

## COUNCIL ASSESSMENT REPORT

<b>Panel Reference</b>	PPSWES-8
<b>DA Number</b>	DA0010/2020
<b>LGA</b>	Mid-Western Regional Council
<b>Proposed Development</b>	Extractive Industry
<b>Street Address</b>	329-331 Quarry Road, Carwell
<b>Applicant/Owner</b>	Kandos Operations Pty Ltd
<b>Date of DA lodgement</b>	16 July 2019
<b>Number of Submissions</b>	Nine (9) Submissions
<b>Recommendation</b>	Approval, subject to recommended conditions of Consent
<b>Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011</b>	Clause 7 particular designated development: Development for the purposes of extractive industries, which meet the requirements for designated development under clause 19 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000
<b>List of all relevant s4.15(1)(a) matters</b>	<ul style="list-style-type: none"> <li>relevant environmental planning instruments <ul style="list-style-type: none"> <li>Mid-Western Regional Local Environmental Plan 2012;</li> <li>State Environmental Planning Policy 55 – Remediation of Land;</li> <li>State Environmental Planning Policy 33 – Hazardous and Offensive Development;</li> <li>State Environmental Planning Policy (Infrastructure) 2007;</li> <li>State Environmental Planning Policy (Mining, Petroleum and Extractive Industries) 2007;</li> <li>State Environmental Planning Policy (State and Regional Development) 2011;</li> <li>State Environmental Planning Policy No. 44 Koala Habitat Protection;</li> </ul> </li> <li>relevant development control plan <ul style="list-style-type: none"> <li>Mid-Western Regional Development Control Plan 2013</li> </ul> </li> </ul>
<b>List all documents submitted with this report for the Panel's consideration</b>	<ul style="list-style-type: none"> <li>The Environmental Impact Statement for the Kandos Quarry prepared by R.W. Corkery &amp; Co. Pty Limited dated July 2019,</li> <li>DPIE – Resources and Geoscience response dated 16 August 2019,</li> <li>DPE - Resources Regulator response dated 19 August 2019,</li> <li>Crown Lands response dated 5 September 2019,</li> <li>Water NSW response dated 10 September 2019,</li> <li>NSW Forestry Corporation response dated 24 September 2019,</li> <li>EPA General Terms of Approval dated 25 September 2019,</li> <li>RMS responses dated 26 August 2019 and 13 January 2020,</li> <li>NSW Forestry Corporation response dated 24 September 2019,</li> <li>Public Submissions</li> <li>The Response to Submissions for the Kandos Quarry prepared by R.W.Corkery &amp; Co. Pty. Limited dated October 2019,</li> <li>DPIE – Crown Lands (Land Owner Consent) dated 6 February 2020</li> </ul>
<b>Report prepared by</b>	Kayla Robson - Senior Town Planner, Mid-Western Regional Council
<b>Report date</b>	March 2020

### Summary of s4.15 matters

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

**Yes**

**Legislative clauses requiring consent authority satisfaction**

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

**Yes**

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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?

*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*

**Yes & all  
agencies**

## **Executive Summary**

### **Subject site**

Council is in receipt of Development Application DA0010/2020 that seeks approval for an Extractive Industry to be located at 329-331 Quarry Road, Carwell, located approximately 5km to the west of the Kandos Village.

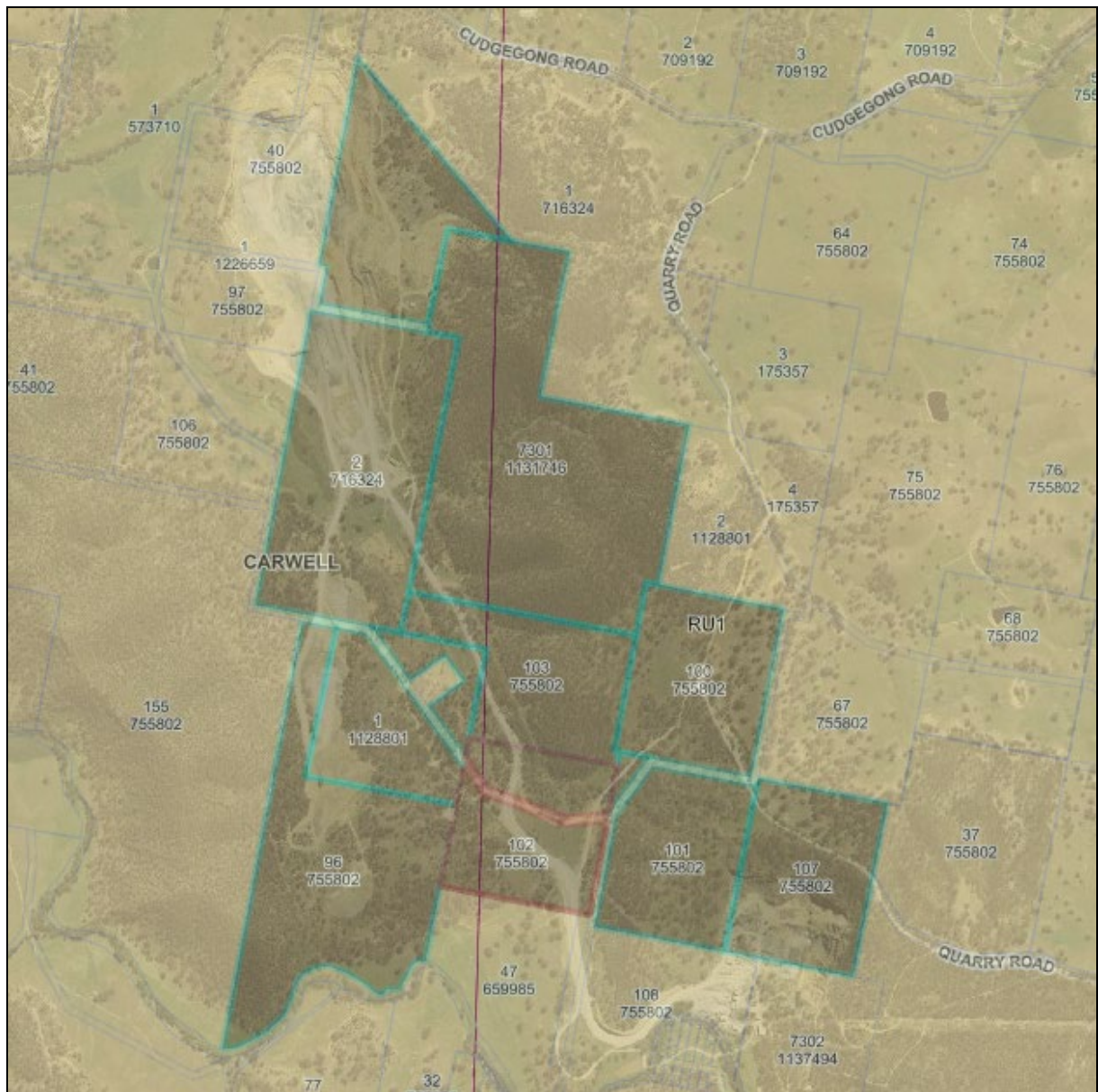
The proposal seeks to utilise part of the former Carwell Creek Limestone Mine covered by Consolidated Mining Lease 12 (CML12), which ceased operation in September 2011. The former mine site has since undergone rehabilitation activities in accordance with the approved Mine Operations Plan.

The development activities will impact a number of land parcels (land holding totals 391ha owned by Kandos Development Corporation Pty Ltd) and Crown roads contained within the former Carwell Creek Limestone Mine as shown in Figure 1, including:

- Lot 96 DP755802 (containing part of the 'Western Overburden Emplacement');
- Lot 1 DP1128801 (containing part of the 'Western Overburden Emplacement');
- Lot 2 DP716324 (containing part of the 'Western Overburden Emplacement' , wash plant area, and existing onsite buildings and access road)
- Part Lot 7301 DP1131746 (for ongoing internal site access purposes with the approval of Crown Land);
- Part Lot 100 DP755802 (for site access onto Quarry Road);
- Part Lot 101 DP755802 (for internal site access);
- Part Lot 102 DP755802 (for internal site access);
- Lot 103 DP755802 (for internal site access); and
- Part Lot 107 P755802 (where Quarry Road bisects the land).

There are two (2) Crown parcels and unnamed Crown roads which are impacted by the proposed activities, however no extraction of material is proposed to occur over the following parcels:

1. Lot 7301 DP1131746 (proposed to be partly used for ongoing access purposes with the approval of Crown Land); and,
2. Lot 7303 DP1137494 (Quarry Road appears to be partly constructed within this Crown portion and is proposed to be used as a haulage route, subject to approval of Crown Land).



### Figure 1: Site Location Map

The Department of Planning, Industry and Environment – Crown Lands provided Land Owners Consent to the lodgement of the application subject to conditions which was most recently amended and re-submitted to Council on 6 February 2020. The Crown Land owner's consent clarified that permission is granted for lodgement of the application for an 'extractive industry', and the Crown parcels and reserves involved. It was noted from this correspondence however that there are unresolved issues relating to the impacted lots and road reserves which is further discussed within this report. As a result, the recommendation of approval is proposed by way of 'Deferred Commencement', to enable the applicant an opportunity to satisfy these matters prior to an operative consent being issued.

It is important to note that a Consolidated Mining Lease (CML12) also exists and covers part of the project site (excludes part of the existing Western Overburden Emplacement) which was established when the former Limestone Mine was in operation.

It is also noted that Lot 40 DP755802, Lot 97 DP755802 and Lot 106 DP75802 to the east of the project boundary (which includes part of Mine No. 2) are held in separate ownership and as such whilst the approved Mine Operations Plan permits rehabilitation of both Mine No.1 and



Mine No. 2, no extractive industry or ancillary works are sought over these separately owned allotments under this development application.

Photographs of the subject access roads, intersections and site of the overburden emplacement are included as Attachment A.

### ***Proposed development***

The proposal comprises the following activities:

- Extraction of up to 250,000 tonnes per annum of material from the existing 'Western Overburden Emplacement' of the former Limestone Mine;
- Receiving fragmented waste rock during the rehabilitation of the No.1 and No.2 Mines under the approved MOP;
- Processing (including crushing and screening) of up to 250,000 tonnes per annum of extracted material utilising mobile plant;
- Washing of selected material to produce aggregates suitable for use as concrete or sealing aggregates and sand;
- Stockpiling of the products and loading material onto trucks for transportation to customers; and
- Use of existing onsite infrastructure and buildings.

The life of the project is 30 years, with an estimated total of 2.6 Million Tonnes of material proposed to be removed from the subject site.

Operational hours are sought between 6.00 am and 6.00 pm, Monday to Saturday with restrictions on the use of articulated trucks and water carts to between 7.00 am to 6.00 pm, Monday to Saturday.

A total of six (6) full time staff are required by the proposal with the generation of approximately \$933,000 per year contributing to the local and regional economy through wages and purchase of goods and services.

Key issues identified by the proposed development in accordance with Section 4.15 of the Environmental Planning and Assessment Act include:

- Access, transport and traffic impacts
- Biodiversity impacts
- Noise and dust generation during operations
- Aboriginal heritage impacts
- Ground and surface water impacts

These matters have been addressed within the report.

### ***Draft Conditions of Consent***

Draft conditions of consent were circulated to the Applicant and all government agencies involved in the application.

The applicant requested clarification around a number of the draft conditions and also requested some modifications. These have been updated and confirmed with the applicant accordingly.

Responses received on the draft conditions of consent from State Agencies included:

- NSW Forestry Corporation requested an additional condition to ensure that the requirement for a road safety audit and signage within the State Forest is reviewed by their agency prior to commencement.
- Crown Land had no objection to the conditions.
- Environment Protection Authority had no objection to the conditions.

An updated condition in response to NSW Forestry Corporations request has been included accordingly.

### ***Recommendation***

That the Western Regional Planning Panel approve DA0010/2020, by way of deferred commencement, for an Extractive Industry at 329-331 Quarry Road, Carwell, legally identified as Lot 96 DP755802, Lot 1 DP112880, Lot 2 DP716324, Part Lot 7301 DP1131746, Part Lot 100 DP755802, Part Lot 101 DP755802, Part Lot 102 DP755802, Lot 103 DP755802 and Part Lot 107 P755802, subject to the recommended conditions of consent.

## LEGISLATIVE REQUIREMENTS

### Crown Land Management Act 2016

At the time of lodgement of the application, Council's property records confirmed the private ownership of all parcels submitted with the application, with the inclusion of Crown Roads (both Quarry Road and unnamed paper roads). As the proposed development was to impact Crown Land, a referral occurred.

A response was received from Crown Land, dated 5 September 2019 which noted that Crown Land Owners Consent was currently being processed by the Department. The final revised final land owners consent was provided to Council, dated 6 February 2020.

In accordance with the Crown Land Management Act, the applicant will be required to demonstrate compliance with the requirements of Crown Lands including further approvals or licences to be obtained as advised by Crown Land:

1. Legal access over Lot 7301 DP1131746 as the current Permissive Occupancy (No. 163087) is for grazing purposes only.
2. Legal access over Lot 7303 DP1137494 (part Quarry Road) for haulage purposes which is subject to a current Native Title Claim under the Native Title Act 1993 (Cth).
3. The northern section of Quarry Road where the alignment is currently located outside of the Crown Road Reserve and over private lands.
4. An Extractive Licence is required over the unformed Crown Road within the project site boundary, but located outside of Consolidated Mining Lease (CML12).
5. A Compensation Agreement for impacts on Crown land.
6. Additional licence/s for access are to be obtained for both part of Crown Road and Crown Reserve 755802 which appears to be located outside the current Consolidated Mining Lease (CML12).

Figure 2 below, demonstrates the Crown Land or Roads impacted by the proposal:

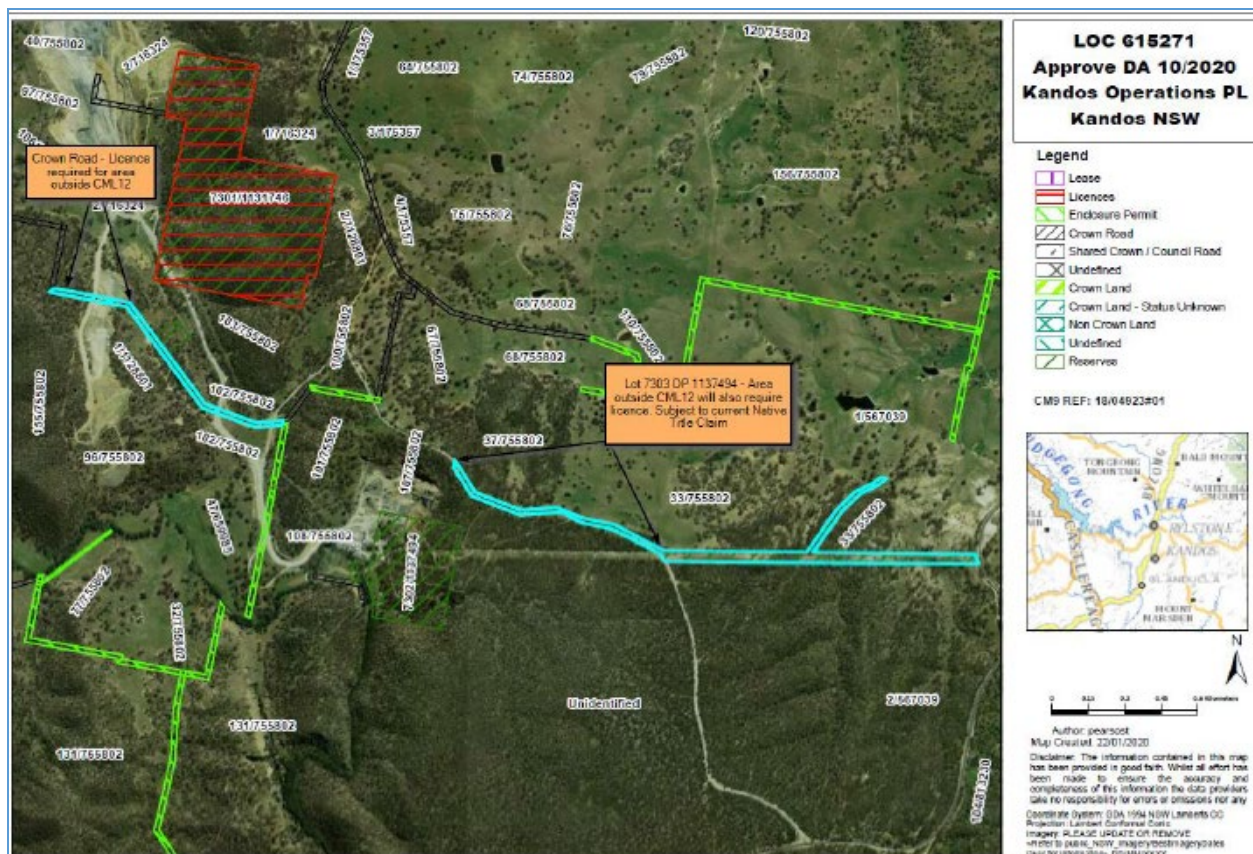


Figure 2: Crown Land Mapping (source: DPIE – Crown Lands)

It is evident that whilst there has been Crown Land Owners Consent provided to Council prior to determination of the development application, there are historical issues associated with the project site that will require further consideration and assessment by Crown Land prior to any works commencing onsite. As a result, the inclusion of a deferred commencement condition has been recommended.

It should be noted that as Quarry Road is a Crown Road and provides legal access to the site, Council is not in a position to seek acquisition / transfer of Quarry Road nor undertake maintenance or upgrade works within the Crown Road Reserve. As such the applicant is responsible for coordinating all legal access arrangements and maintenance activities associated with use of Quarry Road for haulage purposes with Crown Land as Council is not the roads authority of Quarry Road, in accordance with Part 7, Division 4 of the Roads Act 1993.

A meeting held with Crown Lands, the General Manager and staff on the 11 February 2020 raised issues with the site and Quarry Road. Further written correspondence, independent of the DA process was submitted to Council dated 19 February 2020 where it was formally requested that Council seek to transfer a portion of the Quarry Road (being the northern section to Cudgegong Road) into Councils' control. A report was previously made to a full meeting of Council in April 2015 relating to the transfer of Quarry Road and it was resolved on this occasion that transfer shall not occur. Further consideration of this issue was made by Council's Director of Operations (including the Manager of Development Engineering and Manager of Roads) and it was confirmed that this matter can be considered at a later date, outside of the DA process.

## Forestry Act 2012

The proposed development seeks to utilise the Clandulla State Forest (via Quarry Road) for haulage purposes and also proposes road realignment and upgrades within State Forest land as depicted by Figure 3 below. The application was referred to the NSW Forestry Corporation with a formal response received by Council, dated 24 September 2019 stating that Forestry has no objection to the proposal subject to the proponent agreeing to the terms of a forestry permit.

A signed Forestry Permit was provided to Council on 9 January 2020 to confirm road upgrade works can occur within the State Forest subject to the terms of the permit.

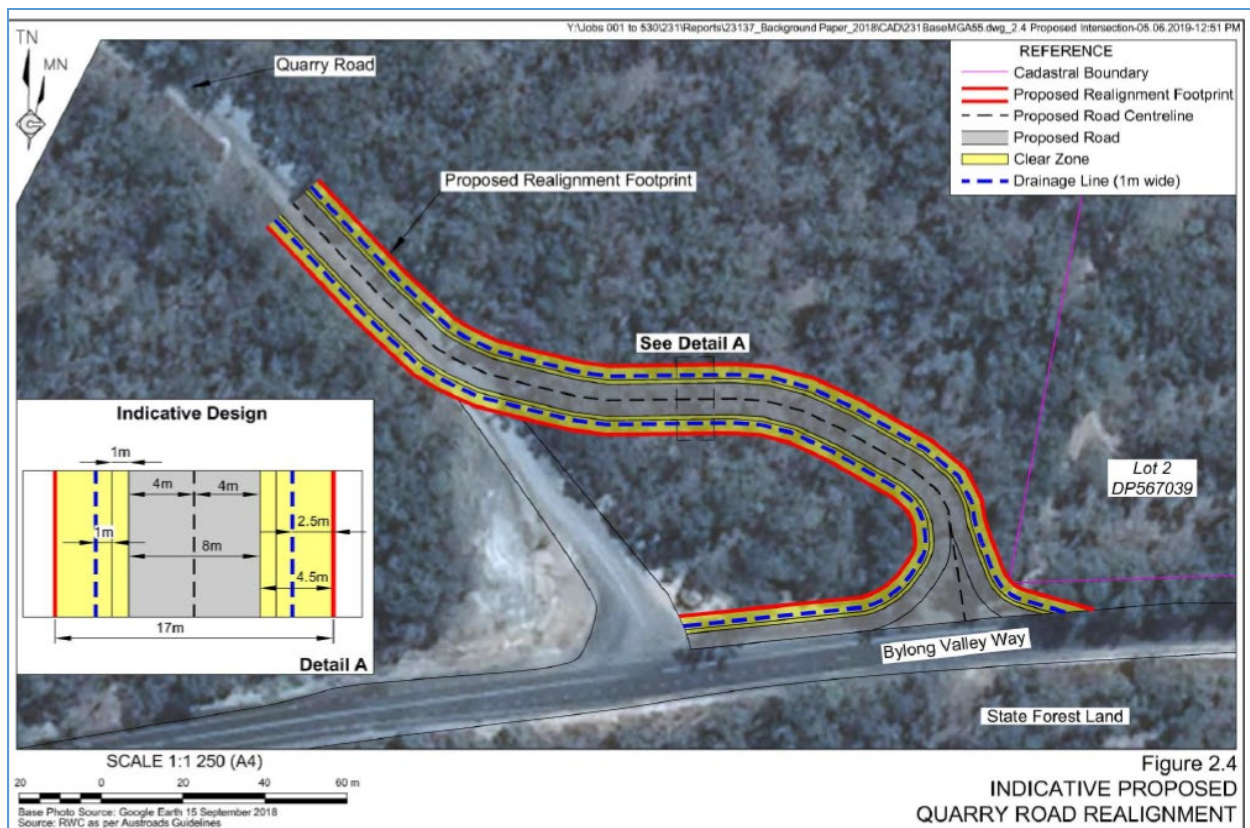


Figure 3: Quarry Road Re-alignment with Clandulla State Forest and Bylong Valley Way (source: EIS)

## Mining Act 1992

In accordance with the provisions of the Mining Act 1992, the previous limestone mining operations covered under prior mine leases, including CML12, enabled the removal of a 'mineral' (limestone) from the site. As the current Mine Operations Plan (MOP) is still enforceable over the site to ensure that rehabilitation occurs, the subject land is still also covered by the requirements of the Resources Regulator under the Mining Act 1992.

Notwithstanding the above, the proposed extractive industry within part of existing CML12 is not deemed to be 'mining' under the Mining Act 1992 on the basis of no specific 'minerals' are proposed to be mined, and removed or processed from the site. Rather processing existing waste rock material (consisting of mixed shale, claystone, tuff, quartzite and limestone) from the Western Overburden Emplacement will occur. Rehabilitation of the site covered by the mining lease is however still a requirement in accordance with the Mining Act 1992 in which Council and the Resources Regulator are deemed the appropriate regulatory authority. In this respect,



the application was referred to the Resources Regulator with General Terms of Approval issued on 19 August 2019.

### **Protection of the Environment Operations Act 1997**

In accordance with section 48 of the Protection of the Environment Operations Act, the proposed development is identified under schedule 1 of the Act as a 'scheduled activity' requiring a licence for the premises at which the activity is carried on. For 'crushing, grinding or separating' of more than 150 tonnes per day or 30,000 tonnes per year of materials, or 'extractive activities' of more than 30,000 tonnes of material per year, an Environment Protection Licence is to be obtained.

The applicant currently holds a Licence for 'crushing, grinding or separating' activities associated with the rehabilitation of the subject site, however, the Environment Protection Authority confirms in accordance with the General Terms of Approval issued on the 25 September 2019 for the proposed development, that the current Licence will require amendment. The General Terms of Approval issued by the EPA have been included in the recommended conditions of consent.

### **Environmental Planning and Assessment Act 1979**

#### **Section 1.3 – Objects of Act**

The objects of this Act are as follows:

- (a) to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources,*
- (b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,*
- (c) to promote the orderly and economic use and development of land,*
- (d) to promote the delivery and maintenance of affordable housing,*
- (e) to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats,*
- (f) to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),*
- (g) to promote good design and amenity of the built environment,*
- (h) to promote the proper construction and maintenance of buildings, including the protection of the health and safety of their occupants,*
- (i) to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State,*
- (j) to provide increased opportunity for community participation in environmental planning and assessment.*

**Comment:** It is considered that the proposed development will achieve the objects of the Environmental Planning and Assessment Act with key issues identified and addressed within this assessment report. Specifically, the proposal will reuse previously mined waste rock material for future use in construction activities which will positively contribute to the economic welfare of the Region. Further, due to the location of the proposal being within part of the former

Carwell Creek Limestone Mine, it is also considered that the proposal will have minimal impact on the environment, promoting the orderly use of the land.

### **Section 1.7 - Application of Part 7 of Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994**

Section 1.7 of the EP&A Act 1979 identifies that Part 7 of the Biodiversity Conservation Act 2016 and Part 7A of the Fisheries Management Act 1994 have effect in connection with terrestrial and aquatic environments.

The application seeks to remove a portion of native vegetation to enable road upgrades and realignment to occur at the intersection of Bylong Valley Way and Quarry Road (within the area of the Clandulla State Forest).

It is important to note that Council's GIS mapping indicates 'Persoonia Marginata', commonly known as Clandulla Geebung, occurs within the Bylong Valley Road reserve. 'Persoonia Marginata' has not however been mapped to occur within the project area of the proposed road realignment and upgrade work.

The development application was supported by an Ecological Assessment, prepared by AREA Environmental Consultants and Communication which aimed to consider the impacts to biodiversity under the following:

- Environment Protection and Biodiversity Conservation Act 1999
- Biodiversity Conservation Act 2016
- Fisheries Management Act 1994
- Biosecurity Act 2015

The assessment concludes that the area of impact totals 0.44 hectares, comprising of 0.3 hectares of native vegetation and 0.14 hectares of non-native vegetation (cleared areas). Assessments of significance were prepared for threatened species and ecological communities listed under the NSW Biodiversity Conservation Act 2016 and the Commonwealth Environment Protection and Biodiversity Conservation Act 1999. The assessments concluded threatened species and ecological communities would not be significantly impacted by the proposal and entry into the NSW Biodiversity Offsetting Scheme has not been triggered.

### **Section 4.10 - Designated Development**

The development proposal is Designated Development pursuant to Section 4.10 of the Environmental Planning and Assessment Act 1979 (EP&A Act) and Clause 19, Schedule 3 of the Environmental Planning and Assessment Regulation 2000 (EP&A Regulation).

Clause 19, Schedule 3 of the Regulation identifies that the proposed quarry is designated development as it is an Extractive Industry that would:

- Extract more than 30,000 cubic metres of material per year; and
- Will disturb a total surface area of more than 2 hectares of land including excavation, and the storage of material and overburden.

As the proposed quarry is identified as designated development, the development application must be accompanied by an Environmental Impact Statement (EIS) prepared in the form prescribed by the EP&A Regulation. This must include and address all specific matters raised

by the Secretary of the Department of Planning, Industry and Environment (DPIE) as a result of the Requirements obtained prior to lodgement with Council.

The Secretary's Environmental Assessment Requirements (SEAR's) for the project were issued by the Department on 12 February 2019 and included key issues to be addressed as follows:

- A comprehensive description of the proposal including resource amount type and composition, layout of works, impacts of the development, rehabilitation, land use conflict identification, permissibility, and identification of sensitive receivers;
- a conclusion justifying why the development should be approved along with alternatives, site suitability and whether the project is consistent with the objects of the Act;
- an assessment of potential impacts at all stages including noise, air, water, biodiversity, heritage, traffic and transport, land resources, waste, hazards, visual, social and economic and rehabilitation.

It is considered that the EIS has adequately addressed the requirements of the SEAR's for the proposal.

#### **Section 4.14 Consultation and development consent – certain bushfire prone land**

In accordance with section 4.14, development for any purpose on bushfire prone land (recorded as bushfire prone land on a relevant certified map) shall conform to the specifications and requirements of the document Planning for Bush Fire Protection prepared by the NSW Rural Fire Service in co-operation with the Department that are relevant to the development or, a certificate is provided by a person recognised by the NSW Rural Fire Service stating the development conforms to the relevant specifications and requirements.

Whilst no new buildings are proposed under the current application, the site contains a number of existing buildings established for the prior Carwell Creek mine operations (workshop, administration building and storage shed). It is confirmed that vegetation has been significantly disturbed around the existing buildings, in excess of 50m in each direction. It is considered the buildings have sufficient asset protection zones already in place. The development also is able to achieve compliance with access for fire and emergency vehicles with static water provision also in place. Notwithstanding, conditions have been imposed to ensure that the access road and emergency evacuation management is considered prior to operation in accordance with Planning for Bush Fire Protection Guidelines.

#### **Section 4.46 - Integrated Development**

The development proposal is Integrated Development pursuant to section 4.46 of the (EP&A Act), Section 43, 47 and 55 and Schedule 1 of the Protection of the Environment Operations Act 1997 (the 'POEO Act'), and Section 138 of the Roads Act 1993 (the 'Roads Act').

Schedule 1 of the POEO Act identifies that the proposed extractive industry is a 'Scheduled Activity' as it would involve the extraction of, processing (via crushing, grinding or separating) and storage of more than 30,000 tonnes of extractive material per year. The NSW Environment Protection Authority (EPA) has advised Council that the proposal is consistent with the current environment protection licence (No. 21165) issued to the proponent, subject to a number of variations to this licence. The proponent will need to make a separate application to the EPA to vary the environment protection licence should development consent be granted by Council. A copy of the General Terms of Approval are included as an attachment to this report.

Section 138 of the Roads Act identifies that the proposed quarry is integrated development as the proposal involves work in a public road. Section 4.46 (3) however identifies that development is not integrated development under Section 138 of the Roads Act if it requires the development consent of a council and the approval of the same council. However, in this circumstance it is noted that development consent is required from the Western Regional Planning Panel rather than Council and works are located within a public road at the intersection of Quarry Road and Bylong Valley Way (MR215), in which the appropriate Roads Authority is Transport for NSW, formerly Roads and Maritime Services. As such, the proposed development is considered to be integrated development pursuant to Section 138 of the Roads Act.

Section 89 and 90 (2) of the Water Management Act 2000 were initially considered as part of the application with referral to Water NSW however, it was clarified that water was to be obtained via the existing onsite dam with no increase to the size of the dam proposed. It was confirmed that 'Harvestable Rights' would therefore apply and no approval or licence would be required under the Water Management Act 2000.

#### **Section 4.15- Evaluation - Environmental Planning & Assessment Act 1979**

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.

##### **4.15(1)(a) Requirements of Regulations and Policies**

*(i) Do any environmental planning instruments (SEPP, REP or LEP) apply to the land to which the Development Application relates?*

#### **STATE ENVIRONMENTAL PLANNING POLICY NO 33—HAZARDOUS AND OFFENSIVE DEVELOPMENT (SEPP 33)**

In accordance with SEPP 33, Council must consider whether a development is a hazardous storage establishment, hazardous industry or other potentially hazardous industry; or an offensive storage establishment, offensive industry or other potentially offensive industry, with consideration given to current circulars or guidelines published by the Department of Planning relating to hazardous or offensive development. The current guideline applicable is the Hazardous and Offensive Development Application Guidelines Applying SEPP 33 (SEPP 33 Guidelines).

The applicant confirms, based on the risk screening method of Appendix 4 to the SEPP 33 Guidelines, that small quantities of hazardous materials will be held or used on the site during operation including diesel fuel, other hydrocarbons, along with lubricating oils and greases. The application states the materials will be stored separately onsite within bunded areas or storage areas with no other flammable materials. It is considered that the development is not a 'potentially hazardous industry' requiring a preliminary hazard analysis to be provided to support the application.

In accordance with the Guidelines of SEPP 33 for a 'potentially offensive industry', and the requirement for licencing of a Schedule Activity under the Protection of the Environment Operations Act, the NSW Environment Protection Authority has advised Council that the proposal is consistent with the current environment protection licence (No. 21165) issued to the proponent, subject to a number of variations to this licence. The proponent will need to make a

separate application to the EPA to vary the environment protection licence should development consent be granted.

On the basis of the above, no further assessment of SEPP 33 is required.

#### **STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT PROTECTION) 2019 (SEPP KHP)**

The SEPP KHP commenced on the 1 March 2020 and applies to the proposal as Mid-Western Regional Council is listed within Schedule 1 of the SEPP and the Koala Management Area is identified as the Northwest Slopes. Despite Council being listed within Schedule 1, clause 5(3)(b) excludes land dedicated under the Forestry Act as a State Forest. As the area of vegetation removal is located within the Clandulla State Forest, no further consideration is necessary.

Additionally however, in accordance with clause 15 - Savings provision relating to development applications:

*A development application made, but not finally determined, before the commencement of this Policy in relation to land to which this Policy applies must be determined as if this Policy had not commenced.*

Consequently, the repealed SEPP on 1 March 2020 being State Environmental Planning Policy No. 44 relating to Koala Habitat Protection has also been considered in the assessment of the application.

#### **STATE ENVIRONMENTAL PLANNING POLICY NO 44 - KOALA HABITAT PROTECTION (SEPP 44)**

SEPP 44 applies to the proposal as Mid-Western Regional Council is listed within Schedule 1 of the SEPP. Importantly however, the proposed area of vegetation disturbance by the proposal is limited to the Clandulla State Forest which is dedicated under the Forestry Act and excluded pursuant to clause 5(2) from the application of SEPP 44.

#### **STATE ENVIRONMENTAL PLANNING POLICY NO 55 – REMEDIATION OF LAND**

It is noted, that while the land is potentially contaminated given its past use for mining purposes, the proposal is considered to be a non-sensitive land use. In this regard, the potential contamination status of the land is considered to not adversely impact on the proposed use or those persons utilising the development. Therefore, no further investigations in relation to contamination or SEPP 55 are required.

As part of the rehabilitation of the site and any future quarry closure plan, however, it will be necessary to ensure that the land is returned to a satisfactory landform including the need to address and mitigate potentially contaminated material used in the rehabilitation process.

#### **STATE ENVIRONMENTAL PLANNING POLICY (MINING, PETROLEUM PRODUCTION AND EXTRACTIVE INDUSTRIES) 2007**

Part 3 Development application – matters for consideration of the State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 sets out specific matters



which must be considered in the assessment of a development application for an Extractive industry. The relevant matters are addressed below.

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

Clause 12 requires that before determining an application for consent for development for the purpose of an extractive industry, the consent authority must consider:

- *The existing uses and approved uses of land in the vicinity of the development;*
- *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 trend, are likely to be the preferred uses of land in the vicinity of the development, and*
- *Any ways in which the development may be incompatible with any of those existing or approved uses or that current or future extraction or recovery.*

In addition, the consent authority must evaluate and compare the respective public benefits of the development and the uses, extraction and recovery referred to above, and evaluate any measures proposed by the applicant to avoid or minimise any incompatibility associated with the ways in which the development may be incompatible with any existing or approved use or that of current or future extraction or recovery.

On the basis of the requirements of clause 12, it is considered that the proposed quarry can be operated in a manner that is unlikely to have a significant impact on the existing land uses (predominately grazing land and State Forest) in the immediate vicinity, subject to achieving the recommended conditions of consent, and the proposal is likely to result in a net community benefit.

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

Clause 14 requires that before granting consent, the consent authority must consider whether or not the consent should be issued subject to conditions aimed at ensuring the development is undertaken in an environmentally responsible manner, including conditions to ensure the following:

- *The impacts on significant water resources, including surface and groundwater resources, are avoided, or are minimised to the greatest extent practicable;*
- *That impacts on threatened species and biodiversity, are avoided, or are minimised to the greatest extent practicable;*
- *That greenhouse gas emissions are minimised to the greatest extent practicable.*

The EIS has identified and provided justification that the proposed development is able to be carried out in an environmentally responsible manner with mitigation measures to control sediment and erosion, limiting impact on biodiversity as a result of road upgrades and also managing noise and dust during operations. Conditions have been imposed accordingly.

## **Clause 15 – Recovery**

Clause 15 requires that before granting consent for an extractive industry, the consent authority must consider the efficiency or otherwise of the development in terms of resource recovery and whether or not the consent should be issued subject to conditions aimed at optimising the efficiency of resource recovery and the reuse or recycling of material.

Further, Clause 15 provides that the consent authority may refuse to grant consent to development if it is not satisfied that the development will be carried out in such a way as to optimise the efficiency of recovery or processing of the extractive industry.

The EIS identifies that the principal waste to be generated would include general solid waste and recyclables, waste oil and grease, tyres and metal. The applicant states all waste could be contained within an accessible rubbish bins or skips and removed by a waste contractor / recycler.

It is not considered necessary to apply specific conditions aimed at optimising the efficiency of resource recovery during operations other than ensuring the waste is appropriately managed onsite and disposed of to a licenced waste facility.

