the Mallee Sands quarry (Source: NGH environmental (Applicant)).

## **ASSESSMENT**

An assessment against 4.15 of the Environmental Planning and Assessment Act 1979 is provided below.

### ***Environmental Planning and Assessment Act 1979 – Section 4.15***

In determining a DA, the consent authority is to take into consideration the following matter as are of relevance in the assessment of the DA on the subject property.

#### ***(a)(i) The Provisions of any Environmental Planning Instrument***

The Environmental Planning Instruments that relate to the proposed development are:

- Environmental Planning and Assessment Regulation 2000;
- Environmental Planning and Assessment Act 1979;
- State Environmental Planning Policy (State and Regional Development) 2011;
- State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007;
- State Environmental Planning Policy No 44—Koala Habitat Protection;
- State Environmental Planning Policy No. 55 - Remediation of Land;
- State Environmental Planning Policy No. 33 Hazardous and Offensive Development;
- Murray Regional Environmental Plan No 2 – Riverine Land;
- Wakool Local Environmental Plan 2013 (LEP); and



- Wakool Development Control Plan.

An assessment of the proposed DA against the above instruments is detailed below.

#### Environmental Planning and Assessment (EP&A) Regulation 2000

Pursuant to Schedule 3 of the EP&A Regulation 2000, clause 19 classes development as Extractive Industries (being industries that obtain extractive materials by methods including excavating, dredging, tunneling or quarrying or that store, stockpile or process extractive materials by methods including washing, crushing, sawing or separating) that disturb or will disturb a total surface area of more than 2 hectares of land by extracting material is considered designed development.

This proposal seeks approval for the extension of an existing Sand Quarry to extract and across an area of approximately 14Ha, exceeding the 2Ha threshold therefore, this DA is classed as Designed Development.

#### Environmental Planning and Assessment (EP&A) Act 1979

Pursuant to Part 2, Division 2.4, cl. 2.15(a) Functions of Sydney district and regional planning panels of the EP&A Act 1979, the proposed development in accordance with Part 4, cl. 20 & Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011* is regionally significant development and therefore it is referred to the Western Joint Regional Planning Panel for determination.

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

Pursuant to Part 4, cl. 20 & Schedule 7 of the *State Environmental Planning Policy (State and Regional Development) 2011*, Particular designated development for the purposes of extractive industries is regionally significant development. The Western Joint Regional Planning Panel is the determining Authority for regionally significant development, pursuant to Division 2.4, cl. 2.15(a) Functions of Sydney district and regional planning panels.

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

The aim of this SEPP is to provide for the proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State.

Pursuant to Clause 12 of the SEPP, the consent authority for development for the purposes of extractive industry must consider:

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

- (c) evaluate any measures proposed by the applicant to avoid or minimise any incompatibility, as referred to in paragraph (a) (iii).

Clause 13 of the SEPP requires the proposed development to be assessed in terms of its compatibility with current and future mining, petroleum production and extractive industries.

This DA proposes the extension of the existing Mallee Sands Quarry and has been in operation since 2002 with no complaints received from surrounding land owners. The site is located away from sensitive uses and is unlikely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials. The DA also proposes rehabilitation post extraction that will aid in the rejuvenation of the quarry sites.

The proposal will continue to provide local jobs and on-going employment and contributes to the construction markets in Western NSW and Victoria. It is considered that the proposal for an extension of an existing sand quarry will be minimal impact given its proximity to the existing sand quarry in operation, thereby satisfying the requirements of the SEPP.

#### State Environmental Planning Policy No 44—Koala Habitat Protection

The aim of this policy is to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline.

Wakool Local Government area is identified under Schedule 1 as land to which this Policy applies. The subject quarry areas contain mature *Eucalyptus Camaldulensis* (River red gum) that may provide habitat for koalas in the Area and are identified as feed tree species under Schedule 2 of this SEPP.

The application has been referred to the Office of Environment and Heritage who have raised no objections, subject to suitable conditions to this proposal and have not raised concerns relating to Core Koala Habitat. In addition, the application was referred to National Parks and Wildlife services on the 28 August 2017 and followed up on 27 October 2017. However, no comments from National Parks and Wildlife services have been received to date.

It is considered, as no concerns were raised by OEH and the applicant has submitted an aboriginal cultural heritage assessment which involved a field survey of approximately 11km of transects across the study area and identified no koala habitat present on site, it is therefore considered the site does not contain core koala habitat as such the application satisfies the requirements of the SEPP.

