

DEVELOPMENT ASSESSMENT REPORT – DA 207/12 GRAVEL PITT/CIVIL WORKS, 542 PORTLAND ROAD, CULLEN BULLEN NSW 2790

1. PROPOSAL

Council is in receipt of a Development Application 207/12 on behalf of Ceedive Pty Ltd for a gravel extraction pit (quarry) on land known as Lot 22 in DP 633083, 542 Portland Road, Cullen Bullen NSW.

The property is currently used for cattle grazing and contains a shed and a number of dams.

The hours of operation are proposed to be Monday to Friday 7am to 6pm and Saturday's 8am to 2pm. The extraction pit would not operate on Sunday's or Public Holidays.

It is anticipated that the highest production level will involve the maximum number of truck movements would be, on some occasions 15 loads in one day.

Over 3 years it is anticipated that 2 hectares of the site would be excavated, with the total area of the property being 51.91 hectares. 30,000 cubic metres of extractive material obtained from the site.

The majority of the site is extensively cleared of vegetation with some isolated trees. The western portion of the site is quite heavily vegetated.

There is no proposal to conduct blasting or hammering on the property. It is mostly extracted via a small traxcavator. A large dozer may also be required to push up topsoil.

Previous Applications

BA 11/96 Dwelling Additions

BA 71/89 Garage

DA 16/96 Dwelling/Garage

DA 55/96 Bulk Store (Produce)

DA 37/89 Shed

2. SUMMARY

To assess and recommend determination of DA 207/12. Recommendation will be for approval subject to conditions

3. LOCATION OF THE PROPOSAL

Legal Description : Lot 22 DP 633083

Property Address : 542 PORTLAND ROAD CULLEN BULLEN

The property is located to the west of Cullen Bullen Road. The land is gently undulating with the highest part of the site along the western boundary.

4. ZONING: The land is zoned 1(a) General Rural in accordance with Lithgow City Local Environmental Plan 1994.

5. PERMISSIBILITY: The development is considered permissible under Lithgow City Council's Local Environmental Plan 1994, subject to development consent.

The *Environmental Planning and Model Provisions 1980* define the development as:

Extractive industry means:

- *The winning of extractive material, or*
- *An undertaking, not being a mine, which depends for its operations on the winning of extractive material from land upon which it is carried on, and includes any washing, crushing, grinding, milling or separating into different sizes of that extractive material on that land.*

5.1 POLICY IMPLICATIONS (OTHER THAN DCP's)

Council's *Policy 7.7 – Calling in of Development Applications by Councillors* states that Development Applications that are called in by a Councillor must be referred to the elected Council for consideration and determination and that no aspect of the development is dealt with under delegated authority. As such a report would be presented at a Council meeting for the elected Council to determine the proposed development.

On the 18 June 2013 an on-site meeting was held with the Councillors, adjoining landowners and the applicant. The meeting started on the adjoining property with the surrounding landowners who reinstated the issues outlined further in this report. The Councillors then visited the proposed site with the applicant who addressed some of the neighbouring concerns. The applicant's response is located further in this report under the heading *'Adjoining Neighbours'*.

5.2 FINANCIAL IMPLICATIONS (eg Section 94)

Section 94A Levy Plan

Estimated Cost of Development	Percentage (%) Contribution/Levy
All development types valued at \$100,000 or less	Nil
All development types valued at \$100,001 and up to \$200,000	0.5%
All development types valued in excess of \$200,000	1%

The estimated cost of the development is \$100,000, therefore Section 94A Contributions do not apply for this development.

Discussions were held with the applicant and Councils Planning Officers in regards to the accuracy of this estimated cost of the development. It was advised that the only major cost would involve the upgrade to Portland Road. Other expenses would involve the operations of the trucks and machinery, and additional landscaping around the boundary of the property. The applicant further advised that quotes were obtained in regard to these expenses.

5.3 LEGAL IMPLICATIONS

Environmental Protection and Biodiversity Conservation Act 1991

No federally listed Threatened Species or Endangered Ecological Community is required to be cleared as a result of this application. Accordingly, there are no legal implications of this act on the proposed development.

Native Vegetation Act 2003

No native vegetation is required to be cleared as a result of this application. Accordingly, there are no legal implications of this act on the proposed development.

Protection of the Environment Operations Act 1997

There are no legal implications of this act on the proposed development.

Roads Act 1993

There are no legal implications of this act on the proposed development.

Environmental Planning and Assessment Act 1979

In determining a development application, a consent authority is required to take into consideration the matters of relevance under Section 79C of the *Environmental Planning and Assessment Act 1979*. These matters for consideration are as follows:

5.3.1 Any Environmental Planning Instruments

Lithgow City Local Environmental Plan 1994

LEP 1994 – Compliance Check		
	Clause	Compliance
9	1(a) zoning table	Yes
11	General Considerations for development in rural zones	Yes
37	Contaminated land	Yes
Part 4	Heritage provisions	Yes

Comment: The development is not prohibited in the zone and is permissible with consent. In regards to protecting, enhancing and conserving rural land, in particular prime crop and pasture land, the development would be intruding onto this land and would not be conserving the agricultural use.

Although the development would be minimising agricultural land, the area to be demolished would be minimal of approximately 2ha on an allotment that contains 51ha. The rest of the property would be retained for agricultural use. The proposed quarry is further on the site of a former quarry that was rehabilitated.

Soil capability would be controlled through sedimentation control measures. The property further does not contain or is not located within a forestry area in regards to impacts on timber production or located within an environmentally sensitive area.

The extractive material would be deposited into trucks and taken off the property in a suitable manner.

No heritage items are located on or in the vicinity of the property and the development would not minimise cost to the community.

The development therefore complies with Council's LEP 1994.

State Environmental Planning Policy (Rural Lands) 2008

SEPP (Rural Lands) 2008 – Compliance Check	
Clause	Compliance
7 Rural Planning Principles	Yes

Comment: The development does not involve a subdivision or dwelling on the property. Although the development would decrease the agricultural land use potential, the area of the development is minimal. Rehabilitation works are proposed for the property once the development has reached its lifespan.

The development would promote the potential productive and sustainable economic activities in the area by extracting resources that can be used for other business.

No native vegetation has been found in the location of the development, further no water courses will be affected.

State Environmental Planning Policy 44 – Koala Habitat Protection

SEPP 44 is applicable to site given that it exceeds 1ha in size and is located within the Lithgow Local Government Area to which the SEPP applies.

Part 2 of the SEPP requires Council to consider whether the land the subject of the application retains potential and subsequently core koala habitat.