## **Clause 16 - Transport**

Clause 16 requires that before granting consent for development for the purpose of an extractive industry that involves transport of materials, the consent authority must consider whether or not the consent should be issued subject to conditions to do any one or more of the following:

- *Require that some or all of the transport of materials in connection with the development is not to be by public road;*
- *Limit or preclude truck movements, in connection with the development, that occur on roads in residential areas or on roads near to schools;*
- *Require the preparation and implementation, in relation to the development, of a code of conduct relating to transport of materials on public roads.*

Further, Clause 16 states that if the consent authority considers that the development involves the transport of materials on public road, the consent authority must, within 7 days after receiving the development application, provide a copy to each roads authority for the road and the Roads and Traffic Authority (now Transport for NSW) if it is not a roads authority for the road.

The development application was referred to both Transport for NSW and Council's Development Engineering Department.

Initially, the application proposed to upgrade the Bylong Valley Way and Quarry Road intersection, with a deferral of 12 months to complete the road upgrade, requested by the applicant. This deferral request was not supported by both Council and Transport for NSW.

On this basis, Transport for NSW advised that the intersection upgrade is required to be constructed to a 100km/h speed limit prior to commencement of operation, along with the following conditions advised to be imposed on any consent issued:

- *Implementation of a Driver Code of Conduct (CoC) to apply to all employees of the quarry not just relating to heavy vehicle operators is recommended. In addition to those areas as outlined in Appendix 4.7.4 of the EIS inclusion of the use of mobile phones, driving in adverse weather conditions (fog and icy road conditions) awareness of animal strikes on roads and driver fatigue are considered imperative as part of any future Driver CoC for the quarry.*
- *The provision of an employee commuter bus to transport staff to and from site may also be considered by the proponent as a road safety fatigue management mitigating measure.*

- *Haulage operations coinciding with local student school bus pick up/drop off times are to be avoided.*

Additionally, Council's Development Engineer was not supportive of a deferral of 12 months to the intersection upgrades on Bylong Valley Way, and haulage was also not supported via the Cudgegong Road and Quarry Road intersection. Conditions have therefore been recommended to restrict haulage only via the upgraded Bylong Valley Way intersection along with a road audit being required prior to commencement of operations.

The recommendations, have therefore been included as conditions of consent.

## **STATE ENVIRONMENTAL PLANNING POLICY (STATE AND REGIONAL DEVELOPMENT) 2011**

In accordance with Schedule 7 of the SEPP, the development is identified as 'Regionally significant development' in accordance with, Clause 7(a) - Particular designated development being '*Development for the purposes of extractive industries, which meet the requirements for designated development under clause 19 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000*'. Subsequently, the application is to be determined by the Western Regional Planning Panel.

## **MID-WESTERN REGIONAL LOCAL ENVIRONMENTAL PLAN 2012 (MWRLEP 2012)**

The following clauses of the Mid-Western Regional Local Environmental Plan 2012 have been assessed as being relevant and matters for consideration in assessment of the Development Application.

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### **Clause 1.2 Aims of Plan**

The application is not contrary to the relevant aims and objectives of the plan.

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### **Clause 1.4 Definitions**

The proposal is defined in accordance with the MWRLEP 2012 as an:

***Extractive Industry*** - *extractive industry means 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.*

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### **Clause 2.2 Zoning of Land to Which Plan Applies**

The land is zoned RU1 Primary Production and is therefore subject to the Plan.

The proposed Extractive Industry is permissible with consent in the RU1 Primary Production zone.

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### **Clause 2.3 Zone objectives and Land Use table**

The objectives of the RU1 zone and how the proposal satisfies the objectives is addressed below:

1. *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*

**Comment** The proposal does not significantly impact upon the ability of the land to be

used for the purposes of primary production into the future and once rehabilitation occurs of the former Carwell Creek Limestone Mine.

*2. To encourage diversity in primary industry enterprises and systems appropriate for the area.*

**Comment** The proposal will not hinder the ability of the land to be used for a diversity of primary industry enterprises.

*3. To minimise the fragmentation and alienation of resource lands.*

**Comment** The proposal does not contribute to unreasonable fragmentation of rural land. The site contains previously mined waste rock material and subsequently the proposal makes use of the material whilst rehabilitation activities from past mining continues to occur.

*4. To minimise conflict between land uses within this zone and land uses within adjoining zones.*

**Comment** The proposal will not result in any significant conflict with adjoining land uses subject to compliance with conditions of the consent.

*5. To maintain the visual amenity and landscape quality of the Mid-Western Region by preserving the area's open rural landscapes and environmental and cultural heritage values.*

**Comment** The proposal will not result in any significant impact upon the immediate visual amenity or environmental/cultural heritage values of the site given the prior history associated with mining from the land.

*6. To promote the unique rural character of the Mid-Western Region and facilitate a variety of tourist land uses.*

**Comment** Not relevant to the proposal.

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**Clause 5.10 Heritage Conservation**

In accordance with Clause 5.10, consideration must be given to existing or potential environmental heritage sites recorded over or in the vicinity of the site. It is confirmed that there are no heritage sites recorded on or in the vicinity of the subject site however, to ensure that if any new objects or sites are found during excavation or during works to the intersection within the State Forest land, the unexpected finds protocol shall be followed in accordance with the Office of Environment and Heritage requirements. A condition has been imposed accordingly.

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**Clause 6.1 Salinity**

In accordance with clause 6.1 the development area subject to excavation and processing activities is not identified to be impacted by salinity. Additionally, no new buildings are proposed that would require additional construction requirements to protect the structure from salinity. It is therefore considered that the development will not have an adverse impact on salinity processes and is not proposed to be carried out on land affected by groundwater salinity.

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**Clause 6.2 Flood planning**

The subject site is not identified as being within the flood planning area in accordance with Council's maps and the Floodplain Study and Management Plan. No further consideration is necessary.

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**Clause 6.3 Earthworks**

The proposal involves extensive earthworks over the 'Western Overburden Emplacement' to remove and process waste rock material for reuse in construction activities. In accordance with Clause 6.3(3):

(3) *Before granting development consent for earthworks, the consent authority must consider the following matters—*

- a) the likely disruption of, or any detrimental effect on, existing drainage patterns and soil stability in the locality of the development,*
- b) the effect of the development on the likely future use or redevelopment of the land,*
- c) the quality of the fill or the soil to be excavated, or both,*
- d) the effect of the development on the existing and likely amenity of adjoining properties,*
- e) the source of any fill material and the destination of any excavated material,*
- f) the likelihood of disturbing relics,*
- g) the proximity to, and potential for adverse impacts on, any waterway, drinking water catchment or environmentally sensitive area,*
- h) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development*

It is considered that the development will not:

- detrimentally impact drainage patterns or soil stability due to the location of the extraction activities proposed over the former mine site;
- will not affect the future use or redevelopment of the site following rehabilitation activities;
- will not impact on the amenity of adjoining properties subject to compliance with the recommended conditions of consent;
- impact on any known relics, with any new finds being subject to the requirements of the Office of Environment and Heritage;
- impact on any waterway, drinking water catchment or environmentally sensitive area, and;
- cause any significantly adverse impacts to the site or to surrounding lands.

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#### **Clause 6.4 Groundwater vulnerability**

The site is identified as groundwater vulnerable in accordance with Council's LEP 2012 mapping. It is considered that the development is unlikely to contaminate groundwater, have an adverse impact to groundwater depended ecosystem or have a cumulative impact on groundwater with the management measures proposed. This is due to the extent of excavation being restricted to the existing 'Western Overburden Emplacement' which will not penetrate below natural ground level, and mitigation measures are proposed under section 4.3.3 of the EIS including:

- limiting fuelling, maintenance activities and the storage of hydrocarbons to designated areas, and;
- testing of standing water levels being undertaken quarterly with analysis of groundwater undertaken annually.

In addition, the Environment Protection Licence issued to the applicant (current EPL 21165 for rehabilitation activities) shall also ensure the operation of the site is managed in accordance with the Licence requirements.



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**Clause 6.5 Terrestrial biodiversity**

The development footprint is located within an area of 'High Biodiversity Sensitivity'. However, no vegetation is proposed to be removed from the internal boundaries of the subject site as part of the excavation activities. The proposed road and intersection upgrade on Quarry Road and Bylong Valley Way will require the removal of native vegetation also identified within an area of 'High Biodiversity Sensitivity'. As a result, the proposal was supported by a Biodiversity Development Assessment Report which confirms that no threatened flora or fauna will be significantly impacted by the proposal and the limited area of vegetation to be removed would not exceed the threshold that would require entry into the Biodiversity Offset Scheme under the Biodiversity Conservation Regulation 2017.

Consequently, the proposed limited removal of vegetation to improve road access and safety at the intersection of Quarry Road and Bylong Valley Way has been designed to minimise the impact on the area of biodiversity and is not considered to have a significant adverse environmental impact.

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**Clause 6.9 Essential Services**

All essential services that are relevant to the proposal are available on the subject site as a result of past mining activities. No new services are proposed on the site.

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**4.15(1)(a) Requirements of Regulations and Policies****(ii) Draft environmental planning instruments (EPI)**

No draft environmental planning instruments apply to the land to which the Development Application relates.

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**4.15(1)(a) Requirements of Regulations and Policies****(iii) Any development control plans**

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**MID-WESTERN REGIONAL DCP 2013**

An assessment is made of the relevant chapters and sections of this DCP. Those chapters or sections not discussed here were considered not specifically applicable to this application or are discussed elsewhere in this report.

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**Part 1.9 Developer Contributions**

The application is subject to contributions in accordance with the Mid-Western Regional Contributions Plan 2019 and Section 7.11 of the Environmental Planning and Assessment Act 1979. A condition has been imposed accordingly which requires payment to Council a levy of \$0.66 per tonne of resource removed from the site, paid quarterly, in accordance with the Plan.

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**Part 5.1 Car Parking**

The proposed land use is not specifically referenced within the table requirements of Part 5.1. As a result, an assessment is made based on the expected traffic generation. As the proposal states it is expected that six (6) full time staff would be required to support the proposed development plus contractors based on demand, the subject site has adequate cleared area to accommodate parking adjacent to the existing workshop and/ or office with a number of gravel loading and unloading areas already in existence. As a result, and given the historic use of the site, parking availability is deemed to be sufficient onsite for the proposed operations however conditions have been imposed to ensure ongoing maintenance occurs, to restrict movements of

vehicles on the road network and the requirement to prepare a Driver Code of Conduct prior to commencement of operation.

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### **Part 5.3 Stormwater Management**

The proposed development is considered to achieve compliance with the requirements of Part 5.3 relating to the management and conservation of stormwater during operation and additional mitigation and management measures are to be introduced as part of the Soil and Water Management Plan and Environmental Management Plan required by the EPA and Resources Regulator.

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### **Part 5.4 Environmental Controls**

All the relevant considerations have been discussed elsewhere in this report or dealt with through conditions of consent including aboriginal archaeological item protection, drainage, waste management and flora and fauna impact.

#### ***4.15(1)(a) Provisions of any Planning Agreement or Draft Planning Agreement – (1)(a)(iia)***

The applicant has not requested to enter into a Planning Agreement in respect of the proposed development.

#### ***Regulations –4.15(1)(a)(iv)***

### **ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000**

No matters prescribed by the Regulations impact determination of the Development Application.

#### **Likely impacts of the development – 4.15(1)(b)<sup>1</sup>**

<sup>1</sup>Including environmental impacts on both the natural and built environments, and social and economic impacts of the locality.

The following matters have been identified by the NSW Department of Planning Industry and Environment (DPIE) under the Secretary's Environmental Assessment Requirements as the key environmental issues for consideration associated with the proposed quarry.

### **Noise**

Whilst the application does not propose any blasting activities associated with the removal of material from the site, as a result of the operational elements associated with the movement of machinery, trucks and mobile plant, a noise impact assessment has been prepared to support the application by Muller Acoustic Consulting Pty Ltd. The assessment has utilised the Noise Policy for Industry (NPI) criteria and modelling was also undertaken to determine noise emission impacts on neighbouring properties and vehicle movements along both Cudgegong and Bylong Valley Way. As, however, the recommended conditions following Council's Development Engineering Referral response, does not support heavy vehicles utilising the Cudgegong Road intersection based on traffic safety impacts with the intersection, noise impacts associated with heavy vehicle movements have been therefore only considered during the assessment for the Bylong Valley Way haulage route.

Additionally, operational hours included in the EIS are proposed between 6am and 6pm with articulated trucks and water carts proposed to operate within the site only between 7am and 6pm, Monday to Saturday.

Based on the above operating scenarios, the assessment of noise generated by the project confirms that the noise levels comply with the Noise Policy for Industry criteria and will not cause sleep disturbance at all assessed residential receivers.

Further, the road noise criteria will be satisfied for the Bylong Valley Way receivers, including Kandos Village residential receivers, with no ameliorative measures being required. The assessment has utilised the maximum 'busy day' scenario of 120 vehicle movements per day (100 heavy vehicles and 20 light vehicles) using the Bylong Valley Way and Ilford Road transport routes, with the closest residential dwelling setback 10 meters from the centreline of the road. The assessment demonstrates that the projected road traffic noise, when operating at maximum capacity, will comply with the assessment criteria during day and night time operations (day: 7am to 10pm, night: 10pm to 7am).

In addition, the intersection of Quarry Road and Bylong Valley Way, in particular, is predominately surrounded by State Forest and therefore no sensitive receivers would be impacted by noise during the proposed road construction upgrade, or during operation from heavy vehicle movements at the intersection.

The application was also referred to the Environment Protection Authority with General Terms of Approval issued for the development which have been included within the recommended conditions of consent. It is therefore considered that the proposed development is unlikely to have an adverse significant impact on surrounding land and sensitive receptors from project related noise emissions.

## **Air Quality**

Whilst the subject site is remote in location and primarily bound by State Forest and agricultural land, the application provided an assessment of air quality impacts of the development, including dust impacts from operational and haulage activities. It was determined that the following mitigation measures will be implemented for the project:

- Limit excavation and procession activities during periods of high wind;
- Apply water to internal roads and stockpile areas to minimise dust generation;
- Ensure all exhausts of equipment would be diverted away from the ground surface so as not to generate dust;
- Ensure that all haulage vehicles have their loads covered; and,
- Respond to air quality related complaints including modifying site operations in the event that dust emissions from operations are not acceptable.

The application was also referred to the Environment Protection Authority with General Terms of Approval issued for the development which have been included within the recommended conditions of consent. It is therefore considered that with the implementation of the mitigation measures during operation, the proposed development is unlikely to have an adverse significant impact on surrounding lands as a result of air quality emissions or result in cumulative air quality impacts due to the remote nature of the site.

## **Water**

The EIS provides a detailed assessment of the proposed quarry on surface and ground water. It should be noted that existing water monitoring points are located within the site and water monitoring occurs as part of the existing licence requirements.

With regard to potential groundwater and surface water impacts, the EIS identifies the following:

- The continued management of water in accordance with the site water management system anticipates that there would be a low likelihood that sediment laden water would be discharged to surrounding watercourses;
- The proposal would not substantially reduce the size of catchments of Orchard or Carwell Creeks and therefore not result in a reduction of water available for environmental or other purposes within those catchment;
- The proposal would not exacerbate the impact of or be impacted by flooding;
- The proposal would not intersect the saturated aquifer and therefore would not adversely impact groundwater resources over the site or upon other groundwater users.

Based on the information provided within the EIS, the conditions of consent recommended by Council's Development Engineering Department, and the requirements of the NSW EPA General Terms of Approval along with response received from WaterNSW, it is considered that proposed development is unlikely to have an adverse or significant impact on surface or groundwater quality. It is important to note that the application does not require or trigger an approval under the Water Management Act 2000 on the basis that harvestable rights within the existing storage dam on the site. Therefore, General Terms of Approval are not required under the Water Management Act 2000.

## **Biodiversity**

The application seeks to remove a portion of native vegetation to enable road upgrades and realignment to occur at the intersection of Bylong Valley Way and Quarry Road (within the area of the Clandulla State Forest). There is no vegetation proposed to be removed within the boundaries of the site to undertake extractive activities.

The development application was supported by an Ecological Assessment, prepared by AREA Environmental Consultants and Communication which aimed to consider the impacts to biodiversity under the following:

- Environment Protection and Biodiversity Conservation Act 1999
- Biodiversity Conservation Act 2016
- Fisheries Management Act 1994
- Biosecurity Act 2015

Following vegetation and fauna surveys of the site of vegetation removal using transects, the assessment concluded that the area of impact totals 0.44 hectares, comprising of 0.3 hectares of native vegetation and 0.14 hectares of not native vegetation (cleared areas). Assessments of significance were prepared for threatened species and ecological communities listed under the NSW Biodiversity Conservation Act 2016 and the Commonwealth Environment Protection and Biodiversity Conservation Act 1999.

The assessments concluded that no threatened flora or fauna species were identified or observed in the study area and therefore threatened species and ecological communities would not be significantly impacted by the proposal and entry into the NSW Biodiversity Offsetting Scheme has not been triggered.

On the basis of the above, it is considered that the proposed development is not likely to have a significant effect any threatened species, population or ecological communities or their habitats. Notwithstanding, management and mitigation measures proposed during the realignment of the

Quarry Road intersection with Bylong Valley Way are deemed to further reduce the potential of adverse impacts on native vegetation and wildlife that may traverse the subject study area.

### **Aboriginal Cultural Heritage and Historic Heritage Significance**

The application was supported by an Aboriginal Cultural Heritage Due Diligence Assessment prepared by Area Environmental Consultants and Communication which included a desktop assessment of AHIMS, the LEP 2012, Native Title Vision, State Heritage Register and Australian Heritage Database. Whilst no sites of Aboriginal heritage were found during the desktop assessment, a Native Title Claim exists over the study area by Warrabinga-Wiradjuri #7 (NC2018/002).

A field survey of the subject site was also undertaken with no sites of Aboriginal cultural heritage value identified.

In summary, the report identified that the subject property is unlikely to contain any Aboriginal sites or historic heritage items which may constrain the quarry. Notwithstanding, the report made the following recommendations in order to manage and mitigate the impact on any unexpected finds:

- Cease all ground surface disturbance in the area of the finds immediately once the finds are uncovered;
- Contact the police if the finds are of human remains;
- Seek verification of the find from a suitably qualified person, such as a heritage consultant;
- Notify the Office of Environment and Heritage and the relevant local Aboriginal community representatives if the finds are verified or a likely to be Aboriginal in origin;
- Record all finds and register them on the appropriate databases; and,
- Prepare a management strategy in consultation with the local Aboriginal community and approval from the relevant determining authority.

In summary, it is considered that the proposed development is unlikely to have a significantly adverse impact on Aboriginal or Cultural Heritage and is consistent with the objectives of Clause 5.10 of the Mid-Western Regional Local Environmental Plan 2012.

Notwithstanding, it is recommended that a condition of consent be applied requiring that in the event that any previously unrecorded or unanticipated Aboriginal object / artefact or historic object is encountered, the unanticipated finds protocol must be implemented.

### **Traffic and Transport**

A detailed Traffic Impact Assessment was submitted with the EIS, prepared by Transport Planning Partnerships. The assessment details that based on the operational hours and production amount proposed, the proposal is likely to generate the following average vehicle movements:

- 2-3 laden truck movements per hour.
- 34 laden truck movements per weekday, 17 laden truck movements per Saturday.
- 186 laden truck movements per week.
- 20 light vehicle movements per day.



The traffic assessment has however been based upon a 'busy day' scenario of 51 trucks per day (4-5 trucks per hour) and 20 light vehicle trips per day to ensure that the potential for fluctuating transport activities are accommodated accordingly. The assessment outlines the trip distribution of vehicles during operation and notes that during one transport campaign, trucks would typically all travel along one route, albeit, not all routes at the same time, however movements are dependent on the destination of the materials at that time. The assessment was based on laden truck movements being left or right from Quarry Road, onto Bylong Valley Way (into Kandos or onto Ilford Road / the Castlereagh Highway) and also turning left from Quarry Road onto Cudgegong Road (and onto the Castlereagh Highway).

The assessment details that the total traffic volumes, including the proposed development during a 'busy day' scenario, would remain below threshold volumes and as such no road capacity concerns are generated by the proposal. As such, the assessment concludes that no measures would be required to provide additional capacity to accommodate the proposal and the existing vehicle routes are of an adequate standard to accommodate vehicles associated with the proposal.

The EIS however proposes additional management measures relating to signage at the intersections, a driver code of conduct, management of roadside vegetation along with proposed upgrades to the intersections of Quarry Road with Cudgegong Road and Bylong Valley Way.

The Traffic Impact Assessment has been assessed by Council's Development Engineering Department and Transport for NSW (formerly RMS) with recommended conditions of consent. Primary concerns raised during the assessment included the following matters:

- Quarry Road is an unsealed Crown owned and controlled road and is not maintained by Council;
- Part of Quarry Road to the north towards Cudgegong Road has been constructed partly within private land (including the intersection);
- Part of Quarry Road to the south, is physically formed through the Clandulla State Forest and provides access onto Bylong Valley Way;
- Bylong Valley Way is a Classified Road, managed by Transport for NSW;
- Cudgegong Road is a Council controlled and maintained road;
- Safe Intersection Sight Distance (SISD) of 248m is not achieved for a driver approaching from the west on Bylong Valley Way to observe a vehicle turning right from Quarry Road; and,
- Safe Intersection Sight Distance (SISD) is also not achieved to observe vehicles waiting to turn from Quarry Road onto Cudgegong Road.

The response from Transport for NSW is that the proposed realignment of Quarry Road and upgrades to enable compliance with the SISD of 248m is supported for the Bylong Valley Way intersection along with a driver code of conduct being prepared to support the operation of the extractive industry. The applicant initially requested a deferment of 12 months to construct the intersection upgrade however, this was not supported. Conditions have been recommended accordingly.

Further, Council's Development Engineer undertook extensive inspections of the intersections and the condition of Quarry Road and Cudgegong Road on the basis of the proposed haulage routes and the applicants request for deferment of the intersection upgrade to Bylong Valley Way. Council's Development Engineer was not supportive of heavy vehicles utilising the Quarry

Road and Cudgegong Road intersection as a haulage route or the proposed upgrades to the intersection due to impacts on Cudgegong Road and private landholders. As a result, the recommended condition of consent requires the dedicated haulage route to only occur via Quarry Road and Bylong Valley Way, once the intersection upgrades have been completed. An independent road safety audit has also been recommended to be prepared and submitted to Council. Furthermore, it is confirmed that Council is not in a position to acquire or transfer any portion of Quarry Road at this time.

Due to the impacts of the proposal on Crown roads and reserves however, and whilst Crown Land consent has been provided for the application, the applicant is required to undertake a number of additional steps to satisfy the Crown following the referral response received by Council. On this basis, conditions have been imposed to ensure that Crown Land matters are satisfied prior to operations occurring, and prior to an operative consent being issued by Council.

As a result of the recommendations of Transport for NSW, Crown Land and Council's Development Engineer, the conditions have been included and as such, the proposal is not considered to result in significantly adverse traffic or transport impacts.

## **Land Resources**

The subject site is currently identified to contain non vegetated hardstand areas or mine voids due to historic operations over the site with boundaries and unmined areas containing mature vegetation, obscuring the site from surrounding land. The land within the site has been identified in the EIS to be mapped as Class 4, Class 7, Class 8 soils, being moderate, very low and extremely low capability land. Section 4.12.3 of the EIS identifies that management and mitigation measures would be implemented to minimise the potential for unacceptable land resource-related impacts including:

- Clearly delineate areas subject to vegetation clearing, soil stripping or stockpiling using markers;
- Strip approximately 150mm of soil from areas of disturbance associated with realignment of the Quarry Road (Bylong Valley Way intersection);
- Refrain from soil stripping and placement in wet conditions;
- Manage soil stockpiles in the following manner:
  - Stockpiles are to be no more than 2m high and contain slopes of 1:3 or less;
  - Stockpiles should achieve effective 70% cover within 10 days formation and may be achieved using mulches, spray on polymer-based products or hessian to allow vegetation cover to become established;
  - Spread seed of a suitable cover on soil stockpiles to facilitate revegetation;
  - Ensure soil stockpiles have a surface that is as 'rough' as possible in the micro scale to assist in surface water runoff control and seed retention;
  - Signpost stockpiles and limit operation of machinery.
- Rip and scarify all areas to be respread with topsoil; and,
- Ensure that regular consultation with surrounding landholders is undertaken to ensure that the proposed activities are not adversely impacting on surrounding land uses.

Based on this information, it is accepted that the proposed quarry and realignment of the Quarry Road and Bylong Valley Way intersection will have an acceptable impact with regard to potential degradation of soil and land resources. An additional condition relating to sediment

and erosion control and suitable measures being implemented for the life of the operations has also been recommended to mitigate such impacts on the site.

## **Waste**

The EIS identifies that the proposed quarry would generate general wastes and recyclables, including food scraps, waste oils and greases, tyres and scrap steel / metal. As the subject site is not serviced by any Council waste collection, a private, commercial contractor will be required to collect wastes from the site or the wastes shall be removed and taken to a licenced waste facility. No wastes are permitted to be delivered to the Council managed Waste Transfer Stations as these are for domestic wastes only. Notwithstanding, it is not considered that the quantities of wastes generated by the proposal would significantly impact the subject site or surrounding land.

A recommended condition of consent has however been imposed requiring that in the event of any servicing, repair or maintenance of plant on-site, any such work must be undertaken by a suitably qualified contractor with all waste to be disposed of in a suitable manner.

## **Hazards**

Hazardous and dangerous goods have previously been considered under the heading State Environmental Planning Policy 33 – Hazardous and Offensive Development.

On the basis that the EIS identifies that hydrocarbons (fuels) will be banded within impervious areas in accordance with AS1940 however, the proposed development should not be considered to be a potentially hazardous industry.

Further, the EIS considered potential bush fire risks associated with the proposal such as activities that may cause ignition, water availability for firefighting and site access. The EIS includes management and mitigation measures to minimise the potential for unacceptable public safety-related impacts including the need to prepare an Emergency Management Plan. The requirement to prepare an Emergency Management Plan has also been included as a condition of consent to ensure that a process is implemented for the life of the project that allows for early evacuation and response to bush fires.

On the basis of the information submitted, it is considered that the proposed development is unlikely to have an adverse significant impact on the site or to surrounding lands as a result of hazards or bush fire risk.

## **Visual**

In assessing the visual impact of the proposed quarry, the visibility of the proposal from land surrounding the site along with views to and from the site from Quarry Road were considered. The site is bound by mature native vegetation, including the Clandulla State Forest and also elevated ridges running north-west of the site. This is evident on both the south-western and north-eastern borders of the site. The Western Overburden Emplacement is however visible from the north-west although the nature of the undulating landform and mature vegetation obscures the remainder of the site including the site office, workshop and existing Mine Void.

The EIS confirms that extraction activities of the waste rock material from the Western Overburden Emplacement would be visible from vantage points to the north-west due to the

current elevated nature of this area however, this landform would be restored to its former footprint and therefore conform with the surrounding landform as a result of future rehabilitation activities required. The final landform, following extraction would therefore improve the visual amenity of the site from vantage points to the north-west.

Notwithstanding the above, the EIS includes additional mitigation measures to reduce the impact of the proposal on local visual amenity, including:

- Active dust suppression measure to minimise the potential of a 'dust cloud' over the site; and,
- Revegetation the footprint of the Western Overburden Emplacement with native species as soon as practicable.

Based on this information, it is deemed that the proposed quarry will have an acceptable impact with regard to visual amenity and with future rehabilitation activities for the project, along with the former mining operations over the land, there will be an improved overall future landform which will reduce visual impacts to surrounding land, particularly to the north west of the site.

### **Social and Economic**

The EIS concludes that the proposal will not have unacceptable impacts on the community and adverse socio-economic impacts are likely to be negligible. The proposal seeks to maximise benefits to the community including the following management and mitigation measures:

- Proactively consult throughout the life of the proposal with residents who could be impacted by the proposal;
- Maintain a community complaints register and retain a number on the site entrance;
- Liaise with Council in relation to any complaints received;
- Give preference when engaging new employees to candidates from surrounding areas over candidates from further afield; and,
- Give preference to suppliers of equipment, services or consumables located within surrounding communities.

Further, while the quarry is unlikely to have an unacceptable environmental impact, it is likely to provide full time employment for 6 people, plus additional opportunities for contract truck drivers throughout its operational life which would contribute approximately \$443,000 in wages and other benefits to the Mid-Western Local Government Area per year.

On the basis of the information submitted, the proposal is unlikely to result in any adverse significant socio-economic impacts to the surrounding community.

### **Rehabilitation**

Rehabilitation has previously been addressed under the heading Extractive Industries & Mining of the SEPP.

On the basis that the disturbed sections of the quarry would be the subject of ongoing operational activities and that the future land use is currently restricted to conservation and extensive agriculture, it is accepted that the preparation of detailed quarry closure plan be deferred until 50% of material is extracted from the site.

Notwithstanding, it is recommended that any quarry closure plan be prepared in accordance with any applicable legislation and best practice industry standard at that time. A condition of consent to this affect has been recommended accordingly.

#### **Suitability of Site for Development – 4.15(1)(c)**

##### **(A) DOES THE PROPOSAL FIT IN THE LOCALITY?**

Yes. There are no hazardous land uses or activities nearby, there are no constraints posed by adjacent developments and there are adequate facilities in the area available for the development.

##### **(B) ARE THE SITE ATTRIBUTES CONDUCIVE TO DEVELOPMENT?**

Yes. The site is not subjected to any significant natural hazards, and the project will not impact any critical habitat, threatened species, populations, ecological communities or endangered habitats on the site. Management measures, in accordance with the EIS and conditions recommended however will ensure that site will remain suitable for the development.

#### **Submissions made in accordance with Act or Regulations – 4.15(1)(d)**

##### **(A) PUBLIC SUBMISSIONS**

The application was advertised and neighbour notified, in accordance with Mid-Western Regional Development Control Plan 2013, for a period of 28 days, ending 30 August 2019. During the notification period, nine (9) submissions were received. A copy of the submissions are included as Attachment B.

The submissions included 1 petition with 131 signatures and 2 letters of support. 5 submissions of objection were received during the exhibition period. The applicant was provided an opportunity to respond to the submission made and the applicant's response is included as Attachment C.

A summary of the objections have been further detailed below, including Council's response to the matters of concern.

<b>Matters of concern:</b>	<b>Council Comment:</b>
Traffic impacts due to movements of agricultural plant and livestock along Cudgegong Road and Quarry Road between land holdings.	The assessment has concluded that the use of the Cudgegong Road as a haulage route via Quarry Road is not supported. As a result a condition of consent is recommended to restrict all heavy vehicles and haulage to the Quarry Road and upgraded Bylong Valley Way intersection. This is also to be included in the Driver Code of Conduct to be prepared for staff the operation of the site.
Owners consent has not been provided for all land parcels.	Owners consent and/ or a permit has been provided by all affected land parcels including Crown Land and Forestry Corporation of NSW to support the extractive industry development application. With respect to Quarry Road physically constructed outside of the road reserve, a condition has been imposed to limit haulage to the southern route of Quarry Road

	only and an additional condition has been imposed regarding any ongoing access (light vehicles for example) via Quarry Road to the North must be addressed (via Crown Land as a road closure or via an 88K Court Order Under the Conveyancing Act) prior to use of this section of road for light vehicles associated with the proposal. Council confirms that the Quarry Road portion identified to be a Crown Road will not require upgrades to support the proposed development and no transfer of the road is supported by Council.
The proposed development is considered 'Mining' as it is taking limestone from the site.	As addressed within the assessment under the provisions of the Mining Act, the proposed extractive industry is not defined as mining. Extraction will only occur from the previous mine operations waste rock emplacement, being the material deemed previously unsuitable for the Limestone Mining activities. There is no extraction to occur with the former No.1 or No 2 Mine Voids as part of this proposal.
The current MOP was not provided with the DA application.	The former MOP covers the rehabilitation of the former mining activities over the site. It is a requirement that the applicant provides an amended MOP to cover the site activities currently proposed and as a result the previous MOP is not relevant to the current DA assessment. Further, any MOP is not a Council requirement but is a requirement of the Resources Regulator.
The EIS gives a false impression of the economic benefits to the community as the applicant is a Bathurst based business.	The EIS confirms the amount of wages and goods anticipated to be provided to the local economy including commitments to utilise local staff, contractors and businesses. The project is proposed in the Mid-Western LGA and the location of the head office of any business is not a relevant consideration of the development application.
The DA for the original mine needs to be modified.	The application for the former Limestone Mine is not required to be modified as the project under this application is not mining and does not rely on conveyors for transport of material. Therefore the development is not considered to be substantially the same as the prior approval.
Bond for Rehabilitation.	The current application does not impact on any bond held for the site which related to the rehabilitation of the former mine operations.
Deferral of the Erosion and Sediment Control Plan preparation.	The condition for the preparation for a Sediment and Erosion Control Plan has been

	recommended on the basis of the information provided in the EIS which has been deemed satisfactory by Council and NSW EPA.
Harvestable Rights of the onsite storage dam and water balancing assessment is not supported.	The EIS and referral response from Water NSW confirm that the harvestable rights under section 53 of the Water Management Act are used for water supply associated with the use of the site and based on this there are no additional requirements to obtain separate approvals under the Water Management Act.
Traffic and transport of laden trucks and suitability of the intersection design.	The proposed intersection upgrade has been referred to Transport for NSW and deemed satisfactory to ensure safe truck movements from Quarry Road onto Bylong Valley Way. No heavy vehicles are supported to utilise the Cudgegong Road intersection and a condition has been imposed accordingly.
Life of the project with additional rock located.	The recommended condition of consent limits the life of the project to 30 years. Should there be any change to this expected life of the project a modification to any approval issued would be required under the Environmental Planning and Assessment Act.
Landform suitability.	The proposed development does not involve extraction below natural ground level and as such there will be no 'extraction pit wall' to assess from a geotechnical point of view. Following removal of the material from the overburden emplacement, progressive return of the area to a natural landform will be required and a condition has also been imposed to ensure that at the time of 50% of material being removed, a rehabilitation plan will be required to be submitted and approved.
School bus routes.	A condition has been imposed to ensure that haulage is to occur outside of school bus times.
Fleet of vehicles onsite for rehabilitation excluded from the Traffic Assessment.	The traffic assessment surveys have included the total movement of all vehicles utilising the road network currently to assess the capacity of the network to support the proposal. Which has been deemed satisfactory subject to upgrades to the Bylong Valley Way intersection.
Noise assessment and dust assessments should address cumulative impacts	Due to the remote nature of the site and also there being no other external site activities that would generate significant dust or noise in proximity of the site, an assessment of cumulative impacts around noise and dust is not warranted.
Blasting activities and noise impacting on	The application does not propose blasting



stock and domestic ground water, the dwelling.	activities and this this is reinforced with a recommended condition of consent.
Increased truck traffic.	Council does not support truck or heavy haulage via Cudgegong Road and all trucks will be required to utilise Bylong Valley Way.
The creation of 6 fulltime jobs does not make up for the negative impacts it will cause.	The proposed development will contribute to the local economy and is deemed to be a positive economic impact to the Mid-Western Region. The environmental impacts have been assessed accordingly and with the management measures and conditions recommended it is deemed that there are no significant adverse impacts that would warrant refusal of the application.
Increased use of water impact water quality and surface and groundwater including with the No.2 Mine.	The EIS has confirmed that the proposed development will not have an impact on surface water or ground water. In addition, the proposal does not propose any extraction or use of the No.2 Mine Void which is located outside of the project area.
Increase of vehicles on Bylong Valley Way making it unsafe.	The Traffic Assessment confirms based on surveys that there is sufficient capacity in the network to support the proposed development. This has been further supported by Council's Development Engineer and Transport for NSW subject to the upgrades to the intersection of Bylong Valley Way.
Noise impacts at the level crossing for the former Kandos Cement works	The proposal does not seek to utilise the cement works and therefore no high volumes of trucks would be creating additional noise issues in this location.
Flora and fauna impacts	A Biodiversity Assessment was undertaken with field surveys completed which confirmed no threatened flora and fauna species were located within the area of vegetation removal.
Dust with heavy metals generated in the loading area of the cement works impacting on health.	As advised previously, the project will not utilise the former cement works for any purpose.

## **(B) SUBMISSIONS FROM PUBLIC AUTHORITIES**

The application was referred to the following State Agencies:

- NSW Roads and Maritime Services (now Transport for NSW)
- NSW Environment Protection Authority (EPA)
- Resources Regulator
- Division of Resources and Geosciences
- Water NSW
- Crown Land
- Office of Environment and Heritage (OEH)

The responses received from each agency (excluding OEH who declined to provide any referral comments) along with the General Terms of Approval required from the NSW Environment Protection Authority and Resources Regulator have been received and included as Attachment D.

Further information was required from Transport for NSW relating to the project due to the deferment of the intersection works for 12 months not supported by the agency. Concurrence, however, was granted by Transport for NSW on the basis that the works be approved and intersection works be completed prior to operation commencement. Council's Development Engineer was also supportive of this.

#### **The Public Interest – 4.15(1)(e)**

The proposed development is considered to be in the public interest. With implementation of the management measures for the life of the proposal, as required by the recommended conditions of consent, no significantly adverse impacts have been identified that would warrant refusal of the application.