#### State Environmental Planning Policy No. 55 - Remediation of Land:

The SEPP requires Council to be satisfied that the site is suitable for its intended use (in terms of contamination) prior to granting consent.

In particular, SEPP 55 contains a number of objectives that aim to promote the remediation of contaminated land for the purpose of reducing the risk of harm to human health and the environment:

- a) *By specifying when consent is required, and when it is not required, for a remediation work; and*

- b) 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 a remediation work in particular; and*
- c) By requiring that a remediation work meet certain standards and notification requirements*

Subject to Clause 7 of SEPP 55, a consent authority must not consent to the carrying out of development on land unless it has considered whether the land is contaminated.

It is unlikely the subject site contains contaminated lands given the sites former use being used for agricultural grazing and it is considered the areas adjoining the subject areas of this proposal did not contain contaminated soils given the nature of operational practices involved in Sand quarrying. It is considered the provisions of this SEPP have been satisfied.

#### State Environmental Planning Policy No. 33 Hazardous and Offensive Development

The aim of this SEPP is to ensure that when determining whether a development is a hazardous or offensive industry, any measures proposed to be employed to reduce the impact of the development are taken into account and that any application to carry out potentially hazardous or offensive development, the consent authority has sufficient information to assess whether the development is hazardous or offensive and to impose conditions to reduce or minimise any adverse impact.

The proposal seeks consent for the extension of an existing Sand Quarry that proposes to continue operating as per current operations of the Mallee Sand Quarry. This proposal does not intend to intensify the establishments operations in terms of annual extraction, truck movements and loads and employment more than what is currently operating on the adjoining site.

It is considered the applicant has provided sufficient information to assess the proposed development is not considered Offensive Development and the provisions of this SEPP have been satisfied.

#### Murray Regional Environmental Plan No 2 – Riverine Land

The aim of this REP is to conserve and enhance the riverine environment of the River Murray for the benefit of all users.

The objectives of this plan are as follows:

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

The site is located at least 14km north of the Murray River and it is considered development on this site will not adversely affect the riverine environment of the River Murray. It is considered that the development complies with the objectives of the Murray Regional Environmental Plan No 2 – Riverine Land in that the proposed development is unlikely to result in adverse impact on the riverine environment of the River Murray.

#### Wakool Local Environmental Plan (LEP) 2013



### *Permissibility*

The subject site is zoned RU1 Primary Production under the provision of the Wakool Local Environmental Plan 2013. The proposal seeks development consent for the extension of an existing Sand Quarry and a Sand Quarry is defined as an extractive Industry and extractive industry is permitted with consent in the RU1 zone.

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

### *Zone Objectives*

The objectives of the RU1 Primary Production zone are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To promote the use of agricultural land for efficient and effective agricultural production without the encroachment of urban land uses.*
- *To allow the development of processing, service and value-adding industries related to agriculture and primary industry production.*
- *To allow the development of complementary non-agricultural land uses that are compatible with the character of the zone.*

### Officer Comment:

The proposal seeks consent for the extension of an existing Sand quarry in an area that surrounds an existing sand quarry site and a former old quarry reducing future fragmentation of resource lands and minimizing conflict between land uses. The proposal will provide local jobs and contributes to the construction markets in Western NSW and Victoria.

The proposed development is therefore considered consistent with the zone objectives and is a suitable form of development for the subject site.

### *Relevant Clauses*

The DA was assessed against the following relevant clauses of the LEP.

Clause	Requirement	Provided	Compliance
5.10 Heritage conservation	To conserve the environmental heritage of Wakool.	The subject site does not contain local heritage items.	Yes
5.11 Bush fire hazard reduction	Bush fire hazard reduction work authorised by the Rural Fires Act 1997 may be carried out on any land without development consent.	The subject site is not identified as bushfire prone lands.	Yes.
6.1 Earthworks	Earthworks for which development consent is required will not have a detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land.	The proposal is for an extension of a Sand Quarry across designed areas identified as Areas A, B, C & D.  Post Exhaustion Remediation is proposed which ensures the areas of concern will not have any detrimental effect on, drainage patterns and soil stability in the locality.	Yes
6.2 Flood planning	To minimise the flood risk to life and property associated with the use of land,	The subject site does not appear to be flood affected.  It is considered the proposed development is unlikely to affect flood behaviors in the area or cause adverse impacts on adjoining properties.	Yes