The SEPP provides the following definitions:

core koala habitat means an area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is, females with young) and recent sightings of and historical records of a population.

potential koala habitat means areas of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.

Many of the trees listed within Schedule 2 of the SEPP are common within the Lithgow Local Government area, however core koala habitat within this area is rare, with only 12 koala sightings ever reported on private land within the LGA.

Clause 17 of the SEPP states that Council's must take into consideration the guidelines that are relevant to the exercise of the function.

The Draft SEPP 44 Guidelines (1996) by NPWS allows the following courses of action:

4. Facilitation of certain development proposals

Having undertaken a review of existing information and some preliminary site investigations, an applicant may, with the written agreement of the consent authority and following advice from the NPWS, adopt one of the following courses of action.

- (i) *Conclude that an area does not contain koala habitat by virtue of its nature or location (for example, the site is devoid of trees or located in the centre of a CBD) and that there is no need to proceed further with the SEPP 44 assessment.*

(ii) Conclude that the proposed development, by its nature, would not alter the situation presently existing on the site for koalas and koala habitat (for example, minor extension to a dwelling).

Comment: Given that no trees are to be removed as part of the development, and the section of the subject site relevant to the application is devoid of native vegetation it is considered unnecessary to proceed further with SEPP 44 assessment.

State Environmental Planning Policy No 55—Remediation of Land

SEPP 55 – Compliance Check	
Clause	Compliance
7 Contamination and remediation to be considered in determining development application	Yes
17 Guidelines and notices: all remediation work	Yes

Comment: The potential for contamination appears to be minimal. In terms of potential soil contamination the Statement of Environmental Effects states that the property has been evaluated for:

- Evidence of previous mining activity,
- Evidence of existing and previous dip sites and other associated infrastructure,
- Evidence of orcharding, and
- Vegetation and other features which could indicate possible soil contamination.

After the 3 years of excavation, a condition would be placed on the consent if the development was approved stating that the site is to be rehabilitated within 3 months of the finalisation of the activities undertaken.

As such it was found that the development complies with the SEPP 55 and no further investigation is required.

State Environmental Planning Policy (Infrastructure) 2007

SEPP (Infrastructure) 2007 – Compliance Check	
Clause	Compliance
13 Schedule 3 Traffic generating development to be referred to the RTA -Industry 20,000m ² in area (Size or capacity—site with access to any road)	Yes

Comment: The whole area of the developed site would be approximately 2ha over the three years of operation. Therefore the development was referred to the Roads and Maritime (RMS), whose comments are found later in this report.

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

SEPP (Mining, Petroleum and Extractive Industries) 2007 – Compliance Check	
Clause	Compliance
3 Extractive industry	Yes

	Development for any of the following purposes may be carried out with development consent: (a) extractive industry on land on which development for the purposes of agriculture or industry may be carried out (with or without development consent),	
12	Compatibility of proposed mine, petroleum production or extractive industry with other land uses	Yes
16	Transport	Yes
17	Rehabilitation	Yes

Comment: The development is for an extractive industry to be carried out on a rural property.

The development is not compatible with the surrounding landuses as they are used for rural residential purposes. To reduce the impact of this incompatibility the development would be located towards the rear of the property so that it is unseen from public roads and the view from adjoining neighbours are minimised. Landscaping would also be planted around the property boundary to help minimise views and other potential impacts such as noise and dust issues. The proposed quarry would further be limited to 2 hectares in area, which would leave 50 hectares to remain utilised for agricultural purposes which are compatible with the surrounding landuses.

If this development was approved then conditions would be placed on the consent to minimise impacts on adjoining landuses.

The development is for the extraction of ground materials and transported to other properties.

The applicants have advised that a Rehabilitation Plan would be developed and address the proposed end use and landform of the land once rehabilitated. This would be conditioned on the consent if approved.

5.3.2 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

None. The application was lodged prior to the exhibition of the draft LEP and therefore not required to be taken into consideration.

5.3.3 Any Development Control Plan

Industrial Development Control Plan

Industrial- Compliance Check	
Clause	Compliance
5.0 Requirements for Rural Zones	Yes
a. Visual Character	Yes
c. Relationship with Agricultural Use	Yes

Comment: The development is setback from the main road (approximately 500 metres) and adjoining boundaries so that the visual view is minimised. The closest neighbouring dwelling is located at the front of the property away from the quarry pit site.

The development would be approximately 2 hectares in size on a property that contains 52 hectares. The rest of the property would be utilised for agricultural usage, with the quarry operations ceasing after 3 years, rehabilitation works would be undertaken so that the agricultural use is not affected.

The activities undertaken at the site relates to soil removal and is expected to have minimal impact to agricultural usage in the area.

5.3.4 Any planning agreement that has been entered into under Section 93F, or any draft planning agreement that a developer has offered to enter into under Section 93F?

No. Portland Road is a Council Regional Road in which Council receives funding from the Roads and Maritime Services (RMS) to manage and maintain it. Discussions were held with the applicant and Councils Planning and Engineering staff in regards to a Planning Agreement for the maintenance and upkeep of the road. The quarry is expected to have a relatively low scale production over a 3 year period. Therefore no justification was considered to warrant a Voluntary Planning Agreement.

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

The development does not involve demolition works, rebuilding or extension of a building.

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

Access and Traffic: The development would utilise the existing entrance that was previously constructed for the dwelling on the property. From the entrance of the property the access road would continue to the pit area. The access to the property is visible and has a clear view in both directions.

It is anticipated that the highest production level will involve the maximum number of truck movements would be, on some occasions, 15 loads in one day. The trucks would travel along sealed roads from Cullen Bullen to Portland. As such it is not expected that the development would impact traffic as heavy haulage trucks already use the public roads frequently.

Sediment and Erosion: At present surface water flows to the North and into an existing farm dam. Erosion control measures include silt fences and straw bales along the gully to the west of the excavation site area which would minimise or alleviate any impacts.

The Statement of Environmental Effects states that the main actions of a sediment and erosion control would include:

- Areas that are no longer quarried are to be reshaped and rehabilitated with progressive rehabilitation to be implemented wherever possible,
- Soil stockpiles will be no greater than 2m high and will be revegetated,
- Overburden/subsoil stockpiles will be reshaped and revegetated. Future overburden would be backfilled into previously quarried areas.
- Temporary protection such as straw or hay mulch would be used to protect soil and overburden stockpiles during vegetation establishment and sediment control fencing will be used.

- A sediment dam would be constructed to catch overflow and runoff.

