



Ordinary Meeting of Council

27 May 2020

**UNDER SEPARATE COVER
ATTACHMENTS**

ITEMS 9.1 AND 9.2

**QUEANBEYAN-PALERANG REGIONAL COUNCIL
ORDINARY MEETING OF COUNCIL**

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QUEANBEYAN-PALERANG REGIONAL COUNCIL

Council Meeting Attachment

27 MAY 2020

ITEM 9.1 DA.2019.1185 - QUARRY REMEDIATION/REHABILITATION
AND ENVIRONMENTAL PROTECTION WORKS - 791
HOSKINSTOWN ROAD, BUNGENDORE

ATTACHMENT 1 SECTION 4.15 MATTERS FOR CONSIDERATION -
DA.2019.1185 - REHABILITATION WORKS - 791
HOSKINSTOWN ROAD, BUNGENDORE

QPRC



DELEGATED REPORT - DA.2019.1185

SUMMARY

Proposal:	Quarry Remediation/Rehabilitation - Environmental Protection Works
Address:	791 Hoskinstown Road BUNGENDORE NSW 2621
Property description:	Lot 39 DP 754893, Lot 40 DP 754893, Lot 41 DP 754893, Lot 47 DP 754893 & Lot 38 DP 754893
Applicant:	Canberra Sand and Gravel Pty LTD
Owner:	Canberra Sand and Gravel Pty LTD
Date of lodgement:	16/09/2019
Notification period:	27/11/2019 to 11/12/2019
Submissions received:	7 (6 against and 1 in support)
Assessment officer:	Patrick Williams
Estimated cost of works:	\$50,000.00
Zoning:	RU1
Heritage:	N/A
Flood affected:	NO
Bushfire prone:	YES
Recommendation of officer:	APPROVAL

EXECUTIVE SUMMARY

The application seeks approval to remediate an old Clay Quarry (Environmental Protection Works) to replenish the property to support agricultural/grazing ventures. The remediation is proposed to import 222,750m³ (compacted) of certified Virgin Excavated Natural Material (VENM) and certified Excavated Natural Material (ENM) from surrounding areas (including Canberra) to fill affected areas.

The approach demonstrates a "whole of life" approach to extractive industry, with VENM (quarry product) being extracted in from the site in the 1970's-1990's to support brick manufacturing in Queanbeyan for construction of the Canberra region. Now similar material (VENM/ENM) will be imported from construction sites within the region (Queanbeyan and Canberra) being returned for rehabilitation.

The application was originally notified from 30 October 2019 to 13 November 2019. However an admin issue resulted in an error of the scope notified, requiring re-notification dated 27 November to 11 December 2019. The total notification period resulted in seven (7) submissions raising concerns around increased truck movements, the activity being a waste facility, impacts to the railway/potential Rail Trail development, noise, dust, impacts to drainage lines, continued compliance and rural amenity. Each matter discussed in detail below.

The application is considered consistent with the objectives of the zone and is correctly defined as Environmental Protection Works (land remediation). The development will have strict conditions to ensure the operation and environmental management of the site are in accordance with Protection of the Environment Operations Act 1997 to mitigate impacts as listed above. Additionally, this approval allows Council to manage the import of fill to the site and will potentially reduce the current illegal dumping of fill in the LGA.

The application is recommended for a time limited approval with conditions and a Contingency Bond to the value of \$50,000 (Estimated Cost of Works). The consent will lapse after 334,125 tonnes (equating to 222,750 cubic metres = 1.5t/compacted m³) of Virgin Extracted Natural Material (VENM) and Extracted Natural Material (ENM) fill has been imported to the development, or five (5) years after the date of the Consent commencement, whichever comes first.

BACKGROUND

The lots are original portions with the currently disused Bungendore-Captians Flat railway line running north to south.

The property was subject to an extractive industry approval in 1965 under a license arrangement and formally approved in 1969 under D74/1969 for the extraction of clay and shale material to be used for brick manufacturing in line with the construction of the Canberra region (manufactured in Queanbeyan). The quarry ceased operation roughly around 1993 with minor remediation works completed.

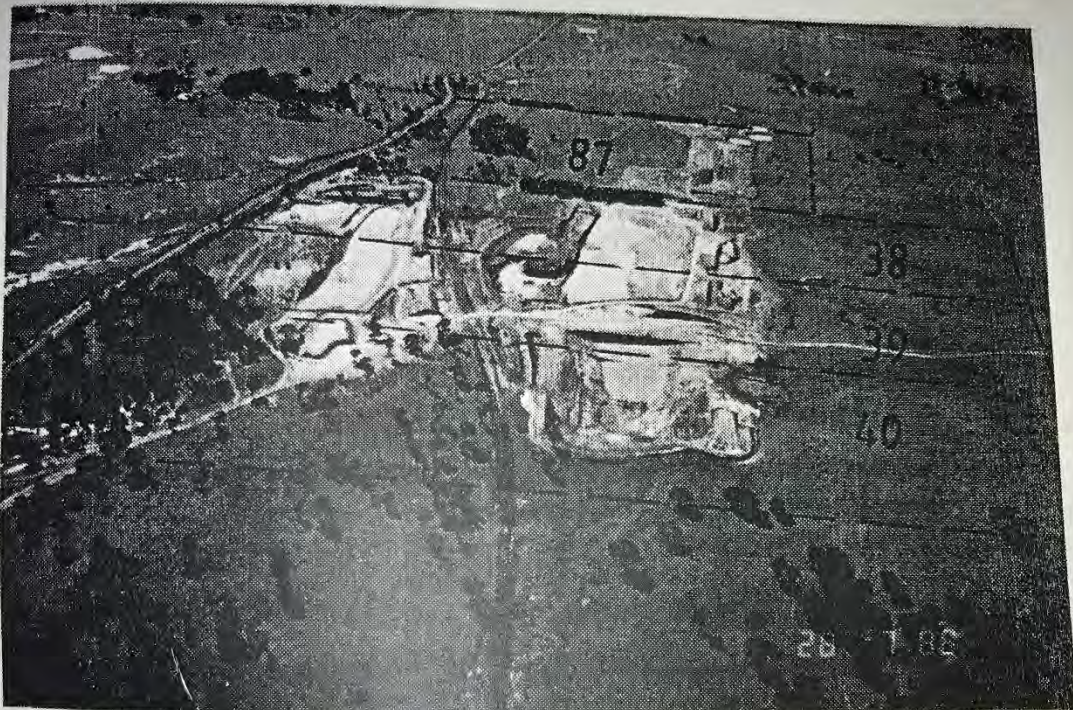


Plate 78a. Aerial view of current operations winning brickmaking materials. The sites are severed by the disused Bungendore-Captians Flat Railway line. Portion numbers are identified.

Figure 1: Photo from late 80's early 90's.

The property was later purchased by a different owner and a dwelling, sheds and barn were approved on Lot 47 under applications 2002/CA-00282 & 2002/CA-00312.

No other approvals on the site.

DESCRIPTION OF THE SITE AND LOCALITY

The subject site is legally described as Lot 388 DP 754893, Lot 39 DP 754893, Lot 40 DP 754893, Lot 41 DP 754893 & Lot 47 DP 754893 and is commonly known as 791 Hoskinstown Road BUNGENDORE. The site is located on the east side of Hoskinstown Road and has a combined area of 78.14Ha.

The site is made up of five lots resulting in an irregular shape with a 0-5 degree slope from south to north towards the drainage lines. The site contains heavily modified vegetation resulting from the previous clay quarry use, with scattered woodland creating a visual buffer on the west and south of the property.

Existing development on the site comprises of a dwelling, sheds and other associated structures all located on Lot 47 (The house Lot). Vehicular access is provided to the site via an existing driveway from Hoskinstown Road, which is also a registered ROW which benefits neighbouring Lot 2 DP 525323.

Existing development within the locality consists of reasonable sized holdings averaging roughly 80Ha in size with single dwellings and agricultural ventures such as cattle grazing and minor pasture activities.

9.1 DA.2019.1185 - Quarry Remediation/Rehabilitation and Environmental Protection Works - 791 Hoskinstown Road, Bungendore
Attachment 1 - Section 4.15 Matters for Consideration - DA.2019.1185 - Rehabilitation Works - 791 Hoskinstown Road, BUNGENDORE (Continued)



Figure 2: Locality plan

9.1 DA.2019.1185 - Quarry Remediation/Rehabilitation and Environmental Protection Works - 791 Hoskinstown Road, Bungendore
 Attachment 1 - Section 4.15 Matters for Consideration - DA.2019.1185 - Rehabilitation Works - 791 Hoskinstown Road, BUNGENDORE (Continued)

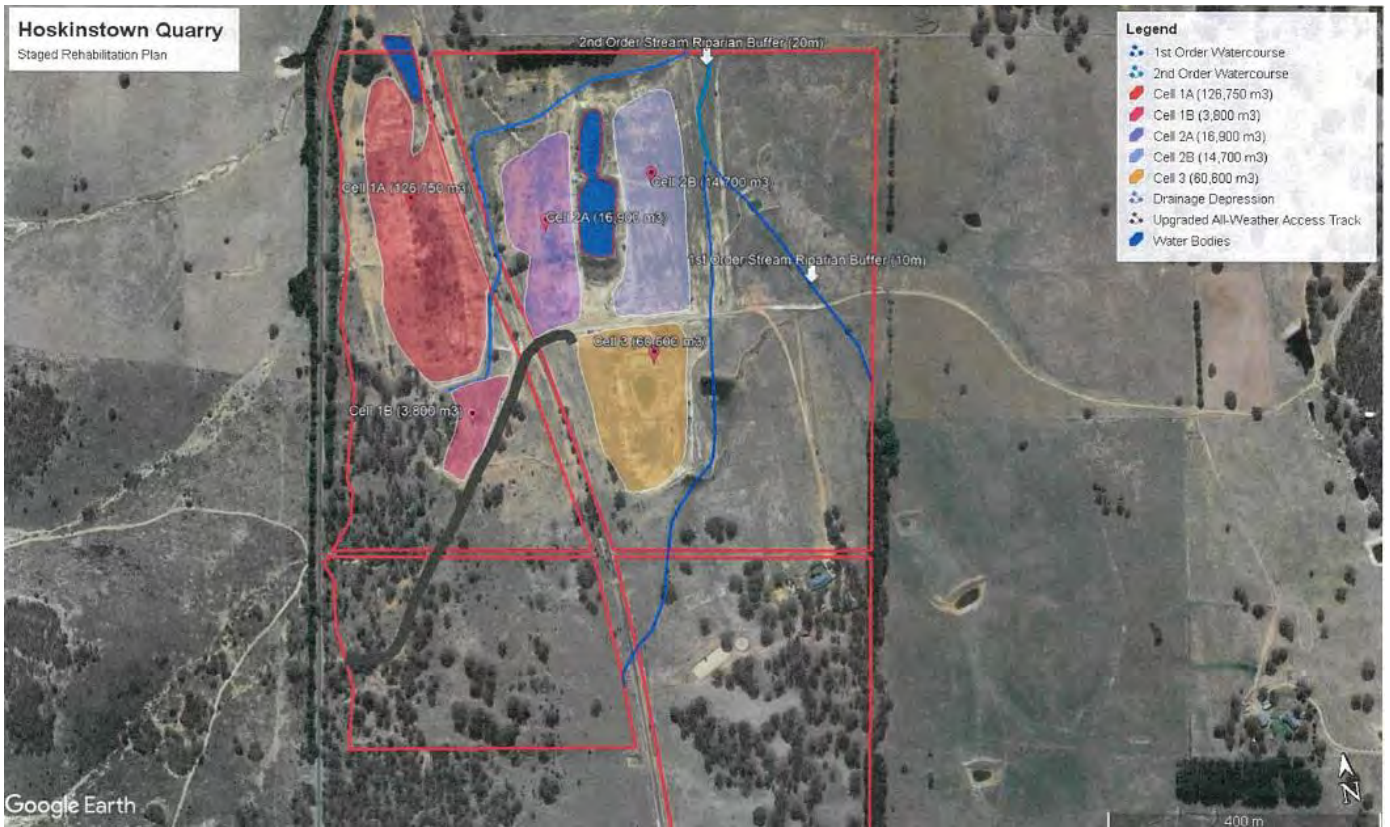


Figure 3: Proposed remediation areas



Figure 4: Cell 1 – North-western Aspect



Figure 5: Cell 2A and 2B- Eastern aspect



Figure 6: Cell 3-south-eastern aspect.

PROPERTY BURDENS AND CONSTRAINTS

The site contains a rail corridor that houses the Bungendore to Captains flat railway line, which is currently not in use. Additionally, there is a Right-of-Way (ROW) through the property benefiting the neighbouring Lot 2 DP 525323.

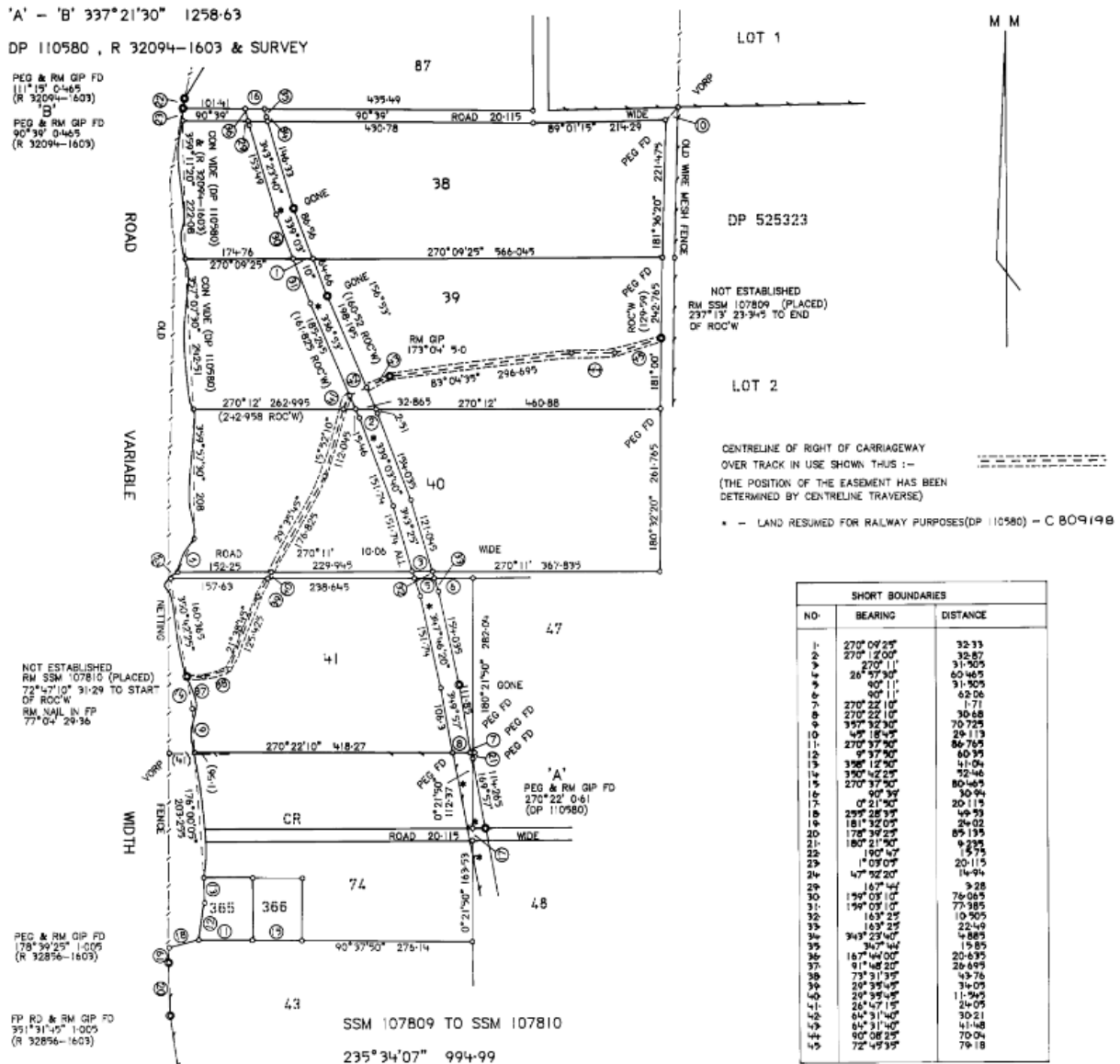


Figure 7: DP snip showing location of the railway line and ROW.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The application seeks Council approval for the Land Remediation of a former Clay quarry.

The specific elements of the proposal are:

- The intent of the development is to remediate the land similar to the original form and create land suitable for a small scale grazing property. The remediation is proposing to import certified Virgin Excavated Natural Material (VENM) and certified Excavated Natural Material (ENM) from the surrounding area used to 'fill' the affected areas which are boarded by batters.
- The remediation will be staged and in 5 areas (called Cells) with a predicted total capacity of 222,750m³ compacted:
 - Cell 1A = 126,750m³
 - Cell 1B = 3,800m³
 - Cell 2A = 16,900m³
 - Cell 2B = 14,700m³
 - Cell 3 = 60,600m³
- Expected average truck movements for delivery of fill will be 8-10 truck per weekday (roughly 300t= 200m³ of loose material a day), with occasional peak periods reaching a maximum of 45-50 truck movements a day (roughly 1500t= 1000m³ of loose material a day).
- The remediation works will require plant on site to work the earth, including bulldozer, loader, roller and excavator in addition to the delivery trucks (to be Truck and Dogs).
- Proposed works to be between 7am and 5pm weekdays only.

CONSENT AUTHORITY

In accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act) the proposal is considered to be local development and Council is the Consent Authority.

SECTION 4.10 DESIGNATED DEVELOPMENT – EP&A Act, 1979

The proposal is not designated development.

SECTION 4.47 INTEGRATED DEVELOPMENT – EP&A Act, 1979

The proposal is not integrated development.

REFERRALS

INTERNAL REFERRALS

Engineering Comments

Council's Development Engineer has commented on the proposal as follows:

Proposal:

Average annual Virgin Excavated Natural Material (VENM) and Excavated Natural Material (ENM) imported fill volume would be 66,825t/year over five (5) years with a possible maximum annual imported fill of 111,375t/year over three (3) years for the required total imported fill of 334,125t (222,750m³ compacted). The average importation rate using 32 tonne trucks would equate to 8-10 truck average movements per day for a daily average deliver of 300t of VENM and ENM, and up to a maximum of 45-50 truck movements per day for a daily maximum of 1,500t of VENM and ENM.

It is anticipated that sufficient resource exists to facilitate rehabilitation of the decommissioned clay quarry for five years.

The imported VENM and ENM fill material will be transported from Canberra, Queanbeyan and surrounds via Kings Highway, Trucking Yard Lane and finally Hoskinstown Road. Imported VENM and ENM from other sites may occur but on an irregular and uncertain basis. Based on the estimated annual average tonnage of the proposal it is anticipated that an average of 8-10 haul trucks would enter the site per day with a possible maximum of 45-50 haul trucks estimated on the maximum tonnage (using 32t trucks).

Storm Water:

Stormwater runoff to be managed and maintained throughout the development and will be extended downstream to a location(s) where run off can be disposed of without detrimental impacts from flooding (of properties or roads), scouring of surfaces, or undue nuisance or hazard. Health has provided appropriate conditions to ensure the adequate standards/quality of water to be discharged into surrounding drainage lines/creeks.

Traffic:

Hoskinstown Road (from Trucking Yard Lane to Briars Sharrow Road) had a traffic count up to 573 vehicles per day in February 2006. The decommissioned Clay Quarry entry is currently located off Hoskinstown Road within a right-of-way over Part Lots 41, 40 and 39 DP 754893 (Canberra Sand and Gravel) and Lot 1 DP 110580 (Transport for NSW). The Hoskinstown Road regulatory speed zone at this location is posted at 100km/h. At this location, Hoskinstown Road has excellent sight distance in both directions and will require some vegetation clearing.

There are sections of Hoskinstown Road where the bitumen wearing course width is 5.8m which flags a number of concerns;

- i) Road safety for current users with the increase of truck movements, in particular overtaking and passing will be tight where the road surface is 5.8m wide. Condition to restrict times for truck movement and implement a code of conduct.
- ii) Preservation of Council road assets, specifically with pavement integrity and bitumen wearing course edge breaks. Contributions for haulage route maintenance on a \$/t/km rate over the lifecycle of the decommissioned quarry rehabilitation.

Hoskinstown Road Bridge:

The concrete bridge on Hoskinstown Road is to the standard of T44 design loading and more than adequate to accommodate the haulage traffic volume.



The development engineer has no objection to the proposal subject to the conditions of consent which will require adequate contributions to cover road maintenance and possible upgrades along Hoskinstown road and constructed/maintain an adequate access and internal road for the development.

Health Comments

Council's Health Officer has no objection to the development subject to the following:

1. Conditions requiring a detailed Environmental Management Plan are to be supplied to Council for approval prior to commencing works. This plan is to detail (at a minimum):
 - i. How the sediment retention ponds are to be managed.
 - ii. A response plan that requires any breaches of the environmental management plan to be reported to Council's Environmental Health Team as soon as reasonably possible.
 - iii. Erosion and sediment controls and maintenance.
 - iv. Stockpile detail.
 - v. Dust suppression.
 - vi. Noise mitigation.
 - vii. A complaints management system for handling enquiries regarding operations at the quarry from the community

This plan can then be used as a continued compliance/management document to ensure minimal impacts to surrounding lots, drainage lines and the environment.

2. The disused quarry has the potential to have areas of the site which may have been contaminated by virtue of its previous use. As such a preliminary site assessment should be carried out to determine whether any such areas of environmental concern exist and if so whether it is necessary to specifically remediate those areas prior to fill be imported onto the site. As such a condition similar to the following should be imposed. Prior to the commencement of work the applicant will need to submit a Preliminary Site Investigation (PSI) prepared by a suitable qualified environmental consultant in accordance with the NSW EPA's Guidelines for Consultants Reporting on Contaminated Sites. Any recommendations of that report requiring further studies or remediation are to be carried out prior to the commencement of work or as otherwise agreed to by Council.
3. Prior to the return of the Remediation Bond a Validation Report from a suitably qualified environmental consultant is to be provided confirming that the site has been rehabilitated and is suitable for its proposed use as for extensive agriculture. Any conditions or limitations as to future use must be stated in the validation report.

EXTERNAL REFERRALS

Transport for NSW (John Holland Rail)

The development is located around the former Bungendore-Captains Flat Rail line which is Railcorp land. As per the Infrastructure SEPP, the application was referred to John Holland Rail (JHR) who are the party responsible for reviewing impacts to railway land in the LGA.

JHR provided advice dated 10 December 2019 which provided no objections to the development subject to the imposition of certain conditions being:

- Prior to construction, supplying a Risk Assessment/Management Plan and detailed Safe Work Method Statements to JHR.
- No works within the Rail Corridor.
- Stormwater is not to be discharged into the Rail Corridor.
- Applicant to provide JHR information in regards to the suitability of the current level crossings on Hoskinstown road.
- Any works within the Rail Corridor require separate consent from John Holland Rail on behalf of RailCorp.
- The Rail Corridor shall be fenced along the boundary and maintained during the development.
-

Natural Resource Access Regulator (NRAR)

The property/old quarry has had past complaints and compliance action towards impacts to drainage lines on adjoining properties given no formal remediation was undertaken. To ensure these works would be compliant and provide minimal impact to the 1st/2nd order streams (catchment for Halfway Creek) on site the application was concurrently referred to NRAR for comment.

Correspondence was received on 30 October 2019 which provided no objection to the development and required no approval from NRAR as the areas for remediation are *“located within the previously disturbed area, and contained within a bunded area, as such will not require approval”*.

NSW Crown Land

Crown Roads are located in and around the subject development area and required referral to NSW Crown to ensure any impacts (physical and legal) are addressed.

Correspondence was received on 10 December 2019 which provided no objection to the development and flags that the Crown Roads within the development can be closed and purchased if the applicant wishes. This advice has been verbally forwarded to the applicant as it has no role in this assessment.

WaterNSW

WaterNSW was provided a referral in error. However, correspondence was received dated 28 October 2019 providing no objection to the development as the subject site is located outside the Sydney Drinking Water Catchment area and not within proximity to warrant assessment.

CONSIDERATION OF THREATENED SPECIES

Council is required under Section 4.15 of the Environmental Planning and Assessment Act 1979 to make an assessment of whether the proposed development will have a significant impact on any threatened species, populations, or ecological communities, or their habitats. Such threatened species in NSW may be protected under the NSW Biodiversity Conservation Act 2016 or under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The assessment process under the EPBC Act can occur outside the NSW planning system and requires input from the Federal Department of Environment. Any EPBC Act requirements associated with this proposal are discussed later in this section.

Section 7.3 of the Biodiversity Conservation Act 2016 sets out what must be considered in determining whether a proposed development will have a significant impact. Section 7.3 requires the consideration of the following:

- any assessment guidelines applicable to the species, population, or ecological communities, or their habitats, and
- the application of the ‘seven-part test’ described in the Section.

The site is predicted to contain modified vegetation with small areas of Inland scribbly gum under Council’s predictive native vegetation mapping.

An inspection of the site noted that it was heavily modified from the previous clay quarry use. There are areas of woodland vegetation towards the southern portion of the property and a single yellowbox located nearly in the centre of the site.

The flora and fauna statement from Eco logical Australia Dated 14 August 2019 provides the results of an assessment of the site. The vegetation within the subject site is typically represented by *Plantago coronopus*, *Vittadinia muelleri* (Fuzzweed), *Vittadinia cuneata* (Fuzzweed), *Bothriochloa macra* (Red Grass), *Acaena ovina* (Sheep's Burr), *Plantago lanceolata* (Plantain), *Nassella trichotoma* (Serrated Tussock), *Centaurium erythraea* (Common Centaury), *Hypochaeris radicata* (Catsear), *Eragrostis curvula* (African Love Grass), *Acetosella vulgare* (Sheep's Sorrel), *Rosa rubiginosa* (Briar Rose), *Phalaris aquatica* (Phalaris), *Panicum effusum* (Hairy Panic) and *Hirschfeldia incana* (Buchan Weed). Towards the south of the site contains a mixture of exotic species, disturbance tolerant native grasses and forbs, and regrowth *Acacia*. The subject site is surrounded by land also subject to high levels of disturbance (predominantly agricultural grazing), with some areas of remnant vegetation, likely representing PCT 1334 (Yellow Box grassy woodland of the northern Monaro and Upper Shoalhaven area, South Eastern Highlands Bioregion). The less disturbed area not part of the remediation are considered low value yellow box grassy woodland (PCT 1334)

The results from Eco Logical conclude that the areas proposed for remediation are classed Category 1 vegetation under the Biodiversity Conservation Act, which is exempt from the BDAR threshold assessments and does not requiring offsetting under the BAM or the BOS.

Furthermore, considering the highly degraded nature of the site and lack of significant fauna habitat features such as hollow-bearing trees, partially embedded rock, fallen logs, litter, and intact vegetation, the subject does not represent important habitat for threatened species. Therefore, significant impacts on matters listed under the BC Act, such as threatened flora and fauna, will not occur as a result of the proposed rehabilitation of the Quarry.

It is noted that two Diamond Firetails (*Stagonopleura guttata*), listed as Vulnerable under the BC Act were observed flying to the south of Plot 2 (outside of the subject site) during the field survey. The Diamond Firetails nest in shrubby understorey, or up higher in the canopy. No breeding habitat or nest were observed within the subject site. However, these birds are likely inhabiting the woodland (PCT 1334) to the south of the site and venturing into the subject site to forage. The rehabilitation plans are not considered to have a significant impact on these species as important breeding habitat is not present within the subject site, suitable foraging habitat is abundant in the landscape and the activities would not fragment potential habitat. Furthermore, the rehabilitation plans are likely to create habitat preferred by the species for foraging (species feeds on the ground). Therefore, the proposed activities are unlikely to lead to an extinction of a local population of this species in the long-term.

SECTION 4.14 CONSULTATION AND DEVELOPMENT CONSENT – CERTAIN BUSHFIRE PRONE LAND – EP&A ACT, 1979

Section 4.14 of the EP&A Act requires an assessment to be made of the proposal against the requirements of the Rural Fire Service document 'Planning for Bushfire Protection 2006'. The Act allows this assessment to be made by the Council or the RFS. Assessments under Section 4.14 against the PBP 2006 need to be made for most development on bushfire prone land which does not require an approval under the Rural Fires Act 1997 as integrated development.

Bushfire prone land on the subject site covers 100% of the site.

The proposed development is not a structure or use that triggers the requirements of the PBP 2006 and AS3959.

SECTION 4.15 CONSIDERATIONS – EP&A Act, 1979

In determining a development application, the consent authority is to take into consideration the following matters of consideration contained within section 4.15 of the Environmental Planning and Assessment Act, 1979 as relevant to the development application:

4.15(1)(a) the provisions of:

(i) any environmental planning instrument

STATE ENVIRONMENTAL PLANNING POLICY NO. 55 - REMEDIATION OF LAND

The proposed development will be located on a known area of a contaminating activity (Clay Quarry) requiring consideration to the potential land contamination and the scope of remediation required as per Clause 7(1)(c) of this SEPP.

The applicant has provided basic information in regards the extent of the remediation and final result, being rural grazing. To ensure the final state will be suitable for the rural enterprise to the standard required under this SEPP and NSW EPA's Guidelines for Consultants Reporting on Contaminated Sites, a deferred commencement condition of consent has been placed in the conditions requiring:

- A preliminary site investigation (PSI) and if required, a detailed site investigation (DSI) to Council prior to the consent commencing.
- A Remedial Action Plan (RAP) becoming effective if the DSI recommends that remediation is required to make the site suitable for the proposed land use prior to the consent commencing.

At the conclusion of the works, the applicant will be required to supply a Validation Report prepared by a certified contaminated land consultant in accordance with the NSW EPA's Guidelines for Consultants Reporting on Contaminated Sites. The validation report will include a statement that the site has been remediated to the extent that it is suitable for the proposed land use (rural grazing) and will trigger the refund of the conditioned Remediation Bond.

It's considered that with the implementation of the above, the development satisfies the requirements under the SEPP.

STATE ENVIRONMENTAL PLANNING POLICY (INFRASTRUCTURE) 2007

The proposed development is located adjacent to a rail corridor (Bungendore-Captains Flat Line) which triggers clause 85 of the SEPP (Infrastructure) 2007, requiring a referral to John Holland Rail. As mentioned above in the referral section, JHR have no objection subject to conditions placed within the consent. The development is considered consistent with this policy.

PALERANG LOCAL ENVIRONMENTAL PLAN (PLEP) 2014

An assessment of the proposal against the general aims of PLEP 2014 is included below:

Cl. 1.2(2)	Aims	Complies
(a)	<i>to protect and improve the economic, environmental, social and cultural resources and prospects of the Palerang community,</i>	Yes
(b)	<i>to encourage development that supports the long-term economic sustainability of the local community, by ensuring that development does not unreasonably increase the demand for public services or public facilities,</i>	Yes
(c)	<i>to retain, protect and encourage sustainable primary industry and commerce,</i>	Yes
(d)	<i>to ensure the orderly, innovative and appropriate use of resources in Palerang through the effective application of the principles of ecologically sustainable development,</i>	Yes
(e)	<i>to retain and protect wetlands, watercourses and water quality and enhance biodiversity and habitat corridors by encouraging the linking of fragmented core habitat areas within Palerang,</i>	Yes
(f)	<i>to identify, protect and provide areas used for community health and recreational activities,</i>	Yes
(g)	<i>to ensure that innovative environmental design is encouraged in residential development.</i>	Yes

Comments: The proposed development is seeking to improve the environmental quality of the proposed site by completing the full life-cycle of extractive industries by returning natural material from the area to return the site back to its natural state. The development does not unreasonably increase the demand for public services or public facilities. The proposed land remediation will return the land to a state where primary industry (in a small scale) could be viable and improve the ecological sustainability of the site.

The development has been designed to ensure watercourses and water quality has minimal impacts with appropriate provisions to reduce any likely impacts. The remediation is located in areas of low biodiversity with the end result of the development resulting in an area that is of higher quality. The proposed environmental remediation is considered consistent with the Aims of the PLEP 2014.

Permissibility

The subject site is Zoned RU1 Primary Production zone under Palerang Local Environmental Plan 2014.

Development for the purposes of a ‘*Environmental protection works*’ such as is proposed is permissible within the zone with consent and is defined under PLEP 2014 as follows:

“*Environmental protection works* means works associated with the rehabilitation of land towards its natural state or any work to protect land from environmental degradation, and includes bush regeneration works, wetland protection works, erosion protection works, dune restoration works and the like, but does not include coastal protection works.”

Zone Objectives

An assessment of the proposal against the objectives of the RU1 Primary Production zone is included below:

Objectives	Complies
➤ To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.	Yes
➤ To encourage diversity in primary industry enterprises and systems appropriate for the area.	Yes
➤ To minimise the fragmentation and alienation of resource lands.	Yes
➤ To minimise conflict between land uses within this zone and land uses within adjoining zones.	Yes
➤ To minimise the impact of any development on the natural environment.	Yes
➤ To ensure that development does not unreasonably increase the demand for public services or facilities.	Yes

Comments: The development is enhancing the biodiversity value of the subject property to support future small scale agriculture and will not impact future primary industry enterprises. The proposal has been designed and provides sufficient information to show there will be no likely negative impacts to the natural environment given the heavily modified state and that the proposal will increase the environmental value. The proposal does not unreasonably increase the demand for public services or facilities. In turn, the proposal is consistent with the Zone objectives.

Part 6: Local Provisions

The relevant provisions contained within Part 6 of the PLEP 2014 are addressed below as part of this assessment:

6.1 Earthworks

Clause 6.1 of the PLEP 2014 establishes a number of matters requiring consideration for development involving earthworks. The proposed development will involve earthworks of around 334,125t of VENM/ENM. The development includes conditions to ensure appropriate erosion and sediment controls are installed and maintained, along with provisions for water discharge and provisions to ensure minimal impacts to adjoining lots. With the imposition of the conditions the development is considered consistent with this clause.

6.3 Terrestrial biodiversity

Clause 6.3 of the PLEP 2014 makes for provision for developments that impact on terrestrial biodiversity. The site is mapped as having terrestrial biodiversity and an assessment towards protecting native flora and fauna, protecting the ecological processes necessary for continued existence and encouraging conservation and recovery of native flora and fauna.

The development is environmental protection works to return the land to the previous state and encourage new native vegetation and grazing ventures. A flora and fauna statement was provided with the development which concluded that the areas for remediation contain heavily modified vegetation that is exempt from the Biodiversity Conservation Act (Category 1) and the development avoids areas of biodiversity value towards the south.

The development is considered consistent with this clause.

6.5 Riparian land and watercourses

Clause 6.5 of the PLEP 2014 makes provisions for developments impacting on riparian land and watercourses. The development has large dams which are flagged as riparian lands on the subject lot (one being a former sediment pond for the old quarry). The development will be doing works next to this area but maintaining the dams to capture water for dust suppression and to manage any potential pollutant issues to surrounding lots.

The development was sent to NRAR as concurrent referral to provide any advice on the potential impacts to the riparian area. The advice provided from the department concludes that the site is heavily modified and previously impacted by the clay quarry. This development is exempt from any approvals from the NRAR department as the work are improving the landscape.

The conditions of consent will include an environmental management plan which will include compliance and control of erosion and sediment on the site, including required dosing of ponds prior to discharge into the further drainage system.

It is considered that the development avoids any significant adverse environmental impact (given the heavily modified nature) and the development as a whole will remediate the site to a more natural state. Council is satisfied the proposed works will not have additional adverse impacts on water quality and flows, aquatic and riparian species, stability of beds and banks, fish and aquatic organisms and provides adequate measures to avoid, minimise and mitigate the impacts of the development.

6.11 Essential services

Clause 6.11 of the PLEP 2014 requires satisfactory arrangements to be made for water supply, stormwater drainage, solid domestic waste, sewage, and the treatment and disposal of effluent. Along with the supply of electricity and suitable vehicle access. The conditions of consent have appropriate conditions to ensure access for the development is upgraded and maintained as per the AUS-SPEC requirements.

4.15(1)(a)(ii) any draft environmental planning instruments

There are no applicable draft planning instruments that are or have been placed on public exhibition, to consider as part of this assessment.

4.15(1)(a)(iii) any development control plan

PALERANG DCP 2015 COMMENTS		
Section	Controls	Complies
PART B – GENERAL PROVISIONS		
B3	<p>Flora, Fauna, soil and watercourses</p> <p>The development has supplied sufficient evidence and details that conclude the proposed remediation works in the proposed location will have minimal impacts to the habitat of local flora and fauna. The subject site is an old Clay quarry which has little environmental value, confirmed in the report from Eco Logical as mentioned above.</p> <p>The consent will include the requirement for a strict environmental management plan which will cover potential dust, noise, water discharge and management methods on the site to ensure continued compliance can be undertaken and the development operates with minimal impacts on the environment.</p>	Yes

B7	<p>Engineering</p> <p>The development has been reviewed by the development engineers and works engineers within QPRC. Above is a detailed explanation of the assessment.</p> <p>The conditions will include appropriate conditions for access to the site and contributions to ensure the impacts to Hoskinstown Road and Trucking Yard Lane are off set and the money allocated can be used to maintain and upgrade the roads subject to increased truck movements.</p>	Yes
B8	<p>Erosion and Sediment Control</p> <p>Appropriate conditions have been included within the consent to ensure a detailed erosion and sediment control plan is provided and maintained on site to ensure minimal impacts to drainage lines and surrounding lots.</p>	Yes
B10.2	<p>Aboriginal Heritage</p> <p>An AHIMS search was carried out and did not indicate any heritage sites within the vicinity of the proposed development, as such it is considered that the proposed development is unlikely to result in the disturbance of any items of aboriginal indigenous cultural heritage. A condition however will be contained within the consent that the development is to proceed with caution and if any Aboriginal objects are found works should stop and DECCW are to be notified.</p>	Yes
B14	<p>Waste Management</p> <p>The consent will contain a condition for waste management to ensure that adequate measures are in place during the construction phase.</p> <p>There will be strict conditions within the consent to ensure that only VENM and ENM is imported into the site, which is recorded and managed. The approval is for remediation and not a waste facility, which will be monitored by the Compliance department.</p>	Yes

PALERANG DCP 2015 COMMENTS		
Section	Controls	Comment
PART C22 – Filling Land		
C22	<p>The development will be conditioned to only allow VENM and ENM, not material otherwise, including crushed rock material.</p> <p>The consent includes appropriate conditions for erosion and sediment controls to be installed and maintained to mitigate any potential impacts.</p> <p>The site will be replanted with a mix of native grasses and vegetation to accommodate future grazing ventures.</p> <p>The development is a timed consent of 5 years or a volume of 222,750m³ compacted (whichever is first). The applicant will need to provide evidence of volumes imported for record and calculation of contributions.</p>	Complies

4.15(1)(a)(iia) any planning agreement or draft planning agreement

No planning agreement has been entered into under section 7.4 of the *Environmental Planning and Assessment Act 1979*.

