

**MINUTES OF THE POLICY COMMITTEE MEETING
OF BATHURST REGIONAL COUNCIL
HELD ON Wednesday 1 November 2023**

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1. PUBLIC FORUM

MINUTE

Jane Page - Process when submission on a DA is put in - Queried what is the process for submission such as acknowledgement of these.

DEPBS spoke to processes followed by Council in dealing with the submissions.

Ingrid Pearson - Kelso resident - Ingrid raised the following points:

1. Resurfacing of Gilmour Street - Asked when are the works anticipated to be finished?
 - o **DES** noted Council has not been advised.
2. Storm Water Harvesting Project - Requested an update on the Storm Water Harvesting project.
 - o **DES** provided an update with expected completion date of May 2024.
3. Water Supply Management Item 8.3.2 of the October 2023 Meeting - Queried water management and asked who will be appointed drought manager? Also asked whether Clause 137 of the Local Government regulation restricts Council from implementing water restrictions unless a drought is declared?
 - o **DES** provided an update that either the DES or the Manager Water and Waste will act in this role.
 - o **DES** advised on Council's role in implementing water restrictions.

Stuart Pearson - Go Kart Track - Spoke to the proposed Go Kart Track and the history of the matter such as noise issues, the McPhillamy Park proposal and the Conrod Straight proposal. Noted that a DA application has been submitted but not accepted. There are serious issues, no business case provided, no economic impact statement. Spoke to costings provided of around \$4 million but could go as high as \$7 million. Notes other buildings that are required to make the track compliant. The Go Kart Track costs could be \$9 million, additional funds have not been identified. Noise will effect 251 properties. Noted that a proposal in this area was previously refused. Given Council's financial health, it is unreasonable to fund this. Then spoke to proposed Greyhound track and conflicts that may occur. The Go Kart Track is in the wrong place and is occurring at the wrong time.

MAYOR provided an update on the Greyhound Track proposal.

Mr Gordon Crisp - Secretary Manager, Strata Corporation 47355 - Thanks the person who sorted out the electronic issue from last meeting. Then spoke to the Strata Schemes Management Act. Referred to payments owed to Council and requirements of the Act, in particular water charges. Wants Council to tell officers to comply with the Strata Act. Then raised the local Government Act and that Council cannot refuse payment.

Bob Triming - Accessibility - Thanked the Mayor and the General Manager for positive meeting recently held. Also thanks Council for the improvements in microphone speakers. Discussed the following matters:

1. Raised crossings - Thanked Council for the new raised crossings. They are excellent.
2. Accessible toilet downstairs - discussed that the door on the accessible toilet downstairs is very heavy and asked if this can be investigated. Also noted that the wet floor signs need to be removed as it makes access difficult.
3. Suggested that the unused disability access grants be allocated to fix Council's buildings and facilities.

4. Discussed that the crossing between Catholic Cathedral and the Service station needs Council to provide funding.
5. Spoke to the increase in negative information on social media against Council.
Asked if Council monitors and acts on this mis-information.

MAYOR and **GM** provided a brief response.

2. MEETING COMMENCES

MINUTE

Meeting commenced at 6:30 pm.

Present: Cr K Burke, Cr B Fry, Cr J Jennings, Cr G Hanger, Cr M Hogan, Cr I North, Cr A Smith

3. RECORDING OF MEETING

4. PRAYER AND ACKNOWLEDGEMENT OF COUNTRY

MINUTE

Minutes silence for John Davis, former Mayor of Orange City Council

5. APOLOGIES

MINUTE

MOVED: Cr I North SECONDED: Cr M Hogan

RESOLVED:

That the apology of Cr W Aubin be accepted and leave of absence granted.

That the apology of Cr R Taylor be accepted and leave of absence granted.

That the attendance via audio-visual link of Cr A Smith be accepted.

6. MINUTES

6.1. Confirmation of Minutes

File No: 07.00064

MINUTE

RESOLUTION NUMBER: POL2023-1

MOVED: Cr I North SECONDED: Cr G Hanger

RESOLVED:

RECOMMENDATION:

That the Minutes of the Policy Committee of Bathurst Regional Council held on 1 April 2020 be adopted.

7. DECLARATION OF INTEREST

NIL

8. MAYORAL MINUTE

NIL

9. RECEIVE AND DEAL WITH GENERAL MANAGER'S AND DIRECTORS' REPORTS

9.1.1. IMPROVING GOVERNANCE AND ECONOMIC REPORTING

File No: 11.00041

MINUTE

RESOLUTION NUMBER: POL2023-3

MOVED: Cr I North SECONDED: Cr B Fry

RESOLVED:

That the information be noted.

9.2.1. AMENDMENT TO REVENUE POLICY - BATHURST MEMORIAL ENTERTAINMENT CENTRE, BOX OFFICE TRANSACTION CHARGES

File No: 16.00192

RECOMMENDATION:

That Council:

- (a) Consider the proposed amendment to the Bathurst Regional Council Annual Statement of Revenue Policy 2023/2024 to increase the fees for Bathurst Memorial Entertainment Centre Transaction Charges to \$3.00 per transaction
- (b) Place the proposed amendment on public exhibition for a period of 28 days.
- (c) If no submissions are received, amend Council's 2023/2024 Revenue Policy.
- (d) If submissions are received, provide a further report for Council's consideration.

The 2023/2024 fee for Bathurst Memorial Entertainment Centre (BMEC) Transaction Charges (waived for Members) is listed as \$2.00 per transaction for each item as per page 66 of Bathurst Regional Council Annual Statement of Revenue Policy 2023/2024. The Pricing Category, for this fee, is Pricing Category 3 - Market Pricing in Pricing Policy Principles, page 5.

Following a review of Box Office costs, the income from this fee is not covering expenses.

The current fee is very low compared to other regional and neighbouring venues, where transaction fees vary from \$3.70 to \$8.95. With an increase to \$3.00, BMEC will still remain comparatively inexpensive.

It is proposed to increase the fees to \$3.00 per transaction for the remainder of 2023/2024.

FINANCIAL IMPLICATIONS:

Increase of transaction fees to \$3.00 per transaction will allow Bathurst Memorial Entertainment Centre to achieve budget. It is estimated that the increase will generate approximately \$25,000 to \$30,000 per annum.

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 6: Community leadership and collaboration.

- Strategy 6.4 Meet legislative and compliance requirements.
- Strategy 6.5 Be open and fair in our decisions and our dealings with people.
- Strategy 6.6 Manage our money and our assets to be sustainable now and into the future.

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

Nil

MINUTE

RESOLUTION NUMBER: POL2023-4

MOVED: Cr B Fry SECONDED: Cr M Hogan

RESOLVED:

That Council:

- (a) Consider the proposed amendment to the Bathurst Regional Council Annual Statement of Revenue Policy 2023/2024 to increase the fees for Bathurst Memorial Entertainment Centre Transaction Charges to \$3.00 per transaction
- (b) Place the proposed amendment on public exhibition for a period of 28 days.
- (c) If no submissions are received, amend Council's 2023/2024 Revenue Policy.
- (d) If submissions are received, provide a further report for Council's consideration.

10. SUBMISSION HEARING - DEVELOPMENT APPLICATION SUBMISSIONS

10.1. MODIFICATION TO DEVELOPMENT APPLICATION 2015/106 - EXTRACTIVE INDUSTRY AT NAPOLEON REEF ROAD, NAPOLEON REEF. APPLICANT: HOTHAMS SAND SOIL & GRAVEL SUPPLIES PTY LTD. OWNER: HOTHAMS SAND SOIL & GRAVEL SUPPLIES PTY LTD.

File No: 2015/106-07

RECOMMENDATION:

That the information be noted.

PURPOSE OF SUBMISSION HEARING:

The purpose of the Submission Hearing is to provide:

- (a) a further opportunity for those who lodged a submission to have their concerns heard;
- (b) the applicant an opportunity to respond to those concerns; and
- (c) Councillors an opportunity to understand the issues raised in public submissions and the applicant's response.

The meeting is not to resolve concerns or make a determination.

REPORT:

Site

Council has received an application to modify Development Application 2015/106 for an extractive industry at Napoleon Reef Road, Napoleon Reef, described as Lot 3, DP 226520.

An aerial location plan is provided at **attachment 1**.

Proposed development

The proposed modification seeks to permit the use of blasting operations within the existing approved extractive industry. The applicant anticipates that blasting would occur between two (2) and four (4) occasions per year. The modification does not alter the approved extraction area, rate of extraction, hours of operation or transport arrangements.

See Statement of Environmental Effect that outlines the proposal at **attachment 2**.

The extractive industry was approved on 25 November 2015 and has been operational for a number of years.

While initially included, blasting was excluded from the original proposal because it would have triggered Designated Development according to the Environmental Planning and Assessment Regulations that applied at the time. The Regulations have since been amended to clarify the triggers for Designated Development, in particular the measurement of distances between non-associated dwellings and components of the approved operation. The interpretation of the Regulation amendments are the subject of legal advice provided by the applicant.

Summary of Attachments

Attachment No.	Description
1.	Location Plan and Aerial
2.	Statement of Environmental Effects inclusive of Acoustic Review
3.	Submissions
4.	Applicants' response to submissions

COMMUNITY PARTICIPATION PLAN:

Proposed modification has the potential to impact properties beyond those directly adjoining. The modification was therefore notified to all properties within 500 metres of the subject site and those who lodged submissions in relation to the original proposal.

The proposed modification was notified between 23 June 2023 and 7 July 2023. During the notification period a total of eight (8) submissions comprising one (1) letter of support and seven (7) objections.

See submissions at **Attachment 3**.

ISSUES RAISED:

Issues raised in the submissions are summarised as follows:

- Noise.
- Dust.
- Roads unsuitable for heavy vehicle traffic.
- Roads unsuitable for transport of dangerous goods (explosives).
- Request for a test blast to measure noise and vibration.
- Concern that drilling associated with blasting has not been considered.
- Avoidance of trigger for Designated Development.
- Potential damage to aquifer from blasting.
- Conflicting information about frequency of blasting.
- Request for no blasting on Saturdays.
- Request for signage to notify residents prior to blasting.
- Lack of detail about impact of blasting.
- Lack of detail about blasting limits and monitoring.
- Track record of non-compliance.
- Number of complaints received is understated.
- Heavy vehicle movements happening outside approved times.
- Potential for water supply contamination.

The Applicant's response to the above issues is provided at **Attachment 4**.

CONCLUSION:

The Development Application will be reported to a future Ordinary Meeting of Council for determination.

FINANCIAL IMPLICATIONS:

Nil

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:

Objective 4: Sustainable and balanced growth.

Strategy 4.6 Plan for, assess and regulate development activity.

COMMUNITY ENGAGEMENT:

02 **Consult** - to obtain public feedback on alternatives and/or decisions

ATTACHMENTS:

1. Location Plan [**10.1.1** - 2 pages]
2. Statement of Environmental Effects [**10.1.2** - 69 pages]
3. Submissions [**10.1.3** - 13 pages]
4. Applicant's response to submissions [**10.1.4** - 34 pages]

MINUTE

RESOLUTION NUMBER: POL2023-5

MOVED: Cr B Fry SECONDED: Cr I North

RESOLVED:

That the information be noted.

Gerarda Mader - Submission - Asked DEPBS for clarification about the Policy around notification of a Submission hearing?

DEPBS noted that notification is made in advance as soon as practicable and spoke to processes in place.

Gerarda noted that she was not notified by Council.

DEPBS advised that submissions have been received and spoke to the item being reported to Council.

Gerarda noted the content of her submission and the 22 occurrences of non-compliance, holds videos and images of this.

DEPBS noted that the assessment team will consider the submissions.

Gerarda asked for clarification about how to submit video evidence.

DEPBS provided a pathway for lodgement of video evidence.

Gerarda asked about when a determination of the DA will occur?

DEPBS noted lengthy process and unlikely to be at the December meeting.

Jan Page - Submission - Noted that the submissions have not been acknowledged and that residents are confused about the process, now there are submission hearings? Noted that a resident was advised that a reply would be provided by Council but this has not occurred.

Cr Burke asked when the submissions were lodged? Jan responded that they were lodged end of June.

DEPBS noted that not sending out an invitation is not normal practice and will investigate. Reiterated that the submission hearing process is similar to a Public Hearing. Noted that the process was different during Covid, but has resumed now Policy Meetings have resumed.

Jan stated that there is a lack of detail about the blasting activities, noting that the original application removed blasting. Noted the inconsistency between EIS and the acoustic report with respect to the number of blastings, e.g. one report said 2-4 per year whilst another said one blast per month.

Jan would request:

- Trial blast be undertaken to assess impact;
- Blasting does not occur on weekends;
- Signage be put out at Walang Drive and Napoleon Reef Rd to advise when blasting will occur. Noted that a mail box drop will not work.
- Asks that Council consider lifestyle.

Andrew Lemeke - Submission - Noted that he received no notification. Discussed his submission and noted that there is an inconsistency between size of blast from 30-50kg up to 240kg charge. Spoke to recent compacting work on the highway which could be felt from his house. Noted that we need to know what is proposed with documentation proof and evidence. Suggested Council do a trial blast to know what the proposal means and to assess the impacts.

Graham Sanders - Submission - Thanked Council for its response about a recent truck incident. The problem has been partly resolved with white lines. Asked who monitors the size and frequency of blasting? Previously on other matters rules have not been adhered to. Noted truck concerns.

Mitchell Bland - R.W Corkery and Co. - Noted that the company have written the replies to the submissions document. Spoke to:

- Non-compliance - Noted that the client has reviewed the video evidence and has advised that the vehicles identified are not owned by Hothams. The vehicle that was on the wrong side of the road was an agriculture vehicle not a quarry vehicle.
- Blasting - Explained the process of blasting and the Australian Standards. Noted that the maximum charge (blasting) is 240kg before it disturbs the human comforts, but the blasting operations will be 1/3 less to a maximum of 80kg.
- The quarry self-monitors for blast compliance based on EPA guidelines.
- The client is willing to undertake a test blast, if Council see fit.
- Noted the inconsistencies between the number of blasts, and noted the SEE is correct and there will be no more than 4 blasts.
- Noted that the EPA will normally only approve blasting Monday - Friday, 9am - 5pm, so no weekends or public holidays.
- Noted that the client is willing to work with the community for location signs. Discussed the difficulties in scheduling blasting, which may result in blasting not occurring. Sites will normally only give 24hrs notice before blasting.

- Lifestyle of the area is being considered.
- Discussed the process and methodology for monitoring the blasting activities.
- Spoke to the frequency and volume of truck movements.
- Truck movements - Noted maximum numbers of truck movements and records are maintained.

Cr K Burke asked whether a test blast is possible without a DA approval?

DEPBS provided a response.

Jane Iacano - Submission - Spoke to the photos submitted and that the photos showed vehicles on the wrong side of the road. The truck was from the quarry and it was very dangerous. The road is not good and there are sheer drops, the road is not an appropriate width. Referred to the dust issues from quarry activities, this is different to road dust. Residents are not aware of monitoring reports, Council should be providing these to residents. Noted they need to do something about the dust, also need assurance blasting will not effect the bore water. Who has access to the monitoring reports?

DEPBS took this on notice.

Mitchell Bland spoke to blasting activities and to his knowledge there have not been any impacts on groundwater from blasting in this type of situation. Noted that vehicle movements have been addressed as part of the response document. Spoke to the dust complaints, noted that he hasn't reviewed the data. Spoke to the allowable tolerances. Noted that visible dust should be notified straight away to be corrected. Spoke to annual reporting and noted that the client has agreed to make the report publicly available. Jane asked whether notification can be made on the annual reports.

DEPBS provided a response about needing to work through the process.

Phil Hotham - Advised that blasting is the quickest and easiest way to get the material. Alternatives include dozers and jackhammers. Noted that they are trying to do the best for everyone and do it in the least intensive way. Spoke to vehicle movements and discussed the protocols in place, including a complaints process.

The DA Discussion forum finished at 7:43pm.

11. GENERAL BUSINESS

MINUTE

Cr M Hogan -

Natural Resource Advisory Group - The group is being reinvigorated and just recently met. The group will meet quarterly and will work on Vegetation Management Plan issues. Queried how the review of TPO going? Could an update of the Action Transport Strategy be given.

DEPBS noted that the TPO review is occurring and provided an update on works status. Also noted that the Active Transport Plan works have recommenced and meetings have been held with various interest groups.

National Cultural Policy - Spoke to recent discussions with ArtsOutwest and linking the National Cultural Policy with the National Urban Living Framework and whether this is a possibility to use for the TAFE building. Can this be researched?

DCCS checked the Revive Policy (Federal) document and has not found it referred to but will investigate further.

Cr I North -

Roads funding from state - Asked about road funding, what roads and the availability of contractors?

DES noted that Council is currently applying for around \$3 million that has been earmarked for Bathurst Regional Council and noted the difficulty in getting contractors.

Tourism - Referred to the dinosaur museum in Canberra and the possible collaboration opportunities.

MAYOR advised of his recent visit and actions occurring.

Cr North requested that Council look at bringing tourism partners together, can a report be prepared on how to bring them together, what opportunities exist and how we operate into the future. Often businesses don't know opportunities that exist. Noted the possibilities with Project Elevate into the future, perhaps Council could put in seed money of \$50,000 in next years budget.

Western Sydney Wanderers Game - Pleased to see the proposed event coming to Bathurst. What is Council doing about this? Noted that it needs to be promoted more.

DCCSF spoke to discussions with Wanderers media team in getting promotional material out and noted that there have been issues.

Expression of Interest Second Circuit Race Track - Discussed the need to release an expression of interest for the Second Circuit because of the international interest. Referred to the process for the Crematorium and should be mirrored. Suggests that we should be more proactive in securing The Second Circuit.

Cr K Burke -

Media Release Homelessness Stakeholders Meeting - Who engaged the stakeholder meeting and do we have estimates on homelessness in Bathurst? How will the meeting be facilitated?

MAYOR noted evidence of about 500+ homeless in Bathurst. Council is carrying out a facilitator role, Council does not have the resources to provide facilities. Mayor is coordinating and will be chairing and facilitating the meeting.

Cr B Fry -

Submission Hearing - Noted DEPBS will follow up on communication issues raised. Asked if advice can be provided to Councillors.

BARC - When will BARC be opened? Spoke to issues subcontractors are having with being paid by principle contractors. Has Bathurst Regional Council approached the principle contractors?

DES noted that an independent building inspector is expected next week and hopefully an occupation certificate will be issued. Council is talking to the principal contractor over payments. Contractual obligations of Council were noted.

Kelloshiel Bridge and Saltram Creek - Noted the Kelloshiel Bridge works occurring. Asked when are works going to occur for the Eleven Mile culverts?

DES noted that a contractor has been engaged after quotes were collated. A timeline is yet to be finalised.

Supercars, Superfest - What discussions are occurring with Supercars for City based events? Also noted Supercars will get economy of scale from not going to Newcastle.

MAYOR noted that discussions are occurring in regards to off-track events, this is a priority. Noted it is still too early to define what will occur.

Airport - What are the next steps? Would like a report on the future RPT services.

DEPBS noted they have been reviewing possibilities for future use of the airport. RPT is certainly a challenge. There are opportunities for relocation's to the airport from out of Sydney.

DES noted Council will try again for another RPT operator. Unlikely to get something soon as Bathurst is marginal. Opportunity for additional businesses at the aerodrome is presented by the subdivision that is occurring.

MAYOR noted he will be meeting with Orange Council to discuss airport operations. Also spoke to electric plane developments into the future.

Mayor J Jennings -

AMaGA Local Chapter - Requested that Council investigate creating a local chapter of Museum and Galleries Association for Bathurst incorporating Public and Private museums.

12. MEETING CLOSE

MINUTE

The Meeting closed at 8:20 pm.

CHAIR:

Policy Meeting of Council - 1 November 2023 Attachments

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9.1.1.1. MAYORAL MINUTE - IMPROVING GOV.....8

10.1. MODIFICATION TO DEVELOPMENT APPLICATION 2015/106 -

EXTRACTIVE INDUSTRY AT NAPOLEON REEF ROAD, NAPOLEON

REEF. APPLICANT: HOTHAMS SAND SOIL & GRAVEL SUPPLIES

PTY LTD. OWNER: HOTHAMS SAND SOIL & GRAVEL SUPPLIES

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**MINUTES OF THE POLICY COMMITTEE MEETING OF
BATHURST REGIONAL COUNCIL
HELD ON WEDNESDAY 1 APRIL 2020**

1. MEETING COMMENCES

MINUTE

Meeting commenced at 6.00pm.

Present: Cr W Aubin, Cr B Bourke, Cr A Christian, Cr J Fry, Cr G Hanger, Cr J Jennings, Cr M Morse, Cr I North, Cr J Rudge

2. RECORDING OF MEETING

3. PRAYER AND ACKNOWLEDGEMENT OF COUNTRY

4. APOLOGIES

MINUTE

MOVED: Cr I North SECONDED: Cr J Rudge

RESOLVED: Nil

5. MINUTES

5.1. Confirmation of Minutes

File No: 07.00064

MINUTE

RESOLUTION NUMBER: POL2020-8

MOVED: Cr I North SECONDED: Cr J Fry

RESOLVED:

That the Minutes of the Policy Committee Meeting of Bathurst Regional Council held on 4 March 2020 be adopted.

6. DECLARATION OF INTEREST

6.1. DECLARATION OF INTEREST

Declaration of Interest

MINUTE

RESOLUTION NUMBER: POL2020-9

MOVED: Cr I North SECONDED: Cr J Jennings

RESOLVED: That the Declaration of Interest be noted.

**7. RECEIVE AND DEAL WITH GENERAL MANAGER'S AND
DIRECTORS' REPORTS**

DIRECTOR ENVIRONMENTAL, PLANNING AND BUILDING SERVICES

**7.1.1. LIGHTING - WHITE WAY LIGHTING UNDER AWNINGS IN
THE CBD**

File No: 28.00014

MINUTE

RESOLUTION NUMBER: POL2020-10

MOVED: Cr A Christian SECONDED: Cr I North

RESOLVED:

That Council:

- (a) revoke Policy "Lighting - White Way Lighting Under Awnings in the CBD."
- (b) note additional information regarding the status of existing under-awning lighting in the CBD

DIRECTOR CULTURAL AND COMMUNITY SERVICE'S REPORT

7.2.1. POLICIES - BATHURST MUSEUMS

File No: 21.00144, 21.00150

MINUTE

RESOLUTION NUMBER: POL2020-11

MOVED: Cr J Rudge SECONDED: Cr G Hanger

RESOLVED:

That Council adopt the following policies:

- (a) Museums Collections Management Policy (reviewed)
- (b) Collection Care and Preservation Policy
- (c) Museums Acquisition and Deaccessioning Policy
- (d) Museums Loans Policy

8. GENERAL BUSINESS

MINUTE

1. Wendy MacDougall Retirement - 35.00945-04

Cr Morse - Wished to pay tribute to the 49 years service given by Wendy to the Council. Requested Council acknowledge this.

2. Business Disadvantaged Mitre/Suttor/Lambert - 25.0095-03

Cr Morse - Requested what assistance could be provided for these businesses.

Mayor - Requested Cr Morse make an appointment to see General Manager.

3. Carillon - Clavier - 04.00021-11

Cr Morse - Spoke to history of the recent and proposed upgrades. Noted practice clavier is with Mitchell Conservatorium and this is now locked up due to COVID-19. Plans for this year have been knocked sideways.

4. COVID-19 Matter and Health - 14.00764

Cr Jennings - How is Council dealing with this and spoke of bed numbers at the Hospital. Requested further information from Health District. Spoke to reduction in anaesthetists. Also feels Bathurst Health Committee should be reinstated.

General Manager - Spoke of recent meetings held with Minister and Dr Chant. Will be meeting with Local Health District tomorrow.

5. Economic Recovery Strategy - 13.00027-04

Cr Jennings - Do we have one in place?

General Manager - Currently staff are working on a strategy.

6. Local Distilleries in region - response to COVID-19 - 14.00764

Cr Jennings - Congratulations on their response to providing hand sanitiser. Could we look at putting it in public spaces?

7. Water Security - 32.00046

Cr. Jennings - Requested an updated on this matter.

Director Engineering Services - Working with state government, gave update on stormwater harvesting and pipeline project. Still working on listing on critical infrastructure Act. Liaising with government on funding options.

8. Library/ Art Gallery operations - 21.00054-07/ 21.00039-04

Cr Aubin - How are these going?

Director Cultural Community Services - Spoke to staffing regimes; e-books, mobile library service village and aged persons service. Service is adapting to the COVID-19 matter.

9. Anaesthetists at Bathurst Hospital - 18.00035-04

Cr Aubin - The numbers have reduced from 8 down to 2. This is an appalling situation. Awaiting Clinical Services Review release. Hospital Services are being cancelled.

10. Critical Water List - 32.00046

Cr Aubin - Cannot see why Council is not on the list. Council needs to take action.

11. Water Security Update - Government money - 32.00046

Cr Fry - Understands have \$10 million allocated, with Government shut down where are we at with extra \$10 million?

General Manager - Provided information of current funding streams and proposals.

12. CSU - Health Precinct - 20.00337

Cr Fry - Spoke to discussions on use of Pit Complex for various disaster scenarios ie a health precinct. Could infrastructure be built in the location to satisfy this need.

General Manager - Noted temporary proposals for Mt Panorama.

Director Environmental Planning Building Services - Spoke to current CSU facility proposals.

13. Bathurst Business Chamber Request for assistance - 18.00027-03

Cr Christian - Business Chambers seeking assistance/ relief during COVID-19.

General Manager - Matter is being looked into by staff.

14. Lower Keppel Street - median strips - 25.00039-05

Cr Christian - Could we get these mowed and maintained?

Critical Infrastructure Listing - 32.00046

Cr Christian - Very frustrated at the delay in Bathurst Regional Council being listed.

B. Trimming Funding Request - 07.00031-13

Cr North - Could funding for Council works not being undertaken be utilised for access projects.

17. Water Matters - 32.00046

Cr North - Critical infrastructure listing, has fine print details been completed?

18. Business Support - 14.00764

Cr North - Small businesses are the backbone of the community. Requested look at options for rates to be deferred on businesses that have gone into hibernation?

19. Skate Park - 04.00037-04

Cr North - Who polices COVID-19 restrictions at parks etc.

General Manager - The police are the regulatory authority.

20. Virtual Tours of Museums - 21.00144

Cr North - Are we looking at these?

Director Cultural Community Services - Currently developing virtual tours, noted library Sim-City project.

21. COVID-19 Social Distancing - 14.00764

Cr North - Should we be looking at closing our doors, utilising web casting for meetings.

General Manager - Noted current Government guidelines, Council will adhere to these. It is a matter for Councillors to determine their attendance.

22. Policy - Water Infrastructure - 32.00046

Cr North - Requested when resources are available that Council look at developing policy as requested by Cr Fry.

23. Playground/ Outdoor Gym areas - 14.00764

Cr Rudge - People are expressing concerns at people still using playgrounds and gym equipment. Can we put signs up to assist the police.

24. Panorama Clinic - 14.00764

Cr Rudge - Concerns about changes to Services due to COVID-19 have been raised. Cr Rudge has spoken to Ministers Office and a media release will be issued in the near future, hopefully protecting the service.

9. MEETING CLOSE

MINUTE

The Meeting closed at 6.43pm.

CHAIR:

8.1 MAYORAL MINUTE - IMPROVING GOVERNANCE AND ECONOMIC REPORTING

File No: 11.00041

RECOMMENDATION:

That Council;

- 1) Reinstate Policy Meetings previously held on the first Wednesday of the month except January and February, beginning on 1st November 2023, as per Council's existing meeting procedure policy.