6.3 Terrestrial biodiversity	To maintain terrestrial biodiversity.	<p>The subject site contain lands identified as “Biodiversity” on the Terrestrial Biodiversity Map.</p> <p>The applicant has provided a threatened species evaluation for the flora and fauna contained on the site.</p> <p>The proposal works are considered acceptable and satisfy this clause subject to suitable conditions regarding rehabilitation.</p>	Yes
6.4 Riparian Land and Watercourses	In determining whether to grant development consent to carry out development on land to which this clause applies, the consent authority must consider whether the development is likely to cause any adverse impact on the water quality and flows within a watercourse.	<p>The subject site contains ‘watercourses’ as per the WLEP 2013 Water Courses Map.</p> <p>Comments from DPI water and Water NSW raised no objects, subject to conditions.</p> <p>The proposed development is considered unlikely to result in adverse impacts upon the water quality and flows of the watercourse and its habitats and ecosystem.</p>	Yes



6.5 Wetlands	Before determining a development application to development on land to which this clause applies, the consent authority must consider the condition and significance of the existing native fauna and flora on the land, the provision and quality of habitats on the land for indigenous and migratory species, and the surface and groundwater characteristics of the land, including water quality, natural water flows and salinity.	Similarly, the subject site contains areas identified as "Wetland" on the WLEP 2013 Wetlands Map.  Comments from DPI water, Water NSW and OEH raised no objects, subject to conditions.  In addition, the proposal will carry out the clearing native vegetation at 2Ha a time and will progressively rehabilitate the areas to minimize any long term impact on the vegetation, the habitat and survival of native fauna that maybe present on these lands.	Yes
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***(a)(ii) The Provision of any Draft Environmental Planning Instrument (that is or has been the subject of public consultation under this Act and that has been notified to the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved).***

There is no draft Environmental Planning Instrument applicable to the proposed modifications.

***(a)(iii) The Provisions of any Development Control Plan***

Wakool Development Control Plan 2013

Extractive Industries is a type of land use and a form of Designated Development within the Wakool Local Government Area. Therefore, the provisions Section B.6.9 Extractive Industries / Mining, A2.6 Designated Development of the WDCP 2013 are applicable to this development. The following is an assessment of the proposed development's compliance with the controls in the DCP.

Control	Requirement	Provided	Compliance
A.2.6 Designated Development	This type of development requires a greater level of rigor and you must provide an Environmental Impact Statement (EIS) with a development application for designated development.	An EIS has been submitted as part of the development application.	Yes

Control	Requirement	Provided	Compliance
A.4.9 Extractive Industries / Mining	<p>To ensure that extractive industries and mining occurs where the benefits of resource extraction are not over-ridden by potential impacts on:</p> <p>a) The character and amenity of Wakool Shire; or</p> <p>b) Identified environmental values.</p>	<p>The proposed development satisfies the location requirement for extractive industries / mining given its proximity to the adjoining existing sand quarry and would not result in any land use conflicts with surrounding site.</p> <p>In addition, as previously detailed under the provisions of SEPP (Mining, Petroleum Production and Extractive Industries) 2007 and SEPP No. 33, rehabilitation is proposed to the areas of concern. Conditions of compliance are proposed to ensure rehabilitation across the site is carried out.</p>	Yes
B.1.2 Watercourses & Wetlands	<p>This clause applies to all land where there is a „Watercourse“ on the „Watercourse Map“ or a „Wetland“ on the „Wetlands Map“ in WLEP2012.</p>	<p>As previously mentioned, the site contains mapped areas identified as Watercourses and wetlands in the WLEP 2013.</p> <p>Comments from DPI water and Water NSW raised no objects, subject to conditions.</p> <p>The proposed development is considered unlikely to result in adverse impacts upon the water quality and flows of the watercourse and its habitats and ecosystem.</p>	Yes

As demonstrated in the above assessment, it is therefore considered the proposed development is consistent with Council' controls.

## **SECTION 7.11 CONTRIBUTIONS (FORMALLY S94 CONTRIBUTIONS)**

The Development application is subject to road maintenance contributions payable under Section 7.11 of the Environmental Planning and Assessment Act 1979.