4.15(1)(a)(iv) matters prescribed by the regulations

Clause 92 of the *Environmental Planning and Assessment (EP&A) Regulation 2000* requires Council to take into consideration Australian Standard *AS2601–1991: The Demolition of Structures*, in the determination of a development application.

Having regard to this prescribed matters, the proposed development does not involve the demolition of a building for the purposes of *AS 2601 – 1991: The Demolition of Structures*.

Should this application be approved, appropriate conditions of consent are included within the recommended to ensure compliance with any relevant regulations.

4.15(1)(a)(v) any coastal zone management plan

Council is not subject to a coastal zone management plan.

4.15(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

The Aboriginal Cultural Heritage Due Diligence process was followed as part of the assessment. A basic AHIMS search was carried out and no recorded or declared Aboriginal sites were found in or near the subject site. There are not any other sources of information of which a person is already aware and the landscape does not contain features which are likely to indicate the presence of Aboriginal objects.

Other Potential Impacts from the use include:

Dust-

The site will include earth moving and traffic from delivery truck generating dust in the development. To ensure dust management is undertaken a condition of consent has been included to create an Operational Management Plan which is to detail how the dust is to be managed on site which will require approval from Council prior to commencement of works. This plan provides the foundations for council to undertake efficient compliance/monitoring.

In addition to the plan, a separate condition will be included to cease works during high wind days to reduce dust impacts and for bushfire prevention.

Noise-

The development works are limited to weekday's only (excluding public holidays) and between the hours of 7am and 5pm. In addition to the limited hours, a condition of consent has been included to ensure the activity does not exceed 55dB in accordance with the Protection of the Environment Operations Act 1997.

Watercourse/drainage line Impacts-

The conditions of consent include the requirement to supply a detailed Environmental Management Plan which will detail erosion and sediment controls to be maintained and how potential pollution of drainage lines will be managed. The detail will include how sediment ponds are managed (detailing method to flocculate to pond), contingencies and how sediment ponds will be controlled. The Environmental Management Plan will have to reference the Protection of the Environment Operations Act 1997 and will require approval from QPRC Health staff prior to works commencing. This document delivers detailed information for the applicant to follow during works and provides Council foundations to undertake effective Compliance action if required.

In addition to the conditions the application was referred to the Natural Resource Access Regulator who monitors water use and impacts to water courses within NSW. The application to import certified VENM/ENM to remediate raised no objection from the department given the heavily impacted nature of the current site and the existing water rights (ponds proposed for dust suppression) located on the property.

Local Amenity-

The proposed works are limited to 5 years and will result in the remediation of the clay quarry. Given the lot was previously an extractive industry in the area it is considered to have been a part of the amenity in the area previously and the proposed remediation works would operate at a similar intensity during the approval period of the quarry.

To ensure the impacts are minimised the construction times are limited to Weekdays only (excluding public holidays) and between the hours of 7am to 5pm. The noise and dust will be managed to the standards above. It's considered these conditions will maintain the current rural amenity in the maximum 5 year construction period.

Traffic Generation, Safety and Road Conditions-

Hoskinstown Road in the location of the development has a regulatory speed zone of 100km/h with excellent sight distance in both directions. To ensure sight distance is maintained some minor vegetation management/removal will be required and for part of the access works.

Hoskinstown Road contains areas with the road surface at 5.8m which will limit overtaking in areas. Council has implemented a conditions on the consent to facilitate increased safety on the road, including:

- Entrance to the subject site will be upgraded to be suitable for the development and make access/egress safe.
- No more than 118,800m³ a year (minimum 3 year completion period) to ensure the intensity of the development is consistent with the proposal.
- A Code of Conduct for transport of materials on public roads to the satisfaction of Council to be included into the site induction and compiled by all haulage drivers.
- No haulage on Trucking Yard Lane and Hoskinstown Road between the hours of school bus operations (7:30am-9am & 3:30-5pm).
- Contribution fees applicable to the development based on tonnes imported. These contributions are allocated to new works (including new road segments) on Trucking Yard Lane and Hoskinstown Road. These fees are considered to offset the potential impacts.

It's considered with the above conditions and the time restrictions as previously mentioned traffic generation and safety is adequately addressed.

Waste-

The development has the potential to generate waste from workers on site from domestic waste and effluent. The Operation Management Plan will require this to be addressed, detailing how this will be managed.

4.15(1)(c) the suitability of the site for the development

The subject site is relatively unconstrained and is considered to be suitable in its current state for the purposes of the proposed development.

4.15(1)(d) any submissions made in accordance with this Act or the regulations

The application was notified in accordance with Part E of the PDCP 2015 originally from the 30 October 2019 to 13 November 2019. However an admin issue resulted in an error of the scope notified, requiring re-notification dated 27 November to 11 December 2019. The notification resulted in seven (7) submissions received, raising the following concerns:

1. Increased Traffic and Safety

Assessing officer's comments: All submissions raised concerns around the increased truck movements on Hoskinstown Road and road safety.

The concern has been addressed above in additional impacts.

2. Use Definition

Assessing officer's comments:

Concerns are raised around the nature of the development, detailing that the proposal is clearly a waste facility for commercial gain.

During the assessment of the application and discussions with the EPA it is considered that the proposal to return the landscape to its original form through the use of only certified VENM/ENM material from the surrounding area would constitute Environmental Protection Works (Land remediation) and with strict conditions would not constitute a waste facility. The conditions implemented ensure the site is strictly monitored and reporting is maintained for Council.

3. Current Road Condition

Assessing officer's comments: Concerns on the current road condition of Hoskinstown Road and how this will impact local traffic has been raised as a concern.

The concern has been addressed above in additional impacts.

4. Dust

Assessing officer's comments: Concerns on the impacts of dust from stock piling and equipment operation on neighbouring lots has been raised.

The concern has been addressed above in additional impacts.

5. Noise of Operation

Assessing officer's comments: Concerns around the noise of the construction in the area has been raised a concern.

The concern has been addressed above in additional impacts.

6. Impacts to the Rail Line and Potential Rail Trail

Assessing officer's comments: Concerns around impacts to the railway corridor was raised. In turn raising concerns for a potential Rail Trail development which has been actively pursued on the Bungendore-Captains Flat line.

A condition forms part of the consent to fence the railway corridor, with no works to be located within the area. In addition, there are also conditions which prohibit stormwater disposal within the corridor. Given the fencing and condition, the development will not have an impact on the corridor or potential future Rail Trail developments.

7. Continued Compliance/Monitoring

Assessing officer's comments: Concerns on compliance and monitoring of dust, noise and environmental impacts is raised as a concern.

The applicant is conditioned to supply an Operation Management Plan and Environmental Management Plan to Council's satisfaction prior to commencement of works. These plans will be required to detail how impacts such as dust, noise, potential pollution, management of sediment ponds etc. are managed and maintained. This document will also form the foundations for compliance action if non-compliance is noted to council. In the event that the applicant abandons the development/site, Council have conditioned the requirement for a Bond (to be held by Council prior to works commencing) which can be executed to fund completion works.

8. Impacts to Water Courses/Drainage lines

Assessing officer's comments: Concerns in regards to the impacts of soil ad potential pollution in downstream drainage lines and watercourses from the import of fill has been raised.

The concern has been addressed above in additional impacts.

9. Local Amenity

Assessing officer's comments: Concerns in regards to the impact of amenity of the Hoskinstown area has been raised as a concern.

The concern has been addressed above in additional impacts.

4.15(1)(e) the public interest

The public interest is served through the detailed assessment of this development application under the relevant local planning controls and legislation and consideration of any submissions received relating to it by Council. The proposed development is not considered to be contrary to the public interest of the Federal Government, The state of NSW or the local area.

SECTION 64 CONTRIBUTIONS

Section 64 of the Local Government Act 1993 allows contributions to be levied towards the provision of water, sewerage and stormwater infrastructure.

Section 64 Contributions are not applicable to the proposed development.

SECTION 7.11 CONTRIBUTIONS

Section 7.11 of the *Environmental Planning & Assessment Act 1979* permits councils to require as a condition of development consent, the reasonable dedication of land or the payment of monies, or both, for development that is likely to require the provision of, or increase the demand for public amenities and public services within the area.

Section 7.11 Contributions are applicable to the proposed development as the development will generate additional heavy vehicle traffic along Council roads including Hoskinstown Road and Trucking Yard Lane. This generates a direct nexus that triggers the Yarrowlumla Development Contributions Plan 2- Roads, specifically section P.7.6.1- Extractive Industries and Landfilling (and other intensive truck haulage developments).

The contribution rate is as follows:

Yarrowlumla Contribution Plan No.2	Road Type	Base Rate	RMS RCI for 2019/20	Contribution
Trucking Yard Lane (1212)	7	6.87¢	120.89%	15.18¢
Hoskinstown Road (1202)	7	4.54¢	120.89%	10.02¢

Measurements have been taken to determine the length of applicable roads affected and the formula which will be provided to the applicant are as below:

Road	Tonnes (t) x Base Rate CPI Adjusted x Kilometres travelled = 7.11 Contribution (c)
Trucking Yard Lane (PAL P9 SUBNG)	t x \$0.1518 x 0.65km = c
Hoskinstown Road (TSC P3 HOSLB)	t x \$0.1002 x 7.92km = c

Annual Maximum Contribution at 3 year period

Contribution for 111,375t maximum annually over 3 years; \$10,988.17
 Trucking Yard Lane (15.18¢/T/km) \$88,365.19
 Hoskinstown Road (10.02¢/T/km)

Annual Maximum Contribution (indexed for 19/20) \$99,353.36

Annual Maximum Contribution at 5 year period

Contribution for 66,825t average annually over 5 years; \$6,592.90
 Trucking Yard Lane (15.18¢/T/km) (Code: PAL P9 SUBNG) \$53,019.11
 Hoskinstown Road (10.02¢/T/km) (Code: YSC P3 HOSLB)

Annual Minimum Contribution (indexed for 19/20) \$59,612.02

A contributions schedule is attached to the conditions of consent detailing the example figures and provides details for yearly payment based on the information (tonnes imported) to which QPRC will invoice and monitor.

CONCLUSION

The application has been assessed having regard to Section 4.15 of the Environmental Planning and Assessment Act 1979, and is considered to be satisfactory for approval, subject to the recommended conditions of consent:

CONDITIONS OF CONSENT

Signed:  _Date: 15/05/2020

Assessing Officer: P Williams

Determination: DA.2019.1185 be **approved** pursuant to Section 4.16(1) of the Environmental Planning and Assessment Act 1979.

Signed: _____ Date: <insert date>

Delegated Authority: <insert name>

QUEANBEYAN-PALERANG REGIONAL COUNCIL

Council Meeting Attachment

27 MAY 2020

ITEM 9.1 DA.2019.1185 - QUARRY REMEDIATION/REHABILITATION
AND ENVIRONMENTAL PROTECTION WORKS - 791
HOSKINSTOWN ROAD, BUNGENDORE

ATTACHMENT 2 APPLICATION INFORMATION - DA.2019.1185 -
REHABILITATION WORKS - 791 HOSKINSTOWN ROAD,
BUNGENDORE



SOIL AND **WATER**

QUARRY REHABILITATION PLAN

HOSKINSTOWN

Lots 38, 39, 40 DP 754893

791 Hoskinstown Road
HOSKINSTOWN NSW 2621

Version 2
12 August 2019

FRANKLIN CONSULTING AUSTRALIA PTY LIMITED

GPO Box 837
CANBERRA ACT 2601
www.soilandwater.net.au

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INTRODUCTION

Franklin Consulting Australia (trading as Soil and Water) was engaged by Canberra Sand and Gravel to develop a proposal for the rehabilitation of the existing Quarry at 791 Hoskinstown Road, Hoskinstown. The quarry is located on Lots 38, 39 and 40 DP 754893.

The quarry is a decommissioned clay quarry. Historically the quarry was a source of product for the local manufacture of bricks in Queanbeyan. Canberra Sand and Gravel purchased the property as an agricultural grazing enterprise with the intention of rehabilitating the portion occupied by the quarry.

The owner of the land wishes to rehabilitate the quarry to create stable non-eroding landscape with improved visual amenity and a land use more consistent with the surrounding low intensity agricultural (grazing) land use. The ultimate use of the site will be agricultural grazing.

The rehabilitation measures proposed are designed to create a stable landscape with no offsite impacts and with minimal ongoing maintenance requirements. The proposed measures will also provide for improved environmental and aesthetic outcomes through promoting the natural regeneration of native trees and shrubs and the maintenance/eradication of identified noxious weeds. This will also include active revegetation of pasture/grass species to mitigate erosion risk and improve agricultural productivity.

The rehabilitation measures include the use of Virgin Excavated Natural Material and Excavated Natural Material (VENM/ENM) generated by the construction industry in the Canberra, Queanbeyan and surrounding areas, within the Queanbeyan Palerang Shire, to enable a suitable sympathetic topographic profile to be achieved which will improve the visual amenity and maximise the landuse options for the site.

The use of this type of material for the rehabilitation of the quarry also demonstrates a “whole of life” approach to waste management, with the Virgin Excavated Natural Material (quarry product) being extracted from the site as a resource, and similar material (VENM/ENM) from the construction industry waste stream, being returned to the site for use in rehabilitation.

This plan details the rehabilitation measures proposed for the Hoskinstown Road Quarry including how imported material will be integrated into the process, the final rehabilitated landscape, and options for future land use.

SCOPE OF THIS PLAN

The scope of the plan is designed to provide the information necessary for Queanbeyan-Palerang Council to properly assess the proposal and includes the following:

- CURRENT LANDUSE AND QUARRY EXTENT
- REHABILITATION GOALS AND DESIGN PRINCIPLES
- ENVIRONMENTAL CONSTRAINTS AND CONSIDERATIONS, including
 - Surface water interactions
 - Groundwater impact
 - Dryland salinity considerations
 - Biodiversity conservation and enhancement
 - Erodible Lands preventative works.
- PROPOSED REHABILITATION MEASURES, including:
 - Soil and water management works required to enable rehabilitation activities to proceed without impacting water quality
 - Methodology for filling using imported VENM/ENM
 - Sequencing of works
 - Final rehabilitation measures to stabilise the site
 - Progressive revegetation
- STAGED REHABILITATION WORKS PROGRAM
- TYPE AND AMOUNT OF IMPORTED (VENM/ENM) MATERIAL to be used in rehabilitation including:
 - Source and certification of material
 - Estimated volumes required to rehabilitate the decommissioned quarry
 - Stockpiling and material management
- TRUCK MOVEMENTS AND PLANT OPERATIONS including:
 - Truck configuration and expected movements per day
 - Plant and equipment to be used in rehabilitation activities
 - Hours of operation
 - Site supervision and security
- MONITORING AND MAINTENANCE including:
 - Surface and groundwater monitoring
 - Soil and water management structure maintenance
 - Vegetation monitoring and management (including revegetation)
 - Weed and feral animal control

CONSULTANT INFORMATION

This evaluation has been undertaken by John Franklin who has over 30 years' experience in natural resource management in the ACT and Murrumbidgee region. This experience includes site and soil assessment around the southern tablelands, south-west slopes and upper Murrumbidgee region. John has provided extensive soil and water management advice to State and Local Government and the urban / rural residential development sector across the region.

John also has extensive experience in erosion control and wrote the *Gully Erosion Assessment and Control Guide* (Franklin, Glover and Parker, 2004) for the NSW Department of Infrastructure, Planning and Natural Resources.

Inspection location	Date	Consultant
Lots 38,39, 40 DP 754893 791 Hoskinstown Road Quarry HOSKINSTOWN, NSW, 2621	12 June 2019	 John Franklin M App Sc, BSc, EIANZ

SITE DESCRIPTION

LOCALITY

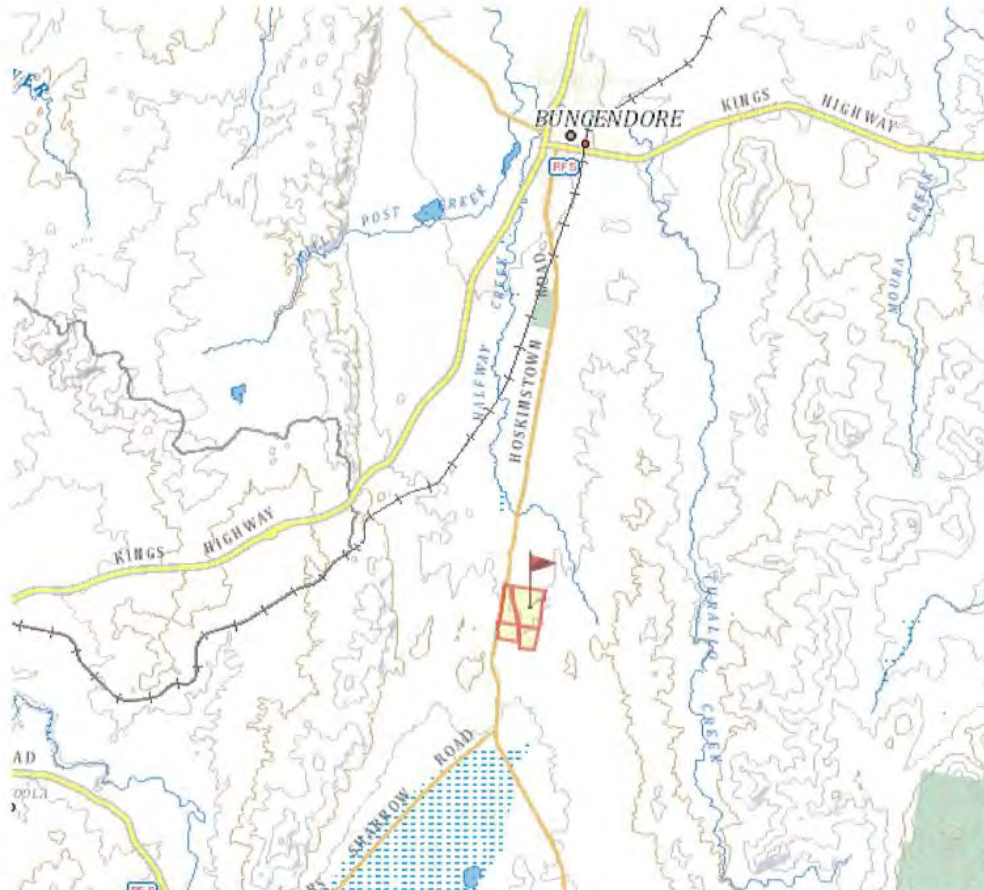


Figure 1: Locality Map – 791 Hoskinstown Road, Hoskinstown

The quarry is located at 791 Hoskinstown Road, Hoskinstown NSW 2621, refer **Figure 1**. The site is accessed via Hoskinstown Road, refer **Figure 2**. The rehabilitation site is accessed by an unsealed all-weather road in good condition and was regularly used by trucks for the extraction of clay over many years.

The property is located 9.6 km south of Bungendore on the sealed Hoskinstown Road, and 8 km north of the sealed Captains Flat Road / Briars Sharrow Road junction, refer **Figures 3a-b & 4a-b**.

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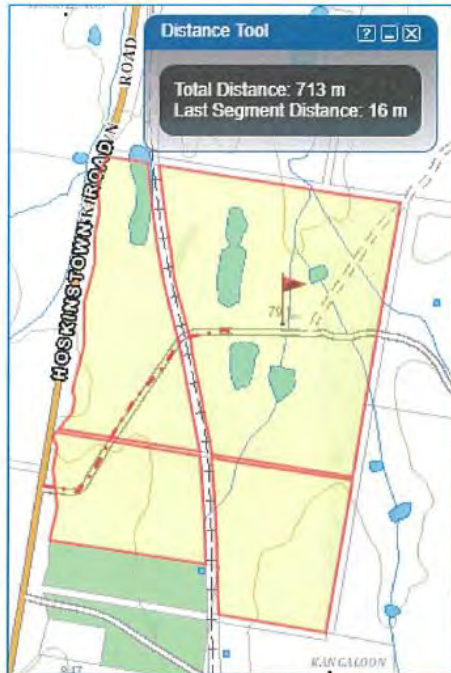


Figure 2: Internal Access Road (from Hoskinstown Road)

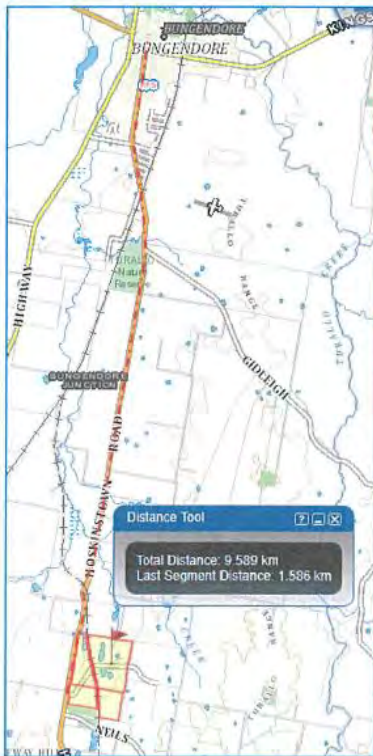


Figure 3a Links to Bungendore/Kings Highway

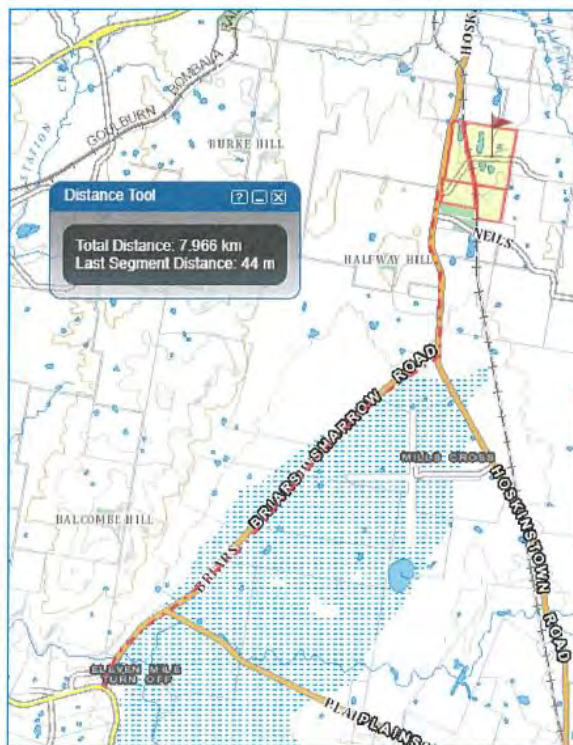


Figure 3b Links to Briars Sharrow/Captains Flat Roads

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Figure 4a: 791 Hoskinstown Road Quarry Site

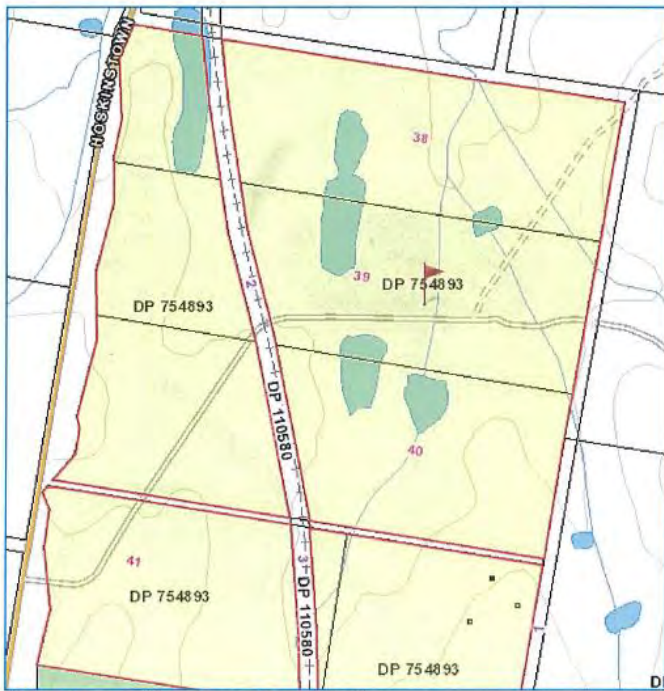


Figure 4b: Lots 38, 39 and 40 DP 754893 Layout

CURRENT AND PROPOSED LANDUSE

There is no current Development Consent or approval associated with the decommissioned quarry. The site was previously operated as a quarry providing a source of clay to the local brick making industry. The site has been rehabilitated to an extent, with a focus on sediment and erosion control earthworks to address the significant erosion risk presented by the large area of disturbance. The erosion control earthworks have been relatively successful in stabilising major erosion on the site however the extensive areas of bare ground associated with the excavation batters, continue to degrade and erode through minor sheet and rill erosion

There has been some revegetation of the bare excavation batters. These attempts have had mixed success with patchy groundcover established in some areas. Volunteer recruitment of trees and shrubs has resulted in a considerable amount of shrubby regrowth, particularly Acacia species as well as weed species.

The landholder proposes to rehabilitate the site to reinstate a stable gently undulating landscape which approximates the landform and productivity of surrounding grazing paddocks. This will require that imported fill is brought into the site to fill the existing excavation to a point that a stable gently sloping landform can be achieved.

The final land use proposed for the area includes livestock grazing pasture improvement and related agricultural activities.

The rehabilitated area will be topsoiled and revegetated with suitable groundcover pastures and grasses to prevent erosion and reinstate grazing productivity. The surrounding remnant native trees will provide adequate seed stock for the natural regeneration of canopy trees overtime. This will ensure that trees that do establish are locally endemic to the site and therefore ideally suited to the landscape. Strategic planting of endemic native groundcover species will supplement natural regeneration and create a more suitable landscape for the local region. This will be facilitated by the control/eradication of identified noxious species within the remnant native vegetation.

ENVIRONMENTAL CONSTRAINTS AND CONSIDERATIONS

There are several environmental issues identified in the Palerang Local Environment Plan (Palerang LEP 2014), which need to be considered in the design and implementation of an appropriate rehabilitation strategy for the Hoskinstown Quarry. All issues highlighted in the Palerang LEP 2014, and relevant to the property, are addressed below.

SURFACE WATER

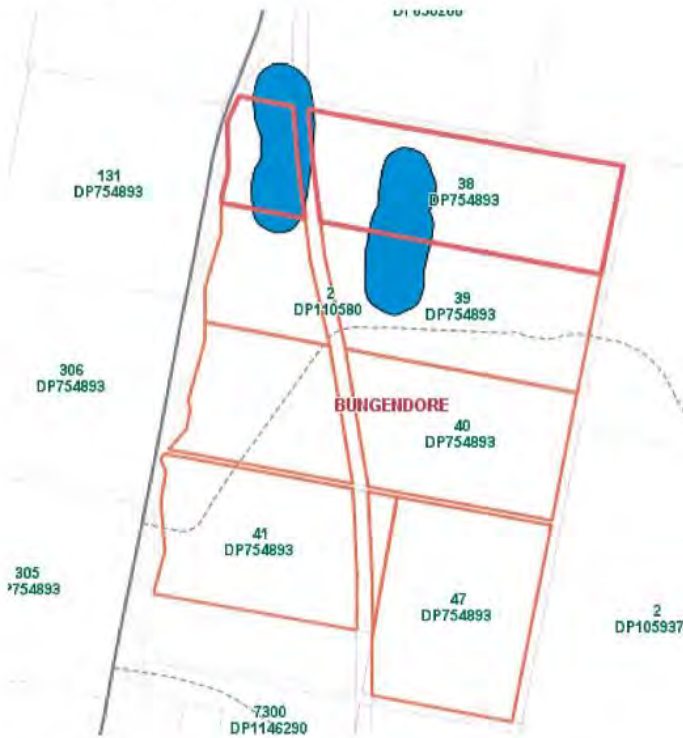


Figure 5: Riparian Lands and Watercourses Map
<https://publicmaps.qprc.nsw.gov.au/intramaps80/?project=QPRC%20Public#>

The quarry site has two areas mapped on the Riparian Lands and Watercourse map in the Palerang LEP, refer **Figure 5**. These drainage features are large dams which have formed when parts of the excavation have flooded. These dams also served a sediment control function as they are located below the major areas of excavation on the two sub-catchments on the site. It is proposed to retain both of these dams situated as sediment detention basins during the rehabilitation process, and as habitat features post rehabilitation.

Potential surface water impacts resulting from the proposed rehabilitation activities will be limited and mitigated by the following:

- There are no defined drainage depressions in the areas of the quarry to be rehabilitated

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- The defined 1st and 2nd Order drainage depressions and recommended riparian corridors (NSW Office of Water Guidelines) east of the site will not be disturbed during the proposed rehabilitation
- Soil and Water management measures implemented during rehabilitation will limit potential impacts on downstream water quality, including the use of the two large dams on the site as sediment detention basins during rehabilitation
- Existing soil and water management earthworks will not be disturbed by proposed rehabilitation activities
- Fill material will be restricted to Virgin Excavated Natural Material and Excavated Natural Material (VENM/ENM) which is classified and contains no contamination
- Surface water used for dust suppression will be sourced from the existing sediment detention basins.

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Figure 6: Riparian Lands and Watercourses Map

GROUNDWATER

The area occupied by the quarry is mapped as Low-Moderate Groundwater Vulnerability on the Lachlan Catchment Groundwater Vulnerability Map (DLWC), see below.

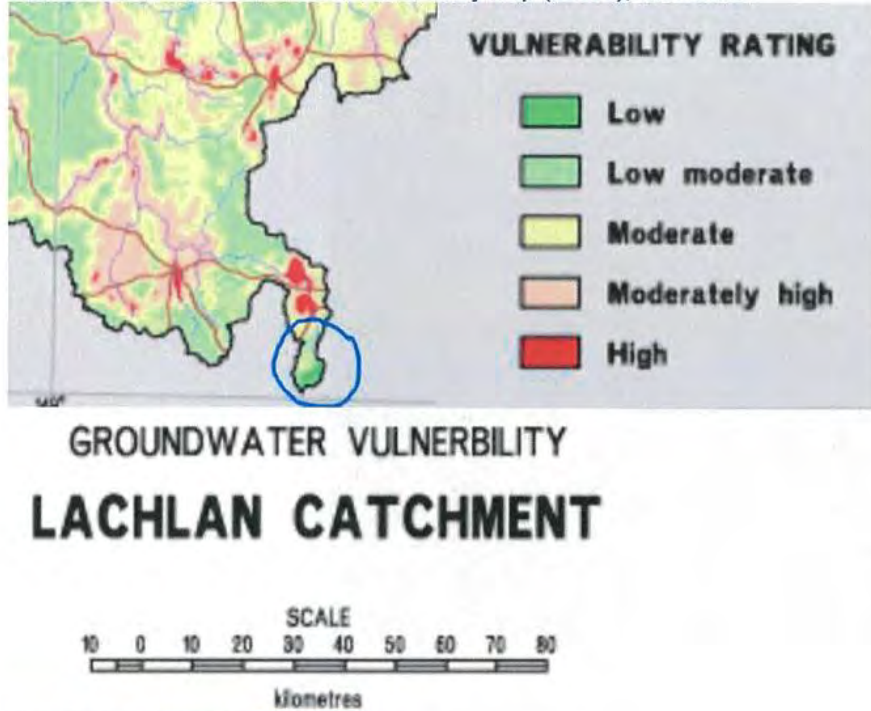


Figure 7: Groundwater Vulnerability Map

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Figure 8: Surrounding Groundwater Bores <https://realtime.data.waternsw.com.au/>

There is one groundwater bore within 500m of the quarry, refer Figure 8. The closest bore (GW403405) has a depth of 85m, yield of 1.1L/sec and Water Bearing Zone at 35-35.5 m.

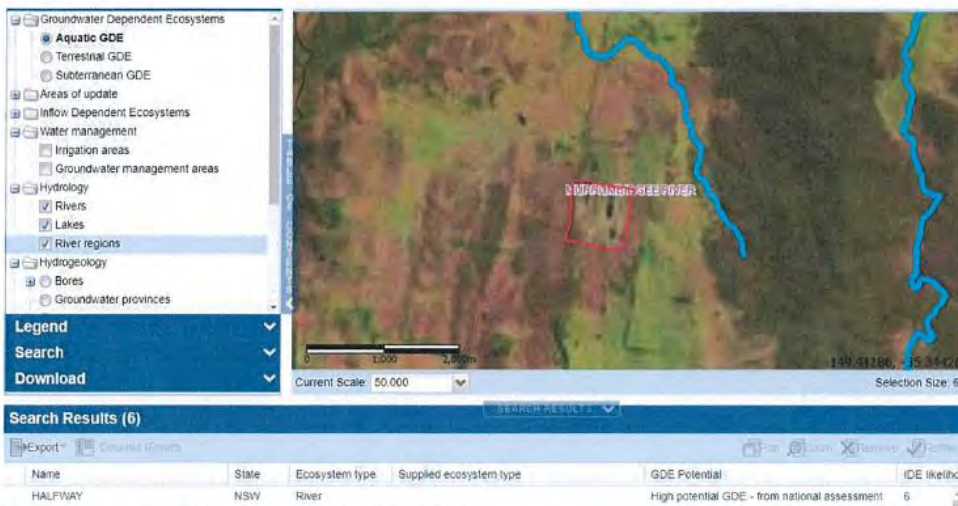


Figure 9: Groundwater Dependent Ecosystems Map

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There are no groundwater dependent ecosystems mapped in the vicinity of the quarry. The downslope drainage features (Halfway Creek) have high potential respectively, for associated Groundwater Dependent Ecosystems (GDEs), refer **Figure 9**.

Potential groundwater water impacts resulting from the proposed rehabilitation activities will be limited and mitigated by the following:

- The area immediately surrounding the quarry is mapped as Low Groundwater Vulnerability
- The nearest bore (GW403405) is spatially separated from the quarry by 480 metres
- The vertical separation between the surface and water bearing zones of the groundwater system is >35 m
- There are no groundwater dependent ecosystems in the area and the downslope drainage systems (Halfway Creek) with High Potential to support downstream groundwater dependent ecosystems will not be adversely impacted by the rehabilitation of the quarry
- The transmissivity of the groundwater system is slow in fractured rock aquifers as underly the area
- Groundwater will not be used during rehabilitation (for dust suppression or other consumptive uses)

DRYLAND SALINITY AND ERODIBLE LANDS

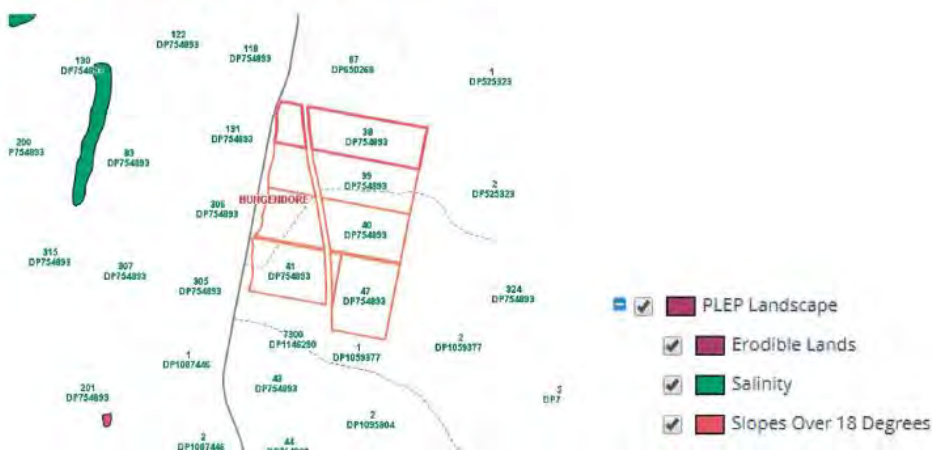


Figure 10: Salinity Map <https://publicmaps.qprc.nsw.gov.au/intramaps80/?project=QPRC%20Public#>

The quarry site is not mapped on the dryland salinity map in the Palerang LEP, refer **Figure 10**. It also does not have any erodible lands or steep slope areas within the site or adjacent.

The potential for the rehabilitation activities to either impact on, or be impacted by dryland salinity will be limited and mitigated by the following:

- There are no areas mapped as salinity
- Recharge into the groundwater system, which drives local dryland salinity, will be reduced by the natural regeneration of trees and shrubs, which will increase the amount of deep-rooted perennial vegetation in the landscape and reduce groundwater recharge

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- Revegetation of groundcover on all areas of disturbance will reduce erosion potential and saline scalding

The quarry site is not mapped on the soil erodibility map in the Palerang LEP, refer **Figure 10**.

