

AUTHORISED OFFICERS REPORT

DEVELOPMENT APPLICATION:	10.2024.157.1
NSW PLANNING PORTAL	PAN-426376
WESTERN PLANNING PANEL	REGIONAL PPSWES-295
FOR:	Extractive Industry – Temporary increase in extraction volume of up to 80,000 tonnes per annum for a period of up to 24 months.
ZONE:	RU1 Primary Production
ADDRESS:	234 Milgate Road, Moama
PROPERTY	Lots 122, 217 and 218 DP 751152
OWNER:	Hanson Construction Materials Pty Ltd
<u>APPLICANT:</u>	Hanson Construction Materials Pty Ltd

EXECUTIVE SUMMARY

Hanson Construction Materials Pty Ltd (Hanson) operate the Hanson Moama Sand Quarry or the Millgate Road Quarry (the Quarry) under DA33/95.

Hanson seek temporary increase of the extraction volume at this Quarry from 30,000 to 80,000 tonnes per annum, for a period of up to 24 months; corresponding increase in traffic levels while maintaining peak hour and daily flows; and minor change in the extraction area boundary to include historical disturbance outside the approved extraction boundaries.

The total disturbance area of 2 ha at any one time does not apply to this current proposal. This is to allow for continued operations during the preparation of the separate development application.

At the end of the 24-month period, all operations will revert to that enabled under DA33/95.

The site consists of Lots 122, 217 and 218 DP 751152, and is zoned RU1 Primary Production (RU1) under the Murray Local Environmental Plan 2011. The proposed development is classed as an 'extractive industry' which is permitted with development consent in the RU1 zone.

The Quarry operation is split into the following areas:

- Northern includes the North Pit Extraction Area, stockpiling, backfilling, and historic/ongoing rehabilitation activities; and
- Southern includes extraction, processing, stockpiling, administration, workshops, water management, and historic/ongoing rehabilitation activities.

Vehicle access to the site will remain from Milgate Road.

Products will continue to be dispatched from the Southern Area via Milgate Road, to Cobb Highway and beyond.

The Development Application was notified to surrounding property owners in accordance with legislation and Council's Notification Policy. No submissions were received.

The application was referred to Government agencies under various legislation, with the application being classed as Designated Development, Integrated Development (with NSW EPA) and Regionally Significant Development. Referrals were also sent internally to Murray River Council teams. Responses received are incorporated into the assessment in this Report.

The proposed development is generally consistent with the Murray Local Environmental Plan 2011 (Murray LEP 2011), the Murray Development Control Plan 2012 (Murray DCP 2012), the Murray Strategic Land Use Plan 2010-2030 (Murray SLUP) and other relevant planning instruments associated with the site.

The Application has been assessed in accordance with Section 4.15 of the Environmental Planning and Assessment Act 1979 and is deemed consistent with the requirements therein.

The proposed development is considered appropriate for the location and does not adversely impact upon the existing amenity and neighbourhood character of the area and is appropriately located within a Primary Production area outside of Moama.

For the foregoing reasons, the proposed development can be granted development consent subject to appropriate conditions of consent as attached to this Report.

SECTION 1: INTRODUCTION

1.1 Subject Land

Hanson owns and operates the Hanson Moama Sand Quarry or the Millgate Road Quarry (the Quarry). The Quarry site is located approximately 2km northeast of Moama and is entirely within the Murray River Council Local Government Area. Refer to Figure 1 for a Locality Plan.

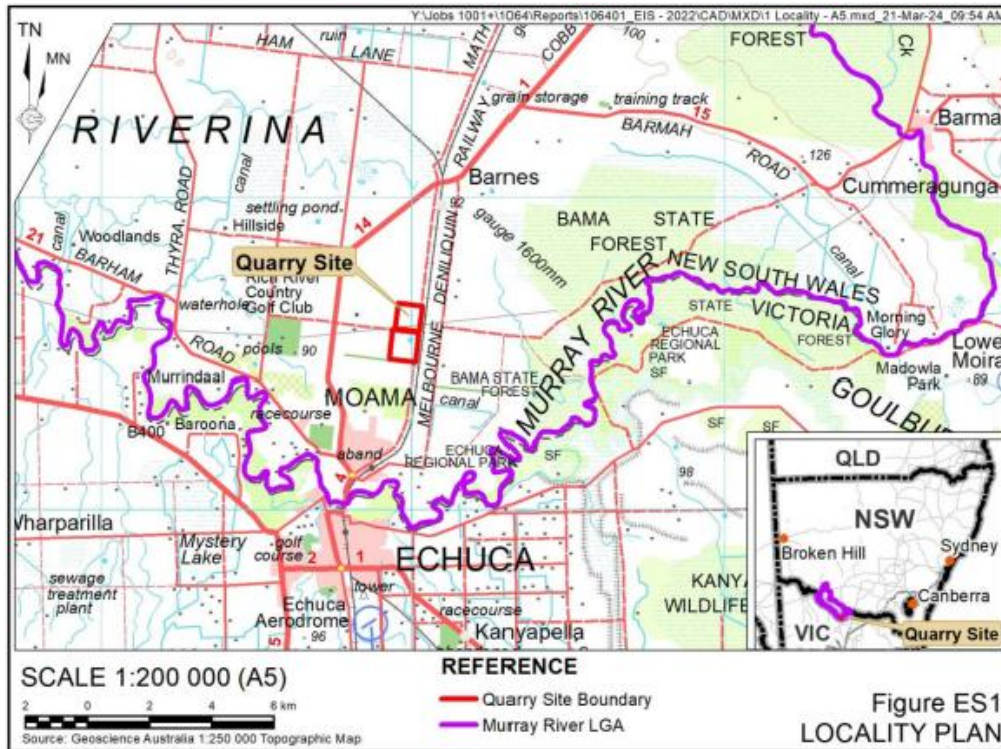


Figure 1 – Locality Plan
Source: Environmental Impact Statement

The Quarry site consists of Lots 122, 217 and 218 DP 751152, and intersected by Milgate Road.

The Northern Area (64.5ha approx.) includes the North Pit Extraction Area, stockpiling, backfilling, and historic/ongoing rehabilitation activities whereas the Southern Area (80.9ha approx.) includes extraction, processing, stockpiling, administration, workshops, water management, and historic/ongoing rehabilitation activities. Refer to Figure 2 for a Site Layout Plan.

The site is zoned RU1 Primary Production (RU1) under the Murray Local Environmental Plan 2011.

