

8 June 2018

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**Attention: Genevieve Seed**

Dear Sir / Madam

**Proposed modification of the Tweed Sand Quarry (Da 152-6-2005 Mod 1) with regard to the proposed increase in heavy vehicle movements**

I refer to your email dated 12 April 2018 requesting Council to provide comment on the draft set of conditions for the Tweed Sand Quarry Mod 1 and traffic considerations associated with the proposed Mod. Please find below Council officer's comments:

**1. Schedule 2 Condition 9 – Quarry Product Transport**

Draft Condition 9 currently reads as:

- 9 *The Applicant must not dispatch more than 10 laden trucks from the site in any hour until the agreement required by Condition 23 of Schedule 3 for the upgrade of Altona Road has been entered into and the upgrade of Altona Road under that agreement has been completed.*

*Following the upgrade of Altona Road, the Applicant must not dispatch more than 18 laden trucks from the site in any hour.*

*Note: Dispatch of laden trucks is also controlled under Condition 1 of Schedule 3.*

Please refer to Council comments / objections below (Item 3) in relation to Condition 23 of Schedule 3, whereby it is recommended that any such agreement be obtained prior to determination of this application and Condition 23 simply make reference to the agreement.

Accordingly, it is requested that Condition 9 be amended to reflect the following:

- 9 *The Applicant must not dispatch more than 10 laden trucks from the site in any hour until **the upgrade of Altona Road as entered into by the agreement referenced by Condition 23 of Schedule 3 has been completed.***

*Following the upgrade of Altona Road, the Applicant must not dispatch more than 18 laden trucks from the site in any hour.*

*Note: Dispatch of laden trucks is also controlled under Condition 1 of Schedule 3.*

## 2. Schedule 2 Condition 14 - Contributions

Draft Condition 14 currently reads as:

- 14 *The Applicant must pay to Council a financial contribution towards the maintenance of local roads (other than Altona Road) used for the haulage of quarry products. The contribution must be determined and paid in accordance with the Tweed Road Contribution Plan September 2016 or any subsequent relevant contributions plan adopted by Council. The contribution must be reported in the Annual Review.*

*Note: The upgrade and maintenance of Altona Road is subject to Condition 23 of Schedule 3.*

As noted in Council's initial submission (dated 4 August 2017), the proponent's traffic analysis on the proposed truck movements generating an additional 38.19 daily trips is considered to be satisfactory. At today's rate, the proposed additional trip generation will result in a total of **\$46,630.00** in S94 developer contributions (TRCP), noting that TRCP is indexed on 1 July each year. It should also be noted that TRCP is for road upgrades as opposed to road maintenance.

Accordingly, it is requested that Condition 14 be amended to reflect the following:

14. ***Prior to carrying out any increase in truck movements associated with Mod 1, or as otherwise agreed by Council, the Proponent shall pay Council \$46,630.00 in accordance with Council's Tweed Road Contribution Plan.***

***If the contribution rate is adjusted between the date on which modification DA 152-6-2005 MOD1 is approved and payment of the contribution, then the figure will be indexed and calculated according to the then current contribution rate. The applicant will be required to request in writing from Council, a recalculation of this amount in accordance with the rates applicable in Council's adopted Fees and Charges, prior to payment of the contributions. A copy of the Section 94 Tweed Road Contribution Plan may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street Tweed Heads.***

*Note: These rates are current as at May 2018.*

## 3. Schedule 3 Condition 23 – Upgrade and Maintenance of Altona Road

Draft Condition 23 currently reads as:

- 23 *The Applicant must enter into an agreement with the owner of the Cudgen Lakes Sand Quarry and Council for the upgrade and ongoing maintenance of Altona Road between the site entrance and intersection with Crescent Street. This agreement must provide for:*
- (a) *proportionate and equitable contributions (based on maximum annual approved product road transport, average or maximum truck axle loads, truck numbers, length of the road travelled by each party and/or similar measure/s) by the Applicant and the*

