

COUNCIL ASSESSMENT REPORT

Panel Reference	PPSWES-80
DA Number	DA069/21
LGA	Lithgow City Council
Proposed Development	Waste and Resource Management Facility (Placement of Lime Kiln Dust in Disused Quarry)
Street Address	Excelsior Road, Round Swamp
Applicant/Owner	Grraymont (Excelsior) Pty Ltd
Date of DA lodgement	12 April 2021
Total number of Submissions	0 public submissions
Number of Unique Objections	7 Agency submissions
Recommendation	Approval
Regional Development Criteria (Schedule 7 of the SEPP (State and Regional Development) 2011	Clause 7 of Schedule 7 – Particular Designated Development
List of all relevant s4.15(1)(a) matters	<ul style="list-style-type: none"> • Lithgow Local Environmental Plan 2014 • State Environmental Planning Policy (State and Regional Development) 2011 • State Environmental Planning Policy (Infrastructure) 2007 • State Environmental Planning Policy No.55 Remediation of Land
List all documents submitted with this report for the Panel's consideration	<ul style="list-style-type: none"> • Environmental Impact Statement by Pitt&Sherry dated 30 March 2021 • Proposed Life of Mine and Final Rehabilitation Plan (Plan 4) by Graymont dated 5 May 2021 • Proposed Rehab X-Section (Plan 4.1 Section A-A) by Graymont dated 6 March 2021 • Proposed Rehab X-Section (Plan 4.2 Section B-B) by Graymont dated 6 March 2021 • Proposed Inpit LKD X-Section (Plan 4.1 Section D-D) by Graymont dated 5 May 2021 • Response to EPA Submission by Graymont dated 18 June 2021
Clause 4.6 requests	N/A
Summary of key submissions	<p>Crown Lands:</p> <ul style="list-style-type: none"> • Appropriate mining approvals being entered into. <p>NSW Environment Protection Authority:</p> <ul style="list-style-type: none"> • Limit to 5 years to provide time to find alternative re-use options for lime kiln dust <p>Forestry Corporation of NSW:</p> <ul style="list-style-type: none"> • Access using Forestry Road requires a Forest Permit <p>Transport for NSW</p> <ul style="list-style-type: none"> • Limitations on number of heavy vehicles
Report prepared by	Mark Hitchenson
Report date	6 August 2021

Summary of s4.15 matters

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

Yes

Legislative clauses requiring consent authority satisfaction

Have relevant clauses in all applicable environmental planning instruments where the consent authority must be satisfied about a particular matter been listed, and relevant recommendations summarized, in the Executive Summary of the assessment report?

Yes

e.g. Clause 7 of SEPP 55 - Remediation of Land, Clause 4.6(4) of the relevant LEP

Clause 4.6 Exceptions to development standards

If a written request for a contravention to a development standard (clause 4.6 of the LEP) has been received, has it been attached to the assessment report?

Not applicable

Special Infrastructure Contributions

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

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

Not applicable

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

DEVELOPMENT ASSESSMENT REPORT – DA069/21 - PROPOSED WASTE OR RESOURCE MANAGEMENT FACILITY, Lot 111 DP 755757, EXCELSIOR QUARRY, EXCELSIOR ROAD, ROUND SWAMP

1. EXECUTIVE SUMMARY

Council is in receipt of a Development Application DA069/21 from Graymont (Excelsior) Pty Ltd for a waste or resource management facility on land known as Lot 111 DP 755757, Excelsior Quarry, Excelsior Road, Round Swamp.

1.1 The Proposal

The proposal is for the emplacement of up to 9,000 tonnes per year (average of 30 tonnes per day) of lime kiln dust into an existing mine void at Excelsior Quarry. This represents four percent of the total material to be placed in the mine void, the remainder of the material being overburden and non-sellable limestone rock produced at the site from quarrying activities. The placement of overburden and non-sellable limestone rock does not form part of this proposal as this forms part of existing approved mining operations.

The lime kiln dust is produced from the processing of limestone that is extracted from the Excelsior Quarry at the Charbon Kiln. The lime kiln dust will either be transported from Charbon to the site in the same trucks that haul the limestone to Charbon, or in new semi-trailer tankers, generating one to two truck movements per day. Overall, the proposal will not increase the current approved 3 to 4 truck movements per hour on weekdays.

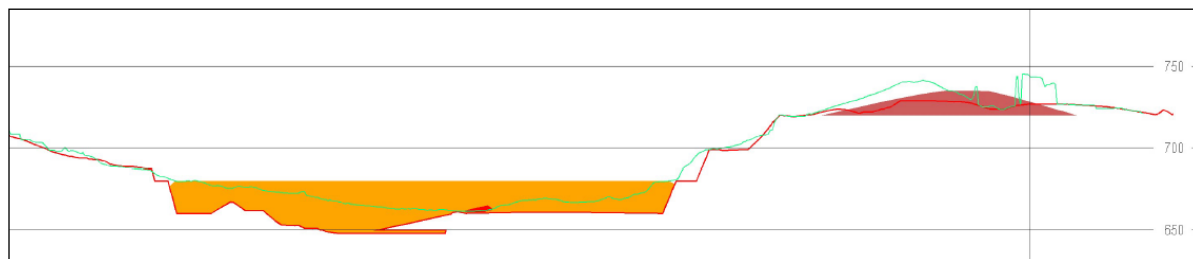
Lime kiln dust is classified as general solid waste in accordance with the NSW EPA's Waste Classification Guidelines and is a non-dangerous good under the Australian Dangerous Goods Code.

Plans showing the area of fill emplacement and the most representative cross-section of the work are provided below:

Diagram 1: Plan of emplacement area, outlined in red.



Diagram 2: Cross Section D-D through emplacement area



1.2 The Site and Locality

The subject land is known as Lot 111 DP 755757. This lot is one part of a number of lots on which the Excelsior Quarry activities are undertaken. The subject lot is owned by Graymont Pty Ltd. The remainder of the land is Crown Land over which Graymont has a lease for mining purposes.

Lot 111 DP 755757 is almost entirely surrounded by Crown Land, other than one privately owned lot to the north-east. To the south and west of the Crown Land is a railway line and the Airly State Forest. To the east of the Crown Land is the Capertee National Park. The Capertee National Park is approximately 2km to the east of the subject land.

1.3 Relevant Planning Provisions

The proposal is designated development under clause 32 of Schedule 3 of the *Environmental Planning and Assessment Act 1979*, being the landfilling of more than 200 tonnes per year of 'other waste'.

The proposal is Regionally Significant Development under *State Environmental Planning Policy (State and Regional Development) 2011*, being a waste management facility that is designated development, and will be determined by the Western Region Joint Planning Panel.

The proposal is Integrated Development under Section 4.46 of the *Environmental Planning and Assessment Act 1979* as it requires a variation to the site's existing Environment Protection Licence under Section 48 of the *Protection of the Environment Operations Act 2000*.

The subject land is zoned RU2 Rural Landscape under the *Lithgow Local Environmental Plan 2014*. A waste or resource management facility is permitted with consent in the RU2 zone under clause 121 (1) of *State Environmental Planning Policy (Infrastructure) 2007*. The development is satisfactory having regard to clause 104 and 123 of this SEPP.

The development is considered suitable for the site having regard to clause 7 of *State Environmental Planning Policy No. 55 – Remediation of Land*.

The development is considered satisfactory having regard to the following relevant provisions of the *Lithgow Local Environmental Plan 2014*:

- Objectives of the RU2 zone
- Clause 7.1 – Earthworks
- Clause 7.4 – Terrestrial Biodiversity

- Clause 7.6 – Riparian Lands and Watercourses
- Clause 7.7 – Sensitive Lands

The development application was exhibited in accordance with the requirements of Schedule 1 of the *Environmental Planning and Assessment Act 1979* and Division 5 of Part 6 of the *Environmental Planning and Assessment Regulation 2000*.

