

2 AMENDMENT TO PLANNING PERMIT T090757 TO AMEND CONDITIONS TO ALLOW FOR EXTENDED OPERATING HOURS OF THE QUARRY (SECONDARY CRUSHER, SCREENING PLANT, ONE FRONT END LOADER & TRUCK MOVEMENTS) AT CP168299 AND L1 TP756359 TYNONG NORTH ROAD, TYNONG NORTH

FILE REFERENCE INT2033829

RESPONSIBLE GENERAL MANAGER Peter Benazic

AUTHOR Evangeline McGauley-Kennedy

RECOMMENDATION

That a Notice of Decision to Grant Amended Planning Permit be issued for the amendment to conditions of the planning permit T090757 subject to the conditions attached to this report.

Attachments

- | | | |
|---|---|----------|
| 1 | Locality Map | 1 Page |
| 2 | Copy of Objections - Circulated to Councillors only | 47 Pages |

EXECUTIVE SUMMARY:

APPLICATION NO.:	T090757 - 1
APPLICANT:	Mr Ned Wynen (AECOM)
LAND:	CP168299 and L1 TP756359 Tynong North Road, Tynong North VIC 3813
PROPOSAL:	Amendment to conditions of the Planning Permit T090757 to allow for extended operating hours of the quarry (as outlined in this report).
PLANNING CONTROLS:	Green Wedge Zone - Schedule 1 Environmental Significance Overlay – Schedule 1 Bushfire Management Overlay (partial)
NOTIFICATION & OBJECTIONS:	Pursuant to Section 55 of the <i>Planning and Environment Act 1989</i> , the application was advertised by the placing of three (3) signs on site and notices in the mail to 17 property owners shown in the Acoustic report provided as being potentially affected by the proposal. Nine (9) objections were received.
KEY PLANNING CONSIDERATIONS:	Green Wedges – Metropolitan Melbourne Noise Amenity Earth and Energy resources Transport

TITLE RESTRICTIONS:

Section 173 Agreement – AH820116A.

This relates to an agreement between Cardinia Shire Council and Fulton Hogan Construction Pty Ltd which refers to an annual payment in recognition of the impacts of the quarry on public roads during the term of the planning permit (T090757). This payment must be made on or before the day of 30 June in each financial year and is ongoing. It is not applicable to this application. Any further impact of the extended hours of the quarry and vehicle movements will continue to be captured by this Agreement.

RECOMMENDATION:

Notice of Decision to Grant a Permit

BACKGROUND:

The subject site is located on the western side of Tynong North Road, approximately 600 metres to the north of the intersection with Princes Freeway to the south. The site is made up of two (2) parcels (CP168299 and L1 TP756359) and is sometimes referred to as 50 Tynong North Road. The site totals a land area of 212.1 Hectares. The site currently contains a 'medium size' aggregate (granite) quarry, which has been in operation since 1987 and is currently run by Fulton Hogan. The Tynong Quarry currently outputs approximately 3000 tonnes of aggregate per day.

The industry currently employs a number of long time employees from the Pakenham and greater Gippsland region, including quarry staff, administration staff, machinery operators and truck drivers and services a number of external producers of asphalt and other products requiring granite used in the construction industry located in Melbourne's industrial areas (such as Dandenong). The Fulton Hogan Dandenong asphalt plant is permitted to receive night time deliveries from Tynong.

The quarry is estimated to remove 24,500,000 tonnes of aggregate, which is expected to have a lifespan of another 20-30 years.

Previous Planning approvals granted the use and development of the site for the purposes of Extractive Industry in 1987 (P.3636D) and for extensions to the existing extraction area in 2010 (T090757).

The quarry (excluding blasting) currently operates under the following operating hours in accordance with Condition 6 of T090757 (once temporary extension is expired):

- Monday to Friday - 7.00am to 6.00pm
- Saturday – 7.00am to 1.00pm
- Sunday – No work

The quarry currently operates its blasting hours in accordance with Condition 7 of T090757:

- Monday to Friday - 9.00am to 4.00pm
- Saturday and Sunday – No blasting

In June 2018 the Victorian Government released its strategy for extractive resources, Helping Victoria Grow (the Strategy). The Strategy outlines the areas for action to ensure the continued supply of extractive resources to support rapid population growth to 2050.

The Strategy is informed by a comprehensive study commissioned by Minerals Development Victoria released in 2016.

This 2016 study presented forecasts of the demand and supply of extractive resources state-wide to 2050, by resource type and by each of Victoria's 79 local government areas. However, the current 2018 data indicates that demand for extractive resources is tracking even higher than the 'high demand' scenario forecast in the 2016 study.

The Quarry currently operates under a Work Authority (Work Plan 25) issued by the former Department of Primary Industries (now known as the Department of Jobs, Precincts and Regions) on 31 December 2009. A Work Plan Variation has been prepared and endorsed by the Department of Jobs, Precincts and Regions on 4 November 2019 for the variation of work hours proposed by this amendment and has been provided with this application.

The Department of Jobs, Precincts and Regions supports the minerals sector to create jobs and attract investment to our regions.

Their roles include:

- Regulating the sector and managing access to the earth resources of Victoria.
- Supporting Victoria's quarry sector so the state has enough building materials for our infrastructure boom.
- Facilitating the development of low-emission resources.

Work Plans endorsed by the Department of Jobs, Precincts and Regions such as the one that Tynong Quarry is required to abide by, authorise, monitor and regulate works in Extractive industries. Outlined in the policy document *Preparation of Work Plans and Work Plan Variations: Guideline for Extractive Industry Projects December 2018* a Work Authority and Work Plan are defined as the following:

- Work authority: A work authority relating to an extractive industry granted under MRSDA section 77I.
- Work plan: The work plan is the primary document describing the permitted activities to be undertaken on a work authority. It is intended to provide guidance to operations staff at the quarry as well as informing other readers such as Council or Government officers in order to facilitate decisions, approvals, compliance, and enforcement functions. It must be clear, concise and contain sufficient detail to enable a reader to understand the activities proposed to be undertaken at the site, their potential risks and impacts, and the control or management actions required.

PLANNING PERMIT HISTORY:

- Historic Planning Permit P3636D issued by the Shire of Pakenham for the use and development of Part Crown Allotment 61 & 61A, Parish of Bunyip, for the purposes of extractive industry on 7 March 1987.
- A temporary extension of hours was granted from 22 November 2007 until 30 January 2008.
- A temporary extension of hours was granted on 28 October 2009 for two weekends in November 2009.

- Planning permit T090757 was issued by Council on 19 April 2010 for the use and development of the land for the purpose of extractive industry (extension to the extraction area of the existing quarry).
- No objections were received to this proposal.
- Secondary consent was granted on 21 August 2018 for an extension of the operating hours for the secondary crusher and one front end loader. The operating hours allowed for the machinery was 7.00am – 10.00pm Monday to Friday for a period of three (3) months.
- Secondary consent was granted on 19 December 2018 for an extension of the operating hours for the secondary crusher and one front end loader. The operating hours allowed for the machinery was 7.00am – 10.00pm Monday to Friday for a period of six (6) months.
- Planning permit T180828 was issued for the construction of an building (Machinery Shed) associated with Extractive Industry on 17 May 2019.
- Secondary consent was granted on 18 July 2019 for an extension of the operating hours for the secondary crusher and one front end loader. The operating hours allowed for the machinery was 7.00am – 10.00pm Monday to Friday for a period of six (6) months.
- Secondary consent was granted on 17 January 2020 for an extension of the operating hours for the secondary crusher and one front end loader. The operating hours allowed for the machinery was 7.00am – 10.00pm Monday to Friday for a period of six (6) months.

SUBJECT SITE



The site is located on the north-east corner of the intersection of Tynong North Road and Princes Highway. The existing quarry is located in the north-west corner of the site. The site is traversed by major electricity transmission lines which extend east west across the southern part of the site. The site contains existing quarrying infrastructure including roads, a site office, sheds and a crushing and sorting plant.

