

JRPP No.	2010NTH013
DA No.	T6-08-255
Proposed Development:	Extractive Industry - Sand Extraction, 118 Toorooka Road, Willawarrin
Applicant:	Eastland Sand and Gravel P/L
Report By:	DIRECTOR, SUSTAINABLE DEVELOPMENT SERVICES

Assessment Report and Recommendation

SUMMARY:

Reporting that an application has been received for an Extractive Industry - Sand Extraction and associated screening at Lot 1 DP34947 and Part Lot 11 DP752433, 118 Toorooka Road, Toorooka, for which objections have been received.

Executive Summary

- The site is currently vacant land used for agricultural purposes and is within zone 1(a1) (Rural "1A" Zone). Surrounding land is zoned 1(a1) (Rural "1A" Zone) and used for agricultural purposes.
- Approximately 150,000m³ of extracted material is proposed to be processed by the facility which will operate for between 2 and 10 years depending upon demand, with a maximum annual extraction of 100,000m³/annum and a likely extraction of 50,000m³/annum.
- The extraction site is approximately 9.8 ha in area which is proposed to be extracted in 5x3 ha stages. Each stage will be approximately 10,000m³ individually active at a time. The site will be a minimum of 50 metres from the northern bank of the river.
- The materials to be extracted are a mixture of sand, gravel and cobblestone up to 300mm in diameter (any material above 75mm will remain on site). The material is high grade coarse sand which is suitable for concrete road construction and general construction projects.
- Access to the site is via Toorooka Road (Carrai Road as described in the EIS and shown on Google Earth) which connects to Armidale Road. The pre existing tract will be widened to accommodate heavy vehicles to 3 metres with the inclusion of a passing bay every 400 metres.
- A 1 ha flood free storage area is provided on the upper levee bank adjacent to the excavation site, this area will site the office and equipment.
- The site will be rehabilitated after each stage.
- The proposal is likely to generate employment for up to five (5) people.
- The proposal is likely to generate ten (10) vehicle movements per day for the workforce.
- The heavy vehicles range from 8m³ standard up to truck and dog combinations of 20m³ with a maximum of eighty (80) heavy vehicle movements per day (approximately 1600m³/day for truck and dog combinations).

Site description

The property is located approximately 35km west of Kempsey accessed from Toorooka Road via the Armidale Road. The existing use of the site for agricultural purposes which will continue once the operations have ceased. The extractive industry is only using 9ha of an existing large property of approximately 183.9ha in total. It is noted that this land forms part of a larger property.

The total areas of the extraction site is approximately 9.8 ha which is proposed to be extracted in 5x2 ha stages. The extraction area is currently sparsely vegetated, relatively level and located a minimum of 50 metres from the bank of the Macleay River