The development is likely to have minimal environmental impacts given the material to be emplaced on site is a by-product of material extracted from the same site. The EIS includes appropriate measures to minimise any potential impacts. The site is located well away from any sensitive land uses such as dwellings and conditions are recommended to minimise impacts associated with the transport of the lime kiln dust to the site. For these reasons, the site is considered to be suitable for the development and the development is considered to be in the public interest.

1.4 Existing Approvals

The Excelsior Quarry has been worked with different intensity since the 1870's.

DA201/81 – Council granted development consent to a crushing, screening plant and conveyor belt on the subject land.

DA450/01 – Council granted development consent on 19 February 2002 to a development application to extend limestone quarrying at Excelsior Quarry for 30 years.

Modification of DA450/01 – Council approved a modification to DA450/01 to alter the extent of Pit 1 due to a change in the excavation method (from 40m walls to a batter and bench method).

2. RECOMMENDATION

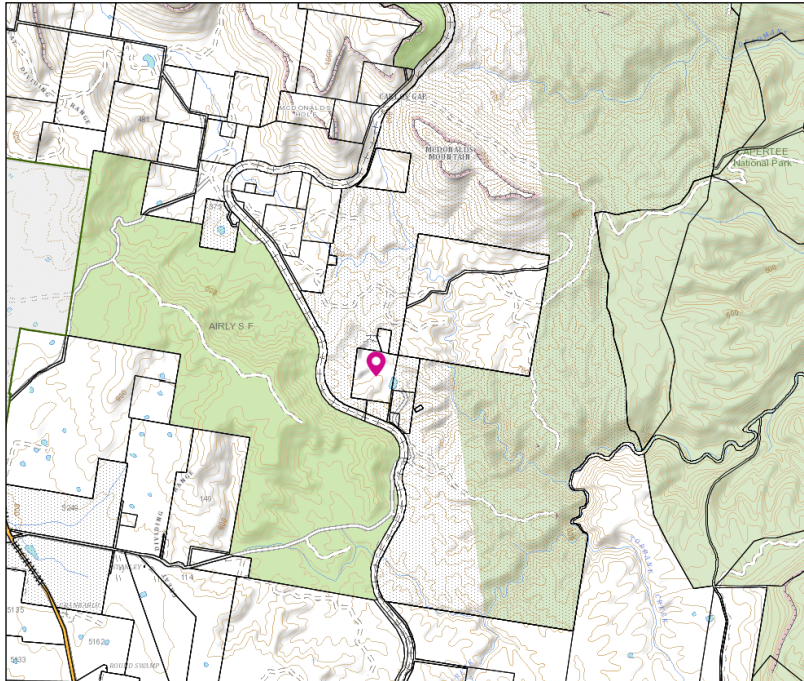
To assess and recommend determination of DA069/21 with recommendation for approval subject to conditions.

3. LOCATION OF THE PROPOSAL

Legal Description: Lot 111 DP 755757
 Property Address: Excelsior Quarry, Excelsior Road, Round Swamp

The location of the site is shown on the following map:

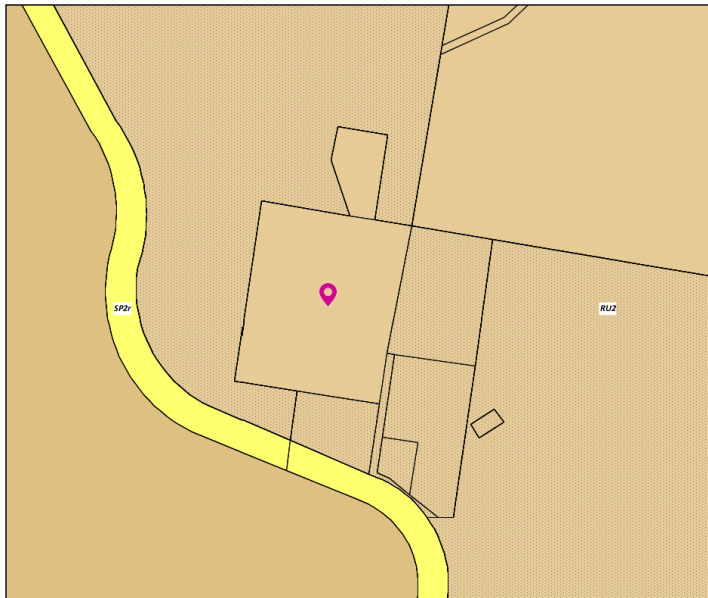
Locality Map



4. ZONING

The land is zoned RU2 Rural Landscape in accordance with the *Lithgow Local Environmental Plan 2014* (LEP), as shown on the following extract of the LEP Zoning Map.

Zoning Map



5. PERMISSIBILITY

The proposed use is defined as a *waste disposal facility*, being a type of *waste or resource management facility* (defined below) which is a prohibited use on land zoned RU2 Rural Landscape under the LEP provisions. However, a waste disposal facility is permitted with consent in the RU2 zone under *State Environmental Planning Policy (Infrastructure) 2007*.

waste disposal facility means a building or place used for the disposal of waste by landfill, incineration or other means, including such works or activities as recycling, resource recovery and other resource management activities, energy generation from gases, leachate management, odour control and the winning of extractive material to generate a void for disposal of waste or to cover waste after its disposal. Note - Waste disposal facilities are a type of waste or resource management facility—see the definition of that term in this Dictionary.

waste or resource management facility means any of the following—

- (a) a resource recovery facility,
- (b) a waste disposal facility,
- (c) a waste or resource transfer station,
- (d) a building or place that is a combination of any of the things referred to in paragraphs (a)–(c).

Clause 121 (1) of *State Environmental Planning Policy (Infrastructure) 2007* states as follows:

121 Development permitted with consent

- (1) Development for the purpose of waste or resource management facilities, other than development referred to in subclause (2), may be carried out by any person with consent on land in a prescribed zone.

Sub-clause (2) relates to waste or resource transfer stations and is therefore not relevant to the proposal.

Clause 120 of the SEPP identifies the prescribed zones, including the RU2 Rural Landscape zone.

5.1 POLICY IMPLICATIONS (OTHER THAN DCPs)

Policy 7.1 Filling and Levelling of Land

This policy requires development consent for filling of land where land is subject to inundation by floodwaters or where the depth of fill exceeds 900mm, unless the fill is identified in a development application for a structure or in relation to a subdivision. The proposal is for the filling of land greater than 900mm in height, not in relation to a development application for a structure or a subdivision.

As noted above, development consent for the proposal is required under State Environmental Planning Policy (Infrastructure) 2007, and the lodgement of the development application therefore satisfies the Council Policy.

Lithgow Community Participation Plan

The Lithgow Community Participation Plan applies to all land within the Lithgow Local Government Area (LGA) and prescribes certain types of development as exempt from requiring notification. The proposal is not identified as exempt from requiring notification and was therefore notified to surrounding landowners in accordance with the Plan.

5.2 FINANCIAL IMPLICATIONS

Section 94A (Section 7.12) Development Contributions Plan 2015

Council's Section 94A (Section 7.12) Development Contributions Plan 2015 **does not** apply to this development given it is for a waste disposal facility with no building works proposed at an estimated cost of \$0, using the below levies:

Estimated cost of development	Levy applicable
\$0 to \$100,000	0%
\$100,001 to \$200,000	0.5%
\$200,001 and over	1%

5.3 LEGAL IMPLICATIONS

Protection of the Environment Operations Act 1997

This Act outlines when an Environment Protection Licence (EPL) is required for certain activities. The proposed development is identified under Section 48 and Schedule 1-clause 39 of the Act, being waste disposal (application to land). Clause 39 states as follows:

39 Waste disposal (application to land)

- (1) *This clause applies to waste disposal by application to land, meaning the application to land of waste received from off site, including (but not limited to) application by any of the following methods—*
- (a) *spraying, spreading or depositing on the land,*
 - (b) *ploughing, injecting or mixing into the land,*
 - (c) *filling, raising, reclaiming or contouring the land.*

Sub-clause (2) of clause 39 provides a range of exemptions from requiring an EPL. The proposed development does not meet any of these exemptions.