### **CONSULTATIONS**

#### **(A) HEALTH AND BUILDING**

Council's Health & Building Surveyor has not raised any concerns with the proposal, subject to a standard condition being imposed relating to approval to operate under Section 68 of the Local Government Act 1993.

#### **(B) TECHNICAL SERVICES**

Comments received from Council's Development Engineer on the 11 February 2020 have been provided below and has considered Transport NSW concurrence provided on 22 January 2020.

*The applicant is seeking consent for the extraction and processing of up to 250,000 tonnes per annum of previously mined waste rock and overburden materials from a previous quarry activity.*

*The rock materials will be crushed, screened and washed to provide a range of quarry materials for use in the construction of roads and other applicable construction activities.*

*From an engineering perspective the major issues relate to provision of access and nomination of an acceptable haul route.*

*All other requirements regarding operation of a quarry / extraction activity fall under the jurisdiction of other state authorities.*

#### **Access**

*The site can be accessed from the north via Cudgegong Road and Quarry Road.*

*Cudgegong Road is a rural bitumen sealed road of varying width while Quarry Road is a gravel formed road.*

*It should be noted that several sections of the constructed alignment of Quarry Road are not within the surveyed boundaries and encroach significantly into other land.*

*From the south the site can be accessed from Bylong Valley Way using a constructed road through Crown Land / State Forest.*

*This constructed road is gravel formed but is not a declared road.*

*Access is understood to be managed by agreement / license with the relevant State Authority.*

*Historically it is understood that all mined material was transported to the Kandos processing facility (cement works) using an overhead conveyor / bucket system. As such there was limited heavy vehicle traffic on the road network.*

*Given the proposed volumes / quantity of material to be extracted and exported from the site it is of major concern that the proposed activity will result in a large number of heavy vehicles accessing the road network.*

*The narrow pavement widths in conjunction with the poor horizontal and vertical alignments of Cudgegong Road, which includes tight bends, crests and troughs that limit sight distances, the use of Cudgegong Road as a haul route for heavy vehicles is not supported.*

*IF consent were to be given for the use of Cudgegong Road as a haul route the intersection with Quarry Road and Quarry Road itself would require major reconstruction and upgrade. This would be extremely difficult given that the intersection and other parts of the road do not lie within the surveyed road boundaries and encroach significantly into adjoining properties.*

*The preferred and nominated haul route for quarry materials is via Bylong Valley Way.*

*Bylong Valley Way is a state road under the care and control of RMS / TfNSW.*

*Assessment by Council and RMS / TfNSW indicates that the intersection of the access road through the forest reserve with Bylong Valley Way is not suitable for use in its current location and alignment. There are significant shortfalls in sight distance. The intersection will require extensive upgrade including relocation in accordance with any RMS / TfNSW requirements.*

*It is understood that the applicant has already been in discussion with RMS / TfNSW regarding construction requirements and timing of the works.*

*From a Council perspective any works requirements for access upgrades should be completed prior to the commencement of use.*

*While the use of Quarry Road / Cudgegong Road as a haul route for heavy transport vehicles the use of this route could be utilised by light vehicles for commuter purposes subject to some additional signage requirements at the Cudgegong Road / Quarry Road intersection to provide for improved safety measures.*

#### *Management Plans*

*Ongoing management and eventual rehabilitation of the site will be subject to the statutory and regulatory requirements of other bodies. For the purposes of maintaining Council records copies of any and all Management Plans required by those authorities are also to be provided to Council.*

Developer / Transport Contributions

*While not included in proposed conditions below, the Applicant should be required to make contributions in accordance with the requirements of Council endorsed Contribution Plans for the maintenance of the transport network.*

Further correspondence from Crown Land dated 19 February 2020 relating to the transfer of part of Quarry Road has been further considered by Council's Development Engineering Department and is not supported. A separate resolution of Council will however be required in relation to this matter.

**(C) HERITAGE ADVISOR**

No consultation necessary.

**(D) ACCESS COMMITTEE**

No consultation necessary.

**SUMMARY**

The proposed development complies with the requirements of the Environmental Planning and Assessment Act, 1979, Environmental Planning and Assessment Regulation, 2000, relevant State Environmental Planning policies, Mid-Western Local Environmental Plan 2012 and Mid-Western Regional Council Development Control Plan 2013 and is therefore recommended for approval subject to the attached conditions of consent.

**RECOMMENDATION**

Having considered the matters raised and discussed in the assessment of the Application, the subject Development Application DA0010/2020 for an Extractive Industry at 329-331 Quarry Road, Carwell Creek, is recommended for approval subject to the conditions below which have been provided to the applicant and all relevant agencies.

## DRAFT CONDITIONS – DA0010/2020

### SCHEDULE A DEFERRED COMMENCEMENT

1. This is a deferred commencement condition in accordance with Section 4.16(3) of the *Environmental Planning and Assessment Act 1979* and this consent shall not operate until the following matters have been completed, to the satisfaction of Council.
  - A. Matters raised by the Department of Planning, Industry and Environment – Crown Lands in correspondence dated 5 September 2019 shall be satisfied by the applicant to the satisfaction of Crown Land, including:
    - i. Continuation of and legal access agreements over Lot 7301 DP1131746 and Lot 7303 DP1137494; and,
    - ii. compensation agreements and/or licence/s over Crown Land and/or Reserves that may be impacted by the proposal; and,
    - iii. Use of part of Quarry Road, being a Crown Road, for haulage purposes.

*Note: Council are not in a position to acquire or transfer any portion of Quarry Road, which is a Crown Road. Any works required by Crown Land within Quarry Road are to be undertaken by the applicant, at no cost to Council.*

Evidence that will sufficiently enable Council to be satisfied as to the compliance of the above matters must be submitted to Council within twenty-four (24) months of the date of determination.

If sufficient evidence of the satisfaction of the above matter is not received by Council within this time-frame, the consent **will lapse** pursuant to Section 4.53(6) of the *Environmental Planning and Assessment Act 1979*.

If sufficient evidence of the satisfaction of the above matters is received by Council within the above nominated time-frame, Council will notify the applicant/developer in writing of the date the development consent has become operative. The consent will become operative subject to the following conditions of consent.

Note – The development consent will lapse 5 years after it becomes operative, in accordance with Section 4.53 of the *Environmental Planning and Assessment Act 1979*.

### SCHEDULE B APPROVED PLANS / DOCUMENTS

1. The development is to be carried out in accordance with Environmental Impact Statement for the Kandos Quarry prepared by R.W. Corkery & Co. Pty Limited dated July 2019 except where amended, as required, by the following conditions of consent.

Any modification to the approved documents, other than as required by following conditions, will require the lodgement and consideration of a modification application by Council.

2. Should any conflict exist between the abovementioned documents, the most recent document or revision supersedes the conflict, except where superseded by any conditions of approval issued by Council or the conditions of an in-force environment protection licence issued by the Environment Protection Authority.

## GENERAL

3. For clarity, this development consent provides approval for an extractive industry for a period of 30 years from:
  - (a) the date of commencement of this consent; or,
  - (b) the date when a letter indicating commencement of operations is submitted to Council by the operator.

The date of the commencement of the 30 year period is to be confirmed in writing by Council.

*Note: The Applicant is required to rehabilitate the site and carry out additional undertakings to the satisfaction of Council and the Department of Planning, Industry and the Environment following the 30 year operational period. Consequently, this consent will continue to apply in all other respects other than the right to conduct quarrying operations until the rehabilitation of the site and those undertakings have been carried out to a satisfactory standard.*

4. The Applicant shall not:
  - (a) transport more than 250,000 tonnes of quarry products from the site during any financial year;
  - (b) process more than 250,000 tonnes of quarry products during any financial year; and,
  - (c) dispatch laden trucks from the site via Quarry Road, onto Cudgegong Road - the approved haulage route is only via Quarry Road and onto Bylong Valley Road.
5. This development consent does not permit an extractive industry (or any ancillary operations) to occur within the No. 2 Mine void located over Lot 40 DP755802, Part of Lot 1 DP1226659 and Part of Lot 1 DP573710, not in common ownership with the subject project site.

All activities associated with the rehabilitation of the former mine (including the No. 2 Mine void) as required by the existing Mine Operation Plan (MOP) and CML12 will however remain in force and shall be complied with to the satisfaction of the Resources Regulator.

6. This development consent does not include approval to import waste material, including soil for rehabilitation of the project site. Separate development consent may be required for the importation of fill material, if it is not identified as exempt development.
7. This development consent does not authorise blasting activities to occur over the Western Overburden Emplacement to enable extraction of any materials for processing.

8. No building work which would otherwise require a Construction Certificate is authorised by this development consent. Should building work requiring a Construction Certificate be required on the site, a new development application, or modification to this development consent will be required.
9. The Applicant shall ensure that all the plant and equipment used at the site is:
  - (a) maintained in a proper and efficient condition; and,
  - (b) operated in a proper and efficient manner.
10. All General Terms of Approval issued in relation to the development, shall be complied with prior, during and at the completion of the development, as required.

The General Terms of Approval include the following:

- (a) General Terms of Approval, issued by NSW Planning and Environment - Resources Regulator in accordance with the Mining Act 1992.
- (b) General Terms of Approval, issued by NSW Environment Protection Authority in accordance with the Protections of the Environment Operations Act 1997.

A copy of the General Terms of Approval are attached to this determination notice. It is requested that a copy of all documents, including future amended documents, submitted in accordance with the abovementioned General Terms of Approval are also required to be provided to Council for its records.

11. All requirements of the Forestry Corporation of NSW and the '*Forest Permit – Authority and use arrangements for commercial use of State Forest*', and executed on 31 October 2019 shall be complied with at all times.
12. Costs associated with all development works including any necessary alteration, relocation of services, public utility mains or installations must be met by the developer. The developer is responsible to accurately locate all existing services before any development works commence to satisfy this condition.
13. Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately to Council's satisfaction and at no cost to Council.
14. The applicants shall, at their own expense, engage a registered surveyor to relocate any survey mark that may be disturbed by the development or any associated work. Any information regarding relocation should be supplied to the Land Titles Office and Council.
15. All rehabilitation works shall be completed within 24 months following the completion of quarry extraction and processing activities.

#### **PRIOR TO COMMENCEMENT OF OPERATIONS**

16. Prior to commencement of all quarry activities, the Applicant, pursuant to Section 138(2) of the Roads Act 1993, must provide detailed design plans to the satisfaction of Transport for NSW (TfNSW, formerly Roads and Maritime Services) and in accordance with Part 4A of Austroads Guide to Road Design and relevant supplements, for the new



intersection of Quarry Road and Bylong Valley Way. The detailed design must be approved by Transport for NSW and full construction of the new intersection (and associated works) must be completed to their satisfaction prior to commencement of all quarry activities over the site.

A copy of the Section 138 approval including approved design plans shall also be submitted to Council.

17. Prior to commencement of use and prior to any project traffic (excluding all heavy vehicles) accessing the site from the northern section of Quarry Road to Cudgegong Road, the applicant shall demonstrate that legal access is secured which may include the following options:

- (a) Obtaining an easement for access via Section 88K of the Conveyancing Act; or,
- (b) Close and purchase the section of Quarry Road from the Crown; or,
- (c) Provide written confirmation to Council that all project related traffic will not access the site from the northern section of Quarry Road and satisfactorily demonstrate how this will be enforced during quarry operations.

18. Prior to commencement of quarry activities the applicant shall provide Council with a procedure that will be implemented for the life of the project to:

- (a) Keep the local community and relevant agencies informed about the operation and environmental performance of the development.
- (b) Receive, handle, respond to and record complaints.
- (c) Resolve any disputes that may arise.
- (d) Respond to any non-compliance.
- (e) Respond to emergencies.
- (f) Monitor environmental impacts.

19. Prior to commencement of quarry activities, the applicant shall:

- (a) engage a registered surveyor to clearly identify the boundaries of the extraction area nominated as the "Western Overburden Emplacement" and Crown Land - Lot 7308 DP1137492; and,
- (b) submit a survey plan of these boundaries with the applicable GPS coordinates to Council and Crown Land.

20. Prior to commencement of use, an Approval to Operate any On-Site Sewage Management Systems, granted under Section 68 of the Local Government Act 1993 is to be obtained from Council.

21. The applicant will be responsible for all costs associated with the maintenance of Quarry Road through the State Forest. Maintenance must be undertaken immediately and as necessary to ensure Quarry Road is maintained in a safe and trafficable condition at all times and in accordance with the requirements of any license or agreement with the relevant State Authority.

22. Prior to commencement of use, the applicant must provide for the installation or construction of any road safety measures that may include roadworks, installation of warning signage or any other requirements identified in a Road Safety Audit to be

undertaken by a suitably qualified and certified Road Safety Auditor. The extent of the Road Safety Audit and any resultant works or infrastructure shall include the full length of Quarry Road from Bylong Valley Way in the south (used for haulage) to Cudgegong Road to the north (if and where light vehicle traffic is to utilise the northern section of Quarry Road for access purposes in accordance with condition 17). The Road Safety Audit and any subsequent sign installation or roadworks shall be reviewed and / or approved by Council, NSW Forestry Corporation and Transport for NSW (as relevant to the location of works) prior to commencement of use.

23. All costs associated with any construction or identified upgrade works are to be borne by the applicant.
24. Prior to the commencement of use the Applicant must submit to Council a Transport Management Plan that provides details and procedures for the following matters:
  - (a) Process and procedures for notification of all internal and external cartage / haulage operators of the approved haul route for access to and egress from the site.
  - (b) Process and procedures related to regular inspection of the haul route for identification of defects and rectification and repair of any identified requirements in a timely manner.
25. Prior to the commencement of use the Applicant must provide Council with copies of all Management Plans required by other Statutory Authorities that may include, but not limited to:
  - (a) A detailed Site Management Plans including the arrangement and control measures for areas where storage of fuels, lubricants and maintenance of vehicles is to be carried out,
  - (b) Soil and Water Management Plans,
  - (c) Waste Management Plans,
  - (d) Site Rehabilitation and Vegetation Management Plans, and
  - (e) Any other Management Plan that may be required by other Authorities.

These Plans are required for Council records only.

26. Prior to the commencement of use, the Applicant must prepare and submit to Council a Bush Fire Emergency Management and Operations Plan identifying all relevant risks and mitigation measures associated with the operation of the Extractive Industry including the following:
  - (a) Measures to prevent or mitigate fires igniting;
  - (b) Work that should not be carried out during total fire bans;
  - (c) Availability of fire-suppression equipment, access and water;
  - (d) Storage and maintenance of fuels and other flammable materials;
  - (e) Notification processes to be implemented of works that have the potential to ignite surrounding vegetation during the bush fire danger period;
  - (f) Appropriate bush fire emergency management planning protocols.
27. Implementation of a Driver Code of Conduct (CoC) to apply to all employees of the quarry, not only relating to heavy vehicle operators, is to be prepared and submitted to Council and Transport for NSW. Inclusions, in addition to Appendix 4.7.4 of the EIS,

around the use of mobile phones, driving in adverse weather conditions (fog and icy road conditions) awareness of animal strikes on roads, driver fatigue and the restriction of haulage being only approved via Quarry Road and Bylong Valley Way are also to be included in the CoC provided to all employees or contractors prior to entry to the site or during each site induction. This may also include implementation of an employee commuter bus or car-pooling as a road safety fatigue management and mitigation measure.

28. An Environmental Management Plan must be prepared and implemented within 3 months of development consent being granted. The plan must include, but not be limited to:

- (a) The identification and mitigation of potential impacts to surface water and soils. The plan must make reference to the requirements outlined in the document "Managing Urban Stormwater: Soils and Construction (Landcom, 2004) and "Managing Urban Storm water: Soils and Construction - Volume 2E - Mines and Quarries (DECC, 2008);
- (b) Air quality (dust) management measures; and
- (c) Noise management measures.

## **DURING OPERATION**

29. General operation of the extractive industry is to be restricted to the following times:

- Monday to Saturday - 6.00am to 6.00pm

Articulated trucks and water carts are restricted to the following times:

- Monday to Saturday - 7.00am to 6.00pm

No quarrying activities (including extraction, crushing, screening, washing and transport) are permitted on Sundays or Public Holidays.

30. A maximum of twenty (20) staff (including any contractors) are to be on the site, at any one time.

31. All heavy vehicles involved in cartage of material must exit and enter the site via Bylong Valley Way and Quarry Road. No heavy vehicles are permitted to use Cudgegong Road to enter or exit the site.

32. The Driver Code of Conduct shall be implemented and adhered to by the operator, staff and contactors at all times.

33. All trucks and mobile plant operating within the premises must be fitted (where there is a requirement for such devices to be fitted under the Work Health and Safety legislation) with broad-spectrum reversing alarms.

34. All vehicles entering or leaving the subject property shall be driven in a forward direction.

35. The loading and unloading of all vehicles must be done entirely within the property and not upon the road reserve.

36. The internal access road/driveway is to be maintained so that it is trafficable to all vehicles including fire-fighting trucks and emergency services (two-wheel drive traffic), at all times.
37. The internal quarry access/haulage road must be maintained in a condition that prevents or minimises the emission into the air of air pollutants (e.g. dust).
38. Trucks entering and leaving the premises that are carrying loads on public roads must be covered at all times, except during loading and unloading.
39. Haulage operations coinciding with local school bus pick up/drop off times are to be avoided.
40. The development site is to be managed for the life of the project in the following manner:
- (a) Erosion and sediment controls are to be implemented to prevent sediment from leaving the site. The controls are to be maintained until the development is complete and the site stabilised with permanent vegetation;
  - (b) Appropriate dust control measures;
  - (c) All equipment and materials shall be contained wholly within the site unless approval to use the road reserve has been obtained;
  - (d) Toilet facilities are to be provided on the work site at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
41. All waste, with the exception of topsoil to be re-used, generated on site shall be disposed of to a licensed waste disposal facility.
42. The development must ensure that a static water supply is accessible and reliable for firefighting purposes for the life of operations and provided in accordance with Planning for Bush Fire Protection 2019.
43. A complaints register is to be maintained by the operator of the quarry. Details of the date, time, complainant contact details (if offered), nature of the complaint and adopted corrective actions are to be recorded in the complaints register. A copy of the complaints register is to be given to Council upon request.
44. In the event of any Aboriginal archaeological material being discovered during earthmoving/construction works, all work in that area shall cease immediately and the Office of Environment and Heritage (OEH) notified of the discovery as soon as practicable. Work shall only recommence upon the authorisation of the OEH.
45. The Applicant shall provide annual production data for the subject site to the NSW Department of Planning, Industry & Environment – Division of Resources & Geoscience.
46. Measures should be taken to ensure that quarry activities do not contribute to the spread of noxious weeds.
47. No materials are permitted to be disposed of or stored on crown land, roads or waterways.

48. The vehicular entrance and exit to the site and the direction of traffic movement within the site shall be clearly indicated by means of signage to ensure that clear direction is provided to the drivers of vehicles entering and leaving the premises at all times.
49. Quarry Road and the intersection with Bylong Valley Way shall be maintained at all times to the satisfaction of Council, Forestry Corporation NSW and Transport for NSW.
50. Any servicing, repair or maintenance of plant required on-site must be undertaken by a suitably qualified employee or contractor with all waste to be disposed of in a suitable manner and transported to a licensed waste facility.
51. In accordance with the Mid-Western Regional Contributions Plan 2019 and Section 7.11 of the Environmental Planning and Assessment Act 1979, the quarry operator is required to pay contributions to Council on a quarterly basis for each tonne of resource leaving the extractive industry site by road transport. The contribution amount is to be paid quarterly, and subject to Consumer Price Index increase, as follows:
- \$0.66 per tonne of resource removed from the site.

The operator is required to provide Council documentary evidence by way of cartage notes, audited and certified by a Chartered Professional Accountant each quarter, of the total amount, in tonnes, of material that has been removed from the site for the contribution amount to be levied by Council.

*Note 1 - Section 7.11 Contributions are subject to Consumer Price Index increase at 1 July each year. Please contact Council's Planning and Development Department regarding any adjustments.*

*Note 2 – Council's Contributions Plan 2019 is available for perusal at Council's Administration Centre at 86 Market Street, Mudgee or on Council's website [www.midwestern.nsw.gov.au](http://www.midwestern.nsw.gov.au) under Council Documents/Strategies and Plans.*

*Note 3 – This condition does not preclude the negotiation of a Voluntary Planning Agreement in accordance with the Contributions Plan 2019 and Section 7.4 of the Environmental Planning and Assessment Act 1979.*

52. Following the extraction and processing of not more than 50% of material, the operator of the quarry must prepare a Quarry Closure Plan. The Quarry Closure Plan must be submitted to and approved by Council and the Resources Regulator (as relevant).

The Quarry Closure Plan must describe:

- (a) The final land use and landform options considered, and justification of the preferred option selected;
- (b) Rehabilitation methods to be implemented;
- (c) Completion criteria; and
- (d) Post-closure risk assessment to demonstrate that risks associated with the proposed final landform and land use are acceptable.

The quarry closure plan be prepared in accordance with any applicable legislation and best practice industry standard at that time.

## ADVISORY NOTES

1. The removal of trees within any road reserve requires the separate approval of Council in accordance with the policy "Tree Removal and Pruning - Public Places".
2. Any existing encumbrances in favour of Essential Energy (or its predecessors) noted on the title of the above property should be complied with.
3. Division 8.2 of the Environmental Planning and Assessment Act (EP&A Act) gives you the ability to seek a review of the determination. This request is made to Council and must be made within 6 months after the date on which you receive this notice. The request must be made in writing and lodged with the required fee; please contact Council's Development Department for more information or advice.
4. If you are dissatisfied with this decision section 8. 7 of the EP&A Act 1979 gives you the right to appeal to the Land and Environment Court within 6 months after the date on which you receive this notice.
5. To ascertain the extent to which the consent is liable to lapse, refer to Section 4.53 of the EP&AAct.

## STATEMENT OF REASONS

The determination decision was reached for the following reasons:

1. The proposed development complies with the requirements of the applicable environmental planning instruments and Mid-Western Regional Development Control Plan 2013.
2. The proposed development is considered to be satisfactory in terms of the matters identified in Section 4.15 of the Environmental Planning & Assessment Act 1979.
3. The matters raised within public submissions have been addressed in the following manner:
  - Conditions have been imposed to ensure heavy vehicle movements do not occur via Quarry Road and Cudgegong Road, to the north of the site with the approved haulage route being via the upgraded Bylong Valley Way and Quarry Road intersection, to the satisfaction of Transport for NSW;
  - A condition has been imposed to ensure blasting activities do not occur as part of the extraction process;
  - Conditions have been imposed to ensure that all required State Regulatory Authority requirements are to be complied with; and,
  - A condition has been imposed requiring a complaints management procedure and onsite register to be established in the instance where operational matters such as dust, noise or truck movements may impact the nearby community or where non-compliance with conditions of consent have been observed.

## ***Attachment A: Photographs***

The current site conditions are provided by photos below:



***Figure 1: Cudgegong Road and Quarry Road Intersection***





***Figure 2: Looking North from the Intersection of Quarry Road and Cudgegong Road***





***Figure 3: Looking South from Quarry Road onto Cudgegong Road***





***Figure 4: Onsite towards the 'Western Overburden Emplacement'***



***Figure 5: Looking North West from the Western Overburden Emplacement***





***Figure 6: Quarry Road and Bylong Valley Way looking South***





***Figure 7: Quarry Road and Bylong Valley Way looking North***





***Figure 8: Exiting onsite water storage Dam***



***Attachment B: Public Submissions***

[REDACTED]  
26 August 2019

Mr Brad Cam  
General Manager  
Mid-Western Regional Council  
PO Box 156  
MUDGEES NSW 2850

Dear Mr Cam

**DEVELOPMENT APPLICATION DA0010/2020 - OBJECTION**

Thank you for Mr Lindsay Dunstan's letters of 1 August and 2 August 2019 advising us of this development application. We object to it in relation to the proposed traffic movements along Quarry Road to Cudgegong Road and along Cudgegong Road.

***Background***

As owners of [REDACTED] and the property at [REDACTED] we have a 4.8 kilometre long frontage to the Cudgegong and Quarry Roads, 2.3 kilometres of which is a double frontage where we own the land both sides of Cudgegong Road. We have approximately 850 acres in total. About half our land is on the northern side of Cudgegong Road, which runs roughly east/west, and half is on the southern side. We are therefore constantly moving livestock and equipment along both Cudgegong and Quarry Roads to simply move them/it from one part of our property to another.

***Grounds of Objection***

The proposed increase in traffic (an average of 186 truckloads of road base per week averaging 28 tonnes per load – some of which we acknowledge would be along the Bylong Valley Way, ie not along Cudgegong Road) would seriously impinge on our right to farm by making movements of our livestock and farm equipment along the Cudgegong and Quarry Roads very hazardous.

We also object on the ground that the safety of all users of these roads, including cyclists on Cudgegong Road, would be compromised by the proposed increase in heavy truck movements with particular sections, including the Quarry Road/Cudgegong Road intersection, the two blind corners and two half blind corners on what is locally known as *Quarry Hill*, being high risk areas.

### ***Impact of Traffic***

Heavily laden trucks, with their limited ability to brake quickly, currently arouse **concerns for our personal safety** when moving livestock along the Quarry and Cudgegong Roads as well as for the **safety of our livestock**. This is particularly the case on Quarry Road, the Quarry Road/Cudgegong Road intersection, the two blind corners and two half blind corners on the steep hill, known locally as *Quarry Hill*, where Cudgegong Road runs west down to the *Cuth Foster Bridge* over Carwell Creek, and the blind crests on Cudgegong Road either side of the entrance to 875 Cudgegong Road.

There is currently only limited traffic on Quarry Road but vehicles can travel fast on this windy road and approach us fast when we're on this road. The immediate benefit to us when the Kandos cement works closed in 2011, was an end to the danger posed by fast heavily laden cement trucks coming down Quarry Road to Cudgegong Road. DA0010/2020 threatens us with a large number of heavily laden road base carrying trucks in place of the now departed cement trucks. The difference would be many more road base trucks than there were cement trucks.

When we move cattle north along Quarry Road or east along Cudgegong Road to [REDACTED] the entrance gate to which is at the intersection, vehicles travelling west on Cudgegong Road don't see us until they've come around the above corner. Many drivers are surprised and need to brake hard when they come upon us even though we always place a *CATTLE AHEAD* sign on the road east of the corner.

The DA suggests ways to achieve a Safe Intersection Sight Distance (SISD) at the Quarry Road/Cudgegong Road intersection for motor vehicles. What is needed, and we believe unachievable given the closeness of the Cudgegong Road corner to this intersection, is a **SISD for sheep and weaner cattle**, both of which are much smaller than motor vehicles. (We were sheep meat and wool producers before we became beef producers and retain the option of getting back into sheep).

Drivers are almost at the end of the Quarry Hill descent before they get a clear view to the bottom of this hill. Over the years there have been a number of instances when heavily laden trucks coming down this hill have had considerable difficulty braking to avoid hitting our cattle on Cudgegong Road. Many drivers, even when they see our *CATTLE AHEAD* signs, do not slow down until they round a bend and see the cattle.

DA00010/2020 threatens a significant increase in the risks we already face in moving livestock and farm equipment along the Cudgegong and Quarry Roads.

### ***Increased Risks for Cyclists***

We are cyclists as well as farmers and with the increasing volume and speed of traffic on Cudgegong Road we are increasingly wary of cycling on this road. The Castlereagh Highway is much busier but safer for cyclists than Cudgegong Road which is mostly a

narrow winding road. A regular ride for Mudgee based cyclists is along Castlereagh Highway to Rylstone via Cudgegong Road and then back to Mudgee via Lue.

The DA states that Cudgegong Road is *typically a sealed two-way two lane road, with painted centerlines and edgelines* (page 3, Appendix 4 of the EIS). It could more accurately be described as *typically a sealed, narrow, winding two-way two lane road with painted double centerlines and no edgelines*. Where there are edgelines they are typically on the edge of the road and there is no room for cyclists to ride to the left of the edgeline, as they can on the Castlereagh Highway, safe from heavy trucks. Cyclists are at risk, even when riding close to the left side of the road, when a heavy truck comes up fast around a corner or over a crest behind them and there is a vehicle(s) close and coming up fast towards them. The only option for cyclists in such situations is to "go bush" as neither the truck nor oncoming vehicle have room to move out of the way. Fatalities have been avoided to date because Cudgegong Road traffic, while increasing, is still limited. More traffic particularly heavy trucks on Cudgegong Road would significantly increase the hazards for cyclists on this road.

### **Options**

We have identified a number of possible ways to address the hazards posed by the proposed traffic increase.

- (1) Restrict our livestock and plant and equipment movements to Sundays when there'll be no truck movements. This isn't practical. We are now hand feeding our cattle and need to do this with greater frequency than weekly. We're moving hay and/or cotton seed across and along Cudgegong Road a number of times each week. More generally, we simply cannot restrict movements from one part of [REDACTED] to another to just one particular day each week.
- (2) Construct an underpass under Cudgegong Road through which cattle and plant and equipment can be moved between the northern and southern parts of [REDACTED]. This isn't practical either. We have 14 gates along our 4.8 kilometre frontage to Cudgegong and Quarry Roads and move cattle and plant through all these different gates at different times on to these roads.
- (3) Erect permanent solar powered warning lights, on the roads where our property starts and ends, which we can activate when we move cattle or plant along the roads. Given the potentially big distance between a set of warning lights and the cattle or plant being moved, the effectiveness of such lights in slowing traffic would be limited.
- (4) Restrict all truck movements to the section of Quarry Road linking the quarry to Bylong Valley Way. This would effectively address our concerns.

*Approach by Kandos Operations Pty Ltd*

Our relationship with Cathy and Jim Clark, the principals of Kandos Operations Pty Ltd, is difficult. We have taken legal action against Kandos Operations Pty Ltd in relation to the destruction of stock water sources on [REDACTED] caused by operations at the Carwell Creek Limestone Mine.

We are nevertheless able to constructively talk to the Clarks about matters of common concern and are surprised and disappointed that neither the Clarks, nor any of the consultants who assisted in the developing the DA, have contacted us to discuss the DA and the considerable impact which it clearly has on us. Our input could have informed the DA.

*Next steps*

Please do not hesitate to contact us if you have any questions concerning our objection. Ms Kayla Robson in your office holds our personal contact details.

We would appreciate being kept informed of developments in processing DA00010/2020.

Yours sincerely

[REDACTED]

CP Coggins

[REDACTED]

RA Coggins



ABN: 79718726016

26 August 2019  
Our Ref: A19 Let Quarry (1)

Attn: Planning and Development

The General Manager  
Mid-Western Regional Council  
PO Box 86  
MUDGEES NSW 2850

Dear Sir/Madam,

**OBJECTION DEVELOPMENT APPLICATION DA0010/2020 – QUARRY ROAD CARWELL**

Please accept this letter as an objection to the development application on exhibition for the Quarry. Council should consider that development is not able to be assessed due to being an invalid application. Owners' Consent has not been obtained for all affected land parcels. The land included in the development application has not been accurately described and consent has not been provided in writing from the owner of all land parcels.

**Item 1 – Site access**

Vehicular access to the Quarry site is not in entirety via public roads (or crown road). The proposal does not intend to realign the current road but obtain the consent of these other parties sometime in the future.

- Forestry NSW land – Clandulla State Forest – No access agreement is in place. Historical arrangements cited due to past mining do not provide evidence of ongoing consent. The EIS section 2.1.3 notes that access and compensation agreements would be required for use and disturbance of their land.
- Crown land – Access through Lot 7303 DP1137494 – No access agreement or licence is in place. Section 2.5.4 of the EIS indicates this Crown land is relied upon. (*s2.23(5) of Crown Land Management Act 2016*, requires that the Minister's consent on behalf of the Crown (as the owner of dedicated or reserved Crown land) to lodgment of a development application in respect of that land is required for the carrying out of any development).
- Mount Mill Pty Ltd – Owners consent or copy of a valid access agreement was not included with DA/exhibition documents. Lot 1 DP175357 is relied upon in the DA for access. This is private land not a public road.



- CP and RA Coggins - Owners consent or copy of a valid access agreement was not included with DA/exhibition documents. Lot 1 DP716324 is also private land not a public road relied upon for the development.

Further the application is not in line with Council policy. The Mid-Western Regional Council's Development Control Plan requires that if the development is proposed to open or use a Crown Road, the written consent of the NSW Land and Property Management Authority to the making of the application is required prior to the submission of the development application to Council. Any Crown Road relied upon for the development will be required by Council to be acquired from the Crown and upgraded by the applicant to Councils required standards. Thereafter the road will be designated to Council. The written consent of the Authority was not included in the EIS.

## **Item 2 – Extraction Area**

A part of a Crown Road Reserve is relied upon for part of the proposed extraction area. The proposed use of the land for the quarry is contrary to the right of access to public road by owners of adjoining land conferred by the *Roads Act 1993*. The roads authority for a Crown road is the Minister administering the *Crown Land Management Act 2016*. The Minister may grant an easement, licence, permit or consent with respect to a Crown road for a use other than for a 'road purpose'. This has not happened to date. The owner's consent for use of this land has not been received to support the DA in its current form. The development proposal may not be able to proceed if this land is to be excluded from extraction as it bisects the extraction area.

This identified section the road is not fulfilling an access purpose but is to be part of the extraction area. It is purported that the road section should be sought to be closed and purchased for inclusion in the development or excluded from the development land. This possible exclusion is not practical in this case. The continuation of legal access has also not been addressed, if this road is closed.

Thankyou for your consideration of these matters.

Yours faithfully



**EMMA YULE**

**BAppSc, Grad Dip URP**

**Atlas Environment and Planning**



ABN: 79718726016

26 August 2019  
Our Ref: A19 Let Quarry (2)

Attn: Planning and Development

The General Manager  
Mid-Western Regional Council  
PO Box 86  
MUDGEES NSW 2850

Dear Sir/Madam,

**OBJECTION DEVELOPMENT APPLICATION DA0010/2020 – QUARRY ROAD CARWELL**

Please accept this letter as an objection to the development application on behalf of a client. The documents currently on exhibition for the Quarry have been reviewed. It is considered that the EIS is not complete in the assessment of the legislation that applies to the development. Also, the potential impacts of the development outweigh the claimed benefits and issues raised which support these claims are provided below. It is not supported that the EIS be utilised in its current form as an approved document or as a description of the proposal as the document has too many inconsistencies and gaps in information.

**Item 1 – Owners' consent**

Owners' Consent has not been obtained for all affected land parcels. The EIS is indicating that owners' consent will be sought after the fact. Vehicular access to the Quarry site is not in entirety via public roads. The proposal does not intend to realign the current road but obtain the consent of these other parties sometime in the future. What if they do not consent? Is Council assuming the road would be relocated to the road reserve to avoid private land? The crown road has existing vegetation that was not included in the assessment as part of the land to be cleared.

Section 2.11 of the EIS says that alternative access routes were considered, and the proposed realignment was to be the best. The document however elsewhere indicates the existing alignment is proposed to be relied upon. The EIS is not clear in intentions. Where the road intersection work is proposed it is unclear who owns the land.





### **Item 2 – Use of Crown road reserve for Extraction Area**

Further to these land parcels, a part of a Crown Road Reserve is relied upon for part of the proposed extraction area. The development proposal may not be able to proceed if this land is to be excluded from extraction as it bisects the extraction area. The EIS has not considered this possibility.

### **Item 3 – Crown Access**

Legal road is proposed to be extracted as identified above. No details on the rehabilitation of this have been made clear. The continuation of legal access has not been addressed. Is Council assuming this road will be closed and purchased for inclusion in the development or excluded from the development land? It is not practical to have this land excluded in the middle of an extraction area. Will the road be left without continuation of access for the term of the development and replaced at end of life of the operation? So many questions not clear in the EIS.

### **Item 4 – MOP not included in Exhibition**

A lot the details refer to the MOP – e.g.: receipt of more material from the mines 1 and 2 (see EIS section 2.1.2). Directly taking more material for purpose of obtaining limestone rock is ‘mining’. The development should be assessed as a mine site – Not extractive industry.

The MOP was not available for reference on exhibition. The public cannot make a full assessment of the DA proposal.

### **Item 5 – Washing of selected material**

It is proposed to select material suitable for concrete aggregates, road aggregates and crushed rock products and sand. These are mining products from limestone. Section 1.4.4 Resource Identification and section 1.4.5 of EIS. The resources listed in the EIS (section 1.4.4) note shale, claystone, tuff, quartzite and minor limestone. However the EIS is silent on the material that is to be further taken from the mine site and estimated volumes.

Which selected material is chosen to be processed into concrete aggregates? It is reasonable to assume limestone, as out of the materials listed, the only material suitable for these products is limestone. The other resource types are not geologically suitable for washing or processing as such.

This is indicating the developer is trying to set up the mine to obtain limestone mineral products and calling it rehabilitation of the mine site and take the rehabilitation material as extraction activity. The details of this submission need to be clearly considered as the development appears to qualify as a mining pursuant to the Mining Act.