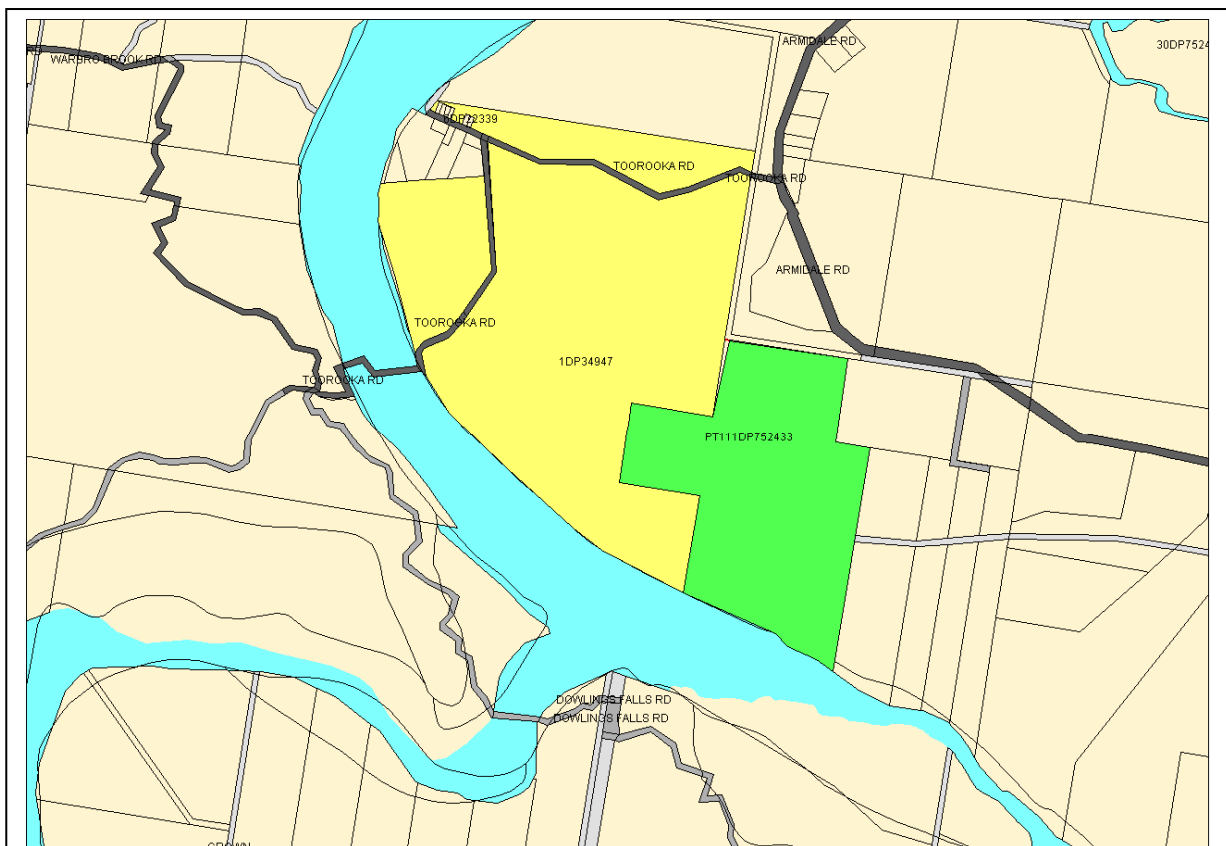


Figure 1 - locality

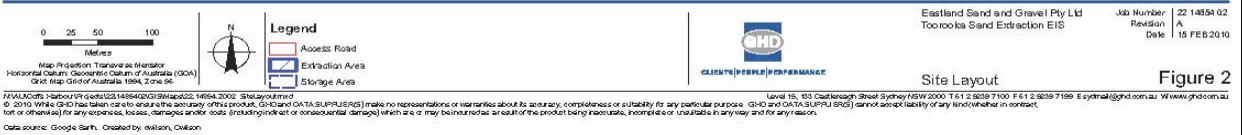
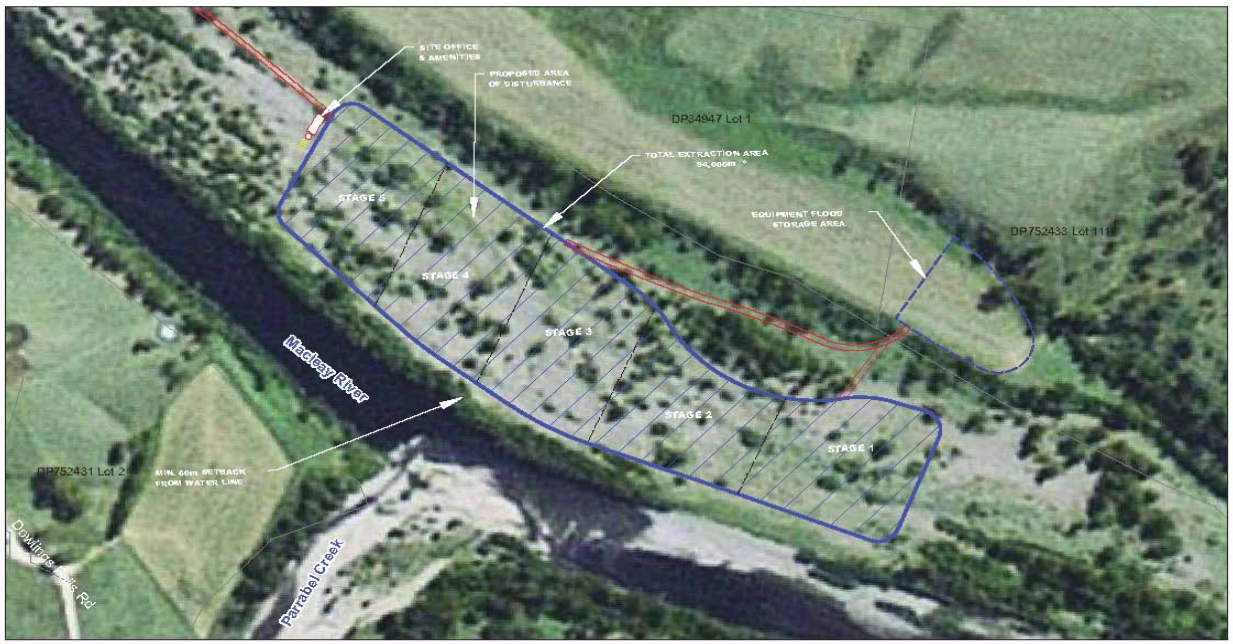


Figure 2 - Aerial



Figure 3 - Survey

Proposal

The application seeks to establish an Extractive Industry for the purpose of sand extraction with associated screening facilities located a minimum of 50 metres from the bank of the Macleay River. The facility is proposing to extract a total of approximately 150,000m³ over a maximum period of 10 years. The maximum annual extraction is 100,000 m³. The product will be separated into different sizes and cleaned on site using screening machinery. It is noted that the application does not include the use of a crusher on the site.

