

Notice of decision – Marulan South Limestone Mine Continued Operations Project (SSD 7009)

Section 2.22 and clause 20 of Schedule 1 of the *Environmental Planning and Assessment Act 1979*

Application type	State significant development
Application number and project name	SSD 7009 Marulan South Limestone Mine Continued Operations Project
Applicant	Boral Cement Limited
Consent Authority	Minister for Planning and Public Spaces

Decision

The Executive Director – Energy, Resources and Industry Assessments under delegation from the Minister for Planning & Public Spaces has under section 4.38 of the *Environmental Planning and Assessment Act 1979 (the Act)* granted consent to the development application subject to the recommended conditions.

A copy of the instrument of consent and conditions is available [here](#).

A copy of the Department of Planning & Environment's assessment report is available at [here](#).

Date of decision

19 August 2021

Reasons for decision

The following matters were taken into consideration in making this decision:

- the matters listed in section 4.15 of the Act and the additional matters listed in the statutory context section of the Department's Assessment Report;
- the prescribed matters under the *Environmental Planning and Assessment Regulation 2000*;
- the objects of the Act;
- all information submitted to the Department during the assessment of the development application;
- the findings and recommendations in the Department's Assessment Report; and
- the views of the community about the project (see Attachment 1).

The recommendations set out in the Department's Assessment Report were accepted and adopted in making this decision. The Department's Assessment Report also identifies additional reasons for making the decision.

The key reasons for granting consent to the development application are as follows:

- the Project would provide a range of benefits for the region and the State, including an estimated net benefit to NSW of at least \$166 million, \$111 million of capital investment and continued employment for the mine's 118 on-site workers and an additional 73 workers located at Boral's other facilities within NSW;
- the Project would facilitate the recovery of 120 Mt of limestone and up to 5 Mt of shale which would be used to produce a range of beneficial limestone, lime and claystone products used in cement production, steel making and agriculture within the Southern Highlands, Southern Tablelands, Illawarra and Sydney regions;
- the project is permissible with development consent, and is consistent with NSW Government policies including *State Environmental Planning Policy (State and Regional Development) 2011* and *State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007*;
- the impacts on the community and the environment can be appropriately minimised, managed or offset to an acceptable level, in accordance with applicable NSW Government policies and standards, including the NSW Biodiversity Offsets Scheme;
- the issues raised by the community during consultation and in submissions have been considered and adequately addressed through changes to the project and the recommended conditions of consent; and
- weighing all relevant considerations, the project is in the public interest.

Attachment 1 – Consideration of Community Views

The Department exhibited the Environmental Impact Statement (EIS) for the project from Wednesday 3 April until Wednesday 1 May 2019 (29 days) and received 70 community and special interest groups submissions, all in the form of objections. Of these, 19 were unique submissions, while the remainder were form letters. A summary of the issues raised by the community and how the Department has considered them is detailed in the below table.

<i>Issue</i>	<i>Consideration</i>
<p><i>Water Resources</i></p> <ul style="list-style-type: none"> • Taking water from Tallong Dam to fill the proposed Marulan Creek Dam 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • Boral does not propose to fill the Marulan Creek Dam with water from Tallong Dam. • The Applicant has confirmed that the proposed Marulan Creek Dam would be passively filled by creek flows only and the Project would reduce and eventually eliminate the need to draw water from Tallong Dam. • The Applicant has committed to cease drawing water from Tallong Dam when the proposed Marulan Creek Dam reaches 75 percent of its storage capacity and to terminate its supply pipeline from Tallong Dam shortly thereafter. • The Department considers that community concerns regarding water take from Tallong Dam have been appropriately addressed. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • No specific conditions considered necessary.
<p><i>Community Consultation</i></p> <ul style="list-style-type: none"> • Length of exhibition period • Access to EIS documents 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • Residents raised concerns with the adequacy of the consultation undertaken by Boral. Some submissions also raised concerns regarding the length of the exhibition period and that the EIS documentation was difficult to access. • While a 28-day exhibition period is consistent with the requirements of the EP&A Act, the Department will consider any representations received following the conclusion of the exhibition during the assessment period of a project. No late submissions were received following exhibition. • The EIS documents were made available on the Department's website and at the offices of the Department, Council, and the Nature Conservation Council. <p><i>Conditions</i></p> <p>No specific conditions considered necessary.</p>
<p><i>Noise & Vibration</i></p> <ul style="list-style-type: none"> • Noise and blasting impacts on rural amenity 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Department has carefully reviewed the Noise and Blasting Impact Assessment and Addendum Report prepared for the Project in consultation with the Environment Protection Authority (EPA) and in accordance with applicable NSW guidelines and policies. • Noise generated by the Project is predicted to comply with all relevant assessment criteria at all privately-owned residences in the locality. • The Project is predicted to comply with all relevant blasting criteria for vibration and overpressure at all privately-owned residences in the locality. • The EPA has advised that it is satisfied with the assessment of noise and blasting impacts for the Project. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • Conditions include strict noise and blasting criteria, best practice management of noise and blasting impacts, and the preparation and implementation of a comprehensive management plans.
<p><i>Air Quality</i></p> <ul style="list-style-type: none"> • Dust impacts on rural amenity • Effectiveness of dust mitigation measures 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Department has carefully reviewed the Air Quality Impact Assessment prepared for the Project in consultation with the EPA and in accordance with the <i>Approved Methods for the Modelling and Assessment of Air Pollutants in New South Wales 2016</i> and the <i>Voluntary Land Acquisition and Mitigation Policy</i>. Overall, the Department considers that the air quality impacts of the Project are likely to be minor. • Air quality impacts (including cumulative air quality impacts) generated by the Project are predicted to comply with the relevant assessment criteria at all privately-owned residences, during all stages of the Project. <p><i>Conditions</i></p>