The potential for the rehabilitation activities to either impact on, or be impacted by areas of high soil erodibility will be limited and mitigated by the following:

- There are no areas mapped as erodible lands
- Soil and Water management measures implemented during rehabilitation will limit the potential for soil erosion
- The rehabilitation and revegetation of areas of bare soil will reduce erosion risk
- Existing soil and water management works will not be impacted by the rehabilitation activities

BIODIVERSITY

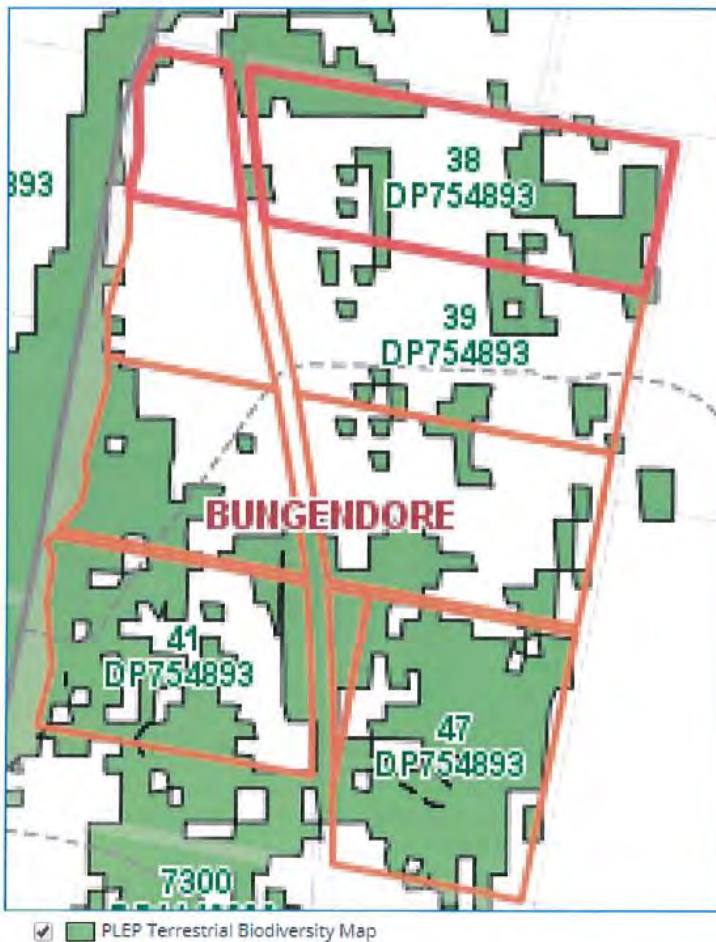


Figure 11a: Biodiversity Map – Quarry Site
<https://publicmaps.qprc.nsw.gov.au/intramaps80/?project=QPRC%20Public#>

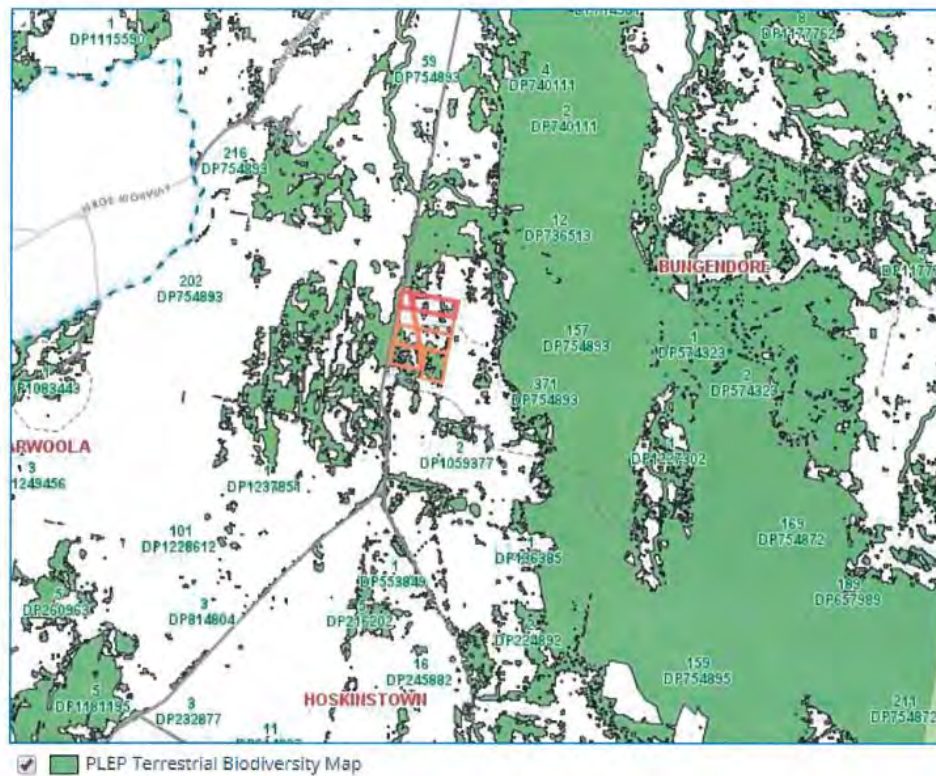


Figure 11b: Biodiversity Map – Regional Location

<https://publicmaps.qprc.nsw.gov.au/intramaps80/?project=QPRC%20Public#>

There are areas of remnant native vegetation on the property and adjacent to the quarry site which are mapped on the biodiversity map in the Palerang LEP, refer **Figures 11a-b**. The mapped vegetation is generally outside the areas proposed for rehabilitation activities, refer **Figure 12**.

There is a small amount of immature native regrowth located within the footprint of rehabilitation activities which will be removed. The rehabilitation activities and the associated limited impacts to native vegetation, will not trigger the Biodiversity Offsets Scheme (BOS) under the Biodiversity Conservation Act (2016), refer separate assessment.

The proposed rehabilitation of the site, and the associated revegetation of groundcover species and natural regeneration of native trees and shrubs, will deliver a net benefit to local and regional biodiversity and help enhance regional connectivity, refer **Figure 11b**.

The potential for the rehabilitation activities to impact on biodiversity values of the area will be limited and mitigated by the following:

- The quarry and access road are existing, and no areas of mapped biodiversity will be damaged or destroyed as part of the rehabilitation activities and these areas will be identified as no-go areas during rehabilitation

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- Natural regeneration of native trees and shrubs will be encouraged on the rehabilitated site, and supplemented with the reinstatement of a comprehensive groundcover
- Limited areas of scattered immature shrubby native regrowth (Wattles) will be removed in the course of rehabilitation activities

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Figure 12: Rehabilitation Areas and No Vegetation Disturbance Areas

REHABILITATION GOALS AND DESIGN PRINCIPLES

The goals for rehabilitation are designed to address the environmental constraints and deliver the following environmental, land management and land use outcomes.

ENVIRONMENTAL

- Improved biodiversity and fauna habitat achieved by
 - promoting natural regeneration of endemic trees and shrubs
 - strategic revegetation with productive groundcover species
 - weed control and
 - feral animal management.
- No impact to groundwater or salinity achieved by
 - managing accessions to the water table by capping areas of potential high recharge with subsoil/topsoil and groundcover
 - natural regeneration and revegetating of groundcover species to maximise use of rainfall by evapotranspiration and
 - managing surface water runoff to maintain the run-off/infiltration balance.
- No impact to surface water quality or quantity achieved by
 - managing surface water runoff to maintain the run-off/infiltration balance
 - retaining internal site drainage pattern to direct all surface run-off to sediment detention basins prior to discharge into surrounding surface water systems
 - managing basin discharge to maximise sediment retention through maintaining adequate basin capacity (through reuse of water onsite for dust suppression and moisture content in imported material to enhance compaction) and dosing of basins if required to remove fines prior to discharge
 - revegetating all disturbed areas and maintaining groundcover to reduce erosion and sediment movement and
 - reducing grades on finished landscapes to stable low slopes to reduce erosion potential (utilising VENM/ENM as appropriate).

LAND MANAGEMENT

- Stable landscapes requiring minimal maintenance achieved by
 - maintaining permanent soil and water management works to manage surface water quality and flows, and reduce erosion potential
 - reducing grades on finished landscapes to lower slopes to reduce erosion potential (utilising VENM/ENM as appropriate)
 - revegetating all disturbed areas and maintaining groundcover to reduce erosion

LAND USE

- Improving the agricultural utility of the site achieved by
 - creating a gently undulating landscape (utilising VENM/ENM as appropriate)
 - promoting the natural regeneration of locally endemic native trees and shrubs and active revegetation with productive groundcover species
- Improving the aesthetic and land use value of the site achieved by

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- creating a gently undulating landscape with final topographic profile which blends into the surrounding landscape features (utilising VENM/ENM as appropriate)
- promoting the natural regeneration of locally endemic native trees and shrubs.

The following Design Principles are intended to minimise potential adverse environmental impacts and optimise the effectiveness of rehabilitation:

- Quarry rehabilitation activities will be confined to a 3-5 year rehabilitation timeframe (commencement to completion), to minimise long term impacts on neighbours and local road users;
- Sediment and erosion control measures (temporary) will be installed prior to commencement of works and will be maintained until rehabilitation and revegetation has established an adequate groundcover;
- Location and extent of rehabilitation areas will retain internal drainage patterns and clean water catchments will not be impacted by the proposed activities;
- Drainage from the quarry and all disturbed areas will be internalised and directed to a downslope sediment detention basins which will be managed to maintain adequate capacity and ensure the sediment retention prior to discharge;
- Sediment basins will be used as a source of water for dust suppression and to attain appropriate moisture levels to ensure adequate compaction;
- Sediment basins will be dosed (if required) to remove sediment prior to discharge into the downslope environment;
- Any fill material used in rehabilitation activities will be classified VENM/ENM;
- Any material stockpiled for use in rehabilitation (topsoil/subsoil) will be located in designated stockpile areas which include downslope sediment control measures;
- All disturbed areas (fill and/or shaped) will be topsoiled, fertilised and seeded on completion;
- All revegetation species will be productive pasture/grass species suited to the climate and soils;
- Native tree and shrub regeneration will be encouraged to ensure locally endemic species suited to the site and providing maximum habitat value; and

STAGED REHABILITATION PLAN

The rehabilitation plan includes five rehabilitation stages which will be implemented in the sequence shown unless varied in consultation with the author of this report and subject to Council approval. Within each stage the following sequence of works (as detailed below for Cell 1A) should be followed. Sediment and erosion control measures specific to each stage are included in **Figures 13a-e**.

CELL 1A – REFER FIGURE 13A

1. **Entrance upgrade** - Fencing at the entrance from Hoskinstown Road will be upgraded to enable safe and secure access / exit of vehicles onto the public road network without disruption to other road users. Warning signs will be installed north and south of the entrance indicating turning trucks. The access road entrance will be upgraded to ensure sediment is dislodged from heavy vehicles before re-entering the public road network and that sediment is directed to silt fence to be treated before discharging into the surrounding environment, refer **SD 6-14** in **Appendix 1**.
2. **Minor maintenance / upgrade access track to Cell 1A and Stage 1A Stockpile/Parking Area** – surface will be inspected to ensure suitable all-weather surface exists for the length of the access track. Resurfacing / shaping will be conducted as required, sediment fence will be installed at the discharge point of any mitre/table drains as may exist or be installed along the access track, refer standard drawings in **Appendix 1**.
3. **Construct sediment and erosion control measures:**
 - a. **Upgrade sediment detention basin** – the existing sediment detention basin will be upgraded and managed to provide adequate capacity to manage. The sizing of the sediment detention basin will be designed to contain the first flush being the first four hours from a 1 in 10-year rainfall runoff event which equals approximately 500 cubic metres of storage per hectare of disturbed catchment. This capacity will be in addition to the residual storage capacity. A low flow trickle pipe may also be used to assist in managing discharge from the structure once capacity is reached. Flows which exceed the first flush storage capacity and capacity of the trickle pipe (if installed) will be discharged via the emergency overflow structure, refer **Figures 13** and **Appendix 1 – SD 6-4**. The emergency overflow must terminate in a level spreader (sill) to spread flows and reduce erosion risk.
 - b. **Construct stockpile/parking area sediment fence** – sediment fencing should be installed below the Stage 1A Stockpile/Parking area in accordance with **Figure 13** and **Appendix 1 – SD 6-8**. Sediment fencing should include adequate capacity to contain runoff from the upslope catchment area and incorporate an overflow capacity at one end so that runoff in excess of the capacity of the fence spills out of one end of the fence rather than overtopping or collapsing the entire sediment fence.

- c. **Construct Cell 1A rehabilitation area sediment fence** – sediment fencing should be installed below the Cell 1A rehabilitation area in accordance with **Figure 13** and **Appendix 1 – SD 6-8**. Sediment fencing should include adequate capacity to contain runoff from the upslope catchment area and incorporate an overflow capacity at one end so that runoff in excess of the capacity of the fence spills out of one end of the fence rather than overtopping or collapsing the entire sediment fence. Sediment fence may need to be installed in sections within each cell to break slopes up to lengths of less than 80 metres and reduce the erosion risk.
- d. **Prepare Cell 1A excavation for filling** – The site base and batters of the existing excavation should be stripped of any useable topsoil/subsoil material. This material should be stockpiled adjacent to the site for use in final rehabilitation and revegetation phase, refer **Appendix 1** and **SD 4-1**. The base and batters of the excavation should be ripped to ensure that imported VENM/ENM fill material integrates properly with the underlying material to reduce the risk of downslope movement and slippage.
- e. **Commence filling operation** - using classified VENM/ENM material - Filling should maintain a slightly convex (mounded) landform to reduce infiltration into the fill material during filling process. Filling should progress from the back batter of the cell towards the front and progressively raise the base and progress the back batter forward to maintain a suitable working face that enables dumped material to be spread in even layers on the base and batters and compacted by track rolling with a bulldozer and/or other machinery to achieve field compaction levels. As soon as sections of the filled quarry reach finished levels progressive topsoiling and revegetating should commence, refer **4. Topsoil and revegetation**.

4. Topsoil and revegetate -

- a. **Cell 1A Topsoiling and revegetation** - the finished area of fill material should be topsoiled with 150mm of suitable loam topsoil overlaying 100mm of clay loam material. The finished fill material should be lightly ripped on the contour prior to the spreading of subsoil and topsoil material. The topsoiled area should then be seeded with a suitable pasture seed mix and fertilised with a Starter type fertiliser. Whilst the vegetation is establishing stock access will need to be restricted from the area with temporary stock fencing.
- b. **Stockpile/parking area revegetation** (for Cell 3 stockpile site only) - the stockpile and parking area site should be rehabilitated by lightly ripping/cultivating on the contour prior to being seeded with a suitable pasture seed mix and fertilised with a Starter type fertiliser. Whilst the vegetation is establishing stock access will need to be restricted from the area with temporary stock fencing. Mulching may be applied to encourage revegetation and reduce erosion risk prior to vegetation establishing. Should the stockpile/parking area be eroded and/or lack suitable cover of topsoil material – then the site should be top dressed with a minimum 150mm of suitable loam topsoil after light contour cultivation of subsoil material and prior to seeding and fertilising.

- c. **Natural regeneration** - Continuing to restrict stock access to the site will also encourage natural regeneration of endemic native tree and shrub species which will ensure species ideally suited to the site colonise the area.

5. Remove sediment and erosion control measures

- a. **Remove sediment fencing Cell 1A** – Following the successful revegetation of the rehabilitation Cell (groundcover levels across the entire area >80%) the sediment fence may be removed.
- b. **Remove sediment fencing Stage 1A Stockpile/parking area** – Following the establishment of sediment fencing below the Cell to be rehabilitated (downslope of the stockpile area for the previous stage), the sediment fence may be removed. For the Cell 2B/ Cell 3 stockpile site the sediment fence may be removed following successful revegetation of the stockpile/parking area (groundcover levels across the entire area >80%).
- c. **Maintain sediment basin** – Following the successful revegetation of all areas draining to the sediment basin (groundcover levels across the entire area >80%) the management of the basin may be changed to retain top water at basin full level. Any low-level trickle pipe(s) (if installed) may be blocked or a riser installed to enable basin full level to be achieved.
- d. **Remove stabilised site access** (following successful rehabilitation of Cell 3) – stabilised site access, including any shake down measures installed to dislodge loose sediment from trucks, should be removed. Sediment fence structure to contain sediment from site access diversion bund, should be removed.

6. Monitoring and maintenance

- a. During rehabilitation:
 - i. **Monthly inspections of the sediment and erosion measures and before and after any major rainfall runoff events** - Particular attention should be paid to sediment fencing downslope of fill areas and stockpile sites. Excess sediment should be removed to reinstate capacity, supporting posts should be checked and reinstated, any bypassing or undercutting should be repaired, erosion along diversion bank channels, crossover points on access tracks and the emergency outlet of the sediment detention basin.

As soon as practical following major rainfall runoff events the sediment basin should be checked and dosed (flocculated) if required to achieve the desired water quality prior to discharge to reinstate storm retention capacity. If the basin is being used for dust suppression and or to achieve adequate moisture to achieve field compaction of imported material, then dosing may not be required prior to use.

- ii. **Monitor the condition of the access track** from Hoskinstown Road to ensure a stable all-weather surface is maintained. Remedial maintenance should be implemented as required.
 - iii. **Monitor dust generation and suppression measures** including the use of water carts, as required. During periods of excessive wind operations should be halted until such time as dust can be adequately managed using available dust suppression activities.
- b. Post rehabilitation:
- i. **Monitor revegetation effectiveness** including control of stock access to revegetating areas, management of weeds and monitor the extent of groundcover.
 - ii. **Monitor natural regeneration** to check the amount and type of species being naturally recruited and provide support for this regeneration through stock removal and/or guarding where rabbit/hare impacts are significant.
 - iii. **Manage pasture and stocking rates** to ensure long term retention of groundcover at >70%.
 - iv. **Manage weeds and feral animals** in the long term to maximise the biodiversity values of the rehabilitated site.

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Figure 13a: Rehabilitation Stage 1A

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Stage 1A Rehabilitation Cell

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Figure 13b: Rehabilitation Stage 1B

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Stage 1B Rehabilitation Cell

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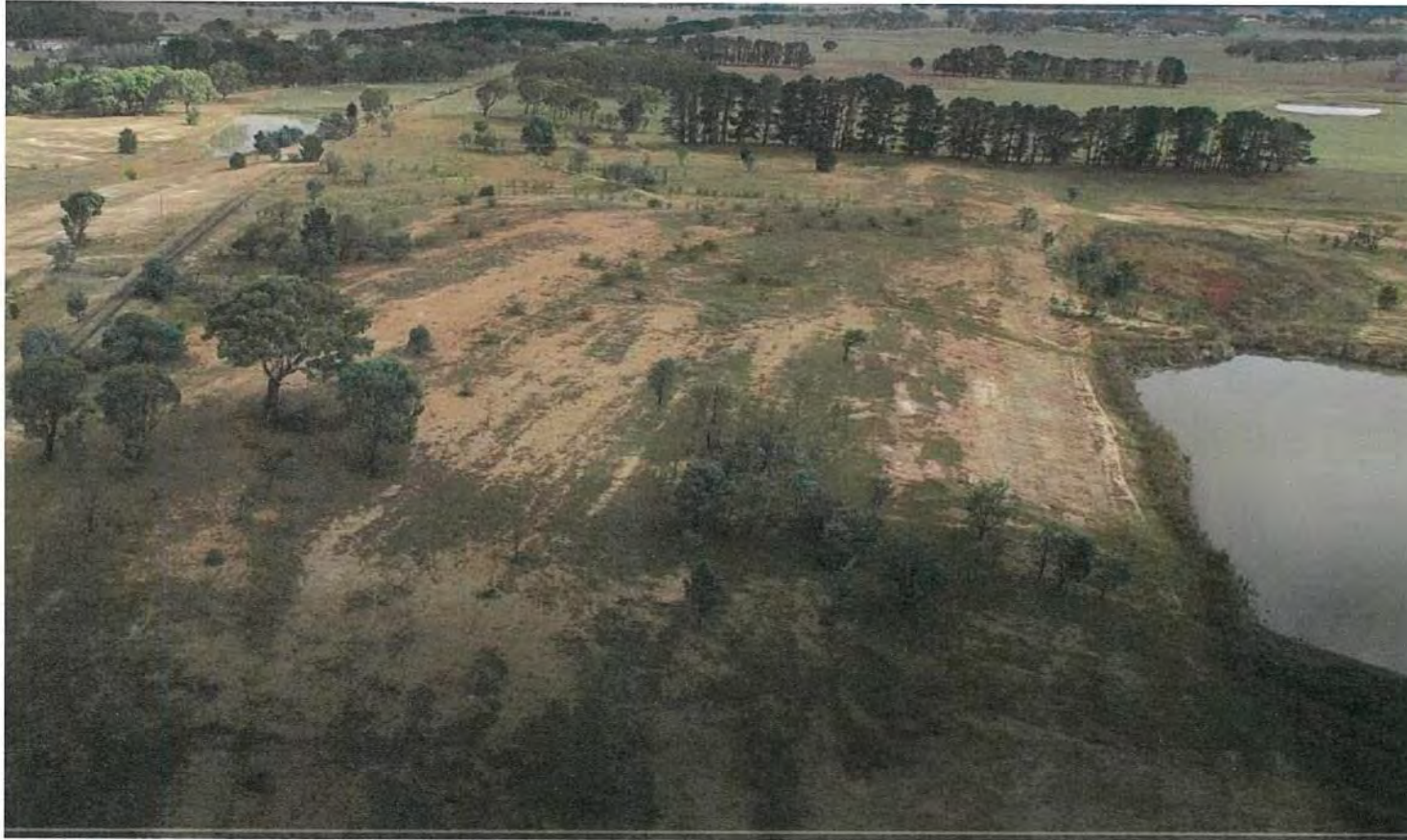
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Figure 13c: Rehabilitation Stage 2A

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Stage 2A Rehabilitation Cell

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Figure 13d: Rehabilitation Stage 2B

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Stage 2B Rehabilitation Cell

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Figure 13e: Rehabilitation Stage 3

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Stage 3 Rehabilitation Cell

ALTERNATIVE REHABILITATION OPTIONS

The following evaluation compares rehabilitation options for the existing quarry to ensure the measures proposed are the most appropriate for the site.

1. Continue existing land management (do nothing)

The site in its current form is vulnerable to continuing minor sheet and rill erosion and has limited agricultural productivity. The continuation of the existing land management practices will not deliver improved agricultural productivity or biodiversity values. The aesthetic appeal of the site, and options for future land use, will not be improved by the continuation of existing land management.

As the continuation of existing land management will not deliver a net improvement to the environment, agricultural productivity, aesthetics or land use options, it is not considered the preferred option.

2. Quarry Rehabilitation (without fill)

The quarry site has been rehabilitated in the traditional manner without the use of imported fill material (VENM/ENM). This has involved installation of soil and water management works and limited revegetation of excavation batters and other disturbed areas.

This approach has provided some benefits over the do-nothing option as patchy groundcover and natural regeneration has delivered some biodiversity benefit and major erosion risks have been mitigated by erosion control and drainage works.

This type of rehabilitation has resulted in minimal improvement in agricultural productivity and biodiversity benefit and minor reduction in erosion risk and improvement in water quality.

The site (in current form) is not on a strong improvement trajectory and a self-sustaining and productive agricultural landscape which supports the surrounding biodiversity values, will not be realistically achieved without further intervention.

3. Quarry Rehabilitation (with imported VENM/ENM fill material)

The quarry rehabilitation program proposed in this report utilises imported VENM/ENM to fill the existing excavation and reinstate a natural gently undulating landscape. As the VENM/ENM material provides the flexibility to create whatever landform best suits the landscape, through filling and shaping, the final rehabilitated site will have a vastly improved aesthetic appeal. Land use options available for the rehabilitated site are greatly increased as the final topography can be manipulated to best support the intended agricultural land use.

The VENM/ENM material also provides a source of suitable subsoil and topsoil material for final revegetation activities enabling the entire site to be successfully revegetated. This greatly increases the agricultural productivity of the site and reduces long term erosion risk. The use

of VENM/ENM material, which is a waste stream from the ACT and surrounding areas within the Queanbeyan Palerang Shire, also cross subsidises the cost of rehabilitation and enables a more comprehensive rehabilitation effort. This cost benefit of this approach is therefore very high.

The other benefit of using VENM/ENM material to rehabilitate a decommissioned quarry is that it represents a “whole of life” approach to waste management, with the Excavated Natural Material (quarry product) being extracted from the site as a resource, and similar material (VENM/ENM) from the waste stream, being returned to the site for use in rehabilitation.

JUSTIFICATION FOR REHABILITATION APPROACH

The rehabilitation of the quarry will improve the agricultural productivity of the property and improve the land use options available to the site. The use of VENM/ENM material for rehabilitation also presents a good model of ‘whole of life’ or closed loop recycling with excess excavated material being used to rehabilitate an excavated quarry site. Other benefits include:

- Returns the quarry area to a land capability similar to adjoining properties (following the successful rehabilitation and revegetation);
- Increases the area available for grazing through recovery and rehabilitation of the previously unproductive area;
- Increases the number of land use options available to the site including grazing;
- Improves visual amenity and biodiversity values by removing the bare excavation areas whilst maintaining existing remnant native vegetation and promoting natural regeneration.

Activities which deliver improved environmental outcomes and improved farm productivity are generally considered as effective and efficient land management measures for rural lands.

TYPE AND AMOUNT OF FILL MATERIAL TO BE USED IN REHABILITATION

The fill material to be used in the rehabilitation of the quarry will be restricted to classified VENM/ENM. This material will be sourced from ACT and Queanbeyan region on sites managed and operated by Canberra Sand and Gravel. Records of the VENM/ENM certification of all material to be used on site will be maintained by the proponent and provided to Council as required. The material will be conveyed to the site in Canberra Sand and Gravel truck and dog trailer combinations operated by the proponent's staff.

Topsoil to be used in the final rehabilitation of the quarry will be selectively sourced from the VENM/ENM stream and stockpiled onsite to be combined with insitu soil material.

The volume of VENM/ENM material required to fully rehabilitate the site has been estimated by pre and post rehabilitation survey of the five rehabilitation cells as presented in **Figures 13a-e**.

The estimated volumes of imported VENM/ENM material required for each stage of rehabilitation are presented below in **Table 2**:

Table 2: VENM/ENM Material Required for Rehabilitation (refer Figures 13a-e)

Rehabilitation Cell	Volume (m ³ compacted)
Cell 1A	126,750
Cell 1B	3,800
Cell 2A	16,900
Cell 2B	14,700
Cell 3	60,600
Total	222,750

The total volume of imported VENM/ENM has been estimated at:

- 222,750 m³ of compacted VENM/ENM material, or
- 356,400 m³ of loose fill material¹

TRUCK AND PLANT OPERATIONS

Truck and plant movements have been estimated based on the fill volumes detailed in the previous section, the rate at which the source material (VENM/ENM) is being generated and the capacity of the onsite works crew to assimilate material as part of the rehabilitation program.

The expected average number of truck movements per day is 8-10 loads each day which equates to an average of 300 tonnes delivered per day. During peak periods a maximum number of 45-50 truck movements per day may occur for a short period. Prior to this occurring Council will be notified and informed of the expected maximum number of truck movements expected and the duration of this increased number of daily movements.

¹ Based on conversion of 1.6m³ of loose material (as transported) converting to 1m³ of compacted material-as communicated by the proponents

The results are presented in **Table 3** below.

Table 3: Truck Movements

Total Volume of VENM/ENM Required	356,400m³ (222,750m ³ – compacted)	
Total Weight of VENM/ENM Required	334,125 tonnes (@1.5 tonnes per compacted m ³)	
Average Truckload	32 tonnes (net)	
VENM/ENM Generated / Truck Movements	Delivered (tonnes)	Truck Movements
Daily (average)	300	8 -10
Daily (maximum)	1500	45-50

Based on the profile of truck movements provided, and total volume required for rehabilitation, the project has a lifecycle of between 3-5 years (based on average number of truck movements with short durations of maximum daily truck movement numbers). This allows for the intermittent supply of suitable VENM/ENM material, weather delays, time required for the construction of associated soil and water management works time required for topsoiling and revegetation activities.

Plant and equipment operating on the site at various times may include a bulldozer, loader, roller and excavator, in addition to the trucks delivering the VENM/ENM material for quarry filling. The site will be controlled by the proponent's onsite foreman who will be responsible for ensuring a safe working environment. Security of the site will also be maintained by the proponent who will ensure that all material delivered to site is in accordance with Council and other regulatory requirements and that no illegal dumping activities occur.

Access to the site will be controlled by the proponent and the site will be locked when not in operation and a Closed Circuit Television (CCTV) will be installed to monitor vehicle movements and potential unauthorised site access.

The proposed hours of operation of the site (including truck movements) will be between 7am and 5 pm on weekdays. This will minimise noise impacts on neighbours and limit traffic during peak vehicle movement times associated with school buses and commuter traffic.

PROJECT MANAGEMENT

The project, operation and site will be strictly managed to ensure desired outcomes are delivered with no perverse impacts on the environment or neighbouring properties. The management mechanisms to be used are detailed in the following sections.

MATERIAL QUALITY

All material to be transported to the site will be classified VENM/ENM. Classification will be checked by the onsite manager. All staff including drivers and earth moving operators will be inducted onsite which will include specifying that all material to be delivered onsite is to be classified VENM/ENM.

MATERIAL VOLUME

Truck movements and volumes of material received will be managed through daily truck run sheets. These will specify the number and timing of truck movements as required in Council consent and detailed in this report. The truck run sheets will be managed by the onsite manager.

SITE ACCESS AND SECURITY

The site will be secured by a locked access gate and a CCTV will be installed at the gate to ensure no unauthorised access to the site. During the hours of operation, a site manager will be present at all times to check deliveries against the truck run sheet, the classification and quality of material entering the site and driver behaviour.

DRIVER BEHAVIOUR

All drivers delivering material to the site will be inducted into the project which will include the behaviour of all operators. An incident reporting number will be provided to Council so that incidents of poor behaviour reported to Council can be forwarded to the project manager. A disciplinary process will be established which includes a single warning and counselling followed by dismissal from the site and the project should there be a second report of poor behaviour. NSW road rules will apply to all public roads and any breaches reported to the project manager will be forwarded to the relevant authorities for action.

MONITORING AND DUST MITIGATION

A protocol for managing dust will be developed prior to the commencement of the project which will include monitoring weather forecasts for periods of strong winds and wet weather and adjusting onsite operations to mitigate impacts from dust. Water may also be sourced from the sediment and erosion control structures on the property when suitable. The reporting process developed for driver behaviour will also apply to other areas of the operation including the reporting of dust or other impacts on neighbouring properties. Any reports will be forwarded to the site manager who will be responsible for addressing any issues related to the operation.

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WET WEATHER OPERATION

During periods of wet-weather the onsite manager will assess the suitability of the conditions for continued operations and will close the site if appropriate standards of safety, efficiency and effectiveness of operations cannot be maintained. It is envisaged that in the majority of wet-weather conditions the excavation sites from where imported VENM/ENM is being sourced will cease operations before the rehabilitation site becomes unsuitable for receivals.

RECORD KEEPING

Records will be maintained by the onsite manager.

Records will include:

- VENM/ENM Certification
- Truck Run Sheets
- Safe Work Method Statements
- Induction Processes
- Incident Reporting
- Progress Reporting to Council and Regulators (as required)
- Complaints Management'.

Council and other regulatory authorities will be provided with contact details for the project site manager to which all complaints can be referred. The project manager will be available to respond to all complaints or enquiries and will instruct the onsite manager to shut down or modify operations in accordance with any direction received by Council and or regulatory authorities. All complaints or enquiries received will be logged in a complaint register which will be kept at the project managers office. All actions taken in response to complaints will be recorded in this register.

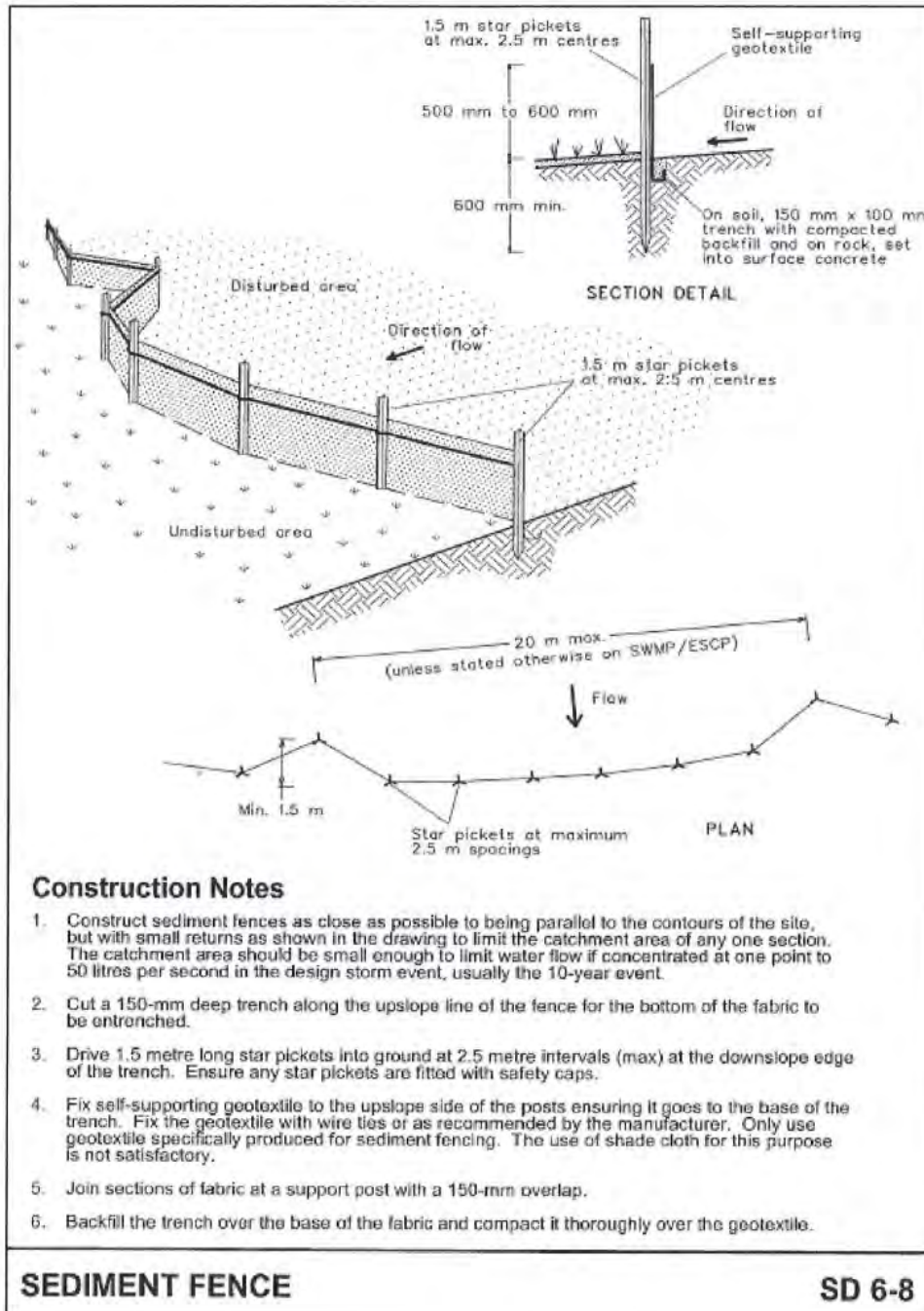
NEIGHBOUR RELATIONS

A register of neighbouring property holders will be established including contact details. The project site manager will inform all neighbours on any issues which may impact their properties and are outside the normal operating procedures as approved by Council. The project site manager will contact neighbouring properties at the inception of the project and provide a direct contact number for them to report any issues impacting their properties to the project site manager.

APPENDIX 1

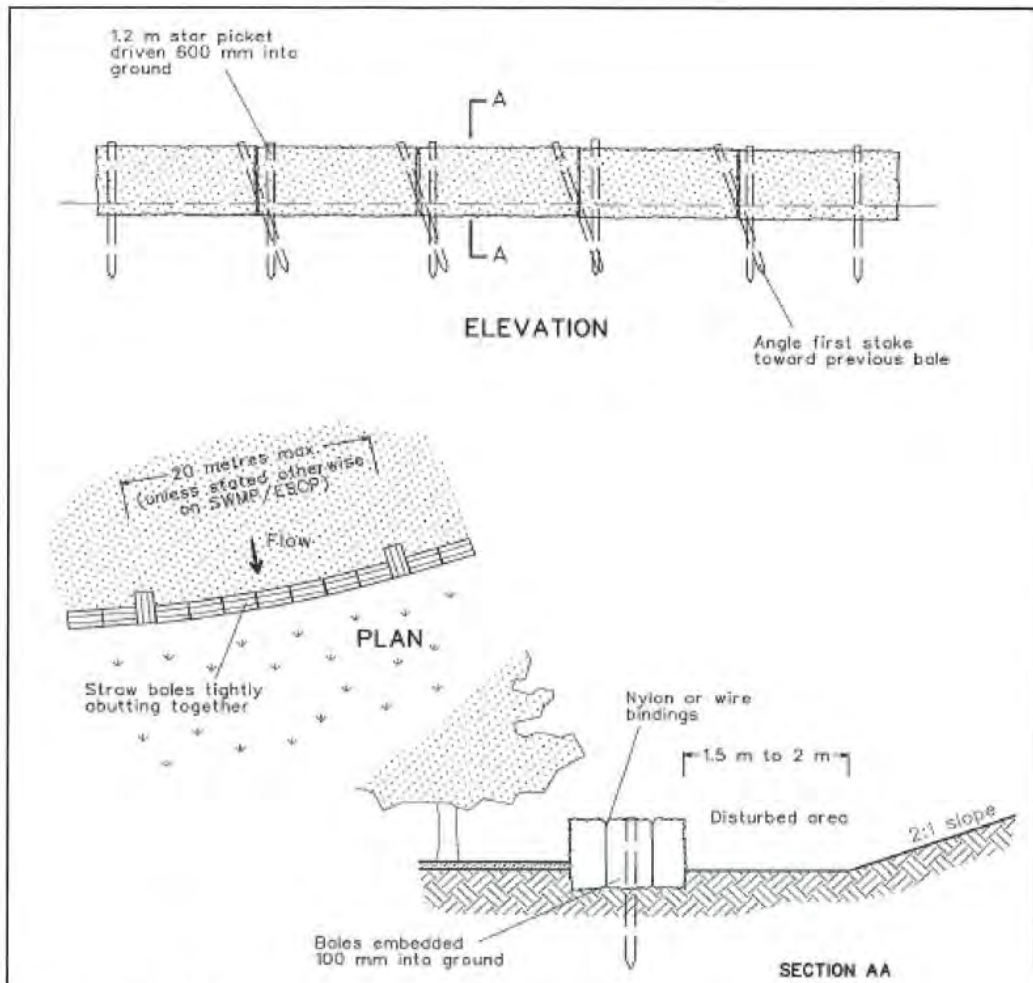
STANDARD DRAWINGS

Erosion and sediment control works will be designed and constructed in accordance with *Managing Urban Stormwater: Soils and Construction, Volume 1 (Landcom, 2004)* as detailed in the following standard drawings:



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Construction Notes

1. Construct the straw bale filter as close as possible to being parallel to the contours of the site.
2. Place bales lengthwise in a row with ends tightly abutting. Use straw to fill any gaps between bales. Straws are to be placed parallel to ground.
3. Ensure that the maximum height of the filter is one bale.
4. Embed each bale in the ground 75 mm to 100 mm and anchor with two 1.2 metre star pickets or stakes. Angle the first star picket or stake in each bale towards the previously laid bale. Drive them 600 mm into the ground and, if possible, flush with the top of the bales. Where star pickets are used and they protrude above the bales, ensure they are fitted with safety caps.
5. Where a straw bale filter is constructed downslope from a disturbed batter, ensure the bales are placed 1 to 2 metres downslope from the toe.
6. Establish a maintenance program that ensures the integrity of the bales is retained - they could require replacement each two to four months.