The proposed extraction site is approximately 9.8 ha which will be extracted in 5x2 ha stages. Each will extract approximately 10,000m² at a time of material. The material won from the site is high grade coarse sand and gravel suitable for concrete road construction and general construction projects.

Once the sediment and erosion control measures are in place the vegetation will be cleared using a dozer, the vegetation will be inspected prior to clearing by an on site ecologist. The bulk of vegetation will be stored and mulched for reuse in rehabilitation works. Topsoil will also be stored for future use in revegetation. The sand deposit will be excavated and stockpiled in the upstream side of each stage and passed through a screen prior to be removed from the site. Once the sand and gravel deposits have been removed the topsoil and mulch will be spread on the disturbed stage and seeded using local species. This process will be repeated for each stage of the operations.

In the event of a flood event the extraction and the use of materials is designed to allow stock piled vegetation and top soil to be washed into the extracted area which is likely to reduce the amount of disturbed material washed down stream.

The facility proposes to operate Monday to Friday and Saturdays as demand requires and is likely to employ 5 people. Hours are set in the conditions imposed below and are as follows:

- 7:00 am to 5:00 pm – Monday to Friday.
- 8:00 am to 1:00 pm Saturdays

No works on Sundays and Public Holidays.

The site would incorporate the following plant and equipment:

- A mobile site office;
- Plant material including excavator and screening equipment;
- A bunded area to store fuel, oils and other chemicals; and
- Toilet facilities.

Referrals

Department of Environment Climate Change and Water

The Office of Water has issued General Terms of Approval under the *Water Management Act 2000*, which will be incorporated into the conditions of consent below (See Appendix 2).

Section 79C Evaluation

- 79C (a)(i) the provisions of any environmental planning instrument

Environmental Planning	Clauses	Compliance
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Instruments		
SEPP 33 – Hazardous and Offensive Development	Clauses 3 and 4 – Definitions	The proposal is neither classed as hazardous or offensive or potentially hazardous or potentially offensive industry.
SEPP - Infrastructure	Schedule 3 – Traffic Generating Development	Extractive Industries are not listed as a traffic generating development within this SEPP although a traffic impact analysis has been included with the application.
SEPP 44 – Koala Habitat Protection	<p>Clause 6 – Land to which this Part applies</p> <p>Schedule 2 – Feed tree species</p>	<p>The extraction area adjacent to the Macleay River in an essentially cleared area as a result historic clearing and ongoing agricultural activities as well as active flood waters. The remaining vegetation is heavily infested with weeds.</p> <p>The site is greater than 1 hectare and is not mapped as potential or core koala habitat. The study area does not contain any Koala Feed Trees listed on Schedule 2, and no Koala scats were observed during field surveys.</p>
SEPP (Mining, Petroleum, Production and Extractive Industries) 2007	<p>Part 3 – Development applications – matters for consideration. Before determination of an application for the purpose of extractive industry the consent authority must consider:</p> <ul style="list-style-type: none"> • Existing or proposed land use in the vicinity of the development; • Natural resource management and environmental management; • Resource management; • Transport; and • Rehabilitation. 	<ul style="list-style-type: none"> • The proposal is permissible with consent under the SEPP. • The existing land use is compatible with the extractive industry. • The operations and methods of extraction and rehabilitation are address and considered to adequately address environmental concerns. • The truck movements have been restricted to out side peak school hours e.g. before 7:30am and after 9am and before 2:30pm and after 5pm.
North Coast Regional Environmental Plan	Clause 12 – Development control impact of development on agricultural activities. Council is required to consider the impact of the development on the use of	The land is currently used for the grazing of cattle. The use will revert back to grazing once operations have finished and it is