The site is undulating, with the main quarry and screening plant being located in a low part 'bowl' of the land and buffered by a natural rise in topography on all sides, resulting in the quarry and plant being concealed from views from any adjoining roads or neighbouring properties.

Surrounding land is generally used for farming purposes, with some smaller rural-residential allotments being located in the vicinity. The township of Tynong is located approximately 850 metres to the south.

PROPOSAL

The quarry is seeking permission to extend the operating hours allowed under Condition 6 of Planning Permit T090757.

The extended operating hours are requested by the operator (Fulton Hogan) to allow for transportation of construction materials outside the current hours that the quarry is allowed to operate under Planning Permit T090757. The justification for seeking this Amendment surrounds the pressures felt from the growing infrastructure sector in Victoria and the demand for these industries to be able to transport and deliver materials to 24/7 manufacturers in our industrial sectors. Currently, the operating hours restrict the quarry to transporting materials within peak times where a majority of other motorists are using the roads or trying to get to work/ home. The volume of materials that this quarry has been producing would see a considerable increase in trucks on the roads within these peak times, which is not sustainable.

The quarry has been operating additional machinery with temporary extended hours (via Secondary Consent applications) since 21 August 2018, but now seek to make the extended hours permanent, and include truck movements into this proposal. The Secondary Consent approvals were issued allowing the quarry to operate a secondary crusher and one front end loader between 7.00am and 8.30pm Monday to Friday for 3 to 6 months at a time.

Evening time hours (Monday to Saturday):

The proposed extended operating hours during the evening period on Monday (from 6.00pm – 10.00pm) will include the following equipment and activities are proposed to be used/undertaken:

- Secondary crusher
- Screening plant
- One (1) front end loader
- Truck movements

During this time the applicant is seeking permission for the use of the secondary crusher, screening plant, Komatsu 500 loader and two (2) trucks per half hour (four movements; two movements in and two movements out), and the use of one (1) loader to load trucks.

Night time hours (Monday to Friday):

The proposed extended operating hours during the night time period on Monday (from 10.00pm – 7.00am – following day) will include the following equipment and activities are proposed to be used/undertaken:

- One (1) front end loader
- Truck movements

During this time the applicant is seeking permission for the use of two (2) trucks per half hour (four movements; two movements in and two movements out) and the use of one (1) loader to load trucks.

The extended hours do not include additional blasting and this condition will remain unchanged. The current hours approved under Condition 7 of T090757 for blasting are:

- Monday to Friday - 9.00am to 4.00pm
- Saturday and Sunday – No blasting

A comparison to what is currently allowed by the permit to what is proposed is demonstrated in this table:

Table 1 Comparison between the existing and proposed operating hours and operations at Tynong Quarry.

	Mon	Tues	Wed	Thur	Fri	Sat	Sun
Time Period: Day Operations Occurring: All normal machinery and plant equipment (excluding blasting). EXISTING OPERATIONS	7AM – 6PM EXISTING OPERATING HOURS	7AM – 6PM EXISTING OPERATING HOURS	7AM – 6PM EXISTING OPERATING HOURS	7AM – 6PM EXISTING OPERATING HOURS	7AM – 6PM EXISTING OPERATING HOURS	7AM – 1PM EXISTING OPERATING HOURS	No Work EXISTING OPERATING HOURS
Time Period: Evening Operations Occurring: Secondary crusher, screening plant, one front-end loader and truck movements. PROPOSED OPERATIONS	6PM – 10PM PROPOSED ADDITIONAL OPERATING HOURS	6PM – 10PM PROPOSED ADDITIONAL OPERATING HOURS	6PM – 10PM PROPOSED ADDITIONAL OPERATING HOURS	6PM – 10PM PROPOSED ADDITIONAL OPERATING HOURS	6PM – 10PM PROPOSED ADDITIONAL OPERATING HOURS	1PM – 10PM PROPOSED ADDITIONAL OPERATING HOURS	No Work EXISTING OPERATING HOURS
Time Period: Night Operations Occurring: One front-end loader and truck movements. PROPOSED OPERATIONS	10PM – 7AM (the following day) PROPOSED ADDITIONAL OPERATING HOURS	10PM – 7AM (the following day) PROPOSED ADDITIONAL OPERATING HOURS	10PM – 7AM (the following day) PROPOSED ADDITIONAL OPERATING HOURS	10PM – 7AM (the following day) PROPOSED ADDITIONAL OPERATING HOURS	10PM – 7AM (the following day) PROPOSED ADDITIONAL OPERATING HOURS	No Work EXISTING OPERATING HOURS	No Work EXISTING OPERATING HOURS

PLANNING SCHEME PROVISIONS:

Planning Policy Framework (PPF)

The relevant clauses of the PPF are:

- Clause 11.01-1R – Green Wedges – Metropolitan Melbourne
- Clause 13.05-1S – Noise abatement
- Clause 13.06-1S – Air quality management
- Clause 14.03-1s – Resource exploration and extraction

- Clause 17.01-1S – Diversified economy
- Clause 17.03-2S – Sustainable industry
- Clause 18.01-2S – Transport system
- Clause 18.02-3S – Road system
- Clause 18.05-1S – Freight links

Local Planning Policy Framework (LPPF)

The relevant clauses of the LPPF are:

- Clause 21.01 - Cardinia Shire Key issues and strategic vision
- Clause 21.04-6 – Extractive industry
- Clause 21.05-2 – Freeways, declared arterial roads
- Clause 22.05 – Westernport Green Wedge Policy

Relevant Particular/ General Provisions and relevant incorporated or reference documents

The relevant provisions/ documents are:

- Clause 51.02 – Metropolitan Green Wedge Land: Core Planning Provisions
- Clause 52.29 – Land adjacent to a Road in a Road Zone Category 1
- Clause 52.09 – Stone Extraction and Extractive Industry Interest Areas
- Clause 65 – Decision guidelines
- Clause 66 – Referral and Notice provisions
- Westernport Green Wedge Management Plan 2017

Cardinia Shire's Liveability Plan 2017-2029

This proposal has regard to Cardinia Shire's Liveability Plan 2017-2029, in particular:

- Reduce financial vulnerability by facilitating investment in the local economy that facilitates new job opportunities, due to new staff being required to fill additional hours.

Zone

The land is subject to the **Green Wedge Zone - Schedule 1**

Overlays

The land is subject to the following overlays:

- Environmental Significance Overlay – Schedule 1
- Bushfire Management Overlay (partial)

PLANNING PERMIT TRIGGERS

The proposal for relates to the amendment of Planning Permit T090757 originally issued for the use and development of the land for the purpose of extractive industry (extension to the extraction area of the existing quarry) to amend conditions relating to the operation hours of the quarry as discussed above. Therefore, there are no new permit triggers as a result of the proposal.

The original application required a planning permit under the following clauses of the Cardinia Planning Scheme:

- Pursuant to Clause 35.04 (GWZ1) a planning permit was required for Mineral Stone or Soil Extraction.
- Pursuant to Clause 42.01 (ESO1) a planning permit was required to construct or carry out works.

PUBLIC NOTIFICATION

The application has been advertised pursuant to Section 52 of the Planning and Environment Act 1987, by:

- Sending notices to the owners and occupiers of adjoining land and those properties shown as being potentially affected on the Acoustics Map prepared by AECOM Australia Pty Ltd dated 8 April 2019 (see Figure 1 below); and
- Placing three (3) signs on site.
- A total of 17 residents within an approximately 1 kilometre radius of the site received notice of the application by mail.