Note: These meetings are open to the general public, and media is invited to attend for the purpose of reporting on Council business arising.

Note: Increasing the opportunity for community and media engagement with Council especially on policy direction will better inform our Bathurst community of Council policy directions, projects and actions in the past, present and future.

Note: Additional issue-specific Submission Hearings can be held by Council as part of the Policy Meeting procedure as was done previously.

- 2) That Council offer a new General Public Forum session with the reinstated Policy Meeting (Item 1 above) that is dedicated to general discussion on any topic raised by the public, and is not restricted to the agenda of the Policy Meeting agenda. The Public Forum is to be conducted in accordance with the Provisions in the Code of Meeting Practice clause 4.
- 3) In light of Item 2 (above), Council is to maintain public forum prior to Ordinary Meetings (usually held 3rd Wednesday of the month) with public discussion limited to the agenda of the business paper of the night referred to as Agenda Public Forum.

Note: Council business commonly requires major decisions to be debated and decided by Councillors, with the resulting decisions commonly determining local people's livelihoods especially with respect to Development Applications. Significant financial decisions are also decided on a regular basis, and hence the Agenda Public Forum prior to Ordinary Meetings should remain focused on the agenda of the night.

Bathurst Regional Council Budget Analysis

- 4) That Council provide a new budget analysis report in the form of an Executive Summary of its Annual Operating Plan when it is reported each quarter.

Note: This new quarterly AOP Executive Summary will better inform the Community of Council's prevailing budgetary position with respect to policy aims, objectives and community expectations.

State of Play of Bathurst Regional Economy

- 5) That Council quarterly report and highlight a select range of key economic indicators to regularly present the state of the Bathurst regional economy.
- Council is to seek public feedback regarding the specific economic indicators to be reported on the state of Bathurst's regional economy.
 - Upon receiving community feedback (item 5a above), Council is to research and fund the range of economic indicators selected, based on the most current and available data on a quarterly basis.

Note: The state of play of the Bathurst Regional Economy has traditionally been underrepresented in public discussions about Bathurst, despite such information being a strong driver for investment.

Date	Meeting Type	Public Forum
1 st November 2023, 6pm (1 st Wednesday)	Policy Meeting	Yes – General
15 th November 2023, 6pm (3 rd Wednesday)	Ordinary Meeting	Yes – Agenda
6 th December 2023, 6pm (1 st Wednesday)	Policy Meeting	Yes – General
13 th December 2023, 6pm (2 nd Wednesday)	Ordinary Meeting	Yes – Agenda
7 th February 2024, 6pm (1 st Wednesday)	Ordinary Meeting	Yes – Agenda
21 February 2024, 6pm (3 rd Wednesday)	Ordinary Meeting	Yes – Agenda
6 th March 2024, 6pm (1 st Wednesday)	Policy Meeting	Yes – General
20 th March 2024, 6pm (3 rd Wednesday)	Ordinary Meeting	Yes – Agenda
3 rd April 2024, 6pm (1 st Wednesday)	Policy Meeting	Yes – General
17 th April 2024, 6pm (3 rd Wednesday)	Ordinary Meeting	Yes – Agenda
1 st May 2024, 6pm (1 st Wednesday)	Policy Meeting	Yes – General
15 th May 2024, 6pm (3 rd Wednesday)	Ordinary Meeting	Yes – Agenda
5 th June 2024, 6pm (1 st Wednesday)	Policy Meeting	Yes – General
19 th June 2024, 6pm (3 rd Wednesday)	Ordinary Meeting	Yes – Agenda

REPORT:

Improved Governance

The following improvements to Council's governance structure are proposed to be trialed

up to Christmas 2023. The proposed governance improvements effectively double the current offering of public meetings and public question times available to the Bathurst community and media. Council intends to significantly increase its transparency and accountability to the Bathurst community by delivering better governance, better communications and ultimately better community engagement.

If these improvements are deemed successful, Council will formally amend its Meeting Procedure by way of public exhibition for an extended period immediately following the December Ordinary Meeting from 14th December 2023 to 30th January 2024 which is six weeks of public exhibition rather than four.

This approach enables formal changes to Council's Meeting Procedure to potentially be adopted at Council's second Ordinary Meeting of February 2024 to get on with the year ahead.

Improved Budget Analysis

To better communicate Council's finances to the Bathurst community and media, a new quarterly AOP Executive Summary will be reported by Council to better inform the Community of Council's prevailing budgetary position with respect to policy aims, objectives and community expectations.

Improved Economic Reporting

The state of play of the Bathurst Regional Economy has traditionally been underrepresented in public discussions about Bathurst, despite such information being a strong driver for investment. Regularly reporting the state of the Bathurst economy will enable a wider understanding of prevailing local economic conditions.

That Council;

- 1) Reinstate Policy Meetings previously held on the first Wednesday of the month except January and February, beginning on 1st November 2023, as per Council's existing meeting procedure policy.

Note: These meetings are open to the general public, and media is invited to attend for the purpose of reporting on Council business arising.

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Forum.

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5 th June 2024, 6pm (1 st Wednesday)	Policy Meeting	Yes – General
19 th June 2024, 6pm (3 rd Wednesday)	Ordinary Meeting	Yes – Agenda

FINANCIAL IMPLICATIONS:

N/A

BATHURST COMMUNITY STRATEGIC PLAN – OBJECTIVES AND STRATEGIES:**Objective 6: Community leadership and collaboration.**

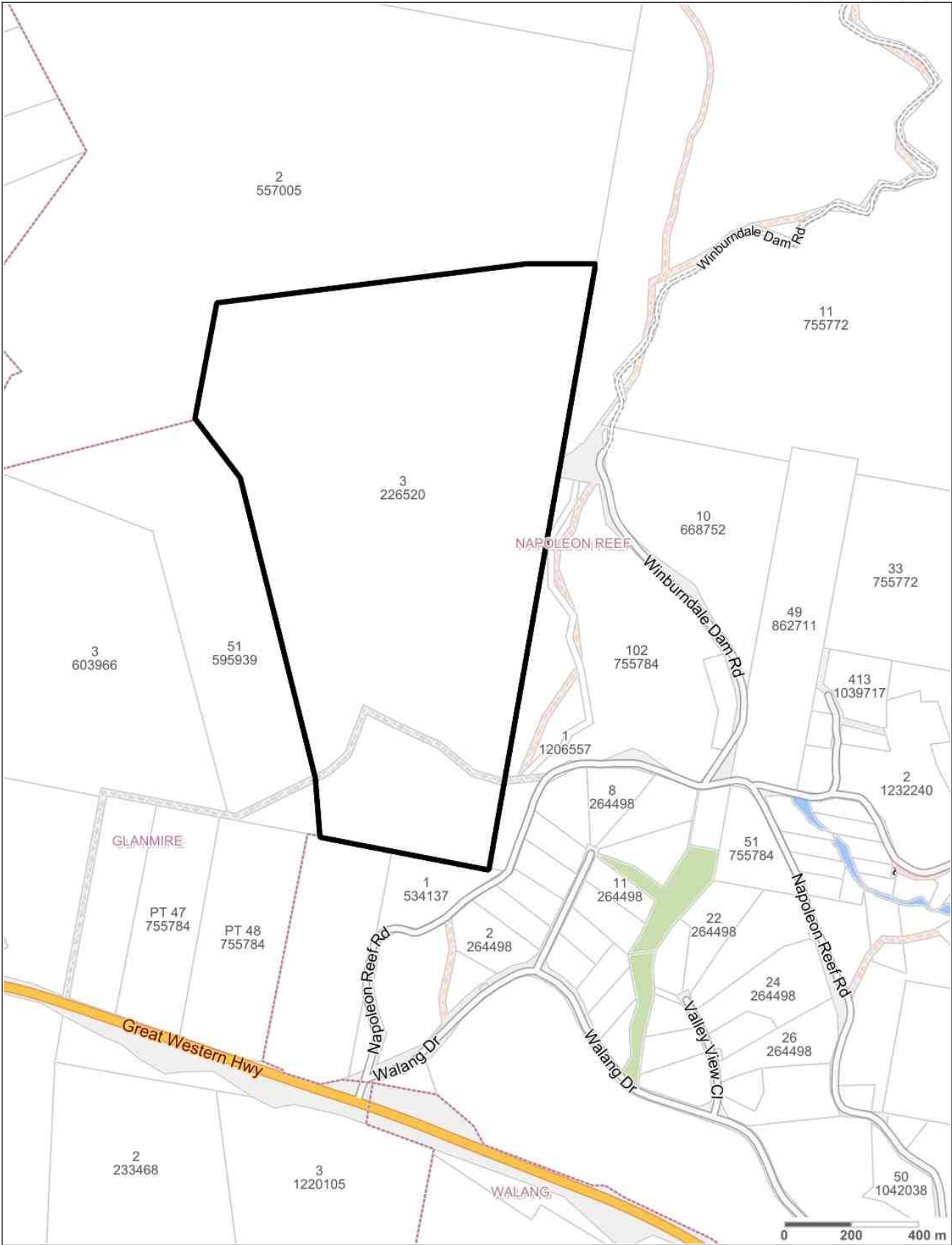
Strategy 6.1	Communicate and engage with the community, government and business groups on important matters affecting the Bathurst region.
Strategy 6.4	Meet legislative and compliance requirements.
Strategy 6.5	Be open and fair in our decisions and our dealings with people.
Strategy 6.6	Manage our money and our assets to be sustainable now and into the future.
Strategy 6.8	Implement opportunities for organisational improvement.

COMMUNITY ENGAGEMENT:

01 **Inform** - to provide the public with balanced and objective information to help them understand the problem, alternatives, opportunities and/or solutions.

ATTACHMENTS:

Nil



BATHURST REGIONAL COUNCIL

Bathurst Regional Council
PMB 17
158 Russell Street
BATHURST NSW 2795
Telephone: 02 6333 6111
Fax: 02 6331 7211
Email: council@bathurst.nsw.gov.au

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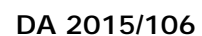
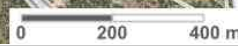
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DA 2015/106

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Hothams Sand Soil and Gravel Supplies

ABN: 35 129 503 911

Statement of Environmental Effects



for the

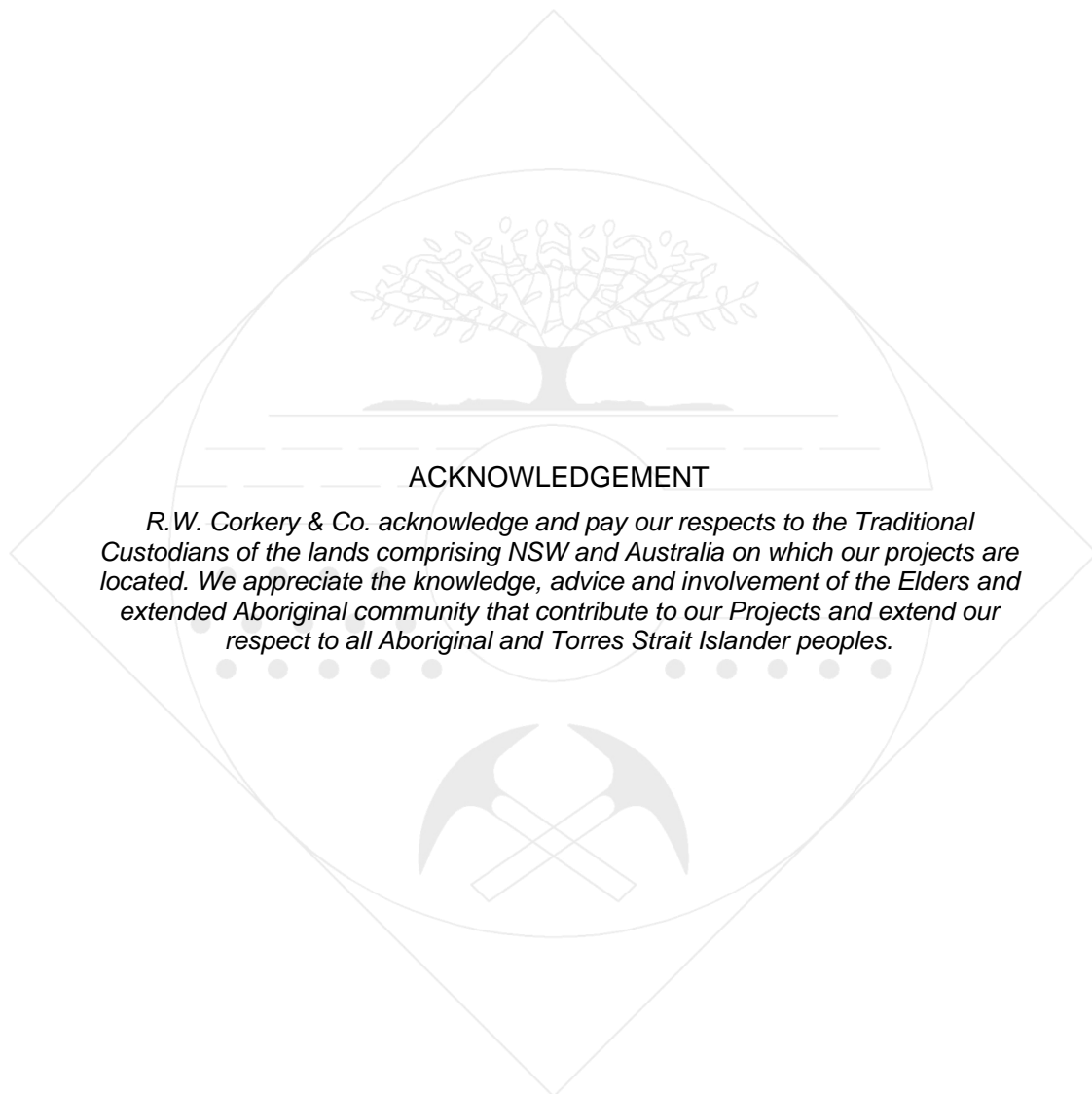
Napoleon Reef Quarry Modification 1

Prepared by:



RWCorkery&co

June 2023



ACKNOWLEDGEMENT

R.W. Corkery & Co. acknowledge and pay our respects to the Traditional Custodians of the lands comprising NSW and Australia on which our projects are located. We appreciate the knowledge, advice and involvement of the Elders and extended Aboriginal community that contribute to our Projects and extend our respect to all Aboriginal and Torres Strait Islander peoples.



ABN: 35 129 503 911

**Statement of
Environmental Effects**

for the

**Napoleon Reef Quarry
Modification 1**

Prepared for:

Hothams Sand, Soil & Gravel Supplies Pty Ltd
ABN: 35 129 503 911

104 Havannah Street
BATHURST NSW 2795

Telephone: (02) 6332 3111
Email: sales@hothams.com.au

Prepared by:

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Geological & Environmental Consultants
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CHATSWOOD NSW 2067

Orange
62 Hill Street
ORANGE NSW 2800

Ref No. 940/02

June 2023



HOTHAMS SAND, SOIL & GRAVEL SUPPLIES PTY LTD
Napoleon Reef Quarry – Modification 1

STATEMENT OF ENVIRONMENTAL EFFECTS
Report No. 940/02

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and

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Acronyms

BC Act	<i>Biodiversity Conservation Act 2016</i>
BOM	Bureau of Meteorology
DA	Development Application
DCP	Development Control Plan
DPE	Department of Planning and Environment
EP&A Act	<i>Environmental Planning and Assessment Act 1979</i>
EPL	Environment Protection Licence
LEP	Local Environmental Plan
MIC	Maximum Instantaneous Charge
RWC	R.W. Corkery & Co. Pty. Limited
SEPP	State Environmental Planning Policy
SoEE	<i>Statement of Environmental Effects</i>

Executive Summary

This *Statement of Environmental Effects* (SoEE) has been prepared by R.W. Corkery & Co. Pty. Limited (RWC) on behalf of Hothams Sand, Soil & Gravel Pty Ltd (the Applicant) to support a proposed modification to Development Application (DA) 2015/0106 for the Napoleon Reef Quarry (“the Quarry”). A copy of DA 2015/0106 is provided as **Appendix 1**.

The proposed modification seeks approval to permit the use of limited blasting operations at the Quarry.

The proposed modification is being made under Section 4.55(1A) or 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act), as it is considered that the allowance of blasting at the Quarry (within approved maximum extraction limits) would be difficult to discern from existing operations and would result in a minimal change to overall environmental impact. An evaluation of the proposed modification under Section 4.55(1A) of the EP&A Act is provided in Section 4.2. The consent authority for the modification application will be Bathurst Regional Council (Council).

Assessments undertaken for proposed modification were limited to blasting due to there being negligible change to other existing environmental impacts. All other environmental aspects are unlikely to be affected by the proposed modification.

The Applicant contends that the proposed modification would be implemented in a manner consistent with existing operations and it has been concluded that the modified operation would be difficult to discern from the currently approved activities. As the proposed modification would satisfy all relevant statutory requirements for the operation including environmental impact assessment outcomes, it is concluded that the proposed modification would be in the public interest.

1. Introduction

1.1 Scope

This *Statement of Environmental Effects* (SoEE) has been prepared by R.W. Corkery & Co. Pty. Limited (RWC) on behalf of Hothams Sand, Soil & Gravel Pty Ltd (the Applicant) to support a proposed modification to Development Application (DA) 2015/0106 for the Napoleon Reef Quarry (“the Quarry”). A copy of DA 2015/0106 is provided as **Appendix 1**. The proposed modification seeks approval to permit the limited blasting operations at the Quarry. No changes to the approved extraction area, rate of extraction, hours of operation or transport arrangements are proposed.

The Quarry is located in Napoleon Reef NSW within Lot 3 DP226520 (“Lot 3”) with access to the Quarry via the Great Western Highway, Napoleon Reef Road and an internal Quarry Access Road. There are no residences within Lot 3, however, there are a number of private residences within the surrounding area. **Figure 1** provides an overview of the locality and approved layout of the Quarry.

Lot 3 is located on land zoned RU1 – Primary Production under the *Bathurst Regional Local Environmental Plan 2014* (Bathurst LEP) (**Figure 2**).

The proposed modification is being made under Section 4.55(1A) or, in the alternative, Section 4.55(2) of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The consent authority for the modification application will be Bathurst Regional Council (Council).

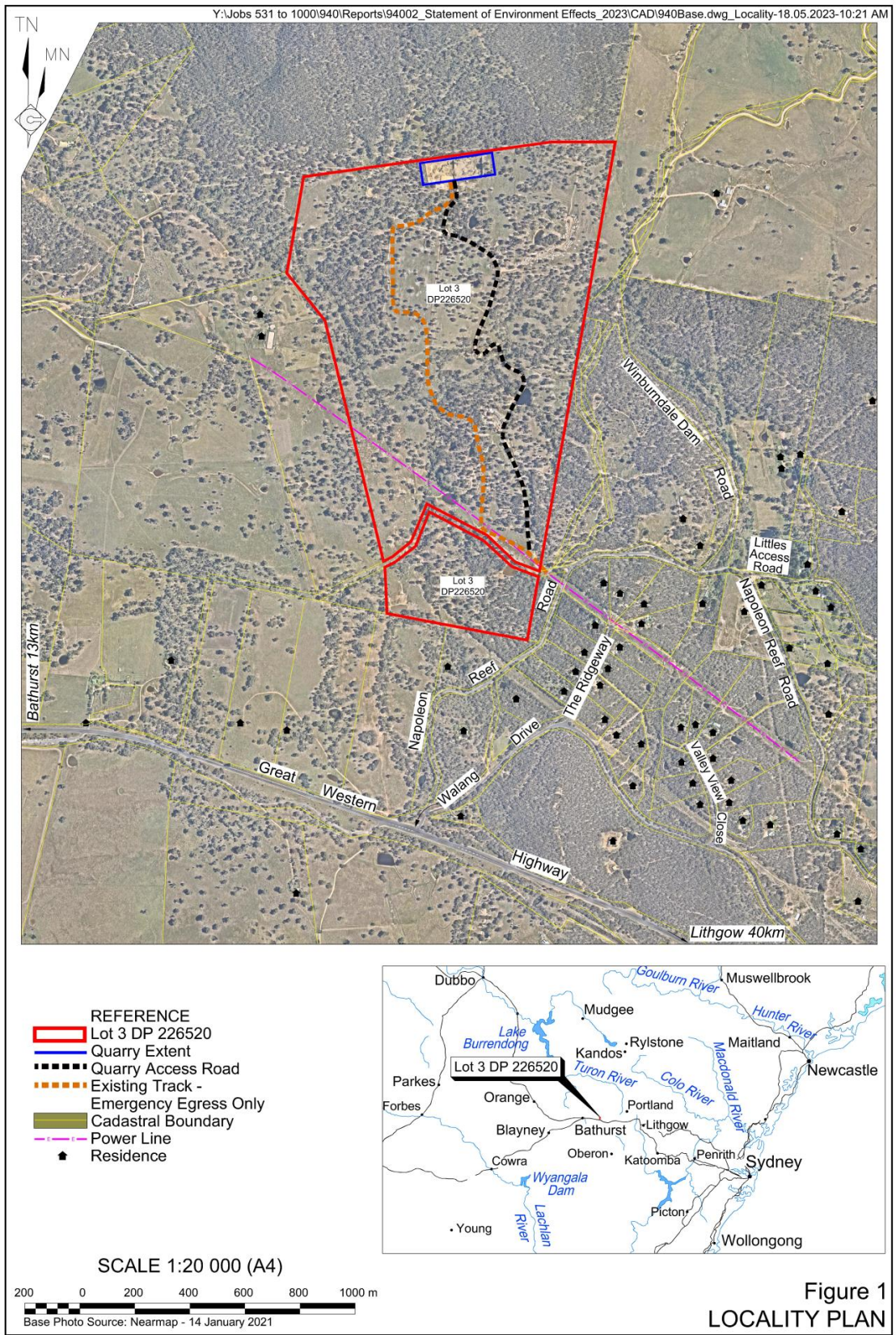
It is considered that the allowance of limited blasting at the Quarry (within approved maximum extraction limits) would be difficult to discern from existing operations and would result in a minimal change to overall environmental impact. As a result, an evaluation of the proposed modification under Section 4.55(1A) of the EP&A Act is provided in Section 7.2. In the event that Council determines that the threshold for assessment under Section 4.55(1A) are exceeded, the application is made under Section 4.55(2). Section 7.2 of this document also provides an assessment of the proposed modification under Section 4.55(2).

The information contained in this document relates only to those components of the Quarry that would be the subject of the proposed modification. Aspects of the Quarry that would not be modified would continue to be undertaken in accordance with DA 2015/0106 as approved.

1.2 The Applicant

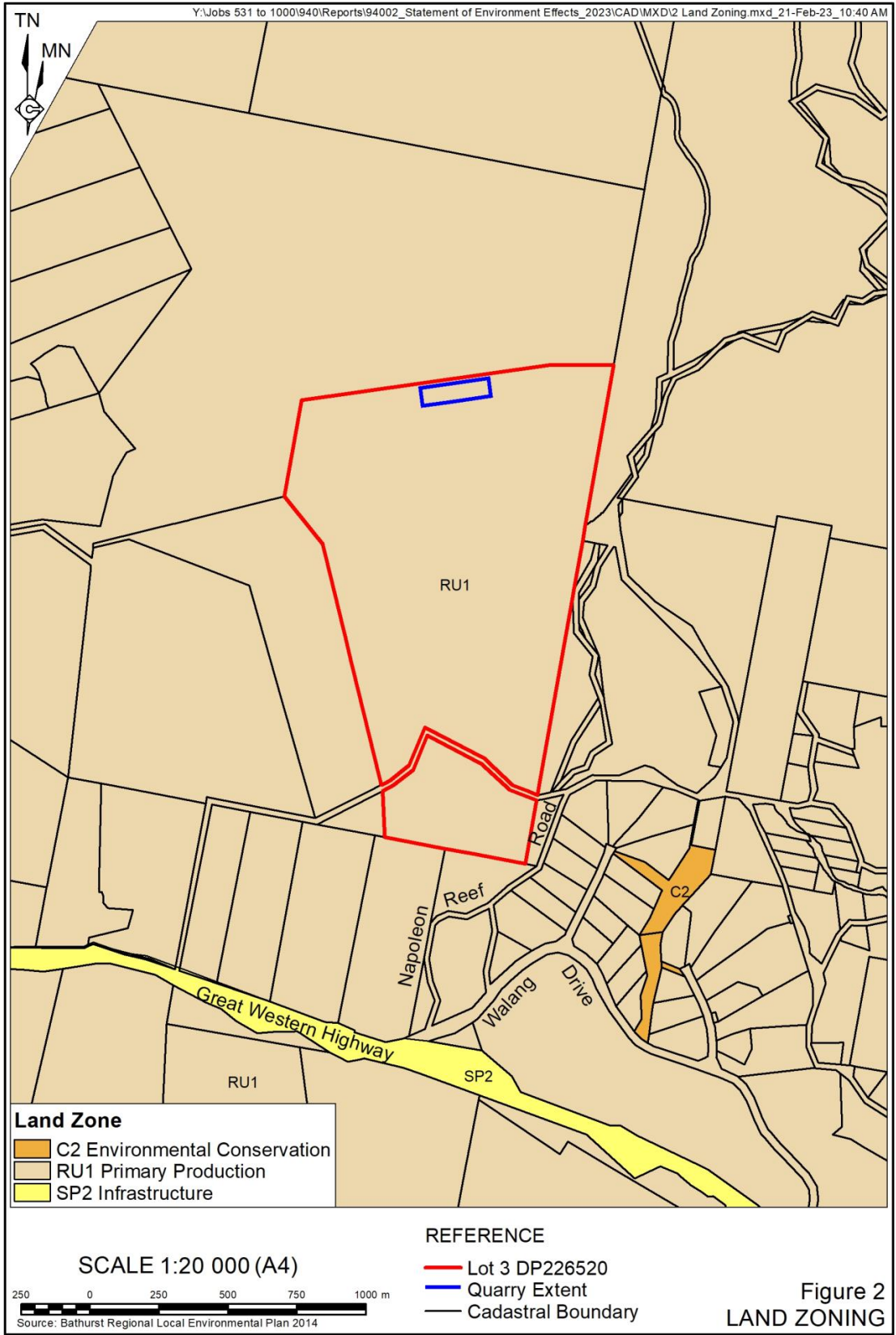
Hothams Sand, Soil & Gravel Pty Ltd supplies Bathurst and the surrounding regions including Orange, Lithgow and Blayney with sand, soil and mulch, as well as offering services such as rural earthworks machinery and landscaping equipment hire. The Applicant also owns and operates a landscaping materials business in Bathurst where they sell products derived from the Quarry and elsewhere.

The current directors of Hothams Sand, Soil & Gravel Pty Ltd are Craig and Phil Hotham.



STATEMENT OF ENVIRONMENTAL EFFECTS
Report No. 940/02

HOTHAMS SAND, SOIL & GRAVEL SUPPLIES PTY LTD
Napoleon Reef Quarry – Modification 1



1.3 Background and need for the Modification

Limited, small-scale blasting within the Quarry to ensure efficient and non-intrusive extraction of material at the Quarry. As a result, the original application for DA 2015/0106 in June 2015 initially included blasting generally consistent with that described in Section 3 of this document.

The original application was for non-designated development. Clause 19(1)(c)(v) of Schedule 3 of the now repealed *Environmental Planning and Assessment Regulation 2000* (EP&A Reg 2000) identified that applications “involving blasting, within ... 500 metres of a dwelling not associated with the development” are classified as designated development.