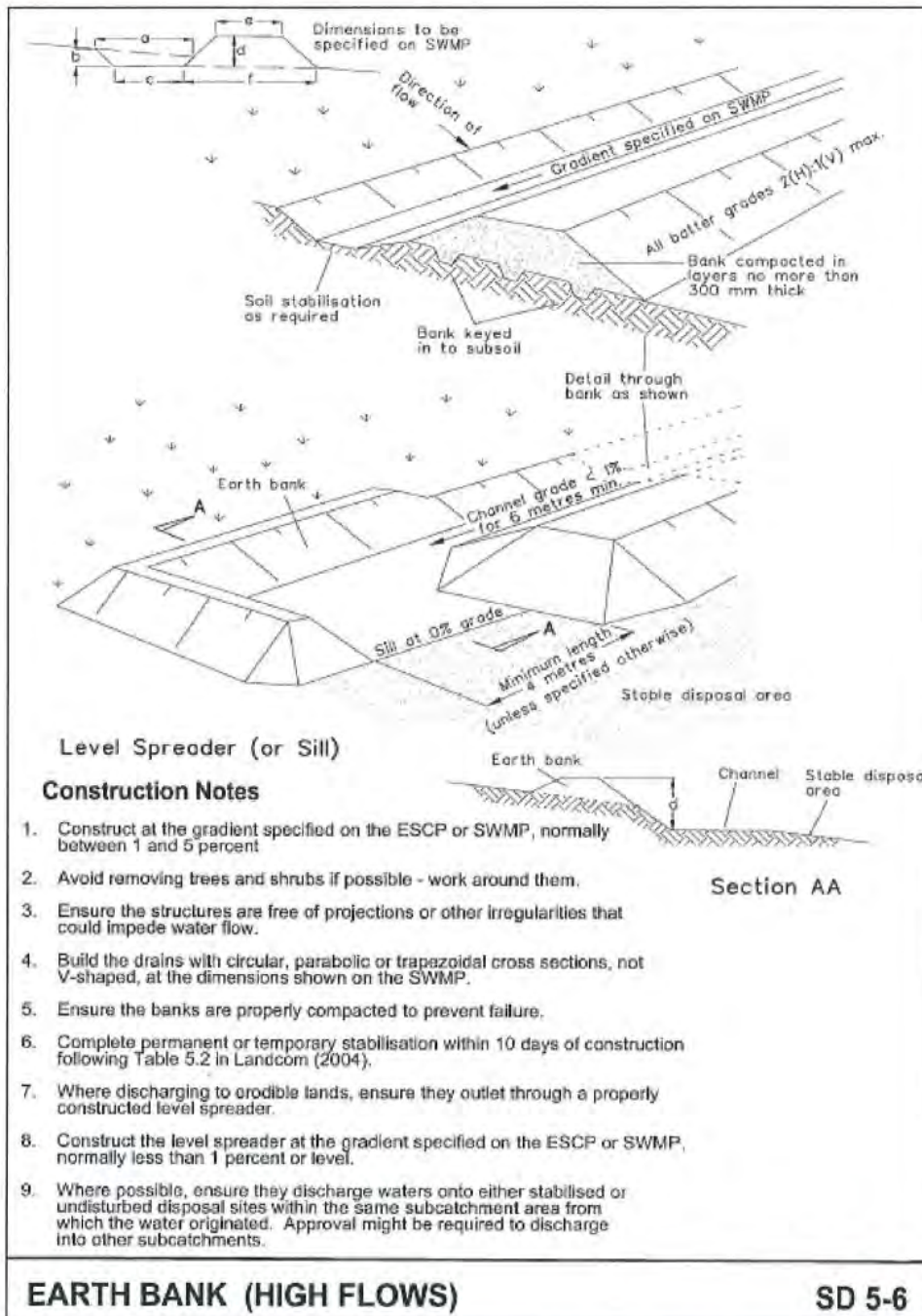
STRAW BALE FILTER

SD 6-7

NB: These structures can be used in place of Sediment Fencing (SD 6-8)

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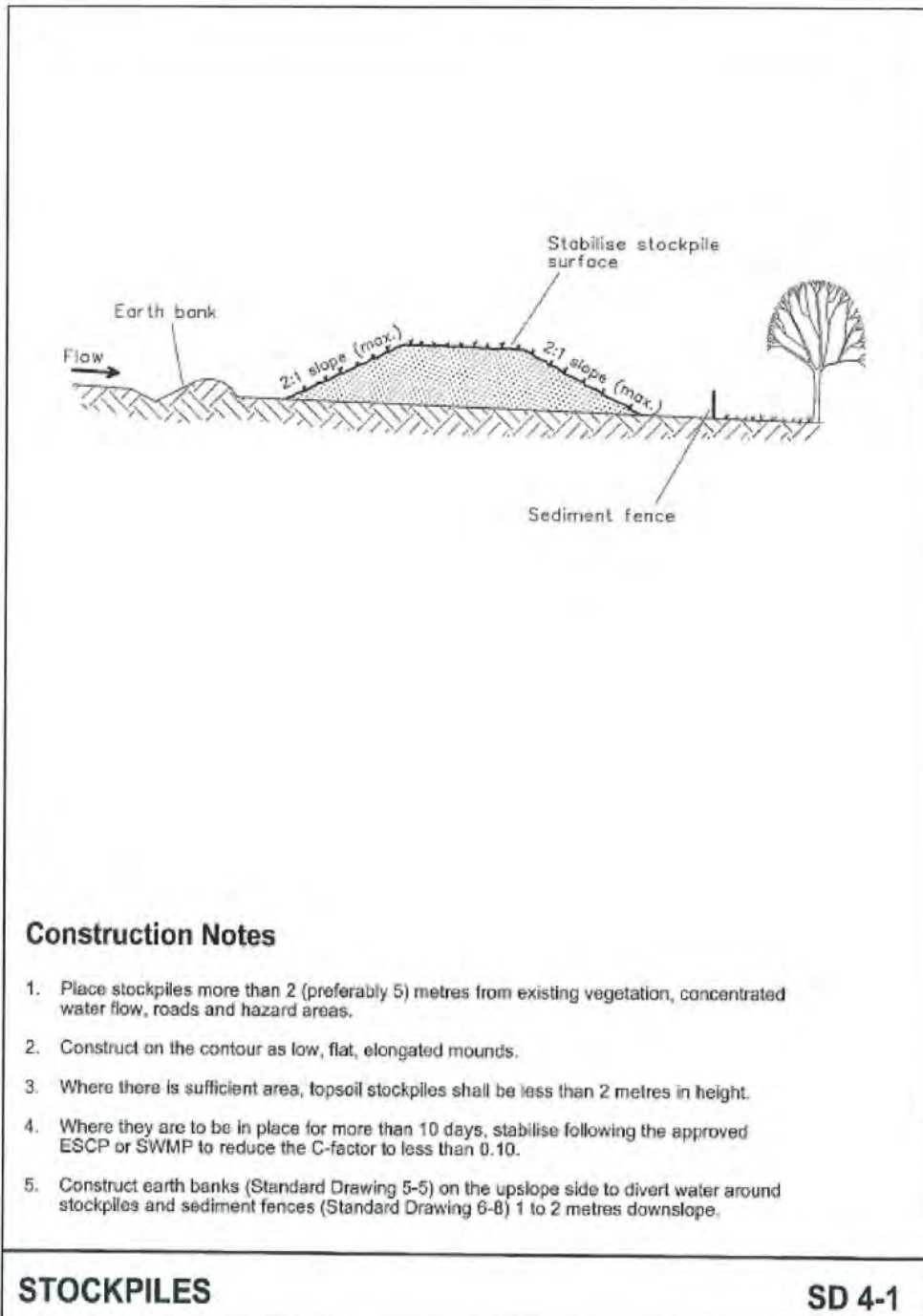
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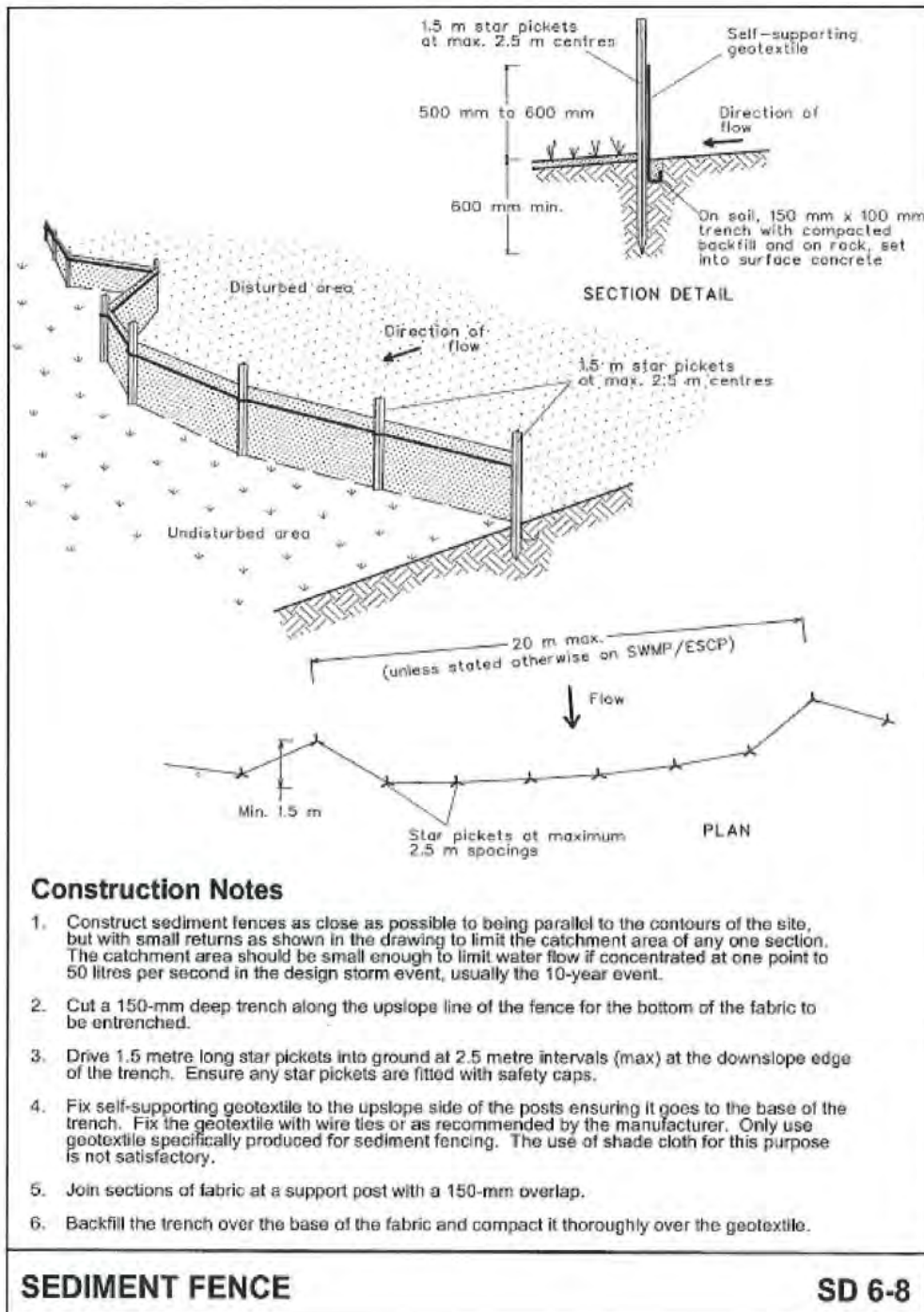
NB: A level spreader may need to be installed on the emergency overflow of the existing sediment detention basin

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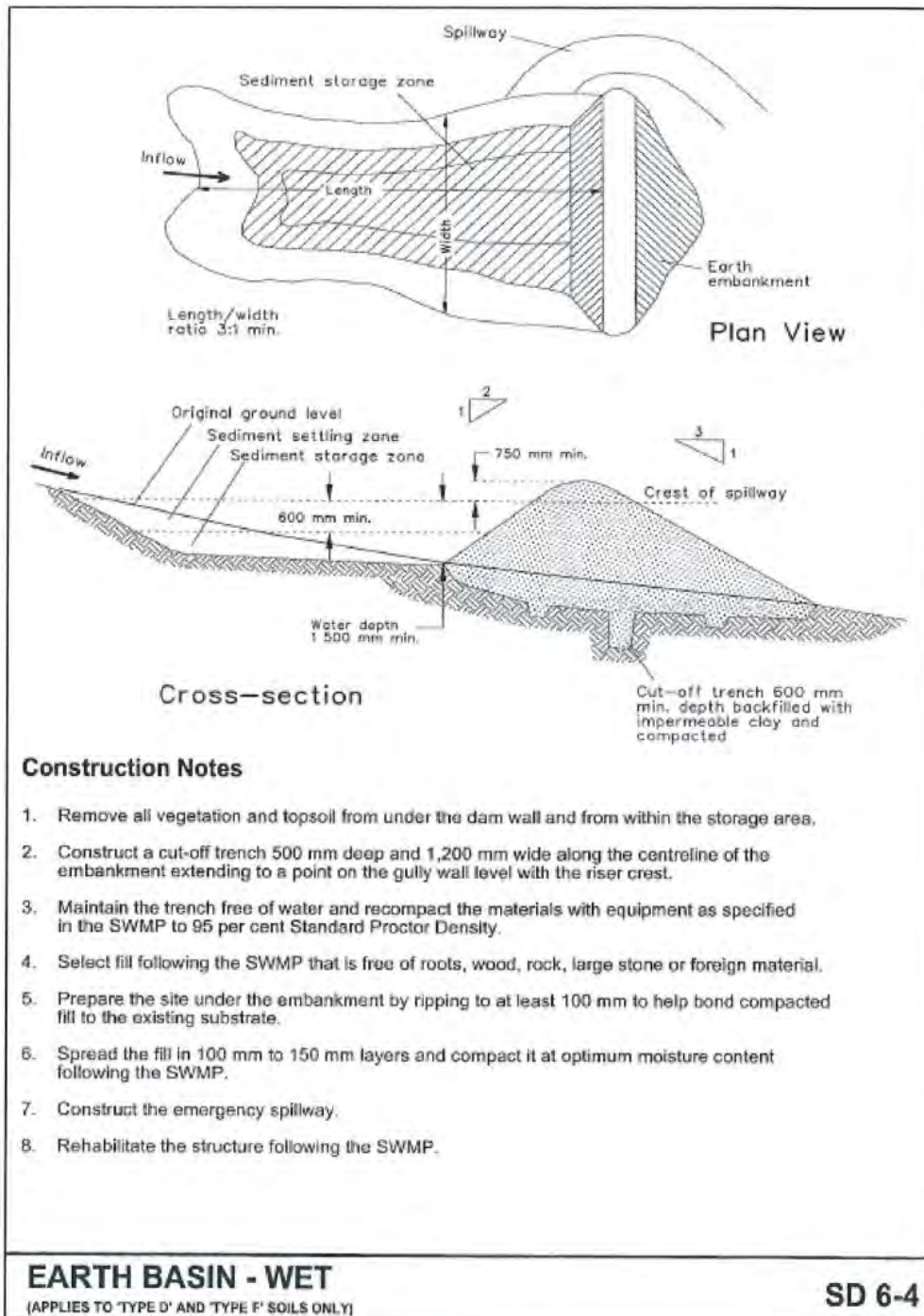
Stockpile locations will be restricted to sites identified in Figures 13a-e. Stockpiles will be managed according to Standard Drawing SD 4-1.



Sediment fencing below topsoil sites will be constructed according to Standard Drawing 6-8.

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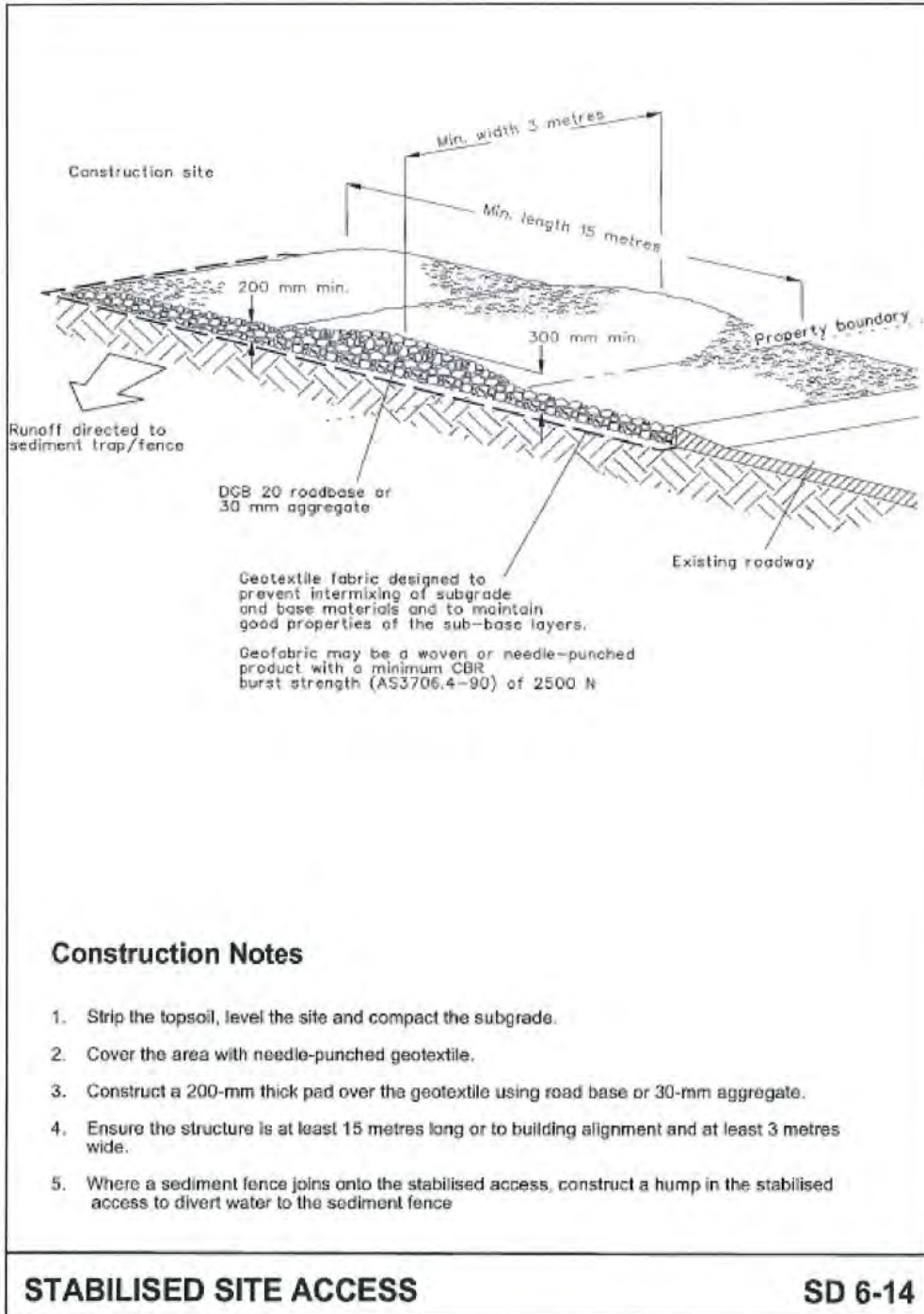
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The Sediment Basins are existing structures but these should be managed according to Standard Drawing SD 6-4.

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The access track and entrance are stable and established however these may need to be upgraded to accept the proposed number of truck movements.



Level 2 11 London Circuit Canberra ACT 2601
t: (02) 6103 2313

14 August 2019

Our ref: 13872

Canberra Sand and Gravel
Via email: James@cansand.com.au

Attention: James Gregory

Dear James,

Hoskinstown Quarry Biodiversity Constraints

This brief letter reports on the biodiversity values at the disused Hoskinstown Quarry (Lots 38, 39 & 40 DP 754893) to support the Development Application (DA) for its rehabilitation. The report nominates the site as Category 1 Exempt Land as it pertains to the *Local Land Services Act 2013* (LLS Act) and assesses biodiversity values in relation to the *Biodiversity Conservation Act 2016* (BC Act).

The intent of the rehabilitation is to create stable non-eroding landscape with improved visual amenity and a land use more consistent with the surrounding low intensity agricultural (grazing) land use. The areas proposed for rehabilitation are identified in Figure 1 and are referred to as the development footprint (also referred to as the 'subject site').

A site inspection of the subject site was conducted on 7 August 2019 by Eco Logical Australia (ELA) ecologist, Dr Matthew Dowle. The survey included a random meander of the site, four full floristic biometric vegetation plots and observations of any important habitat features.

BACKGROUND

In November 2016, the NSW Government passed the BC Act and *Local Land Services Amendment Act 2016*, changing the way biodiversity impacts are assessed and approved in NSW. This new legislation has now repealed the *Threatened Species Conservation Act 1995* (TSC Act), *Native Vegetation Act 2003* (NV Act) and parts of the NSW *National Parks and Wildlife Act 1974* (NP&W Act).

Biodiversity Conservation Act 2016

The NSW BC Act provides a mandatory framework for addressing impacts on biodiversity from development and clearing, including the BOS and the Biodiversity Assessment Method (BAM). Where the BOS is triggered, a detailed Biodiversity Development Assessment Report (BDAR) is required and the BAM must be undertaken to support a Development Application.

Triggers for the BOS include:

- Clearing over 0.5 ha of native vegetation (where the minimum lot size is 1 to 40 ha).
- Land mapped on the Biodiversity Value Map (not relevant for the subject site).
- Significant impacts to matters listed under the BC Act as assessed using s7.3 of that Act.

Local Land Services Act 2013

The Development Footprint occurs on land that would be classified as Category 1 Exempt Land under the Native Vegetation Regulation (NVR) Map.

The NVR Map is being reviewed as part of the reforms process and is currently being finalised. The NVR Map generally covers rural land in NSW. Its intent is to categorise land where management of native vegetation can occur without approval or where management of native vegetation may be carried out consistent with Part 5A of the LLS Act.

The transitional arrangements for the LLS Act allow landowners to determine the categorisation of their land. Section 60F (Transitional arrangement until the preparation of map) of the LLS Act states:

(4) A provision of this Part that determines the relevant categorisation of land by reference to a reasonable belief of the Environment Agency Head about a particular matter is to be construed, for the purposes of this section, as a reference to what a reasonable person would believe about the matter.

It is noted that clearing of Native Vegetation (as defined by the LLS Act) on land that meets the definition of Category 1 Exempt Land does not require assessment or offsetting under BAM or the BOS. The BC Act Section 6.8 (Matters to be dealt with by the biodiversity assessment method) states:

(3) The biodiversity assessment method is to exclude the assessment of the impacts of any clearing of native vegetation and loss of habitat on category 1-exempt land (within the meaning of Part 5A of the Local Land Services Act 2013), other than any impacts prescribed by the regulations under section 6.3.

EXISTING ENVIRONMENT

The development footprint (as indicated in Figure 1) is highly modified and represents a decommissioned clay quarry. The previous quarry activities have substantially disturbed the natural soil profile and removed remnant vegetation (see Attachment A - Photos 1 to 4).

The vegetation present includes a mixture of exotic species including Priority Weeds, disturbance tolerant native grasses and forbs, and regrowth *Acacia dealbata*. For the purposes of the BC Act and LLS Act, part of the vegetation within the subject site meets the definition of 'Native Vegetation' (noting they do not represent a typical Plant Community Type), in particular the regrowth *Acacia* near Plot 2.

The rehabilitation plan (Soil and Water 2019) would require clearing more than 0.5 hectares of this Native Vegetation, and consequently, the triggers for the BOS under the BC Act would be applicable. However, the subject site is nominated as *Category 1 Exempt Land* under the LLS Act (justification provided below). Therefore, as indicated above, under Section 6.8 of the BC Act the clearing of vegetation within the subject site does not require assessment using the BAM under the BC Act.

The vegetation within the subject site is typically represented by *Plantago coronopus*, *Vittadinia muelleri* (Fuzzweed), *Vittadinia cuneata* (Fuzzweed), *Bothriochloa macra* (Red Grass), *Acaena ovina* (Sheep's Burr), *Plantago lanceolata* (Plantain), *Nassella trichotoma* (Serrated Tussock), *Centaureum erythraea* (Common Centaury), *Hypochaeris radicata* (Catsear), *Eragrostis curvula* (African Love Grass), *Acetosella vulgare* (Sheep's Sorrel), *Rosa rubiginosa* (Briar Rose), *Phalaris aquatica* (Phalaris), *Panicum effusum* (Hairy Panic) and *Hirschfeldia incana* (Buchan Weed).

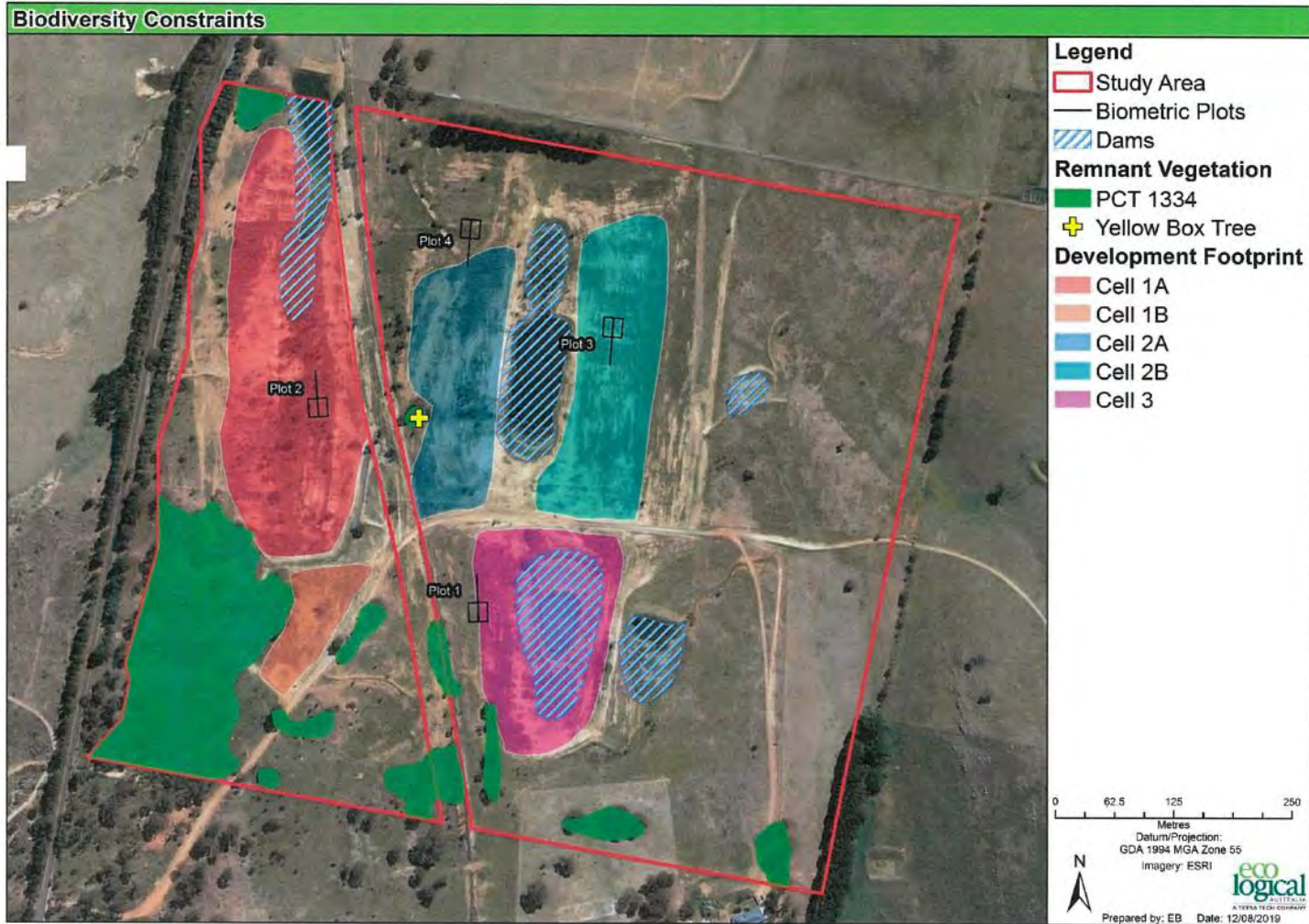


Figure 1: Map showing proposed rehabilitation areas (subject site / development footprint).

CATEGORY 1 EXEMPT LAND JUSTIFICATION

The criteria for Category 1 Exempt Land (<https://www.lfs.nsw.gov.au/sustainable-land-management/facts-sheets2/land-categorisation-and-the-land-management-framework>) includes:

- Land cleared of native vegetation as at 1 January 1990 or lawfully cleared after 1 January 1990
- Low conservation grasslands
- Land containing only low conservation groundcover (not being grasslands)
- Native vegetation identified as regrowth in a Property Vegetation Plan under the NV Act
- Land bio-certified under the BC Act.

The subject site (Figure 1) can be classified as either low conservation grasslands or land containing only low conservation ground cover. The site was also likely cleared of intact native vegetation prior to 1 January 1990 or lawfully cleared after 1 January 1990 as part of the approved Hoskinstown Quarry activities. The site has been subject to many years of disturbance, substantially modifying the natural soil profile and removing remnant vegetation (Attachment A - Photos 1 to 4).

The vegetation within the subject site currently represents a mixture of exotic species, disturbance tolerant native grasses and forbs, and regrowth Acacia (Attachment B – Species List). The subject site is surrounded by land also subject to high levels of disturbance (predominantly agricultural grazing), with some areas of remnant vegetation, likely representing PCT 1334 (*Yellow Box grassy woodland of the northern Monaro and Upper Shoalhaven area, South Eastern Highlands Bioregion*).

Based on the position of the subject site within the landscape, the vegetation prior to disturbance would likely also have been PCT 1334. However, in the current state, it is a derived form where the vegetation no longer comprises characteristic species from one or more structural layers (canopy, mid-storey or ground layer) present in the undisturbed form of the PCT.

As part of the field surveys, four biometric plots consistent with the BAM were conducted, and were assigned to PCT 1334. The vegetation integrity score (as determined by the online BAM Calculator) for these plots ranged from 1.6 to 6.2 for Plots 1, 3 & 4 and a score of 31.1 for Plot 2 (regrowth Acacia), indicating a low to very low condition of vegetation within the subject site. It is noted that if the Acacia in Plot 2 is categorised in the 'tree growth form' under the BAM. However, if it was categorised as a 'shrub growth form' similar to other Acacia's, the integrity score would then drop to 14.9. *Acacia dealbata* is identified as a mid-storey species within the PCT 1334 description from the NSW BioNet Vegetation Classification System.

These integrity scores are consistent with a site that has been previously cleared of intact vegetation, heavily modified and containing limited native diversity, and supports the site as being of 'low conservation grasslands' or 'land containing only low conservation groundcover'.

BIODIVERSITY OFFSET SCHEME TRIGGERS

It is noted that the subject site is considered Category 1 Exempt Land under the NVR Map, therefore triggers for the BOS under the BC Act do not apply. However, in further support for the justification of Category 1 Exempt Land, a review of the Biodiversity Values Map and Offset Scheme Entry Tool (BOSET) (DEH 2019) was conducted, indicating that the subject site is not mapped on the BV Map.

Furthermore, considering the highly degraded nature of the site and lack of significant fauna habitat features such as hollow-bearing trees, partially embedded rock, fallen logs, litter, and intact vegetation, the subject does not represent important habitat for threatened species. Therefore, significant impacts

on matters listed under the BC Act, such as threatened flora and fauna, will not occur as a result of the proposed rehabilitation of the Quarry.

It is noted that two Diamond Firetails (*Stagonopleura guttata*), listed as Vulnerable under the BC Act were observed flying to the south of Plot 2 (outside of the subject site) during the field survey. The Diamond Firetails nest in shrubby understorey, or up higher in the canopy. No breeding habitat or nest were observed within the subject site. However, these birds are likely inhabiting the woodland (PCT 1334) to the south of the site and venturing into the subject site to forage.

The rehabilitation plans are not considered to have a significant impact on these species as important breeding habitat is not present within the subject site, suitable foraging habitat is abundant in the landscape and the activities would not fragment potential habitat. Furthermore, the rehabilitation plans are likely to create habitat preferred by the species for foraging (species feeds on the ground). Therefore, the proposed activities are unlikely to lead to an extinction of a local population of this species in the long-term.

CONCLUSION

In view of the above, the subject site is highly degraded and considered to represent Category 1 Exempt Land under the Native Vegetation Regulatory Map and *Local Land Services Act 2013* (and *Local Land Service Amendment Act*). Therefore, further or more detailed biodiversity assessment is not considered to be required to support a Development Application.

If you have any questions in relation to this brief letter, please do not hesitate to contact me at matthewd@ecoaus.com.au.

Regards,



Dr Matthew Dowle
Senior Ecologist / Canberra Office Manager

ATTACHMENT 1 - PHOTOS



Photo 1: Typical ground cover within the Development Footprint – Plot 1



Photo 2: Acacia regrowth – Plot 2



Photo 3: Dam located between Cells 2A and 2B (see Figure 1)



Photo 4: Single remnant Eucalyptus melliodora (Yellow Box) outside subject site (see Figure 1)

ATTACHMENT B – FLORA SPECIES LIST

The table below provides the list of species recorded opportunistically and within the four plots during the field survey.

Species	Common Name	Exotic	High Threat Weed	Growth Form	Plot 1 cover	Plot 2 cover	Plot 3 cover	Plot 4 cover
<i>Acacia dealbata</i> subsp. <i>dealbata</i>	Silver Wattle			Tree (TG)		8		
<i>Acacia ulicifolia</i>	Prickly Moses			Shrub (SG)		0.1		
<i>Acaena ovina</i>	Acaena			Forb (FG)	3	0.2		0.1
<i>Acetosella vulgaris</i>	Sheep Sorrel	*	1			0.1		
<i>Aristida</i> spp.	A Wiregrass			Grass & grasslike (GG)		1		
<i>Asperula conferta</i>	Common Woodruff			Forb (FG)		0.1		
<i>Austrostipa scabra</i> subsp. <i>scabra</i>	Rough Speargrass			Grass & grasslike (GG)				2
<i>Bothriochloa macra</i>	Red Grass			Grass & grasslike (GG)	2	25	8	3
<i>Carthamus lanatus</i>	Saffron Thistle	*	1		1			
<i>Centaurium</i> spp.		*				2	0.1	0.1
<i>Cirsium vulgare</i>	Spear Thistle	*				0.1		
<i>Conyza bonariensis</i>	Flaxleaf Fleabane	*						
<i>Daviesia genistifolia</i>	Broom Bitter Pea			Shrub (SG)		0.1		
<i>Dichondra repens</i>	Kidney Weed			Forb (FG)			0.1	
<i>Echium</i> spp.		*			2			
<i>Eragrostis curvula</i>	African Lovegrass	*	1					
<i>Eucalyptus melliodora</i>	Yellow Box			Tree (TG)				
<i>Eucalyptus polyanthemos</i>				Tree (TG)				
<i>Hirschfeldia incana</i>	Buchan Weed	*			1			
<i>Hypochaeris radicata</i>	Catsear	*			0.5			0.1
<i>Juncus</i> spp.	A Rush			Grass & grasslike (GG)				
<i>Nassella trichotoma</i>	Serrated Tussock	*	1			2		30
<i>Onopordum</i> spp.		*				0.1		
<i>Panicum effusum</i>	Hairy Panic			Grass & grasslike (GG)	0.1	0.2	0.1	
<i>Pennisetum</i> spp.				Grass & grasslike (GG)				
<i>Phalaris aquatica</i>	Phalaris	*			0.5	2	0.1	1
<i>Pinus radiata</i>	Radiata Pine	*	1					
<i>Plantago coronopus</i> subsp. <i>coronopus</i>		*			3	10	25	10

Species	Common Name	Exotic	High Threat Weed	Growth Form	Plot 1 cover	Plot 2 cover	Plot 3 cover	Plot 4 cover
<i>Plantago lanceolata</i>	Lamb's Tongues	*			4	10	1	1
<i>Rosa rubiginosa</i>	Sweet Briar	*	1		1	1		7
<i>Rubus</i> spp.				Shrub (SG)				
<i>Rytidosperma</i> spp.				Grass & grasslike (GG)		0.2		
<i>Themeda triandra</i>				Grass & grasslike (GG)				15
<i>Trifolium repens</i>	White Clover	*				0.1		0.1
<i>Trifolium</i> spp.	A Clover	*					0.1	
<i>Typha</i> spp.				Grass & grasslike (GG)				
<i>Vittadinia cuneata</i> var. <i>cuneata</i>	A Fuzzweed			Forb (FG)	20	3	1	
<i>Vittadinia muelleri</i>	A Fuzzweed			Forb (FG)	15	3	5	5

QUEANBEYAN-PALERANG REGIONAL COUNCIL

Council Meeting Attachment

27 MAY 2020

ITEM 9.1 DA.2019.1185 - QUARRY REMEDIATION/REHABILITATION
AND ENVIRONMENTAL PROTECTION WORKS - 791
HOSKINSTOWN ROAD, BUNGENDORE

ATTACHMENT 3 REDACTED SUBMISSIONS - DA.2019.1185 - REHABILITATION
WORKS - 791 HOSKINSTOWN ROAD, BUNGENDORE

DA.2019.1185

The Town Planner
Queanbeyan Palerang Council
10 Majara Street
BUNGENDORE NSW 2621



Received by
**Queanbeyan Palerang
Regional Council**

12 NOV 2019

Customer Service
Bungendore Office

Re: DA.2019.1185

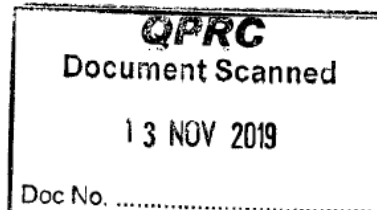
Dear Sir

Thank you for the opportunity to comment on this quarry remediation plan. We support this proposal, as it provides a sensible solution to an ever increasing environmental problem.