Given the requirement for an EPL, the proposal is Integrated Development under the *Environmental Planning and Assessment Act 1979* (Section 48 of the *Protection of the Environment Operations Act 1997*).

Environmental Protection and Biodiversity Conservation Act 1991

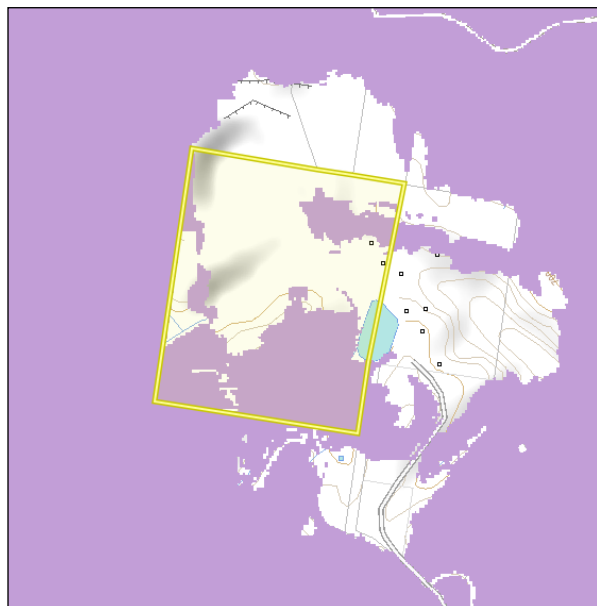
The proposal does not involve the clearing of native vegetation, being located within a mine void. The proposal is unlikely to impact on any matters of national environmental significance listed under the Act.

Biodiversity Conservation Act 2016

The proposal does not involve the clearing of native vegetation, being located within a mine void. The proposal is on existing disturbed land and is unlikely to significantly affect threatened species, ecological communities or their habitats.

The proposal does not exceed the Biodiversity Offset Scheme threshold. The site does contain land mapped on the Biodiversity Values Map however the area of fill emplacement is wholly within an existing mine void that contains no native vegetation. An extract of the Biodiversity Values Map is provided below. The development is not proposed to be carried out in a declared area of outstanding biodiversity value.

Biodiversity Values Map



Water Management Act 2000

The application was referred to the Natural Resources Access Regulator (NRAR) as the watercourse mapping shows watercourses in the vicinity of the site. NRAR have advised that the proposed activity is exempt from section 91E (1) of the WM Act in relation to controlled activities specified in clause 42, and Part 2 of Schedule 4 of the Water Management (General) Regulation 2018 that are carried out in, on or under waterfront land.

Environmental Planning and Assessment Act 1979

5.3.1 Section 4.5 – Designation of consent authority

Section 4.5 of the Act states as follows:

For the purposes of this Act, the consent authority is as follows—

- (a) in the case of State significant development—the Independent Planning Commission (if the development is of a kind for which the Commission is declared the consent authority by an environmental planning instrument) or the Minister (if the development is not of that kind),*
- (b) in the case of development of a kind that is declared by an environmental planning instrument as regionally significant development—the Sydney district or regional planning panel for the area in which the development is to be carried out,*
- (c) in the case of development of a kind that is declared by an environmental planning instrument as development for which a public authority (other than a council) is the consent authority—that public authority,*

- (d) *in the case of any other development—the council of the area in which the development is to be carried out.*

The proposal is regionally significant development pursuant to Clause 7 of Schedule 7 of State Environmental Planning Policy (State and Regional Development) 2011. Therefore, under subclause (b) above, the regional planning panel is the determining authority.

5.3.2 Section 4.10 – Designated Development

Section 4.10 of the Act states as follows:

- (1) *Designated development is development that is declared to be designated development by an environmental planning instrument or the regulations.*
- (2) *Designated development does not include State significant development despite any such declaration.*

The proposal is declared to be designated development by Clause 32 of Schedule 3 of the *Environmental Planning and Assessment Regulation 2000*.

32 Waste management facilities or works

- (1) *Waste management facilities or works that store, treat, purify or dispose of waste or sort, process, recycle, recover, use or reuse material from waste and—*
- (a) *that dispose (by landfilling, incinerating, storing, placing or other means) of solid or liquid waste—*
- (i) *that includes any substance classified in the Australian Dangerous Goods Code or medical, cytotoxic or quarantine waste, or*
- (ii) *that comprises more than 100,000 tonnes of "clean fill" (such as soil, sand, gravel, bricks or other excavated or hard material) in a manner that, in the opinion of the consent authority, is likely to cause significant impacts on drainage or flooding, or*
- (iii) *that comprises more than 1,000 tonnes per year of sludge or effluent, or*
- (iv) *that comprises more than 200 tonnes per year of other waste material,*

The proposal involves the placement of up to 9000 tonnes per annum of other waste material and is therefore designated development.

Pursuant to Section 4.12 (8) of the Act, "a development application for...designated development is to be accompanied by an environmental impact statement prepared by or on behalf of the applicant in the form prescribed by the regulations". An Environmental Impact Statement was submitted with the development application.

5.3.3 Section 4.13 – Consultation and concurrence

Sub-section (1) of Section 4.13 states as follows:

- (1) **General** *If, by an environmental planning instrument, the consent authority, before determining the development application, is required to consult with or to obtain the concurrence of a person, the consent authority must, in*

accordance with the environmental planning instrument and the regulations, consult with or obtain the concurrence of the person, unless the consent authority determines to refuse to grant development consent.

The proposal requires the following consultations and concurrences:

- Consultation with Transport for NSW under clause 104 of the Infrastructure SEPP

5.3.3 Section 4.46 – Integrated Development

Section 4.46 outlines when an application for development consent is Integrated Development as certain other approvals are required. The proposed development is Integrated Development as it requires a variation to the site's existing Environment Protection Licence under section 48 of the *Protection of the Environment Operations Act 2000*.

5.3.4 Section 4.15 - Evaluation

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 4.15 of the *Environmental Planning and Assessment Act 1979*. These matters for consideration are as follows:

5.3.2.1 Any Environmental Planning Instruments

Lithgow Local Environmental Plan 2014

LEP 2014 – Compliance Check		
Clause		Compliance
Land Use table	RU2 Rural landscape	Yes
7.1	Earthworks	Yes
7.4	Terrestrial biodiversity	Yes
7.6	Riparian land and watercourses	Yes
7.7	Sensitive lands	Yes

Comment: The objectives of the RU2 Rural Landscape zone are as follows:

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To maintain the rural landscape character of the land.*
- *To provide for a range of compatible land uses, including extensive agriculture.*
- *To ensure that the type and intensity of development is appropriate in relation to the rural capability and suitability of the land, the preservation of the agricultural, mineral and extractive production of the land, the rural environment (including scenic resources) and the costs of providing services and amenities.*
- *To facilitate tourism and recreational uses that are compatible with the capability and suitability of the land.*
- *To maintain or improve the water quality of receiving water catchments.*

The proposed development facilitates the ongoing operation of the Excelsior Quarry by providing a place for the disposal of lime kiln dust. The proposal will not impact

on primary production, the natural environment or the rural landscape. The extent of the fill will not be visible from outside of the subject land. Subject to conditions of consent relating to protecting against leachate, the proposal will have no detrimental impacts on water quality. The proposal is therefore considered to be consistent with the zone objectives.