As such sediment and erosion controls are found to be suitable for the development to prevent potential contamination and environmental impacts.

Bushfire: The property is not located within the bushfire zone, the land is also cleared grazing area therefore no further assessment is required.

Air and Microclimate: Open cut mines and the Mount Piper Power Station are located within a five kilometre radius of the property and therefore already contain air pollutant in the vicinity. The possible pollutants from exhaust fumes would be minimised by regular servicing of plant and by using water trucks to reduce dust emission. All trucks leaving the property would further be covered prior to exiting the property. The nearest residence is approximately 500 metres from the quarry. Therefore compared to the mines and power station in the area, the development would have minimal impact on air or microclimate.

Flora and Fauna: The proposed pit site is badly eroded from previous extraction practices (without development approval). It was noted within the Statement of Environmental Effects that the site was previously used as a small quarry for the Portland cement works when it was in operation. The remaining portion of the property contains pasture and native bushland to the west, which would not be impacted by the development.

The property is also covered by grassland, with remnant trees located with the road reserve of Cullen Bullen Road. The grassland has been previously impacted upon by agricultural activities including clearing, cultivation, pasture improvement and stock grazing.

No threatened species have further been identified on the property.

Waste: All rubbish would be removed from the site and taken to the local tip on a regular basis.

Noise and Vibration: Noise would be restricted between the hours of operation which are proposed to be Monday to Friday 7am to 6pm and Saturday's 8am to 2pm. The extraction pit would not operate on Sunday's or Public Holidays. The only noise source from the property would be during these times and from machinery and vehicles. As the property is isolated from surrounding dwellings and public areas, it is expected that the development would not cause any noise issues.

Heritage: There is no known heritage item located on or in the vicinity of the site.

Context and Setting: The surrounding area is characterised by grazing and agricultural properties with ancillary dwellings. Due to the size of the development it is not expected to impact on adjoining properties in regards to views and vistas.

As such it is considered that the development would have minimal impact on the context and setting of the locality.

Contamination: As there would be no site storage, the only possible impact would be from minor spills due to equipment failure e.g. leaking pump, fuel spillage during refilling vehicles. As such the property is currently not contaminated.

Rehabilitation: Rehabilitation will be undertaken progressively throughout the life of the quarry. Once completion of the quarry the site would be rehabilitated to be retained for agricultural use. The quarry wall would be appropriately graded and the surface to be topsoiled.

Rehabilitation works involve clean fill to be placed in 300mm layers and compacted. Stripped vegetation and topsoil retained on the site would be in low mounds less than 1.5m in height would be sited during the rehabilitation process to avoid loss of vegetative cover and fertility

Social and Economic Impact: The benefit of the development is that it would provide a stable long term supply of gravel for the proponents, ensuring the continued profitability and employment capability of the business. Transport costs would further be minimised due to the distance from potential consumers.

The proposed development will further be generally in keeping with the provisions of the planning instruments therefore it is expected that the development will have minimal social and economic impact.

Adjoining Landuse: The surrounding land use is characterised by rural properties and ancillary dwellings. There have been historical quarrying operations that were previously conducted on the exact site of the proposed quarry prior to rehabilitation and on an adjoining allotment. As the property on the southern side contains an existing quarry, it is expected that no impacts would occur from the development as it is the same use. The property on the northern side contains a dwelling located at the front of the property with the rest of the property used for agricultural uses.

The location of the development located towards the rear of the property, approximately 500m away from Portland Cullen Bullen Road. Therefore the view of the development would be minimised from the road and properties adjacent to the site. The rear of the property also contains existing native timber therefore adjoining landuses at the back of the property would not be impacted upon.

The development would be utilising 2 hectares of the 52 hectare property of the three years of operation. Therefore it is considered that the development would be minor in nature and would have minimal impacts to adjoining landuses.

5.3.7 The Suitability of the site for the development

The surrounding land uses are for rural/residential pursuits. As the size of the development would be minimal in comparison to the size of the property and the size of adjoining properties, it is expected that the development would create minimal impacts

The environment would be impacted upon and with satisfactory measures such as rehabilitation works, dust and noise control, impacts would be reduced.

Traffic may also be impacted upon but as the development would only be operating between Monday to Friday 7am to 6pm and Saturday's 8am to 2pm, and a maximum of 15 trucks a day (most days will be less), impacts from the development would be minimal.

Hence, the site is considered to be suitable for the proposed development. The proposal is compatible with the objectives of the zone and is considered to have minimal impact on the surrounding rural properties.

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

The proposal was sent to the Environmental Protection Authority, Department of Primary Industries (DPI), Roads and Maritime Services (RMS), Mine Subsidence Board and Councils Engineers for commenting. The proposal was also sent to adjoining neighbours and placed on public display in Councils Administration Building for a period of 14 days.

ADJOINING NEIGHBOURS

During the notification period thirteen (13) submissions were received from adjoining neighbours. The main concerns include:

1. Dust impacts on surrounding properties as the property is located within a high wind area and the use of water tanks not running throughout the whole hours of operation. The creation of dust would be significant for the locality. Water resources are also of great concern.

Applicants Comment: *The location of the quarry is within a sheltered location with hills (heavily vegetated) to the west and south (the location of the prevailing winds). This is only a small quarry and the disturbed area would be minimal at any given time and then progressively remediated as the quarry life continues. There are 7 dams on the property that would provide more than adequate water supplies if required for dust suppression.*

The following measures are proposed with respect to potential dust generation:

- *There will be a 20km/hr speed limit over the site,*
- *A water cart with sprinklers to be in position if the need arises for dust suppression,*
- *No work will be undertaken on windy days,*
- *All truck loads would be covered,*
- *Dust management procedures to be covered in the site induction to site staff and truck drivers,*
- *A Community Liaison person would be nominated and a complaints procedure implemented.*

The proponent would apply feasible and work practices to minimise any potential noise and dust impacts from the quarry operations. It is to be further noted that the development would be a small operation and the impacts are expected to be minor.