As there may be up to 100 truck movements past any given point, would it be possible to require the proponent to complete the centreline road markings on both the Hoskinstown and Briars Sharrow roads?

Yours faithfully





Assessing Officer: Belinda McManus
Natural and Built Character Section
QPRC
10 Majara Street
BUNGENDORE NSW 2621

Received by
**Queanbeyan Palerang
Regional Council**
13 NOV 2019
Customer Service
Bungendore Office

Dear Belinda

RE: DA 2019.1185 – 791 Hoskinstown Road Bungendore NSW 2621

Canberra Sand and Gravel Pty Ltd

We refer to the above DA application and make the following objections and comments:

Your letter was dated 25 October, 2019, with the notification period being 30 October to 13 November 2019. We received your letter in our mail box on 4 November, 2019. This has given us a 9 day period to respond. We think this is inadequate.

Because this is a major commercial development we believe more near neighbors should have been advised. The Franklin report describes the surrounding land as "low intensity agricultural (grazing) land use", where in fact rural residential of blocks 16 – 80 ha are more prevalent. Again, the 9 day period is inadequate.

The Franklin Consulting Report notes he has experience in ACT and Murrumbidgee area but appears to lack QPRC knowledge as he has not paid attention to QPRC's LEP 2014 to the zone RU1 Primary Production where this land is. As you are aware the RU1 objectives do not encompass major commercial development of this nature. The lists of "Permitted without consent (item 2)" and "Permitted with consent (item 3)" do not include the major commercial development disguised as quarry rehabilitation. Quarry rehabilitation using fill is not listed. Prohibited (Item 4) states "any development not specified in item 2 or 3. Clearly "Quarry Remediation" (their description) is prohibited.

Council should reject this proposal on the simple fact that it is prohibited. If for some reason Council considers the proposal, then consent should be declined.

Received by
**Queanbeyan Palerang
Regional Council**

13 NOV 2019

Customer Service
Bungendore Office

We note that to date there has been heavy machinery clearing wattles and putting in drainage lines. The land was sold under LEP RU1 (primary production) so how can the Franklin Report be relevant?

We query the Franklin Reports' accuracy on the following:

1. The hours of operation 7am to 5pm "is to minimize noise impacts on neighbors and limit traffic during peak vehicle movement's times associated with school buses and commuter traffic" (refer page39). School and commuter travel is unquestionably within these times. The report does not acknowledge the many cyclists and motor cyclists that use this road, apart from regular traffic.
2. The Truck movements in the report do not seem to equate; 356,400 cubic metres of loose fill equates to approximately 400,000 tonnes of loose fill (using 1 m³ = 1.1 tonnes), not 334,125 tonnes in the report. The table 3 on page 39 notes that the avg truck load is 32 tonnes (net). The 400,000 tonnes of loose fill would take 13,333 truckloads of 30 tonnes each. We note not all trucks could be filled to capacity. The Report says 334,125 tonnes in 32 tonnes loads being 10,441 truck loads. This is a difference of nearly 3000 truck loads.
3. This cannot be moved by an average of 8-10 trucks per day carrying 300 tonnes per day 5 days per week (less holidays and weekends) ie 244 days x 300 tonnes per day = at most they can move 73,200 tonnes per 244 days, needing 5.5 years just for the fill then needing top soil.
4. An important point The Report omits is: Truck movements are in and out so therefore they are double the number quoted using Hoskinstown Road to Monaro Street, Queanbeyan. How can the road surface and width maintain this amount of extra traffic? Hoskinstown road was never built to carry this amount of heavy vehicles. The Report says the gate will be locked when not in use – how does this effect emergency services and the residences beyond? The entrance upgrade (detailed on Page 22) deals with the fencing and silt, but there is no mention of slip lanes (in both directions). The trucks (and dogs) are pulling on and off a 100km speed limit road.
5. If truck movements come from the ACT the trucks cannot go on Smiths Gap/Macs Reef Roads as there is a weight limit so all trucks have to go through Queanbeyan (and return) in the already congested main street and bridge (up to 100 trucks per day).
6. On page 7 of the report there are maps showing the routes to and from the site. When considering the above point, you will realize most deliveries will approach from the south (figure 3b). When then empty, the trucks more than likely will travel north to Bungendore (hence including the map Figure 3a) to turn left to Trucking yard Lane, then

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Regional Council**

13 NOV 2019

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right on to the Kings Highway (no slip lane, commuter / general traffic, coast traffic all doing 100 Kph) to head for the CSG pits on the Tarago Road for a load back to Canberra. Two issues: It is not safe, and Bungendore residences will suffer noise of empty trucks bumping over the (narrow) Rail crossing, slowing down changing gears, turning corners then accelerating again. I complain on their behalf.

7. On Page 3 of The Franklin Report (second last paragraph) we interpret that they are extracting the resource from this site and replacing with loose fill. This appears to be commercial development – digging holes to fill them up again . This appears to be development disguised as rehabilitation.
8. On Page 9 of the Franklin Report details the decommissioned quarry has been rehabilitated to an extent. We believe that while the property does need some further love and care it does not need 356,400 m3 of loose fill run as a commercial venture.
9. On Page 10 of the Franklin Report deals with Palerang LEP2014 –it simply overlooked that it is in RU1 and made no mention that this type of proposed venture is prohibited.
10. On Page 15 of the Franklin Report still dealing with the LEP2014 issues noting the dryland salinity and erodible lands states that does not have any erodible lands or steep slope areas within the site or adjacent. Again, why is there a need for 356,400 m3 of loose fill?
11. Within the Franklin Report on all maps the Captains Flat abandoned Railway line runs through this area. Has there been consideration of the proposed Rail Trail? Members of the local community are trying to establish a trail. Have the Rail Trail Committee been informed of this DA application? Will the Rail land (not CSG land) still be available for a possible rail trail?
12. On Page 36 of the Franklin Report details alternative rehabilitation options. We query that option 2 has been written to make option 3 look good. Option 2 does not explore other options to achieve the “self-sustaining and productive agricultural landscape” Canberra Sand and Gravel say they want to achieve. They are in the Sand & Gravel business and why are they interested in agriculture? This is clearly a major commercial venture worth millions to them and who cares about a few cows and sheep. There are trees on this site which proves they can be grown there without 356,400 m3 of imported loose fill. Option 2 should explore realistic options remembering that Franklin has agreed that the site has already been rehabilitated earlier. It is not for Council to tell CSG how to treat their land, but Council should see that there are better ways to improve the rehabilitated site (if that is the aim) than importing 400,000 tons of fill. The rehabilitated quarry site is less than 30 hectares – easily planted to trees for a commercial end or for habitat and environmental ends to protect the Diamond firetails observed on site.

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13. On page 37 of the Franklin report details Justification for rehabilitation approach. A Sand and Gravel company are only concerned with improving the agricultural capability to run stock in the first three reasons, and then put their name to promoting natural regeneration from the existing remnant native vegetation– this cannot be done with stock.
14. We question the Rehabilitation goals (page 20). To put 356,400 m3 of loose fill into that area for improving agricultural utility of the site. It is a major commercial venture and has very little to do with agriculture. Establishing trees would be a simple solution.
15. The Franklin report states that the top soil to be used will be selectively sourced from the VENM/ENM stream and combine with the insitu soil material (page 38). This all sound low quality and will be no better than what is there now.
16. Our house is located [REDACTED] metres from the proposed development. We are the nearest off site residence. The noise will impact on us constantly as we will hear every reverse beep beep. We do not commute to work. We run a sheep grazing business (very quietly) so are on our premises all the time (enjoying the quiet serenity). Apart from the delivery trucks we will also hear the dust suppression trucks and machinery doing the spreading and compacting that the Franklin Report omitted to mention.

The Franklin report also failed to mention that there is a cottage on our farm that is closer to the proposed development. Our tenant [REDACTED] has lived there for 18 years enjoying the peace and quiet, and has not been informed of this development. We also have shearer's quarters, used by shearers last year. We recently let an artist use the buildings for her art pursuits so she could get on without distractions.

17. The Report states (page 21) {dot point 6} 'sediment basins will be dosed' to remove sediment prior to discharge into the down slope environment;' What will they dose with? If they use alum this will change the PH of the water effecting downstream.
18. We request that when assessing the development, you simply look at the photos in the Franklin report (pages 27, 29, 31, 33 and 35) and the photos in the Ecological Australia letter (pages 6 and 7) and simply ask why is 400,000 tons of fill needed? The photos all show the earlier rehabilitation leaving the landscape relatively flat and defiantly not needing fill. Please look at the photos especially photo 1 on page 6 of the Ecologic Australia letter; titled "Typical ground cover within the Development footprint – plot 1" and ask what are they filling?
19. The definition of ENM is that it must contain at least 98% natural material. This opens the door for 2% other... that could add up to a huge amount – try the maths.

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13 NOV 2019

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Bungendore Office

In the 1970's and 1980's Koppers Logs disposed of the bark from their Bungendore Plant on Diamond Hill on Hoskinstown Road on an honesty basis. Following a spontaneously combusted fire in the 1980's of this dumping it was revealed Koppers had disposed of 44 gallons drums, arsenic and offcut treated posts that poisoned the hill side. This is still evident today. Because of this, our question is; how will the 356,400 m3 of loose fill be monitored so there are no harmful deposits of arsenic, asbestos, heavy metals and chemicals including fire retardants etc?

We question as to whether the Applicant will have to pay a considerable bond (similar to mines elsewhere) to be held to ensure rehabilitation is completed. At this stage it is only sub soil loose fill and a promise of top soil later.

If this loose fill comes from the neighboring ACT we pose the question why can't ACT's loose fill be disposed of in the ACT? Would ACT accept NSW's loose fill?

Canberra Sand and Gravel Pty Ltd have been operating for many years in the area. Why can't they fill in some of their own extraction holes? We query that they may be opening up a new extraction area elsewhere and want to put the over burden at 791 Hoskinstown Road.

Following the Franklin Report is the QPRC Statement of Environmental Effects.

- a. Section A asks does the proposal fit in with the locality. The Applicant has ticked 'yes.' Clearly the proposal does not fit under Land category RU1, nor does it fit with the surrounding rural residential. It also asks will the proposal result in an increase noise. Yes has been ticked and backed up by "equipment noise will be similar to agricultural equipment used on surrounding properties" This is simply wrong. (Refer to our point 13)
- b. We are the house mentioned [redacted] metres [redacted]. In Section H when asked 'is it sited next to a heritage listed item', they have ticked 'no'. Our lot [redacted] is heritage listed.
- c. In Section F Site and Building Details and Section F Environmental Impacts when asked does the proposal include excavation they have ticked 'no' twice. This contradicts The Franklin Report Page 3 (second last paragraph).

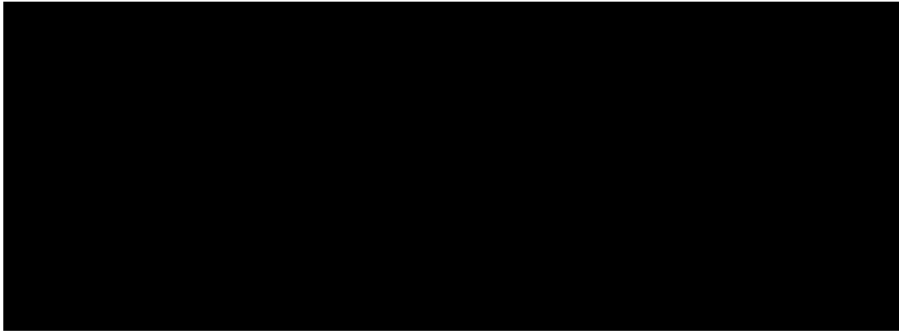
In reference to the letter from EcoLogical Australia (dated 14 August 2019) we note the inspection was in winter in the depths of a severe drought which could distort the view that the site is highly degraded. We believe with forestry and tree planting the area could be rehabilitated at the owner's expense.

When the property was on the market I [redacted] had driven and inspected this property with the agent [redacted]. We commented on the water resource as potential aquaculture/tourism potential and the reasonably good job the original rehabilitation had done.

In conclusion, we do object to this commercial development at 791 Hoskinstown Road.

We also attach signed Declaration of Political Donations and Gifts for Submitters x 2 together with a signed Declaration of Employment Status and a copy of PLE Plan 2014 Zone RU1.

Yours faithfully



Received by
**Queanbeyan Palerang
Regional Council**

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13 NOV 2019

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DECLARATION OF EMPLOYMENT STATUS

NAME: [REDACTED]

[REDACTED]

EMPLOYMENT STATUS: [REDACTED]

[REDACTED]

EMPLOYEE NO: [REDACTED]

SIGNATURE: [REDACTED]

DATED: 11.11.19

Palerang Local Environmental Plan 2014

Current version for 31 October 2019 to date (accessed 10 November 2019 at 17:38)

Land Use Table > Zone RU1

Zone RU1 Primary Production

1 Objectives of zone

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.
- To encourage diversity in primary industry enterprises and systems appropriate for the area.
- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To minimise the impact of any development on the natural environment.
- To ensure that development does not unreasonably increase the demand for public services or facilities.

2 Permitted without consent

Extensive agriculture; Home businesses; Home occupations

3 Permitted with consent

Airstrips; Animal boarding or training establishments; Aquaculture; Backpackers' accommodation; Bed and breakfast accommodation; Biosolids treatment facilities; Building identification signs; Business identification signs; Caravan parks; Cellar door premises; Cemeteries; Community facilities; Crematoria; Depots; Dual occupancies; Dwelling houses; Eco-tourist facilities; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Function centres; Garden centres; Helipads; Home-based child care; Home industries; Hotel or motel accommodation; Industrial training facilities; Information and education facilities; Intensive livestock agriculture; Intensive plant agriculture; Neighbourhood shops, Open cut mining; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (outdoor); Restaurants or cafes; Roads; Roadside stalls; Rural industries; Rural workers' dwellings; Secondary dwellings; Service stations; Sewage treatment plants; Truck depots; Veterinary hospitals; Water recycling facilities; Water supply systems

4 Prohibited

Any development not specified in item 2 or 3

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**Queanbeyan Palerang
Regional Council**

13 NOV 2019

Customer Service
Bungendore Office

[REDACTED]

Assessing Officer: Belinda McManus
Natural and Built Character Section
QPRC
10 Majara Street
BUNGENDORE NSW 2621

Received by
**Queanbeyan Palerang
Regional Council**
11 DEC 2019
Customer Service
Bungendore Office

Dear Belinda

RE: DA 2019.1185 – 791 Hoskinstown Road, Bungendore NSW 2621

We refer to the above DA Application dated 25 November, 2019 you mailed to us.

We enclose a copy of our previous letter dated 11 November, 2019 regarding this matter, together with Declaration of Political Donations and Gifts for Submitters form x 2 signed by us and Declaration of Employment Status x 1 signed by [REDACTED].

Further to our previous letter we write the following: our earlier submission noted that it is a prohibited development under RU1 Primary Production. The quarry use has already been extinguished and clay extraction ceased many years ago. Rehabilitation has already taken place and has had no negative response to the quality of work done to date and has been this way for many years.

CSG are starting a brand new land use in an RU1 land use area .

CSG have already shown no respect for authority to date with their use already of a bulldozer pushing trees and diverting water. Where is the guarantee they will do the right thing in the future?

The report of existing water bores is incorrect. We question what impact CSG's diversion of water courses and potential contamination will effect ours and other neighbours water.

We draw your attention to the fact that we could not access the DA and documents accompanying the application at Bungendore QPRC office as your letter states.

Yours faithfully

[REDACTED]

[REDACTED]

COPY 11-12-19
SMH

[REDACTED]

Assessing Officer: Belinda McManus
Natural and Built Character Section
QPRC
10 Majara Street
BUNGENDORE NSW 2621

Received by
Queanbeyan Palerang
Regional Council

13 NOV 2019

Customer Service
Bungendore Office

Dear Belinda

RE: DA 2019.1185 – 791 Hoskinstown Road Bungendore NSW 2621

Canberra Sand and Gravel Pty Ltd

We refer to the above DA application and make the following objections and comments:

Your letter was dated 25 October, 2019, with the notification period being 30 October to 13 November 2019. We received your letter in our mail box on 4 November, 2019. This has given us a 9 day period to respond. We think this is inadequate.

Because this is a major commercial development we believe more near neighbors should have been advised. The Franklin report describes the surrounding land as "low intensity agricultural (grazing) land use", where in fact rural residential of blocks 16 – 80 ha are more prevalent. Again, the 9 day period is inadequate.

The Franklin Consulting Report notes he has experience in ACT and Murrumbidgee area but appears to lack QPRC knowledge as he has not paid attention to QPRC's LEP 2014 to the zone RU1 Primary Production where this land is. As you are aware the RU1 objectives do not encompass major commercial development of this nature. The lists of "Permitted without consent (item 2)" and "Permitted with consent (item 3)" do not include the major commercial development disguised as quarry rehabilitation. Quarry rehabilitation using fill is not listed. Prohibited (Item 4) states "any development not specified in item 2 or 3. Clearly "Quarry Remediation" (their description) is prohibited.

Council should reject this proposal on the simple fact that it is prohibited. If for some reason Council considers the proposal, then consent should be declined.

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We note that to date there has been heavy machinery clearing wattles and putting in drainage lines. The land was sold under LEP RU1 (primary production) so how can the Franklin Report be relevant?

We query the Franklin Reports' accuracy on the following:

1. The hours of operation 7am to 5pm "is to minimize noise impacts on neighbors and limit traffic during peak vehicle movement's times associated with school buses and commuter traffic" (refer page39). School and commuter travel is unquestionably within these times. The report does not acknowledge the many cyclists and motor cyclists that use this road, apart from regular traffic.
2. The Truck movements in the report do not seem to equate; 356,400 cubic metres of loose fill equates to approximately 400,000 tonnes of loose fill (using 1 m³ = 1.1 tonnes), not 334,125 tonnes in the report. The table 3 on page 39 notes that the avg truck load is 32 tonnes (net). The 400,000 tonnes of loose fill would take 13,333 truckloads of 30 tonnes each. We note not all trucks could be filled to capacity. The Report says 334,125 tonnes in 32 tonnes loads being 10,441 truck loads. This is a difference of nearly 3000 truck loads.
3. This cannot be moved by an average of 8-10 trucks per day carrying 300 tonnes per day 5 days per week (less holidays and weekends) ie 244 days x 300 tonnes per day = at most they can move 73,200 tonnes per 244 days, needing 5.5 years just for the fill then needing top soil.
4. An important point The Report omits is: Truck movements are in and out so therefore they are double the number quoted using Hoskinstown Road to Monaro Street, Queanbeyan. How can the road surface and width maintain this amount of extra traffic? Hoskinstown road was never built to carry this amount of heavy vehicles. The Report says the gate will be locked when not in use – how does this effect emergency services and the residences beyond? The entrance upgrade (detailed on Page 22) deals with the fencing and silt, but there is no mention of slip lanes (in both directions). The trucks (and dogs) are pulling on and off a 100km speed limit road.
5. If truck movements come from the ACT the trucks cannot go on Smiths Gap/Macs Reef Roads as there is a weight limit so all trucks have to go through Queanbeyan (and return) in the already congested main street and bridge (up to 100 trucks per day).
6. On page 7 of the report there are maps showing the routes to and from the site. When considering the above point, you will realize most deliveries will approach from the south (figure 3b). When then empty, the trucks more than likely will travel north to Bungendore (hence including the map Figure 3a) to turn left to Trucking yard Lane then

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right on to the Kings Highway (no slip lane, commuter / general traffic, coast traffic all doing 100 Kph) to head for the CSG pits on the Tarago Road for a load back to Canberra. Two issues: It is not safe, and Bungendore residences will suffer noise of empty trucks bumping over the (narrow) Rail crossing, slowing down changing gears, turning corners then accelerating again. I complain on their behalf.

7. On Page 3 of The Franklin Report (second last paragraph) we interpret that they are extracting the resource from this site and replacing with loose fill. This appears to be commercial development – digging holes to fill them up again . This appears to be development disguised as rehabilitation.
8. On Page 9 of the Franklin Report details the decommissioned quarry has been rehabilitated to an extent. We believe that while the property does need some further love and care it does not need 356,400 m3 of loose fill run as a commercial venture.
9. On Page 10 of the Franklin Report deals with Palerang LEP2014 –it simply overlooked that it is in RU1 and made no mention that this type of proposed venture is prohibited.
10. On Page 15 of the Franklin Report still dealing with the LEP2014 issues noting the dryland salinity and erodible lands states that does not have any erodible lands or steep slope areas within the site or adjacent. Again, why is there a need for 356,400 m3 of loose fill?
11. Within the Franklin Report on all maps the Captains Flat abandoned Railway line runs through this area. Has there been consideration of the proposed Rail Trail? Members of the local community are trying to establish a trail. Have the Rail Trail Committee been informed of this DA application? Will the Rail land (not CSG land) still be available for a possible rail trail?
12. On Page 36 of the Franklin Report details alternative rehabilitation options. We query that option 2 has been written to make option 3 look good. Option 2 does not explore other options to achieve the “self-sustaining and productive agricultural landscape” Canberra Sand and Gravel say they want to achieve. They are in the Sand & Gravel business and why are they interested in agriculture? This is clearly a major commercial venture worth millions to them and who cares about a few cows and sheep. There are trees on this site which proves they can be grown there without 356,400 m3 of imported loose fill. Option 2 should explore realistic options remembering that Franklin has agreed that the site has already been rehabilitated earlier. It is not for Council to tell CSG how to treat their land, but Council should see that there are better ways to improve the rehabilitated site (if that is the aim) than importing 400,000 tons of fill. The rehabilitated quarry site is less than 30 hectares – easily planted to trees for a commercial end or for habitat and environmental ends to protect the Diamond firetails observed on site.

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13. On page 37 of the Franklin report details Justification for rehabilitation approach. A Sand and Gravel company are only concerned with improving the agricultural capability to run stock in the first three reasons, and then put their name to promoting natural regeneration from the existing remnant native vegetation– this cannot be done with stock.
14. We question the Rehabilitation goals (page 20). To put 356,400 m3 of loose fill into that area for improving agricultural utility of the site. It is a major commercial venture and has very little to do with agriculture. Establishing trees would be a simple solution.
15. The Franklin report states that the top soil to be used will be selectively sourced from the VENM/ENM stream and combine with the insitu soil material (page 38). This all sound low quality and will be no better than what is there now.
16. Our house is located [REDACTED] metres from the proposed development. We are the nearest off site residence. The noise will impact on us constantly as we will hear every reverse beep beep. We do not commute to work. We run a sheep grazing business (very quietly) so are on our premises all the time (enjoying the quiet serenity). Apart from the delivery trucks we will also hear the dust suppression trucks and machinery doing the spreading and compacting that the Franklin Report omitted to mention.

The Franklin report also failed to mention that there is a cottage on our farm that is closer to the proposed development. Our tenant [REDACTED] has lived there for 18 years enjoying the peace and quiet, and has not been informed of this development. We also have shearer's quarters, used by shearers last year. We recently let an artist use the buildings for her art pursuits so she could get on without distractions.

17. The Report states (page 21) (dot point 6) 'sediment basins will be dosed' to remove sediment prior to discharge into the down slope environment; 'What will they dose with? if they use alum this will change the PH of the water effecting downstream.
18. We request that when assessing the development, you simply look at the photos in the Franklin report (pages 27, 29, 31, 33 and 35) and the photos in the Ecological Australia letter (pages 6 and 7) and simply ask why is 400,000 tons of fill needed? The photos all show the earlier rehabilitation leaving the landscape relatively flat and defiantly not needing fill. Please look at the photos especially photo 1 on page 6 of the Ecologic Australia letter; titled "Typical ground cover within the Development footprint – plot 1" and ask what are they filling?
19. The definition of ENM is that it must contain at least 98% natural material. This opens the door for 2% other... that could add up to a huge amount – try the maths.

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In the 1970's and 1980's Koppers Logs disposed of the bark from their Bungendore Plant on Diamond Hill on Hoskinstown Road on an honesty basis. Following a spontaneously combusted fire in the 1980's of this dumping it was revealed Koppers had disposed of 44 gallons drums, arsenic and offcut treated posts that poisoned the hill side. This is still evident today. Because of this, our question is; how will the 356,400 m3 of loose fill be monitored so there are no harmful deposits of arsenic, asbestos, heavy metals and chemicals including fire retardants etc?

We question as to whether the Applicant will have to pay a considerable bond (similar to mines elsewhere) to be held to ensure rehabilitation is completed. At this stage it is only sub soil loose fill and a promise of top soil later.

If this loose fill comes from the neighboring ACT we pose the question why can't ACT's loose fill be disposed of in the ACT? Would ACT accept NSW's loose fill?

Canberra Sand and Gravel Pty Ltd have been operating for many years in the area. Why can't they fill in some of their own extraction holes? We query that they may be opening up a new extraction area elsewhere and want to put the over burden at 791 Hoskinstown Road.

Following the Franklin Report is the QPRC Statement of Environmental Effects.

- a. Section A asks does the proposal fit in with the locality. The Applicant has ticked 'yes.' Clearly the proposal does not fit under Land category RU1, nor does it fit with the surrounding rural residential. It also asks will the proposal result in an increase noise. Yes has been ticked and backed up by "equipment noise will be similar to agricultural equipment used on surrounding properties" This is simply wrong. (Refer to our point 13)
- b. We are the house mentioned [redacted] metres [redacted]. In Section H when asked 'is it sited next to a heritage listed item', they have ticked 'no'. Our lot [redacted] is heritage listed.
- c. In Section F Site and Building Details and Section F Environmental Impacts when asked does the proposal include excavation they have ticked 'no' twice. This contradicts The Franklin Report Page 3 (second last paragraph).

In reference to the letter from EcoLogical Australia (dated 14 August 2019) we note the inspection was in winter in the depths of a severe drought which could distort the view that the site is highly degraded. We believe with forestry and tree planting the area could be rehabilitated at the owner's expense.

When the property was on the market [redacted] had driven and inspected this property with the agent [redacted]. We commented on the water resource as potential aquaculture/tourism potential and the reasonably good job the original rehabilitation had done.

In conclusion, we do object to this commercial development at 791 Hoskinstown Road.

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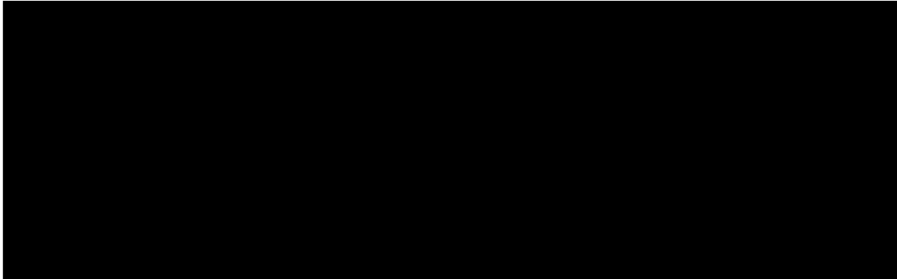
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We also attach signed Declaration of Political Donations and Gifts for Submitters x 2 together with a signed Declaration of Employment Status and a copy of PLE Plan 2014 Zone RU1.

Yours faithfully



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Ms Belinda McManus
Queanbeyan-Palerang Regional Council
10 Majara Street
BUNGENDORE NSW 2621

Dear Sir/Madam,

**Re: Development Application DA 2019.1185
791 Hoskinstown Road Bungendore NSW 2621
Part Lots 39, 40, 41, 47 and 38 DP 754893**

We refer to the development application over Part Lots 39, 40, 41, 47 and 38 DP 754893 (the **Land**) from the registered proprietor, Canberra Sand & Gravel Pty Ltd (**CSG**).

BACKGROUND

We are long term residents and graziers in the Hoskinstown area for over 44 years. We lived at [redacted] for 35 years and moved to [redacted] and [redacted] also known as [redacted] nine years ago where we now live and have owned for the past 20 years.

We purchased [redacted], which was an abandoned quarry, at auction from [redacted] in 1999.

Since we purchased [redacted], we have extensively improved the land from an abandoned quarry to now being able to successfully breed cattle, including fodder conservation.

We also own [redacted], known as [redacted].

We also own [redacted] through which Halfway Creek passes.

[redacted] directly adjoins the [redacted] boundary of the proposed works and [redacted] is the next blocks north.

DEVELOPMENT APPLICATION

We raise a number of issues in respect to the proposed DA.

Contrary to the assertions made in the Franklin Consulting Quarry Rehabilitation Plan (the **Plan**), it is our view that the DA does not address all issues relevant to the provisions of the Palerang Local Environment Plan 2014 (the **LEP**).

Purpose of DA

The DA is put forward as a plan for rehabilitation of a former quarry site. This is in our view misleading. The DA is motivated by a commercial interest in providing a dumping area for excavated material.

The land is zoned RU1. The LEP states that the objectives of this zone are:

- To encourage sustainable primary industry production by maintaining and enhancing the natural resource base;
- To encourage diversity in primary industry enterprises and systems appropriate for the area.

- To minimise the fragmentation and alienation of resource lands.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To minimise the impact of any development on the natural environment.
- To ensure that development does not unreasonably increase the demand for public services or facilities.

The DA seeks approval for the dumping of excess fill of 356,400m³, involving 11,137 truckloads over a period of three to five years.

If the real purpose is to dump excavated materials, this is a proposal for a development which is neither permitted without consent, nor permitted with consent. It is therefore prohibited.

Genuine rehabilitation of the Site

There does not appear to be any analysis of how the 356,400m³ of land fill will restore the land to its pre-quarry state.

The statements at page 36 of the Franklin Consulting Quarry Rehabilitation Plan (the **Plan**), that the proposal will "*reinstates a gently undulating landscape*".... and the excavation material will "*provide flexibility to create whatever landform best suits the land through filling and shaping, the final rehabilitated site will have a vastly improved aesthetic appeal*" are too vague to be relied on.

While ever there is a commercial imperative to dump excavated material on the land, little regard will be had for 'aesthetic' or more importantly its long term impact on the adjoining land and waterways.

Inadequate controls

The development controls proposed in the Plan are inadequate are put forward largely on the basis of self-regulation by CSG. For example, the quality of excavated material to be dumped, truck movements, security, dust management and driver behaviour are all to be monitored by CSG.

The proposal for managing neighbourhood issues has little if any chance of working and is largely based on providing a contact number. There is no process for resolving disputes.

Impact on Roads

We raise significant concerns about the volume of 11,137 truckloads and the impact this will have on the local roads.

The statement at page 6 of the Plan that the "*site is accessed by an unsealed all-weather road in good condition and was regular used by trucks for the extraction of clay over many years*" is entirely misleading. No excavation works have been done at the site for over 30 years.

The unsealed road is also a right of carriage way to an adjoining property. It has been maintained at the expense of the adjoining land owner. The right of carriage way through the land has not been considered at all in the Plan. Locking the site when not in operation and the installation of CCTV has the potential to deprive the adjoining land owner of access to their property.

The sealed Hoskinstown Road identified at page 6 is narrow and inadequate to deal with up to 50 trucks per day.

Impact on waterways

The DA is in breach of Section 6.5(3) of the LEP 2014. Our properties have benefited from beneficial flooding events from natural watercourses to the west of Hoskinstown Road. The numerous tributaries form into a single watercourse which passes under Hoskinstown Road and then along the disused Captains Flat railway line.

This natural watercourse has been there for a very long time as evidenced by the construction of a concrete culvert installed under the railway line when it was built. Attachment 1 is a photograph showing the railway, watercourse and the concrete culvert.

Please see Attachments 2 and 3, photographs of water flowing into and across our property in December 2018, in a time of drought.

In October 2019, CSG constructed a contour bank and channel to divert the watercourse into one of the quarry pits and away from the natural waterways. Attachments 4 and 5 show the direct impact of these works on adjoining land. This watercourse is part of the upper reaches of Halfway Creek which eventually flows into Lake George.

In effect, the Applicant has converted a quarry pit into a dam, by altering the watercourse and diverting natural flows so it will no longer pass across some of our improved pastures as it has previously. Water will also bypass one of the 3 dams installed as part of the previous remediation works of the quarry on our block. Significantly, CSG propose to use this retained water as part of its dust mitigation strategy. Attachments 6, 7, 8 and 9 show the contour works that have been undertaken in October 2019 and their impact on my land.

It is our understanding that it is illegal to dam a watercourse without approval from Water NSW. Furthermore, if it is the CSG's intention to use dam water for purposes other than stock and domestic purposes, a surface water licence is required.

We also have extensive contouring on our block, installed prior to [REDACTED] being granted their bond release prior to the sale of the block.

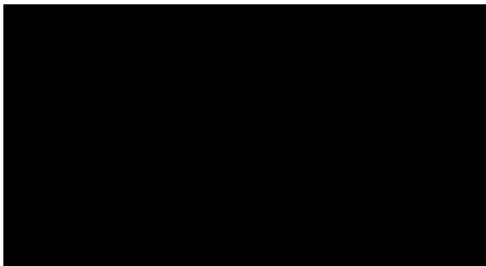
Earth works

Our major objection to this Development Application is the failure to observe their obligations under Section 6.1(d) and 6.1(g) of the LEP.

The statements at pages 11 and 16 of the Plan that "*Existing soil and water management earthworks will not be disturbed by proposed rehabilitation work*" is incorrect and misleading.

As noted above, CSG has already, prior to consideration of the DA, removed an existing contour bank which was installed as part of the mines department's remediation work requirements, to divert water from the quarry.

Regardless of any consideration of the DA, we request that CSG be required to immediately restore the contour bank and waterway.





13TH DECEMBER 2018



ATTACHMENT **2**

100 METRES DOWNSTREAM
FROM WHERE EXISTING CONTOUR
BANK HAS BEEN DIVERTED. IN
OCTOBER 2019.



ATTACHMENT 3

13TH DECEMBER 2018.
BENEFICIAL FLOODING OF PASTURES
DOWNSTREAM OF CLAY QUARRY



ATTACHMENT 4



Attachment 5









691 Hoskinstown Road
North of Quarry

Attachment 9

Received by
**Queanbeyan Palerang
Regional Council**

12 NOV 2019

Customer Service
Queanbeyan Office

The Manager,
QPRC
Bungendore
NSW 2621



Ref: Development Application No. DA.2019.1185 – 791 Hoskinstown Road, Bungendore

Attention Belinda McManus,

We refer to the above DA and advise that we object to this DA and the Council process of notification for the following reasons:

1. Under Council's Section 5, Notification and public comment, Council **will**:
 - Notify neighbours and invite them to comment
 - Advertise the proposal for comment

As we consider that we and many others will be significantly impacted, we have not been notified and the DA advertisement states an unreasonable time for submission considering the implications of such a major proposal. We were only made aware of this DA on 07 November with comment closing on 13 November, and as it appears that proper process has not been followed, we want appropriate notification/advertisement to be completed and the comment time extended by at least 30 days from advertising. There are many potentially impacted residents who will not be aware of this proposal.

2. With regard to the DA itself, purchase of this land for agriculture and "quarry rehabilitation" is a misnomer as it obviously intended as an industrial/commercial operation on a major scale in a Land Zone RU1 for primary production, which commercial activity under Palerang LEP 2104 is not permitted.
3. "Rehabilitation" of this area does not require 356,400cum of imported material with approximately 25,000-30,000 delivery and return heavy truck movements over 3-5 years .What is proposed with these quantities and truck movements is a major commercial operation and certainly not rehabilitation or primary production.
4. Heavy vehicle (truck and dog) movements over this period as stated in the DA with the number of movements/day will severely impact Hoskinstown Road. This road is not suitable for such constant heavy traffic with it's poor alignment and narrow width. It is already dangerous in it's current condition, particularly with a too high 100kph speed limit and used by a wide spectrum of traffic ranging from B-Doubles to cyclists. These additional truck movements(up to 50/day!) will affect local residents including peak hour traffic for commuters, school buses and students going to school, whilst making the current sub-standard condition of the road even worse. Entry and egress from this site by slow moving trucks will create even more hazards on this 100kph road. We will all be significantly impacted by increased heavy truck movements and associated noise on this already dangerous road.
5. The rural amenity of this area will be spoilt by the extra heavy vehicle traffic plus the noise (which carries in the rural environment – actual experience when clay pits were operating) from heavy equipment – bulldozer, loader, rollers with their continuous reversing beepers. This noise will be far in excess of existing agricultural noise. Obviously as a result property values in the area will be reduced.

6. With reference to the QPRC DA form in this application we consider:

- Activity (which is noted as industrial development) does not fit in with a RU1 zone locality, and in fact is not permitted
- Does impact neighbouring dwellings
- There appears to be a contradiction where this form states there is no excavation, but the report refers to material being extracted from the site as a resource, with similar material from the ACT waste stream being returned to the site This implies that the so called "quarry rehabilitation" will actually be both a quarry and a dump site in a commercial operation.

In summary we request that proper process be followed, considering the large number of people affected, and that the above points be seriously considered and this DA proposal be rejected.

We would appreciate a response from Council to this letter.