#### **Item 6 - Value to community**

The EIS gives a false impression of the flow on impacts to the community. The generation of \$933,000 per annum generated to local economy through wages and goods and services is not accurate. The applicant is a Bathurst based business with minimal local Mid-Western Regional LGA employees. The expected markets for sale of material were noted in the EIS to be sent outside of the local area to Sydney metropolitan markets. Sweeping statements have been made to exaggerate the benefits of this development. When in fact the rehabilitation of mine site is being compromised by lack of materials for completion of works.

#### **Item 7 – DA would need to be modified for original mine**

The EIS indicates this modification would be necessary. The details of this need to be made clear as it is a significant component of the impact of the proposed activities. The capacity for rehabilitation of the mine site must be reduced if the available material is taken from the mines and the overburden from the new proposed extraction area. This has not been assessed in the EIS to adequately consider the impacts of the development overall.

#### **Item 8 – Rehabilitation**

The Section 2.10.2 Quarry Closure Plan of the EIS is contradictory. This proposed DA is supposed to be a component of the overall rehabilitation plan detailed in the current MOP. Shouldn't the details of the quarry closure plan be dealt with immediately and not a decade after commencement? The final landform and land use should be clearly defined and clarified to enable a modification of the Mining Operations Plan and original DA. This is a clear indication the impacts of the development have not been given due consideration in the assessment.

Security for rehabilitation - a bond is held for the area currently. The impact this DA is going to have on the level of security held for the mine site is not clarified in the EIS. It would seem that the purpose of the DA is reduce the security held for the mine site, and transfer the regulatory authority responsibilities to Council.

#### **Item 9 – Erosion and Sediment Control**

Section 2.6.3 of the EIS touches on sediment and erosion control. This is a major potential impact of an open cut operation with the quantities of material and processing detailed in this proposal. The deferring of preparing an erosion and sediment control plan is not supported. Also, sediment basins are proposed to be relied upon for water supply – though not identified, as there is no erosion and sediment control plan.

#### **Item 10 – Water use**

Section 2.6.1 of the EIS refers to operational water sources. The Storage Dam cited to be relied upon is fed by Orchard Creek. Water is proposed to be removed under the assumed harvestable rights under section 53 of



the *Water Management Act 2000*. The assumed rights are based on 391ha of land held by the applicant. The area of the project site is approx. 83ha. This does not appear to make correct assumptions on the rights. How many other dams have taken part of the landholdings right? Water balance is not supported as a true assessment of the needs of the development or water available for use.

#### **Item 11 – Quantities**

No quantity is specified as to the rock to be received from the mine sites. This lack of information appears to elude application of mining legislation.

Receipt of rock (i.e. limestone) from a limestone mining site under a MOP surely should be mining.

#### **Item 12 – Transport and traffic**

The EIS indicates the proposal is for up to 250,000tpa. The EIS is not consistent in the assessment of vehicle movements and laden trucks leaving the site. The volumes that could leave the site vary considerably.

<b>Section 2.5.7 states the following maximum vehicle movements:</b>	<b>Section 4.4.3.2 states the following traffic volumes</b>
5 laden truck movements per hour	2 to 3 laden truck movements per hour
50 laden truck movements per week day (25 laden truck movements per Saturday)	34 laden truck movements per week day (17 laden truck movements per Saturday)
275 laden truck movements per week	186 laden truck movements per week
20 light vehicle movements per day	

Assuming a typical laden vehicle, as per the EIS carries 28 tonnes (section 4.4.3.2), the production capacity is well in excess of the assessed (400,000tpa\* or 270,000tpa\*). This raises the question is the intersection design going to be adequate, and what values were utilised? The impacts of the development have not been adequately assessed, the EIS cannot be relied upon for accuracy.

#### **Item 13 – Life of the Proposal**

The proposal does not include any estimate of quantity and impact of life of the proposal from other additional rock obtained from the mine site (refer to section 2.8.2 of the EIS). This may extend the life of the operation and follow that the time required for any rehabilitation to be completed is also extended.



#### **Item 14 – Safety and Security**

Insufficient detail has been provided to demonstrate the development site will be kept safe. With large water bodies and loose material to be extracted, no details have been provided to ensure that the development will be kept safe and secure. Geotechnical assessments of the walls of the extraction area and rehabilitation areas of the mine site should be required. Working face heights of 3-5m with screening plant located on benches to be made from what is described as a free digging material (section 2.3.2 of the EIS) have been described with schematic diagrams only. The actual contours of the pit area (extraction area) should be demonstrated to be safe and aimed in a direction towards the final landform (which is also undefined). The depth to the natural ground level has not been provided clearly.

Also the school bus routes should be identified clearly and the transport routes identified for safety of traffic and other road users.

#### **Item 15 – Cumulative impacts have not been adequately considered**

An extensive fleet of quarry vehicles and equipment is already present on site for the ongoing rehabilitation of the Carwell Creek Limestone Mine (as referred in section 2.3.4 of the EIS). The EIS fails to address this in the traffic volume estimates and workforce using the site and accessing Quarry Road.

Noise assessment and dust assessments should have cumulative impact assessments to adequately assess the impacts of the proposed development. Cumulative impacts have not been assessed and addressed in the EIS with any depth.

#### **Item 16 – The extractive material potentially contains minerals & is mining**

The EIS has indicated that the Western Overburden Emplacement area contains material that was unsuitable for cement manufacture and consists of mixed shale, claystone, tuff, quartzite and rare/or minor limestone.

Also, material to be sourced is through receipt of fragmented waste rock from the rehabilitation of the no 1 and no 2 limestone mines under the approved MOP. This a way to say that limestone will continue to be mined from the site but processed by the 'extractive operations'.

Tuff is a volcanic rock that is typically used to describe material that falls under the term of feldspathic materials. This material is a listed mineral under the Schedule 1 of the Mining Regulation 2016. This mineral was not originally sought by the Carwell Creek Limestone Mines (minerals approved to be sought calcite, limestone, iron minerals and marble). That is, a material not previously mined – not a waste material.

The purpose of the operations to obtain this mineral and limestone indicate the options are in fact mining. The Council is asked to consider this and the fact that if the development is considered an amendment to the rehabilitation plan for the mine site that this should also qualify consideration under the Mining Act.

The Mid-Western regional LEP 2012 defines mining:

*“**mining** means mining carried out under the [Mining Act 1992](#) or the recovery of minerals under the [Offshore Minerals Act 1999](#), and includes:*



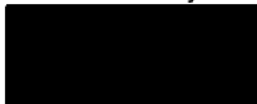
- (a) the construction, operation and decommissioning of associated works, and
- (b) the rehabilitation of land affected by mining.”

“mine means any place (including any excavation) where an operation is carried on for mining of any mineral by any method and any place on which any mining related work is carried out, but does not include a place used only for extractive industry.”

The place is not only used for an extractive industry. The rehabilitation works are tied to the proposed development. The EIS details receipt of mineral material from the mine for processing and in the ongoing obligations to carry out rehabilitation and utilising mining infrastructure areas and water storages. The site is a mine.

Thank you for consideration of these matters. We would like to have a response on the questions raised in this correspondence in due course and to be kept informed on the progress of this application.

Yours faithfully



**EMMA YULE**

**BAppSc, Grad Dip URP**

**Atlas Environment and Planning**

To, the general manager mid-western regional council

## Development application DA0010/2020

Kandos Operations pty/ltd

Our property [REDACTED] are situated diagonally opposite no 2 mine and we wish to OBJECT to the above development.

### REASONS

- 1 We have heavily invested in a productive ground water bore for stock and domestic use, ANY BLASTING May affect the quality and quantity of the water supply. Unless kandos Operations can guarantee there will be no interruptions to our investment we will strongly object to the development
- 2 Blasting on a continual basis will impact on our dwelling, sheds etc.
- 3 Noise from blasting, machinery etc.
- 4 Dust from blasting and general operations
- 5 Increased truck traffic.

Sincerely Yours

DW Mackay

KR Mackay  
[REDACTED]





# Rylstone District



Environment Society Inc.

Rylstone District Environment Society Inc.

PO Box 141 Rylstone NSW 2849

[www.envirorylstone.org.au](http://www.envirorylstone.org.au)

[rylstonekandosenviro@gmail.com](mailto:rylstonekandosenviro@gmail.com)

Mr Brad Cam,  
General Manager  
Mid-Western Regional Council  
Mudgee NSW 2850

30 August 2019

Dear Mr Cam,

## **Submission from Rylstone District Environment Society Inc.**

### **DA 0010-2020 Kandos Quarry Development**

proposed by Kandos Development Corporation Pty Ltd

The proposal is for the extraction, processing and haulage of overburden from the Carwell Creek Limestone Mine

Rylstone District Environment Society Inc objects to this proposal in its present form.

### **Context**

The Rylstone Kandos area has had cement, coal mining and lime industries for the past 100 years. However, it has never experienced the level of road haulage proposed in DA 0010-2020. At peak production, hundreds of thousands of tonnes of stone, cement and lime were transported in and around Kandos and Rylstone. However, for at least the last 70 years, almost none of this was transported by road.

All the quarry stone was transported on an aerial cableway, crossing above the Bylong Valley Way between the quarry turnoff and Kandos. A small amount, approximately 10 truckloads per day of cement, was hauled to inland NSW and the Hunter Valley. As nearly all final product travelled by rail, the only industrial traffic in and near Kandos and Rylstone were service vehicles and private employee vehicles.

This proposal represents an unacceptable change for the Kandos and Rylstone communities.

All three major extractive industries have ceased operating in Kandos in the last 10 years. The resulting eradication of air, dust and noise pollution has greatly increased the quality of life for residents. These

closures reduced employment for around 100 families. However, most of these families stayed in the area and have now found alternative employment in mines and other industries in nearby towns.

Since then, many newcomers have bought properties and now live in Kandos and Rylstone and in surrounding areas. They want the stress-free, pollution-free scenic lifestyle now available here. They are small business owners, tourism operators, telecommuters, artists, IT specialists and retirees. Many of them have started new businesses. We have a growing wine industry that is bringing increasing numbers of visitors to our area. De Beaurepaire Wines, with its national-award-winning wines are situated less than 5 kilometres from the quarry turnoff on the Cudgegong River. Their grapes and winery business would be impacted by extra dust and noise.

In the past year or two, struggling community organisations suddenly have a new lease of life. For example, the Kandos CWA now has 25 members. A couple of years ago, it was facing closure for lack of members.

This proposal would provide 6 new jobs only, not nearly enough to make up for the negative impacts it will cause.

## **Issues**

### **1. Water**

Past owners never washed limestone at the quarry. Increased use of water will place further stress on the Murray Darling Basin. EPA guidelines require the EIS to assess the impacts of the proposal on water quality, including the impacts on both surface and ground water. Mine No 2 void is very close to Windamere Dam. There has been seepage from one to the other in the past.

### **2. Transport**

The proposal's Executive Summary claims that "the proponent would not adversely impact the level of service in the existing network". This is not correct. The predicted peak 50-60 truck movements per day will affect convenience, safety and service on the local road network. Using data in Section 4.3 of the EIS, calculations indicate that peak traffic volumes on Bylong Valley Way will increase by 77%. We consider this a significant increase. Roads in question are narrow with broken edges. They are also very quiet and have almost no warning signs. Wildlife often crosses the roads, both in the daytime and at night. The roads are enjoyed by bicycle riders and used by tourists visiting the area. In our opinion, the numbers of large vehicles in peak times would make the roads unsafe for other users.

### **3. Noise**

Contrary to the proponent's advice, noise in Kandos near the cement works and the rail crossing is certain to increase significantly. The EIS needs baseline data showing current noise levels in Kandos so that future noise levels can be monitored. EPA guidelines state that a change of 2 decibels will be noticeable. At peak production, there will be around 50-60 truck movements per day across the level crossing at Kandos. This will represent a significant change in noise disturbance.

### **4. Biodiversity**

With 50-60 truck movements per day on quiet bushland roads, the number of road kills will increase. Also, the proponent should note that an endangered endemic species of plant, *Grevillea obtusifolia* sub.sp *obtusifolia* is known to occur very close to the Quarry Road–Bylong Valley Way intersection. The last plant



survey on this road was done nearly 20 years ago. A new survey for this plant needs to be done before any roadworks are approved. Coomber Stringybark is also an endemic eucalypt near the Quarry Road–Cudgegong Road intersection. Its occurrence needs to be investigated and measures need to be taken to ensure any destroyed trees are replaced and new plantings are maintained.

## **5. Dust**

Dust with significant levels of heavy metals will be generated at the loading area in the cement works. This will have short- and long-term impacts on health.

## **Conclusion**

Members of Rylstone District Environment Society Inc object to this proposal in its present form. The proposed impacts on the local environment and safety and amenity of the area are not acceptable.

Yours sincerely,

Jennifer More  
On behalf of Rylstone District Environment Society

J & SK Kuchta Pty Ltd  
[REDACTED]

Midwestern Regional Council  
86 Market St  
Mudgee NSW 2848

29<sup>th</sup> August 2019

Dear Sir/Madam

Reference Development Application 0010/2020

I write in connection with the above development application and wish to offer my support to the proposal lined out in DA 0010/2020

My company J & SK Kuchta Pty Ltd has been supplying earthmoving services, readymix concrete and landscaping supplies to the Kandos community for the past 52 years.

During this period we have relied heavily on the local Quarry industries for aggregates.

Before the closure of Cement Australia's Quarry in 2011 situated at Carwell Creek we were able to purchase and pick up products from their quarry with access via the Quarry Road.

Since the closure in 2011 of the above quarry we have been forced to travel in excess of 140km round trip to purchase aggregates for our business at great cost to us for the extra fuel, wages and wear and tear on our vehicles

Having a Quarry industry within 15km of our plant would relieve these extra costs we've endured over the last 8 years

In the past 15 years in Kandos I have witnessed the closure of two collieries, a cement production plant, a quarry, several engineering businesses, a newsagency, banks, hotel, cafes and most recently the local hairdresser

Not only is this proposal for a new quarrying industry in Kandos beneficial to myself it is also of benefit to the local community by offering much needed employment and infrastructure.

Kandos was built on industry and without new industry I fear the community will continue to suffer economic hardship

Yours faithfully  
[REDACTED]

Steven Kuchta  
Owner/Manager  
J & SK Kuchta Pty Ltd

# C.F. Horner and Son

[Redacted Address]

A.B.N.: 17 298 652 836

[Redacted Phone Number]

Thursday, 29 August 2019

To the General Manager of Mid Western Regional Council.

We would like to comment on:

## Development Application No. DA0010/2020 by Kandos Operations PTY Ltd.

As the closet neighbour and dwelling to the Kandos Operations Quarry we would like to submit that we 100% SUPPORT this application to be APROVED. Having lived here for 50 plus years the Quarry, with several management/ owner changes, has never been an issue. They have always been our most considerate, supportive and helpful neighbours.

The noise pollution is minimal; the day to day traffic on Cudgegong Road is louder than any noise the Quarry makes.

There has never been any issue with dust.

Their operating hours are not a problem, far less intrusive then general farming hours.

There has never been any impact to the welfare of our stock or land.

They are brilliant neighbours who are trying to provide a much needed product for the area and surrounds, and have already made a huge improvement to the rehabilitation of the Quarry land since they have owned it. The sooner they are up and running again the better.

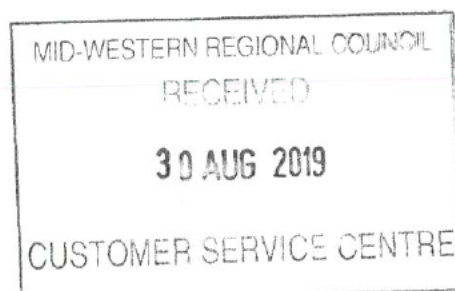
As Deputy Captains of the local RFS Clandulla, both my son and I need the quick route that the Quarry Road provides for us to the fire shed when responding to a callout. Without this road our response time is significantly longer, impacting our whole brigade as we are both licensed truck drivers, which there are few of in our brigade. We also use this road often for access to apiary sites we have on local and surrounding properties.

Please feel free to contact us if you have any questions regarding this submission. We look forward to your response.

Regards,

[Redacted Signature]

Charles Horner(Jnr)



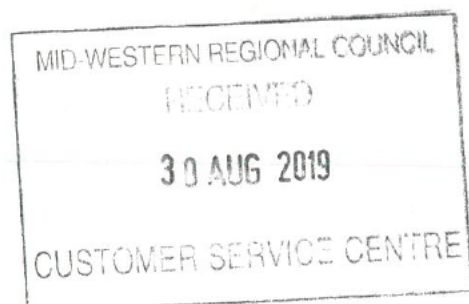
To the General Manager of Mid Western Regional Council.

**Re: Development Application No. DA0010/2020 by Kandos Operations Pty. Ltd.**

Please find attached the names, addresses and signatures of local property owners/neighbours bordering and/or in the vicinity of Kandos Quarry mentioned in the above Development Application.

All signatories SUPPORT the Development Application and wish to see it APPROVED as soon as possible so Kandos Operations Pty. Ltd. can commence working again. The community will benefit from the premium products they produce and the possible future jobs this application will create.

Name	Property/Address	Signature
STEVE ROSE	[REDACTED]	[REDACTED]
STEPHEN EVANS	[REDACTED]	[REDACTED]
MARY VRISAKIS	[REDACTED]	[REDACTED]
Charles F. Horner	[REDACTED]	[REDACTED]
Wayne Horner	[REDACTED]	[REDACTED]
Peter Newell 0439 662 626	[REDACTED]	[REDACTED]
Jodie Carver	[REDACTED]	[REDACTED]
Haven Crooke	[REDACTED]	[REDACTED]



General Manager  
MIDWESTERN REGIONAL COUNCIL

The following people wish to show their support for Kandos Operations with their Development Application DA0010/2020.

The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

Name: Philip Le w Address: ..  
Name: Peter Gazzoli Address: ..  
Name: GREG FRANKS Address: ..  
Name: Gordon SMITH Address: ..  
Name: TRUDIE VERMEULEN Address: ..  
Name: Bob Tomlinson Address: ..  
Name: Alice Fisher Address: ..  
Name: K. ROGERS Address: ..  
Name: Angus V. J Address: ..  
Name: R. LOMAX Address: ..  
Name: Tracey Evans Address: ..  
Name: Vy Le Address: ..  
Name: MATT HUNDY Address: ..  
Name: TED BOOTH Address: ..  
Name: Peter Lumsden Address: ..  
Name: Helen Palmer Address: ..  
Name: D. Usher Address: ..  
Name: W. J. Bentley Address: ..  
Name: J. V. O Address: ..  
Name: Joseph Address: ..  
Name: P. MURRAY Address: ..





General Manager  
MIDWESTERN REGIONAL COUNCIL

The following people wish to show their support for Kandos Operations with their Development Application DA0010/2020.

The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

Name: CRATISCHMANN Address: .....

Name: SAM MULLA Address: .....

Name: DARREN GRANT Address: .....

Name: Rebecca meyer Address: .....

Name: D. Brown Address: .....

Name: John James Address: .....

Name: A F BROWN Address: .....

Name: PAUL STENNORN Address: .....

Name: J. Edwards Address: .....

Name: M Wendle Address: .....

Name: M. MEEK Address: .....

Name: P Jenkins Address: .....

Name: K Shipp Address: .....

Name: M BALWORTH Address: .....

Name: T Veszallo Address: .....

Name: Merron Dunn Address: .....

Name: Alan Jackson Address: .....

Name: Bob Con Address: .....

Name: ..... Address: .....

Name: ..... Address: .....

Name: ..... Address: .....

General Manager  
MIDWESTERN REGIONAL COUNCIL

The following people wish to show their support for Kandos Operations with their Development Application DA0010/2020.

The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

Name: Dennis Mamm Address: ..  
Name: R. Wolmer Address: ..  
Name: B. Innes Address: ..  
Name: Donna Welch Address: ..  
Name: Jon Perrin Address: ..  
Name: Clinton Smith Address: ..  
Name: B. King Address: ..  
Name: Rence Weekes Address: ..  
Name: Diane Munday Address: ..  
Name: Emma Brennan Address: ..  
Name: Dean munday Address: ..  
Name: John YATES Address: ..  
Name: Ken Bevitt Address: ..  
Name: Tara Cameron Address: ..  
Name: Greg McQuinn Address: ..  
Name: Bec Webb Address: ..  
Name: S Tomlinson Address: ..  
Name: Allen Yate Address: ..  
Name: BELINDA COMER Address: ..  
Name: GREG HEALEY Address: ..  
Name: Len CAFE Address: ..

General Manager  
MIDWESTERN REGIONAL COUNCIL

The following people wish to show their support for Kandos Operations with their Development Application DA0010/2020.

The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

Name: Renee Bedrossian Address: .....

Name: Paul Meechan Address: .....

Name: Adam Philpott Address: .....

Name: Stacey Philpott Address: .....

Name: Glen van Oosterum Address: .....

Name: Kane Fulwood Address: .....

Name: Michelle Fulwood Address: .....

Name: S. MOORE Address: .....

Name: P Hatfield Address: .....

Name: M Blunt Address: .....

Name: N. BRADIE Address: .....

Name: S. Hammond Address: .....

Name: J. Banks Address: .....

Name: Terence Kelly Address: .....

Name: Spenser Dawson Address: .....

Name: Roe Heather Address: .....

Name: Peter Spasojewic Address: .....

Name: Nash Heather Address: .....

Name: Wayne Kerke Address: .....

Name: Doug J. J. J. J. Address: .....

Name: Geoff Blunt Address: .....



General Manager  
MIDWESTERN REGIONAL COUNCIL

The following people wish to show their support for Kandos Operations with their Development Application DA0010/2020.

The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

Name: MARK DICKSON Address: .....

Name: DICK DUFF Address: .....

Name: Renee Gardner Address: .....

Name: Peter Watts Address: .....

Name: Auson Odo Field Address: .....

Name: Daniel Eastburn Address: .....

Name: Rachel Maher Address: .....

Name: Glen Maher Address: .....

Name: Hayley Lomax Address: .....

Name: Darren Morris Address: .....

Name: Shannon Morris Address: .....

Name: Roo Maher Address: .....

Name: Loxi Maher Address: .....

Name: Peter Lulwood Address: .....

Name: ..... Address: .....

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Name: ..... Address: .....

General Manager  
MIDWESTERN REGIONAL COUNCIL

The following people wish to show their support for Kandos Operations with their Development Application DA0010/2020.

The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

Name: Rory Vider Address: .....

Name: John Vallis Address: .....

Name: Anthony Percival Address: .....

Name: LUKE KIRKWOOD Address: .....

Name: Jill Fulwood Address: .....

Name: Rodie Fulwood Address: .....

Name: Tony Schneider Address: .....

Name: ..... Address: .....

Name: ..... Address: .....

Name: ..... Address: .....

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General Manager

## MIDWESTERN REGIONAL COUNCIL

The following people wish to show their support for Kandos Operations with their Development Application DA0010/2020.

The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

Name: Ben Litor Address:

Name: STUART MOORE Address: \_\_\_\_\_

Name: Matthew Birch Address: \_\_\_\_\_

Name: FRANK D'ILIO Address: \_\_\_\_\_

Name: Garvin Ray Address: \_\_\_\_\_

Name: BEN SENIK Address: \_\_\_\_\_

Name: Paul Ferguson Address: \_\_\_\_\_

Name: Judith Ferguson Address: \_\_\_\_\_

Name: James D. Dyer Address: \_\_\_\_\_

Name: Hannah Kelly Address: .....

Name: Tim Kuchta Address: \_\_\_\_\_

Name: Nette Holswich Address: \_\_\_\_\_

Name: S. S. Dichter Address: \_\_\_\_\_

Name: ..... Address: .....

Name: ..... Address: .....

Name: ..... Address: .....

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Name: \_\_\_\_\_ Address: \_\_\_\_\_

Name.....Address.....



The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

[illegible]

General Manager  
MIDWESTERN REGIONAL COUNCIL

The following people wish to show their support for Kandos Operations with their Development Application DA0010/2020.

The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

Name: Steven Kentel Address: .....

Name: Jo Sheels Address: .....

Name: Jim Clark Address: [REDACTED]

Name: ..... Address: .....

Name: ..... Address: .....

Name: ..... Address: .....

Name: ..... Address: .....

Name: ..... Address: .....

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Name: ..... Address: .....

***Attachment C: Applicant Response to Public Submissions***

**KANDOS OPERATIONS PTY LTD**

ABN: 94 603 455 474

# **Response to Submissions**

for the

# **Kandos Quarry**



*Prepared by:*



**R.W. CORKERY & CO. PTY. LIMITED**

October 2019





# Kandos Operations Pty Ltd

ABN: 94 603 455 474

# Response to Submissions

for the

# Kandos Quarry

---

**Prepared for:**

Kandos Operations Pty Ltd  
ABN: 94 603 455 474  
605 Freemantle Road  
BATHURST NSW 2795

Telephone: (02) 6337 1812  
Email: cathy@kandosgroup.com.au

---

**Prepared by:**

R.W. Corkery & Co. Pty. Limited  
Geological & Environmental Consultants  
ABN: 31 002 033 712

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Telephone: (02) 6362 5411  
Email: orange@rwcorkery.com

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Email: brisbane@rwcorkery.com

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Ref No. 231/39

October 2019

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**and**  
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## 1. Introduction

Kandos Operations Pty Ltd (the Applicant) submitted a development application to Mid-Western Regional Council for the continuation and expansion of extraction, processing and product transport operations at the Kandos Quarry (the Proposal) on 4 July 2019.

As the Proposal is classified as Designated Development under the *Environmental Planning and Assessment Regulation 2000*, an *Environmental Impact Statement* (EIS) was prepared to support the application for development consent. Additionally, as Designated Development for the purpose of an extractive industry, the Proposal is also classified as Regional Development under the *State Environment Planning Policy (State and Regional Development) 2011*. Finally, as the Proposal has a works authority and water access licence under the *Water Management Act 2000* and requires both an Environmental Protection Licence under the *Protection of the Environment Operations Act 1997* as well as a Section 138 Permit under the *Roads Act 1993*, the Proposal is also classified as Integrated Development.

The application for development consent was accompanied by an EIS prepared by R.W. Corkery & Co. Pty Limited (RWC), hereafter referred to as RWC (2019). The Proposal comprises the following key activities.

- Extraction of up to 250 000tpa of material from the existing Western Overburden Emplacement.
- Processing of up to 250 000tpa of extracted material using a mobile plant comprising primary (jaw), secondary (cone) crushers and screens.
- Washing of selected material to produce aggregates suitable for use as concrete or sealing aggregates and sand.
- Stockpiling of products, loading of products into road-registered trucks, and transportation to the Applicant's customers.

The Proposal was publicly exhibited by Mid-Western Regional Council from 31 July 2019 to 30 August 2019. During and immediately following that period, the following submissions were received.

- Five submissions from Government agencies.
- Two submissions and a petition with 131 signatories supporting the Proposal.
- Five submissions opposing the Proposal.

This document has been prepared by RWC on behalf of the Applicant to provide a response to each of the submissions received. Where relevant, text extracted or paraphrased from individual submissions is presented in *italics*, with responses to issues raised provided in normal text.



## 2. Government Agency Submissions

### 2.1 Introduction

Government agency submissions were received from the agencies listed below. Government agency submissions are provided in full as **Appendix 1**. No response was received from the Biodiversity Conservation Division.

- Environment Protection Authority.
- Roads and Maritime Service.
- Resources Regulator.
- Division of Resources and Geoscience, Geology Survey of NSW.
- Crown Lands.
- WaterNSW.

### 2.2 Environment Protection Authority

The Environment Protection Authority (EPA) has provided General Terms of Approval (GTA) for the Proposal. The EPA submission also noted that the existing Environment Protection Licence (EPL) 21165 would require variation following the granting of development consent to include the following conditions.

- *Updating condition A1.1 to include 'Extractive' activities;*
- *Update condition A2.1 to revise the premises details to reflect the details provided in the EIS prepared for the Proposal;*
- *Addition of a new condition under condition A1.1 to limit the annual 'crushing, grinding and separating' capacity at the premises to <250,000 tpa;*
- *Updating the noise conditions (under 'L4 Noise limits') to reflect new project specific noise criteria and to reflect the requirements of the guideline 'Noise Policy for Industry' (EPA 2017);*
- *Updating of condition L6.1 to align hours of operation with that stated in the Proposal; and*
- *The removal of redundant operational condition O4.1.*

#### Response

The Applicant acknowledges and agrees to abide by the GTA provided by the EPA, which would include the preparation of an *Environmental Management Plan* (EMP) and an *Erosion and Sediment Control Plan* (ESCP) for the Project Site. The ESCP would include measures to mitigate potential impacts to soil and water within the Project Site. The Applicant would also lodge an application to vary EPL 21165 to update the conditions as per the EPA's recommendations, should development consent be granted.



## 2.3 Roads and Maritime Service

The submission from the Roads and Maritime Services (RMS) noted the following matters for consideration.

- *RMS does not support the proposal to limit truck movements to left turns in and out at the intersection of Quarry Road and Bylong Valley Way prior to the completion of the proposed Quarry Road realignment and intersection construction works. RMS recommends that realignment and intersection construction works be completed prior to the commencement of quarrying operations and that the existing intersection be closed following these works.*
- *RMS note that concurrence to the proposed development was granted on 7 August 2017, subject to:*
  - *the provision of Safe Intersection Sight Distance at the new intersection; and*
  - *the provision of a Channelised Right Turn (CHR) treatment and Auxiliary Left Turn (AUL) treatment as part of the new intersection.*

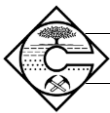
*The installation of a Basic Left Turn treatment (BAL) as opposed to an AUL needs to be clarified with RMS.*

Additionally, RMS provided the following recommendations.

- *Implementation of a Driver Code of Conduct (CoC) to apply to all employees of the quarry not just relating to heavy vehicle operators is recommended. In addition to those areas outlined in Appendix 4.7.4 of the EIS inclusion of the use of mobile phones, driving in adverse weather conditions (fog and icy road conditions) awareness of animal strikes on roads and driver fatigue are considered imperative as part of any future Driver CoC for the quarry.*
- *The provision of an employee commuter bus to transport staff to and from site may also be considered by the proponent as a road safety fatigue management mitigation measure.*
- *Haulage operations coinciding with local student school bus pick up/drop off times are to be avoided.*

In subsequent correspondence with RMS, the Applicant requested a maximum 12 month deferment for the requirement to realign Quarry Road should development consent be granted for the Proposal, subject to haulage vehicles being restricted to left turns in and left turns out of Quarry Road during that period. In response, the RMS requested the following information regarding proposed usage of the Quarry Road / Bylong Valley Way intersection prior to the intersection upgrade.

- *Expected hourly/daily peaks of haulage vehicle movements during the 12 month period.*
- *Implications for staffing requirements during this period, particularly if the productions rate is reduced.*



- *Confirmation of heavy vehicle specifications to be used during the 12 month period.*
- *Confirmation of direction of haulage travel.*
- *Formal acknowledgement that a CHR/AUL treatment on Quarry Road would be constructed, as opposed to CHR/BAL, at the intersection.*

The following response addresses the initial RMS submission and provides the further information requested by RMS.

## Response

Investigations conducted during the preparation of the traffic impact assessment for the Proposal concluded that the Safe Intersection Sight Distance (SISD) is satisfactory for a westbound driver on Bylong Valley Way to observe a vehicle turning out of Quarry Road onto Bylong Valley Way. Additionally, the existing intersection includes an Auxiliary Left Turn (AUL) treatment which enables vehicles to turn left from Bylong Valley Way onto Quarry Road. The existing intersection therefore meets the relevant criteria for use by Proposal-related vehicles provided they are restricted to left turns in and left turns out of Quarry Road as proposed.

Figure 2.5 of RWC (2019) presents the indicative design of the Quarry Road / Bylong Valley Way intersection following the proposed upgrade works. In addition to the proposed realignment of Quarry Road, the upgraded intersection would retain and extend the existing AUL treatment and would provide a channelised right turn into Quarry Road from Bylong Valley Way. The proposed upgrade works would therefore provide both a Channelised Right Turn (CHR) and AUL treatment on Bylong Valley Road at the new intersection, as required by RMS.

Prior to the intersection upgrade, the Applicant estimates that the annualised production rate would be approximately 30 000tpa. During this period, approximately 70% of the product would be hauled with truck and dog vehicles (average 28t capacity) and approximately 30% of the product would be hauled with bogie tipper trucks (average 12t capacity) vehicles. As a result, peak haulage vehicle movements during this period would be approximately one per hour or 11 per day. The Applicant anticipates that approximately 60% of those heavy vehicle movements would be via Bylong Valley Way with the balance via Cudgegong Road. Staffing levels at Kandos Quarry during this period would be 3 to 4 employees.

The Applicant agrees to the application of the Safe Driving Code of Conduct to all employees regularly accessing the Project Site in addition to heavy vehicle operators regularly accessing the Project Site. Additionally, the Applicant commits to incorporating requirements with regards to mobile phones, adverse weather conditions, awareness of animal strikes and driver fatigue into the Safe Driving Code of Conduct for the Proposal. Whilst the provision of a commuter bus is not considered practical in this case due to the limited number of site employees and the potential distribution of their journey start points, the Applicant will encourage carpooling amongst employees where shared routes make this feasible.

School buses travel along Bylong Valley Way between 8:17am – 8:43am and 3:25pm – 4:53pm during school term. The Applicant would include a section in the Drivers Code of Conduct, that would limit, as far as practicable, Proposal-related haulage vehicle movements during these periods.





## 2.4 Resources Regulator

The Resources Regulator provided General Terms of Approval (GTA) for the Proposal. In addition, the Resources Regulator noted the following.

*The Resources Regulator has undertaken this review to determine whether the applicant has provided sufficient information in the EIS to assess the potential impacts of Kandos Quarry. Specifically, the review has been undertaken to determine whether sustainable rehabilitation outcomes can be achieved as a result of the project and that any identified risks or opportunities can be effectively regulated through the conditions of mining authorities issued under the Mining Act 1992*

...

*The Resources Regulator advises the Mid-Western regional Council that the environmental assessment requirements for rehabilitation have been adequately addressed in the Environmental Impact Statement (EIS) for Kandos Quarry, dated 3<sup>rd</sup> July 2019.*

...

*It should be noted that this review does not represent the Resources Regulator's endorsement of the proposed rehabilitation methodologies as presented in the EIS. Under the conditions of a mining lease granted under the Mining Act 1992, the Resources Regulator, requires a mining lease holder (holder) to adopt a risk-based approach to achieving the required rehabilitation outcomes. The applicability of the controls to achieve effective and sustainable rehabilitation is to be determined based on the site specific risk assessments conducted by a holder. This risk assessment should be used to not only establish a basis for managing risk when planning an activity, but it should also be used and updated (as required) to continuously evaluate risk and the effectiveness of controls used to prevent or minimise impacts. A holder may also be directed by the Resources Regulator to implement further measures, where it is considered that a risk assessment and associated controls are unlikely to result in effective rehabilitation outcomes.*

...

*Mine Safety Operations have not identified any risk that would require comment in relation to this matter.*

### Response

The Applicant acknowledges and agrees to abide by the GTA provided by the Resources Regulator. The Applicant currently holds CML12, issued by the Minister for Mineral Resources on 23 January 2003 under the *Mining Act 1992*. Activities approved under the care and maintenance Mine Operations Plan (MOP) for CML12 are outlined in Section 1.4.2 of RWC (2019) and include decommissioning works, rehabilitation works, water management works, processing of previously extracted material, equipment maintenance and general waste management activities.

As noted in Section 2.10.1 of RWC (2019), the Applicant anticipates that the Project Site would be excised from the approved MOP and that an amended MOP for the remaining section of CML12 would be prepared. Rehabilitation of the Project Site would be undertaken in accordance with the *Quarry Closure Plan* which would be prepared once approximately 50% of the known resource has been extracted and processed.



## 2.5 Division of Resources and Geoscience, Geology Survey of NSW

*The proponent has demonstrated the nature, quality and extent of the resource and note that no biodiversity offsets are proposed at this stage. GSNSW consider the project a beneficial reuse of by-products of past mining operations for construction purposes and has no resource sterilisation concerns to raise.*

...

*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 DRG as a condition of development consent.*

### Response

The Applicant agrees to the provision of annual production data for the Proposal to DRG.

## 2.6 WaterNSW

The Proposal was referred to WaterNSW for consideration, however as the Proposal does not require a Works Approval or a Water Access Licence under the *Water Management Act 2000*, WaterNSW is not required to issue GTA for the Proposal.