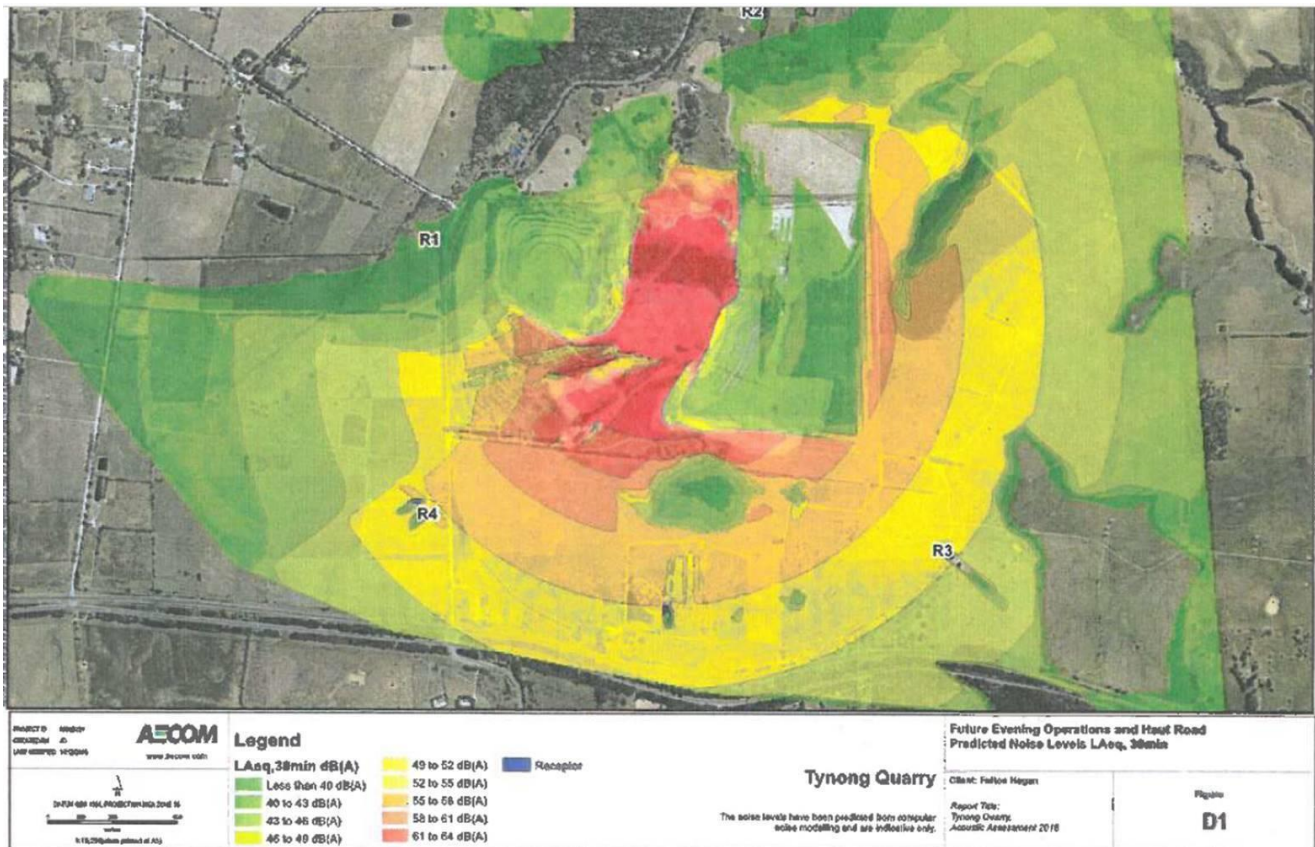


Figure 1: Acoustic mapping used to determine advertising notices for adjoining residences.

The notification has been carried out correctly, with the Statutory Declaration being received on 23 March 2020.

Council has received nine (9) objections to date. One (1) objection was received on 19 March 2020, well outside of the advertising period. However, Council have endeavoured to address these concerns in detail below.

The key issues that were raised in the objections are:

- Noise (arising from trucks, machines, secondary crusher, additional road noise)
- Increased dust (resulting in respiratory issues, increased property maintenance)
- Water use
- Safety of Princes Highway and Tynong North Road/ Tynong Road intersection
- Impact on wildlife (resulting from lighting)
- Sleep quality (resulting from noise and vibration)
- General compliance of the quarry with existing permit

REFERRALS

Department of Transport (VicRoads)

The application was referred to the Department of Transport as a statutory referral. The Department of Transport had no objection to the proposal subject to conditions.

Earth Resource Regulation (ERR)

The application was referred to the ERR as a statutory referral, however no response has been received to date. It is however noted that the application was referred to the ERR in error as Clause 52.08 and Clause 52.09 of the PPF contain a referral exemption.

Referral requirements do not apply to an application to use and develop land for mineral or stone extraction if a copy of the work plan was previously referred to the authority listed in Clause 66 of the VPP under section 77TE of the *Mineral Resources (Sustainable Development) Act 1990* (MRSDA).

DISCUSSION

The application to amend the permit has been assessed against the decision guidelines of all relevant clauses of the Cardinia Planning Scheme and the proposed changes are determined to be consistent with these requirements.

The Planning Scheme puts particular emphasis on the facilitation of the Earth and Energy Resources Industry (when located in appropriate regions) where exploration and extraction of natural resources are undertaken with acceptable environmental standards, in order to facilitate this demand. There are a number of strategies that should be implemented to ensure the protection of long-term natural resources in Victoria, and the opportunity for exploration and extraction. This should be done while recognising that amenity and buffer distances need to be controlled and maintained to avoid conflict with sensitive uses whilst enforcing appropriate limits on the potential effects of the activities may have on them.

Planning Policy Framework (PPF) and Municipal Planning Strategy (MPS)

A number of state and local policies are relevant to this application that aim to ensure that industries such as extractive industries are protected (where located in appropriate locations), as well as ensuring that potential conflicts with sensitive land uses can be appropriately managed and mitigated.

Clause 11.01-1R (Green Wedges – Metropolitan Melbourne) seeks to protect green wedges from inappropriate development as well as support development in green wedges that provides environmental, economic and social benefits including protecting significant resources of stone, sand and other mineral resources for extraction purposes.

Clause 13.05-1S (Noise abatement) seeks to assist the control of noise effects on sensitive land uses by ensuring that development is not prejudiced and community amenity is not reduced by noise emissions, using a range of building design, urban design and land use separation techniques as appropriate to the land use functions and character of the area.

Clause 13.06-1S (Air quality management) seeks to assist the protection and improvement of air quality. Ensure, wherever possible, that there is suitable separation between land uses that reduce air amenity and sensitive land uses.

Clause 14.03-1s (Resource exploration and extraction) seeks to encourage exploration and extraction of natural resources in accordance with acceptable environmental standards to Provide for the long-term protection of natural resources in Victoria, Recognise the possible need to provide infrastructure for the exploration and extraction of natural resources, Develop and maintain buffers around mining and quarrying activities.

Clause 17.01-1S (Diversified economy) seeks to strengthen and diversify the economy and support rural economies to grow and diversify.

Clause 17.03-2S (Sustainable industry) seeks to facilitate the sustainable operation of industry by providing adequate separation and buffer areas between sensitive uses and offensive or dangerous industries and quarries to ensure that residents are not affected by adverse environmental effects, nuisance or exposure to hazards.

Clause 18.01-2S (Transport system) seeks to coordinate development of all transport modes to provide a comprehensive transport system by ensuring careful selection of sites for freight generating facilities to minimise associated operational and transport impacts to other urban development and transport networks. It also seeks to achieve this by planning or regulating new uses or development of land near an existing or proposed transport route to avoid detriment to and where possible enhance the service, safety and amenity desirable for that transport route in the short and long terms.

Clause 18.02-3S (Road system) seeks to manage the road system to achieve integration, choice and balance by developing an efficient and safe network and making the most of existing infrastructure by improve the management of key freight routes to make freight operations more efficient while reducing their external impacts and Ensure that road space complements land use and is managed to meet community and business needs.