Yours faithfully,



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QPRC

10 Majara Street

Bungendore NSW 2621

**Customer Service Desk
Natural & Built Character**



10th November 2019

Attention: Belinda McManus

Dear Ms McManus

Re: DA. 2019.1185
791 Hoskinstown Road
Canberra Sand and Gravel Pty LTD
Quarry Remediation

I purchased my property at [REDACTED] in 2000 with Legal Access "Right of Carriageway" through [REDACTED] (the Quarry) to my property at [REDACTED]. Which gives me and every person authorised by me full and free right to pass and repass at all times and for all purposes with or without animals or vehicles.

On page 6 (Site Description) I feel that the information does not truly reflect the main use of the road by omitting to state the full facts. Stating the rehabilitation site is accessed by an unsealed all weather road in good condition is correct as the road is my legal access (right of Carriageway) to my property at [REDACTED] and has been for 19 years. Stating the road was regularly used by trucks for extraction of clay over many years may be true but my point is, that that was well over 30 years ago and the road being in good condition is from my maintaining it since 2000. The failure to mention in the DA in regards to this road being a "Legal Right of Carriageway" to the adjoining property on the east is disconcerting and makes me wonder what else has been omitted from this DA.

On pages 39 (Trucks and Plant Operations) of the DA for the Quarry Rehabilitation Plan, states that access to the site will be locked when not in operation and on page 40 (Site Access and Security) states the site will be secured by a locked access gate to ensure no unauthorised access to the site.

I require free and unrestricted access to continue as it has been since I purchased my property. I have extensive social contacts who frequently visit my property, including children and grandchildren who enjoy horse riding. Access is also required for utility, deliveries and emergency services. My driveway from my home to the front gate of Hoskinstown Road is [REDACTED] with [REDACTED] of that being the "Right of Carriageway" through 791 Hoskinstown Road.

If the developer is so keen on running an agricultural enterprise, fencing will be required, so why not initially fence off the areas to be remediated and put a locked gate on this fence to secure the site,

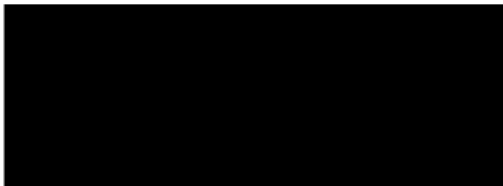
leaving the "Right of Carriageway" with free and unrestricted right of way as per New South Wales Consolidated Act.

On pages 25 (Monitoring dust generation and suppression measures) of the DA for the Quarry Rehabilitation Plan it states that during periods of excessive wind, operations should be halted. I object to the word "should" and the wording needs to be changed to "will" be halted and who is to determine what "excessive winds" mean. Also on page 40 (Monitoring and Dust Mitigation) a protocol for managing dust will be developed prior commencement of the project which will include monitoring weather forecasts for periods of "strong winds" and who will determine what "strong winds" mean. As the majority of winds in this area blow from west to east, this makes my property to be the most likely to be affected by the impact of dust. The wording of should, excessive and strong can all lead to misinterpretation which worries me a lot. I don't want to get into any arguments if dust is effecting and impacting my lifestyle on a windy day and I am told operations will not cease as the winds are not in the opinion of the project site manager to be excessive or strong. Either productions needs to be ceased when the winds reach a certain number per kilometre as informed by the Bureau of Meteorology eg. 50klm per hour. The way that the monitoring of dust is worded in the DA doesn't give any guarantee to neighbouring properties that the right thing will be done by the Quarry. To leave the wording as is, really means, there was no need to address any dust issues as you can operate however you want.

On Page 41 (Neighbour Relations) where it states neighbours are to report any issues to the project site manager. My question is, what is the process for what happens to these complaints, is there a time frame for a response, are they passed onto Canberra Sand & Gravel Management and to Queanbeyan Palerang Regional Council for monitoring as well.

Lastly when the DA is finalised, will all interested persons be given a copy of the finalised DA

Yours Faithfully



ATTENTION :BELINDA MCMANUS

To Whom it may concern

We would like to submit a submission regarding our concerns to the development application 2019.1185 for a quarry rehabilitation at 791 Hoskinstown Road.

Our legitimate and relevant concerns are that the development is a commercial activity and operation and not rehabilitation to the quarry, the two concepts are very different and rehabilitation of the quarry would have landcare and ecology at the forefront. The commercial activity proposed at the 791 Hoskinstown site causes the following issues to our safety and future wellbeing:

Water catchment to our property will be detrimentally affected.

The silt and pollution flowing down to our property and into Halfway creek will cause immense pollution causing detrimental affect to our stock and land and also to waterways flowing on.

The noise pollution will be detrimental to the lifestyle and residence that we have chosen to live at.

The excess truck traffic on the road is extremely dangerous on a road that is already deemed unsuitable for two lanes of car traffic little own trucks throwing up rocks when going off the road to by pass cars.

The Hoskinstown Rd is already in an awful unsafe condition for cars to travel on without trucks using it as a regular route, the recent fatality on the road is surely one more than is necessary to make this point enough in itself, trucks in this area make the road unsafe and unsuitable for our children to be using bus stops along this road as deemed safe.

We need you to please seriously consider this submission against development application 2019.1185 as we chose to live in this area many years ago for a semi rural lifestyle , one that would be safe for our children to drive home on the road to, one that can be safely used for the local school bus route and one that was safe from noise pollution and clearing of excessive land for what is definitely not quarry rehabilitation. Looking after our environment and enjoying our surroundings is a number one priority for all our neighbours, commercial activity and operation is not welcome in this area.

Please do not hesitate to contact us for any further information.

Kind Regards





I am emailing to lodge my objection to the DA 2019.1185.

Under the guise of rehabilitating an old quarry, this is a thinly veiled attempt at providing a dumping ground for fill from a Canberra company.

As a bike rider that regularly uses the Hoskinstown road, the thought of more trucks using a road barely suitable for large vehicles is quite scary.

The council should be pushing for the development of the Molonglo Rail trail, giving residents a safe area to cycle in and promote the flow on tourism benefits, and not support this DA which would make it even more hazardous for those using the Hoskinstown road.



Sent from my iPad

QUEANBEYAN-PALERANG REGIONAL COUNCIL

Council Meeting Attachment

27 MAY 2020

ITEM 9.1 DA.2019.1185 - QUARRY REMEDIATION/REHABILITATION
AND ENVIRONMENTAL PROTECTION WORKS - 791
HOSKINSTOWN ROAD, BUNGENDORE

ATTACHMENT 5 DRAFT CONDITIONS OF CONSENT - DA.2019.1185 -
REHABILITATION WORKS - 791 HOSKINSTOWN ROAD,
BUNGENDORE

Draft Conditions of Consent

~ Limits on Approval

This consent will lapse; after 334,125 tonnes (equating to 222,750 cubic metres compacted) of Virgin Extracted Natural Material (VENM) and Extracted Natural Material (ENM) fill has been imported to the development, or five (5) years after the date the consent commences, whichever comes first.

No more than 111,825 tonnes a year of Virgin Extracted Natural Material (VENM) and Extracted Natural Material (ENM) imported fill shall be transported to and placed at the development site.

Reason: Development is undertaken in accordance with this consent & is used for the approved purpose only.

~ Hours of Operation

All rehabilitation works, other earthworks and deliveries associated with this development must be carried out between the following hours unless Queanbeyan-Palerang Regional Council otherwise agrees in writing. A written application shall be made to Queanbeyan-Palerang Regional Council if a variation of hours is required.

Weekdays:	7.00am to 5.00pm
Saturdays:	NIL
Sundays and Public Holidays:	NIL

Reason: To reduce the chance of offensive noise being created and to minimise the impacts of the development in its locality.

~ Haulage Trucks Hours of Operation

Haulage truck operations on Trucking Yard Lane and Hoskinstown Road shall cease during the period when school buses may be encountered on these roads between the hours of 7.30am to 9.00 am, and 3.30pm to 5.00pm on school days.

Reason: To avoid potential conflict with existing local traffic.

~ Imported Fill

All imported fill delivered to site shall be certified Virgin Excavated Natural Material (VENM) and Excavated Natural Material (ENM). At any time Council officers may require the operators of the site to produce evidence as to the source and nature of material being imported onto the site.

Reason: Only clean and non-contaminated fill is used on site.

~ Limits on Travel

Heavy vehicles shall not deliver or return from the site via Captains Flat Road & Briars Sharrow Road. All deliveries shall be via the Kings Highway, Trucking Yard Land and Hoskinstown Road.

Reason: To protect Queanbeyan-Palerang Regional Council Assets

~ Bond

Prior to undertaking any works, a Rehabilitation Bond is to be supplied to Council, in the form of a cash payment or Bank Guarantee, for a total of \$50,000. The Bond is to be held until the completion of the proposed remediation works in accordance with the Condition of Consent and the satisfaction of Queanbeyan-Palerang Regional Council.

9.1 DA.2019.1185 - Quarry Remediation/Rehabilitation and Environmental Protection Works - 791 Hoskinstown Road, Bungendore

Attachment 5 - Draft Conditions of Consent - DA.2019.1185 - Rehabilitation Works - 791 Hoskinstown Road, BUNGENDORE (Continued)

Reason: To ensure the commitment to land remediation and have a contingency in the event the operation ceases due to unforeseen circumstances.

Prior to Works Commencing

~ Preliminary Contaminated Site Assessment

Prior to the commencement of work the applicant shall submit to, and have approved by Council, a Preliminary Site Investigation (PSI) report prepared by a suitably qualified environmental consultant in accordance with the NSW EPA's Guidelines for Consultants Reporting on Contaminated Sites. Any recommendations of that report requiring further studies or remediation are to be carried out prior to the commencement of work or as otherwise agreed to by Council.

Reason: To ensure the existing site is free from contamination or that any contamination that exists can be managed before filling of the site commences.

~ Operational Management Plan

Prior to undertaking any site remediation works the proponent shall prepare and have approved by Council an Operational Management Plan, which includes;

- baseline data,
- description of the relevant statutory requirements and relevant performance measures/limits placed on the project by this consent,
- description of the measures that will be implemented to comply with the relevant statutory requirements, performance measures/limits,
- program to monitor and report impacts and environmental performance of the project and the effectiveness of any management measures,
- complaints handling and reporting system.

Reason: To ensure the proposal complies with the conditions of consent.

~ Quarry Rehabilitation Plan

Prior to undertaking any site remediation works, a Quarry Rehabilitation Plan shall be prepared and approved by Council which provides long-term stability to the decommissioned quarry site, the access road and immediate surrounds. The rehabilitation of the decommissioned quarry site shall:

- be implemented progressively during the operation of the site;
- be monitored, maintained and managed as per the Quarry Rehabilitation Plan; and
- Incorporate any findings of the Preliminary Site Assessment

Reason: To stabilise the site and manage potentially adverse water quality impacts in the post-operational phase of the development, to ensure a neutral or beneficial impact on water quality over the longer term.

~ Environmental Management Plan

Prior to undertaking any site remediation works, the proponent shall prepare and have approved by Council an Environmental Management Plan, which includes (at a minimum);

- A Sediment and Erosion Control Plan – The Plan is to prevent soil erosion, water pollution or the discharge of loose sediment on surrounding land and should include the following;
 - a) diversion of uncontaminated run-off around cleared or disturbed areas,
 - b) erection of silt fencing to prevent debris escaping into drainage systems or waterways,
 - c) imposition of measures to prevent tracking of sediment by vehicles onto roads, and
 - d) how stockpiled topsoil, excavated material, construction and landscaping supplies and debris within the site will be managed.

The Plan shall include provision for maintenance and monitoring and shall be in place for as long as necessary after the completion of rehabilitation works to prevent sediment and dirty water leaving the site and/or entering the surface water system outside of the site.

- Maintenance of Sediment and Erosion Controls;
- Stockpile management;
- Methods of Dust suppression;
- Plant and Equipment Noise Control;
- Surface Water management and control;
- How the sediment retention ponds are to be managed. This includes set holding depths prior to rain events, what chemicals will be used to flocculate the pond (Gypsum is Councils preferred chemical however aluminium sulphate can be used in emergencies), detail of what constitutes an emergency where aluminium sulphate would need to be used, and how the water in the ponds will be removed (pump, release valve etc.);
- Response plan that requires any breaches of the environmental management plan to be reported to Councils Environmental Health Team as soon as reasonably possible.

Reason: To ensure that the site is operated in an environmentally satisfactory manner and any environmental issues can be managed to prevent contraventions of the Protection of the Environment Operations Act 1997.

~ Site Identification – Land to be Surveyed

Prior to undertaking any site establishment works;

- A registered land surveyor is to be engaged to mark out the boundaries of the approved limits of importing Virgin Excavated Natural Material (VENM) and Excavated Natural Material (ENM),
- These boundaries are to be clearly marked at all times in a permanent manner that allows operating staff and inspecting officers to clearly identify those limits.

Reason: The site is managed in a safe manner.

~ Site Identification – Development Details

The site where works (and access) are proposed to be carried out shall be identified by a sign sited in a visually prominent position containing the following information;

- the development application number,
- name, address and telephone number of the principal certifying authority,
- name of the principal contractor (if any) and 24 hour contact telephone number, and
- a statement that “unauthorised entry to the work site is prohibited”.

Reason: To satisfy the provisions of Clause 136B and 227A of the Environmental Planning and Assessment Regulation 2000.

~ Code of Conduct

Prior to undertaking any site remediation works, the applicant is to prepare and have approved by Council a code of conduct for the transport of materials and behaviour of drivers on public roads, and is to ensure that all truck drivers associated with haulage to and from the fill site comply with the code of conduct.

Reason: Safety for road users and amenity of nearby residents.

~ Section 138 Consent

Prior to undertaking any works or erecting any signs within a public road reserve, an application under Section 138 of the *Roads Act 1993* is to be submitted to and approved by Council.

Reason: To ensure that works carried out comply with the Roads Act.

~ Risk Assessment/Management Plan

Prior to works commencing, submit to John Holland Rail (JHR) a Risk Assessment/Management Plan and detailed Safe Work Method Statements for its review and comment.

Reason: To ensure that JHR is satisfied that the Proposal does not have any adverse impacts on the rail corridor land and the existing rail infrastructure during construction and operation.

~ Level Crossings

Prepare and provide further information regarding an assessment of suitability of the level crossing as a result of the increased traffic from the development for John Holland Rail (JHR).

Reason: To determine the impacts to the level crossing located on Hoskinstown Road.

~ Rail Crossing

The applicant must enter into a private level crossing licence with RailCorp to continue to use and maintain the level crossing within the property. The applicant is to enter into a Safety Interface Agreement with John Holland Rail (JHR) to define the boundaries of the level crossing for maintenance.

Reason: To manage any potential impacts on the private level crossing.

Prior to Return of Rehabilitation Bond

~ Validation Report

Prior to the return of the Rehabilitation Bond a Validation Report from a suitably qualified environmental consultant is to be provided confirming that the site has been rehabilitated and is suitable for its proposed use for extensive agriculture. Any conditions or limitations as to future use must be stated in the validation report.

Reason: To ensure the land is rehabilitated to a state where it can be utilised for a productive agricultural use..

General Conditions

~ Railway Fencing

Prior to remediation works commencing, boundary fences are to be installed along the rail corridor which should be installed and maintained during the construction and operation in accordance with John Holland Rail's (JHR's) engineering standards which are available at <http://jhrcrn.com.au/media/2071/crn-cp-511-v1-1.pdf>. In addition, the Applicant is required to submit an application to install the boundary fences to JHR for its endorsement and for RailCorp's approval to the Third party works team via CRN.3rdpartyworks@jhg.com.au.

Reason: To prevent unauthorised entry to the rail corridor.

~ Right Of Way Fencing

Rural style fencing is to be installed along the 'boundaries' of the existing Right Of Way (ROW), registered under DP 1002621, in the areas likely to be impacted by the remediation works. Where gates are to be installed, they are not swing into the ROW.

Reason: To ensure the proposed works do not impact the legal and physical access required for Lot 2 DP 525323.

~ Internal Access Road

Construct/upgrade the internal access road and drainage structures between the entrance on Hoskinstown Road and the decommissioned clay quarry, to the standard of a Private Access/Right of Way as specified in Table D1.7 D1 Geometric Road Design as amended by Council.

Bitumen seal the pavement of the internal access road with two-coat 14mm/7mm bitumen seal, where grades of erosion-resistant gravels exceed 15%, or within 50 metres of the near edge of any existing building envelopes or dwelling facade on adjacent properties.

Reason: Roads created allow for environmental protection and requirements for bushfire planning.

~ Entrance - Hoskinstown Road

Construct/upgrade the existing entrance to the property, to the standard of a bitumen sealed rural double vehicular access as specified in D13 Vehicular Access Design Specification as amended by Council.

Reason: Safe entry and exit to the quarry from the road.

~ Wastewater Management

No on-site wastewater management system shall be constructed on the site in conjunction with the rehabilitation operation without the written approval of Council. Self-contained portable systems can be used if required.

Reason: To ensure that inappropriate wastewater management system is not constructed on the site, and to ensure any future system is appropriately designed to have a sustainable neutral or beneficial effect on water quality over the longer term.

~ Rehabilitation Activities

The Sediment Control Details Plan shall be implemented, and effective erosion and sediment controls shall be installed prior to any construction activity. The controls shall be regularly inspected, monitored and maintained until works have been completed and groundcover has established.

Reason: To manage adverse environmental and water quality impacts during the construction phase of the development and to minimise the risk of erosion, sedimentation and pollution within or from the site during this construction phase.

~ Fill Operations

Any stockpiles on site shall not be located in the catchment of the sediment control pond.

Reason: To manage adverse water quality impacts during the operation phase of the development and to minimise the risk of erosion, sedimentation and pollution within or from the site during this operation phase.

~ Access

Vehicle access to the decommissioned clay quarry is to be taken from the existing entrance to the property from Hoskinstown Road.

Reason: Minimise the impact of the traffic generated on the local road system.

~ Dust Suppression

Undertake measures as appropriate, and/or respond to any Council direction to provide dust suppression on roads leading to, adjacent to and within the rehabilitation site in the event that weather conditions and construction traffic are giving rise to abnormal generation of dust.

Reason: To ensure that local residents and activities are not disadvantaged by dust during construction.

~ Approval Documents

Keep a copy of all stamped approved plans, specifications and documents on site while work is being undertaken.

Reason: Relevant documentation is available for perusal on site by a council officer, for compliance check.

~ Construction Facilities

Toilet facilities are to be provided at or in the close vicinity of the work site on which work involved in the erection or demolition of a building is being carried out.

Reason: To provide adequate facilities to the work site.

~ Unexpected Finds

The development is to proceed with caution. If any Aboriginal objects are found, works should stop and DECCW notified. If human remains are found work is to stop, the site is to be secured and the NSW Police and NSW Office of Environment and Heritage are to be notified.

Reason: To ensure objects discovered during construction are protected and notified in accordance with the Due Diligence Code of Practice for the Protection of Aboriginal Objects in New South Wales.

~ All Works to Be Confined to the Site

All rehabilitation operations and other activities associated with the material extraction must;

- a) Be carried out entirely within the allotment boundaries unless otherwise approved by Council.
- b) Any gates must be installed so they do not open onto any road or adjoining land.

Reason: To ensure that all development activity associated with the development does not pose a hazard to life or property and that the effectiveness of public services is not impaired.

~ Unauthorised Use of Public Land

No building materials are to be stored or construction activities undertaken on public or adjoining land without prior written approval from Council.

Reason: To prevent unnecessary disturbance to public land.

~ Plant and Equipment Noise Control

The noise levels generated at the quarry rehabilitation site emanating from plant and equipment shall not exceed a level of 55dB(A) LAeq when measured for a 15 minute period at any residence on privately owned land during the hours of operation.

Reason: To reduce the noise nuisance to residents and adjacent neighbours, also to comply with the Protection of the Environment Operations Act 1997 and Regulations.

~ Repair damaged public property

All damage caused to public property during the rehabilitation operations and associated activities must be repaired or reinstated prior to Council accepting any Certificate of Completion.

Reason: To ensure that all public property in the vicinity of the development is maintained in its pre-development condition.

~ Work in Accordance with Engineering Specifications

All construction and restoration work must be carried out strictly in accordance with the approved drawings and Design and Construction Specifications as amended by Council.

Reason: To ensure construction and restoration work is in accordance with Council's requirements.

~ Surface Water

Do not re-direct surface water onto adjoining private land or any part of the Rail Corridor. Alterations to the surface contours must not impede or divert natural surface water run-off, so as to cause a nuisance to adjoining property owners/Rail Corridor or create an erosion or sediment problem.

Reason: Stormwater disposal does not impact on the neighbouring properties and no adverse effects will be had on the existing watercourse and drain infrastructure system of the Rail Corridor.

~ Operational Limitations during Total Fire Ban

No machinery or trucks are to operate during a total fire ban.

Reason: To ensure that the development does not increase any risk of fire.

Contributions

~ Section 7.11 Contributions - Roads

Section 7.11 contribution payments shall be made in accordance with *Yarrowlumla Development Contributions Plan 2 Roads (19 December 2007), section P.7.6.1 Extractive Industries and Landfilling (and other intensive truck haulage developments on page 24)*, and arrangements are as follows;

- a) The contribution rates shall be \$0.1518 per Tonne per kilometre travelled on Trucking Yard Lane (0.65km), and \$0.1002 per Tonne per kilometre travelled on Hoskinstown Road (7.92km). These amounts apply in 2019/2020 and will be indexed annually on 1 July in keeping with movements in the CPI for Canberra.
- b) The operator of the quarry shall keep a record of tonnes hauled, the VENM/ENM certificate and shall submit to Council the total load hauled for the year up to 30 June each year. Once supplied Council will provide an invoice for contribution fees.

Reason: Appropriate upgrade of the roads affected by the increase in traffic resulting from this development.

Note: The request for the contributions invoice is to be sent to Council@qprc.nsw.gov.au, with all applicable information as above. The subject of the email shall include 'DA.2019.1185- Contribution Invoice – 791 Hoskinstown Road, Bungendore'.

QPRC



DELEGATED REPORT - DA.2019.090

SUMMARY

Proposal:	Single New Dwelling & Clause 4.6 Request
Address:	Catholic Cemetery Road ARALUEN NSW 2622
Property description:	Lot 569 DP 755901, Lot 570 DP 755901 & Lot 571 DP 755901
Applicant:	Coe Planning Services
Owner:	Margaret Anne Wisbey
Date of lodgement:	04/06/2019
Notification period:	11/06/2019 to 25/06/2019
Submissions received:	One (1)
Assessment officer:	Patrick Williams
Estimated cost of works:	\$180,000
Zoning:	RU1- Primary Production
Heritage:	N/A
Flood affected:	N/A
Bushfire prone:	Yes
Recommendation of officer:	Refusal

EXECUTIVE SUMMARY

The application seeks approval for a three (3) bedroom dwelling on the above property. The subject property does not have building entitlement under c4.2A of the Palarang LEP 2014 and as a result this application has supplied a c4.6 Variation request to the 40ha minimum lot size to accommodate the dwelling on 5.66Ha (86% variation).

The application was notified from 11/06/2019 to 25/06/2019 with one (1) submission received.

The application attempts to justify the contravention of the minimum lot size provision for the erection of a dwelling house in certain rural, residential and environment protection zones development standard permitted under Clause 4.2A(3)(a) of the PLEP 2014. The request is considered to be inadequate in that the applicant has unsatisfactorily demonstrated that compliance with the standard is unnecessary or unreasonable in the circumstances of the case, or that there are sufficient environmental planning grounds to justify contravening the development standard

In turn, the application is recommended for refusal.

BACKGROUND

The subject site is comprised of three (3) original parish portions that Council records indicate have formed part of a larger land holding including a number of crown grazing permits that have been utilised for broad scale grazing over the past 50 years. The configuration of the broader land holding and ownership pattern have varied throughout this period.

DESCRIPTION OF THE SITE AND LOCALITY

The subject site is legally described as Lot 569 DP 755901, Lot 570 DP 755901 & Lot 571 DP 755901 and is commonly known as off Catholic Cemetery Road. The site is located on the western side of the Crown Road Reserve (which forms an extension of Victoria Street) and has a combined area of roughly 5.66Ha.

The site is an irregular shape and contains varying slopes from 5-10 degrees as the site slopes up towards the centre of the lot and flattens.

The site contains grassland vegetation with individual trees in the north-eastern corner.

Vehicular access is provided to the site via a proposed extension of Victoria Street within a Crown Road reserve.

Existing development within the locality consists of single dwellings on holdings ranging from 5Ha (smallest holding) to old original dwellings being associated with large crown land leases and areas over 40Ha.



Figure 1: Locality plan



Figure 2: Location of the dwelling



Figure 3: Location of the Crown Road for proposed access. Currently used by neighbouring lots for grazing under a Crown Lease.



Figure 4: Site access known as Victoria Street.

PROPERTY BURDENS AND CONSTRAINTS

There are no easements or burdens on the land which could affect, or be affected by, the proposed development.

DESCRIPTION OF THE PROPOSED DEVELOPMENT

The application seeks Council approval for Dwelling with a proposed Clause 4.6 variation to minimum lot size.

The specific elements of the proposal are:

- A single level dwelling encompassing three bedrooms, ensuite, bathroom, laundry open plan kitchen/dining/lounge and a small patio on the east elevation.
- 86% (85.85%) variation to the 40Ha minimum lots size under the Palerang Local Environmental Plan 2014, to allow construction on a 5.66Ha Lot (consolidated lots) with no current building entitlement.

CONSENT AUTHORITY

In accordance with the *Environmental Planning and Assessment Act 1979* (EP&A Act) the proposal is considered to be local development and Council is the Consent Authority.

SECTION 4.10 DESIGNATED DEVELOPMENT – EP&A Act, 1979

The proposal is not designated development.

SECTION 4.47 INTEGRATED DEVELOPMENT – EP&A Act, 1979

The proposal is not integrated development.

REFERRALS

INTERNAL REFERRALS

Engineering Comments

Council's Development Engineer has commented on the proposal as follows:

Council's Development Engineer offered no objections to the proposal, subject to the imposition of the road construction standards and conditions for Council to acquire the road reserve and reach a suitable standard for dedication to QPRC. Additionally, applicable contributions fees have been included within the conditions of consent.

Health & Building Comments

Council's Building Officer offered no objections to the proposal, subject to the imposition of recommended conditions of consent for compliance with the BCA and installation of appropriate Effluent Management.

EXTERNAL REFERRALS

NSW Department of Planning, Industry and Environment - Planning

The application was referred to NSW Department of Planning, Industry and Environment - Planning as the proposed Clause 4.6 Variation is over greater than 10% and as such is beyond the deemed concurrence powers of Council as per the NSW Planning Circular PS 20-002. The application was referred on 29 May 2019 with no response received to date. It should be noted that this does not limit Council's ability to refuse the subject application in accordance with the staff recommendation.

NSW Department of Planning, Industry and Environment - Crown Land

The application was referred to NSW Department of Planning, Industry and Environment - Crown Land as the proposed development is seeking to construct the access within a Crown Road Reserve, an extension to Victoria Street. The application was referred on 29 May 2019 with a response received 28 June 2019.

Crown offered no objection to the development, subject to Council taking ownership of the affected Crown Road reserve if approved.

CONSIDERATION OF THREATENED SPECIES

Council is required under Section 4.15 of the Environmental Planning and Assessment Act 1979 to make an assessment of whether the proposed development will have a significant impact on any threatened species, populations, or ecological communities, or their habitats. Such threatened species in NSW may be protected under the NSW Biodiversity Conservation Act 2016 or under the Commonwealth Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The assessment process under the EPBC Act can occur outside the NSW planning system and requires input from the Federal Department of Environment. Any EPBC Act requirements associated with this proposal are discussed later in this section.

Section 7.3 of the Biodiversity Conservation Act 2016 sets out what must be considered in determining whether a proposed development will have a significant impact. Section 7.3 requires the consideration of the following:

- any assessment guidelines applicable to the species, population, or ecological communities, or their habitats, and
- the application of the ‘seven-part test’ described in the Section.

The site is predicted to contain Modified Vegetation under Council’s predictive native vegetation mapping.

An inspection of the site noted that it was pasture improved grassland vegetation that is currently being grazed by cattle and is known historical grazing land.

The proposed removal of the vegetation (grassland for construction) in this application is considered the removal of native vegetation and is therefore an activity as defined under the Biodiversity Conservation Act 2016. Although it is considered a listed activity, the overall effect on the threatened species, the ecological communities and their habitats is not considered to have an adverse impact given the scale of clearing on the lot. In addition, the proposed development will not exceed the 0.5Ha clearing threshold to trigger a BDAR assessment under the current Biodiversity Conservation Act.

SECTION 4.14 CONSULTATION AND DEVELOPMENT CONSENT – CERTAIN BUSHFIRE PRONE LAND – EP&A ACT, 1979

Section 4.14 of the EP&A Act requires an assessment to be made of the proposal against the requirements of the Rural Fire Service document ‘Planning for Bushfire Protection 2006’. The Act allows this assessment to be made by the Council or the RFS. Assessments under Section 4.14 against the PBP 2006 need to be made for most development on bushfire prone land which does not require an approval under the Rural Fires Act 1997 as integrated development.

Bushfire prone land on the subject site covers 100% of the site.

Council undertook a bushfire assessment during an initial site inspection to the site with the details below:

Aspect	North	East	South	West
Vegetation	Grassland	Grassland	Grassland	Grassland
Slope	0-5	5-10	0-5	Upslope
Distance	38m	50m	92m	100m+
BAL	12.5	12.5	12.5	12.5
Proposed APZ	22	25	22	19

The dwelling, if approved, will be conditioned to comply with the provisions of BAL12.5 under PBP 2006 and AS3959.

SECTION 4.15 CONSIDERATIONS – EP&A Act, 1979

In determining a development application, the consent authority is to take into consideration the following matters of consideration contained within section 4.15 of the Environmental Planning and Assessment Act, 1979 as relevant to the development application:

4.15(1)(a) the provisions of:

(i) any environmental planning instrument

STATE ENVIRONMENTAL PLANNING POLICY NO. 55 - REMEDIATION OF LAND

Clause 7 of SEPP 55 requires consideration to be given to the potential of land, in recognition of historical land uses, to be contaminated and the suitability of the land in its current state for the purposes of the proposed development.

The subject site has historically been utilised for broad scale grazing practices as part of a much larger land holding and contains no agricultural infrastructure. As such the subject site is considered to be suitable in its current state for the purposes of the development.

STATE ENVIRONMENTAL PLANNING POLICY (BUILDING SUSTAINABILITY INDEX: BASIX) 2004

Valid BASIX certificate, No 1034976S_02, issued on 10 November 2019 accompanied the subject application.

PALERANG LOCAL ENVIRONMENTAL PLAN (PLEP) 2014

An assessment of the proposal against the general aims of PLEP 2014 is included below:

Cl. 1.2(2)	Aims	Complies
(a)	<i>to protect and improve the economic, environmental, social and cultural resources and prospects of the Palerang community,</i>	Yes
(b)	<i>to encourage development that supports the long-term economic sustainability of the local community, by ensuring that development does not unreasonably increase the demand for public services or public facilities,</i>	Yes
(c)	<i>to retain, protect and encourage sustainable primary industry and commerce,</i>	Yes
(d)	<i>to ensure the orderly, innovative and appropriate use of resources in Palerang through the effective application of the principles of ecologically sustainable development,</i>	Yes
(e)	<i>to retain and protect wetlands, watercourses and water quality and enhance biodiversity and habitat corridors by encouraging the linking of fragmented core habitat areas within Palerang,</i>	Yes
(f)	<i>to identify, protect and provide areas used for community health and recreational activities,</i>	Yes
(g)	<i>to ensure that innovative environmental design is encouraged in residential development.</i>	Yes

Permissibility

The subject site is Zoned RU1 Primary Production zone under Palerang Local Environmental Plan 2014.

Zone Objectives

An assessment of the proposal against the objectives of the RU1 Primary Production zone is included below:

Objectives	Complies
➤ To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.	No
➤ To encourage diversity in primary industry enterprises and systems appropriate for the area.	Yes
➤ To minimise the fragmentation and alienation of resource lands.	Yes
➤ To minimise conflict between land uses within this zone and land uses within adjoining zones.	Yes
➤ To minimise the impact of any development on the natural environment.	Yes
➤ To ensure that development does not unreasonably increase the demand for public services or facilities.	Yes

Comments: The proposal is considered to be consistent with the objectives of the Primary Production Zone as the development will not discourage sustainable primary industry production on the land and will not conflict between the land uses of the zone or land uses within adjoining zones. The development will not have a detrimental effect on the resources of the land and it is considered that it will have minimal impact on the natural environment. The development will not require any further provision of essential roads, transport or utilities infrastructure and therefore will not unreasonably increase the demand for public services or facilities. The development is considered compatible with the surrounding environment.

Part 4: Principal development standards

An assessment of the proposal against the relevant provisions contained within Part 4 of the PLEP 2014 is provided below.

Erection of dwelling houses on land in certain rural, residential and environmental protection zones

Clause 4.2A of the PLEP 2014 provides requirements for the erection of dwellings on rural land.

Comments The subject site is comprised of three (3) original portions, was previously part of a larger holding and fails to satisfy the 40Ha minimum lot size that is applicable to the site. As such the subject site fails to satisfy the provisions of Clause 4.2A of the PLEP 2014. In recognition of the subject application was accompanied by a request prepared in accordance with Section 4.6 of the PLEP 2014 to vary the development standard (detailed discussion below.)

Height of building

Cl.	Standard	Controls	Proposed	Complies
4.3	Height of building	10m	4.98m	Yes

Clause 4.6 Exceptions to Development Standards

Under Clause 4.6 of the PLEP 2014, the consent authority may consider a variation, where that variation would achieve a better outcome.

As demonstrated in the table above, the proposed development fails to comply with the minimum lot size provisions for the erection of a dwelling house in certain, rural, residential and environment protection zones development standard permitted under Clause 4.2A(3)(a) of the PLEP 2014. A copy of the Applicant's written request to vary the development standard is attached to the Council report (Attachment 4)

Clause 4.6(3) of the PLEP 2014 states the following:

“Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

- (a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case; and*
- (b) that there are sufficient environmental planning grounds to justify contravening the development standard.”*

The applicant has provided a written request that seeks to justify the proposed contravention with the development standard on the following grounds including the use of the five part - 'Wehbe tests established by the NSW Land and Environment Court Wehbe v Pittwater Council (2007). The NSW Land and Environment Court has established that should development satisfy the provision of one of the five test then strict compliance with the development standard should be considered unreasonable or unnecessary.

“

- *The proposed development will not affect the existing land uses or amenity of surrounding properties;*
- *The subject site has coinciding physical and legal access;*
- *The objectives of the zone and development standard are met by the proposal;*
- *The development is similar in nature to surrounding properties and the locality;*
- *The RU1 land in this locality is part of the historical village of Araluen and already is held in an ownership pattern that does not meet the minimum lot size requirements for a dwelling;*
- *The proposal will not add unreasonable additional demand to existing services. The property is serviced by a public road, and the dwelling will be powered by stand-alone solar systems with domestic water supply collected on-site and effluent management disposed of within the boundaries of the property;*
- *The property is not isolated rural land, with postal services, school bus and community facilities available within walking distance of the land; and*
- *The subject site is consistent, both in character and aesthetic value to other properties within the vicinity that have approved dwellings located on them.*
-

In this regard, strict compliance with the minimum lot size control is considered to be unreasonable and unnecessary in the circumstances. The proposal is compliant with the relevant objectives and will have no adverse or environmental or amenity impact. The proposal is therefore justified on environmental and social grounds. For the reasons above, the proposed minimum lot size for a dwelling variation is consistent with the requirements of Clause 4.6(3)(a) of the PLEP2014.

Wehbe Tests

Wehbe Test 1: The objectives of the standard are achieved notwithstanding non-compliance with the standard

The proposed variation to the minimum lot size for dwelling development standard will still see the objectives achieved notwithstanding the non-compliance with the standard as outlined in this report.

Wehbe Test 2: The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary

The underlying objective and purpose of the minimum lot size for a dwelling development standard, is considered relevant to the development.

However (as discussed above) it is considered that allowing a dwelling on this land will facilitate the continuing use of the land for agricultural purposes while resulting in a public domain interface that is respectful of the existing character of the area, and will have acceptable amenity impacts.

Wehbe Test 3: The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable

The provision of a development that strictly complied with the development standard would result in no dwelling being able to be built on the land.

Wehbe Test 4: The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable

In this circumstance, strict compliance with this development standard is unnecessary.

The location and siting of the dwelling means it will not be dominate in the landscape and will not impact on any other property owners. The purpose of the development standard would not be defeated if non-compliance was approved. 100% compliance is considered unreasonable as the variation is acceptable based on merit. The objectives of the standards, as outlined above, will still be achieved despite the variation.

The objectives seek to minimise unplanned rural residential development. As the parcel of land exists and is similar in size, if not larger than many of the properties in the locality, the approval of a dwelling in this location will not increase unplanned rural residential development within the area, as there is already the potential for many more dwellings in the locality due to being "existing holdings" under the PLEP2014 and therefore able to apply for a dwelling on the land.

Wehbe Test 5: The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone

The land has been zoned appropriately and the controls applicable to the site are generally acceptable, however the blanket minimum lot size for a dwelling over the whole of the RU1 zone in this area does not fit within the existing use of the land or the current character of this particular property, or the previous historical use of the land as part of the village of Araluen.

The applicant has also sought to establish that there are sufficient environmental planning grounds to justify the contravention of the development standard on the following basis:

“The development represents a development pattern which is compatible with the existing character and consistent with potential future development within the area. In this context there are sound planning grounds and significant benefits to justify contravening the minimum lot size for a dwelling development standard.”