The Quarry extent was and remains more than 500m from surrounding non-project related residences (**Figure 1**). However, the Quarry Access Road where it joins Napoleon Reef Road is within that limit. Council formed the opinion that the nominated 500m limit related to all components of the application, including the Quarry Access Road, despite the fact that blasting was to be undertaken outside that limit. As a result, in Council’s opinion, Clause 19 of Schedule 3 of the EP&A Reg 2000 was activated and as a result the application for DA 2015/0106 was classified as Designated Development. In light of the above, blasting was removed from the application and development consent was granted on 23 November 2015.

Subsequently, EP&A Reg 2000 was repealed and replaced with the *Environmental Planning and Assessment Regulation 2021* (EP&A Reg 2021). Section 26(3)(f) of Schedule 3 of the EP&A Reg 2021 amended the previous threshold for designated development as follows.

- “(3) Development for the purposes of an extractive industry facility is designated development if the facility is located—
 - (f) if the facility involves blasting—within ... 500 metres of a dwelling not associated with the development.”

In addition, Part 1 of Schedule 3 provides further guidance in relation to measuring distance from a dwelling as follows.

- “(3) The distance from a dwelling is measured as the shortest distance between—
 - (a) the edge of the dwelling, excluding associated works such as access roads, and
 - (b) the boundary of the development or works to which the development application applies.”

The Applicant has sought a legal opinion from TC Hale SC in relation to the application of the amended threshold for designated development as it applies to the Quarry. That advice is presented as **Appendix 2**. In summary, Mr Hale states that in his opinion, the “extractive facility” referenced by Section 26(3)(f) of Schedule 3 of the EP&A Reg 2021 is limited to the 2ha area shown on **Figure 1** as the Quarry Extent. As that area is not within 500m of a non-Project related residence, Section 26 is not applicable and “would not have the effect of characterising the development as designated development.”

As the Quarry has been developed, it has become apparent that the current extraction techniques are not optimal and the Applicant proposes selective blasting as a more economical and less intrusive manner of extraction of harder material that is not amenable to extraction using the current approved methods.

The Applicant considered the alternative of extracting the material using an excavator equipped with a hydraulic hammer. However, that method was considered to be more intrusive and has a higher level of noise and dust production than blasting. The use of blasting as an extraction technique would be more cost effective and would ensure that any disturbance including noise and dust is minimal and confined to the brief period of the blast itself.

Given that the recent change in the threshold for designated development has been clarified such that blasting at the Quarry does not trigger the designated development threshold, the Applicant seeks to modify the consent to permit limited blasting operations.

1.4 Management of Investigations

This document has been prepared by Ms Indigo Devane (B.Sc.(Env)), Graduate Environmental Consultant, and peer reviewed by Mr Mitchell Bland (BSc(hons), MEconGeol, LLB(hons), FIQA, FAusIMM, MEIANZ), Principal Environmental Consultant / Managing Director, both with RWC.

Messers Phil and Craig Hotham, directors of Hothams Sand, Soil & Gravel Pty Ltd provided information in relation to the existing and proposed activities and reviewed and approved this document for release.

A qualitative assessment of potential airblast and ground vibration-related impacts associated with the proposed modification was undertaken by Mr Neil Pennington (B. Sc., B.Math. (Hons) MAIP, MAAS, MASA) Principal/Director at Spectrum Acoustics.

1.5 Document Format

This SoEE has been prepared in seven sections and includes three appendices.

- Section 1:** introduces the proposed modification and the Applicant and reviews the currently approved activities undertaken within the Quarry. The section concludes with information on the management of investigations undertaken during the preparation of the SoEE.
- Section 2:** reviews the approved operations and the existing environmental management practices at the Quarry.
- Section 3:** reviews the Applicant's proposed plans for allowance of limited blasting operations at the Quarry.
- Section 4:** reviews the planning and legislative requirements of the proposed modification including State Environmental Planning Policies and local planning instruments.
- Section 5:** outlines the community and Government agency consultation undertaken by Applicant in relation to the proposed modification.

HOTHAMS SAND, SOIL & GRAVEL SUPPLIES PTY LTD
Napoleon Reef Quarry – Modification 1

STATEMENT OF ENVIRONMENTAL EFFECTS
Report No. 940/02

Section 6: describes the existing environment in the vicinity of the Quarry including matters that may influence the environmental assessment of the proposed modification and presents an assessment of the likely environmental effects of the proposed modification taking into account the ongoing design and operational safeguards and management procedures that would be implemented.

Section 7: evaluates the proposed modification in terms of biophysical, economic and social considerations and the Objects of the *Environmental Planning and Assessment Act 1979*. A conclusion is provided for the SoEE.

Appendices present:

1. Development Application 2015/0106.
2. Legal advice prepared by TC Hale SC.
3. Acoustic Review prepared by Spectrum Acoustics Pty Ltd.

2. Approved Operations

2.1 Background And Existing Operations

The Quarry was approved by Bathurst Regional Council (as DA 2015/0106) on 23 November 2015. DA 2015/0106 approves, subject to 35 conditions, the extraction and processing of no greater than 30,000m³ of gravel from an area not exceeding 2ha on Lot 3 DP226520 (**Figure 3**).

Access to the Quarry Site is via the Great Western Highway, Napoleon Reef Road, and an internal Quarry Access Road through Lot 3 from an intersection with Napoleon Reef Road approximately 1.2km from the Great Western Highway.

Extraction may be undertaken to a maximum depth of 10m below surface with the gravel won using a bulldozer and excavator. The won material is either loaded directly to road registered trucks for sale or crushed and screened before being loaded to trucks for sale. An average of 4 to 5 trucks per day exit the Quarry, with busier periods from time to time. Extraction commenced on the eastern perimeter of the Quarry Extent and developed to the west. Rehabilitation of disturbed areas will be progressive as extraction is completed within sections of the Quarry.

2.2 Production Rate and Methods

Operations at the Quarry are undertaken on a campaign basis, with the total annual production rate being within the maximum limit of 30,000m³.

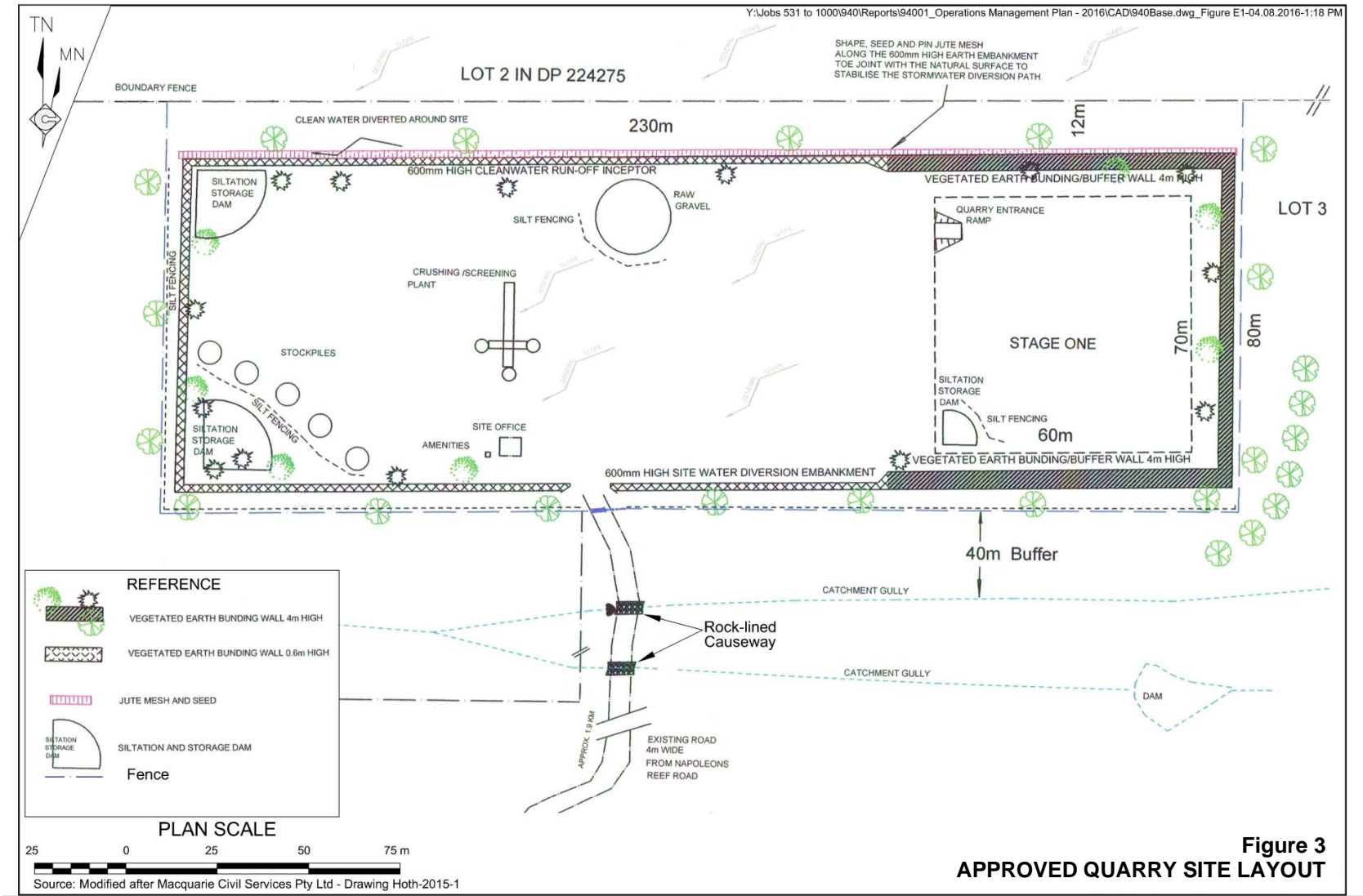
2.3 Transportation

Material is transported from the Quarry using truck and dog configuration heavy vehicles with an average load of 33t. The Quarry Access Road is a two-way access road for all product despatch. All product despatch exits the Quarry via Napoleon Reef Road before entering the Great Western Highway at the existing intersection and heading west towards Bathurst.

2.4 Existing Environmental Management and Performance

In accordance with Condition 1 of DA 2015/0106, environmental management of the Quarry is undertaken in accordance with the approved *Operational Management Plan* which includes the following components and is provided as **Appendix 3**.

- A detailed *Rehabilitation Plan*.
- A detailed *Erosion and Sediment Control Plan* (including dust management).
- A *Complaints Management Procedure*.
- A *Road Transport Code of Conduct*.
- Protocols for dealing with any fuel spills or leaks (as a *Hazardous Materials Management Plan*).
- A *Bush Fire and Emergency and Management Plan*.



There are no specific requirements for environmental monitoring under DA 2015/0106.

The Applicant has received 11 complaints regarding operations or environmental management of the Quarry since February 2018. No complaints have been received by the Quarry since July 2020. The entirety of the complaints received by the Quarry are from one resident who lives approximately 1km away from the Quarry. No complaints have been received from residents located less than 1km from the Quarry.

Five complaints received were in relation to noise emitted by the Quarry, all of which were determined to not require further action, however, monitoring of noise levels was undertaken to ensure acceptable levels. The remaining 6 complaints received were in relation to dust emitted from the Quarry. Investigations relating to dust complaints found that on two occasions dust reported to be coming from the Quarry was actually a result of crushing activities. Solutions to minimise dust production at the Quarry suggested by Council after an inspection in March 2018 included applying a polymer solution to the internal roads, installing a second dust monitor on the western boundary to monitor any dust migrating in that direction, and apply road base to the internal roads in heavy traffic areas to ensure dust is not generated.

3. Description of the Proposed Modification

3.1 The Proposed Modification

The proposed modification seeks approval for the limited blasting within the Quarry Extent.

Blasting operations would be undertaken using traditional drill and blast methods. All blasts would be designed by a suitably qualified and experienced shot firer to ensure the following.

- Appropriate fragmentation of the in-situ material.
- Compliance with required blasting parameters at surrounding sensitive receptors.
- All fly rock is contained within the identified blast management zone.

Initially blast holes would be drilled to a maximum depth of 10m below surface. On the day of the blast, the blast holes would be loaded with detonators, pre-packaged boosters and bulk explosives. The Maximum Instantaneous Charge (MIC) would be less than 240kg. Blasts would be initiated under the supervision of a suitably licenced and experienced shot firer.

Detonators, boosters and bulk explosives would be transported to site on the day of the blast and would not be stored within the Quarry.

Signs advising employees, contractors and visitors to the Quarry of the date and time of the next blast would be positioned at one or more appropriate locations. In addition, the Proponent would consult with surrounding residents to determine the most appropriate method to notify them of blast times and would implement the agreed notification methods.

Blasting would be undertaken between the hours of 9:00am to 5:00pm, Monday to Saturday. No blasting operations would be undertaken on Sundays or Public Holidays. The Applicant anticipates that blasting would occur on between two and four occasions each year.

All blasts would be monitored in accordance with the procedures identified in a Blast Management Plan to be prepared prior to the first blast.

All other aspects of the development would not change including the following.

- Maximum production rate of 30,000m³ per annum.
- Hours of operation.
- Transportation operations.
- Environmental management.

3.2 Approvals Required

The proposed modification could be achieved through modification of DA 2015/0106 Condition 30 as follows.

“Except where modified by the conditions imposed upon this consent the development is to be carried out in accordance with: ...

10. Statement of Environmental Effects prepared by R.W. Corkery & Co and dated May 2023.”

4. Statutory Context

4.1 Introduction

A number of NSW and local planning instruments or policies apply to the operation of the Quarry and the proposed modification. A brief summary of each relevant planning instrument is provided in the following subsections with the environmental aspects requiring consideration identified.

4.2 NSW Legislation and Planning Context

4.2.1 Environmental Planning and Assessment Act 1979

The EP&A Act provides the framework for the assessment and approval of development in NSW and is administered by the Department of Planning and Environment (DPE).

The approved Quarry is classified as Non-Designated, Local Development.

As described in Section 1.3 and **Appendix 2**, the proposed modification is located greater than 1,000m from a residential zone and more than 500m from a dwelling not associated with the development. Thus, the inclusion of limited blasting operations would not classify the development as designated development pursuant to Clause 26(3)(f) of Schedule 3 of the EP&A Reg. As a result, the modified Quarry would continue to be so classified as the modified operations would not exceed the relevant thresholds for Designated, Regional or State Significant Development.

4.2.2 Mandatory Matters for Consideration

A summary of the matters that the consent authority must consider when assessing a new or modified proposal, and where these have been addressed in this document, is provided in **Table 1**.

Table 1
Mandatory Matters for Consideration

Page 1 of 3

Statutory Reference	Pre-condition	Relevance	Modification Report Section
Considerations under the EP&A Act			
Section 1.3	Relevant objects of the Act: <ul style="list-style-type: none"> to promote the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources, 	The Proposed Modification would promote the social and economic welfare of the community by permitting extraction of a known resource, with the associated economic benefits to the community and State. These benefits would be achieved without additional adverse significant social or environmental impacts.	NA
	<ul style="list-style-type: none"> to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment, 	The proposed modification does not increase the disturbance area of the approved Quarry and would not result in any major unforeseen impacts.	NA

Table 1 (Cont'd)
Mandatory Matters for Consideration

Page 2 of 3

Statutory Reference	Pre-condition	Relevance	Modification Report Section
Section 1.3 (Cont'd)	<ul style="list-style-type: none"> to promote the orderly and economic use and development of land, 	The Proposed Modification would be undertaken in an orderly way to maximise the economic benefit to the community and State while minimising other adverse outcomes.	NA
	<ul style="list-style-type: none"> to protect the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats, 	The Proposed Modification would not result in significant adverse environmental outcomes. Section 6 presents a detailed analysis of the key environmental aspects that may be affected by the Proposed Modification.	NA
	<ul style="list-style-type: none"> to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage), 	Nil. All disturbance would be restricted to previously disturbed areas.	NA
	<ul style="list-style-type: none"> to promote the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State, 	This is a matter for Council.	NA
	<ul style="list-style-type: none"> to provide increased opportunity for community participation in environmental planning and assessment. 	This is a matter for Council.	NA
Section 4.15	<ul style="list-style-type: none"> Relevant environmental planning instruments. 	See Section 4.2.	4.2
	<ul style="list-style-type: none"> Proposed planning instrument 	Nil. No additional planning instruments are proposed.	NA
	<ul style="list-style-type: none"> Development Control Plan 	See Section 4.3.3	4.3.2
	<ul style="list-style-type: none"> Any planning agreement. 	No Planning Agreement exists between the Applicant and Bathurst Regional Council	NA
	<ul style="list-style-type: none"> The EP&A Regulation 	The Regulations have been considered throughout this document.	Entire document
	<ul style="list-style-type: none"> The likely impacts of the development, including environmental impacts on both the natural and built environment, and social and economic impacts in the locality. 	Section 6 presents an assessment of relevant impacts on the natural and built environment and social and economic impacts.	6 (generally)
	<ul style="list-style-type: none"> The suitability of the site for the development. 	The Proposed Modification would be located wholly within the existing approved operational disturbance areas of the Quarry Site.	NA
	<ul style="list-style-type: none"> Any submissions made in accordance with the EP&A Act or the regulations. 	This is a matter for Council, however, the Applicant anticipates preparing a <i>Submissions Report</i> following completion of the exhibition period.	NA
	<ul style="list-style-type: none"> The public interest. 	This is addressed in Section 7.3. In summary, however, the Applicant contends that the Proposed Modification is in the public interest.	7.3

Table 1 (Cont'd)
Mandatory Matters for Consideration

Page 3 of 3

Statutory Reference	Pre-condition	Relevance	Modification Report Section
Section 4.55(2)	A consent authority may, ... modify the consent if (a) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and	The Proposed Modification would be substantially the same as the currently approved Project for the following reasons. <ul style="list-style-type: none"> The Proposed Modification would not result in an intensification of the approved activities. The Proposed Modification would not result in any additional disturbance to land within the Quarry Site. The Proposed Modification would not result in any change to the total area of the Quarry Site. 	NA
	(b) it has consulted with the relevant [government authorities]	This is a matter for Council.	NA
	(c) it has notified the application in accordance with— i) the regulations, if the regulations so require, or ii) a development control plan	Bathurst Regional Council has been notified of the intent to submit the modification application.	NA
	(d) it has considered any submissions made ...	This is a matter for Council, however, the Applicant anticipates preparing a Submissions Report to provide a response to any submissions received.	NA

4.2.3 Protection of the Environment Operations Act 1997

The POEO Act provides a framework for the prevention and regulation of pollution, and pollution causing development, within NSW. The POEO Act identifies activities for which an Environment Protection Licence (EPL) is required where particular activities exceed thresholds or triggers identified within Schedule 1 of the POEO Act.

The approved Quarry does not meet the threshold for a scheduled activity under Clause 19 of Schedule 1 of the POEO Act as the approved rate of extraction is less than 30,000t per annum. The proposed modification would not alter the approved rate of extraction. As a result, the modified operations would not exceed the identified threshold and an EPL is not required.

Notwithstanding the above, the POEO Act incorporates specific conditions which make it an offence to pollute. In particular the following sections of the POEO Act are noted.

- Section 120 – a person who pollutes any waters is guilty of an offence.
- Sections 124 to 126 – it is an offence to cause air pollution.
- Section 139 – it is an offence to cause noise pollution.
- Sections 143 and 144 – it is an offence to transport or dispose of waste or operate an unlicensed waste facility.

4.2.4 Biodiversity Conservation Act 2016

The *Biodiversity Conservation Act 2016* (BC Act) facilitates a system for assessing impacts on threatened species, populations and endangered or critically endangered ecological communities. The BC Act requires offsetting of impacts to native vegetation where:

- area thresholds are exceeded;
- sensitive lands are identified (on Office of Environment & Heritage generated maps); or
- significant impact on threatened species, populations or communities is assessed.

The proposed modification would not disturb additional areas of native vegetation and, as a result, the BC Act does not apply.

4.2.5 State Environmental Planning Policy (Transport and Infrastructure) 2021

The aim of the *State Environmental Planning Policy (Transport and Infrastructure) 2021* (Transport and Infrastructure SEPP) is to facilitate the effective delivery of infrastructure across NSW. The Transport and Infrastructure SEPP identifies, amongst other things, the matters to be considered in the assessment of development adjacent to particular types of infrastructure, relevantly including the following. The following also includes a justification as to why the Transport and Infrastructure SEPP is not relevant to the proposed modification.

- Electricity Transmission (Part 2.3, Division 5).
The proposed modification does not trigger any of the criteria within Section 2.47 of the Transport and Infrastructure SEPP.
- Gas Pipeline Infrastructure (Part 2.3, Division 12A).
The Quarry is not located adjacent to a gas pipeline.
- Railways (Part 2.3, Division 15, Subdivision 2).
The Quarry is not located in proximity to any railways and does not trigger any of the criteria within Section 2.98 of the Transport and Infrastructure SEPP.
- Roads (Part 2.3, Division 17).
The Quarry does not front onto and is not located immediately adjacent to a classified road or within a road corridor. As a result, Sections 2.117 to 2.118 are not relevant to the proposed modification. Similarly, the proposed modification would not exceed the threshold of 200 vehicles per day to be classified as Traffic-generating Development and Section 2.121 is not relevant to the Proposal.

4.2.6 State Environmental Planning Policy (Resources and Energy) 2021

The *State Environmental Planning Policy (Resources and Energy) 2021* was gazetted in recognition of the importance to New South Wales of mining, petroleum production and extractive industries, to provide for the following.

- The proper management and development of mineral, petroleum and extractive material resources for the purpose of promoting the social and economic welfare of the State.
- To facilitate the orderly and economic use and development of land containing mineral, petroleum and extractive material resources.
- To establish appropriate planning controls to encourage ecologically sustainable development through the environmental assessment, and sustainable management, of development of mineral, petroleum and extractive material resources.

The SEPP specifies matters requiring consideration in the assessment of any extractive industry development, as defined in NSW legislation. A summary of the matters that the consent authority must consider when assessing a new or modified proposal, and where these have been addressed in this document, is provided in **Table 2**.

Table 2
Application of the Resources and Energy SEPP

Page 1 of 3

Relevant SEPP Clause	Description	Section
2.16: Non-discretionary development standards for mining	1) The object of this clause is to identify development standards on particular matters relating to mining that, if complied with, prevents the consent authority from requiring more onerous standards for those matters (but that does not prevent the consent authority granting consent even though any such standard is not complied with).	Noted
	2) The matters set out in this clause are identified as non-discretionary development standards for the purposes of section 4.15 (2) and (3) of the Act in relation to the carrying out of development for the purposes of mining. Note. The development standards do not prevent a consent authority from imposing conditions to regulate project-related noise, air quality, blasting or ground vibration impacts that are not the subject of the development standards.	Noted
	3) Cumulative noise level The development does not result in a cumulative amenity noise level greater than the recommended amenity noise levels, as determined in accordance with Table 2.2 of the Noise Policy for Industry, for residences that are private dwellings.	No change
	2) Cumulative air quality level The development does not result in a cumulative annual average level greater than 25 µg/m ³ of PM ₁₀ or 8 µg/m ³ of PM _{2.5} for private dwellings.	No change
	5) Airblast overpressure Airblast overpressure caused by the development does not exceed: (a) 120 dB (Lin Peak) at any time, and (b) 115 dB (Lin Peak) for more than 5% of the total number of blasts over any period of 12 months, measured at any private dwelling or sensitive receiver. measured at any private dwelling or sensitive receiver.	6.3

Table 2 (Cont'd)
Application of the Resources and Energy SEPP

Page 2 of 3

Relevant SEPP Clause	Description	Section
2.16: Non-discretionary development standards for mining (Cont'd)	6) Ground vibration Ground vibration caused by the development does not exceed: (a) 10 mm/sec (peak particle velocity) at any time, and (b) 5 mm/sec (peak particle velocity) for more than 5% of the total number of blasts over any period of 12 months, measured at any private dwelling or sensitive receiver.	6.3
	7) Aquifer interference Any interference with an aquifer caused by the development does not exceed the respective water table, water pressure and water quality requirements specified for item 1 in columns 2, 3 and 4 of Table 1 of the Aquifer Interference Policy for each relevant water source listed in column 1 of that Table. Note. The taking of water from all water sources must be authorised by way of licences or exemptions under the relevant water legislation.	No change
	8) The Minister is to review a non-discretionary development standard under this clause if a government policy on which the standard is based is changed.	Noted
2.17: Compatibility with other land uses	Consideration is given to: - the existing uses and approved uses of land in the vicinity of the development; - whether or not the development is likely to have a significant impact on the uses that, in the opinion of the consent authority having regard to land use trends, are likely to be the preferred uses of land in the vicinity of the development, and - any ways in which the development may be incompatible with any of those existing, approved or preferred land uses. The respective public benefits of the development and the existing, approved or preferred land uses are evaluated and compared. Measures proposed to avoid or minimise any incompatibility are considered.	No change
2.18: Consideration of voluntary land acquisition and mitigation policy	This clause applies only to State Significant Development.	Not Applicable
2.19: Compatibility with mining, petroleum production or extractive industry	Consideration is given to the existing uses and approved uses of land in the vicinity of the development, and whether the development is likely to have a significant impact on current or future extraction or recovery of minerals, petroleum or extractive materials and ways in which the development may be incompatible. The public benefits of the development and any existing or approved mining, petroleum production or extractive industry must be evaluated and compared. Measures taken by the Applicant to avoid or minimise any incompatibility are considered.	No change
2.20: Natural resource and environmental management	Consideration is given to ensuring that the development is undertaken in an environmentally responsible manner, including conditions to ensure: • impacts on significant water resources, including surface and groundwater resources, are avoided or minimised; • impacts on threatened species and biodiversity are avoided or minimised; and • greenhouse gas emissions are minimised and an assessment of the greenhouse gas emissions (including downstream emissions) of the development is provided.	No change

Table 2 (Cont'd)
Application of the Resources and Energy SEPP

Page 3 of 3

Relevant SEPP Clause	Description	Section
2.21: Resource recovery	The efficiency of resource recovery, including the reuse or recycling of material and minimisation of the creation of waste, is considered.	No change
2.22: Transportation	<p>The following transport-related issues are considered.</p> <ul style="list-style-type: none"> The transport of some or all of the materials from the site by means other than public road. Limitation of the number of truck movements that occur on roads within residential areas or roads near to schools. The preparation of a code of conduct for the transportation of materials on public roads. 	No change
2.23: Rehabilitation	<p>The rehabilitation of the land affected by the development is considered including:</p> <ul style="list-style-type: none"> the preparation of a plan that identifies the proposed end use and landform of the land once rehabilitated; the appropriate management of development generated waste; remediation of any soil contaminated by the development; and the steps to be taken to ensure that the state of the land does not jeopardize public safety, while being rehabilitated or at the completion of rehabilitation. 	No change

4.2.7 State Environmental Planning Policy (Planning Systems) 2021

The *State Environmental Planning Policy (Planning Systems) 2021* (Planning systems SEPP) does not apply to the Quarry as the development is not State Significant Development or Regionally Significant Development. The development does not extract more than 500,000t per year, extract from a total resource of greater than 5 million tonnes, extract from an environmentally sensitive area of State Significance, or have a capital investment of more than \$30 million, therefore the development is not considered State Significant Development.

As the development does not have a capital investment of more than \$30 million or does not meet the requirements for designated development under the Section 26 of Schedule 3 of the *Environmental Planning and Assessment Regulation 2021*, the development is not considered Regionally Significant Development.

4.3 Local Planning Context

4.3.1 Bathurst Regional Local Environmental Plan 2014

The *Bathurst Regional Local Environmental Plan 2014* (Bathurst LEP) guides development in the Bathurst Regional Local Government Area by encouraging the proper management, development and conservation of natural resources and the built environment. The Quarry is located on land zoned RU1 - Primary Production under the Bathurst LEP (see **Figure 2**). The Proposal may be classified as “Extractive Industries” under the Bathurst LEP. Extractive Industries is permissible with development consent within Zone RU1.