	<p>adjoining or adjacent agricultural land.</p> <p>Clause 18 - Development control – extractive industry. Council shall not consent to a development application unless it includes any necessary conditions of consent to require implementation both during and after extractive operations of an erosion and sediment control plan and rehabilitation plan.</p>	<p>unlikely to have any impact on surround agricultural uses. This area although river flat country it is generally of poor quality for grazing due to the high quantity of rock material.</p> <p>Sediment, erosion and rehabilitation are addressed in the EIS and will be included as conditions of consent.</p>
<p>Kempsey Local Environmental Plan</p>	<p>Clause 9 – Zone Objectives</p> <p>The property is within zone 1(a1) (Rural A1 Zone)</p> <p>The proposal fits the criteria for ‘Extractive Industry’ as defined in the Model Provisions 1980 as:</p> <p>extractive industry" means:</p> <p>a) the winning of extractive material; or</p> <p>b) an undertaking, not being a mine, which depends for its operations on the winning of extractive material from the 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;</p> <p>Clause 9(3) of the KLEP provides that Council shall not grant consent to the proposal if it is of the opinion that the development is contrary to the zone objectives. The zone objectives are:</p> <p>a) <i>predominantly to provide for agricultural uses;</i></p> <p>b) <i>to preserve the visual amenity of the land; and</i></p> <p>c) <i>to provide for compatible tourist and industrial uses.</i></p> <p>Clause 3 (k) <i>‘to ensure that non-residential development is sited to avoid or minimise conflict with the residential amenity of adjoining lot.’</i></p>	<p>The proposal is defined as ‘Extractive Industry’ under the Model Provisions 1980 and is permissible in the zone with development consent.</p> <p>This proposal is considered to be consistent with the zone objectives in terms of the following:</p> <ul style="list-style-type: none"> • The existing use of the site for agricultural purposes will continue once the operations have ceased. Additionally the extractive industry is only using 9ha of an existing large property of 183.9ha in total. • The operations will be of a scale that it will be unable to be viewed from a public place; and • The proposed use is of an industrial nature. <p>The development is sited 1km from the nearest dwelling not associated with the development. It is considered the development will have little impact on this dwelling in terms of noise, dust or vibration.</p>

- 79C (a)(ii) the provisions of any draft environmental planning instrument

Although not subject to the provisions of any exhibited Draft LEP it is noted that the land will be zoned RU2 (Rural Landscape) under the Standard KLEP and the proposal will be permissible with consent.

- 79C (a)(iii) any development control plan

Applicable DCP's	Clauses	Compliance
DCP 36 – Engineering Standards	C101 – General C211 – Control of Erosion and sediment C213 – Earthworks C220 – Stormwater Drainage General C223 – Drainage Structures C273 – Landscaping D11 – Water Reticulation	The requirements of DCP 36 are recommended to form part of the conditions of consent.

- 79C (a)(iv) any matters prescribed by the regulations

The proposed development does not trigger the need to consider any matters prescribed by the regulations.

- 79C (b) the likely impacts

Likely impacts	Impact
Urban and Building Design	
- context and setting	The extractive area is located on the Macleay River approximately 750 metres from the Toorooka Bridge and approximately 1km from the village of Toorooka.
- public domain	No impact
- heritage	The site is already predominantly cleared and disturbed and no items of heritage are listed or known on the site.
- site design and internal design	The project is sensitive to the Macleay River and the site will be rehabilitated after each stage of extraction. The site office is the only building on the site.
- construction	The site office will be a mobile demountable building that will be quick to move in a flood event.
- utilities	Utilities will be provided on the site as necessary. No electrical service is required to operate the extraction facility and electricity to the site office will be by generator when necessary. Toilet facilities will be provided on site.
- ecological sustainable building design	Not applicable
Environmental Impacts	
- water	There is no potable water to be provided on site for the site office. Water will be used for the screening process which will be controlled by the Sediment and Erosion Control plan.
- soil	An Erosion and Sediment Control plans adequately addresses any particles or sediment leaving the

	excavation area.
- air and micro-climate	This has been addressed in the Air quality section in the EIS. An Air quality assessment has been undertaken for the operations and transport to and from the site. Mitigation measures will be in place to reduce any potential impact for the surrounding area. Mitigation measures include the use of a water cart and stopping excavation in times of high wind.
- other land resources	The site is zoned for agricultural uses and forms part of the water catchment for the Macleay River the design of the water management system reflects this.
- flora and fauna	The site is predominantly cleared, there is no EEC or wetlands on the site or identified potential/core koala habitats. Several species have been identified as being present within a 10km radius of the site. However, the site is not considered likely to constitute an important area of habitat and is unlikely to have a significant impact on these species.
- waste	Minimal waste materials will be produced from the operations.
- energy	The proposal has not identified any energy saving devices or systems.
Hazards	
- noise and vibration	This has been addressed in the Noise section in this Report. The report has concluded that all noise modally has been on maximum power levels and the closest point within the proposed site to noise sensitive receivers and has recommended mitigation measures which are included in conditions of consent. Mitigation methods are as follows: <ul style="list-style-type: none"> • Restricted hours of operation; • Modified plant and equipment where possible; • Modified methods of operation e.g. restricting dropping material from heights in to trucks.
- natural hazards	The site is identified is within 50 metres of the Macleay River and as such would be subject to any flood event. Measures have been put into place to avoid any adverse impact of such an event e.g. storage of all plant and equipment in flood free areas.
- safety, security and crime prevention (CPTED)	The equipment will be stored in a secure area.
Social and economic impacts	
- Social impact in the locality	The proposal is unlikely to cause a negative effect on the social composition of the area.
- economic impact in the locality	The proposal is likely to benefit the community by providing additional employment opportunities in the area.
Cumulative impacts	Unlikely to cause negative cumulative impacts in the area.
Other	

- 79C (c) the suitability of the site for the development

(b) the suitability of the site for the development	Suitability
- fit into the locality - site attributes conducive to development	The proposal is to be sited 1km from any dwelling not associated with the proposal and is therefore not likely to have any negative impact. Measures have been incorporated into the design to ensure that there is unlikely to be a negative impact on the surrounding area.