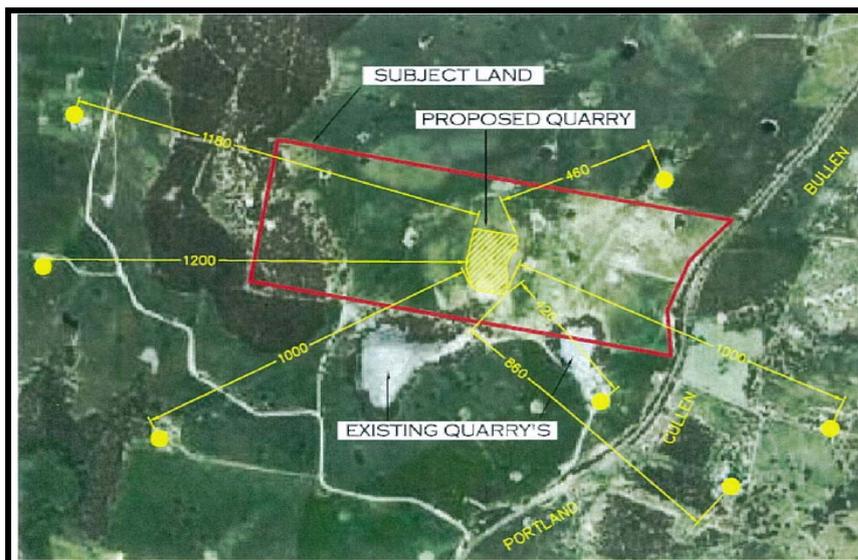
Council Officers Comment: The development was referred to the Environmental Protection Authority (EPA) who predicted that dust generation from the quarry would be low and that mitigation measures should be conditioned in the event that excessive dust is generated from the operational areas. The EPA's comments are found further in this report.

As such Council is satisfied that the applicants response is reasonable for the development and therefore if the development was approved then the following condition would be placed on the consent which would minimise dust impacts:

- The proponent shall ensure that all reasonable and feasible avoidance and mitigation measures are employed so that during the construction works and during operation all measures are taken to eliminate/suppress any dust nuisance emanating from the site.

2. Noise/Air Pollution - little information has been given in terms of noise generation and means of mitigation. The closest house is further located within 350 metres of the proposed development. These houses have not been shown on the site plans submitted with the application. The Statement of Environmental Effects indicates 500 metres which is inadequate. The noise from heavy machinery which are required to dig out the pit would impact these houses, as well as affecting livestock breeding and grazing. The shape of the hills would further increase the noise level through echoes which flows through the valley.

Applicants Comment: *There is an existing dwelling to the north east 460m away and 420m to the south east. The dwelling to the south east is over the existing hill (there is no direct sight). With respect to the dwelling north east it is proposed to plant a tree screen along the northern boundary. Due to limitations with respect to area and volume to be extracted, the quarry will only be periodically worked. Any noise impacts would be temporal and any works would be undertaken during daylight hours. Refer to Map below:*



The applicant proposes a number of noise mitigation strategies in accordance with the New South Wales Industrial Noise Policy produced by DECCW, including:

- *Controlling noise at the source – The applicant will restrict truck movements on the elevated areas and exposed haul routes where noise can be distributed across a wide area, with truck movements occurring during the hours of operation. Spoil areas shall be shielded by constructing earth mounds if necessary. Noise generating activities such as the use of excavators will be restricted to less sensitive times during the day with equipment such as excavators and haul trucks would be used separately where possible to avoid cumulative noise generative impacts.*

The development shall also provide for operational management practices of plant and equipment such as servicing to ensure optimum performance and restriction of associated noise impacts.

The quarry development is site in a position that enables natural noise attenuation by natural vegetation screening to noise receptors.

- *Controlling Noise Transmission – Earth mounds and spoil areas would be constructed to ensure suitable noise attenuation barriers to reduce noise impacts.*

The location of the development would create minimal land use conflicts with a distance of 460m from the north east and 420m to the south east from the nearest adjoining residential dwellings. This would enable landuse separation and mitigate against noise susceptibility at the receptor.

The applicant will ensure that noise generated by the operation at the site would not exceed 55Db at the property boundaries during the prescribed 'day' period in accordance with the INP for a rural setting, for any adjacent dwelling house.

- *Other – The following additional measures are proposed:*
 - *Noise induction to all staff and truck drivers, including noise minimisation measures and discussion on project specific noise reduction strategies.*
 - *Implementation of a 'Community Liaison' procedure, which includes a noise management and noise complaint details.*

Council Officers Comment: Council agrees that the applicant's response is reasonable for the development and as such if the development was approved then the following conditions would be imposed on the consent:

- *The applicant is to restrict the amount of truck movements on the elevated areas and exposed haul routes where noise can be distributed across a wide area, with truck movements to only occur during the hours of operation.*
- *The applicant is to ensure that noise generated by the operation at the site would not exceed 55Db at the property boundaries during the prescribed 'day' period in accordance with the INP for a rural setting, for any adjacent dwelling house.*

3. The regeneration of the land after the operations have been deceased.

Applicants Comment: *Regeneration Works would be reinstated as conditions within the consent.*

Council Officers Comment: If the development was approved then appropriate conditions would be imposed on the consent for all rehabilitation works including a plan showing the stages and end use of the works undertaken.

4. Surrounding properties may devalue in price.

Applicants Comment: *There is no substantiation provided regarding devaluation of surrounding properties.*

Council Officers Comment: It is advised that the development is to be operational for 3 years and that due to the location; impacts in regards to views, water, agricultural usage, dust and noise would be minimal.

5. Heavy Vehicles on the road as the road would need to be upgraded for the amount of truck movements. The access road is also inadequate and dangerous.

Applicants Comment: *The RMS have provided their conditions of consent and the applicant has no objection meeting the conditions and will upgrade the access as required.*

Council Officers Comment:

Councils engineers and the RMS have commented on the proposed development and if it was approved then the following conditions would be imposed on the consent:

- *A fully certified Civil Works Plan is to be submitted and approved by Councils Operations Manager prior to commencement of the quarry. Each stage of the road upgrade is to be inspected by Council.*
- *The proposed access intersection off Portland Cullen Road is to be constructed to include Auxiliary Right Turn (AUR) and Auxiliary Left Turn (AUL) intersection treatments, as specified in Austroads Guide to Traffic Management Part 6: Intersections, Interchanges and Crossings, Figure 2.5. Auxiliary lanes are to be constructed to a minimum 3.5m in width and 50m in length.*
- *The access driveway and auxiliary lanes shall have a minimum of 150mm of DGB-20 road base applied and compacted providing a smooth transitional surface, and are to be (2) two-coat bitumen sealed (14/7mm pre-coated aggregate) from the edge of Portland Bullen Road to the Property boundary.*
- *All intersection upgrade works are to be located entirely within the road reserve.*
- *All associated traffic signage, including "trucks turning" signage is to be provided and installed at the developers full cost on Portland Cullen Bullen Road at the northern and southern approaches to the proposed gravel pit vehicular access. The warning signs shall be removed upon closure of the pit;. All proposed signage is to be shown on the construction certificate and approved by Council prior to the commencement of any civil works.*
- *All associated linemarking, including edge lines, centre lines, and turning arrows are to be provided at the developers full cost. All proposed linemarking is to be shown on the construction certificate and approved by Council prior to the commencement of any civil works.*
- *A fully certified traffic control plan and road works signage will be required where machinery may obstruct traffic on Portland Cullen Road whilst*

construction work is being undertaken. A traffic control plan and certification of fully qualified contractors/persons will be required to be submitted to Council prior to any work commencing on the shoulder of Portland Cullen Road. Failure to comply may result in Work Cover Intervention and may also include Council stop all work immediately until such time the developer complies with a suitable traffic management procedures.