The objectives of the RU1 – Primary Production 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 maintain the rural and scenic character of the land.
- To provide for a range of compatible land uses that are in keeping with the rural character of the locality, do not unnecessarily convert rural land resources to non-agricultural land uses, minimise impacts on the environmental qualities of the land and avoid land use conflicts..”

4.3.2 Bathurst Regional Development Control Plan 2014

The aims of the *Bathurst Regional Development Control Plan 2014* (Bathurst DCP) 2014 are “to control and guide development and subdivision within the Bathurst Regional LGA.”

The provisions of the Bathurst DCP relating to the following matters have been considered in assessing the statutory context of the proposed modification.

- Part 6 – Rural and Rural Lifestyle Development.
- Part 9 – Environmental Considerations.

These matters are generally addressed through conditions of consent provided in DA 2015/0106. As the proposed modification would not change the physical area of disturbance or use of land and the configuration of the Quarry layout, employee numbers and general arrangements would not change, the requirements of the Bathurst DCP do not limit the proposed modification.

5. Engagement

5.1 Government Agency Consultation

The Applicant consulted with Council during preparation of this SoEE. In particular, a notification letter was provided to Council on 20 January 2023 regarding the intention to submit a modification to DA 2015/0106.

No response was received in regard to this letter.

5.2 Community Consultation

No community consultation was undertaken with the surrounding residential receivers during the preparation of this SoEE due to the negligible impact of the proposed modification. Notwithstanding, the Applicant would maintain an open-door policy regarding complaints, questions and feedback from the local community.

6. Assessment of Key Environmental Issues

6.1 Introduction

This section describes the specific environmental features of the Quarry and its surrounds that may be affected by the proposed modification. Information on existing conditions, proposed safeguards and controls and potential impacts the proposed modification may have following the implementation of these measures is presented for all relevant issues.

6.2 Environmental Setting

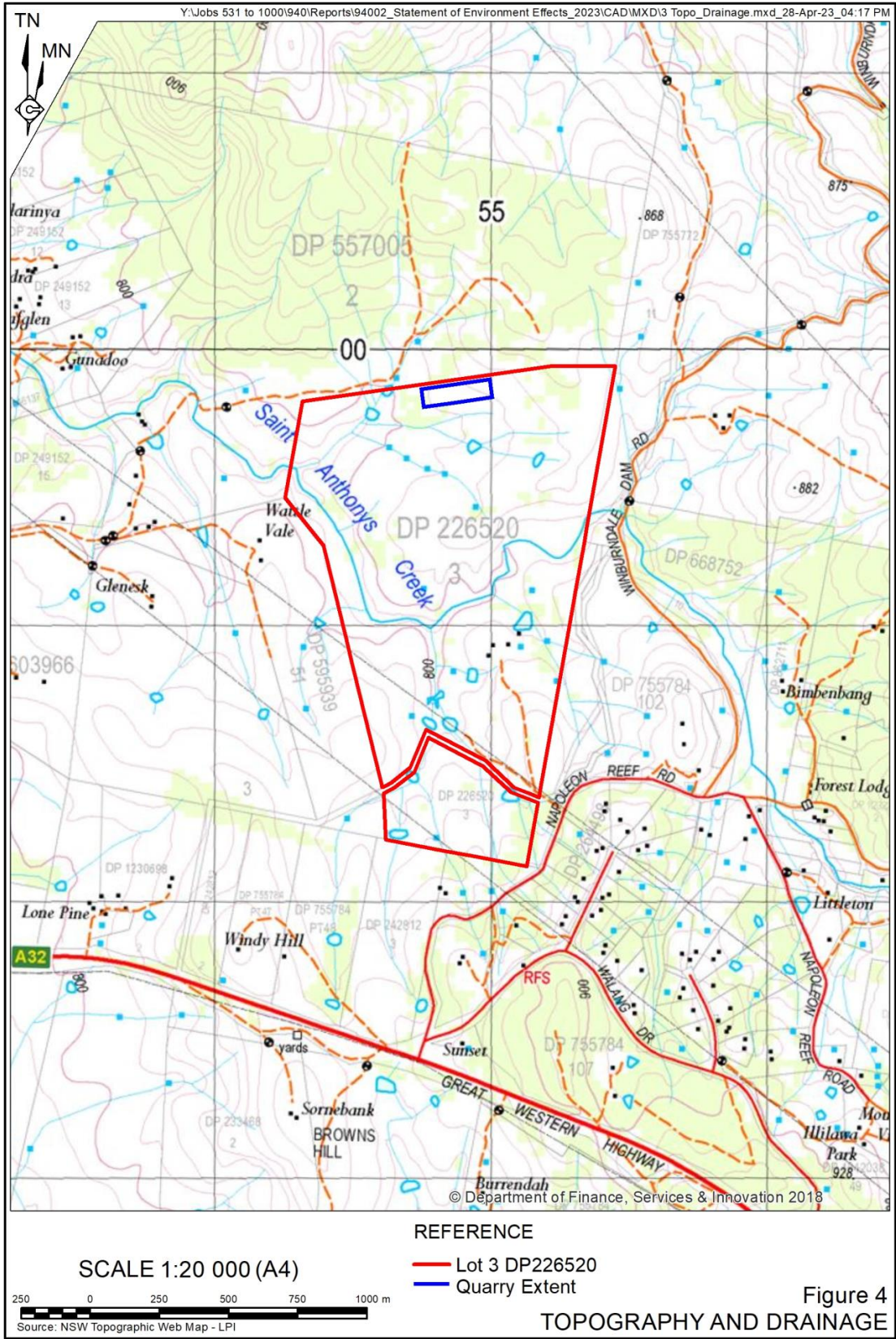
6.2.1 Introduction

The assessment of various environmental aspects of the proposed modification throughout this section is reliant upon a range of background information common to many of the key environmental issues. Information relating to the topography, drainage and climate is provided in the following subsection.

6.2.2 Topography and Drainage

The Quarry is located in Napoleon Reef, approximately 10km east of Kelso. Lot 3 is relatively flat and has an average elevation of approximately 800m AHD. Lot 3 has a slight fall in elevation toward the north-west (**Figure 4**).

Lot 3 drains into Saint Anthonys Creek which run through the site from the east toward the north-west (**Figure 4**). Additionally, there are multiple dams within Lot 3 that collect water when it rains.



6.2.3 Climate

Rainfall, wind and temperature data was sourced from the closest meteorological stations to the Quarry, namely the Bureau of Meteorology (BOM) Station No. 063291 (Bathurst Airport AWS) located approximately 7.8km west of Lot 3 and 063059 (Yetholme (Clonturkle) Station located approximately 10.2km south-east from the Quarry.

Table 3 lists the relevant monthly and annual average data for temperature and rainfall.

Table 3
Monthly Climate Data

	Jan	Feb	Mar	April	May	Jun	July	Aug	Sept	Oct	Nov	Dec	Annual
Temperature (°C)¹ – mean based on period from 1988 - 2023													
Mean maximum temperature	28.9	27.5	24.7	20.9	16.3	12.7	12.1	13.8	17.2	20.5	23.7	26.7	20.4
Mean minimum temperature	14.0	13.5	10.8	6.5	3.1	1.8	0.8	1.2	3.6	6.3	9.4	11.7	6.9
Rainfall (mm)² – mean based on period from 2001 - 2023													
Mean monthly rainfall	65.3	56.8	62.1	33.1	33.4	39.0	43.2	43.9	50.0	53.8	71.2	69.5	616.4
Highest daily rainfall	68.2	92.0	74.4	40.4	55.6	38.0	38.0	44.0	42.8	56.0	86.4	59.8	-
Highest monthly rainfall	171.2	131.2	165.0	122.4	85.4	104.8	103.0	121.0	117.0	193.0	206.6	218.6	1067.4
Lowest monthly rainfall	12.4	3.0	0.4	0.0	2.0	3.6	5.2	1.4	2.6	1.2	9.2	6.0	365.8
Note: Data accessed 17 February 2023													
Source: 1 Bureau of Meteorology Station: Bathurst Airport AWS (Station No. 063291)													
2 Bureau of Meteorology Station: Yetholme (Clonturkle) (Station No. 063059)													

6.2.4 Temperature

Temperature fluctuations follow seasonal patterns with the summer months of December to February being the hottest months while the winter months of June to August are the coldest. Mean maximum temperatures vary throughout the year from 28.9°C in January to 12.1°C in July while mean minimum temperatures vary from 14.0°C in January to 0.8°C in July.

6.2.5 Rainfall and Evaporation

The mean annual rainfall at Yetholme (Clonturkle) is 616.4mm, with a mean monthly rainfall of 51.8mm, with the lowest rainfall occurring from April to June and the highest occurring from November to January. Mean monthly rainfall between November and January ranges from 65.3mm to 71.2mm, while monthly rainfall between April and June ranges from 33.1mm to 39.0mm marking this as a distinct ‘dry season’.

Rainfall levels are variable, with the highest daily rainfall in some months substantially higher than the mean monthly rainfall. April is the only month that has recorded periods of no rain.

6.2.6 Land Ownership and Surrounding Residences

Figure 5 presents the ownership of land surrounding Lot 3 and the locations of surrounding residences. Distinction is made between those privately owned properties and crown owned or local government owned land. The closest residence is located approximately 775m from the approved Quarry Extent.

6.3 Blasting

A qualitative assessment of potential blasting impacts associated with the proposed modification was undertaken by Spectrum Acoustics. The assessment is included as included as **Appendix 3** and hereafter referred to as Spectrum Acoustics (2023).

Spectrum Acoustics (2023) assessed blasting operations based on the following.

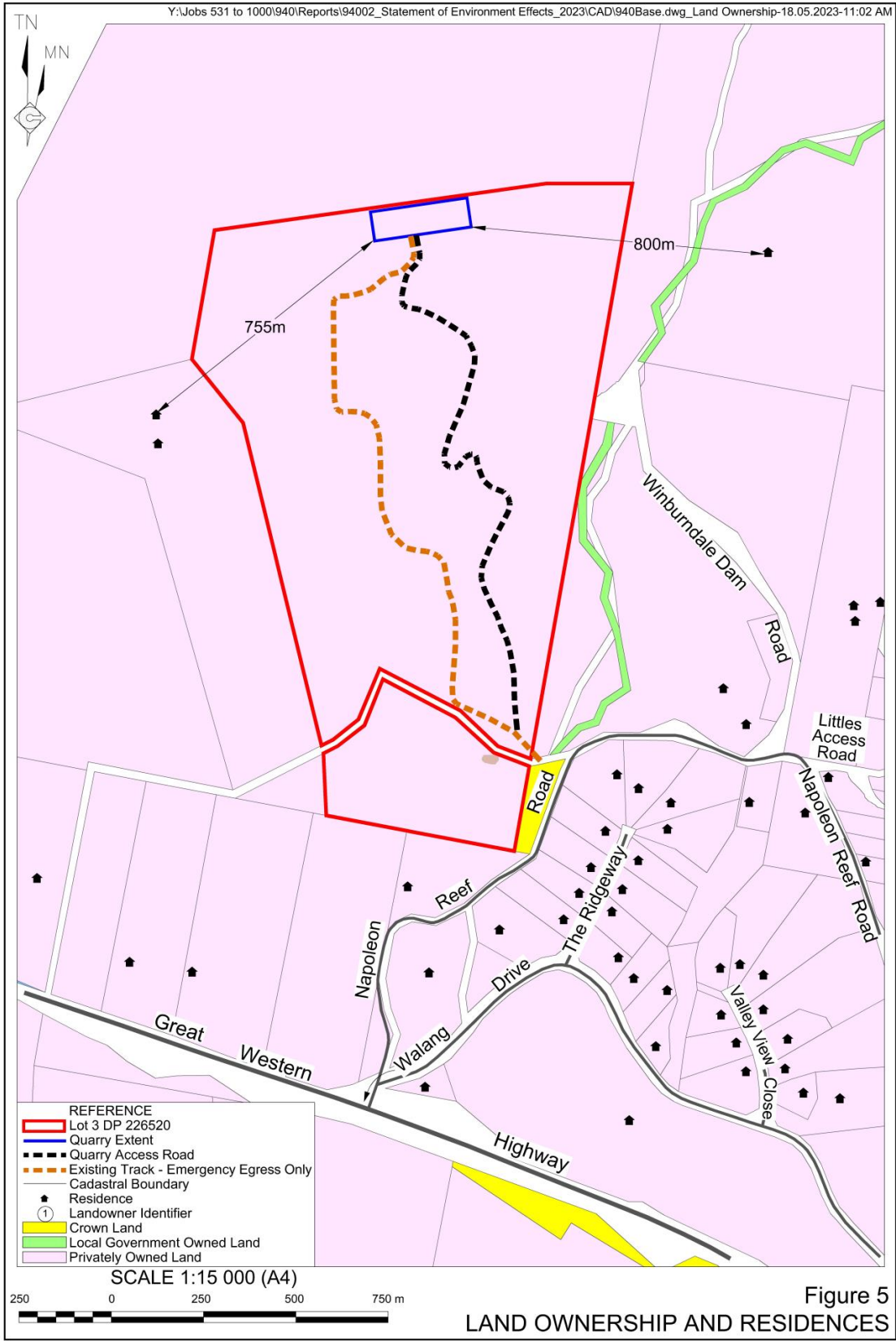
- A minimum distance between the approved Quarry Extent and the closest non-Quarry related residence (to the southwest of the approved extraction area) of approximately 775m.
- A MIC of 240kg.

That assessment determined that the relevant blast criteria would be achieved at Residence xx. In reality, blasts would utilise a MIC substantially less than 240kg and the assessment completed by Spectrum Acoustic (2023) is likely to be highly conservative.

6.4 Other Environmental Issues

The Applicant considers that the remaining environmental impacts associated with the ongoing operations under DA 2015/0106, as modified, would remain generally consistent with existing approved operations. As no additional disturbance is proposed and operations would continue to be implemented in the same manner, it is considered that there would not be any changes to environmental impacts associated with the following matters as a result of the proposed modification.

- | | |
|--|-------------------------------|
| • Historic or Aboriginal Cultural Heritage | • Air Quality |
| • Access and Traffic | • Agricultural Resources |
| • Services and Amenities | • Social and Economic Impacts |
| • Visual Amenity | • Waste Management |
| • Flooding and Stormwater | • Biodiversity |
| • Flora and Fauna | • Surface Water |
| • Noise | • Groundwater |



7. Evaluation of Merits

7.1 Introduction

As a conclusion to the SoEE, the proposed modification is evaluated and justified through consideration of its potential impacts on the environment and potential benefits to the local and wider community.

The evaluation of the proposed modification is undertaken by firstly assessing the statutory requirements that apply to the modification through consideration of:

- Section 4.55(1A) and (2) of the EP&A Act in relation to the permissibility of the proposed modification to development consent; and
- Section 4.15(1) of the EP&A Act in relation to the evaluation of development applications in general.

Section 7.3 presents the justification of the proposed modification and revisits any residual impacts on the biophysical and social environment as a result of the proposed modification and reviews the proposed modification against the objects of the EP&A Act.

7.2 Statutory Requirements

7.2.1 Section 4.55(1A) Considerations

As described in Sections 1.1 and 4.2.1, the proposed modification is being made under Section 4.55(1A) of the EP&A Act which is reproduced in full below.

*(1A) **Modifications involving minimal environmental impact.** A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if -*

- a) it is satisfied that the proposed modification is of minimal environmental impact, and*
- b) it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*
- c) it has notified the application in accordance with:*
 - (i) the regulations, if the regulation so require, or*
 - (ii) a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- d) it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

The following subsections provide an evaluation of the proposed modification against these provisions.

Minimal Environmental Impact

As identified in Section 6, the environmental impact associated with the proposed modification would be minimal with the Quarry unlikely to exceed the nominated blast criteria. The proposed modification would result in no changes to approved dust emissions, traffic levels, or noise generation.

Substantially the Same Development

Under the proposed modification, the Quarry would remain ‘substantially’ the same development as that currently approved under DA 2015/0106 because there would be no change to the following.

- The area of proposed disturbance. As a result, there would be no additional impacts to biodiversity or heritage values as a result of the proposed modification.
- The approved maximum production limit of 30,000m³/year. There would be no changes to the intensity of the operation with campaigns being implemented in the same manner, with occasional blasts being the only change to the approved operations.
- Peak daily impacts associated with the Quarry, including vehicle movements.
- Operating hours and life of the Quarry.

It is expected that the experience of the operation as perceived by residential receptors would not change. In addition, environmental management of the Quarry would remain consistent with existing approved operations.

Notification of the Application

This is a matter for Council to consider, however it is anticipated that Council will notify the application to relevant stakeholders.

Submissions Regarding the Proposed Modification

This is a matter for the Council to consider. However, the Applicant would be pleased to respond to any submissions received by Council during the assessment process.

7.2.2 Section 4.55(2) Considerations

As described in Sections 1.1, in the event that Council determines that the threshold for assessment under Section 4.55(1A) are exceeded, the application is made under Section 4.55(2) which is reproduced in full below.

*(2) **Other modifications** A consent authority may, on application being made by the applicant or any other person entitled to act on a consent granted by the consent authority and subject to and in accordance with the regulations, modify the consent if—*

- it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and*

- b) *it has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 4.8) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent, and*
- c) *it has notified the application in accordance with—*
 - (i) *the regulations, if the regulations so require, or*
 - (ii) *a development control plan, if the consent authority is a council that has made a development control plan that requires the notification or advertising of applications for modification of a development consent, and*
- d) *it has considered any submissions made concerning the proposed modification within the period prescribed by the regulations or provided by the development control plan, as the case may be.*

The following subsections provide an evaluation of the proposed modification against those provision that are additional to those required under Section 4.55(1A).

Consultation with the Relevant Minister, Public Authority or Approval Body

This is a matter for Council to consider, however it is anticipated that Council will consult with the Environment Protection Authority. While prior production at the Quarry has not exceeded the 30,000tpa threshold for a Scheduled activity under Clause 19 of Schedule 1 of the *Protection of the Environment Operations Act 1997*, the approved production rate of 30,000m³ does exceed that threshold. As identified in Section 4.2.2, the Applicant would apply for a EPL in the event that annual production exceeds the 30,000tpa threshold.

7.2.3 Section 4.15(1) Considerations (EP&A Act)

Section 4.15(1) of the EP&A Act sets out the matters for consideration by a consent authority when determining an application for development consent.

(1) Matters for consideration—general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

- (a) the provisions of:
 - (i) any environmental planning instrument, and
 - (ii) any proposed instrument that is or has been the subject of public consultation under this Act and that has been notified to the consent authority (unless the Planning Secretary has notified the consent authority that the making of the proposed instrument has been deferred indefinitely or has not been approved), and
 - (iii) any development control plan, and
 - (iiia) any planning agreement that has been entered into under section 7.4, or any draft planning agreement that a developer has offered to enter into under section 7.4, and

- (iv) the regulations (to the extent that they prescribe matters for the purposes of this paragraph), and
 - (v) (Repealed)
- that apply to the land to which the development application relates,
- (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,
 - (c) the suitability of the site for the development,
 - (d) any submissions made in accordance with this Act or the regulations,
 - (e) the public interest.

The following subsections provide an evaluation of the proposed modification against these provisions.

Environmental Planning Instruments, Plans and Regulations (Section 4.15(1a))

All relevant environmental planning instruments, plans and regulations are addressed in Section 4. In summary, the proposed modification is permissible and consistent with the objectives of the relevant local and State environmental legislation and guidelines.

Likely Impacts of the Development (Section 4.15(1b))

Section 6 provides an assessment of the environmental factors potentially impacted by the proposed modification. The proposed management and mitigations measures would limit potential environmental impacts and the modification would not generate adverse environmental impacts beyond those already approved for the Quarry.

Suitability of the Site (Section 4.15(1c))

The Quarry is ideally located for the production and distribution of sand and gravel. The Quarry is situated in a location that is relatively flat and generally separated from watercourses. It is reasonably distanced from any residences that limit views of the Quarry and minimises noise and vibration propagation and any dust dispersion.

Submissions (Section 4.15(1d))

It is anticipated that Council will take any submissions into consideration during the assessment of this application.

The Public Interest (Section 4.15(1e))

Operations have been undertaken at the Quarry since 2015 with 11 complaints received from a single individual between 2018 and 2020. In each case, those complaints were assessed and addressed appropriately. Noise complaints received were investigated and no further action was deemed necessary. Dust related complaints were investigated by Council and appropriate controls were suggested and implemented. The majority of matters in the complaints were found to not be caused by Quarrying activities.

The Applicant considers that the proposed modification serves the public interest as it would allow for the supply of extractive materials for the construction and maintenance of local infrastructure. In addition, the employment of local personnel provides additional flow-on benefits to the local community.

It is therefore concluded that the proposed modification is in the public interest through the increased resource utilisation at the Quarry in a safe and environmentally responsible manner and the provision of ongoing local economic benefits.

7.3 Justification of the Proposed Modification

7.3.1 Introduction

In assessing whether the development and operation of the proposed modification is justified, consideration has been given both to biophysical and socio-economic factors including the predicted residual impacts on the local and wider environment and the potential benefits of the proposed modification. This section also considers the consequences of the proposed modification not proceeding.

7.3.2 Biophysical Considerations

The proposed modification would result in the introduction of blasting operations at the Quarry. No other aspects of the approved Quarry operations would change. Therefore, the approved biodiversity, heritage, traffic, water and other environmental impacts would not change under the proposed modification.

Any change to the approved amenity impacts as a result of the proposed modification are expected to be difficult to discern from existing operations as a result of:

- the distance to the closest private residence (775m);
- the infrequent nature of the proposed blasting operations;
- the fact that the MIC to be used would be substantially less than the quantity assessed; and
- the management and mitigation measures which would continue to be implemented.

The fact that no complaints have been received by the Applicant since 2020 at the Quarry, even when operating at the limit of production indicates that the operation is currently operating without significant impact or nuisance to neighbours.

The inclusion of blasting during extraction campaigns would be a minimal disturbance to surrounding neighbours and would not be a significant change to current operations.

7.3.3 Socio-economic Considerations

The social and economic implications of the proposed modification are on balance positive. The proposed modification would enable better utilisation of the resource within the approved Quarry Site. This would result in the continued distribution of the economic benefits of the Quarry. The modification to operations would result in negligible changes to local amenity or the local experience of the Quarry.

7.3.4 Consequences of Not Proceeding with the Proposed Modification

The consequences of not proceeding with the proposed modification relate principally to the lost resource and the consequent early closure of the Quarry. This would result in reduced opportunities for supply of materials for public infrastructure works that are currently generated by the Quarry. Minor changes to local amenity would be avoided in this scenario.

7.4 Conclusion

The proposed modification would enable the Applicant to continue to support the local economy and the landscaping supplies / gravel and sand supply requirements of Bathurst and surrounding regions. The proposed modification would be implemented in a manner consistent with existing operations and it has been concluded that the modified operation would be difficult to discern from the currently approved activities. As the proposed modification would satisfy all relevant statutory requirements for the operation including environmental impact assessment outcomes, it is concluded that the proposed modification would be in the public interest.

8. References

Spectrum Acoustics (2023). *Acoustic Review – Napoleon Reef Quarry*. April 2023. Presented as Appendix 3 of this report.

Appendices

- Appendix 1 Development Application 2015/0106
- Appendix 2 Legal advice prepared by TC Hale SC
- Appendix 3 Blasting Review prepared by Spectrum
Acoustics Pty Ltd

Appendix 1

Development Application 2015/0106

(Total No. of pages including blank pages = 16)

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BATHURST
REGIONAL COUNCIL



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www.bathurstregion.com.au

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**NOTICE TO APPLICANT OF DETERMINATION
OF A DEVELOPMENT APPLICATION**

Mr PD Hotham
Hothams Sand, Soil & Gravel Supplies Pty Ltd
104 Havannah Street
BATHURST NSW 2795

being the applicant in respect of **Development Application No 2015/0106**.

Pursuant to section 81(1)(a) of the Environmental Planning and Assessment Act 1979, as amended, notice is hereby given of the determination by Council of Development Application No 2015/0106, relating to the land described as follows:

LOT: 3 DP: 226520, NAPOLEON REEF ROAD NAPOLEON REEF

The Development Application has been determined by GRANTING consent to the following development:

EXTRACTIVE INDUSTRY

Building Code of Australia building classification **NA**.

IMPORTANT NOTICE TO APPLICANT

If this consent relates to a subdivision or to the erection of a building, one of the conditions listed below will require you to obtain a construction certificate prior to carrying out any work. **YOU MUST NOT COMMENCE WORK UNTIL YOU HAVE RECEIVED THE CONSTRUCTION CERTIFICATE**, even if you made an application for a construction certificate at the same time as you lodged this development application. Due to changes in the law relating to planning and building approvals, Council is unable to issue the construction certificate with the development consent. If there are no conditions in this development consent which need to be met before Council issues the construction certificate, and if your plans comply fully with the Building Code of Australia, the construction certificate will be forwarded to you shortly.

This consent is issued subject to the following conditions and reasons:

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

1. **Prior to the issue of any Construction Certificates for civil works the applicant is to submit to Council for approval an Operational Management Plan that includes the following components:**

- (a) **A detailed rehabilitation plan;**

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- (b) A detailed erosion and sediment control plan (including dust management);
- (c) A complaints management procedure;
- (d) A road transport code of conduct;
- (e) Protocols for dealing with any fuel spills or leaks; and
- (f) An emergency and bush fire plan.

REASON: to ensure that the impact of demolition and construction to adjoining and surrounding properties is considered and appropriately mitigated. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended

2. **The applicant is to submit three copies of engineering plans, specifications and calculations in relation to:**

- Drainage infrastructure;
- Property entrance;
- Internal haul road extension;
- Intersection construction; and
- Public road construction.

Further, the works are to comply with Bathurst Regional Council's Guidelines for Engineering Works.

REASON: Because it is in the public interest that the design of that (those) aspect(s) of the development comply with Council's Engineering Guidelines. Section 79C(1)(c) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

3. **Unless the development is exempt under Council's Local Approvals Policy or Bathurst Regional Local Environmental Plan 2014 – Schedule 2, the applicant is to obtain a Construction Certificate pursuant to Section 109C of the Environmental Planning and Assessment Act 1979, as amended from either Council or an accredited certifying authority certifying that the proposed works are in accordance with Bathurst Regional Council's Guidelines for Engineering Works prior to any civil works commencing.**

NOTE 1: No building, engineering or excavation work is to be carried out in relation to this development until the necessary Construction Certificate or certificates have been obtained.

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NOTE 2: YOU MUST NOT COMMENCE WORK UNTIL YOU HAVE RECEIVED THE CONSTRUCTION CERTIFICATE, even if you made an application for a Construction Certificate at the same time as you lodged this development application.

NOTE 3: It is the responsibility of the applicant to ensure that the development complies with the provision of the Building Code of Australia in the case of building work and the applicable Council Engineering Standards in the case of civil works. This may entail alterations to the proposal so that it complies with these standards.

NOTE 4: Evidence of the approval of TransGrid for any works within or new to the existing transmission lines is to be provided prior to approval of the Construction Certificate for these works.

REASON: So that the design of the proposed work may be assessed in detail before construction commences and because it is in the public interest that the development comply with the appropriate construction standards. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

4. **The developer is to make a payment to Council of \$150.00 for the provision of each new street sign.**

REASON: Because it is in the public interest that street signs be erected. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

5. **The developer is to lodge a bond with Council equal to 5% of the total road civil construction costs at practical completion to be held by Council for a minimum period of 12 months. The bond must be lodged with Council before a Subdivision Certificate will be issued by Council.**

REASON: In order to cover cost of any works requiring repair. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

6. **The payment of \$12.60 per lineal metre for the inspection of the road during construction being a total of \$1,638.00. This monetary contribution is to be paid to Council prior to the issuing of any Construction Certificates.**

All monetary conditions are reviewed annually, and may change as of 1 July each year.