- 79C (d) any submissions made in accordance with this Act or Regulations

(d) any submissions made	Matters raised
Four (4) submissions have been received from the public. The issues raised are relevant to the development application and have been adequately addressed within the application and this report.	<ul style="list-style-type: none"> • Flooding issues • Traffic • Noise and dust • Heavy metals • Flora and fauna • Self auditing and monitoring • Limited resource • Sediment

- 79C (e) the public interest

(e) the public interest	
- federal, state and local government interests	The applicant is required to obtain a Controlled Activity Approval under the <i>Water Management Act 2000</i> from the Department of Water and Energy - The Office of Water.
- Community interests	The proposal integrates economic and environmental goals within the design of the site.

Public Participation

The proposal was advertised in accordance with the requirements for the *Environmental Planning & Assessment Act 1979* for designated and integrated development. Three (3) submissions were received within the exhibition period and one (1) submission was received after the exhibition period was closed (See Appendix 3). The issues raised in the submission are as follows:

Objection	Planning Comment
1 Sustainability in relation to <i>The NSW Sand and Gravel Extraction Policy for Non Tidal Rivers</i>	1 This document allows for sand and gravel extraction to be undertaken sustainably and recognises it as a valuable resource. Although the principles within the document apply to extraction on the floodplains, the scope of the strategies are limited to material extracted from within an active river channel. This proposal is 50m outside the

		active river channel and the NSW Office of Water have issued GTA's.
2	Truck and traffic movements through Willawarrin	2 Speed and traffic behaviour are a Police matter.
3	Disturbance of heavy metals into the water table and water harvesting aquifers	3 The levels of heavy metals in this reach of the Macleay is quite low and with the extraction activities being limited by the GTA's and by not excavating within 1 metre of the low water mark there should be no impact on the water table and aquifers. Additionally sediment erosion control details and management will form a condition of consent designed to mitigate any silt laden water from entering the river.
4	Extraction of a limited resource	4 The applicant has been able to determine a suitable amount of extractable material on the site and with this material being in high demand this is a valuable resource and if managed appropriately can be extracted in a sustainable way.
5	Erosion and siltation	5 The GTA's issued by the NSW Office of Water and conditions of consent regarding management this issue is carefully managed and mitigated.
6	Self auditing and monitoring	6 Conditions of consent are enforced by Council and the GTA's have mechanisms of auditing and monitoring programs that requires the ongoing input of the NSW Office of Water.

Assessment – Key Issues

Designated Development

The proposed development is a 'designated development' as it is proposed to obtain or process for sale, or reuse more than 30,000m³ of extractive material per year in accordance with Schedule 3 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Regulation).

Integrated Development

The proposed development is an 'integrated development' as an Environmental Protection Licence is required to be issued by the Department of Environment, climate change and Water (DECCW) under Section 5 of the *Protection of the Environmental Operations Act 1997*, as it is proposed to obtain or process for sale, or reuse more than 30,000m³ of extractive material per year.

Access and Transport

A Traffic Impact Report has been completed which forms part of the EIS. Access to the property is via Toorooka Road from Armidale Road (classified Main Road). It is noted that a condition of consent restricting heavy vehicle movements to and from the site to occur outside the peak school hours between 8:00 am and 9:00 am and 2:30 pm and 4:00 pm is in place.

The Report estimates that based on approximately 80 heavy vehicle movements per day to a maximum annual extraction amount of 100,000 m³ per annum. The EIS indicated that this is likely to vary due to demand from 15,000 m³ to 75,000 m³ throughout the year.

The traffic movements are made up of:

The sight distance are general unobstructed although sight lines are limited at a horizontal curve approximately 400 metres from Armidale Road. Sight distance for northbound traffic approaching the intersection of Armidale Road and Toorooka Road is approximately 240 metres. Sight distances to the intersection for southbound traffic on Armidale Road is more limited by is estimated to be in excess of 200 metres.

Vehicle access from Toorooka Road will be along a pre-existing access track which would be widened to 3 metres with a passing bay every 400 metres. The entrance to the site will be upgraded to a B1 type concrete industrial driveway. The access gat will be located a sufficient distance form Toorooka Road to minimize the risk of long vehicles queuing on the road.