Contributions payable under Section 7.11 of the Environmental Planning and Assessment Act 1979 shall be paid by the operator of the sand extraction operation that is subject to this consent. In accordance with Council's Section 94 Contribution Plan, contributions under section C4.2.B Road works – rural of this plan prescribe the following rates:

Unsealed Roads:

For Limestone Gravel pavements and prior steam gravel pavements 6.2m wide the base maintained cost is 5c / Tonne per km at 2004 Prices. **Contribution for unsealed road maintenance is 5c/ tonne per km in 2004 dollars to be indexed with the CPI.**

The rate for the unsealed road component between the site entry at La Rose Lane and Noorong Road to be calculated as per Council's Section 94 Contribution Plan. At December 2004 CPI index was 81.5 for Australia and in September 2017 CPI index was 111.4 for Australia, this reflects an inflation rate of 36.687%. Calculations for inflation rate:

$$\frac{111.4 \text{ (2017 CPI)} - 81.5 \text{ (2004 CPI)}}{81.5 \text{ (2004 CPI)}} \times 100$$

Inflation Rate = 36.687%

Based on this inflation rate, the contribution for unsealed road maintenance / tonne per km equates to \$0.07 / tonne per km as of 2017 CPI. Council will calculate the appropriate amount of contribution based on the rate per tonne and distances travelled, as assessed as appropriate by Council from time to time, and as adopted in Council's annual budget.

Suitable conditions have been recommended requiring payment of the contribution based on a quarterly basis and measured using surveyor information to estimate the amount of material removed from the site.

**(a)(iia) Any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4.**

Nil

**(a)(iv) The Regulations**

The Regulations do not prescribe any additional matters that are relevant to the proposed DA.

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



As demonstrated by the above assessment, the proposed DA is unlikely to have any adverse impact on the surrounding environment or the social and economic conditions of the locality. In addition, the following has been considered:

#### *Dust Emissions*

It is considered that dust is unlikely to cause adverse impacts to the surrounding properties in that the nearest receivers are 1.1km from the quarry site and the material to be excavated either does not contain dust-generating particles or is of sufficient moisture that dust is unlikely to be generated.

#### *Noise*

The nearest sensitive receiver, a rural dwelling, is located about 1.1kms north west of the proposal area. This distance is in excess of sensitive noise buffers prescribed in The Wakool DCP 2013, which requires at least 500m from a rural dwelling. It is not considered noise generation from the machinery on site will be an issue. A condition limiting works to operate during daylight hours will ensure the nearest rural residence is not adversely impacted. No evening or night works would occur.

#### *Traffic and Truck movements*

No changes to proposed traffic and truck movement to the existing quarry operations. It is considered traffic movement will not cause adverse impact.

#### *Impact on Ground water*

It is unlikely the proposed quarry will impact on Ground water as groundwater interception is not expected to occur. Should groundwater interception occur, a permit and separate DA will be required.

#### *Rehabilitation*

The quarrying operation when completed, will be rehabilitated which ensures rehabilitation is progressive on the site and in turn encourages establishment of native plants on the site.

The applicant has provided detailed Safeguards and Mitigation Measures in the EIS prepared by NGH Environmental, noting the rehabilitation techniques. These rehabilitation techniques are considered adequate and endorsed by external referrals.

### **(1)(c) The suitability of the site**

The site is in a suitable location that is capable of accommodating the proposed development within the RU1: Primary Production zone.

### **(1)(d) Any submissions made in accordance with this Act or the Regulations.**

The application was advertised pursuant to Part 6, Division 5 Public participation—designated development of *Environmental Planning and Assessment Regulation 2000* and no submissions were received during this period.

### **EXTERNAL REFERRALS**

#### *Department of Planning*

A referral response was received on 31 August 2017. No objections were raised, and the following comment was made:

“The department does not have any comments in addition to those provided in the Secretary’s Environmental Assessment Requirements (SEARs), issued on 26 October 2016).

*Department of Industry (Lands and Forestry)*

A referral response was received on 4 September 2017. No objections were raised, subject to recommended conditions. The following comments were made:

“Whilst investigating the Development application it is noted that an unformed road to the west of the proposal as shown on the map at Attachment A is a Crown Road and is held under Enclosure Permit No. 28181 By LA Martin Nominees PTY LTD (the registered Proprietor of Lot 60 DP 765510 and properties adjoin the Crown Road).

Please note that the Department does not permit any Road Construction works on Crown Roads. Although road construction is not proposed as a part of this Development application, I take this opportunity to suggest that LA Martin Nominees Pty Ltd make application to close and purchase the Road”.

*NSW EPA*

A referral response was received on 1 September 2017. No objections were raised, subject to recommended conditions. The following comments were made:

“Based on the information provided, the proposed activities are not scheduled under the POEO Act and the Proposed works do not require an Environment Protection License. However, in undertaking the activities the proponent should ensure the following conditions are met.