Clause 18.05-1S (Freight links) seeks to minimise negative impacts of freight movements on urban amenity and limit incompatible uses in areas expected to have intense freight activity by identifying and protecting key freight routes on the Principal Freight Network. It also seeks to plan for improved freight connections that are adaptable to commodity, market and operating changes and link areas of production and manufacturing to export markets. This in turn is expected to improve freight efficiency and increase capacity of Transport Gateways while protecting urban amenity.

The proposal is compatible with the rural character from the area, and given its strategic location an extension to the operation hours is considered acceptable. The quarry has been in operation since 1987 under various planning permits discussed above, and the changes to hours are not considered to cause any major disruption to the surrounding residences. The quarry is strategically located in the appropriate zoning to minimise conflicts with sensitive uses, such as dwellings. It is noted that the Green Wedge is primarily an agricultural zone which should facilitate, above all else the right to farm. Other compatible uses, such as this should also be considered appropriate in the Green Wedge and take precedence over the amenity of rural residences. However, in any case the Planning Scheme requires the appropriate amenity protection measures to be put in place to minimise these effects. Local policies including Clause 21.04-6 (Extractive industry), 21.05-2 (Freeways, declared arterial roads) and 22.05 (Westernport Green Wedge Policy) all seek to facilitate and protect the development and expansion of industries such as this in when appropriately located the Green Wedge.

It is considered that the proposal adequately responds to the above and therefore, it is considered that the proposal is consistent with the PPF and MPS as it appropriately balances the objectives of the policy that will not result in a detrimental impact on the amenity of the surrounding area.

Green Wedge Zone:

Some of the key purposes of the Green Wedge Zone is to implement the MPS and PPF, along with providing for and protecting the use of the land for agriculture. It is also in place to recognise, protect and conserve green wedge land for its agricultural, environmental, historic, landscape, recreational and tourism opportunities and mineral and stone resources. The decision guidelines of

the Zone require the Responsible Authority to consider the following when assessing an application, in particular:

- The capability of the land to accommodate the proposed use or development.
- How the use or development relates to rural land use, rural diversification, natural resource management, natural or cultural heritage management, recreation or tourism.
- Whether the site is suitable for the use or development and the compatibility of the proposal with adjoining land uses.
- Whether the use or development is essential to the health, safety or well-being of the State or area but is not appropriate to locate in an urban area because of the effect it may have on existing or proposed urban areas or the effect that existing or proposed urban areas may have on the proposed use or development.

Before deciding on an application to amend a plan or permit, the Responsible Authority must also consider:

- The relevant planning scheme or any changes to the scheme;
- All objections and other submissions which it has received and which have not been withdrawn;
- Any decision and comments of a referral authority which it has received;
- Any significant effects which the Responsible Authority considers the changes may have on the locality / environment / etc; and
- Will not cause an increase in detriment to any person.

Changes in policy

There have been some changes to the Cardinia Planning Scheme since the permit was issued in 2010, namely the following Planning Scheme Amendments.

Planning Scheme Amendment VC77, which was introduced on 23 September 2011. This amendment saw a number of uses (including Earth and energy resources) deleted in Section 1 of all Zones and included into Clause 62.01 (Uses not requiring a permit) where the conditions have been met. Clause 62.01 states that a planning permit is not required for the use of the land for earth and energy resources industry if the conditions of Clause 52.08 (Earth and Energy Resources Industry) are met.

Although Planning Scheme VC77 was one of the most notable change directly relating to this land use, there have also been some other significant changes to the Planning Scheme since the permit issued.

These changes include changes to the Bushfire Management Overlay mapping which saw part of the subject site included into the overlay via the implementation of Amendment GC13 on 3 October 2017.

There were also some minor 'fix-up' amendments between 2017 and 2020, the most recent being VC160 which amends the Victoria Planning Provisions (VPP) and all planning schemes to correct errors and omissions, clarify the operation of certain provisions, and implement planning reforms for extractive industries.

Amendment VC160 recognises that The building materials used in construction (concrete, road base, asphalt, aggregates, bricks and paving) are all made from stone, sand, clay, most of which come from quarries across Victoria.

These raw extractive resources are the foundation of Victoria's built environment, contributing to the State's economic development, jobs, liveability and community wellbeing. The Victorian Government's Extractive Resources Strategy, Helping Victoria Grow (June 2018) identifies that the demand for extractive resources in Victoria is expected to more than double annual production by 2050 compared to 2016 levels.

Through the Joint Ministerial Statement on Extractive Resources (August 2018) the Victorian Government committed to amending planning rules to provide greater flexibility on commencement of quarry activity to enable quarry sites to respond to market conditions. Under section 68 of the Planning and Environment Act 1987 a permit for the use of land expires if the use does not start within the time specified in the planning permit, or, if no time is specified, within two years after the issue of the permit.

Generally, a quarry requires more than two years from the issue of a permit to commence the use or to respond to market demand for the stone resource. While a responsible authority can specify a longer period in the permit, this is not always done. To ensure quarry permits provide a reasonable and appropriate time for the use to commence, the amendment introduces requirement into Clause 52.09 for permits for extractive industry to include a condition that allows a commencement period of not less than five years.

The amendment also changes the land use term 'stone extraction' to 'extractive industry'. The land use term 'extractive industry' in the VPP was changed to 'stone extraction' by Amendment VC77 in September 2011. The term used in the Mineral Resources (Sustainable Development) Act 1990 (MRSD Act) is 'extractive industry', which is the more commonly used term.

The amendment also changes the corresponding land use definition. It is unclear under the current definition whether the land use term applies to the extraction or removal of stone that is exempt from the provisions of the MRSD Act under section 5AA of that Act. The amendment removes the reference to the MRSD Act and reinstates the pre-Amendment VC77 definition with some modifications to clarify and expand its scope by including reference to activities that are normal or ancillary to extractive industry operations - rehabilitation, crushing and processing of stone, and the manufacture of asphalt products.

Council's own local amendment (C215) was introduced to the Planning Scheme on 10 August 2017, which enacts the principles and guidance of the Western Port Green Wedge Management Plan 2017 into Council's decision making. This policy seeks to protect and enhance the Cardinia Westernport Green Wedge region for its horticultural and agricultural pursuits to provide for food security into the future. It also identifies that the local economy will be driven by its agriculture, horticulture and extractive industry and identifies a number of suitable uses for Cardinia's green wedge land. The Management Plan outlines a number of key strategic locations, which should be set aside and protected for Extractive Industry. The policy document mainly deals with the southern portion of the municipality, however does speak to a small portion of the Shire located north of the Princes Highway along the northern areas of the townships of Nar Nar Goon, Tynong, Garfield and Bunyip. The policy recognises that important natural resources exist within the green wedge and it is important to achieve a balance between being able to retain this resource while protecting environmental assets and local amenity.

One of the objectives of the document is to recognise the importance of extractive industry for both the municipality and metropolitan Melbourne and ensuring that these activities are not detrimental to the environment.

It seeks to do this by implementing strategies to:

- Support potential future extractive industry, particularly in the north area of the green wedge.
- Protect existing and future extractive industry from residential encroachment by ensuring that buffer areas are enforced and protected.

The above changes to the Scheme over time have been implemented to ensure the greater protection of this industry, given its State significance to the Victorian economy and residential growth. The changes to the Scheme over time demonstrate the Planning Scheme's support for these industries. It is noted that the planning permit is only a minor part of the approval quarries require, as there are other stringent Works Approval requirements and approvals at a State level, which further regulate and control this industry to ensure its sustainability.

Given the above, it is considered that the changes in the Planning Scheme since the permits issue further facilitate this land use in the correct locations, and therefore, do not mitigate against the approval of this amendment or render it unsupportable due to changes in Planning Policy over the years.

Advertising and response to objections

Council considers that there will not be any significant effects of the proposed amendment on the locality or environment. This is further discussed in response to the concerns raised by objectors below.