## 2.7 Crown Lands

*As per our discussion with Council, it has been determined that Crown land Lot 7308 DP1137492 has now been excluded from the Project Site as defined by Figure 1.2 and Section 1.2 of the EIS. To ensure that no disturbance occurs on this parcel of Crown land the Applicant would need to determine the boundaries to ensure that employees do not mistakenly use the land during operations. Notwithstanding this, the undisturbed Crown land is still part of Consolidated Mining Lease 12 in which rehabilitation continues to be progressed overall on the site.*

*With regard to Lot 7301 DP1131746 it refers to in Section 1.2 that the Lot is excluded from the Project Site. The Applicant has stated that no surface disturbance activities are proposed, however the existing Site Access Road will be used to provide access to No. 2 Mine. The current Permissive Occupancy 163087 issued by our Department is for grazing. It is acknowledged that this Site Access Road has previously been subjected to Mining Leases as shown on historical records (Attachment A). It would need to be determined by the Applicant if these are still current and have been incorporated into Consolidated Mining Lease 12 to ensure ongoing legal use of the land. This will be subject to a Compensation agreement to be prepared in accordance with the Mining Act 1992. If this is not the case, the Applicant would need to discuss with the Department the issue of legal access across the Crown land.*

*With regard to Lot 7303 DP 1137494 (part Quarry Road) our records indicate that this Crown Reserve was part of Private Mining Lease 31 and during this currency was reserved as a road (Attachment A and B). It would also need to be determined by the Applicant if any such mining tenements have been incorporated into Consolidated Mining Lease 12 to ensure legal use of the*



**Kandos Operations Pty Ltd**  
Kandos Quarry

*land. This may be subject to a Compensation Agreement to be prepared in accordance with the Mining Act 1992. If this is not the case the Applicant would need to progress its current discussions with the Department regarding legal use of the current Crown Reserve.*

*In addition, there is no mention of the final landform for the part of Quarry Road that traverses Crown land Lot 7303 DP 1137494. The Department will require rehabilitation of this section of road on completion of activities for the subject Project. The future use of the Crown reserve for road access is not part of its gazetted purpose and the Department are not in a position to carry out ongoing maintenance.*

*With regard to the northern section of Quarry Road that aligns 'off and on' Crown road I refer to comments to the Applicant on 25 July 2019 that the Department is not in a position to issue a tenure for the construction for the realignment of Quarry road within the Crown road boundary. There were other alternatives that can be sought by the Applicant. As stated in Section 2.1 a Section 138 Permit under the Roads Act 1993 for works within public road reserves is required for the Integrated Development for which Council will need to consider acquisition with the addition of the required road contributions.*

*With reference to section 3.1.2, an Extractive Licence is currently being sought by the Applicant over an unformed Crown road to extract material. This Extractive Licence Application is currently being considered by the Department and will be progressed accordingly.*

*With reference to ongoing activity that is occurring under the current mining tenement (CML12) a Compensation Agreement is also being progressed with the Department on the relevant impacted Crown land.*

*A review of the rehabilitation strategy for the Project Area has determined that rehabilitation is sufficiently described and the final land form which is to be returned to a pre-existing water drainage is acceptable to the Department.*

*Lastly, we are currently progressing a formal Land Owner's Consent application as required for the lodgement of the Development Application and will submit this to Council shortly.*

## **Response**

With regard to Crown land Lot 7308 DP 1137492 (excluded from the Project Site), the Applicant would determine the boundaries of this lot and delineate the excluded land using permanent, highly visible markers or pegs. Site personnel would be made aware of the requirement to avoid use of the land with regards to Proposal-related operations during the site induction.

With regard to Crown land Lot 7301 DP1131746 (excluded from the Project Site), the Site Access Road is located on former Mineral Lease ML4207 and former Mining Purposes Lease MPL1080 granted under the *Mining Act 1906*. MPL1080 was later converted to former Mining Lease ML1278 under the *Mining Act 1973*. ML4207 and ML1278 (along with numerous other mining titles) were incorporated into Consolidated Mining Lease CML12 under the *Mining Act 1992*. As CML12 is a current mining title, the Applicant contends that the section of the Site Access Road that traverses Lot 7301 DP1131746 can be used lawfully for access to the Project Site.



With regard to Crown Reserve Lot 7303 DP1137494 (part Quarry Road), which was part of Private Mining Lease PML31, the Applicant notes that PML31 was converted into Mining Purposes Lease MPL538 under the *Mining Act 1906*. MPL538 (along with numerous other mining titles) was incorporated into Consolidated Mining Lease CML12 under the *Mining Act 1992*. As CML12 is a current mining title, the Applicant contends that the section of Quarry Road that traverses Lot 7303 DP1137494 can be used lawfully for access to the Project Site.

The Applicant agrees to rehabilitate the parts of Quarry Road currently situated within Crown land Lot 7303 DP1137494 upon completion of activities associated with the Proposal. Details regarding rehabilitation and the final landform for these areas will be provided in the *Quarry Closure Plan*, to be prepared once approximately 50% of the known resource has been extracted and processed. Rehabilitation, final landform and final land use objectives for these areas would be determined in consultation with Crown Lands during the preparation of the *Quarry Closure Plan*.

With regard to the northern section of Quarry Road that aligns 'off and on' Crown road, the Applicant notes that the future status of this section of Quarry Road has been subject to ongoing discussions between Crown Land, Council and the Applicant. The most recent correspondence from Ms Kay Oxley of Crown Lands dated 25 July 2019 identified the following.

*"The Department understands the situation and provides information that there may be other options that can be reviewed as follows:*

- Section 88K of the Conveyancing Act provides legal opportunities to the applicant in pursuing an easement on the private freehold land in which the road has been constructed for the development.*
- Section 44AK of the Roads Act 1993 can be used by Council (Crown Lands are not able to use this section of the Act) to give the unformed road to the landowner in exchange for land that the road is within. Understand that there may be some issues in this circumstance.*
- The Applicant can apply to close and purchase the road. There is a consultation process that is required to determine if there will be objections by landowners which need to be substantiated."*

Ms Kayla Robson of Council advised Mr M Bland of RWC via telephone on 29 July 2019 that following internal discussions that Council would not support a Section 44AK of the *Roads Act 1993* application. As a result, the Applicant proposes to seek a Court order under Section 88K of the *Conveyancing Act 1919* for an easement for the current alignment of Quarry Road within Lot 1, DP716324, registered to CP and RA Coggins. The Applicant previously received in principle support for an easement for Quarry Road within Lot 1, DP175357, registered to Mount Mill Pty Ltd. If required, the Applicant, together with Mount Mill Pty Ltd, would prepare an application to close the Crown Road Reserve in the vicinity of Quarry Road.



### 3. Public Submissions

Public submissions are provided in full as **Appendix 2**.

#### 3.1 Submissions in Support

##### 3.1.1 Introduction

Submissions in support included a petition signed by 131 community members and two individual submissions.

##### 3.1.2 Petition

A petition listing 131 signatories in support of the Proposal was received during the submissions period. A neighbouring landholder circulated the petition which was signed by several neighbouring property owners and residents in the vicinity of the Project Site. The petition was also distributed to local businesses in Kandos and Rylstone and left for a period of one day where it was signed by many local community members, indicating strong community support for the Proposal.

##### 3.1.3 Steven Kuchta

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*I write in connection with the above development application and wish to offer my support to the proposal lined out in DA 0010/2020.*

*My company J & SK Kuchta Pty Ltd has been supplying earthmoving services, readymix concrete and landscaping supplies to the Kandos community for the past 52 years.*

*During this period, we have relied heavily on the local Quarry industries for aggregates.*

*Before closure of Cement Australia's Quarry in 2011 situated at Carwell Creek we were able to purchase and pick up products from their quarry with access via the Quarry Road.*

*Since the closure in 2011 of the above quarry we have been forced to travel in excess of 140km round trip to purchase aggregates for our business at great cost to us for the extra fuel, wages and wear and tear on our vehicles.*

*Having a Quarry industry within 15km of our plant would relieve these extra costs we've endured over the last 8 years.*

*In the past 15 years in Kandos I have witnessed the closure of two collieries, a cement production plant, a quarry, several engineering businesses, a newsagency, banks, hotel, cafes and most recently the local hairdresser.*

*Not only is this proposal for a new quarrying industry in Kandos beneficial to myself it is also of benefit to the local community by offering much needed employment and infrastructure.*

*Kandos was built on industry and without new industry I fear the community will continue to suffer economic hardship.*

Steven Kuchta, Owner/Manager of J & SK Kuchta Pty Ltd





### 3.1.4 Charles Horner

*As the closest neighbour and dwelling to the Kandos Operations Quarry we would like to submit that we 100% SUPPORT this application to be APPROVED. Having lived here for 50 plus years the Quarry, with several management/ owner changes, has never been an issue. They have always been our most considerate, supportive and helpful neighbours.*

*The noise pollution is minimal; the day to day traffic on Cudgegong Road is louder than any noise the Quarry makes.*

*There has never been an issue with dust.*

*Their operating hours are not a problem, far less intrusive than general farming hours.*

*There has never been an impact to the welfare of our stock or land.*

*They are brilliant neighbours who are trying to provide a much needed product for the area and surrounds, and have already made a huge improvement to the rehabilitation of the Quarry land since they have owned it. The sooner they are up and running again the better.*

*As Deputy Captains of the local RFS Clandulla, both my son and I need the quick route that the Quarry provides for us to the fire shed when responding to a callout. Without this road our response time is significantly longer, impacting our whole brigade as we are both licenced truck drivers, which there are few of in our brigade. We also use this road often for access to apiary sites we have on local and surrounding properties.*

Charles Horner (Jnr)

## 3.2 Submissions Opposed

### 3.2.1 Introduction

A total of five submissions were received opposing the Proposal. Due to the limited number of submissions and the limited number of issues raised, each submission has been responded to individually. Where submissions were brief, the entire submission has been reproduced. Where submissions were longer than a single paragraph, representative comments have been reproduced from those submissions.

### 3.2.2 CR Coggins and RA Coggins

#### Representative Comment(s)

*About half our land is on the northern side of Cudgegong Road, which runs roughly east/west, and half is on the southern side. We are therefore constantly moving livestock and equipment along both Cudgegong and Quarry Roads to simply move them/it from one part of our property to another.*



**Kandos Operations Pty Ltd**  
Kandos Quarry

*The proposed increase in traffic (an average of 186 truckloads of road base per week averaging 28 tonnes per load – some of which we acknowledge would be along the Bylong Valley Way, i.e. not along Cudgegong Road) would seriously impinge on our right to farm by making movements of our livestock and farm equipment along the Cudgegong and Quarry Roads very hazardous.*

*We also object on the ground that the safety of all users of these roads, including cyclists on Cudgegong Road, would be compromised by the proposed increase in heavy truck movements with particular sections, including the Quarry Road/Cudgegong Road intersections, the two blind corners and two half blind corners on what is locally known as Quarry Hill, being high risk areas.*

...

*The DA suggests ways to achieve a Safe Intersection Sight Distance (SISD) at the Quarry Road/Cudgegong Road intersection for motor vehicles. What is needed, and we believe unachievable given the closeness of the Cudgegong Road corner to this intersection, is a SISD for sheep and weaner cattle, both of which are much smaller than motor vehicles.*

...

*Over the years there have been a number of instances when heavily laden trucks coming down [Quarry] hill have had considerable difficulty braking to avoid hitting our cattle on Cudgegong Road. Many drivers, even when they see our CATTLE AHEAD signs, do not slow down until they round a bend and see the cattle.*

...

*We are cyclists as well as farmers and with the increasing volume and speed of traffic on Cudgegong Road we are increasingly wary of cycling on this road.*

...

*Fatalities have been avoided to date because Cudgegong Road traffic, while increasing, is still limited. More traffic particularly heavy trucks on Cudgegong Road would significantly increase the hazards for cyclists on this road.*

...

*We have identified a number of possible ways to address the hazards posed by the proposed traffic increase.*

- 1) Restrict our livestock and plant and equipment movements to Sundays when there'll be no truck movements. This isn't practical. We are now hand feeding our cattle and need to do this with greater frequency than weekly. We're moving hay and/or cotton seed across and along Cudgegong Road a number of times each week. More generally, we simply cannot restrict movements from one part of [redacted] to another just one particular day each week.*
- 2) Construct an underpass under Cudgegong Road through which cattle and plant and equipment can be moved between the northern and southern parts of [redacted]. This isn't practical either. We have 14 gates along our 4.8 kilometre frontage to Cudgegong and Quarry Roads and move cattle and plant through all these different gates at different times on to these roads.*
- 3) Erect permanent solar powered warning lights, on the roads where our property starts and ends, which we can activate when we move cattle or plant along the roads. Given*



*the potentially big distance between a set of warning lights and the cattle or plant being moved, the effectiveness of such lights in slowing traffic would be limited.*

- 4) *Restrict all truck movements to the section of Quarry Road linking the quarry to Bylong Valley Way. This would effectively address our concerns.*

...

*We have taken legal action against Kandos Operations Pty Ltd [correction – legal dispute in relation to the destruction of stock water sources on [redacted] caused by operations at the Carwell Creek Limestone Mine.*

*We are nevertheless able to constructively talk to the Clarks about matters of common concern and are surprised and disappointed that neither the Clarks, nor any of the consultants who assisted in developing the DA, have contacted us to discuss the DA and the considerable impact which it clearly has on us. Our input could have informed the DA.*

CR Coggins and RA Coggins

## Response

The Applicant notes that the ongoing nature of legal action taken by CR Coggins and RA Coggins against Kandos Development Corporation Pty Ltd. This is a separate but related company to the Applicant, Kandos Operations Pty Ltd. CR Coggins and RA Coggins incorrectly state that the Applicant is a party to that action.

Nevertheless, these separate issues have precluded the opportunity for productive discussions between the Applicant and CR Coggins and RA Coggins during the planning stages of the Proposal. The following response addresses those matters raised in the submission.

The submission notes that laden trucks have been perceived to pose a hazard to livestock, agricultural equipment and cyclists on both Cudgegong Road and Quarry Road in the past. As this is noted as an existing and ongoing issue, restricting Proposal-related truck movement to the portion of Quarry Road between the Site Entrance and Bylong Valley Way would not eliminate these hazards. Furthermore, restricting Proposal-related haulage vehicles from using Cudgegong Road would impact the viability of the Proposal and would be contrary to the classification of Cudgegong Road as a local road on which B-double access is permitted.

The hazards identified by CR Coggins and RA Coggins with regards to livestock movement, agricultural equipment movement, and cyclist road use are common to all similar road environments. As the Applicant has committed to the implementation of a Driver's Code of Conduct that would identify measures to specifically address matters raised by CR Coggins and RA Coggins and to upgrade works to achieve relevant safety requirements at the Quarry Road / Cudgegong Road intersection, it is not anticipated that the Proposal will result in unacceptable adverse impacts on road user safety.

The traffic impact assessment prepared for the Proposal recommended that the Quarry Road / Cudgegong Road intersection be upgraded to a Basic Turn Right and Basic Turn left (BAR/BAL) treatment, along with new road markings and signage, shoulder widening and trimming of roadside vegetation. The Applicant has committed to undertaking the recommended works in accordance with the relevant Austroads standards to achieve the required Safe Intersection Sight Distance (SISD) for proposal-related vehicles and enable the safe use of this intersection. The Austroads standards do not identify SISDs for animals.



Furthermore, the Applicant has committed to the implementation of a Safe Driving Code of Conduct for all Proposal-related haulage and light vehicles regularly accessing the Project Site. The Code will outline Proposal-related transportation routes, required driver behaviours and enforcement mechanisms for all drivers and subcontractors. The Code will also outline driver responsibilities and required driving behaviours where livestock, agricultural equipment or cyclists are utilising public roads.

As CR Coggins and RA Coggins do not own land on the immediately east of Quarry Road and have noted hazards associated with existing traffic volumes on Quarry Road, it is recommended that they revise their need to utilise this road for livestock and equipment movement. Furthermore, as Quarry Road is a private road and is maintained by the Applicant between the Site Entrance and Cudgegong Road, it is advised that the CR Coggins and RA Coggins ensure that they have secured the relevant approval for the use of Quarry Road to transport livestock and agricultural equipment.

It is assumed that the CR Coggins and RA Coggins already comply with the conditions of the relevant livestock and equipment movement permits and/or approvals with regards to minimum signage requirements. Additional signage, particularly in the identified high-risk areas, may also provide advanced warning to approaching drivers and thereby reduce perceived hazards.

### 3.2.3 Emma Yule

#### Representative Comment(s)

*Owners consent has not been obtained for all affected land parcels. The land included in the development application has not been accurately described and consent has not been provided in writing from the owner of all land parcels.*

...

- *Forestry NSW land – Clandulla State Forest – No access agreement is in place. Historical arrangements cited due to past mining do not provide evidence of ongoing consent. The EIS section 2.1.3 notes that access and compensation agreements would be required for use and disturbance of their land.*
- *Crown land – Access through Lot 7303 DP1137494 – No access agreement or licence is in place. Section 2.5.4 of the EIS indicates this Crown land is relied upon. (s2.23(5) of Crown Land Management Act 2016, requires that the Minister's consent on behalf of the Crown (as the owner of the dedicated or reserved Crown land) to lodgement of a development application in respect of that land is required for the carrying out of any development).*
- *Mount Mill Pty Ltd – Owners consent or copy of a valid access agreement was not included with DA/exhibition documents. Lot 1 DP175357 is relied upon in the DA for access. This is private land not a public road.*
- *CP and RA Coggins – Owners consent or copy of a valid access agreement was not included with DA/exhibition documents. Lot 1 DP716324 is also private land not a public road relied upon for the development.*

...



*The Mid-Western Regional Council's Development Control Plan requires that if the development is proposed to open or use a Crown Road, the written consent of the NSW Land and Property Management Authority to the making of the application is required prior to the submission of the development application to Council. Any Crown road relied upon for the development will be required by Council to be acquired from the Crown and upgraded by the Applicant to Council's required standards. Thereafter the road will be designated to Council. The written consent of the Authority was not included in the EIS.*

...

*A part of a Crown Road Reserve is relied upon for part of the proposed extraction area. The proposed use of the land for the quarry is contrary to the right of access to public road by owners of adjoining land conferred by the Roads Act 1993. The roads authority for a Crown road is the Minister administering the Crown Roads Management Act 2016. The Minister may grant an easement, licence, permit or consent with respect to a Crown road for a use other than for a 'road purpose'. This has not happened to date. The owner's consent for use of this land has not been received to support the DA in its current form.*

Emma Yule, Atlas Environment and Planning

## **Response**

Each of the matters raised by Ms Yule have been the subject of discussion with Council. The current status of each of the matters raised is presented below.

### **Forestry Corporation NSW Land**

Discussions between the Applicant and Forestry NSW with regard to establishing an access agreement and associated compensation agreement are currently ongoing.

### **Crown Land**

Matters relevant to Crown land are discussed in Section 2.7 above.

### **Mount Mill Pty Ltd Land**

Owners consent for the use of Lot 1 DP175357 has been obtained by the Applicant and was provided to Council on 29 July 2019.

### **CP and RA Coggins Land**

This matter is addressed under Section 2.7.



### 3.2.4 Emma Yule on behalf of a Client

#### Representative Comment(s)

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*Owners' Consent has not been obtained for all affected land parcels.*

...

*What if they do not consent? Is Council assuming the road would be relocated to the road reserve to avoid private land? The Crown road has existing vegetation that was not included in the assessment as part of the land to be cleared.*

*Section 2.11 of the EIS says that alternative access routes were considered, and the proposed realignment was the best. The document however elsewhere indicates the existing alignment is proposed to be relied upon. The EIS is not clear in its intentions. Where the road intersection work is proposed it is unclear who owns the land.*

...

*A part of Crown Road reserve is relied upon for part of the proposed extraction area. The development proposal may not be able to proceed if this land is to be excluded from extraction as it bisects the extraction area.*

...

*Legal road is proposed to be extracted as identified above. No details on the rehabilitation of this have been made clear. The continuation of legal access has not been addressed.*

...

*Directly taking more material for the purpose of obtaining limestone rock is 'mining'. The development should be assessed as a mine site – Not extractive industry.*

*The Mop was not available for reference on exhibition. The public cannot make a full assessment of the DA proposal.*

...

*The resources listed in the EIS (section 1.4.4) note shale, claystone, tuff, quartzite and minor limestone. However, the EIS is silent on the material that is to be further taken from the mine site and estimated volumes.*

...

*This is indicating the developer is trying to set up the mine to obtain limestone mineral products and calling it rehabilitation of the mine site and take the rehabilitation material as extraction activity. The details of this submission need to be clearly considered as the development appears to qualify as mining pursuant to the Mining Act.*

...

*The EIS gives a false impression of the flow on impacts to the community. The generation of \$933,000 per annum generated to local economy through wages and goods and services is not accurate. The Applicant is a Bathurst based business with minimal local Mid-Western regional LGA employees. The expected markets for sale of material were noted in the EIS to be sent outside of the local area to Sydney metropolitan markets. Sweeping statements have been made to exaggerate the benefits of this development.*

...





*DA would need to be modified for original mine. ... The details of this need to be made clear as it is a significant component of the impact of the proposed activities. The capacity for rehabilitation of the mine site must be reduced if the available material is taken from the mines and overburden from the new proposed extraction area.*

...

*The final landform and land use should be clearly defined and clarified to enable a modification of the Mining Operations Plan and original DA.*

...

*Security for rehabilitation – a bond is held for the area currently. The impact this DA is going to have on the level of security held for the mine site is not clarified in the EIS. It would seem that the purpose of the DA is to reduce the security held for the mine site, and transfer the regulatory authority responsibilities to Council.*

...

*The deferring of preparing an erosion and sediment control plan is not supported. Also, sediment basins are proposed to be relied upon for water supply – though not identified, as there is no erosion and sediment control plan.*

...

*The Storage Dam cited to be relied upon is fed by Orchard Creek. Water is proposed to be removed under the assumed harvestable rights under section 53 of the Water Management Act 2000. The assumed rights are based on 391ha of land held by the applicant. The area of the project site is approx. 83ha. This does not appear to make correct assumptions on the rights. How many other dams have taken part of the landholdings right? Water balance is not supported as a true assessment of the needs of the development or water available for use.*

...

*The EIS is not consistent in the assessment of vehicle movements and laden trucks leaving the site. Assuming a typical laden vehicle, as per the EIS carries 28 tonnes (section 4.4.3.2), the production capacity is well in excess of the assessed (400,000tpa or 270,000tpa). This raises the question is the intersection design going to be adequate, and what values were utilised?*

...

*The proposal does not include any estimate of quantity and impact of life of the proposal from other additional rock obtained from the mine site (refer to section 2.8.2 of the EIS), This may extend the life of the operation and follow that the time required for any rehabilitation would also be extended.*

...

*With large water bodies and loose material to be extracted, no details have been provided to ensure that the development will be kept safe and secure. Geotechnical assessments of the walls of the extraction area and rehabilitation areas of the mine site should be required. Working face heights of 3-5m with screening plant located on benches to be made from what is described as free digging material (section 2.3.2 of the EIS) have been described with schematic diagrams only. The actual contours of the pit area (extraction area) should be demonstrated to be safe and aimed in a direction towards the final landform (which is also undefined). The depth to the natural ground level has not been provided clearly.*

*Also, the school bus routes should be identified clearly and the transport routes identified for safety of traffic and other road users.*



**Kandos Operations Pty Ltd**  
Kandos Quarry

...

*An extensive fleet of quarry vehicles and equipment is already present on the site for the ongoing rehabilitation of the Carwell Creek Limestone Mine (as referred in section 2.3.4 of the EIS). The EIS fails to address this in the traffic volume estimates and workforce using the site and accessing Quarry Road.*

*Noise assessment and dust assessments should have cumulative impact assessments to adequately assess the impacts of the proposed development. Cumulative impacts have not been assessed and addressed in the EIS with any depth.*

...

*Also, material to be sourced is through receipt of fragmented waste rock from the rehabilitation of the no. 1 and no. 2 limestone mines under the approved MOP. This is a way to say that limestone will continue to be mined from the site but processed by the 'extractive operations'.*

...

*The purpose of the operations to obtain this mineral [Tuff] and limestone indicate the operations are in fact mining.*

Emma Yule, Atlas Environment and Planning

## **Response**

### **Landowner's Consent and Crown Lands**

Matters concerning landowner consent and Crown land, including the permissibility of extractive operations within the unformed Crown road reserve, are discussed in Section 2.7.

As identified in Section 2.7, an application for an Extractive Industry Licence for extraction of material within the Crown Road Reserve surrounded by Lot 1 DP128801 is in progress. Rehabilitation of this area is addressed in Section 2.10 of RWC (2019).

### **Quarry Road Realignment**

Section 2.5.6 of RWC (2019) clearly states the Applicant's intent to utilise the existing Quarry Road / Bylong Valley Way intersection prior to the completion of the proposed realignment and intersection upgrade works. Land that would be subject to disturbance associated with the realignment and intersection upgrade works is part of the Clandulla State Forest, managed by Forestry Corporation NSW.

### **Mining**

The Applicant rejects the assertion that the Proposal represents mining. Mining is defined under the *Mining Act 1992* as follows.

*"Mine means:*

- b) when used as a verb – to extract material from land for the purpose of recovering minerals from the material so extracted or to rehabilitate land ..."*

The Proposal includes the extraction of waste rock material, consisting of mixed shale, claystone, tuff, quartzite and minor limestone, from the existing Western Overburden Emplacement. As outlined in Sections 1.4.4 and 1.4.5 of RWC (2019), this material was not suitable for cement making when originally extracted and would not be processed to recover contained minerals. The extraction of material from the existing Western Overburden Emplacement would therefore not be considered mining.

**Mining Operations Plan**

The existing Mining Operations Plan for Consolidated Mining Lease 12 (CML12) outlines a range of approved operations within CML12. CML12 is managed by Kandos Development Corporation Pty Ltd, a separate but related company to the Applicant, Kandos Operations Pty Ltd.

Notwithstanding the above and as outlined in Section 2.10.1 of RWC (2019), the Applicant anticipates that the approved MOP will be amended to excise the Project Site from the MOP area, with rehabilitation commitments outlined in RWC (2019) superseding those outlined in the MOP for the Project Site only.

Activities under the existing MOP would continue in parallel with operations proposed under the Proposal. Notwithstanding this, the Applicant contends that the MOP is not relevant to the current application.

**Resource and Production Rates**

The material to be extracted by the Proposal, including the volume of material to be extracted, is detailed in Section 1.4.4 of RWC (2019). In summary, it is anticipated that the Proposal would extract approximately 2 645 000t of waste rock material consisting of mixed shale, claystone, tuff, quartzite and minor limestone over a period of 30 years.

Extraction, processing and transport operations, as well as the estimated amount of material to be extracted from the Western Overburden Emplacement, which are included in the Proposal are outlined in Sections 2.3 to 2.5 and Section 2.8.2 of RWC (2019).

**Economic Impacts**

The Applicant rejects the assertion that information contained within Section 2.9.2 of RWC (2019) falsely represented the economic benefits associated with the Proposal. Based on wages for six full-time equivalent employees (total of approximately \$443 000pa), costs of necessary goods and services (approximately \$490 000pa) and rates payable to the Mid-Western Regional Council (approximately \$8 500pa), the Proposal would contribute approximately \$941 500 to the local economy each year. Furthermore, this figure represents a conservative estimate of economic contributions and does not include additional significant contributions in the form of wages for contract truck drivers, taxes, road maintenance contributions, and cost savings associated with the provision of competitively priced construction materials produced by the Proposal.

In Section 2.9.1 of RWC (2019), it is noted that the Applicant anticipates that full-time personnel employed by the Proposal would be based locally.

With regard to Quarry products, customer locations would govern the destinations of products generated by the Quarry. However, it is noted that the Proposal would represent a local source of high-quality products, with local customers benefiting from both competitive prices associated with an additional supplier of products as well as savings associated with shorter transport distances.

**Rehabilitation Security**

Section 2.10 of RWC outlines the proposed approach to the rehabilitation of the Project Site. The Applicant has committed to the preparation of a *Quarry Closure Plan* once approximately 50% of the known resource has been extracted and processed. Further details regarding the rehabilitation of the Project Site will be provided in this plan.



**Kandos Operations Pty Ltd**  
*Kandos Quarry*

### **Water Management**

The operational water balance for the proposal is outlined in Section 2.6.2 of RWC (2019). In summary, the Proposal would require approximately 11.65ML of water to supply annual operations including dust suppression (7.8ML or 67%), wash plant operation (3.75ML or 32%) and site personnel use (<0.1ML).

Operational water would be sourced from the existing Storage Dam, the capacity of which is estimated to be between 10ML and 15ML. Based on the Applicant's landholdings of approximately 391ha (see Figure 4.5 of RWC, 2019), the maximum harvestable rights dam capacity under Clause 53 of the *Water Management Act 2000* is approximately 27.4ML. A smaller dam in the southern section of the Applicant's landholdings has a capacity of approximately 2.5ML.

Whilst the Storage Dam is fed by a tributary of Orchard Creek, the Applicant contends that Orchard Creek receives most of its water from catchment areas to the east and west of the Project Site which enter the creek downstream of the Storage Dam, as shown in Figure 4.3 of RWC (2019).

The Applicant has committed to the preparation of an *Erosion and Sediment Control Plan* in accordance with the relevant industry standard guidelines in order to effectively manage clean and sediment laden water within the Project Site. The preparation of this plan would be completed within three months of development consent being granted for the Proposal, in accordance with the General Terms of Approval provided by the EPA.

### **Traffic and Transport**

Section 4.4.3.2 of RWC (2019) outlines the anticipated traffic volumes associated with the Proposal during maximum production periods. In summary, the Proposal will generate an average of 186 laden truck movements per week. Assuming an average load of 28t and continuous operation apart from holiday periods (i.e. approximately 48 weeks per year), a total of approximately 250 000t of product would be despatched from the Project Site each year.

Road network and intersection performance levels were assessed for traffic volumes equivalent to 150% of the anticipated average volumes associated with the Proposal (i.e. the "busy day" scenario). The traffic impact assessment undertaken for the Proposal concluded that at "busy day" traffic levels, intersection traffic volumes would remain well below the relevant threshold volumes even during the busiest hours of the week.

The existing fleet of vehicles within the Project Site is utilised for ongoing rehabilitation operations within CML12, conducted in accordance with the approved MOP. Where traffic generated by these operations utilises Quarry Road and Bylong Valley Way, this traffic was recorded by traffic surveys undertaken to inform the traffic impact assessment for the proposal. This traffic has therefore been taken into account in the assessment.

The Applicant notes that Kandos and Rylstone Public School bus timetables<sup>1</sup> indicate that there is no use of Cudgegong Road by school buses. School buses travel along Bylong Valley Way between 8:15am – 8:45am and 3:25pm – 4:55pm during school term. The Applicant would include a section in the Drivers Code of Conduct, that would limit, as far as practicable, Proposal-related haulage vehicle movements during these times.

<sup>1</sup> [https://buslinesgroup.com.au/travel\\_planner/newtimetable/timetable\\_buider.new.php?dc=li&depot\\_id=10&school\\_id=338&based\\_on=school&tdate=2018-12-17](https://buslinesgroup.com.au/travel_planner/newtimetable/timetable_buider.new.php?dc=li&depot_id=10&school_id=338&based_on=school&tdate=2018-12-17)  
[https://buslinesgroup.com.au/travel\\_planner/newtimetable/timetable\\_buider.new.php?dc=li&depot\\_id=10&school\\_id=339&based\\_on=school&tdate=2018-12-17](https://buslinesgroup.com.au/travel_planner/newtimetable/timetable_buider.new.php?dc=li&depot_id=10&school_id=339&based_on=school&tdate=2018-12-17)



### **Air Quality and Noise**

Cumulative assessments of dust and noise emission impacts were not considered necessary due to the absence of any significant dust or noise emission sources within the vicinity of the Proposal. In addition, the EPA has provided General Terms of Approval for the Proposal that require management measures to be implemented for the control of dust and noise emissions from the Project Site, which would be addressed in the *Environmental Management Plan* that would be prepared for the Project Site.

### **Site Safety and Security**

The Site Entrance off Quarry Road represents the only entrance into the Project Site by road and the only means of entry that does not involve unauthorised access to adjacent private land. As noted in Section 2.5.3 of RWC (2019), the Site Entrance consists of a signposted, lockable security gate which will be locked outside of standard operating hours or during periods when the Project Site is unoccupied.

The Proposal includes the extraction of waste rock material from the existing Western Overburden Emplacement only. As extraction will not involve activities below the natural ground surface, there would not be an extraction area pit and therefore is no extraction area pit wall to assess geotechnically. Height contours of the Western Overburden Emplacement are provided in Figure 4.3 of RWC (2019). As stated in Section 2.3.1 of RWC (2019), the outer batter and internal face of the Western Overburden Emplacement is generally at the angle of repose. Extraction of material from the Western Overburden Emplacement will represent progress towards the final landform which, as described in Section 2.10.4 of RWC (2019), will result in a reprofiled and revegetated footprint of the existing emplacement that is consistent with the surrounding landform.

## **3.2.5 DW Mackay & KR Mackay**

### **Representative Comment(s)**

---

1. *We have heavily invested in a productive groundwater bore for stock and domestic use, ANY BLASTING may affect the quantity and quality of the water supply. Unless Kandos Operations can guarantee there will be no interruptions to our investment we will strongly object to the development.*
2. *Blasting on a continual basis will impact our dwelling, sheds etc.*
3. *Noise from blasting, machinery etc.*
4. *Dust from blasting and general operations.*
5. *Increased truck traffic.*

*DW Mackay & KR Mackay*

### **Response**

The Applicant notes that the Proposal does not include blasting activities. As such, it is not anticipated that there will be any blasting-related impacts on groundwater or structures surrounding the Project Site, and nor will there be any blasting-related noise or dust.

With regards to noise from machinery, noise emissions associated with the operation of the Proposal have been modelled and were found to satisfy all relevant criteria at surrounding



**Kandos Operations Pty Ltd**  
Kandos Quarry

receivers. Additionally, the Applicant has committed to the implementation of a number of dust management and mitigation measures as outlined in Section 4.7.3 of RWC (2019). It is not anticipated that the Proposal would result in significant air quality-related impacts at surrounding residences.

Finally, based on the conclusions on the Traffic Impact Assessment prepared for the Proposal, the Applicant notes that the Proposal would not result in significant traffic-related impacts.

### 3.2.6 Jennifer More

#### Representative Comment(s)

---

*This proposal would provide 6 new jobs only, not nearly enough to make up for the negative impacts it will cause.*

...

*Past owners never washed limestone at the quarry. Increased use of water will place further stress on the Murray Darling Basin. EPA guidelines require the EIS to assess the impact of the proposal on water quality, including the impacts on both surface and ground water. Mine No. 2 void is very close to Windamere Dam. There has been seepage from one to the other in the past.*

...

*The predicted peak 50-60 truck movements per day will affect convenience, safety and service on the local road network. Using data in section 4.3 of the EIS, calculations indicate that peak traffic volumes on Bylong Valley Way will increase by 77%. ... In our opinion, the numbers of large vehicles in peak times would make roads unsafe for other users.*

...

*Contrary to the proponent's advice, noise in Kandos near the cement works and the rail crossing is certain to increase significantly. ... At peak production, there will be around 50-60 truck movements per day across the level crossing at Kandos. This will represent a significant change in noise disturbance.*

...

*With 50-60 truck movements per day on quiet bushland roads, the numbers of road kills will increase. Also, the proponent should note that an endangered endemic species of plant, *Grevillea obtusifolia* sub.sp *obtusifolia* is known to occur very close to the Quarry Road-Bylong Valley Way intersection. The last survey on this road was done nearly 20 years ago. A new survey for this plant needs to be done before any roadworks are approved. Coomber Stringybark is also an endemic eucalypt near the Quarry Road-Cudgegong Road intersection. Its occurrence needs to be investigated and measures need to be taken to ensure any destroyed trees are replaced and new plantings are maintained.*

...

*Dust with significant levels of heavy metals will be generated at the loading area in the cement works. This will have short- and long-term impacts on health.*

Jennifer More, on behalf of the Rylstone District Environment Society





## Response

### ***Socio-economic Impacts***

Section 4.13 of RWC (2019) presents an assessment of the residual socio-economic impacts and benefits associated with the Proposal. In summary, the Proposal would generate positive impacts including:

- full-time employment for six people and additional employment opportunities for contract truck drivers;
- contributions to local and regional economies through employee wages, Council rates, taxes and road contribution agreements; and
- broader regional benefits associated with the supply of competitively priced, conveniently located, high quality products for use in construction projects.

As environmental impacts associated with the Proposal would not have a significant impact on residents or the environment surrounding the Project Site, the Applicant contends that the Proposal would result in net positive socio-economic outcomes for the region.

### ***Water***

Water used to supply the Proposal would be sourced from the Storage Dam within the Project Site under the Applicant's harvestable right under Section 53 of the *Water Management Act 2000*. As the volume of water permitted to be used under the harvestable right is determined by factors including regional rainfall runoff and the size of the property, the Proposal would only use an amount of water equivalent to that permitted to be used by a similarly sized agricultural operation in the same area. The Applicant is not aware of any "seepage" from the Mine No. 2 void into Windamere Dam, as asserted by Ms More. Notwithstanding this, water monitoring within and surrounding the Project Site has determined that surface water complies with the relevant guidelines and Environment Protection Licence limits (Section 4.2.2 of RWC (2019)).

With regard to the proposed Wash Plant operations, the Applicant anticipates 70-85% of the water that would be used would be recycled through the plant. Fines and excess water would be directed into a settling pond and sump, which would be internally draining and contained within the Wash Plant area, and therefore water used in the plant would not exit the Project Site (Section 2.4.2 of RWC (2019)).

