

Our ref: STH05/01238/17
Contact: Andrew Lissenden 4221 2769
Your ref: DA 85/2865 MOD 1

26 February 2020

Lauren Evans
Energy and Resource Assessments
Planning and Assessments
NSW Planning, Industry & Environment
BY EMAIL: information@planning.nsw.gov.au

**MENANGLE QUARRY – MODIFICATION 1 (DA85/2865) - EXPANSION OF QUARRY OPERATIONS –
LAND AND ENVIRONMENT COURT OF NEW SOUTH WALES PROCEEDING (2018/00342158)**

Dear Lauren,

Transport for NSW (TfNSW, formerly Roads and Maritime Services) refers to your email dated 21 February 2020 regarding the above modification application which has been re-referred to it for comment.

TfNSW notes that:

- Its previous comments on the modification application (dated 13 June 2019 – refer to **Annexure 1**) did not object to the submitted application, that was being assessed at that time, subject to the conditions outlined in its letter being included into any modified development consent issued;
- The application is subject to a Class 1 appeal in the NSW Land and Environment Court and as a result the applicant has further amended the application; and
- The amended application is similar to the original application lodged in terms of vehicle movements and where access to the site is gained in that it proposes no direct access to/from the state classified road (i.e. the Hume Highway) with all vehicle access to/from the site being provided via Menangle Road, which at this location, is a regional classified road managed by Wollondilly Shire Council.

Having regard for the above TfNSW, similar to its previous advice, does not believe the amended modification will have a significant impact on the state road network. On this basis TfNSW does not object to the amended modification application subject to the inclusion of conditions in any approval issued as detailed in the TfNSW letter dated 13 June 2019 (refer to **Annexure 1**).

Upon determination of this matter, it would be appreciated if the NSW Department of Planning, Industry and Environment could email a copy of the Notice of Determination to TfNSW via development.southern@rms.nsw.gov.au.

If you have any questions please contact Andrew Lissenden on 4221 2769.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Chris Millet', with a stylized flourish at the end.

Chris Millet
Manager, Land Use Southern
Regional and Outer Metro

Cc: lauren.evans@planning.nsw.gov.au



Our ref: STH05/01238/16
 Contact: Andrew Lissenden 4221 2769
 Your ref: DA85/2865 MOD 1 (2018/342158)

13 June 2019

Greg Garrett
 Department of Planning and Environment - Legal Services
 BY EMAIL: greg.garrett@planning.nsw.gov.au

MENANGLE QUARRY – MODIFICATION 1 (DA85/2865) - EXPANSION OF QUARRY OPERATIONS – LAND AND ENVIRONMENT COURT OF NEW SOUTH WALES PROCEEDING (2018/342158)

Dear Greg,

Roads and Maritime Services (RMS) refers to your email dated 31 May 2019 regarding the above modification application. RMS has previously provided comments on the above application, prior to its determination, on two occasions (i.e. on 21 July 2017 and 17 October 2017). RMS notes that for this application:

- The key state road is the Hume Motorway to which the current and proposed development has no direct vehicular access;
- Menangle Road to which vehicular access to/from the site will be gained, at this location, is a regional classified road managed by Wollondilly Shire Council. RMS having reviewed its level of involvement in classified regional roads considered it more appropriate for Council to determine if proposed access arrangements are acceptable from a network perspective (i.e. acceptable in terms of safety and efficiency). Noting the above, RMS entrusted Council to assess the traffic implications of the current application on Menangle Road (e.g. adequacy of the developments existing access from Menangle Road, any upgrade works required at this access, etc);
- The Hume Motorway at this location is classified as a motorway and is land owned by RMS. RMS notes that some of the works proposed by the submitted application are to occur within the Hume Motorway road reserve area (i.e. installation of conveyor and associated access works). As such, RMS is of the opinion that the modification application meets the requirements of 'integrated development' in accordance with Section 4.46 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) with general terms of approval being required from RMS;
- The applicant has lodged a Class 1 appeal with the NSW Land and Environment Court against the refusal issued by the Minister's delegate on 25 October 2018; and
- The Department of Planning and Environment (DP&E) has requested RMS to provide draft conditions to assist with the courts consideration of the lodged appeal.

rms.nsw.gov.au

1

Having regard to the above RMS advises that it grants its general terms of approval to the works proposed under the modification application subject to the conditions outlined in **Attachment 1** being included into any modified development consent issued. In addition to the above **Attachment 1** contains two additional comments for DP&E's consideration.