The key issues that were raised in the objections are generally amenity-based concerns and can be summarised into the following categories:

- Noise (arising from trucks, machines, secondary crusher, additional road noise)
- Increased dust (resulting in respiratory issues, increased property maintenance)
- Water use
- Safety of Princes Highway and Tynong North Road/ Tynong Road intersection
- Impact on wildlife (resulting from lighting)
- Sleep quality (resulting from noise and vibration)
- Hours that plants are open to receive goods
- General compliance of the quarry with existing permit

In response to these concerns the following can be said:

Noise (arising from trucks, machines, secondary crusher, creation of additional road noise)

As discussed in further detail below, It is noted that as part of the Work Plan Variation, the Department referred the application to DEDJTR – Earth Resources and Regulations (ERR) Technical Services and the Environmental Protection Authority (EPA) to conduct a technical review of the noise and acoustic modelling, as well as the noise sources report that forms the basis of the amendment with no concerns being raised.

Machinery noise (front-end loader and secondary crusher)

A number of the objections received noted noise as one of the major concerns if the amendment was to be supported. Many of the concerns stem from the perception that the crusher will be operating throughout the night. It should be noted that the proposal seeks permission to operate the Secondary crusher* until 10pm (Monday-Saturday). Therefore, there is no potential for noise and vibration from the quarry after this time.

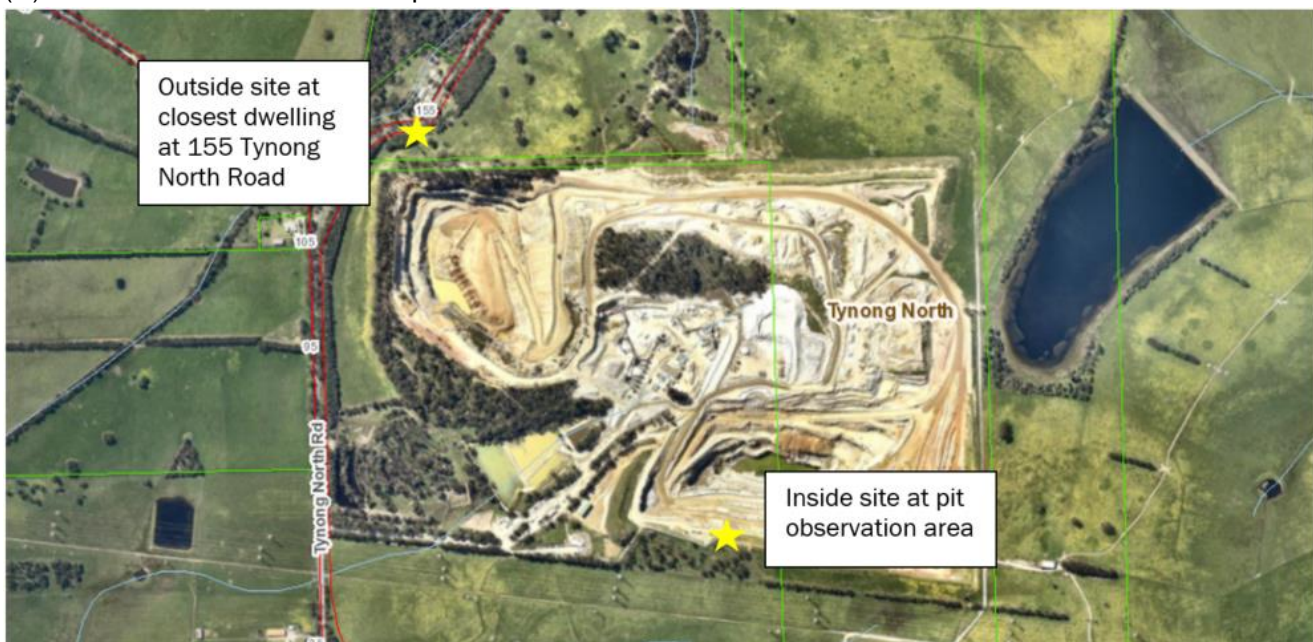
Secondary crusher is a smaller machine ancillary to the primary crusher. The secondary crusher is used to further break up larger material already processed by the primary crusher.

As part of this assessment, Council officers attended the site after hours between 6.00 and 7.30pm on a Monday night during the times that the secondary crusher and front end loader are in operation (current operating under the extended hours approved by Secondary Consent dated 17 Jan 2020).

The officers noted that the noise of the crusher and front-end loader from inside the site was minimal, with noise emanating from outside the site (in front of the closest dwelling) not being heard at all. The officers noted that normal road noise from the Princes Highway was much more of a nuisance.

Based on this site visit, the Council officers were satisfied with the information provided by the Acoustics report that noise levels could be maintained at an acceptable level during the evening and night.

Council Officers observed the noise from the secondary crusher and front-end loader from the two (2) locations shown on the map below.



Truck and additional road noise

A number of objections also raised the issue of additional road noise as a result of trucks using the roads at night. It should be noted that trucks entering and exiting the site can only travel along an approximately 600 metre stretch of Tynong North Road south towards the highway. This stretch of road passes one (1) property (located at 35 Tynong North Rd) before reaching the intersection for the Highway. This property, along with some others discussed below (located on the inbound side of the Highway) would be the most affected by increased vehicle movements during the night-time period. It is noted that no response to the proposal raising this as a concern was received from this landowner.

Sleep quality (resulting from noise and vibration)

Noise levels comply with the NIRV standards and Objector's property would not be impacted by either the proposed evening or night works, as shown in the Acoustic Report.

Trucks will also not be travelling past the objectors properties (Condition 17 prohibits trucks travelling north up Tynong Road without the prior written consent of Responsible Authority), and in most cases well away from these dwellings raising this as an issue therefore, noise emanating from this aspect of the use having impact on sleep quality is considered to be avoided.

Increased dust (resulting in respiratory issues, increased property maintenance)

Objections were also received relating to increased dust resulting in issues such as increased property maintenance and respiratory problems. It is not expected that there will be any additional impact from dust or air borne emissions from the site as a result of the extended hours. It is noted that an objector provided photos taken immediately following a blast taking place within the Quarry at approximately 1.15pm on Thursday 19 March 2020. This photo demonstrates that dust was generated as a result of a blast being undertaken on the site, and not as a result of the use of equipment (secondary crusher, loader or trucks). It is not expected that the use of this equipment during the extended operating hours requested would generate this volume of dust.

A copy of the photos has been provided to the permit applicant for reference and further action. Dust generated by blasts continues to be control by the existing approved Work Plan, and therefore appropriate monitoring and compliance should be undertaken as per the procedures in this Plan to resolve the issue. In accordance with Condition 15(c) Council's Planning Compliance Officer has also been notified.

Any dust generated by the evening operations (secondary crusher until 10pm) and night-time operations (loading and transport via trucks) will be restricted to the secondary crusher location and loading area (located towards the centre of the site) and will be managed through existing approved dust management measures outlines in the Work Plan Variation WA25 issued by the Department of Jobs, Precincts and Regions on 4 November 2019. Existing conditions on the permit relating to management of dust will continue to apply to the permit. With proper management and compliance with the permit and Works Authority, it is not expected that the extended hours will increase issues of dust on surrounding properties.

Water use

Issues with inadequate water supply

It is noted that one objector raised issues with water supply to their residence believing that the Quarry in contributing to this issue. However, the Quarry uses its own on site water supply stored in a number of dams located throughout the property. Issues arising from inadequate water supply to residences is an issue to be discussed with the relevant local Water Authority.

Safety of Princes Highway and Tynong North Road/ Tynong Road intersection
Concerns regarding entering and exiting the road.

A number of objectors raised this as an issue and Council agrees that this needs to be appropriately managed. As the Highway is under the management of relevant Roads Corporation (Department of Transport, formally VicRoads) the application was referred to them for comment. One (1) objection in particular suggests that 'flashing lights' should be installed at the intersection (much like what has been installed for Gumbuya World further east), however Council unfortunately cannot put such conditions on a permit as the road is managed by VicRoads who have required lighting to be installed that satisfies their concerns.