Clause 7.1 Earthworks

This clause requires development consent for earthworks. Sub-clause (3) of clause 7.1 states as follows:

In deciding whether to grant development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters—

- (a) the likely disruption of, or any detrimental effect on, 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,*
- (i) the proximity to, and potential for adverse impacts on, any heritage item, archaeological site or heritage conservation area.*

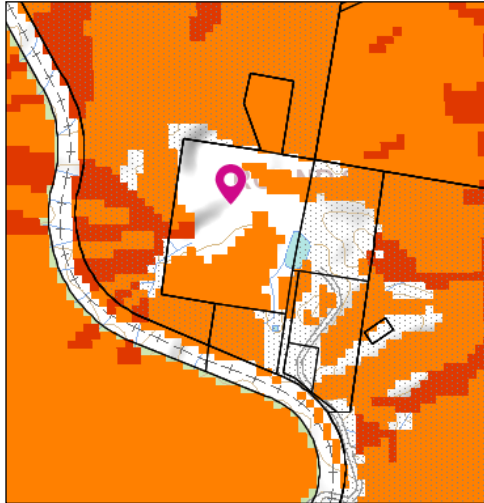
The proposed development involves the filling of land (earthworks) as a waste or resource management facility. The above matters for consideration are addressed below:

- The area of fill is within an existing mine void. It will therefore not disrupt or have a detrimental impact on drainage patterns or soil stability and will not be likely to disturb any relics.
- The site is an approved limestone quarry that will be rehabilitated following cessation of the quarrying activities.
- The fill is all sourced from the subject land and is not contaminated.
- The proposal will not be visible from surrounding lands and will therefore have no impact on the amenity of adjoining properties. The transport and placement of the lime kiln dust will be required to be undertaken in a manner that minimises dust impacts.
- Subject to conditions of consent relating to protecting against leachate, the proposal will have no detrimental impacts on water quality.
- The EIS submitted with the development application proposes a range of mitigation measures to avoid, minimize or mitigate impacts.
- The proposal will have no adverse impacts on any heritage item, archaeological site or heritage conservation area.

Clause 7.4 – Terrestrial Biodiversity

This clause requires consideration of the impacts of development on biodiversity. The subject land is identified as containing biodiversity on the Environmentally Sensitive Areas – Biodiversity Overlay Map in LEP 2014, as shown below:

Environmentally Sensitive Areas - Biodiversity Overlay Map

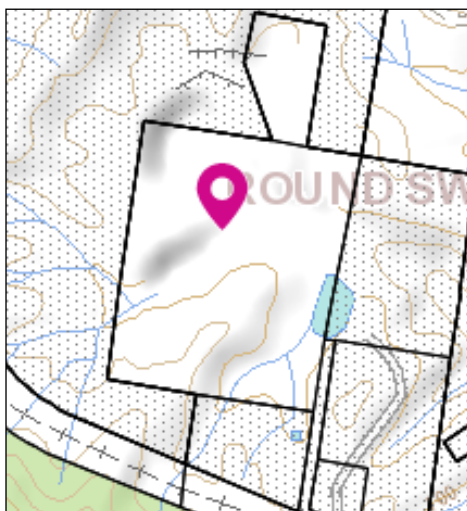


Comment – While the mapping shows vegetation with biodiversity values on the subject land, the area proposed for the placement of the lime kiln dust is in an existing mine void where there is no vegetation. Subject to conditions of consent regarding measures to avoid leachate and dust, the placement of lime kiln dust will have no significant impact on surrounding areas of biodiversity. It is considered that the development is designed, sited and will be managed to avoid any significant adverse environmental impact.

Clause 7.6 Riparian Lands and Watercourses

This clause requires consideration of the impacts of development on riparian lands and water quality. The subject land is identified as containing watercourses on the Environmentally Sensitive Areas – Water Overlay Map in LEP 2014, as shown below:

Watercourses Map



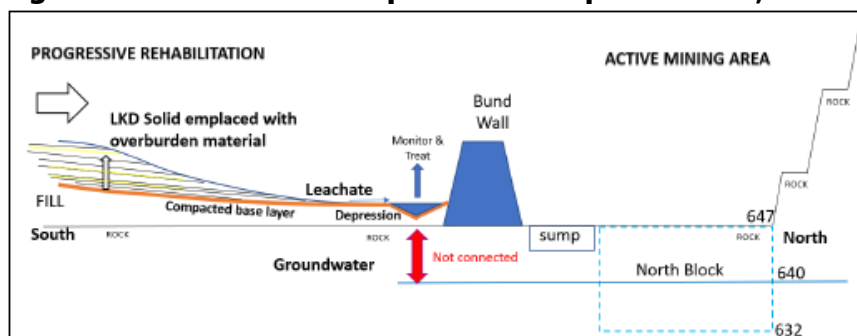
Comment – While the mapping shows watercourses on the subject land, the area proposed for the placement of the lime kiln dust is in an existing mine void where there are no natural watercourses.

The Environmental Impact Statement proposes the following mitigation measures to manage impacts on water quality:

- Installation of a compacted base layer, drainage measures to capture leachate and stormwater runoff and capping the emplacement upon completion of landfilling;
- Formalise a stormwater drainage path to divert upslope catchment runoff around the southern side of the proposed LKD emplacement;
- Installation of a sump to capture stormwater runoff, with overflow to the mine void's main sump for mixing and dilution;
- Installation of bunds to redirect stormwater in the event of flooding, waterlogging or erosion impacts;
- Implement a water quality monitoring program;
- Implement a pump monitoring program;
- Implement measures to reduce pH if required.

The proposed mitigation measures are described in Figure 9 of the EIS, reproduced below.

Figure 9 from EIS – Conceptual LKD emplacement, cross-section view

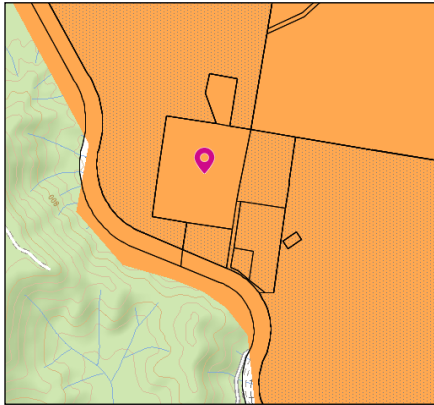


Subject to conditions of consent regarding measures to avoid leachate, the placement of lime kiln dust will have no significant impact on surrounding watercourses. It is considered that the development is designed, sited and will be managed to avoid any significant adverse environmental impact.

Clause 7.7 – Sensitive Lands

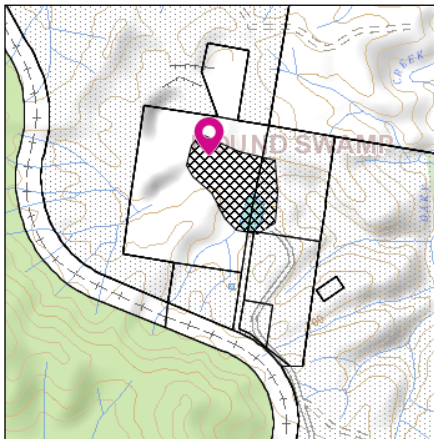
This clause requires consideration of the impacts of development on the diversity and stability of landscapes. The subject land is identified as containing sensitive lands on the Environmentally Sensitive Areas – Land Overlay Map in LEP 2014, as shown below:

Sensitive Land Map

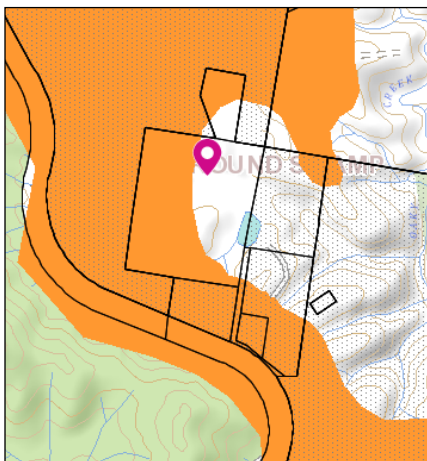


Comment – The subject land is mapped as containing sensitive lands. Council's more detailed sensitive land mapping shows parts of the land as being subject to severe to extreme sheet and rill erosion (see maps below). Part of the land is also mapped as capability class 6 (suitable for grazing with no cultivation) and as land best protected by green timber. The following maps show these areas.