REASON: So that the construction of this aspect of the development may be checked during construction. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

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7. **The payment to Council of \$136.70 for inspection of rural access.**

These fees must be paid at the time of lodgement of any Construction Certificate.

All monetary conditions are reviewed annually, and may change as of 1 July each year.

REASON: Because it is in the public interest that such fees be paid in accordance with Council's Management Plan. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

DURING CONSTRUCTION

8. **All stormwater runoff from the proposed development is to be collected on site and conveyed to a legal point of discharge, in a manner consistent with AS 3500 and Bathurst Regional Council's Guidelines for Engineering Works.**

REASON: Because the character of the development is such that storm water run off will be increased and must be safely conveyed to the storm water drainage system. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

9. **The developer is to relocate, if necessary, at the developer's cost any utility services.**

REASON: Because the circumstances are such that the services be relocated. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

10. **During and after construction, minimum distances from powerlines are to be maintained.**

REASON: So that safe clearances are maintained from electrical powerlines, and because of representations to this effect from Essential Energy. Section 79C(1)(b) and (d) of the Environmental Planning and Assessment Act 1979, as amended.

11. **The applicant is to arrange an inspection of the development works by Council's Engineering Department at the following stages of the development. This condition applies notwithstanding any private certification of the engineering works.**

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COLUMN 1	COLUMN 2
Road construction	* Following site regrading, and prior to installation of footway services; * Excavation and trimming of subgrade; * After compaction of subbase; * After compaction of base, and prior to sealing; * Establishment of line and level for kerb and gutter placement; * Subsoil Drainage; * Road pavement surfacing; * Pavement test results (compaction, strength).
Drainage	* After laying of pipes and prior to backfill; * Pits after rendering openings and installation of step irons.
New gate – rural crossing	* Prior to commencement of excavation works. * After compaction of base and prior to sealing * Road pavement surfacing
Erosion and sediment control	* Prior to the installation of erosion measures.
All development and/or subdivision works	* Practical completion.

REASON: Because it is in the public interest that Council inspect the work at these stages of development. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

12. **Compliance with any requirements of the Roads & Maritime Services (RMS) including the following:**

- * ***A basic left (BAL) turn treatment as shown in Figure 8.2 of the Austroads Guide to Road Design: Part 4A is to be provided at the vehicular access intersection with Napoleon Reef Road. The BAL facility is to be sealed and built for an 80km/h environment.***
- * ***The vehicular access is to be sealed a minimum of twenty (20) metres from the edge of the travel lane in Napoleon Reef Road.***
- * ***Safe Intersection Sight Distance (SISD) requirements outlined in the Austroads Guide to Road Design Part 4A and relevant Roads and Maritime Supplements are to be provided at the vehicular access intersection with Napoleon Reef Road. For an 80km/h speed zone the minimum SISD is 185 metres.***

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- * **Arrange with Bathurst Regional Council for the installation of "Trucks Turning" signs (W5-205) on Napoleon Reef Road at each approach to the extractive industry access. The signs are to be within 170 to 200 metres either side of the access and removed upon closure of the development.**
- * **To provide suitable storage capacity for the largest class of vehicle accessing the extractive industry, any gate, grid or similar structure installed in the access needs to be setback appropriately (20m for rigid truck and dog trailer) from the edge of Napoleon Reef Road.**
- * **All required road works are to be completed to the satisfaction of Council prior to operation of the proposed development.**

NOTE: In the event that the RMS speed limit review decreases the speed environment to 60 km/h then the 60 km/h speed limit will apply.

REASON: Because of representations to that effect made by that body (those bodies). Section 79C(1)(d) of the Environmental Planning and Assessment Act 1979, as amended.

13. **The construction of an all-weather vehicular access. Such access shall include:**
- a) **a gate or stock grid set back a minimum distance of ten metres from the boundary of the land with the public road.**
 - b) **a minimum 4.0 metre wide sealed footway crossing, extending from the edge of the bitumen seal on the public road to the entrance gate or stock grid.**
 - c) **a 150 mm thick 3.0 metre wide concrete dish drain or 450 mm minimum diameter reinforced concrete pipe culvert with headwalls, aligned with the table drain in the public road.**

NOTE 1: Any new vehicular access points are to be located such that all RTA stopping sight distances are achieved.

REASON: To minimise the impact of the development on the environment, and to provide access for emergency vehicles. Section 79C(1)(b) and (c) of the Environmental Planning and Assessment Act 1979, as amended.

14. **The reconstruction of the intersection of Napoleon Reef Road and the unformed Council road including construction of a basic left turn treatment (BAL) in accordance with the provisions of Bathurst Regional Council's Guidelines for Engineering Works.**

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REASON: To increase the capacity of the intersection so that it may cater for the increased traffic likely to be caused by the development. Section 79C(1)(b) and (c) of the Environmental Planning and Assessment Act 1979, as amended.

15. **The unformed Council road to be designed as rural roadway in accordance with Bathurst Regional Council's Guidelines for Engineering Works.**

REASON: To increase the capacity of the intersection so that it may cater for the increased traffic likely to be caused by the development. Section 79C(1)(b) and (c) of the Environmental Planning and Assessment Act 1979, as amended.

16. **The external boundary of the extraction area is to be clearly identified by way of readily identifiable survey markers prior to the commencement of any work onsite.**

NOTE 1: The survey markers may be offset by up to 10m to avoid damage through movement of equipment and placement of stockpiles beyond the extraction area.

NOTE 2: The survey markers for external boundary of the extraction area are to be maintained until rehabilitation has been completed.

REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

17. **The earth bund around Stage 1 of the extraction area is to be constructed, stabilized and vegetated prior to the commencement of extraction.**

NOTE: All screening and landscaping vegetation to be locally appropriate native species.

REASON: To minimise the impacts of the proposal on the environment. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

18. **The development is to be conducted in accordance with the Ecological Assessment prepared by OzArk Environmental and Heritage Management Pty Ltd (dated April 2015).**

REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

19. **The development is to be conducted in accordance with the Noise Impact Assessment prepared by Spectrum Acoustics Pty Ltd (dated June 2015).**

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REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

20. **Fencing used to delineate the offset area is to be fauna friendly. Specifically, no chain link or barbed wire is to be used. The distance to the ground from the lowest strand is to be a minimum of 15cm.**

REASON: To ensure that the impact of the proposed development on identified and potentially threatened species is minimal or negligible. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

21. **The applicant is to submit to Council one set of electronic files in both Portable Document Format (.pdf) and in CAD Drawing (.dwg) (MGA co-ordinates, with each of the services on a separate layer eg separate out water, sewer, storm water to their own layers) and one set of paper copies of the works as executed plans for the drainage infrastructure, intersection construction and public road construction.**

Each sheet is to include a bar scale or scales adjacent to the title block showing the scale (the works as executed plan is to be scaled at 1:500) and each sheet is to be properly signed and dated by the person responsible for the carrying out of those works. Further, the works are to comply with Bathurst Regional Council's Guidelines for Engineering Works.

REASON: So that Council may ensure that the construction is in accordance with Council's requirements, and so that a permanent record of the design as constructed may be held by Council, to assist in future maintenance, or for the information of the emergency services. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

USE OF SITE

22. **Clearing of native vegetation is prohibited unless it is in accordance with the provisions of the Native Vegetation Act 1993, as amended.**

REASON: To ensure that the impact of the proposed development on identified and potentially threatened species is minimal or negligible. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

23. **Harvesting of firewood for commercial purposes and removal of bush rock is not permitted outside the approved development area.**

REASON: To minimise the impacts of the proposal on the environment. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

24. **Annual extraction is not to exceed 30,000 cubic metres.**

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REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

25. **The total area of the extraction site is not to exceed 230 metres by 80 metres.**

REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

26. **Hours of operation are to be restricted to:**

- 8am to 5pm – Monday to Friday
- 8am to 2pm – Saturdays
- No work on Sundays or public holidays

This restriction applies to all activities associated with the operation of the extractive industry inclusive of extraction of material, screening and transportation of material within and from the site and rehabilitation works.

REASON: So that the development does not reduce the amenity of the area. Section 79C(1)(b) of the Environmental Planning and Assessment Act 1979, as amended.

27. **During the carrying out of the proposed works, if any remains or relics are discovered, the developer is to stop works immediately and notify NSW National Parks and Wildlife Service. Any such find is to be dealt with appropriately and in accordance with the National Parks and Wildlife Act 1974, recorded, and details given to Council prior to the continuing of works.**

NOTE 1: A representative of the Local Aboriginal Community (preferably an experienced Senior Sites Officer) is to be present during the commencement of the removal of surface material (overburden) in preparation to excavate material for crushing.

REASON: To record and preserve historic details of previous uses of the site. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979.

28. **The payment to Council of an annual contribution for the maintenance of roads in the vicinity of the proposed development in accordance with Council's Section 94 Contributions Plan "Bathurst Regional Traffic Generating Development". The contribution will be calculated using the following formula:**

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Contribution = \$0.022 x [loose tonnes hauled] x [typical ESA] x [haul route length]

Loose tonnes hauled	Total annual extraction volume (in cubic metres) divided by 30%
Typical ESA	Equivalence Standard Axle multiplier (as per Austroads classification)
Haul route length	Distance from a classified road to the property boundary (in this case 1.3 kilometres from Great Western Highway to property boundary)

The Section 94 contribution will be calculated from true certified copies of weighbridge dockets, log books, diary entries and/or other returns or records that show the true quantities of extracted and/or processed material transported from the extraction site.

The applicant is to supply to Council on or before the fourteenth day of September annually for the duration of the development consent for the development's operation, the records of the transported material, certified by a Company Officer.

Council, upon receipt of such records will, as soon as it can conveniently do so, issue to the applicant an invoice for the Section 94 contribution amount to be paid to Council. Council has, by this condition of consent, the right to inspect and audit the original records relating to the transport of material to or from the development.

NOTE 1: Copies of all Council's Section 94 Contribution Plans may be inspected at Council's offices.

REASON: Because, having considered the matter in accordance with Section 94 of the Environmental Planning and Assessment Act 1979, as amended, the Council is satisfied that the development will require the provision of, or increase the demand for, these public amenities or services within the area. Section 80A(1)(h) of the Environmental Planning and Assessment Act 1979, as amended.

29. The applicant is to submit to Council on or before the fourteenth day of September annually an Annual Report that includes (but is not limited to) the following:

- Total extraction volume for the preceding year;
- A record of any complaints received inclusive of the time and date of the complaint, details of the complainant and complaint and any action taken to rectify the complaint; and
- Progress photos.

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REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

30. **Except where modified by the conditions imposed upon this consent the development is to be carried out in accordance with:**
1. **Plans of the development prepared by Macquarie Civil Services.**
 2. **Statement of Environmental Effects prepared by Barnsons.**
 3. **Ecological Assessment: Hothams Quarry prepared by Ozark Environmental Heritage and Management.**
 4. **Environmental Offsetting: Hotham Quarry DA prepared by Ozark Environmental Heritage and Management.**
 5. **Tree removal outline.**
 6. **Additional supporting documentation submitted by the applicant.**
 7. **Noise Impact Assessment prepared by Spectrum Acoustics.**
 8. **Geotechnical Investigation of the site prepared by the Bathurst Local Aboriginal Land Council.**
 9. **Report of the Site Walkover Survey prepared by the Wiradjuri Traditional Owners Central West Aboriginal Corporation.**

REASON: Because it is in the public interest that work is carried out in accordance with the approved plans. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

PRESCRIBED CONDITIONS

The following conditions are known as "Prescribed Conditions" and are required to be imposed as part of any development consent whether or not they are relevant to the development approved under this consent. Please do not hesitate to contact staff in Council's Planning and Development Department who will be happy to advise you as to whether or not the conditions are relevant.

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

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REASON: So that the development complies with the requirements imposed under Clause 98 of the Environmental Planning and Assessment Regulations 2000, as amended. Section 80A(11) of the Environmental Planning and Assessment Act 1979, as amended.

32. Building work (within the meaning of the Home Building Act 1989) must not be carried out unless the principal certifying authority for the development:

- a) in the case of work done by a licensee under the Act:**
 - i) has been informed in writing of the licensee's name and contractor license number, and**
 - ii) is satisfied that the licensee has complied with the requirements of Part 6 of that Act, OR**
- b) in the case of work to be done by any other person:**
 - i) has been informed in writing of the person's name and owner-builder permit number, or**
 - ii) has been given a declaration, signed by the owner of the land, that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of owner-builder work in section 29 of the Act,**

and is given appropriate information and declarations under paragraphs a) and b) whenever arrangements for the doing of the work are changed in such a manner as to render out of date any information or declaration previously given under either a) or b).

NOTE 1: A certificate issued by an approved insurer under Part 6 of the Home Building Act 1989 that states that the person is the holder of an insurance policy is sufficient evidence to satisfy this condition.

REASON: So that the development complies with the requirements of clause 98 of the Environmental Planning and Assessment Act Regulations 2000. Section 80A(11) of the Environmental Planning and Assessment Act 1979, as amended.

33. For development that involves any building work, subdivision work or demolition works:

- a) A sign must be erected in a prominent position:**
 - i) showing the name, address and telephone number of the principal certifying authority for the work, and**

Reference: DDWY:MM:DA/2015/0106
Enquiries: Mr D J Dwyer 02 6333 6212
0006DD_DA.doc

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Hothams Sand, Soil & Gravel Supplies Pty Ltd
23 November 2015

- ii) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- iii) stating that unauthorised entry to the work site is prohibited.
- b) Any such sign is to be maintained while the work is being carried out, but must be removed when the work has been completed.
- c) This condition does not apply in relation to work that is carried out inside an existing building that does not affect the external walls of the building.
- d) This condition does not apply in relation to Crown building work that is certified, in accordance with section 109R of the Act, to comply with the technical provisions of the State's building laws.

REASON: Because it is in the public interest that the persons responsible for the site can be contacted. Section 79C(1)(e) of the Environmental Planning and Assessment Act 1979, as amended.

34. **The commitments listed in any relevant BASIX Certificate for this development are to be fulfilled in accordance with the BASIX Certificate Report, Development Consent and the approved plans and specifications.**

REASON: So that the development complies with the requirements imposed under Clause 97A of the Environmental Planning and Assessment Regulations 2000, as amended. Section 80A (11) of the Environmental Planning and Assessment Act 1979, as amended.

35. **If the development involves an excavation that extends below the level of the base of the footings of a building, structure or work (including any structure or work within a road or rail corridor) on adjoining land, the person having the benefit of the development consent must, at the person's own expense:**

- a) protect and support the building, structure or work from possible damage from the excavation; and
- b) where necessary, underpin the building, structure or work to prevent any such damage.

The condition does not apply if the person having the benefit of the development consent owns the adjoining land or the owner of the adjoining land has given consent in writing to that condition not applying.

REASON: Because it is in the public interest that all building elements are able to withstand the combination of loads and other actions to which it may be

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Hothams Sand, Soil & Gravel Supplies Pty Ltd
23 November 2015

subjected. Section 79C(1)(b) and (e) of the Environmental Planning and Assessment Act 1979, as amended.

Endorsement date of determination and operative date: 23 November 2015

NOTES:

1. **Lapsing of consent.** Unless a shorter period is specified in this notice, this consent will lapse if the development is not substantially commenced within five years of the date endorsed on this notice.
2. **Right of Review:** If you are dissatisfied with this determination, section 82A of the Environmental Planning and Assessment Act 1979, as amended, gives you the right to request the Council to review its determination. Such a request must be accompanied by the fee prescribed in Council's Revenue Policy.

For Development Applications lodged prior to 28 February 2011 the review must be undertaken within 12 months of the date endorsed on this notice.

For Development Applications lodged after 28 February 2011 the review must be undertaken within 6 months of the date endorsed on this notice.

3. **Right of appeal:** If you are dissatisfied with this determination, section 97 of the Environmental Planning and Assessment Act 1979, as amended, gives you the right of appeal to the Land and Environment Court.

For Development Applications lodged prior to 28 February 2011 the appeal must be lodged within 12 months of the date endorsed on this notice.

For Development Applications lodged after 28 February 2011 the appeal must be lodged within 6 months of the date endorsed on this notice.

4. See **attached** sheet for explanatory notes.
5. All monetary conditions are reviewed annually, and may change as of 1 July each year.



J E Bingham
ACTING DIRECTOR
ENVIRONMENTAL, PLANNING & BUILDING SERVICES

Reference: DDWY:MM:DA/2015/0106
Enquiries: Mr D J Dwyer 02 6333 6212
0006DD_DA.doc

**BATHURST
REGIONAL COUNCIL**



Civic Centre
158 Russell Street
BATHURST NSW 2795

Telephone 02 6333 6111
Facsimile 02 6331 7211
council@bathurst.nsw.gov.au
www.bathurst.nsw.gov.au
www.bathurstregion.com.au

Correspondence to:
Private Mail Bag 17
BATHURST NSW 2795

DETERMINATION OF A DEVELOPMENT APPLICATION

EXPLANATORY NOTES

1. Should further explanation of the terms or conditions of the approval be required, please contact Council's Environmental Planning and Building Services Department.
2. Unless otherwise stated in a particular condition, it is the developer's responsibility to obtain any additional permits, approvals, consents, easements, or permission to enter necessary for the satisfaction of any conditions or for the completion of any works to be carried out in connection with the development.
3. Application for modification of this consent must be made on the prescribed form and be accompanied by the prescribed fee.
4. If amended building plans are submitted they must be accompanied by the fee set out in Council's Revenue Policy.

Appendix 2

Legal Advice

prepared by
TC Hale SC

(Total No. of pages including blank pages = 7)

**HOTHAMS SAND SOILS & GRAVEL PTY LTD –
QUARRY AT NAPOLEON REEF ROAD, NAPOLEAN REEF**

MEMORANDUM OF ADVICE

1. Hothams Sand Soil & Gravel Pty Ltd (“Hothams”) is the registered proprietor of Lot 3 in DP 276520, Napoleon Reef Road, Napoleon Reef. Napoleon Reef is approximately 10 km outside the city of Bathurst.
2. In my Memorandum of Advice dated 9 October 2019, I recorded at [3] the issue on which I had been asked to advise in the following terms:

My advice has been sought as to the proper construction of clause 19(1)(c)(v) of Schedule 3 to the Regulation and whether the modification, if approved, would have the effect of bringing the quarry within the definition of an extractive industry and therefore engaging the provisions of the Environmental Planning & Assessment Act, 1979 concerning designated developments.

3. At paragraph 4 of that Memorandum of Advice, I advised:

For the reasons that follow, in my opinion such a modification would not bring the development within clause 19 and that therefore the modification would not engage the designated development provisions of the EPA Act.

4. That advice was concerned with the *Environmental Planning & Assessment Regulation 2000* (**Regulation 2000**). Since the date of my advice, the *Environmental Planning & Assessment Regulation 2021* (**Regulation 2021**) has come into force. Regulation 2021 has made changes to the definition of extractive industries together with other changes that are relevant for present purposes. I have now been asked to reconsider the opinions expressed in my advice of 9 October 2019 in the light of these legislative changes.
5. For ease of reference a copy of my advice of 9 October 2019 is attached.

Background

6. On 23 November 2015, Bathurst Regional Council ("the Council") granted development consent to DA No 2015/01606 for a quarry on part of Lot 3. Development consent was granted on the basis that the quarry did not come within the definition of designated development under clause 19(1) of Schedule 3 to Regulation 2000. Hothams proposes to make application to modify the development consent so as to permit blasting in the quarry up to a maximum of twice a year.
7. Condition 30 of the development consent provided that the development was to be carried out in accordance with a number of documents which accompanied the development application. Most particularly, the documents included the Statement of Environmental Effects prepared by Barnsons ("SEE") and the Noise Impact Assessment prepared by Spectrum Logistics ("NIA").
8. The SEE sets out the manner of operation of the proposed quarry in paragraph 1.2 and in the plans in Appendix A. In clause 1.2 of the SEE, it was stated that the extraction was to be up to a maximum of 30,000 m³ per year of sand and gravel. The development consent contained a condition imposing a maximum annual extraction in accordance with this statement in the SEE: condition 24. The total surface area to be disturbed was described to be for a maximum area of 2 ha.
9. The area of the development is shown in the plans being Appendix A to the SEE. The site plan shows the quarry being along the northern boundary. The quarry and stockpile plan show the quarry and stockpile area being 250 m x 80 m; a total area of 2 ha. This is the area in which the development consent permits the quarrying to be carried out.
10. The site plan also shows the position of dwellings in relation to the area in which the quarrying was to be carried out. In paragraph 1.1 of the SEE it is stated that the closest dwellings are separated by approximately 800 m from the quarry site.
11. The description of the proposed development in paragraph 1.2 makes no mention of blasting.

Summary of Advice – 9 October 2019

12. In my October 2019 advice, I concluded at [14] that blasting was not an activity approved as part of the development consent. However, the critical question was whether a modification to the development consent to permit blasting in the quarry up to a maximum of twice a year would, if approved, bring the quarry within the definition of designated development under schedule 3 of Regulation 2000. More specifically, the issue was whether blasting twice a year would bring the development within the definition of extractive industries under clause 19 of schedule 3 of Regulation 2000 on the basis of clause 19(1)(c)(v) which provides:

“(v) if involving blasting, within 1,000 metres of a residential zone or within 500 metres of a dwelling not associated with the development, or...”

13. Part 5 of Schedule 3 referred to how distances were measured for the purpose of the Schedule. Clause 41 provided:

41 Dwellings

The distance from a dwelling is to be measured as the shortest distance between the edge of the dwelling and the boundary of any development or works to which the development application applies.

14. At paragraph 27 of my advice, I stated:

In my opinion, for the purposes of determining the boundary of any development or works for the purposes of clause 41 and clause 19(1)(c)(v) the boundary is the boundary of the quarry and stockpiles identified in Appendix A at pages 24 and 25. It is not the access way. Consistently with the approach in *Argyropolous*, the track would not be properly characterised as a quarry, but rather as a road.

15. As I understand it, at the time of my advice others expressed a contrary view, which was to the effect that under clause 19 of Regulation 2000 the development, the subject of the development consent, included the access way and that therefore clause 19(1)(c)(v) was engaged. Contrary to the opinion I expressed, it was said that when applying clause 41, “the boundary of any development or works to which the development application applies” included the access way. The effect of that contrary view was that even though the development or works, the subject of the development consent, were to be carried out in accordance with the plans being Appendix A to the SEC, which was more than 1,000 m from a residential zone and more than 500 metres

from the closest dwelling, clause 19(1)(c)(v) was nonetheless engaged due to the proximity of the dwelling house to the access way.

Regulation 2021

16. I have been asked to reconsider my advice in light of Regulation 2021. In my opinion, Regulation 2021 overcomes any doubts that might have been harboured as to the correctness of the opinion I expressed in my October 2019 advice.
17. Section 4.10 of the *Environmental Planning & Assessment Act 1979* (the Act) defines designated development to mean development that is declared to be designated development by the regulations. Clause 19 of Schedule 3 of Regulation 2000 defined particular forms of extractive industries to be designated development. Extractive industries were defined in clause 19(1) as “industries that obtain extractive materials by methods, including excavating...”.
18. Clause 26 of Schedule 3 to Regulation 2021 does not define designated development in terms of extractive industries but in terms of “an extractive industry facility”. Clause 26(1) is in these terms:

Development for the purposes of an extractive industry facility is designated development if the facility obtains or processes for sale, or reuse, more than 30,000 cubic metres of extractive
19. Clause 26(6) defines an extractive industry facility in these terms:

extractive industry facility means a building or place at which—
 (a) extractive materials are obtained by methods including excavating, dredging, tunnelling or quarrying, or
 (b) extractive materials are stored, stockpiled or processed by methods including washing, crushing, sawing or separating.
20. That is, an extractive industry facility is defined by reference to a building or place.
21. Putting to one side for the moment the reference to a building, the question to be asked is: at which place are the extractive materials obtained within the meaning of clause 26(3)(a) and at which place are the extractive materials stored, stockpiled or processed within the meaning of clause 2(6)(b)?

22. In my October 2019 advice I referred to the fact that:
- Condition 30 of the development consent provided that the development was to be carried out in accordance with, inter alia, the SEE: [5]
 - The SEE sets out the manner of operation of the proposed quarry which included the plans in Appendix A:[7]
 - Appendix A showed the place at which the extractive materials were to be obtained and the extractive materials were to be stored, stockpiled and processed. The quarry and stockpile area were shown to be an area of 250 m x 80 m, a total area of 2 ha:[10].
23. It follows from this that the extractive industry facility was that shown in the 2 ha area in Appendix A to the SEE. The area was defined to be 2 ha and no more. Were it otherwise, clause 19(1)(b) of Regulation 2000 would have been engaged and the development would have come within the definition of designated development.
24. In Regulation 2021, clause 26(3)(f) provides:
- Development for the purposes of extractive industry facility is designated if the development if the facility is located:
- ...
- (f) if the facility involves blasting –within 1000 metres of a residential zone or within 500 metres of a dwelling not associated with the development.
25. Clause 26(3)(f) is the successor to clause 19(1)(c)(v) of Regulation 2000. Unlike the former clause 19, clause 26(3) is directed to an “extractive industry facility”, as defined in clause 26(6). The chapeau to clause 26(3) is directed to where the facility is located. In the present case, the extractive industry facility is located in the 2 ha area to which I have just referred. If the development consent is modified so as to permit blasting up to a maximum of twice a year, the introductory words of clause 26(3)(f) will be engaged: *“if the facility involves blasting”*. However, clause 26(3) only applies if the facility is located within 1000 m of a residential zone or within 500 m of a dwelling.
26. The extractive industry facility is not within either. It therefore follows that the development, as proposed to be modified, will not come within the definition of designated development under clause 26 of Regulation 2021.

Summary and Conclusion

27. For the foregoing reasons, in my opinion the modification of the development consent to permit blasting would not have the effect of characterising the development as designated development pursuant to clause 26 of schedule 3 to Regulation 2021.



T S Hale SC

Chambers

10 November 2022

Appendix 3

Acoustic Review

prepared by
Spectrum Acoustics Pty Ltd

(Total No. of pages including blank pages = 6)



27 April 2023

Ref: 151056/5852B

Hotham Sand, Soil & Gravel Supplies Pty Ltd
C/- RW Corkery & Co Pty Limited
62 Hill Street
Orange NSW 2800

RE: ACOUSTIC REVIEW – NAPOLEON REEF QUARRY

This letter report presents the results of an acoustic review and assessment of a proposed modification to the existing Napoleon Reef Quarry. The only change to existing operations approved under DA 2015/0106 is the introduction of a limited amount of blasting to prepare material for extraction. There are no proposed changes to currently utilised plant and equipment, operating times or product transportation. The project site and surrounding receivers are shown in **Figure 1**.