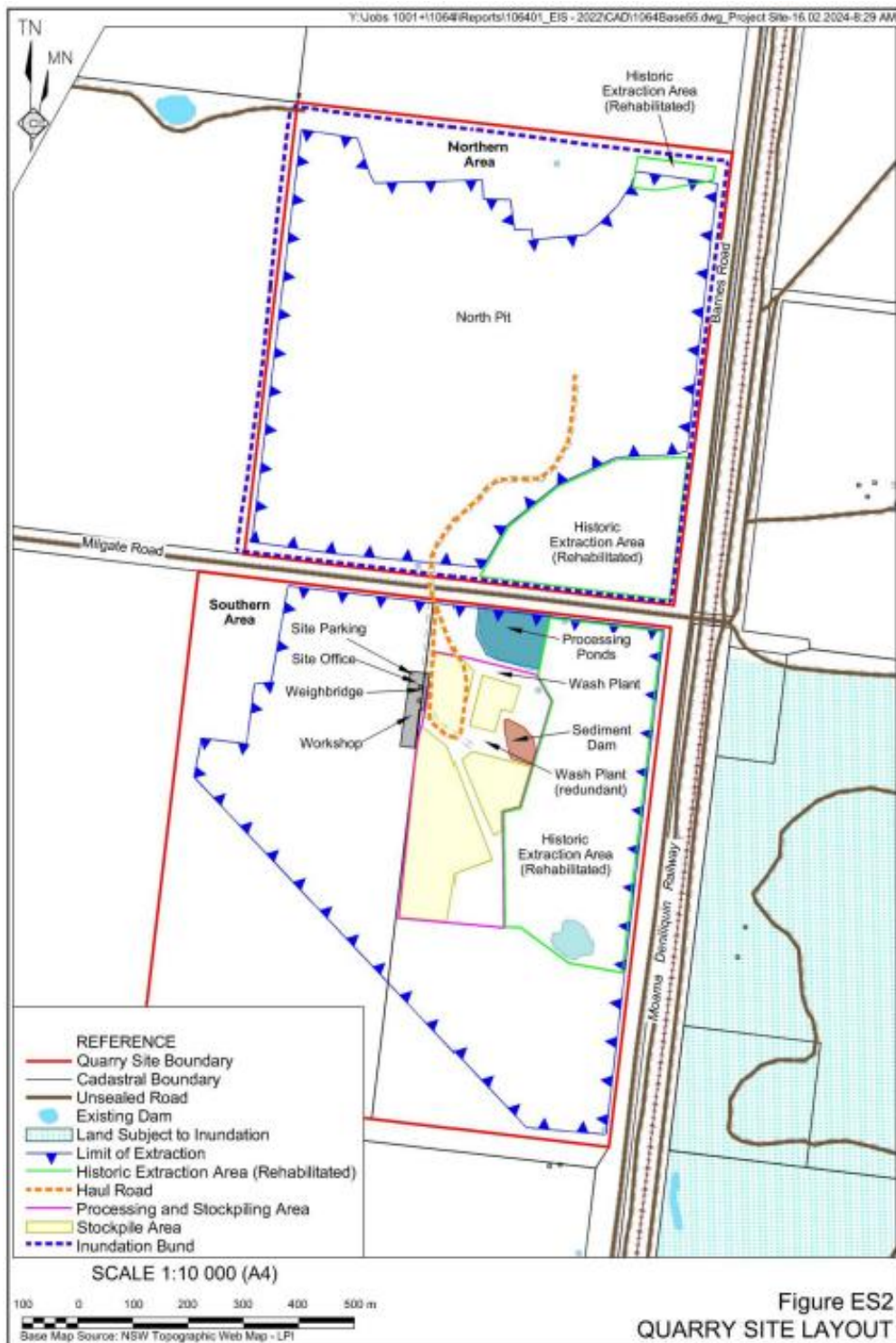


Figure 2 – Site Layout Plan
Source: Environmental Impact Statement

Vehicle access is retained from Milgate Road.

Products continue to be dispatched from the Southern Area via Milgate Road, to Cobb Highway and beyond. Refer to Figure 3 for the Transport Plan.

The Quarry is a supplier of high-grade sand products used in concrete and other construction materials for the region. Extreme regional flooding events experienced by the Quarry during late 2022 disrupted the extractive and construction materials industries on a local and regional scale, including loss of production from this site.

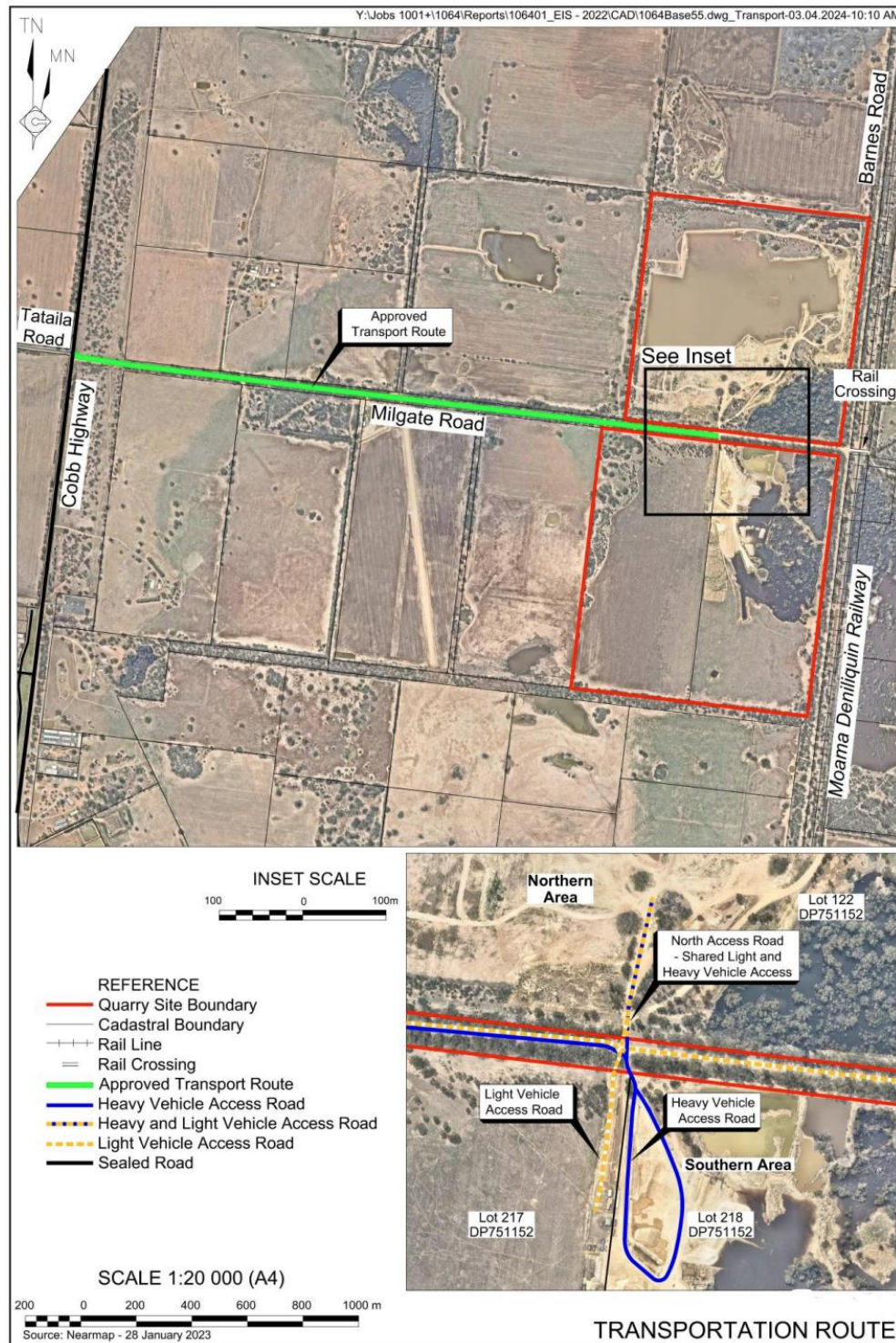


Figure 3 – Transport Plan
Source: Environmental Impact Statement

1.2 Proposed Development

Hanson seeks temporary development consent to undertake the following:

- An increase in the annual production rate of up to a maximum of 80,000 tonnes per annum for a 24-month period from approval.
- A corresponding increase in total traffic levels during the same period where peak traffic levels remain unchanged from existing levels.

- A minor change in the extraction area boundary to account for historical disturbance that extended beyond the approved extraction boundaries.

At the end of the 24-month period, all operations will revert to that enabled under DA33/95.

The Environmental Impact Statement (EIS) prepared by R.W. Corkery & Co. Pty. Ltd (RWC) states that the objective of this temporary activity would be able to be achieved without any changes to the existing Quarry, including infrastructure, operations, or extraction limits.

Pit designs will remain consistent with DA33/95, and involve:

- The outer limit of extraction is defined as no closer than 50m from the boundary of the Quarry Site, within those areas referred to as the North and South Pits.
- The lower limit of extraction would continue to be no more than 6mbgl. As such, the maximum operational and final face height is approximately 6m, not including the height of any safety bunding located at the pit crest.
- The elevation of the final pit floor would continue to be approximately 89m AHD.
- The operational face slope is determined by the structural integrity of the material being extracted; and in general, is approximately 1:5.
- The final rehabilitated face slope is defined as a minimum of 1:4 V:H.

Note that the total disturbance area of 2 ha at a time does not apply for this current proposal. This is to allow for continued operations during the preparation of the separate development application.

Extractions will continue through predominantly free dig operations using hydraulic excavators or similar mobile equipment.

Extracted materials would be transported to the processing plant using heavy vehicles.