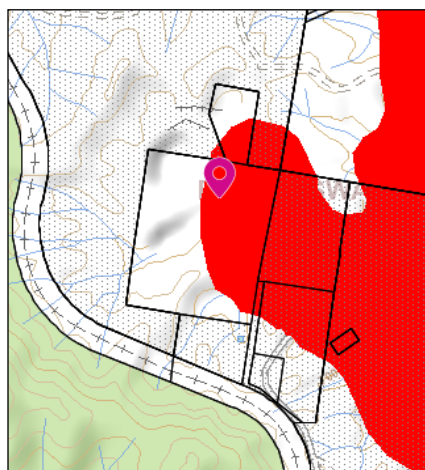
Severe to Extreme Sheet & Rill Erosion



Land Capability Classification No. 6 – Suitable For Grazing With No Cultivation



Land best protected by Green Timber



Notwithstanding this mapping, the area proposed for the placement of lime kiln dust is in an existing mine void. Subject to conditions of consent regarding measures to avoid leachate and dust, the placement of lime kiln dust will have no impact on surrounding sensitive lands. It is considered that the development is designed, sited and will be managed to avoid any significant adverse environmental impact.

State Environmental Planning Policy (State and Regional Development) 2011

Clause 7 of Schedule 7 of the SEPP identifies certain designated development as being regionally significant development, including:

- (c) *waste management facilities or works, which meet the requirements for designated development under clause 32 of Schedule 3 to the Environmental Planning and Assessment Regulation 2000.*

As the proposed development is designated development under clause 32 of Schedule 3 of the Act, the proposal is regionally significant development. The consent authority for regionally significant development is the Regional Planning Panel.

State Environmental Planning Policy (Infrastructure) 2007

SEPP (Infrastructure) 2007 – Compliance Check		
Division 17 Roads and Traffic		
Subdivision 2 Development in or adjacent to road corridors and road reservations		
104	Traffic Generating Development	Yes
Division 23 Waste or Resource Management Facilities		
123	Determination of development applications	Yes

Clause 104 of the SEPP states as follows:

104 Traffic-generating development

- (1) *This clause applies to development specified in Column 1 of the Table to Schedule 3 that involves—*
- (a) *new premises of the relevant size or capacity, or*

- (b) *an enlargement or extension of existing premises, being an alteration or addition of the relevant size or capacity.*
- (2) *In this clause, relevant size or capacity means—*
 - (a) *in relation to development on a site that has direct vehicular or pedestrian access to any road (except as provided by paragraph (b))—the size or capacity specified opposite that development in Column 2 of the Table to Schedule 3, or*
 - (b) *in relation to development on a site that has direct vehicular or pedestrian access to a classified road or to a road that connects to a classified road where the access (measured along the alignment of the connecting road) is within 90m of the connection—the size or capacity specified opposite that development in Column 3 of the Table to Schedule 3.*
- (2A) *A public authority, or a person acting on behalf of a public authority, must not carry out development to which this clause applies that this Policy provides may be carried out without consent unless the authority or person has—*
 - (a) *given written notice of the intention to carry out the development to TfNSW in relation to the development, and*
 - (b) *taken into consideration any response to the notice that is received from TfNSW within 21 days after the notice is given.*
- (3) *Before determining a development application for development to which this clause applies, the consent authority must—*
 - (a) *give written notice of the application to TfNSW within 7 days after the application is made, and*
 - (b) *take into consideration—*
 - (i) *any submission that RMS provides in response to that notice within 21 days after the notice was given (unless, before the 21 days have passed, TfNSW advises that it will not be making a submission), and*
 - (ii) *the accessibility of the site concerned, including—*
 - (A) *the efficiency of movement of people and freight to and from the site and the extent of multi-purpose trips, and*
 - (B) *the potential to minimise the need for travel by car and to maximise movement of freight in containers or bulk freight by rail, and*
 - (iii) *any potential traffic safety, road congestion or parking implications of the development.*
- (4) *The consent authority must give TfNSW a copy of the determination of the application within 7 days after the determination is made.*

The table in Schedule 3 includes waste or resource management facilities of any size or capacity as being traffic generating development. The development application was therefore referred to Transport for NSW in accordance with sub-clause (3) above. A submission from Transport for NSW was received and is addressed later in this report.

In relation to sub-clauses (3)(b)(ii) and (iii), the proposed development will generate one to two truck movements per day, while the overall number of truck movements from quarrying activities will not increase from the current approved 3 to 4 truck movements per hour on weekdays. The proposal is therefore considered satisfactory in relation to traffic generation and road safety.

Clause 123 of the SEPP states as follows:

123 Determination of development applications

- (1) *In determining a development application for development for the purpose of the construction, operation or maintenance of a landfill for the disposal of waste, including putrescible waste, the consent authority must take the following matters into consideration—*
- (a) *whether there is a suitable level of recovery of waste, such as by using alternative waste treatment or the composting of food and garden waste, so that the amount of waste is minimised before it is placed in the landfill, and*
 - (b) *whether the development—*
 - (i) *adopts best practice landfill design and operation, and*
 - (ii) *reduces the long term impacts of the disposal of waste, such as greenhouse gas emissions or the offsite impact of odours, by maximising landfill gas capture and energy recovery, and*
 - (c) *if the development relates to a new or expanded landfill—*
 - (i) *whether the land on which the development is located is degraded land such as a disused mine site, and*
 - (ii) *whether the development is located so as to avoid land use conflicts, including whether it is consistent with any regional planning strategies or locational principles included in the publication EIS Guideline: Landfilling (Department of Planning, 1996), as in force from time to time, and*
 - (d) *whether transport links to the landfill are optimised to reduce the environmental and social impacts associated with transporting waste to the landfill.*
- (2) *In this clause—*
putrescible waste means general solid waste (putrescible) within the meaning of clause 49 of Schedule 1 to the Protection of the Environment Operations Act 1997.

Comment: The provisions of clause 123 of the SEPP are generally applicable to traditional mixed-waste landfill type waste disposal facilities. The proposal is for the disposal of material that was sourced at the same site, therefore the material is homogenous and the processes used to generate the waste are known.

In relation to (a) above, the vast majority of the fill to be placed in the mine void is overburden and non-sellable limestone rock produced at the site from quarrying activities. A very small percentage is the lime kiln dust, a by-product of the firing of the limestone in the Charbon Kiln. The applicant has indicated that markets for this product will be sought over time leading to the eventual end to disposal of lime kiln dust at Excelsior Quarry.

In relation to (b) above, the proposal is not a traditional landfill facility. The only potential emissions from the facility are dust and leachate. The lime kiln dust will be watered upon application to reduce the generation of dust and then covered with overburden and non-sellable limestone rock. Leachate will be controlled through the use of a compacted base layer, location of leachate sumps, monitoring and treatment of leachate and construction of a bund wall.

In relation to (c) above, the proposal is to place the lime kiln dust in a disused mine void. The proposal will not cause land use conflicts. The NSW Government's EIS Guideline for landfilling includes the following five principles for site selection of landfill proposals:

- *the location has been identified in any strategic waste management plan*
- *the land use is permissible*
- *environmentally sensitive areas are avoided*
- *the use is compatible with nearby land uses*
- *initial site investigations indicate the site is fundamentally suitable for landfill.*

In response to the above principles, the identification in any strategic waste management plan is not applicable as the proposal is not a traditional landfill development. The land use is permissible under the Infrastructure SEPP. The site is a disused mine void. Surrounding uses include quarrying activities, Forestry and National Parks. No residences are located in close proximity to the site (with the nearest residence 2.5km away). The EIS submitted with the application demonstrates that the site is suitable for the proposal, particularly given the lime kiln dust is produced from limestone mined from the same site.

In relation to (d) above, the proposal will use the existing established haulage routes from the site to the Charbon Kiln. The proposal will not increase the number of truck movements from the existing quarrying activities.

The proposal is consistent with the provisions of the Infrastructure SEPP.

State Environmental Planning Policy No 55—Remediation of Land

This SEPP requires consideration of the potential for land to be contaminated and if so, the remediation of that land. The subject land has a long history of limestone quarrying and the placement of overburden from quarrying activities back into mine voids. There is no evidence that quarrying activities has caused any land contamination. The site is considered suitable for the proposed use.

5.2.3.2 Any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority

Nil.

5.2.3.3 Any Development Control Plan

There is no current adopted Development Control Plan for the Lithgow Local Government Area.