The impacts of the Proposal on surface water and groundwater are assessed in Sections 4.2 and 4.3 of RWC (2019) respectively. Furthermore, the Applicant has committed to undertaking quarterly monitoring and annual analysis of surface water and groundwater at the Project Site in order to identify any impacts on water quality associated with the Proposal.

### ***Traffic***

It is anticipated that the Proposal would generate a maximum of 50 laden truck movements per weekday (25 laden truck movements on Saturdays) and a further 20 light vehicle movements per day. The traffic impact assessment undertaken for the Proposal assessed traffic-related impacts associated with the Proposal based on a "busy day" scenario equivalent to approximately 150% of the anticipated average day conditions.



Table 4.10 in Section 4.4.3.3 of RWC (2019) provides the predicted changes to traffic levels both with and without the Proposal for 2019 and 2029. Based on the figures presented in this table and under the “busy day” traffic scenario, peak hour and daily traffic volumes would increase by 17.2% and 15.9% respectively due to the Proposal. By 2029, it is anticipated that the relative contribution of the Proposal to peak hour and daily traffic volumes under the “busy day” scenario” would have decreased to 12.9% and 12.6% respectively.

Based on the results of the traffic impact assessment, the Applicant does not anticipate that the Proposal would generate significant traffic and transport-related impacts.

### **Noise and Dust**

The Proposal does not include the resumption of operations at the Kandos Cement Works. As such, the Proposal would not result in noise and dust-related impacts in this area and Proposal-related trucks would not use the level crossing at Kandos unless required to do so in order to supply customers in that area. Furthermore, as the material to be processed consists of mixed shale, claystone, tuff, quartzite and rare limestone, dust generated by the proposal would not contain significant amounts of heavy metals.

### **Flora and Fauna**

The Applicant has committed to preparing and implementing a Driver’s Code of Conduct which would outline required behaviour and enforcement mechanisms for drivers of Proposal-related haulage vehicles, including subcontractors, regularly accessing the Project Site. This document would ensure that all Proposal-related haulage vehicles would abide by agreed upon road rules, behaviours and practices both within and outside of the Project Site, thereby minimising the potential for vehicle strikes.

As detailed in Section 4.5 of RWC (2019), a Biodiversity Development Assessment Report prepared for the Proposal included a targeted field survey of threatened flora species in the area subject to disturbance during the Quarry Road-Bylong Valley Way intersection upgrade. *Grevillea obtusiflora*, along with *Eucalyptus alligatrix subsp. alligatrix* and *Eucalyptus cannonii* (Capertee Stringybark), were among those threatened flora species targeted during the survey, however the Coomber Stringybark (*Eucalyptus alligatrix subsp. miscella*) was not identified as a species with the potential to occur in this area.

No threatened flora species were identified within the area to be disturbed by the proposed intersection upgrade works.



## 4. References

**R.W. Corkery & Co. Pty Limited (RWC) (2019).** *Environmental Impact Statement for the Kandos Quarry*, July 2019.



# Appendices

(Total No. of pages including blank pages = 50)

Appendix 1      Government Agency Submission 18 pages)

Appendix 2      Public Submissions 30 pages)



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# Appendix 1

## Government Agency Submissions

(Total No. of pages including blank pages = 18)





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Kandos Operations Pty Ltd  
Kandos Quarry

Protection of the Environment Operations Act 1997

## General Terms of Approval - Issued



Notice No: 1585569

The General Manager  
Mid-Western Regional Council

via e-mail: [council@midwestern.nsw.gov.au](mailto:council@midwestern.nsw.gov.au)

Attention: Ms Kayla Robson

Notice Number 1585569  
Date 25-Sep-2019

Dear Mr Cam

### **KANDOS QUARRY - DEVELOPMENT APPLICATION 0010/2020** **Issued pursuant to Section 4.47(2) *Environmental Planning and Assessment Act 1979***

I refer to the development application and the supporting documentation received by the Environment Protection Authority (EPA) on 31 July 2019 for the proposed 'extractive' and 'crushing, grinding or separating' activities proposed at the Kandos Quarry, located at 329 Quarry Road, Carwell (the Proposal).

The EPA has reviewed the abovementioned information, including public submissions provided by Council, and has determined that the proposal is consistent with the current environment protection licence (No. 21165) issued to the proponent, subject to a number of variations to this licence. The proponent will need to make a separate application to the EPA to vary environment protection licence should development consent be granted by Council.

The EPA's General Terms of Approval (GTAs) for this Proposal are provided at **Attachment A**. If Council grants development consent for this proposal then these conditions should be incorporated into the consent.

It should be noted that the EPA's Central West Region has adopted more streamlined GTAs to avoid conflicts with development approvals, to limit the need for ongoing modifications to development approvals for small matters that are the responsibility of the EPA and to provide the EPA with greater flexibility regarding site specific environmental conditions to be placed on any environment protection licence.

The EPA has also provided at **Attachment B** for Mid-Western Regional Council and the Proponent's reference, specific variations that would need to be made to the current environment protection licence if consent is granted. However these proposed variations should not be included in the consent document, unless deemed necessary for Council's own specific purposes.

These GTAs relate to the Proposal as described in the development application and accompanying information currently held by the EPA. In the event that the Proposal is modified either by the proponent prior to the granting of consent or as a result of the conditions proposed to be attached to the consent and/or environment protection licence, it will be necessary to consult with the EPA about the changes before the

Page 1



Protection of the Environment Operations Act 1997

## General Terms of Approval - Issued



Notice No: 1585569

consent is granted. This will enable the EPA to determine whether its GTAs need to be modified in light of the changes.

Should you have any enquiries regarding this matter please contact Mr Andrew Helms at the Central West (Bathurst) Office of the EPA by telephoning (02) 6333 3805.

Yours sincerely,

**SHERIDAN LEDGER**  
**Unit Head Central West Region**  
**Environment Protection Authority**  
(by Delegation)

Attachment A: General Terms of Approval

Attachment B: Proposed variations to existing Environment Protection Licence No. 21165



**Kandos Operations Pty Ltd**  
Kandos Quarry

Protection of the Environment Operations Act 1997

## General Terms of Approval - Issued



Notice No: 1585569

### ATTACHMENT A EPA's General Terms of Approval Recommended conditions of development consent

- Except as expressly provided by these General Terms of Approval (GTAs) or by any conditions of consent granted by Bathurst Regional Council or the conditions of an in-force Environment Protection Licence issued by the Environment Protection Authority, works and activities must be carried out in accordance with the proposal contained in:
  - o the Development Application 0010/2020 submitted to Mid-Western Regional Council; and
  - o any other additional information provided to Council.
- Should any conflict exist between the abovementioned documents, the most recent document or revision supersedes the conflict, except where superseded by any conditions of approval issued by Council or the conditions of an in-force environment protection licence issued by the Environment Protection Authority.
- An Environmental Management Plan must be prepared and implemented within 3 months of development consent being granted. The plan must include, but not be limited to:
  - i. The identification and mitigation of potential impacts to surface water and soils. The plan must make reference to the requirements outlined in the document "*Managing Urban Stormwater: Soils and Construction (Landcom, 2004)*" and "*Managing Urban Stormwater: Soils and Construction – Volume 2E - Mines and Quarries (DECC, 2008)*";
  - ii. Air quality (dust) management measures; and
  - iii. Noise management measures.
- Hours of Operation:

Operational activities related to the Proposal may only be undertaken during the following hours:

- 6:00 am to 6:00 pm, Monday to Saturday; and
- at no time on Sundays or Public Holidays.
- Trucks entering and leaving the premises that are carrying loads on public roads must be covered at all times, except during loading and unloading.
- The internal quarry access/haulage road must be maintained in a condition that prevents or minimises the emission into the air of air pollutants (which includes dust).
- All trucks and mobile plant operating within the premises must be fitted (where there is a requirement for such devices to be fitted under the Work Health and Safety legislation) with broad-spectrum reversing alarms.



Protection of the Environment Operations Act 1997

## General Terms of Approval - Issued



Notice No: 1585569

### ATTACHMENT B Proposed variations to existing Licence No. 21165

The EPA, upon Council granting development consent, would require the variation of the existing Environment Protection Licence (No. 21165) to include the following conditions that specifically relate to the Proposal.

- Updating condition A1.1 to include 'Extractive' activities;
- Update condition A2.1 to revise the premises details to reflect the details provided in the EIS prepared for the Proposal;
- Addition of a new condition under condition A1.1 to limit the annual 'crushing, grinding or separating' capacity at the premises to <250,000 tpa;
- Updating of the noise conditions (under 'L4 Noise limits') to reflect new project specific noise criteria and to reflect the requirements of the guideline 'Noise Policy for Industry' (EPA, 2017);
- Updating of condition L6.1 to align hours of operation with that stated in the Proposal; and
- The removal of redundant operational condition O4.1.



**Kandos Operations Pty Ltd**  
Kandos Quarry



26 August 2019

SF2016/18261; WST16/00033/10

The General Manager  
Mid Western Regional Council  
PO Box 156  
MUDGEE NSW 2850

Dear Sir

**DA0010/2020: Lot 77 DP 755802, Lot 1 DP 338995 & Part Lot 131 DP 755802 and 8 more; 329-331 Quarry Road, Carwell  
Environmental Impact Statement, Kandos Quarry**

Thank you for correspondence received on 1 July 2019 referring the Kandos Quarry Environmental Impact Statement (EIS) to Roads and Maritime Services for comment.

DA0010/2020 has been referred to Roads and Maritime pursuant to section 138(2) of the *Roads Act 1993* and section 16(2) of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.

The documentation submitted in support of the EIS has been reviewed. Roads and Maritime notes the proposal includes the following:

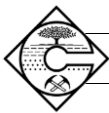
- Extraction and processing of up to a maximum of 250,000 tonnes per annum (tpa) of extractive materials for road base and aggregates.
- Operating hours would be six days per week (Monday to Saturday) between 6am to 6pm.
- Transportation of materials is proposed to occur via Quarry Road (private road) with either Bylong Valley Way (MR215) a regional classified road or Cudgegong Road, with some restrictions on the movement of quarry trucks on Cudgegong Road.
- Based on a mix of haulage vehicle types with an average payload of 28 tonnes per truck, which would equate to an *average* of 186 laden truck loads per week or 2 to 3 laden truck loads per hour.
- The quarry is expected to employ five people equating to approximately 20 vehicle trips per day arriving and departing prior to despatch and after despatch is completed. Therefore staff arrival peak should fall outside of operation peaks.

**Roads and Maritime Services**

51-55 Currajong Street Parkes NSW 2870 | PO Box 334 Parkes NSW 2870 | DX20256  
T 02 6861 1444 | F 02 6861 1414

[www.rms.nsw.gov.au](http://www.rms.nsw.gov.au) | 131 782





- The applicant is proposing that during initial operations and prior to completion of the realignment of Quarry Road and construction of the new intersection with Bylong Valley Way, the existing intersection would be used with a limitation on truck movements to left turns in and out of Quarry Road only. Roads and Maritime does not support this proposal and recommends the intersection upgrade is to be completed prior to commencement of quarrying operations to ensure safety of all road users is maintained. The existing intersection is to be closed and made redundant once the new intersection is constructed.
- Roads and Maritime granted concurrence (07 August 2017) to the proposed development pursuant to Section 138(2) of the *Roads Act 1993*, subject to a condition that Safe Intersection Sight Distance (SISD) is in accordance with Part 4A of *Austroads Guide to Road Design* and relevant Roads and Maritime supplements to be provided at the new intersection of Quarry Road and Bylong Valley Way.
- It is further noted that this concurrence was granted based on the provision of a Channelised Right Turn treatment (CHR) and an Auxiliary Left turn (AUL) treatment as part of the new intersection with Bylong Valley Way. Detailed design plans should be submitted to Roads and Maritime and approved prior to construction for review. Preliminary plans were previously provided to Roads and Maritime in June, 2017 however provision of detailed plans for these works is recommended. These identified CHR/AUL treatments.
- As noted in Appendix 4 - 5. Conclusion noted... "realignment of Quarry Road and its intersection with Bylong Valley Way as proposed by RMS, with the intersection design to include a Channelised Right Turn lane and a Basic Left turn treatment (BAL) in Bylong Valley Way". The installation of a BAL as opposed to an AUL treatment needs to be further clarified by the proponent with Roads and Maritime as it is inconsistent with previous correspondence.

Pursuant to section 16 of *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*, Roads and Maritime provides the following recommendations for Council's consideration:

- Implementation of a Driver Code of Conduct (CoC) to apply to *all* employees of the quarry not just relating to heavy vehicle operators is recommended. In addition to those areas as outlined in Appendix 4.7.4 of the EIS inclusion of the use of mobile phones, driving in adverse weather conditions (fog and icy road conditions) awareness of animal strikes on roads and driver fatigue are considered imperative as part of any future Driver CoC for the quarry.
- The provision of an employee commuter bus to transport staff to and from site may also be considered by the proponent as a road safety fatigue management mitigating measure.
- Haulage operations coinciding with local student school bus pick up/drop off times are to be avoided.

Please forward a copy of Council's determination of the proposal to Roads and Maritime at the same time it is sent to the applicant. Should you require further information please contact Ainsley Bruem, A/Manager Land Use Assessment on 02 6861 1449.

Yours faithfully

Dane Hendry  
Senior Manager, Regional Customer Services  
Western Region



**Kandos Operations Pty Ltd**  
Kandos Quarry



Our Ref: DOC19/707194

Ms. Kayla Robson  
Senior Town Planner  
Mid-Western Regional Council  
PO Box 156  
Mudgee NSW 2850

By email: [kayla.robson@midwestern.nsw.gov.au](mailto:kayla.robson@midwestern.nsw.gov.au)

**Kandos Quarry [CML12 (1992), ML1611 (1992), ML1612 (1992), ML1613 (1992), ML1614 (1992), ML1615 (1992)]: Adequacy of the Statement of Environmental Impact Statement (EIS) and Request for General Terms of Approval**

Dear Ms. Robson,

The Environmental Impact Statement (EIS) for Kandos Quarry has been forwarded to the Resources Regulator to provide comment on the EIS and provide of General Terms of Approval for Kandos Quarry, particularly in relation to rehabilitation.

Kandos Quarry has been classified as Integrated Development pursuant to the *Environmental Planning and Assessment Act 1979* (EP&A Act) and therefore requires both development consent under the EP&A Act as well as the granting of a Mining Lease under the *Mining Act 1992*. In regards to the *Mining Act 1992* the site of the proposed development falls within the Mining Lease(s) CML12 (1992), ML1611 (1992), ML1612 (1992), ML1613 (1992), ML1614 (1992), ML1615 (1992) thereby satisfying this requirement.

The Resources Regulator has undertaken this review to determine whether the applicant has provided sufficient information in the EIS to assess the potential impacts of Kandos Quarry. Specifically, the review has been undertaken to determine whether sustainable rehabilitation outcomes can be achieved as a result of the project and that any identified risks or opportunities can be effectively regulated through the conditions of mining authorities issued under the *Mining Act 1992*.

#### **Development Details**

Kandos Quarry is an open cut operation located approximately 5 kilometres from west of Kandos, NSW. The proposed project seeks to extract 250,000t/pa of waste rock comprised of shale, tuff, quartzite and limestone from the Western Overburden Emplacement. Waste rock will be processed on site to produce road base and concrete aggregate and trucked off site via a realigned Bylong Valley Way intersection which provides adequate Safe Intersection Sight Distance.

#### **Environment and Rehabilitation**

Compliance Operations within the Resources Regulator has responsibility for providing strategic advice for environmental issues pertaining to the proposed project in so far as they relate to or affect rehabilitation.

**Resources Regulator**  
516 High Street MAITLAND NSW 2320 Australia | PO Box 344 HRMC NSW 2310 Australia  
Tel: +61 2 4063 6666



The Resources Regulator advises the Mid-Western Regional Council that the environmental assessment requirements for rehabilitation have been adequately addressed in the Environmental Impact Statement (EIS) for Kandos Quarry, dated 3<sup>rd</sup> July 2019.

The Resource Regulator has determined that sustainable rehabilitation outcomes can be achieved as a result of the project and that any identified risks or opportunities can be effectively regulated through the conditions of mining authorities issued under the *Mining Act 1992*.

The Resources Regulator requests that Mid Western Regional Council notify the proponent of the following general terms of approval associated with the granting of a mining lease pursuant to the *Mining Act 1992*.

- Any disturbance resulting from the activities carried out under the mining lease will need to be rehabilitated to the satisfaction of the Minister.
- The lease holder must apply to the Minister for approval of a Mining Operations Plan (MOP) prepared in accordance with the relevant Resources Regulator guidelines. An approved MOP must be in place prior to commencement of any significant surface disturbing activities, including mining operations, mining purposes and prospecting. The MOP must identify the post mining land use and set out a detailed rehabilitation strategy.
- The lease holder will be required to prepare an Annual Rehabilitation Report to the satisfaction of the Minister. The report must be prepared in accordance with the relevant Resources Regulator guidelines and must provide a detailed review of the progress of rehabilitation against the performance measures and criteria established in the approved MOP.
- The lease holder will be required to provide and maintain a security deposit to secure funding for the fulfilment of obligations of all and any kind under the mining lease, including obligations of any kind under the mining lease that may arise in the future.

It should be noted that this review does not represent the Resources Regulator's endorsement of the proposed rehabilitation methodologies as presented in the EIS. Under the conditions of a mining lease granted under the *Mining Act 1992*, the Resources Regulator, requires a mining lease holder (holder) to adopt a risk-based approach to achieving the required rehabilitation outcomes. The applicability of the controls to achieve effective and sustainable rehabilitation is to be determined based on the site specific risk assessments conducted by a holder. This risk assessment should be used to not only establish a basis for managing risk when planning an activity, but it should also be used and updated (as required) to continuously evaluate risk and the effectiveness of controls used to prevent or minimise impacts. A holder may also be directed by the Resources Regulator to implement further measures, where it is considered that a risk assessment and associated controls are unlikely to result in effective rehabilitation outcomes.

The Resources Regulator requests a review of the draft development consent conditions prior to finalisation and any granting of development consent.



**Kandos Operations Pty Ltd**  
*Kandos Quarry*

### **Mine Safety**

Mine Safety Operations within the Resource Regulator is responsible for ensuring mine operators manage the risk to worker health and safety through compliance with the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* and the subordinate mining legislation. In particular the effective management of risk associated with the principal hazards as specified in the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014*.

Mine Safety Operations have not identified any risk that would require comment in relation to this matter.

For enquiries regarding this matter please contact me on 4063 6666 or [minres.environment@planning.nsw.gov.au](mailto:minres.environment@planning.nsw.gov.au)

Yours sincerely

Christine Fawcett  
**Manager Environmental Operations**  
**Compliance Operations**

On behalf of  
Steve Orr  
**A/Director Compliance Operations**  
**Resources Regulator**  
**NSW Department of Planning and Environment**

19 August 2019



Kayla Robson  
Mid-Western Regional Council  
PO Box 156  
Mudgee NSW 2850

Our ref: DOC19/695718  
Your ref: DA0010/2020 (EAR 1296)  
File: SF19/7086

Emailed:  
kayla.robson@midwestern.nsw.gov.au

16 August 2019

Dear Ms Robson

**Subject:** DA0010/2020 – Kandos Quarry – Environmental Impact Statement

Thank you for the opportunity to comment on the Environmental Impact Statement (EIS) in support of development consent for the Kandos Quarry (DA0010/2020). This is a response from the NSW Department of Planning, Industry & Environment – Division of Resources & Geoscience (DRG), Geological Survey of New South Wales (GSNSW).

The proponent has demonstrated the nature, quality and extent of the resource and note that no biodiversity offsets are proposed at this stage. GSNSW consider the project a beneficial reuse of by-products of past mining operations for construction purposes and has no resource sterilisation concerns to raise.

GSNSW notes that compliance with the existing Mining Operation Plan (MOP) for Consolidated Mining Lease 12 (CML12) is a matter for DPIE – Resources Regulator.

The Division collects data on the quantity of construction materials produced annually throughout the State. Forms are sent to all operating quarries at the end of each financial year for this purpose. The statistical data collected is of great value to Government and industry in planning and resource management, particularly as a basis for analysing trends in production and for estimating future demand for particular commodities or in particular regions. Production data may be published in aggregated form, however production data for individual operations is kept strictly confidential.

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 DRG as a condition of development consent.

Future requests for advice in relation to this matter should be directed to the Division of Resources & Geoscience – Land Use team at [landuse.minerals@geoscience.nsw.gov.au](mailto:landuse.minerals@geoscience.nsw.gov.au).

Yours sincerely,

Andrew Helman  
Senior Geoscientist – Land Use Assessment  
Geological Survey of NSW, Division of Resources & Geoscience



**Kandos Operations Pty Ltd**  
Kandos Quarry



**Planning,  
Industry &  
Environment**

**Crown Lands**

Reference CM9: DOC19/194796

Lindsay Dunstan  
Manager Statutory Planning  
Mid-Western Regional Council  
PO Box 156  
MUDGEES NSW 2850  
Email: council@midwestern.nsw.gov.au

Dear Sir/Madam

**DEVELOPMENT APPLICATION DA 0010/2020- EXTRACTIVE INDUSTRY KANDOS QUARRY**

Thank you for the opportunity to comment on the proposal. Crown Lands has reviewed the *Environmental Impact Statement* (EIS) regarding the use and occupation of Crown land for the proposed activities.

It is noted that the Development Application has listed Crown land Lot 7301 DP 1131746 and Lot 7303 DP 1137494.

As per our discussions with Council, it has been determined that Crown land Lot 7308 DP1137492 has now been excluded from the Project Site as defined by Figure 1.2 and Section 1.2 of the EIS. To ensure that no disturbance occurs on this parcel of Crown land the Applicant would need to determine the boundaries to ensure that employees do not mistakenly use the land during operations. Notwithstanding, this undisturbed Crown land is still part of Consolidated Mining Lease 12 in which rehabilitation continues to be progressed overall on the site.

With regard to Lot 7301 DP1131746 it refers to in Section 1.2 that the Lot is excluded from the Project Site. The Applicant has stated that no surface disturbance activities are proposed, however the existing Site Access Road will be used to provide access to No. 2 Mine. The current Permissive Occupancy 163087 issued by our Department is for grazing. It is acknowledged that this Site Access Road has previously been subjected to Mining Leases as shown on historical records (Attachment A). It would need to be determined by the Applicant if these are still current and have been incorporated into Consolidated Mining Lease 12 to ensure ongoing legal use of the land. This will be subject to a Compensation Agreement to be prepared in accordance with the *Mining Act 1992*. If this is not the case, then the Applicant would need to discuss with the Department the issues of legal access across the Crown land.

With regard to Lot 7303 DP 1137494 (part Quarry Road) our records indicate that this Crown Reserve was part of Private Mining Lease 31 and during this currency was reserved as a road (Attachment A and B). It would also need to be determined by the Applicant if any such mining tenements have been incorporated into Consolidated Mining Lease 12 to ensure legal use of the land. This may be subject to a Compensation Agreement to be prepared in

Crown Lands  
PO Box 2185 Dangar NSW 2309  
Tel: 1300 886 235 [www.crownland.nsw.gov.au](http://www.crownland.nsw.gov.au)





accordance with the *Mining Act 1992*. If this is not the case the Applicant would need to progress its current discussions with the Department regarding legal use of the current Crown Reserve.

In addition, there is no mention of the final landform for the part of Quarry Road that traverses Crown land Lot 7303 DP 1137494. The Department will require rehabilitation of this section of road on completion of activities for the subject Project. The future use of the Crown reserve for road access is not part of its gazetted purpose and the Department are not in a position to carry out ongoing maintenance.

With regard to the northern section of Quarry Road that aligns 'off and on' Crown road I refer to comments to the Applicant on 25 July 2019 that the Department is not in a position to issue a tenure for the construction for the realignment of Quarry road within the Crown road boundary. There were other alternatives that can be sought by the Applicant. As stated in Section 2.1 a Section 138 Permit under the *Roads Act 1993* for works within public road reserves is required for the Integrated Development for which Council will need to consider acquisition with the addition of the required road contributions.

With reference to section 3.1.2, an Extractive Licence is currently being sought by the Applicant over an unformed Crown road to extract material. This Extractive Licence Application is currently being considered by the Department and will be progressed accordingly.

With reference to ongoing activity that is occurring under the current mining tenement (CML12) a Compensation Agreement is also being progressed with the Department on the relevant impacted Crown land.

A review of the rehabilitation strategy for the Project Area has determined that rehabilitation is sufficiently described and the final land form which is to be returned to a pre-existing water drainage is acceptable to the Department.

Lastly, we are currently processing a formal Land Owner's Consent application as required for the lodgement of the Development Application and will submit this to Council shortly.

If you have any queries please contact Kay Oxley, Senior Natural Resource Management Officer on 6391 4334.

Yours faithfully

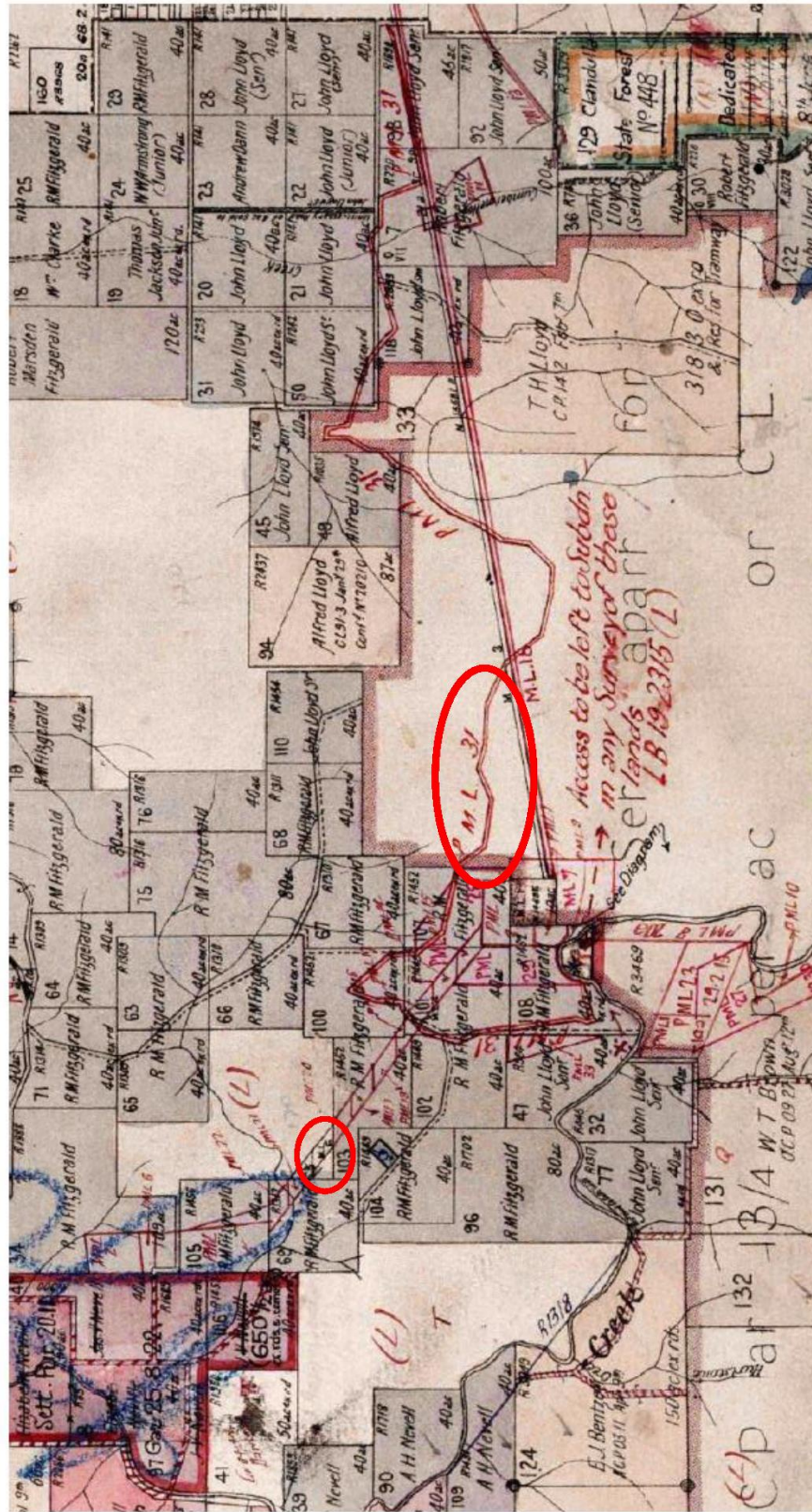
Daryl Lawrence  
**Group Leader, Property Management**  
**Crown Lands, Orange**

05/09/20219

cc: David Baber, DPIE, Crown Lands, Commercial Property Services



Attachment A: Excerpt Parish of Wells County of Roxburgh 1916



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## REFERENCE TO MINING SURVEYS

[illegible]

Excerpt Parish of Wells County of Roxburgh 1916

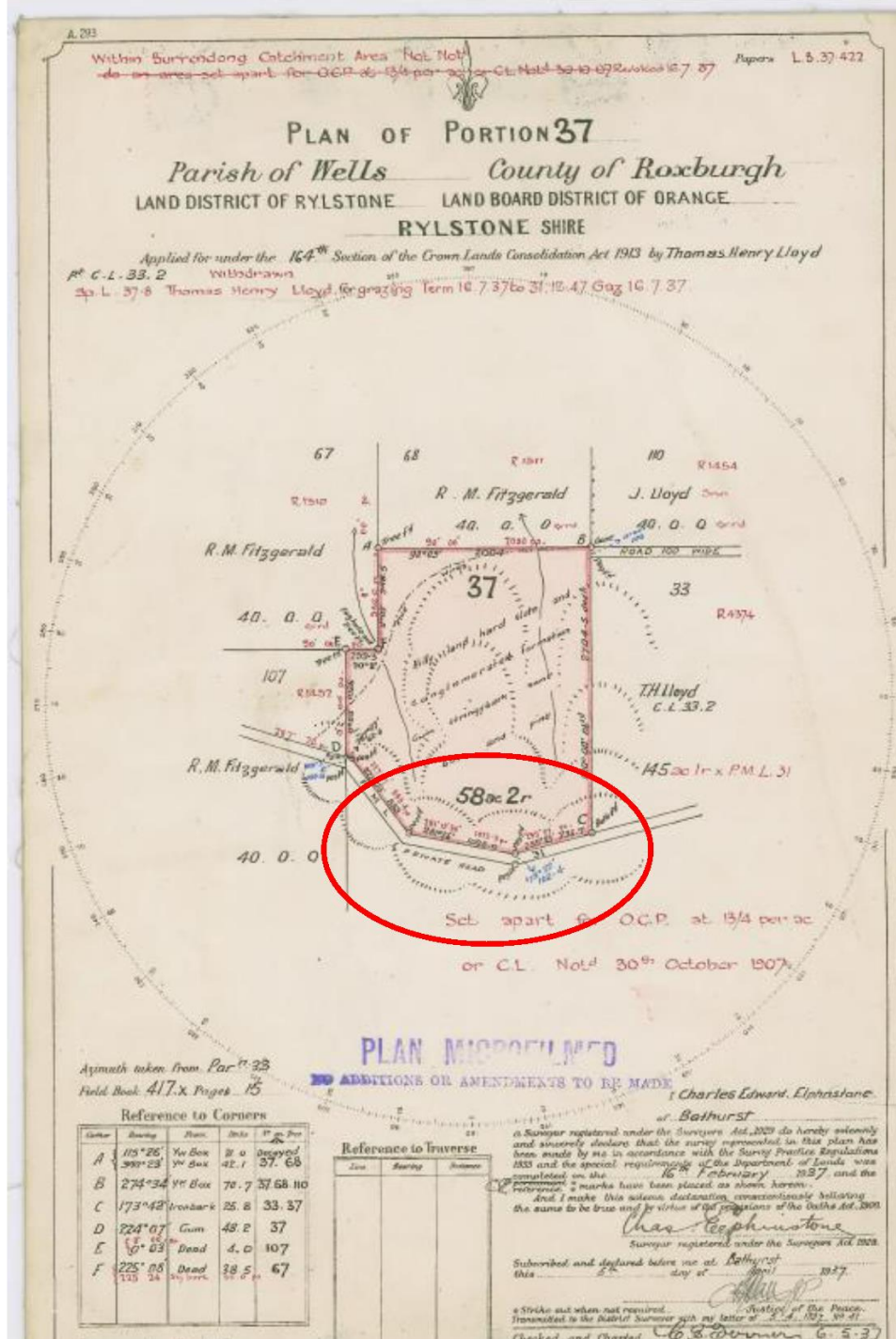


Kandos Operations Pty Ltd  
Kandos Quarry



Planning,  
Industry &  
Environment

Attachment B



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# Appendix 2

## Public Submissions

(Total No. of pages including blank pages = 30)



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Kandos Operations Pty Ltd  
Kandos Quarry

[REDACTED]  
26 August 2019

Mr Brad Cam  
General Manager  
Mid-Western Regional Council  
PO Box 156  
MUDGEES NSW 2850

Dear Mr Cam

**DEVELOPMENT APPLICATION DA0010/2020 - OBJECTION**

Thank you for Mr Lindsay Dunstan's letters of 1 August and 2 August 2019 advising us of this development application. We object to it in relation to the proposed traffic movements along Quarry Road to Cudgegong Road and along Cudgegong Road.

***Background***

As owners of [REDACTED] and the property at [REDACTED], we have a 4.8 kilometre long frontage to the Cudgegong and Quarry Roads, 2.3 kilometres of which is a double frontage where we own the land both sides of Cudgegong Road. We have approximately 850 acres in total. About half our land is on the northern side of Cudgegong Road, which runs roughly east/west, and half is on the southern side. We are therefore constantly moving livestock and equipment along both Cudgegong and Quarry Roads to simply move them/it from one part of our property to another.

***Grounds of Objection***

The proposed increase in traffic (an average of 186 truckloads of road base per week averaging 28 tonnes per load – some of which we acknowledge would be along the Bylong Valley Way, ie not along Cudgegong Road) would seriously impinge on our right to farm by making movements of our livestock and farm equipment along the Cudgegong and Quarry Roads very hazardous.

We also object on the ground that the safety of all users of these roads, including cyclists on Cudgegong Road, would be compromised by the proposed increase in heavy truck movements with particular sections, including the Quarry Road/Cudgegong Road intersection, the two blind corners and two half blind corners on what is locally known as *Quarry Hill*, being high risk areas.



2/4

### *Impact of Traffic*

Heavily laden trucks, with their limited ability to brake quickly, currently arouse **concerns for our personal safety** when moving livestock along the Quarry and Cudgegong Roads as well as for the **safety of our livestock**. This is particularly the case on Quarry Road, the Quarry Road/Cudgegong Road intersection, the two blind corners and two half blind corners on the steep hill, known locally as *Quarry Hill*, where Cudgegong Road runs west down to the *Cuth Foster Bridge* over Carwell Creek, and the blind crests on Cudgegong Road either side of the entrance to 875 Cudgegong Road.

There is currently only limited traffic on Quarry Road but vehicles can travel fast on this windy road and approach us fast when we're on this road. The immediate benefit to us when the Kandos cement works closed in 2011, was an end to the danger posed by fast heavily laden cement trucks coming down Quarry Road to Cudgegong Road. DA0010/2020 threatens us with a large number of heavily laden road base carrying trucks in place of the now departed cement trucks. The difference would be many more road base trucks than there were cement trucks.

When we move cattle north along Quarry Road or east along Cudgegong Road to [REDACTED] the entrance gate to which is at the intersection, vehicles travelling west on Cudgegong Road don't see us until they've come around the above corner. Many drivers are surprised and need to brake hard when they come upon us even though we always place a *CATTLE AHEAD* sign on the road east of the corner.

The DA suggests ways to achieve a Safe Intersection Sight Distance (SISD) at the Quarry Road/Cudgegong Road intersection for motor vehicles. What is needed, and we believe unachievable given the closeness of the Cudgegong Road corner to this intersection, is a **SISD for sheep and weaner cattle**, both of which are much smaller than motor vehicles. (We were sheep meat and wool producers before we became beef producers and retain the option of getting back into sheep).

Drivers are almost at the end of the Quarry Hill descent before they get a clear view to the bottom of this hill. Over the years there have been a number of instances when heavily laden trucks coming down this hill have had considerable difficulty braking to avoid hitting our cattle on Cudgegong Road. Many drivers, even when they see our *CATTLE AHEAD* signs, do not slow down until they round a bend and see the cattle.

DA0010/2020 threatens a significant increase in the risks we already face in moving livestock and farm equipment along the Cudgegong and Quarry Roads.

### *Increased Risks for Cyclists*

We are cyclists as well as farmers and with the increasing volume and speed of traffic on Cudgegong Road we are increasingly wary of cycling on this road. The Castlereagh Highway is much busier but safer for cyclists than Cudgegong Road which is mostly a



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narrow winding road. A regular ride for Mudgee based cyclists is along Castlereagh Highway to Rylstone via Cudgegong Road and then back to Mudgee via Lue.