The components for processing and stockpiling include:

- Raw-feed stockpiling areas in the vicinity of the Wash Plant.
- The Sediment Dam, where the principal sediment dam for the Southern Area is an area where extraction has previously occurred in the vicinity of the Decommissioned Processing Plant.
- Product stockpiling areas vary in size and location depending on operational requirements.
- Processing fines stockpiling areas used to reduce water content in the fines material prior to use in rehabilitation.

The Processing Ponds consists of an area subject to previous extraction and will be utilised for passive gravitational settling of fines material from water used for washing of the raw materials. The total volume of the Processing Ponds varies depending on the amount of processing fines within the system and is maintained as required via water transferred from the Sediment Dam or from water drawn from the on-site groundwater bore. The resulting products would be stockpiled within the processing and stockpiling area until transported from the Quarry.

Product is stockpiled for up to 3 weeks to allow for passive dewatering prior to dispatch.

Transportation between the Northern and Southern Areas will be using A35 Articulated Dump Trucks with a maximum capacity of 32 tonnes.

Dispatch from the site will occur using typical truck and trailer with a maximum capacity of 40 tonnes and average load at approximately 35 tonnes. Product dispatch will be at maximum rate of 16 trucks per day (or 32 truck movements) and no more than 4 truck load per hour (or 8 truck movements).

No change is proposed to existing services or existing developments onsite.

No change is proposed to the number of staff onsite i.e. five full time staff. These include a Quarry Manager, a Supervisor and three Operators. The EIA states up to two drivers would be required to meet the temporary production increase.

Hours of operation are as follows:

- Standard Operation
 - Mon-Fri, 7am to 6pm
 - Sat, 7am to 12pm
 - Sun and Public Holidays, no work
- Maintenance
 - Mon-Sat, 24 hours a day
 - Sun and Public Holidays, no work unless an emergency.

The long-term rehabilitation programme involves:

- provide a low maintenance, geotechnically stable and safe landform with minimal erosion; and
- establish native vegetation or pasture / crops similar to that currently within and surrounding the Quarry Site, as far as practicable.

The final land use for the Quarry Site is a combination of agricultural cropping and grazing, and passive nature conservation. Marginal areas such as the property boundary and the historic extraction areas would be left to naturally regenerate with native vegetation. Refer to Figure 4 for the Final Landform and Rehabilitation Plan.

Rehabilitation risks are minimised as far as practicable by:

- Strip and salvage material required for rehabilitation in a manner that does not impact on the quantity and/or quality of the material.
- Restrict vehicles access to established operational areas as far as practicable.
- Ensure hazardous material are stored in a manner that do not result in avoidable risks associated with their use.
- Ensure rehabilitation occurs progressively and as soon as reasonably practicable.
- Ensure that sufficient material would be available as growth medium for rehabilitation at the end of the life of the Quarry.

Note that DA33/95 does not identify any specific final land use or details final landform for the Quarry Site.

The EIS states decommissioning of the Quarry related infrastructure is not likely to occur until exhaustion of resource under DA33/95 i.e. not relevant under this current application.



Figure 4 – Final Landform and Rehabilitation Plan
Source: Environmental Impact Statement

The EIS confirms the temporary activity is classified an “Integrated Development” requiring an Environmental Protection License (EPL) under the Protection of the Environment Operations Act 1997 (POEO Act) and needing general terms of approval from the NSW Environmental Protection Authority.

The EIS confirms the temporary activity is also classified a “Designated Development” and “Regionally Significant Development”, requiring determination by the Western Regional Planning Panel.

1.3 Historical Operations

The EIS states prior to the development of the Quarry, the site was cleared for agricultural production and small-scale extractive industries. Historical extractions of sand material with the site are known to have occurred sporadically throughout the northern and eastern areas of the site, as early as 1960s.

The extracted areas were commonly left as voids and allowed to passively regenerate.

1.4 Original Consent

The Quarry operates under DA33/95, approved on 22 May 1995. This approved operation is limited to 30,000 tonnes per annum and an operating area of no more than 2 ha at any one time.

Note this consent does not identify any ongoing environmental monitoring requirements.

1.5 Temporary Operating Changes

A change to the temporary operating conditions was approved by Council on 17 April 2023. This consent permitted a temporary hold on the existing 2 ha limit to progressive surface disturbance and rehabilitation for a maximum period of 18 months since approval; allowing temporary operating conditions as floodwaters recede from the October 2022 flood event; and for Hanson to prepare a separate development application for future operations.

The change application considered potential environmental impacts relating to traffic, air quality, noise amenity, biodiversity, water, and heritage. The assessment found that there would be no significant changes to the environmental setting of the Quarry site, and therefore no changes to the existing and approved impacts associated with the Quarry.

Hanson confirms that there have been no complaints received at any time during the extended operating period of 18 months.

A further extension was sought in October 2024 for a maximum period of 12 months while the current development application was being assessment. This extension was approved up to 31 July 2025. The primary reason for this further extension was continued significant impact by prolonged rainfall periods and extreme rainfall events. This further request noted the existing environmental management and mitigation measures to have proven to be effective in managing impacts from the existing operations, which would continue to be implemented as part of ongoing operation of the Quarry.

1.6 Existing and Future Permits / Licenses

The following permits / licenses permit 15ML of water take per annum via a groundwater bore:

- works authority - 50WA504473, and
- water access license - WAL12113.

With capacity available, the proposed temporary extraction increase will rely on these water entitlements.

An EPL is required as the temporary activity under Part 3, Section 48 of the POEO Act i.e. extraction or processing of more than 30,000 tonnes of extractive materials per annum, is a scheduled activity under Schedule 1, Section 19(3)(b) of the POEO Act.

SECTION 2: STATUTORY ASSESSMENT PROCESS

2.1 *Environmental Planning and Assessment Act 1979*

Section 1.3 Objects

Comment: The proposed development is not inconsistent with the objects of the Act by maintaining the economic welfare of the community and promoting orderly and economic use and development of the land.

Further, the environmental impact considerations under the original Development Approval are maintained by the development and worsening impacts are not envisaged based on the scope of work under this current application being temporary for up to 24-months.

Section 1.7 Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of Fisheries Management Act 1994

Comment: The site is not mapped as containing biodiversity values following a review of the Biodiversity Threshold Tool. Similarly, the site is not proximate to a waterbody that requires assessment under the *Fish Management Act 1994*.

It is therefore considered that the proposal is not inconsistent with the relevant provisions of the *Biodiversity Conservation Act 2016* and the *Fisheries Management Act 1994* do not apply to the site.

Section 4.14 Consultation and development consent—certain bush fire prone land

Comment: RFS have been engaged and a fire risk assessment prepared. As outlined earlier in this Report, RFS support the proposed subject to conditions, which are contained in Appendix 3. The site is mapped as Bush Fire Prone Land (in parts). Refer to Figure 5.

Section 4.15 Evaluation

Comment: This report provides the necessary review and evaluation of the development application. See below.

Section 4.46 What is “integrated development”?

The application is classed as Integrated Development with NSW EPA.