5.2.3.4 Any planning agreement that has been entered into under Section 7.4, or any draft planning agreement that a developer has offered to enter into under Section 7.4?

Nil.

5.2.3.5 Any matters prescribed by the regulations that apply to the land

Nil.

5.2.3.6 The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

Adjoining Landuse: The area proposed for placement of lime kiln dust is immediately surrounded by land being quarried for limestone. Beyond the quarrying area, the land is a mix of State Forest, National Park, other Crown Land and private rural land. The area proposed for the lime kiln dust placement will not be visible from surrounding non-quarry lands. There are minimal anticipated impacts on surrounding land uses.

Context and Setting: The proposed development will be located within an established rural area in which a range of activities are undertaken, including quarrying, forestry, agriculture, rural living and environmental protection. The proposal will have no major impact on the context and setting of the area.

Access: Access to the site is on existing public and State Forest roads and is the same access historically and currently used for quarrying activities. Subject to an appropriate licence being entered into the use the State Forest road, the proposal is satisfactory in relation to access.

Heritage: There are no heritage issues relevant to the proposed development.

Flora and Fauna: No native vegetation is proposed to be removed.

Social and Economic Impact: The proposed development will have positive social and economic impacts as it facilitates the ongoing operation of quarrying activities at the site, with flow on employment and resource benefits to the region.

Soils: The development proposes to return lime kiln dust, a by-product of the firing of limestone extracted from the subject land. The material is therefore homogenous with existing soils. The subject land is not expected to be contaminated and the proposal will not cause contamination of the land. Sediment and erosion control, leachate control and dust control measures will be conditioned to minimise any external impacts.

Water: Subject to conditions of consent regarding measures to avoid leachate, the placement of lime kiln dust will have no impact on surrounding watercourses or groundwater quality.

Air and Microclimate: The Environmental Impact Statement outlines a range of measures to control dust including:

- using a covered or enclosed truck
- adding moisture to the material
- not loading on windy days.

Subject to conditions of consent regarding measures to control dust, the transport and placement and of lime kiln dust will have no impact on air quality or the microclimate.

Natural Hazards: The subject land is bushfire prone as shown in the map below.

Bushfire Prone Land Map



No buildings are proposed to be erected as part of the development, therefore the requirements of Planning for Bushfire Protection 2019 do not apply.

Noise and Vibration: The transport of lime kiln dust to the site using heavy vehicles has the potential to cause noise concerns. However, as the number of truck movements is very small and will not result in an exceedance of the overall approved truck movements for the quarrying activities, the impact is considered minor. The proposal will not cause any vibration impacts on surrounding properties.

Other Land Resources: The proposal facilitates the ongoing resource extraction at an approved limestone quarry and will not impact on the management of resources on surrounding land.

5.2.3.7 The Suitability of the site for the development

The surrounding land uses are for a range of rural and environmental pursuits with the size and nature of the development consistent with those in the surrounding area. The development will have minimal impact to the surrounding amenity. The proposed development complies with the objectives of the zone and the site is considered to be suitable for the proposal.

5.2.3.8 Any submissions made in accordance with this Act or the Regulations

The application was referred to the following agencies, as Integrated Development, for Concurrence, or for comment.

DPIE - Crown Lands

DPIE Crown Lands were notified as an adjoining landowner. The area of proposed application of the lime kiln dust is wholly on land owned by Graymont (Excelsior) Pty Ltd, however broader mining operations (under separate approvals) and access to the site impacts on Crown Land.

Crown Lands provided the following comments and recommended conditions:

I refer to notice of DA069/21 from Lithgow City Council dated 27th April 2021. The proposed development impacts on the following Crown land and road parcels:

Lot DP	Crown Reserve	Land Manager	"Landholder" for purposes of Mining Act 1992
31/755757	Reserve R755757 Future Public Requirements notified 29 June 2007	Minister administering the CLM Act 2016	Minister administering the CLM Act 2016
Lots 27, 47, 50, 136, 137 in DP755757, and Lot 7012 in DP1056868	Reserve R80281 Generally notified 17 January 1958	Minister administering the CLM Act 2016	Minister administering the CLM Act 2016
Crown Road (west and south of Lots 31 & 137 in DP755757)	Road Reserve	Minister administering the CLM Act 2016	Minister administering the CLM Act 2016

The Department of Planning, Industry & Environment – Crown Lands Division ("the department"), has no objection to the proposed development, subject to the development consent containing the following conditions:

- a) That Graymont (Excelsior) Pty Ltd provide the department with documented authority from DPIE – Mining, Exploration & Geoscience, that the proposed development activity is an activity authorised by the following mining tenements: Special Lease 664; Private Lands Lease 1219; Mining Lease 1517 and Mining Purpose Lease 318 in accordance with the Mining Act 1992, within 6 months of the development consent being granted.*
- b) That Graymont (Excelsior) Pty Ltd enter into mining access agreements with the department in accordance with s265 of the Mining Act 1992 or provide evidence acceptable to the department that such agreements pre-exist, within 6 months of the development consent being granted.*
- c) Where Crown land is not subject to a mining tenement, that Graymont (Excelsior) Pty Ltd enter into licence or lease agreements for the occupation of that land (part Lot 7012 DP1056868) in accordance with the Crown Land Management Act 2016 (CLM Act 2016), within 6 months of the development consent being granted.*

Should the development be modified in any manner that impacts the Crown land, e.g. by amendment to the development proposal or draft conditions of consent, the department requests an opportunity to further review the application prior to determination.

The above conditions have been included in Schedule A.

NSW Environment Protection Authority

The application was referred to the NSW Environment Protection Authority (EPA) who initially requested additional information from the applicant. The additional information provided by the applicant was referred back to the EPA, who provided the following final submission:

I refer to further information provided in a letter from the applicant dated 18 June 2021 to the NSW Environment Protection Authority (EPA) for development application DA069/21 at Excelsior Road, Round Swamp.

The EPA has reviewed the information from the proponent in relation to the NSW Waste Avoidance and Resource Recovery Strategy 2014-2021 and notes that the proponent is committed to finding an alternate re-use option for lime kiln dust that will take up to five years to develop.

Therefore, if Lithgow City Council intend to approve the development application, the EPA recommends that disposal of lime kiln dust at Excelsior Quarry be capped for a period of no more than 5 years from the date development consent is granted.

The EPA also recommend that Lime kiln dust is to be disposed of at Excelsior Quarry in accordance with the methods stipulated in the Environmental Impact Statement - Excelsior Quarry: Disposal of lime kiln dust - application to land prepared by Pitt & Sherry – 30 March 2021.

General Terms of Approval were issued by the NSW EPA and these will be attached to the development consent if granted.

Forestry Corporation of NSW

Forestry Corporation of NSW were notified as an adjoining landowner. They provided the following comments on the application:

Forestry Corporation of NSW (FCNSW) offers the following commentary on the applicable environmental impact statement (EIS) and observations from 30 April 2021 site visit.

- 1. Excelsior Road where it traverses Airly State Forest is a State forest road administered by FCNSW.*
- 2. FCNSW will require Graymont (Excelsior) Pty Ltd (Graymont) to amend their existing forest permit to include terms for the use of a State forest road for haulage of limestone and lime kiln dust.*
- 3. FCNSW and Graymont will begin negotiating terms of a long term access arrangement within the next week. FCNSW acknowledges and does not object to Lithgow City Council progressing the development application (DA) while negotiations and forest permit drafting take place.*
- 4. FCNSW recommends the inclusion of a development consent condition requiring within six months of the DA commencement date that Graymont hold a forest permit for commercial haulage operations through Airly State Forest.*

An appropriate condition in line with FCNSW's recommendations is included in Schedule A.

Transport for NSW (Roads and Maritime Services)

The application was referred to Transport for NSW (TfNSW) for comment under clause 104 of the Infrastructure SEPP. The agency provided the following comments and recommended conditions:

Thank you for the abovementioned development application (DA) referral via the NSW Planning Portal dated 27 April 2021 inviting comment from Transport for NSW (TfNSW) pursuant to Clause 104 of State Environmental Planning Policy Infrastructure 2007 (ISEPP).