Upon determination of this matter, it would be appreciated if Council could send a copy of the Notice of Determination to 'development.southern@rms.nsw.gov.au'.

If you have any questions please contact Andrew Lissenden on 4221 2769.

Yours faithfully,



Joanne Parrott
Senior Manager Regional Customer Services
Southern Region

Cc: donette.holm@planning.nsw.gov.au; and
council@wollondilly.nsw.gov.au; and

Attachment 1

Recommended Conditions:

- No works are to be undertaken within the Hume Motorway Road Reserve (inclusive of the area under the Menangle Bridges) until Section 138 Consent under the *Roads Act 1993* is obtained from RMS. To obtain this consent the operator/developer must:
 - Enter into a legally binding agreement with RMS (e.g. a licence, not a lease or an easement), for the construction, operation and decommissioning of the conveyor belt within the Hume road reserve (including under the Menangle Bridges). The legally binding agreement must be executed prior to any construction within the road reserve. All RMS legal costs associated with drafting and executing the legally binding agreement will need to be borne by the developer;
 - Provide full and free access to RMS to do both routine and emergency maintenance on Menangle Bridges whenever necessary. As such, access to the bridge structure and associated facilities is to be provided at all times. Details on how this requirement will be satisfied must be provided with the Section 138 application;
 - Restrict access under Menangle Bridge to light vehicles only. Details on how this requirement will be satisfied must be provided with the Section 138 application;
 - Provide a sealed access under and adjacent to the Menangle Bridges and comply with RMS drainage and pavement standards. The sealing and drainage design details must be provided with the Section 138 application and must be in place before Stage 8 works commence and must be maintained by the operator for the life of the development;
 - Protect the piers of the Menangle Bridges, as well as any other part of the bridge structure and associated facilities that may be impacted upon by the proposed development, from any potential damage. Details must be provided with the Section 138 application and must be in place before Stage 8 works commence and must be maintained by the operator for the life of the development; and
 - Anchoring details of any structure associated with the quarry operation that will be impacted by a flood event/ that will become floating debris must be provided with the Section 138 application and must be in place before Stage 8 works commence and must be maintained by the operator for the life of the development.

Notes: To progress the Section 138 application, the developer/operator needs to email a copy of the conditions of development consent and the information as detailed above to development.southern@rms.nsw.gov.au.

- The developer/operator must ensure that the approved works do not in any way destabilise the foundations of the Hume Motorway, including the Menangle Bridges (i.e. as per the requirements of Section 91 of the *Roads Act 1993*). Should any rectification works be required as a result of the approved development they are to be undertaken by the developer/operator in accordance with RMS requirements and standards and at no expense to RMS.
- The property owner/quarry operator must guarantee the removal of any detritus associated with the construction and use of the access road for quarry purposes.
- Anchoring details of any structure associated with the quarry operation that will be impacted by a flood event/ that will become floating debris must be in place before Stage 8 extraction works commence and must be maintained by the operator for the life of the development.

Attachment 1

- RMS must be provided with the opportunity to inspect these constructed/anchored items whenever necessary.
- A Drivers Code of Conduct must be prepared, that applies to all employee contractor drivers and users of the facility prior to works approved under Mod 1 being commenced or within 6 months of the approval, whichever comes first.
- No direct access to/from the development site (i.e. Lot 202 and Lot 203 DP 590247) is to be obtained to or from the Hume Motorway road reserve area.

Additional comments for DP&E's considerations:

- Summary of Commitments: RMS notes that a number of additional 'traffic and transport' related commitments have been included in the updated statement of commitments (i.e. Response to Submissions (RtS), prepared by EMM Consultants dated 14 September 2017). These however contain limited detail on approval bodies, required time frame to undertake committed works, etc. RMS recommends that each 'traffic and transport' commitment be further amended to ensure each listed commitment contains a specific timeframe (i.e. submissions of required documentation for approval, implementation of works, etc).
- Development Consent 85/2865: RMS has previously advised that it notes the age of the existing development consent and has suggested that DP&E should give consideration to updating the requirements of the currently issued approval as part of this application as a number of conditions are potentially unsuitable for the development as currently proposed. RMS requests that should any conditions be updated that reference the RMS then an opportunity be provided to RMS to review the draft conditions.