- *All Construction Work including the intersection upgrade works and access driveway shall be completed prior to the gravel becoming operational.*

6. The Portland/Cullen Road has a 100km/hr speed limit and is essentially a safe road for light vehicles travelling in either direction. However, there is not adequate vision nor potentially, adequate stopping time for vehicles when faced with a large, slow truck pulling out or turning into the property.

Applicants Comment: *The RMS has provided their conditions of consent and accordingly are satisfied that the proposal will not have a negative impact on the Cullen Bullen Road.*

Council Officers Comment: Refer to Councils comment above for the previous issue.

7. The hours of operation are not efficient with other business hours within the locality.

Applicants Comment: *The hours of operation are 7am to 6pm Monday to Friday and 8am to 4pm on Saturdays. No operations occur on Sundays or public holidays. In reality, all works would be undertaken during daylight and would generally be completed by 3.30pm. These hours are consistent with farming operations in the general area. The works are further not full time and the quarry will operate on a very frequent basis.*

Council Officers Comment:

Council recommends that the hours of operation are modified and restricted in regards to Saturday operations. This would further be imposed as a condition on the consent if the development was approved and would state:

- The hours of operation are to be restricted between Monday to Friday 7am to 6pm and Saturday's 8am to 2pm. There is to be no quarrying, processing, loading or transportation on Sundays and Public Holidays. No heavy vehicles are to further access or exit the site outside of these hours.

8. Underground fire-The site is extremely close to a former coal mine and the coal seam under this land has been on fire for a number of years. Potentially this is a huge hazard as oxygen penetration into the land could lead to further ignition.

Applicants Comment: *There are no coal operations in the immediate vicinity of the quarry.*

Council Officers Comment: Council referred the development to the Mine Subsidence Board who advised that the quarry site does not contain underground coal. A plan from the Mine Subsidence Board showing the location of the property in

regards to the old coal mining area and their comments is outlined further in this report.

Council is satisfied that the development would not impact on underground coal.

9. Eyesore/view with landscaping being destroyed.

Applicants Comment: *There is no vegetation to be removed to facilitate the operation of the quarry.*

Council Officers Comment: Council is satisfied that the applicants response is deemed to be reasonable and that further landscaping is proposed to be undertaken along the boundaries of the property. If the development was approved then the following condition would be imposed on the consent:

- A Landscaping Plan is to be submitted and approved by Council prior to any works/operations are undertaken on the site. The Landscape Plan is to show the location and type of planting on the property particularly along the adjoining boundaries of the properties to minimise impacts.
- Once the Landscaping Plan is approved, all planting must be undertaken within the first 6 months of operation.

10. Community benefits

Applicants Comment: *The quarried material will be used for projects in the locality and support the civil and construction industries.*

Council Officers Comment: Council agrees with the applicant's response.

11. Effects on Jews Creek from waste products

Applicants Comment: *Jews Creek is a long distance from the site and there is no identified off site impacts.*

Council Officers Comment: A site inspection as undertaken at the property and it was noted that the creek is not located within close proximity to the development site.

12. Water pollution in regards to water supply to adjoining properties. Concerns were raised in regards to health and contamination impacts.

Applicants Comment: *There is no contamination of water ways identified as there are no chemicals used in the operations. This is a very small scale quarry that will be progressively quarried and remediated.*

Council Officers Comment: Council is satisfied with the applicant's response.

13. Aboriginal cultural study.

Applicants Comment: An aboriginal Cultural Study is not considered warranted in this case as the proposed quarry is on the site of a former quarry – there is no evidence of any cultural influence on this proposal.

Council Officers Comment: Council is satisfied with the applicant's response.

14. Operations have started without Council Approval; specifically fill is being removed from the top side of the hill where a house is located approximately 80 metres away, without erosion control measures or vegetation.

Applicants Comment: There are no operations commenced with respect to the proposed dwelling.

Council Officers Comment: Through the development assessment processes Council advised the applicant that no work was to start until he received Council consent. As such the applicant informed Council that fill was transported to upgrade the driveway on the property.

15. No geotechnical reports have been submitted to identify what the type of gravel that is located beneath the surface.

Applicants Comment: There is no need for a geotechnical report in this instance to enable Council to conduct their assessment of the Development Application.

Council Officers Comment: Council is satisfied with the applicant's response.

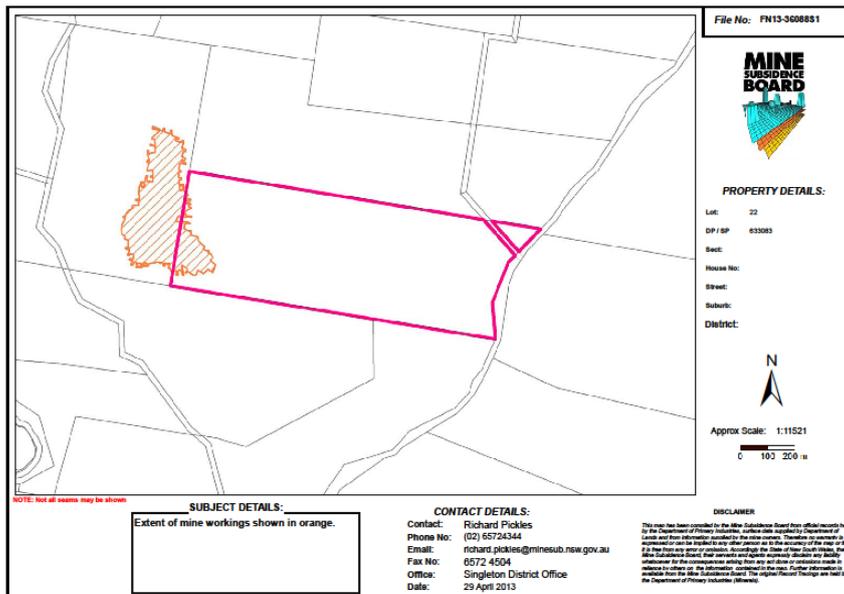
DEPARTMENT OF PRIMARY INDUSTRIES (DPI)

The department inspect the site and has no concerns in relation to this application.