Clause 4.6(4) of the PLEP 2014 states the following:

“Development consent must not be granted for a development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant’s written request has adequately addressed the matters required to be demonstrated by subclause (3)

Having given consideration to the Applicant’s written request to justify the contravention of the minimum lot size standard, the request is not considered to adequately address the matters required to be demonstrated in subclause 4.6(3), specifically, that compliance with the standard is unnecessary or unreasonable in the circumstances of the case. The applicant has sought to justify that strict compliance with the development standard is unnecessary or unreasonable through the application of the Wehbe Test (Note: the NSW Land and Environment Court has established that the test only requires 1 of the 5 tests to be satisfied). The proposal, resulting in residential development contrary to the development standards of the Palerang Local Environmental Plan, is considered to represent unplanned residential development being contrary to the objectives of the development standard which seek to minimise unplanned rural residential development and to enable the replacement of lawfully erected dwelling houses in rural, residential and environment protection zones (Wehbe Test 1). The underlying objectives or purpose of the development standard are relevant to the development (Wehbe Test 2). The underlying object or purpose of the development standard is not defeated or thwarted by strict application of the development standard (Wehbe 3). The development standard has been consistently applied and any variations have been suitably justified upon their own merit. As such, the development standard is not considered to have been abandoned or destroyed (Wehbe 4). It is noted that the applicant has taken some artistic license in interpretation of Wehbe Test 5. The test as established within *Wehbe v Pittwater Council* (2007) reads as follows:

“the zoning of particular land” was “unreasonable or inappropriate” so that “a development standard appropriate for that zoning was also unreasonable or unnecessary as it applied to that land” and that “compliance with the standard in that case would also be unreasonable or unnecessary:

Given that the subject site has been utilised consistently over the past 50 years as part of a larger land holding for the purposes of extensive agriculture, the zoning of the land is considered to be reasonable and appropriate for the site.

Based upon the above the strict compliance with the development standard is not considered to be unreasonable or unnecessary.

In considering if there are sufficient environmental planning grounds to justify contravening the development standard, Council officers do not support the proposition that the proposed departure would result in a development pattern that is consistent with the existing and desired future character of the locality or the benefits posed by the departure justify the contravention of the development standard. Rather, the proposed development is considered to be contrary to the planned residential density as established through the Palerang Local Environmental Plan 2014.

- (ii) *the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.*

The objectives of Clause 4.2A of the PLEP 2014 are as follows:

- (a) *to minimise unplanned rural residential development,*
(b) *to enable the replacement of lawfully erected dwelling houses in rural, residential and environment protection zones.*

The proposal is considered to be inconsistent with the objectives of the development standard in that the subject site fails to satisfy the requirements for the erection of a dwelling house upon the subject site, the proposed development must be considered as unplanned rural residential development beyond the strategic vision of the PLEP 2014. As such, the proposed development is inconsistent with the objectives of the zone.

The site is Zoned RU1 Primary Production zone under PLEP 2014. The objectives of the zone are as follows

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To minimise the impact of any development on the natural environment.*
- *To ensure that development does not unreasonably increase the demand for public services or facilities.*

By accommodating for a residential use upon the subject site, the proposed development detracts from the likelihood of the broader land holding being utilised for a viable primary production purpose. The proposed development is therefore considered to be inconsistent with the objectives of the RU1 Primary Production zone which seek to minimise the fragmentation and alienation of resource lands.

- (b) *the concurrence of the Secretary has been obtained.*"

As the subject variation request is greater than 10% Council does not have deemed concurrence for the subject variation. As such, the subject application as referred to the Planning Secretary for Concurrence, however no response has been received to date. It should be noted that this does not limit Council's ability to refuse the subject application.

In conclusion, the applicant's written request to justify the contravention of the minimum lot size provision for the erection of a dwelling house in certain rural, residential and environment protection zones development standard permitted under Clause 4.2A(3)(a) of the PLEP 2014 is considered to be inadequate in that the applicant has unsatisfactorily demonstrated that compliance with the standard is unnecessary or unreasonable in the circumstances of the case, or that there are sufficient environmental planning grounds to justify contravening the development standard. Accordingly the subject request is considered to fail to satisfy the provisions of Clause 4.6 of the PLEP 2014 and is therefore not supported.

Part 6: Local Provisions

The relevant provisions contained within Part 6 of the PLEP 2014 are addressed below as part of this assessment:

6.1 Earthworks

Clause 6.1 of the PLEP 2014 establishes a number of matters requiring consideration for development involving earthworks. The development will earthworks to construct the access and dwelling pad for plumbing and foundations. The consent, if approved, would contain conditions for erosion and sediment control which will ensure the works are consistent with this clause and will have minimal impacts to adjoining lots.

6.11 Essential services

Clause 6.11 of the PLEP 2014 requires satisfactory arrangements to be made for water supply, stormwater drainage, solid domestic waste, sewage, and the treatment and disposal of effluent. Along with the supply of electricity and suitable vehicle access. The application, if approved, will contain conditions to ensure the dwelling is adequately serviced for vehicle access, effluent management and power to be consistent with this clause.

4.15(1)(a)(ii) any draft environmental planning instruments

There are no applicable draft planning instruments that are or have been placed on public exhibition, to consider as part of this assessment.

4.15(1)(a)(iii) any development control plan

PALERANG DCP 2015 COMMENTS		
Section	Controls	Complies
PART B – GENERAL PROVISIONS		
B4	Bushfire Prone Land The lot is identified as being bushfire prone land, conditions have been set out for asset protection zones, design and construction (BAL-12.5), access and landscaping as per the advice from the RFS. It is considered that with the implementation of these conditions the development is consistent with Planning for Bushfire Protection and AS3959.	Yes
B8	Erosion and Sediment control The consent will contain a condition for erosion and sediment control to ensure that adequate measures are in place during the construction phase.	Yes
B10.2	Aboriginal Heritage An AHIMS search was carried out and did not indicate any heritage sites within the vicinity of the proposed development, as such it is considered that the proposed development is unlikely to result in the disturbance of any items of aboriginal indigenous cultural heritage. A condition however will be contained within the consent that the development is to proceed with caution and if any Aboriginal objects are found works should stop and DECCW are to be notified.	Yes

B13	On-site System of Sewage Management (OSSM) The development proposes a Septic Tank (RELN) with trenches for the proposed development. The consent will include conditions to ensure the system is installed as per the supplied On-Site Sewage Management Report by Coe Planning Services dated May 2019.	Yes
B15	Waste Management The consent will contain a condition for waste management to ensure that adequate measures are in place during the construction phase.	Yes
B17	Rainwater Tanks The consent will contain a condition that a minimum 90,000 water tank is to be installed to the dwelling to meet the minimum requirements of the DCP.	Yes

PALERANG DCP 2015 COMMENTS

Section	Controls	Comment
PART C2 – RESIDENTIAL DEVELOPMENT		
C2.1.1	Acoustic privacy It is considered that the proposed development will not result in any adverse impacts on the acoustic privacy of the dwelling or adjoining owners.	Complies
C2.1.2	Visual privacy It is considered that the proposed development will not result in any adverse impacts on the visual privacy of the dwellings or adjoining owners given the closest distance to the nearest dwelling is over 600m away.	Complies
C2.1.3	Dwelling Articulation It is considered that the proposed dwellings will not detract from the existing character or streetscape of the area and is well designed to avoid large lengths of unarticulated walls.	Complies
C2.1.4	Dwelling Exteriors It is considered that the proposed dwellings will not detract from the existing character of the locality. The consent will contain a condition that all structures including water tank(s) are to be finished in materials that have low reflectivity and colours are to incorporate the use of muted, natural colours that will blend with, rather than stand out from, the landscape for major features such as walls and roof.	Complies
C2.1.6	Driveways, Entrances, Access, Parking and Utilities The application was referred to the Development engineering team who have provided adequate conditions to upgrade the entrance and access to comply with Council's AUS-SPEC standards and the standards imposed by the NSW RFS. Upon completion of works satisfaction to Council standards as conditioned, the extension of Victoria Street will be dedicated to Council.	Complies

C2.1.7	Energy and water efficiency The dwellings are to comply with BASIX No 1016099S, issued on 16 May 2019.	Complies
C2.1.9	Height The proposed development height of 6.98m complies with the height map requirements of 10m set out in the PLEP 2014.	Complies
C2.1.11	Overshadowing It is considered that the proposed development will not result in any adverse overshadowing impacts on adjoining properties; the dwellings exceeds the minimum setbacks and the nearest neighbour is over 600m away.	Complies
C2.1.12	Solar Access It is considered that due to the dwelling layouts the development will not result in any adverse impact on the solar access of the site.	Complies
C2.1.13	Siting and orientation It is considered that the orientation and siting of the development will not detract from the existing characteristic pattern and the dwelling is set back and will not be visible from the road.	Complies
C2.1.15	Street frontage Due to the location of the dwelling it will have adequate solar access, outdoor space, privacy and vehicle accommodation. It is considered that the siting of the development will not significantly detract from the existing characteristic of the street pattern.	Complies
C2.1.14	Roof form (shape) The proposed development proposes a roof pitch of 15 degrees, under the DCP maximum of 32 degrees. This design does not create unnecessary bulk in scale for the development.	Complies
C2.1.16	Streetscape It is considered that the proposed development will not have any significant impacts on the prevailing streetscape.	Complies
C2.1.19	Potable Water and Sewage Disposal The development will be conditioned to be connected to a 90,000L rain water tank to service the domestic needs of the development and the NSW Health approved Septic tank system installed.	Complies

C2.5.1	Setbacks				Complies
		Permitted	Proposed	Compliant	
	Front Boundary	50 m	50m	Yes	
	Rear Boundary	25 m	80m+	Yes	
	North Side Setback	25 m	38m	Yes	
	South Side Setback	25 m	92m	Yes	
C2.5.2	Potable water supply The consent has been conditioned that a minimum 90,000 litre water tank is to be installed to each dwelling to meet the minimum requirements of the DCP.				Complies

4.15(1)(a)(iia) any planning agreement or draft planning agreement

No planning agreement has been entered into under section 7.4 of the *Environmental Planning and Assessment Act 1979*.

4.15(1)(a)(iv) matters prescribed by the regulations

Clause 92 of the *Environmental Planning and Assessment (EP&A) Regulation 2000* requires Council to take into consideration Australian Standard *AS2601–1991: The Demolition of Structures*, in the determination of a development application.

Having regard to this prescribed matters, the proposed development does not involve the demolition of a building for the purposes of *AS 2601 – 1991: The Demolition of Structures*.

Should this application be approved, appropriate conditions of consent are included within the recommended to ensure compliance with any relevant regulations.

4.15(1)(a)(v) any coastal zone management plan

Council is not subject to a coastal zone management plan.

4.15(1)(b) the likely impacts of the development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality

As previously discussed, in recognition of the extent of the variation proposed the proposed development is considered to be contrary to the strategic vision for development within the RU1 Primary Production zone and represents unplanned residential development. By accommodating for a residential use upon the subject site, the proposed development detracts from the likelihood of the land being utilised for a viable primary production purpose. The proposed development is therefore considered to be inconsistent with the objectives of the RU1 Primary Production zone which seek to minimise the fragmentation and alienation of resource land.

4.15(1)(c) the suitability of the site for the development

The subject site is not subject to any environmental constraints considered to make it unsuitable for the purposes of the proposed development.

4.15(1)(d) any submissions made in accordance with this Act or the regulations

The application was notified in accordance with Part E of the PDCP 2015 from **29 May 2019** to **11 June 2019**, with One (1) submission received, raising the following concerns:

1. Legal Access

Assessing officer's comments: A submission has raised concerns for the legal access to the subject site as it relies on a Crown Road currently under lease.

The application was referred to the NSW Crown Land Department who have reviewed the application and have no objection to the proposal, subject to the extension of Victoria Street being dedicated to QPRC. It's considered that the review by the Crown has considered the lease arrangement and provides no barrier for this approval.

2. Minimum Lot Size

Assessing officer's comments: A submission has raised concern on the permissibility of a dwelling on a Lot under 40Ha.

The applicant has provided justification for Council to consider a 4.6 variation to this development standard. The details attempt to justify why the dwelling should be located on a 5.66Ha lot creating a potential 86% variation to the control. Council have reviewed the request and will not support the proposal. Details on the 4.6 assessment above.

3. Exact Location of property

Assessing officer's comments: A submission has raised concern on the physical location of the property.

The application has supplied a site plan which shows the approx. location of the development solely within the lot boundaries. Any concerns about boundary lines onsite should be directed to the services of a registered land surveyor.

4.15(1)(e) the public interest

The public interest is served through the detailed assessment of this development application under the relevant local planning controls and legislation and consideration of any submissions received relating to it by Council. In recognition of the proposed developments failure to satisfy the minimum lot size provisions of Clause 4.2A of the PLEP 2014, the proposed development is considered to be contrary to the public interest.

SECTION 64 CONTRIBUTIONS

Section 64 of the Local Government Act 1993 allows contributions to be levied towards the provision of water, sewerage and stormwater infrastructure.

Section 64 Contributions are not applicable to the proposed development as follows:

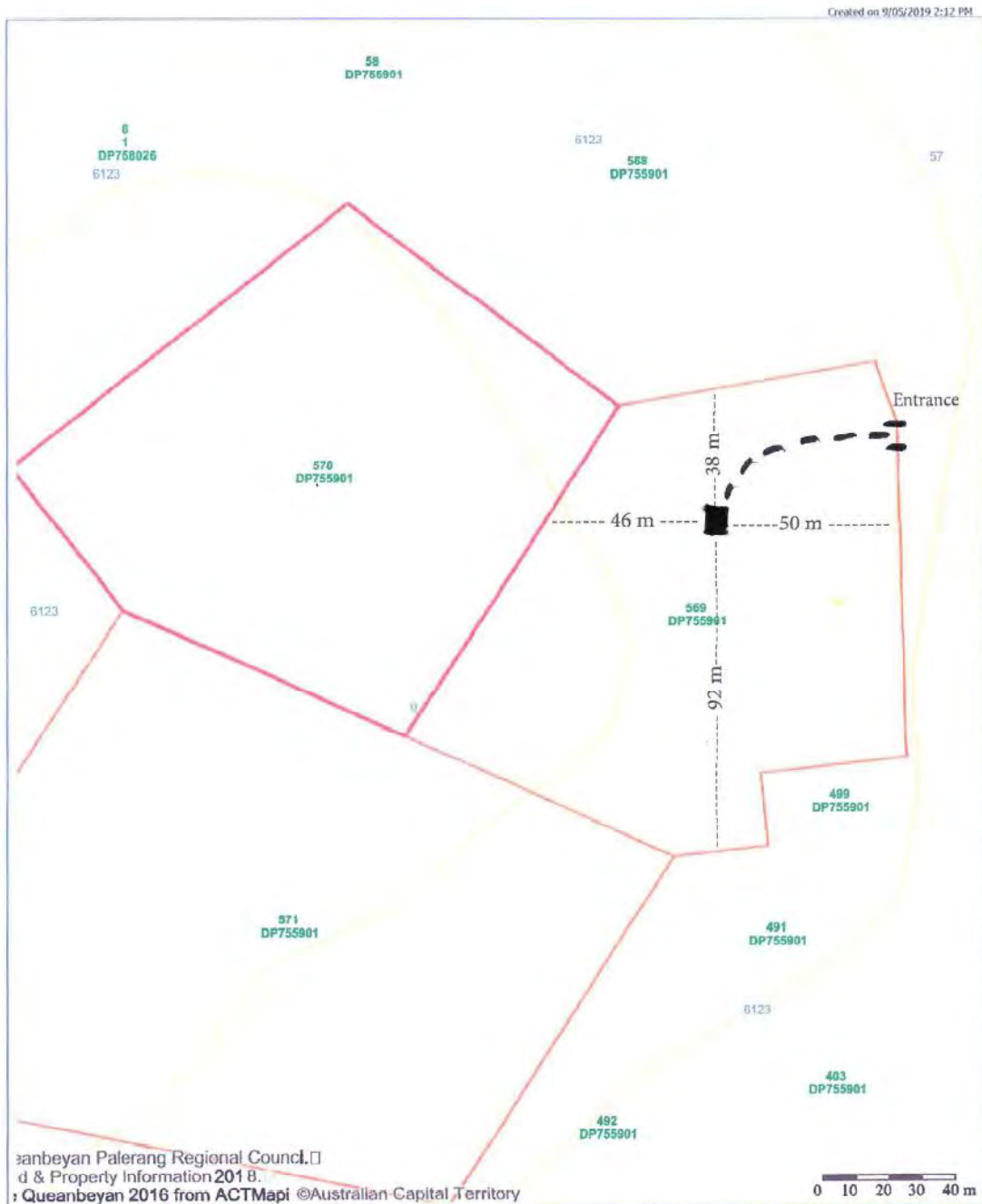
SECTION 7.11 CONTRIBUTIONS


Section 7.11 of the *Environmental Planning & Assessment Act 1979* permits councils to require as a condition of development consent, the reasonable dedication of land or the payment of monies, or both, for development that is likely to require the provision of, or increase the demand for public amenities and public services within the area.

Section 7.11 Contributions are applicable to the proposed development, however as the subject application is recommended for refusal they have not been calculated.

CONCLUSION

The application has been assessed having regard to Section 4.15 of the *Environmental Planning and Assessment Act 1979*, and is considered to be unsatisfactory for approval. As such, it recommended that DA.2019.090 be refused.



 <p>Queanbeyan Palerang Regional Council 256 Crawford St Queanbeyan NSW 2620 Phone: (02) 6285 6000 www.qprc.nsw.gov.au</p>	<p><small>© Queanbeyan Palerang Regional Council This information has been prepared for Council's internal purposes and for no other purpose. No statement is made about the accuracy or suitability of the information for use for any other purpose than that for which it has been prepared for use. While every care is taken to ensure the accuracy of this data, neither the Queanbeyan Palerang Regional Council nor the LPI makes any representation or warranty about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damages) and costs which may be incurred as a result of the data being inaccurate or incomplete in any way and/or the map shown. © The State of New South Wales (Land and Property Information)</small></p>	<p>Projection:</p>	<p>Site plan for proposed dwelling</p>
		<p>GDA94 / MGA zone 55</p>	
		<p>Date:</p>	
		<p>9/05/2019</p>	
		<p>Created By:</p>	

NOTES

This drawing shows the proposed layout of the proposed building and should be used only for the intended purposes noted here in these drawings, without further enquiry.

Levels indicated by dots are approximate only and shall be verified on site before construction commences.

For further information in reference to this drawing, please refer to the relevant Australian Standards. At the time of construction, an approval will be required to ensure compliance with the relevant Australian Standards.

Time investment to be in accordance with relevant Australian Standards.

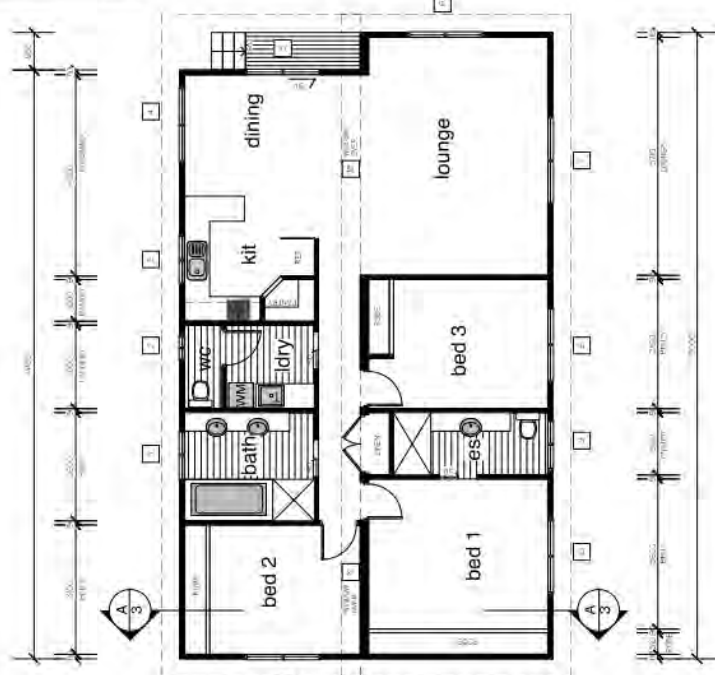
REV	DESCRIPTION	DATE
A	Final work reviewed and issued	28/07/19

PROPOSED RESIDENCE
 Mrs M. Whalley
 Lot 504-571 (DP 755661)

PROJECT # 1847
 DATE: 28/07/19
 DRAWN: U
 CHECKED: M
 SCALE: 1:100 A3

RICHARD DAVIES
 D. I. C. A.
 2
 80 458 885 719
 RICHARD DAVIES ARCHITECTS

WINDOWS SCHEDULE			
Nº	SIZE	AREA	NOTE
1	1700 x 800	1.360m ² sq	5
2	600 x 900	0.540m ² sq	5
3	1700 x 1200	2.040m ² sq	5
4	1800 x 1800	3.240m ² sq	5
5	1800 x 2100	3.780m ² sq	5
6	1800 x 1800	3.240m ² sq	5
7	2100 x 1200	2.520m ² sq	5
8	1800 x 1200	2.160m ² sq	5
9	1200 x 600	0.720m ² sq	5
10	1800 x 1200	2.160m ² sq	5
11	1800 x 1200	2.160m ² sq	5
12	1200 x 500	0.600m ² sq	5
13	1200 x 500	0.600m ² sq	5
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48	1200 x 500	0.600m ² sq	5
49	1200 x 500	0.600m ² sq	5
50	1200 x 500	0.600m ² sq	5



FLOOR PLAN
 FLOOR AREA 128.6m sq

Document Set ID: 789579
 Version: 1, Version Date: 16/05/2019

NOTES

This drawing remains the property of Richard Davies Design. Any use of this drawing for any other project without the written consent of Richard Davies Design is strictly prohibited.

Unless indicated otherwise, all dimensions are in millimetres and shall be verified on site before construction commences.

Verify all dimensions prior to construction.

All construction to comply with Building Code of Australia (BCA) and relevant Australian Standards. At the time of construction, verify all relevant Australian Standards and any other applicable requirements.

Example material to be used in consultation with relevant Australian Standards.

REV.	DESCRIPTION	DATE
A	EMENDED: ISSUED FROM TWO DRAWINGS: DA019.090.01 AND DA019.090.02	

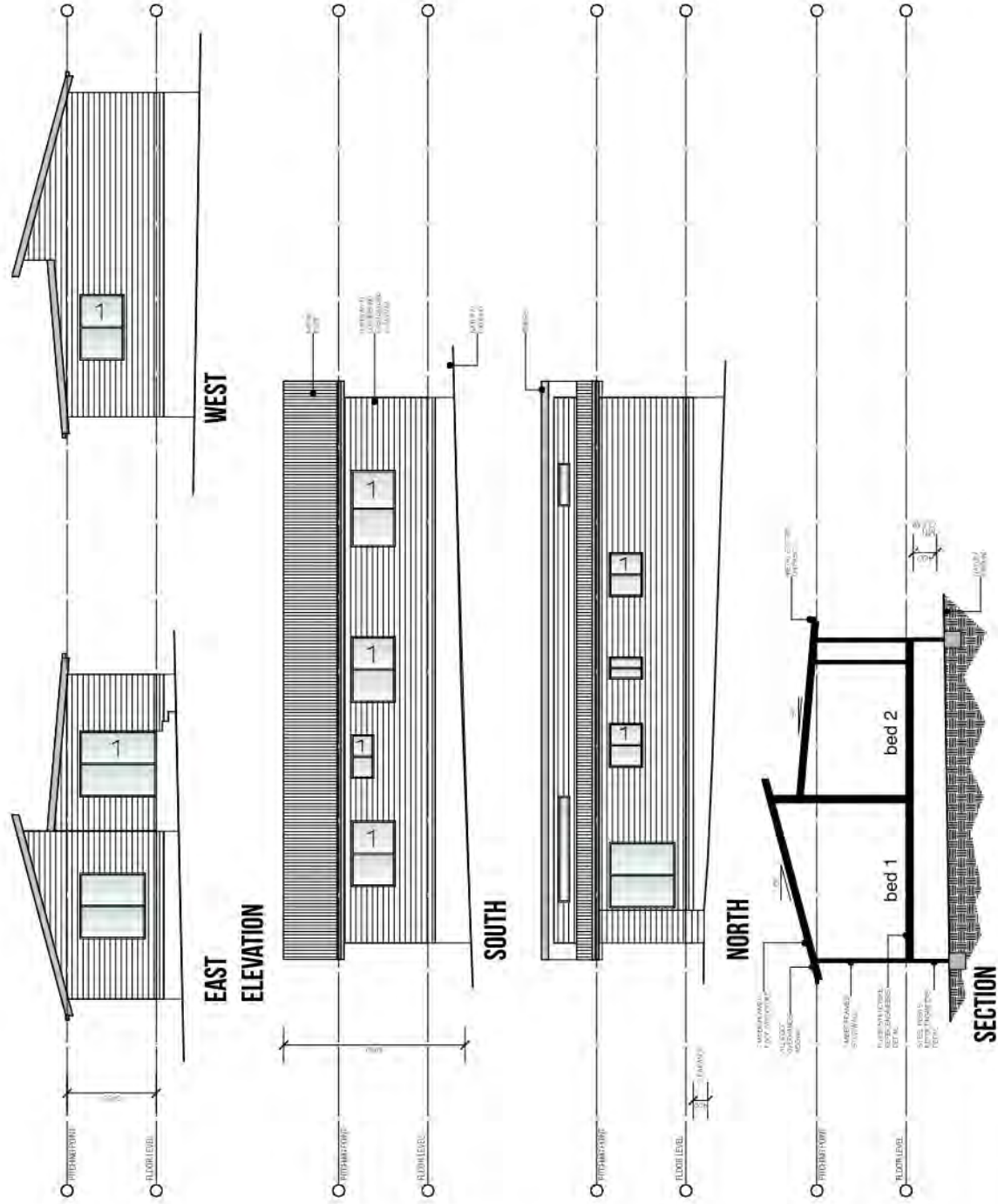
PROPOSED RESIDENCE
 Mrs M. Wasley
 Jobs 969 571 197 73901

PROJECT #	0447
DRAWING	1001
FORM	CC
SHEET	01
SHEET	1 OF 1
DATE	14/11/2019

3A

RICHARD DAVIES DESIGN
 D. E. S. I. S. A.
 ARCHITECT

ABN 68 858 888 719
 11 LIGHT
 11/11/2019
 01/01/2019



Document Set ID: 786579
 Version: 1, Version Date: 16/05/2019



Statement of Environmental Effects for Proposed Dwelling - Lots 569-571 DP 755901, Araluen

History of the Site

This application is for a dwelling on Lots 569-571 DP 755901. The land is zoned RU1 under the *Palerang Local Environment Plan 2014*.

The land (along with additional land) was originally purchased in 1963 by way of public auction of lands for unpaid rates from Council by Mr P Harrison on behalf of the current owner's then husband (Walter Mundy) and his brother (Allan Mundy). The land was used for the cultivation of crops by the two brothers until the death of Walter Mundy in 1977, where his share of the land was left to the current owner of lots 569-571 DP 755901.

Following the death of her husband the current owner made inquiries into transferring some of the land into her name however it was discovered that the titles had never been transferred properly from the Council purchase in 1963.

It has since taken the current owner from 1982 until March 2017 to be able to receive title to the land that is the subject of this application. Had the current owner been able to access the titles to this land after the death of her husband in 1977 up until 1991 when the *Tallaganda Local Environment Plan 1991* came into force, a building entitlement would have been available due to the land being part of the original Araluen Village West.

Figure 1: Parish map showing land as part of the village.



Development Proposal

This application is for a dwelling on Lot 569-571 DP 755901. It is proposed to provide power to the dwelling by way of a stand alone solar system and potable water will be collected through rainwater tanks. The application is also accompanied by a Clause 4.6 request under the *Palerang Local Environment Plan 2014* to vary the minimum lot size standard of 40 hectares for a dwelling in the RU1 zone.

The land is zoned RU1 under the *Palerang Local Environment Plan 2014*.

The land is undulating terrain, with gentle slopes, broad ridgelines with no canopy vegetation present on-site. The building is situated on land with gentle slope, and will gain access from a Crown Rd, which is an extension of Victoria St.

The land is highly modified due to having been heavily cleared in the past for agricultural activities including cropping and then having continuous pasture improvement over many years.

Figure 2: Aerial photo of lots 569-571 DP 755901.



Section 4.2 Consent Authority

In accordance with the Environmental Planning and Assessment Act 1979 the proposal is considered to be local development and Council is the Consent Authority.

Section 4.9 Designated Development

The proposal is not designated development.

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

The land has been mapped as “Bushfire Prone”. An assessment of the required BAL has been carried out and is included as an attachment to this application. The proposal has been assessed as meeting the BAL of 12.5. However, as the dwelling will be located greater than 200 metres from a through public road it is proposed to increase the BAL to 19 which is an acceptable alternative method to achieving the objectives of the *Planning for Bushfire Protection 2006*.

Photo 1: proposing building site looking south.



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Version: 1, Version Date: 16/05/2019

Section 4.44 Integrated Development

The proposal is not integrated development.

Section 4.15 assessment

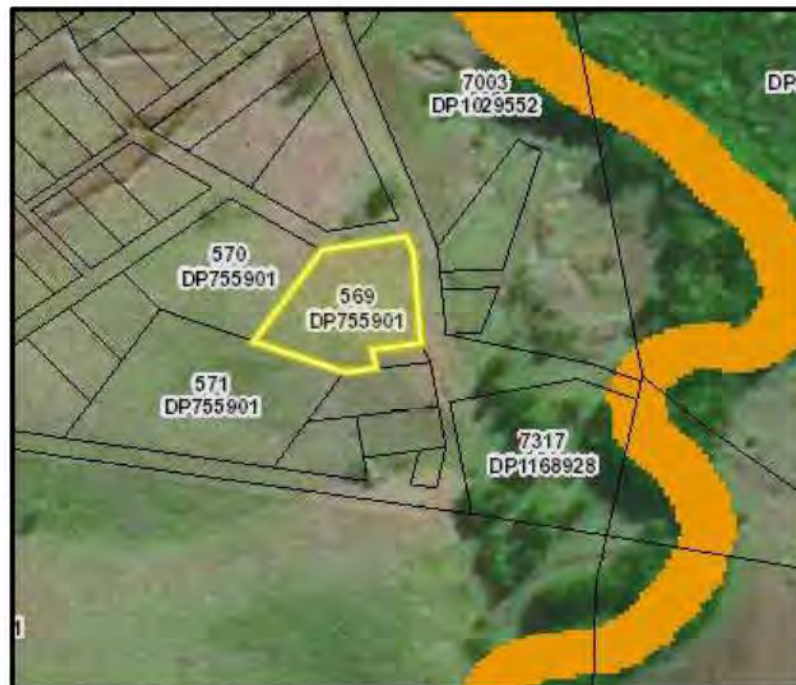
The proposed dwelling has been assessed against s Section 4.15 and the relevant issues are discussed below.

Section 4.15(1)(a)(i) the provisions of any environmental planning instrument:

Biodiversity Conservation Act

The land is not mapped as having high biodiversity values, or being sensitive regulated land or vulnerable regulated land.

Snapshot of property taken from the NSW Native Vegetation Regulatory Map.



As the minimum lot size for the RU1 zone is 40 hectares, the site has a clearing threshold of one (1) hectare. This development does not exceed this threshold, and therefore the provision of biodiversity offsets under the NSW Biodiversity Offsets Scheme will not be required. A Boset Report has been provided with the application to demonstrate compliance with the Act.

Minimum lot size associated with the property	Threshold for clearing, above which the BAM and offsets scheme apply
Less than 1 ha	0.25 ha or more
1 ha to less than 40 ha	0.5 ha or more
40 ha to less than 1000 ha	1 ha or more
1000 ha or more	2 ha or more

The principle requirements under the Biodiversity Conservation Act are to demonstrate avoidance and minimisation of proposed impacts to ecological values within the area. It is recommended that the proposed footprint of the development avoids impacts to native vegetation on the property, and has been sited on exotic grasslands within the study area dominated by introduced pasture species such as Perennial Ryegrass *Lolium perenne*.

State Environmental Planning Policies (SEPPs)

SEPP BASIX

A valid BASIX certificate has been provided with the application.

SEPP 55 – Remediation of Land

The land has historically been used for broadacre agricultural activities. This has included the grazing of cattle on the land most recently and prior to that some cropping. There have historically not been any activities on the land that would lead to contamination.

SEPP (Rural Lands) 2008

The dwelling location ensures rural land is maintained and does not detract from related purposes. The dwelling location ensures minimal land use conflict. As the development does not present any conflicts in land uses, it is considered that there will be minimal social, economic and environmental impacts. The dwelling maintains the matters outlined within Clause 10 of this policy. The existing uses in the vicinity of the site are predominantly rural lots with residential dwellings within a rural farmland setting. The dwelling on site the site will gain access from an extension of Victoria St and the remainder of the site will be used for extensive agricultural activities. This is consistent with the surrounding land uses.

Palerang Local Environment Plan 2014 (PLEP 2014)

The proposal is defined as a “dwelling” under the PLEP Dictionary.

Zoning

The land is zoned RU1 Primary Production under the PLEP 2014.

Zone RU1 Primary Production

1 Objectives of zone

- *To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.*
- *To encourage diversity in primary industry enterprises and systems appropriate for the area.*
- *To minimise the fragmentation and alienation of resource lands.*
- *To minimise conflict between land uses within this zone and land uses within adjoining zones.*
- *To minimise the impact of any development on the natural environment.*
- *To ensure that development does not unreasonably increase the demand for public services or facilities.*

2 Permitted without consent

Extensive agriculture; Home businesses; Home occupations

3 Permitted with consent

Airstrips; Animal boarding or training establishments; Aquaculture; Backpackers' accommodation; Bed and breakfast accommodation; Biosolids treatment facilities; Building identification signs; Business identification signs; Caravan parks; Cellar door premises; Cemeteries; Community facilities; Crematoria; Depots; Dual occupancies; Dwelling houses; Eco-tourist facilities; Environmental facilities; Environmental protection works; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Function centres; Garden centres; Helipads; Home-based child care; Home industries; Hotel or motel accommodation; Industrial training facilities; Information and education facilities; Intensive livestock agriculture; Intensive plant agriculture; Neighbourhood shops; Open cut mining; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (outdoor); Restaurants or cafes; Roads; Roadside stalls; Rural industries; Rural workers' dwellings; Secondary dwellings; Service stations; Sewage treatment plants; Truck depots; Veterinary hospitals; Water recycling facilities; Water supply systems

4 Prohibited

Any development not specified in item 2 or 3

The proposal is permissible with consent in the RU1 zone (subject to the Clause 4.6 variation request being approved). The proposal also complies with the objectives of this zone as it will not create any conflicts between land uses, will not unreasonably increase the demand on services, has been designed to minimize the impact on the natural environment, will not fragment resource lands, and will allow the owners to undertake primary industry activities whilst living on the land. The dwelling has been located outside any flooding areas, and will not impact on wetlands, watercourses or water quality. The location of the dwelling presents no impacts on biodiversity or habitat corridors.

4.2A Erection of dwelling houses on land in certain rural, residential and environment protection zones

(1) The objectives of this clause are as follows:

- (a) to minimise unplanned rural residential development,
- (b) to enable the replacement of lawfully erected dwelling houses in rural, residential and environment protection zones.

(2) This clause applies to land in the following zones:

- (a) Zone RU1 Primary Production,
- (b) Zone RU5 Village,
- (c) Zone R1 General Residential,
- (d) Zone R2 Low Density Residential,
- (e) Zone R5 Large Lot Residential,
- (f) Zone B4 Mixed Use,
- (g) Zone E3 Environmental Management,
- (h) Zone E4 Environmental Living.

(3) Development consent must not be granted for the erection of a dwelling house on land to which this clause applies unless the land:

- (a) is a lot that is at least the minimum lot size shown on the *Lot Size Map* in relation to that land, or
- (b) is a lot created under clause 4.1, 4.1AA, 4.1A or 4.1B, or
- (c) is a lot created before this Plan commenced and on which the erection of a dwelling house was permissible immediately before that commencement, or
- (d) is a lot resulting from a subdivision for which development consent (or equivalent) was granted before this Plan commenced and on which the erection of a dwelling house would have been permissible if the plan of subdivision had been registered before that commencement, or
- (e) is an existing holding, or
- (f) would have been a lot or a holding referred to in paragraph (a), (b), (c), (d) or (e) had it not been affected by:
 - (i) a minor realignment of its boundaries that did not create an additional lot, or
 - (ii) a subdivision creating or widening a public road or public reserve or for another public purpose, or
 - (iii) a consolidation with an adjoining public road or public reserve or for another public purpose.

Note.

A dwelling cannot be erected on a lot created under clause 9 of *State Environmental Planning Policy (Rural Lands) 2008* or clause 4.2.

(4) Development consent must not be granted under subclause (3) unless:

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(a) no dwelling house has been erected on the land, and

(b) if a development application has been made for development for the purpose of a dwelling house on the land—the application has been refused or it was withdrawn before it was determined, and

(c) if development consent has been granted in relation to such an application—the consent has been surrendered or it has lapsed.

(5) Development consent may be granted for the erection of a dwelling house on land to which this clause applies if there is a lawfully erected dwelling house on the land and the dwelling house to be erected is intended only to replace the existing dwelling house.

(6) In this clause:

existing holding means land that:

(a) was a holding on the relevant date, and

(b) is a holding at the time the application for development consent referred to in subclause (3) is lodged,

whether or not there has been a change in the ownership of the holding since the relevant date, and includes any other land adjoining that land acquired by the owner since the relevant date.

holding means all adjoining land, even if separated by a road or railway, held by the same person or persons.

relevant date means:

(a) in relation to land to which *Cooma-Monaro Local Environmental Plan 1999—(Rural)* applied immediately before the commencement of this Plan—3 March 1997, or

(b) in relation to land to which *Goulburn Mulwaree Local Environmental Plan 2009* or *Mulwaree Local Environmental Plan 1995* applied immediately before the commencement of this Plan—15 May 1970, or

(c) in relation to land to which *Gunning Local Environmental Plan 1997* applied immediately before the commencement of this Plan—15 July 1966, or

(d) in relation to land to which *Tallaganda Local Environmental Plan 1991* applied immediately before the commencement of this Plan—14 June 1974, or

(e) in relation to land to which *Yarrowlumla Local Environmental Plan 2002* applied immediately before the commencement of this Plan—13 October 1995.

Lots 569-571 DP 755901 are original parcels of land, that have had no development history over them.