The DA states that Cudgegong Road is *typically a sealed two-way two lane road, with painted centerlines and edgelines* (page 3, Appendix 4 of the EIS). It could more accurately be described as *typically a sealed, narrow, winding two-way two lane road with painted double centerlines and no edgelines*. Where there are edgelines they are typically on the edge of the road and there is no room for cyclists to ride to the left of the edgeline, as they can on the Castlereagh Highway, safe from heavy trucks. Cyclists are at risk, even when riding close to the left side of the road, when a heavy truck comes up fast around a corner or over a crest behind them and there is a vehicle(s) close and coming up fast towards them. The only option for cyclists in such situations is to "go bush" as neither the truck nor oncoming vehicle have room to move out of the way. Fatalities have been avoided to date because Cudgegong Road traffic, while increasing, is still limited. More traffic particularly heavy trucks on Cudgegong Road would significantly increase the hazards for cyclists on this road.

#### Options

We have identified a number of possible ways to address the hazards posed by the proposed traffic increase.

- (1) Restrict our livestock and plant and equipment movements to Sundays when there'll be no truck movements. This isn't practical. We are now hand feeding our cattle and need to do this with greater frequency than weekly. We're moving hay and/or cotton seed across and along Cudgegong Road a number of times each week. More generally, we simply cannot restrict movements from one part of [redacted] to another to just one particular day each week.
- (2) Construct an underpass under Cudgegong Road through which cattle and plant and equipment can be moved between the northern and southern parts of [redacted]. This isn't practical either. We have 14 gates along our 4.8 kilometre frontage to Cudgegong and Quarry Roads and move cattle and plant through all these different gates at different times on to these roads.
- (3) Erect permanent solar powered warning lights, on the roads where our property starts and ends, which we can activate when we move cattle or plant along the roads. Given the potentially big distance between a set of warning lights and the cattle or plant being moved, the effectiveness of such lights in slowing traffic would be limited.
- (4) Restrict all truck movements to the section of Quarry Road linking the quarry to Bylong Valley Way. This would effectively address our concerns.





4/4

*Approach by Kandos Operations Pty Ltd*

Our relationship with Cathy and Jim Clark, the principals of Kandos Operations Pty Ltd, is difficult. We have taken legal action against Kandos Operations Pty Ltd in relation to the destruction of stock water sources on [REDACTED] caused by operations at the Carwell Creek Limestone Mine.

We are nevertheless able to constructively talk to the Clarks about matters of common concern and are surprised and disappointed that neither the Clarks, nor any of the consultants who assisted in the developing the DA, have contacted us to discuss the DA and the considerable impact which it clearly has on us. Our input could have informed the DA.

*Next steps*

Please do not hesitate to contact us if you have any questions concerning our objection. Ms Kayla Robson in your office holds our personal contact details.

We would appreciate being kept informed of developments in processing DA00010/2020.

Yours sincerely

[REDACTED]

CP Coggins

[REDACTED]

RA Coggins



Kandos Operations Pty Ltd  
Kandos Quarry



ABN: 79718726016

26 August 2019  
Our Ref: A19 Let Quarry (1)

Attn: Planning and Development

The General Manager  
Mid-Western Regional Council  
PO Box 86  
MUDGEES NSW 2850

Dear Sir/Madam,

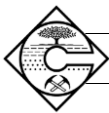
**OBJECTION DEVELOPMENT APPLICATION DA0010/2020 – QUARRY ROAD CARWELL**

Please accept this letter as an objection to the development application on exhibition for the Quarry. Council should consider that development is not able to be assessed due to being an invalid application. Owners' Consent has not been obtained for all affected land parcels. The land included in the development application has not been accurately described and consent has not been provided in writing from the owner of all land parcels.

**Item 1 – Site access**

Vehicular access to the Quarry site is not in entirety via public roads (or crown road). The proposal does not intend to realign the current road but obtain the consent of these other parties sometime in the future.

- Forestry NSW land – Clandulla State Forest – No access agreement is in place. Historical arrangements cited due to past mining do not provide evidence of ongoing consent. The EIS section 2.1.3 notes that access and compensation agreements would be required for use and disturbance of their land.
- Crown land – Access through Lot 7303 DP1137494 – No access agreement or licence is in place. Section 2.5.4 of the EIS indicates this Crown land is relied upon. (*s2.23(5) of Crown Land Management Act 2016*, requires that the Minister's consent on behalf of the Crown (as the owner of dedicated or reserved Crown land) to lodgment of a development application in respect of that land is required for the carrying out of any development).
- Mount Mill Pty Ltd – Owners consent or copy of a valid access agreement was not included with DA/exhibition documents. Lot 1 DP175357 is relied upon in the DA for access. This is private land not a public road.



- CP and RA Coggins - Owners consent or copy of a valid access agreement was not included with DA/exhibition documents. Lot 1 DP716324 is also private land not a public road relied upon for the development.

Further the application is not in line with Council policy. The Mid-Western Regional Council's Development Control Plan requires that if the development is proposed to open or use a Crown Road, the written consent of the NSW Land and Property Management Authority to the making of the application is required prior to the submission of the development application to Council. Any Crown Road relied upon for the development will be required by Council to be acquired from the Crown and upgraded by the applicant to Councils required standards. Thereafter the road will be designated to Council. The written consent of the Authority was not included in the EIS.

#### **Item 2 – Extraction Area**

A part of a Crown Road Reserve is relied upon for part of the proposed extraction area. The proposed use of the land for the quarry is contrary to the right of access to public road by owners of adjoining land conferred by the *Roads Act 1993*. The roads authority for a Crown road is the Minister administering the *Crown Land Management Act 2016*. The Minister may grant an easement, licence, permit or consent with respect to a Crown road for a use other than for a 'road purpose'. This has not happened to date. The owner's consent for use of this land has not been received to support the DA in its current form. The development proposal may not be able to proceed if this land is to be excluded from extraction as it bisects the extraction area.

This identified section the road is not fulfilling an access purpose but is to be part of the extraction area. It is purported that the road section should be sought to be closed and purchased for inclusion in the development or excluded from the development land. This possible exclusion is not practical in this case. The continuation of legal access has also not been addressed, if this road is closed.

Thankyou for your consideration of these matters.

Yours faithfully



**EMMA YULE**

**BAppSc, Grad Dip URP**

**Atlas Environment and Planning**





Kandos Operations Pty Ltd  
Kandos Quarry



ABN: 79718726016

26 August 2019  
Our Ref: A19 Let Quarry (2)

Attn: Planning and Development

The General Manager  
Mid-Western Regional Council  
PO Box 86  
MUDGEES NSW 2850

Dear Sir/Madam,

**OBJECTION DEVELOPMENT APPLICATION DA0010/2020 – QUARRY ROAD CARWELL**

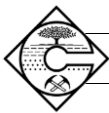
Please accept this letter as an objection to the development application on behalf of a client. The documents currently on exhibition for the Quarry have been reviewed. It is considered that the EIS is not complete in the assessment of the legislation that applies to the development. Also, the potential impacts of the development outweigh the claimed benefits and issues raised which support these claims are provided below. It is not supported that the EIS be utilised in its current form as an approved document or as a description of the proposal as the document has too many inconsistencies and gaps in information.

**Item 1 – Owners' consent**

Owners' Consent has not been obtained for all affected land parcels. The EIS is indicating that owners' consent will be sought after the fact. Vehicular access to the Quarry site is not in entirety via public roads. The proposal does not intend to realign the current road but obtain the consent of these other parties sometime in the future. What if they do not consent? Is Council assuming the road would be relocated to the road reserve to avoid private land? The crown road has existing vegetation that was not included in the assessment as part of the land to be cleared.

Section 2.11 of the EIS says that alternative access routes were considered, and the proposed realignment was to be the best. The document however elsewhere indicates the existing alignment is proposed to be relied upon. The EIS is not clear in intentions. Where the road intersection work is proposed it is unclear who owns the land.



**Item 2 – Use of Crown road reserve for Extraction Area**

Further to these land parcels, a part of a Crown Road Reserve is relied upon for part of the proposed extraction area. The development proposal may not be able to proceed if this land is to be excluded from extraction as it bisects the extraction area. The EIS has not considered this possibility.

**Item 3 – Crown Access**

Legal road is proposed to be extracted as identified above. No details on the rehabilitation of this have been made clear. The continuation of legal access has not been addressed. Is Council assuming this road will be closed and purchased for inclusion in the development or excluded from the development land? It is not practical to have this land excluded in the middle of an extraction area. Will the road be left without continuation of access for the term of the development and replaced at end of life of the operation? So many questions not clear in the EIS.

**Item 4 – MOP not included in Exhibition**

A lot the details refer to the MOP – e.g.: receipt of more material from the mines 1 and 2 (see EIS section 2.1.2). Directly taking more material for purpose of obtaining limestone rock is 'mining'. The development should be assessed as a mine site – Not extractive industry.

The MOP was not available for reference on exhibition. The public cannot make a full assessment of the DA proposal.

**Item 5 – Washing of selected material**

It is proposed to select material suitable for concrete aggregates, road aggregates and crushed rock products and sand. These are mining products from limestone. Section 1.4.4 Resource Identification and section 1.4.5 of EIS. The resources listed in the EIS (section 1.4.4) note shale, claystone, tuff, quartzite and minor limestone. However the EIS is silent on the material that is to be further taken from the mine site and estimated volumes.

Which selected material is chosen to be processed into concrete aggregates? It is reasonable to assume limestone, as out of the materials listed, the only material suitable for these products is limestone. The other resource types are not geologically suitable for washing or processing as such.

This is indicating the developer is trying to set up the mine to obtain limestone mineral products and calling it rehabilitation of the mine site and take the rehabilitation material as extraction activity. The details of this submission need to be clearly considered as the development appears to qualify as a mining pursuant to the Mining Act.



#### Item 6 - Value to community

The EIS gives a false impression of the flow on impacts to the community. The generation of \$933,000 per annum generated to local economy through wages and goods and services is not accurate. The applicant is a Bathurst based business with minimal local Mid-Western Regional LGA employees. The expected markets for sale of material were noted in the EIS to be sent outside of the local area to Sydney metropolitan markets. Sweeping statements have been made to exaggerate the benefits of this development. When in fact the rehabilitation of mine site is being compromised by lack of materials for completion of works.

#### Item 7 – DA would need to be modified for original mine

The EIS indicates this modification would be necessary. The details of this need to be made clear as it is a significant component of the impact of the proposed activities. The capacity for rehabilitation of the mine site must be reduced if the available material is taken from the mines and the overburden from the new proposed extraction area. This has not been assessed in the EIS to adequately consider the impacts of the development overall.

#### Item 8 – Rehabilitation

The Section 2.10.2 Quarry Closure Plan of the EIS is contradictory. This proposed DA is supposed to be a component of the overall rehabilitation plan detailed in the current MOP. Shouldn't the details of the quarry closure plan be dealt with immediately and not a decade after commencement? The final landform and land use should be clearly defined and clarified to enable a modification of the Mining Operations Plan and original DA. This is a clear indication the impacts of the development have not been given due consideration in the assessment.

Security for rehabilitation – a bond is held for the area currently. The impact this DA is going to have on the level of security held for the mine site is not clarified in the EIS. It would seem that the purpose of the DA is reduce the security held for the mine site, and transfer the regulatory authority responsibilities to Council.

#### Item 9 – Erosion and Sediment Control

Section 2.6.3 of the EIS touches on sediment and erosion control. This is a major potential impact of an open cut operation with the quantities of material and processing detailed in this proposal. The deferring of preparing an erosion and sediment control plan is not supported. Also, sediment basins are proposed to be relied upon for water supply – though not identified, as there is no erosion and sediment control plan.

#### Item 10 – Water use

Section 2.6.1 of the EIS refers to operational water sources. The Storage Dam cited to be relied upon is fed by Orchard Creek. Water is proposed to be removed under the assumed harvestable rights under section 53 of





the *Water Management Act 2000*. The assumed rights are based on 391ha of land held by the applicant. The area of the project site is approx. 83ha. This does not appear to make correct assumptions on the rights. How many other dams have taken part of the landholdings right? Water balance is not supported as a true assessment of the needs of the development or water available for use.

#### Item 11 – Quantities

No quantity is specified as to the rock to be received from the mine sites. This lack of information appears to elude application of mining legislation.

Receipt of rock (i.e. limestone) from a limestone mining site under a MOP surely should be mining.

#### Item 12 – Transport and traffic

The EIS indicates the proposal is for up to 250,000tpa. The EIS is not consistent in the assessment of vehicle movements and laden trucks leaving the site. The volumes that could leave the site vary considerably.

Section 2.5.7 states the following maximum vehicle movements:	Section 4.4.3.2 states the following traffic volumes
5 laden truck movements per hour	2 to 3 laden truck movements per hour
50 laden truck movements per week day (25 laden truck movements per Saturday)	34 laden truck movements per week day (17 laden truck movements per Saturday)
275 laden truck movements per week	186 laden truck movements per week
20 light vehicle movements per day	

Assuming a typical laden vehicle, as per the EIS carries 28 tonnes (section 4.4.3.2), the production capacity is well in excess of the assessed (400,000tpa\* or 270,000tpa\*). This raises the question is the intersection design going to be adequate, and what values were utilised? The impacts of the development have not been adequately assessed, the EIS cannot be relied upon for accuracy.

#### Item 13 – Life of the Proposal

The proposal does not include any estimate of quantity and impact of life of the proposal from other additional rock obtained from the mine site (refer to section 2.8.2 of the EIS). This may extend the life of the operation and follow that the time required for any rehabilitation to be completed is also extended.

**Item 14 – Safety and Security**

Insufficient detail has been provided to demonstrate the development site will be kept safe. With large water bodies and loose material to be extracted, no details have been provided to ensure that the development will be kept safe and secure. Geotechnical assessments of the walls of the extraction area and rehabilitation areas of the mine site should be required. Working face heights of 3-5m with screening plant located on benches to be made from what is described as a free digging material (section 2.3.2 of the EIS) have been described with schematic diagrams only. The actual contours of the pit area (extraction area) should be demonstrated to be safe and aimed in a direction towards the final landform (which is also undefined). The depth to the natural ground level has not been provided clearly.

Also the school bus routes should be identified clearly and the transport routes identified for safety of traffic and other road users.

**Item 15 – Cumulative impacts have not been adequately considered**

An extensive fleet of quarry vehicles and equipment is already present on site for the ongoing rehabilitation of the Carwell Creek Limestone Mine (as referred in section 2.3.4 of the EIS). The EIS fails to address this in the traffic volume estimates and workforce using the site and accessing Quarry Road.

Noise assessment and dust assessments should have cumulative impact assessments to adequately assess the impacts of the proposed development. Cumulative impacts have not been assessed and addressed in the EIS with any depth.

**Item 16 – The extractive material potentially contains minerals & is mining**

The EIS has indicated that the Western Overburden Emplacement area contains material that was unsuitable for cement manufacture and consists of mixed shale, claystone, tuff, quartzite and rare/or minor limestone.

Also, material to be sourced is through receipt of fragmented waste rock from the rehabilitation of the no 1 and no 2 limestone mines under the approved MOP. This is a way to say that limestone will continue to be mined from the site but processed by the 'extractive operations'.

Tuff is a volcanic rock that is typically used to describe material that falls under the term of feldspathic materials. This material is a listed mineral under the Schedule 1 of the Mining Regulation 2016. This mineral was not originally sought by the Carwell Creek Limestone Mines (minerals approved to be sought calcite, limestone, iron minerals and marble). That is, a material not previously mined – not a waste material.

The purpose of the operations to obtain this mineral and limestone indicate the options are in fact mining. The Council is asked to consider this and the fact that if the development is considered an amendment to the rehabilitation plan for the mine site that this should also qualify consideration under the Mining Act.

The Mid-Western regional LEP 2012 defines mining:

*“mining* means mining carried out under the *Mining Act 1992* or the recovery of minerals under the *Offshore Minerals Act 1999*, and includes:



Atlas Environment and Planning

- (a) the construction, operation and decommissioning of associated works, and
- (b) the rehabilitation of land affected by mining.”

“**mine** means any place (including any excavation) where an operation is carried on for mining of any mineral by any method and any place on which any mining related work is carried out, but does not include a place used only for extractive industry.”

The place is not only used for an extractive industry. The rehabilitation works are tied to the proposed development. The EIS details receipt of mineral material from the mine for processing and in the ongoing obligations to carry out rehabilitation and utilising mining infrastructure areas and water storages. The site is a mine.

Thank you for consideration of these matters. We would like to have a response on the questions raised in this correspondence in due course and to be kept informed on the progress of this application.

Yours faithfully



**EMMA YULE**

**BAppSc, Grad Dip URP**

**Atlas Environment and Planning**





Kandos Operations Pty Ltd  
Kandos Quarry

To, the general manager mid-western regional council

## Development application DA0010/2020

Kandos Operations Pty Ltd

Our property [REDACTED] are situated diagonally opposite no 2 mine and we wish to OBJECT to the above development.

### REASONS

- 1 We have heavily invested in a productive ground water bore for stock and domestic use, ANY BLASTING May affect the quality and quantity of the water supply. Unless kandos Operations can guarantee there will be no interruptions to our investment we will strongly object to the development
- 2 Blasting on a continual basis will impact on our dwelling, sheds etc.
- 3 Noise from blasting, machinery etc.
- 4 Dust from blasting and general operations
- 5 Increased truck traffic.

Sincerely Yours  
DW Mackay  
KR Mackay  
[REDACTED]







## Rylstone District



Environment Society Inc.

Rylstone District Environment Society Inc.  
PO Box 141 Rylstone NSW 2849  
[www.envirorystone.org.au](http://www.envirorystone.org.au)  
[rylstonekandosenviro@gmail.com](mailto:rylstonekandosenviro@gmail.com)

Mr Brad Cam,  
General Manager  
Mid-Western Regional Council  
Mudgee NSW 2850

30 August 2019

Dear Mr Cam,

### **Submission from Rylstone District Environment Society Inc.**

#### **DA 0010-2020 Kandos Quarry Development**

proposed by Kandos Development Corporation Pty Ltd

The proposal is for the extraction, processing and haulage of overburden from the Carwell Creek Limestone Mine

Rylstone District Environment Society Inc objects to this proposal in its present form.

#### **Context**

The Rylstone Kandos area has had cement, coal mining and lime industries for the past 100 years. However, it has never experienced the level of road haulage proposed in DA 0010-2020. At peak production, hundreds of thousands of tonnes of stone, cement and lime were transported in and around Kandos and Rylstone. However, for at least the last 70 years, almost none of this was transported by road.

All the quarry stone was transported on an aerial cableway, crossing above the Bylong Valley Way between the quarry turnoff and Kandos. A small amount, approximately 10 truckloads per day of cement, was hauled to inland NSW and the Hunter Valley. As nearly all final product travelled by rail, the only industrial traffic in and near Kandos and Rylstone were service vehicles and private employee vehicles.

This proposal represents an unacceptable change for the Kandos and Rylstone communities.

All three major extractive industries have ceased operating in Kandos in the last 10 years. The resulting eradication of air, dust and noise pollution has greatly increased the quality of life for residents. These



closures reduced employment for around 100 families. However, most of these families stayed in the area and have now found alternative employment in mines and other industries in nearby towns.

Since then, many newcomers have bought properties and now live in Kandos and Rylstone and in surrounding areas. They want the stress-free, pollution-free scenic lifestyle now available here. They are small business owners, tourism operators, telecommuters, artists, IT specialists and retirees. Many of them have started new businesses. We have a growing wine industry that is bringing increasing numbers of visitors to our area. De Beaurepaire Wines, with its national-award-winning wines are situated less than 5 kilometres from the quarry turnoff on the Cudgegong River. Their grapes and winery business would be impacted by extra dust and noise.

In the past year or two, struggling community organisations suddenly have a new lease of life. For example, the Kandos CWA now has 25 members. A couple of years ago, it was facing closure for lack of members.

This proposal would provide 6 new jobs only, not nearly enough to make up for the negative impacts it will cause.

#### **Issues**

##### **1. Water**

Past owners never washed limestone at the quarry. Increased use of water will place further stress on the Murray Darling Basin. EPA guidelines require the EIS to assess the impacts of the proposal on water quality, including the impacts on both surface and ground water. Mine No 2 void is very close to Windamere Dam. There has been seepage from one to the other in the past.

##### **2. Transport**

The proposal's Executive Summary claims that "the proponent would not adversely impact the level of service in the existing network". This is not correct. The predicted peak 50-60 truck movements per day will affect convenience, safety and service on the local road network. Using data in Section 4.3 of the EIS, calculations indicate that peak traffic volumes on Bylong Valley Way will increase by 77%. We consider this a significant increase. Roads in question are narrow with broken edges. They are also very quiet and have almost no warning signs. Wildlife often crosses the roads, both in the daytime and at night. The roads are enjoyed by bicycle riders and used by tourists visiting the area. In our opinion, the numbers of large vehicles in peak times would make the roads unsafe for other users.

##### **3. Noise**

Contrary to the proponent's advice, noise in Kandos near the cement works and the rail crossing is certain to increase significantly. The EIS needs baseline data showing current noise levels in Kandos so that future noise levels can be monitored. EPA guidelines state that a change of 2 decibels will be noticeable. At peak production, there will be around 50-60 truck movements per day across the level crossing at Kandos. This will represent a significant change in noise disturbance.

##### **4. Biodiversity**

With 50-60 truck movements per day on quiet bushland roads, the number of road kills will increase. Also, the proponent should note that an endangered endemic species of plant, *Grevillea obtusifolia* sub.sp *obtusifolia* is known to occur very close to the Quarry Road-Bylong Valley Way intersection. The last plant



survey on this road was done nearly 20 years ago. A new survey for this plant needs to be done before any roadworks are approved. Coomber Stringybark is also an endemic eucalypt near the Quarry Road–Cudgegong Road intersection. Its occurrence needs to be investigated and measures need to be taken to ensure any destroyed trees are replaced and new plantings are maintained.

#### **5. Dust**

Dust with significant levels of heavy metals will be generated at the loading area in the cement works. This will have short- and long-term impacts on health.

#### **Conclusion**

Members of Rylstone District Environment Society Inc object to this proposal in its present form. The proposed impacts on the local environment and safety and amenity of the area are not acceptable.

Yours sincerely,

Jennifer More  
On behalf of Rylstone District Environment Society



Kandos Operations Pty Ltd  
Kandos Quarry

J & SK Kuchta Pty Ltd  
[Redacted]

Midwestern Regional Council  
86 Market St  
Mudgee NSW 2848

29<sup>th</sup> August 2019

Dear Sir/Madam

Reference Development Application 0010/2020

I write in connection with the above development application and wish to offer my support to the proposal lined out in DA 0010/2020

My company J & SK Kuchta Pty Ltd has been supplying earthmoving services, readymix concrete and landscaping supplies to the Kandos community for the past 52 years.

During this period we have relied heavily on the local Quarry industries for aggregates.

Before the closure of Cement Australia's Quarry in 2011 situated at Carwell Creek we were able to purchase and pick up products from their quarry with access via the Quarry Road.

Since the closure in 2011 of the above quarry we have been forced to travel in excess of 140km round trip to purchase aggregates for our business at great cost to us for the extra fuel, wages and wear and tear on our vehicles

Having a Quarry industry within 15km of our plant would relieve these extra costs we've endured over the last 8 years

In the past 15 years in Kandos I have witnessed the closure of two collieries, a cement production plant, a quarry, several engineering businesses, a newsagency, banks, hotel, cafes and most recently the local hairdresser

Not only is this proposal for a new quarrying industry in Kandos beneficial to myself it is also of benefit to the local community by offering much needed employment and infrastructure.

Kandos was built on industry and without new industry I fear the community will continue to suffer economic hardship

Yours faithfully  
[Redacted]

Steven Kuchta  
Owner/Manager  
J & SK Kuchta Pty Ltd





***C.F. Horner and Son***

A.B.N.: 17 298 652 836

Thursday, 29 August 2019

To the General Manager of Mid Western Regional Council.

We would like to comment on:

**Development Application No. DA0010/2020 by Kandos Operations PTY Ltd.**

As the closet neighbour and dwelling to the Kandos Operations Quarry we would like to submit that we 100% SUPPORT this application to be APROVED. Having lived here for 50 plus years the Quarry, with several management/ owner changes, has never been an issue. They have always been our most considerate, supportive and helpful neighbours.

The noise pollution is minimal; the day to day traffic on Cudgegong Road is louder than any noise the Quarry makes.

There has never been any issue with dust.

Their operating hours are not a problem, far less intrusive then general farming hours.

There has never been any impact to the welfare of our stock or land.

They are brilliant neighbours who are trying to provide a much needed product for the area and surrounds, and have already made a huge improvement to the rehabilitation of the Quarry land since they have owned it. The sooner they are up and running again the better.

As Deputy Captains of the local RFS Clandulla, both my son and I need the quick route that the Quarry Road provides for us to the fire shed when responding to a callout. Without this road our response time is significantly longer, impacting our whole brigade as we are both licensed truck drivers, which there are few of in our brigade. We also use this road often for access to apiary sites we have on local and surrounding properties.

Please feel free to contact us if you have any questions regarding this submission. We look forward to your response.

Regards,

Charles Horner(Jnr)





**Kandos Operations Pty Ltd**  
Kandos Quarry

To the General Manager of Mid Western Regional Council.

**Re: Development Application No. DA0010/2020 by Kandos Operations Pty. Ltd.**

Please find attached the names, addresses and signatures of local property owners/neighbours bordering and/or in the vicinity of Kandos Quarry mentioned in the above Development Application.

All signatories SUPPORT the Development Application and wish to see it APPROVED as soon as possible so Kandos Operations Pty. Ltd. can commence working again. The community will benefit from the premium products they produce and the possible future jobs this application will create.

Name	Property/Address	Signature
STEVE ROSE	[REDACTED]	[REDACTED]
STEPHEN EVANS	[REDACTED]	[REDACTED]
MARY VRISAKIS	[REDACTED]	[REDACTED]
Charles F. Horner	[REDACTED]	[REDACTED]
Wayne Horner	[REDACTED]	[REDACTED]
Peter Newell 0439 662 626	[REDACTED]	[REDACTED]
Jodie Carver	[REDACTED]	[REDACTED]
Haven Croake	[REDACTED]	[REDACTED]







General Manager  
MIDWESTERN REGIONAL COUNCIL

The following people wish to show their support for Kandos Operations with their Development Application DA0010/2020.

The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

Name: Philip Le Address: .....

Name: Peter Gazzoli Address: .....

Name: GREG FRANKS Address: .....

Name: Gordon SMITH Address: .....

Name: TRUDIE VERMEULEN Address: .....

Name: Bob Tomlinson Address: .....

Name: Alice Fisher Address: .....

Name: K. ROGERS Address: .....

Name: Angus V.J Address: .....

Name: R. LOMAX Address: .....

Name: Tracey Evans Address: .....

Name: Vy Le Address: .....

Name: MATT HUNDY Address: .....

Name: TED BOOTH Address: .....

Name: Pat Forster Address: .....

Name: Helen Palmer Address: .....

Name: D. Usher Address: .....

Name: W.F. Baynton Address: .....

Name: J.V.B Address: .....

Name: Joseph Address: .....

Name: P. MURRAY Address: .....





**Kandos Operations Pty Ltd**  
Kandos Quarry

General Manager  
MIDWESTERN REGIONAL COUNCIL

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The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

Name: CRAIG SCHMIDT Address: .....

Name: Sam Mulla Address: .....

Name: DARREN GRANT Address: .....

Name: Rebecca Meyer Address: .....

Name: D. Brown Address: .....

Name: Nick James Address: .....

Name: A F BROWN Address: .....

Name: GRACE STANFORD Address: .....

Name: J. Edwards Address: .....

Name: M Wendle Address: .....

Name: M. MEEK Address: .....

Name: P. Jenkins Address: .....

Name: K Shipp Address: .....

Name: M BALWANTHA Address: .....

Name: T. Vassallo Address: .....

Name: Alexander Dunn Address: .....

Name: Alan Jackson Address: .....

Name: Bdo Cone Address: .....

Name: ..... Address: .....

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Name: ..... Address: .....



General Manager  
MIDWESTERN REGIONAL COUNCIL

The following people wish to show their support for Kandos Operations with their Development Application DA0010/2020.

The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

Name: Dennis Mann Address: ..  
Name: R Holmes Address: ..  
Name: B. Innes Address: ..  
Name: Donna Weld Address: ..  
Name: Jon Perrin Address: ..  
Name: Clinton Smith Address: ..  
Name: B. Pugh Address: ..  
Name: Rence Weekes Address: ..  
Name: Jane Munday Address: ..  
Name: Erma Brennan Address: ..  
Name: Dean munday Address: ..  
Name: John YATES Address: ..  
Name: Ken Bevis Address: ..  
Name: Jana Cameron Address: ..  
Name: Gray McCall Address: ..  
Name: Bec Webb Address: ..  
Name: S Tomlinson Address: ..  
Name: Allen Yates Address: ..  
Name: BELINDA COMER Address: ..  
Name: GREG HEALEY Address: ..  
Name: Ken Cate Address: ..







**Kandos Operations Pty Ltd**  
Kandos Quarry

General Manager  
MIDWESTERN REGIONAL COUNCIL

The following people wish to show their support for Kandos Operations with their Development Application DA0010/2020.

The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

Name: Renee Bedrossian Address: .....

Name: Raul Meechan Address: .....

Name: Adam Philpott Address: .....

Name: Stacey Philpott Address: .....

Name: Glen van Oosterum Address: .....

Name: Kore Fulwood Address: .....

Name: Michelle Fulwood Address: .....

Name: S. MOORE Address: .....

Name: P Hatfield Address: .....

Name: M Blunt Address: .....

Name: N. B A O D I E Address: .....

Name: S. HAMMOND Address: .....

Name: J. Banks Address: .....

Name: Terence Kelly Address: .....

Name: Spenser Dawson Address: .....

Name: Rob HEATH Address: .....

Name: Peter Spasojewic Address: .....

Name: Nash Heather Address: .....

Name: Wayne Korte Address: .....

Name: Doug Korte Address: .....

Name: Geoff Blunt Address: .....



General Manager  
MIDWESTERN REGIONAL COUNCIL

The following people wish to show their support for Kandos Operations with their Development Application DA0010/2020.

The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

Name: MARK DICKSON Address: .....

Name: DICK DUFF Address: .....

Name: Renee Gridner Address: .....

Name: Peter Watts Address: .....

Name: Aaron O'Leary Address: .....

Name: Daniel Eastburn Address: .....

Name: Rachel Maher Address: .....

Name: Glen Maher Address: .....

Name: Hayley Lomas Address: .....

Name: Darren Morris Address: .....

Name: Shannon Morris Address: .....

Name: Roo Manna Address: .....

Name: Lore Manna Address: .....

Name: Peter Tulewood Address: .....

Name: ..... Address: .....

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The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

[illegible]





General Manager  
MIDWESTERN REGIONAL COUNCIL

The following people wish to show their support for Kandos Operations with their Development Application DA0010/2020.

The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

Name: Ben Storr Address: .....

Name: STUART MEDRAE Address: .....

Name: Matthew Birch Address: .....

Name: FRANK D'ILIO Address: .....

Name: Garin Ray Address: .....

Name: Ben SENIK Address: .....

Name: Paul Ferguson Address: .....

Name: Judith Ferguson Address: .....

Name: James Dargatzis Address: .....

Name: Donna Kelly Address: .....

Name: Tim Kuchta Address: .....

Name: Yvette Hdswich Address: .....

Name: S. Luetter Address: .....

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**Kandos Operations Pty Ltd**  
Kandos Quarry

General Manager  
MIDWESTERN REGIONAL COUNCIL

The following people wish to show their support for Kandos Operations with their Development Application DA0010/2020.

The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

Name: Dennis Manton Address: [REDACTED]  
Name: JACQUI SHIRMAN Address: [REDACTED]  
Name: J. ROGERS Address: [REDACTED]  
Name: J. MADLEY Address: [REDACTED]  
Name: A. SHIRMAN Address: [REDACTED]  
Name: ..... Address: .....  
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General Manager  
MIDWESTERN REGIONAL COUNCIL

The following people wish to show their support for Kandos Operations with their Development Application DA0010/2020.

The Quarry has been part of the local areas history for many years and its continued use will benefit Kandos and the local region.

Name: Steven Kentel Address: .....

Name: Jo Sheely Address: .....

Name: Jim Clark Address: .....

Name: ..... Address: .....

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Name: ..... Address: .....

Name: ..... Address: .....

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***Attachment D: Agency Responses including General Terms of Approval***



Reference CM9: DOC19/194796

Lindsay Dunstan  
Manager Statutory Planning  
Mid-Western Regional Council  
PO Box 156  
MUDGEES NSW 2850  
**Email:** council@midwestern.nsw.gov.au

Dear Sir/Madam

**DEVELOPMENT APPLICATION DA 0010/2020- EXTRACTIVE INDUSTRY KANDOS QUARRY**

Thank you for the opportunity to comment on the proposal. Crown Lands has reviewed the *Environmental Impact Statement* (EIS) regarding the use and occupation of Crown land for the proposed activities.

It is noted that the Development Application has listed Crown land Lot 7301 DP 1131746 and Lot 7303 DP 1137494.

As per our discussions with Council, it has been determined that Crown land Lot 7308 DP1137492 has now been excluded from the Project Site as defined by Figure 1.2 and Section 1.2 of the EIS. To ensure that no disturbance occurs on this parcel of Crown land the Applicant would need to determine the boundaries to ensure that employees do not mistakenly use the land during operations. Notwithstanding, this undisturbed Crown land is still part of Consolidated Mining Lease 12 in which rehabilitation continues to be progressed overall on the site.

With regard to Lot 7301 DP1131746 it refers to in Section 1.2 that the Lot is excluded from the Project Site. The Applicant has stated that no surface disturbance activities are proposed, however the existing Site Access Road will be used to provide access to No. 2 Mine. The current Permissive Occupancy 163087 issued by our Department is for grazing. It is acknowledged that this Site Access Road has previously been subjected to Mining Leases as shown on historical records (Attachment A). It would need to be determined by the Applicant if these are still current and have been incorporated into Consolidated Mining Lease 12 to ensure ongoing legal use of the land. This will be subject to a Compensation Agreement to be prepared in accordance with the *Mining Act 1992*. If this is not the case, then the Applicant would need to discuss with the Department the issues of legal access across the Crown land.

With regard to Lot 7303 DP 1137494 (part Quarry Road) our records indicate that this Crown Reserve was part of Private Mining Lease 31 and during this currency was reserved as a road (Attachment A and B). It would also need to be determined by the Applicant if any such mining tenements have been incorporated into Consolidated Mining Lease 12 to ensure legal use of the land. This may be subject to a Compensation Agreement to be prepared in

accordance with the *Mining Act 1992*. If this is not the case the Applicant would need to progress its current discussions with the Department regarding legal use of the current Crown Reserve.

In addition, there is no mention of the final landform for the part of Quarry Road that traverses Crown land Lot 7303 DP 1137494. The Department will require rehabilitation of this section of road on completion of activities for the subject Project. The future use of the Crown reserve for road access is not part of its gazetted purpose and the Department are not in a position to carry out ongoing maintenance.

With regard to the northern section of Quarry Road that aligns 'off and on' Crown road I refer to comments to the Applicant on 25 July 2019 that the Department is not in a position to issue a tenure for the construction for the realignment of Quarry road within the Crown road boundary. There were other alternatives that can be sought by the Applicant. As stated in Section 2.1 a Section 138 Permit under the *Roads Act 1993* for works within public road reserves is required for the Integrated Development for which Council will need to consider acquisition with the addition of the required road contributions.

With reference to section 3.1.2, an Extractive Licence is currently being sought by the Applicant over an unformed Crown road to extract material. This Extractive Licence Application is currently being considered by the Department and will be progressed accordingly.

With reference to ongoing activity that is occurring under the current mining tenement (CML12) a Compensation Agreement is also being progressed with the Department on the relevant impacted Crown land.

A review of the rehabilitation strategy for the Project Area has determined that rehabilitation is sufficiently described and the final land form which is to be returned to a pre-existing water drainage is acceptable to the Department.

Lastly, we are currently processing a formal Land Owner's Consent application as required for the lodgement of the Development Application and will submit this to Council shortly.

If you have any queries please contact Kay Oxley, Senior Natural Resource Management Officer on 6391 4334.