Transport for NSW understands the proposed development involves the disposal of up to 9000 tonnes per year of Lime Kiln Dust (LKD) to an existing mine void within the Excelsior Quarry.

It is noted that the Excelsior Quarry extraction is operating under the development consent DA 450/01 which approved the Quarry Extension Development.

The proposal includes transport of LKD via the Castlereagh Highway (HW18) and the Bylong Valley Way (MR55).

TfNSW provide comments and suggested conditions for consideration by the consent authority (see below) in accordance with clause 104 of the ISEPP 2007.

The following conditions should be considered for the development consent:

- *Limitation on the exportation of lime kiln dust from Graymont Charbon to Excelsior Quarry to 9,000 tonnes per an annum.*
- *A requirement for compliance with the existing development consent DA 450/01 in relation to :*
 - *The approved haulage routes from Graymont Charbon to Excelsior Quarry, and*
 - *Restricting the heavy vehicle truck movements to 4 per an hour.*
- *Limitation of the transportation of Lime Kiln Dust from Charbon Lime Kiln to the Excelsior Quarry site to a maximum of two loads (four movements maximum per day)*
- *Restriction on the size of the design vehicle to a PBS truck and dog trailer or PBS prime mover and semi-trailer configurations with a maximum length of 20 metres.*

TfNSW notes that there are no referral requirements pursuant to the rail authority pursuant to the ISEPP 2007, however, the following comments are provided for consideration by the consent authority:

- *The proposed transport route uses the road bridge over the Wallerawang to Kandos railway line. The bridge is on the Higher Mass Limit (HML) network and any vehicle over the legal limit for HML network will be required to obtain an Over Size Over Mass (OSOM) permit from JHR, who has been appointed to manage the Country Regional Network (CRN).*
- *The applicant must submit an application to obtain a permit to use heavy machinery exceeding the current legal limit to JHR for TfNSW's assessment. The applicant must contact JHR via email at CRN.HeavyVehicle@jhrg.com.au prior to scheduled use of heavy machinery to discuss as to whether or not such an application is required.*

Following a review of draft conditions, TfNSW agreed to the following amended conditions:

- *This development consent limits the exportation of lime kiln dust from the Graymont Charbon Lime Kiln to the Excelsior Quarry to 9,000 tonnes per an annum and the transport of the lime kiln dust to an average of two loads (four movements) per day. The two loads (four movements) per day are to be within the maximum number of heavy vehicle truck movements of 4 per hour approved under DA 450/01 resulting in no increase in heavy vehicle movements as a result of the haulage of lime kiln dust approved under this consent.*

- *Vehicles used to transport the lime kiln dust are restricted to a truck and dog trailer or prime mover and semi-trailer configurations with a maximum length of 20 metres.*
- *This development consent does not permit any changes to the conditions of development consent DA 450/01 in relation to:*
 - o *The approved haulage routes from Graymont Charbon to Excelsior Quarry, and*
 - o *The maximum number of heavy vehicle truck movements to 4 per an hour.*

Conditions and Advisory Notes regarding the above matters have been included in Schedule A.

NSW Resources Regulator

The application was referred to the NSW Resources Regulator for comment as the work health and safety regulator for mines. The agency provided the following comments:

The Environmental Impact Statement - Excelsior Quarry Disposal of Lime Kiln Dust - Application to Land has adequately addressed the Resources Regulator's environmental assessment requirements as set out in our correspondence dated 4 November 2020 (LETT0005206).

It should be noted that the Resources Regulator does not provide any endorsement of the proposed rehabilitation methodologies presented. Under the conditions of a mining authorisation granted under the Mining Act 1992, the Resources Regulator requires the 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 site-specific risk assessments conducted by the authorisation holder. An authorisation holder may also be directed by the Resources Regulator to implement further risk control measures required to achieve effective rehabilitation outcomes during the life of the mine.

The Resources Regulator requests the opportunity to review any draft conditions of development consent prior to them being finalised.

Upon review of draft conditions, the Resources Regulator advise that they have no concerns or specific comments to add.

Natural Resources Access Regulator

The application was referred to the Natural Resources Access Regulator (NRAR) as there are watercourses in the vicinity of the site. NRAR have advised as follows:

Natural Resources Access Regulator (formerly the Department of Industry - Water) has reviewed documents for the above development application and considers that, for the purposes of the Water Management Act 2000 (WM Act), a controlled activity approval is not required and no further assessment by this agency is necessary.

The proposed activity is exempt from section 91E (1) of the WM Act in relation to controlled activities specified in clause 42, and Part 2 of Schedule 4 of the Water

Management (General) Regulation 2018 that are carried out in, on or under waterfront land.

Please note additional comments to be considered;

- It is understood there is a proposal to manage drainage near the LKD placement by a diversion on its southern and south eastern side and then into the wet quarry. Based on the catchment upstream of the LKD area it appears this is predominantly a clean water catchment. In accordance with best practice it is recommended clean and dirty water be separated. Further to this the current capture of water from third order watercourses entering from the south western corner of the site is a potential licensing issue and will need to be considered further by NRAR's compliance unit.*
- The EIS mentions minor seepage into the quarry through cracks after rainfall. This would be considered groundwater. The proponent needs to be aware of the need to quantify and account for groundwater intercepted through aquifer interference (AI) activities in accordance with the NSW Aquifer Interference Policy. The Department advises there is a 3ML yearly exemption for groundwater take from an AI activity in accordance with Schedule 4(7) of the WM Reg 2018. The proponent needs to consider if the take fits within this exemption, and if the take is more than 3ML, then a WAL with sufficient entitlement needs to be acquired. Also, if a pump is used to remove this groundwater then a Water Supply Work approval would be required.*
- NRAR recommends the proponent review existing and proposed surface water management at the site in accordance with Harvestable Rights and exclusions from licensing requirements for dams on minor streams in accordance with Schedule 1(3) WMA Reg 2018. The need to separate clean and dirty water is a key part of implementing these regulatory requirements as any dams to be considered for the exclusion need to be solely used for that purpose. Capture of runoff from clean catchments would not be considered necessary to meet the exclusion.*
- Dams on third order or higher watercourses cannot be considered for Harvestable Rights or the Sch 1(3) exclusion.*

The above comments have been included as Advisory Notes in Schedule A.

Department of Regional NSW – Mining, Exploration and Geoscience

The application was referred to the Department of Regional NSW – Mining, Exploration and Geoscience (MEG). MEG provided the following response:

Thank you for the opportunity to provide advice on the above matter. This is a response from the Department of Regional NSW – Mining, Exploration & Geoscience (MEG). MEG has reviewed the relevant documentation and has no further issues or concerns to raise with this project.

Upon review of draft conditions, Mining, Exploration and Geoscience advise that they have no concerns or specific comments to add.

PUBLIC SUBMISSIONS

The application was notified to surrounding landowners with no submissions received.

5.2.3.9 The public interest

The public interest is best served by the orderly and economic use of land for permissible uses and that does not impact unreasonably on the use and development of surrounding land.

The proposed development is considered to be in the public interest as it facilitates the ongoing operation of quarrying activities at the site, with flow on employment and resource benefits to the region, with minimal impacts on the use and development of surrounding land.

6. DISCUSSION AND CONCLUSIONS

The proposal is considered to generally comply with the relevant provisions of the applicable Environmental Planning Instruments. The proposal is not considered to have negligible impacts upon the environment and the amenity of the locality. As such it is recommended that development consent is issued subject to the conditions outlined below.

7. ATTACHMENTS

Schedule A- Conditions of consent.

8. RECOMMENDATION

THAT development application DA069/21 is approved subject to conditions set out in Schedule A.

Report prepared by: Mark Hitchenson

Supervisor: Julie Wells

Signed:.....

Signed:.....

Dated:.....

Dated:.....