- The proponent should take all necessary precautions and implement measures to prevent pollution of waterways during the proposed works.
- The proponent should be aware that under section 120 of the *Protection of the Environment Operations Act 1997* it is an offence to pollute waters.

We recommend that waste water (if any) proposed be managed and irrigated in accordance with the Environmental Guideline: Use of Effluent by Irrigation. This is currently available at <http://www.environment.nsw.gov.au/water/effluent.htm>.”

*Environment and Heritage*

A referral response was received on 28 September 2017. No objections were raised to the proposal. The following comments were made:

*“Biodiversity*

*OEH is satisfied that the proposal would not have a significant impact on threatened species or ecological communities. OEH notes that the proposal will involve disturbing no more than 2HA at any stage during the longer-term development of the site and supports the stated mitigation measures of progressive rehabilitation of disturbed areas using locally occurring native species.*

*Aboriginal Cultural Heritage*

*It is recommended that all ground disturbance activities must be confirmed to areas assessed. Should modification (change or increase) to the area of impact be required then additional ACH assessment will need to be undertaken for any areas not subject to prior ACH consideration.*

*An AHIMS search was undertaken 19 January 2017 covering an area 25km (E/W) x 25km (N/S) using 4m wide transects which revealed no known ACH constraints at the site. We note that consultation with aboriginal peoples was undertaken in accordance with clause 80c of the NPW Amendment Regulation 2010 and a Wamba Wamba Local Aboriginal Land Council representative participated in the field inspection which did not identify any ACH or Areas of potential archeological deposits (Survey results). It is also noted that the survey was inclusive of mature trees occurring at the subject site with potential to demonstrate evidence of Aboriginal cultural modification.*

*We note the number of indicative landscape features within proximity to the proposed expansion including sandhills, floodplain, major creeks, and unnamed natural watercourses (with associated wetlands) however we recognize the subject site have been assessed as being disturbed and modified through clearing, grazing and historic sand mining activities. The subject site has been identified as not demonstrating the topographical variation typically associated with sand-hill burials and not considered a 'typical' sand deposit/body that contains in-situ subsurface ACH owing to its deposition in a fluvial environment."*

OEH considers the information provided sufficient to demonstrate no ACH constraints were identified at the subject site and while no further comment regarding ACH, OEH note and support the recommendations outlined in section 8 of the applicants Aboriginal Cultural Heritage Assessment Report (Section 8).

Compliance with these referral comments is a recommended condition.

#### *National Parks and Wildlife*

The development application was referred to the Local Land Service on 28 August 2017 with no response received. A follow up was sent to the agency on 27 October 2017 however no response received to date.

#### *Department of Planning and Environment - Recourses and Geoscience*

A referral response was received on 28 September 2017. The following comments were made:

*"GSNSW has reviewed the EIS in regard to the Secretary's Environmental Assessment Requirements. The EIS has not adequately described the size and quality of the sand resource including a record of the results and methods used as per the requirements of the Division.*

*The assessment describes a resource continuous to the existing operation and includes a brief discussion of the geology of the site area with site photographs and a typical cross section. The EIS states that the approximate total resource over 25 years would be 275,000m<sup>3</sup> with a proposed annual rate of 11,000m<sup>3</sup>, however it is unclear how this resource estimate was calculated.*

*It is understood the proponent has a long working history of the area, however the environmental assessment would benefit from clarification of how the size of the resource was determined. If it is based partly or wholly upon previous extraction, topography or volumetric calculation then this should be explained in greater detail. If any trenching or test pits have been carried out then the locations should be indicated on a map. It is also desirable that the proponent describe how the material quality is suitable for the intended purpose/s with the results of any testing of the material included.*

*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 Division as a condition of any new or amended development consent."*

The departments referral comments were provided to the applicant for comment. The applicant responded on 14 November providing annual volume data from the last 12 months of the operation of the Maullee Sand Quarry. The applicant has advised based on this Data the projected annual volume data proposed to be mined from the site associated with this DA will be based off the adjoining sand quarry sites that have been operated for over 45 consecutive years.

The proposed mining sizes and depths of this DA have been based off the areas contained within the surrounding exhausted Sand quarry, it is considered the applicant has provided sufficient detail to satisfy the referrals concerns.

Compliance with these referral comments in the form of requesting annual production data for the subject site to be provided to the Division, is a recommended condition.