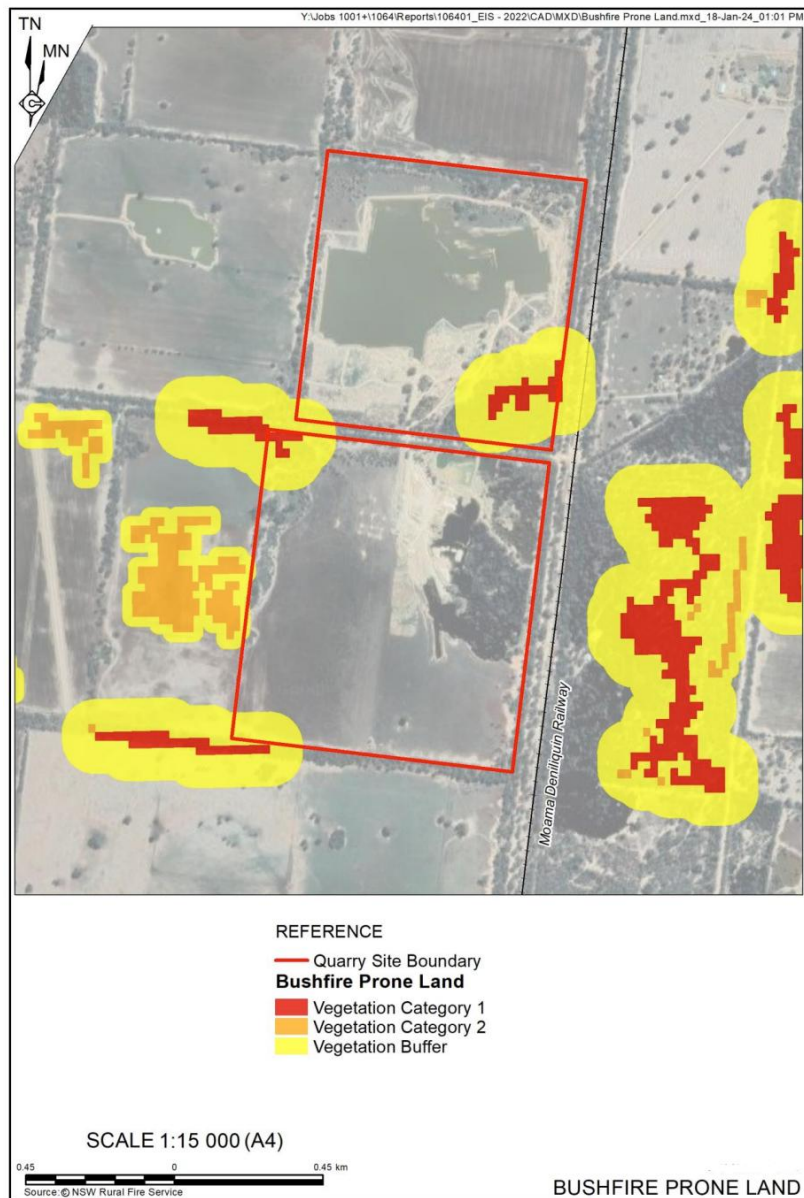


Figure 5 – Bushfire Prone Land Plan
Source: Environmental Impact Statement

2.2 Chronology of events and public notification and statutory referral process.

The below table provides an overview of the timeline with respect to the lodgement and assessment of the application.

Application history/timeline

Application lodged	13 June 2024
DA Panel	30 April 2024
Neighbour Notification	The proposed development was neighbour notified in accordance with the Council's DCP requirements. The exhibition period was between 17 June 2024 to 17 July 2024. No submissions were received.
Further information requested	<ul style="list-style-type: none"> 30 April 2024 (Owners Consent, Titles and Site Plan)

	<ul style="list-style-type: none"> • 18 June 2024 (Bush Fire Risk Assessment) • 6 March 2025 (Hazardous Substances)
Further information received	<ul style="list-style-type: none"> ○ 3 May 2024 (Owners Consent) ○ 8 May 2024 (Titles and Site Plan) ○ 3 July 2024 (Bush Fire Risk Assessment) ○ 25 March 2025 (Hazardous Substances)
Public Exhibition	Not applicable
Site Inspection	13 February 2025

2.3 Referrals

	Agency / Team	Response
Internal referrals	Engineering	No objections subject to conditions.
	Building	No objections.
	Waste	No objections.
	Flooding	No objections.
External referrals	EPA (Integrated Development)	No objections subject to conditions. Refer to Appendix 1. Dated – 29 July 2024
	TfNSW	No objections subject to conditions. Refer to Appendix 2. Dated – 11 July 2024
	RFS	No objections subject to conditions. Refer to Appendix 3. Dated – 12 July 2024
	DPHI Hazards	The project does not include any changes to the storage and use of dangerous goods or hazardous materials on-site. However, despite our information request of 9 July 2024, insufficient information was provided on existing storage and locations for these materials which would enable a preliminary risk screening to be conducted on accordance with the Department's <i>Applying SEPP 33</i> . Nevertheless, on the basis of the information thus far by the Applicant, we do not consider the development to be potentially hazardous under Chapter 3 of <i>State Environmental Policy (Resilience and Hazards) 2021</i> (formerly SEPP 33) provided that the conditions set out in Appendix 4 are included in the decision. Dated – 1 April 2025
	Biodiversity Conservation and Science	The proposed works are within the area approved under DA33/95. As such, no further evidence of impact on biodiversity or flood risk is necessary. Dated – 8 July 2024
	Primary Industries and Regional Development	On the understanding that there is no material change to the operating measures and the temporary activity occurring within the existing parameters, it is unlikely that any significant impact will result on nearby agricultural land uses. The applicant is advised to incorporate appropriate weed, pest and disease management protocols into the site environmental management plan.

		Dated – 3 July 2024
General referrals	None	None

Note that the Applicant engagement Government Agencies prior to lodgement of this application, to which a SEAR was received dated 3 October 2023. This includes assessment from the following:

- Department of Planning and Environment (now Department of Planning Housing Infrastructure)
- Crown Lands
- Biodiversity Conservation
- Primary Industries and Agriculture
- Environmental Protection Authority
- Transport for NSW, and
- Rural Fire Service.

The responses received informed the EIA.

2.4 Owners Consent

Owners Consent	Provided.
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2.5 Contributions

Section 7.11 (formerly Section 94) Development Contributions are triggered by the proposed development. In contrast, section 7.12 (formerly Section 94A) Levy Development Contributions are not required.

Section 64 contributions are not triggered by the proposed development.

SECTION 3: TOWN PLANNING ASSESSMENT

Assessment of the development application has been undertaken with respect to relevant considerations arising from Section 4.15 of the *Environmental Planning and Assessment Act 1979* as follows:

3.1 Section 4.15 Evaluation

(1) Matters for consideration-general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

(a) the provisions of:

- (i) any environmental planning instrument, and*
- (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and*
- (iii) any development control plan, and*
- (iiia) 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, and*
- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and*
- (v) (Repealed)*

that apply to the land to which the development application relates,

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

(c) the suitability of the site for the development,

(d) any submissions made in accordance with this Act or the regulations,

(e) the public interest.

Matters for consideration

3.2(a) the provisions

3.2(a)(i) Environmental Planning Instruments

- Local Strategic Planning Statement 2020-2040

The Local Strategic Planning Statement 2020-2040 establishes a 20-year vision for land use planning and growth in the Murray River LGA. The three planning priorities within the document pertain to a robust, growing and innovative economy, liveable communities with social capital, and environment, heritage and climate change.

The proposal satisfies these objectives through the following:

- The temporary increase allows Hanson to respond to the significant impacts experienced by the local and regional construction materials industry.

- The temporary increase would not impact on surrounding land uses or create amenity issues that would impact on tourism or residents.
- The temporary increase would sustain more diverse employment opportunities, as the extractive industry within Moama only contributes to 0.4% of employment industries.
- Impact on biodiversity and heritage would be negligible.

3.2(a)(i) Environmental Planning Instruments

- Murray Local Environmental Plan 2011 (Murray LEP)

Part 1 Preliminary

1.2 Aims of Plan

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

Comment: The proposed development is consistent with the aims of the Murray LEP 2011 as outlined previously, by providing appropriate development within the locality.

1.9A Suspension of covenants, agreements and instruments

Comment: The lodgement material does not indicate the suspension of covenants, agreements and instruments to facilitate the proposed extension.

Part 2 Permitted or prohibited development

2.3 Zone Objectives and Land Use Table (development permissibility)

Zone RU1 Primary Production

- *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.*

Comment: The proposal is consistent with the objectives of the zone including the original consent in seeking temporary intensification of the existing Quarry for a maximum period of up to 24 months.

Permissibility

Comment: Extractive Industry uses within the RU1 Primary Production zone are categorised as development permitted with consent.

2.6 Subdivision—consent requirements

Comment: Not applicable.

2.7 Demolition requires development consent

Comment: Not applicable.

2.8 Temporary use of land

Comment: Not applicable.

Part 3 Exempt and complying development

Comment: Not applicable. The proposed development cannot be classed as exempt or complying development as it is made assessable development under the LEP and is Integrated and Designated Development, and is also a Regionally Significant Development.

Part 4 Principal development standards

4.1 Minimum subdivision lot size

Comment: Not applicable.