BLAST IMPACT CRITERIA

Noise and vibration levels from blasting are assessable against criteria proposed by the Australian and New Zealand Environment and Conservation Council (ANZECC) in their publication “*Technical Basis for Guidelines to Minimise Annoyance due to Blasting Overpressure and Ground Vibration – September 1990*”. These criteria are summarised as follows:

- The recommended maximum overpressure level for blasting is 115 dB;
- The level of 115 dB may be exceeded for up to 5% of the total number of blasts over a 12-month period, but should not exceed 120 dB at any time;
- The recommended maximum vibration velocity for blasting is 5 mm/s Peak Vector Sum (PVS);
- The PVS level of 5 mm/s may be exceeded for up to 5% of the total number of blasts over a 12-month period, but should not exceed 10 mm/s at any time;
- Blasting should generally only be permitted during the hours of 9 am to 5 pm Monday to Saturday, and should not take place on Sundays and Public Holidays; and

Although satisfaction of the above criteria allows for daily blasts, the Applicant has advised that blasting would be very infrequent, with no more than one blast per month on average. There are no nearby structures that may potentially be damaged by ground vibration or overpressure from blasting so only the human comfort criteria above are considered.

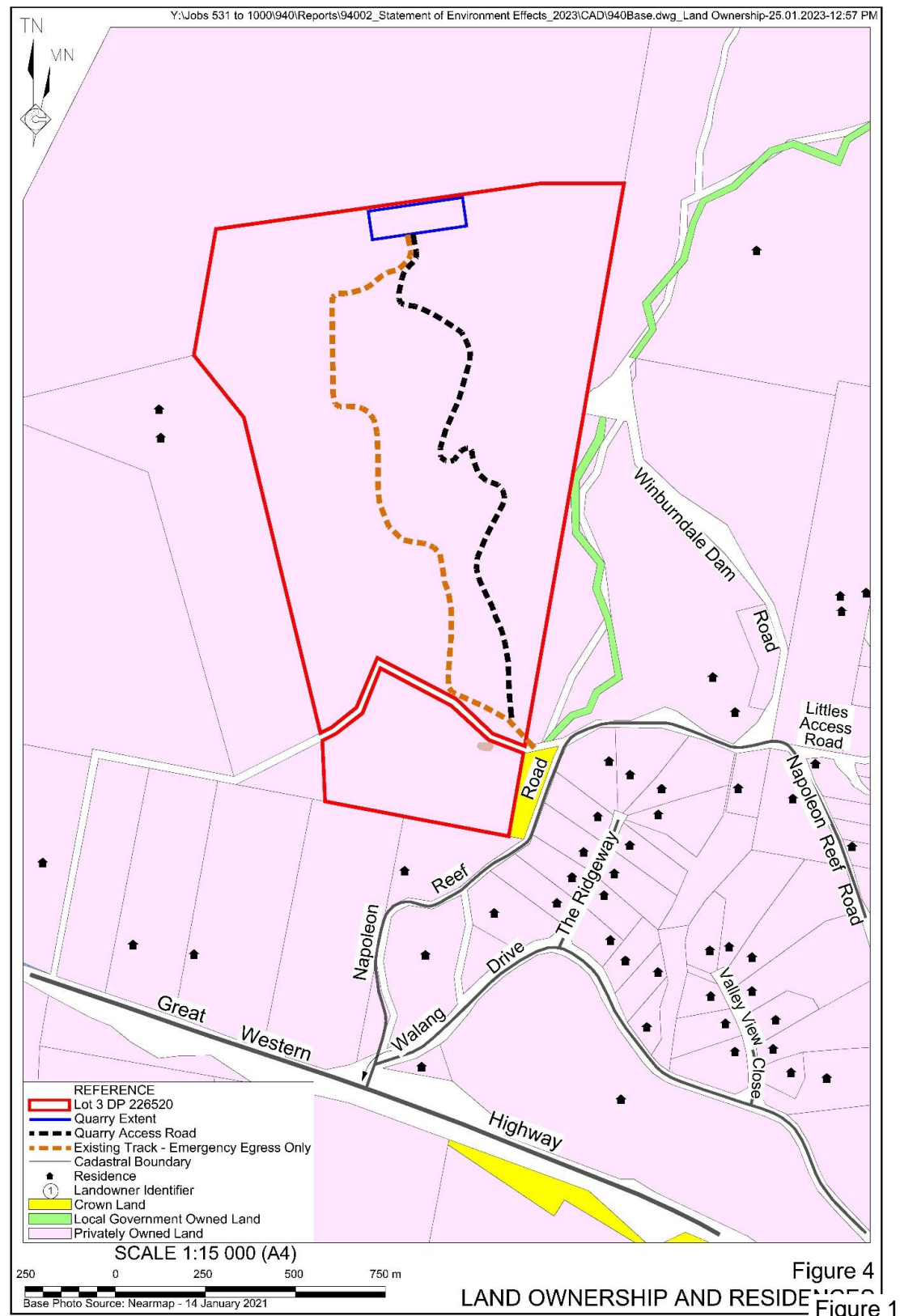


Figure 1. Project site and receivers (Source: RW Corkery & Co.).

METHODOLOGY

Unweighted airblast overpressure levels (OP) are predicted from **Equation 1** below.

$$OP = 165 - 24(\log_{10}(D) - 0.3 \log_{10}(Q)), \text{ dB} \quad (1)$$

where D is distance from the blast to the assessment point (m) and
 Q is the weight of explosive per delay (kg).

The basic equations for calculation of peak particle vibration (PPV) levels from blasting are as follows:

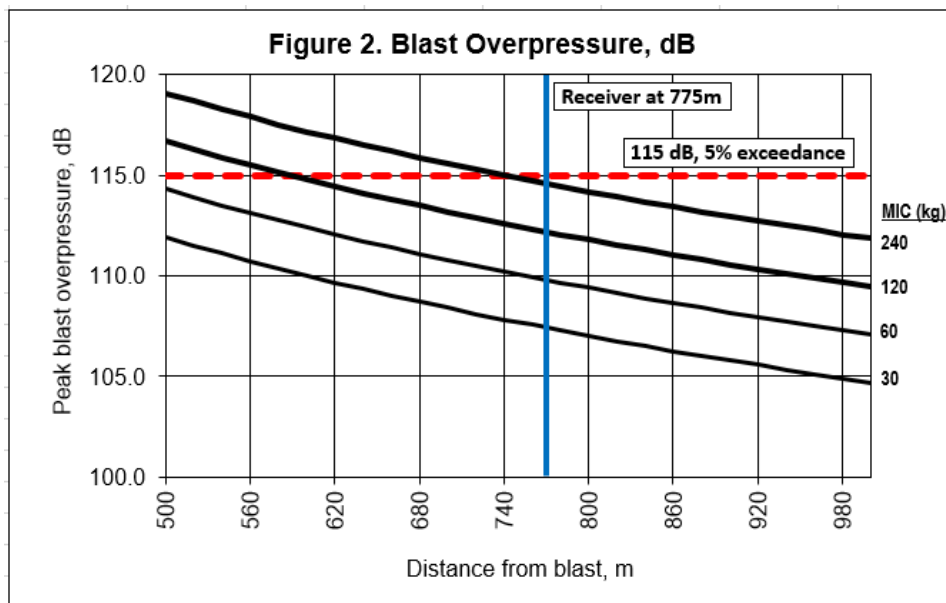
$$PPV = 1140 \left(\frac{D}{Q^{0.5}} \right)^{-1.6}, \text{ mm/s} \quad (\text{for average ground type}) \quad (2)$$

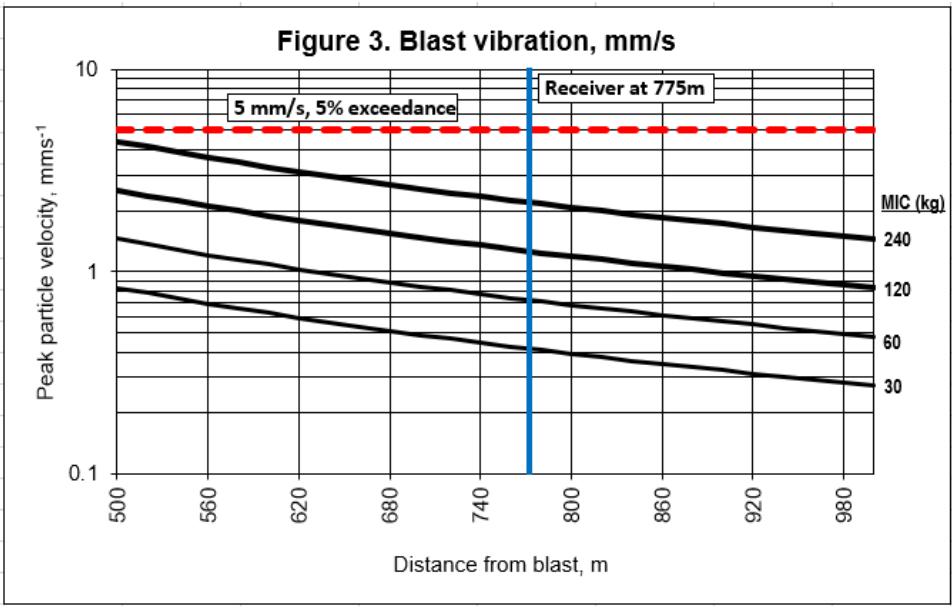
$$PPV = 500 \left(\frac{D}{Q^{0.5}} \right)^{-1.6}, \text{ mm/s} \quad (\text{for hard rock}) \quad (3)$$

where D and Q are defined as in Equation 1. Equation 2 has been adopted to provide a conservative assessment as no specific site law has been established through trial blasting.

IMPACT ASSESSMENT

The nearest receiver is 775m to the south west of the approved extraction area. Typical quarry blasts for the proposed 10 m benches detonate approximately 30-80 kg of explosive per delay (Maximum Instantaneous Charge, MIC kg). Calculated blast overpressure and ground vibration levels at the nearest residential receiver as summarised in **Figures 2 and 3** for a range of MIC values.





Based on the results in Tables 2 and 3, the overpressure and ground vibration 5% exceedance criteria will not be exceeded for blasts up to 240kg MIC, with overpressure being the limiting factor. Accordingly, it would be appropriate to condition an approval such that blasts should not exceed 240 kg MIC.

I trust this report fulfils your requirements at this time, however, should you require additional information or assistance please contact the undersigned on 49542276.

SPECTRUM ACOUSTICS PTY LIMITED

Neil Pennington
B.Sc.(Physics), B.Math. (Hons), MAIP, MAAS, MASA
Principal/Director



THIS REPORT CONTAINS NO APPENDICES

From: Bathurst Regional Council <council@bathurst.nsw.gov.au>
Sent: Friday, 30 June 2023 6:05 PM
To: Council
Subject: Contact Bathurst Regional Council

CAUTION: This email originated from outside BRC. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Name

Andrew Byrne

Email

accctx@gmail.com

Contact Phone Number

0403173280

Address if Applicable

7 The Ridgeway Napoleon Reef NSW 2795

Subject

D.A. 2015/106

Message

Please accept my endorsement of the application.. The quarry has had NO effect on our lives...we very rarely hear it and truck movements are negligible. Yes...napoleon Reef Road is deteriorating...but it is also deteriorating in other areas these trucks don't travel on. I was swept up in the anti quarry nonsense years ago until reality set in. The quarry has negligible effect on anyone at all out here. The silica dust argument is laughable, Thank you for your time.
Andrew Byrne

File Upload

Wiradjuri Country
W: www.bathurst.nsw.gov.au



Bathurst Regional Council acknowledges the Wiradjuri People as the Traditional Custodians of the land in the Bathurst Region. We pay respect to Elders, past, present, and emerging and acknowledge all Aboriginal and Torres Strait Islander people who live, work and play in the Bathurst region.

This message is intended for the addressee named and may contain confidential information. If you are not the intended recipient, please delete it and notify the sender. Views expressed in this message are those of the individual sender, and are not necessarily the views of Bathurst Regional Council, unless otherwise stated. For the purposes of the Copyright Act, the permission of the holder of copyright in this communication may be taken to have been granted, unless stated otherwise, for the copying or forwarding of this message, as long as both the content of this communication and the purpose for which it is copied or forwarded are work related.

G & J Iacono
"Bimbenang"
53 Littles Access Road
Napoleon Reef NSW 2795
Email: gj2795@gmail.com

6 July 2023

Bathurst Councillors and
Mr Richard Denyer - Manager Development Assessment
Bathurst Regional Council
Private Mail Bag 17
BATHURST NSW 2795

Dear Mr Denyer & Councillors

**RE: Development Application No 2015/0106
Lot 3 DP 226520, Napoleon Reef Road, Napoleon Reef
Modification – Extractive Industry**

We submit the following points regarding the above modification to Hotham's Quarry at Napoleon Reef. We also list below several discrepancies within the Statement of Environmental Effects (SoEE) as submitted by Hothams Sand, Soil & Gravel Supplies.

1. We have read and fully support fellow resident Andrew Lemcke's letter to Council dated 27 June 2023 requesting a test blast prior to any approval or consideration of the amendment. Blasting is unknown in this area and to its residents, and this would be a good way to alleviate the anxiety associated with this 'Modification'.
2. Should blasting be ultimately approved, we request that it ***should not be carried out on Saturdays***. Monday to Friday should be sufficient.

DISCREPANCIES & ANOMALIES:

1. SoEE page 17, point 2.4 quotes *"The applicant has received 11 complaints ... since February 2018. No complaints have been received by the Quarry since July 2020."* We find this statement unbelievable and inaccurate as we know of many residents, including ourselves, who have complained to both Council and Hothams over the years since the quarry opened. As responsible owners and governing authorities, Council and Hothams should surely have accurate records of these complaints. To put this in the SoEE is misleading and dishonest.
2. SoEE page 17, point 2.4 quotes: *"... dust complaints ... was actually a result of crushing activities. Solutions to minimise dust product at the Quarry suggested by Council ... included applying a polymer solution to the internal roads, installing a second dust monitor on the western boundary ... and apply road base to the internal roads..."* This solution is useless in addressing the cause of the dust – the ***crushing activities***. This reflects poorly on Council as it would have no effect on reducing the dust from the crushing activities. The dust issue should be re-addressed by Council with a more practical and effective solution. We would appreciate being informed of this in writing from Council.

3. SoEE page 16, point 3.1 quotes: *"The applicant anticipates that blasting would occur on between two and four occasions each year."* Whereas in Spectrum Acoustics' letter (page 65, Appendix 3) quotes *"... the Applicant has advised that blasting would be very infrequent, with no more than one blast per month on average."* Clarification is needed as to the actual frequency of the blasts for accuracy and monitoring purposes.
4. SoEE page 65, point 7.3.2 quotes *"The fact that no complaints have been received by the Applicant since 2020 ..."* again is totally inaccurate and misleading.

We feel that the above inaccurate information reflects poorly on the applicant and their integrity. Reflecting upon the quarry's history of non-compliance with the original DA in regards to the timing of truck movements, dangerous driving on roads that are not appropriate for heavy vehicles and dust issues, we hold grave concerns for the potential of an increase in all of these issues along with the added concern of blasting. It also emphasises the need for strict monitoring of the quarry's activities by Council as the approving body.

In addition to our comments above, we have attached a photo of one of Hothams trucks driving dangerously on Napoleon Reef Road. Discussions were held with Phil Hotham at the time who apologised but this incident emphasises the inappropriateness of this development in our area. This is not the only incident with their trucks and reinforces the poor decision originally for approval of such a development in our area with the existing roads.

As Bathurst Regional Council is the approving authority for this modification, we request that in future there is monitoring of quantities coming from the quarry to ensure that the annual maximum extraction amount of 30,000m³ is not exceeded. Communication of this monitoring should be emailed by Council to all residents who have replied to this 'Modification'.

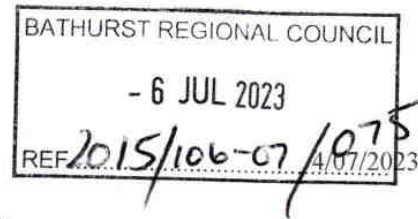
We are sure you appreciate the value that we put on our property, lifestyle, safety and environment that we chose to live in. Thank you for your consideration of our concerns and we look forward to hearing from you regarding our concerns.

Yours sincerely

Greg & Jane Tacono



Docs/Bimbenang/Quarry/Ltr to Council re. Quarry DA Amendment 4.7.23



Development Application No 2015/106
 Proposed Development: MODIFICATION - Extractive industry
 Premises: Lot: 3 DP: 226520 Napoleon Reef Road NAPOLEON REEF
 Name of applicant: Hothams Sand, Soil & Gravel Supplies Pty Ltd

SUBMISSION - Andrew Lemcke. 35 Walang Drive Napoleon Reef

Should Bathurst Regional Council form the opinion that the proposed modification generally qualifies, then my submission would be to allow the applicant to conduct one (1) test blast.

- **The test blast should be at the Maximum Instantaneous Charge (MIC) that would be approved for use at any time during the life of the quarry.** REASON: To ensure the impact of the operation remains within demonstrated limits.
- **Notify residents of the intended test blast.** REASON: To allow residents the opportunity to appreciate the impact that will be ongoing through the life of the project.
- **The test could include monitoring at a specific location to determine Peak Values of the blast at that location.** REASON: To determine if the measured values are consistent with the calculated values contained in the report. A sensible location might be the nearest receiver at 775m southwest of the quarry.

I believe this approach would minimise the potential disharmony that could cause ongoing friction between the proponent, the residents, and the approving body. Additionally, any adverse outcomes could be identified and addressed prior to final approval being given.

Additionally, there is no information relating to the drilling process required to perform the proposed blasting. Drilling is a notoriously noisy operation and may be in operation for a notable duration to prepare for the blasting. I believe drilling should be taken into consideration as a key component of the proposal.

RATIONALE

According to the report there are no residential structures that are considered sensitive receptors. However, there are approximately 10 residential premises overlooking the property containing the quarry and several more in the vicinity. My confidence in the supporting documentation contained in the proposal is reduced through misalignment of some statements made.

For instance:

The stated blast frequencies range from

- **2-4 times per year** - *Statement of Environmental Effects 3.1 "The Applicant anticipates that blasting would occur on between two and four occasions each year."*

TO

- **to Monthly** - *Appendix 3 - Blast Impact Criteria "...with no more than one blast per month on average"*. so potentially 3-6 times increase.

- The Maximum Instantaneous Charge (MIC) that will be used has not been specified. Instead, it is stated that a typical blast will likely fall into the range of 30–80 kg and possibly up to 240 kg so potentially 3-8 times increase.
- Hours of operation of the quarry are currently between 8:00am and 5:00pm Monday to Friday and 8:00am and 2:00pm Saturday. The proposal is for blasting to take place between 8:00am and 5:00pm Monday to Saturday.

If a test blast were to be performed the following outcomes would be clear and should not place any additional burden on any party. The results would:

- Give the approving authority access to all the facts before making a determination.
- Give the proponent certainty regarding calculations and assumptions that formed the proposal without incurring any additional cost as a blasting would occur post consent.
- Give the community in the vicinity the opportunity to appreciate the stated negligible impact of the proposed change to operations.

PERSONAL EXPERIENCE

My home is a concrete slab on rock with cavity brick walls. Several years ago, the Great Western Highway A32 at Browns Hill was restructured and repaved. During that work my residence, which is approximately 600 metres from the work site, suffered notable vibration from machinery used at the work site. The vibration we noticed was of sufficient magnitude to be felt through the floor of our dwelling, with light fittings and some windows rattling. Sometime after the road upgrade the earth dam on our property failed. The dam is located approximately 320 metres from the work site. I cannot conclusively connect the dam failure with the road work vibration but, to my mind, the likelihood of the events being connected is extremely high. The memory of that experience remains. My concern with the proposal is that, in the event the assessment is flawed, there could be unexpected consequences on surrounding properties. A pre-approval test blast should be no more onerous for the proponent than blasting after approval, with the added advantage of proven outcomes.

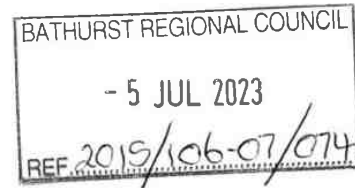
Sincerely

Andrew Lemcke



July 3 2023

Re: Development application No 2015/106



Dear Bathurst Regional Council,

I am writing in response to your letter recently received regarding the above development application at Napoleons Reef by Hothams sand soil and gravel pty Ltd.

I wish to strongly appose any future operations especially the use of explosive devises to extract further material from the above named quarry,

My reasons are as follow,

1: Since the 23/11/2015 I have made several complaints to Mr Phillip Hotham whom I believe is the owner operator of the quarry via phone calls and text messages these complaints would be closer to 20 plus phone calls and messages these complaints were in relation to continued non stop noises coming from his quarry for hours a continued thumping noise that I was told was the crusher working at the quarry , several times I have had to leave my home to get away from the constant thumping noise , If that wasn't enough I also complained about the huge amount of dust I could see coming from the quarry that I observed several times from a hill next to my property on Mersing road , I took several photos of the dust and forwarded them to Mr Hotham and Bathurst Regional council, I also complained several times to Bathurst Regional Council about the thumping noises and the high volume of dust omissions.

Since the commencement of the quarry operations my upstairs bathroom facing towards the quarry has a constant film of thick dirt on and around the window and in the bath under the window, I believe this is from dust coming from Hothams quarry as this dirt and dust was not there before the quarry commenced operations I also complained to Mr Hotham and Bathurst regional council about this , but the dust still accumulates there when the quarry is in operation

2: As a previous resident of Napoleons reef I do travel around Napoleons reef road to visit old neighbours and friends several times I have witnessed trucks coming from the quarry on the wrong side of the road , the transportation of explosive devices on that very narrow road especially when a school bus drives on it twice a day is extremely dangerous, let alone the trucks using that road just to transport quarry materials my opinion as a past resident of 17 years in that area is it should never be used as a heavy vehicle high traffic area ever!

3: My concern for the residents living closer to the quarry , If I and my family are experiencing these loud constant noises and dust my worry is that the residents closer are experiencing a very unexceptionable level of the same and if the use of explosives are approved I would expect this volume of noise to add more stress and anxiety to everyone .

4:The Napoleons reef and Glanmire area prior to the approval of this quarry was a peaceful quiet area I have lived in for 27 years, I believe the approval of this quarry in 2015 has taken away the areas uniqueness , approving Hotham's to use explosives to extract quarry materials in the future after approving the quarry's operations in 2015 is extremely a wrong decision based on Hotham's operational errors in the past.

I'm hoping that you will give the above careful consideration, if you wish to contact me regarding anything in this letter I can be contacted anytime on ph number 0419760445,

Your faithfully,

Leonie MacBeth
186 Mersing Rd, Glanmire ,NSW 2795

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06 JUL 2023

BATHURST REGIONAL COUNCIL

From: Gerarda Mader
25 The Ridgeway, Napoleon Reef, NSW, 2795

To: Bathurst Regional Council – Environmental, Planning & Building Services Dept.
158 Russell S, Bathurst, NSW 2795

Subject: Opposition to Development Application No 2015/106 – Proposed Modification of Extractive Industry on Lot 3 DP 226520 Napoleon Reef Road, Napoleon Reef

Dear General Manager,
Bathurst Regional Council & Manager Development Assessment

I am writing to express my opposition to the proposed modification of the extractive industry on Lot 3 DP 226520 Napoleon Reef Road, as outlined in Development Application No 2015/106. As a resident at 25 The Ridgeway, which is in close proximity to the quarry, I have serious concerns about the potential negative impacts that blasting activities may have on our property, the surrounding neighbourhood, and the monitoring and compliance measures by the applicant, Hothams Sand, Soil & Gravel Supplies Pty Ltd.

One of my concerns is the absence of a comprehensive blasting size, vibration, noise, and dust management plan, including monitoring for each blast. The modification Statement of Environmental Effects (SoEE) fails to provide crucial details regarding the maximum blasting tests, the frequency of blasting, and the blast tonnage to be used. Without this information, it is impossible to assess the potential impact on our property and the surrounding area accurately. Additionally, the SoEE lacks clarity regarding who will be responsible for monitoring the impacts of the blasting activities. It is imperative that clear limits and ongoing monitoring measures be established for the duration of the project to ensure compliance and protect the community.

Another concern is the proposed times that blasting will be able to proceed. These proposed times include before and after school hours and weekends when there are children around, school bus movements and families home.

As part of my submission I would like to draw your attention to my concerns about compliance with rules and limits, evidenced by dangerous or illegal truck movements on public roads, potential dust mitigation issues, and potential noncompliance by the proponents. I have collected a summary of images and videos that clearly demonstrate these concerns, all of which have been legally obtained, time/date/GPS stamped, and captured using a handheld device. Some of these have been reported to council and/ or police with no effect. It is important to note that this evidence represents a random snapshot of ongoing behaviors rather than an exhaustive record gathered through systematic monitoring. This raises doubts about the proponent's capacity to comply with established limits and responsibilities. This may be especially dangerous in relation to blasting activities.

For reference, I have included a list of notable instances of dangerous or illegal truck maneuvers, what looks like excessive dust plumes, and other potential noncompliance incidents and can supply the images and videos on request.

Dangerous or illegal truck manoeuvres on public roads:

9/6/2016, 7:42am – [PZ908] - Napoleon reef road.
11/7/2018 1:55pm – Napoleon Reef Rd
11/7/2018 2:26pm- Napoleon Reef Rd
11/7/2018 2:27pm- Napoleon Reef Rd
21/9/2020 7:32am Napoleon Reef Rd
15/10/2020 9:31am Napoleon Reef Rd
19/10/2020- 7:17am- [CG95PW]?- Napoleon Reef Rd

20/10/2020 - Napoleon Reef Rd

25/10/2020 – 8:11am- CBH703- Napoleon Reef Rd

Excessive Dust plumes:

15/3/2016 1:42pm

20/4/2017 10:10am

18/5/2017 5:04pm

16/2/2018- 4:00pm

27/3/2018 1:00pm

25/5/2018 1:17pm

18/7/2018 1:34pm

21/10/2019 2:28pm

8/9/2020 3:49pm

23/10/2020 1:44pm

Other noncompliance:

12/10/2020 5:15am & 6:14am

17/10/2020 - 6:14am

21/9/2020 – 6:24am

28/9/2020 – 6:35am

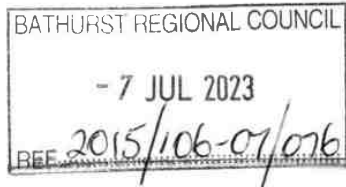
Finally, it is crucial that the implementation of this modification be clearly defined, limited for the duration of the project, and subject to third-party measurement and monitoring. Without these measures in place, it is difficult to have confidence in the applicant's commitment to adhering to regulations and mitigating the potential negative impacts on our community.

Please review my submission and take these concerns into consideration for the assessment of Development Application No 2015/106. It is essential that the proper measures and safeguards be put in place to protect the well-being and interests of the residents and the surrounding environment.

Yours Sincerely,

Gerarda Mader

0412 028 717



Reference Development Application No2015/106

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07 JUL 2023

BATHURST REGIONAL COUNCIL

Dear Mr Dwyer,

I am writing in reference to the proposed amendment to the above development application. I feel that it is unnecessary to change the conditions that were applied by council, in the interests of the developer and the community of Napoleon Reef, in the original development application.

The developer was made aware in 2015 that blasting would trigger Designated Development regulations and chose to withdraw the 'blasting' component, continue with the application and accept the council's stipulations fully aware of the implications. However it is obvious from the information contained within the current amendment application that the developer has not been happy with council's decision hence their seeking legal advice in 2019 and again in 2022 in an attempt to change the operating conditions of the quarry.

After reading the relevant section of the Environmental Planning and Assessment Regulations 2021, specifically Schedule 3 Part 2 Section 26, it would seem that the crux of the issue is the defining of Section 26 (6) extractive industry facility means a building or place at which.... (Refer to parts a and b).

Through the stipulations that council applied to the developer's original development application I feel that the council made it quite clear that the facility encompassed the whole area used. The extractive industry facility's entrance and signage, just off the Napoleon Reef Road, clearly defines the entrance to the extractive industry facility and this should be taken into consideration rather than just where a part of the operation takes place.