#### *Road & Maritime Services*

A referral response was received on 27 September 2017. No objections were raised, subject to the Consent Authority ensuring that the development is undertaken in accordance with the information submitted as amended by the inclusion of the following as conditions of consent. The following comments were made:

- 1. The quarry operator shall maintain accurate records of the extraction quantities and associated traffic movement to and from the subject site (on a monthly basis). These records shall be made available at the request of either the Consent Authority or Roads and Maritime Services.*

*Notwithstanding the above the provision of safe access between the subject site and the public road network should be considered. As the subject site is located with access to La Rose Lane within a 100km/h speed zone the following suggested conditions are provided for the consideration of Council in its determination of the proposal:*

- 1. Any driveway to the public road network is to be located and maintained so as to comply with the required Sight Distance requirements on the road network in accordance with the Austroads Publications for the prevailing speed limit. Compliance with this requirement is to be certified by an appropriately qualified person prior to construction of the vehicular access.*
- 2. As a minimum any driveway to the public road network is to be constructed as a "Rural Property Access" type treatment in accordance with the Austroads Guide to Road Design. The driveway is to be constructed with a minimum width to accommodate the largest size of vehicle likely to access the subject site.*
- 3. Where the driveway is to a sealed road any access driveway shall be sealed for at least 10m from the edge of seal of the carriageway in accordance with the Austroads Guide to Road Design. This is required to prevent deterioration of the road shoulder and the tracking of gravel onto the roadway.*
- 4. Any entry gate to the site shall be located at least 40m from the edge of seal of the carriageway or at the property boundary whichever is the greater. This is to allow for the standing of large vehicles when gates are to be opened.*

5. *Any damage or disturbance to the road reserve (other than the driveway) is to be restored to match surrounding landform in accordance with Council requirements.*
6. *Any access driveway is to be designed and constructed to prevent water from proceeding onto, or ponding within, the carriageway of the public road. If a culvert is to be located within the clear zone of the carriageway for the prevailing speed zone it is to be constructed with a traversable type headwall.*
7. *When the quarry is in operation "Truck Entering" signs shall be installed on both approaches to the driveway along La Rose Lane and the intersection of La Rose Lane with the Swan Hill – Barham Road to warn motorists of the possible truck movements.*

Compliance with these referral comments is a recommended condition.

#### *Rural fire Service*

A referral response was received on 21 September 2017. No objections or concerns were raised.

#### *Local Land service*

The development application was referred to the Local Land Service on 28 August 2017 with no response received. A follow up was sent to the agency on 27 October 2017 however no response received to date.

#### *Agriculture NSW*

A referral response was received on 21 September 2017. No objections were raised.

#### *Water NSW*

A referral response was received on 7 September 2017. No objections were raised to the proposal. The following comments were made:

*"As the EIS identifies that:*

*'the water Management Act provides Licenses for assessing surface water resources for the use on site, the Act also has provisions for the management of groundwater resources. No water Extraction is expected to be required, therefore no water access, supply or works approval are required. Groundwater interception is not expected to occur. Therefore, no permit for intercepting or extracting groundwater is required'.*

*Referral under IDAS is not needed. Given that the activity does not trigger any requirements under the Water Management Act 2000, WaterNSW is not able to provide further comment on the EIS."*

#### *DPI Water NSW*

A referral response was received on 28 September 2017. No objections were raised to the proposal. The following comments were made:

*"For the purposes of the Water Management Act 2000 (WM Act) a controlled activity approval is not required and no further assessment by this agency is necessary for the proposed development."*

It should be noted that DPI Water has assessed all the matters raised in Relevant SEAR, and these issues have been suitably considered in making this decision.)

**(1)(e) The public Interest**

The public interest is served through the detailed assessment of this DA under the Environmental Planning and Assessment Act 1979, the Environmental Planning and Assessment Regulation 2000, Environmental Planning Instruments, Development Control Plan and policies. In addition, no submissions objecting to the development application were submitted to Council, highlighting this proposal is strongly in the public interest.

Based on the above assessment, the proposed DA is consistent with the public interest.

**FINANCIAL IMPLICATIONS**

This matter has no direct financial implications for Council.

**CONCLUSION**

The proposed DA is for the extension of an existing Sand Quarry to extract and process a maximum of 11,000 cubic metres of sand per year over a 25-year period, equating to approximately 275,000 cubic meters and across an area of approximately 14Ha. The site is considered to be in a suitable location for the proposed development that is unlikely to result in any adverse environmental impacts.

Therefore, the proposed development satisfies the requirements of Section 4.15 of the *Environmental Planning and Assessment Act 1979* and all relevant instruments, plans and policies. The proposed development is recommended for approval subject to appropriate conditions.