*owner of the Cudgen Lakes Sand Quarry for both the upgrade and maintenance of Altona Road;*

- (b) upgrade of the current alignment of Altona Road to include two additional passing bays, each having sufficient length to readily accommodate a laden quarry truck and dog; and*
- (c) maintenance of Altona Road.*

*If there is any dispute regarding the finalisation of the terms of the agreement, or its implementation, any of the three parties may refer the matter to the Secretary for resolution.*

Whilst Council's previous submissions have recommended the requirement for an agreement between the relevant parties using Altona Road, further consideration raises concerns with the application of an unenforceable condition of consent, which will apply a burden upon parties not directly involved with the application (i.e. Council and Cudgen Lakes Sand Quarry).

As previously noted, Council are happy to facilitate an agreement between parties for the upgrade and maintenance of Altona Road, but object to the requirement for such an agreement as a condition of consent. It is considered that the agreement needs to be reached prior to the determination of this application and then the Mod condition can make reference to the actual agreement.

#### **4. Schedule 3 Condition 24 – *Upgrade of the Crescent Street and Tweed Coast Road Intersection***

Draft Condition 24 currently reads as:

- 24 *The Applicant must enter into an agreement with the owner of the Cudgen Lakes Sand Quarry and Council by 31 December 2018 for the upgrade of the intersection of Crescent Street and Tweed Coast Road. This agreement must provide for:*
- (a) construction by 31 December 2023 of an acceleration lane of not less than 200 metres in length on Tweed Coast Road, northbound from the intersection, unless the intersection is no longer used by heavy vehicles to access or leave the site following that date; and*
  - (b) proportionate and equitable cost sharing of this construction (based on maximum annual approved product road transport, average or maximum truck axle loads, truck numbers, length of the road travelled by each party and/or similar measure/s) by the Applicant and the owner of the Cudgen Lakes Sand Quarry.*

*If there is any dispute regarding the finalisation of the terms of the agreement, or its implementation, any of the three parties may refer the matter to the Secretary for resolution.*

The proposed Condition 24 is also considered to be an unenforceable condition, burdening Council and Cudgen Lakes Sand Quarry to enter into an agreement for the upgrade of the intersection of Crescent Street and Tweed Coast Road. Council objects to Condition 24, as it is considered to fetter Council's statutory obligations as Roads Authority. Council are happy to be involved in the

discussion with Tweed Sand Quarry (Hanson's) and Cudgen Lakes Sand Quarry, but object to being a party in the formal agreement for the upgrade of the intersection.

In addition, Council raises an objection to the requirement for the delayed construction of an acceleration lane on the north bound lane of Tweed Coast Road at its intersection with Crescent Street.

As previously discussed, Council has serious concerns with the upgrade being delayed until 2023 and consider that the construction should be undertaken prior to the increase in traffic volumes from the Tweed Sand Quarry.

The acceleration lane will enable heavy vehicles to merge onto the northbound traffic stream at around the posted 80km/h. The effectiveness of the upgrade to this intersection is related to the numbers of vehicles carrying out this manoeuvre and would improve the productivity of operations (as delays at the intersection would be reduced). An estimation of the cost for the treatment is in the order of \$250,000 to construct. The right turn treatment from Tweed Coast Road into Crescent Street requires changes to line marking only.

Without the north bound acceleration lane, there is the risk that heavy vehicles will enter the stream when inappropriate gaps are available leading to potential crashes and / or reduction of speeds on Tweed Coast Road, to accommodate the entering traffic. Austroads Guide to Road Design Part 4a advises that an auxiliary lane is provided for **safety and/or intersection capacity purposes**.

There is no accompanying assessment of the safety concerns provided in the Bitzios report. Potential crashes would need to be addressed through Federal or State government blackspot programmes.