	<ul style="list-style-type: none"> • Conditions include strict air quality criteria, best practice air quality management, and the preparation and implementation of a comprehensive Air Quality and Greenhouse Gas Management Plan.
<p><i>Visual Impacts</i></p> <ul style="list-style-type: none"> • Impacts on scenic quality of the landscape, particularly at Bungonia Lookdown • Night lighting impacts 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Department notes that visual impacts of the project is only expected from a small number of vantage points, including the Bungonia Lookdown, which is already impacted by active mining and emplacement activities. The Department notes that while visual impacts may increase in the short term, the progressive rehabilitation of the South Pit would improve the views over the medium to long term. • Active mining would not be visible from any privately-owned residences. Four residences are expected to have partial views of the expanded overburden emplacements. Boral has committed to establishing a tree screen to mitigate these visual impacts. • No changes to the existing night lighting arrangements at the mine are proposed, however the Department notes that some light sources would shift to the west and north with the establishment of the overburden areas. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • Conditions include progressive rehabilitation requirements in addition to visual amenity and lighting impact minimisation and mitigation measures.
<p><i>Traffic</i></p> <ul style="list-style-type: none"> • Road noise • Traffic safety • Need to consider alternate transport route to Hume Highway • Disruptions associated with planned upgrade of Marulan South Road 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The proposal would result in a maximum 133 laden truck dispatches per day (an increase of 58) with up to 10 laden trucks dispatched per hour (an increase of 5). During construction, there may also be up to 80 additional traffic movements per day (40 additional vehicles), with a combination of light and heavy vehicles. • SIDRA modelling determined that the additional traffic generated by the Project would result in the Hume Highway interchange continuing to operate at a Level of Service A during peak AM and PM periods. • TfNSW has advised the assessment of potential impacts of traffic on the Hume Highway and Marulan South Interchange is appropriate and does not object to the project, subject to appropriate conditions. • The Department has undertaken extensive consultation with the local Council and TfNSW on the proposed transport routes, and have agreed on intersection upgrades and road maintenance requirements for road network. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • Conditions include road upgrades, maintenance requirements and implementation of a detailed Traffic Management Plan.
<p><i>Biodiversity</i></p> <ul style="list-style-type: none"> • Clearing of native vegetation and associated loss of habitat • Potential indirect impacts on Bungonia National Park 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The impacts on threatened native vegetation and fauna would be offset in accordance with the <i>NSW Biodiversity Offsets Scheme</i>. The majority of these credits would be retired through the establishment of two Biodiversity Stewardship Sites, across two properties. • The residual species credit requirements would be met using one or more of the mechanisms available under the NSW Biodiversity Offsets Scheme, which could include payment into the Biodiversity Conservation Fund. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • Conditions include the retirement of biodiversity credits in accordance with the Biodiversity Offsets Scheme.
<p><i>Heritage</i></p> <ul style="list-style-type: none"> • Impacts on Glenrock homestead 	<p><i>Assessment</i></p> <ul style="list-style-type: none"> • The Department has considered the potential impacts of the proposal to the Glenrock Homestead. • Boral committed to establishing a tree screen between Glenrock and the northern overburden emplacement area to mitigate potential visual and dust impacts. • The Department is satisfied and notes that the landowner has not raised any further concerns with the project. <p><i>Conditions</i></p> <ul style="list-style-type: none"> • Conditions include the preparation and implementation of a HHMP in consultation with Heritage NSW and the requirement to reduce visual impacts upon neighbouring properties.