4.1AA Minimum subdivision lot size for community title schemes

Comment: Not applicable

4.1A Minimum subdivision lot size for strata plan schemes in certain rural and conservation zones

Comment: Not applicable

4.1B Minimum lot sizes for dual occupancies, multi dwelling housing and residential flat buildings

Comment: Not applicable.

4.2 Rural Subdivision

Comment: Not applicable.

4.2A Erection of dwelling houses on land in certain rural and conservation zones

Comment: Not applicable.

4.2B Subdivision for the purposes of intensive plant agriculture

Comment: Not applicable.

4.2C Exception to minimum lot sizes for certain rural subdivisions

Comment: Not applicable.

4.2D Boundary adjustments in RU1 and C3

Comment: Not applicable.

4.3 Height of buildings

Comment: Not applicable.

4.4 Floor space ratio

Comment: Not applicable.

4.5 Calculation of floor space ratio and site area

Comment: Not applicable.

4.6 Exceptions to development standards

Comment: Not applicable.

Part 5 Miscellaneous provisions

5.3 Development near zone boundaries

Comment: Not applicable.

5.4 Controls relating to miscellaneous permissible uses

Comment: Not applicable.

5.5 Controls relating to secondary dwellings

Comment: Not applicable.

5.6 Architectural roof features

Comment: Not applicable.

5.7 Development below mean high water mark

Comment: Not applicable.

5.9 Dwelling house or secondary dwelling affected by natural disaster

Comment: Not applicable.

5.10 Heritage conservation

Comment: The site does not contain any known items of Environmental Heritage Significance following a review of the Spatial Viewer. It is the responsibility of the Applicant to ensure compliance with the *Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales*. Any consent issued will set out expectations and protocol for the protection of Aboriginal Cultural Heritage.

5.11 Bushfire hazard reduction

Comment: RFS conditions adopted to manage risks.

5.12 Infrastructure development and use of existing buildings of the crown

Comment: Not applicable.

5.13 Eco-tourist facilities

Comment: Not applicable.

5.14 Siding Spring Observatory – maintain dark sky

Comment: Not applicable.

5.15 Defence communications facility

Comment: Not applicable.

5.16 Subdivision of, or dwellings on, land in certain rural, residential or conservation zones

Comment: Not applicable.

5.17 Artificial waterbodies in environmentally sensitive areas in areas of operation of irrigation corporations

Comment: Not applicable.

5.18 Intensive livestock agriculture

Comment: Not applicable.

5.20 Standards that cannot be used to refuse consent—playing and performing music

Comment: Not applicable.

5.21 Flood planning

Comment: Not applicable. The subject land is not within the flood planning area or identified as flood-prone land.

5.22 Special flood considerations

Comment: Not adopted.

5.23 Public bushland

Comment: Not adopted.

5.24 Farm stay accommodation

Comment: Not applicable.

5.25 Farm gate premises

Comment: Not applicable.

Part 6 Urban Release Areas

Comment: Not applicable.

Part 7 Additional local provisions

7.1 Essential services

Comment: Not applicable. Essential services are existing, and no change proposed under this application.

7.2 Earthworks

Comment: Earthworks are not proposed. It is, however, noted that the operation of the Extractive Industry will involve earthworks to extract and transport sand material. As per the lodgement material, earthworks will be contained within the approved site disturbance area.

7.3 Biodiversity protection

Comment: Not applicable. The state biodiversity mapping does not cover the subject site.

7.4 Development on river front areas

Comment: Not applicable. The subject land is not classed as a riverfront area.

7.5 Riparian land and watercourses

Comment: Not applicable. The proposed development is not occurring on a riparian land.

7.6 Development on river beds and banks

Comment: Not applicable. The proposed development is not occurring on the riverbed or bank of the Murray Rivers.

7.7 Wetlands

Comment: Not applicable. The subject land is not mapped as a wetland.

7.8 Repealed

Comment: Not adopted.

3.2(a)(i) State Environmental Planning Policies

- State Environmental Planning Policy (Biodiversity and Conservation) 2021
- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008
- State Environmental Planning Policy (Housing) 2021
- State Environmental Planning Policy (Industry and Employment) 2021
- State Environmental Planning Policy (Planning Systems) 2021
- State Environmental Planning Policy (Primary Production) 2021
- State Environmental Planning Policy (Resilience and Hazards) 2021
- State Environmental Planning Policy (Resource and Energy) 2021
- State Environmental Planning Policy (Transport and Infrastructure) 2021

State Environmental Planning Policy (Biodiversity and Conservation) 2021

Chapter 1 Preliminary

Comment: Noted.

Chapter 2 Vegetation in non-rural areas

Comment: Not applicable.

Chapter 3 Koala habitat protection 2020

Comment: Not applicable. The subject land is not considered to be a core koala habitat or potential koala habitat for a review of the Biodiversity Threshold Map.

Chapter 4 Koala habitat protection 2021

Comment: Not applicable.

Chapter 5 River Murray lands

Comment: Not applicable. The subject site is not mapped as 'River Murray land' within the State Environmental Planning Policy (Biodiversity and Conservation) 2021 and does not meet the River Murray definition.

Part 5.3 Planning requirements and consultation

5.12 Planning Control and Consultation Table

Comment: The application was not required to be referred under this Chapter.

5.13 Building setbacks—special provisions

Comment: The site is not identified as River Murray Lands.

Chapter 6 Water catchments

Comment: Not applicable to Murray River Council.

Chapters 7-12 (Repealed)

Comment: Not applicable.

Chapter 13 Strategic conservation planning

Comment: Not applicable to Murray River Council.

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008

Comment: The proposed development cannot be classed as exempt or complying development as it does not meet all development controls and is categorised as Integrated and Designated Development.

State Environmental Planning Policy (Housing) 2021

Comment: Not applicable.

State Environmental Planning Policy (Industry and Employment) 2021

Chapter 1 Preliminary

Comment: Noted.

Chapter 3 Advertising and signage

Comment: Not applicable.

State Environmental Planning Policy (Planning Systems) 2021

The purpose of this SEPP is to provide the basis for development to be declared “Regionally Significant Development” and to further confer the function of a regional planning panel to determine development applications. As Designated Development for the purpose of Extractive Industry, the Quarry is classified as Regional Development under the Planning Systems SEPP and therefore determination of the application will be by the Western Regional Planning Panel.

Chapter 1 Preliminary

Comment: Noted.

Chapter 2 State and regional development

Part 2.2 State significant development

Comment: Not applicable.

Part 2.4 Regionally significant development

Comment: Pursuant to Schedule 6, the development is categorised as a Regionally Significant Development.

Chapter 3 Aboriginal land

Comment: Not applicable to Murray River Council.

Chapter 4 Concurrences and consents

Comment: Proposed development is categorised as a Regionally Significant Development. Concurrence Agency response has been sought for the application as per the relevant provisions of the Act. Should the Concurrence Agency responses not be received within the relevant period, the Planning Secretary may elect to act in the place of the relevant agency.

State Environmental Planning Policy (Primary Production) 2021

Chapter 1 Preliminary

Comment: Noted.

Chapter 2 Primary production and rural development

Part 2.1 Preliminary

Comment: Noted.

Part 2.2 State significant agricultural land

Comment: Not applicable.

Part 2.3 Farm dams and other small-scale and low risk artificial waterbodies

Comment: Not applicable.

Part 2.4 Livestock industries

Comment: Not applicable.

Part 2.5 Sustainable aquaculture

Comment: Not applicable.

State Environmental Planning Policy (Resilience and Hazards) 2021

Chapter 1 Preliminary

Comment: Noted.

Chapter 2 Coastal Management

Comment: Not applicable.

Chapter 3 Hazardous and offensive development

Part 3.1 Preliminary

Comment: The proposal is not inconsistent with the requirements of this Part. Specifically, no change is proposed to the original consent in relation to hazardous or offensive components as per the lodged application material.

Part 2 Hazardous or offensive development

Comment: The proposal is not inconsistent with the requirements of this Part. Specifically, no change is proposed to the original consent in relation to hazardous or offensive components as per the lodged application material.

Part 3 Potentially hazardous or potentially offensive development

Comment: The proposal is not inconsistent with the requirements of this Part.