Noise

A Noise Impact Assessment has been undertaken which concludes that the extraction may exceed operation noise goals in a 2 m /s easterly wind. However, modelling undertaken is considered to be conservative with all sources simultaneously at their maximum output. Noise mitigations methods are proposed and reflected in conditions of consent are as follows:

- Hours are limited to between 7 am and 5 pm Monday to Friday and 8 am to 1 pm Saturdays;
- All equipment should be in good working conditions;
- Continue to monitor noise as required;
- All engine covers should be kept closed while equipment is operating;
- Materials dropping heights into or out of trucks should be minimised;
- Noise emanating from combustion engine plant (e.g. generators compressor etc) will be checked to ensure they produce minimal noise with particular attention to residential grade exhaust silencers;
- Machines found to produce excessive noise compared to industry best practice should be removed from site until repairs or modification can be made.

Dust/ air quality

Modelling and assessment has been undertaken in accordance with DECCW Guidelines and the assessment conducted found that the impact criteria were satisfied with the proposed normal levels of control. This is due to the high level of moisture in the sand which is sufficient to ensure dust impacts are minimal to the surrounding dwellings. It is also noted that a water cart will be used during dry periods.

Sediment and Erosion Control

The proposed extraction will disturb the geology and soils in the area by clearing and removing them from the site. An Erosion and Sediment Control Plan has been prepared in accordance the Managing Urban Stormwater: Soil and Construction (Landcom, 2004) which includes, stockpiling protocols, traffic movement protocols, process for the installation of sediment control measures around excavations and stockpiles and plans for rehabilitation of disturbed areas.

RECOMMENDATION IMPLICATIONS:

- ***Environmental***

The environmental factors are able to be mitigated.

- *Social*

Nil

- *Economic (Financial)*

Potential for increased local employment during construction and operations of the plant.

- *Policy or Statutory*

RECOMMENDATION:

That consent be granted subject to the following conditions:

PARAMETERS OF THIS CONSENT

1. Development is to be in accordance with approved plans

The development is to be implemented in accordance with the plans and supporting documents set out in the following table except where modified by any conditions of this consent.

Plan No./ Supporting Document	Version	Prepared by	Dated
EIS - Eastland Sand and Gravel Environmental Impact Statement	Revision 1	GHD	August 2010

In the event of any inconsistency between conditions of this development consent and the plans/supporting documents referred to above, the conditions of this development consent prevail.

The approved plans and supporting documents endorsed with the Council stamp and authorised signature must be kept on site at all times while work is being undertaken.

2. Compliance with Building Code of Australia

All building work must be carried out in accordance with the requirements of the Building Code of Australia as in force on the date the application for the relevant construction certificate or complying development certificate was made.

3. Limits

The maximum extraction is not to exceed 100,000m³ per year and 150,000m³ over a period of 10 years from the nominated date of commencement. The total quantities produced per annum are to be reported to Council on an annual basis within four (4) weeks from the nominated date of commencement.

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO ANY BUILDING OR CONSTRUCTION WORK COMMENCING

4. Consent required for works within the road reserve

Consent from Council must be obtained for all works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve. Such plans are to be in accordance with Council's Adopted Engineering Standard.

5. Public liability insurance cover required prior to works commencing

The developer and/or contractor must produce evidence to the Principal Certifying Authority of public liability insurance cover for a minimum of \$10 million. Council is to be nominated as an interested party on the policy.

6. Emergency Management Plan

An emergency management plan prepared by a suitably qualified person, duly endorsed by the NSW Fire Brigade prior to the commencement of the use. This plan must specifically address:

- a. plant breakdown;
- b. flooding; and
- c. bushfire.

7. Roads

Consent required for works within the road reserve

Consent from Council must be obtained for all works within the road reserve pursuant to Section 138 of the Roads Act 1993. Three (3) copies of engineering construction plans must accompany the application for consent for works within the road reserve. Such plans are to be in accordance with Council's Adopted Engineering Standard and are to include (but not be limited to) the following:

- a) The intersection of the internal road network and Toorooka Road must comply with the AustRoads Rural Road Design – A Guide to the Geometric Design of Rural Road 2005.
- b) Line marking and road signs are required and should be installed on Toorooka Road is required in accordance with AS 1742 – Manual Uniform traffic Control Devices and AS 1743 – Road signs – Specifically and any other relevant Australian Standard. The following is required at a minimum:
 - a. Truck entering warning signs be erected on Armidale Road on the northern approach to Toorooka Road intersection.
 - b. Road narrows or equivalent signs to be erected on the approaches to the cattle grid
 - c. Provide a painted centreline on the bend in Toorooka Road at the Factory Road intersection and relocate the give-way sign and associated yield line on the eastern approach further from the intersection
 - d. Provide a painted barrier line to prohibit overtaking on the section of Toorooka Road for a distance of approximately 250m from the proposed development access
- c) Provide an industrial standard concrete driveway with bitumen section adjoining road.