The Bitzios report advises that without the removal of the Crescent Street right turn movement, the Degree of Saturation at the intersection is above 0.8. Removal of the Crescent Street right turn reduces the DOS to 0.739 which is still of concern as it is approaching the 0.8 threshold which triggers an upgrade to the intersection.

As the local Roads Authority, Council previously has advised that the removal of the right turn movement from Crescent Street to Tweed Coast Road is not supported. Simply installing signs at this location banning the movement will result in non-compliance which would need to be addressed by Police. Installing physical devices to prohibit the movement would result in construction costs borne by Council, which is unacceptable.

As the proposed Mod and the adjoining proposed Cudgen Lakes Sand Quarry Mod would benefit from the treatment, it would not be considered unreasonable for both applications to be conditioned to construct the acceleration lane.

It is noted that the current Basic Auxiliary Right turn (BAR) intersection treatment is operating effectively. The issue then is the timing of the works, given that Council's future upgrades for Tweed Coast Road being four laning is dependent on future land release.

It should also be noted that a recent announcement has been made in relation to a possible hospital site on Cudgen Road in close proximity to the Crescent Street / Tweed Coast Road intersection. It is highly probable that ambulances and emergency vehicles accessing the potential Hospital will use Tweed Coast Road through the subject intersection. Any delays to emergency vehicles due to heavy vehicles entering Tweed Coast Road from Crescent Street, using

inappropriate gaps, would be unacceptable from a community and emergency services perspective.

The Bitzios report indicates that it is the cumulative impact of both the Tweed Sand Quarry Mod and the Cudgen Lakes Sand Quarry Mod developments that trigger the need for the intersection upgrades in terms of intersection capacity. There are however road safety and productivity benefits, particularly from providing a northbound merging lane on Tweed Coast Road at the Crescent Street intersection, and these two important factors have not been addressed in the Bitzios report.

Whilst the report acknowledges that nearby residential developments are approved but not yet constructed, the traffic analysis has not considered intersection capacity or safety with the additional residential traffic included, nor considered the additional traffic associated with the recently announced hospital site.

Accordingly, it is considered appropriate that Condition 24 be modified such that any final agreement between Tweed Sand Quarry and Cudgen Lakes Sand Quarry (arranged prior to determination) be referenced in the condition and that the timing of the upgrade to the intersection of Tweed Coast Road and Crescent Street (i.e. constructing a northbound acceleration lane on Tweed Coast Road to the appropriate Austroads requirements) be prior to any increase in truck movements associated with Mod 1.

## 5. **Rehabilitation and Landscaping**

Following a review of the proposed draft conditions against the existing conditions, the following comments are provided:

- The intent of the final landform to be of 'natural form' as per the existing Condition 3 of Schedule 3 has not been sufficiently reflected in the Draft Conditions;
- The requirement to identify the boundaries as per the existing Condition 1 of Schedule 3 appears to have been deleted. The metes and bounds of the quarry footprint should be surveyed to ensure all required buffers are not encroached upon;
- The restriction of activities within the minimum 10 buffer zone as per the existing Condition 2 of Schedule 3 do not appear to be as prescriptive in Draft Condition 18;
- There is no timeframe stipulated for the submission of the Rehabilitation Management Plan pursuant to Draft Condition 32. It is considered appropriate this should remain at 6 months from the date of the consent;
- Given that the nominated '5 year' rehabilitation timeframe has been deleted from the Draft Conditions, the short, medium and long term rehabilitation time frames should be stipulated in accordance in accordance with the *Revised Rehabilitation and Landscape Management Plan* dated December 2016 prepared by JWA Ecological Consultants, with the exception of the following:
  - The 'Medium Term Rehabilitation' timeframe (referred to in the current RLMP) to commence at Year 6 (this should not change as

operations have extended beyond this time-period) to be completed by the end of the 13th year of operation;

- It is considered that the incorporation of a variety of lake bank treatments to achieve a natural looking bank design as referred to in the notes of existing Condition 24 of Schedule 3 should be reflected in the Objective – Dredge Pond (Table 4) of Draft Condition 30; and
- The requirement for a pest and weed management plan (existing Condition 27) is not reflected in Draft Condition 32 of Schedule 3, nor appears as an Objective in Table 4 of Draft Condition 30. It is considered that this should be reinstated, given the high likelihood of weed and pest fauna species incursion if not appropriately managed.