These lots do not meet the minimum area of 40ha required for a dwelling, identified on the Lot Size Map. A written request has been included with the application under Clause 4.6 to vary the development standard contained within Clause 4.2A(3)(a) of the *Palerang Local Environment Plan 2014* (PLEP2014) to permit the erection of a dwelling house on this land that is 5.6 hectares being less than the minimum lot size of 40ha specified under the PLEP2014.

As these allotments are existing portions of land, they were therefore not created under Clause 9 of the *Rural Lands SEPP 2008*, and therefore are not excluded from applying Clause 4.6 of the PLEP2014 to request to vary the minimum lot size required for the erection of a dwelling in the RU1 zone.

4.6 Exceptions to development standards

(1) The objectives of this clause are as follows:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

(2) Development consent may, subject to this clause, be granted for development even though the development would contravene a development standard imposed by this or any other environmental planning instrument. However, this clause does not apply to a development standard that is expressly excluded from the operation of this clause.

(3) Development consent must not be granted for development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

(4) Development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

(5) In deciding whether to grant concurrence, the Secretary must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

(6) Development consent must not be granted under this clause for a subdivision of land in Zone RU1 Primary Production, Zone RU2 Rural Landscape, Zone RU3 Forestry, Zone RU4 Primary Production

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Small Lots, Zone RU6 Transition, Zone R5 Large Lot Residential, Zone E2 Environmental Conservation, Zone E3 Environmental Management or Zone E4 Environmental Living if:

(a) the subdivision will result in 2 or more lots of less than the minimum area specified for such lots by a development standard, or

(b) the subdivision will result in at least one lot that is less than 90% of the minimum area specified for such a lot by a development standard.

Note.

When this Plan was made it did not include all of these zones.

(7) After determining a development application made pursuant to this clause, the consent authority must keep a record of its assessment of the factors required to be addressed in the applicant's written request referred to in subclause (3).

(8) This clause does not allow development consent to be granted for development that would contravene any of the following:

(a) a development standard for complying development,

(b) a development standard that arises, under the regulations under the Act, in connection with a commitment set out in a BASIX certificate for a building to which State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 applies or for the land on which such a building is situated,

(c) clause 5.4.

This application seeks consent under Clause 4.6 of the PLEP2014 to vary the minimum lot size required for the erection of a dwelling in the RU1 zone. The minimum size shown on the Lot Size Map is 40 hectares.

This variation request is attached to this application and demonstrates that compliance with this development standard is unreasonable and unnecessary and that there are sufficient environmental planning ground to justify contravening the development standard.

Concurrence will be required from the NSW Department of Planning and Environment.

Additional Local Provisions

Clause 6.1 PLEP 2014 Earthworks:

This clause does not apply as no earthworks are proposed as part of this development.

Clause 6.2 PLEP 2014 Floodplanning:

This clause does not apply as the proposed development is not in a flood prone area.

Clause 6.3 PLEP 2014 Terrestrial Biodiversity:

This clause does not apply as none of the land is mapped as having Terrestrial Biodiversity

Clause 6.4 PLEP 2014 Drinking Waters Catchments:

(1) The objectives of this clause are as follows:

(a) to protect drinking water catchments by minimising the adverse impacts of development on the quality and quantity of water entering drinking water storages,

(b) to maintain water quality and the natural environment in the Sydney, Googong and Captains Flat drinking water catchments.

(2) This clause applies to land identified as "Drinking water catchment" on the Drinking Water Catchment Map.

(3) In deciding whether to grant development consent for development on land to which this clause applies, the consent authority must consider the following:

(a) whether or not the development is likely to have any adverse impact on the quality and quantity of water entering the drinking water storage, having regard to the following:

(i) the distance between the development and any waterway that feeds into the drinking water storage,

(ii) the on-site use, storage and disposal of any chemicals on the land,

(iii) the treatment, storage and disposal of waste water and solid waste generated or used by the development,

(b) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.

(4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:

(a) the development is designed, sited and will be managed to avoid any significant adverse impact on water quality and flows, or

(b) if that impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or

(c) if that impact cannot be minimised—the development will be managed to mitigate that impact.

The lot falls within the Moruya River Water Catchment. A site and soil assessment report has been provided with the application that demonstrates the proposal has been designed and sited to avoid any significant impacts on water quality and flows.

Clause 6.5 PLEP 2014 Riparian Lands and Watercourses

This clause does not apply as no land is mapped as being riparian land or watercourses.

Clause 6.6 PLEP 2014 Salinity

This clause does not apply to the proposed development as the land does not suffer from salinity.

Clause 6.7 PLEP 2014 Highly Erodible Soils

This clause does not apply as the proposed development will not occur on land that has highly erodible soils.

Clause 6.7 of the PLEP 2014 Slope over 18 degrees

This clause does not apply as none of the land has been mapped as having slope over 18 degrees.

Clause 6.8 & 6.9 of the PLEP 2014 Aircraft noise

Not applicable.

Clause 6.10 PLEP 2014 Developments located in areas near national parks or nature reserves.

This clause does not apply as the land is not located near a national park or nature reserve.

Clause 6.11 PLEP 2014 water supply, stormwater drainage, solid domestic waste, sewage, and the treatment and disposal of effluent.

A water tank of at least 90,000 litres will be installed for potable water supply. Stormwater drainage from the dwelling will be directed to the tank. A Geotechnical report has been provided that demonstrates that the land is capable of servicing a septic tank and absorption trenches.

Section 4.15(1)(a)(ii) Any draft environmental planning instrument that is or has been placed on public exhibition, details of which have been notified to the consent authority;

There is no draft instrument to be considered as part of this application.

Section 4.15(1)(a)(iii) Any development control plan;

Palerang Development Control Plan 2015

The proposed development is consistent with the purpose of the DCP. There are no unreasonable impacts on public services and facilities and does not detract from primary industry and commerce. The development is consistent with the principles of ecologically sustainable development and the location of the dwelling presents minimal impacts on native flora and fauna and water quality.

Part B General Provisions

B1 Site Analysis

A plan of the proposed dwelling has been provided with the application that is at an appropriate scale, is detailed, with aerial photography overlaid and the site clearly marked on the plans.

B3 Terrestrial Biodiversity, Riparian Land, Removal of Vegetation

No significant vegetation is proposed to be removed as part of this application. The dwelling has been sited in cleared areas that can achieve an appropriate Bushfire Attack Level without the removal of any significant native vegetation.

B4 Bush fire Prone Land:

The land is mapped as bushfire prone. A Bushfire Report has been provided with the application and demonstrates that the land can support a construction level of BAL 12.5, however due to being greater than 200 metres from a public road, it is proposed to increase the BAL to 19 to compensate for the lack of alternative access from the site.

B7 Engineering Requirements:

The site is accessed from a crown road which is an extension of Victoria Street. This is a public road, maintained by Council. The location of the existing entrance has good line of sight in both directions.

B13 On-site System of Sewage Management (OSSM):

A geotechnical report has been provided with the application that demonstrates that an OSSM can be provided for the dwelling.

B17 Rainwater tanks:

A rainwater tank with a minimum capacity of 90,000 litres will be provided for the dwelling. An additional 20,000 litres will be provided for bushfire fighting purposes.

Part C Development Specific Provisions

C2.1 Objectives and controls applicable to all land use zones and dwelling types:

The development is consistent with the character of the locality and it is considered that the proposal will not detract from the existing built and landscape environment or the existing amenity of the area.

C2.1.1 Acoustic privacy:

The proposed dwelling is located a suitable distance from other dwellings so as there will be no impacts on the acoustic privacy of the dwelling or adjoining owners.

C2.1.2 Visual privacy:

Due to the distance to other dwellings, this proposal will not impact on the visual privacy of any other property owner.

C2.1.3 Dwelling articulation:

The dwelling sits well within the environment.

C2.1.4 Dwelling exteriors:

It is considered that the proposed dwelling will not detract from the existing character of the locality. The external finish sits well within the landscape.

C2.1.6 Driveways, entrances, access, parking and utilities:

The property is accessed off Victoria St. It is proposed to utilise a stand alone solar system and there is excess room for parking.

C2.1.9 Height:

The proposed development complies with the height map requirements of 10m set out in the PLEP 2014.

C2.1.11 Overshadowing:

The dwelling is single storey and is set well back from property boundaries. There will be no impact from overshadowing.

C2.1.12 Solar access:

The dwelling has been designed to provide solar access to the living areas.

C2.1.14 Roof form (shape):

The roof form is suitable for the development.

C2.5.1 Setbacks:

The dwelling is set back .50 metres from the front boundary and at least 25 metres from all other boundaries.

C2.5.2 Potable water supply:

A potable water supply of 90,000 litres will be provided to the dwelling.

Section 4.15(1)(a)(iii)(a) The provisions of 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 of the EP&A Act:

There are no planning agreements applying to the subject site.

Section 4.15(1)(a)(iv) The provisions of any matters prescribed by the regulations:

There are no particular matters prescribed by the regulations that need to be considered as part of this application.

Section 4.15 (1)(b) The likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality:

The proposed dwelling is suitable for the site as it will not result in any significant impacts on the natural or built environments.

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Context and setting:

The area is rural in nature with properties in the locality varying in size from 1 to >40 hectares. It is considered that the proposed dwelling and the future use of the land will be in keeping with the character of the surrounding area, which is broadacre agricultural activities with associated dwellings and infrastructure.

There is no impact on adjacent properties in terms of access to sunlight, visual and acoustic privacy due to the proposed dwelling being set well back from adjoining properties.

Access, transport and traffic:

The development is proposing to gain access from a Council maintained public road, (Victoria St) and a crown road, which has excellent line of sight in both directions, and poses no issues in terms of traffic or access.

Heritage:

The site is not listed in Council's LEP as a heritage item and there are no heritage items adjoining the site. The site is not known to be a site of aboriginal significance. It is considered that there will be no impact by this development on any site of heritage significance.

Other land resources:

The development will not have any effect on land resources or existing uses of land within the locality.

Soils:

The proposed development will have no detrimental impact on soil conservation. Appropriate soil and erosion controls will be in place during construction.

Air and microclimate:

The development will not affect air quality and microclimatic conditions in terms of existing air quality or pollution.

Flora and fauna:

There is no significant vegetation or mature trees to be removed as part of this development.

Waste:

Waste during the construction phase will be stored on-site and disposed of as required.

Noise and Vibration:

There will be minimal noise and vibration during the construction phase of the development, and as the location of the dwelling is some distance from other residential dwellings, it is not expected that there will be a detrimental impact on adjoining properties.

Natural Hazards:

There are no known risks to people, property or the physical environmental from geologic or soil instability, or flooding.

Technological Risks:

There are no known risks to people, property or the physical environmental from industrial and technological hazards or building fire risk.

Safety, security and crime prevention:

The proposed design of the development does not represent a risk in terms of safety and security.

Social Impact in the locality:

There are no perceivable negative impacts in terms of social issues.

Economic impact in the locality:

There will be some positive short-term impacts during the construction phase. The creation of an additional dwelling which allows for additional people to move to the locality may produce some long-term benefits in terms of economic impact. There are no perceivable negative long-term impacts in terms of economic impact.

Site design and internal design:

The proposed development has been designed to take into consideration the natural features of the land, and has been placed to allow the majority of the land to be continued to be used for agricultural purposes. The proposed dwelling have been sited to avoid any native vegetation clearing and areas of steep slope and mapped areas of high biodiversity value.

Cumulative Impacts:

As this development is minor in nature, the cumulative effect of an additional dwelling will be minimal. The anticipated increase in vehicle movements as a result of this development can be catered for by the existing road network, and it is considered that there will be no negative impact on

the surrounding locality. As a result of this development there will be no detrimental cumulative impacts to the site, or the locality.

Section 4.15(1)(c) The Suitability of the site for the development:

Does the proposal fit in the locality?

The proposed development is consistent with development within the immediate vicinity. The proposed development complies with the Palerang DCP 2015, and there are existing utilities and services available. The air quality and microclimate are appropriate for the development.

Are the site attributes conducive to the development?

The site is not subject to natural hazards, include subsidence, slip, mass movement or flooding. The soil characteristics are appropriate for the development and there are no critical habitats, or threatened species, populations, ecological communities or habitats which will be affected by the proposed development.

Section 4.15(1)(d) Any submissions made in accordance with this Act or the Regulations:

The application is required to be referred to the Secretary of the NSW Department of Planning and Environment for concurrence under Clause 4.6 of the PLEP2014.

Section 4.15(1) (e) The public interest:

The author is not aware of any policy statements from either Federal or State Government that are relevant to this proposal, nor any planning studies or strategies. There is no management plan, planning guideline or advisory document that is applicable to a development of this nature. There are no covenants, easement or agreements that affect this proposal. The recently completed Palerang Rural Land Strategy (December 2016) identified five different categories of rural use. This land falls within the small lot agriculture category.

The proposed dwelling would allow the owners to live on their property and would meet the features and desired characteristics shown below, taken from the *Palerang Rural Lands Strategy 2016-2036*.

5.1.3 SMALL LOT AGRICULTURE

Possible features and desirable characteristics:

- scattered or clustered small lot farms mostly under 50 hectares in agricultural areas
- industry and agriculture is an appropriate distance from urban areas where lights, noise and dust from agricultural may cause conflict
- limited local community infrastructure such as a community hall.
- compatible non-agricultural activities could be undertaken depending on the lot size
- the land is class 3 or 4 agricultural land
- there is access to non-potable water
- there are few environmental assets
- land that is class 3 agricultural land should have a minimum lot size equal to or greater than 16 hectares
- agricultural/education/cultural tourism land uses
- small lot farms and boutique agriculture (except intensive animal) can be undertaken on lots and produce sold at the property gate
- lots which would contain structures are not on a visually prominent ridge

There are no covenants, easements or agreements that affect this proposal. The recently completed Palerang Rural Land Strategy (December 2016) identified five different categories of rural use. This development would fall within the small lot agriculture category and the local area of Araluen contains the community infrastructure and many of the desirable characteristics listed within this category of rural use taken from the *Palerang Rural Lands Strategy 2016-2036*.

The proposed development is consistent with the features and desired characteristics shown below, taken from the *Palerang Rural Lands Strategy 2016-2036*.

5.1.2 RURAL LIVING

Possible features and desirable characteristics:

- estate style development with lot sizes ranging from 2-10 hectares
- lots are directly accessed from a sealed public road
- boutique agriculture (except intensive animal) can be undertaken on lots and the produce sold at local markets
- lots are preferably less than 15 minutes drive from local shops and a public primary school
- local community infrastructure such as a community hall, playground, tennis courts and skate parks are within a short car drive/bike ride or reasonable walking distance

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- *the land is mostly class 4 or 5 agricultural land compatible non-agricultural activities could be undertaken*
- *there is a sustainable ground water supply which may be used for residential purposes*
- *tourism land uses that involve low traffic volumes can be undertaken*
- *the lots are not in a stressed water catchment*
- *the residential lots are not in an endangered ecological community or an area containing threatened species*
- *the lots are not in an area of Aboriginal significance*
- *the lots are not in an extractive industries area (shown on the NSW Department of Primary Industries 117 Direction map)*
- *lots which would contain structures are not on a visually prominent ridge*

Whilst not seeking a rezoning, when applying the same criteria as what is required when assessing individual rezoning requests under the Rural Lands Strategy, the development fits within the desired development within the area. The land was originally part of the village of Araluen, and this can be identified by the number of small allotments surrounding this land. There are also a number of dwellings in the area that sit on lots of land similar or smaller in size then this holding. The land is not large enough to support any agricultural activities of significance, however due to the Araluen climate has the potential for some horticultural activities. This is affected by the fact there is no constant water supply available to the land.

The development of the land will be self-funding, in that it already fronts a public road reserve, presents a low BAL for construction and the power supply will be solar and off grid. The proposal will add benefit to the local LGA and is located such that it cannot be considered development for the purposes of commuter development. Approval of the proposed development would not be contrary to the public interest.

Summary

This proposed dwelling is permissible with consent (subject to the Clause 4.6 request) in the RU1 zone under the PLEP2014. It complies with all other relevant legislation and the applicable controls in the Palerang Development Control Plan 2015. It meets the desired characteristics identified in the Palerang Rural Lands Strategy. It has been demonstrated through this report that the proposal has merit and is consistent with the objectives of this zone.

The site is suitable for the proposed development, and it would not be against the public interest to grant consent to this proposal.



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11 June 2019

The Planning Manager
QPRC
PO Box 90
QUEANBEYAN NSW 2620

Attention: Luke Perkins

By email: council@qprc.nsw.gov.au

Dear Luke,

RE:

Address: Catholic Cemetery Road ARALUEN NSW 2622
Land Description: Lot 569 DP 755901
Applicant: Coe Planning Services
Consent Authority: Queanbeyan-Palerang Regional Council
Development Proposal: Single New Dwelling & Clause 4.6 Request
Application Number: DA.2019.090
Notification Period: 29 May 2019 to 11 June 2019
Our client Amanda J Blandon

Please note we act for the abovenamed who has today given us a copy of your letter addressed to her dated 24 May 2019 and not received until the 29 May 2019.

Please note that at the moment, our client is objecting to the proposed development proposal.

We have had very little time and opportunity to take detailed instructions, however we ask that you grant a further 60 days to allow us to prepare a more detailed objection.

In the short-term, our objection is based on the following:

- 1) Notice to object – time too limited.
- 2) There is no public access to the property, the subject of the proposed application. Our client either owns or has a license over all the adjoining and surrounding land. Therefore, the applicant would have to obtain access rights from our client to which she is, at the moment – objecting to.

- 3) The septic tank effluent system – we note that the report appears to address blocks 569, 570, and 571 in general terms, but not specifically 569. Please advise where such system would be located, and if a specific test has been done.
- 4) To access the property, the applicant's surveyor has obviously been trespassing on our client's property, and in fact has left survey markers on our client's property – this is not acceptable.
- 5) Please explain why the Council has allowed in-principal construction on a property which is less than 40 hectares, which is obviously not in line with Council zoning regulations.
- 6) Our client has a problem, in that should Council approve the proposal, she would find it difficult maintaining the mandatory biosecurity requirements.
- 7) The property is unfenced, and therefore is difficult to ascertain the exact location of a new house.
- 8) Our client has made no donations or gifts as described under section 10.4 of the Environmental Planning and Assessment Act 1970.

We look forward to your reply.

Yours faithfully
NELSON & HILL LAWYERS



Alan R Hill



Request under Clause 4.6 of the Palerang Local Environment Plan 2014

Clause to be varied:- 4.2A(3)(a) Erection of dwelling houses on land in certain rural, residential and environment protection zones



May 2019

Introduction

This is a written request (the Request) to seek a variation to a development standard in accordance with the provisions of Clause 4.6 Exception to Development Standards of the *Palerang Local Environment Plan 2014 (PLEP2014)*.

This request relates to Clause 4.2A Erection of dwelling houses on land in certain rural, residential and environment protection zones.

This Request has considered the detailed guidance within the NSW Department of Planning and Environment (DP&E) guideline *Varying Development Standards: A Guide, August 2011* and planning system circular PS17-006 *Varying Development Standards, December 2017* and addresses the findings and established principles (as relevant) of the following judgements of the NSW Land and Environment Court (NSW LEC):

- *Winten Property Group Limited v North Sydney Council [2001] NSWLEC 46;*
- *Wehbe v Pittwater Council [2007] NSWLEC 827;*
- *Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90 and [2015] NSWCA 248;* and
- *Brigham v Canterbury-Bankstown Council [2018] NSWLEC 1406*

This Request critically analyses the proposed reduction in minimum lot size for a dwelling, it's impact and reasonableness. The analysis demonstrates that an exception to the minimum lot size for a dwelling development standard is warranted in this instance and will provide for a significantly better planning outcome than a compliant development.

Planning Overview

The *Standard Instrument (Local Environment Plans) Order 2006* was introduced to create a common format for local environmental plans across NSW. The Standard Instrument (SI) includes various development standards as a means to achieving environmental planning objectives and these standards can be numerical or performance based.

Clause 4.6 of the SI allows a consent authority to consider and grant consent to a development even in the circumstance where that development would contravene a development standard. Importantly, on land where a SI applies and Clause 4.6 is relevant, the powers of *SEPP 1 - Development Standards* do not apply.

The DP&E Guide confirms that the NSW planning system allows for flexibility in planning controls, in certain circumstances, through the provision of Clause 4.6 and the SI.

The DP&E Guide recommends that a Request to vary a development standard should confirm the planning context and relevant controls to assist the consent authority's assessment.

Table 1 provides a summary of the relevant planning context and provides a key numerical overview of the proposed variation.

Information Requirement	Comment
Relevant Applicable Planning Instrument	PLEP 2014
Zoning of the Land	RU 1 - Primary Production
Objectives of the Zone	<p>The objectives of zone RU1 Primary Production are:</p> <ul style="list-style-type: none"> • <i>To encourage sustainable primary industry production by maintaining and enhancing the natural resource base.</i> • <i>To encourage diversity in primary industry enterprises and systems appropriate for the area.</i> • <i>To minimise the fragmentation and alienation of resource lands.</i> • <i>To minimise conflict between land uses within this zone and land uses within adjoining zones.</i> • <i>To minimise the impact of any development on the natural environment.</i> • <i>To ensure that development does not unreasonably increase the demand for public services or facilities.</i>
Development Standard to be Varied	Lot size for a dwelling
Nature of the Development Standard	A numerical lot size control (40 hectares)
Relevant Development Standard Clause	<i>Clause 4.2A Erection of dwelling houses on land in certain rural, residential and environment protection zones of the PLEP 2014</i>
Objectives of the Development standard	<p>The objectives of Clause 4.2A Erection of dwelling houses on land in certain rural, residential and environment protection zones are:</p> <ul style="list-style-type: none"> • <i>to minimise unplanned rural residential development,</i> • <i>to enable the replacement of lawfully erected dwelling houses in rural, residential and environment protection zones.</i>
Development Standard Numeric Control for the Site	40 Hectares
Proposed Numeric Control	5.6 Hectares
Percentage Variation Between the Proposal and the Planning Instrument	The variation sought in terms of a percentage is 86%.

Proposed Development

The proposal is for a dwelling on Lots 569-571 DP 755901. It is proposed to provide power to the dwelling by way of a stand alone solar system and potable water will be collected through rainwater tanks. Access will be off Victoria Street and along a Crown Road Reserve.

The land is undulating terrain, with gentle slopes, and no mature native vegetation present. The land is highly modified due to having been heavily cleared in the past for agricultural activities and then having continuous pasture improvement and cropping over many years.

Legislative Context

Clause 4.6 of the PLEP2014 sets out key assessment criteria which enables Council to consider and grant development consent for a development that contravenes a development standard. The overarching objectives of this clause are contained in subclause (1) as detailed below:

(a) to provide an appropriate degree of flexibility in applying certain development standards to particular development,

(b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

Subclauses (3), (4) and (5) of Clause 4.6 are relevant and development consent can only be granted subject to their considerations.

Clause 4.6(3)

Clause 4.6(3) requires that development consent must not be granted for a development that contravenes a development standard unless the consent authority has considered a written request from the applicant that seeks to justify the contravention of the development standard by demonstrating that:

(a) that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, and

(b) that there are sufficient environmental planning grounds to justify contravening the development standard.

Clause 4.6(4)

Clause 4.6(4) requires that development consent must not be granted for development that contravenes a development standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) the concurrence of the Secretary has been obtained.

Clause 4.6(5)

Clause 4.6(5) requires that the secretary must consider:

(a) whether contravention of the development standard raises any matter of significance for State or regional environmental planning, and

(b) the public benefit of maintaining the development standard, and

(c) any other matters required to be taken into consideration by the Secretary before granting concurrence.

Relevant Judgements - NSW Land and Environment Court

The following key Land and Environment Court (NSW LEC) judgements provide guidance on key considerations in the assessment of a Clause 4.6 variation request. These judgements focus on the degree to which a consent authority may be satisfied about the matters in Clause 4.6 and therefore further refine the requirements of variation requests:

- *Winten Property Group Limited v North Sydney Council* [2001] NSWLEC 46;
- *Wehbe v Pittwater Council* [2007] NSWLEC 827;
- *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 90 and [2015] NSWCA 248; and
- *Brigham v Canterbury-Bankstown Council* [2018] NSWLEC 1406

The key findings and established principles (as relevant) of the above judgements of the Land and Environment Court are summarised below.

Winten Property Group Limited v North Sydney Council (2001)

The *Winten Property Group Ltd v North Sydney Council (2001)* case posed the following questions to be addressed when considering objections to development standards:

- Is the planning control in question a development standard?
- If so, what is the underlying object or purpose of the standard?
- Is compliance with the standard consistent with the aims of the policy, and in particular, does compliance with the standard tend to hinder the attainment of the objects specified in Section 5(a)(i) and (ii) of the *Environmental Planning & Assessment Act 1979*?
- Is compliance with the development standard unreasonable or unnecessary in the circumstances of the case? (A related question is: would a development which complies with the standard be unreasonable or unnecessary?)
- Is the objection well founded?

Wehbe v Pittwater Council (2007)

This case expands on the findings of *Winten Property Group Limited v North Sydney Council (2001)* case and establishes a five-part test 'Wehbe tests' to ascertain whether strict compliance with a development standard is unreasonable or unnecessary, as follows:

1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;
2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;
3. The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;
4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable; or
5. The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone.

It is noted that the DP&E Guide was formulated on the basis of the findings of the *Winten Property Group Limited v North Sydney Council (2001)* case and the Wehbe Tests.

Four2Five Pty Ltd v Ashfield Council (2015)

The outcome of these cases (initially heard and then upheld at appeal) concluded that in addition to considering the Wehbe Tests, Requests must also demonstrate that:

- the grounds for departing from the development standard must be particular to the circumstances of the proposed development on the subject site; and
- compliance with the development standard is unreasonable or unnecessary, in addition to demonstrating that the proposal was consistent with the objectives of the development standard and/or land use zone.

Bringham v Canterbury-Bankstown (2018)

This case confirmed the decision of *Four2Five Pty Ltd*, that:

- Clause 4.6 mandates a planning assessment of the matters directly raised by the clause and relevant to the particular development and the circumstances of the case; and
- When dealing with a clause 4.6 variation request one should remain 'faithful to the language of the clause rather than any stated principles'.

Assessment of the Variation to lot size development standard

The PLEP2014 contains a minimum lot size of 40 hectares (Clause 4.2A(3)(a)) for a dwelling in the RU1 zone. The proposal seeks to reduce the 40 hectare minimum lot size to 5.6 hectares to allow a dwelling to be constructed on Lots 569-571 DP 755901.

The following assessment comprehensively considers the provisions of Cl 4.6 which has also been informed by an analysis of the relevant case law.

Clause 4.6(3)(a) - Compliance is Unreasonable or Unnecessary

It is considered that compliance with the minimum lot size for a dwelling is unreasonable or unnecessary in the circumstances of this case for the reasons set out below:

- The proposed development will not affect the existing landuses or amenity of surrounding properties
- The subject site has coinciding physical and legal access
- The objectives of the zone and development standard are met by the proposal
- The development is similar in nature to surrounding properties and the locality
- The RU1 land in this locality is part of the historical village of Araluen and already is held in an ownership pattern that does not meet the minimum lot size requirements for a dwelling
- The proposal will not add unreasonable additional demand to existing services. The property is serviced by a public road, and the dwelling will be powered by stand-alone solar systems with domestic water supply collected on-site and effluent management disposed of within the boundaries of the property
- The property is not isolated rural land, with postal services, school bus and community facilities available within walking distance of the land
- The subject site is consistent, both in character and aesthetic value to other properties within the vicinity that have approved dwellings located on them.

In this regard, strict compliance with the minimum lot size control is considered to be unreasonable and unnecessary in the circumstances. The proposal is compliant with the relevant objectives and will have no adverse or environmental or amenity impacts. The proposal is therefore justified on environmental and social grounds. For the reasons above, the proposed minimum lot size for a dwelling variation is consistent with the requirements of Clause 4.6(3)(a) of the PLEP2014.

Clause 4.6(3)(b) - Grounds to Justify Contravening the Development Standard

The development represents a development pattern which is compatible with the existing character and consistent with potential future development within the area. In this context there are sound planning grounds and significant benefits to justify contravening the minimum lot size for a dwelling development standard.

Wehbe Tests

Wehbe Test 1: The objectives of the standard are achieved notwithstanding non-compliance with the standard

The proposed variation to the minimum lot size for dwelling development standard will still see the objectives achieved notwithstanding the non-compliance with the standard as outlined in this report.

Wehbe Test 2: The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary

The underlying objective and purpose of the minimum lot size for a dwelling development standard, is considered relevant to the development.

However (as discussed above) it is considered that allowing a dwelling on this land will facilitate the continuing use of the land for agricultural purposes while resulting in a public domain interface that is respectful of the existing character of the area, and will have acceptable amenity impacts.

Wehbe Test 3: The underlying object or purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable

The provision of a development that strictly complied with the development standard would result in no dwelling being able to be built on the land.

Wehbe Test 4: The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable

In this circumstance, strict compliance with this development standard is unnecessary.

The location and siting of the dwelling means it will not be dominate in the landscape and will not impact on any other property owners. The purpose of the development standard would not be defeated if non-compliance was approved. 100% compliance is considered unreasonable as the variation is acceptable based on merit. The objectives of the standards, as outlined above, will still be achieved despite the variation.

The objectives seek to minimise unplanned rural residential development. As the parcel of land exists and is similar in size, if not larger than many of the properties in the locality, the approval of a dwelling in this location will not increase unplanned rural residential development within the area, as there is already the potential for many more dwellings in the locality due to being "existing holdings" under the PLEP2014 and therefore able to apply for a dwelling on the land.

Wehbe Test 5: The compliance with development standard is unreasonable or inappropriate due to existing use of land and current environmental character of the particular parcel of land. That is, the particular parcel of land should not have been included in the zone

The land has been zoned appropriately and the controls applicable to the site are generally acceptable, however the blanket minimum lot size for a dwelling over the whole of the RU1 zone in this area does not fit within the existing use of the land or the current character of this particular property, or the previous historical use of the land as part of the village of Araluen.

Clause 4.6(4) - Consistency with Objectives

This Request has adequately addressed the matters required to be demonstrated by subclause (3), as outlined in Section 5 of this submission. The proposed development is consistent with the objectives of the RU1 zone as outlined in Table 3 and the building height development standard as outlined in Table 4.

Zone RU1 Primary Production	
Objectives	Achievement of Objectives
<ul style="list-style-type: none"> To encourage sustainable primary industry production by maintaining and enhancing the natural resource base. 	Allowing a dwelling on this small rural property would allow owners to better manage the land and therefore enhance the natural resource base. Araluen has a micro climate which allows horticultural activities not available elsewhere in the Council area. A dwelling would allow owners to undertake more labour intensive primary production activities on the land whilst also maintaining the natural features of the land.
<ul style="list-style-type: none"> To encourage diversity in primary industry enterprises and systems appropriate for the area. 	A dwelling on the land will encourage the owners to investigate diversity in their primary industry enterprises, and the siting of the dwelling ensures that there is no detrimental impact on the natural environment.
<ul style="list-style-type: none"> To minimise the fragmentation and alienation of resource lands. 	The land was originally part of the village of Araluen and as such the lot pattern in this locality is unique and many land holdings are already well below the minimum lot size for a dwelling. There are also a number of dwellings sitting on small lots. Therefore the proposed development will not further fragment or alienate resource lands due to the existing ownership and lot layout pattern in this locality.
<ul style="list-style-type: none"> To minimise conflict between land uses within this zone and land uses within adjoining zones. 	The proposal maintains compatible land uses with the surrounding area and does not pose any conflicts with the land uses in adjoining zones (RU5 - Village).
<ul style="list-style-type: none"> To minimise the impact of any development on the natural environment 	There are no environmental constraints attached to the land and the application has demonstrated that there will be no negative impact on the natural environment.
<ul style="list-style-type: none"> To ensure that development does not unreasonably increase the demand for public services or facilities. 	The land is located close to the village of Araluen and as such all services and facilities expected are located within close proximity to the property.

Table 3: Consideration against the Objectives of the Zone

Clause 4.2A Erection of dwelling houses on land in certain rural, residential and environment protection zone Development Standard	
Objectives	Achievement of Objectives
<ul style="list-style-type: none"> to minimise unplanned rural residential development, 	The dwelling will contribute to the small lot agricultural characteristics that are within the locality and will not create precedent for unplanned rural residential development. A map has been provided with this request which reveals the number of dwellings within the immediate area which sit on lots less than the minimum lot size, to demonstrate that the proposal sits within an area that can already be characterized as rural residential and historically was part of the village of Araluen.
<ul style="list-style-type: none"> to enable the replacement of lawfully erected dwelling houses in rural, residential and 	Whilst there is evidence that there was a dwelling on the property through ruins and plantings, due to the age of the ruins there is no way of determining if the original dwelling was lawfully erected, therefore this objective is not applicable.

Clause 4.6(5)(a) – Matters of Significance for State of Regional Planning

Having regard to Clause 4.6(5)(a), the Concurrence Authority is required to consider whether contravention of the development standard raises any matter of significance for State or Regional environmental significance.

Contravention of the minimum lot size for a dwelling on this allotment of land is not considered likely to raise any matters of State or Regional significance.

Clause 4.6(5)(b) – Public Benefit in Maintaining the Development Standard

Having regard to Clause 4.6(5)(b), the Concurrence Authority is required to consider whether there is a public benefit for maintaining the development standard.

The proposed development is in the public interest as it is consistent with Clause 4.2A and the objectives of the RU1 zone. The proposed development will not impact on surrounding development, the public domain or development opportunities of surrounding land.

The location is a desirable place to live for residents who wish to benefit from a semi-rural environment as well as being located in close proximity to a range of local amenities and activities. Accordingly the proposed development has been designed in context with the local character of the area, with a minimal environmental footprint and with consideration toward the needs of future residents.

In light of the public benefits arising from allowing a variation, it cannot be reasonably assumed that there is any public benefit in maintaining the existing minimum lot size development standard.

How Would Strict Compliance Hinder the Attainment of the Objectives Specified in Section 5(a)(i) and (ii) of the Act?

Sections 5(a)(i) and (ii) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) are quoted below:

The objects of the Act are:

- (a) *to encourage:*
 - i. *The proper management, development and conservation of natural and artificial resources, including agricultural land, natural area, forest, mineral, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment.*
 - ii. *The promotion and coordination of the orderly and economic use and development of land.*

Strict compliance would result in the refusal of a development that through the design process already undertaken, demonstrates that the Act and LEP objectives will be achieved despite being below the minimum lot size as shown on the Lot Size Map for a dwelling in the RU1 zone.

A dwelling on the property would allow for the proper management and conservation of the land, and would allow the owners to undertake agricultural activities that are more labour intensive due to living on the site. Another dwelling in this locality would positively impact on the social and economic welfare of the community, as it provides additional community members and adds to the sense of owners of land being members of the community where their land is located.

Is the Objection Well Founded?

For the reasons outlined in previous sections, it is considered that the objection is well founded in this instance and that granting an exception to the development can be supported in the circumstances of the case.

In this circumstance, strict compliance with this development standard is unnecessary.

The location and siting of the dwelling means it will not be dominate in the landscape and will not impact on any other property owners. The purpose of the development standard would not be defeated if non-compliance was approved. 100% compliance is considered unreasonable as the variation is acceptable based on merit. The objectives of the standards, as outlined above, will still be achieved despite the variation.

The objectives seek to minimise unplanned rural residential development. As the parcel of land exists and is similar in size, if not larger than many of the properties in the area that were previously part of the village of Araluen, the approval of a dwelling in this location will not increase rural residential development within the area.

Conclusion

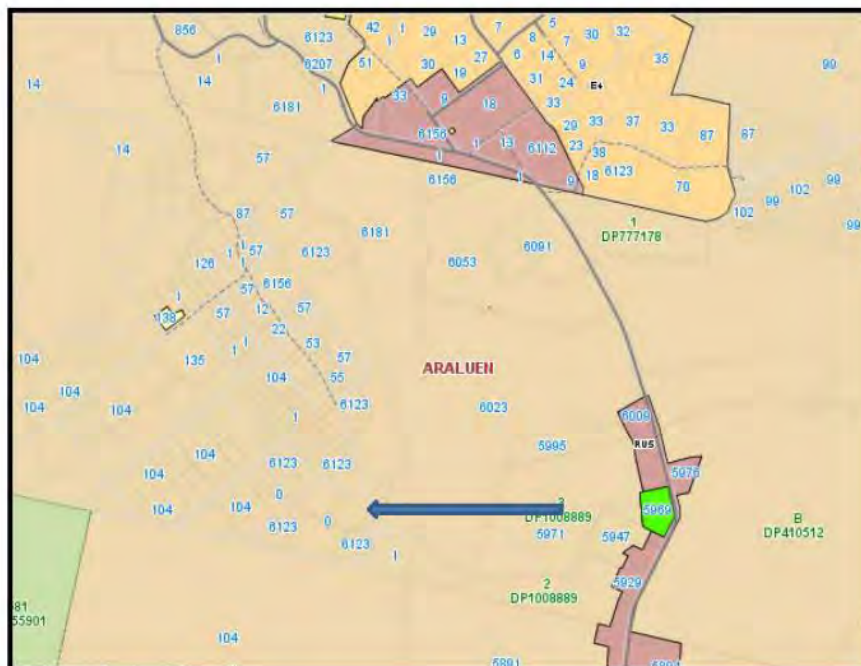
The variation request under clause 4.6 of the *Palerang Local Environment Plan 2014* seeks consent to vary the minimum lot size for a dwelling in the RU1 zone in this location from 40 hectares to 5.6 hectares. This is a variation of 86%. This report has demonstrated that the request has merit, due to the objectives of the standard and the zoning still being met.

Compliance with the development standard is unreasonable and unnecessary in the circumstances of this case as required by cl 4.6(3)(a) because the relevant objectives of the standard are still met by the proposal.

There are sufficient environmental planning grounds for the variance because of the lack of environmental impact of the development and the demonstration that the proposal would not be against the public interest, nor will affect any matters of State or Regional matters.

The proposal sits well within the existing development pattern of the Araluen valley, and as can be seen by the attached maps, the development would not be out of keeping with other residential development within the rural zone in this locality.

Map of zoning of Araluen with proposed development site marked.



Original Parish Map showing land originally part of the village of Araluen West.



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