Internal Access Road

Detailed Engineering Plans prepared by an appropriately qualified person are to be submitted to and endorsed by Council providing for construction of the internal haul access road from the intersection of Toorooka Road (Carrai Road) to the quarry site within the subject property, incorporating, but not limited to the following: -

- a) Provide a section of two lane access road with a dust free wearing surface 30m

inside the boundary. The minimum wearing surface treatment is to be a two coat bitumen seal in accordance with the requirements of DCP 36. If a gate is to be installed it should be set back to provide sufficient area for a truck to wait at the gate without obstructing through traffic on Toorooka Road

- b) Provision of a truck shakedown area to remove excess material from trucks entering Council's road network.
- c) Submission of a separate Sediment and Erosion Control Plan for the proposed roadwork for the construction consistent with the requirements contained in *Managing Urban Stormwater: Soils and Construction, Volume 1, 4th Edition, 2004* (Landcom).

All works are to be carried out in accordance with such plans, as endorsed by Council, prior to commencement of extraction activities.

A water tanker or trailer is to be provided to ensure all manoeuvring areas are to be kept damp at all times, so as to minimise potential for dust.

A sign is to be provided in a prominent and visible position (on the building or fence) stating "Unauthorised entry to the site is not permitted", together with the name of the person responsible for the site and a contact number outside working hours.

8. Toilet facilities

Prior to operation of the Extractive Industry a Section 68 application is to be submitted to Council. The Section 68 application is to include details of how effluent generated by staff at the quarry is to be collected, treated and disposed of on-site.

9. Site construction sign required

A sign or signs must be erected before the commencement of the work in a prominent position at the frontage to the site:

- a. showing the name, address and telephone number of the principal certifying authority for the work;
- b. showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- c. stating that unauthorised entry to the work site is prohibited.

The sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed. No sign is to have an area in excess of one (1) m².

THE FOLLOWING CONDITIONS ARE TO BE COMPLIED WITH PRIOR TO OPERATIONS COMMENCING
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10. Works to be completed

All of the works shown on the plans and granted by this consent, including any other consents that are necessary for the completion of this development, are to be completed and approved by the relevant consent authority/s prior to the issue of an Occupation Certificate. * (The bond paid for this application will be held until Council is satisfied that no further works are to be carried out that may result in damage to Council's road/footpath reserve).

11. Car parking areas to be completed and signs to be provided

The car parking areas are to be constructed in accordance with the approved plans. Signs are to be erected clearly indicating the availability of off-street parking and the location of entry/exit points, visible from both the street and the subject site.

THE FOLLOWING CONDITIONS MUST BE COMPLIED WITH AT ALL TIMES

12. Responsibilities under the National Parks and Wildlife Act 1974

All earthmoving contractors and operators must be instructed that, in the event of any bone, or stone artefacts, or discrete distributions of shell, being unearthed during earthmoving, work must cease immediately in the affected area, and the Local Aboriginal Land Council and officers of the National Parks and Wildlife Service, informed of the discovery. Work must not recommence until the material has been inspected by those officials and permission has been given to proceed. Those failing to report a discovery and those responsible for the damage or destruction occasioned by unauthorised removal or alteration to a site or to archaeological material may be prosecuted under the National Parks and Wildlife Act 1974, as amended.

13. Section 94 Contributions

Payment of a cash contribution at the rate of \$1.70 per cubic metre for 2010/2011 (indexed) of extracted material from the Quarry site towards the upgrading and maintenance of Council's Rural Road Network has been determined in accordance with the current Section 94 Local Roads and Traffic Infrastructure Developer Contribution Plan plus 6% for Section 94 Developer Contribution Plan: Project Administration subject to the following provisions: -

- a) Payment is to be made within 30 days of Council's notification of the amount of the contribution payable for the specified period;
- b) Submission of a return 12 months from the date of this consent and thereafter within each 12 month period, containing sufficient documentation to establish the amount of material removed from the quarry in cubic metres. The return is to be accompanied by a Statutory Declaration stating that all the information is true and accurate record of extraction within the relevant period; and
- c) Council may require survey evidence to justify the extracted materials stated in returns, this will be at council's discretion and the operator will be notified in writing if survey is required.

14. Restricted hours of operation

The hours of operation of the business are restricted to the times set out in the following table: -

Period	Start Time	Finish Time
Monday to Friday	7am	5pm
Saturday	7am	1pm
Sunday	No work	
Public Holiday	No work	

Additionally no heavy vehicle movements through the town of Willawarrin are restricted to out side peak school times of 7:30am to 9:00am and 2:30pm to 4:00pm.

It is noted that further noise reports may be required in the event of a complaint received either by Council or by DECCW.

15. Signage

A sign be erected at the front of the property (visible from a public place) which clearly states that in the event of complaint to contact the relevant company employee providing a name, telephone number and email address. The sign is to be legible and maintained at all times.