As discussed below, the Department of Transport are satisfied with the proposed extended hours, subject to lighting being installed on the Highway near the intersection with Tynong North Road (outbound) and Tynong Road (inbound). Council's Traffic Department are also requiring the installation of flag lighting prior to the commencement of the extended hours on the west side of Tynong North Road opposite the access driveway. Further the proposal is seeking to reduce the impact on this intersection and the surrounding Highway network by the proposal. By allowing night-time vehicle movements it is expected that the number of vehicles entering and exiting the site can be better spread out during the whole day, reducing the stresses on this intersection at peak times. As the Highway is under the management of VicRoads, Council must consider their response to the extended hours to be sufficient to improve the safety of the intersection.

Impact on wildlifeImpact on wildlife (resulting from lighting & noise)

Noise and vibration from operating plant equipment will only be experienced by local wildlife for an additional 1.5 hours from the current approval. This is unlikely to have any significant impacts on the vitality and wellbeing of the wildlife.

Trucks that travel from the quarry will travel approximately 600 metre south along Tynong North Road before entering the Princes Highway (a road that is constantly and heavily used by vehicles). It is unlikely that any local wildlife will be impacted along this 600 metre stretch of Tynong North Road or the established highway.

The Tynong Quarry currently has lighting operating during the night to assist in undertaking maintenance work, and no complaints in relation to night-time lighting have been received by Council or EPA. The current lighting used by the quarry during the night-time period would not be changed to carry out the night works included in this proposal.

It is also noted that as part of the referral requirements for the Work Plan Variation endorsed by the Department of Jobs, Precincts and Regions and submitted with this application, the Department of Land, Environment, Land, Water and Planning (DELWP) were referred the application to make comment on the potential impacts on flora and fauna (in particular 24 hour noise and lighting impacts) due to the location of the site in the Environmental Significance Overlay – Schedule 1, with no response being received from this authority. DELWP provided a response stating that they had no objection and no conditions to as to changes proposed by the extended operating hours. General Compliance with existing permit.

Council notes that upon inspection of the file, no record of a complaint regarding the operation of the quarry could be found. The permit applicant asserts that they are also unaware of any complaints to Council or the EPA to date regarding the operation of the Fulton Hogan quarry. It is noted that issues regarding 'alleged' permit breeches as outlined in objections are not a relevant consideration for this application that seeks only to amend hours of operation. These are two separate matters which should be dealt with via the appropriate means. Hours that other plants are open to receive goods.

An objector was concerned that there was no point to extending the operation hours to allow truck movements throughout the night, as they state that construction sites are not generally open after hours due to regulations. However, as outlined previously the application states that Fulton Hogan's Dandenong Asphalt Plant is authorised to receive night time deliveries, and this is where most of the material will be transported to during the night-time operating hours.

Acoustic assessment

In addition to the responses above, it is also noted that the application was accompanied by an Acoustic Report prepared by AECOM Australia Pty Ltd which monitored four (4) noise sensitive receptors known as R1, R2, R3 and R4. The receptors were located between 188 and 575 metres away from the Quarry boundaries, near the following addresses:

- 40 Clark Road (R1)
- 260 Tynong North Road (R2)
- 2505 Princes Highway (R3)
- 35 Tynong North Road (R4)

The assessment was undertaken during the times proposed and in accordance with the requirements of the Environmental Protection Authority (EPA) Noise from Industry in Regional Victoria (NIRV) Guidelines (Publication 1411) and concluded that the noise levels emanating from

the extension of hours, although audible at times, did not exceed the standards set out in the Noise from Industry in Regional Victoria (NIRV).

The NIRV Recommended Maximum Noise Levels for the four nearby receptors are summarised in Table 7 of the assessment:

Table 7 NIRV Recommended Noise Levels

Receptor Location	Recommended Maximum Noise Level (dB(A))		
	Day (7am to 6pm)	Evening (6pm to 10pm)	Night (10pm to 7am)
R1	49	46	40
R2	49	46	40
R3	56	53	46
R4	60	55	49

The results of the acoustic assessment (see Table 19 of Acoustics report), showed that at each receptor the evening and night limits returned results of between <30 and 55 dB(A), which is equal to or less than the NIRV Recommended Maximum Noise Levels dB(A) (during these times of the day/night) which range between 40 and 55 dB(A), demonstrating compliance with the standards. Based on the results of the acoustic assessment and noise modelling, the applicant asserts that the noise emissions from the proposed extended operating hours of the Quarry are compliant with the relevant guidelines and requirements of the NIRV for both periods. The report explains that this result has been obtained without additional controls, management or mitigation measures.

It is noted that some objectors raised concerns with how this noise modelling was carried out, however the applicant ensures that the technical merit of the Acoustic Report and Noise Assessment have been carried out correctly in accordance with all relevant guidelines. It is also noted that as part of the Work Plan Variation, the Department referred the application to DEDJTR – Earth Resources and Regulations (ERR) Technical Services and the Environmental Protection Authority (EPA) to conduct a technical review of the noise and acoustic modelling, as well as the noise sources report that forms the basis of the amendment. No response was received from either authority, and therefore, the Department of Jobs, Precincts and Regions in their response directs that if no response is attached, then none was received. No responses were attached in the Work Plan Variation response and therefore it is assumed that they had no comment to make or issues with the technical merit of the assessment.

The assessment concludes that based on the results of the noise modelling it is predicted that the noise emissions from the Quarry will comply with the NIRV Recommended Maximum Noise Levels during the evening and night periods at all noise sensitive receptors.

Conditions relating to general amenity continue to be enforced by the permit. Specific requirements for noise mitigation and monitoring are contained in the endorsed Work Plan.

Works Authority/Plan

It is also noted that the proposed amendment requires a Work Plan Variation endorsed and issued by the Department Jobs, Precincts and Regions which has been given and supplied by the applicant as part of this application. The Works Plan Variation was endorsed by the Department on 4 November 2019.

This approval sets out stringent requirements for the quarry to operate under in accordance with the Mineral Resources (Sustainable Development) Act 1990 (MRSDA) including the following reporting and monitoring requirements:

- Site and Access details;
- Operations;
- Safety and Environmental controls
- Rehabilitation plans
- Community engagement plans

The safety and environmental controls also sets out appropriate limits for noise and vibration, blasting, airborne particles, drainage and waste among other things.

These controls set out the required standard for noise which have been discussed throughout this report and require them to be monitored and maintained in accordance with the Work Plan approval.

Advice from referral authorities

The amended permit application was required to be referred to the Department of Transport (formally VicRoads) and Earth Resource Regulation (ERR) pursuant to Clause 66 (Referral and notice provisions).

The Department of Transport (DoT) provided a response that they were supportive of the amendment to operating hours in principle and subject to conditions.

Department of Transports condition states:

- Unless otherwise agreed in writing by the Head, Transport for Victoria, within six months of the date of the permit, the permit holder must install street lighting generally in accordance with the Diagram 1 and AustRoads standards to the satisfaction of and at no cost to the Head, Transport for Victoria at the intersection of Princes Freeway, Tynong North Road and Tynong Road.

In their response the Department of Transport states that the rationale behind requiring these upgrades to the intersection of Tynong North Road and Princes Highway surround their data that the intersection of Princes Freeway, Tynong North Road and Tynong Road is currently an accident blackspot. They explain that there have been six (6) crashes occurring in the 5-year period between 1 January 2012 and 31 December 2017 including one (1) fatal crash and two (2) serious injury crashes.

Although these crashes have occurred during daylight hours, the Department is concerned that crash risk in the evening will be increased as a result of slow-moving, heavily laden trucks entering Princes Freeway at a time when their vehicle speeds will be more difficult for approaching motorists on the freeway to ascertain.