My other concerns are the implications blasting could have for the aquifer that services the community of Napoleon Reef including the council administered water supply to the Hillview Estate. Successive blasting over a short or longer period could have accumulative and unknown consequences for the aquifer, consequences that may only be discovered after the damage is done. The proposed amendment makes no reference to the possible impact of blasting on the aquifer.

In the interests of the community of Napoleon Reef I would like to see council err on the side of caution and reject the proposed amendment to the original development application.

Thank you in advance for your consideration of my concerns.

Yours sincerely

Rebecca and Richard Mottram
35 The Ridgeway
Napoleon Reef
2795

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06 JUL 2023

Development Application No 2015/106**Proposed Development: Modification – extractive industry**

BATHURST REGIONAL COUNCIL

Premises: Lot: 3 DP: 226520 Napoleon Reef Road, Napoleon Reef**Name of applicant: Hothams Sand, Soil & Gravel Supplies Pty Ltd****Submission from Jan and Max Page. 2 Cave Gully Road, Napoleon Reef.****Background**

The quarry was approved in November 2015 with 35 conditions to be met. From that time a modification to include blasting was always to be expected given the nature of the extractive industry being carried out. The local residents were, at the time, concerned about the establishment of this industry and they continue to monitor any issues that arise from the operations.

Proposed modification

The documentation associated with the application is confusing as the details of the modification are not up front but embedded in the documentation on page 16 with some of the detail seemingly at odds with that in the associated reports.

Of particular concern is the detail around the frequency of blasting. On page 16 it is stated that the modification is for 2 to 4 blasting operations per year whereas the Acoustic Review states that *the Applicant has advised that blasting would be very infrequent, with no more than one blast per month on average*. This suggests that the Applicant is prepared to blast up to 12 times per year rather than a maximum of 4 blasts as stated in the Proposed Modification (page 16). This requires clarification which should be communicated to residents before this application is approved.

The nature of the blasting regime is also of concern as the supporting documents do not take into account the nature of the local environment, in particular the topography, giving consideration to only the nearest residence. Given that the ground rises from the quarry towards a number of residences on the heights, the sound and vibrational impacts on human comfort further afield should be considered. In addition it is unclear as to how many detonations, of what amount of explosive, constitute a single blast, one of the potential four per year.

It is interesting to note that the documentation provides two different distributions of residences in the area: that provided on page 8 of the Statement of Environmental Effects recognises a wider and more realistic distribution than the one provided on page 2 of the Acoustic Review. We would contend that the first should be recognised in all considerations around activities associated with the quarry.

Submission

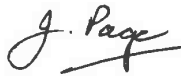
We understand that some blasting is required for this operation to continue but believe it should be managed in a way that recognises the lifestyle of local residents.

1. Given the lack of clarity being provided for residents identified in Figure 1 p.2. of the Acoustic Review, and those nearby which haven't been included but which are in hearing distance of quarry operations - dependent on weather conditions, a pre-approval trial blast should be conducted to assess the impacts on all surrounding areas. This would be beneficial to both the Applicant, who would obtain new material, and residents who would gain a greater understanding of exactly what is being proposed and the potential impacts on their properties and lifestyle. It would also minimise potential disharmony which could lead to friction between the Applicant, the residents and the approving body, a situation we all wish to avoid.
2. No blasting should occur on Saturdays. This would be out of respect for local residents who value their peaceful environment, particularly those closest to the quarry and those who live on heights where the sound will carry
3. Signage should be placed at the intersection of Walang Drive and Napoleon Reef Road well in advance of proposed blasting advising of the date and time. Whilst this signage would be seen by many local residents, alternative arrangements need to be implemented to contact other residents as per the distribution of residences marked on the Locality Plan on page 8.

Max Page



Jan Page



5 July 2023



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07 JUL 2023

Bathurst Regional Council

158 Russell St.

Bathurst. NSW 2795

G.M. & T. Sanders & D Johnson

BATHURST REGIONAL COUNCIL

46 Littles Access & 79 Cave Gully Rds.

Napoleon Reef. NSW 2795

6/7/2023

Re: DA No 2015/106

Dear Mr. Denyer & members of Bathurst Regional Council,

We wish to make a submission in response to the Development Application No.2015/106 for the proposed modification on the premises held by Hothams Sand & Gravel supplies Pty Ltd. We would like to make note that the DA information was presented just three weeks before we had to make our submission that we consider too short a time to read the 69-page proposal and to understand what it was about! Laypersons like ourselves would not have the knowledge to interpret a lot of the information contained particularly when it described the details of the blasting operation effects and other operational information.

Our family own two properties in Napoleon Reef and have resided here since 1989. We chose to live in this area for its peaceful, safe and natural bush surrounds and have enjoyed the life here for over 30 years despite the fact that we do not have the services provided by council in other Bathurst areas such as garbage collection, curbing or guttering etc.

When Hothams Sand and Gravel company made the initial DA in 2015 the Napoleon Reef community made many submissions and attended meetings outlining our objections to the development. We were assured that our concerns were to be considered and promised that Napoleon Reef Road would be widened and maintained regularly as the damage from the trucks would be a problem for the residents using the same. This promise has not been kept and the road is still in need of regular maintenance and the trucks carting the extracted material are considered a safety risk to other road users. Can the Council confirm that the width of this road is suitable for the B Doubles used by Hothams'?

Photos, telephone calls emails and letters sent over the last 10 years with regard to the heavy trucks, road damage, dust and noise expressing residents' concerns over the quarry operations but it appears that these complaints have

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not been documented by the correct authorities- namely the Bathurst Council and the Quarry operators.

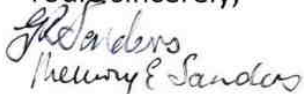
We would like to support the suggestion made by Andrew Lemcke that a test blast conducted to 'ensure the impact of the operation remains within demonstrated limits' and that 'the test could include monitoring at a specific location to determine peak values of the blast at that location'.

A question we also have about the operation of the quarry is in regards to the material removed, its use and the timing of the transporting of the materials. Napoleon Reef is described as a heritage area, where mining took place in the past and we are concerned that allowing operations like a quarry will 'change the heritage significance' of the site. It has been noted that there are regular truck movements outside the times recorded in the initial DA and activity has taken place in odd times of the day and night. An explanation made was that these truck movements were necessary as they were for agricultural purposes not relating to the quarry activities. Does this contravene the orders of the initial DA?

In addition, we would like to question the value and amount of the material removed and the possible effect on the existing water table. As we have a bore and rainwater tanks on our properties we are concerned that the dust emitted from the quarry may carry silica or other carcinogenic material. Our reading of the DA document did not explain clearly whether the dust created was analyzed or tested as to whether it carried material dangerous to health. We are aware that the Council operates a bore for the Napoleon Reef Estate and would like to know if water from that bore is deemed safe for the residents in that area and has not been affected by the quarry operations.

We request Bathurst Regional Council to address our and other residents' concerns and we look forward to hearing from you in the near future.

Yours sincerely,



Graeme, Memory, Tuana Sanders & Darren Johnson



Hothams Sand Soil and Gravel Supplies

ABN: 35 129 503 911

Response to Submissions



for the

Napoleon Reef Quarry Modification 1

Prepared by:



RWCorkery&co

August 2023



ACKNOWLEDGEMENT

R.W. Corkery & Co. acknowledge and pay our respects to the Traditional Custodians of the lands in NSW and Australia on which our projects are located. We value the knowledge, advice and involvement of the Elders and extended Aboriginal community that contribute to our Projects and extend our respect to all Aboriginal and Torres Strait Islander peoples.



ABN: 35 129 503 911

**Response to
Submissions**

for the

**Napoleon Reef Quarry
Modification 1**

Prepared for:

Hothams Sand, Soil & Gravel Supplies Pty Ltd
ABN: 35 129 503 911

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Ref No. 940/03

August 2023



HOTHAMS SAND, SOIL & GRAVEL SUPPLIES PTY LTD
Napoleon Reef Quarry – Modification 1

RESPONSE TO SUBMISSIONS
Report No. 940/03

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and

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Executive Summary

Hothams Sand, Soil & Gravel Supplies Pty Ltd (the “Applicant”) submitted an application for a modification of Development Application (DA) 2015/0106 for the Napoleon Reef Quarry (the Quarry). The application was accompanied by a *Statement of Environmental Effects* (SoEE) prepared by R.W. Corkery & Co. Pty Limited (RWC). The SoEE was placed into a notification period to allow submissions to be made in relation to the Proposed Modification. During and following that period, eight submissions were received by the Bathurst Regional Council (Council) from members of the public. No submissions were received from any private organisation or government agencies.

This document provides a response to each of the public submissions.

1. Introduction

1.1 Scope

Hothams Sand, Soil & Gravel Supplies Pty Ltd (the “Applicant”) submitted an application for the first modification of Development Consent DA2015/0106 for the Napoleon Reef Quarry (the Quarry). The application was accompanied by a *Statement of Environmental Effects* (SoEE) prepared by R.W. Corkery & Co. Pty Limited (RWC). The SoEE was placed on public exhibition between 6 June 2023 and 13 July 2023. During and following that period, eight submissions were received by the Bathurst Regional Council (Council) from members of the public. No submissions were received from private organisations or government agencies.

This *Submissions Report* provides an analysis of, and responses to, the key matters outlined in public submissions. For ease of reference, issues raised by the submissions have been collated and representative text from selected submissions have been reproduced in italics. The response to each issue raised is presented in normal text.

The report concludes with an updated evaluation of the Proposed Modification’s merits that reflect all additional matters arising from the review of submissions.

1.2 Project Overview

The Quarry is located at Napoleon Reef, approximately 1.2km from the Great Western Highway (Figure 1).

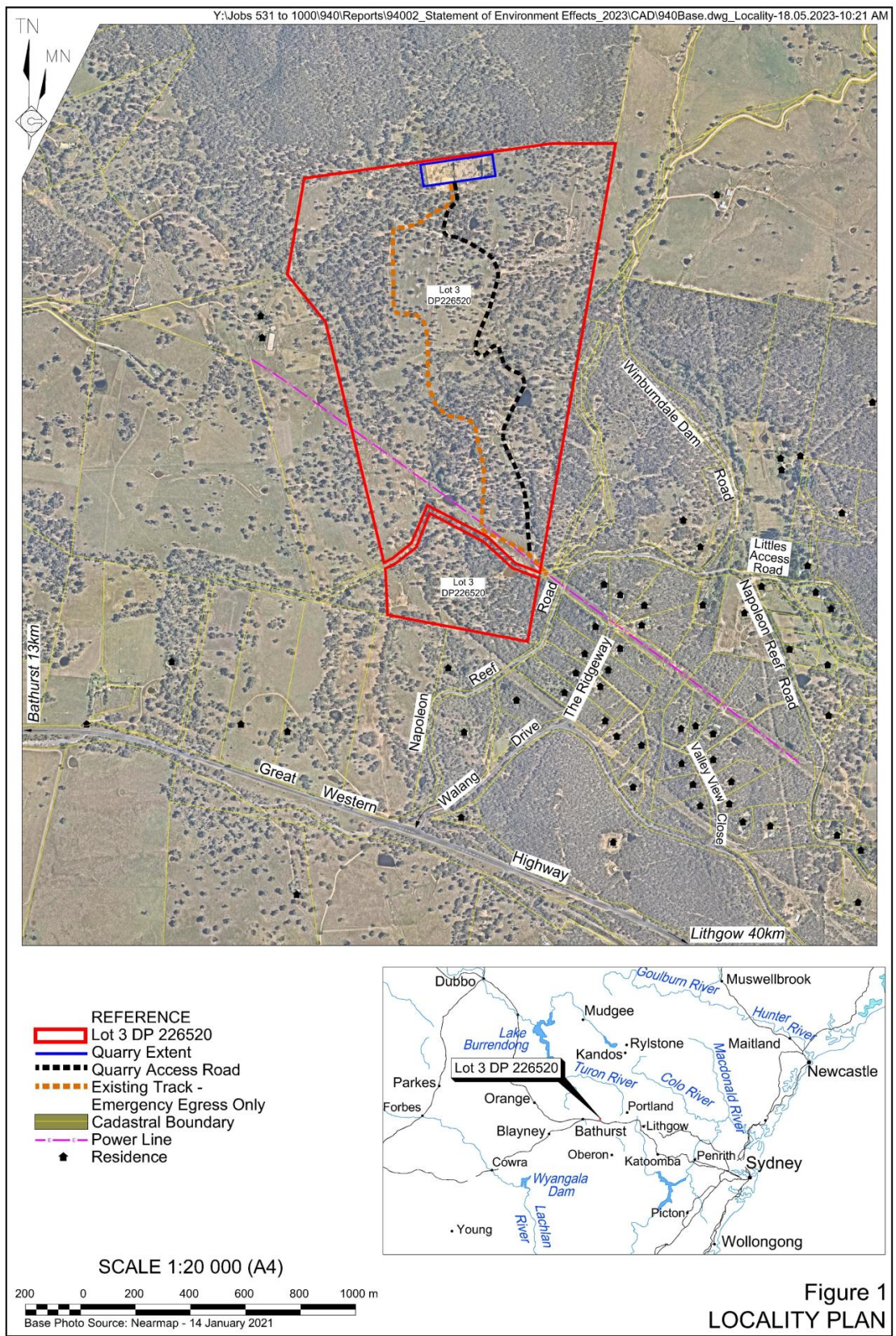
The Proposed Modification seeks consent for limited blasting operations within the Quarry. Blasting operations would be undertaken using traditional drill and blast methods. All blasts would be designed by a suitably qualified and experienced shot firer to ensure the following.

- Appropriate fragmentation of the in-situ material.
- Compliance with required blasting parameters at surrounding sensitive receptors.
- All fly rock is contained within the identified blast management zone.

All blasts would be monitored in accordance with the procedures identified in a Blast Management Plan to be prepared prior to the first blast.

All other aspects of the development would not change including the following.

- Maximum production rate of 30,000m³ per annum.
- Hours of operation.
- Transportation operations.
- Environmental management.



2. Analysis of Submissions

2.1 General Review of Submissions

During and following the formal notification period, submissions were provided to Bathurst Regional Council from eight members of the public. No submissions from government agencies, organisations, or companies were received. **Appendix 1** presents a copy of the submissions received.

2.2 Summary of Matters Raised

Of the submissions received:

- one submission expressed support for the Proposed Modification;
- three submissions objected to the Proposed Modification; and
- four submissions provided comment on the Proposed Modification.

The matters raised by the submissions received from members of the public related to a range of matters, including the following.

- Legislative interpretation.
- Blasting and related matters.
- Air quality.
- Water quality.
- Road transportation including safety.
- Hours of operation.
- Complaints handling procedure of the Applicant.

Section 3 provides a response to each matter raised.

3. Response to Submissions

3.1 Legislative Interpretation

Representative Comment(s)

Through the stipulations that council applied to the developer's original development application I feel that the council made it quite clear that the facility encompassed the whole area used. The extractive industry facility's entrance and signage, just off the Napoleon Reef Road, clearly defines the entrance to the extractive industry facility and this should be taken into consideration rather than just where a part of the operation takes place.

R. & R. Mottram, Napoleon Reef

Response

This matter is addressed in Section 1.3 of the SoEE. In summary, at the time of the original application in June 2015, the *Environmental Planning and Assessment Regulation 2000* (EP&A Reg 2000) identified that applications “involving blasting, within ... 500 metres of a dwelling not associated with the development” are classified as designated development.

Bathurst Regional Council at the time of the original application formed the opinion that the nominated 500m limit related to all components of the application, including the Quarry Access Road.

Subsequently the EP&A Reg 2000 was repealed and replaced with *Environmental Planning and Assessment Regulation 2021* (EP&A Reg 2021). Section 26(3)(f) of Schedule 3 of the EP&A Reg 2021 amended the previous threshold for designated development as follows.

“(3) Development for the purposes of an extractive industry facility is designated development if the facility is located—

(f) if the facility involves blasting—within ... 500 metres of a dwelling not associated with the development.”

The Applicant sought a legal opinion that identified that the extractive “facility” referenced by Section 26(3)(f) of Schedule 3 of the EP&A Reg 2021 is limited to the 2ha area shown on Figure 1 of the SoEE as the Quarry Extent. As that area is not within 500m of a non-Project related residence, Section 26 is not applicable and “would not have the effect of characterising the development as designated development.”

In light of the above, the Applicant contends that the submission is not consistent with the revised regulation.

3.2 Blasting

3.2.1 Request for a Test Blast

Representative Comment(s)

Should Bathurst Regional Council form the opinion that the proposed modification generally qualifies, then my submission would be to allow the applicant to conduct one (1) test blast.

- *The test blast should be at the Maximum Instantaneous Charge (MIC) that would be approved for use at any time during the life of the quarry.*

REASON: To ensure the impact of the operation remains within demonstrated limits.

- *Notify residents of the intended test blast.*

REASON: To allow residents the opportunity to appreciate the impact that will be ongoing through the life of the project.

- *The test could include monitoring at a specific location to determine Peak Values of the blast at that location.*

- *REASON: To determine if the measured values are consistent with the calculated values contained in the report. A sensible location might be the nearest receiver at 775m southwest of the quarry.*

...requesting a test blast prior to any approval or consideration of the amendment. Blasting is unknown in this area and to its residents, and this would be a good way to alleviate the anxiety associated with this 'Modification'.

G. & J. Iacono, Napoleon Reef

...a pre-approval trial blast should be conducted to assess the impacts on all surrounding areas.

M. & J. Page, Napoleon Reef

We would like to support the suggestion made by Andrew Lemcke that a test blast conducted to 'ensure the impact of the operation remains within demonstrated limits' and that 'the test could include monitoring at a specific location to determine peak values of the blast at that location'.

T. Sanders & D. Johnson, Napoleon Reef

Response

The Applicant contends that a test blast is not required for the following reasons.

- The assessment of blasting impacts prepared by Spectrum Acoustics (2023) relied upon industry standard equations that are consistent with those presented in Australian Standard AS2187.2 – Explosives Storage and Use.
- That assessment determined that blasting within the Quarry Extent using a Maximum Instantaneous Charge (MIC) of 240kg would comply with the relevant blasting criteria.

- The actual MIC that would be used would vary depending on the blast design prepared for each blast but would be substantially less than 240kg. Therefore, blasting within the Quarry Extent would result in blast impacts that would also be substantially less than the relevant criteria.
- It is not clear what the purpose of the test blast would be. Who would determine if the test blast was acceptable? Council and the Environment Protection Authority have previously relied upon modelling for to determined blast-related impacts and set compliance criteria. The Applicant contends that this application should be assessed in the same manner and all other applications involving blasting.

Notwithstanding the above, should Council determined that a test blast would be beneficial, the Applicant would undertake such a blast. The test blast would be monitored by blast monitors at the property boundary in the direction of the closest residence(s) to allow adequate assessment of the noise and vibration impacts to surrounding residences.

Surrounding residents would be notified of the intended day of the blast ahead of time.

3.2.2 Blast Frequency and Process

Representative Comment(s)

The stated blast frequencies range from

- *2-4 times per year - Statement of Environmental Effects 3.1 “The Applicant anticipates that blasting would occur on between two and four occasions each year.”*

TO

- *to Monthly - Appendix 3 - Blast Impact Criteria “... with no more than one blast per month on average.” so potentially 3-6 times increase.*

A. Lemcke, Napoleon Reef

Clarification is needed as to the actual frequency of the blasts for accuracy and monitoring purposes.

G. & J. Iacono, Napoleon Reef

Response

The Blasting Assessment undertaken by Spectrum Acoustics (Spectrum Acoustics, 2023) identified that blasting would be no more frequent than once per month.

The Applicant subsequently determined that blasting would occur on no more than four occasions per year, with blasting likely undertaken with the lower frequency. Section 3.1 of the SoEE clearly identifies this limit.

Representative Comment(s)

There is no information relating to the drilling process required to perform the proposed blasting. Drilling is a notoriously noisy operation and may be in operation for a notable duration to prepare for the blasting. I believe drilling should be taken into consideration as a key component of the proposal.

A. Lemcke, Napoleon Reef

Response

The drilling process involved in preparing for a blast would be expected to be undertaken using a single blast hole drill rig over one to two days prior to each blast. As the closest residence to the Quarry Extent would be 755m away, the Applicant contends that the resulting noise impacts would be less than the Noise Policy for Industry default 40dB(A) criteria.

Representative Comment(s)

The Maximum Instantaneous Charge (MIC) that will be used has not been specified. Instead, it is stated that a typical blast will likely fall into the range of 30-80 kg and possibly up to 240kg so potentially 3-8 times increase.

A. Lemcke, Napoleon Reef

Response

Spectrum Acoustics (2023) state that typical blasts for quarries with 10m high faces require an MIC of between 30kg and 80kg. This figure relates to quarries generally, not the Napoleon Reef Quarry specifically.

Section 3.1 of the SoEE states that the MIC would be less than 240kg and Spectrum (2023) determined that the relevant blast criteria would be achieved with this MIC. In reality, it is likely that the actual MIC would be substantially less than 240kg.

Representative Comment(s)

My concern for the residents living closer to the quarry, If I and my family are experiencing these loud constant noises and dust my worry is that the residents closer are experiencing a very very unexceptionable level of the same and if the use of explosives are approved I would expect this volume of noise to add more stress and anxiety to everyone.

L. MacBeth, Glanmire

Response

The Applicant notes that blasting would be undertaken no more than four times per year and that the proposed blasting would not exceed the relevant blasting criteria at the closest surrounding residents and therefore residences located further from the Quarry would similar experience blast-related impacts that would be less than the relevant criteria.

Representative Comment(s)

One of my concerns is the absence of a comprehensive blasting size, vibration, noise, and dust management plan, including monitoring for each blast.

G. Mader, Napoleon Reef

Response

The Applicant anticipates that a Blast Management Plan will be required by the consent to be included as a component of the Operations Management Plan should the modification be approved by Council.

Representative Comment(s)

The modification Statement of Environmental Effects (SoEE) fails to provide crucial details regarding the maximum blasting tests, the frequency of blasting, and the blast tonnage to be used.

G. Mader, Napoleon Reef

Response

Section 3.1 of the SoEE identifies that:

- the MIC to be used would be less than 240kg; and
- no more than four blasts would be undertaken each year.

Blast tonnage may vary due to demand, however, the tonnage blasted does not affect on blast-related impacts which are associated with the MIC used.

Representative Comment(s)

...who will be responsible for monitoring the impacts of the blasting activities.

G. Mader, Napoleon Reef

Response

The Applicant would be responsible for monitoring the blast at the time of each blast to ensure that all relevant criteria are complied with to minimise any impacts on the surrounding area.

Representative Comment(s)

It is imperative that clear limits and ongoing monitoring measures be established for the duration of the project.

G. Mader, Napoleon Reef

Response

The Applicant anticipates that the following NSW Environment Protection Authority-nominated blast criteria would apply to the Quarry and would be incorporated into the consent, should it be modified.

- Overpressure level
 - 95th percentile level (may be exceeded by up to 5% of blasts) 115dB
 - Maximum level 120dB

- Ground vibration velocity Peak Vector Sum (PVS)
 - 95th percentile level (may be exceeded by up to 5% of blasts)5mm/s
 - Maximum level 10mm/s

3.2.3 Neighbour Notification

Representative Comment(s)

Signage should be placed at the intersection of Walang Drive and Napoleon Reef Road well in advance of proposed blasting advising of the date and time.

M. & J. Page, Napoleon Reef

Response

Section 3.1 of the SoEE identifies the following.

“The Proponent would consult with surrounding residents to determine the most appropriate method to notify them of blast times and would implement the agreed notification methods”

If that consultation determines that a sign is the most appropriate method, then the Applicant would erect a sign advising of upcoming blasts.

3.3 Air Quality

Representative Comment(s)

SoEE page 17, point 2.4 quotes: “... dust complaints ... was actually a result of crushing activities. Solutions to minimise dust product at the Quarry suggested by Council ... included applying a polymer solution to the internal roads, installing a second dust monitor on the western boundary ... and apply road base to the internal roads...” This solution is useless in addressing the cause of the dust – the crushing activities. This reflects poorly on Council as it would have no effect on reducing the dust from the crushing activities. The dust issue should be re-addressed by Council with a more practical and effective solution.

G. & J. Iacono, Napoleon Reef

Response

The Applicant notes that no complaints have been received since July 2020, indicating that this particular issue would appear to have been resolved.

3.4 Water Quality

Representative Comment(s)

We are aware that the Council operates a bore for the Napoleon Reef Estate and would like to know if water from that bore is deemed safe for the residents in that area and has not been affected by the quarry operations.

T. Sanders & D. Johnson, Napoleon Reef

Response

This is a matter for Council, however the Applicant notes that it does not store hazardous materials on site, nor does it undertake activities that may have the potential to contaminate groundwater.

Representative Comment(s)

...implications blasting could have for the aquifer that services the community of Napoleon Reef including the council administered water supply to the Hillview Estate.

R. & R. Mottram, Napoleon Reef

Response

This is a matter for Council, however, the Applicant notes that blasting is not known to adversely impact on fractured rock aquifers such as those that exist in the vicinity of the Quarry.

3.5 Road Transportation

Representative Comment(s)

...the quarry's history of non-compliance with the original DA in regards to the timing of truck movements, dangerous driving on roads that are not appropriate for heavy vehicles...

G. & J. Iacono, Napoleon Reef

Response

The Applicant rejects the contention that it has been non-compliant with the conditions of the original DA in relation to road transportation.

Representative Comment(s)

In addition to our comments above, we have attached a photo of one of Hothams trucks driving dangerously on Napoleon Reef Road.



G. & J. Iacono, Napoleon Reef

RESPONSE TO SUBMISSIONS
Report No. 940/03

HOTHAMS SAND, SOIL & GRAVEL SUPPLIES PTY LTD
Napoleon Reef Quarry – Modification 1

Response

This image has been provided previously to the Applicant who investigated the incident. It was determined that the truck in question was not a quarry-related vehicle and was in fact delivering agricultural products to the agricultural part of the property.

Representative Comment(s)

... the transportation of explosive devices on that very narrow road especially when a school bus drives on it twice a day is extremely dangerous...

L. MacBeth, Glanmire

Response

Transportation of explosives requires a licence from Safe Work NSW and is undertaken in accordance with the *Australian Code for the Transport of Explosives by Road and Rail* published by the Commonwealth Government. Explosives are transported daily on the public road network without incident. As a result, the Applicant rejects the contention that transportation of explosives to the Quarry Site no more than four times per year is “extremely dangerous.”

Representative Comment(s)

Can the Council confirm that the width of this road is suitable for the B Doubles used by Hothams’?

T. Sanders & D. Johnson, Napoleon Reef

Response

The Applicant states that it does not use B-double trucks for transportation of quarry products from the Quarry.

Representative Comment(s)

It has been noted that there are regular truck movements outside the times recorded in the initial DA and activity has taken place in odd times of the day and night. An explanation made was that these truck movements were necessary as they were for agricultural purposes not relating to the quarry activities. Does this contravene the orders of the initial DA?

T. Sanders & D. Johnson, Napoleon Reef

Response

The Applicant states that all Quarry-related vehicle movements are limited to the following hours.

- Monday to Friday: 8:00am to 5:00pm.
- Saturday: 8:00am to 2:00pm.
- No transportation operations on Sunday or Public Holidays.

3.6 Hours of Operation

Representative Comment(s)

Should blasting be ultimately approved, we request that it should not be carried out on Saturdays.

G. & J. Iacono, Napoleon Reef

Hours of operation of the quarry are currently between 8:00am and 5:00pm Monday to Friday and 8:00am and 2:00pm Saturday. The proposal is for blasting to take place between 8:00am and 5:00pm Monday to Saturday.