16. Log Book

In the event of any complaints being lodged with the company relating to the site or the operations of the plant, a log book must be kept clearly recording any information and reasons for the complaint. Additionally, the log book must be kept to record when the

plant, operates for a 24 hour period. The log book must be made available to Council or DECCW at any time on request.

17. Loading and unloading not to occur on the street

The loading and unloading bay must be available at all times for the loading and unloading of goods for the development. All loading and unloading is to take place within the curtilage of the premises.

Access to the site for deliveries is to be confined to between 7.00 am and 7.00 pm daily. In this regard, a sign clearly indicating the delivery times is to be displayed at the entry to the development.

The following conditions have been imposed by the Department of Environment and Climate Change - NSW Office of Water

The Following Conditions have been imposed through the Integrated Development provisions of the Environmental Planning and Assessment Act 1979, by the NSW Office of Water: -

18. Plans, standards and guidelines

a. These General Terms of Approval (GTA) only apply to the controlled activities described in the plans and associated documentation relating to T6-08-255 and provided by Council:

(i) Site plan, map and/or surveys

Any amendments or modifications to the proposed controlled activities may render these GTA invalid. If the proposed controlled activities are amended or modified the NSW Office of Water must be notified to determine if any variations to these GTA will be required.

b. Prior to the commencement of any controlled activity (works) on waterfront land, the consent holder must obtain a Controlled Activity Approval (CAA) under the Water Management Act from the NSW Office of Water. Waterfront land for the purposes of this DA is land and material in or within 40 metres of the top of the bank or shore of the river identified.

c. The consent holder must prepare or commission the preparation of:

- (i) Vegetation Management Plan
- (ii) Works Schedule – Extraction and Rehabilitation Management Plan
- (iii) Erosion and Sediment Control Plan
- (iv) Soil and Water Management Plan

d. All plans must be prepared by a suitably qualified person and submitted to the NSW Office of Water for approval prior to any controlled activity commencing. The following plans must be prepared in accordance with the NSW Office of Water guidelines located at www.dwe.nsw.gov.au/water_trade/rights_controlled.shtml

- (i) Vegetation Management Plans
- (ii) Riparian Corridors

e. The consent holder must (i) carry out any controlled activity in accordance with approved plans and (ii) construct and/or implement any controlled activity by or under the direct supervision of a suitably qualified professional and (iii) when required, provide a certificate of completion to the NSW Office of Water.

19. Rehabilitation and maintenance

- a. The consent holder must carry out a maintenance period of two (2) years after practical completion of all controlled activities, rehabilitation and vegetation management in accordance with a plan approved by the NSW Office of Water.
- b. The consent holder must reinstate waterfront land affected by the carrying out of any controlled activity in accordance with a plan or design approved by the NSW Office of Water.

20. Reporting requirements

- a. The consent holder must use a suitably qualified person to monitor the progress, completion, performance of works, rehabilitation and maintenance and report to the NSW Office of Water as required.

21. Security deposits

- a. The consent holder must provide a security deposit (bank guarantee or cash bond) – equal to the sum of the cost of complying with the obligations under any approval – to the NSW Office of Water as and when required.

22. Disposal

- a. The consent holder must ensure that no materials or cleared vegetation that may (i) obstruct flow, (ii) wash into the water body or (iii) cause damage to river banks; are left on waterfront land other than in accordance with a plan approved by the NSW Office of Water.

23. Erosion control

- a. The consent holder must establish all erosion and sediment control works and water diversion structures in accordance with a plan approved by the NSW Office of Water. These works and structures must be inspected and maintained throughout the working period and must not be removed until the site has been fully stabilised.

24. Excavation

- a. The consent holder must ensure that any excavation does not result in (i) diversion of any river (ii) bed or bank instability or (iii) damage to native vegetation within the area where a controlled activity has been authorised, other than in accordance with a plan approved by the NSW Office of Water.

25. Maintaining river

- a. The consent holder must ensure that the surfaces of river banks are graded to enable the unobstructed flow of water and bank retaining structures result in a stable river bank in accordance with a plan approved by the NSW Office of Water.

26. Plans, standards and guidelines

- a. The consent holder must comply with the requirements of the approved Vegetation Management Plan (VMP) to the extent that it relates to the carrying out of any controlled activity at TOOROOKA.
- b. The consent holder must not disturb the rehabilitation activities required by the approved Vegetation Management Plan.

Right of Appeal

If you are dissatisfied with this decision, Section 97 of the *Environmental Planning and Assessment Act 1979* gives you the right to appeal to the Land and Environment Court within 12 months after the date on which you receive this Notice.

You are further advised that pursuant to Section 82A of the Environmental Planning and Assessment Act, 1979, a request may be made to review a determination at any time within 12 months of the date of notification. This right of review does not apply in respect to designated development, integrated development or an application by the Crown.

Signature:

KEN WARD
ACTING DIRECTOR
SUSTAINABLE ENVIRONMENT

Date:

5 October 2010