MINE SUBSIDENCE BOARD (MSB)

The Board has no record of a burning coal seam on the site and as discussed it would not likely effect the area proposed for the quarry. As the property is not in a proclaimed Mine Subsidence District, MSB approval is not required.

The map below shows the extent of mine workings on the property:



ENVIRONMENTAL PROTECTION AUTHORITY (EPA)

The EPA has reviewed the Development Application and has made the following comments:

- The proposed development is not a schedule activity under Schedule 1 of the Protection of the Environment Operations Act 1997 (POEO Act) as it falls under the environmental protection licensing threshold for extractive industries. As such under the POEO Act, Council; would be the appropriate Regulatory Authority (ARA) should the proposed development be approved.
- The Statement of Environmental Effects (SEE) makes a passing reference to potential noise impacts from the proposed development and concludes that owing to the scale of the proposed development, that these impacts are likely to be minimal most of the time. The SEE does not provide any quantitative measure of what the potential impacts may be when not 'minimal' and what measures would be taken to reduce noise from the quarry in noise enhancing conditions or on receipt of a noise complaint. The EPA recommends that Council require that the proponent/consultant investigates this matter further;
- Similarly, dust generation from the quarry is predicted to be low however no mitigation measures are described in the event that excessive dust is generated from the operational areas. Again, the EPA recommends that Council require that the proponent/consultant investigates this matter further;
- The EPA notes that the proponent will prepare an erosion and sediment control plan. The EPA recommends that should the proposed development be approved, that this plan be prepared prior to the commencement of any site works and activities and be prepared in accordance with the publications "Managing urban stormwater: soils and construction", vol. 1 (Landcom 2004) and the addendum to this publication, vol 2 (E) " Mines and quarries" (DECC 2008); and

- The proponent has indicated that up to 30,000 tpa of material will be extracted within a year period. The EPA recommends, to ensure compliance with POEO Act, that Council include, should the proposed development be approved, Conditions of Consent that are consistent with the following:
 - a) Cap the permitted extraction to less than 30,000 tpa during any yearly period (E.g. each calendar year);
 - b) Require the proponent to measure and record the weekly or monthly amount of material extracted;
 - c) Require the proponent to provide a brief Annual Report (covering each calendar year for example) that includes all weekly or monthly results detailed above and provides the total figure of material extracted within the calendar year; and
 - d) Include a condition permitting Council Officer's to inspect the weekly or monthly records at any time.

Applicants Comment: The applicant proposes a number of noise mitigation strategies in accordance with the New South Wales Industrial Noise Policy produced by DECCW, including:

- Controlling noise at the source – The applicant will restrict truck movements on the elevated areas and exposed haul routes where noise can be distributed across a wide area, with truck movements occurring during the hours of operation. Spoil areas shall be shielded by constructing earth mounds if necessary. Noise generating activities such as the use of excavators will be restricted to less sensitive times during the day with equipment such as excavators and haul trucks would be used separately where possible to avoid cumulative noise generative impacts.

The development shall also provide for operational management practices of plant and equipment such as servicing to ensure optimum performance and restriction of associated noise impacts.

The quarry development is site in a position that enables natural noise attenuation by natural vegetation screening to noise receptors.

- Controlling Noise Transmission – Earth mounds and spoil areas would be constructed to ensure suitable noise attenuation barriers to reduce noise impacts.

The location of the development would create minimal land use conflicts with a distance of 460m from the north east and 420m to the south east from the nearest adjoining residential dwellings. This would enable landuse separation and mitigate against noise susceptibility at the receptor.

The applicant will ensure that noise generated by the operation at the site would not exceed 55Db at the property boundaries during the prescribed 'day' period in accordance with the INP for a rural setting, for any adjacent dwelling house.

- Other – The following additional measures are proposed:
 - Noise induction to all staff and truck drivers, including noise minimisation measures and discussion on project specific noise reduction strategies.

- Implementation of a 'Community Liaison' procedure, which includes a noise management and noise complaint details.

Dust Control

The following measures are proposed with respect to potential dust generation:

- There will be a 20km/hr speed limit over the site,
- A water cart with sprinklers to be in position if the need arises for dust suppression,
- No work will be undertaken on windy days,
- All truck loads would be covered,
- Dust management procedures to be covered in the site induction to site staff and truck drivers,
- A Community Liaison person would be nominated and a complaints procedure implemented.

The proponent would apply feasible and work practices to minimise any potential noise and dust impacts from the quarry operations. It is to be further noted that the development would be a small operation and the impacts are expected to be minor.

ROADS AND MARITIME SERVICES (RMS)

It is noted that the proposed gravel pit will generate a maximum of 15 loads (30 movements) per day and that access will be obtained via an existing vehicular access off Portland Cullen Bullen Road.

The site has been inspected and the information submitted in support of the development proposal reviewed. The site inspection revealed that the intersections sight distance on the southern approach to the access is approximately 200 metres less than the minimum distance recommended in the Austroads Guide to Road design for a 100kmph speed environment.

The following recommended conditions of consent are provided for Council's consideration:

- The access from Portland Cullen Bullen Road servicing the development shall be constructed in accordance with Austroads Guide to Road Design: Part 4 Figure 7.4 'Standard Rural Property Access' (copy attached) and any relevant RMS Supplements. The access should be sealed a minimum of 20 metres from the edge of the travel lane in Portland Cullen Bullen Road, match existing road levels and not interfere with existing road drainage;
- A basic left (BAL) turn treatment as shown in Figure 8.2 of the Austroads Guide to Road Design: Part 4A (copy attached) shall be provided at the access to the proposed gravel pit. The BAL facility will need to be sealed and built for a 100km/h environment;
- Any gate, grid or similar structure constructed on the access should provide suitable storage capacity for an articulated vehicle from the carriageway;
- Arrange with Lithgow City Council for the installation of "Trucks Turning" signs (W5-205) on Portland Cullen Bullen Road at the northern and southern approaches to the proposed gravel pit vehicular access. The warning signs shall be removed upon closure of the pit;
- The access treatment shall be completed prior to the gravel becoming operational;

- The hours of operation are to be between 7.00am and 6.00pm. No heavy vehicles are to access or exit the site outside of these hours.