REASONS FOR CONDITIONS

The conditions in Schedule A have been imposed for the following reasons:

- To ensure compliance with the terms of the relevant Planning Instruments
- To ensure no injury is caused to the existing and likely future amenity of the neighbourhood
- Due to the circumstances of the case and the public interest.
- To ensure the protection of the health and safety of the occupants of the development.
- To protect the environment.
- To prevent, minimise, and/or offset adverse environmental impacts.
- To ensure there is no unacceptable impact on the water quality.
- To ensure adequate soil conservation and protect against movement of soil and sediments.

Schedule A

Conditions of Consent (Consent Authority) and General Terms of Approval (Environment Protection Authority)

Please Note: It should be understood that this consent in no way relieves the owner or applicant from any obligation under any covenant affecting the land.

ADMINISTRATIVE CONDITIONS

1. That the development be carried out in accordance with the application, accompanying information, plans listed in the approval and any further information provided during the process unless otherwise amended by the following conditions.

Plan/Document	Author	Rev	Date
Environmental Impact Statement	Pitt&Sherry	00	30 March 2021
Proposed Life of Mine and Final Rehabilitation Plan (Plan 4)	Graymont		5 May 2021
Proposed Rehab X-Section (Plan 4.1 Section A-A)	Graymont		6 March 2020
Proposed Rehab X-Section (Plan 4.2 Section B-B)	Graymont		6 March 2020
Proposed Inpit LKD X-Section (Plan 4.1 Section D-D)	Graymont		5 May 2021
Response to EPA Submission	Graymont		18 June 2021

2. This development consent operates in conjunction with development consent DA450/01.
3. This development consent limits the emplacement of lime kiln dust to the area outlined in red in Figure 3 of the Environmental Impact Statement, as reproduced below:



4. The lime kiln dust shall be placed in the approved emplacement area and immediately treated to prevent dust escape. There shall be no stockpiling of lime kiln dust elsewhere on the site.
5. This development consent limits the exportation of lime kiln dust from the Graymont Charbon Lime Kiln to the Excelsior Quarry to 9,000 tonnes per annum and the transport of the lime kiln dust to an average of two loads (four movements) per day. The two loads (four movements) per day are to be within the maximum number of heavy vehicle truck movements of 4 per hour approved under DA 450/01 resulting in no increase in heavy vehicle movements as a result of the haulage of lime kiln dust approved under this consent.

6. Vehicles used to transport the lime kiln dust are restricted to a truck and dog trailer or prime mover and semi-trailer configurations with a maximum length of 20 metres.
7. This development consent limits the exportation of lime kiln dust from the Graymont Charbon Lime Kiln to the Excelsior Quarry for a period of five years from the date of the consent. The purpose of this limitation is to provide sufficient time for alternative uses of the lime kiln dust to be found. An extension of time for a further two year period and/or a reduction of the total quantity of lime kiln dust referred to in condition 2 above may be approved by way of a written agreement between the operator, the NSW Environment Protection Authority and Lithgow City Council.
8. This development consent does not permit any changes to the conditions of development consent DA 450/01 in relation to:
 - o The approved haulage routes from Graymont Charbon to Excelsior Quarry, and
 - o The maximum number of heavy vehicle truck movements to 4 per an hour.
9. All vehicles transporting lime kiln dust shall be covered to prevent dust escaping into the atmosphere.
10. The lime kiln dust transport operations shall be undertaken within the following hours:
Monday to Saturday – 7.00am to 5.00pm;
Sundays and public holidays – No operations.
11. The lime kiln dust emplacement operations can be undertaken at any time consistent with the approved quarry operations.
12. The following measures shall be implemented to manage leachate from the emplacement area as outlined in the Environmental Impact Statement:
 - Installation of a compacted base layer, drainage measures to capture leachate and stormwater runoff and capping the emplacement upon completion of landfilling;
 - Formalisation of a stormwater drainage path to divert upslope catchment runoff around the southern side of the proposed LKD emplacement;
 - Installation of a sump to capture stormwater runoff, with overflow to the mine void's main sump for mixing and dilution;
 - Installation of bunds to redirect stormwater in the event of flooding, waterlogging or erosion impacts;
 - Implementation of a water quality monitoring program;
 - Implementation of a pump monitoring program;
 - Implementation of additional measures to reduce pH if required.
13. The following measures shall be implemented to manage dust from the transport and emplacement of lime kiln dust as outlined in the Environmental Impact Statement:
 - using a covered or enclosed truck
 - adding moisture to the material
 - not loading on windy days.
14. A register of lime kiln dust volumes transported to Excelsior Quarry and emplaced shall be kept and updated weekly and maintained for the life of the development.

DPIE – Crown Land Conditions

15. That Graymont (Excelsior) Pty Ltd provide the department with documented authority from

DPIE – Mining, Exploration & Geoscience, that the proposed development activity is an activity authorised by the following mining tenements: Special Lease 664; Private Lands Lease 1219; Mining Lease 1517 and Mining Purpose Lease 318 in accordance with the Mining Act 1992, within 6 months of the development consent being granted.

16. That Graymont (Excelsior) Pty Ltd enter into mining access agreements with the department in accordance with s265 of the Mining Act 1992 or provide evidence acceptable to the department that such agreements pre-exist, within 6 months of the development consent being granted.
17. Where Crown land is not subject to a mining tenement, that Graymont (Excelsior) Pty Ltd enter into licence or lease agreements for the occupation of that land (part Lot 7012 DP1056868) in accordance with the Crown Land Management Act 2016 (CLM Act 2016), within 6 months of the development consent being granted.

Forestry Corporation of NSW Conditions

18. FCNSW will require Graymont (Excelsior) Pty Ltd (Graymont) to amend their existing forest permit to include terms for the use of a State forest road for haulage of limestone and lime kiln dust. A forest permit for commercial haulage operations must be entered into within 6 months of the development consent being granted.

ADVISORY NOTES

Transport for NSW Advisory Notes

- AN1. The proposed transport route uses the road bridge over the Wallerawang to Kandos railway line. The bridge is on the Higher Mass Limit (HML) network and any vehicle over the legal limit for HML network will be required to obtain an Over Size Over Mass (OSOM) permit from JHR, who has been appointed to manage the Country Regional Network (CRN).
- AN2. The applicant must submit an application to obtain a permit to use heavy machinery exceeding the current legal limit to JHR for TfNSW's assessment. The applicant must contact JHR via email at CRN.HeavyVehicle@jhrg.com.au prior to scheduled use of heavy machinery to discuss as to whether or not such an application is required.

Natural Resources Access Regulator Advisory Notes

- AN3. It is understood there is a proposal to manage drainage near the LKD placement by a diversion on its southern and south eastern side and then into the wet quarry. Based on the catchment upstream of the LKD area it appears this is predominantly a clean water catchment. In accordance with best practice it is recommended clean and dirty water be separated. Further to this the current capture of water from third order watercourses entering from the south western corner of the site is a potential licensing issue and will need to be considered further by NRAR's compliance unit.
- AN4. The EIS mentions minor seepage into the quarry through cracks after rainfall. This would be considered groundwater. The proponent needs to be aware of the need to quantify and account for groundwater intercepted through aquifer interference (AI) activities in accordance with the NSW Aquifer Interference Policy. The Department advises there is a 3ML yearly exemption for groundwater take from an AI activity in accordance with Schedule 4(7) of the WM Reg 2018. The proponent needs to consider if the take fits within this exemption, and if the take is more than 3ML, then a WAL with sufficient entitlement needs to be acquired. Also, if a pump is used to remove this groundwater then a Water Supply Work approval would be required.
- AN5. NRAR recommends the proponent review existing and proposed surface water management at

the site in accordance with Harvestable Rights and exclusions from licensing requirements for dams on minor streams in accordance with Schedule 1(3) WMA Reg 2018. The need to separate clean and dirty water is a key part of implementing these regulatory requirements as any dams to be considered for the exclusion need to be solely used for that purpose. Capture of runoff from clean catchments would not be considered necessary to meet the exclusion.

- AN6. Dams on third order or higher watercourses cannot be considered for Harvestable Rights or the Sch 1(3) exclusion.