Yours faithfully



Daryl Lawrence  
**Group Leader, Property Management**  
**Crown Lands, Orange**

05/09/20219

cc: David Baber, DPIE, Crown Lands, Commercial Property Services





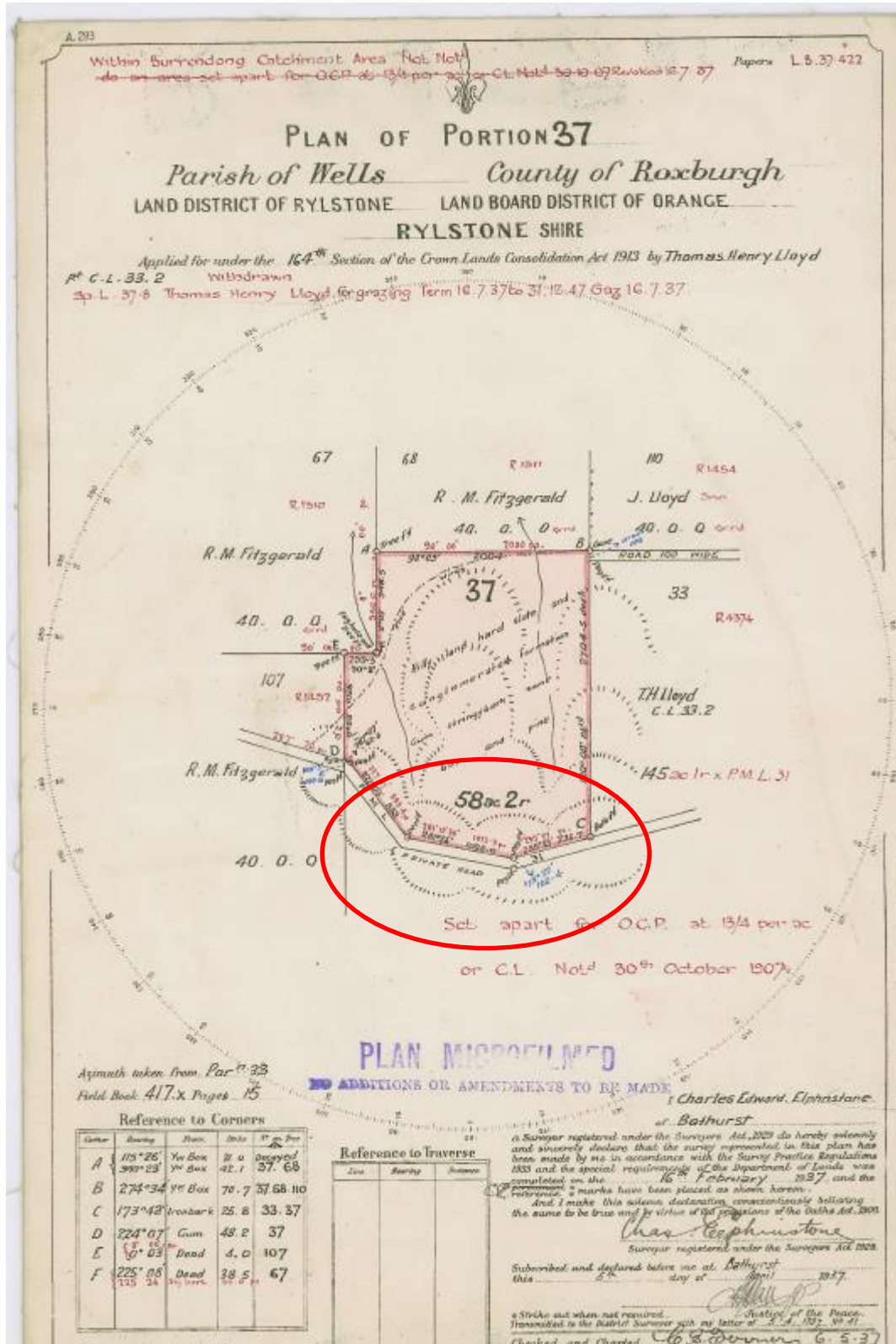


# REFERENCE TO MINING SURVEYS

GOLD LEASES			MINERAL LEASES				LEASES ON PRIVATE LANDS(N									
Par No	Plan	Area	Par No	Plan	Area	To mine for	No	On por	Plan	Area	To mine for	No	On por	Plan	A	
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2			172	15687	0 1 19	do						12	7 & 36	3839	12	
3			203	15581R	21 3 9	Tramway						2313	7 & 92	3840	1	
4			244	15914	0 1 29	Limestone						2714	101	3841	2	
5			255	15921	1 1 25	do						2815	101 & 107	3842	2	
			266	15922	2 0 22	do						3016	100, 101, 102	3843	1	
			397	17853	19 1 37	do						2517	101	3844	2	
			63 8	20696	1 3 25	Road						3118	103	3850	2	
			479	18092	0 0 21	Machinery & Pipe Line						3219	103	3851	2	
			4810	18218	5 0 0	Manganese						3320	103	3852	1	
			4811	18569	4 2 0	do						3421	69	3853	1	
			12	20101	2 3 6	Roadway						3522	69	3854	2	
			PML 31	P 5968R	29 2 7	Road ex ML	P.M.L					3523				
			39	6740	4 1 3	Road	1 2	34	3009	10 0 0	Limestone	24	7	3912	2	
			ML 318	17440R	21 2 35	Tramway	P.M.L 318	107 & 108	3142	9 3 35	do	25				
			13	20203	2 1 17	Roadway						26	131	4437	8	
			24	18129R	35 2 21	Aerial Rope & Water Cont.	145	34 & 105	3225	27 0 0	do	3827	131	5373	42	
			5027	18972	19 2 25	Roadway & Power Transm.	156	34	3598	2 2 10	do	4028	101, 107	5478	22	
			5128	19017	1 1 31	Limestone	167	108	3623	2 2 19	do	4129	101, 107, 108	5469	17	
			5329	19018	2 0 36	Roadway Repairs	168	131	3624	20 0 0	do	4330	101, 107, 108	5954	4	
			5730	19024	9 1 3	Pipe Line, Dam & Elect. Trans. Line	199	108	3661	0 2 6	do	31	108 etc	5968R	29	
			5831	19979	0 1 21	Roadway & R.	2110	131	3705	10 2 0	do, etc				ex ML 3, 18 than that of	

Excerpt Parish of Wells County of Roxburgh 1916

Attachment B







Our reference: 18/04923#01  
LOC No: 615271

Steve Pearson  
Phone: 02 6391 4317  
steve.pearson@crownland.nsw.gov.au

Cathy Clark – Kandos Operations Pty Limited  
625 Freemantle Road,  
Bathurst NSW 2795

6 Feb 2020

Dear Cathy

**Consent for  
development  
comprising:  
Crown Land**

Lodgement of DA0010/2020 – for extractive industries

**Crown reserve**

1. Lot 7003 DP1137494  
2. Crown Road adjoining Lot 2 DP716324 – see figure 1  
below for location

**Parish  
County**

1. Reserve 755802 for future public requirements  
2. Crown road for public access  
Wells  
Roxburgh

Consent is granted by the Minister for Water, Property & Housing to the lodgement of applications for approval under the *Environmental Planning and Assessment Act 1979*, and other associated applications required under other legislation, for the development proposal described above.

The Land Owner Consent is granted conditional to the following:

1. Land Owner Consent will expire after a period of 12 months from the date of this letter if not acted on within that time. Extensions of this consent may be sought
2. You are required to forward a copy of the approval to the NSW Department of Industry - Lands and Water ("the Department") after approval and prior to commencing works.
3. You are required to ensure that the approval provided is consistent with this Land Owner Consent.
4. You must apply to the Department for authority to occupy the Crown land. Crown land cannot be occupied prior to this authority being granted.
5. The Land Owner Consent is provided for the works detailed on the plans provided by you and retained by the Department in CM9 Container 18/04923 and including EIS lodged in July 2019 in DOC19/194794 and updated parcels emailed to Kay Oxley on 17 Jan 2020.

Land Owner Consent is granted in accordance with the following:

- Land Owner Consent is given without prejudice so that consideration of the proposed development may proceed under the *Environmental Planning and Assessment Act 1979* and any other relevant legislation;
- The grant of this Land Owner Consent does not guarantee that any subsequent authority to occupy will be granted;

- Land Owner Consent does not imply the concurrence of the Minister for Water, Property & Housing for the proposed development and does not provide authorisation under the *Crown Land Management Act 2016* for this proposal;
- The issue of Land Owner Consent does not prevent the Department from making any submission commenting on, supporting or opposing an application;
- The Minister reserves the right to issue Land Owner Consent for the lodgement of applications for any other development proposals on the subject land concurrent with this Land Owner Consent;
- Any changes made to the proposal, including those imposed by the consent authority, must be consistent with the Land Owner Consent and therefore if modifications are made to the proposed development details must be provided to the Department for approval;
- Land Owner Consent also allows application to any other approval authority necessary for this development proposal.

This letter should be submitted to the relevant consent or approval authority in conjunction with the development application and/or any other application. You are responsible for identifying and obtaining all other consents, approvals and permits required under NSW and Commonwealth laws from other agencies for the proposed development.

It is important that you understand your obligations relating to Condition 3. If any alterations are made to the application (whether in the course of assessment, by conditions of consent, or otherwise), it is your responsibility to ensure the amended or modified development remains consistent with this Land Owner Consent. If there is any inconsistency or uncertainty you are required to contact the Department before undertaking the development to ensure that the Department consents to the changes. A subsequent LOC application may incur additional application fees.

It is advised that the Department will provide Mid-Western Regional Council (council) a copy of this Land Owner Consent and will request that council notify the Department of the subsequent development application, for potential comment, as part of any public notification procedure.

Authority to occupy Crown land in this instance refers to the right under the *Crown Land Management Act 2016* to either use or manage the land. Your current Consolidated Mining Lease 12 (CML12) permits you to undertake the proposal to the extent of CML12. Based on currently available information a small area of both Crown road and Crown Reserve 755802 will require an additional licence for access - prior to any works commencing.

**PLEASE NOTE:**

During the assessment of your proposal it was also determined that Native Title has not been extinguished on Lot 7003 DP71137494, and the land is subject to a current claim under the *Native Title Act 1993 (Cth)*. Although the Department has issued Land Owners consent to enable lodgement of your Development Application, we will not be able to issue an Access Licence for authority to occupy and use Lot 7303 DP1137494. Should the proponent furnish evidence of Native Title extinguishment on this parcel we would review this decision.

The Department will however be able to issue a licence over the western side of the Crown road not covered by the CML12, but within the project area.

For further information, please contact Steve Pearson via the details given in the letter head.

Yours sincerely



Steve Pearson  
Senior NRM Officer  
Department of Industry – Crown Lands and Water, Orange



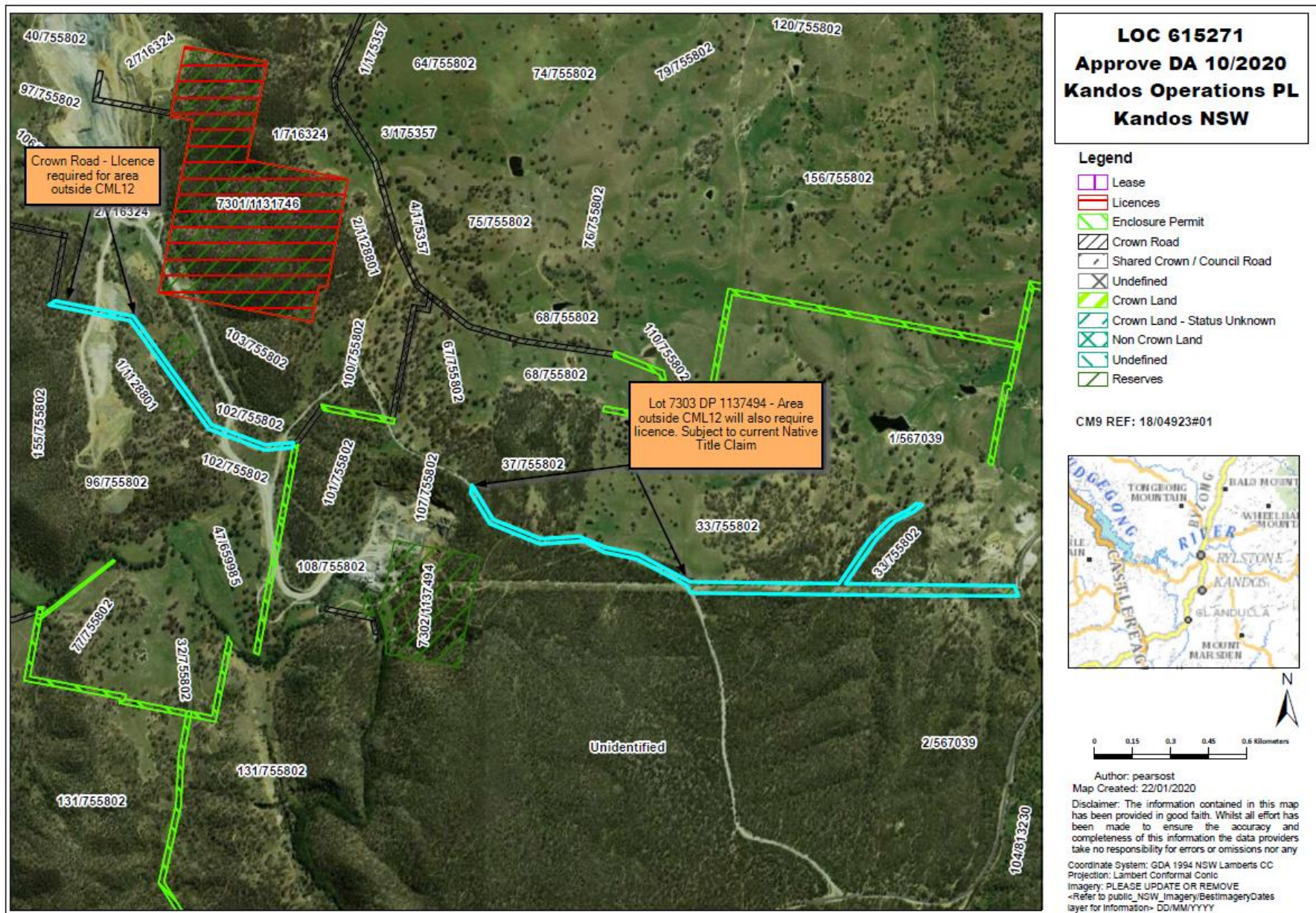


Figure 1: Area of Crown Land impacted by this development –identified by arrows above .



# General Terms of Approval - Issued



Notice No: 1585569

The General Manager  
Mid-Western Regional Council

via e-mail: [council@midwestern.nsw.gov.au](mailto:council@midwestern.nsw.gov.au)

Attention: Ms Kayla Robson

Notice Number      1585569  
Date                    25-Sep-2019

Dear Mr Cam

**KANDOS QUARRY - DEVELOPMENT APPLICATION 0010/2020**  
**Issued pursuant to Section 4.47(2) *Environmental Planning and Assessment Act 1979***

I refer to the development application and the supporting documentation received by the Environment Protection Authority (EPA) on 31 July 2019 for the proposed 'extractive' and 'crushing, grinding or separating' activities proposed at the Kandos Quarry, located at 329 Quarry Road, Carwell (the Proposal).

The EPA has reviewed the abovementioned information, including public submissions provided by Council, and has determined that the proposal is consistent with the current environment protection licence (No. 21165) issued to the proponent, subject to a number of variations to this licence. The proponent will need to make a separate application to the EPA to vary environment protection licence should development consent be granted by Council.

The EPA's General Terms of Approval (GTAs) for this Proposal are provided at **Attachment A**. If Council grants development consent for this proposal then these conditions should be incorporated into the consent.

It should be noted that the EPA's Central West Region has adopted more streamlined GTAs to avoid conflicts with development approvals, to limit the need for ongoing modifications to development approvals for small matters that are the responsibility of the EPA and to provide the EPA with greater flexibility regarding site specific environmental conditions to be placed on any environment protection licence.

The EPA has also provided at **Attachment B** for Mid-Western Regional Council and the Proponent's reference, specific variations that would need to be made to the current environment protection licence if consent is granted. However these proposed variations should not be included in the consent document, unless deemed necessary for Council's own specific purposes.

These GTAs relate to the Proposal as described in the development application and accompanying information currently held by the EPA. In the event that the Proposal is modified either by the proponent prior to the granting of consent or as a result of the conditions proposed to be attached to the consent and/or environment protection licence, it will be necessary to consult with the EPA about the changes before the

## General Terms of Approval - Issued

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consent is granted. This will enable the EPA to determine whether its GTAs need to be modified in light of the changes.

Should you have any enquiries regarding this matter please contact Mr Andrew Helms at the Central West (Bathurst) Office of the EPA by telephoning (02) 6333 3805.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'SL' or similar, written over a horizontal line.

**SHERIDAN LEDGER**  
**Unit Head Central West Region**  
**Environment Protection Authority**

(by Delegation)

Attachment A: General Terms of Approval

Attachment B: Proposed variations to existing Environment Protection Licence No. 21165

# General Terms of Approval - Issued



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## ATTACHMENT A EPA's General Terms of Approval Recommended conditions of development consent

- Except as expressly provided by these General Terms of Approval (GTAs) or by any conditions of consent granted by Bathurst Regional Council or the conditions of an in-force Environment Protection Licence issued by the Environment Protection Authority, works and activities must be carried out in accordance with the proposal contained in:
  - o the Development Application 0010/2020 submitted to Mid-Western Regional Council; and
  - o any other additional information provided to Council.
- Should any conflict exist between the abovementioned documents, the most recent document or revision supersedes the conflict, except where superseded by any conditions of approval issued by Council or the conditions of an in-force environment protection licence issued by the Environment Protection Authority.
- An Environmental Management Plan must be prepared and implemented within 3 months of development consent being granted. The plan must include, but not be limited to:
  - i. The identification and mitigation of potential impacts to surface water and soils. The plan must make reference to the requirements outlined in the document *"Managing Urban Stormwater: Soils and Construction (Landcom, 2004)"* and *"Managing Urban Stormwater: Soils and Construction – Volume 2E - Mines and Quarries (DECC, 2008)"*;
  - ii. Air quality (dust) management measures; and
  - iii. Noise management measures.
- Hours of Operation:

Operational activities related to the Proposal may only be undertaken during the following hours:

- 6:00 am to 6:00 pm, Monday to Saturday; and
  - at no time on Sundays or Public Holidays.
- Trucks entering and leaving the premises that are carrying loads on public roads must be covered at all times, except during loading and unloading.
- The internal quarry access/haulage road must be maintained in a condition that prevents or minimises the emission into the air of air pollutants (which includes dust).
- All trucks and mobile plant operating within the premises must be fitted (where there is a requirement for such devices to be fitted under the Work Health and Safety legislation) with broad-spectrum reversing alarms.

# General Terms of Approval - Issued

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## **ATTACHMENT B** **Proposed variations to existing Licence No. 21165**

The EPA, upon Council granting development consent, would require the variation of the existing Environment Protection Licence (No. 21165) to include the following conditions that specifically relate to the Proposal.

- Updating condition A1.1 to include 'Extractive' activities;
- Update condition A2.1 to revise the premises details to reflect the details provided in the EIS prepared for the Proposal;
- Addition of a new condition under condition A1.1 to limit the annual 'crushing, grinding or separating' capacity at the premises to <250,000 tpa;
- Updating of the noise conditions (under 'L4 Noise limits') to reflect new project specific noise criteria and to reflect the requirements of the guideline 'Noise Policy for Industry' (EPA, 2017);
- Updating of condition L6.1 to align hours of operation with that stated in the Proposal; and
- The removal of redundant operational condition O4.1.





Kayla Robson  
Mid-Western Regional Council  
PO Box 156  
Mudgee NSW 2850

Our ref: DOC19/695718  
Your ref: DA0010/2020 (EAR 1296)  
File: SF19/7086

Emailed:  
kayla.robson@midwestern.nsw.gov.au

16 August 2019

Dear Ms Robson

**Subject:** DA0010/2020 – Kandos Quarry – Environmental Impact Statement

Thank you for the opportunity to comment on the Environmental Impact Statement (EIS) in support of development consent for the Kandos Quarry (DA0010/2020). This is a response from the NSW Department of Planning, Industry & Environment – Division of Resources & Geoscience (DRG), Geological Survey of New South Wales (GSNSW).

The proponent has demonstrated the nature, quality and extent of the resource and note that no biodiversity offsets are proposed at this stage. GSNSW consider the project a beneficial reuse of by-products of past mining operations for construction purposes and has no resource sterilisation concerns to raise.

GSNSW notes that compliance with the existing Mining Operation Plan (MOP) for Consolidated Mining Lease 12 (CML12) is a matter for DPIE – Resources Regulator.

The Division collects data on the quantity of construction materials produced annually throughout the State. Forms are sent to all operating quarries at the end of each financial year for this purpose. The statistical data collected is of great value to Government and industry in planning and resource management, particularly as a basis for analysing trends in production and for estimating future demand for particular commodities or in particular regions. Production data may be published in aggregated form, however production data for individual operations is kept strictly confidential.

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 DRG as a condition of development consent.

Future requests for advice in relation to this matter should be directed to the Division of Resources & Geoscience – Land Use team at [landuse.minerals@geoscience.nsw.gov.au](mailto:landuse.minerals@geoscience.nsw.gov.au).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'A. Helman'.

Andrew Helman  
Senior Geoscientist – Land Use Assessment  
Geological Survey of NSW, Division of Resources & Geoscience



**Western Region**

Cnr Monash and Chelmsford Streets  
Dubbo NSW 2830  
(PO Box 865 Dubbo NSW 2830)

T: 02 6841 4205

E: jarod.dashwood@fcnsw.com.au

Kayla Robson  
Senior Planner  
Mid-Western Regional Council  
PO Box 156  
MUDGEE NSW 2850

24 September 2019

Dear Kayla

RE: EXTRACTIVE INDUSTRY (QUARRY) @ 329 QUARRY ROAD CARWELL (DA0010/2020) – REVIEW  
OF ENVIRONMENTAL IMPACT STATEMENT

Subject to the proponent agreeing to the terms of a forest permit, FCNSW has no objections to the proposal.

A forest permit would serve as consent from FCNSW for the proponent to:

1. Use FCNSW's road network for site access and the transport of extractive material to market;
2. Take timber and forest products from State forest for road realignment and intersection construction purposes;
3. Seal State forest roads where nominated by the EIS;
4. Maintain and repair State forest roads for the duration of the project (including public access);
5. Undertake rehabilitation works (i.e. site preparation and subsequent preservation of re-colonising native vegetation);
6. Establish necessary safety signage;
7. Control road side vegetation including weeds; and
8. Maintain road side tidiness.

FCNSW shall notify Council upon the issuing of any forest permit.

Kind regards



Jarod Dashwood  
Forest Occupancy Supervisor  
FCNSW WESTERN REGION

Ms. Kayla Robson  
Senior Town Planner  
Mid-Western Regional Council  
PO Box 156  
Mudgee NSW 2850

By email: [kayla.robson@midwestern.nsw.gov.au](mailto:kayla.robson@midwestern.nsw.gov.au)

**Kandos Quarry [CML12 (1992), ML1611 (1992), ML1612 (1992), ML1613 (1992), ML1614 (1992), ML1615 (1992)]: Adequacy of the Statement of Environmental Impact Statement (EIS) and Request for General Terms of Approval**

Dear Ms. Robson,

The Environmental Impact Statement (EIS) for Kandos Quarry has been forwarded to the Resources Regulator to provide comment on the EIS and provide of General Terms of Approval for Kandos Quarry, particularly in relation to rehabilitation.

Kandos Quarry has been classified as Integrated Development pursuant to the *Environmental Planning and Assessment Act 1979* (EP&A Act) and therefore requires both development consent under the EP&A Act as well as the granting of a Mining Lease under the *Mining Act 1992*. In regards to the *Mining Act 1992* the site of the proposed development falls within the Mining Lease(s) CML12 (1992), ML1611 (1992), ML1612 (1992), ML1613 (1992), ML1614 (1992), ML1615 (1992) thereby satisfying this requirement.

The Resources Regulator has undertaken this review to determine whether the applicant has provided sufficient information in the EIS to assess the potential impacts of Kandos Quarry. Specifically, the review has been undertaken to determine whether sustainable rehabilitation outcomes can be achieved as a result of the project and that any identified risks or opportunities can be effectively regulated through the conditions of mining authorities issued under the *Mining Act 1992*.

### **Development Details**

Kandos Quarry is an open cut operation located approximately 5 kilometres from west of Kandos, NSW. The proposed project seeks to extract 250,000t/pa of waste rock comprised of shale, tuff, quartzite and limestone from the Western Overburden Emplacement. Waste rock will be processed on site to produce road base and concrete aggregate and trucked off site via a realigned Bylong Valley Way intersection which provides adequate Safe Intersection Sight Distance.

### **Environment and Rehabilitation**

Compliance Operations within the Resources Regulator has responsibility for providing strategic advice for environmental issues pertaining to the proposed project in so far as they relate to or affect rehabilitation.

The Resources Regulator advises the Mid-Western Regional Council that the environmental assessment requirements for rehabilitation have been adequately addressed in the Environmental Impact Statement (EIS) for Kandos Quarry, dated 3<sup>rd</sup> July 2019.

The Resource Regulator has determined that sustainable rehabilitation outcomes can be achieved as a result of the project and that any identified risks or opportunities can be effectively regulated through the conditions of mining authorities issued under the *Mining Act 1992*.

The Resources Regulator requests that Mid Western Regional Council notify the proponent of the following general terms of approval associated with the granting of a mining lease pursuant to the *Mining Act 1992*.

- Any disturbance resulting from the activities carried out under the mining lease will need to be rehabilitated to the satisfaction of the Minister.
- The lease holder must apply to the Minister for approval of a Mining Operations Plan (MOP) prepared in accordance with the relevant Resources Regulator guidelines. An approved MOP must be in place prior to commencement of any significant surface disturbing activities, including mining operations, mining purposes and prospecting. The MOP must identify the post mining land use and set out a detailed rehabilitation strategy.
- The lease holder will be required to prepare an Annual Rehabilitation Report to the satisfaction of the Minister. The report must be prepared in accordance with the relevant Resources Regulator guidelines and must provide a detailed review of the progress of rehabilitation against the performance measures and criteria established in the approved MOP.
- The lease holder will be required to provide and maintain a security deposit to secure funding for the fulfilment of obligations of all and any kind under the mining lease, including obligations of any kind under the mining lease that may arise in the future.

It should be noted that this review does not represent the Resources Regulator's endorsement of the proposed rehabilitation methodologies as presented in the EIS. Under the conditions of a mining lease granted under the *Mining Act 1992*, the Resources Regulator, requires a mining lease holder (holder) to adopt a risk-based approach to achieving the required rehabilitation outcomes. The applicability of the controls to achieve effective and sustainable rehabilitation is to be determined based on the site specific risk assessments conducted by a holder. This risk assessment should be used to not only establish a basis for managing risk when planning an activity, but it should also be used and updated (as required) to continuously evaluate risk and the effectiveness of controls used to prevent or minimise impacts. A holder may also be directed by the Resources Regulator to implement further measures, where it is considered that a risk assessment and associated controls are unlikely to result in effective rehabilitation outcomes.

The Resources Regulator requests a review of the draft development consent conditions prior to finalisation and any granting of development consent.

## **Mine Safety**

Mine Safety Operations within the Resource Regulator is responsible for ensuring mine operators manage the risk to worker health and safety through compliance with the *Work Health and Safety (Mines and Petroleum Sites) Act 2013* and the subordinate mining legislation. In particular the effective management of risk associated with the principal hazards as specified in the *Work Health and Safety (Mines and Petroleum Sites) Regulation 2014*.

Mine Safety Operations have not identified any risk that would require comment in relation to this matter.

For enquiries regarding this matter please contact me on 4063 6666 or [minres.environment@planning.nsw.gov.au](mailto:minres.environment@planning.nsw.gov.au)

Yours sincerely

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

Christine Fawcett  
**Manager Environmental Operations**  
**Compliance Operations**

On behalf of  
Steve Orr  
**A/Director Compliance Operations**  
**Resources Regulator**  
**NSW Department of Planning and Environment**

19 August 2019



Contact: Lachlan Browne  
Phone: 02 6763 3917  
Email: lachlan.browne@waternsw.com.au

General Manager  
Mid-Western Council  
PO Box 156  
MUDGEE NSW 2850

Your ref: DA10-2020

10 September 2019

Dear Sir/Madam

**Re: Integrated development referral – Kandos Quarry at 329-331 Quarry Road  
CARWELL NSW 2849.  
DA Ref: DA10/2020**

I refer to your recent referral relating to the above integrated development.

Within the Executive Summary under the Approvals Required section the proponent indicates that it is anticipated that a "Works Authority & Water Access Licence" will be required. This contrasts with the remainder of the EIS where it is stated that the only water to be extracted will be coming from the onsite storage dam under the proponent's harvestable right.

Clarification was sought on this matter & WaterNSW were informed that this section had been left in from an earlier draft. The proponent confirmed that the only water to be extracted was from the onsite storage under their harvestable right.

#### **Harvestable Right Dam**

The EIS states that the proposal would obtain all operation water requirements from the onsite storage dam. Under the Harvestable Rights Order Landholders in rural NSW can build dams on minor (first or second order) streams and capture up to 10% of their property's average rainfall run-off without the need for a Water Supply Work and Water Use Approval or Water Access Licence. Based on the proponent's landholdings of approximately 391ha their maximum harvestable right dam capacity is approximately 27.4ML. The dam in its current size & location complies with the Harvestable Rights Order & the landholder does not require the proponent to hold an Approval or Licence under the *Water Management Act 2000*.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Mark Campbell", is written over the typed name.

p.p.  
**Mark Campbell**  
**Senior Water Regulation Officer**





26 August 2019

SF2016/18261; WST16/00033/10

The General Manager  
Mid Western Regional Council  
PO Box 156  
MUDGEES NSW 2850

Dear Sir

**DA0010/2020: Lot 77 DP 755802, Lot 1 DP 338995 & Part Lot 131 DP 755802 and 8 more; 329-331 Quarry Road, Carwell  
Environmental Impact Statement, Kandos Quarry**

Thank you for correspondence received on 1 July 2019 referring the Kandos Quarry Environmental Impact Statement (EIS) to Roads and Maritime Services for comment.

DA0010/2020 has been referred to Roads and Maritime pursuant to section 138(2) of the *Roads Act 1993* and section 16(2) of the *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*.

The documentation submitted in support of the EIS has been reviewed. Roads and Maritime notes the proposal includes the following:

- Extraction and processing of up to a maximum of 250,000 tonnes per annum (tpa) of extractive materials for road base and aggregates.
- Operating hours would be six days per week (Monday to Saturday) between 6am to 6pm.
- Transportation of materials is proposed to occur via Quarry Road (private road) with either Bylong Valley Way (MR215) a regional classified road or Cudgegong Road, with some restrictions on the movement of quarry trucks on Cudgegong Road.
- Based on a mix of haulage vehicle types with an average payload of 28 tonnes per truck, which would equate to an *average* of 186 laden truck loads per week or 2 to 3 laden truck loads per hour.
- The quarry is expected to employ five people equating to approximately 20 vehicle trips per day arriving and departing prior to despatch and after despatch is completed. Therefore staff arrival peak should fall outside of operation peaks.

**Roads and Maritime Services**

- The applicant is proposing that during initial operations and prior to completion of the realignment of Quarry Road and construction of the new intersection with Bylong Valley Way, the existing intersection would be used with a limitation on truck movements to left turns in and out of Quarry Road only. Roads and Maritime does not support this proposal and recommends the intersection upgrade is to be completed prior to commencement of quarrying operations to ensure safety of all road users is maintained. The existing intersection is to be closed and made redundant once the new intersection is constructed.
- Roads and Maritime granted concurrence (07 August 2017) to the proposed development pursuant to Section 138(2) of the *Roads Act 1993*, subject to a condition that Safe Intersection Sight Distance (SISD) is in accordance with Part 4A of *Austroads Guide to Road Design* and relevant Roads and Maritime supplements to be provided at the new intersection of Quarry Road and Bylong Valley Way.
- It is further noted that this concurrence was granted based on the provision of a Channelised Right Turn treatment (CHR) and an Auxiliary Left turn (AUL) treatment as part of the new intersection with Bylong Valley Way. Detailed design plans should be submitted to Roads and Maritime and approved prior to construction for review. Preliminary plans were previously provided to Roads and Maritime in June, 2017 however provision of detailed plans for these works is recommended. These identified CHR/AUL treatments.
- As noted in Appendix 4 - 5. Conclusion noted..."realignment of Quarry Road and its intersection with Bylong Valley Way as proposed by RMS, with the intersection design to include a Channelised Right Turn lane and a Basic Left turn treatment (BAL) in Bylong Valley Way". The installation of a BAL as opposed to an AUL treatment needs to be further clarified by the proponent with Roads and Maritime as it is inconsistent with previous correspondence.

Pursuant to section 16 of *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*, Roads and Maritime provides the following recommendations for Council's consideration:

- Implementation of a Driver Code of Conduct (CoC) to apply to *all* employees of the quarry not just relating to heavy vehicle operators is recommended. In addition to those areas as outlined in Appendix 4.7.4 of the EIS inclusion of the use of mobile phones, driving in adverse weather conditions (fog and icy road conditions) awareness of animal strikes on roads and driver fatigue are considered imperative as part of any future Driver CoC for the quarry.
- The provision of an employee commuter bus to transport staff to and from site may also be considered by the proponent as a road safety fatigue management mitigating measure.
- Haulage operations coinciding with local student school bus pick up/drop off times are to be avoided.

Please forward a copy of Council's determination of the proposal to Roads and Maritime at the same time it is sent to the applicant. Should you require further information please contact Ainsley Bruem, A/Manager Land Use Assessment on 02 6861 1449.

Yours faithfully



Dane Hendry  
Senior Manager, Regional Customer Services  
Western Region



13 January 2020

SF2016/018261; WST16/00033/11

The General Manager  
Mid Western Regional Council  
PO Box 156  
MUDGEES NSW 2850

**Attention: Kayla Robson**

Dear Ms Robson

**DA0010/2020: Lot 77 DP 755802, Lot 1 DP 338995, Lot 131 DP 755802 & 8 more;  
329-331 Quarry Road, Carwell  
Request for deferral of commencement of intersection upgrade Bylong Valley Way (MR215)  
Kandos Quarry**

**(Please note as at 01 December 2019, the legislation, including functions and responsibilities of Roads and Maritime Services (RMS) and Transport for NSW (TfNSW) are now being performed by the integrated TfNSW organisation. All future references to Roads and Maritime will now be referred to as TfNSW).**

Following Transport for NSW (TfNSW) submission to the Kandos Quarry Environmental Impact Statement (EIS), sent to Council dated 26 August 2019, we received the Response to Submission (RtS) and subsequent correspondence via Mr Gordon Barnes, RW Corkery in early September, 2019.

TfNSW did not support restricting development proposal-related truck movements to left turns in and out of Quarry Road until such time as the proposed realignment of Quarry Road was completed for the intersection upgrade to a Channelised Right Turn treatment (CHR) and an Auxiliary Left turn (AUL) treatment as part of the new intersection with Bylong Valley Way.

The request via RW Corkery sought that TfNSW reconsider its position noting:

- The traffic impact assessment included in the EIS for the Proposal concluded that Safe Intersection Sight Distance (SISD) was satisfactory for a westbound vehicle on Bylong Valley Way to observe a vehicle turning out of Quarry Road onto Bylong Valley Way.
- The existing intersection has an AUL treatment and therefore meets the relevant criteria for use by Proposal-related vehicles provided they are restricted to left turns in and left turns out of Quarry Road, as proposed for the initial stages of operation for the Proposal.

**Roads and Maritime Services**

- Acknowledgement that the conclusion in Appendix 4 of the EIS stated that a Basic Left turn treatment (BAL) would be applied in Bylong Valley Way, clarifying this is not proposed and instead an AUL treatment will be applied.
- Ainsley Bruem noted in a phone conversation with Mr Barnes, RW Corkery, that consideration *may* be given to the left turn in and out of Quarry Road at the existing intersection with Bylong Valley Way for Proposal-related trucks, provided that the upgrade is completed within 12 months of development consent being granted *and* following provision of further quantifiable information regarding this proposed limitation of truck movements resulting from the quarry operation.

It is worth noting the EIS concluded that Cudgegong Road would be utilised throughout all phases of quarrying operations for haulage as well as Bylong Valley Way. In the instance of deferral of the intersection upgrade approximately 60 per cent (or 6.6 heavy vehicle movements per hour) of haulage would occur via Bylong Valley Way.

A petition from local residents was received and referred to TfNSW after exhibition of the project proposal. This outlined requests that all truck movements from the quarry occur via Bylong Valley Way, noting significant concerns for road safety, including for the intersection with and along Cudgegong Road should this route be used for the purposes of quarry haulage.

Following further analysis of the aforementioned, TfNSW maintains that we do not support a deferral of the construction of the intersection upgrade with Bylong Valley Way for the following reasons:

- Monitoring and or enforcing any permitted limit requirements on quarry haulage via Bylong Valley Way if the intersection upgrade construction requirements are deferred is not feasible.
- Following discussions with Mid Western Regional Council, concerns were reiterated for the use of Cudgegong Road for quarry haulage. This will likely not be supported by Council and therefore all quarry haulage will need to be undertaken via the intersection with Bylong Valley Way.
- The new intersection upgrade will involve higher level road treatments which can offer greater road safety benefits to all road users therefore any delay in its construction is not supported by TfNSW.

In accordance with Section 138(2) of the *Roads Act 1993*, TfNSW seeks that the intersection upgrade is constructed to a 100km/h speed limit. All other conditions outlined in our previous correspondence (attached) in relation to this intersection upgrade remain.

Should you wish to discuss the matter further please contact Ainsley Bruem, A/Manager Land Use Assessments on 02 6861 1449.

Yours faithfully



Holly Davies  
A/Senior Customer Services Manager  
Western