COUNCIL'S ENGINEERS

Council's Engineers do not agree with the Roads and Maritime Services (RMS) recommended conditions in regards to the intersection treatment. This road is a Council Regional Road in which Council receives funding from the RMS to manage and maintain it. Therefore Council is able to over-ride the RMS Conditions which is in relation to the intersection to make it more feasible for the development and the road network.

As such Council's Engineers have no objection to the development subject to the following conditions being attached to the consent:

1. The proposed access intersection off Portland Cullen Road is to be constructed to include Auxiliary Right Turn (AUR) and Auxiliary Left Turn (AUL) intersection treatments, as specified in Austroads Guide to Traffic Management Part 6: Intersections, Interchanges and Crossings, Figure 2.5. Auxiliary lanes are to be constructed to a minimum 3.5m in width and 50m in length.
2. The access driveway off Portland Cullen Road shall have a minimum entry splay of 6.0 metres in width, tapering back into a minimum 4.0 metre wide internal access road.
3. The access driveway and auxiliary lanes shall have a minimum of 150mm of DGB-20 road base applied and compacted providing a smooth transitional surface, and are to be (2) two-coat bitumen sealed (14/7mm pre-coated aggregate) from the edge of Portland Bullen Road to the Property boundary.
4. All intersection upgrade works are to be located entirely within the road reserve.
5. All associated traffic signage, including "trucks turning" signage is to be provided and installed at the developers full cost. All proposed signage is to be shown on the construction certificate and approved by Council prior to the commencement of any civil works.
6. All associated linemarking, including edge lines, centre lines, and turning arrows are to be provided at the developers full cost. All proposed linemarking is to be shown on the construction certificate and approved by Council prior to the commencement of any civil works.
7. A construction certificate will be required to be lodged to Council prior to the commencement of any Civil Works.
8. A fully certified traffic control plan and road works signage will be required where machinery may obstruct traffic on Portland Cullen Road whilst construction work is being undertaken. A traffic control plan and certification of fully qualified contractors/persons will be required to be submitted to Council prior to any work commencing on the shoulder of Portland Cullen

Road. Failure to comply may result in Work Cover Intervention and may also include Council stop all work immediately until such time the developer complies with a suitable traffic management procedures.

5.3.9 The public interest

There has been no issues raised from the public regarding planning issues.

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 likely to have any significant negative impacts upon the environment or upon 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 DA 207/12 is approved subject to conditions set out in Schedule A.

Report prepared by:.....Supervisor:.....

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 that adequate road and drainage works are provided.
- To ensure access, parking and loading arrangements will be made to satisfy the demands created by the development.
- To ensure the structural integrity of the development.
- 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 lots are adequately serviced.
- 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)

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, Statement of Environmental Effects, accompanying information, plans listed in the approval and any further information provided during the process unless otherwise amended by the following conditions.
2. The Proponent shall not:
 - (a) transport more than 30,000m³ of product from the site per calendar year;
 - (b) permit no more than fifteen vehicle movements per day (total of all quarry haulage truck movements into and out of the site)
3. To ensure compliance with POEO Act, the development is to be consistent with the following
 - a) The proponent is to measure and record the weekly or monthly amount of material extracted;
 - b) Council Officer's are able to inspect the weekly or monthly records at any time.
4. The proponent is to prepare and implement an Annual Management Report. The Report is to be submitted to Council at the start of January of each calendar year and is to include all weekly or monthly results detailed within the above condition and provide the total figure of material extracted within the calendar year. The Report is to also include any complaints received and the number of truck movements.
5. The operations and activities of the development are to cease after 3 years from the date of this consent. Works after this date is for the rehabilitation purposes only.
6. The hours of operation are to be restricted between Monday to Friday 7am to 6pm and Saturday's 8am to 2pm. There is to be no quarrying, processing, loading or transportation on Sundays and Public Holidays. No heavy vehicles are to further access or exit the site outside of these hours.
7. The proponent is to respond to all complaints received by Council and/or adjoining landowners. It is to be noted that Council can inspect the property at any time during and post operation of the activity being undertaken.
8. The proponent is to keep a complaints register on site at all times and a complaints telephone number is to be submitted to Council prior to commencement of use.
9. No blasting is approved as part of this Development.
10. No work is to be undertaken on windy days (ie winds in excess of 39 kph which is to be measured and recorded on site)
11. The proponent shall:
 - Ensure that all trucks are to be fitted with weight odometers prior to leaving the property.
 - Keep accurate records of the amount of product materials transported from the site, including the date, time and tare weight of each product haulage vehicle dispatched from

the site.

Noise

12. The proponent is to restrict the amount of truck movements on the elevated areas and exposed haul routes where noise can be distributed across a wide area, with truck movements to only occur during the hours of operation.
13. The proponent is to ensure that noise generated by the operation at the site would not exceed 55Db at the property boundaries during the prescribed 'day' period in accordance with the INP for a rural setting, for any adjacent dwelling house.

Landscaping

14. A Landscaping Plan is to be submitted and approved by Council prior to any works/operations are undertaken on the site. The Landscape Plan is to show the location and type of planting on the property particularly along the adjoining boundaries of the properties to minimise impacts.
15. Once the Landscaping Plan is approved, all planting must be undertaken within the first 6 months of operation.

Site Remediation

16. A Rehabilitation Plan is to be submitted to Council addressing the proposed end use and rehabilitation works. The rehabilitation plan must:
 - (a) Assess the quantity and availability of materials on site that can be applied to rehabilitation (including overburden, tailings and put walls etc).
 - (b) Consider likely drainage impacts and impacts on the landscape as proposed to be rehabilitated (including during each of the various rehabilitated stages),
 - (c) Develop clear rehabilitation objectives for the whole site, including the following:
 - Stabilization of disturbed areas to prevent the emission of dust following closure; and
 - Landscaping the site with native species endemic to the locality.
 - (d) Develop clear, progressive rehabilitation staging for the whole site, including specific milestone dates for rehabilitation works and a program for monitoring progress against these dates;
 - (e) Describe in detail the measures that would be implemented over the next 5 years to rehabilitate and manage the landscape on the site
 - (f) It is to further clearly identify finished contours, top soil depths, drainage/siltation controls, plant and grass materials to be used and proposed means of camouflaging the exposed quarry face.

These works are to be undertaken within the first 6 months of commencement of the quarry operations.

17. An Extraction Sequence Plan is to be submitted and approved by Council prior to commencement of the quarry operations. Such Plan is to include the staging and cycle of events involved with the extraction works.