The Department's support for the extended operating hours is, therefore, contingent upon the permit holder providing street lighting at the intersection of Princes Freeway, Tynong North Road and Tynong Road.

The diagram below shows the locations of the lighting required by the Department of Transport:



Diagram 1: Location of street lighting required by DoT.

As discussed above, the application was referred to the ERR before it was discovered that a referral was not required. The application documents provided by the applicant contain a response from the Department stating that in accordance with the requirements of Clause 66 of the Victorian Planning Provisions, the responsible authority is advised that the Department (in its capacity as a Determining Authority under Section 55 of the Planning and Environment Act 1987) has considered the proposal with the last three months prior to the date of this letter and does not object to the grant of a planning permit subject to the following condition:

- Any planning permit conditions imposed do not duplicate or copy the requirements contained within the attached Statutorily Endorsed Work Plan and accompanying conditions.
- As such, Council is satisfied that the Department has no objections to the proposed amendment of operating hours.
- The conditions contained within the Work Plan Variation WA25 endorsed by the Department on 4 November 2019 state:

Noise management

- The Work Authority holder must not allow noise to exceed the relevant noise levels specified in the EPA Publication 1411: Noise from Industry in Regional Victoria (NIRV), at sensitive receptors.
- The Work Authority holder must monitor noise level for one (1) week, by suitably qualified independent person(s), within four (4) weeks of the commencement of the front end loader and sales operations* being carried out between 7am Mondays to 6pm Saturdays.

- 'Sales operations' means truck movements.
 - The results of the monitoring, along with an analysis of compliance with the NIRV, must be provided to the Executive Director, Earth Resources Regulation within 28 days of completion of monitoring.
- Any noise complaints must be reported to the Director Regulatory Compliance, Earth Resources Regulation as soon as practical, but no later than 3 working days from receipt of such complaint.

These conditions form part of the Work Plan Variation and are not required to be placed on the amended planning permit.

Increase in detriment to any persons

Based on the afterhours site visit, supporting documents and above assessment and discussion, if the measures are followed in the approved Work Plan Variation and hours of operation undertaken in accordance with the amended permit, there should be no further detriment in the form of noise, vibration, traffic or any other adverse effect arising from the operations to any person living within close proximity to the Quarry and its surrounds.

Before deciding on an application to amend a plan or permit, the Responsible Authority, if the circumstances appear to so require, may consider:

- Any significant social and economic effects of the amendment;
- Any other strategic plan, policy statement, code or guideline which has been adopted by a Minister, government department, public authority or municipal council;
- Any amendment to the planning scheme which has been adopted by a planning authority but not, as at the date on which the application is considered, approved by the Minister or a planning authority;
- Any agreement made pursuant to section 173 affecting the land the subject of the application; and
- Any other relevant matter.

Social and economic impacts

It is considered that there will not be any significant detrimental social or economic effects of the proposed amendment. The amendment to extend the hours for extractive industry is expected to have a positive economic effect by providing more flexibility for quarry operators to respond to demand for stone resources by allowing after hours transportation of the raw goods. This will allow places such as asphalt and concrete plants to keep up with the demand of the construction industry and road/transport infrastructure projects that contribute to Victoria's economic development and liveability.

As previously discussed the acoustic report provided with this application and peer reviewed by DEDJTR and the EPA as acceptable demonstrate that if the measures in place under the current Work Plan Variation and the amended permit are implemented and followed, it is considered that the proposed amendment will not cause any accumulative or material detriment to the surrounding area.

Other strategic plans or works

There are no strategic plans, policy statements, codes or guidelines which have been adopted by a Minister, Government Department, Public Authority or Municipal Council which would impact on the approval of the proposed amendment, other than those discussed above.

There has also been no amendment to the Planning Scheme, which has been adopted by a Planning Authority but not approved by the Minister or a Planning Authority, which would affect the approval of the proposed amendment, other than those already discussed above.

Section 173 Agreement AH820116A

This restriction relates to an agreement between Cardinia Shire Council and Fulton Hogan Construction Pty Ltd which refers to an annual payment in recognition of the impacts of the quarry on public roads during the term of the planning permit (T090757). This payment must be made on or before the day of 30 June in each financial year. It is not applicable to this application. Any further impact of the extended hours of the quarry and vehicle movements will continue to be captured by this Agreement.

Other relevant matters

It is considered that there are no other relevant matters, other than what has already been discussed which should be considered in the application to amend the permit.

Are the changes to the Planning Permit considered appropriate?

Based on the above assessment, it has been demonstrated that the concerns arising from the proposed extended hours have been appropriately discussed and addressed by this assessment. The proposed extended operating hours are considered reasonable given their scope and scale. The site is appropriately located in the Green Wedge Zone, an appropriate location for this type of land use, ensuring that land use conflicts from sensitive uses can be minimised. The Quarry has been operating lawfully since 1987, with no records of complaints about amenity being located on Council's file.

Given that there are a number of policies in the Victorian Planning Scheme in place to facilitate and protect extractive industries, it is considered appropriate to consider this request based on the justification and evidence provided in the application that it is unlikely that any further detriment will be caused by the amendment.

As demonstrated by the accompanying technical reports and site visit, Council is satisfied that any additional impact from noise or vibration resulting from the extended operating hours for the secondary crusher, screening plant & one (1) front end loader of between 7.00am and 10.00pm (Monday to Saturday), will be minimal and within the prescribed limits relating to Noise from Industry in Regional Victoria (NIRV).

The extending operating hours for one (1) loader and truck movements are also considered reasonable given the location of the Quarry close-by to Princes Highway, the proposed frequency of trucks (two (2) trucks per half hour equating to four movements; two movements in and two movements out) and the minimal distance (600 metres) that trucks will have to travel in order to access the Highway. The proximity to the Highway is expected to reduce the disruption from road noise of trucks passing residences during the night, as well as relieve congestion at this intersection during peak times.

Given the support of VicRoads, subject to lighting being installed and Councils Traffic Engineer, the proposal to allow 24 hour truck movements Monday – Friday (the following day) is considered reasonable and should be supported.

Furthermore, the planning permit is only a minor aspect of the control and regulations quarries are required to abide by and based on planning policy that seeks to protect and support appropriately located Extractive industry, it is considered reasonable that this application be supported.

Clause 65 Decision Guidelines

The Application has been assessed against the Clause 65 Decision Guidelines, which requires Council to consider additional factors such as:

- The Municipal Planning Strategy and the Planning Policy Framework.
- The purpose of the zone, overlay or other provision.
- Any matter required to be considered in the zone, overlay or other provision.
- The effect on the amenity of the area.
- The effect the proposal may have on the orderly planning of the area;
- The amenity of the area, proximity to public land;
- The suitability of the land for subdivision; and
- The existing use and possible future development of the land.
- Traffic and road safety impacts

As discussed the application to amend the operation hours aligns with Planning Policy Frameworks and the purpose of the Zone to provide for and protect Victoria's Extractive Industries due to their significance to the Victorian economy and infrastructure.

The quarry has been in existence allowed via two (2) previous planning permits which identified that this location is a suitable location for this type and scale of land use, which it continues to be. The extended operating hours have been demonstrated to result in compliance with noise levels and are not expected to further reduce the amenity of the surrounding sensitive uses. The potential impacts on road safety and traffic resulting from the extended hours have also been assessed and considered appropriate, subject to conditions being implemented and followed.

Therefore, it is considered that the application is consistent with the decision guidelines of all applicable planning controls.