A. Lemcke, Napoleon Reef

No blasting should occur on Saturdays.

M. & J. Page, Napoleon Reef

Another concern is the proposed times that blasting will be able to proceed. These proposed times include before and after school hours and weekends when there are children around. school bus movements and families home.

G. Mader, Napoleon Reef

Response

The Applicant would consent to a condition of consent that restricted blasting to 9:00am to 3:00pm, Monday to Friday.

3.7 Complaint Handling Procedure

Representative Comment(s)

SoEE page 17, point 2.4 quotes “The applicant has received 11 complaints ... since February 2018. No complaints have been received by the Quarry since July 2020.” We find this statement unbelievable and inaccurate as we know of many residents, including ourselves, who have complained to both Council and Hothams over the years since the quarry opened. As responsible owners and governing authorities, Council and Hothams should surely have accurate records of these complaints. To put this in the SoEE is misleading and dishonest.

G. & J. Iacono, Napoleon Reef

I have collected a summary of images and videos that clearly demonstrate these concerns. all of which have been legally obtained. time/date/GPS stamped. and captured using a handheld device. Some of these have been reported to council and/ or police with no effect.

G. Mader, Napoleon Reef

Photos, telephone calls emails and letters sent over the last 10 years with regard to the heavy trucks, road damage, dust and noise expressing residents’ concerns over the quarry operations but it appears that these complaints have not been documented by the correct authorities – namely the Bathurst Council and the Quarry operators.

T. Sanders & D. Johnson, Napoleon Reef

RESPONSE TO SUBMISSIONS

Report No. 940/03

HOTHAMS SAND, SOIL & GRAVEL SUPPLIES PTY LTD

Napoleon Reef Quarry – Modification 1

Response

The Applicant has a complaint handling procedure to ensure that all complaints received are documented and reported to the relevant authorities (if any). The Applicant has records of all 11 complaints received since February 2018 regarding the Quarry and the actions taken to address the complaint.

The Applicant only has records of complaints that it received directly or that have been passed on by relevant authorities. All complaints should be directly reported to the Applicant and all other relevant authorities in order to be addressed in a timely manner.

HOTHAMS SAND, SOIL & GRAVEL SUPPLIES PTY LTD
Napoleon Reef Quarry – Modification 1

RESPONSE TO SUBMISSIONS
Report No. 940/03

4. References

Spectrum Acoustics (2023). *Acoustic Review – Napoleon Reef Quarry*. April 2023. Presented as Appendix 3 of this report.

Appendix 1

Submissions Received

(Total No. of pages including blank pages = 14)

From: Bathurst Regional Council <council@bathurst.nsw.gov.au>
Sent: Friday, 30 June 2023 6:05 PM
To: Council
Subject: Contact Bathurst Regional Council

CAUTION: This email originated from outside BRC. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Name

Andrew Byrne

Email

accctx@gmail.com

Contact Phone Number

0403173280

Address if Applicable

7 The Ridgeway Napoleon Reef NSW 2795

Subject

D.A. 2015/106

Message

Please accept my endorsement of the application.. The quarry has had NO effect on our lives...we very rarely hear it and truck movements are negligible. Yes...napoleon Reef Road is deteriorating...but it is also deteriorating in other areas these trucks don't travel on. I was swept up in the anti quarry nonsense years ago until reality set in. The quarry has negligible effect on anyone at all out here. The silica dust argument is laughable, Thank you for your time.
Andrew Byrne

File Upload

Wiradjuri Country
W: www.bathurst.nsw.gov.au



Bathurst Regional Council acknowledges the Wiradjuri People as the Traditional Custodians of the land in the Bathurst Region. We pay respect to Elders, past, present, and emerging and acknowledge all Aboriginal and Torres Strait Islander people who live, work and play in the Bathurst region.

This message is intended for the addressee named and may contain confidential information. If you are not the intended recipient, please delete it and notify the sender. Views expressed in this message are those of the individual sender, and are not necessarily the views of Bathurst Regional Council, unless otherwise stated. For the purposes of the Copyright Act, the permission of the holder of copyright in this communication may be taken to have been granted, unless stated otherwise, for the copying or forwarding of this message, as long as both the content of this communication and the purpose for which it is copied or forwarded are work related.

G & J Iacono
"Bimbenang"
53 Littles Access Road
Napoleon Reef NSW 2795
Email: gj2795@gmail.com

6 July 2023

Bathurst Councillors and
Mr Richard Denyer - Manager Development Assessment
Bathurst Regional Council
Private Mail Bag 17
BATHURST NSW 2795

Dear Mr Denyer & Councillors

**RE: Development Application No 2015/0106
Lot 3 DP 226520, Napoleon Reef Road, Napoleon Reef
Modification – Extractive Industry**

We submit the following points regarding the above modification to Hotham's Quarry at Napoleon Reef. We also list below several discrepancies within the Statement of Environmental Effects (SoEE) as submitted by Hothams Sand, Soil & Gravel Supplies.

1. We have read and fully support fellow resident Andrew Lemcke's letter to Council dated 27 June 2023 requesting a test blast prior to any approval or consideration of the amendment. Blasting is unknown in this area and to its residents, and this would be a good way to alleviate the anxiety associated with this 'Modification'.
2. Should blasting be ultimately approved, we request that it ***should not be carried out on Saturdays***. Monday to Friday should be sufficient.

DISCREPANCIES & ANOMALIES:

1. SoEE page 17, point 2.4 quotes *"The applicant has received 11 complaints ... since February 2018. No complaints have been received by the Quarry since July 2020."* We find this statement unbelievable and inaccurate as we know of many residents, including ourselves, who have complained to both Council and Hothams over the years since the quarry opened. As responsible owners and governing authorities, Council and Hothams should surely have accurate records of these complaints. To put this in the SoEE is misleading and dishonest.
2. SoEE page 17, point 2.4 quotes: *"... dust complaints ... was actually a result of crushing activities. Solutions to minimise dust product at the Quarry suggested by Council ... included applying a polymer solution to the internal roads, installing a second dust monitor on the western boundary ... and apply road base to the internal roads..."* This solution is useless in addressing the cause of the dust – the ***crushing activities***. This reflects poorly on Council as it would have no effect on reducing the dust from the crushing activities. The dust issue should be re-addressed by Council with a more practical and effective solution. We would appreciate being informed of this in writing from Council.

3. SoEE page 16, point 3.1 quotes: *"The applicant anticipates that blasting would occur on between two and four occasions each year."* Whereas in Spectrum Acoustics' letter (page 65, Appendix 3) quotes *"... the Applicant has advised that blasting would be very infrequent, with no more than one blast per month on average."* Clarification is needed as to the actual frequency of the blasts for accuracy and monitoring purposes.
4. SoEE page 65, point 7.3.2 quotes *"The fact that no complaints have been received by the Applicant since 2020 ..."* again is totally inaccurate and misleading.

We feel that the above inaccurate information reflects poorly on the applicant and their integrity. Reflecting upon the quarry's history of non-compliance with the original DA in regards to the timing of truck movements, dangerous driving on roads that are not appropriate for heavy vehicles and dust issues, we hold grave concerns for the potential of an increase in all of these issues along with the added concern of blasting. It also emphasises the need for strict monitoring of the quarry's activities by Council as the approving body.

In addition to our comments above, we have attached a photo of one of Hothams trucks driving dangerously on Napoleon Reef Road. Discussions were held with Phil Hotham at the time who apologised but this incident emphasises the inappropriateness of this development in our area. This is not the only incident with their trucks and reinforces the poor decision originally for approval of such a development in our area with the existing roads.

As Bathurst Regional Council is the approving authority for this modification, we request that in future there is monitoring of quantities coming from the quarry to ensure that the annual maximum extraction amount of 30,000m³ is not exceeded. Communication of this monitoring should be emailed by Council to all residents who have replied to this 'Modification'.

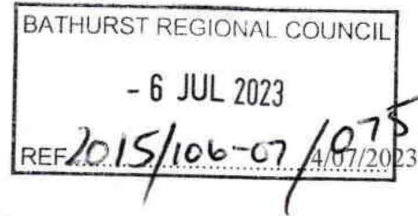
We are sure you appreciate the value that we put on our property, lifestyle, safety and environment that we chose to live in. Thank you for your consideration of our concerns and we look forward to hearing from you regarding our concerns.

Yours sincerely

Greg & Jane Tacono



Docs/Bimbenang/Quarry/Ltr to Council re. Quarry DA Amendment 4.7.23



Development Application No 2015/106
 Proposed Development: MODIFICATION - Extractive industry
 Premises: Lot: 3 DP: 226520 Napoleon Reef Road NAPOLEON REEF
 Name of applicant: Hothams Sand, Soil & Gravel Supplies Pty Ltd

SUBMISSION - Andrew Lemcke. 35 Walang Drive Napoleon Reef

Should Bathurst Regional Council form the opinion that the proposed modification generally qualifies, then my submission would be to allow the applicant to conduct one (1) test blast.

- **The test blast should be at the Maximum Instantaneous Charge (MIC) that would be approved for use at any time during the life of the quarry.** REASON: To ensure the impact of the operation remains within demonstrated limits.
- **Notify residents of the intended test blast.** REASON: To allow residents the opportunity to appreciate the impact that will be ongoing through the life of the project.
- **The test could include monitoring at a specific location to determine Peak Values of the blast at that location.** REASON: To determine if the measured values are consistent with the calculated values contained in the report. A sensible location might be the nearest receiver at 775m southwest of the quarry.

I believe this approach would minimise the potential disharmony that could cause ongoing friction between the proponent, the residents, and the approving body. Additionally, any adverse outcomes could be identified and addressed prior to final approval being given.

Additionally, there is no information relating to the drilling process required to perform the proposed blasting. Drilling is a notoriously noisy operation and may be in operation for a notable duration to prepare for the blasting. I believe drilling should be taken into consideration as a key component of the proposal.

RATIONALE

According to the report there are no residential structures that are considered sensitive receptors. However, there are approximately 10 residential premises overlooking the property containing the quarry and several more in the vicinity. My confidence in the supporting documentation contained in the proposal is reduced through misalignment of some statements made.

For instance:

The stated blast frequencies range from

- **2-4 times per year** - *Statement of Environmental Effects 3.1 "The Applicant anticipates that blasting would occur on between two and four occasions each year."*

TO

- **to Monthly** - *Appendix 3 - Blast Impact Criteria "...with no more than one blast per month on average"*. so potentially 3-6 times increase.

- The Maximum Instantaneous Charge (MIC) that will be used has not been specified. Instead, it is stated that a typical blast will likely fall into the range of 30–80 kg and possibly up to 240 kg so potentially 3-8 times increase.
- Hours of operation of the quarry are currently between 8:00am and 5:00pm Monday to Friday and 8:00am and 2:00pm Saturday. The proposal is for blasting to take place between 8:00am and 5:00pm Monday to Saturday.

If a test blast were to be performed the following outcomes would be clear and should not place any additional burden on any party. The results would:

- Give the approving authority access to all the facts before making a determination.
- Give the proponent certainty regarding calculations and assumptions that formed the proposal without incurring any additional cost as a blasting would occur post consent.
- Give the community in the vicinity the opportunity to appreciate the stated negligible impact of the proposed change to operations.

PERSONAL EXPERIENCE

My home is a concrete slab on rock with cavity brick walls. Several years ago, the Great Western Highway A32 at Browns Hill was restructured and repaved. During that work my residence, which is approximately 600 metres from the work site, suffered notable vibration from machinery used at the work site. The vibration we noticed was of sufficient magnitude to be felt through the floor of our dwelling, with light fittings and some windows rattling. Sometime after the road upgrade the earth dam on our property failed. The dam is located approximately 320 metres from the work site. I cannot conclusively connect the dam failure with the road work vibration but, to my mind, the likelihood of the events being connected is extremely high. The memory of that experience remains. My concern with the proposal is that, in the event the assessment is flawed, there could be unexpected consequences on surrounding properties. A pre-approval test blast should be no more onerous for the proponent than blasting after approval, with the added advantage of proven outcomes.

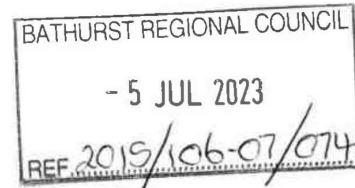
Sincerely

Andrew Lemcke



July 3 2023

Re: Development application No 2015/106



Dear Bathurst Regional Council,

I am writing in response to your letter recently received regarding the above development application at Napoleons Reef by Hothams sand soil and gravel pty Ltd.

I wish to strongly appose any future operations especially the use of explosive devises to extract further material from the above named quarry,

My reasons are as follow,

1: Since the 23/11/2015 I have made several complaints to Mr Phillip Hotham whom I believe is the owner operator of the quarry via phone calls and text messages these complaints would be closer to 20 plus phone calls and messages these complaints were in relation to continued non stop noises coming from his quarry for hours a continued thumping noise that I was told was the crusher working at the quarry , several times I have had to leave my home to get away from the constant thumping noise , If that wasn't enough I also complained about the huge amount of dust I could see coming from the quarry that I observed several times from a hill next to my property on Mersing road , I took several photos of the dust and forwarded them to Mr Hotham and Bathurst Regional council, I also complained several times to Bathurst Regional Council about the thumping noises and the high volume of dust omissions.

Since the commencement of the quarry operations my upstairs bathroom facing towards the quarry has a constant film of thick dirt on and around the window and in the bath under the window, I believe this is from dust coming from Hothams quarry as this dirt and dust was not there before the quarry commenced operations I also complained to Mr Hotham and Bathurst regional council about this , but the dust still accumulates there when the quarry is in operation

2: As a previous resident of Napoleons reef I do travel around Napoleons reef road to visit old neighbours and friends several times I have witnessed trucks coming from the quarry on the wrong side of the road , the transportation of explosive devices on that very narrow road especially when a school bus drives on it twice a day is extremely dangerous, let alone the trucks using that road just to transport quarry materials my opinion as a past resident of 17 years in that area is it should never be used as a heavy vehicle high traffic area ever!

3: My concern for the residents living closer to the quarry , If I and my family are experiencing these loud constant noises and dust my worry is that the residents closer are experiencing a very very unexceptionable level of the same and if the use of explosives are approved I would expect this volume of noise to add more stress and anxiety to everyone .

4: The Napoleons reef and Glanmire area prior to the approval of this quarry was a peaceful quiet area I have lived in for 27 years, I believe the approval of this quarry in 2015 has taken away the areas uniqueness , approving Hotham's to use explosives to extract quarry materials in the future after approving the quarry's operations in 2015 is extremely a wrong decision based on Hotham's operational errors in the past.

I'm hoping that you will give the above careful consideration, if you wish to contact me regarding anything in this letter I can be contacted anytime on ph number 0419760445,

Your faithfully,

Leonie MacBeth
186 Mersing Rd, Glanmire ,NSW 2795

EPFS-R



RECEIVED
06 JUL 2023

BATHURST REGIONAL COUNCIL

From: Gerarda Mader
25 The Ridgeway, Napoleon Reef, NSW, 2795

To: Bathurst Regional Council – Environmental, Planning & Building Services Dept.
158 Russell St, Bathurst, NSW 2795

Subject: Opposition to Development Application No 2015/106 – Proposed Modification of Extractive Industry on Lot 3 DP 226520 Napoleon Reef Road, Napoleon Reef

Dear General Manager,
Bathurst Regional Council & Manager Development Assessment

I am writing to express my opposition to the proposed modification of the extractive industry on Lot 3 DP 226520 Napoleon Reef Road, as outlined in Development Application No 2015/106. As a resident at 25 The Ridgeway, which is in close proximity to the quarry, I have serious concerns about the potential negative impacts that blasting activities may have on our property, the surrounding neighbourhood, and the monitoring and compliance measures by the applicant, Hothams Sand, Soil & Gravel Supplies Pty Ltd.

One of my concerns is the absence of a comprehensive blasting size, vibration, noise, and dust management plan, including monitoring for each blast. The modification Statement of Environmental Effects (SoEE) fails to provide crucial details regarding the maximum blasting tests, the frequency of blasting, and the blast tonnage to be used. Without this information, it is impossible to assess the potential impact on our property and the surrounding area accurately. Additionally, the SoEE lacks clarity regarding who will be responsible for monitoring the impacts of the blasting activities. It is imperative that clear limits and ongoing monitoring measures be established for the duration of the project to ensure compliance and protect the community.

Another concern is the proposed times that blasting will be able to proceed. These proposed times include before and after school hours and weekends when there are children around, school bus movements and families home.

As part of my submission I would like to draw your attention to my concerns about compliance with rules and limits, evidenced by dangerous or illegal truck movements on public roads, potential dust mitigation issues, and potential noncompliance by the proponents. I have collected a summary of images and videos that clearly demonstrate these concerns, all of which have been legally obtained, time/date/GPS stamped, and captured using a handheld device. Some of these have been reported to council and/ or police with no effect. It is important to note that this evidence represents a random snapshot of ongoing behaviors rather than an exhaustive record gathered through systematic monitoring. This raises doubts about the proponent's capacity to comply with established limits and responsibilities. This may be especially dangerous in relation to blasting activities.

For reference, I have included a list of notable instances of dangerous or illegal truck maneuvers, what looks like excessive dust plumes, and other potential noncompliance incidents and can supply the images and videos on request.

Dangerous or illegal truck manoeuvres on public roads:

- 9/6/2016, 7:42am – [PZ908] - Napoleon reef road.
- 11/7/2018 1:55pm – Napoleon Reef Rd
- 11/7/2018 2:26pm- Napoleon Reef Rd
- 11/7/2018 2:27pm- Napoleon Reef Rd
- 21/9/2020 7:32am Napoleon Reef Rd
- 15/10/2020 9:31am Napoleon Reef Rd
- 19/10/2020- 7:17am- [CG95PW]?- Napoleon Reef Rd

20/10/2020 - Napoleon Reef Rd

25/10/2020 – 8:11am- CBH703- Napoleon Reef Rd

Excessive Dust plumes:

15/3/2016 1:42pm

20/4/2017 10:10am

18/5/2017 5:04pm

16/2/2018- 4:00pm

27/3/2018 1:00pm

25/5/2018 1:17pm

18/7/2018 1:34pm

21/10/2019 2:28pm

8/9/2020 3:49pm

23/10/2020 1:44pm

Other noncompliance:

12/10/2020 5:15am & 6:14am

17/10/2020 - 6:14am

21/9/2020 – 6:24am

28/9/2020 – 6:35am

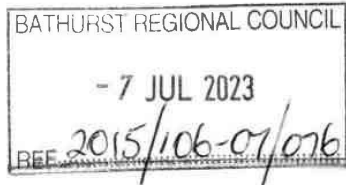
Finally, it is crucial that the implementation of this modification be clearly defined, limited for the duration of the project, and subject to third-party measurement and monitoring. Without these measures in place, it is difficult to have confidence in the applicant's commitment to adhering to regulations and mitigating the potential negative impacts on our community.

Please review my submission and take these concerns into consideration for the assessment of Development Application No 2015/106. It is essential that the proper measures and safeguards be put in place to protect the well-being and interests of the residents and the surrounding environment.

Yours Sincerely,

Gerarda Mader

0412 028 717



Reference Development Application No2015/106

RECEIVED

07 JUL 2023

BATHURST REGIONAL COUNCIL

Dear Mr Dwyer,

I am writing in reference to the proposed amendment to the above development application. I feel that it is unnecessary to change the conditions that were applied by council, in the interests of the developer and the community of Napoleon Reef, in the original development application.

The developer was made aware in 2015 that blasting would trigger Designated Development regulations and chose to withdraw the 'blasting' component, continue with the application and accept the council's stipulations fully aware of the implications. However it is obvious from the information contained within the current amendment application that the developer has not been happy with council's decision hence their seeking legal advice in 2019 and again in 2022 in an attempt to change the operating conditions of the quarry.

After reading the relevant section of the Environmental Planning and Assessment Regulations 2021, specifically Schedule 3 Part 2 Section 26, it would seem that the crux of the issue is the defining of Section 26 (6) extractive industry facility means a building or place at which.... (Refer to parts a and b).

Through the stipulations that council applied to the developer's original development application I feel that the council made it quite clear that the facility encompassed the whole area used. The extractive industry facility's entrance and signage, just off the Napoleon Reef Road, clearly defines the entrance to the extractive industry facility and this should be taken into consideration rather than just where a part of the operation takes place.

My other concerns are the implications blasting could have for the aquifer that services the community of Napoleon Reef including the council administered water supply to the Hillview Estate. Successive blasting over a short or longer period could have accumulative and unknown consequences for the aquifer, consequences that may only be discovered after the damage is done. The proposed amendment makes no reference to the possible impact of blasting on the aquifer.

In the interests of the community of Napoleon Reef I would like to see council err on the side of caution and reject the proposed amendment to the original development application.

Thank you in advance for your consideration of my concerns.

Yours sincerely

Rebecca and Richard Mottram
35 The Ridgeway
Napoleon Reef
2795

EPFS-R

RECEIVED

06 JUL 2023

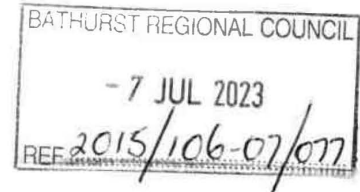
Development Application No 2015/106

Proposed Development: Modification – extractive industry

BATHURST REGIONAL COUNCIL

Premises: Lot: 3 DP: 226520 Napoleon Reef Road, Napoleon Reef

Name of applicant: Hothams Sand, Soil & Gravel Supplies Pty Ltd



Submission from Jan and Max Page. 2 Cave Gully Road, Napoleon Reef.

Background

The quarry was approved in November 2015 with 35 conditions to be met. From that time a modification to include blasting was always to be expected given the nature of the extractive industry being carried out. The local residents were, at the time, concerned about the establishment of this industry and they continue to monitor any issues that arise from the operations.

Proposed modification

The documentation associated with the application is confusing as the details of the modification are not up front but embedded in the documentation on page 16 with some of the detail seemingly at odds with that in the associated reports.

Of particular concern is the detail around the frequency of blasting. On page 16 it is stated that the modification is for 2 to 4 blasting operations per year whereas the Acoustic Review states that *the Applicant has advised that blasting would be very infrequent, with no more than one blast per month on average*. This suggests that the Applicant is prepared to blast up to 12 times per year rather than a maximum of 4 blasts as stated in the Proposed Modification (page 16). This requires clarification which should be communicated to residents before this application is approved.

The nature of the blasting regime is also of concern as the supporting documents do not take into account the nature of the local environment, in particular the topography, giving consideration to only the nearest residence. Given that the ground rises from the quarry towards a number of residences on the heights, the sound and vibrational impacts on human comfort further afield should be considered. In addition it is unclear as to how many detonations, of what amount of explosive, constitute a single blast, one of the potential four per year.

It is interesting to note that the documentation provides two different distributions of residences in the area: that provided on page 8 of the Statement of Environmental Effects recognises a wider and more realistic distribution than the one provided on page 2 of the Acoustic Review. We would contend that the first should be recognised in all considerations around activities associated with the quarry.

Submission

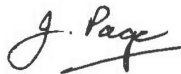
We understand that some blasting is required for this operation to continue but believe it should be managed in a way that recognises the lifestyle of local residents.

1. Given the lack of clarity being provided for residents identified in Figure 1 p.2. of the Acoustic Review, and those nearby which haven't been included but which are in hearing distance of quarry operations - dependent on weather conditions, a pre-approval trial blast should be conducted to assess the impacts on all surrounding areas. This would be beneficial to both the Applicant, who would obtain new material, and residents who would gain a greater understanding of exactly what is being proposed and the potential impacts on their properties and lifestyle. It would also minimise potential disharmony which could lead to friction between the Applicant, the residents and the approving body, a situation we all wish to avoid.
2. No blasting should occur on Saturdays. This would be out of respect for local residents who value their peaceful environment, particularly those closest to the quarry and those who live on heights where the sound will carry
3. Signage should be placed at the intersection of Walang Drive and Napoleon Reef Road well in advance of proposed blasting advising of the date and time. Whilst this signage would be seen by many local residents, alternative arrangements need to be implemented to contact other residents as per the distribution of residences marked on the Locality Plan on page 8.

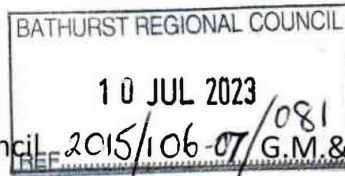
Max Page



Jan Page



5 July 2023



RECEIVED

07 JUL 2023

Bathurst Regional Council

2015/106-07/G.M. & T. Sanders & D Johnson

158 Russell St.

BATHURST REGIONAL COUNCIL

46 Littles Access & 79 Cave Gully Rds.

Bathurst. NSW 2795

Napoleon Reef. NSW 2795

6/7/2023

Re: DA No 2015/106

Dear Mr. Denyer & members of Bathurst Regional Council,

We wish to make a submission in response to the Development Application No.2015/106 for the proposed modification on the premises held by Hothams Sand & Gravel supplies Pty Ltd. We would like to make note that the DA information was presented just three weeks before we had to make our submission that we consider too short a time to read the 69-page proposal and to understand what it was about! Laypersons like ourselves would not have the knowledge to interpret a lot of the information contained particularly when it described the details of the blasting operation effects and other operational information.

Our family own two properties in Napoleon Reef and have resided here since 1989. We chose to live in this area for its peaceful, safe and natural bush surrounds and have enjoyed the life here for over 30 years despite the fact that we do not have the services provided by council in other Bathurst areas such as garbage collection, curbing or guttering etc.

When Hothams Sand and Gravel company made the initial DA in 2015 the Napoleon Reef community made many submissions and attended meetings outlining our objections to the development. We were assured that our concerns were to be considered and promised that Napoleon Reef Road would be widened and maintained regularly as the damage from the trucks would be a problem for the residents using the same. This promise has not been kept and the road is still in need of regular maintenance and the trucks carting the extracted material are considered a safety risk to other road users. Can the Council confirm that the width of this road is suitable for the B Doubles used by Hothams'?

Photos, telephone calls emails and letters sent over the last 10 years with regard to the heavy trucks, road damage, dust and noise expressing residents' concerns over the quarry operations but it appears that these complaints have

EPFS

not been documented by the correct authorities- namely the Bathurst Council and the Quarry operators.

We would like to support the suggestion made by Andrew Lemcke that a test blast conducted to 'ensure the impact of the operation remains within demonstrated limits' and that 'the test could include monitoring at a specific location to determine peak values of the blast at that location'.

A question we also have about the operation of the quarry is in regards to the material removed, its use and the timing of the transporting of the materials. Napoleon Reef is described as a heritage area, where mining took place in the past and we are concerned that allowing operations like a quarry will 'change the heritage significance' of the site. It has been noted that there are regular truck movements outside the times recorded in the initial DA and activity has taken place in odd times of the day and night. An explanation made was that these truck movements were necessary as they were for agricultural purposes not relating to the quarry activities. Does this contravene the orders of the initial DA?

In addition, we would like to question the value and amount of the material removed and the possible effect on the existing water table. As we have a bore and rainwater tanks on our properties we are concerned that the dust emitted from the quarry may carry silica or other carcinogenic material. Our reading of the DA document did not explain clearly whether the dust created was analyzed or tested as to whether it carried material dangerous to health. We are aware that the Council operates a bore for the Napoleon Reef Estate and would like to know if water from that bore is deemed safe for the residents in that area and has not been affected by the quarry operations.

We request Bathurst Regional Council to address our and other residents' concerns and we look forward to hearing from you in the near future.

Yours sincerely,

Graeme Sanders
Memory E Sanders

Tuana Sanders

Graeme, Memory, Tuana Sanders & Darren Johnson