Further to Council's previous comments on Mod 1, it is noted that Council are yet to receive a copy of the 2016-2017 Annual Environmental Monitoring Report. Given that the last annual report received by Council was dated 2011, Council consider it appropriate that an update on rehabilitation works and water quality monitoring should be provided prior to issue of Mod 1 to determine whether adequate compliance with existing conditions of consent have been met to date. Where any works are outstanding or inconsistent with the current approved plan, there would then be an opportunity to highlight / address through amended conditions of consent.

## 6. **Noise and Air Quality**

No objections are raised with regard to the draft conditions associated with noise and air quality, with regard to potential amenity impacts.

## 7. **Additional Comments**

In addition to endorsing the abovementioned Council officer comments (that were issued to the Department as a Preliminary Submission on 17 May 2018), it was resolved by Council's Planning Committee on 7 June 2018 to include the following comments in the endorsed submission in relation to the proposed modification:

*"Council does not support this application due to the inappropriateness of allowing such intensive extractive industry in this National Iconic Landscape, and the high level use of large trucks on Tweed Coast Rd in this populated residential and iconic coastal tourist area that will invariably reduce both safety and amenity, and impact on the economic values of the area as well as its attractiveness in regard to the low key coastal village aspirations and the green belt clearly identified as the preferred scale and intensity of development by the community through numerous strategic planning documents over many years.*

*If this development is supported the following matters are requested for inclusion in conditions of consent:*

*Council has serious concerns about the environmental impacts of this proposed expansion and the lack of available data on the annual compliance and reporting since 2011. The lack of available data makes it difficult to assess the current and future impacts of this operation. It is requested that all annual compliance and reporting data is made publicly available.*

*Council requests that water quality is a key consideration in this assessment to ensure improved water quality of the drainage systems and the Tweed River, and that any impacts are avoided or at least offset by generous enhancements to the marine environment.*

*Council notes the international significance of the Tweed Caldera, the proximity of the highly significant Stotts Island Nature Reserve, the lack of interconnecting vegetation corridors across the landscape in this area, and strongly requests that appropriate revegetation is required to contribute to addressing this deficit.*

*Council raises serious concerns about residents health and safety from air pollution particulate matter and requests that operations are such that increases in particulate matter, especially fine and ultra fine particulate matter are not accepted.*

*Council raises serious concerns about long term carbon emissions from these operations and requests that green energy is sourced and/ or offsets are provided in this Shire in the form of revegetated areas.*

*Visual impacts should be reduced wherever possible by minimising the operational areas at any one time, and requiring landscaping of all available areas wherever possible and as soon as possible.*

*Council requests that the health of the aquatic environment and marine life should be thoroughly tested, monitored and reported on by the proponent for the lake, surrounding drains and receiving waters of the river for the duration of the activity, and for 30 years after the activity ceases or longer if any issues are not resolved, and that any concerns are adequately remediated.*

*Council requests a meeting with the Department of Planning to further discuss these matters.*

*Council notes the request from the Cane Growers that an agreement be established enabling the areas to be utilised for cane farming until such a time that it is required for quarry development, and Council strongly supports this request to ensure the ongoing viability of this industry.*

*Council requests a deferred commencement condition be imposed to restrict this expansion until Tweed Coast Rd is upgraded to 4 lanes."*

For further information regarding this matter please contact Colleen Forbes on (02) 6670 2596.

Yours faithfully

**Lindsay McGavin**  
**MANAGER DEVELOPMENT ASSESSMENT AND COMPLIANCE**