Chapter 4 Remediation of land

4.1 Object of this Chapter

Comment: Noted.

4.6 Contamination and remediation to be considered in determining development application

Comment: The subject land is not listed on Council's Contaminated Land Register. Notwithstanding this, in accordance with the requirements of this Policy, it is considered that the land is suitable in its current state for the purpose for which the development is proposed to be carried out.

State Environmental Planning Policy (Resources and Energy) 2021

The function of this SEPP is to provide proper management, orderly and economic use and development of land containing mineral, petroleum and extractive material resources and to establish appropriate planning controls to encourage ecologically sustainable development through environmental assessment and sustainable management.

The SEPP specifies matters requiring consideration in the assessment of any mining, petroleum production and extractive industry development, as defined in NSW legislation.

Chapter 2 Mining, petroleum production and extractive industries

Part 2.1 Preliminary

Comment: Noted.

Part 2.2 Permissible development

Comment: Complies. Compliance with the relevant provisions for extractive industries is maintained by the proposed development.

Part 2.3 Development applications – matters for consideration

2.16 Non-discretionary development standards for mining

Comment: Not applicable

2.17 Compatibility of proposed mine, petroleum production of extractive industry with other land uses

Comment: Complies given the separation of the activity to sensitive receivers

2.18 Consideration of the voluntary land acquisition and mitigation policy

Comment: The EIS notes that the Air Quality Assessment concludes that the temporary activity would be unlikely to result in significant additional dust emissions from the Quarry Site and would not result in a discernible change to air quality at the nearest privately owned residences, where the Noise Assessment concludes that the temporary activity would be unlikely to result in significant additional noise from the Quarry.

2.19 Compatibility with mining, petroleum production or extractive industry

Comment: The EIS notes that the temporary activity would allow for the ongoing extraction of resource at an existing operation and would ensure that the maximum benefit is obtained from the target resource within the approved life of the Quarry.

2.20 Natural resource and environmental management

Comment: The EIS notes that the temporary activity would not result in a significant amount of greenhouse gas emissions, and will appropriately manage surface water, groundwater and biodiversity under the original consent.

2.21 Resource recovery

Comment: The temporary activity would maximum benefit is obtained from the target resource within the approved life of the Quarry

2.22 Transportation

Comment: The temporary activity does not adversely change the consented transport patterns and impact.

2.23 Rehabilitation

Comment: The temporary activity includes suitable rehabilitation parameters.

State Environmental Planning Policy (Transport and Infrastructure) 2021

Chapter 1 Preliminary

Comment: Noted.

Chapter 2 Infrastructure

2.122 Traffic-generating development

Comment: The propose temporary increase in extraction will not significantly change the transportation patters or intensity, as outlined earlier in this Report – and the original consent parameters will be maintained.

Chapter 3 Educational establishments and child care facilities

Comment: Not applicable.

3.2(a)(ii) Proposed instruments

Comment: No relevant proposed instruments apply to the site.

3.2(a)(iii) Any development control plan

Comment: Murray Development Control Plan 2012 applies to the proposal. The proposal has been reviewed against the relevant provisions of this DCP.

The Quarry Site is located within land zoned as RU1- Primary Production under the LEP with extractive industries permissible with consent in this zone, and compatible with the land use and is best suited for extractive activities.

The Quarry Site not located within or in the vicinity of any significant commercial or residential areas.

Furthermore, quarrying has occurred within and in the vicinity of the Quarry Site for several decades, and as such temporary activity-related activities are not considered to present any significant change to the existing amenity of the surrounding area.

Specifically:

Chapter 6 Strategic Land Use Plan

Comment: The proposed development is not inconsistent with the SLUP.

Chapter 9 Vegetation Removal

Comment: The applicant has advised that no vegetation is proposed to be removed.

Chapter 10 Watercourses & Riparian Land

Comment: Not inconsistent.

Chapter 11 Flood Prone Land

Comment: The proposal is not inconsistent with the requirements of this chapter.

Chapter 12 Notification Policy

Comment: The application was notified to adjoining property owners.

3.2(a)(iia) Any Planning Agreements

Comment: The application material and Council's record do not indicate Planning Agreements applicable to the site.

3.2(a)(iv) The regulations

Comment: The regulations have been considered in the assessment of this application. It is considered that the application is consistent with the objectives of the regulations based on the scale of the development which is within the parameters of the existing approval over the site.

Section 42 consent authority to seek general terms of approval

Comment: General terms of approval have been sought and obtained as per the lodged application material.

Section 56 Notice of development applications

Comment: The application was notified on the portal and Council's notification platform as soon as practicable after the lodgement of the development application.

Section 61 Additional matters that consent authority must consider

Comment: Not applicable.

Section 62 Consideration of fire safety

Comment: Complies under the original consent DA33/95.

Section 63 Considerations for erection of temporary structures

Comment: Not applicable.

Section 64 Consent authority may require upgrade of buildings

Comment: Not applicable.

3.3(b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality.

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

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

Environmental Impacts

The proposal to temporarily increase the extraction volume from 30,000 m³ to 80,000 m³ of material per annum for a maximum period of 24 months is unlikely to create additional impacts on the natural environment for the reasons outlined earlier in this Report.

Of importance is the potency of the impacts not considered to result in a worsening outcome for the natural environment when compared to the original Development Approval. Specifically, the approved extraction footprint is maintained (with a minor retrospective expansion over a historic excavation area that is now intended for rehabilitation).

Further, the site is situated within an RU1 Primary Production setting and is not adjacent to sensitive land uses.

Water

The operational changes are projected to increase annual water usage. Presence of available water take (as outlined earlier in this Report) means the proposal can occur within adversely impacting this resource.

Soil

Further works are not proposed in relation to construction and earthworks on the site. In this regard, impacts to soils are not proposed or likely.

Biodiversity

Impacts on native vegetation within the or adjoining the site is not envisaged. As per the Biodiversity Threshold Maps, the site is not mapped as containing biodiversity values and the development does not propose to remove native vegetation as part of the existing or proposed operation.

Air quality

As per the EIS, minor change to air emissions is expected and that too temporary. Within the Quarry Site, potential sources of operational dust emissions include:

- excavation activities
- loading and unloading activities
- transportation of products
- management of product stockpiles
- screening and washing operations
- wind erosion of disturbed areas; and
- wheel-generated particulate emissions from the transportation of products off site.

Air quality impacts of the Quarry are controlled by various management and mitigation measures implemented by Hanson. Existing management measures are presented in the Dust and Airborne Contaminants Principal Hazard Management Plan, which will continue to apply to this temporary increase.

The EIS states that any observable changes to the experience of the Quarry during the temporary activity would occur principally through an increase in traffic movements, however, as the peak hourly rate of despatch would not change, the change in impacts would be minimal.

Nonetheless, a condition be imposed to ensure that air quality objectives are maintained by the proposed development in form of an operations environmental management plan.

Noise and Vibration

As per the EIS, within the Quarry Site, operational noise is typically generated by:

- excavation activities
- loading and unloading activities
- transportation of sand
- screening and washing operations; and
- dispatch of quarry products.

Typical daily noise generated by operational activities including extraction, handling and haulage, processing and the transportation of processed sand is not expected to change substantially during the temporary activity as the number and type of equipment on site would not change.

It is expected that the intensity of operations would remain the same as the existing and approved operations, i.e. operations would occur at the current peak levels over longer periods and more days of the week.

The temporary activity would result in an increase in total truck movements from the Quarry Site however there would be no change to the peak movements from the site, and therefore there would be no change in traffic related noise impacts.

Since operations during the temporary activity will likely remain comparable and consistent with existing and approved operations, namely peak activity levels for extraction and processing activities, disturbance area or operational hours, noise emissions would continue to be compliant with all relevant criteria.

Built Environment

Built environment considerations are maintained by the proposed development as per the existing Development Approval over the site. The proposed development is contained within the approved extraction footprint and the site is not considered to adjoin sensitive land uses.

Additional construction activities, including earthworks, are not proposed to facilitate the temporary intensification of the existing approval.

As such, no new built environment impact is envisaged for this proposal.