CONCLUSION

The proposed amendment is consistent with the requirements of the Cardinia Planning Scheme and based on the assessment above it is not considered that the extended operating hours will cause any unreasonable detriment to adjoining properties. It is therefore recommended that a Notice of Decision for amended planning permit T090757-1 be issued for the amendment to Planning Permit T090757 to amend conditions to allow for extended operating hours of the quarry (secondary crusher, screening plant, one front end loader & truck movements) at CP168299 & L1 TP756359 Tynong North Road, Tynong North subject to the following amended conditions:

CONDITIONS

**AMENDED
PLANNING
PERMIT**

Planning Scheme: Cardinia Planning Scheme
Responsible Authority: Cardinia Shire Council

PLANNING PERMIT NUMBER: T090757-1

ADDRESS OF THE LAND: CP168299 & L1 TP756359 Tynong North Road, Tynong North VIC 3813

THIS PERMIT ALLOWS Use and development of the land for the purpose of extractive industry (extension to the extraction area of the existing quarry), generally in accordance with the endorsed plans.

Date amended:	Pursuant to Section 72-76B of the <i>Planning and Environment Act 1987</i> the permit has been amended to:
19 March, 2020	<p>Conditions</p> <p>Conditions 6 amended to allow for extended operating hours</p> <p>Inclusion of new Conditions (26, 27 & 29).</p> <p>Condition 26 renumbered to 28</p>

1. The layout of the site and the size of the proposed works, as shown on the approved plan, must not be altered or modified without the consent in writing of the Responsible Authority.
2. The use and development of the new extraction area must not commence until the "Work Authority" is granted in accordance with the requirements of the Mineral Resources (Sustainable Development) Act 1990 (MRS DA).
3. The use and development of the subject land must at all times be in accordance with the Work Authority, including the Approved Work Plan, issued pursuant to the Extractive Industries Development Act 1995.
4. Prior to the commencement of any works on the land an Environmental Management Plan covering all aspects of site establishment, extraction operations, rehabilitation and monitoring must be submitted to and approved by the Responsible Authority. The Environment Management Program shall be generally in accordance with the detailed environmental and operational reports submitted with the application and include any additional requirements of the responsible authority. The use and development of the land must be at all times in accordance with the Environment Management Plan, and as required by the responsible authority, an audit of the Environment Management Plan must be undertaken by an independent auditor to the satisfaction of the responsible authority.
5. The applicant must apply for and be issued with a works approval from the EPA prior to the commencement of works.

6. Except with the prior written consent of the responsible authority, the quarry (excluding blasting) must only operate between the following hours:
 - a. All machinery and plant equipment:
 - i. Monday to Friday: 7.00 am to 6.00 pm.
 - ii. Saturday: 7.00 am to 1.00 pm.
 - iii. Sunday: No work.
 - b. Secondary crusher, screening plant & one (1) front end loader:
 - i. Monday to Friday 6.00 pm to 10.00 pm.
 - ii. Saturday 1.00 pm to 10.00 pm.
 - iii. Sunday: No work.
 - c. Truck movements & one (1) front end loader:
 - i. 10.00pm Monday to 7.00 am Tuesday.
 - ii. 10.00pm Tuesday to 7.00am Wednesday.
 - iii. 10.00pm Wednesday to 7.00am Thursday.
 - iv. 10.00pm Thursday to 7.00am Friday.
 - v. 10.00pm Friday to 7.00am Saturday.
 - vi. Sunday: No work.
 - d. Blasting on the site must only be carried out between the hours of:
 - i. Monday to Friday: 9.00 am to 4.00 pm.
7. Except for essential maintenance, no activities/ operations are to be undertaken on public holidays or any other time unless authorised by the Responsible Authority and Department of Primary Industries.
8. All internal roads must be properly formed, drained and regularly graded. Dust control measures must be undertaken on all internal roads.
9. Top soil and overburdens stripped from the quarry area unless used in the developmental works shall be disposed of or stored in areas shown on the endorsed plan until it is required for reclamation.
10. Prior to the removal of any resources from the site, the buffer planting and bund walls must be established as shown on the approved plans to the satisfaction of the responsible authority.
11. All mounds in the soil storage area are at all times to be so covered with grass or mulch as to ensure they do not erode whether by wind or water, and the applicants shall endeavour to create the top soil and overburden dump mounds so they blend with the surrounds and the dump shall be protected from erosion by the planting of suitable vegetation. Top soil mounds must not exceed two (2) meters in height.
12. All plantings and existing vegetation outside the works area shall be maintained in a healthy condition to the satisfaction of the Responsible Authority.

13. The screen plantation and screening mound as shown on the endorsed plan shall be completed within six month of the issue of this permit.
14. The amenity of the area must not be detrimentally affected by the use or development, through the:
15. Transport of materials, goods or commodities to or from the land;
 - a. Appearance of any building, works or materials;
 - b. Emission of noise, artificial light, vibration, smell, fumes, smoke, vapour, dust, wastewater or waste products.
16. Noise levels associated with extraction operations must comply with the Interim Guidelines for Control of Noise from Industry in Country Victoria (EPA Publication N3/ 89).
17. No vehicle, whether loaded or unloaded, associated with the transport of quarry materials shall travel north along Tynong North Road beyond the access point to the quarry, except with the prior written consent of the responsible authority.
18. The operator of the extractive industry shall ensure that vehicles carrying material to and from the quarry site are loaded in such a manner as to prevent spillage of such materials on to public roads.
19. The wheels of all vehicles leaving the site shall be so cleaned as to ensure that no mud, clay, or silt are deposited on public roads.
20. Adequate provision shall at all times be made on the land for the parking of vehicles under control of the operator, staff and customers, and no vehicle under the control of the operator, staff or customers shall be parked in Tynong North Road.
21. Prior to the Work Authority being relinquished, the Work Authority holder must provide for a registered on title agreement (i.e. Pursuant to Section 173 of the Planning and Environment Act 1987, between the proponent and the Responsible Authority) which provides for the native vegetation offset in accordance with the endorsed offset plan of this Work Authority. The Work Authority holder must pay the reasonable costs of the preparation, execution and registration of the on title agreement.
22. Within 12 months of approval of the Work Plan Variation, an offset Management Plan showing appropriate offsets to compensate for the removal of native vegetation, consistent with the 'Tynong North Quarry Development: Flora, Fauna and Native Vegetation Liability Report' prepared by Norris and Schoeffel (27 November 2009), must be submitted to and approved by the Department of Sustainability and Environment and Responsible Authority. The plan is to be prepared in accordance with the Department of Sustainability and Environment Offset Management Plan Template. When approved, the offset Management Plan will be endorsed and will then form part of the Work Plan.
23. Initiation of the offset actions must commence within twelve month s of the date of the endorsement of the Offset Management Plan.
24. Prior to the commencement of the use under this permit, the operator of the extractive industry hereby permitted must enter into an agreement under section 173 of the Planning and Environment Act 1987 with Cardinia Shire Council agreeing to a levy in recognition of the impacts of the quarry traffic on public roads during the term of the

permit. The permit holder must pay the reasonable costs of the preparation and execution of the agreement.

25. This permit will expire if the Work Authority for the use issued under the provisions of the Extractive Industries Development Act 1995 is cancelled in accordance with Section 24 of this Act.
26. Before the extension of hours commences, a flag light at the quarry access onto Tynong North Road, must be installed on the west side of Tynong North Road opposite the access driveway, to the satisfaction of the Responsible Authority.
27. Before the extension of hours commences, flag lighting within the central median island at the Tynong North Road / Princes Highway intersection must be installed. This will require consultation with VicRoads and needs to be installed in accordance with VicRoads requirements.
28. This permit will expire if the use is not commenced within two (2) years from the date of this permit. The Responsible Authority may extend the periods referred to, if a request is made in writing before the permit expires or within three (3) months afterwards.

Department of Transport Conditions:

29. Unless otherwise agreed in writing by the Head, Transport for Victoria, within six months of the date of the permit, the permit holder must install street lighting generally in accordance with the Diagram 1 and AustRoads standards to the satisfaction of and at no cost to the Head, Transport for Victoria at the intersection of Princes Freeway, Tynong North Road and Tynong Road.

T090757-1 APP – TYNONG QUARRY – LOCALITY MAP