Access

18. Any gate, grid or similar structure constructed on the access should provide suitable storage capacity for an articulated vehicle from the carriageway.
19. The proposed access intersection off Portland Cullen Road is to be constructed to include Auxiliary Right Turn (AUR) and Auxiliary Left Turn (AUL) intersection treatments, as specified in Austroads Guide to Traffic Management Part 6: Intersections, Interchanges and Crossings, Figure 2.5. Auxiliary lanes are to be constructed to a minimum 3.5m in width and 50m in length.
20. The access driveway off Portland Cullen Road shall have a minimum entry splay of 6.0 metres in width, tapering back into a minimum 4.0 metre wide internal access road.
21. The access driveway and auxiliary lanes shall have a minimum of 150mm of DGB-20 road base applied and compacted providing a smooth transitional surface, and are to be (2) two-coat bitumen sealed (14/7mm pre-coated aggregate) from the edge of Portland Bullen Road to the Property boundary.
22. All intersection upgrade works are to be located entirely within the road reserve.
23. All associated traffic signage, including “trucks turning” signage is to be provided and installed at the developers full cost on Portland Cullen Bullen Road at the northern and southern approaches to the proposed gravel pit vehicular access. The warning signs shall be removed upon closure of the pit;. All proposed signage is to be shown on the construction certificate and approved by Council prior to the commencement of any civil works.
24. All associated linemarking, including edge lines, centre lines, and turning arrows are to be provided at the developers full cost. All proposed linemarking is to be shown on the construction certificate and approved by Council prior to the commencement of any civil works.
25. A fully certified Civil Works Plan is to be submitted and approved by Councils Operations Manager prior to commencement of the quarry. Each stage of the road upgrade is to be inspected by Council.
26. A fully certified traffic control plan and road works signage will be required where machinery may obstruct traffic on Portland Cullen Road whilst construction work is being undertaken. A traffic control plan and certification of fully qualified contractors/persons will be required to be submitted to Council prior to any work commencing on the shoulder of Portland Cullen Road. Failure to comply may result in Work Cover Intervention and may also include Council stop all work immediately until such time the developer complies with a suitable traffic management procedures.
27. All Construction Work including the intersection upgrade works and access driveway shall be completed prior to the gravel quarry becoming operational.

Dust

28. The proponent shall ensure that all reasonable and feasible avoidance and mitigation measures are employed so that during the construction works and during operation all measures are taken to eliminate/suppress any dust nuisance emanating from the site.

Environmental Protection

29. The development is to comply with the approved Statement of Environmental Effects that was submitted states that the main actions of a sediment and erosion control would include:
 - Areas that are no longer quarried shall be reshaped and rehabilitated with progressive rehabilitation to be implemented wherever possible,
 - Soil stockpiles will be no greater than 2m high and will be revegetated,
 - Overburden/subsoil stockpiles will be reshaped and revegetated. Future overburden shall be

backfilled into previously quarried areas.

- Temporary protection such as straw or hay mulch shall be used protect soil and overburden stockpiles during vegetation establishment and sediment control fencing will be used.
- A sediment dam shall be constructed to catch overflow and runoff.

30. All erosion controls must remain in place until all construction work is finalised and suitable vegetation has been established. The developer will be required to remove and dispose of the sedimentation and erosion devices at the conclusion of suitable vegetation establishment at his/her full cost.
31. An erosion and sediment control plan is to be prepared prior to the commencement of any site works and activities and is in accordance with the publications "Managing urban stormwater: soils and construction", vol. 1 (Landcom 2004) and the addendum to this publication, vol 2 (E) "Mines and quarries" (DECC 2008).

Civil Construction

32. Only those areas involved in the construction of the civil works shall be disturbed, with all other areas of the site to be maintained with existing vegetation cover.
33. Construction noise shall be in accordance with the 'Noise Control Guidelines' for construction noise standards. Hours of operation shall be permitted between 7am – 6pm Monday to Friday and 8am – 2pm Saturdays. No heavy machinery work or usage shall be permitted on Sundays or Public Holidays.

Amenities

34. A Section 68 Application for on-site waste disposal is to be submitted to Council supported with a Geotechnical Report and details of toilet amenities on the site.

General

35. The applicant shall carry out a re-assessment of the estimated project costs having specific regard to the Department of Planning and Infrastructure Circular PS 13-002 "Calculating the genuine estimated cost of development". Should this re-assessment determine that the estimated cost is greater than \$100,000 then, prior to the commencement of operations, additional development application fees shall be paid and a Contribution paid under Council's Section 94A Contributions Plan pursuant to the following:

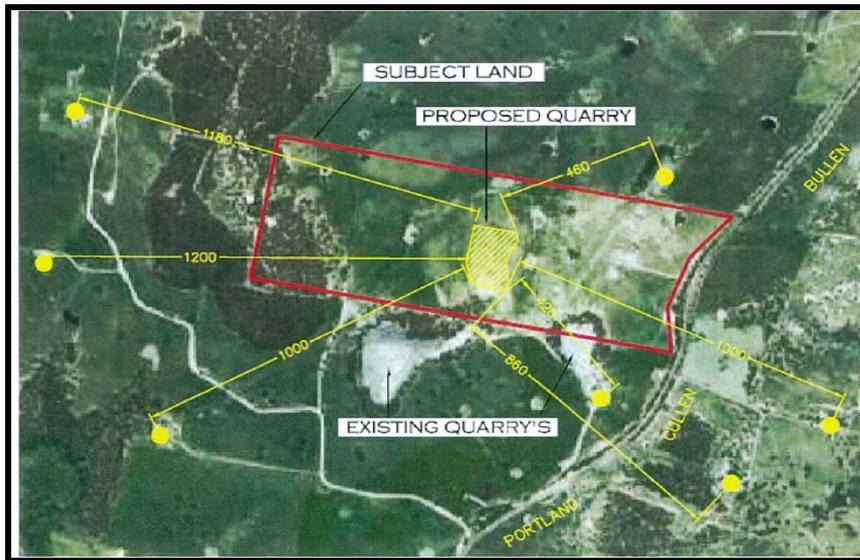
Estimated Cost of Development	Percentage (%) Contribution/Levy
All development types valued at \$100,000 or less	Nil
All development types valued at \$100,001 and up to \$200,000	0.5%
All development types valued in excess of \$200,000	1%

ADVISORY NOTES

Threatened Species

- AN1. No Threatened Species or Endangered Ecological Community listed under the Threatened Species Conversation Act 1995, the Environment Protection and Biodiversity Conservation Act 1999 or the associated Regulations are to be cleared as result of this Approval. This includes for fencing or accessways.

Attachment 2



Map showing Proposed Quarry in relation to Existing Quarry