Social Impacts

Social impact considerations were addressed as part of the original development approval and additional social impacts are unlikely. The site is not directly adjacent to sensitive land uses and the approved extraction footprint is maintained by the proposed development.

Note the retrospective expansion of the footprint over a historic extraction area relates to a planned rehabilitation and does not introduce any adverse impacts.

Economic Impacts

Economic impacts are maintained by the proposal as per the original development approval.

- **Traffic and Parking:** Traffic and parking considerations have been addressed earlier in this Report and remain largely unchanged in terms of vehicle movements being consistent with the original consent. As such, the temporary development is not considered to result in a worsening outcome for traffic and parking.
- **Noise & Amenity:** In this regard, the increased extraction activity is not considered to unduly impact the noise and amenity of the immediate sensitive receivers.
- **Waste:** Waste consideration for the site is generally maintained as per the existing approval over the site. The application material does not indicate changes to the waste management arrangements for the development.
- **Non-Aboriginal Heritage:** The site is not subject to any heritage conservation provisions. In any event statutory requirements would trigger contingency measures if any cultural heritage was subsequently identified.

- **Aboriginal Cultural Heritage:** No known items of Aboriginal Cultural Heritage are identified on the subject land. In any event statutory requirements would trigger contingency measures if any cultural heritage was subsequently identified.
- **Bushfire Hazard:** The site is mapped as containing bushfire hazard or bushfire-prone land under the Spatial Viewer (in parts). RFS engagement concluded the proposal is supported subject to conditions, and these have been adopted.

Of relevance are:

- ignition sources within the Quarry Site would be managed to reduce the risk of bushfire; and
- suitable buffers to Quarry-related infrastructure would limit the risk of regional bush fires impacting site buildings or other infrastructure.
- **Water Quality and Stormwater:** Changes are not proposed to the existing stormwater management arrangements for the site.
- **Soils, soil erosion:** Soil and erosion impacts are not triggered by the proposed modified development.
- **Flora & Fauna:** The site is not identified as containing mapped biodiversity values. Additionally, native vegetation on site will not be impacted by the proposal.
- **Utilities:** Changes are not proposed to utility provisions to service the site and existing approved development over the site.
- **Signage:** No change proposed to the existing development.
- **Safety, security & crime prevention:** Changes are not proposed to the safety, security and crime prevention arrangement for the site and approved development. Further, the nature of the temporary change proposed is not considered to trigger additional safety, security, and crime prevention.

3.4(c) The suitability of the site for the development

Comment: The site is associated with an existing Development Approval which was permitted with consent under the land use table for the zone. The proposal is to temporarily increase that activity over a maximum term of 24-months. For the foregoing reasons, the site is deemed suitable for this development.

3.5(d) any submissions made in accordance with this Act or the regulations

Not applicable.

Public Submissions

The application was not publicly exhibited, and the neighbour notification did not receive any submissions.

3.6(e) The public interest

The public's interest has been taken into consideration in the assessment of this Development Application. It is considered the proposed temporary extraction increase will have a net community benefit.

3.7 Summary

The proposed development has been assessed in accordance with the provisions of Section 4.15 of the *Environmental Planning and Assessment Act 1979*.

Of importance is that the temporary activity is designed to permit the ongoing efficient extraction and incorporates a range of design and operational mitigation measures to ensure all relevant statutory goals and criteria, environmental objectives and reasonable community expectations are satisfied.

In this regard, the proposal to temporarily intensify the existing approval over the site is considered to comply with the statutory assessment benchmarks applicable to the site and the proposed development.

It is therefore recommended that the proposed development be approved subject to relevant and reasonable conditions of Development Consent.

SECTION 4. RECOMMENDATION

It is **recommended**:

1. Development consent be granted; and
2. The following conditions be included with the development consent.

GENERAL CONDITIONS WHICH MUST BE FULFILLED

1. Approved plans

The development must be implemented in accordance with the approved plans, specifications and supporting documentation listed below which have been endorsed by Council's approved stamp, except where amended by conditions of this consent:

Plan/Report Title	Prepared by	Reference	Date
Environmental Impact Statement for Moama Sand Quarry – Temporary Production Increase	R.W. Corkery & Co. Pty. Limited	1064/03	5 April 2024
Air Quality and Noise Assessment	Todoroski Air Sciences	1064/03	27 March 2024
Bushfire Risk Assessment	R.W. Corkery & Co. Pty. Limited	-	3 July 2024
Drivers Code of Conduct	Hanson Heidelberg Cement Group	Issue A	23 March 2023

In the event of any inconsistency between conditions of this approval and the drawings/documents referred to above, the conditions prevail.

In the event of any inconsistency between the approved plans and the supporting documentation, the approved plans prevail.

Reason: To ensure the development proceeds in the manner assessed by Council and all parties are aware of the approved plans and supporting documentation that applies to the development.

2. Temporary increase in quarrying activity

- a) The temporary change in operation shall be for a maximum period of 24 months from approval of this consent.
- b) The temporary increase in quarrying is up to a maximum of 80,000 tonnes per annum with the period outlined in (a).
- c) At the end of this term, this consent shall lapse, and quarrying activity reverted to the parameters under the original consent that is to 30,000 tonnes per annum as required under DA33/95.

Reason: To ensure the development is carried out as assessed.

3. Scope of quarrying

- a) Materials shall not be removed within 50m of the boundary of the property.
- b) The depth of the pit shall not exceed 6 meters.

Reason: To ensure the development is carried out as assessed.

4. Carting of materials

- a) All vehicles carting from this development must operate via Milgate Road and Cobb Highway. The Milgate Road section up to Cobb Highway shall be maintained when and as directed by the Council, by the developer or at the developer's expense for the duration of this development.
- b) All vehicles carrying material from this development shall cover their loads with tarpaulin.
- c) In the event of Council receiving complaints in relation to dust from Quarry related vehicles using this road a water cart must be used at the developer's expense to alleviate further complaints.
- d) Material transportation between the Northern and Southern Areas shall be using A35 Articulated Dump Trucks, or smaller with a maximum capacity of 32 tonnes.
- e) Dispatch from the site shall occur using typical truck and trailer with a maximum capacity of 40 tonnes and average load at approximately 35 tonnes.
- f) Product dispatch shall be at maximum rate of 16 truckload per day, and no more than 4 truckload per hour. Note one truckload is two truck movements.

Reason: To ensure the development limits road damage and protects private properties.

5. Rehabilitation

The long-term rehabilitation programme shall provide a low maintenance, geotechnically stable and safe landform with minimal erosion; and establish native vegetation or pasture / crops similar to that currently within and surrounding the Quarry Site, as far as practicable.

Specifically, rehabilitation shall involve:

- a) As new areas are opened up, rehabilitation work shall proceed in areas where materials have been removed.
- b) Pit edges shall be battered at a minimum gradient at 1 vertical to 4 horizontal.
- c) Topsoil shall be removed and stockpiled and re-spread over the surface as each area is worked out.
- d) Each rehabilitated area must be stabilised from erosion, have suitable sediment and runoff mitigation, and stormwater management for quality and quantity controls, whichever is necessary.
- e) Floors and batters shall be sown down with suitable grass or other vegetation as worked out sections are rehabilitated.

Reason: To ensure the development allows for future maintenance, reduce risks and suitably rehabilitated.

6. Hours of operation

Hours of operation shall be as follows:

a) Standard Operation

- Mon-Fri, 7am to 6pm
- Sat, 7am to 12pm, and
- Sun and Public Holidays, no work.

b) Maintenance

- Mon-Sat, 24 hours a day, and
- Sun and Public Holidays, no work unless in an emergency.

Reason: To ensure compliance with the terms of the development.

COMPLIANCE WITH GOVERNMENT DEPARTMENT CONDITIONS OF CONSENT

7. NSW Environmental Protection Authority (NSW EPA)

The Applicant must comply with all NSW EPA comments and general terms of approval dated 29 July 2024, attached to this Development Consent as **Appendix 1**.

Reason: To ensure compliance with EPA requirements.

8. Transport for NSW (TfNSW)

The Applicant must comply with all comments and requirements outlined in TfNSW correspondence dated 11 July 2024, attached to this Development Consent as **Appendix 2**.

Reason: To ensure compliance with TfNSW requirements.

9. NSW Rural Fire Service (RFS)

The Applicant must comply with all RFS comments and conditions dated 12 July 2024, attached to this Development Consent as **Appendix 3**.

Reason: To ensure compliance with RFS requirements.

10. DPHI Hazards

The Applicant must comply with all DPHI Hazards comments and conditions dated 1 April 2025, attached to this Development Consent as **Appendix 4**.

Reason: To ensure compliance with DPHI Hazards – Industry Assessments requirements.

CONDITIONS WHICH MUST BE FULFILLED ON APPROVAL OF THIS CONSENT

11. Operations Environmental Management Plan

An Operations Environment Management Plan (OEMP) shall be prepared and approved by Council, and thereafter implemented for the duration of the activity.

The OEMP shall include the following:

- a) Procedures, reporting and the allocation of responsibilities designed to minimise environmental impacts, particularly traffic, air quality, soil and water management;
- b) General maintenance and operation of the site e.g. inspection times, contact details of the site manager/maintenance staff;
- c) Addressing complaints relating to the operation of the premises including a complaints register;
- d) Access arrangements to the site;
- e) Drivers code of conduct;
- f) Noise control and mitigation measures;
- g) Emergency, safety and security;
- h) Bush fire risks and response;
- i) Weed management and biosecurity;
- j) Monitoring and mitigation measure for future rehabilitation remedial actions and rehabilitation management;
- k) Incident reporting and pollution incident response management; and
- l) Reviews, amendments, and updates to the plan.

Reason: To ensure environmental protection throughout the operation of the development.

CONDITIONS WHICH MUST BE COMPLIED WITH FOR THE DURATION OF THIS CONSENT

12. Complaints handling

In event of complaints registered with the EPA, details of the matter and actions arising must be submitted to Council via email to: admin@murrayriver.nsw.gov.au

Reason: To enable awareness of any active complaints.

CONDITIONS WHICH MUST BE FULFILLED PRIOR TO USE OF THE DEVELOPMENT

13. Government Agencies

Prior to the use of the Quarry at the increased production rate, evidence must be provided to the Council outlining how relevant conditions from Government Agencies listed in the subject DA have been complied with. The evidence must be to the satisfaction of Council and the relevant Government authority.

Reason: To ensure Government Department requirements are met.

ADVICE TO APPLICANT

It is the responsibility of the Applicant to check, understand and seek assistance where needed to ensure full compliance with the conditions of this Development Consent. Please contact Murray River Council on 1300 087 004 or

admin@murrayriver.nsw.gov.au if there is any difficulty in understanding or complying with any of the above conditions.

Reason: To ensure the Applicant is aware of their obligations.

The development must be in accordance with the relevant provisions and Regulations of the *Biodiversity Conservation Act 2016*, the *Fisheries Management Act 1994*, the *Heritage Act 1977*, the *Local Government Act 1993*, the *National Parks and Wildlife Act 1974*, the *Protection of the Environment Operations Act 1997*, the *Roads Act 1993*, the *Rural Fires Act 1997*, the *Water Management Act 2000* and all other applicable legislation.

Reason: To comply with relevant legislation.

The Applicant should be aware that under Section 120 of the *Protection of the Environment Operations Act 1997* it is an offence to pollute waters.

Reason: To comply with NSW Environment Protection Authority requirements.

No Aboriginal objects may be harmed without approval from Heritage NSW under the *National Parks and Wildlife Act 1974*.

If any Aboriginal object(s) are discovered and/or harmed in, or under the land, while undertaking the proposed development activities, the Proponent must:

- Not further harm the object(s);
- Immediately cease all work at the particular location;
- Secure the area to avoid further harm to the Aboriginal object(s);
- Notify Heritage NSW as soon as practical by calling 131 555 or emailing: info@environment.nsw.gov.au, providing any details of the Aboriginal object(s) and its location;
- Not recommence any work at the particular location unless authorised in writing by Heritage NSW.

If harm to Aboriginal objects cannot be avoided, an application for an Aboriginal Heritage Impact Permit (AHIP) must be prepared and submitted to Heritage NSW before work may continue.

If skeletal remains are unexpectedly encountered during the activity, work must stop immediately, the area secured to prevent unauthorised access and NSW Police and Heritage NSW contacted.

It is the responsibility of the Proponent to ensure the development is consistent with the Due diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales. All reasonable precautions must be taken to prevent damage to Aboriginal objects.

Reason: To protect Aboriginal heritage and to ensure compliance with the National Parks and Wildlife Act 1974.

RIGHT OF APPEAL

If you are dissatisfied with this decision Section 8.7 & 8.10 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court of NSW within 6 months after the date on which you receive this notice.

Changes post review of conditions by the Applicant

In reviewing the recommended conditions, the Applicant sought the following:

- i. Change conditions to ease and assist implementation of this consent. These resulted in the following:
 - Condition (1) – Removal of reference to the Secretary’s Environmental Assessment.
 - Condition (2)(c) – Replacement of words “be surrendered” with “lapse”.
 - Condition (4)(c) – Inclusion of words “Quarry related”.
 - Condition (4)(d) – Inclusion of words “or smaller”.
 - Condition (14) – Substituted “release of the occupation certificate” with “use of the quarry at the increased production rate”.
- ii. Clarification sought surrounding the calculation for contributions under Condition (11)(a), and alternative arrangements referred to those outlined in Conditions (4) and (8).

Murray Shire Council S94 Development Contributions Plan 2011 Extract: Section 3.4.1.2 Extractive Industries

The formula for road upgrading and maintenance is:

$$\text{Contribution per tonne (in cents)} = 3(L_1 \times P_1 + L_2 \times P_2 \dots \dots L_n \times P_n)$$

Where:

L_1 = Length of the road route 1 between extractive industry and the main road system.

P_1 = Estimated percentage of extractive material trucked along route 1.

L_2 = Length of the road route 2 between extractive industry and the main road system.

P_2 = Estimated percentage of extractive material trucked along route 2.

L_n = Length of the road route “n” between extractive industry and the main road system.

P_n = Estimated percentage of extractive material trucked along route “n”.

Contribution per tonne (in cents) = 3 (L_1 (2.3 km i.e. site to Cobb Highway) x P_1 (100% i.e. estimated percentage of extractive material trucked) = 6.9 cents
Indexed to December 2024 from December 2011: 139.7/99.8
This equates to 139.7/99.8 x 6.9 = **9.7 cents/tonne**

The above sets out the engineering reconsideration, and a new rate that should apply to Condition (11)(a).

Note there is no equivalent rate to the above in the original consent. Instead, maintenance of the road network is to be directed by Council at the developer’s expense. This maintenance requirement is duplicated as Condition (4)(a) under this current application.

While a revised Condition (11)(a) will be precise, it will only apply for the duration of this consent i.e. (24) months and revert to the original consent.

To maintain consistency between the original consent, the current temporary consent and when the operation reverts to the original parameters under the original consent; and avoid doubt surrounding contributions; Condition (11) is omitted in its entirety.

The omission of Condition (11) is supported with the retention of Condition (4)(a) that achieves the same outcome, i.e. for any maintenance to be undertaken as directed by Council at the developer's expense.

- iii. Clarification for extraction boundary identification survey required under Condition (12)(m).

The value of this requirement has been reconsidered, and the condition omitted based on the following:

- No similar or equivalent condition is included in the original approval.
- The originally consented footprint subject of future quarrying remains unchanged.
- This current approval is temporary for (24) months, after which no such requirement will remain.

Implications of changes to conditions to the assessment in this Report

The assessment in this Report as originally issued remains unchanged in response to changes to the recommended consent conditions. The reasons being the intended outcome of Condition (11) is achieved by Conditions (4)(a); and no risks arise from omission of Condition (12)(m) requiring identification of extraction boundaries for the temporary duration of this current consent. All other changes are for ease of implementation and carry no risks.

SIGNATORIES:

Date

Reporting Officer

8 April 2025

Vishal Chandra, Senior Planner, Murray River Council

14 April 2025 (updated)

Peer Reviewer

Chris O'Brien, Senior Planner, Murray River Council

8 April 2025